

LAWMAKERS CITE ENDANGERED SPECIES PLAN IN PUSH FOR CARBON CAP

A bipartisan group of House lawmakers is asking the U.S. Fish & Wildlife Service (FWS) to examine the “adequacy” of existing federal policies to address global warming and to consider capping carbon dioxide (CO₂) emissions from coal-fired power plants and other sources as part of an FWS proposal to list the polar bear as threatened under the Endangered Species Act (ESA).

The lawmakers also say an FWS analysis of the connection between climate change, loss of sea ice and harm to the polar bear had been omitted from the proposed listing.

The Bush administration’s highly publicized proposal to list the polar bear under the ESA is being closely watched by legal experts, activists and industry officials as a potential precedent for federal climate change controls.

Led by Reps. Jay Inslee (D-WA) and Christopher Shays (R-CT), the lawmakers in April 9 written comments to the FWS say the omission of an earlier analysis on the impact of global warming on the polar bears could limit the effectiveness of the proposed ESA listing.

“We are aware such a discussion was contained in the FWS status

review that provided analyses of the effect of greenhouse-gas pollution on global warming and the retreat of sea ice, and the lack of existing mechanisms to regulate climate change and the loss of sea ice,” according to the comments, which were signed by 41 House members. Relevant documents are available on InsideEPA.com.

The proposal to list the polar bear as endangered was issued Jan. 9 in response to a lawsuit by environmentalists. The climate change analysis in question, the Wide Range Status Review of the Polar Bear, was posted on the agency’s Web site last December, and examines the effects of climate change on the loss of Arctic sea ice, as well as regulatory and other efforts to curb global warming emissions. The FWS is required under the court ruling to make a final decision by Jan. 9, 2008, on whether to list the polar bear under ESA.

An Inslee staffer says the document’s omission is troubling, particularly because the ESA proposal, which acknowledges the existence of climate change, is careful to avoid addressing the causes of the threat to the polar bear’s habitat. “We feel they shirked off on their responsibility. . . . We mentioned it to show them that some of the

groundwork has been done,” the source says, noting that the ESA is a powerful law that requires regulators to include a recovery plan that could call for climate controls if the listing is finalized.

But without FWS acknowledging a direct connection, the Inslee source says it would hamstring what the agency would be able to do even if it lists the polar bear. “It is unclear . . . whether they will have a meaningful listing. . . . Part of the ESA is that they have to make a decision based on threat and without regard to economic factors or politics. That’s why the ESA is so meaningful.”

An FWS spokesman says the status review was not part of the proposal because the two documents “serve two different purposes. They were published almost simultaneously, so there was no need to be redundant.” The official adds that the status review led to the proposal and is “laying the foundation for pending action and is not a comprehensive scientific document.”

The status review, for example, says that the “predominant reasons” for loss of sea ice includes longer summers and warmer temperatures, which exacerbate melting by causing more absorption of solar radiation, warming the ocean and

further delaying formation of new sea ice.

Additionally, the document explores the status of regulatory mechanisms to address the causes of climate change, noting that most “are still under development.” It also notes that the administration’s preferred emissions measure -- so-called greenhouse gas intensity, which is based on economic output -- “differs from an absolute measure of output, and while the emissions intensity could decrease the total emissions would still increase.”

The House lawmakers are also urging the FWS to consider a cap on greenhouse gas emissions as a regulatory option to address the global warming threats to the polar bear.

Lawmakers signing the comments include Reps. Edward Markey (D-MA), who chairs the House Select Committee on Energy Independence & Global Warming; George Miller (D-CA), chairman of the Education & Labor Committee; Frank Pallone Jr. (D-NJ), who serves on the Energy & Commerce and Resources committees; and Albert Wynn (D-MD), who chairs the Energy & Commerce panel on environment and hazardous materials.

The lawmakers’ comments are among more than 500,000 FWS received on the proposal, according to the Center for Biological Diversity, which won a court order to force the proposed ESA listing.

In other comments, powerful Alaska Sen. Ted Stevens (R) is strongly urging the agency not to list the polar bear as threatened. “It appears that interest groups are clamoring

for sea ice to be designated as critical habitat in order to end oil and gas exploration in the North Slope and curtail the use of fossil fuels throughout the country. . . . Such a result would neither reduce greenhouse gas emissions, nor improve polar bear habitat.”

Additionally, the National Cattlemen’s Beef Association (NCBA) says in its comments that the “clear aim of the proposal, and the petition that prompted it, may be to force the imposition of climate change regulations on industry throughout this country.”

The Center for Biological Diversity agrees that is the goal. In an April 9 press release, the group noted that if the proposal becomes final, “All federal agencies will be prohibited from taking any action -- including issuing permits for a wide range of activities including resource extraction and power plant operation -- that would be likely to jeopardize the bear’s continued existence or result in adverse changes to its designated critical habitat.”

An FWS spokeswoman says it remains to be seen how far a threatened listing for the polar bear would reach. But she says those questions “are the ones that need to be answered if we move forward. . . . The [commenters] raise good points about the nexus [between greenhouse gas emissions] and what’s our role.” -- Dawn Reeves