



HOUSE COMMITTEE ON  
**NATURAL RESOURCES**  
CHAIRMAN BRUCE WESTERMAN

**To:** Subcommittee on Water, Wildlife and Fisheries Republican Members  
**From:** Subcommittee on Water, Wildlife and Fisheries staff: Annick Miller, x58331 ([annick.miller@mail.house.gov](mailto:annick.miller@mail.house.gov)), Doug Levine ([doug.levine@mail.house.gov](mailto:doug.levine@mail.house.gov)), and Kirby Struhar ([kirby.struhar@mail.house.gov](mailto:kirby.struhar@mail.house.gov))  
**Date:** Wednesday, February 14, 2024  
**Subject:** Legislative Hearing on **H.R. 3119, H.R. 6784, H.R. 6854, and H.R. 7157**

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The Subcommittee on Water, Wildlife and Fisheries will hold a legislative hearing on: H.R. 3119 (Rep. Soto), To provide for the issuance of a Manatee Semipostal Stamp; H.R. 6784 (Rep. Stauber), “*ESA Flexibility Act*”; H.R. 6584 (Rep. Fishbach), “*Habitat Enhancement Now Act*”; and H.R. 7157 (Rep. Duarte), “*Strengthen Wood Product Supply Chains Act*” **on Wednesday, February 14, 2024, at 10:15 a.m. in 1324 Longworth House Office Building.**

Member offices are requested to notify Thomas Shipman ([thomas.shipman@mail.house.gov](mailto:thomas.shipman@mail.house.gov)) by 4:30 p.m. on Tuesday, February 13, 2024, if their Member intends to participate in the hearing.

**I. KEY MESSAGES**

- The legislation under consideration will provide greater resources and regulatory flexibility to the United States Fish and Wildlife Service (USFWS) to better carry out its mission to conserve at-risk species.
- H.R. 3119 creates a stamp sold by the United States Postal Service (USPS) featuring the manatee. Funds generated by this stamp would be directed to the USFWS for efforts related to manatee conservation.
- H.R. 6784 provides the Secretary of the Interior greater flexibility in administering the Endangered Species Act (ESA). Granting the USFWS and National Marine Fisheries Service (NMFS) the authority to promulgate flexible, modified rules for threatened and endangered species. These regulations would be more responsive to the needs of the specific species in question and lessen regulatory burdens for stakeholders.
- H.R. 6854 sets up new grant programs to protect migratory waterfowl in the United States, recognizing the importance of providing landowners the resources and incentives to protect these habitats and wetlands.
- H.R. 7157 would provide greater transparency, certainty, and lower costs for businesses subject to regulations under the Lacey Act by implementing timelines for enforcing agency actions.

## II. WITNESSES

- **Mr. Steve Guertin**, Deputy Director for Program Management and Policy, U.S. Fish and Wildlife Service, Washington, D.C. (*All bills*)
- **Mr. Frank Rohwer**, President and Chief Scientist, Delta Waterfowl Foundation, Bismarck, North Dakota (*H.R. 6854*)
- **Mr. Jordan McIlvain**, Vice President, Alan McIlvain Company, Marcus Hook, Pennsylvania (*H.R. 7157*)
- **Mr. Ray Higgins**, Executive Vice President, Minnesota Timber Producers Association, Duluth, Minnesota (*H.R. 6784*)
- **Mr. Alexander von Bismarck**, Executive Director, Environmental Investigation Agency, Washington, D.C.

## III. BACKGROUND

### **H.R. 3119 (Rep. Soto, D-FL), To provide for the issuance of a Manatee Semipostal Stamp**

The USPS often sells stamps to pay tribute to important holidays and events, to recognize the legacy of leaders throughout the United States' history, and of other individuals and activities important to the American way of life. H.R. 3119 would build on that tradition by authorizing the USPS to offer a "Manatee Semipostal Stamp" to pay tribute to the manatee. Under this legislation, the funds generated through sales of this stamp would be transferred to USFWS to protect the manatees and their habitat.



Figure 1: Manatee. Source: BBC Wildlife Magazine

Manatees are listed as threatened under the ESA, having been downlisted from endangered in 2017.<sup>1</sup> However, the USFWS decided to keep the same regulatory framework and management practices in place as when the manatee was listed as endangered.<sup>2</sup> When the Department of the Interior announced its decision to downlist the manatee, then-acting USFWS Director Jim Kurth stated:

*While there is still more work to be done to fully recover manatee populations, particularly in the Caribbean, manatee numbers are increasing and we are actively working with partners to address threats. Today we both recognize the significant progress we have made in conserving manatee populations while reaffirming our commitment to continuing this species' recovery and success throughout its range.<sup>3</sup>*

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<sup>1</sup> "Manatee Reclassified from Endangered to Threatened as Habitat Improves and Population Expands – Existing Federal Protections Remain in Place." U.S. Fish and Wildlife Service. 3/30/2017. [Manatee Reclassified from Endangered to Threatened as Habitat Improves and Population Expands – Existing Federal Protections Remain in Place | U.S. Department of the Interior \(doi.gov\)](#)

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

This legislation builds on recent similar initiatives from the USPS and the USFWS. In 2011, the USFWS unveiled the Save Vanishing Species Stamp (also known as the Tiger Stamp) to help support animal conservation efforts.<sup>4</sup> The revenues generated from the sale of this stamp have helped fund nearly \$7.5 million in conservation projects worldwide.<sup>5</sup>

H.R. 3119 is cosponsored by Resident Commissioner Jenniffer Gonzalez-Colon (R-PR) and Rep. Debbie Wasserman Schultz (D-FL).

### **H.R. 6784 (Rep. Stauber, R-MN), “ESA Flexibility Act”**

Under the ESA, the USFWS and NMFS (the Services) can list certain species as either “threatened” or “endangered” after receiving a listing petition from a citizen or outside group or based on their own decision.<sup>6</sup> Endangered species are defined as those on the verge of extinction, while threatened species are “likely to become endangered within the foreseeable future.”<sup>7</sup> Section 9 of the ESA lays out the list of prohibited acts for these species, including take, import, and transport, among others.<sup>8</sup>

The ESA mandates that all Section 9 prohibitions apply to endangered species.<sup>9</sup> However, Section 4(d) of the ESA allows the Services to grant some exceptions to the prohibitions in Section 9 for threatened species.<sup>10</sup> Specifically, the law charges the agencies with promulgating “regulations as the Secretary deems necessary and advisable to provide for the conservation of such species.”<sup>11</sup> This gives the Services greater flexibility when drafting regulations aimed at conserving a species, ensuring that they are protected while allowing for economic development, recreational activity, and energy production when such activities pose little threat to the species.



Figure 2 Northern Long-Eared Bat; Source: NPR

H.R. 6784 builds on this flexibility by further expanding that authority, allowing the Services to issue tailored regulations through Section 4(d) for endangered species. The Northern Long-Eared Bat (NLEB), uplisted from threatened to endangered in 2022, is an example of how this would

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<sup>4</sup> U.S. Fish and Wildlife Service. Save Vanishing Species Semipostal Stamp.

<https://www.fws.gov/program/tigerstamp>

<sup>5</sup> *Id.*

<sup>6</sup> Congressional Research Service In Focus. The Legal Framework of the Endangered Species Act (ESA). June 5, 2019. <https://crsreports.congress.gov/product/pdf/IF/IF11241>

<sup>7</sup> *Id.*

<sup>8</sup> 16 U.S.C. 1531

<sup>9</sup> [16 U.S.C. 1533.](#)

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

work in practice.<sup>12</sup> The NLEB was uplisted primarily because of an incurable fungal disease known as White-nose Syndrome, which is not caused by human activity.<sup>13</sup> Before it was uplisted, management of the NLEB was governed by a Section 4(d) rule that allowed for active forest management, an industry of great economic and environmental importance in the NLEB’s range.<sup>14</sup> However, the Section 4(d) rule is no longer in effect under current law because the NLEB is listed as endangered. H.R. 6784 would allow the USFWS to keep a Section 4(d) rule in place for the NLEB, providing greater regulatory flexibility to manage a species whose primary threat is not human activity.

A similar bill was introduced in the 117<sup>th</sup> Congress; supportive organizations included the American Farm Bureau, the Independent Petroleum Association of America, the Forest Resources Association, and the National Mining Association.

H.R. 6784 has six Republican cosponsors.

### **H.R. 6854 (Rep. Fischbach, (R-MN), “Habitat Enhancement Now Act”)**

H.R. 6854 seeks to improve waterfowl populations in the United States by establishing two new grant programs. The first, the Hen House Grant Program, would be authorized at \$1.5 million per year for five years. This program would allow the Secretary of the Interior to establish a competitive grant program for state, local, and tribal governments, nonprofits, and individuals to “place, build, and maintain hen houses.”<sup>15</sup>

The second grant program is the Breeding Habitat Grant Program, which would also be authorized at \$1.5 million for five years. This would establish a competitive grant program for state, local, and tribal governments, nonprofits, and individuals to develop waterfowl habitat, such as brood ponds and nesting cover to help enhance migratory waterfowl breeding.

In August of 2023, USFWS released a report titled *Waterfowl Population Status, 2023*, which found that “habitat conditions during the 2023 Waterfowl Breeding Population and Habitat Survey (WBPHS) generally declined over a large

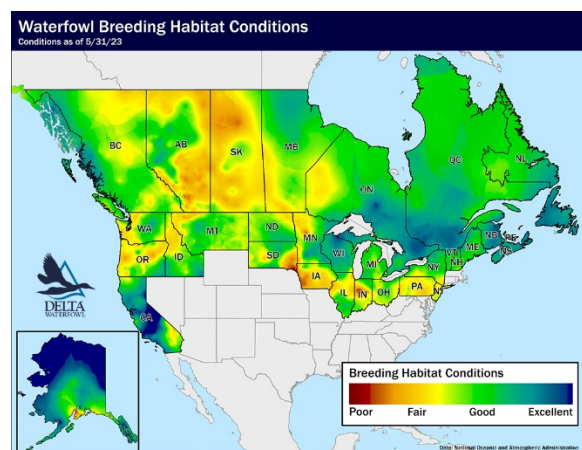


Figure 3 Waterfowl Breeding Habitat Conditions;  
Source: Delta Waterfowl

<sup>12</sup> “U.S. Fish and Wildlife Service extends effective date to reclassify northern long-eared bat as endangered.” Georgia Parham. U.S. Fish and Wildlife Service. [Effective date to reclassify northern long-eared bat as endangered extended | U.S. Fish & Wildlife Service \(fws.gov\)](https://www.fws.gov/news/press-releases/2023/08/08/2023-08-08-1)

<sup>13</sup> “What Is White-nose Syndrome?” National Park Service. <https://www.nps.gov/articles/what-is-white-nose-syndrome.htm>

<sup>14</sup> [81 FR 1900](https://www.federalregister.gov/documents/2018/01/18/81-fr-1900)

<sup>15</sup> H.R. 6854. The “Habitat Enhancement Now Act.” <https://www.congress.gov/118/bills/hr6854/BILLS-118hr6854ih.pdf>

portion of the surveyed area relative to 2022.”<sup>16</sup> The report also found the total duck population declined 7% below 2022 estimates, with mallard populations 18% below 2022 estimates and 23% below long-term averages, highlighting the link between habitat conditions and population numbers.<sup>17</sup>

Duck conservation groups, such as Delta Waterfowl, have worked in recent years to restore habitat and create additional breeding areas for waterfowl. For example, last winter, Delta Waterfowl installed over 1,100 hen houses in North America, bringing their total to 10,775, an all-time high for the organization.<sup>18</sup> This effort is important to the broader objective of a healthy waterfowl population, as research has found that “hen houses are the most cost-effective tool to increase mallard production.”<sup>19</sup> The grant programs authorized by this bill would supplement this work by allowing states and individuals to access funding to conduct similar projects.

These new programs would be offset by cutting funding to Department Operations with the Department of the Interior’s Office of the Secretary.

H.R. 6854 is cosponsored by Rep. Doug LaMalfa (R-CA) and two Democrat cosponsors.

### **[H.R. 7157 \(Rep. John Duarte, \(R-CA\), “Strengthening Wood Product Supply Chains Act”](#)**

The Lacey Act (Act), enacted in 1900 and amended thereafter, makes it unlawful to import, export, sell, acquire, or purchase fish, wildlife, or plants that are taken, possessed, transported, or sold in violation of federal, state, tribal or foreign law or treaty.<sup>20</sup> Congress originally enacted this law in response to concerns over the health of native species and competition from non-native species.<sup>21</sup> The agencies with primary enforcement responsibilities under the Lacey Act are the USFWS, the National Oceanic and Atmospheric Administration, Customs and Border Protection, the Animal and Plant Health Inspection Service, and the U.S. Forest Service.

Congress last approved significant amendments to the Lacey Act in the 2008 Farm Bill.<sup>22</sup> The 2008 amendment extended the Act’s prohibitions to cover nonnative plants and violations of foreign law. This significant expansion imposed broad compliance requirements for importers covering virtually all global plant species to curtail international illegal logging.<sup>23</sup>

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<sup>16</sup> U.S. Fish and Wildlife Service. Waterfowl Population Status, 2023. August 18, 2023.

[https://duckscdn.blob.core.windows.net/imagescontainer/landing-pages/conservation/duck-numbers/2023/WaterfowlStatusReport\\_2023.pdf?\\_ga=2.194156973.1231077842.1706298233-1444305662.1706298233](https://duckscdn.blob.core.windows.net/imagescontainer/landing-pages/conservation/duck-numbers/2023/WaterfowlStatusReport_2023.pdf?_ga=2.194156973.1231077842.1706298233-1444305662.1706298233)

<sup>17</sup> *Id.*

<sup>18</sup> “Duck Production, 2023 Status Update.” Delta Waterfowl. 2023. [DW\\_DuckProductionStatus\\_2023.pdf \(deltawaterfowl.org\)](#)

<sup>19</sup> Delta Waterfowl. Hen Houses. <https://deltawaterfowl.org/hen-houses/>

<sup>20</sup> 18 U.S.C. 42

<sup>21</sup> Act of May 25, 1900, §1, 31 Stat. 188.

<sup>22</sup> H. Rep. 110-627 at 893.

<sup>23</sup> *Id.*

H.R. 7157 would amend the Lacey Act to provide for greater certainty for effected parties, more accountability for implementing agencies, and less costs for small businesses operating in the United States. The bill would do so by placing a series of timelines on enforcement actions related to the importation of any fish, wildlife, or plants (merchandise). These timelines would include: 1) enforcing agencies must notify importers within 5 days of their merchandise being held and the reason it is being held; 2) within 10 days of detention, enforcing agencies must allow the importer to request detained merchandise be transported to a facility not under the control of the federal government for additional testing; and 3) enforcing agencies must decide within 30 days of detention whether to release or seize detained merchandise. In addition, importers can sue the enforcing agency if the agency decides to seize the merchandise or fails to release the merchandise within those 30 days.

H.R. 7157 is cosponsored by Rep. Jim Costa (D-CA).

#### IV. MAJOR PROVISIONS & ANALYSIS

##### **H.R. 3119 (Rep. Soto, D-FL), To provide for the issuance of a Manatee Semipostal Stamp**

- Creates a manatee postal stamp administered by the United States Postal Service, with funds made available from the stamp transferred to the USFWS to conserve the United States' manatee population. Funds generated from this stamp shall be transferred at least twice a year; the legislation does not require these funds to be considered as part of the annual appropriations process. The stamp must be made available for sale within one year of enactment for at least two years.

##### **H.R. 6784 (Rep. Stauber, R-MN), “ESA Flexibility Act”**

- Amends Section 4(d) of the Endangered Species Act to provide greater flexibility between species classified as endangered or threatened, granting the Secretary of the Interior the ability to promulgate rules under Section 4(d) for both threatened and endangered species.

##### **H.R. 6854 (Rep. Fischbach (R-MN), “Habitat Enhancement Now Act”**

- Seeks to protect migratory waterfowl by establishing two separate grant programs: one to build and maintain hen houses and another to develop breeding ground for migratory waterfowl in California. It also establishes Congressional findings recognizing the importance of managing wetland ecosystems, the need to deploy new tools to sustain waterfowl populations, and the importance of investments and incentives for landowners to conduct these activities.

##### **H.R. 7157 (Rep. Duarte (R-CA), “Strengthening Wood Product Supply Chains Act”**

- Places timelines on enforcement actions related to the Lacey Act.
- Enforcing agencies must:
  - Not later than 5 days after the date on which merchandise is detained, issue the importer a notice of detention or release the detained merchandise.

- Not later than 10 days after the date on which the enforcing agency issues a notice of detention, the agency must allow the importer to transport the merchandise to a location not controlled by the U.S. Government.
- Not later than 30 days after the date on which merchandise is detained for inspection, the enforcing agency must release or seize such merchandise.
- allows importers to sue the enforcing agency if the agency decides to seize the merchandise or fails to release the merchandise within those 30 days.

## **V. COST**

The Congressional Budget Office has not provided cost estimates for these bills.

## **VI. EFFECT ON CURRENT LAW**

[H.R. 6784](#)

[H.R. 7157](#)