

H.R. 200 Threatens to Undo Decades of Progress

Congress enacted the Magnuson-Stevens Fisheries Conservation and Management Act (MSA) in 1976 to manage U.S. marine fisheries. Regional councils, composed primarily of fishery stakeholders and state representatives, make management decisions with the advice of independent scientific committees. The MSA's conservation provisions, which Congress strengthened in 1996 and 2006 on a bipartisan basis, have rebuilt many species and virtually ended overfishing in the United States to the benefit of the environment, fishing and tourism jobs, and American diners.

H.R. 200, introduced by Rep. Don Young (R-AK) in January 2017, was passed out of committee on a partisan vote. Even as revised, the bill poses numerous threats to sustainable fisheries management.

H.R. 200 Risks Overfishing and Imperils Rebuilding of Overfished Species

- Overfishing has been illegal since 1976, but only the 2007 requirement for annual catch limits (ACLs) truly ended the practice. Section 204 waives the requirement for ACLs for large numbers of species, including virtually all bycatch species and many fish that are caught in international waters, **significantly raising the risk of overfishing**. Section 204 would also freeze ACLs, regardless of whether scientists recommended lowering them, for certain stocks until a peer-reviewed stock survey and stock assessment are conducted and the results can be considered by the Council and its Science and Statistical Committee. While few stocks may meet all of the relevant criteria, the value of an exception to simply allowing the scientists to set ACLs is unclear.
- Despite significant flexibility already incorporated into the MSA, Section 303 establishes multiple exceptions to the rebuilding timeline requirements. Congress previously strengthened these statutory rebuilding timelines because many fish stocks were not being rebuilt and were at risk of continued overfishing. Without a statutory standard, rebuilding schedules could vary dramatically between species, **perpetuate depleted stock conditions** which would frustrate achievement of optimum yield, and increase the risk of overfishing.
- Prohibiting quantities of fish seized from foreign vessels illegally fishing in the U.S. EEZ from being considered when setting the total allowable catch (Section 209) would **disregard quantifiable levels of mortality** and increase the risk of overfishing. In the Gulf of Mexico alone, the U.S. Coast Guard estimates that more than 1,500,000 pounds of red snapper were poached by Mexican lanchas in 2013-2014.
- Prohibiting red snapper killed during oil rig removal from counting towards the total allowable catch (TAC) (Section 209) could **impede red snapper recovery** and increase the risk of overfishing.

H.R. 200 Would Impose Unnecessary Congressional Interference and Remove Local Control

- Fishery management councils identify priority issues, and mandating allocation reviews could choke them with endless bureaucracy. Section 202 requires the South Atlantic and Gulf

councils to conduct “an initial review of the allocations to the commercial fishing sector and the recreational fishing sector of **all** applicable fisheries” (emphasis added) within two years of enactment and every five years thereafter. These reviews would cover 28 stocks and six stock complexes, **tying up these already overextended councils** to a significant extent.

- Fishermen are deeply involved in the development of catch share programs, which often take years of deliberation with extensive public input. Councils can require referenda on these programs at their discretion under current law. Mandating additional referenda and specifying who should be allowed to vote in them is **unnecessarily intrusive** and creates undue hurdles to catch share development (Section 205). The specific requirements for a multispecies permit catch share referendum for the Gulf of Mexico further **constrains the Council’s discretion**, which already can strike appropriate balances between catch history and permits held.
- Rather than let fishermen in the regions choose their own form of management, Section 206 would temporarily ban a tool known as limited access privilege programs (LAPPs) for mixed-use fisheries in all Fishery Management Councils. This moratorium would apply until the National Academy of Sciences (NAS) conducts a study on these programs and submits a report to the Congress, which Section 206 requires to be completed within one year. The bill directs the NAS to study only potential negative effects of LAPPs and certain proposed changes to LAPP policies without including an analysis of the benefits of LAPPs. As currently drafted, it could create **an indefinite moratorium on the Councils’ ability to use this tool** if the NAS is unable to complete the study. Moreover, the study and moratorium contemplated here is duplicative of a NAS study to examine individual fishing quotas which Congress required in the 1996 MSA amendments, accompanied by a moratorium on LAPPs from 1996 until late 2002. The use of LAPPs for commercial fisheries has not caused any reduction in recreational fishing opportunities, so this provision will provide no improvements in recreational fisheries management. The best fishery management decisions are made at the regional level rather than in Washington, D.C., through Council processes that provide for public input, and all management tools should remain available.
- When fishermen want to try a new approach—such as using electronic monitoring rather than human observers—they often do so under an exempted fishing permit (EFP), which temporarily exempts them from certain regulations while the new approach is tested. Section 304 would **prohibit the issuance of EFPs to test catch shares** or LAPPs. It also establishes a suite of procedures that would make EFPs almost impossible to use for any purpose, creating **unnecessary hurdles to innovation** in fisheries management.

H.R. 200 Would Weaken the Scientific Basis for Fisheries Management Decisions

- While transparency in all aspects of Council work is important, Section 302 provides for a level of public involvement in the process through which the Science and Statistical Committees develop advice for the Councils that could **dilute the role of scientists** in the process and increase the politicization of SSCs.