

## Endangered Species Act

The Endangered Species Act (ESA) was all over the news this past week due to proposed regulations and legislation focused on reforming the Act. There are two federal agencies that implement the ESA, National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS), otherwise known as the Services. Together, the agencies proposed changes to the Act that they believe will "improve and clarify interagency consultation, and make it more efficient and consistent, without compromising conservation of listed species."

During the AMCA Washington Conference our members asked Congress to support the agencies as they work towards ESA reform. We also asked the agencies to use the best scientific data available in their decision making and for a transparent regulatory process. It appears our voices were heard. Many media and opinion articles on this subject are opposed to the Administration altering the Endangered Species Act, so I strongly encourage you to read the information provided in the dockets and form your own, informed opinion.

There are 3 dockets open for comment until September 24th, 2018.

1) To read the Federal Register notice regarding revision of ESA regulations for **interagency cooperation** [click here](#).

2) The agencies have proposed revisions concerning the procedures and **criteria used for listing or removing species** from the Lists of Endangered and Threatened Wildlife and Plants **and designating critical habitat**. To read the docket and/or comment on proposed changes [click here](#).

3) **Revision of Regulations for Prohibitions to Threatened Wildlife and Plants** - based on a brief review of the proposal, this seems to be an attempt to make the NMFS and USFWS processes more consistent with each other. To access the docket [click here](#).

On a related topic, Joe Conlon, AMCA Technical Advisor, recently submitted comments on behalf of the membership in response to NMFS Biological Opinion (BiOp) regarding the continued registration of malathion, chlorpyrifos and diazinon and the effects on endangered species and critical habitat. Thank you to Joe and everyone that contributed to AMCA's comments. The Legislative and Regulatory Committee will continue to work with the Environmental Protection Agency (EPA) and the Services to ensure mosquito control operators can perform their work while being mindful and protective of the environment.

### NPDES Permits

The Clean Water Act prohibits anybody from discharging "pollutants" through a "point source" into a "water of the United States" unless they have a National Pollutant Discharge Elimination Systems (NPDES) permit.

AMCA has actively been seeking a legislative fix for NPDES since 2009 when federal courts ruled that pesticide applications made to, near or over water required an NPDES permit, even though pesticide uses are already regulated under another federal law, the Federal Insecticide Fungicide Rodenticide Act (FIFRA).

One reason NPDES permits are problematic for mosquito control programs is that being regulated under the Clean Water Act exposes pesticide applicators to third party lawsuits, steep fines, and delays or elimination of mosquito control services. If you haven't done so lately, you may want to read through your permit and make sure everything is up-to-date. It's been a while since the permits were issued, so there may be language that needs updating during the next renewal cycle.

However, there is a real possibility that Congress could eliminate the requirement that mosquito control pesticide applicators obtain NPDES permits. This month Congress named members that will sit on the farm bill conference committee. This group will decide if NPDES "fix" language will end up in the final version of the bill. If you have a Member of Congress that was named as a conferee, it would benefit AMCA members if you contact him/her and provide information on how mosquito control programs would benefit from this legislation. For additional information contact [Angela Beehler](#).

Just for fun - let's review what led us to NPDES permits in the first place. A court decided that mosquito control pesticide applications were point source discharges of pollutants. According to the [EPA's Website](#), the term **pollutant** is defined very broadly in the Clean Water Act. It includes any type of industrial, municipal, and agricultural waste discharged into water. Some examples are dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste. With that broad definition just about anything could be pegged as a nasty pollutant. Even our beloved biological and organic certified insecticides.