



# Gulf of Mexico Fishery Management Council

*Managing Fishery Resources in the U.S. Federal Waters of the Gulf of Mexico*

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The Honorable Doc Hastings  
Chairman  
Committee on Natural Resources  
1324 Longworth House Office Building  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Hastings:

I am submitting comments on the May 2014 Discussion Draft, titled “Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act” on behalf of the Gulf of Mexico Fishery Management Council (Gulf Council). The Gulf Council discussed the two versions of the draft bill during its February and June 2014 Council meetings, and I am providing its specific comments on the provisions of the May 2014 draft bill as well as some general comments relative to reauthorization of the Magnuson-Stevens Act (Act). The Gulf Council’s comments have also been influenced by the May 2013 “Managing Our Nation’s Fisheries” national conference, ongoing dialogue among the eight regional Councils through the Council Coordination Committee (CCC), and experience with the 2006 Act reauthorization.

The 2006 amendments to the Act included ambitious and comprehensive requirements for fisheries management for rebuilding and conserving fisheries through the mandate of annual catch limits (ACLs), accountability measures (AMs), and the strengthening of the role of our Scientific and Statistical Committees (SSCs) in establishing definitive catch limits based on the best scientific information available. The 2006 amendments also built on the initial mandates of the 1996 Sustainable Fisheries Act by establishing time-certain rebuilding plans and eliminating overfishing.

The Gulf Council believes that the current Act provides a good framework for sustainable fisheries management. However, the mandates from the last two reauthorizations have not been without disruption and costs to the fishing industry and the communities supported by them. A primary focus for the Gulf Council in the upcoming reauthorization of the Act is to re-establish some flexibility in the current mandates because not all fish stocks can efficiently nor effectively be managed if they are treated the same. The Councils need to be able to use the most appropriate measures when rebuilding stocks and maintaining sustainable fisheries, which requires modification of the Act in some cases to provide such flexibility.

## **TITLE I—AMENDMENTS TO THE MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT**

### **SEC. 103. FLEXIBILITY IN REBUILDING FISH STOCKS.**

In addition to specific comments below, the Gulf Council requests the authority for the Councils to phase-in the elimination of overfishing over a five year period if a fish stock is not overfished. The Gulf Council recognizes and does not support uncontrolled overfishing on a non-overfished stock because doing so would eventually lead to the stock becoming overfished. However, a non-overfished stock is not at risk of collapse and an immediate end to overfishing can have substantial negative economic and social impacts. It is reasonable to allow overfishing to be reduced and eliminated over a reasonable timeframe as long as fishing mortality is reduced in each successive year of the five-year period until overfishing no longer occurs.

Section 103(a)(1)(B), Page 3. In proposed paragraph (A)(ii), the Gulf Council endorses the deletion of the ten-year rebuilding time requirement and supports that rebuilding may not exceed the time the stock would be rebuilt without fishing occurring plus one mean generation.

Section 103(a)(1)(C), Page 5. In proposed paragraph (B), the Gulf Council agrees it is important to “take into account environmental conditions, including predator-prey relationships.” This point could be expanded to be more inclusive by adding “ecological interactions”, which includes predator-prey relationships. For example, the Gulf Council suggests the following wording, “consider known environmental conditions and ecological interactions, such as predator/prey relationships, where practicable.” This language is important because many of these relationships are not quantified.

Section 103(a)(2) Page 6. In the proposed paragraphs (8) and (9)(A)(B), the Gulf Council supports the proposed language allowing alternative rebuilding strategies and fishing mortality-rate targets. The Gulf Council also supports the language specifying it can terminate a rebuilding plan if the scientific and statistical committee determines a stock is not depleted (overfished) within two years of a fishery management plan or amendment initiating a rebuilding plan or within 90 days after completion of the next stock assessment. However, in other instances, the Gulf Council is in favor of continuing rebuilding plans until the stock reaches its maximum sustained yield biomass level.

### **SEC. 104. MODIFICATIONS TO THE ANNUAL CATCH LIMIT REQUIREMENT**

In addition to specific comments below, the Gulf Council requests that annual catch limits not be required for data-poor species which have not been formally assessed because sufficient data are absent. These species are typically incidentally caught and as such are not classified as ecosystem species limited catch and life history information is available for assessment. Ad-hoc methods for setting ACLs for these types of stocks are inadequate for management.

Section 104, Pages 7-8. The Gulf Council supports the inclusion of section (m)(1) Consideration of Ecosystem and Economic Impacts, (m)(2) Limitations To Annual Catch Limit Requirement For Special Fisheries, and (m)(3) Relationship To International Efforts.

Section 104, Page 8. In proposed paragraph (4)(A-B) Authorization For Multispecies Complexes And Multi-Year Catch Limits, the Gulf Council supports the proposed allowance for a Council to establish a multispecies complex ACL and that multi-year ACLs be limited to three years.

This method is currently employed by the Gulf Council’s Scientific and Statistical Committee (SSC) for acceptable biological catch (ABC) recommendations (i.e., three-year yield streams). The Gulf Council also requests that language be added to provide for a carryover exception to allow ACLs to be exceeded following a deficit harvest from one year to the next to provide for minimal disruptions to the fishery without jeopardizing the ability of a fish stock to rebuild or be capable of producing maximum sustainable yield on a long-term basis.

Section 104(5), Page 8-9. In proposed paragraph (5) ECOSYSTEM COMPONENT SPECIES DEFINED, the Gulf Council endorses the definition of ecosystem component species but requests that the section be modified by removing subsections (A) and (B) because it is highly unlikely that appropriate data are available to evaluate the status of ecosystem species relative to any scientifically determined level of depletion or overfishing.

### **SEC. 105. DISTINGUISHING BETWEEN OVERFISHED AND DEPLETED**

Section 105(a), Page 9. DEFINITIONS and 105(b), Pages 9-10. SUBSTITUTION OF TERM. The Gulf Council recognizes that the definition of depleted proposed in this draft bill is equivalent to the definition of “overfished” in the NOAA/NMFS National Standard 1 Guidelines. It has been an ongoing source of confusion that the Act did not define “overfishing” and “overfished” separately and the Gulf Council applauds the attempt to do so now. Consequently, the Gulf Council suggests using the current definition in (34) for “overfishing” only, add a new definition of “overfished” to the Act, and modify the definition of “depleted” to clearly delineate stock reductions due to non-fishing activities from those caused by overfishing. Further, the Gulf Council does not recommend replacing “overfished” with “depleted” throughout the Act, but rather, where appropriate, use the phrase “overfished or depleted” when action is required.

### **SEC. 106 TRANSPARENCY AND PUBLIC PROCESS**

Section 106(a), Page 10. ADVICE. The Gulf Council agrees that the SSC process should be as transparent as possible. The Gulf Council does not have a formal public comment period at our SSC meetings, but does allow public questions and input at the discretion of the SSC chair. To date, no member of the public has been disallowed input.

The Gulf Council webcasts all of its SSC meetings and provides all briefing material and the audio recording of each meeting on a public file server. It does not produce verbatim transcripts of the SSC meetings because of the cost involved, but it does provide summary reports that are also maintained on the Gulf Council’s public website.

Section 106(c), Pages 11-16. FISHERY IMPACT STATEMENTS. The Gulf Council fully supports the need for fishery impact statements that provide the same basic analytical framework as the NEPA without having to go through the formal NEPA process. A preferred alternative for each action the Council is considering would need to be selected before the Fishery Impact Statement can be prepared. This will help the Council and public see a summary of potential impacts of the preferred alternatives before making a final decision.

## **SEC. 107. LIMITATION ON FUTURE CATCH SHARE PROGRAMS**

Section 107(b), Pages 17-20. CATCH SHARE REFERENDUM PILOT PROGRAM. The Gulf Council generally supports the language in this section if referenda are required by Congress. However, it requests clarification that referenda only be required for the initiation of a catch share program and not be required for subsequent amendments to a catch share program. The Gulf Council also suggests not calling these pilot programs.

The Gulf Council recommends that if Congress deems it important to specify “an eligible participant to vote” in a referendum, that the eligibility requirements be the same for multispecies and single species catch share programs.

## **SEC. 109. DATA COLLECTION AND DATA CONFIDENTIALITY**

Section 109(a), Pages 21-24. ELECTRONIC MONITORING and VIDEO AND ACOUSTIC SURVEY TECHNOLOGIES. The Gulf Council is supportive of the language specifying the requirement, content, process, and implementation of electronic monitoring programs for data collection and fisheries enforcement.

Section 109(c), Pages 24-28. CONFIDENTIALITY OF INFORMATION. The Gulf Council is supportive of the language in this section with exception to the restriction on the use of data and enforcement monitoring information for the purpose of marine spatial planning.

Section 109(d), Pages 28-30. INCREASED DATA COLLECTION AND ACTIONS TO ADDRESS DATA-POOR FISHERIES. The Gulf Council supports the proposed language but requests that all enforcement penalties be spent in the region in which the infractions occurred be added to this section.

## **SEC. 112. GULF OF MEXICO FISHERIES COOPERATIVE RESEARCH AND RED SNAPPER MANAGEMENT**

Section 112(a), Page 33. REPEAL. The Gulf Council supports the repeal of Section 407 in its entirety from the Act.

Section 112(b),(c),(d) and (e), Page 33. REPORTING AND DATA COLLECTION PROGRAM. The Gulf Council supports the effort to develop and implement real-time reporting as part of the overall fishery data collection programs that involves the red snapper fishery.

Section 112(c), Page 33-34. FISHERIES COOPERATIVE RESEARCH PROGRAM. The Gulf Council supports the development and implementation of a fisheries cooperative research program for the southeastern U.S. with priority going to data poor fisheries.

Section 112(d), Page 34-35. STOCK SURVEYS AND STOCK ASSESSMENTS. The Gulf Council supports the development of five-year stock survey and assessment plans with priority going to economically important fisheries and the requirement that such fisheries are assessed no less once every five years.

Section 112(e), Page 35. USE OF FISHERIES INFORMATION IN STOCK ASSESSMENTS. The Gulf Council supports the effort to incorporate fisheries information into stock assessments as soon as possible.

Section 112(f), Page 35. STATE FISHERIES MANAGEMENT IN THE GULF OF MEXICO WITH RESPECT TO RED SNAPPER. The Gulf Council supports the language in this section but suggests that the seaward boundary of the coastal states be changed to 9 nautical miles, not 9 statute miles. This change would make the seaward boundaries consistent with those of the states of Florida and Texas which are measured in nautical miles. The Gulf Council also suggests with the extension of the states' seaward boundaries be the inclusion of all living marine resources, as is currently the case for the states of Florida and Texas.

Thank you for the opportunity to review the House's two drafts of proposed changes to the Act and to provide these comments to you on behalf of the Gulf Council. The Gulf Council also discussed and provided a letter commenting on the proposed changes from the Senate draft bill and requests that the House also consider the following proposed changes:

1. The inclusion of forage fish because of their importance in the structure and function of marine ecosystems and to consider the ecological role of forage fish in the quota-setting process. The Gulf Council recommends that this section not be overly prescriptive and recognize that the majority of forage fish populations occur in State waters because there is little evidence that forage fish are subject to increasing fishing pressure in the Gulf of Mexico.
2. The Gulf Council regards the proposed change to the definition of "bycatch" as too broad because targeted species used for bait at sea would be included in this definition, but are not necessarily bycatch.
3. The Gulf Council generally supports the addition of language that addresses ecosystem-level management objectives. These provisions should be discretionary and not overly prescriptive or redundant to initiatives already underway in the management regions. As currently stated in the Senate draft, the detailed requirements may serve as a deterrent to Councils considering implementing ecosystem approaches to fisheries management. This section should be strengthened by removing the specific requirements for fishery ecosystem plans and focusing on providing the Councils with the resources and funding needed to develop such plans.
4. The inclusion of language regarding a sustainability standard for U.S. seafood. The U.S. standards for sustainable management are the strongest in the world, and an affirmation of this sustainability would be an important step to facilitate education, awareness, and marketing for the benefit of U.S. fisheries.

Sincerely,

 for

Douglass Boyd  
Chairman

cc: Dave Whaley  
Jeff Lewis  
Eileen Sobeck  
Regional Fishery Management Councils  
GMFMC