

**AMENDMENT TO RULES COMMITTEE PRINT 117–**

**57**

**OFFERED BY MR. BIGGS OF ARIZONA**

Add at the end the following:

1 **DIVISION E—AMENDMENTS TO**  
2 **ENDANGERED SPECIES ACT**  
3 **OF 1973**

4 **SEC. 101. REQUIREMENT TO INITIATE DELISTING.**

5 (a) REQUIREMENT IN CASE OF RECOVERY.—Section  
6 4(b) of the Endangered Species Act of 1973 (16 U.S.C.  
7 1533(b)) is amended by adding at the end the following:

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

12 “(i) the goals of a recovery plan for the  
13 species developed under subsection (f) have  
14 been met; or

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

1           “(B) Notwithstanding the requirement of sub-  
2           section (c)(2) that each determination under sub-  
3           paragraph (B) of that subsection shall be made in  
4           accordance with the provisions of subsections (a)  
5           and (b), the Secretary shall remove a species from  
6           any list published under subsection (c) if the De-  
7           partment of the Interior has produced or received  
8           substantial scientific or commercial information  
9           demonstrating that the species is recovered or that  
10          recovery goals set for the species under subsection  
11          (f) have been met.

12          “(C) In the case of a species removed under  
13          subparagraph (A) from a list published under sub-  
14          section (c), the publication and notice under sub-  
15          section (b)(5) shall consist solely of a notice of such  
16          removal.”.

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

22                 “(H)(i) Not later than 90 days after the  
23                 date the Department of the Interior receives or  
24                 produces under this subsection information de-  
25                 scribed in clause (ii) regarding a species in-

1           cluded in a list under subsection (c), the Sec-  
2           retary shall to the maximum extent practicable  
3           find whether the inclusion of such species in  
4           such list was less than likely to have occurred  
5           in the absence of the scientific or commercial  
6           information referred to in clause (ii).

7           “(ii) Information referred to in clause (i) is  
8           any information demonstrating that the listing  
9           was determined on the basis of scientific or  
10          commercial information available to, or received  
11          or produced by, the Department under para-  
12          graphs (1) and (3) of subsection (b) that at the  
13          time the scientific or commercial information  
14          was available to or received or produced by the  
15          Department it was—

16                 “(I) inaccurate beyond scientifically  
17                 reasonable margins of error;

18                 “(II) fraudulent; or

19                 “(III) misrepresentative.

20          “(iii) Notwithstanding the requirement  
21          under subsection (c)(2)(B) that each determina-  
22          tion under subparagraph (B) shall be made in  
23          accordance with the provisions of subsections  
24          (a) and (b), the Secretary shall—

1           “(I) remove from any list published  
2           under subsection (c) any species for which  
3           a positive finding is made under clause (i);  
4           and

5           “(II) promptly publish in the Federal  
6           Register notice of such finding that in-  
7           cludes such information as was received or  
8           produced by the Department under such  
9           clause.

10          “(iv) Any positive finding by the Secretary  
11          under clause (i) shall not be subject to judicial  
12          review.

13          “(v) Any negative finding by the Secretary  
14          under clause (i) shall be subject to judicial re-  
15          view.

16          “(vi) In the case of a species removed  
17          under clause (iii) from a list, the publication  
18          and notice under subsection (b)(5) shall consist  
19          solely of a notice of such removal.

20          “(vii) If the Secretary finds that a person  
21          submitted a petition that is the subject of a  
22          positive finding under clause (i) knowing that it  
23          contained scientific or commercial information  
24          described in clause (ii), then during the 10-year  
25          period beginning on the date of the finding

1 under this clause the person shall not be consid-  
2 ered an interested person for purposes of sub-  
3 paragraph (A) with respect to any petition sub-  
4 mitted by the person after the date the person  
5 submitted such scientific or commercial infor-  
6 mation.”.

7 (c) EXPANDED CONSIDERATION DURING FIVE-YEAR  
8 REVIEW.—Section 4(c) of the Endangered Species Act of  
9 1973 (16 U.S.C. 1533(c)) is amended by adding at the  
10 end the following:

11 “(3) Each determination under paragraph  
12 (2)(B) shall consider 1 of the following:

13 “(A) Except as provided in subparagraph  
14 (B), the criteria required under subsection  
15 (f)(1)(B) in the recovery plan for the species.

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

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

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

