



# 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 Mark Begich - Chairman  
Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard  
111 Russell Senate Office Building  
Washington, DC 20510

Dear Senator Begich:

I am submitting comments on the April 2014 113<sup>th</sup> Congress, 2<sup>nd</sup> Session Discussion Draft Bill, “Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2014” on behalf of the Gulf of Mexico Fishery Management Council (Gulf Council). The Gulf Council discussed this draft bill during its June 2014 Council meeting and identified specific important issues for consideration that could impact the management process in the Gulf of Mexico. Proposed modifications to the Magnuson-Stevens Act (Act) that would not directly affect the Gulf Council’s ability to manage sustainable and healthy resources were not included in this letter nor were additions or minor edits to the Act that the Gulf Council supports. These 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 the Gulf Council’s experience with the 2006 Act reauthorization.

Overall, the Gulf Council supports modifications to the Act that improve management options for the Councils and allow flexibility to meet the needs of stakeholders while maintaining sustainable and healthy resources.

### **SEC. 3. CHANGES IN FINDINGS, PURPOSES, AND POLICY**

SEC. 3. (a)(1), Page 5. The Gulf Council supports the proposed paragraphs (8) with the following underlined phrase deleted: “By establishing mechanisms, under authority of this Act, for specifying science-based annual catch limits in fishery management plans at levels such that overfishing does not occur in fisheries, including measures to ensure accountability, the Nation’s fishery resources are now being managed sustainably to prevent overfishing and respond quickly if overfishing occurs.” The Gulf Council is requesting more flexibility than the mandate for ending overfishing immediately. Ending overfishing immediately for a stock that is not declared overfished can have substantial negative economic and social impacts. Instead, the Gulf Council requests the authority for the Councils to phase-in the elimination of overfishing over a 5 year period if a stock of fish is not declared overfished.

SEC. 3. (a)(1), Pages 4-5. In proposed new paragraph (11) the Gulf Council agrees that forage fish are important to the ecosystem. However, there is little evidence that forage fish are subject to increasing fishing pressure in the Gulf of Mexico. Pink, brown, and white shrimp (Penaeids) are the only species that the Gulf Council currently manages that are considered forage fish. In fact, a majority of the forage fish in the Gulf Council's jurisdiction are closely monitored and assessed by the five Gulf States through the Gulf States Marine Fisheries Commission. The Gulf States regulate the fishing gears that would put forage fish at risk. Further, other regional management Councils have different management needs which the Gulf Council would like to see considered in the next draft of the Senate Bill.

#### **SEC. 4. DEFINITIONS**

Sec. 4. (a)(1)(2), Pages 7-8. The Gulf Council has concerns about the proposed modified definition of "bycatch" outlined in (A) and (B), unless the following phrase is removed from paragraph (A) "fish that are harvested in the fishery and retained but not landed." The Gulf Council feels this language is too broad because targeted species used for bait at sea would be included in this definition but are not necessarily bycatch.

Sec. 4. (a)(1)(2), Page 8. In paragraph (8A) the Gulf Council supports the additional definition for "depleted" and "depletion" in addition to the "overfished" definition throughout the Act. However, there has been an ongoing source of confusion in the current Act because it does not define "overfishing" and "overfished" separately. Therefore, the Gulf Council suggests the word "overfished" be deleted from current definition: "(34) The terms "overfishing" and "overfished" mean a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis." Further, the Gulf Council suggests using the current definition in (34) for "overfishing" and add a new definition of "overfished" to the Act that would clearly delineate the definitions of "overfished" and "depleted."

Sec. 4. (a)(1)(2), Page 8. In paragraph (18A) the Gulf Council supports the additional proposed definition of "forage fish." However, the words "significant" and "significantly" should be defined, because it can have statistical meaning.

Sec. 4. (a)(1)(2), Page 8. In paragraph (30A) the Gulf Council has concerns about the proposed definition of "non-target fish" because it feels "regulatory discards" should not be retained for sale or personal use. The Gulf Council also suggests considering adding "economic discards" to the revised definition to coincide with the proposed language in the definition of "bycatch" outlined in paragraph (8A).

### **TITLE I—CONSERVATION AND MANAGEMENT**

#### **Sec. 101. REGIONAL FISHERY MANAGEMENT COUNCILS**

Sec. 101. (c)(B)(i), Page 14. The Gulf Council does not support the proposed additional language after "Each scientific and statistical committee shall -- ... (i) goals and objectives of fishery ecosystem plans developed under the discretionary authority provided under section 303B." The

Gulf Council is concerned that this guidance is too prescriptive and would require additional funding resources to meet the requirements of a fishery ecosystem plan. Instead, it would be more helpful to the Gulf Council if the overarching goals and objectives versus the current language in the discretionary authority are used.

Sec. 101. (c)(B)(ii), Pages 14-15. The Gulf Council does not support the proposed language outlined in sub-paragraph (ii) because it is too prescriptive. The Gulf Council feels that this requirement could constrain the Scientific and Statistical Committee into developing control rules for species that are data-poor in the Gulf of Mexico. Specifically, due to the lack of information on “forage fish” and subsequent use of data-poor methods these requirements could lead to premature closures of important fisheries in the Gulf of Mexico resulting in potential unintended and possibly unnecessary social and economic impacts. Instead, the Act should encourage managers to take into consideration to the extent practicable the role of forage fish for other species when establishing quotas and other management measures.

Sec. 101. (d)(2), Page 15. The Gulf Council supports the proposed additional language on review of allocation. The proposed language supplements the Gulf Council’s current Allocation Policy.

Sec. 101. (d), Page 16. The Gulf Council generally supports the proposed addition in paragraph (9). However, the Gulf Council requests a definition for “alternative fishery management measures” be better explained or defined.

## **SEC. 102. CONTENTS OF FISHERY MANAGEMENT PLANS**

Sec. 102. (a), Pages 18-19. The Gulf Council does not support the proposed insertion of paragraph (14)(A) and (B)(i-ii), because it is too prescriptive and time consuming for the Scientific and Statistical Committee to develop a control rule and acceptable biological catch levels for forage fish. The Scientific and Statistical Committee and Council currently have difficulty establishing control rules and annual catch limits for a single species. Because many forage fish are data poor, additional funding resources would be necessary to adequately assess their importance particularly in comparison to managed fish species. Instead, the Gulf Council recommends the inclusion of forage fish, when practicable, into ecosystem-based management assessments and fishery management plans. If this proposed section is implemented then the Gulf Council supports the limitations proposed in paragraph (d)(1)(A) for species with a mean life cycle of 18 months or less.

The Gulf Council supports the other additions and modifications to Section 102.

## **SEC. 103. FISHERY ECOSYSTEM PLANNING AUTHORITY**

### **Sec. 303B. FISHERY ECOSYSTEM PLANNING AUTHORITY**

Sec. 303B. (a)(b)(c), Pages 23-27. The Gulf Council supports the concept of fishery ecosystem plans. However, it feels the current language drafted in paragraph (b) **REQUIRED PROVISIONS** is too prescriptive. The Gulf Council feels both National Marine Fisheries Service and the Councils are making efforts to move toward ecosystem approaches to fishery

management. There are many aspects of single-species stock dynamics that are poorly understood and additional resources would be needed to meet the required provisions as well as the language drafted in paragraph (c) for ASSESSMENT AND UPDATING OF PLANS.

#### **SEC. 104. ACTION BY THE SECRETARY**

Sec. 104. (e)(2-4), Pages 30-31. The Gulf Council supports the addition of the words “or otherwise depleted” after overfished throughout the REBUILDING OVERFISHED FISHERIES section if the definitions of “overfishing” and “overfished” are separated and clarified as suggested in Section 4. DEFINITIONS.

#### **SEC. 105. OTHER REQUIREMENTS AND AUTHORITY**

Sec. 105. (c), Pages 35-37. The Gulf Council supports the proposed paragraphs for sustainably caught fish. In general, the Gulf Council feels the required information is important, but it is unclear if the responsible party for the REQUIRED INFORMATION laid out in paragraph (3) will be the fishermen or the Councils; this should be clarified. In order to ensure common names are consistent, the Gulf Council recommends using the following reference from the American Fisheries Society “Common and Scientific Names of Fishes from the United States, Canada, and Mexico” most recent edition. The American Fisheries Society has similar books for invertebrate species (<http://fisheries.org/shop/51034c>). If a reference is not used for common names of fishes and invertebrates, there could be delays in the obtaining the sustainability standards and potential confusion by consumers.

#### **SEC. 107. PENALTIES.**

Sec. 107. (a)(1) and (b)(1-2), Page 39. The Gulf Council requests that additional language be added to the Act that the monies from these types of fines stay within the respective Council’s jurisdiction and be used for data collection and research.

#### **SEC. 112. STUDY OF ALLOCATIONS IN MIXED-USE FISHERIES.**

Sec. 112. (a)(1) and (2), Pages 48-49. The Gulf Council supports the proposed language for study requirements and report on mixed-use fisheries.

### **TITLE II-FISHERY INFORMATION, RESEARCH, AND DEVELOPMENT**

**SEC. 201. ELECTRONIC MONITORING.** The Gulf Council supports this proposed Section.

#### **SEC. 204. FISHERIES RESEARCH.**

Sec. 204. (b)(e)(1)(2) and (3), Pages 62-64. The Gulf Council does not support the current language in proposed paragraphs (1-3) because it is too prescriptive and inflexible for the Council. It is unclear how the waiver of the stock assessment requirement will be determined by the Secretary.

#### **SEC. 205. IMPROVING SCIENCE.**

Sec. 205. (b)(1)(2) and (3), Pages 65-67. The Gulf Council supports the concept of improving data collection and analysis. However, the proposed language seems burdensome to

the Scientific and Statistical Committee and Council staff and redundant with the current Southeast Data Assessment and Review (SEDAR) process completed by NOAA Science Center. Currently, NOAA Science Center through SEDAR takes into account data from recreational and commercial fishermen, communities, universities, and research institutions. The Stock Assessment Panel, made up of statistical stock assessment analysts, SSC members, recreational and commercial fishermen, and academia determine as a group if the data and subsequent analyses are appropriate for use in the stock assessment. The Gulf Council feels the Stock Assessment Panel is the most appropriate group to make this decision. Further, the processes in the proposed language are excessive by creating unnecessary paperwork and duplication of current efforts by multiple agencies.

Thank you for the opportunity to review the Senate's draft proposed changes to the Act and to provide 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 House draft bill and requests that the Senate also consider the following proposed changes:

- 1) extending the seaward boundary to 9 nautical miles for all Gulf States and designating management for all federally managed species out to 9 nautical miles;
- 2) repealing Section 407 of the Act in its entirety. Specifically, 407(c) should be repealed because it is redundant with Section 303A(6)(D). The Gulf Council supports streamlining the referenda requirements for limited access privilege programs, including consistent eligibility requirements for permit holders. We request the Act require a referendum only for the initiation of a limited access privilege program and that a referendum for future modifications to an established program not be required. The Gulf Council supports removing 407(d) because it currently limits flexibility for managing components of the recreational sector (for-hire and private anglers).

If you have any questions please do not hesitate to contact me.

Sincerely,

Douglass Boyd  
Gulf Council Chairman

cc: John D. Rockefeller IV  
John Thune  
Jeff Lewis  
Eileen Sobeck  
Dave Whaley  
Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard  
Regional Fishery Management Councils