

105TH CONGRESS
1ST SESSION

H. R. 1404

To provide for the defense of the environment, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 17, 1997

Mr. WAXMAN (for himself, Mr. GEPHARDT, Mr. MILLER of California, Mr. BROWN of California, Mrs. MALONEY of New York, Mr. FLAKE, Mr. FRANK of Massachusetts, Mr. SERRANO, Mr. TIERNEY, Mr. KENNEDY of Rhode Island, Mr. LEWIS of Georgia, Mr. BONIOR, Mr. PALLONE, Ms. PELOSI, and Mr. MCGOVERN) introduced the following bill; which was referred to the Committee on Rules, and in addition to the Committee on Government Reform and Oversight, 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

A BILL

To provide for the defense of the environment, 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 “Defense of the Envi-
5 ronment Act of 1997”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds that provisions that
3 reduce protection of the environment have been included
4 in legislation without adequate consideration and an op-
5 portunity for Members to vote on the provisions.

6 (b) PURPOSE.—The purposes of this Act are to—

7 (1) require Members of Congress to vote in the
8 House of Representatives and the Senate on provi-
9 sions included in legislation that reduce protection of
10 the environment; and

11 (2) require the Office of Management and
12 Budget to ensure that each department or agency
13 makes available to Congress and the public informa-
14 tion to assist in assessing whether provisions in-
15 cluded in legislation would reduce protection of the
16 environment.

17 **SEC. 3. APPLICABLE PROVISIONS.**

18 (a) IN GENERAL.—This Act shall apply to any provi-
19 sion in a bill, joint resolution, amendment, or conference
20 report before Congress that reduces protection of the envi-
21 ronment.

22 (b) PROVISIONS REDUCING PROTECTION.—A provi-
23 sion shall be considered to reduce protection of the envi-
24 ronment if the provision meets the criteria of one or more
25 of the following paragraphs:

1 (1) DEFENSE OF CLEAN AIR AND WATER.—The
2 provision may allow increased pollution of ambient
3 air, indoor air, surface water, ground water, the
4 oceans, or other terrestrial or aquatic resources.

5 (2) DEFENSE OF NATIONAL PARKS AND PUBLIC
6 LANDS.—The provision may—

7 (A) cause adverse impacts on the environ-
8 mental quality of national parks or other public
9 lands, including the effect of decreasing the
10 quantity or quality of outdoor educational or
11 recreational opportunities on such lands; or

12 (B) diminish protection of species that
13 may be endangered.

14 (3) DEFENSE OF CHILDREN’S ENVIRONMENTAL
15 HEALTH.—The provision may increase children’s ex-
16 posure to environmental contaminants and other en-
17 vironmental risks.

18 (c) OTHER PROVISIONS.—A provision shall also be
19 considered to reduce protection of the environment if the
20 provision may have the effect of shielding any violators
21 of environmental laws from penalties or limiting judicial
22 review of agency action under the authority of any envi-
23 ronmental law.

24 (d) BASELINE FOR EFFECTS.—The baseline for de-
25 termining the effects of a provision described in subsection

1 (b) or (c) shall be the circumstances that would exist if
2 the provision were not enacted.

3 **SEC. 4. DUTIES OF CONGRESSIONAL COMMITTEES.**

4 (a) IN GENERAL.—When a committee of the House
5 of Representatives or Senate or a committee of conference
6 reports a bill or joint resolution of public character that
7 includes any provision that reduces protection of the envi-
8 ronment, the report of the committee accompanying the
9 bill or joint resolution (or the statement of managers ac-
10 companying the conference report) shall contain each of
11 the following:

12 (1) An identification and description of any
13 provision in the bill or joint resolution or conference
14 report that reduces protection of the environment.

15 (2) A qualitative and, if practicable, a quan-
16 titative assessment of the extent of the reduction in
17 protection of the environment.

18 (3) A description of the actions, if any, taken
19 by the committee to avoid the reduction in protec-
20 tion of the environment.

21 (4) Any statement received under section 5.

22 **SEC. 5. DUTIES OF THE COMPTROLLER GENERAL.**

23 (a) STATEMENT.—For each bill or joint resolution of
24 a public character reported by any committee of the House
25 of Representatives or the Senate, and for each report by

1 a committee of conference, the Comptroller General of the
2 United States, upon a request of the committee or a ma-
3 jority of the members of the minority party or majority
4 party of the committee, shall, prior to the filing of the
5 report, prepare and submit to the committee a statement
6 assessing the extent to which the provisions of the bill,
7 joint resolution, or conference report reduce protection of
8 the environment.

9 (b) ASSISTANCE TO COMMITTEES AND STUDIES.—At
10 the request of any committee of the Senate or the House
11 of Representatives, the Comptroller General shall, to the
12 extent practicable, consult with and assist such committee
13 in assessing the extent to which the provisions of a bill,
14 joint resolution, or conference report reduce the protection
15 of the environment.

16 **SEC. 6. DUTIES OF OFFICE OF MANAGEMENT OF BUDGET.**

17 (a) IN GENERAL.—The Director of the Office of
18 Management and Budget shall ensure that each depart-
19 ment or agency of the United States—

20 (1) collects and catalogs available information
21 that would assist in assessing whether any provision
22 in a bill, joint resolution, amendment, or conference
23 report before Congress would reduce protection of
24 the environment;

1 (2) coordinates, organizes and facilitates the
2 availability of such information for use by Congress;
3 and

4 (3) ensures that such information is readily
5 available to the Comptroller General for purposes of
6 fulfilling duties under section 5 of this Act or for
7 other purposes.

8 (b) **PUBLIC AVAILABILITY.**—The Director of the Of-
9 fice of Management and Budget shall ensure that each
10 department or agency of the United States makes infor-
11 mation collected and cataloged pursuant to subsection (a)
12 readily available to the public.

13 **SEC. 7. LEGISLATION SUBJECT TO POINT OF ORDER.**

14 (a) **IN GENERAL.**—It shall not be in order in the
15 House of Representatives or the Senate to consider any
16 bill, joint resolution, or conference report that is reported
17 by a committee unless the committee has complied with
18 section 4.

19 (b) **PROCEDURE IN THE HOUSE OF REPRESENTA-**
20 **TIVES.**—It shall not be in order in the House of Rep-
21 resentatives to consider a rule or order that waives the
22 application of subsection (a).

1 **SEC. 8. DEBATE ON PROVISIONS REDUCING PROTECTION.**

2 (a) AMENDMENT OF HOUSE RULES.—Rule XVI of
3 the Rules of the House of Representatives is amended by
4 adding at the end the following:

5 “(11) Notwithstanding the adoption of any rule or
6 motion to limit or close debate it shall always be in order,
7 as question of high privilege, to move to strike from any
8 bill, joint resolution, or amendment any provision that re-
9 duces protection of the environment (within the meaning
10 of section 3 of the Defense of the Environment Act of
11 1997). Such motion shall take precedence over a motion
12 for the previous question on such bill, joint resolution, or
13 amendment and it shall be in order to debate any such
14 motion for 40 minutes, one-half of such time shall be given
15 to debate in favor of, and one-half of such times in opposi-
16 tion to, such motion.”.

17 (b) VOTE IN SENATE.—Notwithstanding the adop-
18 tion of any rule or motion to limit or close debate it shall
19 always be in order, as question of high privilege in the
20 Senate, to move to strike from any bill, joint resolution,
21 amendment, or conference report any provision that re-
22 duces protection of the environment (within the meaning
23 of section 3 of the Defense of the Environment Act of
24 1997). Such motion shall take precedence over a motion
25 for the previous question on such bill, joint resolution,
26 amendment, or conference report, and it shall be in order

1 to debate any such motion for 40 minutes, one-half of such
2 time shall be given to debate in favor of, and one-half of
3 such times in opposition to, such motion.

4 (c) CONFERENCE REPORTS AND SENATE AMEND-
5 MENTS.—

6 (1) CONFERENCE REPORTS.—Clause (4) of
7 Rule XXVIII of the Rules of the House of Rep-
8 resentatives is amended as follows:

9 (A) In subsection (a) after “if such matter
10 has been offered as an amendment in the
11 House” by inserting “or containing any provi-
12 sion that reduces protection of the environment
13 (within the meaning of section 3 of the Defense
14 of the Environment Act of 1997)”.

15 (B) In subsections (a), (b), and (c), by
16 striking out “nongermane matter” in each place
17 it appears and inserting “matter or provision”.

18 (2) SENATE AMENDMENTS.—Clause (5) of Rule
19 XXVII of the Rules of the House of Representatives
20 is amended as follows:

21 (A) In subsection (a) after “if such matter
22 had been offered as an amendment in the
23 House” by inserting “or that reduces protection
24 of the environment (within the meaning of sec-

1 tion 3 of the Defense of the Environment Act
2 of 1997)”.
3

4 (B) In subsections (a), (b), and (c), by
5 striking out “nongermane matter” in each place
6 it appears and inserting “matter or provision”.

7 (d) EXERCISE OF RULEMAKING POWERS.—The pro-
8 visions of this section and sections 4 and 7 are enacted
9 by Congress—

10 (1) as an exercise of the rulemaking power of
11 the House of Representatives and the Senate, re-
12 spectively, and as such they shall be considered as
13 part of the rules of such House, respectively, and
14 such rules shall supersede other rules only to the ex-
15 tent that they are inconsistent therewith; and

16 (2) with full recognition of the constitutional
17 right of either House to change such rules (so far
18 as relating to such House) at any time, in the same
19 manner, and to the same extent as in the case of
20 any other rule of each House.

21 **SEC. 9. EFFECTIVE DATE.**

 This Act shall take effect on the date of enactment.

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