

STAFF SUMMARY OF FIRST MSA REAUTHORIZATION HEARING

The 113th Congress's first hearing on reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act was held in the House Committee on Natural Resources on March 13, 2013. A summary of testimony is provided below. These notes do not include the followup questions asked by the Committee.

Representative Doc Hastings (Chair) introduced the proceedings, noting that this hearing was intended to highlight issues that could provide the basis for further hearings. He noted that current challenges related to the MSA are due to problems in implementation, and emphasized the need for accurate, timely data. He listed several challenges facing U.S. fisheries, noting that the Pacific Northwest is seeing management and data costs growing with an increasing burden on fishermen.

Representative Hastings reviewed legislation introduced in the 112th Congress, including proposals to modify a number of provisions in the Act including modification of the Annual Catch Limit requirement, additional flexibility in rebuilding timeframes, additional transparency for councils and councils' scientific and statistical committees (SSCs), new uses of funds collected from fisheries fines and penalties, modification to the disaster assistance provision, and a definition and restrictions on catch share management programs.

He also noted that the eight regional fishery management councils are hosting the Managing Our Nation's Fisheries 3 conference in May that "will certainly add information for us to consider."

Bob Jones, Executive Director, Southeastern Fisheries Association

- The MSA should mandate that each Council set an allowable biological catch (ABC) based upon guidance from its Scientific and Statistical Committee (SSC) instead of having the SSC independently setting an ABC. Councils could opt out of this requirement. Also, it is inappropriate to require that annual catch limits (ACLs) be established for stocks that have not had a comprehensive stock assessment in the past five years.
- NOAA's National Standard 1 (NS1) guidelines mandate a calculation and allowance for "uncertainty." The "uncertainty factor" should be buffered by social and economic factors. "Uncertainty" is hard to define and should be removed from the process unless it is properly quantified in a guideline; and comprehensive stock assessments must actually be performed.
- Participants of each SSC should declare their affiliations with any non-governmental organization (NGO), past and present, and should sign a declaration if that NGO has received grants from NOAA. If SSC members are employed by NOAA in any fashion we believe they should not be a voting member of the SSC.
- The Councils and their respective SSCs must develop standards for what constitutes "best available data."
- More transparency in science, Council operations, and SSC operations is needed; the Science Centers should provide every aspect of computer modeling.

- The Councils should review the NOAA sampling protocols on an annual basis and share same with our fishing communities.
- Need more port samplers.
- There needs to be more flexibility in rebuilding timeframes.
- Fishing “communities” must be fully defined and receive more consideration by the councils.
- The MSA should allow a management regime and harvest system for as many different species of fish, even in small amounts, available for as much of the year as possible.
- The MSA should mandate that there be a certain allocation of scientific data collection for each fishery which is closed to harvest in the EEZ.
- Fishery management should be separated from fish law enforcement.
- Fines from MSA fishing violations should be used to fund cooperative fisheries dependent and fisheries independent research projects and to establish a mandatory training program for MSA violators.
- Catch-share initiatives should be a tool in NOAA’s toolbox, but only used if there is a current, complete stock assessment for the fishery under consideration, and only if the entire fishing community is involved in the process. Catch shares must stay in the commercial fishing sector.

Dr. Robert Shipp, Chair and Professor, Department of Marine Sciences - University of South Alabama

Testimony related to management of reef species in the Gulf of Mexico; called for extending the Gulf states’ management authority to manage reef species out to 20 fathoms. Also condemned practice of removing oil platforms with explosives rather than dismantling.

Robert Dooley, President, United Catcher Boats (Half Moon Bay, CA)

- Strongly support the MSA and National Standard 1. However, the array of management thresholds is confusing, contradictory, and needlessly inefficient (OFLs, ABCs, ACLs, MSY, etc.).
- The fisheries management process needs to recognize that MSY and OY are long-term averages, not yearly mandates. The MSA needs to be amended to make this principal explicit.
- Rollovers, or overages and underages of catch targets, can be and should be allowed to carry over from year to year so long as the prevention of overfishing and the long-term achievement of OY occur.
- ACLs need to be made more flexible.
- Rebuilding targets and timelines need to be more flexible. Instead of a fixed rebuilding period of ten years, rebuilding timelines should be allowed to be established by the Councils consistent with the biology of the fish stock, the needs of fishing communities, and the NS1 requirements to prevent overfishing and achieve optimum yield on a continuing basis.
- Catch shares should be initiated and driven by the participants in the fishery. (Included praise for stakeholder participation in the West Coast groundfish catch share program).
- Do not include sunset provisions or similar catch share terminations in the MSA.

- Multi-species catch share programs like the west coast trawl IQ program require proper measures to insure that hoarding of small allocations of constraining species do not thwart the intentions of the program.
- Transition from human observers to electronic monitoring systems; however, electronic monitoring systems should be designed and implemented in response to a specific problem statement that clearly identifies the data needed to ensure accountability. For example, in a full retention fishery an EM system that can identify the species of fish being discarded is superfluous since any discard is a violation of the fishery management plan. A high-tech camera is not needed to discern if a discard event has occurred.
- Hold charter and recreational fishers accountable for their impacts on fish.
- State fishery management plans for stocks of fish predominantly managed by the Councils should be subject to review and approval by the Secretary of Commerce for compatibility with the federal FMP.
- When a designated fish stock is fully utilized by a developed fishery and the federal management of such fishery is well defined, the states should not be allowed to establish a new fishery that utilizes the same fish stock.
- Bycatch management programs need to be reasonable and also allow input into the design and management by fishermen.
- Cooperative management and research should be incentivized and encouraged. The costs of such activities should be included as a credit when calculating cost recovery for catch share programs. Retention of catch and the calculation of such outside of ACLs should also be allowed.

John Pappalardo, Chief Executive Officer, Cape Cod Commercial Hook Fishermen's Association

- Strongly support the MSA.
- Need better and timelier stock assessments; electronic monitoring; consideration of additional catch shares in New England; and innovative financing programs to support initiatives like community permit banks and fisheries trusts which allow communities to buy permits, maintain permanent fisheries access, and provide affordable opportunities for local fishermen.
- Also need stable markets and transparent distribution pathways to ensure a fair price; stronger domestic markets for underutilized stocks.
- Need ecosystem-based management, including consideration of how predators interact with fisheries.
- Need to reconsider how fisheries-dependent catch data is collected. It needs to be done faster, better and cheaper, and need to consider use of the private sector to get it done.
- Support reforming the Saltonstall-Kennedy (S-K) grant program. S-K funds can and should be used to provide much needed resources to the regions for improvements in monitoring and stock assessments.
- We must begin to stamp out seafood fraud and bring more transparency to the supply chain by passing Congressman Markey's Seafood Fraud legislation.

Captain Keith Logan, Charterboat Captain, Myrtle Beach, South Carolina

- The 2006 reauthorization of the MSA is shutting down fishing operations. Oppose ACLs.
- The MSA needs to be reworked to add flexibility, access, and a “sound science” approach to sustainability. It currently leads to overly aggressive closures of healthy fisheries without good data to back it up.
- The process of science needs to be improved and made more transparent. NOAA must include biology, social and economic impact analyses, habitat evaluations, and ecosystem management issues.
- Fisheries must be open year round in order to avoid severe economic impacts.
- Eliminate the Precautionary Principle and redefine “Best Available Science.”
- Improve MRFFS data collection.
- SSC members should be leading scientists; there should be no ties to “extremist” environmental groups. Members should include fishermen.
- If reductions in the bag limits are needed to keep a fishery open year round, they need to be addressed prior to the ACL being set.
- Accountability measures (AMs) should not include catch shares. AMs make business planning and budgeting impossible.
- Data collection system needs to be improved before hard time limits to end overfishing are imposed. Provide flexibility in rebuilding deadlines.
- Consider defunding NMFS immediately and move fisheries management to the state level, only in the Gulf and Atlantic.
- Oppose catch shares in recreational fisheries. If there are catch shares in the commercial fishery, quota should be leased directly from the government, with lease fees.
- Address definitions in ending overfishing.

Testimony of Robert P. Gill (Processor, former Gulf of Mexico Fishery Management Council member and Chair)

- ACLs and AMs have been effective in ending overfishing and rebuilding stocks.
- Support hard ceilings through science-based catch limits, while recognizing burden on stakeholders.
- Do not roll back key conservation provisions in the Act. Modest changes can be made.
- Need to consider how to better manage data poor stocks. Need more, timelier and better stock assessments. Setting ACLs for data-poor stocks is difficult.
- Need to develop less costly ways to address data-poor stocks. Consider using alternative, semi-quantitative methods.
- Oppose proposed legislation that would remove the requirement for ACLs for stocks that have not had a stock assessment in the past five years regardless of the status of the stock. This could create more problems in the future if the stock becomes overfished or undergoes overfishing.
- Oppose proposed legislation proposing that ACLs be suspended in fisheries that have been rebuilt. This would allow managers to stop using the very tool that allowed the fishery to rebuild in the first place.
- In terms of improving science, we should build and strengthen on the existing structure rather than making major changes mid-stream.

- Need a significantly increased investment in science. Support previously proposed legislation that called for increased transparency in the prioritization of stock assessments and for NOAA to release an annual report identifying which stock assessments would be conducted in a given year and the needed budget.
- Strike a better balance between the biological needs and social needs.
- Lack of data and science leads to larger uncertainty in stock status, which translates to larger buffers to compensate for the increased probability that overfishing might occur. The result is fewer fish available for all fishermen, and socioeconomic impacts.
- The changing environment is already affecting oceans and fisheries. Ocean acidification is becoming an issue for shellfish, and habitat degradation is a constant concern. Need more and better baseline data for our ecosystem as a whole. Also need to focus on environmental impacts on fisheries to ensure long-term fishery health. Fisheries must be resilient in the face of a changing environment; managers must have the tools and information needed to assess the impacts of climate change and other environmental issues.
- Consider a modest extension of timelines required for rebuilding stocks deemed overfished, especially when overfishing is not the primary cause. However, any change to rebuilding requirements must be approached cautiously.
- Transparency of the Councils and SSCs must be improved. Allow web access to meetings and records of proceedings, and ensure the public has access. Need to also get the word out and not slow the process unduly as a result of notification requirements.
- Establishing a policy to maximize transparency would be sufficient, but do not detail specifics.
- Use caution in any attempts to revise the makeup of the Councils. Allowing one group to have a greater number of seats on a Council would establish a biased fishery management regime in that Council. The minimum number needed to attain reasonable representation from the various stakeholders should be the maximum size of the Council.
- Proceeds from penalties and fines should go to the region or fishery where the fine or penalty originates. The regions should be allowed to design programs with associated fees and allow those fees, again to the extent possible, be directed back to the region, and more specifically to the fishery in which the penalty was incurred.
- Catch share programs are neither inherently good nor bad. We need to be open to non-traditional management approaches; doing business as we have in the past is not always best for the future. (Referred specifically to red snapper fishery).
- Do not support highly restrictive requirements that effectively gut the option of catch share programs being designed and implemented. Councils need the flexibility to design management measures that are best for their region and fisheries.
- Concerned about the viability of the current fishery management process, due to an increasing disenchantment of and credibility in the system by the many stakeholders (especially in the Gulf). Fisheries management relies on voluntary compliance. Now, folks at many levels seek to disregard Federal regulations in Federal waters. Our goal should be to work together to maximize fishing opportunities for as many people as possible, within the bounds of a prudent scientific basis. A harmonious whole is better than a fractious assemblage of parts.

Joseph Plesha, Chief Legal Officer, Trident Seafoods Corporation

- The MSA has been a success.
- Support catch share programs. Rationalized fisheries outperform open access fisheries in many respects; open access programs “systematically destroy the ability of society to collect net benefits from the fisheries due to overcapitalization.”
- Rationalization programs must include processing plant owners as well as vessels; NOAA should not limit Councils’ abilities to fashion rationalization programs (discussed, in detail, the reasons for including processors; also causes of industry opposition to catch shares).
- Fishery cooperatives are an effective way to rationalize a fishery that includes both vessel and plant owners. However, NOAA has taken the legal position that such management systems are not “authorized” under the MSA.
- (Discussed state management of salmon fisheries in Alaska’s EEZ, and potential repeal of the Council’s FMP for salmon).
- Congress should consider amendments to the MSA that allow some flexibility in its rebuilding requirements when a stock is considered “overfished.”
- The key provisions of NEPA should be incorporated within the framework of the MSA, and the MSA remain the guiding law for fisheries management.

Sam Rauch, Deputy Assistant Administrator for Regulatory Programs for NMFS

- Commented on the importance of fisheries to the nation and the economic value of fisheries; provided background about NOAA’s implementation of the MSA.
- The system is effectively rebuilding fisheries due to the MSA and its reauthorizations; however, many difficult decisions have had to be made.
- Must look for opportunities to increase flexibility in our management system.
- NMFS is currently reviewing the NS1 guidelines.
- It is vital that NMFS’s current level of science not regress.
- Need more and better stock assessments; need to invest in cooperative research and electronic monitoring, and enhance engagement with fishermen through partnerships with industry, cooperative research, and other efforts
- The Marine Recreational Information Program was established to improve recreational fishery data. Currently working on improvements to the program.
- In future, need better and more scientific data; must continue progress on addressing overfishing and rebuilding; and need to better address the transitions that come with management changes
- Need a better understanding of ecosystem, habitat, and climate change; these need to be incorporated into stock assessments and management decisions
- Views on legislation proposed in the 112th Congress:
 - NOAA supports the regional fishery management Councils and believes all viable management tools should remain as options for the Councils to use.
 - Must maintain progress toward ending overfishing and rebuilding stocks. ACLs are an effective tool. NOAA is concerned about efforts to create exemptions or weaken ACLs.
 - Uncertainty in the stock assessments upon which annual catch limits are based should not be used as a basis for exempting fisheries from annual catch limits.

- In an increasingly constrained fiscal environment, we must not mandate duplicative or otherwise unnecessary actions. Additional stages of review for certain types of fisheries data, or repeating data collection and stock assessment efforts when there are already sound peer reviewed processes in place, would divert resources to a select few fisheries at the expense of others with little additional benefit.
- NMFS is open to finding opportunities for efficiency and improved management in order to end overfishing, rebuild stocks and achieve stable economic opportunities for our fishermen and coastal communities.
- Continued collaboration is necessary to address the ongoing challenges of maintaining productive and sustainable fisheries.
- (Discussed the Managing Our Nation's Fisheries 3 conference in detail).

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