

108TH CONGRESS
1ST SESSION

H. R. 2933

To amend the Endangered Species Act of 1973 to reform the process for designating critical habitat under that Act.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2003

Mr. CARDOZA (for himself, Mr. DOOLEY of California, Mr. CARSON of Oklahoma, Mr. NUNES, Mr. BACA, Mr. STENHOLM, Mr. HALL, Mr. BERRY, Mr. ROSS, Mr. DOOLITTLE, Mr. RADANOVICH, Mr. HERGER, Mr. PETERSON of Minnesota, Mr. ALEXANDER, Mr. ORTIZ, Mr. HUNTER, Mr. CALVERT, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Resources

A BILL

To amend the Endangered Species Act of 1973 to reform the process for designating critical habitat under that Act.

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 “Critical Habitat Re-
5 form Act of 2003”.

1 **SEC. 2. DESIGNATION OF CRITICAL HABITAT CONCURRENT**
2 **WITH APPROVAL OF RECOVERY PLAN;**
3 **STANDARD.**

4 (a) IN GENERAL.—Section 4(a)(3) of the Endan-
5 gered Species Act of 1973 (16 U.S.C. 1533(a)(3)) is
6 amended to read as follows:

7 “(3)(A) The Secretary, by regulation promulgated in
8 accordance with subsection (b) and to the maximum ex-
9 tent practicable, economically feasible, and determinable—

10 “(i) shall, concurrent with the approval of a re-
11 covery plan for a species under subsection (f), des-
12 ignate any habitat of such species that is then con-
13 sidered to be critical habitat; and

14 “(ii) may, from time-to-time thereafter as ap-
15 propriate, revise such designation.

16 “(B) Notwithstanding subparagraph (A), the Sec-
17 retary may not designate an area as critical habitat of a
18 species, and any designation of critical habitat of a species
19 shall not apply to an area, if the area is subject to—

20 “(i) a habitat conservation plan under section
21 10(a)(2) that the Secretary determines provides pro-
22 tection for habitat of the species that is substantially
23 equivalent to the protection that would be provided
24 by such designation; or

25 “(ii) a State or Federal land conservation pro-
26 gram that the Secretary determines provides protec-

1 tion for habitat of the species that is substantially
2 equivalent to the protection that would be provided
3 by such designation.”.

4 (b) CONFORMING AMENDMENT.—Section 4(b)(6)(C)
5 of the Endangered Species Act of 1973 (16 U.S.C.
6 1533(b)(6)(C)) is amended—

7 (1) by striking “concurrently” and all that fol-
8 lows through “(ii)” and inserting “concurrently with
9 the approval of a recovery plan for the species under
10 subsection (f), unless the Secretary determines
11 that”; and

12 (2) by striking “, to the maximum extent pru-
13 dent,”.

14 **SEC. 3. BASES FOR DETERMINATION.**

15 Section 4(b)(2) of the Endangered Species Act of
16 1973 (16 U.S.C. 1533(b)(2)) is amended—

17 (1) by inserting “(A)” after “(2)”; and

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

19 “(B) In determining whether an area is critical habi-
20 tat, the Secretary shall seek and, if available, consider in-
21 formation from local governments in the vicinity of the
22 area, including local resource data and maps.

23 “(C) Consideration of economic impact under this
24 paragraph shall include—

1 “(i) the direct, indirect, and cumulative eco-
2 nomic impacts of the designation, including consider-
3 ation of lost revenues to landowners and to the Fed-
4 eral Government and State and local governments;
5 and

6 “(ii) costs associated with the preparation of re-
7 ports, surveys, and analyses required to be under-
8 taken, as a consequence of a proposed designation of
9 critical habitat, by landowners seeking to obtain per-
10 mits or approvals required under Federal, State, or
11 local law.”.

12 **SEC. 4. CONTENT OF NOTICES OF PROPOSED DESIGNATION**
13 **OF CRITICAL HABITAT.**

14 Section 4(b)(5)(A) of the Endangered Species Act of
15 1973 (16 U.S.C. 1533(b)(5)(A)) is amended—

16 (1) in clause (i) by striking “, and” and insert-
17 ing a semicolon;

18 (2) in clause (ii)—

19 (A) by striking “and to each” and insert-
20 ing “to each”; and

21 (B) by inserting “, and to the county and
22 any municipality having administrative jurisdic-
23 tion over the area, and” after “to occur”; and

24 (3) by adding at the end the following:

1 “(iii) with respect to a regulation to des-
2 ignate or revise a designation of critical habi-
3 tat—

4 “(I) maintain, on a publicly accessible
5 Internet page of the Department, Geo-
6 graphical Information System maps and
7 coordinates of the area; and

8 “(II) include in each of the notices re-
9 quired under this subparagraph a reference
10 to the Internet page referred to in sub-
11 clause (I).”.

12 **SEC. 5. CLARIFICATION OF DEFINITION OF CRITICAL HABI-**
13 **TAT.**

14 Section 3(5) of the Endangered Species Act of 1973
15 (16 U.S.C. 1532(5)) is amended by adding at the end the
16 following:

17 “(D)(i) For purposes of subparagraph (A)(i)—

18 “(I) the term ‘geographical area occupied by
19 the species’ means the specific area currently used
20 by the species for its essential behavioral patterns,
21 including breeding, feeding, and sheltering; and

22 “(II) the term ‘essential to the conservation of
23 the species’ means, with respect to a specific area,
24 that the area has those physical or biological fea-

1 tures that are absolutely necessary and indispensable
2 to conservation of the species concerned.

3 “(ii) For purposes of subparagraph (A)(ii), the term
4 ‘essential for the conservation of the species’ means, with
5 respect to a specific area, that the area is absolutely nec-
6 essary and indispensable to conservation of the species
7 concerned.”.

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