

103^D CONGRESS
1ST SESSION

H. R. 1414

To amend the Endangered Species Act of 1973 to provide for making determinations of whether a species is an endangered species or a threatened species other than solely on the basis of the best scientific and commercial data available, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 1993

Mr. HANSEN (for himself, Mr. YOUNG of Alaska, Mr. SMITH of Oregon, Mr. BAKER of Louisiana, Mrs. VUCANOVICH, Mr. DOOLITTLE, Mr. HERGER, Mr. STUMP, Mr. DORNAN, Mr. SKEEN, Mr. THOMAS of Wyoming, Mr. TAYLOR of North Carolina, Mr. PACKARD, Mr. GALLEGLY, Mr. HANCOCK, Mr. EMERSON, Mr. ARMEY, and Mr. ZELIFF) introduced the following bill; which was referred jointly to the Committees on Merchant Marine and Fisheries and the Judiciary

A BILL

To amend the Endangered Species Act of 1973 to provide for making determinations of whether a species is an endangered species or a threatened species other than solely on the basis of the best scientific and commercial data available, 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 “Human Protection Act
5 of 1993”.

1 **SEC. 2. DETERMINATION OF WHETHER SPECIES IS ENDAN-**
2 **GERED OR THREATENED.**

3 Section 4(b)(1)(A) of the Endangered Species Act of
4 1973 (16 U.S.C. 1533(b)(1)(A)) is amended by striking
5 “solely”.

6 **SEC. 3. REQUIREMENT THAT POTENTIAL ECONOMIC BENE-**
7 **FITS OF ACTION UNDER ENDANGERED SPE-**
8 **CIES ACT OUTWEIGH POTENTIAL ECONOMIC**
9 **COSTS.**

10 (a) REQUIREMENT.—Section 4(b) of the Endangered
11 Species Act of 1973 (16 U.S.C. 1533(b)) is amended by
12 adding at the end the following new paragraph:

13 “(9) Notwithstanding any other provision of law, an
14 action shall not be taken under this Act if—

15 “(A) the potential economic benefits to society
16 of the action do not outweigh the potential economic
17 costs to society of the action, as those benefits and
18 costs are determined under Executive Order 12291,
19 as in effect on the June 12, 1991, or

20 “(B) the action does not otherwise comply with
21 the requirements of section 2 of that Executive
22 Order.”.

23 (b) CONFORMING AMENDMENT.—Section 4(b)(2) of
24 the Endangered Species Act of 1973 (16 U.S.C.
25 1533(b)(2)) is amended in the second sentence by striking

1 “, unless he determines,” and all that follows through the
2 end of the sentence and inserting a period.

3 **SEC. 4. PROTECTION OF PRIVATE PROPERTY.**

4 (a) IN GENERAL.—No regulation promulgated after
5 the date of enactment of this Act by any agency shall be-
6 come effective until the issuing agency is certified by the
7 Attorney General of the United States to be in compliance
8 with Executive Order 12630 or similar procedures to as-
9 sess the potential for the taking of private property in the
10 course of Federal regulatory activity, with the goal of
11 minimizing such where possible.

12 (b) JUDICIAL REVIEW.—

13 (1) IN GENERAL.—Judicial review of actions
14 taken pursuant to this section shall be limited to
15 whether the Attorney General has certified the issu-
16 ing agency as in compliance with Executive Order
17 12630 or similar procedures, such review to be per-
18 mitted in the same forum and at the same time as
19 the issued regulations are otherwise subject to judi-
20 cial review. Only persons adversely affected or
21 grieved by agency action shall have standing to chal-
22 lenge that action as contrary to this section. In no
23 event shall such review include any issue for which
24 the United States Claims Court has jurisdiction.

1 (2) OTHER REVIEW.—Nothing in this section
2 shall affect any otherwise available judicial review of
3 agency action.

4 (c) DEFINITIONS.—As used in this section—

5 (1) the term “agency” means all executive
6 branch agencies which engage in activity with the
7 potential for taking private property, including any
8 military department of the United States Govern-
9 ment, any United States Government corporation,
10 United States Government controlled corporation, or
11 other establishment in the Executive Branch of the
12 United States Government; and

13 (2) the term “taking of private property”
14 means an activity wherein private property is taken
15 such that compensation to the owner of that prop-
16 erty is required by the Fifth Amendment to the Con-
17 stitution of the United States.

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