

Endangered Species Management Self-Determination Act Section-by-Section

SECTION 1. Short Title.

SECTION 2. Clarifies that the term ESA means the Endangered Species Protection Act of 1973.

SECTION 3. Findings.

SECTION 4. Amends Section 4 of the existing process for determining endangered and threatened species [16 USC 1533] by requiring that determinations be made only with the consent of the Governor of each State in which the endangered or threatened species is present.

Clarifies the definition of “best scientific and commercial data” to include scientific evidence provided by the State agency.

Requires approval of a joint resolution for new species to be added to the federal endangered species list. All submissions to Congress for new listings are to be published in the Federal Register.

All species are automatically de-listed from the federal list after five years, unless approved by another joint resolution, in the same manner listed above, with input from the State or States in which the endangered species is found.

Allows States the option of regulating any federally determined endangered species found within their borders. Ensures that if a State elects to regulate the species, the State shall have the exclusive authority to a) promulgate or enforce regulations or guidance in relation to these species; b) designate a critical habitat; c) issue a permit or license; d) develop or implement a recovery plan; and e) establish any goal with respect to the recover plan. Also ensures that the State has the authority to regulate any endangered species within their borders that are listed on or after the date of enactment. Protects State authority by stating that, should a State elect to regulate, their actions shall not be subject to judicial review in any federal or state court.

SECTION 5. Requires the Administrators of Bonneville Power Administration, Southwestern Power Administration and the Western Area Power Administration to include in a monthly billing statement submitted to each customer the share of direct and indirect costs to the customer incurred by complying with the ESA. These Administrations are also required to submit to the House and Senate a report estimating these costs, as well as costs of compliance broken down on a project-by-project basis, and on a system wide basis.

For states that do not elect to manage their endangered species at the state level, the Endangered Species Management Protection Act creates new procedures to protect and clarify individual property rights. Any property owner may submit to the

Secretary of the Interior an application that includes any proposed use of their property. DOI is required to respond in writing within 90 days to confirm whether or not the proposal violates land use under the federal statute. If DOI fails to respond within 90 days, the proposed use will not be considered to violate the ESA.

If a private property owner's land use is diminished by the fair market value of 50 percent or more by the federal statute, they may seek compensation. Not later than 180 days of agency action, the Secretary shall pay an owner an amount equal to 150 percent of the fair market value of the real property.

Fair market value shall be determined by two licensed independent appraisers, one chosen by DOI, and one chosen by the landowner. If the appraisers fail to agree on the same fair market value, the DOI and the owner shall jointly select an additional licensed appraiser to determine the fair market value. FMV determination must be determined within 270 days. The DOI shall be responsible for all costs relating to the determination of fair market value.

SECTION 6. Amends the ESA to ensure that any party bringing suit under the federal statute shall not have their attorney's fees compensated.

SECTION 7. Conforming amendment.