

**WRITTEN STATEMENT FROM
NATIONAL MARINE FISHERIES SERVICE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE**

**ON THE
LEGISLATIVE HEARING ON H.R. 520, H.R. 5103, H.R. 5504, H.R. 2990, and H.R. 6008**

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

Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee, thank you for the opportunity to submit this written statement. The National Oceanic and Atmospheric Administration (NOAA) is responsible for the stewardship of the nation's living marine resources and their habitat. NOAA Fisheries provides vital services for the nation: sustainable and productive fisheries, safe sources of seafood, the recovery and conservation of protected species, and healthy ecosystems—all backed by sound science and an ecosystem-based approach to management. The resilience of our marine ecosystems and coastal communities depends on healthy marine species, including protected species such as whales, sea turtles, salmon, and corals.

H.R. 5504 and H.R. 6008

NOAA Fisheries is responsible for the conservation and recovery of more than 160 endangered and threatened marine and anadromous species under the Endangered Species Act (ESA). The goal of the ESA is to conserve and recover these species and the ecosystems upon which they depend. To implement the ESA, we rely on the best scientific and commercial data available. We work with international, Federal, Tribal, state, and local agencies, as well as nongovernmental organizations and private citizens. NOAA Fisheries and the U.S. Fish and Wildlife Service (U.S. FWS) share responsibility for implementing the ESA. NOAA Fisheries is responsible for most marine and anadromous species. U.S. FWS is responsible for terrestrial and freshwater species. The two agencies share jurisdiction for, and work cooperatively to recover, several species, such as sea turtles, Gulf sturgeon, and Atlantic salmon.

NOAA Fisheries partners with Federal agencies, states, and Federally recognized Tribes to advise and collaborate on activities that might impact endangered and threatened species, marine mammals, and important marine habitats. This work includes:

- Consulting with Federal agencies whose work may affect important fish habitats that are necessary for the spawning, breeding, feeding, and/or growth of healthy fish populations, and working to mitigate impacts.
- Consulting with Federal agencies to ensure that their activities are not likely to jeopardize the continued existence of endangered and threatened species or adversely modify or destroy their critical habitats.

- Working with Tribal governments on marine mammal management, conservation, and recovery, including co-management of subsistence use by Alaska Natives.
- Working with Federal agencies, states, and Tribal governments on the development of fishery management plans.
- Working with Federal agencies, states, and Tribal governments on hatchery activities and the development of hatchery and genetic management plans.
- Working with Federal agencies, states, and Tribal governments on scientific research permits.

Under Section 7(a)(1) of the ESA, Federal agencies are directed to implement programs for the conservation of threatened and endangered species. We assist these agencies with the development of conservation programs for marine species, and we work with Federal agencies, like the U.S. Army Corps of Engineers and the U.S. Forest Service, on training and opportunities to implement proactive conservation actions that will benefit ESA-listed species and their habitats. Under Section 7(a)(2), Federal agencies must consult with NOAA Fisheries when any project or action they take might affect an ESA-listed marine or anadromous species or designated critical habitat to ensure their activities are not likely to jeopardize the continued existence of endangered or threatened species or adversely modify or destroy their critical habitats. The consultation process can vary depending on the complexity of the project or action. Where possible, NMFS has used programmatic consultations to streamline the regulatory process by creating a framework under which numerous individual actions and permits can be addressed more efficiently.

H.R. 5504 would require NOAA Fisheries to withdraw proposed rules revising regulations under Section 7 of the ESA on Interagency Cooperation (88 Fed. Reg. 40753) and Section 4 of the ESA on Listing Endangered and Threatened Species and Designating Critical Habitat (88 Fed. Reg. 40764). H.R. 5504 would prohibit NOAA Fisheries from taking any action to finalize, implement, or enforce these proposed rules.

These proposed rules improve NOAA Fisheries' ability to fulfill its responsibilities under the Endangered Species Act to protect and recover listed species. They clarify standards for listing, delisting, and reclassifying species, and improve the interagency consultation process. NOAA Fisheries opposes H.R. 5504, because it would overturn these science-based rulemakings that follow the requirements of the law, and thereby undermine the ESA.

H.R. 520

NOAA has not yet had a chance to adequately review H.R. 520 or 6008, but we look forward to working with the Committee on this legislation.

H.R. 5103 - Fishery Improvement to Streamline untimely regulatory Hurdles post Emergency Situation Act or the "FISHES" Act

In addition, U.S. marine fisheries are the largest in the world—covering 4.4 million square miles of ocean. We manage fisheries to support our domestic seafood supply, protect ecosystem health and sustainability, create jobs and support economic and social benefits, and provide fishing opportunities for all types of fishermen. The Magnuson-Stevens Fishery Conservation and

Management Act (MSA) is the primary law governing marine fisheries management in U.S. federal waters. Key objectives of the MSA are to prevent overfishing, rebuild overfished stocks, increase long-term economic and social benefits, and ensure a safe and sustainable supply of seafood.

Fishery resource disaster assistance is administered by the Department of Commerce through NOAA Fisheries. A fishery resource disaster is an unexpected, large decrease in fish stock biomass or other change that results in significant loss of access to the fishery resource, which may include loss of fishing vessels and gear, for a substantial period of time, and results in significant revenue loss or negative subsistence impact due to an allowable cause. The MSA, as amended by the Consolidated Appropriations Act of 2023, Title II, the Fishery Resource Disasters Improvement Act (FReDI), provides the authority and requirements for fishery resource disaster assistance. A request for a fishery disaster determination is generally made by the Governor of an affected State, an official resolution of an Indian Tribe, or an elected or politically appointed executive representative of an affected fishing community (e.g., mayor, official Tribal representative, city manager, county executive, etc.). The Secretary of Commerce (Secretary) may also initiate a review at their own discretion. The Secretary determines whether the circumstances are consistent with the MSA and warrant a fishery resource disaster determination. If the Secretary determines that a fishery resource disaster has occurred, and there are congressionally appropriated funds available, then the Secretary may allocate such funds for disaster assistance. Those funds are administered by the Department of Commerce.

NOAA appreciates Congress' desire to further expedite the fishery disaster process through H.R. 5103. With the passage of the FReDI, we are already implementing several process improvements to the program that we anticipate will result in providing funds to affected communities more expeditiously once we receive fishery disaster appropriations. We are currently working through the first few disaster requests under the new legislation and are not yet able to identify where or if further process improvements may be needed.

H.R. 2990 - National Oceanic and Atmospheric Administration Sexual Harassment and Assault Prevention Improvements Act

NOAA's critical work is only possible through the efforts of dedicated people who are committed to the mission of the agency, NOAA's most valuable resource. Therefore, the prevention of and response to sexual assault and harassment continue to be a high priority within NOAA. The provisions introduced in H.R. 2990, the NOAA Sexual Harassment and Assault Prevention Improvements Act of 2023 align with NOAA's on-going efforts to ensure adequate support is available for survivors while fostering an environment of safety to encourage reporting, including by adding a restricted reporting option so that survivors can access assistance while preserving privacy and confidentiality.

Expanding the scope of sexual harassment and sexual assault reporting to Congress to include equal employment opportunity, a synopsis of sexual harassment cases, disciplinary action taken in each case, number of requests for change of work location and number of requests denied, and number of employees or contractors referred to the U.S. Coast Guard will result in greater transparency, trend analysis, and risk mitigation. NOAA whole-heartedly supports the provisions of The NOAA Sexual Harassment and Assault Prevention Improvements Act of

2023 and look forward to sharing our progress with accomplishing our prevention and response initiatives to foster an environment free of sexual assault and sexual harassment.

Conclusion

We appreciate the opportunity to review and work with you on legislation. The bills being considered at this hearing address many important issues. We have not been able to review the bills in detail but would be happy to work with the committee on them.

NOAA is proud to continue to lead the world in conducting ocean science, serving the nation's coastal communities and economies, and ensuring responsible stewardship of our ocean and coastal resources. We wish to work with you to improve conservation and management of our nation's marine resources. Thank you, Members of the Subcommittee and your staff for your work to support NOAA's mission.