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TOP STORY

## Fish and Wildlife Service proposes ESA rule changes meant to speed timber projects

By Helena Dore Chronicle Staff Writer

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The sun shines through the trees on Storm Castle Trail and the Gallatin Range on Tuesday, Nov. 17, 2020, in the Custer Gallatin National Forest.

RACHEL LEATHE/ CHRONICLE

Federal officials on Monday proposed revisions to consultation rules under the Endangered Species Act that could streamline the process for approving timber projects on critical habitat.

If enacted, the revisions would allow the Bureau of Land Management and U.S. Forest Service to circumvent consultation with U.S. Fish and Wildlife Service officials over land management plans when new species are listed as threatened.

Land management plans are broad documents that guide agency decisions on public lands. The plans don't authorize specific projects like timber sales, though such projects must be consistent with the plans' standards.

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The Endangered Species Act mandates that when "new information" arises indicating a land management plan's direction might jeopardize a protected species, agencies are required to consult with the Fish and Wildlife Service. Monday's proposed revision from the service and the National Oceanic and Atmospheric Administration's National Marine Fisheries Service would remove this requirement.

Aurelia Skipwith, director of the Fish and Wildlife Service, said the revisions will both "improve the efficiency of the consultation process" and ensure "important new information that may affect listed species or critical habitat is considered prior to actions being taken."

While Montana lawmakers applauded the proposal for seeking to cut "bureaucratic red tape" on timber projects, others feared the revisions could threaten protected species. USFWS is accepting comments on the proposal until Feb. 11.

All three members of Montana's congressional delegation cheered the proposed rule. Rep. Matt Rosendale, a Republican, said it "moves us toward a scenario where agencies will be able to update their plans and continue to take action in response to new information, rather than starting over."

Republican U.S. Sen. Steve Daines called it a "great step" and said it "will help improve the health of our forests, reduce the risk of wildfires, advance wildlife habitat projects and support good paying timber jobs for Montanans."

Democratic U.S. Sen. Jon Tester said he was glad federal officials “listened to folks on the ground and cut red tape through this rule change.”

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John Meyer, attorney for the Cottonwood Environmental Law Center, said the proposed revisions suggest the Trump administration doesn't think land management plans are important for the survival of endangered species. He said the decision could lead species to die “by 1,000 cuts.”

“It removes any requirement that the federal government look at the big picture,” he said. “Instead, the federal government is going to do analysis on a site-by-site basis.”

The proposed revisions to the ESA were written in response to a 2015 Ninth Circuit Court of Appeals decision over the U.S. Forest Service's failure to consult with the Fish and Wildlife Service over the designation of critical Canada lynx habitat.

The Canada lynx was designated as a threatened species in 2000, a move that prompted the Fish and Wildlife Service to designate a small amount of land as critical lynx habitat in 2006. The designation didn't include any Forest Service land.

When it was determined that the designation was flawed, the Fish and Wildlife Service changed its designation to encompass approximately 25,000,000 acres. Much of the newly designated land was managed by the Forest Service. The Forest Service didn't consult with the wildlife agency over the increased designation, drawing a lawsuit from Cottonwood.

Judges sided with Cottonwood, arguing the agency had to consult with the Fish and Wildlife Service again over changes to land management plans.

Daines said the decision crippled Montana's timber industry and "led to dozens of projects delayed or obstructed." In 2017, he and Tester introduced legislation seeking to reverse the requirement.

However, Meyer said the only reason Canada lynx are on the list of threatened species is because of the inadequacy of forest plans.

"For the government to say that consultation at the forest plan level doesn't matter is a lie," Meyer said.

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## Helena Dore

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