

**Written Testimony of
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**Oversight Hearing on Implementation of the Magnuson-Stevens Fishery
Conservation and Management Act of 2006**

**Before the
Committee on Natural Resources
Subcommittee on Insular Affairs, Oceans & Wildlife
United States House of Representatives**

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Madam Chair Bordallo, Ranking Member Brown and distinguished members of the Subcommittee, I appreciate the opportunity to speak with you today about implementation of the Magnuson-Stevens Fishery Conservation and Management Act of 2006.

I am Greg DiDomenico, executive director of the Garden State Seafood Association. The GSSA membership is comprised of commercial fishermen, vessel owners, seafood processors and associated businesses in the State of New Jersey. GSSA and its members are involved in all aspects of the fishery management process. Our members occupy advisory panel seats on management councils, participate in cooperative research, and have a healthy respect for the ocean environment, all combined with a high quality of business acumen.

Prior to joining GSSA, I was the executive director of the Monroe County Commercial Fishermen's Association, where I analyzed several fishery management plans under the jurisdiction of the Gulf of Mexico Fishery Management Council and the South Atlantic Fishery Management Council. I have represented commercial fishermen in this capacity for close to ten years.

I currently serve at the pleasure of the NMFS Assistant Administrator on [four] Federal Marine Mammal Protection Act-mandated "Take Reduction Teams" (TRTs).

Today I will deal with a few of the substantive issues involving the MSA implementation from the GSSA perspective. I intend to discuss seven topics: (1) positive aspects of implementation; (2) stock rebuilding requirements; (3) Annual Catch Limits and Accountability Measures; (4) statutory exceptions for short-lived species; (5) trans-boundary stock issues; (6) guidance on catch share programs; and (7) state of the science.

(1) Positive aspects of MSA implementation

First and foremost, we believe that the Service has provided at least some discretion to the Councils to carry out fisheries conservation and management under the new Magnuson requirements in ways that are most appropriate for the fisheries under their jurisdiction. The “one size fits all” approach to fisheries management has so far, been kept to a minimum. Furthermore, Council management measures that already meet the new requirements are not subject to change. The regional councils are already strapped for resources to do a conscientious job of conserving living marine resources.

The MSA does not explicitly mandate councils to set control rules for ecosystem complex species or to address ecosystem considerations. However, new guidelines include the option to identify a broader approach to further the understanding of ecosystem management. We agree that in some extreme situations the Council may want to consider the negative impacts of keystone predators on the ecosystem.

For example, spiny dogfish predation on other species is thought to be having negative impacts on the food web. It is possible these impacts are slowing the rebuilding of several important stocks. However, little is known about dogfish themselves and even less about their impacts on the food web so the problem remains unresolved. Perhaps in extreme situations like these where a key component of the ecosystem is out of balance the councils may now have the tools necessary to quantify and address the problem. Another example where predator-prey interactions might be considered from a management perspective is with *Loligo* squid and butterfish. Recent scientific studies suggest that squid can consume an entire annual production of butterfish.

(2) Stock Rebuilding Requirements

While the councils are given some regional flexibility to tailor their approaches to management plans the one area that remains rigid is in regard to stock rebuilding. The law still retains the requirement that rebuilding be completed in 10 years or sooner, if practicable. The regional council chairmen unanimously supported adding stock rebuilding flexibility during the reauthorization but their efforts were not successful.

To be clear there is some exception for the biology of stock, environmental conditions, and trans-boundary circumstances but in practicality the approach we see more often than not is to hold stocks to a rebuilding period of 10 years or less. This inflexible approach can be problematic for councils, coastal communities and individual fishermen. The problem is the 10-year deadline is arbitrary, has no basis in science, requires stocks to be rebuilt to oftentimes unprecedented levels, and must be met without regard to the impact it will have on the citizens of the United States.

Since the law has mandated an end to overfishing and a more aggressive role for the SSC, it simply makes no common sense to visit hardship on coastal communities if a stock can rebuilt to the exact same level in 12, 15 or 18 years rather than in 10 years and subject to more onerous restrictions. We all agree that stocks must be rebuilt – we disagree on the time frame needed to get there. We believe this is one instance in which Congress needs

to comprehend this issue more completely. We still feel that Congress can address this issue by injecting some common sense into the fishery management process without preventing rebuilding and still providing stability to coastal communities and fishing-related industries.

Fortunately, Representative Pallone, Representative Walter Jones and Senator Schumer recognize the need for some flexibility to ensure the viability of their coastal community infrastructure and introduced legislation during the past few years to address this very issue. Unfortunately, their efforts thus far have not yet achieved success.

(3) Annual Catch Limits and Accountability Measures

As with other conservation and management measures, control rules must be flexible enough to cover the variety of fisheries that are managed under the Council jurisdiction. Further, these measures must ensure accountability for each sector. We support separate ACL/AM rules for each sector of a given fishery. This makes sense given that management measures are often vastly different for sport and commercial fisheries or among commercial gear types. The sector-by-sector accountability will result in healthier stocks and a level playing field for all participants.

Regarding the division of control rules between state and federal components of a fishery, we believe that separate rules should be established for those stocks managed under the Atlantic Coast Fishery Conservation and Management Act. In such cases, the nexus between state and federal management already exists and the overall ACL and corresponding AM should be divided into separate federal and state portions. In the case of stocks not managed under the ACFCMA, because the Councils have no jurisdiction over state regulations, overall ACL/AM should be established which takes into account state fishing regulations.

(4) Statutory Exceptions for short lived species

We agree with the statutory exemption provided for species with a short life cycle or unusual life history characteristics such as the Atlantic squids (*Loligo* and *Ilex spp.*), and warm-water species of shrimp. When managing such species it is prudent to consider the life history characteristics such as protracted spawning habits, high productivity, and whose abundance and availability in a given year are more vulnerable to environmental conditions such as temperature, depth and salinity rather than fishing.

We firmly believe allowing for management flexibility for these types of species is appropriate. Stocks that qualify for this exception should not be subject to strict rebuilding requirements and during years of high stock abundance it may be biologically defensible to exceed catch limits. Unfortunately the application of scientific uncertainty prevents managers to allow for such flexibility. In the case of short-lived species with high productivity this could be accomplished without harming the overall productivity of the stock.

(5) Trans-boundary Stock Issues

We also believe that exceptions should be made for trans-boundary stocks where the U.S. is unable to control harvesting efforts by other nations, either within their exclusive economic zones or on the high seas beyond such zones. We believe stocks subject to management under international agreement should be exempt from the control rule requirements. Some species of North Atlantic groundfish, Atlantic herring and mackerel, clearly fall within this category. This is especially relevant in the case of Atlantic mackerel where anecdotal evidence suggests the stock may be shifting to the north and east and where the U.S. has no formal sharing agreement and Canada takes what they can harvest. This trans-boundary issue was raised at the April 2009 meeting of the Mid-Atlantic Fishery Management Council's Science & Statistical Committee. We note here that our rationale is the same as for other international species – U.S. management actions will not affect rebuilding or end overfishing, will potentially disadvantage U.S. fishermen, and may weaken U.S. negotiating positions. Consider the examples of bluefin tuna and swordfish where U.S. management actions will not affect rebuilding or end overfishing, but do disadvantage U.S. fishermen.

(6) Guidance on Catch Share Programs

The five overarching priorities of the national catch share program currently under development are to ensure consideration of such programs by the regional councils, to provide technical/administrative support, to ensure that fisheries perform properly under such programs, to enhance communication with the public sector, and to provide the councils with adequate resources to develop catch share programs. The term 'catch shares' is being broadly defined and implementation of such programs may require strong ecosystem-based performance criteria.

Our main concern with any national program is that it must provide the regional councils with adequate flexibility to develop programs tailored to industry needs in the individual regions. In some fisheries (Atlantic mackerel/squid/herring; West Coast groundfish to name a few) it may be applicable for councils to include shore side communities and processors while in other situations it may not be necessary and can be vessel-based. Fisheries are so diverse that providing flexibility to the councils to develop catch share programs is critical. We remain hopeful the agency will pursue such an approach.

(7) State of the Science

This issue represents our most critical concern stemming from the implementation of the 2006 reauthorization. Congress clearly intended for science-based decision-making to be the order of the day. There is to be an end to overfishing, Science & Statistical committees have been afforded increased stature, and both scientific and management uncertainties must be taken into consideration. In theory, we agree with these requirements and firmly support the use of best available science to make management decisions.

For the 2006 reauthorization to be effective it requires a heavy reliance on having high quality scientific information. Unfortunately, this is information that in most cases we simply do not have. The funding necessary to gather such information has never been realized. It appears that in 2006 we gave the agency and councils substantially more to do but did not provide the fiscal resources necessary to do it effectively.

We are saddled with data poor stocks in nearly every region. In the Mid-Atlantic, one of the most important core stocks is monkfish and even that fishery is considered data poor. Industry members have to come to Congress and plead for earmark survey funding just to make sure there are bare bones data available for future management decisions.

The juxtaposition of inadequate data and scientific uncertainty in the quota setting process will likely result in larger precautionary buffers and lower yields in US fisheries at the expense of our industry and the nation as a whole. The application of Annual Catch Limits and Accountability Measures by the MAFMC is currently being debated and the impact on several managed fisheries could be substantial.

Clearly, we must work to reduce scientific uncertainty by increasing funding and ensuring that key stocks are assessed on a more regular basis in every region. We must support the councils and ensure they have the necessary information so that quota decisions are accurate and precise rather than exercises in precautionary management.

Madam Chair, Ranking Member Brown, members of the subcommittee, on behalf of the GSSA membership I thank you for the opportunity to provide testimony on the implementation of the Magnuson-Stevens Fishery Conservation and Management Act.