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## Endangered Species: In More Danger

By Bryan Walsh

Environmentalism is synonymous with loss. We fret about the loss of the rain forest, the loss of the Arctic ice cap and, eventually, the loss of a livable planet to climate change. But while that decline is undeniable, it can sometimes obscure several decades of real environmental achievement, including the rehabilitation of scores of animals rescued from the brink of extinction. Thanks to the Endangered Species Act (ESA) — the 1973 law that requires the Federal Government to protect endangered species and plan for their recovery — iconic animals like the bald eagle, the peregrine falcon and the gray whale have rebounded to healthier numbers. It is one of the real success stories of the green movement.

If the Bush Administration has its way, however, those protections may soon be endangered themselves. The White House on Aug. 11 proposed a sweeping regulatory overhaul of the ESA, virtually eliminating the independent scientific evaluation of the environmental impact of federal actions. The current law mandates that any project that may impact an endangered species and requires approval by a federal agency — for example, a new highway planned by the Department of Transportation that could damage the habitat of a listed red wolf — must undergo an independent review by scientists at the Fish and Wildlife Service or the National Marine Fisheries Service. The proposed new rules would allow the agency in charge of the project — in this example, the Department of Transportation — to decide whether a review would be necessary.

Green groups point out that there is little reason to think that federal agencies whose brief doesn't include the environment would go through the bureaucratic trouble of requesting such reviews for their projects. The result would be a drastic cutback of the independent, scientific assessments — thousands of which are done each year — that are the backbone of the ESA. "It gives those agencies carte blanche to do what they want," says Karla Raettig, the legislative representative for wildlife conservation at the National Wildlife Federation.

Interior Secretary Dirk Kempthorne framed the new rules as a "narrow regulatory change" that would help streamline the consultation process under the ESA. Kempthorne's take was echoed by industry groups in construction and development that have long complained that the ESA needlessly slows down approval for new projects. "The proposed regulations do address some of our concerns," says Joe Nelson, a lawyer with the National Endangered Species Act Reform Coalition. "It would be a benefit to us."

The Bush Administration's new rules — which could go into effect in as little as 90 days, unless Congress acts to block them — also address a loose end left by the Interior Department's decision in May to [list the polar bear as threatened](#). The reason for listing the bears was climate change — global warming is melting their sea-ice habitat — but the proposed changes to the ESA would explicitly exempt any action on warming based on the law. In other words, even though scientific opinion says that global warming will have a disastrous effect on wildlife, the government won't be able to use the ESA to do anything about reducing carbon emissions. "It's not possible to draw a link between greenhouse-gas emissions and distant observations of impacts on species," said Kempthorne.

Actually, that's not true — the Intergovernmental Panel on Climate Change last year estimated that if the average global temperature rose 3 to 5 degrees Fahrenheit, up to 30% of the plants and animals on Earth could be at risk of extinction. There is a direct link between rising carbon emissions from human sources, rising temperatures and endangered species. The Bush Administration argues that the ESA was never meant to address global warming, which is true, but the Administration's solution is simply to do nothing — its standard response to so many other areas of environmental policy. ["It's ridiculous to admit that something is endangered because of climate change, and then say the law doesn't apply to climate change," says Noah Greenwald, science director at the Center for Biological Diversity.](#)

Indeed, it's difficult to avoid the conclusion that the White House is trying to dismantle as much of the nation's framework for environmental protection as possible in its last months in office. The Bush Administration had tried in the past to push similar changes to the Environmental Protection Agency (EPA) through Congress but was defeated. The new regulations, which do not require the approval of Congress, seem to represent a last-minute end-run around that opposition. "The Bush Administration is trying to do by regulation what they can't do by legislation," says Raettig.

If the rules do go into effect, a new Administration might overturn them, but that could take months or even years, as would attempts to challenge the new rules in court. The changes to the ESA come after a series of breathtakingly obstructionist moves by the Bush Administration — from [denying California a routine waiver](#) to institute stronger automobile emissions rules to the EPA's [refusal to regulate greenhouse gases](#). What seems certain, says Bob Irvin of the Defenders of Wildlife, is that "history will judge this Administration as the most anti-environmental Administration in the history of the U.S."

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