

WRITTEN TESTIMONY BY

**JAMES A. DONOFRIO
EXECUTIVE DIRECTOR OF THE RECREATIONAL FISHING ALLIANCE**

For,

**LEGISLATIVE HEARING HELD BY,
THE SENATE COMMERCE COMMITTEE'S SUBCOMMITTEE ON OCEANS,
ATMOSPHERE, FISHERIES, AND COAST GUARD**

On,

**THE REAUTHORIZATION OF THE MAGNUSON-STEVENSON FISHERY
CONSERVATION AND MANAGEMENT ACT: OVERSIGHT OF FISHERIES
MANAGEMENT SUCCESSES AND CHALLENGES**

SEPTEMBER 12, 2017

Introduction

Good afternoon Mr. Chairman, Ranking Member Peters and Members of the Committee. It is an honor to appear before you today and a privilege to speak to the Committee. My name is Jim Donofrio and I am the Executive Director of the Recreational Fishing Alliance (RFA). It is my intention today to discuss the management challenges facing the recreational fishing industry and to offer suggestions for the Committee's consideration to address these challenges. These suggestions will be directed toward amendments that should be made to the Magnuson Stevens Fishery Conservation and Management Act (MSA) with the goal of spurring growth and

prosperity in our industry while ensuring long-term conservation and sustainability of our nation's marine resources.

We have been talking about the need for MSA reform since the ink dried on the 2007 MSA reauthorization. There have been numerous congressional hearings on the topic, more than I care to count. Two national rallies were held in the Capitol and attended by fishermen, both commercial and recreational, from across the country. The theme of both rallies was MSA reform. I will not bore the committee with statistics and specific examples of problem fisheries.

The problems in red snapper, cod, summer flounder, black sea bass, amberjack, and many other species are all well documented and have been discussed and analyzed in great detail. The limitations of recreational data collection and lack of confidence in the stock assessments for many fisheries are also well known. The problem has been identified through some brilliant testimony given by witnesses, particularly Mr. Nick Wiley and Mr. Ben Speciale, at the two previous field hearings held by the Committee. What our industry and the recreational fishing community needs now is action.

In simple terms, we need your help. We have been asking for your help since MSA was reauthorized in 2007 when amendments were made to the law that created a systemic management problem on a national scale and which is most acutely felt in the recreational sector.

Looking back at original intent of MSA (public law 94-265) signed into law on April 13, 1976, one objective of the law was *to promote domestic commercial and recreational fishing under sound conservation and management principles*. This objective seeks to strike a balance between sound conservation and the needs of the fishing industry for our federally managed species which RFA very much supports. Unfortunately, this noble objective was altered in the 1996 and 2007 reauthorizations and currently, management can only be described as a failure, a total imbalance with recreational fishermen and the recreational fishing industry losing out. The needs of fish have been put at an inordinate level of priority while the needs of the fishing community and industry have been made an afterthought. This is not sound resource management and this approach is not in line with the original intent of MSA. We are asking that the Senate, along with the House, pass MSA reauthorization bills as soon as possible to bring back a balance to management of our nation's marine resources.

I think it is important to impress upon the Committee three key points; urgency, jobs and fragility. First, our industry has been losing businesses and jobs at an alarming rate as a direct result of failed management measures forced upon the recreational sector due to MSA. These are businesses that once lost do not come back and our community permanently losses necessary recreational fishing infrastructure. For this reason, it is imperative that Congress make reauthorizing MSA a top legislative priority. Our industry expects and requires a bill to be passed and sent to President Trump's desk before the mid-term elections in 2018 at the absolute latest. Second, I ask that you look at the recreational fishing sector as an industry where access

to fisheries afforded to individual anglers supports a \$60 billion industry comprised of thousands of businesses, large and small. Recreational fishing businesses are not confined to coastal regions but span nearly all 50 states. Those businesses and jobs can be protected by giving anglers access to fisheries which in turn spur economic activity. Finally, our industry is extremely fragile. History has clearly proven that the recreational fishing industry is far more fragile than many of the stocks of fish that anglers pursue and MSA is charged with managing. The businesses in the recreational fishing industry cannot simply close their doors and wait until managers allow anglers to fish on rebuilt stocks again. Greater consideration must be given to the fragility of our industry when working to achieve conservation goals.

What we are talking here is a political problem, not a conservation problem. The solution will only come from political action. There are currently two bills that have been introduced in the Senate and seek to amend MSA; S1520 and S1748. Notwithstanding some refinement, RFA supports S1520 and S1748 , with S1520 being our preferred bill of the two. RFA offers the Committee comments on S1520 and has included them below. RFA supports S1520 over S1748 due to its broader geographic scope and issues it addresses and it being the bill with the best likelihood of moving through the Senate at this time. We look forward to seeing this bill move through the Senate in an expeditious manner.

As written and if passed, S1520 would address specific needs of the recreational fishing industry. Historically, MSA has focused on commercial fishing and has mandated a commercial style management approach for the management of the nation's marine fisheries. It is undeniable that this approach is the cause of many important fish stocks being rebuilt to historic levels of abundance. However, the consequence of this approach, particularly the use of annual catch limits, has had a deleterious impact to the recreational fishing industry. We believe S1520 takes a step in right direction by allowing recreational anglers to be managed different from the commercial fisheries so they too can enjoy the benefits of rebuilt fish stocks.

The RFA offers the following comments to specific sections of S1520. We would ask that these comments be taken into consideration and incorporated into S1520 during markup. In addition, RFA would support the language of S1520 being included in a larger MSA reauthorization bill if one is introduced.

Section 101. RFA would not oppose any modification to section 101(a) which would expand the geographic range to include the Mid-Atlantic and New England regions. This section would charge the National Academy of Sciences (NAS) to provide guidance to the regional fishery management councils with regards to allocating fishing privileges which would be beneficial for the regional councils since they are the regulatory bodies that set allocations for federally managed species. This section merely advises that guidance be developed for allocation; it does not mandate allocation changes. While the Mid-Atlantic and New England regions would

benefit from their inclusion in this section, the RFA does not support amending the section if such changes would slow or derail the passage of the bill. Allocation of fish stocks between the commercial and recreation sectors is often a contentious issue. Guidance on allocation decisions is desperately needed due to recent judgments that ruled that National Marine Fisheries Service has a legal obligation to enforce allocations just as it does annual catch limits.

Section 102. RFA supports section 102 as written. If implemented, this language would allow for alternative management measures in the recreational component of a fishery while the commercial sector would continue with traditional management approaches. Having access to such an approach would allow for a management style that would better accommodate the nature of the recreational fishery while taking into consideration and addressing the limitations of the recreational data collection programs. A very successful example of this type of management approach can be seen in the Atlantic Striped Bass fishery which utilizes annual quota based management for the commercial component of the fishery while utilizing fishing mortality targets for the recreational component.

Section 103. RFA supports section 103 and provides the following justification. LAPPS, IFQ or catch shares have undeniable impacts on the resources and recreational fishing opportunities in mixed fisheries. RFA supports a temporary moratorium on new LAPPS in mixed fisheries and a thorough review to be conducted by the NAS on the comprehensive and long-term impacts of LAPPS on the resource, the fishing communities and any sectors or individuals not assigned quota.

Section 104. RFA supports minor revisions to section 104 of S1520. At a minimum, RFA supports amending (A)(i) by changing possible to *practicable*. Such a change is consistent with the findings of the NAS which recently published a report which found that rebuilding fish stocks as quickly as possible based on arbitrary time frames provided no additional long-term conservation benefits and results in unnecessary lost opportunities and negative socioeconomic impacts to fishing communities. This group of experts found rebuilding timeframes should incorporate some flexibility to accommodate the needs of the fishing industry. For this reason, we believe that the language in HR200 section 4 represents our preferred language with regards to rebuilding fish stocks. If such language cannot be included in S1520 or another senate bill, RFA would support having language similar to that in HR200 Section 4 be the preferred language rendered during conference.

Section 105. Annual catch limits are particularly problematic in the recreational sector for two key reasons. First, when scientific information is poor or unreliable for a stock, setting the annual catch limiting is done with a considerable amount of uncertainty. Uncertainty leads to precaution which can result in a significant downward adjustment to an annual catch limit. Section 105 (a) addresses this issue. The second issue is the lack of an accurate and precise

recreational data collection program that can monitor recreational harvest relative to an annual catch limit. As written, this issue is not addressed in section 105. The NAS recently conducted a multi-year investigation on the Marine Recreational Information Program (MRIP), the primary federal data collection system used to estimate recreational landings. This report did not determine if MRIP was adequate for the implementation of annual catch limits in the recreational sector. MRIP was simply not designed for year to year catch data but for long-term, broad geographic scale trends on effort, participation and catch. Therefore, RFA believes it is essential that the recreational fisheries be granted some exemptions from the annual catch limit requirements. As cited above in the striped bass fishery, the recreational sector can operate in the absence of an annual catch limit, even in an extremely popular species like striped bass, and the stock can still meet and exceed long-term conservation goals. RFA supports the inclusion of an addition subsection (C) in 105 to read;

105(a)(m)(2)(C) an annual catch limit that based on a range of Allowable Biological Catch on an annual or multiyear basis consistent with the confidence intervals of the primary data collection programs and assessments used to monitor the sector of a fishery that is measured by a survey-based data collection system not designed to monitor annual catch limits or provide guidance on in-season adjustments;

To eliminate any legal inconsistencies, MSA 302 (h)(6) will also need to be amended and RFA offers the following suggestions to be included in S1520;

(6) develop annual catch limits or a range of catch for each of its managed fisheries that have an acceptable probability that such limits will not result in overfishing the fishing level recommendations of its scientific and statistical committee or the peer review process established under subsection (g);

Section 106 RFA supports the language in this section which would give states and state conservation agencies greater input on the issuance of exempted fishing permits. Exempted fishing permits can serve as a valuable tool to gather necessary information and advance management decisions. However, they should not be used to circumvent existing fishery management plans or the regional council decisions. In recent years, exempted fishing permits have been used as loopholes to advance unpopular agendas and allow commercial exploitation in areas closed for conservation purposes. Greater oversight and state level input is needed over the issuance of exempted fishing permits and we believe language in section 106 achieves that necessary oversight.

Section 201 RFA supports the intent and language of this section. This section of the bill would improve cooperative data collection efforts and allow the greater use of non-governmental sources of information such as fishermen, fishing communities, universities and research institutions. Fishermen are often the first ones to observe changes in the marine resources and if enacted, this section of S1520 would afford fishermen greater opportunities to contribute their

information and data which could be useful for the assessment and management important fisheries. Under a careful review process, RFA believes greater sources of data will provide a more comprehensive view of the fishery resources and increase our capabilities to identify and respond to changes with the fisheries.

Section 202. RFA would like offer a suggestion with regards to a(E) which deals with funding for the development of state partnerships to improve recreational data collection programs. RFA suggests adding *and The Sportfish Restoration Fund* after (15- U.S.C. 713c-3). The Sportfish Restoration Fund is a federally managed account that is funding by an excise tax on recreational fishing related products and a percentage of marine fuel. Using this money to improve recreational data collection through the advancement of federal-state partnerships is a productive and appropriate use of these funds.

Conclusion

In closing, I would like to express my appreciation for the opportunity to discuss the importance and urgency of amending MSA. There has been roughly 10 years of debate on the issue and the problems have all been laid on the table. The recreational fishing industry is in a precarious situation and it cannot wait any longer. S1520 has been introduced in the Senate and represents a bill, notwithstanding a few modifications, which would address many of the issues negatively impacting the recreational fishing industry. I use this opportunity today to urge you to make MSA a priority, to take into consideration RFA's suggestions to refine S1520 and pass a MSA bill. Thank you.
