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Restored rule requires species act consultation

H. Josef Hebert, Associated Press
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Federal agencies again will have to consult with government wildlife experts before taking actions that could have an impact on threatened or endangered species.

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The Obama administration said Tuesday it was overturning a rule change made in the final weeks of the Bush presidency.

Officials at the Interior and Commerce departments said they have reimposed the consultation requirement that assured the government's top biologists involved in species protection will have a say in federal action that could harm plants, animals and fish that are at risk of extinction.

Such consultation had been required for more than two decades until the Bush administration made it optional in rules issued in December, just before the change in administrations. Environmentalists argued that the change severely reduced the protection afforded under the federal Endangered Species Act.

"By rolling back this eleventh-hour regulation, we are ensuring that threatened and endangered species continue to receive the full protection of the law" and that top science will be the foundation of the decision making, Interior Secretary Ken Salazar said.

Commerce Secretary Gary Locke added: "Our decision affirms the administration's commitment to using sound science to promote conservation and protect the environment."

Agencies in the two department's share responsibility for managing and enforcing the Endangered Species Act and employ the government's top scientists in species protection.

In March, President Obama issued an executive order putting the Bush rule change on hold. Congress followed by giving specific authorization for the Interior and Commerce departments to revoke the action, avoiding a long and complicated regulatory process.

The end of the requirement - dating to 1986 - of interagency consultation with the Interior and Commerce agencies on endangered species protection produced a firestorm in Congress and within the environmental and conservation communities.

For years, agencies involved in thousands of federal activities - from issuing clean air rules to approving highway or dam construction- have had to consult not only their own experts but also biologists at the U.S. Fish and Wildlife Service or the National Oceanic and Atmospheric Administration to ensure the activities did not harm plants, animals or fish that are protected by the Endangered Species Act.



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Developers and business groups argued that the consultation caused unneeded delays and increased the cost of projects. The Bush administration made the independent consultation optional, arguing that it was a minor shift in policy.

In California, as a result of the rule's reinstatement, federal agencies will have to get approval from government scientists for logging, cross-country motorcycle trips, grazing and other activities that could impinge on imperiled species.

"Any time federal agencies are going to permit development around Palm Springs in desert tortoise territory or livestock grazing in the Sierra Nevada near the big horn sheep, they would need Fish and Wildlife Service approval," said Noah Greenwald, a spokesman for the Center for Biological Diversity, a national wildlife advocacy group.

One impetus for the rule change was the Bush administration's concern that the species act might be used as a back door to regulate greenhouse gases to combat climate change. The Interior Department earlier had declared the polar bear a threatened species because of the loss of Arctic sea ice, a change attributed to global warming.

Under the reinstated rule, the U.S. Bureau of Reclamation must consult with federal scientists over the effects of climate change on the habitat of chinook salmon and delta smelt when allocating water to California cities and farms, Greenwald said.

Chronicle staff writer Jane Kay contributed to this report.

This article appeared on page A - 9 of the San Francisco Chronicle

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