

# 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 H.R. 2023 (Rep Garret Graves, R-LA), To modernize recreational fisheries management.**  
**September 26, 2017 at 10:00 AM; 1334 Longworth HOB**

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**H.R. 2023 (Rep. Garret Graves), “Modernizing Recreational Fisheries Management Act of 2017”**

## **Summary of the Bill**

H.R. 2023 amends the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to make a series of changes to the way the Secretary of Commerce (Secretary) implements federal fisheries management specific to recreational fishing. Specifically, the bill looks to increase access for recreational anglers in federal waters, improves federal data collection by emphasizing the inclusion of state gathered data, and allows federal fisheries managers to use alternative measures to implement recreational fishing regulations. This bill allows the Secretary to move away from a “one-size-fits-all” approach to federal fisheries management and toward the use of different management approaches that may be more appropriate for different fishing sectors.

This hearing will also include consideration of three other bills.

## **Cosponsors**

Reps. Abraham (R-LA), Brian Babin (R-TX), Joe Barton (R-TX), Ted Budd (R-NC), Buddy Carter (R-GA), Jeff Duncan (R-SC), Blake Farenthold (R-TX), Drew Ferguson (R-GA), Gene Green (D-TX), Andy Harris (R-MD), Jody Hice (R-GA), Clay Higgins (R-LA), Bill Huizenga (R-MI), Billy Long (R-MO), Pete Olson (R-TX), Steven Palazzo (R-MS), Austin Scott (R-GA), Fred Upton (R-MI), Marc Veasey (D-TX), Daniel Webster (R-FL), Robert Wittman (R-VA).

## **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**

According to the American Sportfishing Association (ASA), roughly 11 million saltwater recreational anglers support approximately 455,000 U.S. jobs, with an annual economic impact of \$70 billion to the U.S. economy.<sup>1</sup> Furthermore, according to NOAA, saltwater anglers took approximately 61 million fishing trips in 2015 alone.<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

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<sup>1</sup> [American Sportfishing Association: The Modernizing Recreational Fisheries Management Act of 2017 fact sheet](#)

<sup>2</sup> [The Department of Commerce: Fisheries Economics of the United States 2015, May 2017, p. 12](#)

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

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>

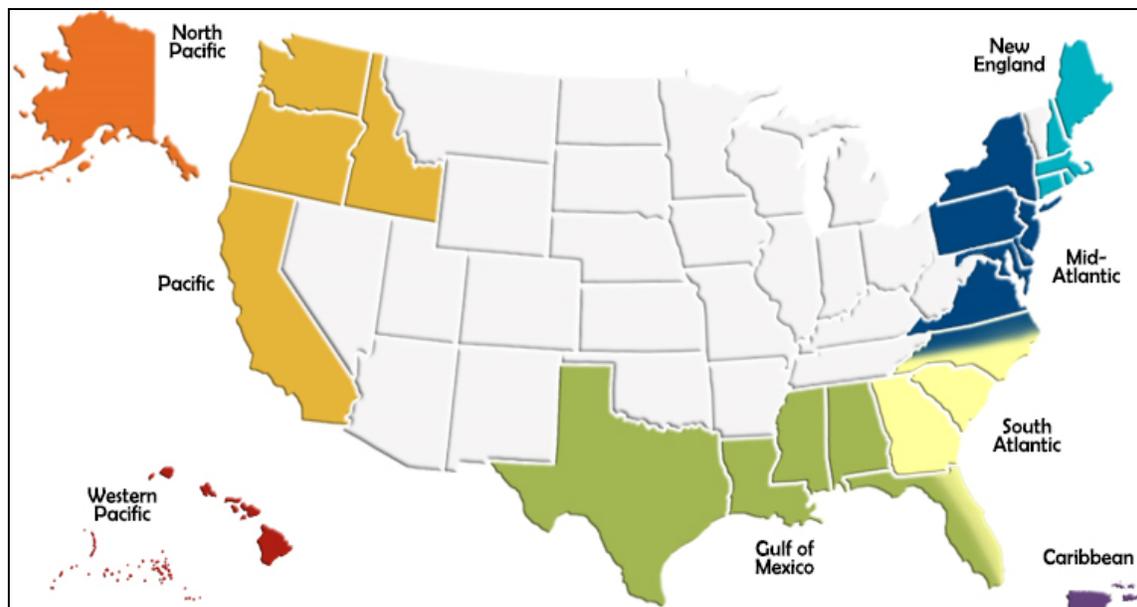


Figure 1: The eight Fishery Management Councils established by MSA.

Source: NOAA Fisheries

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

Much of the criticism regarding the rigid, inflexible way that MSA is implemented stem from recreational anglers. According to David Cresson, Executive Director of the Coastal Conservation Association of Louisiana, recreational anglers “simply want a system of management that provides appropriate access to the resource and nowhere is such a system more lacking than in Gulf of Mexico red snapper.”<sup>9</sup> According to a report released by the American Sportfishing Association, the recreational red snapper fishery alone supported upwards of 2,600

<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.](#)

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

<sup>9</sup> [Testimony of David Cresson, Executive Director of the Coastal Conservation Association of Louisiana, to the House Committee on Natural Resources, October 22, 2015](#)

jobs and generated \$395 million in economic output in the Gulf region in 2011.<sup>10</sup> However, the lack of real-time data and use of state-generated data has led many to believe that federal government is under-counting this fishery resource.<sup>11</sup> The result has been a significantly reduced number of recreational fishing days in federal waters. As an example, over the ten-year period from 2006-2016 recreational days to catch red snapper in federal waters in the Gulf went from 193<sup>12</sup> to eleven.<sup>13</sup>

Furthermore, in May 2017, NOAA announced that recreational anglers would have a 3-day season to catch red snapper in federal waters in the Gulf in 2017.<sup>14</sup> Three days would be the shortest red snapper season on record.<sup>15</sup> In June 2017, Secretary of Commerce, Wilbur Ross took emergency action to extend the recreational season in federal waters to 39 total days, and, as part of this agreement, the five Gulf States agreed to abide by this 39-day season in state waters through September 4.<sup>16</sup> This is the first time in over a decade that the state and federal seasons have been in alignment.<sup>17</sup> While the extension provides immediate relief for private anglers, it does not solve the systemic problems plaguing management of many recreational fisheries.

H.R. 2023 is a bipartisan bill that looks to address those systematic problems to recreational fisheries management and is a direct result of access issues such as those in the Gulf. This bill gives regional fishery managers and the Secretary the tools to tailor management measures to specific fisheries while underscoring the use of sound science.

### **Cost**

The Congressional Budget Office has not conducted a cost estimate for H.R. 2023.

### **Administration Position**

Unknown.

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<sup>10</sup> American Sportfishing Association: *The Economic Gains from Reallocating Specific Saltwater Fisheries*. May 12, 2015.

<sup>11</sup> Garret Graves, Randy Weber, Bradley Byrne, Steven Palazzo, Daniel Webster, Clay Higgins, John Carter, Mike Johnson letter to Secretary Wilbur Ross, March 21, 2017

<sup>12</sup> Gulf of Mexico Fishery Management Council: *The History of Recreational Red Snapper Management*. February 16, 2012.

<sup>13</sup> 81 FR 38110. June 13, 2016.

<sup>14</sup> [http://sero.nmfs.noaa.gov/fishery\\_bulletins/2017/023/FB17-023index.html](http://sero.nmfs.noaa.gov/fishery_bulletins/2017/023/FB17-023index.html)

<sup>15</sup> [http://www.al.com/news/mobile/index.ssf/2017/05/shortest\\_ever\\_federal\\_snapper.html](http://www.al.com/news/mobile/index.ssf/2017/05/shortest_ever_federal_snapper.html)

<sup>16</sup> <https://www.commerce.gov/news/press-releases/2017/06/departments-commerce-announces-changes-2017-gulf-mexico-red-snapper>

<sup>17</sup> [http://www.al.com/news/mobile/index.ssf/2017/05/shortest\\_ever\\_federal\\_snapper.html](http://www.al.com/news/mobile/index.ssf/2017/05/shortest_ever_federal_snapper.html)

## **Major Provisions/Analysis of H.R. 2023**

### *Section 101. Process for Allocation Review for the South Atlantic and Gulf of Mexico Mixed-Use Fisheries*

Section 101 instructs the Secretary of Commerce to enter into an agreement with the National Academy of Sciences (NAS) to conduct a study of the South Atlantic and Gulf of Mexico mixed-use fisheries. Specifically, this study would examine the allocation of harvestable quota for each sector of a given fishery. The Secretary and NAS would then provide guidance to the South Atlantic and Gulf of Mexico Fishery Management Councils on the findings of the study.<sup>18</sup>

### *Section 102. Alternative Fishery Management*

This section gives NOAA the authority to implement alternative management approaches that may be more suitable to the nature of recreational fishing while adhering to the conservation principles of MSA. Currently, NOAA manages recreational fisheries the same way as commercial fisheries – by setting a poundage-based quota at or near maximum sustainable yield and attempting to enforce it in real time. While this may be an ideal management strategy for commercial fishing, it has proven to be a less effective management tool for many saltwater recreational fisheries.<sup>19</sup>

### *Section 103. Moratorium on Limited Access Privilege Programs for Mixed-Use Fisheries*

This section simply places a moratorium on the development of any new limited access privilege programs for any mixed-use fisheries that fall within the jurisdiction of the South Atlantic and Gulf of Mexico fishery management councils.<sup>20</sup>

### *Section 104. Rebuilding Overfished and Depleted Fisheries*

This section aims to further improve fisheries science by basing fish stock rebuilding timeframes on such stock's biology rather than on an arbitrary, one-size-fits-all deadline. Section 104 affords the Secretary flexibility in setting rebuilding time frames by changing *possible* to *practicable* and offering a science-based alternative to arbitrary 10-year rebuilding timeframe. Proposed modifications would also afford statutory consistency with recent revisions to National Standard 1 Guidelines.<sup>21</sup>

### *Section 106. Exempted Fishing Permits*

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<sup>18</sup> [H.R. 2023, To modernize recreational fisheries management, introduced by Rep. Garret Graves \(R-LA\), 115<sup>th</sup> Congress, Section 101](#)

<sup>19</sup> [Id, Section 102](#)

<sup>20</sup> [Id, Section 103](#)

<sup>21</sup> [Id, Section 105](#)

Section 106 establishes specific criteria to evaluate exempted fishing permit applications and formalize an expanded review process that requires more transparency and greater regional stakeholder input on the merits of each permit application.<sup>22</sup>

#### *Section 201. Cooperative Data Collection*

This section requires the Secretary, in consultation with the science and statistical committees of the Councils, to submit a report to Congress on facilitating greater incorporation of data, analysis, stock assessments, and surveys from state agencies and nongovernmental sources such as fishermen, fishing communities and research institutions. Cooperative data collection will help improve the accuracy of fish stock information and data collection and analysis by incorporating data collected by fishermen themselves into fisheries management decisions.<sup>23</sup>

#### *Section 202. Recreational Data Collection*

Using existing federal funds from the Marine Recreational Information Program (MRIP), this section provides additional support to state programs to improve fisheries harvest data. MRIP – the federal program that estimates angler harvest – can provide baseline trends in fishing effort. But, for many offshore fisheries, MRIP does not provide data at the level of accuracy or timeliness needed for in-season management. By contrast, many coastal states have developed complimentary angler harvest data collection systems to provide real-time and better harvest data.<sup>24</sup>

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

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

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<sup>22</sup> [Id, Section 106](#)

<sup>23</sup> [Id, Section 201](#)

<sup>24</sup> [Id, Section 202](#)