



May 29, 2014

The Honorable Mark Begich
Chairman
Senate Commerce, Science and Transportation Committee
Oceans, Atmosphere, Fisheries and Coast Guard Subcommittee
Washington DC 20510

The Honorable Marco Rubio
Ranking Member
Senate Commerce, Science and Transportation Committee
Oceans, Atmosphere, Fisheries and Coast Guard Subcommittee
Washington DC 20510

Dear Chairman Begich and Ranking Member Rubio:

Thank you for the opportunity to respond to the staff working draft Magnuson-Stevens Fishery Conservation and Management Act (MSA) reauthorization bill. As representatives of the nation's 11 million saltwater anglers and industries they support, which collectively have a \$70 billion annual economic impact, we look forward to working with you to ensure that the recreational fishing community's priorities are addressed in MSA reauthorization.

Our primary priorities are identified in the Commission on Saltwater Recreational Fisheries Management's report entitled "A Vision for Managing America's Saltwater Recreational Fisheries," more commonly known as the Morris-Deal report after the Commission co-chairs, Johnny Morris, President and CEO of Bass Pro Shops, and Scott Deal, President and co-Founder of Maverick Boats, both of whom you met with a few weeks ago. We are pleased to see many of those priorities addressed in the working draft, reflecting your commitment to give long-overdue attention to improving recreational fisheries management within MSA. Below are comments on language in the working draft in which our organizations are interested with explanations on our positions.

Fishery ecosystem planning (pgs. 3-4; 6; 14; 23-29) – We are deeply concerned with language included throughout the working draft pertaining to fishery ecosystem plans. Councils currently

have the authority to do ecosystem planning; for example, the Pacific Fishery Management Council adopted the Pacific Coast Fishery Ecosystem Plan in 2013. However, not all Councils have the need and/or resources to develop ecosystem plans to the extent described in the working draft. While lines 19-22 on pg. 27 clarifying that Councils are not required to develop Fishery Ecosystem Plans provides some assurance, if Councils feel otherwise compelled to undertake the new ecosystem planning requirements in the working draft it could have serious negative implications on management, stakeholders and ultimately the resource. This issue would be exacerbated by the new findings language pertaining to ecosystems on pg. 3 which could subject NOAA to legal action for failing to address ecosystem planning. The incompleteness, uncertainty and absence of data that would be required to develop Fishery Ecosystem Plans as described in the working draft would likely lead to poor and overly precautionary planning. When data are limited, managers tend to be more conservative and therefore more restrictive. Thus, absent the necessary data at hand to properly develop fishery ecosystem plans, burdensome and unnecessary restrictions could be imposed on fishing communities as a result of this approach. Because there is nothing currently in MSA prohibiting the Councils from developing and adopting fishery ecosystem plans, and some Councils may be ill prepared to undertake this task, we recommend removing all language in the working draft pertaining to the development of fishery ecosystem plans.

Forage fish (pgs. 4-5; 14-15; 18-19) – One of the six recommendations of the Commission on Saltwater Recreational Fisheries Management is better consideration of the importance of forage fish, and we appreciate your efforts to address this issue. However, we are concerned with the prescriptive nature of the language pertaining to forage fish in the working draft. We fear that the Councils and the Science & Statistical Committees (SSCs) do not have sufficient information at hand to go so far as to require the development of control rules and ABCs for forage fish, many of which have little to no data. The time and resources that would be required to adequately meet these provisions would detract from other high priority responsibilities of the Councils. The impracticability of these proposed forage fish requirements, combined with the findings language (pg. 4, line 18 to pg. 5, line 2), could subject NOAA to litigation. We oppose the forage fish language as written and suggest the following alternative language:

Sec. XXX. IDENTIFICATION OF FORAGE FISH IN NEED OF INCLUSION IN FISHERY MANAGEMENT PLANS

(a) GUIDELINES AND REQUIREMENTS.---

(1) IN GENERAL.----Within 12 months after the date of enactment of this Act the Secretary of Commerce in conjunction with the National Academy of Sciences shall develop guidelines and requirements for the Regional Councils to follow in identifying forage fish stocks that should be covered in fishery management plans based in part on the value of the forage fish stock for predator stock health, reproduction and growth.

(b) PROCESS FOR INCLUSION OF FORAGE FISH.----Upon receipt of the guidelines and requirements from the Secretary of Commerce and National Academy of Sciences, the Regional

Councils shall---

(1) perform periodic review of forage fish stocks every five years for potential inclusion in a fishery management plan;

(2) consider the interdependence of forage fish stock for predator stock health, reproduction and growth; and

(3) develop procedures for reviews of forage fish stocks for potential inclusion in fishery management plans based on the guidelines and requirements established by the Secretary of Commerce in conjunction with the National Academy of Sciences.

Definition of bycatch (pg. 7) – The revised definition of bycatch, in particular the clause, *“fish that are harvested in a fishery and retained but not landed,”* could create complications as bait fish caught on a recreational fishing trip may be considered bycatch. The current definition of bycatch exempts fish *“kept for personal use”*. We recommend revising the proposed definition to instead read, *“fish that are harvested in a fishery and discarded, including economic discards and regulatory discards, fish that are harvested in a fishery and retained but not landed excluding those kept for personal use, non-target fish that are harvested in a fishery and retained, or fish that are subject to mortality due to a direct encounter with fishing gear.”*

Insertion of “depleted” (pgs. 8, 30-32) – Because fish productivity is often influenced by factors other than fishing pressure which could drive abundance below MSY, we support the insertion of “depleted” where appropriate in MSA.

Changes to Regional Fishery Management Council composition (pg. 13) – We strongly oppose lines 14-17 on pg. 13. In 2006, the Congress agreed to sunset the provision that required the Governors of the Gulf States to include nominees from each of the commercial, recreational, charter fishing, and “other” sectors, and we have supported this return to normal order. All coastal Governors should be allowed the discretion to nominate individuals among sectors as he or she finds appropriate, as has been the case in every other Fishery Management Council outside of the Gulf Council. Requiring nominees from different sectors may appear on the surface to create equity among sectors, but this provision further divided the Council and fueled the gridlock that has plagued the Gulf Council worse than any other Council. Statutorily mandating that Gulf Governors check bureaucratic boxes ensures that bureaucrats get to make choices that are left to Governors in the other seven Regional Fishery Management Councils. Governors should be allowed to nominate individuals they believe provide the optimal representation for their own state.

Allocation review (pgs. 15; 48-49) – We strongly support the language prompting periodic review of mixed-sector allocations based on criteria developed by NOAA and the National Academy of Sciences. Developing a process for examining allocations was a key priority identified in the Morris-Deal report and reflects a long-standing call by the recreational fishing community to allow for review of the numerous outdated and inequitable allocations in mixed-sector fisheries throughout the country. We applaud you for this significant inclusion and urge you not to weaken it in any way.

Alternative recreational fishery management approaches (pg. 16) – We strongly support the language clarifying that Councils have the authority to use alternative fishery management measures in recreational fisheries. This is a meaningful and important inclusion and we urge you not to weaken it in any way. In order to facilitate the consideration of alternative management approaches in the Gulf of Mexico red snapper fishery, Section 407(d) of MSA must be repealed to alleviate inflexible quotas on recreational and commercial fishermen in the Gulf of Mexico red snapper fishery.

Annual catch limit limitations (pgs. 19-20) – We appreciate including certain exemptions to the annual catch limit (ACL) requirement. In particular, we support lines 6-10 on pg. 20 which mitigates the potential for fishery closures as a result of ACLs on non-target stocks. Overall we believe the ACL exemptions in the working draft are a helpful step in the right direction, and recommend this language be strengthened by including the language found in the Fishery Science Improvement Act of 2011.

Latitude in rebuilding timelines (pgs. 31-32) – While we strongly support rebuilding fisheries in a timely and reasonable manner, the 10-year rebuilding requirement in MSA has proven to be overly rigid in many instances, leading to excessive socioeconomic impacts. We support providing some latitude in rebuilding requirements that still maintains the conversation focus of MSA that has proven successful, while allowing for more biologically-based and economically-reasonable considerations. We therefore support the language in the working draft that allows the time period for rebuilding to be based on the mean generation time of the affected stock, where scientifically established. We believe this is a reasonable and balanced approach that will continue the nation’s success in rebuilding fisheries and ending overfishing.

Stock assessment prioritization (pgs. 61-64) – We support the intention of requiring a strategic plan conducting stock assessments on all stocks of fish under fishery management plans. However, we must caution that this requirement is heavily dependent on Congressional appropriations in order to fulfill this requirement. We fear that absent sufficient appropriations, resources will be diverted from stocks assessment or other research programs on fisheries of high importance toward fisheries of low importance just to meet this requirement. Therefore we do not support this section.

Inclusion of non-governmental data (pgs. 65-67) – The recreational fishing community recognizes that considerable benefits to fisheries management can be derived from greater incorporation of voluntary angler catch data from programs such as iAngler. We see value in facilitating incorporation of non-governmental data in federal fisheries management but caution that appropriate safeguards must be in place to prevent biased and inaccurate data from being incorporated into management decisions. We ask that you strengthen existing language put in place appropriate measures to ensure that any non-governmental data to be considered by NOAA pursuant to this section is scientifically credible, unbiased and will not result in unnecessary restrictions on fishing participation.

South Atlantic red snapper pilot study (pgs. 68-73) – While we appreciate the intent of including anglers in this fisheries research study and the accompanying socioeconomic benefits that

would be accrued through additional fishing participation on a stock that currently has very little allowed harvest, we are very concerned about the potential precedent this program might set by creating fishing permits for individual recreational anglers. Even though this research program would be conducted on a voluntary basis, we fear that it may be the proverbial camel's nose under the tent. We do not support recreational tags/permits as a preferred management option and would not want this pilot study to lead to its inclusion as a standard management approach in red snapper or elsewhere. Therefore, we cannot support this study.

Gulf of Mexico Red Snapper – We are disappointed that the fisheries management crisis occurring with red snapper in the Gulf of Mexico is not meaningfully addressed in the working draft. Federal management of Gulf red snapper is irrevocably broken and substantial changes are needed in MSA to create a management structure that better aligns with the purposes of MSA. We strongly recommend that language be inserted that repeals 407(d) and therefore provides managers with the flexibility to provide more reasonable and appropriate management of the recreational sector. In addition, we strongly recommend including S. 1161, the Gulf of Mexico Red Snapper Conservation Act of 2013. This bipartisan legislation provides a new and improved path forward for Gulf red snapper management and has broad support from the Gulf states and stakeholders. Absent this comprehensive fix, at a minimum we urge you to insert new language that mimics Sec. 111 of the working draft but applies these provisions to Gulf red snapper.

Sincerely,

Mike Nussman, President and CEO
American Sportfishing Association

Steve Stock, President
Guy Harvey Ocean Foundation

Jeff Angers, President
Center for Coastal Conservation

Rob Kramer, President
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