

117TH CONGRESS
1ST SESSION

H. R. 866

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

FEBRUARY 5, 2021

Mr. CALVERT (for himself, Mr. COSTA, Mr. MCCLINTOCK, Mr. SIMPSON, Mrs. STEEL, and Mr. VALADAO) introduced the following bill; which was referred to the Committee on Natural Resources

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,*

3 **SECTION 1. SHORT TITLE.**

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

1 **SEC. 2. TRANSFER OF FUNCTIONS WITH RESPECT TO**
2 **ANADROMOUS SPECIES AND CATADROMOUS**
3 **SPECIES.**

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

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

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

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

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

17 “(B) Notwithstanding subparagraph (A), with re-
18 spect to anadromous species and catadromous species, the
19 term ‘Secretary’ means the Secretary of the Interior.”;
20 and

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

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

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

4 **SEC. 3. MISCELLANEOUS PROVISIONS.**

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

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

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

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

22 (c) SAVINGS PROVISIONS.—

23 (1) LEGAL DOCUMENTS.—All orders, deter-
24 minations, rules, regulations, permits, grants, loans,

1 contracts, agreements, certificates, licenses, and
2 privileges—

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

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

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

20 (2) PROCEEDINGS.—

21 (A) IN GENERAL.—This Act shall not af-
22 fect any proceedings or any application for any
23 benefits, service, license, permit, certificate, or
24 financial assistance pending on the date of the
25 enactment of this Act before an office trans-

ferred by this Act. Such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(B) LIMITATION.—Nothing in this paragraph shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(3) SUITS.—This Act shall not affect suits commenced before the date of the enactment of this Act, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against

1 the Department of Commerce or the Secretary of
2 Commerce, or by or against any individual in the of-
3 ficial capacity of such individual as an officer or em-
4 ployee of the Department of Commerce, shall abate
5 by reason of the enactment of this Act.

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

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

23 **SEC. 4. DEFINITIONS.**

24 For purposes of this Act:

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

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

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

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