

AMENDMENT TO H.R. 1947, AS REPORTED
OFFERED BY MR. POMPEO OF KANSAS

At the end of subtitle C of title XII, add the following new section (and make such conforming changes as may be necessary):

1 **SEC. 123___ . MINIMIZATION OF IMPACT OF ENDANGERED**
2 **SPECIES LISTINGS AND DESIGNATIONS ON**
3 **AGRICULTURAL LAND.**

4 Section 4 of the Endangered Species Act of 1973 (16
5 U.S.C. 1533) is amended by adding at the end the fol-
6 lowing:

7 “(j) MINIMIZATION OF IMPACT OF ENDANGERED
8 SPECIES LISTINGS AND DESIGNATIONS ON AGRICUL-
9 TURAL LAND.—

10 “(1) IN GENERAL.—Before any action is taken
11 to list a species or designate habitat under this Act,
12 the Secretary shall consult with the Secretary of Ag-
13 riculture to identify all private agricultural land and
14 land maintained by the Forest Service that could be
15 adversely impacted by the listing or designation, in-
16 cluding economic impacts on land used for agricul-
17 tural, silvicultural, mining, oil, gas, or mineral activi-

1 ties and related impacts on contractual and property
2 rights.

3 “(2) IMPACT DETERMINATION.—Before any ac-
4 tion is taken to list a species or designate habitat
5 under this Act, the Secretary of Agriculture shall—

6 “(A) confirm that there will be no adverse
7 economic impact described in paragraph (1); or

8 “(B) if the Secretary determines that there
9 could be an adverse economic impact described
10 in paragraph (1), conduct an economic analysis
11 of the impact.

12 “(3) INFORMATION.—If the Secretary of Agri-
13 culture determines under paragraph (2) that there
14 could be an adverse economic impact on land from
15 the listing of a species or designation of habitat, the
16 Secretary of the Interior shall provide to the Sec-
17 retary of Agriculture and make public all documents
18 and information of the Secretary of the Interior re-
19 lating to the listing or designation, including all
20 communications between the individual or entity re-
21 questing the listing and the Secretary.

22 “(4) ECONOMIC ANALYSES.—In conducting eco-
23 nomic analyses on the impact of the listing of spe-
24 cies, or designation of land, described in paragraph

1 (1), the Secretary of Agriculture, in consultation
2 with the Secretary of the Interior, shall—

3 “(A) conduct, and make available to the
4 Secretary of the Interior and the public, separate economic analyses for—
5

6 “(i) private agricultural land; and

7 “(ii) land maintained by the Forest
8 Service;

9 “(B) give landowners an opportunity for
10 comment on the proposed listing or designation—
11

12 “(i) to obtain the input of the land-
13 owners; and

14 “(ii) to provide landowners the same
15 opportunity to comment as other affected
16 parties;

17 “(C) list the species under this Act only if
18 the purposes of this Act described in section
19 2(b) promoted by the listing or designation out-
20 weigh the adverse impact of the listing or des-
21 ignation, including the adverse impact described
22 in comments of landowners and other affected
23 parties;

24 “(D) use sound and proven economic anal-
25 ysis tools in conducting the analyses, listing

1 species, and designating habitat under this Act;
2 and

3 “(E) make available on a public website—

4 “(i) a description of the total eco-
5 nomic impact on agricultural land from all
6 actual and potential listings and designa-
7 tions under this Act; and

8 “(ii) a map of all locations in the
9 United States that are proposed for critical
10 habitat designations.

11 “(5) ACTUAL NOTICE.—In listing species or
12 designating habitat under this Act, the Secretary of
13 the Interior shall, to the maximum extent prac-
14 ticable, provide actual notice to affected landowners
15 and other parties.

16 “(6) APPEALS.—Before a species is listed or
17 habitat is designated under this Act, the Secretary
18 of Agriculture shall make available to affected land-
19 owners and other parties a description of all options
20 that are available to appeal or obtain compensation
21 from the listing or designation (including adminis-
22 trative and judicial options) against the Federal
23 Government.

24 “(7) REDUCTION OF WATER ALLOCATIONS OR
25 OTHER RESOURCES.—Before reducing any Federal

1 water allocation or restricting any resource for agri-
2 cultural production in a State as the result of an ac-
3 tion under this Act, the Secretary of the Interior
4 shall seek approval for the action from the Secretary
5 of Agriculture and the Governor of the State.

6 “(8) TRESPASSING ON PRIVATE PROPERTY.—

7 “(A) EMPLOYEES OR AGENTS OF DEPART-
8 MENT OF THE INTERIOR.—If an officer, em-
9 ployee, or agent of the Department of the Inte-
10 rior enters private land without the consent of
11 the landowner to carry out this Act, the Sec-
12 retary shall be liable to the landowner for the
13 cost of any damages (including legal fees and
14 the cost of any adverse impact of a listing or
15 designation described in paragraph (1) on the
16 landowner) resulting from the trespass.

17 “(B) PRIVATE INDIVIDUALS OR ORGANIZA-
18 TIONS.—If a private individual or representa-
19 tive of an organization enters private land with-
20 out the consent of the landowner to promote
21 the purposes of this Act, the individual or orga-
22 nization, respectively, shall be liable to the land-
23 owner for the cost of any damages (including
24 legal fees and the cost of any adverse impact of
25 a listing or designation described in paragraph

1 (1) on the landowner) resulting from the tres-
2 pass.

3 “(C) SOUND SCIENCE.—

4 “(i) IN GENERAL.—No science that is
5 produced during or as a result of a tres-
6 pass described in subparagraph (A) or (B)
7 shall be considered—

8 “(I) to be the best available
9 science; or

10 “(II) to meet the scientific qual-
11 ity standards issued under section 515
12 of the Treasury and General Govern-
13 ment Appropriations Act, 2001 (Pub-
14 lic Law 106–554; 114 Stat. 2763A–
15 153) (commonly referred to as the
16 ‘Data Quality Act’).

17 “(ii) AERIAL SURVEILLANCE.—No
18 science that is produced as a result of aer-
19 ial surveillance of private land without the
20 consent of the landowner shall be consid-
21 ered to meet the scientific quality stand-
22 ards described in clause (i)(II).”.

