



July 20, 2015

Public Comments Processing  
 Attn: FWS–HQ–ES–2015–0016  
 U.S. Fish and Wildlife Service  
 5275 Leesburg Pike  
 Falls Church, VA 22041-3803.

Re: Proposed Rule – Revisions to the Regulations for Petitions

Dear Sir/Madam,

The National Association of State Foresters (NASF) submits these comments in response to the U.S. Fish and Wildlife Service (USFWS) proposed regulation to revise and clarify 50 CFR 424.14 regarding petitions for listing under the Endangered Species Act (ESA) (80 Fed. Reg. 29286). NASF is comprised of the heads of the state forestry agencies in all fifty states, the District of Columbia, and the U.S. territories. State foresters directly manage some 63.1 million acres of publicly-owned land and provide technical and financial assistance to more than 10 million family forest landowners who are the stewards of 264 million acres of forest land.

NASF supports the proposed revisions, which would improve the content and specificity of petitions and enhance the efficiency and effectiveness of the petition process. NASF particularly appreciates the recognition of a need for greater communication by would-be petitioners with States preceding the submission of a petition for listing. This new requirement would foster cooperation and allow USFWS to receive as part of a petitioned listing all pertinent information maintained by the States. As pointed out in the proposed regulation, States have jurisdiction and responsibility for managing unlisted species and thus have “substantial experience, expertise, and information relative to the conservation of such species.” (80 Fed. Reg. 29288).

Although we strongly support the requirement for state involvement in the petition process, we do not feel that the current proposed language is fully adequate for two reasons. First, 30 days is an insufficient length of time for states to gather all relevant information on a species, especially if presented with multiple species petitions at the same time, as has been the norm by petitioners in the past. We request that the timeframe for states to respond to a petition be extended to at least 60 days, thus ensuring a robust and organized response to help USFWS with its listing decision.

**Executive Director**  
 Jay Farrell

**2014-15 Executive Committee**

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Second, while the proposed regulation requires sharing of any petition with “State agency(ies) responsible for the management and conservation of fish, plant, or wildlife resources ...” there are also other agencies which could contain data pertinent to a potential listing. State forestry agencies would certainly be essential contacts for data gathering on the five factors outlined in section 4(a) of the ESA, as would State Departments of Agriculture, State Soil and Water Conservation Boards, and many others. We recommend that USFWS provide each State the opportunity to designate all appropriate agencies to receive a copy of the petition, and maintain a master contact list for petitioners to access when contacting states.

NASF also supports the proposed change to limit petitions to a single species. In the past, multi-species petitions have placed an inappropriate burden on the USFWS to figure out which supporting materials belong to each species in the petition, and to decipher the sometimes cryptic chain of logic leading to the conclusions put forward in petitions. These “mega-listings” usurp valuable time and resources from USFWS efforts to recover currently listed species. Requiring individual species petitions would help the USFWS more efficiently direct their resources at the highest priority wildlife concerns.

NASF also welcomes other clarifications that are included in the proposed revisions, including procedures for USFWS review, required items for inclusion in petitions, and certification that the petitioner has gathered all relevant readily available information, including that which might refute a decision to list. Taken together, these revisions provide better clarity to the public on petition development and submission, creating a higher quality data package for USFWS to review and from which to make an informed, expedient decision on.

Looking more broadly than these proposed regulation revisions, NASF strongly believes that healthy forest habitat is key to the survival of many species. At times, the ESA and specific species listings have had a deleterious effect on public and private forest owners’ ability to manage their forest lands to continue providing quality wildlife habitat. While we understand the legal constraints USFWS operates under regarding species take, the end result of such restrictions is oftentimes counterproductive to the goal of species conservation. If private landowners are unable to manage their forests and generate a source of revenue from their land, they may have little alternative than to sell or convert those lands to uses that would have no or lesser wildlife habitat benefits.

NASF encourages consideration of adverse economic and environmental impacts as a reason not to designate specific areas as a critical habitat. When loss of habitat is not the prevailing reason for decline, NASF believes that critical habitat designation is not warranted. The emphasis that this proposed regulation revision places on gathering all relevant information should help with future determinations of critical habitat. Additionally, the proposed revisions clarify that critical habitat petitions do not have to be treated the same as listing petitions by the USFWS, giving the agency greater leeway and decision space in how to respond, thus enabling the agency to take into account whether loss of habitat is even an issue relative to species status. As such, NASF supports these proposed revisions.

Taken together, we believe these revisions and clarifications will help improve the petition process. We appreciate your work and consideration of the need to maintain sustainable forest management while also protecting threatened and endangered species. Thank you for the opportunity to comment on the proposed petition regulation revisions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim Karels".

Jim Karels  
Florida State Forester  
NASF President