



Committee on Natural Resources U.S. House of Representatives

Chairman Doc Hastings

H.R. 4315 – *The Endangered Species Transparency & Reasonableness Act*

- This legislation is a common-sense bill that focuses on sensible and specific updates to the Endangered Species Act in the areas of transparency and species recovery.
- The Endangered Species Act (ESA) was created four decades ago in 1973 to preserve, protect, and recover key domestic species. Since that time, over 1,500 U.S. domestic species and sub-species have been listed. However, today the law is failing to achieve its primary purpose of species recovery and has only a **2 percent** recovery rate.
- Congress last renewed the ESA in 1988 long before iPhones, iPads, and the World Wide Web. This means it has been **26 years** since any improvements have been made.
- This legislation helps update the ESA to the 21st Century by making the law more effective for both species and people. Even the Obama Administration’s Director of the U.S. Fish and Wildlife Service said that there could be “opportunities to make incremental improvements” to the ESA.
- Specifically this legislation would:
 - Require data used by federal agencies for ESA listing decisions to be made publicly available and accessible through the Internet, while respecting state data privacy laws and private property. (Sec. 2 reflects the text of H.R. 4315 as reported)
 - Require the federal government to disclose to affected states data used *prior* to an ESA listing decision and it would require the “best available scientific and commercial data” used by the federal government to incorporate data provided by states, tribes, and local county governments. (Sec. 3 reflects the text of H.R. 4317)
 - Require the U.S. Fish and Wildlife Service to track, report to Congress, and make available online the federal taxpayer funds used to respond to ESA lawsuits, the number of employees dedicated to ESA litigation, and attorneys’ fees awarded in the course of ESA litigation and settlement agreements. (Sec. 4 reflects the text of H.R. 4316)
 - Prioritize species protection and protect taxpayer dollars by placing reasonable caps on attorneys’ fees to make the ESA consistent with existing federal law. For example, the federal government limits the prevailing attorneys’ fees to \$125 per hour in most circumstances, including federal suits involving veterans, Social Security, and disability. But under the ESA, attorneys are being awarded huge sums, in many cases, at a rate much as \$600 per hour. (Sec. 5 reflects the text of H.R. 4318)
- The U.S. Chamber of Commerce, the American Farm Bureau Federation, the National Rural Electric Cooperative Association and many others support this common sense bill.



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Background on the Endangered Species Act

Since its enactment in 1973, over 1500 species have been listed as a result of the Endangered Species Act and only 2 percent have been recovered. The last time the ESA was renewed by Congress was in 1988 – long before the internet and cell phones were as widespread and available for commercial use as they are today. With new technological capabilities readily available and strong support for conserving endangered species, there are key areas where improvements could be made to make the law more effective for both species and people in the 21st century. The Obama Administration’s Director of the Fish and Wildlife Service even acknowledged earlier this year that there could be “opportunities to make incremental improvements” to the ESA.

Excessive litigation has become one of the greatest obstacles to the success of the ESA. Instead of focusing on recovering endangered species and protecting those most at the brink of extinction, groups are using the ESA to file hundreds of lawsuits against the government – at taxpayers’ expense to force hundreds of listings in just four years. In response, agencies have devoted significant resources addressing those lawsuits and new petitions instead of on species recovery.

In 2011, the Obama Administration negotiated, behind closed-doors, sweeping ESA settlements with two litigious groups, greatly increasing ESA listings and habitat designations and impacting millions of acres and thousands of river miles across the country. The settlements require the Department of the Interior to decide by 2016 whether to list 779 species and designate critical habitat in all 50 states and Puerto Rico. These settlements shut out affected states, local governments, private property owners, and other stakeholders.

H.R. 4315, *the Endangered Species*

Transparency and Reasonableness Act, is a

common sense bill that focuses on sensible, targeted updates to the Endangered Species Act in the areas of transparency and species recovery.

The bill is supported by all of the Members of the [ESA Congressional Working Group](#), and many others, representing districts across the nation and is based on the recommendations and findings of their report and input from a broad array of stakeholders.

