

AMENDMENT TO RULES COMMITTEE PRINT 117-

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OFFERED BY MR. CALVERT OF CALIFORNIA

At the end of the bill, add the following:

1 **DIVISION E—TRANSFER OF CER-**
2 **TAIN ENDANGERED SPECIES**
3 **ACT OF 1973 RESPONSIBIL-**
4 **ITIES**

5 **SEC. 1. TRANSFER OF FUNCTIONS WITH RESPECT TO**
6 **ANADROMOUS SPECIES AND CATADROMOUS**
7 **SPECIES.**

8 (a) **TRANSFER OF FUNCTIONS.**—All functions with
9 respect to anadromous species and catadromous species
10 under the Endangered Species Act of 1973 (16 U.S.C.
11 1531 et seq.) that were vested in the Secretary of Com-
12 merce or the National Marine Fisheries Service imme-
13 diately before the enactment of this section are transferred
14 to the Secretary of the Interior.

15 (b) **CONFORMING AMENDMENTS.**—The Endangered
16 Species Act of 1973 is amended—

17 (1) in section 3(15) (16 U.S.C. 1532(15))—

18 (A) by inserting “(A)” after “(15)”; and

1 (B) by inserting after “Secretary of Agri-
2 culture.” the following:

3 “(B) Notwithstanding subparagraph (A), with re-
4 spect to anadromous species and catadromous species, the
5 term ‘Secretary’ means the Secretary of the Interior.”;
6 and

7 (2) in section 3 (16 U.S.C. 1532) by adding at
8 the end the following:

9 “(22) The term ‘anadromous species’ means a species
10 of fish that spawn in fresh or estuarine waters and that
11 migrate to ocean waters.

12 “(23) The term ‘catadromous species’ means a spe-
13 cies of fish that spawn in ocean waters and migrate to
14 fresh waters.”.

15 (c) MISCELLANEOUS PROVISIONS.—

16 (1) REFERENCES.—Any reference in any other
17 Federal law, Executive order, rule, regulation, or
18 delegation of authority, or any document of or per-
19 taining to a department or office from which a func-
20 tion is transferred by this section—

21 (A) to the head of such department or of-
22 fice is deemed to refer to the Secretary of the
23 Interior; or

24 (B) to such department or office is deemed
25 to refer to the Department of the Interior.

1 (2) EXERCISE OF AUTHORITIES.—Except as
2 otherwise provided by law, the Secretary of the Inte-
3 rior may, for purposes of performing the functions
4 transferred by this section, exercise all authorities
5 under the Endangered Species Act of 1973 that
6 were available with respect to the performance of
7 that function immediately before the effective date of
8 the transfer of the function under this section.

9 (3) SAVINGS PROVISIONS.—

10 (A) LEGAL DOCUMENTS.—All orders, de-
11 terminations, rules, regulations, permits,
12 grants, loans, contracts, agreements, certifi-
13 cates, licenses, and privileges—

14 (i) that have been issued, made,
15 granted, or allowed to become effective by
16 the Secretary of Commerce, any officer or
17 employee of the Department of Commerce,
18 or any other Government official in the
19 performance of any function that is trans-
20 ferred by this section, or by a court of
21 competent jurisdiction with respect to such
22 performance; and

23 (ii) that are in effect on the effective
24 date of this section (or become effective

1 after such date pursuant to their terms as
2 in effect on such effective date),
3 shall continue in effect according to their terms
4 until modified, terminated, superseded, set
5 aside, or revoked in accordance with law by the
6 President, any other authorized official, a court
7 of competent jurisdiction, or operation of law.

8 (B) PROCEEDINGS.—

9 (i) IN GENERAL.—This section shall
10 not affect any proceedings or any applica-
11 tion for any benefits, service, license, per-
12 mit, certificate, or financial assistance
13 pending on the date of the enactment of
14 this section before an office transferred by
15 this section. Such proceedings and applica-
16 tions shall be continued. Orders shall be
17 issued in such proceedings, appeals shall
18 be taken therefrom, and payments shall be
19 made pursuant to such orders, as if this
20 section had not been enacted, and orders
21 issued in any such proceeding shall con-
22 tinue in effect until modified, terminated,
23 superseded, or revoked by a duly author-
24 ized official, by a court of competent juris-
25 diction, or by operation of law.

1 (ii) LIMITATION.—Nothing in this
2 subparagraph shall be considered to pro-
3 hibit the discontinuance or modification of
4 any such proceeding under the same terms
5 and conditions and to the same extent that
6 such proceeding could have been discon-
7 tinued or modified if this section had not
8 been enacted.

9 (C) SUITS.—This section shall not affect
10 suits commenced before the date of the enact-
11 ment of this section, and in all such suits, pro-
12 ceeding shall be had, appeals taken, and judg-
13 ments rendered in the same manner and with
14 the same effect as if this section had not been
15 enacted.

16 (D) NONABATEMENT OF ACTIONS.—No
17 suit, action, or other proceeding commenced by
18 or against the Department of Commerce or the
19 Secretary of Commerce, or by or against any
20 individual in the official capacity of such indi-
21 vidual as an officer or employee of the Depart-
22 ment of Commerce, shall abate by reason of the
23 enactment of this section.

24 (E) CONTINUANCE OF SUITS.—If any Gov-
25 ernment officer in the official capacity of such

1 officer is party to a suit with respect to a func-
2 tion of the officer, and under this section such
3 function is transferred to any other officer or
4 office, then such suit shall be continued with
5 the other officer or the head of such other of-
6 fice, as applicable, substituted or added as a
7 party.

8 (F) ADMINISTRATIVE PROCEDURE AND JU-
9 DICIAL REVIEW.—Except as otherwise provided
10 by this section, any statutory requirements re-
11 lating to notice, hearings, action upon the
12 record, or administrative or judicial review that
13 apply to any function transferred by this sec-
14 tion shall apply to the exercise of such function
15 by the head of the Federal agency, and other
16 officers of the agency, to which such function is
17 transferred by this section.

18 (d) DEFINITIONS.—For purposes of this section:

19 (1) ANADROMOUS SPECIES AND CATADROMOUS
20 SPECIES.—Each of the terms “anadromous species”
21 and “catadromous species” has the meaning that
22 term has under section 3 of the Endangered Species
23 Act of 1973, as amended by this section.

1 (2) FUNCTION.—The term “function” includes
2 any duty, obligation, power, authority, responsibility,
3 right, privilege, activity, or program.

4 (3) OFFICE.—The term “office” includes any
5 office, administration, agency, bureau, institute,
6 council, unit, organizational entity, or component
7 thereof.

