



Legislative Bulletin.....September 29, 2005

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H.R. 3824 — Amendments to the Threatened and Endangered Species Recovery Act of 2005

H.R. 3824, the Threatened and Endangered Species Recovery Act of 2005, is scheduled to be considered on the House floor on Thursday, September 29, 2005, subject to a structured rule (H. Res. 470). Below are the summaries of the two amendments made in order under the rule. Note: Summaries are based on RSC staff's review of actual amendment text. For a summary of the underlying bill, see a separate RSC document released earlier this morning.

1. Pombo (R-CA): Manager's Amendment.

- makes numerous technical corrections;
- replaces language in the bill that establishes procedures the Secretary may use to determine whether or not data for a decision or action complies with the criteria established by the regulations;
- eliminates the definition of "jeopardize the continued existence" in the bill;
- inserts a new section that directs the Secretary to prepare an analysis of the economic or national security impact and benefit of determining that a species is an endangered species or threatened species;
- allows actions authorized under an approved Section 10 permit to be carried out without duplicative consultation; prevents "water stakeholders" (operators of water storage reservoirs, canals, etc.) from being held liable for negative impacts on aquatic species due to State actions;
- modifies the provision regarding determining fair market value that states the third appraiser's estimate "would be binding on the Secretary and property owner" to say the estimate would be the "best and final offer by the Secretary;"
- eliminates the ability of the Secretary to accept donations to contribute to the reimbursement of livestock owners for any loss due to depredation of livestock by an endangered or threatened species population;
- consolidates ESA related programs by transferring all related duties from the Secretary of Commerce to the Secretary of the Interior within one year of enactment;
- requires the four Power Marketing Administrations to include ESA costs in their monthly billings;
- directs the Secretary of Interior to survey all lands under the jurisdiction of the Bureau of Land Management and the Forest Service to assess their value and report to Congress;

- clarifies conflicting statutes to make ESA the governing statutory authority when receiving a dock building permit. (20 minutes)

2. Miller (D-CA)/Boehlert/Dingell/Gilchrest/Dicks/Saxton/Tauscher/Kirk: Amendment in the Nature of a Substitute.

- modifies the underlying bill's definition of "best available scientific data" and "jeopardize the continued existence" related to endangered or threatened species;
- eliminates the provision in the underlying bill that directs the Secretary to use the authority to determine if a species is endangered or threatened "only sparingly;"
- allows the Secretary to postpone a decision on a petition by 18 months if there is disagreement as to the accuracy of the data the petition is based upon;
- inserts a new section not included in the underlying bill which directs the Secretary to work "in consultation with the states" and requires that currently protected species will continue to be protected until the Secretary "reviews the regulations issued prior to the enactment of TESRA as the pertain to that species;"
- extends the allowable time period from two to three years that the Secretary must publish species recovery plans and modifies other provisions of implementing recovery plans; modifies, instead of eliminates as does the underlying bill, the endangered species committee process;
- eliminates several of the "exceptions to prohibitions" provisions contained in the underlying bill regarding TESRA compliance by property owners;
- establishes a new Private Property Conservation Program to "improve the habitat and promote the conservation of endangered species" on private property; eliminates the conservation grants and conservation aid provisions contained in the underlying bill;
- eliminates the provision in the underlying bill that allows reimbursement payments to owners without presenting the body of any lost livestock for which reimbursement is sought;
- establishes a technical assistance program to assist land owners on species conservation. (60 minutes)

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