

AMENDMENT TO RULES COMMITTEE PRINT

119–8

OFFERED BY MR. BIGGS OF ARIZONA

At the end of subtitle B of title XVII, add the following new section:

1 **SEC. 17____. EXCLUSIONS FROM ENDANGERED SPECIES**
2 **ACT OF 1973 WITH RESPECT TO MILITARY IN-**
3 **STITUTIONS AND FOR DEFENSE-RELATED OP-**
4 **ERATIONS.**

5 (a) EXCLUSION OF MILITARY INSTITUTIONS AS
6 CRITICAL HABITAT.—Section 4(a)(3)(B) of the Endan-
7 gered Species Act of 1973 (16 U.S.C. 1533(a)(3)(B)) is
8 amended to read as follows:

9 “(i) The Secretary shall not designate as crit-
10 ical habitat—

11 “(I) any military installation or a State-
12 owned National Guard installation, or any por-
13 tion thereof, as such terms are defined in sec-
14 tion 100 of the Sikes Act (16 U.S.C. 670); or

15 “(II) any other lands, waters, or geo-
16 graphical area not described in subclause (I)
17 that is otherwise designated for use by the Sec-
18 retary of Defense including by any contractor of

1 the Department of Defense, if the Secretary of
2 Defense determines in writing and submitted to
3 the Secretary of the Interior that such area is
4 necessary for military training, weapons testing,
5 or any other reason determined appropriate by
6 such Secretary of Defense.

7 “(ii) The Secretary of Defense shall not be re-
8 quired to consult with the Secretary of the Interior,
9 under section 7(a)(2) of this Act with respect to
10 agency action, regardless of whether the area de-
11 scribed in clause (i) is subject to an integrated nat-
12 ural resources management plan prepared under sec-
13 tion 101 of the Sikes Act (16 U.S.C. 670a).”.

14 (b) EXCLUSION FOR NATIONAL DEFENSE-RELATED
15 OPERATIONS.—Section 10 of the Endangered Species Act
16 of 1973 (16 U.S.C. 1539) is amended by adding at the
17 end the following:

18 “(k) EXCLUSION FOR NATIONAL DEFENSE-RELATED
19 OPERATIONS.—

20 “(1) EXCLUSIONS.—The prohibitions under sec-
21 tion 9 shall not apply with respect to—

22 “(A) the taking of any endangered species
23 or threatened species, or the importation or ex-
24 portation of any such species taken as prohib-

1 ited by such section, by military personnel en-
2 gaged in a national defense-related operation;

3 “(B) damaging or destroying any threat-
4 ened or endangered species, or removing, cut-
5 ting, digging up, damaging, or destroying any
6 such species, by military personnel engaged in
7 a national defense-related operation; or

8 “(C) an injury to or mortality of a threat-
9 ened or endangered species that results from,
10 but is not the purpose of, a national defense-re-
11 lated operation,

12 regardless of whether the operation is conducted on
13 a military installation or other area described in sec-
14 tion 4(a)(3)(B)(i).

15 “(2) DEFINITIONS.—For the purposes of this
16 subsection—

17 “(A) the term ‘national defense-related op-
18 eration’ means—

19 “(i) research, development, testing,
20 and evaluation of military munitions, other
21 ordnance, and weapons systems;

22 “(ii) the training of members of the
23 Armed Forces in the use and handling of
24 military munitions, other ordnance, and
25 weapons systems;

1 “(iii) general training and military
2 preparedness; or

3 “(iv) any action or duty that the Sec-
4 retary of Defense deems necessary to sup-
5 port the Department of Defense in its mis-
6 sion; and

7 “(B) the term ‘military personnel’
8 means—

9 “(i) a member of the Armed Forces;
10 and

11 “(ii) a civilian employee or contractor
12 (including a subcontractor at any tier) of
13 the—

14 “(I) Department of Defense (in-
15 cluding a nonappropriated fund in-
16 strumentality of the Department); or

17 “(II) any other Federal agency,
18 or any provisional authority, to the
19 extent such employment relates to
20 supporting the mission of the Depart-
21 ment of Defense overseas.”.

