

Subcommittee on Water, Power and Oceans  
Doug Lamborn, Chairman  
Hearing Memorandum

September 22, 2017

To: All Subcommittee on Water, Power and Oceans Members

From: Majority Staff, Subcommittee on Water, Power and Oceans (x58331)

Hearing: **Legislative hearing on Discussion Draft of H.R. \_\_\_\_ (Rep. Jared Huffman, D-CA), To amend the Magnuson-Stevens Fishery Conservation and Management Act, and for other purposes.**  
**September 26, 2017 at 10:00 AM; 1334 Longworth HOB**

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**Discussion Draft of H.R. \_\_\_\_ (Rep. Jared Huffman) “Strengthening Fishing Communities through Improving Science, Increasing Flexibility, and Modernizing Fisheries Management Act”**

**Summary of the Bill**

This discussion draft – which is an alternative to Congressman Don Young’s H.R. 200 – would reauthorize the Magnuson-Stevens Fishery Conservation and Management Act (MSA) while making changes to authorities granted to federal fisheries managers.

This hearing will also include consideration of three other bills.

**Invited Witnesses (in alphabetical order)**

*Mr. Chris Blankenship*  
Commissioner  
Alabama Department of Conservation and Natural Resources  
Montgomery, Alabama

*Ms. Susan Boggs*  
Co-Owner, Reel Surprise Charter Fishing  
Orange Beach, Alabama

*Mr. Chris Macaluso*  
Director, Center for Marine Fisheries  
Theodore Roosevelt Conservation Partnership  
Baton Rouge, Louisiana

*Mr. Ben Martens*  
Executive Director  
Maine Coast Fishermen’s Association  
Brunswick, Maine

*Mr. Mike Merrifield*  
Southeastern Fisheries Association  
Tallahassee, Florida

*The Honorable Jonathan Mitchell*  
Mayor, City of New Bedford  
New Bedford, Massachusetts

*The Honorable Wilbur Ross (Invited)*  
Secretary, U.S. Department of Commerce  
Washington, DC

## **Background**

In 2015, commercial and recreational saltwater fisheries supported 1.6 million U.S. jobs.<sup>1</sup> Commercial and recreational fisheries combined generated upwards of \$208 billion in sales impact, and nearly \$97 billion in value-added impacts to the U.S. economy.<sup>2</sup>

The Magnuson-Stevens Fishery and Conservation Management Act, commonly referred to as the “Magnuson-Stevens Act,” or “MSA,” was enacted in 1976 and since then, has been the primary law governing fisheries resources and fishing activities in federal waters. The Secretary, working through the National Oceanic and Atmospheric Administration (NOAA), enforces the MSA.

The original MSA created eight Councils charged with implementing the goals of MSA, in coordination with NOAA.<sup>3</sup> This process of managing fisheries is accomplished through Council-based Fisheries Management Plans (FMPs) for each fishery. FMPs require scientific stock assessments of the fishery. Following the Council’s development of an FMP, the Council forwards the plan to the Commerce Secretary for approval. If the plan is approved, the National Marine Fisheries Service (NMFS) within NOAA must then issue regulations to implement a plan.<sup>4</sup>

Congress reauthorized MSA in 1996<sup>5</sup> and 2006.<sup>6</sup> According to some, NOAA added layers of precaution in its implementation of the 2006 amendments with regard both to scientific and management uncertainty.<sup>7</sup> In a July 2017 hearing, the Subcommittee on Water, Power and Oceans (Subcommittee) explored the successes and challenges of implementing MSA since the 2006 amendments. Mr. Nick Wiley, Executive Director of the Florida Fish and Wildlife Conservation Commission, testified that “The requirements to manage fisheries under strict annual catch limits, the overly prescriptive constraints for stock rebuilding plans, and general inflexibility within the current version of the law have hindered management of fish stocks in the

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<sup>1</sup> [Department of Commerce: Fisheries Economics of the United States 2015, May 2017, p.6](#)

<sup>2</sup> [Id at 2, p.6](#)

<sup>3</sup> <http://www.nmfs.noaa.gov/sfa/management/councils/>

<sup>4</sup> <http://www.fisherycouncils.org/>

<sup>5</sup> [U.S. P.L. 104-297](#)

<sup>6</sup> [U.S. P.L. 109-479](#)

<sup>7</sup> [Testimony of Mr. Richard Robins, Jr. before the House Committee on Natural Resources, September 11, 2013.](#)

South Atlantic and Gulf of Mexico. This inflexibility has fostered a serious erosion of public confidence, trust, and support for this fishery management system.”<sup>8</sup>

### **Cost**

The Congressional Budget Office (CBO) has not submitted a cost estimate for this bill.

### **Administration Position**

Unknown.

### **Major Provisions/Analysis of Discussion Draft of H.R. \_\_\_\_\_ (Rep. Jared Huffman (D-CA))**

#### *Title I. MSA Amendments and Reauthorization*

Title one includes five sections that primarily amend the “definitions” and “findings and purpose” sections of MSA. Additionally, this title reauthorizes appropriations for MSA through Fiscal Year 2022. Though unlike H.R. 200, this discussion draft allows the authorization to increase with the Consumer Price Index.<sup>9</sup>

#### *Title II. Fisheries Management Flexibility and Modernization*

Title two includes a number of provisions derived from H.R. 200 (Rep. Don Young). This title grants the Secretary to use limited alternative management measures though, unlike H.R. 200 and H.R. 2023, this discussion draft still ties those alternative measures to an overarching Annual Catch Limit (ACL) requirement. This title also instructs the Councils to take into account fishing that occurs by non-U.S. vessels in non-U.S. waters when setting ACLs despite the fact that the Councils do not manage or monitor those foreign vessels.

This title also includes several provisions instructing the Councils to produce new or review existing plans aimed at habitat conservation and essential fish habitat designations. Essential fish habitat designations are often controversial and have been criticized for impacts far outside of impeding access. The Committee will likely hear some of those concerns at this hearing.<sup>10</sup>

#### *Title III. Healthy Fisheries Through Better Science*

A majority of the provisions in the title direct the Secretary to conduct a series of reports – some including outside entities such as the National Academy of Sciences – to study fishery data use and collection in attempts to eventually improve the data used in fishery management decisions. Specific to state-based data, this title instructs the Secretary to partner with states to develop best practices for fishery data collection. Additionally, this title instructs the Secretary to

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<sup>8</sup> [Testimony of Mr. Nick Wiley before the House Committee on Natural Resources, July 19, 2017](#)

<sup>9</sup> [Discussion Draft of H.R. \\_\\_\\_\\_\\_ \(Rep. Jared Huffman\), Title I](#)

<sup>10</sup> [Discussion Draft of H.R. \\_\\_\\_\\_\\_ \(Rep. Jared Huffman\), Title II](#)

work with the Gulf states, the Gulf Council and recreational anglers to develop and implement improved real-time data and reporting.

Finally, this title instructs the Secretary of Commerce and the Secretary of the Interior to enter into a cooperative agreement where, in the Gulf of Mexico, the Bureau of Ocean Energy Management (Bureau) would fund – or help fund – red snapper stock assessments that have been determined to be “necessitated by any action by the Bureau with respect to offshore oil rigs...”<sup>11</sup>

#### *Title IV. Strengthening Fishing Communities*

Title four, similar to language in H.R. 200, sets timelines for the Secretary to act on federal fishery disaster requests from Governors while also instructing the Secretary to conduct and publish an estimation of cost of recovery from any fishery disaster that has been designated.

This title also makes a series of amendments aimed at increasing participation in federal and international fisheries management by the U.S. territories in the Pacific.<sup>12</sup>

#### **Effect on Current Law (Ramseyer)**

See the bill’s effect on current law [here](#).

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<sup>11</sup> [Discussion Draft of H.R. \\_\\_\\_\\_\\_ \(Rep. Jared Huffman\), Title III](#)

<sup>12</sup> [Discussion Draft of H.R. \\_\\_\\_\\_\\_ \(Rep. Jared Huffman\), Title IV](#)