

117TH CONGRESS  
1ST SESSION

# H. R. 3973

To amend the Endangered Species Act of 1973 to provide for improved precision in the listing, delisting, and downlisting of endangered species and potentially endangered species.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 2021

Mr. BIGGS (for himself, Mr. PERRY, Mr. ROSENDALE, Mr. STEWART, Mr. MCCLINTOCK, Mr. MANN, Mrs. BOEBERT, Mr. GOSAR, Mr. NEWHOUSE, and Ms. CHENEY) introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To amend the Endangered Species Act of 1973 to provide for improved precision in the listing, delisting, and downlisting of endangered species and potentially endangered species.

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 “Less Imprecision in  
5 Species Treatment Act of 2021” or the “LIST Act of  
6 2021”.

1 **SEC. 2. REQUIREMENT TO INITIATE DELISTING.**

2 (a) REQUIREMENT IN CASE OF RECOVERY.—Section  
3 4(b) of the Endangered Species Act of 1973 (16 U.S.C.  
4 1533(b)) is amended by adding at the end the following:

5 “(9)(A) The Secretary shall initiate the proce-  
6 dures in accordance with subsection (a)(1) to remove  
7 a species from a list published under subsection (c)  
8 if—

9 “(i) the goals of a recovery plan for the  
10 species developed under subsection (f) have  
11 been met; or

12 “(ii) the goals for recovery of the species  
13 have not been developed under subsection (f),  
14 and the Secretary determines that the species  
15 has recovered sufficiently to no longer require  
16 the protection of the Act.

17 “(B) Notwithstanding the requirement of sub-  
18 section (c)(2) that each determination under sub-  
19 paragraph (B) of that subsection shall be made in  
20 accordance with the provisions of subsections (a)  
21 and (b), the Secretary shall remove a species from  
22 any list published under subsection (c) if the De-  
23 partment of the Interior has produced or received  
24 substantial scientific or commercial information  
25 demonstrating that the species is recovered or that

1 recovery goals set for the species under subsection  
2 (f) have been met.

3 “(C) In the case of a species removed under  
4 subparagraph (A) from a list published under sub-  
5 section (e), the publication and notice under sub-  
6 section (b)(5) shall consist solely of a notice of such  
7 removal.”.

8 (b) REQUIREMENT IN CASE ERRONEOUSLY OR  
9 WRONGFULLY LISTED.—Section 4(b)(3) of the Endan-  
10 gered Species Act of 1973 (16 U.S.C. 1533(a)), as amend-  
11 ed by subsection (a), is further amended by adding at the  
12 end the following:

13 “(H)(i) Not later than 90 days after the  
14 date the Department of the Interior receives or  
15 produces under this subsection information de-  
16 scribed in clause (ii) regarding a species in-  
17 cluded in a list under subsection (e), the Sec-  
18 retary shall to the maximum extent practicable  
19 find whether the inclusion of such species in  
20 such list was less than likely to have occurred  
21 in the absence of the scientific or commercial  
22 information referred to in clause (ii).

23 “(ii) Information referred to in clause (i) is  
24 any information demonstrating that the listing  
25 was determined on the basis of scientific or

1 commercial information available to, or received  
2 or produced by, the Department under para-  
3 graphs (1) and (3) of subsection (b) that at the  
4 time the scientific or commercial information  
5 was available to or received or produced by the  
6 Department it was—

7 “(I) inaccurate beyond scientifically  
8 reasonable margins of error;

9 “(II) fraudulent; or

10 “(III) misrepresentative.

11 “(iii) Notwithstanding the requirement  
12 under subsection (c)(2)(B) that each determina-  
13 tion under subparagraph (B) shall be made in  
14 accordance with the provisions of subsections  
15 (a) and (b), the Secretary shall—

16 “(I) remove from any list published  
17 under subsection (c) any species for which  
18 a positive finding is made under clause (i);  
19 and

20 “(II) promptly publish in the Federal  
21 Register notice of such finding that in-  
22 cludes such information as was received or  
23 produced by the Department under such  
24 clause.

1           “(iv) Any positive finding by the Secretary  
2 under clause (i) shall not be subject to judicial  
3 review.

4           “(v) Any negative finding by the Secretary  
5 under clause (i) shall be subject to judicial re-  
6 view.

7           “(vi) In the case of a species removed  
8 under clause (iii) from a list, the publication  
9 and notice under subsection (b)(5) shall consist  
10 solely of a notice of such removal.

11           “(vii) If the Secretary finds that a person  
12 submitted a petition that is the subject of a  
13 positive finding under clause (i) knowing that it  
14 contained scientific or commercial information  
15 described in clause (ii), then during the 10-year  
16 period beginning on the date of the finding  
17 under this clause the person shall not be consid-  
18 ered an interested person for purposes of sub-  
19 paragraph (A) with respect to any petition sub-  
20 mitted by the person after the date the person  
21 submitted such scientific or commercial infor-  
22 mation.”.

1 **SEC. 3. EXPANDED CONSIDERATION DURING FIVE-YEAR**  
2 **REVIEW.**

3 Section 4(c) of the Endangered Species Act of 1973  
4 (16 U.S.C. 1533(c)) is amended by adding at the end the  
5 following:

6 “(3) Each determination under paragraph  
7 (2)(B) shall consider one of the following:

8 “(A) Except as provided in subparagraph  
9 (B) of this paragraph, the criteria required  
10 under subsection (f)(1)(B) in the recovery plan  
11 for the species.

12 “(B) If the objective, measurable criteria  
13 under subsection (f)(1)(B)(ii) are not estab-  
14 lished, the factors for the determination that a  
15 species is an endangered species or a threatened  
16 species set forth in subsections (a)(1) and  
17 (b)(1).

18 “(C) A finding of error in the determina-  
19 tion that the species is an endangered species,  
20 a threatened species, or extinct.

21 “(D) A determination that the species is  
22 no longer an endangered species or threatened  
23 species or in danger of extinction, based on an  
24 analysis of the factors that are the basis for  
25 listing in subsections (a)(1) and (b)(1).”.