



Highlights of [GAO-03-949T](#), a testimony before the Subcommittee on Fisheries, Wildlife, and Water, Senate Committee on Environment and Public Works

## Why GAO Did This Study

The Endangered Species Act requires all federal agencies to consult with the Fish and Wildlife Service or the National Marine Fisheries Service (the Services) to determine the effect that the activities they conduct, permit, or fund may have on threatened or endangered species. In particular, federal agencies (action agencies) must ensure that their activities do not jeopardize the continued existence of any listed species or adversely modify critical habitat. After several fish species in the Pacific Northwest were listed in the late 1990s, the Services' consultation workload increased significantly in Idaho, Oregon, and Washington, and the Services were unable to keep up with requests for consultation. As a result, many proposed activities were delayed for months or years. Even under normal workload conditions, the consultation process can be difficult, in part because decisions about how species will be protected must often be made with uncertain scientific information using professional judgment.

This testimony is based on ongoing work requested by the Chairman of the Senate Subcommittee on Fisheries, Wildlife, and Water. It addresses (1) efforts to improve the consultation process, by the Services and by four action agencies in Idaho, Oregon, and Washington; and (2) concerns with the process expressed by officials at the Services and action agencies, and by nonfederal parties.

[www.gao.gov/cgi-bin/getrpt?GAO-03-949T](http://www.gao.gov/cgi-bin/getrpt?GAO-03-949T).

To view the full testimony, including the scope and methodology, click on the link above. For more information, contact Barry T. Hill at (202) 512-3841 or [hillbt@gao.gov](mailto:hillbt@gao.gov).

## ENDANGERED SPECIES

### Despite Consultation Improvement Efforts in the Pacific Northwest, Concerns Persist about the Process

#### What GAO Found

The Services and four action agencies in the Pacific Northwest have taken a number of actions to improve the efficiency of the consultation process. For example, the Services have increased their staff levels in some offices, and the National Marine Fisheries Service has opened additional offices to facilitate consultations at remote locations. The Services have also increased their use of consultations that cover multiple activities that are similar in nature, thus minimizing the need to consult on individual activities. Another improvement, called streamlining, uses interagency teams that work together on multiple activities; these teams work to improve communication, reach agreement on the potential effects of activities early in the process, and resolve problems that arise to ensure that proposed activities will not negatively affect listed species. In addition, the Services and the action agencies have worked, both individually and together, to develop and refine additional guidance and training for staff conducting consultations.

Despite the improvement efforts, Service and action-agency officials, as well as nonfederal parties, continue to have concerns with the consultation process. A key problem that lengthens the consultation process is the lack of a shared understanding between the Services and action agencies on what constitutes a complete biological assessment. According to Service and action-agency officials, this can lead the Services to make multiple requests for information from the action agencies about an activity until the Services are confident that a biological assessment adequately addresses the effects of the proposed activity on the species. Multiple requests for information are also sometimes due to Service biologists' being unfamiliar with action-agency programs, partly owing to high staff turnover. In addition, action-agency officials noted that the Services and the action agencies attempt to ensure that biological assessments are "bullet proof" by making them so comprehensive that they will be immune to any legal challenges. Action-agency officials also expressed a concern that Service and action-agency roles are not clearly defined. For example, according to action-agency officials, Service officials sometimes make judgments about whether an activity should occur or how it should occur, rather than just judging its potential effects on species. In response, Service officials commented that the purpose of the consultation process is to discuss the potential effects of proposed actions early in the planning process and to explore options that will avoid jeopardy. Service and action-agency officials also identified a lack of sufficient resources—particularly at the Services—as a key concern, stating that staff-level increases have not kept pace with their growing workloads. Among the nonfederal parties, permit applicants expressed concerns about the time and expense required for the consultation process. Environmental groups said land management decision-making processes, such as consultation, are often closed to them until after final decisions are made, and that the only way they can make their voices heard is through administrative appeals and lawsuits.