



Endangered Species Act

Congress passed the Endangered Species Act (ESA) of 1973 to replace the Endangered Species Conservation Act of 1969 and in direct response to the 1973 signing of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).¹ ESA provides a federal program for the conservation of threatened and endangered plants and animals and the ecosystems upon which they depend. Since 1973, Congress has enacted significant amendments to ESA—1978, 1982, 1988, and 2004—but the law’s overarching goal of reversing trends towards species extinction has remained unchanged.¹

Methods

The U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) administer ESA. Under ESA, species, subspecies, and distinct population segments may be federally listed—by regulation—as endangered or threatened based on the “best scientific and commercial data available.”¹ An *endangered* listing indicates that the species is in danger of extinction throughout all or a significant portion of its range. A *threatened* listing means that the species is likely to become endangered within the foreseeable future.¹

Five factors are considered when listing a species:¹

- 1) Damage to or destruction of a species’ habitat;
- 2) Overutilization of the species for commercial, recreational, scientific, or educational purposes;
- 3) Disease or predation;
- 4) Inadequacy of existing protection; and/or
- 5) Other natural or manmade factors affecting its continued existence.

If a species is listed, USFWS/NMFS must create an Endangered Species Recovery plan that outlines: actions needed to return the species to a healthy state; criteria for achieving this healthy state; estimates for how long the recovery will take; and how much recovery will cost. Recovery plans are not regulatory documents; rather they provide implementation guidelines to ensure successful recovery of the listed species. The agencies then enlist the help of states and local governments to implement the plans until the species is considered “recovered,” and no longer warrants ESA listing.¹

Results

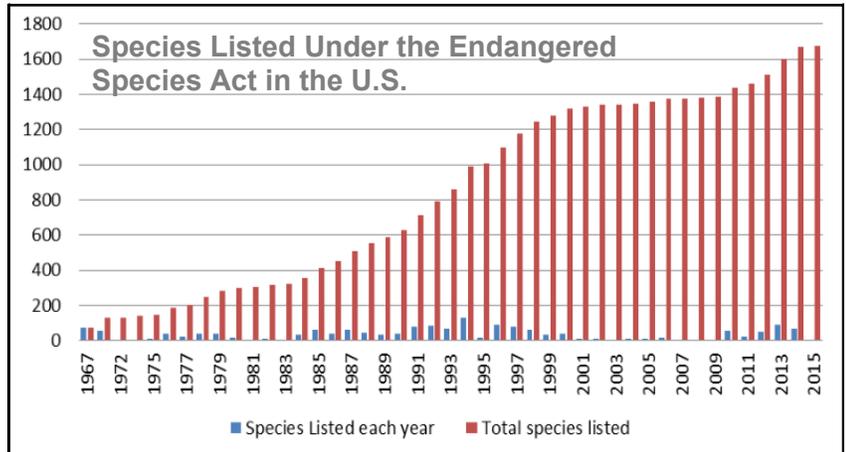
Since 1973, over 2,300 plant and animal species, in the U.S. and internationally, have been listed as threatened or endangered under ESA. Of these listed species, only 10 have gone extinct and 12 have been reclassified from threatened to endangered.² Comparatively, 38 species have been downgraded from endangered to threatened and an additional 49 species have been completely delisted due to recovery.³ As of April 2017, the U.S. and its surrounding waters, have 1,603 (1,228 endangered/375 threatened) of the total 2,390 ESA listed species.

Discussion

ESA has effectively prevented the extinction of over 99.5 percent of all listed species, thereby achieving its primary goal of preventing species extinctions. However, only about 2 percent of listed species have been removed from ESA as a result of recovery. This is likely a result of the fact that most species are listed at critically low population levels and because of threats—like habitat loss—which require significant time, funding, and commitment to reverse through restoration, enhancement, management, and protection. Historically, insufficient funding levels have largely constrained recovery efforts, but improvements in the status of listed species is still overall positively correlated with ESA listing.

Implications for Wildlife Professionals

ESA is a vital tool in the U.S. effort to conserve biological diversity. Listing a species under ESA enables wildlife professionals to prioritize management of that species and its habitat based on recovery need and through firm statutory duties on both public and private lands. In addition to the ESA Section 9 prohibition against “take” (*harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect*) of a listed species, the law also requires Interagency Cooperation (Section 7) for any federal action that may affect a listed species; and Habitat Conservation Plans (HCP) and incidental take permits (Section 10) for any non-federal activities—including those conducted by states or private entities—that will result in the take of a listed species. HCPs ensure that any negative effects of an authorized incidental take will be adequately minimized and mitigated. While ESA has served as an essential tool in preventing extinctions, its effectiveness at recovering species can be improved through a greater commitment of resources and focus on proactive measures to conserve at-risk species.



ESA listings over time, including from left to right: bald eagle (status: delisted); green sea turtle (status: endangered); gray wolf (status: delisted/some distinct population segments endangered)

Endangered Species Act: Features



Critical Habitat⁴

Section 4 of ESA states that USFWS must designate a species' critical habitat at the same time that the Agency lists the species. Critical habitat is defined as a specific geographic area that contains biological or physical features that are essential to the recovery of a threatened or endangered species. Critical habitat can also include any area that is not currently occupied by a threatened or endangered species, but will likely be needed for its recovery. Designations have to take into account not only the benefits of critical habitat for the species, but also its potential impacts on the economy and national security. Critical habitat designations do not restrict development. However, they do provide a reminder to agencies to protect the physical or biological features which are necessary for threatened or endangered species recovery. USFWS does not always choose to designate critical habitat at the same time as a species listing due to inadequate resources and difficulty in gathering information about a species' habitat within a timeline that is beneficial for the species' recovery.

Ash Meadows National Wildlife Refuge provides critical habitat for 8 ESA-listed species (Credit: USFWS)

Petition Process⁵

Members of the public can issue petitions—or formal requests to list a species—that are subject to review by the applicable agency. Within 90 days of receiving a petition, USFWS or NMFS must make a finding as to whether or not substantial information exists to warrant listing. If the initial review finds that listing may be warranted, a 12-month status review is conducted. The 12-month status review will determine if listing is: not warranted, warranted, or warranted but precluded. “Warranted but precluded” findings require a status review every year until a formal decision can be made about the status of the species. If the data supports listing, a proposed rule to list the species is published in the Federal Register. The applicable agency then solicits the expert opinion of three species specialists in a peer review and opens the proposal to public comment for 60 days. After the public comment period closes, the agency will either announce the decision not to list or will publish a final rule to list the species in the Federal Register. ESA protections become effective 30 days after a final rule is published.

Florida black bear: Petitioned for listing in 2016 but USFWS determined that listing was not warranted (Credit: FWC)



Candidate Conservation Agreements^{6,7}

Candidate Conservation Agreements (CCA) are voluntary agreements between USFWS and public and private entities to determine threats to candidate species. These entities work together to design and implement conservation measures for effective recovery. USFWS also implements Candidate Conservation Agreements with Assurances (CCAA), which provide non-federal landowners with additional incentives for engaging in conservation activities on their lands. USFWS developed the CCAA program to address landowner concerns about potential regulations due to having candidate species on their lands. According to USFWS, implementing collaborative conservation efforts before a species becomes listed increases the likelihood that more cost-effective conservation tools are available if the species becomes listed in the future. In southeast Oregon, an agreement between landowners and state and federal agencies to reduce threats to greater sage-grouse (*Centrocercus urophasianus*) aided in the USFWS' decision not to list the species in 2015.

Greater sage-grouse: USFWS found that the sage-grouse did not warrant listing in 2015 (Credit: USFWS)

1. USFWS. 2013. ESA Fact Sheet. <https://www.fws.gov/endangered/esa-library/pdf/ESA_basics.pdf> Accessed May 2016.
2. USFWS. 2016. Environmental Conservation Online System: Reclassified Species. <http://ecos.fws.gov/tess_public/reports/reclassified-species-report> Accessed May 2016.
3. USFWS. 2016. Environmental Conservation Online System: Delisted Species <https://ecos.fws.gov/tess_public/reports/delisting-report> Accessed June 2016.
4. USFWS. 2015. Critical Habitat. <<https://www.fws.gov/endangered/what-we-do/critical-habitats.html>> Accessed June 2016.
5. USFWS. 2015. Petition Process. <<https://www.fws.gov/endangered/what-we-do/listing-petition-process.html>> Accessed June 2016.
6. USFWS. 2011. Candidate Conservation Agreements Fact Sheet. <<https://www.fws.gov/endangered/esa-library/pdf/CCAs.pdf>> Accessed May 2016.
7. USFWS. 2015. Candidate Conservation Agreements. <<https://www.fws.gov/endangered/what-we-do/cca.html>> Accessed June 2016.

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