

**WRITTEN TESTIMONY OF
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ON

TWO BILLS TO REAUTHORIZE THE
MAGNUSON-STEVEN'S FISHERY CONSERVATION AND MANAGEMENT ACT

(1) "AMERICAN FISHERIES MANAGEMENT AND MARINE LIFE
ENHANCEMENT ACT" (H.R. 5018)

AND

(2) "FISHERY MANAGEMENT AMENDMENTS ACT OF 2006" (H.R. 4940)

BEFORE THE
COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

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Thank you, Mr. Chairman and Members of the Committee for the opportunity to testify on two pieces of legislation to reauthorize the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). I am Dr. Steve Murawski, Director of Scientific Programs and Chief Science Advisor for the National Marine Fisheries Service, National Oceanic and Atmospheric Administration (NOAA), within the Department of Commerce. In my testimony today, I will review the Administration's goals and priorities in reauthorizing the Magnuson-Stevens Act and comment on the bills introduced by Chairman Pombo (H.R. 5018) and Congressman Frank (H.R. 4940). The Administration will continue to work with Congress to reauthorize the Magnuson-Stevens Act in order to sustain our fishery resources for future generations, as well as the industries and communities that depend on them.

The Administration's Magnuson-Stevens Act Priorities

Reauthorization of the Magnuson-Stevens Act is a high priority of the Administration. NOAA has worked with its constituencies to craft an effective and responsive proposal to the many challenges that face our federally-managed marine fishery resources. In September 2005, the Administration provided Congress with a proposal to reauthorize the Magnuson-Stevens Act. Over the past year, NOAA has worked closely with Congress on a wide range of issues related to

Magnuson-Stevens Act improvements. The Administration's legislative proposal provides a broad blueprint, based on the President's U.S. Ocean Action Plan. The Administration's proposal reflects many comments and views from stakeholders. NOAA sponsored a national conference -- "Managing Our Nation's Fisheries -- II" -- in 2005 specifically addressing reauthorization. From the input of the over 800 attendees, the Administration developed a list of strategic priorities to address in the reauthorization process.

Specifically, the Administration's Magnuson-Stevens Act reauthorization proposal seeks to achieve the following objectives: (1) promote wider use of market-based fishery management tools, (2) improve the operations of Regional Fishery Management Councils (Councils) as well as broaden and balance the constituent interests represented on the Councils, (3) end overfishing and achieve fishery rebuilding based on the biology of species and needs of communities, rather than arbitrary time schedules, (4) incorporate ecosystem-based approaches in our fishery management process, (5) strengthen the role of science in the decision-making process and increase our access to social and economic information, (6) upgrade the collection and use of recreational fisheries data, (7) conform the Magnuson-Stevens Act regulatory procedures with the objectives of other environmental laws, and (8) enhance the enforcement tools available so penalties become a true punishment and deterrent rather than simply a cost of doing business.

During the 109th Congress, several Magnuson-Stevens Act reauthorization bills have been introduced. For purposes of this hearing, I will focus my comments on major provisions of the bills before us today: H.R. 5018, sponsored by Chairman Pombo, and H.R. 4940, sponsored by Congressman Frank.

"American Fisheries Management and Marine Life Enhancement Act" (H.R. 5018)

H.R. 5018 addresses a comprehensive range of domestic management issues that have been debated within and outside Congress for several years. There are many provisions in H.R. 5018 that the Administration supports, particularly, the provisions that:

(1) establish limited access privilege programs, (2) broaden Council membership, and (3) authorize ecosystem-based fishery management plans. Each of these provisions is consistent with key Administration priorities, and we are pleased to see these provisions included in the Chairman's bill. I would like to explain why the Administration supports these provisions and believes they should be included in Magnuson-Stevens reauthorization.

Limited Access Privilege Programs

The Administration believes Councils should have every possible fisheries management tool available to develop effective management programs. Moreover, market-based management approaches have demonstrated success in achieving economic benefits and promoting sustainable fisheries. Therefore, the Administration supports an expansion of existing authority to allow the Councils to implement a variety of limited access privilege programs that meet the unique needs of their fishery. The current Magnuson-Stevens Act authorizes two forms of dedicated access privileges (DAPs): individual fishing quota (IFQ) programs, and community quotas (in two specific geographic areas). Limited access programs currently in place have

resulted in increases in per-unit product value and decreases in harvesting cost for fishermen. These programs have provided fishermen with greater control over when to fish, thus improving safety. This increased flexibility allows fishermen to improve profitability by harvesting fish when prices are most favorable. For these reasons, the Administration supports granting the Councils expanded authority to implement limited access privilege programs.

Broadening Council Membership

The Councils are a key part of the fisheries management process, and the Administration believes the Council process is effective for sustainable fisheries management. It is vital that Councils are comprised of knowledgeable people representing a variety of interests. H.R. 5018 helps promote a broader and more balanced representation of constituent interests on the Councils by authorizing Governors to nominate Council members from academia or other public interest areas if the Governor determines they are qualified. The Administration supports this provision and believes it would allow a wider diversity of interests to be represented on the Councils. The Administration also looks forward to working with Congress to address a potential constitutional concern raised by the bills.

Ecosystem-Based Fishery Management Plans

For several years, fisheries scientists and managers have advocated using ecosystem approaches to fisheries management, whereby management programs consciously account for and address multiple living resource issues within an ecosystem. The Administration supports this vision and believes we must move towards an ecosystem approach to management. Although NOAA and the Councils have already begun to integrate this approach into fisheries management, we believe more can be done. We support reauthorization language that defines ecosystems, authorizes the Councils to take ecosystem considerations into account when developing fishery management plans, and authorizes the Councils to prepare fishery ecosystem plans. The Administration commends Chairman Pombo for his inclusion of a non-mandatory provision for ecosystem-based fishery management plans, as we believe that ecosystem-based approaches to management are fundamental to the future of sustainable fishery management.

The Administration supports other provisions in H.R. 5018, including the authorization of a Fishery Observer Fund, which would establish a funding mechanism to help pay for fishery observer programs. We also believe that provisions addressing cooperative research, identification of marine ecosystems, bycatch reduction incentives, and identification of fisheries with excess capacity have merit. Further, the Administration believes the proposed harvest level caps in H.R. 5018 could be a useful tool, provided they are practical to implement and enforce in any fisheries in which they are used.

While the Administration supports many of the provisions in H.R. 5018, the Administration does have concerns about a few provisions, and we would like the opportunity to work with you, Mr. Chairman, and the Committee to address these concerns. In particular, we are concerned with the provisions regarding the rebuilding plans for “diminished” stocks; compliance with other environmental laws, especially the National Environmental Policy Act (NEPA); and the recovery of costs for limited access privilege programs. We would also like to work with you, Mr.

Chairman, on provisions related to the implementation of limited access privilege programs in New England; the revision of fisheries regulations in National Marine Sanctuaries; and the collection of recreational fisheries data.

The Administration's proposal to end overfishing within a defined timeframe and allow rebuilding timeframes to reflect the unique life history of the pertinent fish stocks provides appropriate levels of management flexibility to achieve sustainable fisheries. H.R. 5018 identifies additional circumstances to be considered in determining rebuilding schedules, which we believe could inappropriately and unnecessarily slow rebuilding times.

The Administration supports study, revision, and updating of relevant Magnuson-Stevens Act procedures to integrate the environmental review processes of NEPA. The Administration supports this approach, rather than an exemption of fishery management actions from NEPA requirements.

While H.R. 5018 outlines the authority to establish limited access programs, it does not authorize the collection of fees necessary to implement these programs. Recent experience suggests that the implementation and monitoring costs of limited access privilege programs may easily exceed the caps proposed in H.R. 5018. This places an unfair burden on the taxpayers to support programs primarily benefiting business. The Administration's proposal would authorize the recovery of a larger share of the costs in all dedicated access privilege programs.

Another concern is that H.R. 5018 mandates an IFQ referendum with a 2/3 majority requirement in New England, but nowhere else. There are many provisions in current law and regulations to ensure an open and transparent debate on the evaluation and choice of management options. Management by IFQ may ultimately be appropriate for some Northeast fisheries but not others. Mandating such a referendum for New England suggests the IFQ option or the New England region requires special attention or a lack of confidence in our current law or the local institutions to fairly interpret them. Such a provision could result in a costly and unnecessary impediment to the implementation of limited access programs in this region. Current law ensures that all stakeholder concerns are addressed in the decision making process, and places control properly with local institutions responsible for fisheries management.

H.R. 5018 requires the review and certification of National Marine Sanctuaries regulations for the conservation and management of fish or essential fish habitat. The Administration firmly believes Sanctuary regulations adequately protect fish and essential fish habitat and does not believe that Sanctuary regulations should meet the Magnuson-Stevens Act national standards in all cases since their mandates differ from the Magnuson-Stevens Act mandates. NOAA is committed to using all its regulatory tools and complimentary authorities to develop comprehensive ecosystem-based management strategies that meet the purposes, goals and objectives for state and federal fishery managers and National Marine Sanctuaries.

Finally, the Administration is committed to a nationally coordinated registry of saltwater recreational anglers that would build on State-administered programs. H.R. 5018 calls on the Secretary to use financial incentives to encourage States to collect recreational data. The Administration and Senate bills approach this in a different way, authorizing the Secretary to

collaboratively establish a national registry as recommended by a recent National Research Council review of recreational data collection programs. The Administration believes a comprehensive registration of anglers should be established, as such a registration is an important tool for improving recreational fisheries data collection for management purposes. We look forward to working with you to craft the most effective policy to address this critical need.

I would like to mention one issue not addressed in H.R. 5018 that the Administration believes should be included in the Magnuson-Stevens reauthorization. Unlike the Administration's proposal, H.R. 5018 does not include a provision to accelerate a mandatory end to overfishing. The Administration believes a deadline for ending overfishing is critical to preventing a stock from reaching an overfished status or requiring rebuilding. Management measures that end overfishing have contributed significantly to the rebuilding of many of the Northeast groundfish stocks. Without such strong measures, it would have been difficult, if not impossible, to bring the stocks to status that they are in today.

Again, I would like to reaffirm the Administration's support for many of the provisions in H.R. 5018, and we are pleased to see many of our priorities included in this bill. We look forward to working with you, Mr. Chairman, as reauthorization moves forward.

Now I would like to discuss the Administration's views on H.R. 4940.

“Fishery Management Amendments Act of 2006” (H.R. 4940)

H.R. 4940 addresses a more narrow range of Magnuson-Stevens Act issues, concentrating on several measures intended to improve information, and amend rebuilding targets as well as the pace at which fishery stocks are rebuilt. H.R. 4940 has a number of provisions that are consistent with the emphasis NOAA places on cooperative research between Agency scientists and the fishing industry. Likewise, it emphasizes the importance of vigorous independent peer review of science supporting management. Both of these areas are addressed in the Administration's bill, and we support the intent of the concepts.

The Administration believes H.R. 4940 provides excessive leeway to the Councils in the timeframe for eliminating overfishing and the eventual rebuilding of stocks. Many of the stocks in New England became overfished under policies in effect prior to 1996 that repeatedly postponed tough choices necessary for the rebuilding of overfished stocks. New England, and specifically the Port of New Bedford, have shown that ending overfishing is consistent with our goals of sustaining vibrant coastal communities and economies. In focusing on ending overfishing of sea scallops, the value of scallop landings has increased approximately 800 percent over the past 7 years. Based on the latest NOAA data, New Bedford is the number one fishing port in the United States in terms of ex-vessel revenue, totaling \$206 million in 2004. These increases in revenue have been largely due to the cooperative efforts of the fishing industry, the New England Council, and NOAA to rebuild stocks, to be innovative in their management strategies, and to maintain stocks at sustainably healthy levels once they are rebuilt. It would be a step backward to allow excessive flexibility in the time allowed both for ending overfishing and achieving stock rebuilding.

Conclusion

In summary, when we examine these two bills in light of the Administration's highest Magnuson-Stevens Act reauthorization priorities, we are encouraged in a number of important areas. Specifically, we support the direction in which these bills are headed with respect to: market-based fisheries management, Council operations and membership, ecosystem-based approaches to management, and cooperative science.

We look forward to working with Congress on several issues in Magnuson-Stevens Act reauthorization, such as: (1) overfishing and rebuilding provisions, (2) policies related to limited access privileges, and (3) the best means to improve the collection of recreational fisheries data. Ending overfishing and fisheries rebuilding issues are critical for achieving sustainable fisheries. In the Administration's view, two points are key. First, we have to end overfishing as quickly as possible, and preferably by a date certain; second, rebuilding timetables should be supported by sound science.

As we outlined in our most recent status of the stocks report, 81% of the stocks and stock complexes with known status are not subject to overfishing, and 72% of the stocks and stock complexes with known status are not overfished. We are making progress in rebuilding our Nation's fisheries. As I stated earlier, Mr. Chairman, the Administration believes we share many of the same priorities for Magnuson-Stevens reauthorization. We are close to completing a final bill. In this year, the tenth anniversary of the enactment of the Sustainable Fisheries Act, the Department remains committed to working with Congress as legislation to reauthorize the Magnuson-Stevens Act moves forward.