ENVIRONMENTAL LITIGATION

Information on Endangered Species Act Deadline Suits

What GAO Found

GAO found that plaintiffs filed 141 deadline suits against the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) for allegedly failing to take actions within statutory deadlines under Section 4 of the Endangered Species Act (ESA) during fiscal years 2005 through 2015 (see figure). Section 4 contains mandatory deadlines for such actions as making findings on petitions to list or delist species as threatened or endangered. The suits involved 1,441 species and cited a range of Section 4 actions, but most suits were related to missed deadlines for issuing findings on petitions to list species.

The majority of deadline suits filed during fiscal years 2005 through 2015 were resolved through negotiated settlement agreements that established schedules for the agencies to complete the actions involved in the suits. Agency officials said that most deadline suits are resolved through settlement because it is undisputed that a statutory deadline was missed. Other than setting schedules for completing Section 4 actions, the settlement agreements did not affect the substantive basis or procedural rule-making requirements the Services were to follow in completing the actions, such as providing opportunities for public notice and comment on proposed listing rules. Officials also said they prioritize completing actions in settlement agreements in implementing their Section 4 programs. NMFS officials indicated that work resulting from deadline suits did not have a significant effect on the implementation of their program, in part because NMFS has not had a high number of petitions to list species. In contrast, FWS has delayed completing some actions to complete those included in settlement agreements. FWS has initiated several changes to help improve Section 4 program implementation, including developing a 7-year workplan that prioritizes the order for completing overdue actions and revising information requirements for listing petitions.

The agencies provided technical comments on this report.

View GAO-17-304. For more information, contact Anne-Marie Fennell at (202) 512-3841 or fennella@gao.gov.