H. R. 11

To amend the Endangered Species Act of 1973 to improve the process for designating critical habitat and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GOSAR introduced the following bill; which was referred to the Committee on ____________________________

A BILL

To amend the Endangered Species Act of 1973 to improve the process for designating critical habitat 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 “Critical Habitat Im-
5 provement Act of 2019”.

VerDate Mar 15 2010 14:35 Sep 23, 2019 Jkt 000000 PO 00000 Frm 00001 Fmt 6652 Sfmt 6201 C:\USERS\MFAMBINDER\APPDATA\ROAMING\SOFTQUAD\XMETAL\7.0\GEN\C\GOSAR...
SEC. 2. DESIGNATION OF CRITICAL HABITAT; STANDARD.

Paragraph 3 of section 4(a) of the Endangered Species Act of 1973 (16 U.S.C. 1533(a)) is amended to read as follows:—

“(3)(A) The Secretary shall issue a final regulation designating any habitat of a species determined to be an endangered species or threatened species that is critical habitat of such species.

“(B) The Secretary shall make any designation required under clause (i)—

“(i) at the time the species is listed as threatened or endangered; or

“(ii) during the 1 year period beginning on the date of the final approval of a recovery plan for the species under section 4(f).”.

SEC. 3. BASIS FOR DETERMINATION.

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

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

(2) by adding at the end the following:

“(B) In determining whether an area is critical habitat, the Secretary shall seek and, if available, consider information from State and local governments in the vicinity of the area, including local resource data and maps.

“(C) Consideration of economic impact under this paragraph shall include—
“(i) direct, indirect, and cumulative economic costs and benefits, including consideration of changes in revenues received by landowners, the Federal Government, and State and local governments; and

“(ii) costs associated with the preparation of reports, surveys, and analyses required to be undertaken, as a consequence of a proposed designation of critical habitat, by landowners seeking to obtain permits or approvals required under Federal, State, or local law.”.

SEC. 4. CONTENT OF NOTICES OF PROPOSED DESIGNATION OF CRITICAL HABITAT.


(1) in clause (i) by striking “, and” and inserting a semicolon;

(2) in clause (ii)—

(A) by striking “and to each” and inserting “to each”; and

(B) by inserting “, and to the county and any municipality having administrative jurisdiction over the area” after “to occur”; and

(3) by adding at the end the following:
“(iii) with respect to a regulation to designate or revise a designation of critical habitat—

“(I) publish maps and coordinates that describe, in detail, the specific areas to be designated as critical habitat and all field survey data upon which such designation is based; and

“(II) maintain such maps, coordinates, and data on a publicly accessible website of the Department; and

“(iv) include in each of the notices required under this subparagraph a reference to the website referred to in clause (iii)(II);”.

SEC. 5. CLARIFICATION OF DEFINITION OF CRITICAL HABITAT.

Section 3(5) of the Endangered Species Act of 1973 (16 U.S.C. 1532(5)) is amended—

(1) in subparagraph (A) by striking clauses (i) and (ii) and inserting the following:

“(i) the specific areas—

“(I) that are within the geographical area determined by field survey data to be inhabited by the species at the time such
areas are designated as critical habitat in accordance with section 4; and

“(II) that have physical and biological features that are necessary to avoid extinction of the species and may require special management considerations or protection.”;

(2) by striking subparagraph (B);

(3) by redesignating subparagraph (C) as subparagraph (B); and

(4) by adding at the end the following:

“(C) For purposes of subparagraph (A)(i) the term ‘geographical area determined by field survey data to be occupied by the species’ means the specific area that, at the time the area is designated as critical habitat in accordance with section 4, is being used by the species for breeding, feeding, sheltering, or another essential behavioral pattern.”.

SEC. 6. NULLIFICATION OF EXPANSIVE CRITICAL HABITAT REGULATIONS AND POLICIES.

(a) The following final rules shall no force or effect:

(1) The final rule issued by the United States Fish and Wildlife Service and the National Marine Fisheries Service entitled “Endangered and Threatened Wildlife and Plants; Revisions to the Regula-
tions for Impact Analyses of Critical Habitat” (78 Fed. Reg. 53058 (August 28, 2013)).

(2) The final rule issued by the United States Fish and Wildlife Service and the National Marine Fisheries Service entitled “Definition of Destruction or Adverse Modification of Critical Habitat” (81 Fed. Reg. 7214 (February 11, 2016)).