

**WRITTEN TESTIMONY BY**  
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**U.S. DEPARTMENT OF COMMERCE**

**LEGISLATIVE HEARING**  
**BEFORE THE**

**COMMITTEE ON NATURAL RESOURCES**  
**SUBCOMMITTEE ON WATER, OCEANS, AND WILDLIFE**  
**U.S. HOUSE OF REPRESENTATIVES**

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Chairman Huffman, Ranking Member Bentz, and Members of the Subcommittee, thank you for the opportunity to testify today regarding several fisheries-related bills. My name is Janet Coit, and I am the Assistant Administrator for the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) and Acting Assistant Secretary for Oceans and Atmosphere and Deputy NOAA Administrator. As you know, NOAA is responsible for the stewardship of the nation's ocean resources and their habitats. We provide vital services for the nation, all backed by sound science and with continual progress toward ecosystem-based approaches to management. These services include: productive and sustainable fisheries, safe sources of seafood, recovery and conservation of protected resources, and healthy ecosystems.

Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), U.S. fisheries are among the world's largest and most sustainable. As you know, I am only a few months into the job and still learning all the intricate details of this seminal fisheries statute. It is a privilege to join NMFS to work with the agency's incredibly skilled and dedicated employees and the regional fishery management councils (councils) to build on the many fishery management successes achieved under the Magnuson-Stevens Act. I appreciate the Subcommittee's ongoing work developing and overseeing the implementation of our nation's laws related to domestic and international fisheries and other marine resources. I look forward to working with you on these important issues and discussing these bills with you today.

The bills I am testifying on are a result of significant input from councils, fishermen, and other stakeholders and present thoughtful approaches to our fishery management challenges. In particular, I wish to applaud Chairman Huffman and Representative Case for the inclusive, stakeholder-driven process used to develop the *Sustaining America's Fisheries for the Future Act*

of 2021. During your eight listening sessions around the country, NMFS leadership, council members, and diverse stakeholder groups had the opportunity to share viewpoints on how the Magnuson-Stevens Act is working and areas for improvement. This substantial bill is the culmination of that comprehensive effort and the feedback you received following your release of a discussion draft in December 2020. Similarly, I applaud Representative Young for his long-standing commitment to the success of American fisheries, including his sponsorship of the original Act, previous reauthorizations, and H.R. 59.

### **Introduction**

The most important message I hope to communicate today is that the dynamic science-based management process under the Magnuson-Stevens Act provides the nation with a very successful fisheries management construct. The unique, highly participatory management structure centered on the regional fishery management council system encourages a collaborative, “bottom up” process where fishermen, other fishery stakeholders, affected states, Tribal governments, and the Federal Government all provide input and influence decisions about how to manage U.S. fisheries under the law. In partnership with the councils, interstate fishery commissions, and our stakeholders, and guided by the Magnuson-Stevens Act, the agency has essentially ended overfishing in U.S. waters and is rebuilding domestic fish stocks. As of December 31, 2020, 92 percent of stocks for which we have assessments are not subject to overfishing and 80 percent are not overfished.<sup>1</sup> We have also rebuilt 47 stocks since 2000.

Sustainable fisheries increase the value of U.S. fisheries to the economy, support fishing communities, and maintain healthy marine ecosystems. In 2018, commercial and recreational fishing supported 1.7 million jobs and \$238 billion in sales in fishing and across the broader economy.<sup>2</sup> Saltwater recreational fishing remains a key contributor to the national economy with anglers taking more than 187 million trips in 2019. In the same year, commercial fisheries landed 9.3 billion pounds of seafood providing a valuable source of local, sustainable, and healthy food.<sup>3</sup> Recreational and subsistence fishing provides food for many individuals, families, and communities; is an important outdoor family activity; and is a critical local and regional economic driver. Subsistence and ceremonial fishing also provides an essential food source and has deep cultural significance for indigenous peoples in the Pacific Islands and Alaska and for many tribes on the West Coast.

Under the Magnuson-Stevens Act, the U.S. has many effective tools to apply in marine fisheries management. Yet, we must continue seeking opportunities to improve our management system. NMFS supports many of the goals of the bills we are discussing today and appreciates the

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<sup>1</sup> See Status of the Stocks 2016. NMFS Office of Sustainable Fisheries, available at: <https://www.fisheries.noaa.gov/national/sustainable-fisheries/status-stocks-2020>

<sup>2</sup> See Fisheries Economics of the U.S. 2018. NMFS Office of Science & Technology, at: <https://www.fisheries.noaa.gov/national/sustainable-fisheries/fisheries-economics-united-states>

<sup>3</sup> See Fisheries of the United States, 2019. NMFS Office of Science & Technology, available at: <https://media.fisheries.noaa.gov/2021-05/FUS2019-FINAL-webready-2.3.pdf?null=>

sponsors' and the Subcommittee's interest in advancing tools for effective fisheries management. We are committed to working with Congress to craft a reauthorization bill that ensures the Magnuson-Stevens Act continues to support sustainable fisheries and addresses the current and future management challenges facing some of our fisheries. H.R. 4690, the *Sustaining America's Fisheries for the Future of 2021* and H.R. 59, the *Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act*, include a number of provisions aimed at addressing such challenges.

The bills we are discussing today are extensive, and this testimony does not attempt to provide a comprehensive analysis or an official Administration position on them. Rather, these comments highlight some of the key areas that we support and some areas that may be challenging to implement.

### **Shared Objectives**

The following provisions address some fishery management challenges, advance tools for effective fisheries management, and support key Administration priorities. We welcome the opportunity to work with the Subcommittee and the bills' sponsors to ensure that the mandates accomplish their goals without creating unintended consequences.

### **Climate Change and Emerging Fishery Management Challenges**

We appreciate the overarching climate focus of H.R. 4690. The growing impacts of the global climate crisis and changing oceans affect nearly every aspect of NMFS's mission—from aquaculture, to conservation of protected marine resources and vital habitats, to fisheries management. Fisheries management must continue to adapt as our ocean ecosystem faces unprecedented changes due to climate change. Several provisions in H.R. 4690 will help address climate-related challenges for fisheries management. For example, Section 102 includes a requirement for the Secretary of Commerce (Secretary) to assess the vulnerability of fish stocks to climate change. This builds upon a successful program NMFS initiated to conduct vulnerability assessments of fish, protected species, habitats, and fishing communities. We have seven assessments completed or underway that provide information on which species may be most vulnerable to changing climate. In addition, we continue to advance our implementation of ecosystem-based fisheries management, such as through improved management of forage fish, incorporation of ecosystem data into the stock assessment process, and various habitat protections. Section 303 addresses the growing need for cross-council coordination as climate change modifies the geographic distribution and management needs for fish stocks. Collectively, this information helps scientists and decision-makers identify ways to reduce risks and impacts and is a key tool for councils as they manage fisheries in the face of changing climate and ocean ecosystems. The agency and councils are taking additional concrete steps to address climate change. One notable example is the Climate and Fisheries Initiative -- a cross-NOAA effort to build the operational ocean modeling and decision-support system needed to reduce impacts, increase resilience, and help marine resources and resource users adapt to changing ocean conditions. This initiative is a critical component of the President's Budget for Fiscal Year 2022.

We also appreciate that H.R. 4690 addresses other emerging challenges in fisheries management. Section 402 recognizes the importance of using technology to help improve and expand data collection for fisheries management, for example, by adding electronic monitoring as an option

under Fishery Management Plans in addition to human observers. Additionally, Section 409 recognizes the increasing challenges of conducting stock assessments and fisheries surveys with the growing demand for offshore wind energy, and requires the Departments of Commerce and the Interior to enter into a cooperative agreement to help mitigate potential disruption to current fisheries surveys. Provisions in Section 502 that clarify and strengthen the responsibilities of federal agencies to avoid, minimize, and mitigate adverse effects on essential fish habitat will also help ensure these important energy projects can go forward with full consideration of our vital fisheries and the ecosystems on which they depend. This is a priority for NMFS and the councils. In fact, in tandem with councils, fishing industry groups, and other partners, NMFS has implemented seven commercial fishery electronic monitoring programs and will have over 6,000 federally permitted vessels using electronic logbook systems by the end of this year, providing expanded data collection and improved catch monitoring to strengthen science-based management in U.S. fisheries.

### **Supporting Fishing Communities and Increasing Flexibility**

Successful fisheries management supports fishing communities and healthy ecosystems while allowing flexible fishery management approaches to meet regional needs. Several provisions in H.R. 4690 and H.R. 59 will benefit fishermen and fishing communities as they work to provide a valuable source of local, sustainable, and healthy food to our nation. For example, both bills would replace the default 10-year rebuilding timeline requirement with the new default maximum of “the time the stock would be rebuilt without fishing occurring plus one mean generation.” This provides a more scientifically sound approach for establishing rebuilding deadlines. Additionally, Section 303 of H.R. 59 amends the current requirement that rebuilding time periods be as short as “possible” to, as short as “practicable.” These changes would provide additional flexibility but not greatly lengthen rebuilding periods beyond the current requirement or jeopardize the long-term sustainability of our managed fish stocks.

Both H.R. 4690 and H.R. 59 replace the term “overfished” with “depleted” throughout the Magnuson-Stevens Act. We support this change in terminology, which helps clarify that population size can be influenced by many factors, such as habitat degradation, pollution, and climate change, in addition to fishing. These non-fishing factors can play a role in stock health and may affect a stock’s ability to rebuild. We also support Section 204 of H.R. 4690, which directs NOAA and the United States Department of Agriculture to collaborate on seafood outreach and marketing for both wild-caught and aquacultured species. This collaboration will benefit fishermen and fishing communities and will build on NMFS's efforts to promote U.S. seafood, particularly as we build back from the COVID-19 pandemic. In addition to direct marketing, we are exploring ways to collaborate more closely with other agencies and groups on the need to modernize seafood supply chains; develop economic, market, and trade analyses; and contribute to gathering and disseminating price and supply data.

Finally, Section 203 of H.R. 4690 amends the Coastal Zone Management Act (CZMA) in an effort to promote water-dependent commercial activities and waterfront access in coastal communities through the authorization of a new grant program and a new loan program. Working waterfronts can help preserve the cultural and historic value of coastal communities, support the New Blue Economy, and bolster coastal resilience in the face of mounting climate change impacts. The New Blue Economy is a knowledge-based economy, looking to the sea not

for extraction of material goods, but for data and information to address the societal challenges and to inspire their solutions. Under the existing CZMA, coastal states have the discretion to use funding for smaller-scale implementation of some of the purposes addressed by the Working Waterfronts Grant Program proposed in H.R. 4690. For example, many states use funds to redevelop, preserve, and promote public access to working waterfronts and for local waterfront planning and low-cost boardwalks, boat ramps, and public fishing piers.

### **Equity and Environmental Justice**

The need to create a more inclusive management system with meaningful engagement of underrepresented stakeholders and the next generation of fishermen has never been more prominent. I am heartened by several aspects of H.R. 4690, which support the Administration's equity and environmental justice goals, including those under Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* and Executive Order 14008 *Tackling the Climate Crisis at Home and Abroad*. For example, H.R. 4690 adds flexibility for the appointment of the Tribal seat on the Pacific Fishery Management Council and adds two seats to represent Alaskan Tribes on the North Pacific Fishery Management Council. These provisions, in addition to the inclusion of a definition for subsistence fishing in both bills, promote the participation of subsistence fishing communities into decision-making and address potential barriers to entry faced by underserved communities. NMFS is working diligently to support implementation of the Presidential directives and would similarly advance these bill provisions, including by engaging with the states, councils, and Tribes to increase diversity in the fisheries management process.

### **Sexual Assault/Sexual Harassment Prevention**

Ensuring employees, including council employees and individuals who work on behalf of the Administration, are free from sexual assault and sexual harassment is a top priority for me and the other members of the NMFS and NOAA leadership teams. We appreciate the Sexual Assault/Sexual Harassment provisions in section 307 of H.R. 4690, which build upon the many efforts undertaken at NOAA, including setting up a sexual assault and sexual harassment council and creating an office for workplace violence prevention and response. In particular, we support the bills expansion of sexual assault and sexual harassment policies to fishery observers and at-sea monitors, who are particularly vulnerable as they work aboard commercial fishing vessels, often in remote locations. Additional aspects of the bill such as requiring detailed reporting by the appropriate authorities, holding offenders accountable, and creating a culture of support for victims are vital in creating cultures and workplaces that are safe to carry out the important responsibilities of the agency on behalf of the American people.

### **Primary Challenges and Concerns**

Several provisions in H.R. 4690, the *Sustaining America's Fisheries for the Future Act of 2021* and H.R. 59, the *Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act*, raise concerns as outlined below.

### **Resource Implications**

Some of the provisions in H.R. 4690 and H.R. 59 change funding mechanisms or expand the scope and analytical requirements of management, research, and data collection efforts. Under

current resource constraints, these provisions could redirect funding and staff resources away from core, mission critical activities.

For example, Section 308 of H.R. 4690 would change the Saltonstall-Kennedy authorizing legislation, precluding appropriations from being transferred to support fisheries science and management activities. For decades, Congress has used the Promote and Develop Fisheries account from the Saltonstall-Kennedy Act to fund a large percentage of NMFS's core science functions. Therefore, these changes will impact our ability to conduct fundamental mission activities including fisheries data collections, surveys, assessments, and fisheries management responsibilities.

Additionally, the bills include new data requirements, which would have significant budget, administrative, and program impacts. For example, we support the climate change focus of Section 102 of H.R. 4690, but the data requirements for this section would impose new mandates and workload requirements that the agency cannot meet with existing resources. The 2022 President's Budget includes \$70 million in funding increases to boost climate-ready fisheries research, restore habitat to build climate resilience, and monitor climate-vulnerable species under the Endangered Species Act and Marine Mammal Protection Act. Given increased uncertainties about how climate will impact the productivity of fish stocks, in most cases the agency would not have the science capability to estimate a quantitative value Maximum Sustainable Yield (MSY), under prevailing and future conditions. We look forward to working with you to ensure we can achieve the goals of the section in a way that is attainable and effective.

In Section 503 of H.R. 4690, the Standardized Bycatch Reporting Program would establish a new standard for bycatch information that would substantially increase reporting and data collection requirements, require additional resources, and possibly require NMFS to refocus existing fishery observer program funding. Following an agency rule issued in 2017, council approaches to standardized bycatch reporting requirements are already becoming more consistent and transparent thereby strengthening their value and effectiveness. We will continue to work with the councils and in other arenas to reduce bycatch.

Finally, the scale and scope of some of the working waterfront objectives in Section 203 of H.R. 4690 are beyond what is envisioned and authorized under the existing CZMA and NOAA's core mission. Both the grant and loan programs go beyond NOAA's traditional range of science-based expertise. Additionally, offsetting funds from current CZMA programs for the new grant program would reduce current funding levels for coastal states and local governments that administer the full range of requirements for their NOAA-approved state coastal management programs. NOAA also has serious concerns regarding the implementation and management of a new direct loan program with complex requirements.

### **Reports, Short Timelines, and Implementation Concerns**

Accountability is an important aspect of effective fisheries management; however, additional reports and process requirements can be a strain on councils and our workforce and may not effectively address the challenges we face. H.R. 4690 and H.R. 59 include new provisions and requirements that would require extensive action by the Secretary, NMFS, and/or the councils. While these provisions may provide useful information, many carry short deadlines and add

significant new process requirements for the agency and councils. For example, H.R. 4690 requires over 20 new reports, several due annually. Similarly, H.R. 59 requires multiple new studies, reports, or plans within two years of enactment. H.R. 4690 also requires the Secretary to issue numerous guidance documents and implement new regulations within short deadlines. Fulfilling these mandates would significantly increase the workload of agency staff and compete with existing priorities and mandates. We would welcome your recommendations on how to ensure that reports already required could perhaps be modified to address the intent of the new reports requested in H.R. 4690 and H.R. 59.

### **Removing Flexibility, Impacts to Fishing Communities**

Allowing the councils to develop and tailor regional solutions to their specific challenges is a fundamental component of our successful fishery management system. Certain provisions in H.R. 4690 and H.R. 59 limit the flexibility of the councils to develop the most appropriate fishery management approach for their specific region or fishery. For example, H.R. 59 contains several provisions that limit the ability of councils to adopt particular actions, including allocation review schedules (Sections 202 and 206), effective and timely catch share programs (Section 205), and exempted fishing permits (Section 304). Other provisions in these bills could have significant impacts to our fishing communities. For example, Sections 502 and 503 of H.R. 4690 remove practicability clauses for minimizing bycatch and impacts to essential fish habitat. We strongly support the goal of reducing bycatch and ensuring healthy habitat for fish. However, this change would substantially reduce the ability of councils to tailor conservation and management measures commensurate with the specific needs of their region's fisheries and ecosystems.

### **Fishery Resource Disaster Relief**

I am committed to doing a better job at turning around funding in the wake of fishery disasters. We support the intent of these bills to create more predictability and speed in the decision-making process, and understand your concerns regarding the amount of time it takes to determine fishery disasters, currently defined as commercial fishery failures due to a fishery resource disaster in the Magnuson-Stevens Act. However, several provisions of H.R. 4690 and H.R. 59 would create significant challenges in delivering timely assistance that targets fishing communities affected by events that cause economic harm or commercial failure outside of the natural variability in fisheries.

One of the key issues with declaring fishery disasters is the need to distinguish these disaster events from the natural variability that occurs in fisheries. Since fisheries depend on the productivity of the environment, there are natural variations in the number of fish caught each year and in the revenue generated by the fishery. H.R. 4690 includes a provision that redefines the baseline for determining whether or not a fishery resource disaster occurs by allowing requesters to compare a disaster year with "good years" instead of the most recent five years. This provision will make it very difficult to distinguish disaster events from naturally occurring variability, will likely increase the number of requests and disaster determinations, and will make it likely for disasters to be declared in perpetuity for fisheries that are in long term decline. This could be especially problematic when climate change is the driving force behind the decline.

In addition, the "Exceptional Circumstances" provision in H.R. 4690 will actually limit the Secretary's discretion to move swiftly, particularly following significant events such as

hurricanes, when there is abundant qualitative information about the economic impacts but a shortage of quantitative data. To address Congress' timeline concerns, the agency is pursuing mechanisms to improve the quality of fishery disaster requests, streamline internal administrative processes, and enhance the economic and ecological sustainability of affected fisheries. These steps should increase the predictability of fishery disaster determinations, speed the issuance of relief, and better support the long term health of fishing communities.

### **Emerging Challenges**

Further, we would like to work with the Subcommittee and the bills' sponsors to address a few additional issues related to emerging challenges in fisheries conservation and management. For example, as our ocean ecosystems change, it is important to recognize the role of uncertainty in our science and management and allow flexible approaches, which still preserve the very successful fisheries management construct that has resulted in U.S. fisheries being among the world's largest and most sustainable. Scientific and data limitations make some of the requirements in these bills (and the current Magnuson-Stevens Act) difficult and in some cases scientifically infeasible. For example, due to data limitations, estimating biological reference points is already challenging in some cases. Today, even setting effective annual catch limits for species in coral reef ecosystems in the Pacific Islands and Caribbean regions presents significant challenges due to lack of data regarding stock status and fishing harvests. NMFS is exploring ways to improve data collection and apply science-based and innovative management mechanisms in ways that provide flexibility while also rebuilding fish stocks. Explicit acknowledgement of the management challenges for data-poor fisheries would be beneficial in the statute. Similarly, scientific uncertainties often change our expectations for meeting fishery management objectives including rebuilding stocks by specific deadlines. Scientific uncertainty comes from a variety of sources including lack of data, research, and sometimes an inability to account for environmental change, including ecosystem productivity and pollution. Some of these factors are outside the control of fishery managers but nonetheless, affect fish stocks. Explicit acknowledgement of these issues and flexibility in our management construct would be beneficial, while including safeguards to protect the effective management system currently in place, which has led to long-term conservation and sustainability of our nation's fishery resources. We face formidable challenges managing recovering stocks to benefit both commercial and recreational user groups with fundamentally different goals and objectives, and who are experiencing increased fish interactions due to the strong management measures that have improved historically overfished populations. Together with our partners, it is essential that we continue to explore innovative, science-based management approaches and regional management tools. We must remain dedicated to exploring ways to maximize economic opportunities from wild-caught fisheries for commercial and recreational fishermen, processors, and communities. The 2022 Budget helps address these challenges by requesting \$684.7 million for expanded NMFS efforts in these areas, an increase of \$47.4 million over 2021. These efforts would include increases to improving territorial fisheries science and management, workforce training to support the seafood industry, and expanding the community social vulnerability indicators toolbox to consider underserved communities.

### **Conclusion**

I am committed to executing our mission for sustainable fisheries management and tackling the tough challenges ahead, including addressing climate change and promoting environmental justice. NMFS is eager to work with you to promote resilience in our fisheries and fishing

communities. The participatory management structure through our regional fishery management councils forms the backbone of our successful management structure, and I hope the Magnuson-Stevens Act reauthorization efforts will continue to empower councils to meet the current needs of their fisheries, while ensuring sustainable, well-managed fisheries into the future. NMFS stands ready to work with the Congress on a reauthorization bill that addresses current fishery management challenges and ensures the Nation's fisheries are able to meet the needs of both current and future generations.