

119TH CONGRESS
1ST SESSION

H. R. 3845

To amend the Endangered Species Act of 1973 to expand the exemption process under section 7 of that Act with respect to national security and significant adverse national or regional economic impacts.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2025

Mr. GRAY (for himself and Mr. COSTA) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Endangered Species Act of 1973 to expand the exemption process under section 7 of that Act with respect to national security and significant adverse national or regional economic impacts.

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. EXPANSION OF EXEMPTION PROCESS UNDER**
4 **SECTION 7 OF ENDANGERED SPECIES ACT OF**
5 **1973.**

6 Section 7 of the Endangered Species Act of 1973 (16
7 U.S.C. 1536) is amended—

8 (1) in subsection (g)—

1 (A) in paragraph (1), to read as follows:

2 “(1)(A) A Federal agency, the Governor of the
3 State in which an agency action will occur, if any,
4 or a permit or license applicant may apply to the
5 Secretary for an exemption for an agency action of
6 such agency if, after consultation under subsection
7 (a)(2), the Secretary’s opinion under subsection (b)
8 indicates that—

9 “(i) the agency action would violate sub-
10 section (a)(2); or

11 “(ii) a modification or reasonable and pru-
12 dent alternative necessary for the agency action
13 to comply with subsection (a)(2) may—

14 “(I) impair national security; or

15 “(II) result in significant adverse na-
16 tional or regional economic impacts.

17 “(B) An application for an exemption shall be
18 considered initially by the Secretary in the manner
19 provided for in this subsection, and shall be consid-
20 ered by the Committee for a final determination
21 under subsection (h) after a report is made pursuant
22 to paragraph (5).

23 “(C) The applicant for an exemption shall be
24 referred to as the ‘exemption applicant’ in this sec-
25 tion.”;

1 (B) in paragraph (3)—

2 (i) in subparagraph (A), to read as
3 follows:

4 “(A) determine—

5 “(i) that the Federal agency concerned and
6 the exemption applicant have—

7 “(I) carried out the consultation re-
8 sponsibilities described in subsection (a) in
9 good faith and made a reasonable and re-
10 sponsible effort to develop and fairly con-
11 sider modifications or reasonable and pru-
12 dent alternatives to the proposed agency
13 action which would not violate subsection
14 (a)(2);

15 “(II) conducted any biological assess-
16 ment required by subsection (c); and

17 “(III) to the extent determinable with-
18 in the time provided herein, refrained from
19 making any irreversible or irretrievable
20 commitment of resources prohibited by
21 subsection (d); and

22 “(ii) if the exemption applicant submitted
23 to the Secretary the application for exemption
24 pursuant to paragraph (1)(A)(ii), whether a
25 modification or reasonable and prudent alter-

1 native necessary for the proposed agency action
2 to comply with subsection (a)(2) may—

3 “(I) impair national security; or

4 “(II) result in significant adverse na-
5 tional or regional economic impacts; or”;

6 and

7 (ii) in subparagraph (B), by striking
8 “(i), (ii), and (iii)”;

9 (C) in paragraph (4), by striking “(i), (ii)
10 and (iii)”;

11 (D) in paragraph (5)—

12 (i) by redesignating subparagraphs
13 (B) through (D) as subparagraphs (C)
14 through (E), respectively; and

15 (ii) by inserting after subparagraph
16 (A) the following:

17 “(B) if the exemption applicant submitted to
18 the Secretary the application for exemption pursuant
19 to paragraph (1)(A)(ii), after consultation with the
20 National Security Council regarding potential im-
21 pacts to national security and the Director of the
22 National Economic Council regarding potential sig-
23 nificant adverse national and regional economic im-
24 pacts, any impairment to national security or signifi-
25 cant adverse national or regional economic impacts

1 that would result from a modification or reasonable
2 and prudent alternative necessary for the agency ac-
3 tion to comply with subsection (a)(2), including a
4 description of the analysis and conclusions produced
5 by the National Security Council and the Director of
6 the National Economic Council as a result of each
7 such consultation;”; and

8 (2) in subsection (h)(1)(A)(i), to read as fol-
9 lows:

10 “(i)(I) there are no reasonable and prudent
11 alternatives to the agency action; or

12 “(II) with respect to an agency action the
13 application for exemption of which was sub-
14 mitted to the Secretary pursuant to subsection
15 (g)(1)(A)(ii), a modification or reasonable and
16 prudent alternative necessary for the agency ac-
17 tion to comply with subsection (a)(2) may—

18 “(aa) impair national security; or

19 “(bb) result in significant adverse na-
20 tional or regional economic impacts;”.

○