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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

VerDate Sep 11 2014 23:42 Feb 25, 2021 Jkt 019200 PO 00000 Frm 00001 Fmt 6652 Sfmt 6201 E:\BILLS\H866.IH
SEC. 2. TRANSFER OF FUNCTIONS WITH RESPECT TO
ANADROMOUS SPECIES AND CATADROMOUS
SPECIES.

(a) Transfer of Functions.—All functions with
respect to anadromous species and catadromous species
1531 et seq.) that were vested in the Secretary of Com-
merce or the National Marine Fisheries Service imme-
diately before the enactment of this Act are transferred
to the Secretary of the Interior.

(b) Conforming Amendments.—The Endangered
Species Act of 1973 is amended—

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

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

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

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

and

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

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

SEC. 3. MISCELLANEOUS PROVISIONS.

(a) REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department or office from which a function is transferred by this Act—

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

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

(b) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, the Secretary of the Interior may, for purposes of performing the functions transferred by this Act, exercise all authorities under the Endangered Species Act of 1973 that were available with respect to the performance of that function immediately before the effective date of the transfer of the function under this Act.

(c) SAVINGS PROVISIONS.—

(1) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans,
contracts, agreements, certificates, licenses, and privileges—

(A) that have been issued, made, granted, or allowed to become effective by the Secretary of Commerce, any officer or employee of the Department of Commerce, or any other Government official in the performance of any function that is transferred by this Act, or by a court of competent jurisdiction with respect to such performance; and

(B) that are in effect on the effective date of this Act (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(2) PROCEEDINGS.—

(A) IN GENERAL.—This Act shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending on the date of the 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
the Department of Commerce or the Secretary of Commerce, or by or against any individual in the official capacity of such individual as an officer or employee of the Department of Commerce, shall abate by reason of the enactment of this Act.

(5) Continuance of Suits.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and under this Act such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(6) Administrative Procedure and Judicial Review.—Except as otherwise provided by this Act, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred by this Act shall apply to the exercise of such function by the head of the Federal agency, and other officers of the agency, to which such function is transferred by this Act.

SEC. 4. DEFINITIONS.

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

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

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