

115TH CONGRESS
1ST SESSION

H. R. 2023

To modernize recreational fisheries management.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2017

Mr. GRAVES of Louisiana (for himself, Mr. GENE GREEN of Texas, Mr. WITTMAN, and Mr. WEBSTER of Florida) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To modernize recreational fisheries management.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Modernizing Recreational Fisheries Management Act of
6 2017”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. References to the Magnuson-Stevens Fishery Conservation and Manage-
ment Act.

Sec. 3. Findings.

TITLE I—CONSERVATION AND MANAGEMENT

Sec. 101. Process for allocation review for South Atlantic and Gulf of Mexico mixed-use fisheries.

Sec. 102. Alternative fishery management.

Sec. 103. Moratorium on limited access privilege programs for mixed-use fisheries.

Sec. 104. Rebuilding overfished and depleted fisheries.

Sec. 105. Modifications to the annual catch limit requirement.

Sec. 106. Exempted fishing permits.

TITLE II—RECREATION FISHERY INFORMATION, RESEARCH, AND DEVELOPMENT

Sec. 201. Cooperative data collection.

Sec. 202. Recreational data collection.

1 **SEC. 2. REFERENCES TO THE MAGNUSON-STEVE** 2 **RY CONSERVATION AND MANAGEMENT ACT.**

3 Except as otherwise expressly provided, wherever in
4 this Act an amendment or repeal is expressed in terms
5 of an amendment to, or repeal of, a section or other provi-
6 sion, the reference shall be considered to be made to a
7 section or other provision of the Magnuson-Stevens Fish-
8 ery Conservation and Management Act (16 U.S.C. 1801
9 et seq.).

10 **SEC. 3. FINDINGS.**

11 (a) RECREATIONAL FISHING.—Section 2(a) (16
12 U.S.C. 1801(a)) is amended by adding at the end the fol-
13 lowing:

14 “(13) While both provide significant cultural
15 and economic benefits to the Nation, recreational
16 fishing and commercial fishing are fundamentally
17 different activities, therefore requiring management
18 approaches adapted to the characteristics of each
19 sector.”.

1 (b) TECHNICAL CORRECTION.—Section 2(a)(3) (16
2 U.S.C. 1801(a)(3)) is amended to read as follows:

3 “(3) Commercial and recreational fishing con-
4 stitute major sources of employment and contributes
5 significantly to the economy of the Nation. Many
6 coastal areas are dependent upon fishing and related
7 activities.”.

8 **TITLE I—CONSERVATION AND**
9 **MANAGEMENT**

10 **SEC. 101. PROCESS FOR ALLOCATION REVIEW FOR SOUTH**
11 **ATLANTIC AND GULF OF MEXICO MIXED-USE**
12 **FISHERIES.**

13 (a) STUDY OF ALLOCATIONS IN MIXED-USE FISH-
14 ERIES.—Not later than 60 days after the date of enact-
15 ment of this Act, the Secretary of Commerce shall enter
16 into an arrangement with the National Academy of
17 Sciences to conduct a study of the South Atlantic and Gulf
18 of Mexico mixed-use fisheries—

19 (1) to provide guidance to the South Atlantic
20 Fishery Management Council and Gulf of Mexico
21 Fishery Management Council on criteria that could
22 be used for allocating fishing privileges, including
23 consideration of the conservation and socioeconomic
24 benefits of the commercial, recreational, and charter
25 components of a fishery, to a Regional Fishery Man-

1 agement Council established under section 302 of
2 the Magnuson-Stevens Fishery Conservation and
3 Management Act (16 U.S.C. 1852) in the prepara-
4 tion of a fishery management plan under that Act;

5 (2) to identify sources of information that could
6 reasonably support the use of such criteria in alloca-
7 tion decisions; and

8 (3) to develop procedures for allocation reviews
9 and potential adjustments in allocations based on
10 the guidelines and requirements established by this
11 section.

12 (b) REPORT.—Pursuant to subsection (a), not later
13 than 1 year after the date an arrangement is entered into,
14 the National Academy of Sciences shall submit a report
15 on the study to the Committee on Commerce, Science, and
16 Transportation of the Senate and the Committee on Nat-
17 ural Resources of the House of Representatives.

18 (c) PROCESS FOR ALLOCATION REVIEW AND ESTAB-
19 LISHMENT.—The Gulf of Mexico Fishery Management
20 Council and South Atlantic Fishery Management Council
21 shall—

22 (1) notwithstanding the report required pursu-
23 ant to this section, and any other provision of law,
24 shall each—

1 (A) within 2 years after the date of enact-
2 ment of this Act, perform an initial review of
3 the allocations to the commercial fishing sector
4 and the recreational fishing sector of all appli-
5 cable fisheries in the Councils' respective juris-
6 dictions; and

7 (B) every 3 years thereafter, perform a re-
8 view of such allocations; and

9 (2) consider the conservation and socioeconomic
10 benefits of each of the commercial fishing sector and
11 the recreational fishing sector in any allocation deci-
12 sions.

13 **SEC. 102. ALTERNATIVE FISHERY MANAGEMENT.**

14 (a) REPEAL.—Section 407(d) (16 U.S.C. 1883), and
15 the corresponding reference in the table of contents, are
16 repealed.

17 (b) MANAGEMENT.—Section 302(h) (16 U.S.C.
18 1852(h)) is amended by striking “and” after the semi-
19 colon at the end of paragraph (7), by redesignating para-
20 graph (8) as paragraph (9), and by inserting the following
21 after paragraph (7):

22 “(8) have the authority to use alternative fish-
23 ery management measures in a recreational fishery
24 (or the recreational component of a mixed-use fish-
25 ery) in developing a fishery management plan, plan

1 amendment, or proposed regulations, which may in-
2 clude extraction rates, fishing mortality targets, har-
3 vest control rules, or traditional or cultural practices
4 of native communities; and”.

5 (c) SUMMARY.—Within 180 days after the date of the
6 enactment of this Act, the Secretary of Commerce shall
7 transmit a summary to Congress that describes actions
8 to implement this subsection.

9 **SEC. 103. MORATORIUM ON LIMITED ACCESS PRIVILEGE**
10 **PROGRAMS FOR MIXED-USE FISHERIES.**

11 For areas under the jurisdiction of the Gulf of Mexico
12 Fishery Management Council or the South Atlantic Fish-
13 ery Management Council, there shall be a moratorium on
14 the development or consideration of any new limited access
15 privilege program for any mixed-use fisheries consisting
16 of both commercial and recreational fishing sectors.

17 **SEC. 104. REBUILDING OVERFISHED AND DEPLETED FISH-**
18 **ERIES.**

19 Section 304(e)(4)(A) (16 U.S.C. 1854(e)(4)(A)) is
20 amended to read as follows:

21 “(A) specify a time period for rebuilding
22 the fishery that—

23 “(i) shall be as short as practicable,
24 taking into account the status and biology
25 of any overfished stock of fish, the needs

1 of fishing communities, recommendations
2 by international organizations in which the
3 United States participates, and the inter-
4 action of the overfished stock of fish within
5 the marine ecosystem; and

6 “(ii) except where management meas-
7 ures under an international agreement in
8 which the United States participates dic-
9 tate otherwise, shall not exceed—

10 “(I) 10 years, except in cases
11 where the biology of the stock of fish
12 or other environmental conditions dic-
13 tate otherwise; or

14 “(II) the sum of the time in
15 which the affected stock of fish is ex-
16 pected to surpass its maximum sus-
17 tainable yield biomass level in the ab-
18 sence of fishing mortality, and the
19 mean generation of time of the af-
20 fected stock of fish.”.

21 **SEC. 105. MODIFICATIONS TO THE ANNUAL CATCH LIMIT**
22 **REQUIREMENT.**

23 Section 302 (16 U.S.C. 1852) is amended by adding
24 at the end the following:

1 “(m) CONSIDERATIONS FOR MODIFICATIONS TO AN-
2 NUAL CATCH LIMIT REQUIREMENTS.—

3 “(1) CONSIDERATION OF ECOSYSTEM AND ECO-
4 NOMIC IMPACTS.—In establishing annual catch lim-
5 its a Council may, consistent with subsection (h)(6),
6 consider changes in an ecosystem and the economic
7 needs of fishing communities.

8 “(2) LIMITATIONS TO ANNUAL CATCH LIMIT
9 REQUIREMENT FOR SPECIAL FISHERIES.—Notwith-
10 standing subsection (h)(6), a Council is not required
11 to develop an annual catch limit for—

12 “(A) an ecosystem-component species;

13 “(B) a fishery for a species that has a life
14 cycle of approximately 1 year, unless the Sec-
15 retary has determined the fishery is subject to
16 overfishing;

17 “(C) a stock of fish for which—

18 “(i) fishing mortality is below the
19 fishing mortality target; and

20 “(ii) a peer-reviewed stock survey and
21 stock assessment have not been performed
22 during the preceding 5-year period;

23 “(D) the Secretary determines that over-
24 fishing is not occurring; or

1 “(E) for a sector of a fishery that is not
2 monitored by a data collection system deter-
3 mined by the Secretary to be adequate for the
4 development, implementation, and enforcement
5 of annual catch limits specific to that sector,
6 based on the evaluation recommended by the
7 National Academy of Sciences in its report enti-
8 tled ‘Review of the Marine Recreational Infor-
9 mation Program (2017)’ of whether the design
10 of a Marine Recreational Information Program
11 for the purposes of stock assessment and the
12 determination of stock management reference
13 points is compatible with the needs of in-season
14 management of annual catch limits.

15 “(3) AUTHORIZATION FOR MULTISPECIES COM-
16 PLEXES AND MULTIYEAR ANNUAL CATCH LIMITS.—
17 For purposes of subsection (h)(6), a Council may es-
18 tablish—

19 “(A) an annual catch limit for a stock
20 complex; or

21 “(B) annual catch limits for each year in
22 any continuous period that is not more than
23 three years in duration.

1 “(4) ECOSYSTEM-COMPONENT SPECIES DE-
2 FINED.—In this subsection the term ‘ecosystem-com-
3 ponent species’ means—

4 “(A) a stock of fish that is a non-target,
5 incidentally harvested stock of fish in a fishery;
6 or

7 “(B) a nontarget, incidentally harvested
8 stock of fish that a Council or the Secretary
9 has determined—

10 “(i) is not subject to overfishing, ap-
11 proaching a depleted condition, or de-
12 pleted; and

13 “(ii) is not likely to become subject to
14 overfishing or depleted in the absence of
15 conservation and management measures.”.

16 **SEC. 106. EXEMPTED FISHING PERMITS.**

17 (a) IN GENERAL.—Before the approval and issuance
18 of any new exempted fishing permit under section 600.745
19 of title 50, Code of Federal Regulations, or any successor
20 regulations, the Secretary of Commerce shall—

21 (1) conduct a joint peer review of the proposed
22 exempted fishing permit by the appropriate regional
23 fisheries science center and State marine fisheries
24 commission; and

1 (2) certify that the regional fishery manage-
2 ment council or Federal agency with jurisdiction
3 over the affected fishery determined that—

4 (A) the fishing activity conducted under
5 the proposed exempted fishing permit would be
6 consistent with any management measures or
7 conservation objectives included within existing
8 fishery management plans or amendments;

9 (B) the social and economic impacts in
10 both dollar amounts and loss of fishing oppor-
11 tunities on all participants in each sector of the
12 fishery expected to occur as a result of the pro-
13 posed exempted fishing permit would be mini-
14 mal;

15 (C) the information collected through fish-
16 ing activity conducted under the proposed ex-
17 empted fishing permit will have a positive and
18 direct impact on the conservation, assessment,
19 or management of the fishery; and

20 (D) the Governor of each State, any part
21 of which is located within 100 nautical miles of
22 the proposed activity under the exempted fish-
23 ing permit has been consulted on the proposed
24 exempted fishing permit.

1 (b) DURATION AND RENEWAL.—Any exempted fish-
2 ing permit—

3 (1) shall expire at the end of the 12-month pe-
4 riod beginning on the date the permit is issued; and

5 (2) may be renewed consistent with this section.

6 **TITLE II—RECREATION FISHERY**
7 **INFORMATION, RESEARCH,**
8 **AND DEVELOPMENT**

9 **SEC. 201. COOPERATIVE DATA COLLECTION.**

10 (a) IMPROVING DATA COLLECTION AND ANALYSIS.—
11 Section 404 (16 U.S.C. 1881c) is amended by adding at
12 the end the following:

13 “(e) IMPROVING DATA COLLECTION AND ANAL-
14 YSIS.—

15 “(1) IN GENERAL.—The Secretary, in consulta-
16 tion with the science and statistical committees of
17 the Councils established under section 302(g) and
18 the Marine Fisheries Commissions, shall develop and
19 submit to the Committee on Commerce, Science, and
20 Transportation of the Senate and the Committee on
21 Natural Resources of the House of Representatives
22 by not later than 1 year after the date of the enact-
23 ment of the Modernizing Recreational Fisheries
24 Management Act of 2017 a report on facilitating
25 greater incorporation of data, analysis, stock assess-

1 ments, and surveys from State agencies and non-
2 governmental sources described in paragraph (2)
3 into fisheries management decisions.

4 “(2) NONGOVERNMENTAL SOURCES.—Non-
5 governmental sources referred to in paragraph (1)
6 are the following:

7 “(A) Fishermen.

8 “(B) Fishing communities.

9 “(C) Universities.

10 “(D) Research institutions.

11 “(3) CONTENT.—The report under paragraph
12 (1) shall—

13 “(A) identify types of data and analysis,
14 especially concerning recreational fishing, that
15 can be reliably used for purposes of this Act
16 and the basis for establishing conservation and
17 management measures as required by section
18 303(a)(1), including setting standards for the
19 collection and use of that data and analysis in
20 stock assessments and surveys and for other
21 purposes;

22 “(B) provide specific recommendations for
23 collecting data and performing analyses identi-
24 fied as necessary to reduce uncertainty in and
25 improve the accuracy of future stock assess-

1 ments, including whether such data and anal-
2 ysis could be provided by nongovernmental
3 sources, including fishermen, fishing commu-
4 nities, universities, and research institutions;

5 “(C) consider the extent to which it is pos-
6 sible to establish a registry of persons providing
7 such information; and

8 “(D) consider the extent to which the ac-
9 ceptance and use of data and analyses identi-
10 fied in the report in fishery management deci-
11 sions is practicable.”.

12 (b) NAS REPORT RECOMMENDATIONS.—The Sec-
13 retary of Commerce shall take into consideration and, to
14 the extent feasible, implement the recommendations of the
15 National Academy of Sciences in its report entitled “Re-
16 view of the Marine Recreational Information Program
17 (2017)”, including—

18 (1) prioritizing the evaluation of electronic data
19 collection for the Fishing Effort Survey, including
20 smartphone apps, electronic diaries for prospective
21 data collection, and an Internet website option for
22 all or just panel members; and

23 (2) evaluating whether the design of the Marine
24 Recreational Information Program for the purposes
25 of stock assessment and the determination of stock

1 management reference points is compatible with the
2 needs of in-season management of annual catch lim-
3 its and, if such program is incompatible with such
4 needs, determining an alternative method for in-sea-
5 son management.

6 **SEC. 202. RECREATIONAL DATA COLLECTION.**

7 (a) FEDERAL-STATE PARTNERSHIPS.—Section
8 401(g) (16 U.S.C. 1881(g)) is amended by redesignating
9 paragraph (4) as paragraph (5), and by inserting after
10 paragraph (3) the following:

11 “(4) FEDERAL-STATE PARTNERSHIPS.—

12 “(A) ESTABLISHMENT.—The Secretary
13 shall establish partnerships with States to de-
14 velop best practices for implementation of State
15 programs established pursuant to paragraph
16 (2).

17 “(B) GUIDANCE.—The Secretary shall de-
18 velop guidance, in cooperation with the States,
19 that details best practices for administering
20 State programs pursuant to paragraph (2), and
21 provide such guidance to the States.

22 “(C) BIENNIAL REPORT.—The Secretary
23 shall submit to the Congress and publish bien-
24 nial reports that include—

1 “(i) the estimated accuracy of the reg-
2 istry program established under paragraph
3 (1) and of State programs that are ex-
4 empted under paragraph (2);

5 “(ii) priorities for improving rec-
6 reational fishing data collection; and

7 “(iii) an explanation of any use of in-
8 formation collected by such State programs
9 and by the Secretary, including a descrip-
10 tion of any consideration given to the in-
11 formation by the Secretary.

12 “(D) STATES GRANT PROGRAM.—The Sec-
13 retary shall make grants to States to improve
14 implementation of State programs consistent
15 with this subsection. The Secretary shall
16 prioritize such grants based on the ability of the
17 grant to improve the quality and accuracy of
18 such programs.

19 “(E) FUNDING.—A portion of the funds
20 appropriated to the Marine Recreational Infor-
21 mation Program shall be provided for imple-
22 mentation of this section.”.

23 (b) ACTION BY SECRETARY.—The Secretary of Com-
24 merce shall—

1 (1) within 90 days after the date of enactment
2 of this Act, enter into an agreement with the Na-
3 tional Academy of Sciences to evaluate, in the form
4 of a report, whether the design of the Marine Rec-
5 reational Information Program, for the purposes of
6 stock assessment and the determination of stock
7 management reference points, is compatible with the
8 needs of in-season management of annual catch lim-
9 its under section 303(a)(15) of the Magnuson-Ste-
10 vens Fishery Conservation and Management Act (16
11 U.S.C. 1853(a)(1)), including whether in-season
12 management of annual catch limits is appropriate
13 for all recreational fisheries; and

14 (2) within 6 months after receiving the report
15 under paragraph (1), submit to Congress rec-
16 ommendations of changes to be made to the Marine
17 Recreational Information Program to make the pro-
18 gram compatible with in-season management of an-
19 nual catch limits and other requirements under such
20 section for those recreational fisheries for which in-
21 season management of annual catch limits is appro-
22 priate.

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