

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.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

[Sec. 1. Short title; table of contents.](#)

[Sec. 2. References to the Magnuson-Stevens Fishery Conservation and Management 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.](#)

SEC. 2. REFERENCES TO THE MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson-Stevens Fishery Conservation and Management Act ([16 U.S.C. 1801](#) et seq.).

SEC. 3. FINDINGS.

(a) **RECREATIONAL FISHING.**—Section 2(a) ([16 U.S.C. 1801\(a\)](#)) is amended by adding at the end the following:

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

(b) **TECHNICAL CORRECTION.**—Section 2(a)(3) ([16 U.S.C. 1801\(a\)\(3\)](#)) is amended to read as follows:

“(3) Commercial and recreational fishing constitute major sources of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities.”.

TITLE I—CONSERVATION AND MANAGEMENT

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

(a) **STUDY OF ALLOCATIONS IN MIXED-USE FISHERIES.**—Not later than 60 days after the date of enactment of this Act, the Secretary of Commerce shall enter into an arrangement with the National Academy of Sciences to conduct a study of the South Atlantic and Gulf of Mexico mixed-use fisheries—

(1) to provide guidance to the South Atlantic Fishery Management Council and Gulf of Mexico Fishery Management Council on criteria that

could be used for allocating fishing privileges, including consideration of the conservation and socioeconomic benefits of the commercial, recreational, and charter components of a fishery, to a Regional Fishery Management Council established under section 302 of the Magnuson-Stevens Fishery Conservation and Management Act ([16 U.S.C. 1852](#)) in the preparation of a fishery management plan under that Act;

(2) to identify sources of information that could reasonably support the use of such criteria in allocation decisions; and

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

(b) **REPORT.**—Pursuant to subsection (a), not later than 1 year after the date an arrangement is entered into, the National Academy of Sciences shall submit a report on the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives.

(c) **PROCESS FOR ALLOCATION REVIEW AND ESTABLISHMENT.**—The Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council shall—

(1) notwithstanding the report required pursuant to this section, and any other provision of law, shall each—

(A) within 2 years after the date of enactment of this Act, perform an initial review of the allocations to the commercial fishing sector and the recreational fishing sector of all applicable fisheries in the Councils' respective jurisdictions; and

(B) every 3 years thereafter, perform a review of such allocations; and

(2) consider the conservation and socioeconomic benefits of each of the commercial fishing sector and the recreational fishing sector in any allocation decisions.

SEC. 102. ALTERNATIVE FISHERY MANAGEMENT.

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

(b) **MANAGEMENT.**—Section 302(h) ([16 U.S.C. 1852\(h\)](#)) is amended by striking “and” after the semicolon at the end of paragraph (7), by redesignating paragraph (8) as paragraph (9), and by inserting the following after paragraph (7):

“(8) have the authority to use alternative fishery management measures in a recreational fishery (or the recreational component of a mixed-use fishery) in developing a fishery management plan, plan amendment, or proposed regulations, which may include extraction rates, fishing mortality targets, harvest control rules, or traditional or cultural practices of native communities; and”.

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

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

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

SEC. 104. REBUILDING OVERFISHED AND DEPLETED FISHERIES.

Section 304(e)(4)(A) ([16 U.S.C. 1854\(e\)\(4\)\(A\)](#)) is amended to read as follows:

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

“(i) shall be as short as practicable, taking into account the status and biology of any overfished stock of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem; and

“(ii) except where management measures under an international agreement in which the United States participates dictate otherwise, shall not exceed—

“(I) 10 years, except in cases where the biology of the stock of fish or other environmental conditions dictate otherwise; or

“(II) the sum of the time in which the affected stock of fish is expected to surpass its maximum sustainable yield biomass level in the absence of fishing mortality, and the mean generation of time of the affected stock of fish.”.

SEC. 105. **MODIFICATIONS TO THE ANNUAL CATCH LIMIT REQUIREMENT.** B1, H.R. 5023 - June 2017

Section 302 ([16 U.S.C. 1852](#)) is amended by adding at the end the following:

“(m) **CONSIDERATIONS FOR MODIFICATIONS TO ANNUAL CATCH LIMIT REQUIREMENTS.**—

“(1) **CONSIDERATION OF ECOSYSTEM AND ECONOMIC IMPACTS.**—In establishing annual catch limits a Council may, consistent with subsection (h) (6), consider changes in an ecosystem and the economic needs of fishing communities.

“(2) **LIMITATIONS TO ANNUAL CATCH LIMIT REQUIREMENT FOR SPECIAL FISHERIES.**—Notwithstanding subsection (h)(6), a Council is not required to develop an annual catch limit for—

“(A) an ecosystem-component species;

“(B) a fishery for a species that has a life cycle of approximately 1 year, unless the Secretary has determined the fishery is subject to overfishing;

“(C) a stock of fish for which—

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

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

“(D) the Secretary determines that overfishing is not occurring; or

“(E) for a sector of a fishery that is not monitored by a data collection system determined by the Secretary to be adequate for the development, implementation, and enforcement of annual catch limits specific to that sector, based on the evaluation recommended by the National Academy of Sciences in its report entitled ‘Review of the Marine Recreational Information Program (2017)’ of whether the design of a Marine Recreational Information Program for the purposes of stock assessment and the determination of stock management reference points is compatible with the needs of in-season management of annual catch limits.

“(3) **AUTHORIZATION FOR MULTISPECIES COMPLEXES AND MULTIYEAR ANNUAL CATCH LIMITS.**—For purposes of subsection (h)(6), a Council may establish—

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

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

“(4) ECOSYSTEM-COMPONENT SPECIES DEFINED.—In this subsection the term ‘ecosystem-component species’ means—

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

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

“(i) is not subject to overfishing, approaching a depleted condition, or depleted; and

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

SEC. 106. EXEMPTED FISHING PERMITS.

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

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

(2) certify that the regional fishery management council or Federal agency with jurisdiction over the affected fishery determined that—

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

(B) the social and economic impacts in both dollar amounts and loss of fishing opportunities on all participants in each sector of the fishery expected to occur as a result of the proposed exempted fishing permit would be minimal;

(C) the information collected through fishing activity conducted under the proposed exempted fishing permit will have a positive and direct impact on the conservation, assessment, or management of the fishery; and

B1 H.R. 5023 - June 2017

(D) the Governor of each State, any part of which is located within 100 nautical miles of the proposed activity under the exempted fishing permit has been consulted on the proposed exempted fishing permit.

(b) DURATION AND RENEWAL.—Any exempted fishing permit—

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

(2) may be renewed consistent with this section.

TITLE II—RECREATION FISHERY INFORMATION, RESEARCH, AND DEVELOPMENT

SEC. 201. COOPERATIVE DATA COLLECTION.

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

“(e) IMPROVING DATA COLLECTION AND ANALYSIS.—

“(1) IN GENERAL.—The Secretary, in consultation with the science and statistical committees of the Councils established under section 302(g) and the Marine Fisheries Commissions, shall develop and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives by not later than 1 year after the date of the enactment of the Modernizing Recreational Fisheries Management Act of 2017 a report on facilitating greater incorporation of data, analysis, stock assessments, and surveys from State agencies and nongovernmental sources described in paragraph (2) into fisheries management decisions.

“(2) NONGOVERNMENTAL SOURCES.—Nongovernmental sources referred to in paragraph (1) are the following:

“(A) Fishermen.

“(B) Fishing communities.

“(C) Universities.

“(D) Research institutions.

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

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

“(B) provide specific recommendations for collecting data and performing analyses identified as necessary to reduce uncertainty in and improve the accuracy of future stock assessments, including whether such data and analysis could be provided by nongovernmental sources, including fishermen, fishing communities, universities, and research institutions;

“(C) consider the extent to which it is possible to establish a registry of persons providing such information; and

“(D) consider the extent to which the acceptance and use of data and analyses identified in the report in fishery management decisions is practicable.”.

(b) **NAS REPORT RECOMMENDATIONS.**—The Secretary of Commerce shall take into consideration and, to the extent feasible, implement the recommendations of the National Academy of Sciences in its report entitled “Review of the Marine Recreational Information Program (2017)”, including—

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

(2) evaluating whether the design of the Marine Recreational Information Program for the purposes of stock assessment and the determination of stock management reference points is compatible with the needs of in-season management of annual catch limits and, if such program is incompatible with such needs, determining an alternative method for in-season management.

SEC. 202. RECREATIONAL DATA COLLECTION.

(a) **FEDERAL-STATE PARTNERSHIPS.**—Section 401(g) ([16 U.S.C. 1881\(g\)](#)) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following:

“(4) **FEDERAL-STATE PARTNERSHIPS.**—

“(A) ESTABLISHMENT.—The Secretary shall establish partnerships with States to develop best practices for implementation of State programs established pursuant to paragraph (2).

“(B) GUIDANCE.—The Secretary shall develop guidance, in cooperation with the States, that details best practices for administering State programs pursuant to paragraph (2), and provide such guidance to the States.

“(C) BIENNIAL REPORT.—The Secretary shall submit to the Congress and publish biennial reports that include—

“(i) the estimated accuracy of the registry program established under paragraph (1) and of State programs that are exempted under paragraph (2);

“(ii) priorities for improving recreational fishing data collection; and

“(iii) an explanation of any use of information collected by such State programs and by the Secretary, including a description of any consideration given to the information by the Secretary.

“(D) STATES GRANT PROGRAM.—The Secretary shall make grants to States to improve implementation of State programs consistent with this subsection. The Secretary shall prioritize such grants based on the ability of the grant to improve the quality and accuracy of such programs.

“(E) FUNDING.—A portion of the funds appropriated to the Marine Recreational Information Program shall be provided for implementation of this section.”.

(b) ACTION BY SECRETARY.—The Secretary of Commerce shall—

(1) within 90 days after the date of enactment of this Act, enter into an agreement with the National Academy of Sciences to evaluate, in the form of a report, whether the design of the Marine Recreational Information Program, for the purposes of stock assessment and the determination of stock management reference points, is compatible with the needs of in-season management of annual catch limits under section 303(a)(15) of the Magnuson-Stevens Fishery Conservation and Management Act ([16 U.S.C. 1853\(a\)\(1\)](#)), including whether in-season management of annual catch limits is appropriate for all recreational fisheries; and

B1 H.R. 5023 - June 2017

(2) within 6 months after receiving the report under paragraph (1), submit to Congress recommendations of changes to be made to the Marine Recreational Information Program to make the program compatible with in-season management of annual catch limits and other requirements under such section for those recreational fisheries for which in-season management of annual catch limits is appropriate.
