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Testimony

By

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Subcommittee on Fisheries Conservation, Wildlife and Oceans

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Good morning Mister Chairman:

My name is Bob Hayes and I am the general counsel for the Coastal Conservation Association ("CCA"). We appreciate being asked to testify about the amendments to section 118 of the Marine Mammal Protection Act ("MMPA"), which as enacted in 1994 focused entirely on commercial fisheries.

The Coastal Conservation Association is the leading marine recreational fishing group in the United States. Formed by a small group of sport fishermen in Houston in 1978, CCA has grown to a fifteen-state operation with over 90,000 members. Each of our states operates somewhat independently focusing on issues in the state that are important to marine recreational fishermen. However, like so much in oceans management, conservation issues encompass a regional and national perspective, therefore, CCA learned long ago that federal and international fisheries management were just as important to the local marine recreational fishermen as the conservation of the most local fish population.

CCA pursues conservation policies set by our state and national Boards of Directors. These boards are made up of active volunteers concerned about the health of the nation's marine fisheries. CCA has been active in a number of conservation issues in the last twenty years, which include: all of the east and gulf coast net bans; gamefish status for redfish, speckled trout, tarpon, striped bass, river shad, marlins, spearfish and sailfish; and, the reduction of bycatch through the use of closed areas and technology. We have also pushed for the improvement of the management system through the restructuring of state and federal management systems; the elimination of conflicts of interests by decision-makers, and the active involvement of our membership in the management process.

The interaction of recreational fishermen and marine mammals has not been a CCA priority until recently. In the last three years we have been involved in the management of Manatees in the Florida. There the interaction of boaters and manatees have resulted in a series of regulations issued by the federal government and the State of Florida. The most prevailing regulatory concept has been the imposition of slow speed zones. The timing and location of the areas is a good example of the violation of a management principle CCA has long endorsed. Management of fisheries and fishermen is best done at the lowest possible level of government. Local officials are more responsive to the needs of the public and far informed about what works for the impacted resources than officials in the federal government. Despite years of interaction with federal fishery managers, I am still astonished by the federal decision makers general lack of practical answers to easy questions.

I know that the subject of this hearing and my testimony today is not manatees but I would ask the Committee to consider the possibility of amending the Act to instill the principle we are endorsing. Where a State can manage a resource consistent with all the responsibilities of the MMPA then it ought to be allowed to do so, without third party recourse to the federal government. Such a delegation would provide greater confidence in the regulations controlling the problem and at the same time insure the same level of protection required by the Act itself.

Congress and the American public made a policy decision in 1972 to protect marine mammals in a way that no other non endangered species received protection. As a result of this decision, marine mammals have prospered and in some cases have filled ecological niches that have resulted in increased interaction with man. Much of that interaction has focused previously on commercial fishing which, because of the size and location of its operations, has received the most Congressional attention. The first of course was the tuna porpoise problem. Increasingly however there have been minor interactions between marine mammals and other commercial fisheries and in some cases with some recreational fisheries.

Section 118 as enacted provides for an extensive process to determine which commercial fisheries interact with marine mammals and a process to determine the appropriate regulatory measures to reduce those interactions. The Chairman's amendments to section 118 recognize that there may be instances where fisheries other than commercial interact with marine mammals. It provides the same process for those fisheries for a permitted incidental take as is presently provided for commercial fisheries. The process is still highly bureaucratic and cumbersome.

There are 12 million saltwater recreational fishermen in the United States. The vast majority of them fish with traditional recreational rods and reels. They have a very remote, if any, possibility of an injurious interaction with marine mammals. Placing them in the section 118 process would subject them to a new regulatory burden, which I doubt very much the average recreational fishermen would find easy to participate in. Nor would it be a process that would provide much benefit to the marine mammals being protected. A little common sense needs to be applied here. Recreational fishing done with rod and reel ought to be an exempt activity under the MMPA. Barring that Congress ought to make it very clear that rod and reel recreational fishing ought to be classified by NOAA Fisheries as a category (1) (A) (iii) activity.

We are aware that there may be recreational activities like gill netting for spot in North Carolina which may have a higher incidence interaction with marine mammals. Clearly that kind of activity ought to be included within the section 118 process. It is my understanding that recreational gill netting in North Carolina may involve as many as 100,000 trips a year. Personally I don't think of it as a recreational activity and would ban it entirely. But that is a decision best left to the fine folks in North Carolina. To my knowledge this kind of activity only occurs in North Carolina and Alabama. If there is an interaction with marine mammals then the participants ought to be regulated to reduce that interaction. Congress does not however need to open the door to including 12,000,000 anglers into the mix. A simple clarification in HR. 2693 would ensure this result.

Again, I appreciate the opportunity to be here this morning and I would be happy to answer any questions the committee members may have.