108TH CONGRESS
1ST SESSION

H. R. 1235

To provide for the management of critical habitat of endangered species and threatened species on military installations in a manner compatible with the demands of military readiness, to ensure that the application of other resource laws on military installations is compatible with military readiness, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2003

Mr. GALLEGLY (for himself and Mr. GIBBONS) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To provide for the management of critical habitat of endangered species and threatened species on military installations in a manner compatible with the demands of military readiness, to ensure that the application of other resource laws on military installations is compatible with military readiness, 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 ''Encroachment on Military Bases Prevention Act''.

SEC. 2. MILITARY READINESS AND THE CONSERVATION OF PROTECTED SPECIES.

(a) LIMITATION ON DESIGNATION OF CRITICAL HABITAT.—Section 4(a) of the Endangered Species Act of 1973 (16 U.S.C. 1533(a)) is amended by adding at the end the following new paragraph:

''(4)(A) The Secretary may not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines that such plan addresses special management considerations or protection (as those terms are used in section 3(5)(A)(i)).

''(B) Nothing in this paragraph affects the requirement to consult under section 7(a)(2) with respect to an agency action (as that term is defined in that section).

''(C) Nothing in this paragraph affects the obligation of the Department of Defense to comply with section 9, including the prohibition preventing extinction and taking of endangered species and threatened species.''.

(b) CONSIDERATION OF EFFECTS OF DESIGNATION OF CRITICAL HABITAT.—Section 4(b)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(2)) is amended by inserting ''the impact on national security,'' after ''the economic impact,''.

SEC. 3. RESTRICTION ON CONSIDERATION OF MILITARY INSTALLATIONS IN SPECIAL RESOURCE STUDIES.

Section 8 of Public Law 91–383 (16 U.S.C. 1a–5; commonly known as the National Park System General Authorities Act) is amended by adding at the end the following new subsection:

''(g) EXCLUSION OF MILITARY INSTALLATIONS FROM SPECIAL RESOURCE STUDIES.—

''(1) NOTIFICATION OF SECRETARY OF DEFENSE.—If a study under this section or any other provision of law of an area for potential inclusion in the National Park System will include, or the study will be expanded to include, the consideration of any military lands, the Secretary of the Interior shall provide written notice to the Secretary of Defense of the exact military lands to be covered by the study. The written notice shall be provided not later than 30 days before the date on which the Secretary of

the Interior will commence the study or expand the study to include the military lands.

"(2) AUTHORITY TO EXCLUDE MILITARY LANDS.—Upon receipt of written notification under paragraph (1), the Secretary of Defense shall evaluate the existing environmental protections for the military lands described in the notice and the importance of the military lands to military readiness and preparedness. The Secretary of Defense may require the Secretary of the Interior to exclude all or a portion of the military lands from the study if the Secretary of Defense determines that the environmental protections for the military lands are sufficient and that inclusion of the military lands in the National Park System could adversely impact military readiness and preparedness. Notice to the Secretary of the Interior shall include the reasons of the Secretary of Defense for requiring the exclusion of the military lands.

"(3) TIME FOR MAKING DETERMINATION; EFFECT.—The Secretary of Defense shall make the determination required under paragraph (2), and transmit notice of the determination to the Secretary of the Interior, before the end of the 90-day period beginning on the date on which the Secretary of De-

fense receives the written notice required under paragraph (1) of a study that covers military lands. If the notice of the Secretary of Defense is timely, the Secretary of the Interior may not consider the military lands covered by the notice for possible inclusion in the National Park System in that study or any subsequent study. If the notice is not received by the Secretary of the Interior before the end of the 90-day period, the Secretary of the Interior may proceed with the consideration of the military lands under the study notwithstanding the determination.

"(4) MILITARY LANDS.—In this subsection, the term 'military lands' means lands included as part of a military installation, as that term is defined in section 100 of the Sikes Act (16 U.S.C. 670).".

SEC. 4. RESTRICTION ON INCLUSION IN NATIONAL MARINE SANCTUARIES OF AREAS USED FOR MILITARY READINESS ACTIVITIES.

(a) IN GENERAL.—Section 305 of the National Marine Sanctuary Act (16 U.S.C. 1433) is amended—

(1) in subsection (a) in the matter preceding paragraph (1) by inserting "(subject to subsection (c))" after "any discrete area of the marine environment"; and

(2) by adding at the end the following:

"(c) RESTRICTION ON INCLUSION OF AREAS USED FOR MILITARY READINESS ACTIVITIES.—The Secretary may not designate as a national marine sanctuary, or add to an existing national marine sanctuary, any area that the Secretary of Defense has designated for use for military readiness activities, including any area the use or navigation of which is prohibited under regulations issued by the Secretary of the Army under the first section of chapter XIX of the Act of July 9, 1918 (33 U.S.C. 3), popularly known as the Army Appropriation Act of 1919.".

(b) APPLICATION.—The amendment made by subsection (a) shall not apply with respect to any designation of an area as, or addition of an area to, a national marine sanctuary that takes effect before the date of the enactment of this Act.

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