

H.R. 1662 and the Endangered Species Act: Side-by-Side Comparison

H.R. 1662 Provisions	Current Law Under the ESA
Sound Science and ESA Actions	
<p>Requires the Secretary to set standards for the scientific and commercial data that is used to take actions under the ESA.</p> <p>Requires the Secretary to give greater weight to scientific or commercial data that is empirical or has been field-tested or peer-reviewed.</p>	<p>The ESA requires “the best scientific and commercial data available” for listings and other actions. However, this term is not defined, and there are no objective standards to ensure a uniformly high quality of scientific data.</p>
Sound Science and the Listing Process	
<p>Sets minimum standards for the scientific and commercial data used in listing determinations.</p> <p>Listing actions <u>must</u> be supported by field data on the species.</p> <p>The listing agency <u>must</u> accept data on the species collected by landowners.</p>	<p>The Secretary is given broad discretion in determining what listings, if any, will take place, with little to no constraints as to what data may or may not be used.</p>
Sound Science and Recovery Planning	
<p>Agencies preparing recovery plans are <u>required</u> to identify, solicit, and accept scientific or commercial information that would assist in preparing a recovery plan.</p>	<p>The ESA gives the Secretary broad discretion in developing recovery plans. Public input is limited to an opportunity to comment on a draft recovery plan.</p>
Sound Science and Peer Review	
<p>Every proposed listing, delisting, recovery plan, or consultation under the ESA would be reviewed by a peer review panel of</p>	<p>The ESA does not require peer review of scientific information, nor does it establish any structure for a peer review process.</p>

three non-biased scientists.

Sound Science and the Consultation Process

Requires the Secretary to solicit and consider information provided by the State.

Allows an applicant to: (1) prior to the release of a draft biological opinion, submit and “discuss” with the Service and action agency information about the proposed action and possible reasonable and prudent alternatives; (2) obtain information used to develop the biological opinion and reasonable and prudent alternatives; and (3) provide comments prior to publication of the final biological opinion.

The service must include the applicant’s suggestions or explain why such suggestions were rejected.

Comments and other information submitted shall be available to the public.

The ESA requires the Secretary to cooperate with the States “to the maximum extent possible,” but largely leaves the implementation of such cooperation to the discretion of the Secretary.

The Service is required to consult with Federal agencies to ensure that endangered/threatened species and critical habitat are not adversely affected. The ESA requires the Service generally to cooperate with an applicant for a federal permit during consultation, but the applicant is not provided a formal role in the process.