AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

113TH CONGRESS
2D SESSION

H. R. 4315

IN THE SENATE OF THE UNITED STATES

JULY 30, 2014

Received; read twice and referred to the Committee on Environment and Public Works

AN ACT

To amend the Endangered Species Act of 1973 to require publication on the Internet of the basis for determinations that species are endangered species or threatened species, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Endangered Species Transparency and Reasonableness Act''.

SEC. 2. REQUIREMENT TO PUBLISH ON THE INTERNET THE BASIS FOR LISTINGS.

Section 4(b) of the Endangered Species Act (16 U.S.C. 1533(b)) is amended by adding at the end the following:

''(9) The Secretary shall make publicly available on the Internet the best scientific and commercial data available that are the basis for each regulation, including each proposed regulation, promulgated under subsection (a)(1), except that, at the request of a Governor, State agency, or legislature of a State, the Secretary shall not make available under this paragraph information regarding which the State has determined public disclosure is prohibited by a law or regulation of that State, including any law or regulation requiring the protection of personal information; and except that within 30 days after the date of the enactment of this paragraph, the Secretary shall execute an agreement with the Secretary of Defense that prevents the disclosure of classified information pertaining to Department of Defense personnel, facilities, lands, or waters.''.

SEC. 3. DECISIONAL TRANSPARENCY AND USE OF STATE, TRIBAL, AND LOCAL INFORMATION.

(a) REQUIRING DECISIONAL TRANSPARENCY WITH AFFECTED STATES.—Section 6(a) of the Endangered Species Act of 1973 (16 U.S.C. 1535(a)) is amended—

(1) by inserting ''(1)'' before the first sentence; and

(2) by striking ''Such cooperation shall include'' and inserting the following:

''(2) Such cooperation shall include—

''(A) before making a determination under section 4(a), providing to States affected by such determination all data that is the basis of the determination; and

''(B)''.

(b) ENSURING USE OF STATE, TRIBAL, AND LOCAL INFORMATION.—

(1) IN GENERAL.—Section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532) is amended—

(A) by redesignating paragraphs (2) through (21) as paragraphs (3) through (22), respectively; and

(B) by inserting after paragraph (1) the following:

''(2) The term 'best scientific and commercial data available' includes all such data submitted by a State, tribal, or county government.''.

(2) CONFORMING AMENDMENT.—Section 7(n) of such Act (16 U.S.C. 1536(n)) is amended by striking ''section 3(13)'' and inserting ''section 3(14)''.

SEC. 4. DISCLOSURE OF EXPENDITURES UNDER ENDANGERED SPECIES ACT OF 1973.

(a) REQUIREMENT TO DISCLOSE.—Section 13 of the Endangered Species Act of 1973 (87 Stat. 902; relating to conforming amendments which have executed) is amended to read as follows:

''SEC. 13. DISCLOSURE OF EXPENDITURES.

''(a) REQUIREMENT.—The Secretary of the Interior, in consultation with the Secretary of Commerce, shall—

''(1) not later than 90 days after the end of each fiscal year, submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an annual report detailing Federal Government expenditures for covered suits during the preceding fiscal year (including the information described in subsection (b)); and

''(2) make publicly available through the Internet a searchable database of the information described in subsection (b).

''(b) INCLUDED INFORMATION.—The report shall include—

''(1) the case name and number of each covered suit, and a hyperlink to the record or decision for each covered suit (if available);

''(2) a description of the claims in each covered suit;

''(3) the name of each covered agency whose actions gave rise to a claim in a covered suit;

''(4) funds expended by each covered agency (disaggregated by agency account) to receive and respond to notices referred to in section 11(g)(2) or to prepare for litigation of, litigate, negotiate a settlement agreement or consent decree in, or provide material, technical, or other assistance in relation to, a covered suit;

''(5) the number of full-time equivalent employees that participated in the activities described in paragraph (4);

''(6) attorneys fees and other expenses (disaggregated by agency account) awarded in covered suits, including any consent decrees or settle-

ment agreements (regardless of whether a decree or settlement agreement is sealed or otherwise subject to nondisclosure provisions), including the bases for such awards; and

''(7) any Federal funding used by a person or a governmental or non-governmental entity in bringing a claim in a covered suit.

''(c) REQUIREMENT TO PROVIDE INFORMATION.—The head of each covered agency shall provide to the Secretary in a timely manner all information requested by the Secretary to comply with the requirements of this section.

''(d) LIMITATION ON DISCLOSURE.—Notwithstanding any other provision of this section, this section shall not affect any restriction in a consent decree or settlement agreement on the disclosure of information that is not described in subsection (b).

''(e) DEFINITIONS.—

''(1) COVERED AGENCY.—The term 'covered agency' means any agency of the Department of the Interior, the Forest Service, the National Marine Fisheries Service, the Bonneville Power Administration, the Western Area Power Administration, the Southwestern Power Administration, or the Southeastern Power Administration.

''(2) COVERED SUIT.—The term 'covered suit' means any civil action containing a claim against the Federal Government, in which the claim arises under this Act and is based on the action of a covered agency.''.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by striking the item relating to such section and inserting the following:

''Sec. 13. Disclosure of expenditures.''.

(c) PRIOR AMENDMENTS NOT AFFECTED.—This section shall not be construed to affect the amendments made by section 13 of such Act, as in effect before the enactment of this Act.

SEC. 5. AWARD OF LITIGATION COSTS TO PREVAILING PARTIES IN ACCORDANCE WITH EXISTING LAW.

Section 11(g)(4) of the Endangered Species Act of 1973 (16 U.S.C. 1540(g)(4)) is amended by striking ''to any'' and all that follows through the end of the sentence and inserting ''to any prevailing party in accordance with section 2412 of title 28, United States Code.''.

Passed the House of Representatives July 29, 2014.

Attest: KAREN L. HAAS,

Clerk.