



Legislative Bulletin.....April 17, 2012

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H.R. 4089 – Sportsmen’s Heritage Act of 2012 (Miller, R-FL)

Order of Business: The bill is scheduled to be considered on Tuesday, April 17, 2012, subject to a rule, H.Res. 614. The rule allows H.R. 4089 to be considered in the Committee of the Whole House. The rule provides for one hour of general debate equally divided. After general debate, the bill will be considered for amendment under the five-minute rule. The rule makes in order only those amendments printed in the Rules Committee report, summarized below. After amendment consideration, the Committee shall rise and report the bill to the House. At that time, any Member may demand a separate vote on any amendment that was adopted by the Committee of the Whole. The rule provides for one motion to recommit with or without instructions.

The rule also deems the House passed budget (H.Con.Res. 112) as having the force and effect as though it was adopted by Congress. This is necessary given the unlikelihood of the Senate passing a budget. Of note, the 302(a) for the House appropriations process will be \$1.028 trillion. The rule makes the following changes to H.Con.Res. 112:

- \$7,710,000,000 for FY 2012 and FY 2013 for the Committee on Agriculture¹; and
- \$3,490,000,000 for FY 2012 and FY 2013 for the Committee on Financial Services.²

The text of H.Res. 614 can be [viewed here](#). The RSC Legislative Bulletin for H.Con.Res. 112 can be [viewed here](#).

Summary: H.R. 4089 is a combination of four bills, each is summarized below.

¹ H.Con.Res. 112 set the spending level for the Committee on Agriculture at \$8,200,000,000.

² H.Con.Res. 112 set the spending level for the Committee on Financial Services at \$3,000,000,000.

Title I – *This title is based off of H.R. 2834, the Recreational Fishing and Hunting Heritage Opportunities Act.*

The legislation directs public land management officials to exercise their authority to facilitate use of (and access to) federal public lands and waters for fishing, sport hunting, and recreational shooting. Access could be limited by federal statutes enforcing national security, public safety or resource conservation concerns. Additionally, access could be limited by any federal statute that prohibits these activities on specific federal public lands or waters. This would in effect establish an “open until closed” policy on lands managed by the U.S. Forest Service (FS) and Bureau of Land Management (BLM).

All public land planning documents (including land resources management plans, resource management plans, travel management plans, general management plans, and comprehensive conservations plans) are required to include a specific evaluation of the effects of such plans on opportunities to engage in recreational fishing, hunting, or shooting.

The fact that recreational fishing, hunting, or shooting occurs on adjacent or nearby lands shall not be considered in determining which public lands are open for these activities or for setting levels of use for these activities.

In the event that hunting is prohibited by law, all federal public land planning documents shall allow volunteers for purposes of culling, and other forms of population management. If volunteers are not allowed then the agency must demonstrate, based on scientific data, why volunteers shall not be used to control overpopulation.

Lands may be subject to closures or restrictions if determined by the agency to be “necessary and reasonable” for purposes of resource conservation, public safety, energy or mineral production, energy generation or transmission infrastructure, water supply facilities, protection of other permittees, protection of private property rights or interests, national security, or compliance with other law.

Annually, by October 1, the head of each federal agency that manages public land on which fishing, hunting, or recreational shooting occurs is required to publish in the Federal Register and submit to the House Natural Resources Committee and the Senate Committee on Energy and Natural Resources, a report. The report will describe any federal public land that was closed to recreational fishing, sport hunting, or shooting, and the reason for the closure.

Any change in classification or management status that effectively closes or significantly restricts 640 or more contiguous acres of federal public land or water shall take effect only if, before the date of change, the head of the agency publishes a notice of the closure, demonstrates that coordination has occurred with a state fish and wildlife agency, and submits a written notice to the House Natural Resources Committee and the Senate Committee on Energy and Natural Resources. These requirements apply to small closures or restrictions that cumulatively affect 640 or more acres.

This title does not require the opening of a national park or national monument under the jurisdiction of the National Park Service to hunting or recreation shooting.

Nothing in this title shall interfere with the authority, or responsibility of a state to manage, or regulate fish and wildlife under state law (including regulations) on land or water, including on federal public land.

Title II - *This title is based off of H.R. 3440, the Recreational Shooting Protection Act.*

Subject to existing rights, National Monument land that is under BLM jurisdiction shall be open to access and use for recreation shooting. The BLM Director may close land for recreational shooting for reasons of national security, public safety, compliance with applicable federal statute, or compliance with a state law.

If the Director closes land to recreational shooting, they are required to publish a public notice in a local newspaper, and submit a report to Congress detailing the location and justification of the closure.

A closure or restriction shall cease to be effective:

- After the six-month period from the date the Director submitted the report to Congress, unless the closure or restriction has been approved by federal law; and
- Thirty days after the date of enactment of a federal law disapproving the closure or restriction.

The Director is prohibited from issuing a closure or restriction that is substantially similar to a closure or restriction previously issued that was not approved by federal law.

Annually, by October 1, the Director shall submit a report to the House Natural Resources Committee and the Senate Committee on Energy and Natural Resources. The report shall describe any National Monument land that was closed to recreational shooting during the preceding year, and the reason for the closure.

Nothing in this title affects the authority, jurisdiction, or responsibility of a state to manage, control, or regulate fish and wildlife under state law (including regulations) on land or water in the state, including federal public land. Additionally, nothing in this title authorizes the Director to require a license for recreational shooting on land or water in a state, including on federal public land in the state.

Title III - *This title is based off of H.R. 991, the Polar Bear Conservation and Fairness Act of 2011.*

Under certain conditions, the Secretary of the Interior shall issue permits for the importation of any polar bear part (other than an internal organ) from a polar bear killed in a hunt in Canada.

The permit will be given to the individual who submits an application, so long as there is proof that the polar bear was legally killed by the person:

- Before February 18, 1997; or
- In cases where the individual submitted the permit application before May 15, 2008³, and they can prove the polar bear was legally killed before May 15, 2008.

Title IV – *This title is based off of H.R. 1558, the Hunting, Fishing, and Recreational Shooting Protection Act.*

The title amends the Toxic Substances Control Act to exclude from the definition of “chemical substance” any component of shot, bullets and other projectiles, propellants, primers, and any sport fishing equipment.

The EPA’s authority to regulate these products is diminished by excluding them from the definition of a “chemical substance.”

Committee Action: H.R. 4089 was introduced on February 27, 2012, and was referred to the House Committee’s on Agriculture and Energy and Commerce, which took no public action. The legislation was also referred to the House Committee on Natural Resources, which held a markup on February 29, 2012, and the legislation was favorably reported, as amended, by a [roll call vote of 27-16](#).

Amendments Made In Order:

Hastings (R-WA): This managers’ amendment makes several technical changes to the bill. These changes include: doubling the aggregate acreage amount under Title I before reporting requirements apply; and allowing a federal agency to establish and implement emergency closure and restriction plans. The text of the amendment can be [viewed here](#).

Holt (D-NJ): This amendment causes Title I not to apply to a national park or national monument unless there is separate legislation that opens that area to hunting or recreational shooting. The text of the amendment can be [viewed here](#).

Grijalva (D-AZ): This amendment causes Title I and Title II to be in effect only when less than 75% of federal public land is available for hunting, fishing, or recreation shooting. The text of the amendment can be [viewed here](#).

Peters (D-MI): The amendment strikes Title III of the legislation. This Title is summarized above. The text of the amendment can be [viewed here](#).

³ The polar bear was listed as “threatened” under the Endangered Species Act on May 15, 2008. <http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?sPCODE=A01J>

Fleming (R-LA): The amendment adds Title V to the legislation. Title V allows the Secretary of Agriculture the option of not restricting the use of dogs in deer hunting activities in Kisatchie National Forest, unless those restrictions:

- Apply to the smallest practicable portions of such unit; and
- Are necessary to reduce or control trespassers onto land adjacent to such unit.

Any restrictions regarding the use of dogs in deer hunting activities in this Forest that are in force on the date of enactment shall be void and have no force or effect. The text of the amendment can be [viewed here](#). The Kisatchie National Forest contains over 604,000 acres, and is spread across seven parishes in Louisiana.

The following information has been provided by Rep. Fleming's office:

The Forest Service has decided to go over the heads of the Louisiana Wildlife and Fisheries Commission to prohibiting the use of dogs to hunt deer in Kisatchie National Forest. Hunting, in many forms, has been for decades and continues to be a compatible activity on the 600,000 acre Kisatchie National Forest. But, ironically, the Regional Forester does not prohibit the use of dogs for hunting raccoon, squirrel, rabbit, and game birds. According to Communication with the Forest Service, 7 Southern States allow hunting on National Forests within their borders: Alabama, Arkansas, Florida, Mississippi, North Carolina, South Carolina and Louisiana. However, this is the first time the Forest Service has issued a ban on dog-deer hunting within a specific State. According to the Forest Service itself (EA 50-52), they indicate that revenue generated on dog-deer hunting (including expenses to care for the dogs) contributes to between approximately 18 to 29 direct jobs, and results in roughly \$890,000 and \$1.4 million of income. By their own assessment, it is likely that some economic benefits will be lost, depending on whether dog-deer hunters leave the area to pursue their sport elsewhere. Now is not the time to kill jobs.

Bishop (D-NY): The amendment adds Title V to the legislation. Title V prohibits fishing for Atlantic Striped Bass in the Block Island Sound transit zone. This section does not limit the Secretary from establishing seasonal or temporary limits on fishing that are necessary for conservation and management purposes. The text of the amendment can be [viewed here](#).

Heinrich (D-NM): The amendment adds Title V to the legislation. Title V prohibits oil and gas development, mining, logging, or motorized activity on federal public land designated or managed as wilderness. The text of the amendment can be [viewed here](#).

Foxx (R-NC): The amendment adds Title V to the legislation. Title V invalidates national monuments designated by presidential proclamation until the Governor and the legislature of each state within the boundaries approve the designation. Additionally, the Secretary of the Interior may not implement any restrictions on the public use of a national monument until the expiration of an appropriate review period providing for public input. The text of the amendment can be [viewed here](#).

Administration Position: No Statement of Administration Policy is available.

Outside Support:

The following organizations support H.R. 4089:

American Sportfishing Association	National Shooting Sports Foundation
Archery Trade Association	National Trappers Association
Boone and Crockett Club	National Wild Turkey Federation
Bowhunting Preservation Alliance	North American Bear Foundation
Campfire Club of America	North American Grouse Partnership
Catch-A-Dream Foundation	Pheasants Forever
Center for Coastal Conservation	Pope and Young Club
Coastal Conservation Association	Quail Forever
Congressional Sportsmen's Foundation	Quality Deer Management Association
Conservation Force	Rocky Mountain Elk Foundation
Dallas Safari Club	Ruffed Grouse Society
Delta Waterfowl Foundation	Safari Club International
Ducks Unlimited	Shimano
Houston Safari Club	Texas Wildlife Association
International Game Fish Association	The Bass Federation
International Hunter Education Association	U.S. Sportsmen's Alliance
Masters of Foxhounds Association	Wild Sheep Foundation
Mule Deer Foundation	Wildlife Forever
National Rifle Association	Wildlife Management Institute

The following organizations support H.R. 2834 (which is Title I of H.R. 4089):

U.S. Sportsmen's Alliance	Congressional Sportsmen's Foundation
National Rifle Association	American Sportfishing Association
Safari Club International	

The following organizations support H.R. 2834 (which is Title II of H.R. 4089):

National Rifle Association	National Shooting Sports Foundation
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The following organizations support H.R. 991 (which is Title III of H.R. 4089):

Boone & Crockett Club	North American Bear Foundation
Campfire Club of America	North American Grouse Partnership
Congressional Sportsmen's Foundation	Pope & Young Club
Conservation Force	Quality Deer Management Association
Dallas Safari Club	Rocky Mountain Elk Foundation
Houston Safari Club	Ruffed Grouse Society
Mule Deer Foundation	Safari Club International
National Assembly of Sportsmen's Caucuses	Shikar Safari Club International
National Rifle Association	U.S. Sportsmen's Alliance
National Shooting Sports Foundation	Wild Sheep Foundation
National Trappers Association	Wildlife Management Institute

The following organizations support H.R. 1558 (which is Title IV of H.R. 4089):

American Fly Fishing Trade Association	Congressional Sportsmen's Foundation
Association of Fish and Wildlife Agencies	Conservation Force
American Sportfishing Association	Dallas Safari Club
Bear Trust International	Delta Waterfowl
Berkley Conservation Institute	Houston Safari Club
Boone & Crockett Club	Mule Deer Foundation
Campfire Club of America	National Assemble of Sportsmen's Caucuses
Catch-a-Dream Foundation	National Marine Manufacturers Association
Coastal Conservation Association	National Rifle Association

National Shooting Sports Foundation
National Trappers Association
OCEARCH
Pope and Young Club
Pure Fishing
Quality Deer Management Association
Rocky Mountain Elf Foundation
Ruffed Grouse Society
Safari Club International

Shimano
Texas Wildlife Association
Treat Lightly!
U.S. Sportsmen's Alliance
Wild Sheep Foundation
Wildlife Forever
Wildlife Management Institute
Whitetails Unlimited

Cost to Taxpayers: According to [House Report](#), CBO estimates that implementing Title II of “the legislation would cost \$12 million over the 2013-2016 period.”

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: According to [House Report](#), CBO estimates the “bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.”

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation contains no earmarks.

Constitutional Authority: Rep. Miller's states, “Congress has the power to enact this legislation pursuant to the following: Article IV, Section 3, Clause 2; Article I, Section 8, Clause 3.”

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