



Executive Director
Recreational Fishing Alliance

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

Committee on Natural Resources
U.S. House of Representatives

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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 insure the long-term sustainability of our nation's marine fisheries. Recreational fishing produces significant economic activity in the United States. The US Department of Commerce estimates the economic output of recreational saltwater fishing includes \$59 billion in direct sales impacts, \$27 billion in value added impacts and supports over 260,000 full-time jobs. The recreational fishing industry is “Main Street America” in every sense; it is largely composed of small, family-run, mom and pop businesses. It goes without saying that these businesses serve a critical role in the economic health of the nation’s coastal economies.

I would like to thank Chairman Hastings, Committee members and Committee staff for holding a series of hearings over the past two years and listening to the concerns, needs and suggestions from the fishing community, fishery managers, business owners, academics and private citizens. The RFA and many other stakeholders in the recreational fishing community are encouraged to see many of the deficiencies identified at previous hearings included in the discussion draft released to the public on December 19, 2013.

General Comments

From a recreational fishing standpoint, it is difficult to justify a statement that claims that the Magnuson Stevens Fishery Conservation and Management Act has been a success. As will be pointed out by other witnesses today, the conservation portion of the Act has largely worked. The number of stocks experiencing overfishing has been significantly reduced and many fisheries are either rebuilt or on a trajectory to rebuild in the near future. If conservation was the only measure of success, we could claim that Magnuson has been working but we can't. The

spirit and intent of this fisheries law was to conserve fish stocks for the benefit of the nation in terms of food production, economic output and recreational opportunities. With this in mind, Magnuson is only producing positive results in one half of this equation and this failure of MSA to achieve both objectives is most painfully visible in the recreational fisheries. Unlike the commercial fishing operations that become more efficient and profitable by spending less time on the water and catching more fish when stocks rebuild, the exact opposite is true for the recreational sector. The recreational sector desires open access and opportunity to allow the most participants to engage the fishery. The rebuilding contradiction lies in the fact that as stocks rebuild, regulations must become more restrictive as the fish become more available to anglers. To enforce annual catch limits in the recreational sector as mandated under the current 2007 reauthorization regime, seasons become shorter, bag limits are reduced and minimum size limits are increased. Not only does this scenario depress the socioeconomic capacity of the recreational fishing industry but from a conservation standpoint, the mortality associated with harvest is converted to mortality associated with dead discards which serves no purpose. RFA believes language offered in the discussion draft attempts to address this issue and inequity.

Flexibility is a common theme throughout the discussion draft. RFA strongly supports the use of limited, common sense flexibility in rebuilding fish stocks and with ending overfishing. As seen in the summer flounder fishery in the Mid-Atlantic region which was subjected to limited flexibility through the 2007 reauthorization of MSA, limited flexibility can be used to accommodate the needs of the fishing industry while causing no conservation issues with the stock. In fact, the summer flounder stock continued to rebuild during the period when limited flexibility was applied, contrary to the dire predictions of the flexibility critics. RFA believes the successful use of limited flexibility in the summer flounder fishery demonstrates the value of providing flexibility and adaptive management options in all federally managed species when appropriate. The use of flexibility acknowledges the known fact that we cannot count every single fish in the ocean nor can we predict how every environmental condition (water temperature, salinity, current strength, ect...) will impact a stock's recruitment or speed at which it can rebuild. Flexibility is simply using an adaptive fishery management approach to accommodate the limitations of an imperfect science.

RFA is encouraged by language in the discussion draft that provides more power to the Regional Fishing Management Councils when setting rebuilding timeframes and other rebuilding requirements contained in fishery management plans. RFA believes the regional councils represent the best composition of managers, industry representatives, and fishing stakeholders to develop specifications in terms of quotas that balances the needs of fishermen and the needs of the fish stock as the Magnuson Act intended. However, fishery management plans and amendments prepared by the regional councils are not promulgated until approved by the Secretary of Commerce. Moreover, a strong push by the environmental industry to seat their representatives on the regional fishery management councils has minimized the number of votes by those representatives with a vested interest in the longterm, sustainable management of our nation's marine resources. RFA encourages members of the Committee to participate in the regional council appointment process beginning at the state level and conclude with the Secretary of Commerce to ensure that the composition of the regional councils reflects the true and widely held views of the collective commercial and recreational fishing community of the region and not the ideological agenda of the environmental industry.

RFA is encouraged to find the discussion bill deals with application of annual catch limits. Specific to the recreational fishing community, no recreational data collection program currently exists that is designed specifically for quota monitoring, or that can monitor recreational performance relative to an annual catch limit. That said, annual catch limits either force managers to use excessive precaution when setting specifications for the recreational sector, thereby depriving the recreational sector from fully maximizing their allocation of fish stocks, or recreational fishermen are punished for simply following regulations approved and put in place by fishery managers to achieve a specific annual catch limit.

RFA supports greater transparency in the process that sets annual catch limits and supports efforts that would allow a greater number of stakeholders in the fishery management process. Engaging the fishery management process can be costly and time prohibitive for many fishermen. Councils and Commissions should not only broadcast meetings online but also allow for public comment via the web or teleconference. This would expand the voice from stakeholders and allow fishery managers to make management decisions based on a more comprehensive public comment.

In regards to the issue of catch shares which is addressed in Section 7 of the discussion draft, RFA is adamantly opposed to the use of such measures in the recreational fishery. The primary purpose of catch shares is to reduce capacity in a fishing sector. This concept is in complete contradiction to the traditional 'open access' approach needed to allow the recreational fishing sector to achieve its full socioeconomic potential. Furthermore, the implementation of a commercial catch share program in a mixed use fishery limits the ability to revise commercial/recreational allocations. This is an issue that must be raised during any referendum procedure. RFA suggests that the members of the Committee consider developing options to allow some recreational input during any referendum process. Also, the Committee should work to develop a mechanism or process to evaluate commercial/recreational allocation in fisheries where the commercial sector has or is considering a catch share program.

Comments on H.R. ___ Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act

RFA submits the following suggestions and recommendations for the Committee's consideration.

SECTION 3. FLEXIBILITY IN REBUILDING FISH STOCKS

The urgency to rebuild fish stocks with complete disregard to the needs of the fishing industry is a flawed management approach that fails to achieve optimum yield from fisheries and reduces the overall social and economic benefits that can be achieved from a well managed fishery. Save the rebuilding timeframe extension language for summer flounder included in the 2007 reauthorization, RFA was convinced that mandates and lack of flexibility included in the 2007 reauthorization was going to move fishery management away from the fundamental objectives of the law when originally passed in 1976. What was most concerning to the RFA was that the pain caused by the 2007 reauthorization would not be short-term but would cause

permanent loss of recreational fishing infrastructure. That said, RFA is encouraged to see that the discussion draft attempts to address the shortcomings the 2007 reauthorization by inserting limit flexibility when appropriate. RFA offers minor recommendations for this section.

RFA suggests that additional information be provided by the Committee to aid NOAA when defining the term *highly dynamic fishery* as included in this section. RFA assumes that the intention of the term is to provide implementation flexibility for fisheries that are shorted-lived (<2years) or display high variability in either recruitment or spawning stock biomass on a year to year basis. Such fisheries are typically influenced more by environmental conditions than direct fishing pressure. However, this cannot be determined from the existing language in the discussion draft and therefore RFA suggests some clarification for this new term.

RFA supports changing *possible to practicable* as included in Sec. 3(a)(2)(A). RFA has long supported this wording change and experience has proven that the time and rate to rebuild a stock should be a lower priority compared to minimizing socioeconomic impacts on the affected fishing communities. Most marine fish stocks have proven to be extremely resilient and will respond rapidly to even modest fishing restrictions. The fishing infrastructure that makes up a fishing community is not nearly as resilient and as mentioned above, loss of recreational fishing infrastructure tends to be permanent. Therefore, the focus should be preserving and protecting the fishing industries, not rebuilding a fish stock as quickly as possible. From an ecological standpoint, rebuilding a fish stock in a time period as short as possible may cause tropic imbalances where a stock dominates or impedes other stocks' rebuilding progress. Again, this wording change would promote more adaptive fishery management that is more responsive to the dynamic nature of the marine environment.

In Sec. 3 (a)(2)(B)(ii), RFA notes that the time to rebuild a stock in the absence of fishing is a period of time that will vary from year to year for a particular stock based on stock size, average recruitment, environmental conditions, habitat limitations, etc. Also, the time to rebuild in the absence of fishing will also vary throughout the course of a rebuilding timeframe. It is unclear from the wording provided in this section if the time to rebuild a stock in the absence of fishing will be periodically reviewed or if it is a static value. RFA suggests including some clarification in this section on the process to revisit the extension period based on the time to rebuild without fishing.

RFA would suggest to Committee members that they consider also providing limited flexibility to the provision that require ending overfishing immediately as contained in MSA § 304 (e)(3)(A). RFA certainly agrees that there are conservation benefits in ending overfishing, yet, a review of post-Sustainable Fisheries Act fisheries management proves that significant rebuilding can occur even if overfishing is occurring in a fishery. To this point, Dr. Ray Hilborn testified before the House Resources Committee in September 2013 that an unwavering drive to end overfishing has resulting in the unnecessary loss of harvest, jobs, recreational opportunities and revenue. Moreover, this self-imposed obligation to end overfishing has not resulted in significantly more conservation benefits than the those benefits that would have been achieve by ending overfishing at a more reasonable pace.

RFA suggests that the members of the Committee consider applying minimal flexibility to section 304(e)(3)(A) which would ultimately allow managers to put forward a wider range of options when ending overfishing. Possible wording for this flexibility to end overfishing could be the addition of the following, *or measures to end overfishing* following the word plan in Sec. 3(a)(1) of the discussion draft. An alternative fix could simply be striking the word *immediately* in MSA 302 (a)(3)(A) which would continue to ensure that overfishing is ended but on a more reasonable schedule if needed.

RFA suggests adding section (VI) to Sec. 3(a)(2)B(ii) to read as follows; *The council(s) determines that new information supports a revision or modification to the rebuilding plan.* RFA believes the addition of this wording would allow the councils to adjust rebuilding plans and rebuilding as new information becomes available or as stock assessments are released.

RFA suggests the following wording be added to the end of Sec. 3(a)(2)(C)(B), *all other non-fishing related factors that influence a rate at which a stock can rebuild.* RFA agrees with the discussion draft that predator/prey relationships should be taken into consideration when setting and evaluating rebuilding plans. However, RFA believes that this consideration should not be limited to predator/prey relationships and that all non-fishing related environmental conditions should be factored when estimating the rate at which a stock is able to rebuild. This type of approach is the very basis for ecosystem based management which is the preferred direction that the regional fishery management councils and the recreational fishing community have indicated they that wish to move toward. Ecosystem base management can be very data demanding and expensive, yet, simply looking at a fishery and how it interacts with its marine environment and other species as this section suggests, is a very practical approach in light of the resources currently available to the regional councils and commissions.

RFA suggests amending Sec. 3.(a)(1)(E) by adding the following wording at the end of the subparagraph; *and socioeconomic impacts resulting of rebuilding efforts and progress.* Consistent with the original intent of the Magnuson Stevens Fishery Conservation and Management Act, RFA believes a primary purpose for rebuilding fish stocks is for deriving social and economic benefits from the fisheries. Therefore, it is necessary to determine if this objective is being achieved as fish stocks rebuild. Gauging success by simply measuring the absolute amount of fish does not capture the health of the fishing communities that are dependent on these fish stocks.

RFA supports Sec 3.(a)(3)(8) which approves the use of alternative rebuilding strategies such as harvest control rules and fishing mortality targets. RFA believes that the use of these strategies would allow the regional fishery management councils to manage the recreational sector through traditional management regulations such as season, size limits and bag limits. Moreover, monitoring recreational mortality in the context of fishing mortality is a vast improvement over monitoring recreational performance relative to a rigid annual catch limit set in pounds of fish. Such an approach is neither appropriate for the recreational sector nor practical due to the known design limitations of the existing recreational data collection programs.

In Sec.3 (b), RFA is unclear why MSA should be amended to increase the time for which emergency regulations and interim measures can be put in place. RFA suggests that rationale for this amendment be provided by the authors of the discussion draft. In addition, RFA suggests that the Committee members consider expanding the authority of the Secretary under MSA 305(c)(3)(B) to implement emergency regulations and interim measures in order to allow a fishery to achieve optimum yield. RFA makes this suggestion to expedite immediate access to a fishery if information becomes available supporting an increase in quota or easing of regulations.

SEC. 4 MODIFICATIONS TO ANNUAL CATCH LIMIT REQUIREMENT

In Sec. 4(a), RFA suggest changing *may* to *shall* in subparagraph (m)(1). The stated purpose of marine fisheries management in the United States is to manage fisheries for the benefit of the nation. Those benefits are provided to the citizens of the U.S. by way of food and recreational opportunities through fishing communities. Regional fishery management councils must take into consideration the economic needs of the fishing communities when setting annual catch limits to ensure that this necessary infrastructure is sufficient enough to parlay the benefits of rebuilding fish stocks to the American people.

SEC. 5 DISTINGUISHING BETWEEN OVERFISHED AND DEPLETED

RFA supports revisions to the Magnuson Act that would distinguish between overfished and depleted fish stocks. In most stock assessments, natural mortality is a theoretical fixed parameter because empirical data to determine a species-specific natural mortality rate is not available. When natural mortality parameters are static, fluctuations in natural mortality are reflected in fishing mortality rates which can then trigger overfishing or overfished determinations. Fishing is not always the cause for a stock to depart from a level associated with maximum sustainable yield and therefore, the term *depleted* maybe a more accurate term in some fisheries.

SEC. 6 TRANSPARENCY AND PUBLIC PROCESS FOR SCIENTIFIC AND MANAGEMENT ACTIONS

RFA supports the intent of Section 6 in the discussion draft. Scientific and Statistical Committee meetings are proving to be extremely important in the fisheries management process as they are the one opportunity where the public can comment on an annual catch limits prior to them being released by the committee. Once annual catch limit recommendations are released, having the Science and Statistical Committees revisit these recommendations can be difficult if not impossible. Despite their importance, it can be difficult and expensive for the general public to attend Scientific and Statistical Committee meetings. Moreover, participation in such meetings should not be limited to those who are able to attend in person but any stakeholder that has an interest. Inexpensive options exist that can allow remote participation and thereby expanding the opportunities for members of the fishing community to contribute to these important meetings.

RFA also supports the inclusion of wording in SEC. 6 that the preparation of any fishery management plan, amendment or addendum consistent with the Magnuson Stevens Fishery

Conservation and Management Act satisfies and complies with the National Environmental Policy Act of 1969.

SEC7. LIMITATION OF FUTURE CATCH SHARE PROGRAMS

RFA does not support the use of catch shares in the recreational fisheries. We believe that catch shares are a management tool that has absolutely no place in the management of recreational fisheries. Specific to Sec. 7, the recreational fishing community must be afforded an equal opportunity to weigh in on approval or implementation of a catch share program in any commercial fishery that also has a recreational component to that fishery. RFA believes this is necessary to ensure that the allocation provided to the commercial catch share program is representative and fair to the recreational sector. RFA asks that the members of the Committee consider this point and put forward language for this section that would ensure that commercial/recreational allocations are evaluated prior to the implementation of a commercial catch share program in a mixed fishery and periodically thereafter upon implementation.

SEC. 8 DATA COLLECTION AND DATA CONFIDENTIALITY

RFA supports amendments to MSA offered in Sec. 8. However, RFA suggests to Committee members that equal consideration in terms of use of electronic reporting and monitoring be afforded to the recreational sector. Specifically, provide greater opportunities for private anglers to submit voluntary catch data and expand electronic vessel trip reporting for for-hire and head boats. The recreational fishing community has long been critical of NOAA for not using vessel trip reports from federally permitted charter and head boats. Perhaps if those trip reports were in an electronic format then NOAA would be more willing to use this valuable information.

SEC. 10 GULF OF MEXICO COOPERATIVE RESEARCH AND RED SNAPPER MANAGEMENT

The RFA supports the development of cooperative research programs and making opportunities available to the recreational sector to participate in such programs. The entire recreational fishing community is in collective agreement that securing better data for both stock assessments and quota monitoring is a top priority. A lack of data almost always results in artificially lower quotas and unnecessarily restrictive regulations that hurt participation and overall economic output from the sector. Federal funding to improve fisheries science has been drastically reduced over the past few years and RFA is encouraged by the discussion draft's wording that would restore the proper use of Saltonstall-Kennedy funds by making cooperative research a priority for the Act. RFA also encourages Committee members to consider prioritizing money generated through the Sportfish Restoration Act for cooperative research.

Consistent with the theme of Section 10, RFA suggests that members of the Committee consider the initiation of a review of recreational data collection programs by the National Research Council. Congress and the fishing industry called for such a review in 2005. In response to this pressure, NOAA requested NRC conduct a review. The review included public hearings and public comment periods in addition to an in-depth analysis of programs in place at

the time to collection information on recreational catch, harvest, effort and participation. The NRC released their findings in a 2006 report titled *Review of Recreational Fishing Survey Method*. The report included numerous recommendations developed by non-bias experts in statistical design to improve the accuracy, precision, timeliness and confidence in the Marine Recreational Fishing Statistics Survey (MRFSS), the Large Pelagic Survey (LPS), the Recreational Billfish Survey, and other federally administered data collection programs. During the MSA reauthorization process in 2006 and early 2007, Section 401(g) was included in the final bill that endeavored to improve recreational data collection by adopting many of these recommendations put forward by the NRC. NOAA's attempt to implement this section is manifest in the renamed MRFSS known as Marine Recreational Information Program (MRIP). During previous Committee hearings, NOAA personnel have indicated that they have complied with section 401(g).

This January marks the 7th year since then President George W. Bush signed the Magnuson Reauthorization Act of 2007 into law. Many in the recreational fishing community have not been satisfied with the progress made by NOAA Fisheries to make these improvements. Dr. F. J. Breidt who served on the NRC panel for the 2006 review, indicated in his testimony before this Committee on May of 2013 that he felt the Marine Recreational Information Program (MRIP) has "directly addressed the concerns noted in the 2006 NRC report and is now a complete statistical system with a sound scientific basis." Based on this statement, RFA believes it is appropriate for the NRC to again conduct a formal review of NOAA's recreational data collection programs.

Acknowledging the budgetary constraints at the federal and state level, RFA encourages members of the Committee to authorize the use of funds from the Sportfish Restoration Fund. Funds in the Sportfish Restoration Fund are derived from a federally imposed tax on all fishing tackle, electronic fishing equipment, electric outboard motors, import duties and marine fuel which on average amounts to \$650million per year. Of these funds, Sportfish Restoration Fund disburses approximately \$383million to state agencies to aid with the administration of their fish, wildlife, game and habitat restoration and protection programs which RFA believes is a valuable use of this money.

Of the remaining funds, approximately \$13million is provided for national outreach and communication programs. These programs are primarily marketing campaigns administered by non-governmental organizations given access to the funds under noncompetitive agreements. These organizations directly benefit from marketing the sport of fishing and boating and that also glean administrative fees from of these programs. The results of these outreach and communication programs have been minimal and \$13million set aside for these efforts have become a private advertizing account for a few industry groups. RFA believes that a far better use of this money would be to fund a follow-up NRC review of recreational data collection.

The 2006 NRC review cost approximately \$430,000. RFA contends that this number is insignificant considering the fact that the recreational fishing industry generates several hundred million dollars in federal taxes every year. However, RFA also appreciates Congress's commitment to reducing government spending which is why it suggests the Committee look to the Sportfish Restoration Fund, a fishermen funded account. Not only would the money for a

follow-up NRC review stand to benefit all saltwater anglers that fund the Sportfish Restoration Fund through their fishing related purchases, but such a review ultimately stands to improve the management and conservation of the nation's saltwater fisheries. RFA believes a follow-up NRC review is the only way that fishermen will ever gain any confidence in the new MRIP program.

For the Committee's consideration, RFA offers the following new language which would create an additional section in the discussion draft and read as follows;

Section 14. EVALUATION OF RECREATIONAL DATA COLLECTION

- a. Upon enactment of this Act, the Secretary of Commerce will charge the National Research Council to undertake a review of all recreational data collection programs to evaluate their accuracy, precision, and timeliness and to offer recommendations for improvements.
- b. The National Research Council would make available their findings to Congress within 365 days.
- c. Funding for recreational data collection evaluation conducted by the National Research Council under subparagraph (a) will be made available from the Sportfish Restoration Fund (16 U.S.C. §§ 777-777I)

Closing Remarks

In closing, I would like to again thank Chairman Hastings and Committee members for the opportunity to testify today on this important issue. RFA believes the discussion draft is a good start and stands to spur improvements to the current fishery management process. The current reauthorization process being initiated for Magnuson represents a significant opportunity to strike a balance between conservation and the needs of the fishing communities in US fisheries. RFA appreciates the commitment taken by Chairman Hastings, Committee members and staff in reaching out to the fishing stakeholders and putting forward pragmatic solutions to correct and improve US fisheries management. RFA looks forward to working with Chairman Hastings and Committee Members in the coming months to refine the discussion draft.