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## Obama ally suggests administration is undermining Endangered Species Act

By Juliet Eilperin,

The Obama administration is setting too high a threshold for listing an imperiled plant or animal under the Endangered Species Act, according to Rep. Edward J. Markey (D-Mass).

Markey, one of the White House's closest congressional allies, late Thursday sent a letter to Dan Ashe, director of the U.S. Fish and Wildlife Service, questioning a draft policy the agency issued last month with the National Oceanic and Atmospheric Administration.

The policy, which seeks to clarify a 2007 Bush administration proposal that was later ruled illegal, redefines what constitutes a "significant portion of its range" for a given species. It says that a plant or animal deserves listing only if its disappearance from one area threatens the entire species' survival. It also defines a species' range as its current distribution, as opposed to its historic one.

When the agency issued the policy Dec. 8, Ashe released a statement: "This proposed interpretation will provide consistency and clarity for the services and our partners, while making more effective use of our resources and improving our ability to protect and recover species before they are on the brink of extinction."

In the proposal, which is subject to public comment until Feb. 7, the agency predicted that it would lead to the additional listing of species, but "only under limited set of circumstances."

Markey questioned the agency's assessment, saying that under the proposed approach the bald eagle would not have qualified for protection in the 1970s because the bird was faring better in Alaska than in the Lower 48.

"This proposed threshold for protecting species is simply too high under the ESA," Markey wrote. "Even during the worst era of DDT-pesticide usage, healthy populations of eagles lived in Alaska, meaning that, even if the eagle had completely disappeared from the lower 48 states, the 'viability' of the species was never in doubt."

The policy the Bush administration put forward was even more limited, saying that if a species was found to be threatened in a part of its range, federal protections would only be extended to the area where the species was in trouble.

Noah Greenwald, who directs the endangered species program for the advocacy group Center for Biological Diversity, called the Obama administration's move a "regulatory sleight of hand" that undermines the Endangered Species Act.

The act "allowed for species to be protected if they weren't at risk everywhere," said Greenwald, whose group successfully challenged the Bush policy in federal court.

But in a statement, Fish and Wildlife Service spokesman Chris Tollefson said the new policy "will make it possible to protect species before they are at risk of disappearing everywhere."

"We can act on the basis of threats in only a portion of the range of a species, but only when that portion is so important that without it, the species would be in danger of extinction everywhere," he added.