



FAST FACTS

Support Modernization and Reform of the Endangered Species Act

Issue: When it was originally enacted in 1973, the authors of the Endangered Species Act (ESA) envisioned a law to protect species believed to be on the brink of extinction. At that time, 109 species were listed for protection. Today, there are nearly 2,000 species that are designated as either threatened or endangered under the ESA, with an additional 250 species considered as “Candidates” for listing.

Once a species is listed, ESA compliance can seriously impact the ability of electric cooperatives to site and maintain power lines. When a protected species or its habitat is adversely affected by an activity such as building transmission lines, it is a “taking” which will require an incidental take permit and a habitat conservation plan. Therefore, ESA listings can adversely affect essential economic activities in parts of rural America. Also, the ESA has been among the most contentious environmental laws because its substantive provisions can affect the use of both federal and non-federal lands and resources.

Electric cooperatives seek to make the ESA more efficient, effective, and less costly, with the goal of finding a balance that accommodates essential economic activities. To ensure fair and sensible application of the Act, scientific information must be thorough, balanced and based on scientific standards and impartial peer review. As true stewards of the land, electric cooperatives support solutions that balance economic growth and the preservation of native species.

Status:

While numerous species-specific legislative efforts have been attempted to remedy challenges posed by individual species in certain regions of the country, Congress has not pursued broad reform of the ESA law in a number of years. The House of Representatives has taken up narrow legislation in recent years to promote transparency in listing decisions and track and cap attorneys’ fees for cases filed under the ESA. However, this legislation was not considered in the Senate.

House Natural Resources Committee Chairman Rob Bishop (R-UT) and Senate Environment and Public Works Committee Chairman John Barrasso (R-WY) have both expressed interest in reviewing and modernizing the ESA. NRECA will work closely with Chairman Bishop, Chairman Barrasso and other congressional leaders to advance the cause of much needed ESA reform.

NRECA position:

NRECA supports congressional efforts to review, update and modernize the Endangered Species Act for the 21st Century.

Additionally, NRECA supports legislation similar to the modest effort from 2014 that would require greater transparency and reduce incentives for abuse of the ESA law by:

- requiring data used by federal agencies for ESA listing decisions be made publicly available on the Internet;
- requiring annual reporting and tracking of ESA litigation costs, including attorneys' fees;
- requiring the federal government to disclose to affected states all data used prior to a listing or proposed ESA listing decision; and
- capping hourly fees paid to attorneys that prevail in cases filed under ESA.

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