

108TH CONGRESS
1ST SESSION

H. R. 1235

To provide for the management of critical habitat of endangered species and threatened species on military installations in a manner compatible with the demands of military readiness, to ensure that the application of other resource laws on military installations is compatible with military readiness, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2003

Mr. GALLEGLY (for himself and Mr. GIBBONS) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the management of critical habitat of endangered species and threatened species on military installations in a manner compatible with the demands of military readiness, to ensure that the application of other resource laws on military installations is compatible with military readiness, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Encroachment on Mili-
3 tary Bases Prevention Act”.

4 **SEC. 2. MILITARY READINESS AND THE CONSERVATION OF**
5 **PROTECTED SPECIES.**

6 (a) LIMITATION ON DESIGNATION OF CRITICAL
7 HABITAT.—Section 4(a) of the Endangered Species Act
8 of 1973 (16 U.S.C. 1533(a)) is amended by adding at the
9 end the following new paragraph:

10 “(4)(A) The Secretary may not designate as critical
11 habitat any lands or other geographical areas owned or
12 controlled by the Department of Defense, or designated
13 for its use, that are subject to an integrated natural re-
14 sources management plan prepared under section 101 of
15 the Sikes Act (16 U.S.C. 670a), if the Secretary deter-
16 mines that such plan addresses special management con-
17 siderations or protection (as those terms are used in sec-
18 tion 3(5)(A)(i)).

19 “(B) Nothing in this paragraph affects the require-
20 ment to consult under section 7(a)(2) with respect to an
21 agency action (as that term is defined in that section).

22 “(C) Nothing in this paragraph affects the obligation
23 of the Department of Defense to comply with section 9,
24 including the prohibition preventing extinction and taking
25 of endangered species and threatened species.”

1 (b) CONSIDERATION OF EFFECTS OF DESIGNATION
2 OF CRITICAL HABITAT.—Section 4(b)(2) of the Endan-
3 gered Species Act of 1973 (16 U.S.C. 1533(b)(2)) is
4 amended by inserting “the impact on national security,”
5 after “the economic impact,”.

6 **SEC. 3. RESTRICTION ON CONSIDERATION OF MILITARY IN-**
7 **STALLATIONS IN SPECIAL RESOURCE STUD-**
8 **IES.**

9 Section 8 of Public Law 91–383 (16 U.S.C. 1a–5;
10 commonly known as the National Park System General
11 Authorities Act) is amended by adding at the end the fol-
12 lowing new subsection:

13 “(g) EXCLUSION OF MILITARY INSTALLATIONS
14 FROM SPECIAL RESOURCE STUDIES.—

15 “(1) NOTIFICATION OF SECRETARY OF DE-
16 FENSE.—If a study under this section or any other
17 provision of law of an area for potential inclusion in
18 the National Park System will include, or the study
19 will be expanded to include, the consideration of any
20 military lands, the Secretary of the Interior shall
21 provide written notice to the Secretary of Defense of
22 the exact military lands to be covered by the study.
23 The written notice shall be provided not later than
24 30 days before the date on which the Secretary of

1 the Interior will commence the study or expand the
2 study to include the military lands.

3 “(2) AUTHORITY TO EXCLUDE MILITARY
4 LANDS.—Upon receipt of written notification under
5 paragraph (1), the Secretary of Defense shall evalu-
6 ate the existing environmental protections for the
7 military lands described in the notice and the impor-
8 tance of the military lands to military readiness and
9 preparedness. The Secretary of Defense may require
10 the Secretary of the Interior to exclude all or a por-
11 tion of the military lands from the study if the Sec-
12 retary of Defense determines that the environmental
13 protections for the military lands are sufficient and
14 that inclusion of the military lands in the National
15 Park System could adversely impact military readi-
16 ness and preparedness. Notice to the Secretary of
17 the Interior shall include the reasons of the Sec-
18 retary of Defense for requiring the exclusion of the
19 military lands.

20 “(3) TIME FOR MAKING DETERMINATION; EF-
21 FECT.—The Secretary of Defense shall make the de-
22 termination required under paragraph (2), and
23 transmit notice of the determination to the Secretary
24 of the Interior, before the end of the 90-day period
25 beginning on the date on which the Secretary of De-

1 fense receives the written notice required under
2 paragraph (1) of a study that covers military lands.
3 If the notice of the Secretary of Defense is timely,
4 the Secretary of the Interior may not consider the
5 military lands covered by the notice for possible in-
6 clusion in the National Park System in that study
7 or any subsequent study. If the notice is not received
8 by the Secretary of the Interior before the end of the
9 90-day period, the Secretary of the Interior may
10 proceed with the consideration of the military lands
11 under the study notwithstanding the determination.

12 “(4) MILITARY LANDS.—In this subsection, the
13 term ‘military lands’ means lands included as part
14 of a military installation, as that term is defined in
15 section 100 of the Sikes Act (16 U.S.C. 670).”.

16 **SEC. 4. RESTRICTION ON INCLUSION IN NATIONAL MARINE**
17 **SANCTUARIES OF AREAS USED FOR MILI-**
18 **TARY READINESS ACTIVITIES.**

19 (a) IN GENERAL.—Section 305 of the National Ma-
20 rine Sanctuary Act (16 U.S.C. 1433) is amended—

21 (1) in subsection (a) in the matter preceding
22 paragraph (1) by inserting “(subject to subsection
23 (c))” after “any discrete area of the marine environ-
24 ment”; and

25 (2) by adding at the end the following:

1 “(c) RESTRICTION ON INCLUSION OF AREAS USED
2 FOR MILITARY READINESS ACTIVITIES.—The Secretary
3 may not designate as a national marine sanctuary, or add
4 to an existing national marine sanctuary, any area that
5 the Secretary of Defense has designated for use for mili-
6 tary readiness activities, including any area the use or
7 navigation of which is prohibited under regulations issued
8 by the Secretary of the Army under the first section of
9 chapter XIX of the Act of July 9, 1918 (33 U.S.C. 3),
10 popularly known as the Army Appropriation Act of
11 1919.”.

12 (b) APPLICATION.—The amendment made by sub-
13 section (a) shall not apply with respect to any designation
14 of an area as, or addition of an area to, a national marine
15 sanctuary that takes effect before the date of the enact-
16 ment of this Act.

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