

TESTIMONY
MR. JOHN PAPPALARDO, CAPE COD COMMERCIAL FISHERMEN'S ALLIANCE
ON BEHALF OF THE FISHING COMMUNITIES COALITION
BEFORE THE
WATER, OCEANS and WILDLIFE SUBCOMMITTEE
HOUSE OF REPRESENTATIVES COMMITTEE ON NATURAL RESOURCES
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Chairman Huffman, Ranking Member Bentz, and members of the Water, Oceans and Wildlife Subcommittee, my name is John Pappalardo and I am CEO of the Cape Cod Commercial Fishermen's Alliance (Fishermen's Alliance). The Fishermen's Alliance is composed of small boat, conservation-minded commercial fishermen. We have nearly 100 fishermen, families, and members with thousands of community supporters as we celebrate our 30th anniversary. I have also had the privilege of serving on the New England Fishery Management Council for 15 years, 5 of which I chaired the Council.

The Fishermen's Alliance is also a founding member of the Fishing Communities Coalition (FCC), an association of community-based, small-boat commercial fishing organizations representing more than 1,000 fishermen from Maine to Alaska. FCC members share a strong commitment to the sound conservation and sustainable management of America's fishery resources, and we work to ensure healthy, thriving oceans for future generations of commercial fishermen. As such, the FCC is proud to have worked with this subcommittee both on reauthorizing the Magnuson-Stevens Act (MSA) as well as the recent enactment of the Young Fishermen's Development Act, which created a critical program for future generations of fishermen.

Before addressing possible changes to the MSA, I would like to thank the subcommittee for its help in navigating the COVID-19 pandemic. As you are very aware, the pandemic quite vividly exposed the weaknesses in our supply chains which we are still dealing with today. Fewer markets for our fish combined with low prices were a real challenge to our fishermen and their families. Your support for CARES Act funding and other initiatives designed to help our industry have not gone unnoticed and are greatly appreciated. We still have a long way to go, and your continued support is greatly needed.

Before examining specific provisions of the legislation being reviewed today, I'd like to offer one overarching observation regarding the reauthorization process. 2006 was the last major MSA reauthorization, and it took well over a decade for many of those provisions to be implemented. Much of the delay was due to the lack of agency resources, staff, scientists, and ship time. I ask the subcommittee to be mindful that simply changing the law does not necessarily mean those changes will go into effect immediately. They become unfunded mandates. The 2006 amendments were highly "science-driven," meaning the National Oceanic and Atmospheric Administration (NOAA) was required to conduct scientific research without

the resources to perform in a timely manner. As you consider amending the MSA, please consider the level of resources, both in terms of budget and staff, it will take to enact changes and the likelihood those resources will be available to the agency.

H.R. 4690: Title I

Title I “Climate Ready Fisheries” includes several important provisions aimed at improving the management of our fisheries in the face of ever-increasing challenges from climate change. The Fishermen’s Alliance and the FCC support increasing the adaptive capacity of fisheries management, incorporating climate science into fisheries research, and strengthening the resiliency of fish stocks to climate change impacts as proposed in the bill. However, the prescribed solution to managing shifting stocks in Sec. 105 is not something we can support at this time. Having experienced “joint plans” with the New England and Mid-Atlantic councils when I was chair, I found them to be bureaucratic, time-consuming, and not necessarily producing a good result. We would be happy to work with the subcommittee on developing a more effective approach.

While Title I of H.R. 4690 focuses on increasing resiliency and mitigating the consequences of climate change, it does not include a directive for the councils to evaluate the impacts of climate change on how they manage their fisheries. This is why I recommend the subcommittee consider adding a new “climate change” national standard in Sec. 301 of the MSA for fishery conservation and management.

The national standards represent the core policy of this nation and provide direction to the agency and councils as to how conservation and management measures must be developed. Currently, the national standards require that conservation and management measures minimize bycatch, promote safety of human life-at-sea, and are based on the best science among other requirements. The climate crisis is real, and our fishermen are on the frontlines – Cape fishermen were changing their business plans to incorporate the northward migration of black seabass before the term climate-resilient fisheries was even coined. A new climate change national standard would require councils to consider the impacts on climate of any proposed conservation and management measure.

Proposed Language:

(11) Conservation and management measures shall, to the extent practicable, consider and incorporate observed and projected impacts of climate change on resource productivity and distribution.

But more can be done. We need to make sure that the impacts of climate change on the productivity and distribution of our fishery resources be incorporated into the scientific advice provided to the councils by the scientific and statistical committees (SSCs). I am therefore proposing an amendment to the responsibilities of the SSCs as follows:

At the end of Sec. 302(g)(1)(B) add the following: “In providing scientific advice, each scientific and statistical committee shall consider the impacts of climate change on stock productivity and distribution.”

H.R. 4690 Title II

Title II of H.R. 4690 includes a number of sound proposals that we support, including important changes to subsistence fishing in Sec. 202. We strongly support the provisions on working waterfronts (Sec. 203). Our fishermen understand the importance of providing access to working waterfronts, not only for fishing businesses and vessels, but for boatbuilding, aquaculture, and other water-dependent businesses. Without these services, our fleets could not survive.

Sec. 204 would improve seafood marketing by requiring the U.S. Department of Agriculture (USDA) and NOAA to work together to develop seafood marketing and education programs within NOAA. We suggest a different approach. The USDA and the USDA Agricultural Marketing Service (AMS) are experts in purchasing large commodities of agricultural products; that’s what they do! Rather than duplicate this expertise within NOAA, we would suggest NOAA work with the USDA to provide the information they need to begin purchasing more domestic seafood for food nutrition programs. NOAA expertise is important because wild-caught American seafood differs significantly from traditional agricultural products; soybeans can be grown almost anywhere, while most seafood species are limited to specific regions. This makes the independent American fisherman a core part of the grow-local food movement that emphasizes smaller scale and a healthy proximity between producer and consumer. Smaller scale and diversification present special challenges to USDA, which often employs a national procurement model, and this is where NOAA can help. AMS Commodity Procurement Office should create a seafood program to work with NOAA and the seafood industry to (1) develop seafood products requirements and specifications, (2) promote and provide local seafood at regional scale to foodbanks, community food associations, and other entities like public schools and prisons, and (3) integrate more seafood into AMS purchases and identify marketing opportunities for the seafood industry. USDA has a proven track record in accomplishing these opportunities for the beef, chicken, and pork industries.

By way of example, in response to the COVID-19 pandemic, the Fishermen’s Alliance created a new product, a haddock chowder under the brand name “Small Boats, Big Taste.” We were able to offer more than 725,000 servings of this delicious chowder to food banks and pantries across the Northeast, while keeping fishermen on the water during a time of economic crisis. Yet even a regional program as robust as this has had a difficult time moving into the USDA procurement process, in large part because our fishermen, processors, and manufacturers cannot supply a single standardized product at national scale. This is a crucial issue for the American small-boat fleet that reauthorization can and should address.

In Title II, Sec. 205, we are pleased to see emphasis given to community participation in new limited access privilege programs (LAPPs). This language is similar to that provided to the subcommittee by the FCC but not in its entirety. The FCC proposal included a provision that required councils to designate, prior to plan submission, fishing communities that could be eligible to receive a community allocation. Without having prior knowledge as to whether a specific fishing community is eligible to receive quota, no community can spend the time and money it would take to design a community sustainability plan as required under the Act. Requiring the councils to identify eligible communities in advance will help ensure that communities are given a chance to participate. Although MSA has authorized community participation in LAPPs for decades, not one community has secured an allocation under current MSA provisions.

H.R. 4690 Title III

Title III of H.R. 4690 includes several council procedural matters and important sexual harassment and assault prevention measures, all of which the Fishermen's Alliance and the FCC support.

There is one important matter not addressed in Title III that we believe would strengthen conservation and encourage accountability, and therefore should be included in the bill. Currently, the MSA requires management councils to review LAPPs at least every 7 years and, if necessary, make modifications to meet the goals and objectives of the program. As we have seen in the Gulf of Mexico, the open-access private angler sector continues to attempt to reallocate quota away from the limited access commercial sector. Furthermore, as NOAA Fisheries attempts to "recalibrate" previous recreational catch estimates, commercial fishermen – who weigh and validate every pound of fish landed – find themselves having quota taken away while private anglers – only some of whom complete voluntary surveys estimating their catch – see their quota increase. This hardly seems fair. While we support increasing the accuracy and precision of recreational catch estimates, this process should not be used to penalize the commercial sector which has stronger accountability measures and a history of staying within their science-based quotas. To that end, we feel strongly that any reallocation should only go to those sectors that do not overfish or exceed their quota. If, however, regional fishery management councils decide to reallocate under approved allocation policies, we suggest that there be a cap (2-3% per year) on the amount of quota shift that could happen so as to provide for more stability in the fishery and in commercial fishermen's business plans.

Suggested MSA amendment:

Section 303A(c)(G) is amended by striking the semicolon at the end and inserting

“ If after a formal and detailed scheduled review as required by this section, the Council determines that a reallocation of quota is necessary to meet the goals and objectives of the program, it may only reallocate to a sector, person or entity that has not overfished, not engaged in overfishing, or exceeded harvest limits during the period being reviewed.”

H.R. 4690 Title IV

Title IV includes very important provisions designed to expand and improve the use of electronic reporting, electronic monitoring (EM), and other new technologies. Fishermen’s Alliance and FCC view accountability as a key element of our management system. Unfortunately, the National Marine Fisheries Service (NMFS) is behind in terms of advancing and employing new technologies. More than 15 years ago, members of the Fishermen’s Alliance conducted a pilot study demonstrating that cameras placed on our boats can be as effective as human observers. Regrettably, widespread use of EM and other new technologies has yet to be achieved.

The Fishermen’s Alliance is supportive of Sec. 403, aimed at prioritizing and improving stock assessments. Stock assessments are the backbone of our science-based management approach. Establishing catch limits and other accountability measures in the absence of up-to-date information on the status of the stocks is very difficult and can lead to excess harvest levels. Inadequate funding for stock assessments hinders the ability of the councils to meet the accountability measures required by the MSA.

Sec. 409, entitled “Offshore Wind Collaboration,” requires the Secretary of Commerce and the Secretary of Interior to enter into an agreement to fund additional stock assessments related to the development of offshore wind energy. Over the next two decades our marine ecosystem will be altered by the construction of dozens of offshore wind farms. I hope Sec. 409 will create a substantial fund capable of modernizing marine resource surveys and ecosystem assessments.

The Northeast region needs a reimagined marine survey and assessment program. A new survey program based on a cooperative or industry-based survey model is necessary. Areas the council has designated as essential fish habitat (EFH) are now being leased by BOEM for large-scale power generation. Lucrative fishing grounds will be altered or lost and the fishing industry and council has little to no standing with the BOEM process beyond a consultation and comment period. Sec. 409 needs to lead to better collaboration between Interior and Commerce.

Sec. 502 of H.R. 4690 attempts to address negative impacts of offshore development and activities on EFH by requiring federal agencies to consult with the Secretary of Commerce. While this section might improve the current situation, until the Secretary and NOAA are given veto power over proposed federal projects that could threatened or destroy EFH, nothing

materially will change. Offshore wind development along the Eastern seaboard is going to have a significant impact on our industry and the habitat and fishing grounds we work to protect. It should be noted that impacts of windfarms extend beyond the respective lease areas. Each new wind farm built is not created in a vacuum, and yet there is a distinct lack of consideration or evaluation of the cumulative and increasing impacts of offshore wind development on the whole. Fishing operations that are displaced from lease areas will move to overlap with other fisheries. Habitats will be altered as well. When all lease areas are built out what will the impacts be? Who is evaluating and mitigating the wholesale transformation of our nearshore resources? The agreement struck in Sec. 409 between Interior and Commerce should be written with total buildout in mind. Leaseholders should be bound to fund this agreement on an ongoing basis. The annual resource surveys should be industry-based in partnership with NOAA.

The Fishermen's Alliance strongly supports the forage fish provisions included in Sec. 508. This language is very similar to that proposed by the FCC and its members. To ensure conservation and management of river herring and shad, Sec. 508 directs the Secretary to add these stocks to the relevant fishery management plan. The Fishermen's Alliance strongly supports this effort as forage fish must be conserved and managed for the health of our ecosystems.

Lastly, Sec. 509 includes a small but extremely important clarification to those of us in New England. Years ago, there was a significant lapse in fisheries law enforcement in New England partly due to lack of funding. We knew that cheating was increasing, and it needed to be curtailed. Working with then-Congressman Gerry Studds, the MSA was amended to require that fines and penalties imposed against fishermen and fish processors for violations of the New England groundfish plan *shall* be used to enforce the management plan. Congressional intent was clear: use these funds to bolster enforcement efforts. But over the years, Administrations of both political parties have refused to follow the law. The clarification included in H.R. 4690 will ensure that additional resources are available for enforcement and monitoring of the groundfish plan.

Thank you for the opportunity to provide these comments and we would be happy to provide any other information the subcommittee may require.