117TH CONGRESS
 2D SESSION
H. R. 7197

To amend the Endangered Species Act of 1973 to further restrict the Secretary of the Interior from designating certain lands used for national defense-related purposes as critical habitats for any species under that Act and to broaden exclusions and exemptions from that Act for such defense-related purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 2022

Mr. Biggs (for himself, Mr. Gohmert, and Mr. Gosar) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Endangered Species Act of 1973 to further restrict the Secretary of the Interior from designating certain lands used for national defense-related purposes as critical habitats for any species under that Act and to broaden exclusions and exemptions from that Act for such defense-related purposes.

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

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Armed Forces Endan-
5 gered Species Exemption Act”.

SEC. 2. EXCLUSION OF MILITARY INSTITUTIONS AS CRITICAL HABITAT.

Section 4(a)(3)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1533(a)(3)(B)) are amended to read as follows:

“(i) The Secretary shall not designate as critical habitat—

“(I) any military installation or a State-owned National Guard installation, or any portion thereof, as such terms are defined in section 100 of the Sikes Act (16 U.S.C. 670); or

“(II) any other lands, waters, or geographical area not described in clause (i) that is otherwise designated for use by the Secretary of Defense including by any contractor of the Department of Defense, if the Secretary of Defense determines in writing and submitted to the Secretary of the Interior that such area is necessary for military training, weapons testing, or any other reason determined appropriate by such Secretary of Defense.

“(ii) The Secretary of Defense shall not be required to consult with the Sec-
Secretary of the Interior, under section 7(a)(2) of this Act with respect to agency action, regardless of whether the area described in clause (i) is subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a)."

SEC. 3. ADDITIONAL EXCLUSIONS AND EXEMPTIONS FROM THE ENDANGERED SPECIES ACT FOR DEFENSE-RELATED OPERATIONS.

Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is amended by adding at the end the following new subsection:

 ``(h) EXCLUSION FOR NATIONAL DEFENSE-RELATED OPERATIONS.—

 ``(1) EXCLUSIONS.—The prohibitions under section 9 shall not apply with respect to—

 ``(A) the taking of any endangered species or threatened species, or the importation or exportation of any such species taken as prohibited by such section, by military personnel engaged in a national defense-related operation;

 ``(B) damaging or destroying any threatened or endangered species, or removing, cutting, digging up, damaging, or destroying any
such species, by military personnel engaged in
a national defense-related operation; or

“(C) an injury to or mortality of a threat-
ened or endangered species that results from,
but is not the purpose of, a national defense-re-
lated operation,

regardless of whether the operation is conducted on
a military installation or other area described in sec-

“(2) DEFINITIONS.—For the purposes of this
subsection—

“(A) the term ‘national defense-related op-
eration’ means—

“(i) research, development, testing, and evaluation of military munitions, other
ordnance, and weapons systems;

“(ii) the training of members of the
Armed Forces in the use and handling of
military munitions, other ordnance, and
weapons systems;

“(iii) general training and military
preparedness; or

“(iv) any action or duty that the Sec-
retary of Defense deems necessary to sup-
port the Department of Defense in its mission; and

“(B) the term ‘military personnel’ means—

“(i) a member of the Armed Forces;

and

“(ii) a civilian employee or contractor (including a subcontractor at any tier) of the—

“(I) Department of Defense (including a nonappropriated fund instrumentality of the Department); or

“(II) any other Federal agency, or any provisional authority, to the extent such employment relates to supporting the mission of the Department of Defense overseas.”.