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(Original Signature of Member)

115TH CONGRESS
1ST SESSION

H. R. 3916

To amend the Endangered Species Act of 1973 to vest in the Secretary of the Interior functions under that Act with respect to species of fish that spawn in fresh or estuarine waters and migrate to ocean waters, and species of fish that spawn in ocean waters and migrate to fresh waters.

IN THE HOUSE OF REPRESENTATIVES

Mr. CALVERT (for himself and [see ATTACHED LIST of cosponsors]) introduced the following bill; which was referred to the Committee on

A BILL

To amend the Endangered Species Act of 1973 to vest in the Secretary of the Interior functions under that Act with respect to species of fish that spawn in fresh or estuarine waters and migrate to ocean waters, and species of fish that spawn in ocean waters and migrate to fresh waters.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federally Integrated
3 Species Health Act” or the “FISH Act”.

4 **SEC. 2. TRANSFER OF FUNCTIONS WITH RESPECT TO**
5 **ANADROMOUS SPECIES AND CATADROMOUS**
6 **SPECIES.**

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

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

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

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

18 (B) by adding at the end the following:

19 “(B) Notwithstanding subparagraph (A),
20 with respect to anadromous species and
21 catadromous species, the term ‘Secretary’
22 means the Secretary of the Interior.”; and

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

1 “(22) The term ‘anadromous species’ means a
2 species of fish that spawn in fresh or estuarine wa-
3 ters and that migrate to ocean waters.

4 “(23) The term ‘catadromous species’ means a
5 species of fish that spawn in ocean waters and mi-
6 grate to fresh waters.”.

7 **SEC. 3. MISCELLANEOUS PROVISIONS.**

8 (a) REFERENCES.—Any reference in any other Fed-
9 eral law, Executive order, rule, regulation, or delegation
10 of authority, or any document of or pertaining to a depart-
11 ment or office from which a function is transferred by this
12 Act—

13 (1) to the head of such department or office is
14 deemed to refer to the Secretary of the Interior; or

15 (2) to such department or office is deemed to
16 refer to the Department of the Interior.

17 (b) EXERCISE OF AUTHORITIES.—Except as other-
18 wise provided by law, the Secretary of the Interior may,
19 for purposes of performing the functions transferred by
20 this Act, exercise all authorities under the Endangered
21 Species Act of 1973 that were available with respect to
22 the performance of that function immediately before the
23 effective date of the transfer of the function under this
24 Act.

25 (c) SAVINGS PROVISIONS.—

1 (1) LEGAL DOCUMENTS.—All orders, deter-
2 minations, rules, regulations, permits, grants, loans,
3 contracts, agreements, certificates, licenses, and
4 privileges—

5 (A) that have been issued, made, granted,
6 or allowed to become effective by the Secretary
7 of Commerce, any officer or employee of the
8 Department of Commerce, or any other Govern-
9 ment official in the performance of any function
10 that is transferred by this Act, or by a court of
11 competent jurisdiction with respect to such per-
12 formance, and

13 (B) that are in effect on the effective date
14 of this Act (or become effective after such date
15 pursuant to their terms as in effect on such ef-
16 fective date),

17 shall continue in effect according to their terms until
18 modified, terminated, superseded, set aside, or re-
19 voked in accordance with law by the President, any
20 other authorized official, a court of competent juris-
21 diction, or operation of law.

22 (2) PROCEEDINGS.—

23 (A) IN GENERAL.—This Act shall not af-
24 fect any proceedings or any application for any
25 benefits, service, license, permit, certificate, or

1 financial assistance pending on the date of the
2 enactment of this Act before an office trans-
3 ferred by this Act. Such proceedings and appli-
4 cations shall be continued. Orders shall be
5 issued in such proceedings, appeals shall be
6 taken therefrom, and payments shall be made
7 pursuant to such orders, as if this Act had not
8 been enacted, and orders issued in any such
9 proceeding shall continue in effect until modi-
10 fied, terminated, superseded, or revoked by a
11 duly authorized official, by a court of competent
12 jurisdiction, or by operation of law.

13 (B) LIMITATION.—Nothing in this para-
14 graph shall be considered to prohibit the dis-
15 continuance or modification of any such pro-
16 ceeding under the same terms and conditions
17 and to the same extent that such proceeding
18 could have been discontinued or modified if this
19 Act had not been enacted.

20 (3) SUITS.—This Act shall not affect suits com-
21 menced before the date of the enactment of this Act,
22 and in all such suits, proceeding shall be had, ap-
23 peals taken, and judgments rendered in the same
24 manner and with the same effect as if this Act had
25 not been enacted.

1 (4) NONABATEMENT OF ACTIONS.—No suit, ac-
2 tion, or other proceeding commenced by or against
3 the Department of Commerce or the Secretary of
4 Commerce, or by or against any individual in the of-
5 ficial capacity of such individual as an officer or em-
6 ployee of the Department of Commerce, shall abate
7 by reason of the enactment of this Act.

8 (5) CONTINUANCE OF SUITS.—If any Govern-
9 ment officer in the official capacity of such officer
10 is party to a suit with respect to a function of the
11 officer, and under this Act such function is trans-
12 ferred to any other officer or office, then such suit
13 shall be continued with the other officer or the head
14 of such other office, as applicable, substituted or
15 added as a party.

16 (6) ADMINISTRATIVE PROCEDURE AND JUDI-
17 CIAL REVIEW.—Except as otherwise provided by this
18 Act, any statutory requirements relating to notice,
19 hearings, action upon the record, or administrative
20 or judicial review that apply to any function trans-
21 ferred by this Act shall apply to the exercise of such
22 function by the head of the Federal agency, and
23 other officers of the agency, to which such function
24 is transferred by this Act.

1 **SEC. 4. DEFINITIONS.**

2 For purposes of this Act:

3 (1) ANADROMOUS SPECIES AND CATADROMOUS
4 SPECIES.—Each of the terms “anadromous species”
5 and “catadromous species” has the meaning that
6 term has under section 3 of the Endangered Species
7 Act of 1973, as amended by section 3 of this Act.

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

11 (3) OFFICE.—The term “office” includes any
12 office, administration, agency, bureau, institute,
13 council, unit, organizational entity, or component
14 thereof.