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The Endangered Species Act and the Precautionary Principle: The D.C. Circuit's Maine Lobstermen's Decision Has Legs



In *Maine Lobstermen's Ass'n v. National Marine Fisheries Service*, the U.S. Court of Appeals for the D.C. Circuit ruled that section 7 of the Endangered Species Act mandates using the "best scientific and commercial data available," preventing the NMFS from making speculative, worst-case assumptions about whether a fishery is "not likely" to jeopardize a protected whale species' survival.

The court also dismissed the notion of a mandatory "precautionary principle" favoring protected species without a clear statutory foundation. This decision, now unchallenged, sets a precedent for future administrative and judicial considerations.

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