

United States Senate

WASHINGTON, DC 20510

June 19, 2014

Honorable Dan Ashe
Director
U.S. Fish and Wildlife Service
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dr. Kathryn Sullivan
Administrator
National Oceanic and Atmospheric Administration
U.S. Department of Commerce
1401 Constitution Ave, NW
Washington, DC 20230

Dear Director Ashe and Administrator Sullivan:

We serve as the Ranking Members of the appropriate Senate Committees and Subcommittees with jurisdiction over the Endangered Species Act (ESA). We write today to request that you extend the comment period for three proposed rules and policies issued by the Fish and Wildlife Service (FWS) and the National Oceanic and Atmospheric Administration (NOAA) on May 12, 2014. In those proposals, the FWS and NOAA propose to make changes to the process for designating critical habitat, to the definition of destruction or adverse modification, and to the ESA's process for excluding critical habitat. We request that you extend the comment period on these proposals for a minimum of six months.

The three proposals issued in May are extremely complex. This complexity is evidenced by the fact that the Office of Management and Budget (OMB) spent more than one year reviewing and discussing their content with both Services before their release. Despite the complex nature of the proposals, the Services allotted only 60 days for public comment. While we support appropriately limited public comment periods on routine matters, these three proposals will have far-reaching consequences that will affect a variety of land users because they have the potential to fundamentally shift the requirements for designating critical habitat.

The substantial impact is particularly assured given the decision by the FWS to enter into settlement agreements that require listing determinations on more than 250 species nationwide. Since the settlement agreements in 2011, we have seen species listings and critical habitat designations occur with increasing frequency. Additionally, the Services decision to use an extremely limited form of economic impact analyses for future listings unnecessarily limits discretion of whether or not to designate areas as critical habitat. Private property owners and public land users need a reasonable amount of time to digest the proposals and to share the impacts they see as likely with the Services.

We believe that the current 60-day comment period is an inadequate amount of time for impacted parties to provide thorough written comments on these complex policy changes. As such, we request that you extend the comment period by at least six additional months. We note

that this is approximately half of the time that was given to OMB to review the proposals and suggest that the impacted stakeholders deserve at least six additional months.

We thank you for your prompt attention to our request and look forward to your reply.

Sincerely,



David Vitter
Ranking Member
Senate EPW Committee



John Thune
Ranking Member
Senate Commerce Committee



John Boozman
Ranking Member
Subcommittee on Water and Wildlife



Marco Rubio
Ranking Member
Subcommittee on Oceans, Atmosphere
Fisheries and Coast Guard