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Testimony

Before the Committee on Resources

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Hearing on the Reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act

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Mr. Chairman and Members of the Committee, I am Jim Donofrio, the Executive Director of the Recreational Fishing Alliance (RFA). The RFA is a national 501(c)(4) non-profit grassroots political action organization whose mission is to safeguard the rights of salt water anglers, protect marine, boat, and tackle industry jobs, and ensure the long-term sustainability of our nation's marine fisheries.

I appreciate the opportunity to appear before you today to discuss the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act. In particular, I will discuss two bills: H.R. 5018, the American Fisheries Management and Marine-Life Enhancement Act and H.R. 1431, the Fisheries Science and Management Enhancement Act of 2005.

The RFA commends you, Mr. Chairman, and the other members of this Committee who have been actively involved in this debate. The changes that the Committee and the Congress will make to the Magnuson-Stevens Act will have a profound impact on angler access and the jobs and economic future of our industry. From the individual saltwater angler to the many small businesses that comprise the marine, boat, and tackle industry, our members are optimistic that Congress will take the right steps to improve the way our fisheries are managed.

H.R. 5018

Mr. Chairman, the RFA supports your bill and looks forward to continuing to work with you, Members of the Committee, and your staff to make improvements to it. The RFA is also pleased with the process your staff has used to receive input from affected stakeholders, such as our organization.

Recreational Data Collection

H.R. 5018 proposes a new recreational data collection system. The RFA appreciates the Chairman’s acknowledgement that the current recreational data collection system is broken – a view that is also held by the National Research Council. However, we are concerned that H.R. 5018 will push states that do not currently have saltwater licenses – and may not want them – to implement new license programs. In states where there is currently a saltwater license the results of the associated data collection system have been varied at best. We suggest that the Committee consider language that was included in sec. 201 of the Senate bill, as introduced. It would create a registry program for recreational fishermen in each of the eight fishery management regions. It would also require the Secretary to improve the quality and accuracy of information generated by the Marine Recreational Fishery Statistics Survey by including: (a) an adequate number of dockside interviews to accurately estimate recreational catch and effort; (b) use of surveys that target anglers registered or licensed at the State or Federal level to collect participation and effort data; (c) collection and analysis of vessel trip report data from charter fishing vessels; and (d) development of a weather corrective factor that can be applied to recreational catch and effort estimates. The April 2006 National Research Council report (*Review of Recreational Fisheries Survey Methods*) found that the design, sampling strategies, and collection methods for recreational fishing do not provide adequate data for management and policy decisions. Furthermore, their findings indicate that reliance on fishing licenses is not a means of improving the currently flawed system. Data collection improvements outlined in sec 201 of the Senate bill, as introduced, are consistent with recommendations presented in the NRC report to improve recreational data accuracy and should likewise be included in the House version.

Improving the Federal government’s ability to collect data is an important goal and one that we support enthusiastically.

However, we do not believe that individual anglers and boat owners should bear the cost of correcting a system the Federal government broke. Consequently, we urge this Committee to include language – as the Senate did when it introduced its bill – that would prohibit any new fees on anglers and boat owners associated with the recreational registry. If Congress were to remain silent on an angler fee, it is clear that the Administration would implement one similar to what is proposed in the Administration's own bill. If Congress were to allow this to happen, it would amount to nothing less than an unfair, unnecessary, and new tax on anglers and boat owners.

Rebuilding Fisheries

H.R. 5018 provides, in limited cases, needed flexibility in the existing timeframes to rebuild fisheries. RFA supports this proposal and believes that its use would be the exception and not the norm for the Secretary. The rebuilding requirements in current law were written over 10 years ago. As with other provisions, RFA believes that minor adjustments are necessary and appropriate. In this case, injecting a modest amount of flexibility into the rebuilding requirements will provide fisheries managers with an additional capability to tailor specific solutions to complex and different challenges related to the nature and circumstances of particular fish stocks.

Other legislative proposals have included language to require the establishment of a "hard" total allowable catch (TAC) and an immediate "pay-back" for any overage. There may be a perception among some that the recreational fishing sector is not currently required to "pay-back" overages. This is inaccurate. If the recreational sector exceeds a specified annual catch limit, Councils and/or the Secretary already require "pay-back" by reducing the future catch limits, shortening the length of seasons, increasing minimum size limits, and reducing bag limits. Under current law, fishery managers have a minimal ability to prevent this "pay-back" from resulting in a total and immediate shut-down of entire fisheries. The proposed language in the Senate bill and others eliminates such capability and would result in immediate and long-term fisheries closures.

In the instance of summer flounder, the stock has been successfully rebuilt to levels of abundance not recorded since the 1960's. However, managers are forced to implement more restrictive measures upon the recreational sector due to the inflexibility in current law. If the hard TAC and "pay-back" provisions were imposed on top of the current requirements, it would likely result in an immediate and long-term closure of summer flounder – one of the largest recreational fisheries on the East Coast. We believe that Congress can and needs to inject flexibility into the current law in a manner which will prevent immediate closures of fisheries without compromising conservation results.

Science-Based Catch Limits

H.R. 5018 requires each regional Fishery Management Council to set annual catch limits at or below the acceptable biological catch level as recommended by the Council's Science and Statistical Committee (SSC). It also requires the SSC to make such recommendations based on sound science. The RFA believes that this is an appropriate framework for councils to set annual catch limits.

Streamlining NEPA

H.R. 5018 also proposes important changes to streamline a burdensome regulatory process. Currently, regional councils, the National Marine Fisheries Service, NOAA, the Department of Commerce, the Office and Management and Budget and other Federal agencies are required to wade through a morass of time-consuming regulatory requirements to amend an existing or adopt a new fishery management plan. H.R. 5018 requires regional councils to meet two new requirements under the Magnuson-Stevens Act similar to requirements under the National Environmental Policy Act (NEPA). It also provides discretionary authority to the Secretary of Commerce to consider such requirements as meeting the NEPA requirements. RFA believes these provisions will reduce current time-consuming and overlapping regulatory steps while at the same time ensuring that conservation requirements under NEPA and the Magnuson-Stevens Act are properly considered.

Managing Fisheries in a National Marine Sanctuary

H.R. 5018 restores the balance between two conservation laws – the Magnuson-Stevens Act and the National Marine Sanctuaries Act. H.R. 5018 requires the Secretary to review any regulation proposed under the National Marine Sanctuaries Act which would regulate fishing in a sanctuary. Such a regulation could not take effect unless the Secretary certifies that the proposed regulation meets the criteria of and is consistent with the Magnuson-Stevens Act. RFA believes this proposal will reduce historical tension between fisheries managers and sanctuary managers and promote better decisions with regard to fishing regulations in national marine sanctuaries.

Limited Access Privilege Programs

Like other legislative proposals to reauthorize the Magnuson-Stevens Act, H.R. 5018 proposes a limited access privilege program. It is clear from H.R. 5018, the Senate bill, the Administration bill, and prior Administration testimony, that these proposals are designed primarily to address challenges in managing certain commercial fisheries. For instance, past Administration testimony in support of limited access privilege programs focuses on ending the “race-to-fish”, decreased harvesting costs, increased product quality, and increased profits. RFA believes that all of these are laudable goals and limited access privilege programs should be available tools to manage commercial fisheries. However, the recreational industry does not suffer from “races-to-fish” and has never needed to contemplate reducing harvest costs nor increased product quality because these issues do not exist in the management of recreational fisheries. Therefore, RFA recommends that the limited access privilege programs be confined to the management of commercial fisheries and that any allocation associated with such a program be made only after the initial commercial/recreational allocation is established.

Before I turn to H.R. 1431, I would like to address one issue which is not included in H.R. 5018. The RFA believes that the definition of “fishing community” should be revised to include the recreational fishing industry. Nine million anglers generate a recreational fishing industry which supports 350,000 jobs and drives a $30 billion industry. The RFA believes that Congress should recognize our industry as part of the “fishing community” for the purposes of this Act and that it should be properly considered as such in the federal regulatory decision-making process.

H.R. 1431

RFA appreciates the goals of improving the fishery management decision-making process embodied in H.R. 1431. There are several proposals included in H.R. 1431 that would move the decision-making process in the right direction. For instance, RFA is supportive of the training requirements for new council members contained in the bill. However, the RFA believes that the criteria for the nomination of council members should not be changed. H.R. 1431 attempts to provide additional opportunity for members of the conservation community to be appointed to regional councils. There is nothing in the current law which prevents members of the conservation community from being nominated by governors or appointed by the Secretary. Finally, the RFA believes that the provisions related to cooperative research and peer review are proposals with merit and should be considered thoroughly by the Committee as the legislation moves forward.