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118TH CONGRESS
1ST SESSION

H. R. 5133

To provide for the conservation of the Chesapeake Bay, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2023

Mr. WITTMAN (for himself, Mr. SARBANES, Ms. SPANBERGER, and Mr. SCOTT of Virginia) introduced the following bill; which was referred to the Committee on Agriculture

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A BILL

To provide for the conservation of the Chesapeake Bay, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Chesapeake Bay Conservation Acceleration Act of 2023''.

SEC. 2. CHESAPEAKE BAY STATES' PARTNERSHIP INITIATIVE.

Chapter 5 of subtitle D of title XII of the Food Security Act of 1985 is amended by inserting after section 1240O (16 U.S.C. 3939bb–2) the following:

"SEC. 1240Q. CHESAPEAKE BAY STATES' PARTNERSHIP INITIATIVE.

"(a) DEFINITION OF CHESAPEAKE BAY WATERSHED.—In this section, the term 'Chesapeake Bay watershed' means—

"(1) the Chesapeake Bay;

"(2) the portions of the States of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia that contain the tributaries, backwaters, and side channels, including their watersheds, that drain into the Chesapeake Bay; and

"(3) the District of Columbia.

"(b) ESTABLISHMENT AND PURPOSE.—The Secretary shall carry out a Chesapeake Bay States' Partnership Initiative (referred to in this section as the 'Initiative') to assist producers in implementing conservation activities on agricultural lands in the Chesapeake Bay watershed for the purposes of—

"(1) improving water quality and quantity in the Chesapeake Bay watershed;

"(2) restoring, enhancing, and preserving soil, air, and related resources in the Chesapeake Bay watershed; and

"(3) increasing the resilience of agricultural production in the Chesapeake Bay watershed to withstand the impacts of climate change.

''(c) CONSERVATION ACTIVITIES.—The Secretary shall deliver the funds made available to carry out this section through applicable programs under this subtitle, including by providing enrollment opportunities that are targeted to the Chesapeake Bay watershed, to assist producers in enhancing land and water resources—

''(1) by controlling erosion and reducing sediment and nutrient levels in ground and surface water; and

''(2) by planning, designing, implementing, and evaluating habitat conservation, restoration, and enhancement measures where there is significant ecological value if the land is—

''(A) retained in its current use; or

''(B) restored to its natural condition.

''(d) CONSIDERATIONS.—In delivering the funds made available to carry out this section, the Secretary shall give special consideration to applications—

''(1) submitted by producers in the most effective river basins for nutrient reduction; or

''(2) to carry out conservation activities that reduce nitrogen and sediment, improve management of livestock and waste, and conserve wetlands.

''(e) DUTIES OF THE SECRETARY.—In carrying out this section, the Secretary shall—

''(1) where available, use existing plans, models, and assessments to assist producers in implementing conservation activities; and

''(2) proceed expeditiously to deliver funding to a producer to implement conservation activities that are consistent with State strategies for the restoration of the Chesapeake Bay watershed.

''(f) CONSULTATION AND COORDINATION.—The Secretary shall—

''(1) in consultation with appropriate Federal agencies, ensure conservation activities carried out under this section complement Federal, State, and local programs, including programs that address water quality, in the Chesapeake Bay watershed; and

''(2) in carrying out this section, coordinate with the Farm Service Agency to identify needs and opportunities for buffer management on land subject to a contract under the conservation reserve program under subchapter B of chapter 1 that may be expiring soon.

''(g) TASK FORCE.—

''(1) IN GENERAL.—The Secretary and the Administrator of the Environmental Protection Agency shall jointly establish a Federal task force, to be

known as the 'Task Force on Crediting Chesapeake Bay Conservation Investments' (referred to in this subsection as the 'task force').

''(2) ACTION PLAN.—The task force shall develop an action plan that—

''(A) identifies improvements to the processes of analyzing, reporting, and quantifying nutrient reductions from conservation activities in the Chesapeake Bay watershed;

''(B) is responsive to the needs of States in the Chesapeake Bay watershed (including the District of Columbia) and the agricultural community;

''(C) maintains the scientific integrity of the decision-making process and accounting tools under the Chesapeake Bay Program (as defined in section 117(a) of the Federal Water Pollution Control Act (33 U.S.C. 1267(a))); and

''(D) ensures producer privacy is protected.

''(3) IDENTIFICATION OF OPPORTUNITIES.—The task force shall leverage findings from successful data sharing pilots to identify opportunities to integrate time-saving technologies for the implemen-

tation of conservation activities in the Chesapeake Bay watershed.

''(h) FUNDING.—Of the funds made available by section 1241(a) of this Act or section 21001(a) of Public Law 117–169 (136 Stat. 2015), the Secretary shall use to carry out this section $75,000,000 for each of fiscal years 2024 through 2027, to remain available until expended.''.

SEC. 3. CONSERVATION RESERVE ENHANCEMENT PROGRAM PARTICIPATION.

(a) CONSERVATION RESERVE.—

(1) ELIGIBLE LAND.—Section 1231(b) of the Food Security Act of 1985 (16 U.S.C. 3831(b)) is amended—

(A) in paragraph (6)(B)(ii), by striking ''or'' at the end;

(B) in paragraph (7)(C), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(8) cropland, marginal pastureland, grasslands, and other rural land that will—

''(A) have a positive impact on water quality in furtherance of the goals of the Conservation Reserve Enhancement Program established by the Secretary under section 1231A; and

''(B) be devoted to a riparian buffer.''.

(2) CONSERVATION RESERVE ENHANCEMENT PROGRAM.—Section 1231A of the Food Security Act of 1985 (16 U.S.C. 3831a) is amended—

(A) in subsection (b)(3), by adding at the end the following:

"(C) UPDATES TO EXISTING AGREEMENTS.—

"(i) IN GENERAL.—The Secretary shall provide an option to signatories to an agreement under this subsection to update the agreement, without renegotiating other provisions of the agreement, to include new incentives made available under this subchapter beginning on January 1, 2018, such as riparian forest buffer management payments.

"(ii) MATCHING FUNDS.—Requirements for matching funds described in paragraph (2)(B) shall not apply to the updates to an agreement described clause (i).

"(D) AMENDMENTS TO AN AGREEMENT.—

"(i) IN GENERAL.—In the case of an amendment to an agreement under this

subsection, including an addendum to an agreement, the Secretary shall—

''(I) streamline the amendment process relating to time-sensitive national priorities, including the Chesapeake Bay total maximum daily load; and

''(II) give priority to simple amendments to update existing agreements in accordance with subparagraph (C).

''(ii) SIMPLE AMENDMENTS.—A simple amendment of an agreement under this subsection shall not constitute a renegotiation of the agreement.''.

(3) PAYMENTS.—Section 1234 of the Food Security Act of 1985 (16 U.S.C. 3834) is amended—

(A) in subsection (b)(4)—

(i) by striking ''In addition'' and inserting the following:

''(A) IN GENERAL.—In addition''; and

(ii) by adding at the end the following:

''(B) MINIMUM PAYMENT FOR CERTAIN CONTRACTS.—In the case of a contract updated

under section 1231A(b)(3)(C), the incentive payment under subparagraph (A) shall be in an amount that is not less than 40 percent of the actual costs described in that subparagraph.''; and

(B) in subsection (g)(1), by striking ''$50,000'' and inserting ''$100,000''.

(b) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—

(1) CONSERVATION INCENTIVE CONTRACTS.—Section 1240B(j)(2)(C) of the Food Security Act of 1985 (16 U.S.C. 3839aa–2(j)(2)(C)) is amended—

(A) in clause (i), by striking ''and'' at the end;

(B) in clause (ii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(iii) consider participation in the conservation reserve program and the conservation reserve enhancement program under subchapter B of chapter 1, and practices under those programs, such as riparian buffers, in prioritizing grazing practices under the program established by this subchapter with respect to the efficient im-

plementation of grazing systems to holistically address resource concerns.''.

(2) EVALUATION OF APPLICATIONS.—Section 1240C(b) of the Food Security Act of 1985 (16 U.S.C. 3839aa–3(b)) is amended—

(A) in paragraph (3), by striking ''and'' at the end;

(B) in paragraph (4), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(5) that would include grazing practices under the program established by this subchapter, in consideration of participation in the conservation reserve program and the conservation reserve enhancement program under subchapter B of chapter 1, and practices under those programs, such as riparian buffers, with respect to the efficient implementation of grazing systems to holistically address resource concerns.''.

SEC. 4. CHESAPEAKE BAY WATERSHED TURNKEY PILOT PROGRAM.

Section 1231C of the Food Security Act of 1985 (16 U.S.C. 3831c) is amended by adding at the end the following:

"(c) CHESAPEAKE BAY WATERSHED TURNKEY PILOT PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) CREP DEFINITIONS.—The terms 'CREP', 'eligible land', and 'management' have the meanings given those terms in section 1231A(a).

"(B) ELIGIBLE PRACTICE.—The term 'eligible practice' means a forested riparian buffer practice under a CREP and any associated activities, including—

"(i) a stream crossing;

"(ii) fencing and alternate water systems;

"(iii) herbicide applications; and

"(iv) any other activity that is appropriate to establish the practice.

"(C) TECHNICAL SERVICE PROVIDER.—The term 'technical service provider' means a third-party provider with which the Secretary enters into an agreement described in paragraph (5)(A).

"(2) ESTABLISHMENT.—The Secretary shall establish a pilot program under which the Secretary shall provide, for voluntary owners and operators,

establishment and management of eligible practices on eligible land located in the Chesapeake Bay watershed that is enrolled through a CREP.

''(3) DUTIES OF THE SECRETARY.—With respect to eligible land enrolled through the pilot program under this subsection, the Secretary shall—

''(A) provide, for an owner or operator, establishment and management of an eligible practice on the eligible land, which may be provided by a technical service provider pursuant to an agreement under paragraph (5); and

''(B) not require the owner or operator—

''(i) to pay any costs of the establishment or management of the eligible practice, including any compensation provided under paragraph (5)(C); or

''(ii) to submit to the Secretary any additional paperwork with respect to the pilot program under this subsection.

''(4) DUTIES OF OWNERS AND OPERATORS.—With respect to eligible land enrolled through the pilot program under this subsection, an owner or operator of the eligible land—

''(A) shall provide to the Secretary and any technical service providers, as applicable,

access to the eligible land for purposes of the establishment or management of the eligible practice; and

"(B) may not receive any cost-share payment, practice incentive payment, or management payment under this subchapter with respect to the eligible practice.

"(5) AGREEMENTS WITH TECHNICAL SERVICE PROVIDERS.—

"(A) IN GENERAL.—The Secretary may enter into an agreement under section 1242 with 1 or more third-party providers certified under that section, including those certified through a streamlined certification process under subsection (e)(5) of that section, and that provide technical assistance under this title in the Chesapeake Bay watershed to conduct the establishment and management of an eligible practice on eligible land under the pilot program under this subsection.

"(B) ACTIVITIES.—In addition to any activity that a technical service provider may conduct pursuant to section 1242 relating to the establishment of an eligible practice, a technical service provider may carry out such activities as

are necessary to conduct the establishment and management of an eligible practice.

''(C) COMPENSATION.—Under an agreement entered into under subparagraph (A), the Secretary shall provide to a technical service provider reasonable compensation for services provided under the agreement, including administrative, technical assistance, design, and installation costs.

''(6) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report describing the status of, and any activities carried out under, the pilot program under this subsection.''.

SEC. 5. CHESAPEAKE BAY WATERSHED WORKFORCE DEVELOPMENT.

(a) GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.—Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''other colleges and universities'' and inserting ''other institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001))''; and

(B) in paragraph (3), by striking ''food and agricultural sciences teaching programs, or teaching programs emphasizing'' and inserting ''teaching programs, including paid work-based learning (as defined in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302)), for food and agricultural sciences or'';

(2) in subsection (c)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) applications for teaching enhancement projects, including paid work-based learning (as defined in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302)), that address a need for additional trained profes-

sionals in food and agricultural sciences or rural economic, community, and business development.''; and

(3) in subsection (m)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) $60,000,000 for each of fiscal years 2024 through 2033.''.

(b) EXPERIENCED SERVICES PROGRAM.—Section 1252(a)(2) of the Food Security Act of 1985 (16 U.S.C. 3851(a)(2)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(F) assisting cooperative initiatives under section 1417(b)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(b)(3)) to improve higher education teaching programs, including paid work-based learning (as defined in section 3 of the Carl D. Perkins Career and Technical Edu-

cation Act of 2006 (20 U.S.C. 2302)), at institutions of higher education.''.

SEC. 6. PRIMARY REGULATORY OVERSIGHT FOR DOMESTIC, WILD-CAUGHT, INVASIVE CATFISH.

(a) EXEMPTION OF DOMESTIC, WILD-CAUGHT, INVASIVE CATFISH FROM USDA OVERSIGHT.—

(1) FOOD SAFETY AND INSPECTION SERVICE.—Section 1(w)(2) of the Federal Meat Inspection Act (21 U.S.C. 601(w)(2)) is amended by inserting '', except for domestic, wild-caught blue catfish (Ictalurus furcatus) and flathead catfish (Pylodictis olivaris) invasive to the Chesapeake Bay ecosystem'' after ''Siluriformes''.

(2) USDA GRADING PROGRAM.—Section 203(n)(1) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(n)(1)) is amended by inserting '', except for domestic, wild-caught blue catfish (Ictalurus furcatus) and flathead catfish (Pylodictis olivaris) invasive to the Chesapeake Bay ecosystem'' after ''Siluriformes''.

(b) INTERAGENCY COORDINATION.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture (referred to in this section as the ''Secretary'') shall execute a memorandum of understanding with the Commissioner of Food and Drugs (re-

ferred to in this section as the ''Commissioner'') for the purpose of transferring primary regulatory oversight of the domestic and import inspection of domestic, wild-caught blue catfish (Ictalurus furcatus) and flathead catfish (Pylodictis olivaris) invasive to the Chesapeake Bay ecosystem from the Secretary to the Commissioner, pursuant to the authorities of the Commissioner under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.), and the Public Health Service Act (42 U.S.C. 201 et seq.).

(c) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Commissioner, shall issue final regulations to carry out this Act and the amendments made by this Act, as applicable, in a manner that ensures that there is no duplication in inspection activities relating to domestic, wild-caught blue catfish (Ictalurus furcatus) and flathead catfish (Pylodictis olivaris) invasive to the Chesapeake Bay ecosystem.

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