



OCT 14 2003

The Honorable Richard H. Pombo
Chairman, Committee on Resources
House of Representatives
Washington, D.C. 20515-6201

Dear Mr. Chairman:

This letter provides you with the views of the Department of Commerce on H.R. 2890, the Freedom to Fish Act. The Department supports the privileges of recreational fishermen and encourages responsible recreational fisheries that are consistent with the sustainable use of marine fisheries. However, as we advised with respect to a similar proposal that was submitted in the last Congress, the Department does not support the special rules for recreational fishermen that H.R. 2890 would establish.

Section 3(2) proposes a policy of "open access" for recreational fisheries. Under the current provisions of the Magnuson-Stevens Act, the United States Government is obligated to conserve and manage fish resources to provide "recreational fishing opportunities." The Regional Fishery Management Councils consider and treat equitably both recreational and commercial participation in federally managed fisheries. We believe this existing approach, as guided by the current National Standards in the Magnuson-Stevens Act, is appropriate.

Section 4 would greatly restrict existing authority to close areas to recreational fishing, and would establish distinct requirements for closing recreational fishing that would not apply to commercial fishing. An area could not be closed to recreational fishing "unless there is a clear indication that recreational fishermen are the cause of a specific conservation problem." This standard would be difficult to implement. In addition, the fact that it could create a new legal standard could result in increased legal challenges to agency action.

In summary, we believe that H.R. 2890 proposes unwarranted special treatment on issues such as open access and closures for the recreational sector that could encourage more litigation. The Department is committed to the productivity and success of this Nation's marine recreational fisheries. We would be happy to work with marine recreational fishing groups and the Committee to identify ways in which federal law and policy on these issues can be updated and improved.

The Office of Management and Budget has advised that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

A handwritten signature in black ink, reading "Theodore W. Kassinger". The signature is written in a cursive style with a large, stylized initial 'T'.

Theodore W. Kassinger

cc: The Honorable Nick J. Rahall
Ranking Minority Member