

H.R. 1662 and S. 2009 – Endangered Species Data Quality Act of 2004 FACT SHEET

Scientists need to be able to use the best available science to conserve species.

The Endangered Species Act is a strong, effective, and common sense science-based conservation statute. It specifically requires the use of the “best available scientific and commercial data” in decision-making. Rep. Greg Walden and Sen. Gordon Smith’s bills, H.R. 1662 and S. 2009, seek to undercut the use of the best science. By requiring government agencies to “give greater weight” to some kinds of science over others, it seeks to restrict the use of important methods that scientists currently use to assess species’ protection, such as statistical tools that often provide the most telling insights about the species. Scientists, not politicians, should determine what constitutes the best science. The alleged justification for the bills is that the agencies are using “bad,” non-peer-reviewed science. However, the Fish and Wildlife Service (FWS) has a peer review policy for listing and critical habitat decisions, and has peer-reviewed all listings and critical habitat designations since 1996. Furthermore, the Government Accounting Office (GAO) recently examined the use of science in FWS listing decisions, and concluded that the decisions were indeed supported by the peer-reviewers (GAO 03-803, August 2003). These bills also substitute political for biological science by seeking to allow political appointees to set criteria for when wildlife experts can use “the best available scientific and commercial data” as a basis for determining whether a species is endangered.

These bills fail to ensure that reviewers are independent and qualified.

H.R. 1662 and S. 2009 do not actually require *independent* scientific review. Instead, the peer review process would be controlled by political appointees who may have little or no scientific experience. Neither the qualifications of the scientists eligible to serve on the committees, nor the membership of the committees is established by scientists. All are set by the Secretary of the Interior.

Unbalanced peer review demands do not give species the benefit of the doubt.

Even though peer review is already required for listing and recovery actions, H.R. 1662 and S. 2009 would require peer review for any listing, delisting, recovery, or jeopardy decision, except for decisions *not* to protect species. Therefore, decisions to protect species would get extra scrutiny, while decisions to not to list species would be summarily decided. Such requirements would create a bias against protection and also cause major delays in listing decisions, making it virtually impossible for the Fish and Wildlife Service and the National Marine Fisheries Service to comply with deadlines in the Endangered Species Act.

The consultation process would give special rights to industry.

Industries engaging in projects that require review for Endangered Species Act compliance would be given special access to the Secretary of the Interior. The bills would not give the same rights to individuals and communities that also may be affected by species declines from the proposed projects. These bills require the Secretary of the Interior to provide a written explanation of any disagreement with the industry’s proposal, even though the law already requires the Secretary to provide an adequate and rational explanation of its decision. There is no reason to give industry additional “super status” in this process.

Additional bureaucracy will delay species protection.

By soliciting information to assist in developing recovery plans without clear deadlines for when that information should be compiled or plans completed, H.R. 1662 and S. 2009 will delay necessary actions to bring species back from the extinction. Delays in recovery planning places more risk on imperiled species.