

116TH CONGRESS
1ST SESSION

H. R. 4483

To amend the Endangered Species Act of 1973 to increase State and local involvement in management plans.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2019

Mr. YOUNG introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Endangered Species Act of 1973 to increase State and local involvement in management plans.

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 “Localizing Authority
5 of Management Plans Act of 2019” or the “LAMP Act
6 of 2019”.

7 **SEC. 2. REFERENCES.**

8 Except as otherwise specifically provided, whenever in
9 this Act an amendment or repeal is expressed in terms
10 of an amendment to, or repeal of, a provision, the ref-

1 erence shall be considered to be made to a provision of
 2 the Endangered Species Act of 1973 (16 U.S.C. 1531 et
 3 seq.).

4 **SEC. 3. VOLUNTARY COOPERATIVE MANAGEMENT AGREE-**
 5 **MENTS.**

6 Section 6 (16 U.S.C. 1535) is amended by striking
 7 so much as precedes subsection (c) and inserting the fol-
 8 lowing:

9 **“SEC. 6. COOPERATION WITH NON-FEDERAL PERSONS.**

10 “(a) GENERALLY.—In carrying out the program au-
 11 thorized by this Act, the Secretary shall cooperate to the
 12 maximum extent practicable with the States and other
 13 non-Federal persons. Such cooperation shall include con-
 14 sultation with the States and non-Federal persons con-
 15 cerned before acquiring any land or water, or interest
 16 therein, for the purpose of conserving any endangered spe-
 17 cies or threatened species.

18 “(b) COOPERATIVE MANAGEMENT AGREEMENTS.—

19 “(1) IN GENERAL.—The Secretary may enter
 20 into a cooperative management agreement with any
 21 State or group of States, political subdivision of a
 22 State, Indian Tribe, local government, or non-Fed-
 23 eral person—

24 “(A) for the management of a species or
 25 group of species listed as endangered species or

1 threatened species under section 4, a species or
2 group of species proposed to be listed under
3 section 4, or species or group of species that
4 are candidates for listing; or

5 “(B) for the management or acquisition of
6 an area that provides habitat for a species.

7 “(2) SCOPE OF COOPERATIVE MANAGEMENT
8 AGREEMENTS.—(A) A cooperative management
9 agreement entered into under this subsection—

10 “(i) may provide for the management of a
11 species or group of species on both public and
12 private lands and waters that are under the au-
13 thority, control, or ownership of a State or
14 group of States, political subdivision of a State,
15 Indian Tribe, local government, or non-Federal
16 person and that are affected by a listing deter-
17 mination, proposed determination, or proposed
18 candidacy for determination; and

19 “(ii) may include the acquisition or man-
20 agement of land as habitat for species.

21 “(B) A cooperative management agreement
22 may not restrict private or non-Federal property un-
23 less written consent to such restrictions by the non-
24 Federal owner is given either to the Secretary or the

1 State, political subdivision, local government, or non-
2 Federal person who is a party to the agreement.

3 “(C) The Secretary may grant to a party to an
4 agreement the authority to undertake programs to
5 enhance the population or habitat of a species on
6 federally owned lands, except that such authority
7 shall not otherwise conflict with other uses of such
8 land that are approved by the Secretary or author-
9 ized by the Congress.

10 “(D) The Secretary is authorized, in conjunc-
11 tion with entering into and as a part of any agree-
12 ment under this section, to provide funds to carry
13 out the agreement to a non-Federal person, as pro-
14 vided in paragraph (11).

15 “(3) NOTIFICATION.—Not later than 30 days
16 after submission of a request to enter into a cooper-
17 ative management agreement, the party submitting
18 the request shall provide notice of the request to any
19 non-Federal person or Federal power marketing ad-
20 ministration that would be subject to the proposed
21 cooperative management agreement.

22 “(4) DEVELOPMENT OF PROPOSED AGREE-
23 MENT.—(A) The requesting party shall develop and
24 submit to the Secretary a proposed cooperative man-
25 agement agreement.

1 “(B) The Secretary shall—

2 “(i) publish in the Federal Register—

3 “(I) a notice of availability of any pro-
4 posed cooperative management agreement;
5 and

6 “(II) a request for submission within
7 30 days after the date of publication of the
8 notice, of public comment on such pro-
9 posed agreement; and

10 “(ii) shall hold a public hearing on such a
11 proposed agreement in the county in which the
12 proposed agreement would be in effect, if re-
13 quested by a non-Federal person that would be
14 subject to the proposed agreement and that re-
15 sides in such county.

16 “(5) APPROVAL OF AGREEMENT.—(A) Not
17 later than 120 days after the submission of a pro-
18 posed cooperative management agreement under
19 paragraph (4), the Secretary shall determine wheth-
20 er the proposed agreement is in accordance with this
21 subsection and will promote the conservation of the
22 species to which the proposed agreement applies.

23 “(B) The Secretary shall approve and enter
24 into a proposed cooperative management agreement,
25 if the Secretary finds that—

1 “(i) the requesting party has sufficient au-
2 thority under law to implement and carry out
3 the terms of the agreement;

4 “(ii) the agreement defines an area that
5 serves as habitat for the species or group of
6 species to which the agreement applies;

7 “(iii) the agreement adequately provides
8 for the administration and management of the
9 identified management area;

10 “(iv) the agreement promotes the conserva-
11 tion of the species to which the agreement ap-
12 plies by committing Federal or non-Federal ef-
13 forts to the conservation;

14 “(v) the term of the agreement is of suffi-
15 cient duration to accomplish the provisions of
16 the agreement; and

17 “(vi) the agreement is adequately funded
18 to carry out the agreement.

19 “(C) No later than 30 days after entering into
20 a cooperative management agreement, the Secretary
21 shall publish in the Federal Register a notice of
22 availability of the terms of such agreement and the
23 response of the Secretary to all information received
24 or presented with respect to the agreement pursuant
25 to paragraph (4)(B).

1 “(6) ENVIRONMENTAL ASSESSMENTS.—Prepa-
2 ration, approval, and entering into a cooperative
3 management agreement under this subsection shall
4 not be subject to section 102(2) of the National En-
5 vironmental Policy Act of 1969 (42 U.S.C. 4332(2)).

6 “(7) NO SURPRISES.—For any species or area
7 that is the subject of a cooperative management
8 agreement under this subsection, a party to the
9 agreement shall not be required—

10 “(A) to make any additional payment for
11 any purpose, or to accept any additional restric-
12 tion on any parcel of land available for develop-
13 ment or land management under the agree-
14 ment, without consent of the party; or

15 “(B) to undertake any other measure to
16 minimize or mitigate impacts on the species in
17 addition to measures required by the agreement
18 as established.

19 “(8) EFFECT OF LISTING OF SPECIES.—A co-
20 operative management agreement entered into under
21 this subsection shall remain in effect and shall not
22 be required to be amended if a species to which the
23 agreement does not apply is determined to be an en-
24 dangered species or threatened species under section
25 4.

1 “(9) APPLICABILITY OF CERTAIN PROVI-
2 SIONS.—Sections 5, 7, and 9 shall not apply to those
3 activities of a party to a cooperative management
4 agreement that are conducted in accordance with
5 such agreement.

6 “(10) VIOLATIONS OF AGREEMENTS.—(A) If
7 the Secretary determines that a party to a coopera-
8 tive management agreement is not administering or
9 acting in accordance with the agreement, the Sec-
10 retary shall notify the party.

11 “(B) If a party that is notified under subpara-
12 graph (A) fails to take appropriate corrective action
13 within a period of time determined by the Secretary
14 to be reasonable (not to exceed 90 days after the
15 date of the notification)—

16 “(i) the Secretary shall rescind the entire
17 cooperative management agreement or the ap-
18 plicability of the agreement to the party that is
19 the subject of the notification; and

20 “(ii) beginning on the date of the rescis-
21 sion—

22 “(I) the entire agreement shall not be
23 effective, or the agreement shall not be ef-
24 fective with respect to the party, whichever
25 is appropriate; and

1 “(II) sections 5, 7, and 9 shall apply
2 to activities of the party.

3 “(11) FACA.—Consultation with States pursu-
4 ant to this section shall not be subject to the Fed-
5 eral Advisory Committee Act (5 U.S.C. App.).”.

6 **SEC. 4. DELEGATION OF AUTHORITY TO STATES.**

7 (a) IN GENERAL.—Section 6 (16 U.S.C. 1535) as
8 amended by section 3 of this Act, is further amended by
9 striking subsection (c) and all that follows through sub-
10 section (f) and inserting the following:

11 “(c) STATE AUTHORITY TO PROTECT ENDANGERED
12 SPECIES AND THREATENED SPECIES.—

13 “(1) DELEGATION OF AUTHORITY.—In further-
14 ance of the purposes of this Act, the Secretary may
15 delegate to a State that establishes and maintains
16 an adequate program for the conservation of endan-
17 gered species and threatened species the authority
18 under this Act with respect to species that are resi-
19 dents in the State. Within 120 days after the Sec-
20 retary receives a certified copy of such a proposed
21 State program, the Secretary shall make a deter-
22 mination whether such program will be adequate to
23 provide protections to endangered species and
24 threatened species in such State. In order for a
25 State program to be determined to be an adequate

1 program for the conservation of endangered species
2 and threatened species, the Secretary must find that
3 under the State program—

4 “(A)(i) State agency has authority to con-
5 serve resident species that are determined by
6 the State agency or the Secretary to be endan-
7 gered species or threatened species;

8 “(ii) the State agency has established ac-
9 ceptable conservation programs, consistent with
10 the purposes and policies of this Act, for all
11 resident species in the State that are deter-
12 mined by the Secretary to be endangered spe-
13 cies or threatened species or for those species or
14 taxonomic groups of species that the State pro-
15 poses to cover under its program, and has fur-
16 nished to the Secretary a copy of such plan and
17 program together with all pertinent details and
18 information requested by the Secretary;

19 “(iii) the State agency is authorized to
20 conduct investigations to determine the status
21 and requirements for survival of resident en-
22 dangered species and threatened species;

23 “(iv) provision is made for public partici-
24 pation in designating resident species as endan-
25 gered species or threatened species; and

1 “(v) the State agency has initiated or en-
2 couraged voluntary or incentive based programs
3 to further the conservation objectives for the
4 species; or

5 “(B)(i) the requirements set forth in
6 clauses (iii) and (iv) of subparagraph (A) are
7 complied with; and

8 “(ii) plans are included under which imme-
9 diate attention will be given to those resident
10 species that are determined by the Secretary or
11 the State agency to be endangered species or
12 threatened species and that the Secretary and
13 the State agency agree are most urgently in
14 need of conservation programs.

15 “(2) CONTENTS OF DELEGATION AGREE-
16 MENT.—(A) Such delegation shall provide for—

17 “(i) the actions to be taken by the Sec-
18 retary and the States;

19 “(ii) the benefits that are expected to be
20 derived in connection with the conservation of
21 endangered species or threatened species;

22 “(iii) the estimated cost of such actions;
23 and

1 “(iv) the share of such costs to be borne by
2 the Federal Government and by the States; ex-
3 cept that—

4 “(I) the Federal share of such costs
5 shall not exceed 75 percent of the esti-
6 mated program cost stated in the agree-
7 ment; and

8 “(II) the Federal share may be in-
9 creased to 90 percent if two or more States
10 having a common interest in one or more
11 endangered species or threatened species,
12 the conservation of which may be enhanced
13 by cooperation of such States, enter jointly
14 into an agreement with the Secretary.

15 “(3) COMPLIANCE WITH PROCEDURES.—In im-
16 plementing this Act under authority delegated to a
17 State by the Secretary, the State shall comply with
18 all requirements, prohibitions, and procedures set
19 forth by this Act.

20 “(4) PROHIBITIONS NOT AFFECTED.—A delega-
21 tion to a State whose program is determined ade-
22 quate under paragraph (1) shall not affect the appli-
23 cability of prohibitions set forth in or authorized
24 pursuant to section 4(d) or paragraph (1) or (2) of
25 section 9(a) with respect to the taking of any resi-

1 dent endangered species or threatened species in the
2 State.

3 “(d) FINANCIAL ASSISTANCE.—

4 “(1) IN GENERAL.—The Secretary may provide
5 financial assistance to any State, through its respec-
6 tive State agency, that has entered into a coopera-
7 tive management agreement under subsection (b) or
8 received authority under a delegation under sub-
9 section (c) of this section to assist in development of
10 programs for the conservation of endangered species
11 and threatened species or to assist in monitoring the
12 status of candidate species pursuant to subpara-
13 graph (C) of section 4(b)(3) and recovered species
14 pursuant to section 4(f). The Secretary shall allocate
15 among such States each annual appropriation under
16 subsection (i) based on consideration of—

17 “(A) the international commitments
18 of the United States to protect endangered
19 species or threatened species;

20 “(B) the readiness of a State to pro-
21 ceed with a conservation program con-
22 sistent with the objectives and purposes of
23 this Act;

24 “(C) the number of endangered spe-
25 cies and threatened species within a State;

1 “(D) the potential for restoring en-
2 dangered species and threatened species
3 within a State;

4 “(E) the relative urgency to initiate a
5 program to restore and protect an endan-
6 gered species or threatened species, in
7 terms of survival of the species;

8 “(F) the importance of monitoring the
9 status of candidate species within a State
10 to prevent a significant risk to the well-
11 being of any such species; and

12 “(G) the importance of monitoring the
13 status of recovered species within a State
14 to assure that such species do not return
15 to the point at which the measures pro-
16 vided pursuant to this Act are again nec-
17 essary.

18 “(2) UNOBLIGATED AMOUNTS.—So much
19 of the annual appropriation made under sub-
20 section (i) allocated for obligation to any State
21 for any fiscal year as remains unobligated at
22 the end thereof may be made available to that
23 State until the end of the succeeding fiscal
24 year. Any amount allocated to any State that is
25 unobligated at the end of the period during

1 which it is available for expenditure may be
2 made available for expenditure by the Secretary
3 in conducting programs under this section.

4 “(3) ADVANCE OF FUNDS.—The Secretary
5 may, in the Secretary’s discretion, and under
6 such rules and regulations as the Secretary may
7 prescribe, advance funds to the State for fi-
8 nancing the United States pro rata share
9 agreed upon in the cooperative agreement. For
10 the purposes of this section, the non-Federal
11 share may, in the discretion of the Secretary, be
12 in the form of money or real property, the value
13 of which shall be determined by the Secretary,
14 whose decision shall be final.

15 “(e) REVIEW OF STATE PROGRAMS.—Any action
16 taken by the Secretary under this section shall be subject
17 to his periodic review at intervals of no greater than 5
18 years.

19 “(f) CONFLICTS BETWEEN FEDERAL AND STATE
20 LAWS.—Any State law or regulation that applies with re-
21 spect to the importation or exportation of, or interstate
22 or foreign commerce in, endangered species or threatened
23 species is void to the extent that it may effectively—

24 “(1) permit what is prohibited by this Act or by
25 any regulation that implements this Act; or

1 “(2) prohibit what is authorized pursuant to an
2 exemption or permit provided for in this Act or in
3 any regulation that implements this Act. This Act
4 shall not otherwise be construed to void any State
5 law or regulation that is intended to conserve migra-
6 tory, resident, or introduced fish or wildlife, or to
7 permit or prohibit sale of such fish or wildlife. Any
8 State law or regulation respecting the taking of an
9 endangered species or threatened species may be
10 more restrictive than the exemptions or permits pro-
11 vided for in this Act or in any regulation that imple-
12 ments this Act.”.

13 (b) CONFORMING AMENDMENT.—Section 6(g)(2)(A)
14 (16 U.S.C. 1535(g)(2)(A)) is amended to read as follows:

15 “(A) to which the Secretary has delegated
16 authority under subsection (c); or”.

17 **SEC. 5. FACA.**

18 Section 6 (16 U.S.C. 1535), as amended by sections
19 3 and 4 of this Act, is further amended by adding at the
20 end the following:

21 “(j) FACA.—Consultation with States regarding this
22 section shall not be subject to the Federal Advisory Com-
23 mittee Act (5 U.S.C. App.).”.

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