

RED SNAPPER ACT OF 2023

OCTOBER 25, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WESTERMAN, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 4587]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 4587) to provide that the Administrator of the National Oceanic and Atmospheric Administration shall not issue an interim or final rule that includes an area closure in the South Atlantic for species managed under the Snapper-Grouper Fishery Management Plan until the South Atlantic Great Red Snapper Count study is complete and the data related to that study is integrated into the stock assessment, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Red Snapper Act of 2023”.

SEC. 2. CONDITIONS FOR RULES RELATED TO CERTAIN AREA CLOSURES.

(a) FINDINGS.—Congress finds the following:

(1) Fishing is a major economic driver in the South Atlantic. In Florida alone, recreational anglers provide \$14,000,000,000 in economic output and support 119,000 jobs.

(2) Red snapper is a highly prized and sought after reef fish by both recreational and commercial fishermen.

(3) The 6-day recreational red snapper season in 2018 added \$13,000,000 to the gross domestic product of the South Atlantic region.

(4) For the last 10 years, fishery managers have successfully been working to rebuild the red snapper stock in the South Atlantic. There is currently record high abundance and strong recruitment within the stock.

(5) This record abundance has led to increased out-of-season encounters and discards which is driving red snapper mortality.

(6) Despite these increased discards, it is the overriding opinion of the South Atlantic Fishery Management Council's Snapper Grouper Advisory Panel that based on members' collective on-the-water experience, the red snapper fishery is recovered.

(7) However, options for future consideration to reduce out-of-season encounters and red snapper mortalities include shorter seasons and broad area closures for the snapper-grouper fishery in the South Atlantic.

(8) The State of Florida is concerned with the economic implications of area closures for the South Atlantic snapper-grouper recreational fishery.

(9) \$5,100,000 has been invested in independent survey data over the last three fiscal years, including \$3,300,000 for the South Atlantic Great Red Snapper Count to estimate the number of red snapper (*Lutjanus campechanus*) in the South Atlantic waters from North Carolina to Florida.

(10) The National Marine Fisheries Service should incorporate data from this survey into the National Marine Fisheries Service stock assessments as expeditiously as possible to better inform fishery management decisions.

(b) **CONDITION ON ISSUANCE OF RULE.**—The Administrator of the National Oceanic and Atmospheric Administration shall not issue an interim or final rule that includes an area closure in the South Atlantic for species managed under the Snapper-Grouper Fishery Management Plan until—

(1) the South Atlantic Great Red Snapper Count study is complete; and

(2) the data related to that study is integrated into the upcoming South Atlantic red snapper research track and operational stock assessment.

PURPOSE OF THE LEGISLATION

The purpose of H.R. 4587 is to provide that the Administrator of the National Oceanic and Atmospheric Administration shall not issue an interim or final rule that includes an area closure in the South Atlantic for species managed under the Snapper-Grouper Fishery Management Plan until the South Atlantic Great Red Snapper Count study is complete and the data related to that study is integrated into the stock assessment.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 4587 would prevent the National Oceanic and Atmospheric Administration (NOAA) from implementing area closures in the South Atlantic until the South Atlantic Great Red Snapper Count study is completed, and the findings are integrated into the fishery's stock assessment.

The South Atlantic Red Snapper is managed by the South Atlantic Fishery Management Council (Council). The Council was created under the Magnuson-Stevens Fishery Conservation and Management Act of 1976 (MSA), which is the primary law governing fisheries resources and fishing activities in federal waters. The eight Councils implement the statutory goals of MSA, in coordination with the National Marine Fisheries Service (NMFS). This process is accomplished through Council-based Fisheries Management Plans (FMPs) for each fishery. FMPs require scientific stock assessments of the fishery. Following a Council's development of an FMP, a Council forwards the plan to NOAA for approval. If the plan is approved, NMFS must then issue regulations to implement the plan.¹

¹“About the MSA.” U.S. Regional Fishery Management Councils, <http://www.fisherycouncils.org/about-the-msa>.

The South Atlantic red snapper is a highly sought commercial and recreational reef fish whose annual harvest levels are dependent on fishery management decisions based on stock assessments. Since 2010, the South Atlantic red snapper has rebounded and both scientists and fishermen agree the stock is at record abundance and biomass.² However, success in rebuilding the species population has not translated into management that provides reasonable harvest opportunities. The recreational fishery has largely been closed for the past 13 years except for a few weekend openings. In 2023, the season was two days.³

Successful rebuilding has not affected the status of the Atlantic red snapper stock. The most recent stock assessment was completed in 2021, known as SEDAR 73.⁴ The results of SEDAR 73 indicated that South Atlantic red snapper are overfished, and overfishing is occurring.⁵ Although red snapper are abundant, the fishery is considered overfished because most of the fish in the stock are young, and it is believed that older fish are the key to a healthy population. The assessment asserts that the overfishing is being primarily driven by high numbers of dead discards by the recreational sector.⁶

This has raised questions about the data utilized to make fishery management determinations. As a result, Congress appropriated \$5.1 million over a three-year period to conduct a “South Atlantic Great Red Snapper Count.”⁷ The South Atlantic Red Snapper Count will provide independent data on Atlantic red snapper to inform the next stock assessment.

Despite this ongoing work, NOAA has advocated for the Council to consider seasonal and/or area-based bottom fishing closures for all 55 species of snapper grouper as a way address overfishing.⁸ H.R. 4587 would prevent NOAA from forcing any area closures in the South Atlantic until the South Atlantic Great Red Snapper Count study is completed, and the findings are integrated into the fishery’s stock assessment.

COMMITTEE ACTION

H.R. 4587 was introduced on July 12, 2023, by Rep. John Rutherford (R–FL). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water, Wildlife and Fisheries. On July 27, 2023, the Subcommittee on Water, Wildlife and Fisheries held a hearing on the bill. On October 25–26, 2023 the Committee on Natural Resources met to consider the bill. The Subcommittee on Water, Wildlife and Fisheries was discharged from further consideration of H.R. 4587 by unani-

²Testimony from Martha Guyas before the House Natural Resources Committee, March 8, 2023. https://naturalresources.house.gov/uploadedfiles/testimony_guyas.pdf.

³“NOAA Fisheries Announces Limited Openings of Recreational and Commercial Red Snapper Seasons in South Atlantic Federal Waters” May 23, 2023. <https://www.fisheries.noaa.gov/bulletin/noaa-fisheries-announces-limited-openings-recreational-and-commercial-red-snapper-3>.

⁴SEDAR 73 South Atlantic Red Snapper Stock Assessment Report, <https://www.fisheries.noaa.gov/inport/item/65078>.

⁵Draft Regulatory Amendment 35 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region, March 2023. https://safmc.net/documents/sg_a3a_regam35draftamendment_mar2023-pdf/.

⁶Id.
⁷“South Atlantic Red Snapper Research Spend Plan”, South Atlantic Fishery Management Council, <https://safmc.net/documents/noaa-satl-red-snapper-count-june-2022/>.

⁸Testimony from Martha Guyas before the House Natural Resources Committee, March 8, 2023. https://naturalresources.house.gov/uploadedfiles/testimony_guyas.pdf.

mous consent. Chairman Bruce Westerman (R-AR) offered an amendment in the nature of a substitute designated Westerman_058 ANS. The amendment in the nature of a substitute was adopted by voice vote. Representative Jared Huffman (D-CA) offered an amendment to the amendment in the nature of a substitute designated Huffman #1. The amendment to the amendment in the nature of a substitute was not adopted by a roll call vote of 18 yeas to 21 nays, as follows:

Committee on Natural Resources
U S House of Representatives
118th Congress

Date: October 26, 2023

Roll Call# 8

Meeting on / Amendment **Huffman #1 to Westerman_058 ANS to H.R. 4587 (Rep. Rutherford),
"Red Snapper Act"**

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Westerman, AR, Chairman		X		Mr. Grijalva, AZ, Ranking	X		
Mr. Lamborn, CO		X		Ms. Napolitano, CA	X		
Mr. Wittman, VA		X		Mr. Sablan, CNMI	X		
Mr. McClintock, CA		X		Mr. Huffman, CA	X		
Mr. Gosal, AZ		X		Mr. Gallego, AZ			
Mr. Graves, LA		X		Mr. Neguse, CO	X		
Mrs. Radewagen, AS		X		Mr. Levin, CA	X		
Mr. LaMalfa, CA		X		Ms. Porter, CA	X		
Mr. Webster, FL		X		Ms. Leger Fernandez, NM	X		
Ms. González-Colón, PR		X		Ms. Stansbury, NM	X		
Mr. Fulcher, ID		X		Mrs. Petiola, AK	X		
Mr. Stauber, MN		X		Ms. Ocasio-Cortez, NY	X		
Mr. Curtis, UT				Mr. Huelskamp, VA	X		
Mr. Tiffany, WI		X		Ms. Hoyle, OR	X		
Mr. Carl, AL		X		Ms. Kamel-Dove, CA	X		
Mr. Rosendale, MT		X		Mr. Magaziner, RI	X		
Mrs. Boebert, CO		X		Ms. Velázquez, NY			
Mr. Bentz, OR		X		Mr. Case, HI	X		
Ms. Kiggans, VA		X		Mrs. Dingell, MI	X		
Mr. Moylan, Guam				Ms. Lee, NV	X		
Mr. Hunt, TX							
Mr. Collins, GA		X					
Ms. Luna, FL							
Mr. Duarte, CA		X					
Ms. Hagenman, WY		X					
				TOTAL..	18	21	

H.R. 4587, as amended, was ordered favorably reported to the House of Representatives by a roll call vote of 21 yeas to 18 nays, as follows:

Committee on Natural Resources
U S House of Representatives
118th Congress

Date October 26, 2023

Roll Call# 9

Meeting on / Amendment On Favorably Reporting, as amended, H.R. 4587 (Rep. Rutherford),
"Red Snapper Act"

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Westerman, AR, Chairman	X			Mr. Grijalva, AZ, Ranking		X	
Mr. Lamborn, CO	X			Ms. Napolitano, CA		X	
Mr. Wittman, VA	X			Mr. Sablan, CNMI		X	
Mr. McChesnut, CA	X			Mr. Huffman, CA		X	
Mr. Gosar, AZ	X			Mr. Gallego, AZ			
Mr. Graves, LA	X			Mr. Neguse, CO		X	
Mrs. Radewagen, AS	X			Mr. Levin, CA		X	
Mr. LaMalfa, CA	X			Ms. Porter, CA		X	
Mr. Webster, FL	X			Ms. Leger Fernandez, NM		X	
Ms. González-Colón, PR	X			Ms. Stansbury, NM		X	
Mr. Fulcher, ID	X			Mrs. Petrola, AK		X	
Mr. Stauber, MN	X			Ms. Ocasio-Cortez, NY		X	
Mr. Curtis, UT				Mr. Amodeo, NV		X	
Mr. Tiffany, WI	X			Ms. Hironaka, OR		X	
Mr. Carl, AL	X			Ms. Kaptelberg-Dove, CA		X	
Mr. Rosendale, MT	X			Mr. Magaziner, RI		X	
Mrs. Boebert, CO	X			Ms. Velázquez, NY			
Mr. Bentz, OR	X			Mr. Case, HI		X	
Ms. Kiggans, VA	X			Mrs. Dingell, MI		X	
Mr. Movian, Guam				Ms. Lee, NV		X	
Mr. Hunt, TX							
Mr. Collins, GA	X						
Ms. Luna, FL							
Mr. Duarte, CA	X						
Ms. Hagenmaier, WY	X						
				TOTAL.	21	18	

HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on Water, Wildlife and Fisheries held on July 27, 2023.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This Act may be cited as the “Red Snapper Act of 2023”.

Sec. 2. Conditions for rules related to certain area closures

Prevents NOAA from implementing area closures in the South Atlantic until the South Atlantic Great Red Snapper Count study is completed, and the findings are integrated into the fishery’s stock assessment.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

H.R. 4587, Red Snapper Act of 2023			
As ordered reported by the House Committee on Natural Resources on October 26, 2023			
By Fiscal Year, Millions of Dollars	2024	2024-2029	2024-2034
Direct Spending (Outlays)	0	0	0
Revenues	0	*	*
Increase or Decrease (-) in the Deficit	0	*	*
Spending Subject to Appropriation (Outlays)	0	0	0
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Statutory pay-as-you-go procedures apply?	Yes
Mandate Effects			
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between -\$500,000 and \$500,000.			

H.R. 4587 would prohibit the National Oceanic and Atmospheric Administration (NOAA) from issuing an interim or final rule that would close fishing areas in the South Atlantic Ocean for any fish species managed under the Snapper-Grouper Fishery Management

Plan. That prohibition would remain in place until the South Atlantic Great Red Snapper Count study is completed and the data is integrated into the agency's stock assessment of the fishery.

Background: In 2021, a stock assessment for the South Atlantic red snapper was completed by a cooperative group of coastal states, certain regional fishery management councils, and NOAA, which determined that the species is currently overfished. Under current law, when a species is determined to be overfished the relevant fishery management council is required to develop a management plan to mitigate overfishing and rebuild the species' population, which can include closing fishing areas. If NOAA closes fishing areas anyone who violates that requirement is subject to civil penalties, which are recorded in the budget as revenues.

According to NOAA, the South Atlantic Fishery Management Council currently is not proposing that NOAA close any fishing areas in the South Atlantic.

Federal costs: CBO cannot predict whether the fishing areas for red snapper in the South Atlantic will be closed in the coming years. Using information from NOAA, CBO expects that if the South Atlantic Fishery Management Council recommends closing those fishing areas the earliest NOAA could implement rules to do so would be in 2025 and that an updated stock assessment including data from the count study will be completed in 2027.

Because H.R. 4587 would prevent NOAA from closing the fishing area until a new stock assessment is completed, CBO estimates that enacting the bill could reduce civil penalties that may be collected if the fishing area is closed before the end of 2027. Because of the uncertainty that such a closure would occur and because of the few cases likely to be affected, CBO estimates that any reduction in civil penalties would not be significant over the 2024–2034 period.

The CBO staff contact for this estimate is Aurora Swanson. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to provide that the Administrator of the National Oceanic and Atmospheric Administration shall not issue an interim or final rule that includes an area closure in the South Atlantic for species managed under the Snapper-Grouper Fishery Management Plan until the South Atlantic Great Red Snapper Count study is complete and the data related to that study is integrated into the stock assessment.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

According to the Congressional Budget Office, H.R. 4587 contains no unfunded mandates as defined by the Unfunded Mandates Reform Act.

EXISTING PROGRAMS

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW

As ordered reported by the Committee on Natural Resources, H.R. 4587 would make no changes in existing law.

DISSENTING VIEWS

H.R. 4587 would prevent NOAA from closing areas to fishing in the South Atlantic until the Great Red Snapper Count is complete and the findings are integrated into the fishery's stock assessment. This legislation would undermine a precautionary approach to fishery management and hold science-backed regulatory decisions hostage until some unknown, undefined event in the future.

Red snapper is a reef fish found in bottom waters, rocky areas, and reefs in the Gulf of Mexico and in the South Atlantic, along the eastern coasts of North America, Central America, and northern South America. South Atlantic red snapper is highly sought-after in recreational and commercial fishing and has been the subject of controversy in recent years as the fishery recovers from overfishing and new stock assessments are conducted. Dispute over the total number of South Atlantic red snappers has led to the commissioning of the "Great Red Snapper Count," a collaborative effort between government and private researchers to count red snappers in the South Atlantic. The study began in March 2021, and results are expected by 2025.

To cut down on dead discards, in 2022, the South Atlantic Fishery Management Council proposed Regulatory Amendment 35 to the Snapper Grouper Fishery Management Plan. The Amendment included possible gear modifications, new fishing seasons, and area closures. However, due to inaction by the council, in June of 2024, the National Marine Fisheries Service implemented interim measures reducing recreational and commercial catch limits to reduce overfishing. NOAA testified at the legislative hearing on this bill that no area or time closures are currently under consideration, and therefore, this bill is unnecessary.

This bill would prevent any area closures until the Great Red Snapper Count is complete and integrated into the research track and operational stock assessment. This process will take years, so the bill could unnecessarily delay important strategies for continuing to rebuild the stock based on available science. Furthermore, this bill could invite lawsuits over whether the Great Red Snapper Count is complete and integrated.

The Great Red Snapper Count for the South Atlantic will undoubtedly provide important data for fishery management; however, this data is not yet available, and NOAA is required to make fisheries management decisions based on the best *available* science. Preventing NOAA and the South Atlantic Fishery Management Council from making science-based decisions based on available data is not an effective fishery management strategy and undermines the progress the council and NMFS are making to rebuild the stock and ensure a sustainable population of red snapper for the future. Instead, efforts should be spent on helping to reduce red

snapper mortality from off-season discards and other known threats to the population.

RAÚL M. GRIJALVA,
Ranking Member.

