

**Written Testimony of  
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***Legislative Hearing on the Reauthorization of the Magnuson-Stevens Fishery  
Conservation & Management Act: H.R. 200; H.R. 2023; H.R. 3588; and Rep.  
Huffman's Discussion Draft***

**To the  
Committee on Natural Resources  
Subcommittee on Water, Power and Oceans  
United States House of Representatives**

**September 26, 2017**

Chairman Lamborn, Vice Chairman Webster, Ranking Member Huffman and Members of the Subcommittee, I appreciate the opportunity to speak with you on behalf of the Southeastern Fisheries Association about the reauthorization of the MSA and more specifically, about H.R. 200; H.R. 2023; H.R. 3588; and Mr. Huffman's new Discussion Draft.

My name is Mike Merrifield, I am part-owner in Cape Canaveral Shrimp Company and Wild Ocean Seafood Market, a Florida-based seafood business with a commercial fishing dock in Port Canaveral, a processing facility in Titusville (just west of the Kennedy Space Center), and two retail locations. We distribute seafood to restaurants, retail operations and distributors primarily in the State of Florida. I'm currently the chairman of the South Atlantic Fisheries Management Council's Deepwater Shrimp Advisory Panel.

I currently serve as Southeastern Fisheries Association - Fish Section Chairman. SFA is a 501 C 6 non-profit association representing fishermen, fish houses, retail/wholesale dealers, processors, distributors and restaurants across the southeastern US since 1952. Florida members handle, process or distribute over 80% of the seafood produced in the state. SFA has been a leader in sustainability and the push for cooperative research.

I have always enjoyed recreational fishing and quality seafood and thought that going into the seafood business, offering high quality local, wild-caught seafood to people that don't own a boat or cannot catch their own, would be a no-brainer. However, I soon began to feel the pressure from an ever-rising tide of regulations emanating from multiple state and federal agencies reducing access and product availability.

There was quite a bit of talk about sustainability, precautionary factors, over-capitalization, as well as protections from marine monuments and sanctuaries. It became apparent we had to participate in the South Atlantic Fisheries Management Council process. I joined the Deepwater Shrimp Advisory Panel in 2008 which I chair today,

mostly because Rock Shrimp is one of our signature Florida products and we were growing concerned about future access to this resource.

I have always considered myself to be more environmentally conscience than the average person. However, over time there has been a steady vilification of the commercial fishing industry and the men and women that provide seafood products to all of us, often at great personal risk. In addition to this societal shift, we now see the recreational fishing industry reacting to shrinking fishing seasons, attempting to obtain additional allocation from the commercial sector. This will further reduce access to the American consumer. Decreased Annual Catch Limits (ACLs) and overharvest are the direct result of poor quality data.

The 2006 Amendments passed by Congress and subsequent implementation by NOAA fundamentally changed the focus and goals of domestic fisheries management. The focus would shift to science-based decision-making while the goal would be ending overfishing immediately, adding accountability, rebuilding stocks as quickly as possible and reducing fishing capacity through limited access programs.

One of the more critical components of the last reauthorization and implementation of the National Standard Guidelines (NSGs) is that the Regional Fishery Management Councils (RFMCs) must consider both scientific and management uncertainty when setting quotas. Given the lack of quality data and insufficient funding to assess all stocks required to be in a management plan by a specific date, precautionary factors were applied that erred on the side of over-protecting the stocks. This was accomplished over time with less concern being given to achieving Optimum Yield (OY) on a continuing basis, and the negative impacts on fishermen, fishing communities, the economy and food supply to our Nation.

The 2006 Amendments also required accountability from all stakeholders – commercial, for-hire, and private anglers. For our part, the commercial fishing industry is subject to comprehensive reporting at multiple levels (i.e. federal observer requirements, vessel log books, vessel monitoring systems, vessel trip tickets & dealer reports, Highly Migratory Species reporting, etc.) to multiple agencies (NOAA, individual States) with strict enforcement and substantial penalties for noncompliance.

The commercial fishing industry has also suffered reductions in fishing capacity through federal Catch Share programs, permit reduction requirements (whereby a South Atlantic snapper-grouper fisherman must purchase two permits and retire one, to secure just one usable permit), ACL reductions, limited access programs, new permit moratoriums, gear limitations, and reduced access to prime fishing areas, among other things.

During the past 10 years these restrictions have contributed to substantial and negative financial and infrastructure losses in terms of less fishermen and fewer fishing vessels, docks, fish houses (wholesale and retail distributors) and shore-side processors. Besides job loss and reduced opportunity for new money into the Florida economy, we have greatly reduced the public's access to one of our nation's best natural resources. According to Dr. W. Steven Otwell, Emeritus Professor University of Florida, Director

Seafood HACCP Alliance, “US, Wild-caught seafood is the safest, best source of muscle protein in the world today.”

Further complicating the situation, especially in the Gulf of Mexico and particularly the South Atlantic, is that we often do not have the quality data necessary to ensure robust stock assessment models. Thus, we cannot minimize factors leading to negative impacts from scientific and management uncertainty and precautionary decision-making. The data are insufficient to properly manage commercial fisheries alone, much less mixed-use fisheries. The combination of insufficient data on many stocks, including unreliable estimates of recreational catch and discards, along with interjection of uncertainty considerations in the quota setting process has resulted in closures, precautionary buffers, and yields far below OY at the expense of all stakeholders and our Nation.

Catch Share programs, largely unwanted by a vast majority of industry members in the South Atlantic region, continue to be encouraged by NOAA and fomented by environmental organizations. MSA catch share reforms are necessary to protect the industry and prevent top down implementation of these often harmful programs.

We are also struggling mightily with appropriate implementation of the 1990 Amendments requiring the Secretary ensure fair and balanced apportionment of *active* participants in the commercial and recreational fisheries. In our opinion, the Secretary has failed to meet the requirements of Section 302(b) with respect to striking a fair balance, especially on the Gulf of Mexico Fishery Management Council.

In NOAA’s most recent *2016 Report to Congress on Disclosure of Financial Interest and Apportionment of Membership for Regional Fishery Management Councils* the agency reports an equal 4:4 balance (recreational: commercial) on the Gulf Council. However, SFA believes this accounting to be false and inconsistent with the original intent of Section 302(b). In our practical experience, the Gulf Council is out of balance whereby the industry finds itself in a situation with only ONE voting member being *active* in the commercial fishing industry. There are SEVEN recreational voting members plus the state directors, which by our observation tend to support sport anglers most of the time. An amendment requiring a balance of interests on the RFMCs and a fair annual accounting by the agency must be added to any legislation reauthorizing the MSA.

Whenever comprehensive changes are made to complex policies like MSA -- we don’t get it all right all the time. We view this reauthorization as an opportunity to work with Congress and other stakeholders to restore some flexibility and balance and we appreciate the Subcommittee’s leadership in this regard. It is in this context that we offer the following comments on legislation pending before this Subcommittee.

**H.R. 200: “Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act”**

SFA supports H.R. 200 and appreciates Congressman Don Young and his staff and this Subcommittee and its staff to bring this bill forward for further discussion. In particular, we offer the following comments on specific provisions.

#### Rebuilding Flexibility

H.R. 200 removes the 10-year rebuilding time frame and substitutes the time a fishery could be rebuilt without fishing, plus one mean generation. The 10-year requirement has long been considered by industry to be arbitrary. In 2013, the National Academy of Science (NAS) concluded in their report titled “Evaluating the Effectiveness of Fish Stock Rebuilding Plans in the U.S.” that the pre-set 10-year rebuilding requirement was indeed arbitrary and harmful, thus ending the debate. We agree with the NAS and support replacing this requirement with a more scientifically valid metric.

H.R. 200 also provides several common-sense exceptions to the rebuilding time period including: (1) biology of the stock, environmental conditions or management measures under an informal international agreement; (2) the cause of depletion is outside the jurisdiction of the Council or can’t be affected simply by limiting fishing; (3) if a stock is part of a mixed-stock fishery that cannot be rebuilt in the time frame if that causes another component to approach depleted status, or will lead to significant economic harm; and (4) informal transboundary agreements that affect rebuilding.

H.R. 200 also adds helpful new flexibility requirements that rebuilding plans take into account environmental factors, including predator/prey relationships; a schedule for reviewing rebuilding targets and progress being made on reaching those targets; and consideration of alternative rebuilding strategies including harvest control rules and fishing mortality targets, provided we maintain MSA consistency.

#### Fishery Disasters

SFA supports the provision in H.R. 200 requiring the Secretary publish the estimated cost of recovery from a fishery resource disaster no later than 30 days after the Secretary makes a formal designation. Further, we support requiring the Secretary to act on a fishery disaster request within 90-days of receiving an estimate of the economic impacts from the entity making the request.

In May 2009, the Secretary of Commerce closed the Gulf of Mexico snapper-grouper commercial fishery to protect sea turtles for 5 consecutive months. The Governor of Florida issued a formal request to the Secretary for a fisheries disaster declaration. The Secretary did not respond to the request until early 2011, finally issuing a determination that despite hardship the industry ultimately survived the closure so no disaster declaration was necessary.

By comparison, it took the Secretary of Commerce just 90-days to respond to the 2013 disaster request for a commercial fishery failure for Frazier River Sockeye in Washington State.

#### Modifications to the ACL Requirements

H.R. 200 provides Councils with increased flexibility in setting ACLs. The ACL requirement is retained in the Act but the RFMCs could consider changes in ecosystem and economic needs of the communities when setting limits. In light of changing environmental conditions, these additions make scientific and common sense as long as all proposed changes are discussed in the open and subject to input from stakeholders.

There are also helpful targeted ACL exceptions for Ecosystem Component Species that are not overfished or subject to overfishing or likely to become subject to those conditions. Since these non-targeted species are such minor components it makes sense to retain them generally in the management system but not as species technically considered “in the fishery”. This allows for important ecological monitoring but does not increase management complexity or precipitate negative economic ramifications from a choke scenario.

The Act currently provides an exemption from the ACL control rules for stocks managed under international agreements and for species whose life cycle is approximately one year that is not subject to overfishing. These provisions are helpful but are narrow in scope and do not address species that are truly trans-boundary in nature that have an informal agreement (or no agreement) in place, or are species whose life history characteristics prevent RFMCs from being able to apply the ACL control rules in an efficient manner.

From a Florida perspective -- SFA (and the FL Fish & Wildlife Commission) supports the provision contained in H.R. 200 that provides for ACL relief for the spiny lobster fishery in the Gulf of Mexico. While valued at \$375M and supporting more than 3500 jobs in Monroe County, FL alone -- U.S. fishermen account for just 6% of the total harvest. Genetic evidence indicates that stock recruitment occurs almost entirely outside U.S. jurisdiction.

In 2011, NOAA’s Southeast Data Assessment Review (SEDAR) determined it was not possible to establish population benchmarks based only on the U.S. segment of the population and there is no agreement (formal or informal) or stock assessment available to manage this international stock. Despite the true trans-boundary nature of this stock and insufficient data available to render a status determination, current MSA requirements could force the RFMC’s to set precautionary ACL control rules for this species that will harm U.S. fishermen with no measurable biological benefit to the stock.

#### *Overfished and Overfishing Defined*

SFA supports correctly defining “overfishing” and removing the term “overfished” from the Act, substituting the newly defined term “depleted”. We also support changing the annual Status of Stocks report submitted by the Secretary to distinguish between stocks that are depleted or approaching that condition due to fishing and those meeting that definition as a result of other factors. We support the separation and clarification of the two terms and the requirement to differentiate sources of mortality when projecting stock status and setting ACLs.

#### *Transparency and Public Process*

H.R. 200 requires RFMC Science and Statistical Committees (SSCs) to develop advice in a transparent manner and allow for public input. The 2006 MSA amendments greatly increased the complexity of the management process and ceded unprecedented authority to the SSCs. The use of video/call conferencing/webinar technology has increased to where critical decisions can be made mostly outside of the public eye. Therefore we believe there is a need to consider some improvements to public access in current reauthorization while at the same time not overburdening the RFMCs.

While each council operates differently, and the range of comfort in the regulated community varies from region to region based on those differences, there is no reason why we should not require RFMC, SSC and Council Coordinating Committee (CCC) meetings be widely available in some timely manner and archived for public access.

H.R. 200 requires the Council and CCC to provide a live broadcast only if practicable to do so, but does require an audio recording, video (if the meeting was in person or via video conference), and a transcript of each Council and SSC meeting on its website within 30 days.

#### *Limitations on Future Catch Share Programs*

The SFA does not support dismantling existing catch share programs in the Gulf and South Atlantic Regions. However, we are concerned about the process used to develop and implement such programs and the negative results. So, we must make improvements to prevent future mistakes and avoid unintended consequences.

First, we support a clear and comprehensive definition of the term “catch share” such as the one contained in H.R. 200.

Secondly, we support H.R. 200 requiring a formal, simple majority, catch share referendum process applicable to future catch share programs in New England, Mid-Atlantic, South Atlantic, and Gulf of Mexico regions. SFA supports this provision, and there is broad support across the fishing industry in these regions for an iron-clad, transparent referendum process.

Many in the commercial fishing industry, particularly in the Gulf and South Atlantic, consider the catch share process to be a top-down process designed to reduce the size of the commercial fleet. For example, in the Gulf of Mexico we observed NOAA pressuring the Council to set landing criteria so high that many working fishermen were locked out of voting under the existing referendum requirements for the snapper-grouper program.

Recently, we were forced to oppose efforts by NOAA and some South Atlantic Council members to implement a “pilot” catch share program via the Experimental Fishery Permit (EFP) process absent any referendum requirement whatsoever.

Reforming the referendum process contained in Section 303(A) is crucial to protecting the industry. The current law as written does not protect fishermen, particularly small boat fishermen Gulf of Mexico. Also, there is no referendum requirement for the South

Atlantic and Mid-Atlantic regions, leaving the industry in those areas exposed to proliferation of catch share programs they do not want and for which there is often insufficient scientific information.

SFA's position is that all legitimate commercial fishermen with an active permit and verifiable landings in a federal fishery in the Gulf of Mexico and South Atlantic should be allowed to participate in a fully informed vote. We also believe there must be an adequate stock assessment and accurate landings information upon which to build a catch share program. SFA strongly believes we should not lose one more commercial fisherman due to government regulations.

#### Data Collection

There is widespread industry support for the improved data collection and focus on Data-Poor stocks contained in H.R. 200, especially in the Gulf of Mexico and South Atlantic regions. H.R. 200 focuses on Data-Poor fisheries to gather fishery independent data, to survey/assess "Data-Poor" fisheries, to develop cooperative research to collect fishery independent data, and for the RFMCs to list and prioritize Data-poor fisheries. NMFS should also be required to include active, resource stakeholders in developing cooperative research programs.

NOAA currently manages approximately 528 stocks of fish. Of this total, it is generally believed about 114 are adequately assessed by the agency. Most of the 114 assessments (approximately 80) occur regularly on economically important stocks in Alaska and New England. In other regions, the assessment periodicity is far less - approximately 15 per year in the Gulf of Mexico, South Atlantic and Caribbean combined. Thus, a large majority of fish stocks are Data-Poor or not adequately assessed at all with the results being uncertainty and reduced opportunity for achieving OY.

#### GOMEX Cooperative Research and Red Snapper Management

There is longstanding and widespread industry support in the Gulf of Mexico and South Atlantic for requiring the Secretary to work collaboratively with States, GMFMC/SAFMC, and commercial/charter/sport stakeholders to develop and implement a cooperative research program for both regions with a priority on data-poor stocks.

H.R. 200 outlines specific requirements for timely surveys and stock assessments and task prioritization at the NMFS Southeast Regional Science Center -- there is widespread industry support in the affected regions for these requirements.

An example of why we need Congressional intervention in this regard can be understood by looking at red snapper in the South Atlantic. The fishery was completely closed in 2010 by way of a controversial RFMC vote and using results from what many consider to have been a deeply flawed assessment. Despite the total closure, swirling controversy, and data poor circumstances, the Agency chose not to collaborate with industry in the intervening years and did not conduct a new stock assessment until 2016. This new assessment has also come under fire with respect to its still-unresolved data poor characteristics yet the closure persists.

Clearly, we must look to Congress to help resolve these problems in the Southeast Science Center via the MSA process. Fishery closures should only occur when there is irrefutable evidence and if enacted should include a sunset clause (e.g. less than 5 years) to ensure active data collection and continual re-evaluation.

#### Consistency With Other Laws

SFA supports the provision in H.R. 200 that clarifies MSA should prevail in the context of managing fisheries under the National Marine Sanctuaries Act (NMSA), Antiquities Act, Endangered Species Act (ESA), and we hope also the National Ocean Policy (NOP). This provision does not amend these other statutes but rather, would apply the MSA process to achieve consistent fisheries management throughout the range of a species.

Regarding Marine Sanctuaries, the new NOAA site nomination policy (2014) precipitated a number of initiatives to create new protected areas, including one off the northeast coast of Florida. If not for fully coordinated state and local opposition we may well have ended up with a 7,000 square nautical mile sanctuary off the coast of Florida and no transparent public process by which to manage our fisheries in the area.

The potential for widespread adverse industry impacts from Antiquities Act authority increases during the latter part of every Administration. The prior Administration was no exception, setting historic records for acreage added to federal designations, phasing out commercial fishing from productive areas absent a transparent science-based process.

Regarding conflicts with the ESA – we have had to deal with loggerhead sea turtles in the Gulf of Mexico longline fisheries and Atlantic right whales in our very small South Atlantic gillnet fisheries. By using the MSA/RPMC process with fishing experts at the table, we can best tailor ways to meet the ESA requirements that also enable our fishing communities to remain viable in the process.

SFA supports clarifying that the MSA is the controlling statute in regard to federal fisheries management. By using the MSA process to develop regulations instead of the National Marine Sanctuary Act, the ESA, or the Antiquities Act, we will ensure that when it comes to fisheries there will be thoughtful and thorough analysis and the opportunity for public comment.

#### **H.R. 2023: “The Modernizing Recreational Fisheries Management Act of 2017”**

SFA has substantial concerns with elements of this legislation. The central theme proponents use to justify this legislation is that recreational and commercial fishing are fundamentally different activities. Factually, this statement is true. However, there is one inescapable similarity between the two activities – both commercial and recreational fishermen kill fish. These exact same impacts on shared resources must be clearly and fairly accounted for so that no one group (or the consumer) is disadvantaged.

The national recreational fishing lobby would have Congress believe how well the states manage their fisheries but fail to disclose that states manage many fisheries such that anglers get most or in some cases, all of the fish. Of course they prefer state management of species such as redfish, trout, snook, and striped bass (and now potentially red snapper...) because consumer access to a fair portion of these fish has largely been removed from people who do not own a boat.

SFA firmly believes there should be no reward for exceeding ACLs and that all stakeholders -- commercial, for-hire and private anglers -- should each be held accountable for their impacts on our nation's fish resources. We must resist changes to the law that could be interpreted to remove this accountability.

### Reallocation Review

H.R. 2023 requires the NAS conduct a study of allocations in mixed-use fisheries in the Gulf and South Atlantic regions. Unlike many of our colleagues in the commercial fishing industry around the nation who fear the precedential nature of this provision, SFA actually supports the study with two caveats. The Subcommittee must make very clear the NAS study and the resulting RFMC process take the following into consideration:

First, we strongly urge the Subcommittee clarify that the NAS must consider the fair and full value of the commercial fishing and seafood industry, encompassing harvest, dock activity, processing, transportation, and distribution through the seafood markets, grocery stores and all restaurant activity. This is only fair since a recreational valuation will likely include bait, tackle, boat, trailer, hotel, vacation home, air fare, etc.

Recently, someone asked me about their seafood dinner that cost \$50 per plate. The ex-vessel price of the fish they ate was \$1.50/lb. or about \$0.50 per serving. When calculating the economic value of commercial fishing activity, the entire economic chain must be included to accurately reflect the total economic value to the economy.

Secondly, the NAS must also be directed to take into consideration the quota allocation disparity in the South Atlantic region that artificially lowers the value of commercial fishing and reduces consumer access. Currently, U.S. consumers have access to just 27% of all finfish resources in the entire South Atlantic region, hardly an equitable split for the non-fishing public.

For example, in the 2016 SAFMC's mahi (dolphinfish) fishery the commercial sector allocation was 10% (recently increased from 7.54%) for a total of 1,534,485 pounds. The recreational allocation was 90%, or 13,810,361 pounds. In 2016, the angler sector utilized just 46% of their entire allocation, leaving more than 7.5 million pounds unharvested.

In that same year, NOAA statistics show that the U.S. imported 47,218,731 pounds of mahi from 40 different countries totaling \$199,878,831. Under the policies of the SAFMC it seems we would rather pay fishermen in Suriname and China and compound our seafood traded deficit problems rather than allow U.S. fishermen to achieve OY. I can assure you the value of 7.5 million pounds of underutilized mahi would have

contributed substantially to our commerce and provided a highly-sought-after seafood product to the American public.

*Alternative Fisheries Management Methods for Private Anglers*

SFA can support the use of alternative methods for estimating recreational catch and discard mortality provided the methodology is MSA-compliant, subject to federal oversight, and is fair and equitable to the commercial and for-hire sectors.

*Permanent Moratorium on new Catch Share Programs*

We oppose a permanent moratorium on new catch share programs and request a referendum vote be applied to allow the industry to determine whether a catch share program is the most appropriate management tool for accessing commercial quota.

*Retaining the 10-year Rebuilding Requirement*

SFA opposes the 10-year rebuilding requirement and supports the more flexible science-based alternative provided in H.R. 200.

*ACL Exemption for Sport Fisheries*

SFA cannot support any changes that attempt to solve the lack of recreational accountability and poor data by providing ACL exemptions for private anglers or allow shifts in allocation to address quota overages.

Since the 2006 Amendments the management system has struggled to complete and implement a proper accounting system for recreational catch and discards. In 2006 the National Research Council began a critical review of the Marine Recreational Information Program (MRIP) and its results were finalized in 2017. Clearly, work must continue to complete implementation of the MRIP. The significant delays in successfully implementing MRIP are in our opinion inexcusable and have resulted in serious management inefficiencies and precipitated stakeholder infighting. The Subcommittee must hold NOAA accountable to complete the MRIP.

*Limitations on Experimental Fisheries Permits (EFPs)*

H.R. 2023 would handicap the national Exempted Fishing Permit (EFP) process with an overly prescriptive set of requirements that to us appears designed to undermine the system. EFPs can be a critical component to cooperative research, gear development, conservation engineering, and data collection if developed with participation from affected stakeholders. The process must be open from the start and not kept internally within NOAA until the plan is ready to launch.

However, we agree that specific limitations on use of EFPs to implement catch share programs outside of Section 303(A) are warranted. We have dealt with this specific issue in the South Atlantic region and request the Subcommittee consider adding a protective measure here, while not undermining the benefits of the entire EFP program.

*Cooperative Data collection; Federal/State Partnerships; Data Collection Efforts to improve Recreational Data*

SFA can support federal Marine Recreational Information Program (MRIP) funds being made available to the States to improve accounting and reporting of recreational catch and discard mortality provided the programs are MSA compliant and federal oversight is maintained.

### **H.R. 3588: “The Red Snapper Act”**

SFA strongly opposes this legislation. The justification is built entirely on the misconception that anglers can only fish for red snapper for 3 days (now 39 days) in federal waters in the Gulf of Mexico. This is a false narrative. Anglers can fish 365-days per year for red snapper and all of the other 38 species in the Gulf reef fish complex. They can only kill red snapper on 3 (or 39) of those days. To be clear, there is unlimited fishing opportunity for recreational anglers in the federal waters of the Gulf which calls into question the actual need for, and defense of, this legislation.

- H.R. 3588 allows for recreational catch limits to be set which do not take into account recreational quota overages.
- H.R. 3588 would extend State management authority anywhere from 25 to 65 miles offshore (the exact distance is unclear and depends on the contour of the 25-fathom curve...) but there is no indication and no guarantee the five Gulf States will adequately provide for added enforcement, monitoring and data collection responsibilities in the newly expanded areas.
- H.R. 3588 does not require consistency with the MSA in terms of ending overfishing, rebuilding, use of best available science, fairness & equitability or any of the other national standards.
- H.R. 3588 does not require a report to Congress on the health of the red snapper resource under the requirements of this Act until 2024.
- H.R. 3588 preserves only the percentages of the total allowable catch (TAC) of red snapper for the commercial and for-hire sectors, but not the actual quotas. The actual quota amounts made available to commercial and for-hire sectors will depend on the health of a resource subject to what is expected to be excessive recreational harvest with no accountability. The likely result -- reduced quotas for commercial and for-hire sectors, though their percentages of the TAC will remain the same.
- H.R. 3588 does not require that all State red snapper recreational fisheries surveys be submitted and certified by the Secretary.

SFA is also concerned this legislation will set an unhealthy precedent for other species in the region and around the Nation. We would rather see efforts put into improving MRIP and accurate estimates of recreational catch and discard mortality.

### **MSA Discussion Draft of Rep. Huffman**

We would like to thank Ranking Member Huffman and his staff for recently providing a copy of the “Discussion Draft” dated September 18<sup>th</sup>. SFA has not had adequate time to assess the pros and cons of this proposed legislation. We will examine this bill in more detail in the coming weeks and continue to engage in the MSA reform conversation including on all legislative offerings.

Based on an initial cursory review the Draft appears to be a comprehensive mix of components. The Draft contains some *concepts* similar to what we are supporting in H.R. 200 -- including some enhanced ACL and rebuilding flexibility (incl. removal of the 10-year timeline); improved science, cooperative research, and recreational data collection (incl. MRIP); as well as improvements to council transparency and the fishery disaster declaration process, among other things. We note the Draft does not include an ACL exemption for Florida’s spiny lobster fishery, something the Florida industry and the Florida Fish & Wildlife Commission do support.

However, the Draft incorporates some components that are red flags for our industry. These include but are not limited to: expansion of the habitat areas of particular concern (HAPC) concept, requirements for RFMCs to *protect and recover* essential fish habitat; and bycatch reduction plans for forage species. We have struggled under the negative impacts of HAPCs under the current Act and cannot afford to increase these problems. Similarly, NGOs have pressured the management system and Congress for forage fish management as a way to choke off commercial fishing activities for target species. Here again, we must resist efforts to include these harmful elements in the reauthorization.

### **Additional Provision to be considered for addition to any H.R. 200** **Manager’s Amendment**

Section 302(b) must be revised to ensure we achieve a fair and balanced apportionment of active participants in the commercial and recreational fisheries; and that the Secretary must clearly and fairly assess these apportionments in the annual Report to Congress. Additionally, the specific requirements of Section 302(b)(2)(D) regarding membership on the Gulf Council which sunset at the end of fiscal year 2012 should be reexamined, clarified and reinstated.

### **Closing**

Thank you Chairman Lamborn, Vice Chairman Webster, Ranking Member Huffman and Members of the Subcommittee for your interest in the Florida commercial fishing industry’s perspective on MSA reform. We look forward to working with this Subcommittee and your staff to support the passage of fair, balanced legislation that will fulfill the intent of the Magnuson-Stevens Act. I am happy to answer any questions that you or other Members of the Subcommittee may have.