



Endangered Species Law and Policy

OVERVIEW OF HOW GOVERNMENT RESPONDS TO THREATENED SPECIES



- Executive

- Cabinet



- Legislature

- Makes laws

- Budget (House)



- Judicial

- Interprets laws



OVERVIEW OF HOW GOVERNMENT RESPONDS TO THREATENED SPECIES

▪ Executive

- Executive Order
- Propose legislation
- Veto legislation
- Appoint
 - Cabinet members and executive leadership
 - Federal judges
- Over executive agencies that carry out laws
 - Including changing rules and interpretations of laws
- International negotiation
- Message power

▪ Legislature

- Passing legislation
- Budget (House can appropriate money)
- Investigative power
- Approval of executive appointments

▪ Judicial

- Interpret environmental laws
 - Including whether laws are being carried out in compliance with the law
- Judicial review
 - Ensure laws do not conflict with the Constitution

ENDANGERED SPECIES ACT

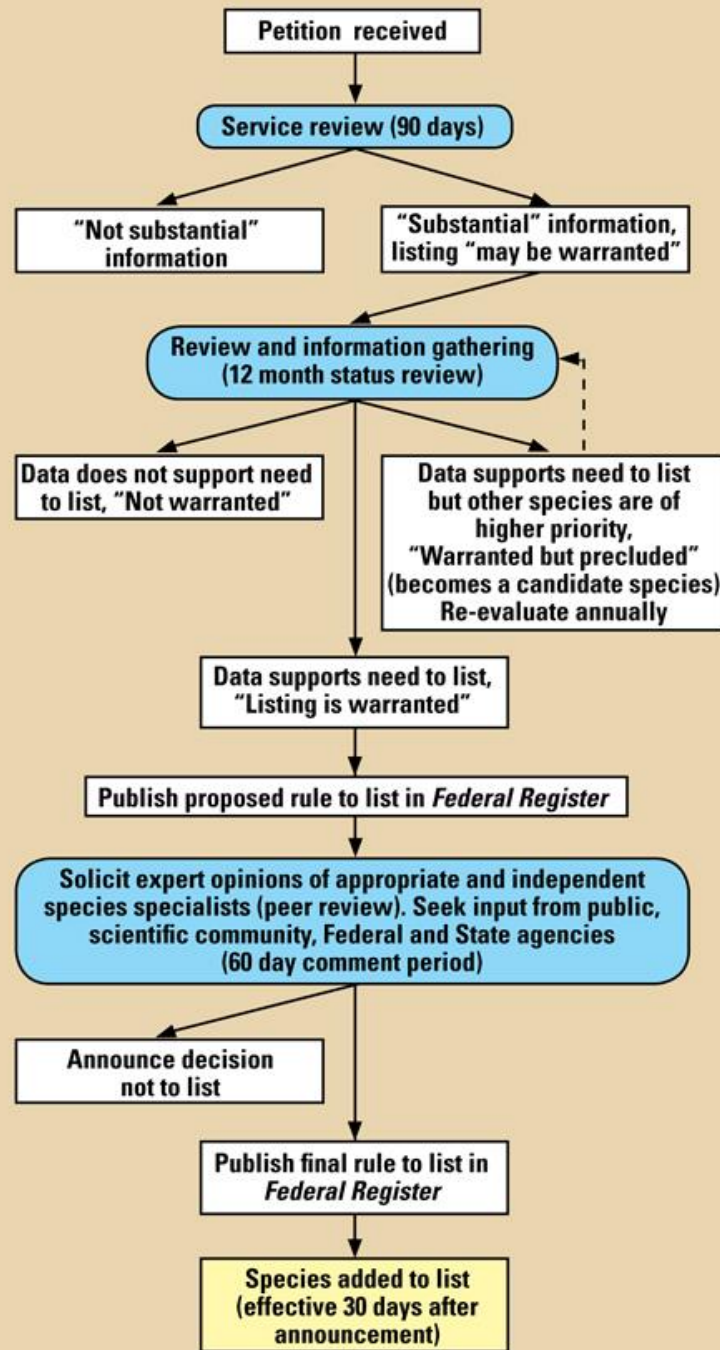
- Signed into law in 1973 by President Richard Nixon
- **Purposes:**
 1. To prevent extinction of threatened and endangered plants and animals
 2. To recover species to the point where the law's protections are no longer needed
- **How does it attempt to achieve these purposes?**
 - Protecting species and the ecosystems they depend upon
 - Listing a species and listing a critical habitat
- **Administered by**
 - United States Fish and Wildlife (FWS)
 - National Marine Fisheries Service (NMFS)
- **How is it enforced?**
 - Fines
 - Jail Time
 - Grants to encourage state and local efforts

ENDANGERED SPECIES ACT — LISTING

- “Threatened”
- “Endangered”
- **Process:**
 - Directly by FWS and NMFS through assessment program
 - Individual or organization can request
 - Rate of listing significantly increases with an increase of outside petitions AND an increase in adherence to mandatory timelines
- Agency creates a Recovery Plan

ENDANGERED SPECIES ACT — CRITICAL HABITAT

- Federal agencies are prohibited from authorizing, funding or carrying out actions that “destroy or adversely modify” critical habitats.
- Applies to federal land use
- Only impacts state and private land when a project is large-scale and requires a federal permit
- Doubles chances of species recovery



IMPACT?

- 85 species delisted
 - 45 due to recovery
 - 11 to extinction
- 25 down-listed



ESA CHALLENGES

- Interpretation shifts with administrations
 - Economic considerations
- Listing species began to be difficult
 - As of 2017 – individual listing process is more difficult
- Timelines not followed
 - Decision to list is supposed to be 2 years
 - Current average: 12 years
 - FWS backlog of over 500 species
 - 2016 analysis found: 50 species have gone extinct while awaiting listing decision
- Misconceptions of private land regulation
 - Private land requires a consultation and almost always allows the project to continue
 - Reason: there is not an alternative
 - .02% of projects on private land are halted
- When other federal agencies and programs interfere with preserves and refuges
 - Construction of the Wall could threaten up to 93 species
 - Use of water for the concrete impacting species in Arizona, New Mexico, Texas, and Oklahoma
 - Politics around which states sue and which do not
- Resource exploration
- September 3rd rule proposal
 - Decrease designation of critical habitat based on economic costs

WHAT CAN YOU DO?

To make ESA more responsive?

- Petition to list a species
 - <https://www.fws.gov/endangered/what-we-do/listing-petition-process.html>
- Make a public comment
 - These are often buried and not advertised.
 - Follow the *Federal Register* for listing decisions and notices for public comment:
<https://www.fws.gov/endangered/laws-policies/federal-register-notices.html>
<https://ecos.fws.gov/ecp/report/table/petitions-received.html>
 - Follow environmental groups you trust to stay updated on when public comment periods open
- Demand a public hearing
 - A public hearing is mandatory if ANY person has requested one within 45 days of the published noticed (for public comment). <https://www.regulations.gov/>

GETTING INVOLVED IN ENVIRONMENTAL POLICY



GETTING INVOLVED IN ENVIRONMENTAL POLITICS

- Curate credible news consumption practices
- Texas legislature
 - How it works
 - Ways to get involved
 - The importance of legislators hearing from their own constituents and to know that those constituents are politically and demographically diverse <https://wrm.capitol.texas.gov/home>
- Local groups
- Vote – not based on feelings but on policy positions and past record
- Become a delegate and push for change within the party
- Boards and commissions
- State Level
 - <https://gov.texas.gov/organization/appointments/positions>
 - <https://gov.texas.gov/organization/appointments/application>
- City Level
 - <http://www.waco-texas.com/boards-commissions.asp>
 - <https://ci.lubbock.tx.us/departments/city-secretary/boards-commissions>
 - <http://www.austintexas.gov/departments/boards-and-commissions>

POLITICAL CAREERS IN CONSERVATION

Federal agencies

- Council on Environmental Quality
- Environmental Protection Agency
- Department of the Interior

State

- Texas Parks and Wildlife Department
- Texas Commission on Environmental Quality
- TX Attorney General's Environmental Protection
- Texas Brazos River Authority
- Texas Land Conservancy

Local

- Waco Wetlands

Non-governmental Agencies

- Nonprofit organizations
- Think tanks
- Policy research

CITATIONS

- Greenwald, Noah; K. Suckling; M. Taylor (2006). "Factors affecting the rate and taxonomy of species listings under the U.S. Endangered Species Act". In D. D. Goble; J.M. Scott; F.W. Davis (eds.). *The Endangered Species Act at 30: Vol. 1: Renewing the Conservation Promise*. Washington, D.C.: Island Press. pp. 50–67. [ISBN 1597260096](#).
- Summary of the Endangered Species Act <https://www.epa.gov/laws-regulations/summary-endangered-species-act>
- The Endangered Species Act <https://www.fws.gov/international/laws-treaties-agreements/us-conservation-laws/endangered-species-act.html>
- Evans, Daniel M. et al. (2016). Species Recovery in the United States: Increasing the Effectiveness of the Endangered Species Act. <https://www.esa.org/wp-content/uploads/2016/01/Issue20.pdf>
- Puckett, Emily E.; Kesler, Dylan C.; Greenwald, D. Noah (September 2016). "Taxa, petitioning agency, and lawsuits affect time spent awaiting listing under the US Endangered Species Act". *Biological Conservation*. **201**: 220–229. [doi:10.1016/j.biocon.2016.07.005](https://doi.org/10.1016/j.biocon.2016.07.005).

MY CONTACT INFORMATION

- Rebecca Larsen
- rebeccalarsen@ttu.edu

