

TESTIMONY OF
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BEFORE THE
SUBCOMMITTEE ON FISHERIES, WILDLIFE & OCEANS, COMMITTEE ON NATURAL RESOURCES
UNITED STATES HOUSE OF REPRESENTATIVES

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Good morning Chairwoman Bordallo, Ranking Member Brown and Members of the Subcommittee. Thank you for the opportunity to testify this morning on H.R. 6537, the “Sanctuary Enhancement Act of 2008.”

I am pleased to be here today representing the National Marine Manufacturers Association (NMMA). NMMA is the nation’s leading recreational marine industry trade association, representing nearly 1,700 boat builders, engine manufacturers and marine accessory manufacturers who collectively produce more than 80 percent of all recreational marine products made in the United States. The association is dedicated to industry growth through programs in public policy, market research and data, product quality assurance, marketing communications and the promotion of sound environmental stewardship among its consumers.

As the former Deputy Under Secretary for Oceans and Atmosphere for the National Oceanic and Atmospheric Administration (NOAA) from 1998-2003 and subsequently the Acting NOAA Administrator for most of 2001, I am familiar with the National Marine Sanctuaries Program (NMSP) and appreciate the leadership that this Committee, both its members and professional staff, have shown for that program as well as all of the marine, ocean and coastal programs at the Agency. While at NOAA it was my honor to work with over 12,000 great professionals and NOAA’s many partners in state and local government, universities, joint institutes and grant recipient institutions as well as volunteers at Marine Sanctuaries.

In my new role representing America’s historic recreational marine industry, which is comprised of nearly 19,000 great American companies employing more than 154,000 U.S. workers, I represent members who are deeply interested in marine environmental protection as well as robust policies that protect and ensure the public’s right to access the nation’s natural resources which are held in their trust.

Boating’s Impact and the Importance of Access

The recreational boating community is an important stakeholder in any national process to enhance marine resource protection. Boating has deep historical roots in outdoor recreation in America and participation has been steadily trending upwards. In 2007, nearly 26 percent of all adults went boating at least once, which means that 59 million American adults were out on the water spending time with their family and friends and enjoying our natural resources, fishing, cruising and just being outdoors. As I will point out later in my statement, a lot of boating goes on in and around our National Marine Sanctuaries. In fact, except for individuals who enter the water from shore or who are aboard larger vessels, it is safe to say that almost all visitors to these sites are on a boat built by a member of the National Marine Manufacturers Association.

There are nearly 18 million recreational boats currently in operation in the United States. These boat owners power an important American manufacturing sector that contributed \$37.5 billion in new sales and services during 2007 alone. Overall, the direct and indirect economic impact nationwide from recreational boating totals approximately \$85.1 billion annually and supports more than 330,000 U.S. jobs. I might also note that recreational boat manufacturing is a sector of the economy that is largely carried out by small businesses and manufacturing that occurs here in the USA.

The Members of the Subcommittee might be interested to know that the vast majority of recreational boats sold are small and inexpensive pleasure craft used occasionally, and 75 percent of current boat owners have an average household of less than \$100,000 per year. Of the recreational boat population in the U.S., 95 percent of registered mechanically-propelled boats are less than 26 feet in length. The average price of a new boat in 2007 was under \$14,000, and boat owners spent an average of 32 days (or 16 total weekends) on the water.

Recreational boating and angling are closely tied, and we are frequently engaged in important fisheries concerns. Of current boat owners, we know that 65 percent used their boat in 2005 to go fishing. Indeed, many boats are designed and purchased specifically for the purpose of sportfishing, a \$40 billion industry for which NOAA has developed a five-year strategic plan designed to “provide recreational fishing opportunities by ensuring sustainable fisheries resources, understandable regulations, and reasonable public access.” In this plan, NOAA explicitly acknowledges that maintaining public access, which is essential to both sportfishing and boating, is a key part of its mission, and, in fact, such activities are usually included in assessing the economic benefits from sanctuaries.

Although more Americans went boating in 2007 than in 2006, our industry is certainly feeling the turbulence in consumer confidence, finance, and energy costs that is facing our economy. Other than inflatable boats, jet boats and personal watercraft, all segments in the recreational marine industry showed a decline in unit sales this year. Also in 2007, the typically robust aftermarket accessory market decreased with sales down an estimated 5 percent, reflecting an overall weakness in our industry. These declines have caused many of our manufacturers around the country to furlough plants or close them altogether, resulting in job losses.

While we are optimistic about the future and we believe the fundamentals our business and the American economy are strong, I emphasize these numbers to demonstrate why we must be vigilant in the maintaining a vibrant consumer base and keep recreational opportunities for American boaters and anglers widespread and available.

National Marine Sanctuaries are Important for Boating and Outdoor Recreation

Given the location of the current sanctuary system in coastal communities in areas like the Florida Keys, and the Southern and Central Californian coasts, it should not be surprising that boating in all its aspects, such as recreational fishing, sailing, and water sports, occurs within sanctuary boundaries. Sanctuaries, like the National Parks they are so often compared with, provide for the multi-use of resources, working to conserve resources but also providing for outdoor recreational opportunities. Sanctuaries are living classrooms, where constituencies are built by the very recreational boaters, anglers, divers, and other responsible users of the resources.

In the area around the Florida Keys National Marine Sanctuary, for example, there are some 37,000 registered boats and more than 272 recreational boating businesses. Our data shows that each year, during the 861,000 total days people spent boating in this area, some \$140 million is spent on boat related products and services and an additional \$92 million on boating trips, generating nearly 3,800 local jobs.

Similarly, in the area around the Channel Islands National Marine Sanctuary there are some 17,000 registered recreational boats and over 83 recreational boating businesses. Boaters here spent 318,000 total days out on the water, spending \$65 million on boat related products and services and boating trips. We estimate that almost 1,100 jobs are directly related to boating and fishing in this area alone.

Sanctuary Reauthorization Should Better Consider Value of Recreation to System Purposes & Objectives

Madam Chairman and Members of the Subcommittee, we applaud you for your efforts to enhance the National Marine Sanctuary Program. For boating consumers, recreational anglers and the marine manufacturers who build the products they purchase, the health of America's marine resources is of vital importance. We recognize the special national significance of currently designated National Marine Sanctuaries and we appreciate your legislative efforts to reauthorize and strengthen the Program.

We are, however, increasingly concerned that public access to our nation's oceans and aquatic resources is becoming unduly restricted in place of policies that promote sound conservation and responsible recreation. Increasingly we are seeing states from California to South Carolina moving to restrict water access, and we are hearing reports in major national news outlets that large swaths of new protected areas may be designated by The President through Executive Order—with the mere stroke of a pen—without the stakeholder processes, without involving citizens, and without using science-based decision-making that has, in the main, served as the guiding principles for those protected areas in the National Marine Sanctuaries Program. We believe this trend is worrisome and not consistent with longstanding American policy that promotes sustainable outdoor recreation.

To be sure, NMMA does not oppose the designation of marine protected areas in the event of significant ecological concerns for which the prevailing scientific evidence—which is peer reviewed and methodologically robust—demonstrates that such a designation is necessary to protect resources. But, we encourage Congress and federal agencies to recognize that it is a longstanding policy of the federal government to allow public access to public lands and waters for recreational purposes consistent with sound conservation. This policy is reflected in the principles of our wildlife refuges, national forests, national parks, and wilderness areas. We believe this policy should pertain to NOAA and National Marine Sanctuaries as well reflected in any final reauthorization bill for a strengthened National Marine Sanctuaries Program.

Indeed, throughout the legislative history of the National Marine Sanctuaries Act, Congress has clearly and consistently demonstrated that it favors a management approach that balances preservation of the resource with allowing compatible human uses, such as recreational boating and angling. In the most recent reauthorization of the Magnuson-Stevens Act, too, Congress reiterated its desire to maintain robust access to our ocean resources to recreational anglers and directed federal regulators to utilize no-take marine reserves only as a resource management tool of last resort. Some have argued that the reliance on the multiple use doctrine has made the National Marine Sanctuaries Program less effective than it could be. We strongly disagree. In fact, the Program has had many significant accomplishments and has been instrumental in protecting key marine sites and educating the public about the importance of these areas and of the importance of sound environmental stewardship more generally.

Under current law, NOAA and the National Marine Sanctuary Program have an obligation, stated explicitly, to strive toward a management approach that balances resource protection with the rights of boaters, anglers and other user groups who are entitled to access the public aquatic treasures that are held in the their trust. A reasonable expectation of access is currently required under the law. Certainly this is what Congress intended when it passed the Act and in each case when it reauthorized the Act—a

comprehensive system of managing key ocean resources that emphasized balance and not prohibition. We believe this tradition should be followed and even strengthened in this reauthorization round because maintaining public access is good for the resource—it motivates sustainable practice by those who value the resources most, and it helps to maintain a cooperative, non-adversarial relationship between regulators and the regulated community, enhancing opportunities for mutually beneficial partnerships that improve resource protection. For example, my colleagues at the Personal Watercraft Industry Association (PWIA), an affiliate of NMMA, are currently working with the Florida Keys National Marine Sanctuaries to develop a program in which personal watercraft are used by volunteers to educate visitors on the sanctuaries resources. We look forward to the implementation of what we believe is an exciting opportunity for our industry and FKNMS.

Unfortunately, Madam Chairman, nowhere does H.R. 6537 endorse the importance of recreation as policy or purpose of the National Marine Sanctuaries Program. Indeed, it appears that the bill would deemphasize and downgrade longstanding Congressional intent and NOAA policy by amending the policies and purposes of the Act to require that the “primary purpose” of the NMSP be the “long-term protection and conservation of the living and nonliving resources of the System.” Undoubtedly, the long-term protection of the resource is essential, but the bill goes further and would strike existing statutory language in Sec. 301(b)(6) of the Act directing NOAA to “facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources.” This revision to the Act runs counter to the notion that—while resource protection is the primary objective of the Act—recreational opportunities should be encouraged and, indeed, are a key part of the individual sanctuary programs particularly with respect to outreach and education.

We would strongly recommend that the bill be revised to recognize specifically recreation as an important purpose and objective, to retain and even expand on the Act’s current language that directs the sanctuary managers to engage the public and promote recreational opportunities. To be clear, the current NMSP mission in Section 4 of the Committee bill should be amended to include people. I respectfully suggest that the mission statement should include balance by firmly stating that public access, recreation and enjoyment (to use a term in the National Park Service charter) are also important missions of the system. I also recommend that “education” of the public and youth should be explicitly listed in the mission statement.

Expansion Goal Raises Concerns

Given trend lines we have seen with respect to new marine protected areas being established in premier recreational boating and sport fishing sites in the U.S., the amorphous and ambiguous legislative requirement in H.R. 6537 that the Secretary of Commerce “strive to achieve the goal of including in the System by 2030 that number of sites that will incorporate a full range of the Nation’s marine eco regions [which the bill defines as a ‘large area of the marine environment’]” concerns us. We believe that sound science—rather than simple geography—and the specific needs of a resource should be determining factors in the designation of a marine protected area. It makes no sense to simply designate large marine sites for the purpose of being in the System, something which could have significant unintended consequences.

Indeed, a review of the National Marine Sanctuaries Act demonstrates that Congress harbored concerns that the National Marine Sanctuaries Program would overreach in designating new sanctuaries. Section 303(b)(1) lists the factors that the Secretary of Commerce must consider when determine if an area should be designated a sanctuary such as “the manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities.” We are pleased that H.R. 6537 does not alter these requirements. The National Marine Sanctuaries Program currently has broad discretionary authority to

initiate a designation process—complete with robust public participation requirements—for new sanctuaries. Rather than adding undue resource constraints by requiring new sanctuaries, we believe the Agency should continue to work to improve the current system of sanctuaries.

Additionally, Madam Chair, NMMA is concerned that Sec. 12(h) (A) of the bill greatly expands the authorities of the National Marine Sanctuaries Program. While we applaud efforts to increase coordination among federal agencies, it is important to not give sanctuary managers authority over resources that are not within the sanctuary boundaries. As written, it appears that the bill would extend the scope of the Act to “Federal agency actions within or outside of a national marine sanctuary or marine national monument.” All that would be required is a determination—apparently by a sanctuary manager—that an activity is likely to harm a system resource. This language is vague, expansive, and we would urge its removal from the bill.

Fisheries Management Should Remain Led by NOAA Fisheries working in concert with Regional Fishery Management Councils

While they can be valuable, marine protected areas—and particularly no-take marine reserves—are not a panacea for fisheries management. Indeed, we are concerned with language in the “Findings” section of the bill affirming that science has proven the value of marine protected areas. As with many issues before the scientific community, the value of marine protected areas has been much debated. While there may be scientific studies that show the benefit of marine protected areas, there are also scientific studies that show that marine protected areas do not provide significant benefit beyond traditional fishery management measures. While marine protected areas may serve a purpose within the context of ocean resource management, it may be premature for Congress to affirm with absolute certainty the value of such areas. In any case, the use of marine protected areas as a management tool may have significant impacts on the regulated community, and MPAs should be pursued only with the proper view on their potential short- and long-term socioeconomic implications.

At present, as the Committee is well aware, the Magnuson-Stevens Fishery Conservation and Management Act is the prevailing federal authority and structure for the management of the nation’s ocean and coastal fisheries. The Congress just recently reauthorized this law and provided new requirements to conserve resources and prevent overfishing. Under the Act, regional fishery management councils which contain stakeholders nominated by Governors and appointed by the Secretary of Commerce (Administrator of NOAA) regulate and supported by the full scientific and management expertise at NOAA – has responsibility for the sustainable management of fisheries in federal waters. And as part of their management authority, councils may, and are, utilizing MPAs. The authority of the regional management councils should be recognized, and yet H.R. 6537 appears to shift authority away from them.

It has been my experience from my years as a professional staffer in the U.S. Senate and an official at NOAA that the Fisheries Management Councils are indeed unique among Federal regulatory entities. They involve the Federal Government, the States, the industry and outside groups in the management of marine resources. But, at the end of the day, few outside entities better bring together large number of disparate stakeholders in the management of the resource.

We do not believe that the revisions in Sec. 7 of the Sanctuary Enhancement Act are necessary or advisable. Fishery Management Councils currently have the opportunity to prepare draft fishing regulations in a National Marine Sanctuary, or it may determine that such regulations are not necessary. If the Council deems it necessary to regulate fishing within a sanctuary, it is obligated to use as guidance the National Standards of Sec. 301(a) of the Magnuson-Stevens Act. The point is that the operative statute for fishing regulations within a sanctuary is MSA, and under present law the Secretary of

Commerce has broad authority to accept or reject the Council's determination and regulate fishing within a sanctuary

Our reading of the Committee bill is that it would significantly change Federal fisheries management large sections of the U.S. Exclusive Economic Zone:

- First, it removes Fishery Management Councils from the initial decision-making process regarding whether to regulate fishing in the sanctuary, giving the Secretary of Commerce the authority to unilaterally determine whether to regulate fishing.
- Second, H.R. 6537 empowers the Secretary to make such a determination for new, existing, or proposed sanctuaries—this authority would contravene the existing process of updating management plans which provide opportunities for the public to weigh in and support or oppose changing a sanctuary designation document to include the authority to regulate fishing.
- Third, existing language in the Act explicitly requires in the statute using the National Standards of MSA in the development of any fishing regulations within the sanctuary. H.R. 6537 does not appear to have such a requirement.
- Fourth, we believe the proposed changes in H.R. 6537 are unnecessary and set NOAA Fisheries/NMFS and NOAA's sanctuary program up for conflict, rather than cooperation. We understand that NOAA is finalizing a Policy Document regarding its regulation of fishing in National Marine Sanctuaries that demonstrates the Agency's work and commitment to improved coordination and collaboration between programs. We see no need for legislative changes on this matter at this time and urge the Subcommittee to let this internal agency process play out.

I would note that NOAA Fisheries has over 3,000 employees and a budget of \$829 million in FY 2008 and \$782 in the President's FY 2009 budget request. The marine sanctuaries program, by contrast, has a budget of \$64 million (\$50 million in the President's FY 2009 budget) to do all its missions and 169 full time employees. To take on this level of fishery resource management responsibly would require a lot of capacity building in sanctuaries. It would take the addition of many staff. I would respectfully suggest that the program has many other unfulfilled requirements in education, in research, in facilities, and in vessels and maintenance.

For these reasons, we believe Sec. 7 of the SEA Act is a significant departure from the status quo with unpredictable consequences and would strongly encourage you to reconsider the inclusion of this language in the bill.

Madam Chairman and Members of the Subcommittee, thank you for the opportunity to testify before you today on behalf of the National Marine Manufacturers Association and the recreational marine industry. We look forward to continuing to work with you on this legislation and other important legislation, and I would be pleased to respond to any questions you may have.