

Comment on November 2025 proposed amendments to the Endangered Species Act

Sharon S. Tisher, J.D., Lecturer Emerita, Environmental Law and Policy, University of Maine

These proposed regulations under the Endangered Species Act do not “clarify” the ESA. Instead, they would essentially disable the statute from fulfilling the intentions of Congress, intentions that have been well served by the agencies’ lawful enforcement of this act for over 50 years. They enhance the likelihood that threatened species will become extinct before they even attained “endangered” status under the act; fail to protect endangered species from the fatal consequences of past habitat destruction; permit fast-track approvals of destructive projects without adequate consideration of their consequences for endangered and threatened species; and erode the scientific foundations of this law, by prioritizing corporate finances over science in decisions about species' survival.

Case in point from my home state of Maine: As the agencies are aware, the Gulf of Maine population of Atlantic Salmon has been listed as endangered for over 25 years. In 2000, the fish were listed for certain rivers in Maine. In 2009, the list was expanded to include upper reaches of the Penobscot River. This listing was highly controversial, widely opposed by Maine politicians as a threat to industry and agriculture, a fact that probably led to limiting the geographic scope of the listing in 2000. Ultimately the listing led to major progress in habitat restoration for the species: the removal of 17 dams and numerous other barriers on the Penobscot River watershed, structures that had obstructed the passage of the salmon to spawning waters in the river and served little other purpose. The listing and consequent habitat restorations have brought the Atlantic Salmon back from the brink of extinction to a relatively stable and slowly growing population. These steps also resulted in significant expansion in the numbers of two other listed endangered fish swimming upriver - short nose and Atlantic sturgeon - and spectacular growth of a commercially harvested species, river herring, which serves as bait for the lobster industry. The success of the listing under the ESA and the habitat restoration is now widely celebrated in this state. **Under the rule changes now proposed by the agencies, this listing might well have never happened, much to the detriment of the environment and the economy of Maine.**

I frankly doubt that this or any other comments in opposition to this proposal will influence the current administration to withdraw this proposal. But I have a right to comment, and I will exercise it. And I will continue to hope for the preservation of the rule of law in this nation.

In the concluding words of the unanimous opinion of the Fourth Circuit Court of Appeals in *Kilmar Armando Abrego Garcia v. Kristi Noem*, written by J. Harvie Wilkinson, a Reagan appointee and a conservative icon particularly known for defense of the Executive: “The Executive will lose much from a public perception of its lawlessness and all of its attendant contagions. The Executive may succeed for a time in weakening the courts, but over time history will script the tragic gap between what was and all that might have been, and law in time will sign its epitaph. It is...all too possible to see in this case an incipient crisis, but it may present an

opportunity as well. We yet cling to the hope that it is not naïve to believe our good brethren in the Executive Branch perceive the rule of law as vital to the American ethos. This case presents their unique chance to vindicate that value and to summon the best that is within us while there is still time.”

As Harvard professor of evolutionary biology E.O. Wilson once said, “I will argue that every scrap of biological diversity is priceless, to be learned and cherished, and never to be surrendered without a struggle.”