

National Association of Charterboat Operators



P.O. Box 2990 Orange Beach, AL 36561
Phone (251-981-5136) Fax (251-981-8191)
E-Mail: info@nacocharters.org Web: www.nacocharters.org

Bobbi M. Walker
Executive Director

Bob Zales, II
Panama City Boatman Association
President

Ed O'Brien
Maryland Charter Boat Association
First vice-president

Tom Becker
Mississippi Charter Boat Captains
Second vice-president

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Chairman, Senator Mark Begich
Oceans, Atmosphere, Fisheries
and Coast Guard Sub-committee
Washington, DC

March 18, 2011

Re: IMPLEMENTATION OF THE MAGNUSON-STEVEN'S FISHERY CONSERVATION AND MANAGEMENT ACT

Dear Chairman Begich and Members of the Subcommittee:

On behalf of the members of the NACO I wish to thank you for the opportunity to provide this written testimony to the Subcommittee on the implementation of the 2006 reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). I wish to address how changes made to the MSA in 2006 and now being implemented are impacting recreational charter boat fisheries across our nation.

NACO is a national non-profit organization that represents over 3,400 owner/operators across the United States. We incorporated in 1991 and are the premier voice for charter boats. We believe that the recreational charter boat owners and operators have proven countless times that we are and have always been the true conservationists of our fisheries and natural marine resources.

Over the last 20 years, NACO and our members have been active in a number of conservation issues on local, state and federal levels. Many of our members have worked on and recommended improvements to recreational data systems, encouraged management councils to set reasonable bag limits and quotas, were actively involved in the development of the National MPA Guidelines for development of a National System of MPAs, and the reduction of wasteful by-catch through the use of technology and time and area closures.

The passage of the 2006 reauthorization of the MSA created new provisions to improve data collection for recreational fisheries; to end overfishing; and requiring necessary economic and social analyses of the impacts of fishery management decisions on all participants in each sector of the fishery. The NMFS have chosen only the deadlines associated with closing fisheries in their zeal to comply with stopping overfishing instead of first trying to put in place the mechanisms for better data that we believe congress intended in the reauthorization. Improved data has always taken a back seat with this agency. The rigid timeline requirements associated with overfishing have created severe unintended economic and social harm to fishermen, their families and communities. The requirement to have a new data system in place by 2009 has yet to be implemented. The current implementation of the 2006 Reauthorization of MSA has created a management crisis facing many of our fisheries. The only thing that will come out of this is the destruction of our fishing industry and the loss of jobs associated with it. Small businesses cannot survive under this regime. The only positive thing coming out of these draconian management schemes is that after the industry has decreased to a handful you will not need the enormous NMFS Agency to manage a few hundred people.

Ending Overfishing

In an effort to once-and-for-all end overfishing of historically overfished stocks, the 2006 Reauthorization of MSA included a provision requiring "annual catch limits" or "ACLs" that must not be exceeded for every federally managed fishery.

Annual catch limits were intended to put a ceiling on the allowable take in a fishery so as to prevent continued overfishing. This was not a new concept, and in fact was the goal of the Sustainable Fisheries Act, which was the reauthorization of the MSA that Congress passed in 1996. However, 10 years later, when the Senate Commerce Committee took up the latest reauthorization of the federal fisheries law, overfishing of stocks, found previously to be overfished, was still occurring.

One critical factor of implementing annual catch limits was the requirement to create accurate dependable data on the status of the fisheries. Indeed, accurate data should be a prerequisite for establishing a "catch limit" that can then be measured during subsequent fishery years. Without a current and accurate stock assessment or a baseline stock assessment for a fishery, there is no way to meet the legal requirement of the 2006 Reauthorization of MSA that an annual catch limit be established and not exceeded. When you read the Reauthorized MSA you see that a new recreational data system was to be in place by 2009, followed by preventing all overfishing of stocks that were undergoing overfishing as of 2007 by 2010 and all other overfishing to stop by 2011. Clearly, Congress intended for a new data system to be in place prior to implementing the new overfishing requirements.

Species in which there is a significant recreational component have long suffered from poor data or a complete lack of data and a general lack of proper management by the National Marine Fisheries Service (NMFS). In most regions there are several recreationally important and valuable fisheries for which no stock assessment has ever been undertaken, and many others that had an initial stock assessment and then were never assessed again to determine the current health of the stock. In spite of a lack of accurate information for many species, NMFS has nonetheless decided to close recreational fishing for some species and severely restrict the harvest of others in order to meet the requirement of annual catch limits. The Gulf Council recently added an action item in their Generic ACL/AM Amendment that will remove species or species groupings from FMPs in order to meet the mandates to implement ACLs and AMs. Clearly Congress did not intend to have species removed from management in order to comply with the law. Outdated or no stock assessments on species should not be used to restrict or shut down fisheries. However, with the advent of annual catch limits, NMFS has chosen to close or restrict recreational fisheries, notwithstanding the lack of information on the current status of the stock. If NMFS proceeds to implement annual catch limits under such a draconian approach for data poor stocks and stocks without assessments, recreational fishing in federal waters could be indefinitely prohibited. We are certain that neither this committee nor the Congress ever intended to take place.

One of the goals of annual catch limits was to force better data collection and provide defendable accountability in fisheries management. Some are now concerned that NMFS intends to implement catch limits in such a restrictive manner that no new information on data poor or stocks that have not undergone an assessment will be gathered, and that these fisheries will simply be closed or the allowable catch will be significantly reduced. Again, we feel this was never the intention of this Committee or the Senate.

Improving Data Collection for Recreational Fisheries

Recognizing the need to improve information gathering on recreational fisheries, the 2006 Reauthorization of MSA provided a potentially valuable provision to establish a national program for the registration of marine recreational fishermen. The program is authorized to improve the quality and accuracy of information generated by the Marine Recreational Fishery Statistics Survey, with a goal of achieving acceptable accuracy and utility for each individual fishery. This provision was the result of a National Research Council report on the Review of Recreational Fisheries Survey Methods (2006), which determined that NMFS's recreational fisheries survey methods were fatally flawed and completely ineffective in establishing accurate recreational catch data.

The new national program for recreational data collection was required to be in place by January 1, 2009, but to date the program is still not operational. This is not only a failure by NMFS to meet the legal requirements of the 2006 Act, but it exacerbates the inability of NMFS to properly implement annual catch limits for recreational fisheries that lack timely data. In fact, this committee understood the need to implement improved data collection for recreational fisheries before the requirements of annual catch limits could be implemented, when it noted in the Senate Report explaining the national program "*Improved [recreational] fishing data collection is imperative to the successful implementation of section 104(7) [annual catch limit section under S. 2012] of the Magnuson-Stevens Act.*"

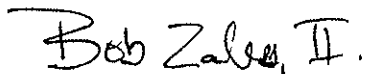
Improved data collection is imperative to the successful implementation of annual catch limits. Given the failure of NMFS to meet the legal requirement of the 2006 Reauthorization of MSA to establish a national program to improve recreational data collection, NMFS cannot justify shutting down or reducing catch in recreational fisheries under annual catch limits when there is no data to support those limits. Recreational fisheries that have suffered for years from a complete lack of federal management cannot now be expected to implement arguably the most aggressive legal fishery management requirement ever established.

Considering the failure to properly meet the legal requirement to improve data via implementation of the national recreational registry program, recreational fisheries for which no stock assessment has ever been performed, and those fisheries for which no stock assessment has been performed within the last five years, should not be subject to annual catch limits below current levels.

Thank you for the opportunity to comment on how the current implementation of the changes made to the MSA in 2006 are impacting recreational fisheries. The problems I have described are real, and the impacts are creating a damaging rift between conservation-minded anglers and the federal agencies charged with managing our fisheries. It is critical that before annual catch limits are imposed on data poor fisheries and fisheries that have had no assessments, the Congress require program funds for more stock assessments and improved data collection.

We would like to work with the Subcommittee toward that end.

Thank you,



Capt. Bob Zales, II
President