

GUAM MILITARY TRAINING AND READINESS ACT OF 2014

DECEMBER 8, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 4402]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 4402) to authorize the Secretary of the Navy to establish a surface danger zone over the Guam National Wildlife Refuge or any portion thereof to support the operation of a live-fire training range complex, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Guam Military Training and Readiness Act of 2014”.

SEC. 2. ESTABLISHMENT OF SURFACE DANGER ZONE, RITIDIAN UNIT, GUAM NATIONAL WILDLIFE REFUGE.

(a) **AGREEMENT TO ESTABLISH.**—In order to accommodate the operation of a live-fire training range complex on Andersen Air Force Base-Northwest Field and the management of the adjacent Ritidian Unit of the Guam National Wildlife Refuge, the Secretary of the Navy and the Secretary of the Interior, notwithstanding the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), may enter into an agreement providing for the establishment and operation of a surface danger zone which overlays the Ritidian Unit or such portion thereof as the Secretaries consider necessary.

(b) **ELEMENTS OF AGREEMENT.**—The agreement to establish a surface danger zone over all or a portion of the Ritidian Unit of the Guam National Wildlife Refuge shall include—

- (1) measures to maintain the purposes of the Refuge; and
- (2) as appropriate, measures, funded by the Secretary of the Navy from funds appropriated after the date of enactment of this Act and otherwise available to the Secretary, for the following purposes:

(A) Relocation and reconstruction of structures and facilities of the Refuge in existence as of the date of the enactment of this Act.

(B) Mitigation of impacts to wildlife species present on the Refuge or to be reintroduced in the future in accordance with applicable laws.

(C) Use of Department of Defense personnel to undertake conservation activities within the Ritidian Unit normally performed by Department of the Interior personnel, including habitat maintenance, maintaining the boundary fence, and conducting the brown tree snake eradication program.

(D) Openings and closures of the surface danger zone to the public as may be necessary.

PURPOSE OF THE BILL

The purpose of H.R. 4402 is to authorize the Secretary of the Navy to establish a surface danger zone over the Guam National Wildlife Refuge or any portion thereof to support the operation of a live-fire training range complex.

BACKGROUND AND NEED FOR LEGISLATION

The United States and Japan have been negotiating moving troops from Okinawa, Japan, to Guam since 1996 and over the years have signed many agreements, the latest in 2012 referred to as the “2012 Roadmap Adjustments”. This agreement reduced the number of troops relocating to Guam from 8,600 marines with 9,000 dependents to 5,000 marines with 1,300 dependents.

The Final Environmental Impact Statement (EIS) for the Guam and Commonwealth of the Northern Mariana Islands Military Relocation, Relocating Marines from Okinawa, Visiting Aircraft Carrier Berthing, and Army Air and Missile Defense Task Force military relocation, was released to the public in July 2010. The 2010 Record of Decision for the EIS included decisions on the locations for the Marine Corps main cantonment, family housing, and aviation and waterfront operations on Guam, and training ranges on Tinian. However, the 2010 ROD deferred a decision on the specific site for a Live-Fire Training Range Complex (LFTRC).

The draft Supplemental Environmental Impact Statement (SEIS) for the LFTRC was released on April 18, 2014. Out of five alternatives, the preferred alternative for the LFTRC is option 5—the Northwest Field of Anderson Air Force base adjacent to the Fish and Wildlife Service (FWS) Ritidian unit of the Guam National Wildlife Refuge. It is the preferred alternative in part because the LFTRC would be located solely on military property, requiring no new land acquisition. It also meets the draft SEIS requirements that the land area should include space for the range facilities (firing points, berms, and impact areas) and associated surface danger zones. It would use 3,981 acres, of which 265 acres is for the active firing ranges. The draft SEIS does note the preferred alternative does not eliminate all operational or environmental challenges. Public hearings were held on Guam on the draft SEIS on May 17, 19 and 20, 2014. The public comment period is scheduled to end on June 17, 2014.

A legal issue arose during the draft SEIS scoping process for the Northwest Field, and the Navy proposed a noise study to quantify sound impacts to the Ritidian unit of the Guam National Wildlife Refuge. The FWS required the Navy to get a special use permit. The permit was denied because the FWS determined the refuge closure for the noise study was an “inappropriate use”. The permit denial for the noise study indicated the Navy’s preferred alternative

for the LFTRC was at risk, since use of the surface danger zone would require refuge closures.

Concerns with the placement of the LFTRC on in the Northwest Field include its effect on species located in the refuge and on the overlay refuge lands on military property. The Guam National Wildlife Refuge (including the 22,456 acres of overlay lands and the 1,317 acres of the Ritidian unit) was created in 1993 to protect habitat for several endangered species including the Mariana crow, Mariana fruit bat and the *Serianthes nelsonii* tree and declining local bird populations. The refuge has around 92,000 visitors annually who have access to 120 acres of land and the waters adjacent to the Ritidian unit, which include a heavily visited white sand beach, hiking trails and some historic and cultural Chamorro sites. The northern portion of this 120-acre section and the adjacent waters would be closed when the machine gun range is in use. The visitor center and associated buildings are located on refuge lands that would fall within the larger surface danger zone, and these facilities may need to be relocated or rebuilt outside of the zone at a FWS estimated cost of \$10–\$12 million. Lastly, research and predator controls for the brown tree snake occurring on the refuge would be severely hampered by refuge closures.

The Navy states the realignment of the 5,000 marines to Guam is dependent on a LFTRC. The FWS ruling that the refuge closures would be incompatible with the refuge places the preferred location for the LFTRC at risk, thereby potentially jeopardizing the relocation of Marines from Japan to Guam. Delegate Bordallo supports the relocation of Marines to Guam and introduced H.R. 4402 to authorize refuge closures as a compatible use and allow for the development and use of the LFTRC.

As introduced, H.R. 4402 would give the Secretary of the Navy the authority to establish a surface danger zone over the Guam National Wildlife Refuge to support training and operations, including the live-fire training range complex on the Northwest Field at Andersen Air Force Base. The bill would make the establishment of the surface danger zone an authorized use of the refuge. The bill would allow the Secretary of the Navy to close portions of the refuge for public safety and national security for limited periods and would require public notification of the closures. Lastly, the bill states that nothing in the bill would limit the authority of the Secretary of the Interior to manage the refuge under section 4 of the National Wildlife Refuge System Administration Act of 1966 as long as it is compatible with the authorities given to the Secretary of the Navy in the bill.

During the Natural Resources Committee markup of the bill, Delegate Madeleine Bordallo (D–GU) offered an amendment to strike the underlying text of H.R. 4402 and replace it with language to allow FWS and the Navy to enter into a cooperative agreement to allow for the use of a surface danger zone over the refuge and retain the missions of the refuge. The amendment was adopted by unanimous consent.

COMMITTEE ACTION

H.R. 4402 was introduced on April 4, 2014, by Delegate Madeleine Bordallo (D–GU). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee

on Fisheries, Wildlife, Oceans and Insular Affairs. The bill was also referred to the Committee on Armed Services. On April 29, 2014, the Subcommittee held a hearing on the bill. On May 21, 2014, the Natural Resources Committee met to consider the bill. The Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs was discharged by unanimous consent. Delegate Bordallo offered an amendment in the nature of a substitute to the bill; the amendment in the nature of a substitute was adopted by unanimous consent. No further amendments were offered, and the bill, as amended, was then adopted and ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

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H.R. 4402 would authorize the Department of Defense (DoD) and the Department of the Interior to establish a danger zone in the Guam National Wildlife Refuge for areas that would be affected by rifle, pistol, and machine gun ranges that DoD intends to construct adjacent to the refuge. The Fish and Wildlife Service (FWS) has several facilities on the refuge that are in close proximity to the range. For safety, DoD would be required to move those facilities to a different part of the refuge. Designation of the danger zone also would restrict access to a portion of the refuge that is currently open to the public when the machine gun range is in use.

On the basis of information from DoD and FWS, CBO estimates that relocating the affected facilities would cost about \$20 million, subject to the availability of appropriated funds. However, DoD states that the FWS facilities would not have to be relocated until 2022, when the machine gun range becomes operational. Thus, enacting H.R. 4402 would not affect the federal budget over the 2015–2019 period. Pay-as-you-go procedures do not apply because enacting the bill would not affect direct spending or revenues.

H.R. 4402 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is David Newman. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. On the basis of information from the Department of Defense and the Fish and Wildlife Service, CBO estimates that relocating the affected facilities would cost about \$20 million, subject to the availability of appropriated funds. However, DoD states that the FWS facilities would not have to be relocated until 2022, when the machine gun range becomes operational. Thus, enacting H.R. 4402 would not affect the federal budget over the 2015–2019 period.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to authorize the Secretary of the Navy to establish a surface danger zone over the Guam National Wildlife Refuge or any portion thereof to support the operation of a live-fire training range complex.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.