

**PROTECTING AMERICA'S LIVING HERITAGE:
A FAIR, COOPERATIVE AND SCIENTIFICALLY SOUND APPROACH
TO IMPROVING THE ENDANGERED SPECIES ACT**

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INTRODUCTION

The Clinton Administration is announcing a package of improvements to carry out the Endangered Species Act (ESA) in a fair, efficient and scientifically sound manner. These improvements build on the existing law to provide effective conservation of threatened and endangered species and fairness to people through innovative, cooperative, and comprehensive approaches.

The Administration believes that this nation needs to maintain its commitment to conserve imperiled species for the benefit of future generations as well as our own. The Endangered Species Act is a landmark environmental law enacted 20 years ago to preserve the ecosystems upon which endangered and threatened species and people depend. The law has been responsible for improving populations of declining species throughout the United States and has served as a model for conservation efforts. The bald eagle, grizzly bear, and Aleutian Canada goose have been recovered from the brink of extinction and are approaching recovery. California condors and red wolves have been returned to the wild and are improving dramatically. American alligators, Arctic peregrine falcons, gray whales, and brown pelicans no longer need the Act's protection and have been removed from the list of threatened and endangered species. Overall, nearly 40 percent of the plants and animals protected under the Endangered Species Act are now stable or improving as a direct result of recovery efforts.

Although this nation has made considerable progress with endangered species conservation over the past twenty years, the task is not complete. To ensure that threatened and endangered species are protected and recovered, the Administration believes that the ESA needs to remain a strong, effective, conservation tool.

At the same time, the Administration recognizes that implementation of the ESA should be improved by building stronger partnerships with States, local governments, private industry, and individuals; by exercising greater administrative flexibility to minimize socio-economic effects and assure fair treatment for landowners; and by reducing delay and uncertainty for States, local governments, private industry, and individuals.

The ESA provides a number of mechanisms--seldom used in the past---to resolve or avoid apparent conflicts between the needs of species threatened with extinction and the short-term demands of our society. In the last year, the Administration, working with non-Federal partners, has launched a series of initiatives to improve the ESA's effectiveness while minimizing its impact on people and their livelihoods. There will be other similar initiatives which together mark the beginning of a new approach to preserving ecosystem health and sustainability, one that looks to the future with comprehensive efforts to avoid crisis management and unpredictable piecemeal approaches.

For example, President Clinton convened a Forest Conference in Portland, Oregon, to address environmental and economic issues associated with management of Federal forest lands in California, Oregon, and Washington. In the 18 months following that conference, the Administration developed and has begun to implement a balanced Forest Plan which will preserve the northern spotted owl and sustain the economy of timber communities in the Pacific Northwest. The Forest Plan will help prevent other species that depend on late-successional forests, including salmon and related fish species, from declining to the point where they need the protection of the ESA.

In another example, the Department of the Interior has published several special rules (called "4(d) rules" after the section of the ESA that authorizes them), which allow development of private lands to proceed while protecting threatened species. A special 4(d) rule developed for the coastal California gnatcatcher defers ESA requirements to a State planning process because this process will conserve the gnatcatcher and all other species that depend on the same habitat while allowing residential development to continue. In the States of Washington and California we have proposed a 4(d) rule which will generally exempt landowners with less than 80 acres of forestland from the Act's prohibitions on incidental take of spotted owls.

The Departments of the Interior and Commerce have joined with other Federal agencies to help prevent species from becoming threatened or endangered as a result of actions by these agencies. For example, on January 25, 1994, the U.S. Fish and Wildlife Service, Bureau of Land Management, National Park Service, National Marine Fisheries Service entered into a Memorandum of Understanding (MOU) initiated by the U.S. Forest Service to conserve candidate and proposed species. The Forest Service and the Fish and Wildlife Service quickly applied this MOU by signing a cooperative agreement to protect a rare species of salamander, which lives only on the ridges of the Shenandoah Mountains of Virginia and West Virginia. The cooperative agreement on the salamander was designed to stabilize and protect populations of the salamander on the George Washington National Forest so that the Fish and Wildlife Service would never have to list it as threatened or endangered.

The Department of the Interior has entered into three cooperative agreements with private industry to protect the red-cockaded woodpecker in the southeastern United States. These agreements, which have been signed with Georgia-Pacific Corporation, Hancock Timber Resource Group, and International Paper Company, make significant contributions toward the recovery of the woodpecker and will also benefit all of the species occurring in the longleaf pine ecosystem. Because these cooperative agreements benefit both the woodpecker and the timber companies, four other companies are in the initial stages of negotiating cooperative agreements with the Interior Department.

TEN PRINCIPLES FOR FEDERAL ENDANGERED SPECIES ACT POLICY

Ten principles guide the Administration's effort for reforming and implementing the Endangered Species Act:

1. Base ESA decisions on sound and objective science.

Federal Endangered Species Act policy must be based objectively on the best scientific information available.

2. Minimize social and economic impacts.

The ESA must be carried out in a manner that avoids unnecessary social and economic impacts upon private property and the regulated public, and minimizes those impacts that cannot be avoided, while providing effective protection and recovery of endangered and threatened species.

3. Provide quick, responsive answers and certainty to landowners.

The ESA must be carried out in an efficient, responsive and predictable manner to avoid unnecessary social and economic impacts and to reduce delay and uncertainty for Tribal, State and local governments, the private sector and individual citizens.

4. Treat landowners fairly and with consideration.

The ESA must be administered in a manner that assures fair and considerate treatment for those whose use of property is affected by its programs.

5. Create incentives for landowners to conserve species.

Cooperation with landowners in protecting and recovering species should be encouraged through use of incentives.

6. Make effective use of limited public and private resources by focusing on groups of species dependent on the same habitat.

To make effective use of limited resources, priority should be given to multi-species listings, recovery actions and conservation planning.

7. Prevent species from becoming endangered or threatened.

In carrying out its laws and regulations, the Federal Government should seek to prevent species from declining to the point at which they must be protected under the ESA.

8. Promptly recover and de-list threatened and endangered species.

The ESA's goal of bringing species back to the point at which they no longer require the Act's protection should be achieved as expeditiously as practicable.

9. Promote efficiency and consistency.

The ESA should be administered efficiently and consistently within and between the Departments of Commerce and the Interior.

10. Provide state, tribal and local governments with opportunities to play a greater role in carrying out the ESA.

Building new partnerships and strengthening existing ones with state, tribal, and local governments is essential to each of the nine previous principles and to the conservation of species under the ESA in a fair, predictable, efficient and effective manner.

A PACKAGE OF REFORMS TO IMPROVE THE ENDANGERED SPECIES ACT

The Clinton Administration is announcing a package of reforms and proposed reforms that will have an immediate and positive effect on how the ESA is implemented throughout the Nation. This package builds on the ten principles set forth above. It describes administrative actions that have been taken or will be taken in the near future by the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS). And the package identifies ways in which implementation of the ESA could be improved through legislative action by the Congress.

1. **Base ESA Decisions on Sound and Objective Science.**

ISSUE DEFINITION: Concerns exist that decisions made under the ESA have not always been objective or based on the best available scientific information.

Administration Position: Federal Endangered Species Act policy must be based objectively on the best scientific information available. Therefore the Administration has initiated the following reforms:

- *Peer review and information standards.* To ensure that Endangered Species Act policy is based on the best scientific information available, the NMFS and the FWS have issued a joint policy directive requiring independent scientific peer review of all proposals to list species and all draft plans to recover species within the timeframes required by the ESA. A separate directive establishes more rigorous standards for the kinds of scientific information used in making ESA decisions.
- *Listing petition standards.* The NMFS and the FWS have published draft guidelines for public review and comment that would set tougher, uniform standards for the scientific determination that there is 'substantial information' to propose a species for listing and would place more burden on the petitioner to show that the action may be warranted.

2. **Minimize Social and Economic Impacts.**

ISSUE DEFINITION: The ESA has been criticized for not giving greater consideration to the social and economic consequences of listing species under the Act.

Administration Position: The ESA must be carried out in a manner that avoids unnecessary social and economic impacts upon private property and the regulated public, and minimizes those impacts that cannot be avoided, while providing effective protection and recovery of endangered and threatened species. Therefore, the Administration has initiated or supports the following reforms:

- *Recovery plan development and implementation.* The FWS and the NMFS have issued a policy directive on recovery planning that will require that any social or economic impacts resulting from implementation of recovery plans be minimized. To help ensure that this goal is achieved, this directive requires the NMFS and the FWS to scientifically identify the recovery needs of a species and then involve representatives of affected groups and provide stakeholders with an opportunity to participate in developing and implementing approaches to achieve that recovery. It also will require that diverse areas of expertise be represented on recovery teams.
- *Greater flexibility.* Flexible and creative approaches are necessary to prevent threatened species from becoming endangered and to provide the impetus to recover them. The CONGRESS should restore the distinction between a threatened species and an endangered species, which was originally intended, by providing the Secretary with flexibility to use, in consultation with the States, a wide range of administrative or regulatory incentives, prohibitions and protections for threatened species.
- *Landowner provisions.* The policies outlined below to give landowners quick answers and certainty and to treat landowners fairly will minimize social and economic impacts to the private sector.

3. **Provide Quick, Responsive Answers and Certainty to Landowners.**

ISSUE DEFINITION: Concerns have been expressed by landowners and others that delay and uncertainty in ESA decisions unnecessarily frustrate development and land use.

Administration Position: The ESA must be carried out in an efficient, responsive and predictable manner to avoid unnecessary social and economic impacts and to reduce delay and uncertainty for Tribal, State and local governments, the private sector and individual citizens. Therefore, the Administration has initiated or supports the following reforms:

- *Early identification of allowable activities.* A joint FWS/NMFS policy directive has been issued that requires the Services to identify, to the extent known at final listing, specific activities that are exempt from or that will not be affected by the section 9 prohibitions of the ESA concerning "take" of listed species. In addition, this directive requires the identification of a single point of contact in a region to assist the public in determining whether a particular activity would be prohibited under the ESA. These initiatives will help educate the affected publics, as well as increase certainty regarding the effect of species listings on proposed or ongoing activities.
- *Streamlining habitat conservation planning.* The FWS and the NMFS have published a draft habitat conservation planning handbook for public review and comment. It is intended to provide quicker and more consistent answers to applicants for incidental take permits. These permits allow economic use of private land for those who develop a

conservation plan under the requirements of section 10 of the ESA. The draft handbook recognizes three categories of habitat conservation plans based on the level of impact to the conservation of species (high, medium, or low impact). It requires simplified procedures and faster permitting for low and medium impact plans.

- *“No surprises”*. A policy of “No Surprises” has been issued by the FWS and the NMFS in habitat conservation planning under section 10 of the ESA. Under the policy, landowners who develop an approved habitat conservation plan for any endangered or threatened species will not be subject to later demands for a larger land or financial commitment if the plan is adhered to -- even if the needs of any species covered by the plan increase over time. A landowner who agrees to provide for the long-term conservation of listed species in accordance with an approved habitat conservation plan is assured that activities on the land can proceed without having any additional mitigation requirements imposed, except as may be provided under the term of the plan itself. Consequently, this policy provides the necessary assurances to landowners who are engaged in development activities over a period of many years that their habitat conservation planning permits will remain valid for the life of the permits.
- *Certainty for multi-species planning*. The CONGRESS should provide additional certainty to landowners who develop approved habitat conservation plans that protect non-listed species as well as listed species. Landowners who have satisfactorily demonstrated that they will protect candidate species or the significant habitat types within the areas covered by a habitat conservation plan should be assured that their land use activities will not be disrupted if the candidate species or additional specific species not covered by the plan but dependent upon the same protected habitat type are subsequently listed under the ESA.

4. **Treat Landowners Fairly and With Consideration.**

ISSUE DEFINITION: The ESA has been criticized for placing an unfair burden on landowners, particularly small landowners.

Administration Position: The ESA must be administered in a manner that assures fair and considerate treatment for those whose use of property is affected by its programs. Therefore the Administration has initiated or supports the following reforms:

- *Greater Federal responsibility* – The Administration is emphasizing the importance of having each Federal agency fully meet its responsibilities for conserving species in order to reduce impacts to private lands. It is facilitating economic use of private land by placing additional federal lands in protection, by acquiring military lands when bases are closed, by enrolling existing federal lands in habitat reserves, and by arranging for purchases of RTC lands.

- *Presumptions in favor of small landowners and low impact activities.* For threatened species we will propose regulations that allow land use activities by landowners that result in incidental take and individually or cumulatively have no lasting effect on the likelihood of the survival and recovery of a species and, therefore, have only negligible adverse effects. In particular, the following activities would not be regulated under this proposal:
 - activities on tracts of land occupied by a single household and used solely for residential purposes;
 - one-time activities that affect five acres of land or less of contiguous property if that property was acquired prior to the date of listing; and
 - activities that are identified as negligible.

In cases in which the cumulative adverse effects of these exempted activities are likely to be significant, the Secretary would be required to issue a special rule. The Secretary also would be required to consider issuing a special rule to exempt activities on tracts of land larger than 5 acres that are also likely to be negligible.

The CONGRESS should extend this flexibility to include activities that result in incidental take of endangered species and the CONGRESS should provide that incidental take activities undertaken pursuant to an approved state conservation agreement (*see recommendations under point #10*) are not regulated.

5. Create Incentives for Landowners to Conserve Species.

ISSUE DEFINITION: Concern has been expressed that current implementation of the ESA fails to provide incentives for species conservation or even discourages such conservation.

Administration Position: Cooperation with landowners in protecting and recovering species should be encouraged. Therefore, the Administration will support or has already initiated the following reforms:

- *Incentives for voluntary enhancement.* The FWS and the NMFS will provide incentives to landowners who voluntarily agree to enhance the habitat on their lands by insulating them from restrictions if they later need to bring their land back to its previous condition. Landowners often are interested in managing their lands in ways that have as a by-product substantial benefit to threatened and endangered species. However, landowners currently are reluctant to manage their lands in this manner because they are concerned that any subsequent reduction in quantity or quality of the improved habitat would result in a violation of the ESA. The proposed policy would apply only to those

situations in which it is possible to measure a conservation benefit to a species from habitat improvements. In those cases, landowners would not be penalized for having made those improvements.

- *Incentives provided by other landowner provisions.* In addition, the “No Surprises” policy and the proposed legislative action to encourage landowners to participate in habitat conservation planning to protect multiple species will provide significant incentives for landowners to conserve species.

6. Make Effective Use of Limited Public and Private Resources by Focusing on Groups of Species Dependent on the Same Habitat.

ISSUE DEFINITION: The ESA has been criticized for placing too much emphasis on single species and not enough emphasis on groups of species and habitats.

Administration Position: To make effective use of limited public and private resources, priority should be given to multi-species listings, recovery actions and conservation planning. Therefore, the Administration has initiated or supports the following reforms:

- *Multi-species conservation emphasis.* The FWS and NMFS have adopted a policy that emphasizes cooperative approaches to conservation of groups of listed and candidate species that are dependent on common habitats. It directs that multi-species listing decisions should be made where possible and that recovery plans should be developed and implemented for areas where multiple listed and candidate species occur. The policy further emphasizes the importance of integrating federal, state, tribal, and private efforts in cooperative multi-species efforts under the ESA.
- *Habitat conservation and recovery planning.* In addition, the habitat conservation planning and recovery planning policies in this package encourage multi-species and habitat-based conservation efforts.

7. Prevent Species From Becoming Endangered or Threatened.

ISSUE DEFINITION: Federal land-managing agencies, States, and others have expressed strong interest in having greater opportunities to put conservation measures in place that would remove threats to species and make their listing unnecessary.

Administration Position: In carrying out its laws and regulations, the Federal Government should seek to prevent species from declining to the point at which they must be protected under the ESA. Therefore the Administration has initiated the following reforms:

- *Federal/State conservation of imperiled species.* The Forest Service, BLM, National Park Service, FWS and NMFS have signed an agreement with the International Association of Fish and Wildlife Agencies that establishes a federal-state framework to cooperate in efforts to reduce, mitigate, and potentially eliminate the need to list species under the ESA.
- *Pre-listing conservation agreements.* The NMFS and the FWS have published draft guidance for public review and comment that encourages and sets uniform standards for the development of pre-listing conservation agreements with other parties to help make the listing of species unnecessary. The guidance also is intended to clarify the role of the FWS and NMFS in conservation of candidate species and ensure that there is regular, periodic review of the status of candidate species to help prevent their further decline.
- *Habitat conservation planning for non-listed species.* Providing additional certainty, as recommended above, to landowners who participate in habitat conservation plans that protect non-listed species as well as listed species will help prevent species from becoming threatened or endangered.

8. **Promptly Recover and De-List threatened and Endangered Species.**

ISSUE DEFINITION: Concerns have been expressed that too little emphasis is placed on recovering and de-listing species once they have been listed.

Administration Position: The goal of the ESA is to bring species back to the point at which they no longer require the Act's protection. Specifically, the Administration supports the following reforms to promptly restore threatened and endangered species to healthy status and then promptly de-list them:

- *Effective recovery.* Recovery should be the central focus of efforts under the ESA. Plans for the recovery of listed species should be more than discretionary blueprints. They should be meaningful and provide for implementation agreements that are legally binding on all parties. They should prescribe those measures necessary to achieve a species' recovery in as comprehensive and definitive manner as possible in order to provide greater certainty and quicker decisions in meeting the requirements of the ESA.

The CONGRESS should ensure that recovery planning:

- articulates definitive recovery objectives for populations (including levels that would initiate down-listing or de-listing) based on the best available scientific information and the other requirements of the ESA;
- provides all jurisdictional entities and stakeholders an opportunity to participate in development and implementation of the plan;

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- seeks to minimize any social or economic impacts that may result from implementation;
 - emphasizes multi-species, habitat-based approaches;
 - is exempted from NEPA if the planning process is equivalent to that required by NEPA;
 - facilitates integration of natural resource and land management programs at all jurisdictional levels; and
 - identifies specific activities or geographic areas that are exempt from or that will not be affected by the section 9 prohibitions of the ESA concerning “take” of species covered by a plan.

The CONGRESS should improve the recovery planning process under the ESA by requiring all appropriate state and federal agencies to develop one or more specific agreements to implement a recovery plan. Upon approval of an implementation agreement by each of the appropriate state and federal agencies, the agreement should be legally binding and incorporated into the recovery plan. Recovery plans and implementing agreements should be reviewed and updated on a regular basis. An incentive should be created for federal agencies to approve implementation agreements by providing an easier, quicker section 7 process. Such implementation agreements should:

- expedite and provide assurances concerning the outcome of interagency consultations under section 7 and habitat conservation planning under section 10 of the ESA;
 - ensure that actions taken pursuant to the agreement meet or exceed, the requirements of the ESA; and
 - require that each appropriate agency that signs an agreement comply with its terms.
- *More rational process for designating critical habitat.* The CONGRESS should modify the timing of critical habitat designations so that they result from the recovery planning process. Specifically:
 - Designation of critical habitat should be based on the current standards of the ESA and the specific recommendations in recovery plans.

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- Designation should occur concurrently with recovery plan approval, rather than the current requirement that it be designated at the time of listing.
 - *Prompt down-listing and de-listing.* Prompt down-listing and de-listing of species when warranted are critical to the success of the ESA. The CONGRESS should give these actions emphasis equal to that of listing. Specifically:
 - Down-listing or up-listing should be done administratively based on criteria in a recovery plan that meets the standards of the ESA and should not be subject to the current process required for listing, de-listing and changes in status of a species.
 - The de-listing process should be triggered when the criteria established by a recovery plan are met.
 - *Recovery planning deadlines.* The FWS and the NMFS adopted a policy that requires completion of a draft recovery plan within 18 months of listing and a final recovery plan within 12 months of completion of the draft plan.
 - *Affirmative species conservation by Federal agencies.* Fourteen federal agencies have entered into an unprecedented agreement to improve efforts to recover listed species. Each agency has agreed to identify affirmative opportunities to use its existing programs or authorities toward that end.

9. **Promote Efficiency and Consistency.**

ISSUE DEFINITION: The FWS and the NMFS have been criticized for carrying out the ESA inconsistently and ineffectively.

Administration Position: The ESA should be administered efficiently and consistently within and between the Departments of Commerce and the Interior. Therefore, the Administration has initiated the following reforms:

- *Joint NMFS/FWS standards and procedures.* The NMFS and the FWS are committed to administering the ESA in an efficient and consistent manner so that the public always gets one answer from the two agencies and from different offices within the same agency. The agencies will standardize their policies and procedures through issuance of joint orders, guidance, regulations, and increased training. Consequently, each policy identified in this package is being implemented or proposed jointly by the FWS and the NMFS.

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- *Joint section 7 consultation policies and procedures.* The FWS and NMFS, for example, have published a draft handbook for public review and comment that will standardize the policies and procedures governing section 7 consultations between the Services and other federal agencies concerning actions by those federal agencies that may affect a listed species.
 - *National federal working groups.* The agreement by 14 Federal agencies identified above established a national interagency working group to identify and coordinate improvements in Federal implementation of the ESA, including identification and resolution of issues associated with interagency consultations undertaken pursuant to section 7(a)(2) of the Act.

10. Provide State, Tribal, and Local Governments with Opportunities to Play a Greater Role in Carrying Out the ESA.

ISSUE DEFINITION: State, tribal, and local governments have expressed strong interest in greater utilization of their expertise and in playing a greater role in the ESA's implementation.

Administration Position: Building new partnerships and strengthening existing ones with state, tribal, and local governments is essential to achieving the ESA's goals in a fair, predictable, efficient and effective manner. Therefore, the Administration has initiated and will support the following reforms to establish a new cooperative federal-state relationship to achieve the goals of the ESA:

- *Participation of Indian tribal governments.* The Departments of the Interior and Commerce will, in consultation with Indian tribal governments, propose a policy directive to clarify the relationship of Indian tribal governments to the ESA and to provide greater opportunities for the participation of these governments in carrying out the Act.
- *Participation of State fish and wildlife agencies.* The FWS and the NMFS have issued a policy directive to their staff which recognizes that State fish and wildlife agencies generally have authority and responsibility for protection and management of fish, wildlife and their habitats, unless - preempted by Federal authority, and that State authorities, expertise and working relationships with local governments and landowners are essential to achieving the goals of the ESA. The policy directive, therefore, requires that State expertise and information be used in pre-listing, listing, consultation, recovery, and conservation planning. It further requires that the Services encourage the participation of State agencies in the development and implementation of recovery plans.

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- *Facilitate State efforts to retain management authority.* The CONGRESS should provide a State with opportunities and incentives to retain its jurisdiction over management of a threatened or endangered species within its jurisdiction. Specifically:
 - To encourage states to prevent the need to protect species under the ESA, the ESA should explicitly encourage and recognize agreements to conserve a species within a state among all appropriate jurisdictional state and federal agencies. If a state has approved such a conservation agreement and the Secretary determines that it will remove the threats to the species and promote its recovery within the state, then the Secretary should be required to concur with the agreement and suspend the consequences under the ESA that would otherwise result from a final decision to list a species. The suspension should remain in place as long as the terms or goals of the agreement are being met. The Secretary should be authorized to revoke a suspension of the consequences of listing if the Secretary finds that a state conservation agreement is not being carried out in accordance with its terms.
 - Conservation agreements among all appropriate state and federal agencies within a state should be reviewed and updated on a regular basis.
 - Each federal and state land management agency that signs a conservation agreement to remove threats to a species and promote its recovery should be required to ensure that its actions are consistent with the terms of that agreement.
 - Suspension of the consequences of listing a species pursuant to an approved state conservation agreement should be permitted at any point before or after a final listing decision.
 - *Special consideration of State scientific information.* The CONGRESS should recognize that the States have substantial expense concerning species within their jurisdiction by requiring that special consideration be given to State scientific knowledge and information on whether a species should be proposed for listing under the standards of the ESA, as described below:
 - Petitions should be sent to each affected State fish and wildlife agency. If a State fish and wildlife agency recommends against proposing a species for listing or de-listing, the Secretary should be required to accept that recommendation unless the Secretary finds, after conducting independent scientific peer review, that the listing is required under the provisions of the ESA.

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- *Lead State role on recovery planning.* The CONGRESS should provide States the opportunity to assume the lead responsibility for developing recovery plans and any component implementation agreements.
 - In those cases in which a species' range extends beyond the boundaries of a single state, there should be a mechanism to ensure participation by and coordination with each affected state in the development of the plan for the species' recovery.
 - The Secretary should approve a state-developed recovery plan unless the Secretary finds that it is not adequate to meet the standards of the ESA.
 - *Lead State role on non-federal habitat conservation.* Decisions concerning use of non-federal lands should be made to the extent possible by state and local governments. Therefore, the CONGRESS should:
 - Specifically authorize appropriate State agencies, as well as the Secretaries, to enter into voluntary pre-listing agreements with cooperating landowners to provide assurances that further conservation measures would not be required of the landowners should a species subsequently be listed. Landowners who have, satisfactorily demonstrated that they will protect candidate species or the significant habitat types within the area covered by a pre-listing agreement should be assured that they will not be subject to additional obligations to protect species if the candidate species or additional specific species not covered by the agreement but dependent upon the same protected habitat type are subsequently listed under the ESA.
 - Provide a State with the opportunity to assume responsibility for issuing permits under section 10(a)(2) for areas within the State which have been identified for such assumption in an approved recovery plan or for which there is otherwise an approved comprehensive, habitat-based, state program.
 - *Remove obstacles to Federal/State/Tribal cooperation.* Federal, state, tribal and local governments should be able to cooperate and fully coordinate their actions in carrying out the ESA. Specifically, the Secretary should be exempt from the provisions of the Federal Advisory Committee Act in cooperating and coordinating with states, tribal or local governments in carrying out the ESA.

CONCLUSION

This reform package reflects the Administration's strong commitment to carry out the ESA in a fair, efficient and scientifically sound manner. The improvements that have been initiated and the legislative action recommended build on the existing law to provide effective conservation of threatened and endangered species and fairness to people through innovative, cooperative, and comprehensive approaches.