

AMENDMENT TO RULES COMMITTEE PRINT

119-33

OFFERED BY MR. BIGGS OF ARIZONA

At the end of subtitle B of title XVII, insert the following:

1 **SEC. 17___ . EXCLUSIONS FROM ENDANGERED SPECIES**
2 **ACT OF 1973 WITH RESPECT TO MILITARY IN-**
3 **STALLATIONS AND FOR NATIONAL DEFENSE-**
4 **RELATED OPERATIONS.**

5 (a) EXCLUSION OF MILITARY INSTALLATIONS 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 “(B)(i) The Secretary shall not designate
10 as critical habitat—

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

16 “(II) any other lands, waters, or geo-
17 graphical area not described in subclause
18 (I) that is otherwise designated for use by

1 the Secretary of Defense, including by any
2 contractor of the Department of Defense,
3 if the Secretary of Defense determines in
4 writing and submits to the Secretary of the
5 Interior that such lands, waters, or geo-
6 graphical area is necessary for military
7 training, weapons testing, or any other
8 reason determined appropriate by the Sec-
9 retary of Defense.

10 “(ii) The Secretary of Defense shall not be
11 required to consult with the Secretary of the In-
12 terior, under section 7(a)(2) of this Act with re-
13 spect to agency action, regardless of whether
14 the area described in clause (i) is subject to an
15 integrated natural resources management plan
16 prepared under section 101 of the Sikes Act
17 (16 U.S.C. 670a).”.

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

22 “(k) EXCLUSION FOR NATIONAL DEFENSE-RELATED
23 OPERATIONS.—

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

1 “(A) the taking of any endangered species
2 or threatened species, or the importation or ex-
3 portation of any such species taken as prohib-
4 ited by such section, by military personnel en-
5 gaged in a national defense-related operation;

6 “(B) damaging or destroying any threat-
7 ened species or endangered species, or remov-
8 ing, cutting, digging up, damaging, or destroy-
9 ing any such species, by military personnel en-
10 gaged in a national defense-related operation;
11 or

12 “(C) an injury to or mortality of a threat-
13 ened species or endangered species that results
14 from, but is not the purpose of, a national de-
15 fense-related operation,

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

19 “(2) DEFINITIONS.—For purposes of this sub-
20 section—

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

23 “(i) research, development, testing,
24 and evaluation of military munitions, other
25 ordnance, and weapons systems;

1 “(ii) the training of members of the
2 Armed Forces in the use and handling of
3 military munitions, other ordnance, and
4 weapons systems;

5 “(iii) general training and military
6 preparedness; or

7 “(iv) any action or duty that the Sec-
8 retary of Defense deems necessary to sup-
9 port the Department of Defense in its mis-
10 sion; and

11 “(B) the term ‘military personnel’
12 means—

13 “(i) a member of the Armed Forces;
14 and

15 “(ii) a civilian employee or contractor
16 (including a subcontractor at any tier)
17 of—

18 “(I) the Department of Defense
19 (including a nonappropriated fund in-
20 strumentality of the Department); or

21 “(II) any other Federal agency,
22 or any provisional authority, to the
23 extent such employment relates to

1 supporting the mission of the Depart-
2 ment of Defense overseas.”.

