

Calendar No. 161

96TH CONGRESS
1ST SESSION**S. 1143**

[Report No. 96-151]

To extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes

IN THE SENATE OF THE UNITED STATES

MAY 15 (legislative day, APRIL 9), 1979

Mr. CULVER, from the Committee on Environment and Public Works, reported the following bill; which was read twice and ordered placed on the calendar

A BILL

To extend the authorization for appropriations for the Endangered Species Act of 1973, 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 That section 7(q) of the Endangered Species Act of 1973 is
4 amended by striking, "not to exceed \$600,000 for fiscal year
5 1979, and not to exceed \$300,000 for the period beginning
6 October 1, 1979, and ending March 31, 1980." and inserting

1 in lieu thereof, "not to exceed \$600,000 for each of the fiscal
2 years 1979, 1980, 1981, and 1982."

3 SEC. 2. Section 15 of such Act is amended to read as
4 follows:

5 "SEC. 15. (a) Except as authorized in sections 6 and 7
6 of this Act, there are authorized to be appropriated—

7 "(1) not to exceed \$23,000,000 for the fiscal
8 years 1979 and 1980; not to exceed \$25,000,000 for
9 fiscal year 1981; and not to exceed \$27,000,000 for
10 fiscal year 1982 to enable the Department of the Inte-
11 rior to carry out such functions and responsibilities
12 it may have been given under this Act;

13 "(2) not to exceed \$2,500,000 for the fiscal years
14 1979 and 1980; not to exceed \$3,500,000 for fiscal
15 year 1981; and not to exceed \$4,000,000 for fiscal
16 year 1982 to enable the Department of Commerce to
17 carry out such functions and responsibilities as it may
18 have been given under this Act.

19 "(b) There are authorized to be appropriated not to
20 exceed \$500,000 for the Department of the Interior to imple-
21 ment the recovery program for the California condor."

22 SEC. 3. (a) Section 3(11) is amended by striking "would
23 (A) jeopardize" and inserting in lieu thereof "is likely to (A)
24 jeopardize".

1 (b) Section 7(g)(1) is amended by striking “may jeopardize” and inserting in lieu thereof “is likely to jeopardize”.

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3 SEC. 4. (a) Section 4(f)(2)(C)(ii) is amended by striking
4 “120-day period” each time it appears and inserting in lieu
5 thereof “one-year period”.

6 (b) Such section is further amended by adding at the end
7 thereof the following new sentence: “If at any time after is-
8 suing an emergency regulation the Secretary determines on
9 the basis of the best scientific and commercial data that sub-
10 stantial evidence does not exist to warrant such regulation,
11 he shall withdraw it.”.

12 SEC. 5. (a) Section 7(c) is amended by adding at the end
13 thereof the following new sentence: “If an exemption appli-
14 cant desires to seek a permanent exemption pursuant to sub-
15 section (h)(2) of this section, he may conduct a biological as-
16 sessment pursuant to this subsection.”.

17 (b) The first sentence of section 7(h)(2)(B) is amended to
18 read as follows:

19 “(B) An exemption shall not be permanent under sub-
20 paragraph (A) if the Secretary finds, based on the best scien-
21 tific and commerical data available, that such exemption
22 would result in the extinction of a species that was not the
23 subject of consultation or identified in a biological assessment
24 prior to or in conjunction with the Committee’s consideration
25 of such exemption”.

1 SEC. 6. (a) Sections 7(a), 7(b), 7(c), and 7(d) are amend-
2 ed by striking "any endangered or threatened species" wher-
3 ever it occurs and inserting in lieu thereof "any listed or
4 proposed endangered or threatened species".

5 (b) Section 4(f) is amended by adding a new paragraph
6 (6) to read as follows:

7 "(6) Notwithstanding the requirements of subsection
8 4(b) and of paragraphs (1) through (5) of this subsection, if
9 the Secretary determines pursuant to section 7 that an
10 agency action is likely to jeopardize the existence of an en-
11 dangered species or threatened species proposed pursuant to
12 this section, or adversely modify the proposed critical habitat
13 of such species, the Secretary shall within 90 days of such
14 determination either publish in the Federal Register a final
15 regulation adding such species or critical habitat to the list
16 published pursuant to subsection (c) of this section, or with-
17 draw the regulation proposing such listing."

18 SEC. 7. Section 7(g)(2)(A) is amended by striking "not
19 later than 90 days after the completion of the consultation
20 process." and inserting in lieu thereof, "not later than 90
21 days after the completion of the consultation process, or, in
22 the case of a permit or license applicant, not later than 90
23 days after final agency action has been taken on the permit
24 or license application."