HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

To: Committee on Natural Resources Republican Members
From: Subcommittee on Water, Wildlife and Fisheries staff: Annick Miller, (annick.miller@mail.house.gov), Doug Levine (doug.levine@mail.house.gov), Kirby Struhar (kirby.struhar@mail.house.gov), and Thomas Shipman (thomas.shipman@mail.house.gov) x58331
Date: March 23, 2025
Subject: Legislative Hearing on **H.R. 276, H.R. 845, H.R. 1917, and H.R. 1897**

The Subcommittee on Water, Wildlife and Fisheries will hold a legislative hearing on H.R. 276 (Rep. Greene), "*Gulf of America Act of 2025*"; H.R. 845 (Rep. Boebert), "*Pet and Livestock Protection Act of 2025*"; H.R. 1897 (Rep. Westerman) "*ESA Amendments Act of 2025*"; and H.R. 1917 (Rep. Dingell), "*Great Lakes Mass Marking Program Act of 2025*" on **Tuesday, March 25, 2025, at 10:15 a.m. (EDT) in 1324 Longworth House Office Building.**

Member offices are requested to notify Jackson Renfro (jackson.renfro@mail.house.gov) by 4:30 p.m. on Monday, March 24, 2025, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- With a whopping three percent success rate of recovering species, it's safe to say the ESA is failing at its main goal, which is recovery. For far too long, radical environmentalists have weaponized the Endangered Species Act, causing wildlife managers to spend more time tied up in litigation than recovering species.
- H.R. 1897, the *ESA Amendments Act of 2025*, will make critical reforms to the ESA and ensure the success of America's wildlife. H.R. 1897 would refocus the ESA on species recovery, empower state and privately led species conservation, ensure accountability for regulatory agencies, and streamline the permitting process.
- H.R. 845 would remove the gray wolf from the ESA in acknowledgment of the recovery of the species. The ESA was not meant to keep species listed in perpetuity and it is more than past time to return wolves to state management in all of the lower 48 states.
- H.R. 276 would codify the portion of President Trump's Executive Order 14172 which renamed the area formerly known as the Gulf of Mexico as the Gulf of America, recognizing its strategic importance to our nation's future energy security and national security.

II. WITNESSES

Panel I

- **Members of Congress TBD**

Panel II

- **Dr. Nathan Roberts,** Professor, College of the Ozarks, Point Lookout, Missouri [H.R. 845]
- **Mr. Mauricio Guardado,** General Manager, United Water Conservation District, Oxnard, California [H.R. 1897]
- **Mr. Erik Milito,** President, National Ocean Industries Association, Washington DC [H.R. 276 and H.R. 1897]
- **Mr. Peter Kareiva,** President and CEO, Aquarium of the Pacific, Long Beach, California *[Minority Witness,* H.R. 845 and H.R. 1897]

III. BACKGROUND

H.R. 276 (Rep. Greene, R-GA), *"Gulf of America Act of 2025"*

H.R. 276, the Gulf of America Act of 2025 was introduced by Representative Marjorie Taylor Greene on January 9, 2025. The bill would rename the area formerly known as the Gulf of Mexico as the Gulf of America. Acting through the Secretary of the Interior (Secretary), this legislation requires the Chairman of the U.S. Board on Geographic Names (Board) to oversee the implementation of the renaming. This legislation codifies actions taken by President Trump through Executive Order (E.O.) 14172, Restoring Names That Honor American Greatness, signed on January 20, 2025.[1]

The Board was established in 1890 by President Benjamin Harrison to help resolve naming disputes within the executive branch following the Civil War.[2] President Theodore Roosevelt expanded the Board's powers in a 1906 E.O., which granted the Board advisory power over the governmental preparation and composition of maps.[3] The Board was later abolished in 1934 by President Franklin Roosevelt in an effort to reorganize the executive branch, and all functions were transferred to the Department of the Interior under the supervision of the Secretary.[4] In 1947, the Board was re-established in its current form by P.L. 80-242.[5]

The Board is comprised of officials representing ten executive departments and agencies: the Departments of Agriculture, Commerce, Defense, Homeland Security, State, and the Interior, the Central Intelligence Agency, the Government Publishing Office, the Library of Congress, and the U.S. Postal Service. The U.S. Geological Survey provides staff and technical support to the

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[1] Executive Order 14172, The White House, January 2025, https://www.govinfo.gov/content/pkg/DCPD-202500139/pdf/DCPD-202500139.pdf
[2] Library of Congress, Image of Third report on the United States board on geographic names, 1890-1906. https://www.loc.gov/resource/gdcmassbookdig.thirdreportofuni00unit/?sp=15&r=-0.064,0.902,1.096,0.913,0
[3] Central Intelligence Agency, United States Geographic Board Executive Orders, January 2002. https://www.cia.gov/readingroom/docs/CIA-RDP78-04901A000100010220-3.pdf
[4] Id.
[5] 43 U.S.C. 364

Board, which operates under the supervision of the Secretary. The Board's decisions are binding for all departments and agencies within the federal government.

H.R. 845 (Rep. Boebert, R-CO), "*Pet and Livestock Protection Act of 2025*"

This bill would require the Department of the Interior to reissue the final rule entitled "Endangered and Threatened Wildlife and Plants; Removing the Gray Wolf (*Canis lupus*) From the List of Endangered and Threatened Wildlife" and published on November 3, 2020 (85 Fed. Reg. 69778). The bill would also prohibit the rule from being subject to judicial review.

After the passage of the Endangered Species Act (ESA) in 1978, the U.S. Fish and Wildlife Service (FWS) listed the gray wolf as threatened in Minnesota and endangered in the remainder of the lower 48 states.[6] The rule specified that "biological subspecies would continue to be maintained and dealt with as separate entities."[7] As such, FWS implemented gray wolf recovery programs in three regions: the northern Rocky Mountains, the southwestern United States for the Mexican wolf, and the eastern United States (including the Great Lakes States) for the eastern timber wolf.[8]

The Great Lakes region has the largest concentration of gray wolves in the lower 48 states, with approximately 4,200 wolves inhabiting Minnesota, Wisconsin, and Michigan.[9] Under the current management framework, wolves in Minnesota are listed as threatened, whereas wolves in Wisconsin and Michigan are listed as endangered.[10] The recovery plan for the gray wolf in the Great Lakes is quite clear regarding the criteria for delisting: a stable or increasing population of wolves in Minnesota and a population of at least 200 wolves outside of Minnesota.[11]

Between 2003 and 2015, the FWS published several rules revising the 1978 rule to incorporate new information and recognize the biological recovery of gray wolves in the northern Rocky Mountains and eastern United States (including the Great Lakes States). These rules were challenged in court and invalidated or vacated, in part, on the determinations that the FWS distinct population segment (DPS) designations were legally flawed.[12]

In 2009, the FWS published final rules designating and delisting the western Great Lakes DPS and the northern Rocky Mountain DPS, except it did not delist the gray wolf in Wyoming after finding the state's management plan inadequate.[13] The Humane Society challenged the western Great Lakes DPS on the grounds that the FWS violated the Administrative Procedures Act's notice and comment requirements. Ultimately, the FWS reached a settlement agreement and

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[6] "U.S. District Court Vacates Gray Wolf Delisting Rule." Erin H. Ward. Congressional Research Service. LSB10697 (congress.gov)
[7] 43 FR 9607, March 9, 1978
[8] Id.
[9] "America's Gray Wolves Get Another Chance at Real Recovery." Natural Resources Defense Council. Shelia Hu. April 21, 2022. America's Gray Wolves Get Another Chance at Real Recovery (nrdc.org)
[10] "U.S. District Court Vacates Gray Wolf Delisting Rule." Erin H. Ward. Congressional Research Service. LSB10697 (congress.gov)
[11] "Recovery Plan For the Eastern Timber Wolf." U.S. Fish and Wildlife Service, Region 3. January 31, 1992. https://www.govinfo.gov/content/pkg/GOVPUB-I49-PURL-LPS37439/pdf/GOVPUB-I49-PURL-LPS37439.pdf
[12] Id.
[13] 74 Fed. Reg. 15,070 (Apr. 2, 2009); 74 Fed. Reg. 15,123 (Apr. 2, 2009).

withdrew the rule.[14] Defenders of Wildlife challenged the northern Rocky Mountain DPS rule, and the Montana federal district court vacated the 2009 Northern Rocky Mountain DPS rule after concluding that the ESA did not allow the FWS to list a partial DPS.[15] However, an act of Congress in 2011 directed the FWS to reinstate the 2009 rule designating and delisting the northern Rocky Mountain DPS without Wyoming.[16]

In 2017, after several years of litigation, the FWS delisted the gray wolf in Wyoming. As a result, starting in 2017 there were three distinct regulatory frameworks for gray wolf population areas: (1) the northern Rockies Mountains where the wolf was not listed; (2) in Minnesota, were the gray wolf is listed as threatened; and (3) in all other areas of the lower 48 states were the gray wolf is listed as endangered.[17] In November 2020, the Trump administration finalized a rule that delisted the gray wolf, except for the Mexican wolf, and returned management to each of the lower 48 states.[18]

Defenders of Wildlife, WildEarth Guardians, and other environmental groups challenged the 2020 rule, and in February 2022, the U.S. District Court for the Northern District of California vacated it.[19] The court found that the FWS had failed to show that gray wolf populations could be sustained outside of the core populations in the western Great Lakes and northern Rocky Mountains.[20] This ruling reinstated ESA protections for the gray wolf in the lower 48 states, except for the congressionally delisted Northern Rockies Ecosystem.[21] The Biden administration's Department of Justice appealed the ruling and continued to submit legal filings in support of the 2020 rule as late as September 2024.[22]

In the 118th Congress, the House of Representatives passed legislation identical to H.R. 845, the "Trust the Science Act," by a vote of 209-205, with four Democrats voting in support of the legislation.[23]

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[14] Humane Soc'y of the U.S. v. Salazar, No. 1:09-CV-1092 (D.D.C. July 2, 2009) (settlement order).
[15] Defenders of Wildlife v. Salazar, 812 F. Supp. 2d 1205, 1207 (D. Mont. 2009).
[16] Public Law 112-10, Department of Defense and Full-year Continuing Appropriations Act of 2011, Section 1713.
[17] "U.S. District Court Vacates Gray Wolf Delisting Rule." Erin H. Ward. Congressional Research Service. LSB10697 (congress.gov)
[18] 85 Fed. Reg. 69,778 (Nov. 3, 2020).
[19] "U.S. District Court Vacates Gray Wolf Delisting Rule." Erin H. Ward. Congressional Research Service. LSB10697 (congress.gov)
[20] U.S. District Court Northern District of California. *Defenders of Wildlife, Et. Al. v. U.S. Fish and Wildlife Service, Et Al.* February 10, 2022.
[21] "Judge restores gray wolf protections." Michael Doyle. E&E News. February 10 2022. Judge restores gray wolf protections - E&E News (eenews.net)
[22] Federal Appellants' Opening Brief. *Defenders of Wildlife, et al., v. U.S. Fish and Wildlife, et al., and State of Utah, et al.* September 13, 2024. https://naturalresources.house.gov/uploadedfiles/chairman_westerman_ftr_--_9th_cir._court_defenders_v_usfws_--_wolves.pdf
[23] H.R. 764, "Trust the Science Act." H.R. 764 – 118th Congress (2023-2024): Trust the Science Act | Congress.gov | Library of Congress

H.R. 1897 (Rep. Westerman, R-AR), *"ESA Amendments Act of 2025"*

During the 118th Congress, the House Committee on Natural Resources (Committee) held two oversight hearings and three legislative hearings focused on the ESA, both on species-specific issues and reforming the Act as a whole. These hearings resulted in eight bills related to the ESA being favorably reported by the Committee, three of which passed the House of Representatives. One of the bills reported favorably by the Committee, was the "ESA Amendments Act of 2024," which would have reauthorized the Act with a series of reforms (more information can be seen HERE), H.R. 1897 contains many of the same provisions from this bill. In addition, last month the Water, Wildlife and Fisheries Subcommittee held an oversight hearing on the implementation of the ESA and Marine Mammal Protection Act. The hearing memo from that hearing can be seen HERE.

Definitional Changes and Additions

H.R. 1897 codifies the Trump administration's framework for determining the "foreseeable future" when determining whether a species qualifies as threatened under the Endangered Species Act (ESA).[24] This means that when the U.S. Fish and Wildlife Service (FWS) and the National Oceanic and Atmospheric Administration (NOAA; collectively, "the Services") consider the "foreseeable future," it can extend only so far into the future as the Services can reasonably determine that both the threats and the species' responses to those threats are likely.[25] Prior to the adoption of this framework by the Trump administration, the "foreseeable future" was undefined, causing inconsistencies in how the term was applied.[26]

The bill also codifies a new definition of "habitat" related to critical habitat designation. On December 16, 2020, the Services published a final rule "[f]or the purposes of designating critical habitat only, habitat is the abiotic and biotic setting that currently or periodically contains the resources and conditions necessary to support one or more life processes of a species."[27] This was in response to the 2018 U.S. Supreme Court decision in *Weyerhaeuser Co. v. U.S. FWS*, which stated that an area must logically be considered "habitat" for that area to meet the definition of "critical habitat" under the ESA.[28] H.R. 1897 adopts the 2020 definition and adds additional language ensuring that if an area cannot support all of a species' life processes, the species must have access to an area that does in order for it to be designated critical habitat. By codifying a definition of "habitat" as it relates to critical habitat, this bill provides certainty and brings the Services into compliance with the *Weyerhaeuser* decision.

Additionally, the legislation would codify the definition of "environmental baseline" in the ESA. When conducting interagency consultations on federal actions, the Services use the environmental baseline to help determine the effect of that action on listed species and critical

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[24] 84 FR 45020
[25] *Id.*
[26] 89 FR 23919
[27] "Endangered and Threatened Wildlife and Plants; Regulations for Listing Endangered and Threatened Species and Designating Critical Habitat." 87 FR 37757. Federal Register: Endangered and Threatened Wildlife and Plants; Regulations for Listing Endangered and Threatened Species and Designating Critical Habitat
[28] "Final Rules Amending ESA Critical Habitat Regulations." Erin H. Ward and Pervaze A. Sheikh. Congressional Research Service. IF11740 (congress.gov)

habitat. On April 5, 2024, the Services finalized a rule that mandated the following factors be considered when calculating the environmental baseline: 1) the past and present effects of all activities in an action area; 2) the anticipated effects of each proposed federal project in an action area where consultation has been completed; 3) the effects of state and private actions that are contemporaneous with the consultation process; and 4) the impacts to listed species or designated critical habitat from ongoing federal agency activities or existing federal agency facilities that are not within the agency's discretion to modify.[29]

This bill amends and replaces the fourth consideration with: "existing structures and facilities and the past, present, and future effects on the species or the critical habitat of the species from the physical existence of such structures and facilities." The environmental baseline should act as a "snapshot" of species health at the time of the consultation. However, the Services have often used the environmental baseline to create a hypothetical environment that ignores existing infrastructure. This change would require the Services to use a more complete picture of current impacts to species.

Title I: Optimizing Conservation Through Resource Prioritization

Title I amends Section 4 of the ESA to codify existing efforts to address backlogs in listing petitions and critical habitat designation through a "National Listing Work Plan."[30] The Services would be required to submit a work plan to Congress at the beginning of each fiscal year that covers listing actions for the next seven fiscal years. The work plan must include information on species status reviews, listing determinations, and critical habitat designations. These changes decrease the risk of litigation in the listing process and allow the Services to better allocate their resources towards species most needing protection.

The Services would be required to assign each species included in the work plan a priority classification, with priority one being the highest and priority five being the lowest. For example, a priority one species would be classified as critically imperiled and in need of immediate action. In contrast, a priority five species is a species for which little information exists regarding threats and its status.

Title II: Incentivizing Wildlife Conservation on Private Lands

The ESA has been ineffective in accomplishing its goal of recovering species and removing them from the endangered species list. Only three percent of species listed under the Act have ever been delisted.[31]

To incentivize private landowners to invest in wildlife conservation on their lands, the legislation amends the ESA to provide regulatory certainty to private landowners. This is done by codifying Candidate Conservation Agreements (CCAs) and Candidate Conservation Agreements with Assurances (CCAAs) into law. These agreements allow private landowners to commit to

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[29] 89 FR 24268

[30] "National Listing Workplan." U.S. Fish and Wildlife Service. National Listing Workplan | U.S. Fish & Wildlife Service (fws.gov)

[31] "Missing the Mark: How the Endangered Species Act Falls Short of Its Own Recovery Goals." Property and Environment Research Center. Katherine Wright and Shawn Regan. July 26, 2023. Missing the Mark | PERC

implementing voluntary actions designed to reduce threats to a species that is a candidate to be listed under the ESA. In return, if the species is listed, landowners who are part of the agreement could continue their operations should a listing occur. Currently, these agreements only exist through executive action and secretarial orders, giving the Services great discretion in how they take these agreements into account when making listing decisions. The bill explicitly states that the Services must consider the conservation benefit of these agreements when making listing decisions.

Title II also contains provisions intended to streamline and provide certainty in the permitting process for incidental take permits (ITP) and associated voluntary conservation agreements under Section 10 of the ESA, such as Habitat Conservation Plans (HCPs). ITPs are issued to private, non-federal entities undertaking otherwise lawful projects that might result in the taking of a listed species. To issue an ITP, the Services must confirm several criteria, including that issuing such a permit "will not appreciably reduce the likelihood of the survival and recovery of the species in the wild."[32]

HCPs are species conservation agreements private entities can enter with the Services after a species has already been listed under the ESA. Like CCAAs, they allow private entities to continue operations through an ITP if the conservation measures contained in the HCP are followed. Unfortunately, these agreements can take as long as a decade to be approved by the Services and, in some cases, the Services have reneged on HCPs or used other federal and state regulatory processes to place additional restrictions.

To streamline and provide certainty in the permitting process, Title II requires all parties to establish an HCP, including the Services, to be legally bound to the plan's requirements. In addition, the Services would be explicitly prohibited from using other federal or state regulatory processes to require additional conservation measures in addition to what is included in the HCP. Federal agencies would also be required to adopt the measures included in the HCP for any authorization related to the action that is the subject of the HCP. ITPs issued under Section 10 would also be exempted from the duplicative requirements to conduct Section 7 consultation and a National Environmental Policy Act review.

Title III: Providing for Greater Incentives to Recover Listed Species

The ESA requires the Services to "cooperate to the maximum extent practicable with the states" in implementing the Act, including "consultation with the States concerned before acquiring any land or water, or interest therein, for the purpose of conserving any endangered species or threatened species."[33] Unfortunately, over the course of the ESA's fifty-year history, states have often been left out of the process, with power being consolidated in the hands of officials at the Services. This title reasserts congressional intent by giving regulatory incentives and opportunities for states in the ESA process.

Section 9 prohibits the "take" of an endangered species. Take is defined as to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such

[32] 16 U.S.C. 1539
[33] Endangered Species Act of 1973, 16 U.S.C., 1531-1544 (1973).

conduct."[34] The Act, however, does not automatically apply the same prohibitions to threatened species. Instead, Section 4(d) allows the Services to grant some exceptions to the take prohibitions for threatened species.[35] While NOAA has taken advantage of this flexibility,[36] the FWS continues to take steps to manage threatened species as endangered species, contrary to congressional intent.[37]

The FWS began issuing 4(d) rules in 1974, but in 1975 they finalized what has become known as the "blanket 4(d) rule" (blanket rule).[38] This rule allowed the FWS to extend all Section 9 prohibitions to threatened species unless a specific 4(d) rule for the species was drafted that exempted certain activities from those prohibitions. The blanket rule effectively removes incentives for parties impacted by threatened species and any benefits resulting in downlisting a listed species because no regulatory burdens are lowered. In 2019, the Trump administration finalized a rulemaking that took away the FWS's ability to issue blanket rules,[39] but the Trump administration's rule was rescinded by the Biden administration in April 2024.[40]

The legislation changes this dynamic by requiring the Services to include the following whenever they issue a 4(d) rule that contains take prohibitions: (1) objective, incremental recovery goals for the species in question; (2) provide for the stringency of the prohibitions to decrease as such recovery goals are met; and (3) provide for state management of the species once all recovery goals are met in preparation for the species being delisted.

These steps create greater accountability, transparency, and incentives to take conservation actions that restore habitat and recover listed species because tangible regulatory relief will come with it. The bill also adopts a similar approach for the recovery of species listed as endangered. Specifically, the bill requires the Services to propose objective and incremental recovery goals for endangered species. Those goals would form the basis for a 4(d) rule when the species is downlisted from endangered to threatened.

This gives states the opportunity to propose a "recovery strategy" for threatened species and species that are candidates for listing in that state. The bill requires the Services to review the proposed recovery strategy and determine whether 1) the state would be able to implement the strategy and 2) whether that strategy would be effective in conserving the species in question. If it is determined that both of those tests are satisfied, the strategy is approved, and it would become the regulation governing the species in that state.

Title III also amends Section 4 to prohibit judicial review of the delisting of species during the five-year post-delisting monitoring period. Many species, such as wolves and grizzly bears, have

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[34] 16 U.S.C 1532.
[35] 16 U.S.C 1533.
[36] 88 FR 40742.
[37] Revisions of the Regulation for Prohibitions to Threatened Wildlife and Plants." Megan E. Jenkins and Camille Wardle. The Center for Growth and Opportunity at Utah State University. 10/17/18. Regulations for Prohibitions to Threatened Wildlife and Plants - The CGO.
[38] "Unlocking the Full Power of Section 4(d) to Facilitate Collaboration and Greater Species Recovery." David Willms, J.D. https://republicans-naturalresources.house.gov/UploadedFiles/Codex_II_Chapter_3.pdf.
[39] 84 FR 44753
[40] 89 FR 23919

been successfully delisted through rigorous scientific decisions, only to have a court overrule the decision.

Lastly, Title III gives regulatory certainty to the private landowners who are investing in, or want to invest in, habitat conservation on their lands. Specifically, the bill prohibits the Services from designating critical habitat on private lands that are implementing habitat conservation and restoration actions designed to conserve the species in question and approved by the Services. This language mirrors language from the Sikes Act (16 U.S.C. 670a), which prevents critical habitat designations on lands controlled by the Department of Defense if those lands are implementing approved habitat conservation measures.

Title IV: Creating Greater Transparency and Accountability in Recovering Listed Species

Title IV amends the ESA to require that the "best scientific and commercial data available" used to make listing and critical habitat decisions be readily available and accessible online. ESA-related regulations are often controversial and impact the public in many ways, including land use, access to natural resources, and property value. In many cases, all the public gets to see is the result of a decision-making process, but not the information that led to that decision being made. H.R. 1897 gives the public the ability to see and understand what data the Services identified as the "best scientific and commercial data available."

Additionally, the Services would be required to coordinate with states when making listing and critical habitat decisions. Before finalizing an ESA regulation, the Services must provide each affected state with the data used as the basis of a regulation. The bill defines "best scientific and commercial data available" to include all such data submitted to the Services by state, tribal, and local governments.

The Services would be required to disclose to Congress and publicly disclose all federal government expenditures on ESA-related lawsuits each fiscal year. The ESA has become a magnet for lawsuits designed to frustrate the process laid out in the underlying statute, with the Services often settling with litigious environmental groups.

Lastly, Title IV requires an analysis of the economic impacts, national security impacts, impacts on human health and safety, and any other relevant impacts concurrently with any listing decision. This section wouldn't preclude a species from being listed for those reasons but would give the public necessary information on how a listing may impact them. Currently, the ESA only requires an analysis of economic and national security impacts when designating critical habitats. Areas can be excluded from critical habitat for these reasons.

Title V: Streamlining Permitting Process

On April 5, 2024, the Services finalized a rule that changed the interagency consultation process on federal projects.[41] This rule includes a provision that allows the Services to impose measures

[41] "Endangered and Threatened Wildlife and Plants; Regulations for Interagency Cooperation" 89 FR 24268 https://www.federalregister.gov/documents/2024/04/05/2024-06902/endangered-and-threatened-wildlife-and-plants-regulations-for-interagency-cooperation

that "offset" any remaining impacts on a species caused by an agency action after avoidance and minimization measures have been imposed. This provision greatly expands the Services' discretion. Allowing the Services to require offsets for any residual impacts from an agency action on a listed species is not supported by ESA statute. As written, Section 7 of the ESA requires federal agencies and project applicants to "minimize" impacts to listed species and critical habitat.[42] The words "offset" or "mitigate" are not mentioned. To further clarify this, the bill amends Section 7 to explicitly state that federal agencies and project applicants are not required to fully offset impacts to listed species and critical habitat.

Title V also requires the Services to conduct a retrospective review of modifications that have been adopted to proposed actions during successive Section 7 consultations. This provision would require the Services, for any consultation that occurs 10 years or more after the original consultation, to determine if those modifications will improve the likelihood of the species' survival. During the Section 7 consultation process, the Services often propose Reasonable Prudent Alternatives (RPA) or Reasonable and Prudent Measures (RPM) to modify federal actions to avoid jeopardizing a listed species. Often these RPAs and RPMs add additional cost and, in some cases, significantly change the action. If the Services determine that continuing the modification will not increase the likelihood of the species' survival, they shall discontinue the modification.

In addition, Title V requires the Services to conduct Section 7 consultations without a substantive presumption in favor of the listed species. This provision is a response to the *Maine Lobsterman's Association v. National Marine Fisheries Service* case in which the U.S. Court of Appeals for the District of Columbia Circuit ruled that NOAA distorted the science, driving regulations for the Maine lobster industry and their interaction with whales.[43] The Court stated that the National Marine Fisheries Service (NMFS) improperly relied on assumptions and worst-case scenarios when determining the risk posed by the industry to right whales. Title V ensures that the ESA statute requires the Services to comply with this ruling.

Lastly, Title V ensures that the Services can only issue a jeopardy opinion on a proposed action if they determine that the action itself causes jeopardy. This language is intended to prevent the Services from utilizing factors outside the scope of the proposed action to justify a jeopardy opinion. During a February 26, 2025, oversight hearing, the Subcommittee heard testimony on how different interpretations from regional offices and court rulings have created significant variability in how the Services levy jeopardy opinions.[44] This clarifying language provides greater certainty by giving the Services clear direction on how they can issue a jeopardy opinion.

Title VI: Removing Barriers to Conservation

Title VI amends Sections 9 and 10 of the ESA to remove duplicative permitting processes related to importation and exportation of species that are not native to the U.S. It does so by clarifying

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[42] 16 U.S.C. 1536

[43] U.S. Court of Appeals for the District of Columbia Circuit. Decision No. 22-5238. Decided June 16, 2023. Maine Lobstermen's Association v. National Marine Fisheries Service, No. 22-5238 (D.C. Cir. 2023) :: Justia

[44] Questioning by Rep. Bruce Westerman to Mr. Parker Moore. House Committee on Natural Resources. February 26, 2025. Evaluating the Implementation of the Marine Mammal Protection Act and the Endangered Species Act | Water, Wildlife and Fisheries Subcommittee | House Committee on Natural Resources

that standards used in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) should be used to regulate trade of non-native species, not additional ESA regulations that stifle conservation efforts.

CITES is an international agreement signed in 1973 that governs the trade of endangered plants and animals.[45] The United States, 182 other countries, and the European Union are parties to CITES, which is implemented in Section 8a of the ESA.[46] Over 40,000 species are granted some level of protection by CITES, which in many ways mirrors protection under the ESA, with species listed in CITES Appendix I being considered most at risk of extinction.[47] However, there are many species not native to the United States that are also listed under the ESA because the Act requires the Services to list species regardless of what country the species lives in.

In most cases, private entities who wish to legally import a CITES or ESA-listed species into the U.S. must receive an import permit from the Services. Title VI removes the duplicative process of receiving an ESA import permit if the species is not native to the U.S. and if all CITES requirements are met. This provision streamlines the permitting process and removes the uncertainty entities like zoos, aquariums, and sportsmen face when conducting conservation activities abroad.

Title VI clarifies that the Services must use the CITES "not detrimental to the survival of the species" standard instead of the current "enhancement" standard when issuing permits related to species that are not native to the U.S.[48] Currently, for the Services to issue permits related to non-native CITES and ESA-listed species, they must certify that issuing the permit would "enhance the propagation or survival of the species." This standard is vague and has caused delays in the permitting process.[49] By clarifying that the "not detrimental to the survival" standard should govern the permitting process, Title VI aligns the U.S. with other CITES nations and streamline the permitting process.

Title VII: Restoring Congressional Intent

Title VII limits the application of Section 11(f) of the ESA to enforcing Section 11 and Section 8a. This ensures the Services cannot issue regulations to prohibit a range of otherwise lawful activities without specific provisions authorizing them to do so. Section 11 is the enforcement section of the Act, granting federal agencies the ability to enforce the ESA and giving private citizens the ability to file lawsuits related to the Act's enforcement.[50] Section 11(f) states that "[t]he Secretary [is] authorized to promulgate such regulations as may be appropriate to enforce this chapter…"[51] Thus, the plain language of this provision explicitly limits the agency's rulemaking authority to regulations that will further statutory enforcement.

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[45] "What is CITES." What is CITES? | CITES
[46] 16 U.S.C. 1537a
[47] "The CITES Species." The CITES species | CITES
[48] Articles III and IV of the Convention on International Trade in Endangered Wild Flora and Fauna.
[49] 16 U.S.C. 1539
[50] 16 U.S.C. 1540
[51] *Id.*

However, the Services have recently exploited Section 11(f) as a justification for regulations that lower the chance of taking a listed species, against congressional intent. An example of this misuse is the recently withdrawn 2022 rule from NMFS that expanded vessel speed restrictions related to the North Atlantic Right Whale (NARW). The essence of that regulation was to place requirements on vessel operators that were designed to lower the likelihood of striking an endangered NARW.[52] During a February 26, 2025, oversight hearing, the Subcommittee heard testimony on how Section 11(f) does not give NMFS the ability to issue such a regulation. As Paul Weiland, Partner at Nossaman LLC who has worked on numerous ESA issues, stated in his testimony:

"Those means Congress included in the ESA do not include regulations to prevent take. The vessel speed rule purports to impose an enforceable requirement on vessel operators under the ESA, even when those operators have not engaged in prohibited take of Right Whales and there is a *de minimis* risk that their conduct could result in prohibited take."[53]

H.R. 1917 (Rep. Dingell, D-MI), "*Great Lakes Mass Marking Program Act of 2025*"

According to the Great Lakes Fishery Commission, the tribal, commercial, and recreational fisheries in the five Great Lakes are home to 177 different species of fish, including 139 native species.[54] These tribal, commercial, and recreational fisheries have an economic value of more than $7 billion annually[55] and support upwards of 75,000 jobs.[56]

One of the challenges that the Great Lakes' fisheries have faced is the prominence of invasive species that place pressure on native fish populations and their ecosystems.[57] One species, the Sea Lamprey (*Petromyzon marinus*), is native to the Atlantic Ocean but first entered the Great Lakes in the 1920s and 1930s.[58] In the roughly 100 years since sea lampreys first reached this region, Canada and the United States went from harvesting roughly 15 million pounds of lake trout annually in the upper Great Lakes in the 1940s to roughly 300,000 pounds in the 1960s.[59] Four carp species—grass, black, bighead, and silver carp—also threaten the Great Lakes' fisheries.[60]

To counter the threat of these invasive species, tribal, federal, and state agencies introduce hatchery fish to encourage native species recovery. For example, in 2018, the Michigan Department of Natural Resources announced that they had introduced more than 21 million fish into the state's waters, including the Great Lakes.[61] More recently, the FWS' ten hatcheries that support the Great Lakes region introduced more than 4.7 million hatchery fish in all five Great

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[52] 87 FR 46921
[53] Testimony of Mr. Paul Weiland. House Committee on Natural Resources. February 26, 2025. HHRG-119-II13-Wstate-WeilandP-20250226.pdf
[54] Great Lakes Fishery Commission. The Great Lakes Fishery: A world-class resource! http://www.glfc.org/the-fishery.php
[55] *Id.*
[56] *Id.*
[57] Great Lakes Fishery Commission. Invasive Species. https://www.glfc.org/invasive-species.php
[58] Great Lakes Fishery Commission. Sea Lamprey: A Great Lakes Invader. https://www.glfc.org/sea-lamprey.php
[59] *Id.*
[60] Great Lakes Fishery Commission. Invasive Carps. https://www.glfc.org/invasive-carps.php
[61] Manistee News Advocate. DNR: More than 21 million fish stocked in 2018. October 22, 2018.

Lakes in 2024.[62] However, the FWS does not currently tag all of the fish that are introduced,[63] which leads to knowledge gaps in the effectiveness of these efforts.

H.R. 1917 would create the Great Lakes Mass Marking Program, a new program that would authorize FWS to purchase fish tags and other related equipment to improve management decisions and evaluate the effectiveness of these operations, expanding on the tagging efforts that have already been occurring across the Great Lakes region.

H.R. 1917 would authorize $5 million per fiscal year from fiscal year (FY) 2026 through FY 2030 to carry out this program.

IV. MAJOR PROVISIONS & ANALYSIS

H.R. 276 (Rep. Greene, R-GA), *"Gulf of America Act of 2025"*

- Would codify "Gulf of America" as the name for the area previously known as the Gulf of Mexico. Requires the Secretary of the Interior, acting through the Board on Geographic Names, to oversee the implementation of this renaming across the federal government.

H.R. 845 (Rep. Boebert, R-CO), "*Pet and Livestock Protection Act of 2025*"

- Requires the Secretary of the Interior to reissue the final rule entitled "Endangered and Threatened Wildlife and Plants; Removing the gray wolf (*Canis lupus*) From the List of Endangered and Threatened Wildlife," which was first issued on November 3, 2020. This legislation would delist the gray wolf under the Endangered Species Act.

H.R. 1897 (Rep. Westerman, R-AR), *"ESA Amendments Act of 2025"*

- Title by Title Analysis

H.R. 1917 (Rep. Dingell, D-MI), "*Great Lakes Mass Marking Program Act of 2025*"

- Authorizes a Great Lakes Mass Marking Program within the U.S. Fish and Wildlife Service expand fish tagging efforts within the Great Lakes ecosystem.

V. EFFECT ON CURRENT LAW

H.R. 1897

[62] U.S. Fish and Wildlife Service Hatchery Statistics. Prepared For: House Committee on Natural Resources, Subcommittee on Water, Wildlife, and Fisheries. March 14, 2025. https://naturalresources.house.gov/uploadedfiles/final-great-lakes-hatchery-stocking-fac-march-2025.pdf

[63] H.R. 1917. The "Great Lakes Mass Marking Program Act of 2025." https://debbiedingell.house.gov/uploadedfiles/dingmi015.pdf