



February 24, 2014

The Honorable Doc Hastings
Chairman
Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

The Honorable Peter A. DeFazio
Ranking Member
Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Hastings and Ranking Member DeFazio:

On behalf of the thousands of members and supporters of Environmental Defense Fund (EDF), thank you for the opportunity to comment on the discussion draft seeking to amend the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

EDF shares the view expressed by many witnesses from industry, government and academia who have appeared before your committee in recent years: that the MSA as currently written has proven to be a remarkably effective statute. Since the 2007 reauthorization we have seen science-based fishery management take hold around the country. Annual catch limits have been implemented in compliance with the statutory timeline; overfishing is being methodically addressed; and many depleted fisheries have either been rebuilt or are on the path to recovery.

In this context, any reauthorization should focus on maintaining provisions of the existing law that have worked well, while making narrow and targeted changes where a clear need has been identified. We very much appreciate Chairman Hastings' recognition of management success and commitment to preserving the main pillars of a fundamentally sound statute.

Unfortunately, upon careful review, the discussion draft appears inconsistent with that commitment. We listened with interest to your opening statement at the committee's February 4, 2014 hearing clarifying what you believe the discussion draft does not do:

It does not eliminate the requirements that Councils and the Secretary stop overfishing. It does not eliminate the requirement that Councils and the Secretary rebuild overfished fisheries. It does not eliminate the requirement that Councils and the Secretary develop and implement Annual Catch Limits. It does not eliminate the requirement for accountability measures. It does not eliminate the requirement that management decisions be based on science.

Despite those assurances, we read the discussion draft to either eliminate or cripple these underpinnings of the MSA. Specifically, the discussion draft:

- explicitly permits overfishing during the first three years of a rebuilding plan, when a stock has already been depleted and further overfishing threatens to make rebuilding impossible or far more costly;
- provides exceptions to the time limit for rebuilding that, taken together, would result in most overfished stocks lingering in a depleted state indefinitely;
- establishes sweeping exceptions to the annual catch limit and related accountability measure requirements, including for any stock that is taken as incidental catch in a fishery; and
- eliminates the power of scientific and statistical committees to specify the margin of safety between overfishing and allowable quotas, thus making overfishing far more likely.

These and other changes contained in the discussion draft would weaken the MSA and return us to the risky practices that led to the decline of fish populations and harmed the fishing communities that rely on them. We urge you not to introduce the discussion draft as a bill for the committee's consideration. Rather, we respectfully suggest that you undertake the kind of bipartisan, consensus-driven process that has characterized legislation of this nature in the past. Through such a process, we hope that the committee will develop a bill that addresses the ongoing challenges in fishery management without undercutting the foundational principles that have produced improvements over time.

As you know, Congress has amended the Magnuson-Stevens Act several times to address emerging issues in marine fisheries. Initially focused on the threat of depletion by foreign fishing vessels, the MSA has evolved to ban overfishing and require science-based management. These improvements have succeeded in putting some of our flagship species, such as Gulf of Mexico red snapper, Pacific groundfish, and summer flounder, on the right track. For other fisheries, such as New England groundfish, even better management has not prevented devastating population declines.

Indeed, challenges remain in federal fisheries. The scientific basis for establishing quotas and other management measures can and should be improved, including using twenty-first century tools to assess species and integrating data from fishermen, academia, and other non-governmental sources to the greatest extent possible. Costs of modern management threaten small boat operators in some areas. Conserving the ecosystem on which fisheries depend, rather than focusing on each species in a vacuum, could make our marine resources more resilient.

These challenges do not require rewriting the central provisions of the MSA. We favor improved implementation and, if necessary, narrow revisions to the statute where the need has been shown to exist. For example, we were pleased to join a diverse group of fishermen, other industry leaders, and academics in submitting the attached letter to Dr. Kathryn Sullivan, Administrator of the National Oceanic and Atmospheric Administration, calling for more and better cooperative management of fishery resources. Congressman Wittman, a member of your committee, recently introduced H.R. 3063, which would make the stock assessment process more transparent and accessible to non-governmental participants without sacrificing conservation requirements.

The discussion draft, on the other hand, would make sweeping, disruptive and problematic changes to the MSA. In addition to the major issues highlighted above, the draft would:

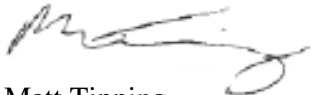
- introduce an expansive definition of “catch shares” to the statute and require referendums conforming to narrow statutory prescriptions on each such program along the east coast and in the Gulf of Mexico, thus reducing flexibility for the fishery management councils in those regions;
- limit the use of electronic monitoring, which many councils are actively considering because many industry participants favor it to reduce observer costs and improve data collection;
- extend state water boundaries in the Gulf of Mexico, apparently only for management of red snapper, which would pose serious management challenges in this complicated mixed stock reef fish fishery;
- eliminate section 407(d) in its entirety, removing an important protection against quota overages in the Gulf of Mexico red snapper fishery;
- bar the release of information collected as part of cooperative research projects, as well as other data, making assessing the biological and socioeconomic impact of fishery management regulations and effective public participation in the regional council process far more difficult if not impossible;
- limit the applicability in federal waters of the National Environmental Policy Act, Antiquities Act, and the National Marine Sanctuaries Act, eliminating important protections for marine resources.

Finally, the draft would replace the term “overfished” with “depleted” with a different definition. Although we acknowledge that many consider “overfished” to be a disparaging term, changing the definition would require the agency and fishery management councils to revise many existing regulations, plans, and management measures as they parse what the unclear language means and how to apply it to the stocks they manage.

The sheer number and lack of clarity in the many problematic provisions in the draft indicates that editing the current version is unworkable. Instead, we respectfully recommend beginning again with a more collaborative process in the best traditions of this statute.

Thank you again for the opportunity to comment on the discussion draft, and we look forward to working with you on these important issues.

Very truly yours,



Matt Tinning
Senior Campaign Director, Oceans