

116TH CONGRESS
1ST SESSION

S. 2491

To terminate certain rules issued by the Secretary of the Interior and the Secretary of Commerce relating to endangered and threatened species, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 2019

Mr. UDALL (for himself, Mr. BLUMENTHAL, Mr. BOOKER, Mrs. FEINSTEIN, Ms. CANTWELL, Mr. MERKLEY, Ms. HIRONO, Ms. HARRIS, Mr. SANDERS, Mr. MENENDEZ, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To terminate certain rules issued by the Secretary of the Interior and the Secretary of Commerce relating to endangered and threatened species, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protect America’s
5 Wildlife and Fish in Need of Conservation Act of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) global wildlife populations have fallen by 60
2 percent over 4 decades due to habitat loss, pollution,
3 deforestation, climate change, and other anthropo-
4 genic factors;

5 (2) current rates of species extinction are up to
6 1,000 times greater than the natural rate of extinc-
7 tion; and

8 (3) the Endangered Species Act of 1973 (16
9 U.S.C. 1531 et seq.) is one of the most popular and
10 successful environmental laws of the United States.

11 **SEC. 3. TERMINATION OF REGULATIONS RELATING TO EN-**
12 **DANGERED AND THREATENED SPECIES AND**
13 **RESTORATION OF PRIOR REGULATIONS.**

14 (a) IN GENERAL.—The amendments to parts 17,
15 402, and 424 of title 50, Code of Federal Regulations,
16 made by the following final rules are void:

17 (1) The final rule promulgated by the Secretary
18 of the Interior entitled “Endangered and Threatened
19 Wildlife and Plants; Regulations for Prohibitions to
20 Threatened Wildlife and Plants” (84 Fed. Reg.
21 44753 (August 27, 2019)).

22 (2) The final rule promulgated by the Secretary
23 of the Interior and the Secretary of Commerce enti-
24 tled “Endangered and Threatened Wildlife and

1 Plants; Regulations for Interagency Cooperation”
2 (84 Fed. Reg. 44976 (August 27, 2019)).

3 (3) The final rule promulgated by the Secretary
4 of the Interior and the Secretary of Commerce enti-
5 tled “Endangered and Threatened Wildlife and
6 Plants; Regulations for Listing Species and Desig-
7 nating Critical Habitat” (84 Fed. Reg. 45020 (Au-
8 gust 27, 2019)).

9 (b) EFFECTIVENESS.—Parts 17, 402, and 424 of
10 title 50, Code of Federal Regulations, shall be in effect
11 as if the amendments voided under subsection (a) had not
12 been made.

13 (c) PROMULGATION OF NEW RULES.—Any rule pro-
14 posed by the Secretary of the Interior or the Secretary
15 of Commerce after the date of enactment of this Act to
16 amend part 17, 402, or 424 of title 50, Code of Federal
17 Regulations (other than any rule that is necessary to carry
18 out subsections (a) and (b))—

19 (1) shall analyze and incorporate the impacts of
20 climate change, including long-term impacts, on—

21 (A) species listed as threatened species or
22 endangered species under the Endangered Spe-
23 cies Act of 1973 (16 U.S.C. 1531 et seq.) and
24 species that are candidates to be so listed; and

1 (B) the habitats of species described in
2 subparagraph (A);

3 (2) may analyze and incorporate alternatives
4 for providing automatic protections under section
5 9(a) of the Endangered Species Act of 1973 (16
6 U.S.C. 1538(a)) in the case of species listed as
7 threatened species under that Act (16 U.S.C. 1531
8 et seq.); and

9 (3) may not—

10 (A) analyze or incorporate any positive or
11 negative economic impacts associated with the
12 decision of whether to list a species as a threat-
13 ened species or an endangered species under the
14 Endangered Species Act of 1973 (16 U.S.C.
15 1531 et seq.);

16 (B) limit the authority of the Secretary of
17 the Interior or the Secretary of Commerce to
18 consider the impacts of climate change, includ-
19 ing the long-term impacts; or

20 (C) interfere in any manner with the best
21 available science.

22 **SEC. 4. SENSE OF CONGRESS.**

23 It is the sense of Congress that—

24 (1) Congress recognizes the potential benefit of
25 clarifying inconsistencies in—

1 (A) the past practices of the United States
2 Fish and Wildlife Service and the National Ma-
3 rine Fisheries Service under the Endangered
4 Species Act of 1973 (16 U.S.C. 1531 et seq.);
5 and

6 (B) interpretations by those agencies of
7 regulations under that Act, especially under
8 section 7 of that Act (16 U.S.C. 1536); and

9 (2) Congress acknowledges the importance of
10 providing incentives for landowners to conserve spe-
11 cies, especially by rewarding the landowners for—

12 (A) helping to prevent the need to add spe-
13 cies to the list of threatened species or endan-
14 gered species under that Act (16 U.S.C. 1531
15 et seq.); and

16 (B) successfully conserving species listed
17 as endangered species under that Act to the
18 point that the species can be downlisted to the
19 list of threatened species under that Act.

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