HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

Title by Title Analysis of ESA Amendments Act of 2025

Definitions

- Codifies the definition of the "foreseeable future" that was adopted by the Trump administration in a 2019 rulemaking.
- Amends the definition of "commercial activity" to clarify that public display of wildlife for conservation and education purposes does not constitute a commercial activity.
- Amends the definition of "best scientific and commercial data available" to include data submitted to the Secretary by a state, Tribal, or county government.
- Adopts a definition of "habitat" as it relates to critical habitat that ensures areas that can't support all life cycles of a species cannot being designated critical habitat.
- Codifies a definition of "environmental baseline" in the Section 7 consultation process that includes considering the impacts of existing infrastructure that are not caused by the proposed action or that are not within the discretion of the federal action agency to modify.

Title I: Optimizing Conservation Through Resource Prioritization

- Codifies the structure of the listing work plan to create flexibility on listing timelines in times where too many petitions are being submitted relative to the capacity of the U.S. Fish and Wildlife Service and National Marine Fisheries Service (the Services) to process them.

Title II: Incentivizing Wildlife Conservation on Private Lands

- Codifies into statute the need for the Services to consider the net conservation benefit of Candidate Conservation Agreements with Assurance (CCAA's) or any programmatic CCAA's for a species when making a listing decision on that species under the ESA.
- Streamlines the permitting process for Section 10 voluntary conservation agreements, such as Habitat Conservation Plans, by exempting them from the Section 7 consultation process and the National Environmental Policy Act (NEPA).

Title III: Providing for Greater Incentives to Recover Listed Species

- Amends Section 4(d) to require the Services to establish objective, incremental recovery goals for threatened species, provide for the stringency of regulations to decrease as recovery goals are met, and provide for state management of that species once all recovery goals are met in preparation for delisting.
- Allow states to develop and submit recovery strategies to the Services for species that are candidates for listing or listed as threatened. If the Services determine that the proposed

recovery strategy would be effective in conserving the species, it will become the regulation governing the management of the species in that state.
- For species listed as endangered, the Services must develop objective incremental recovery goals that would form the basis of a regulation under Section 4(d) once a species is upgraded to threatened.
- Requires the Services to act on 5-year review determinations of listed species.
- Prohibits judicial review within the 5-year monitoring period after a species is delisted.
- Codifies into the 2019 final rule from the Trump Administration that prohibited the U.S. Fish and Wildlife Service from adopted "blanket" 4(d) rules.
- Replicates, on private lands, language from the Sikes Act (16 U.S.C. 670a) giving regulatory certainty that critical habitat will not be designated if a landowner is working to implement a land management plan that conserves the listed species in question.

Title IV: Creating Greater Transparency and Accountability in Recovering Listed Species

- Requires the Services to make publicly available on the internet the best scientific and commercial data available that are used as the basis for listing and critical habitat determinations. Provides exceptions for data that states, or the Department of Defense do not want to be made publicly available
- Requires the Services to disclose to states affected by a listing or critical habitat determination all data used to make that determination.
- Requires the Services to disclose to Congress all costs associated with ESA-related lawsuits.
- Places a cap on the award of attorney's fees to successful litigants in line with the Equal Access to Justice Act.
- Requires an analysis of the economic impacts and national security impacts of each listing and critical habitat determination. Clarifies that these analysis does not change the listing criteria set out by the ESA.

Title V: Streamlining the Permitting Process

- Amends Section 7 to clarify that the Services cannot require federal agencies or project applicants to fully mitigate or offset impacts to listed species caused by an action.
- Amends Section 7 to require the Services to determine if longstanding modifications to federal projects that are adopted as a part of ESA consultation are materially benefiting listed species. If they determine they are not benefitting the species in question, they must be discontinued.
- Amends Section 7 to require the Services conduct consultations based on what is reasonably certain to occur, not based on a substantive presumption in favor of the species.
- Amends Section 7 to require "likely to jeopardize the continued existence of" determinations only be made if the proposed action itself would likely jeopardize the continued existence of the species.

Title VI: Eliminating Barriers to Conservation

- Removes overlapping and duplicative ESA permits for species listed under the CITES Treaty to streamline permitting international movements of nonnative species.
- Clarifies that the CITES "not detrimental to the survival" standard governs permitting requirements for non-native species.

Title VII: Restoring Congressional Intent

- Amends Section 11 to clarify that the Services do not have wide reaching authority to prohibit otherwise lawful activities through regulations that are designed to reduce the mere potential of impacting species (i.e. vessel speed restrictions).