

Advocacy Files Comments on Updates to the Endangered Species Act

On June 22, 2023, the Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) published three proposed rules titled “[Endangered and Threatened Wildlife and Plants; Revision of Regulations for Interagency Cooperation](#),” “[Endangered and Threatened Wildlife and Plants; Listing Endangered and Threatened Species and Designating Critical Habitat](#)” and “[Endangered and Threatened Wildlife and Plants; Regulations Pertaining to Endangered and Threatened Wildlife and Plants](#)” These rules propose multiple changes to Endangered Species Act (ESA) regulations.

The Office of Advocacy (Advocacy) filed comments on these rules on Aug. 21. Small businesses are directly impacted by ESA regulations. If enacted, these proposals will modify existing permitting requirements for the ESA. Advocacy is concerned that these modifications will result in increased compliance costs and delays for projects involving small businesses. Advocacy also noted that many of the changes proposed by the Services were vague and could lead to confusion amongst regulated entities.

Advocacy warned the Services that if implemented, these proposed rules could erode the predictability small businesses need in order to understand and meet their regulatory responsibilities. Additionally, Advocacy reiterated its long-standing recommendation for the Services to provide a Regulatory Impact Analysis as a part of any critical habitat proposal.

A complete copy of [Advocacy’s letter to the Services](#) is available. For more information, please contact Assistant Chief Counsel Nick Goldstein at (202) 772-6948 or by email at nick.goldstein@sba.gov.

