

FACT SHEET

**US Fish and Wildlife Service
Rescinding the Definition of “Harm” Under the Endangered Species Act
Proposed Rule**

Background:

On April 17, 2025, the US Fish and Wildlife Service and National Marine Fisheries Service (Services) proposed to rescind the definition of “harm” within the context of a “take” under the Endangered Species Act. Under the Act, a “take” generally refers to actions that negatively impact protected wildlife — including activities that harass, harm, hunt, shoot, wound, kill, trap, capture, or collect an animal, whether intentional or not. The current definition of harm states that harm means “an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.” 50 CFR §17.3.

By rescinding this definition, the Services would return to a case-by-case application, where modifying the habitat of a species may constitute "harm" only when it results in actual death or injury to listed species by significantly impairing essential behavioral patterns. In practical terms, this means that habitat destruction alone may not be considered a violation of the Endangered Species Act unless it can be clearly shown to have caused death or injury to a protected species.

Resources:

- *Public Comments due by May 19.*
- Read the rule [here](#).

Contact ARTBA’s Prianka Sharma at psharma@artba.org for more information.