

AN ATTACK ON OUR NATURAL HERITAGE

H.R. 200 WOULD UNDERMINE BEDROCK CONSERVATION LAWS AND MAKE IT MUCH HARDER TO PROTECT SPECIAL OCEAN PLACES AND IMPERILED OCEAN WILDLIFE

H.R. 200, the House bill to reauthorize and amend the Magnuson-Stevens Act (our federal fisheries law), threatens science-based fisheries management and would roll back protections for some of our most treasured ocean places and marine wildlife. H.R. 200 would undermine bedrock conservation laws, including the Antiquities Act, the National Marine Sanctuaries Act, the Endangered Species Act, and the National Environmental Policy Act.

Our laws are intended to protect and balance the full range of ocean uses and national interests, not to prioritize fishing over all other activities. We use and rely on our oceans in many ways: for swimming, boating, wildlife watching, and other recreation that supports coastal economies; for scientific research; for conserving rare species; and for “blue” parks that protect ecologically vibrant and vulnerable seascapes where whales, sea turtles, seabirds, and other wildlife can forage and raise their young free of human disturbance. H.R. 200 would threaten these uses by undermining some of our most important conservation laws. Here’s how:

Antiquities Act

Both Democratic and Republican presidents have used the Antiquities Act to protect some of our most special and vulnerable ocean places as marine national monuments. More than 99 percent of the nation’s strongly protected marine areas—where all industrial extraction is prohibited—are within monuments. Scientists believe that these protected areas enhance ecosystem resilience and help prevent marine animal extinctions as the oceans warm and acidify.¹ These areas contain significantly greater fish densities and biomass than do areas open to extractive activities.² Monument areas are also frequently prized destinations for recreational activities such as saltwater angling.

H.R. 200’s Section 307 would authorize fishery managers to override protections for ecologically important and sensitive habitats, ecosystems, and species in marine national monuments. This would

fundamentally undermine the purposes of the Antiquities Act. Regional fishery management councils, charged with making fisheries management decisions under the MSA, are composed primarily of fishing representatives and managers. These councils already have the opportunity to participate in the management planning process associated with marine national monuments. But if H.R. 200 became law, these councils would receive veto authority over monument protections. As a result, the president would be unable to protect a monument from commercial fishing, no matter how damaging, if a council objected. For example, a council could eliminate safeguards that prevent important and vulnerable species like whales, seabirds, and sea turtles from being caught or entangled in fishing gear; that protect scientifically important or fragile species like centuries-old deep-sea corals from destructive fishing gear; or that prevent removal of fish that are a food source for important marine wildlife.



An orange coral fan hosting tiny yellow anemones grows in the Northeast Canyons and Seamounts Marine National Monument, a nearly 5,000-square-mile marine mammal and deep-sea coral hot spot off the New England coast.

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Northeast U.S. Canyons Expedition Science Team.

H.R. 200’S ANTI-CONSERVATION ATTACKS:

SECTION 307: Provides that the MSA will overrule the Antiquities Act and Marine Sanctuaries Act whenever there’s a conflict.

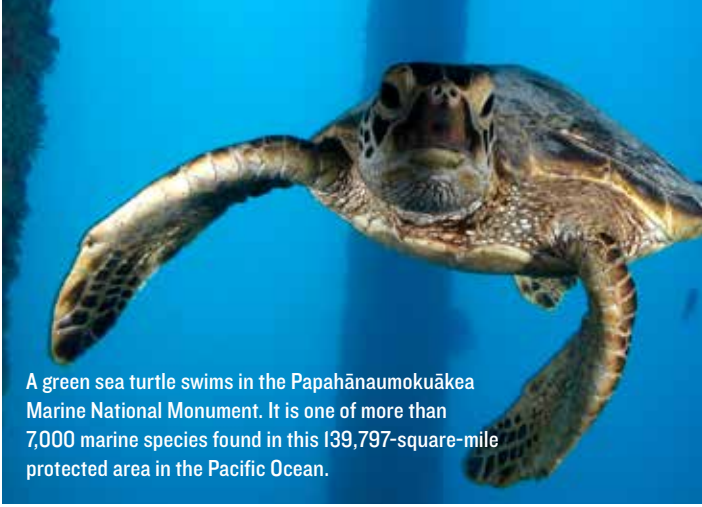
SECTION 307: Requires recovery efforts for ESA-listed marine wildlife to be made under the MSA instead of the ESA.

SECTION 302: Creates a “fishery impact statement” requirement that would undermine NEPA.

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A green sea turtle swims in the Papahānaumokuākea Marine National Monument. It is one of more than 7,000 marine species found in this 139,797-square-mile protected area in the Pacific Ocean.

National Marine Sanctuaries Act

The National Marine Sanctuaries Act protects a system of 13 marine sanctuaries, each with distinctive and significant conservation, recreational, scientific, or historical qualities. Together they encompass more than 600,000 square miles. Sanctuaries are economic drivers for nearby communities and generate about \$8 billion annually.³

H.R. 200’s Section 307 would prevent sanctuary managers from protecting sensitive and significant sanctuary resources from harmful commercial fishing impacts if a fishery council objects to these protections. Councils already have a voice in sanctuary management. It does not make sense to allow them to override needed protections from the very activity that they are charged with promoting.

Endangered Species Act

In the past four decades, the ESA has helped to recover marine species that have been pushed to the brink of extinction by energy development, overfishing, habitat loss, and other harms. The National Oceanic and Atmospheric Administration currently uses the ESA to help protect more than 150 endangered or threatened marine species through species recovery plans and other approaches.

H.R. 200’s Section 307 would require all species recovery activities related to fishing to be conducted by fishery councils using only authorities and processes provided by the Magnuson-Stevens Act (MSA), not the ESA. This would undercut efforts to save the nation’s endangered and threatened ocean wildlife. The MSA is a fisheries management law, not a law to save species. Moreover, not only are councils limited by capacity and subject matter expertise, but they also have interests and purposes fundamentally different from those advanced by the ESA. They should not be in charge of recovering imperiled wildlife populations.

ENDNOTES

1 See, e.g., McCauley, DJ, et al., “Marine Defaunation: Animal Loss in the Global Ocean,” *Science* 347, no. 6219 (2015). DOI: 10.1126/science.1255641. Micheli, Fiorenza, et al., “Evidence That Marine Reserves Enhance Resilience to Climatic Impacts,” *PLoS ONE* 7, no. 7 (2012), <https://doi.org/10.1371/journal.pone.0040832>.

2 See Sciberras, Marija, et al., “Evaluating the Relative Conservation Value of Fully and Partially Protected Marine Areas,” *Fish and Fisheries* 16, no. 1 (March 2015): 58-77. DOI: 10.1111/faf.12044.

3 National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, “Fact Sheet: National Marine Sanctuaries and Local Economies,” <https://sanctuaries.noaa.gov/science/socioeconomic/factsheets/national-system.html> (last accessed March 9, 2018).

4 This represents the percentage of “essential fish habitat” designated by the New England Fishery Management Council that will be fully protected from bottom-tending mobile fishing gear (i.e., trawls and dredges) year-round. Calculations are based on actions approved by the council in 2016 in its Omnibus Habitat Amendment 2. NOAA Fisheries partially approved and partially disapproved the amendment through a final rule in April 2018.

National Environmental Policy Act

NEPA requires fishery managers to ensure public engagement and transparency in management decisions, analyze fishing impacts on the marine environment, and consider alternatives and ways to minimize adverse impacts.

H.R. 200’s Section 302 would require councils to prepare poorly defined “fishery impact statements.”

This would undermine and complicate the preparation of environmental impact statements and environmental assessments under time-tested NEPA processes, which fishery managers have spent nearly two decades adapting and refining to fit the MSA framework. The current approach that integrates NEPA and the MSA is working, and there is no need for an inferior alternative.

The MSA has a specific primary purpose: to achieve “optimum yield” from ocean fisheries. On its own, the MSA does not ensure protection for special ocean places or endangered species, nor does it guarantee thorough and transparent environmental decision making.

For example, the MSA’s fishery councils are required only to minimize harm to marine habitat from fishing gear and bycatch (unintended catch) to the extent that it is “practicable” from the fisheries management perspective. Council performance can vary widely; for example, the New England Fishery Management Council recently reduced by nearly 50 percent the area that would be protected year-round from the kinds of gear that are the most destructive to habitat, such as bottom trawls and dredges.⁴

Fishing is part of our cultural heritage. It is a vital ocean use that supports many coastal communities and enhances our food supply. Indeed, commercial fishing occurs throughout the vast majority of our ocean waters, with very few areas off-limits. However, ocean areas and wildlife that are special ecologically, scientifically, or recreationally are also part of our cultural and natural heritage. Just as we do on land, we must protect these unique resources—using the laws designed to do so—and not carve out exceptions for specific extractive industries. We wouldn’t ask logging or ranching interests, for example, to protect our national parks or their most vulnerable wildlife. Let’s give our oceans the same respect.
