

**WRITTEN TESTIMONY BY**  
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**OVERSIGHT HEARING**  
*“Restoring Atlantic Fisheries and Protecting the Regional Seafood Economy”*  
**BEFORE THE**  
**COMMITTEE ON NATURAL RESOURCES**  
**COMMITTEE, UNITED STATES HOUSE OF REPRESENTATIVES**  
**DECEMBER 7, 2015**

**Introduction**

Good afternoon Mr. Chairman and Members of the Committee. It is an honor to appear before you today and a privilege to speak about a topic that such importance to the recreational saltwater fishing community and the history of our nation. My name is Jim Donofrio and I am the Executive Director of the Recreational Fishing Alliance (RFA).[1]

The title of today’s hearing, in a sense, suggests a desire to achieve a balance between the restoration of Atlantic fisheries and the regional seafood economy. That desire is inline with the mission of our organization and in our view, the true measure of successful fisheries management. Had I been purvey to the drafting of the hearing title, I would suggested that the scope of the title be broaden to include the entire fishing community economy, not just the seafood economy. The economy associated with the fishing community is vast and encompasses all components of the commercial and recreational fishing sectors.

Prior to the modern advent of environmental organizations who assert they know best how to manage the nation’s fisheries, fishermen assumed the function of advocate, scientist, manager, and conservationist long before these roles were defined in the modern fisheries management regime. Fishermen held the only firsthand knowledge of the species and they knew what steps were necessary to manage the stock in a responsible, sustainable manner. However, the current socioeconomic benefits enjoyed by recreational anglers and coastal communities is the direct result of fishermen’s strong desire to see striped bass managed in a sustainable manner and working closely with state and federal legislators to achieve that goal.

**Comments Summer Flounder**

Summer Flounder continues to be one of the most important Atlantic coastal fisheries. Summer flounder is an extremely accessible fishery in that it is available to a wide demographic of anglers who fish from different modes (land, pier, private vessel, charter/headboat vessel) and in both inshore and coastal waters. Deemed fully rebuilt in 1995, recreational anglers continue to have reasonable access to the fishery due to a flexible and adaptive management approach utilized by the Atlantic States Marine Fisheries Commission (ASMFC). The ASMFC and therefore striped bass, are not bound by the mandates of the Magnuson Stevens Fishery Conservation and Management Act (MSA), the nation’s primary federal fisheries law. Many of

the recreationally important species under the federal purvey of MSA such as cod, black sea bass, summer flounder, and red snapper have been rebuilt or are in a positive rebuilding trend. Yet, recreational anglers engaged in those fisheries continue to see their access eroded due to relatively recent management requirements resultant of the MSA reauthorization of 2007. Many of these requirements force the use of management tools on the recreational sector which simply cannot be applied in a fair and responsible manner due to design and limitations of existing data collection programs.

Fisheries management is a dynamic affair that does not end once a stock is rebuilt. Transitioning from rebuilding a stock to maintaining a stock with the intentions of providing the greatest benefit to its users presents a unique challenge. Fluke is the perfect example of this challenge.

The RFA supports setting the allowable biological catch (ABC) for summer flounder at 8,1194mt in 2016, 8,821mt in 2017 and 9,365mt in 2018. Under these annual specifications, spawning stock biomass is expected to increase by 19% over the course of the three year period. RFA believes the 2013 beach mark assessment and 2015 assessment are extremely conservative and adequately account for any scientific or monitoring uncertainty associated with the stock, therefore, the application of MAFMC's risk policy to reduce the 2016 through 2017 quotas is unnecessary. NMFS is not bound by the Magnuson Stevens Fishery Conservation and Management Act (MSA) section 302(h)(6) which mandates that the Councils may not develop annual catch limits that exceed the recommendation of its scientific and statistical committee (SSC). That said, NMFS can set the summer flounder allowable biological catch at the overfishing the limit as identified by the 2015 stock assessment update. This fishery is far too important to not maximize all available quota. Precaution is applied excessively in the stock assessment and assessment updates for this fishery and it is the opinion of the RFA that the 2016 to 2018 specification can be set at the OFL without compromising the long-term health of the stock. RFA has a very difficult time supporting any quota reductions in this fishery until a bench-mark assessment is conducted using a sex-specific model and sex-specific catch data from the commercial and recreational sectors is incorporated.

### **Comments on HR 3070**

HR3070 would allow fishing for striped bass in the Block Island Sound transit zone. The zone is defined in the bill and would consist of approximately 155 square miles of ocean. The current demarcation of the Exclusive Economic Zone (EEZ) produces a gap where federal waters exist between the eastern tip of Long Island, Connecticut, the coastline of Rhode Island and Block Island. Current federal regulations prohibit the possession of striped bass in federal waters. Concerns have been raised in the past about striped bass regulations in federal waters and how it prevents fishermen from Montauk, for example, steaming to Block Island to legally fish for striped bass in Rhode Island state waters and then returning back to port with striped bass onboard their vessels. An exemption was ratified for this area in 2005 as contained in CFR Title 50 part 697.7(b)(3) which allows the transport of non-EEZ caught striped bass in the permitted area.

HR3070, if passed, would mandate that the Secretary shall not prohibit fishing for Atlantic Striped Bass in the Block Island Sound transit zone thereby allowing directed fishing for striped bass in a 155 square mile area of the EEZ. RFA has several concerns on the intent of this bill.

To our knowledge, no analysis has been conducted to determine the biological, conservation or economic impacts that would occur if the Block Island Sound transit zone were opened to striped bass fishing. Amendment 4 of the Striped Bass FMP states that State(s) that claim a need for discrete management areas should conduct a feasibility study providing clear and convincing evidence that the fishing mortality rate experienced by striped bass in that area will not exceed the target levels outlined in the fishery management plan.[8] Moreover, the state should provide sufficient information on the stock composition on the striped bass that will be harvested from the area. Considering that this analysis has not been conducted and that there are many unknowns associated with such action that potentially stand to impact the current management of striped bass, RFA suggests that HR3070 be amended to include a provision mandating such analysis be conducted.

Moreover, HR 3070, if passed, would disrupt the uniform harvest prohibition in the EEZ from Maine to North Carolina, thereby making a relatively small exemption for a small fraction of users. The Block Island Sound transit zone is not the only region within the striped bass management unit where stakeholders have expressed a desire to open portions of the EEZ for directed striped bass harvest. These efforts have been denied by federal agencies due to the potential impacts on the overall stock and the challenges associated with enforcing small exempted areas. HR3070 would initiate a move towards a patch-work management of striped bass in federal waters. RFA suggests that HR3070

RFA also expresses concerns that the language of HR 3070 does not limit fishing for striped bass in the EEZ transit zone to specific gear types or sectors. Without these limitations, it is possible that high-volume gear types such as gill net and otter trawls could be utilized in the area if the bill were to pass. Executive Order 13449 issued in 2007 designates Atlantic striped bass as a gamefish, along with red drum, in federal waters thereby reserving the stock for recreational benefit only. However, Executive Orders are whimsical in nature and can be changed without debate unlike a piece of legislation which would receive considerable opportunities for debate as it moves through the House and Senate. It is plausible that passage of HR3070 would spark a strong political campaign to rescind or amend EO 13449 to allow directed commercial fishing for striped bass in the Block Island Sound transit zone. RFA and the Federation believe passing HR3070 as written, does not include language that would prevent the commercial take of striped bass in the transit zone or the use of high-volume gear such as gill nets, seines or otter trawls. RFA suggests amending HR3070 to include language that would limit the use of low-impact gear in any federal waters harvest exemption.

In addition, RFA must point out the positive role that the recreational and commercial harvest prohibition of striped bass in the EEZ has had on the management success of the stock. Research has concluded that the fully recruited coastal stock, which is composed of 90% female fish, utilizes the deeper coastal waters off of New Jersey south to North Carolina as overwinter grounds. A significant component of the female spawning biomass utilizes the EEZ during a large portion of the year thereby classifying it as essential fish habitat. The absence of directed fishing for striped bass during this period and in this area without question has resulted in a positive influence on the striped bass spawning potential. Previous analysis conducted by the National Marine Fisheries Service in response to being petitioned by the ASMFC to lift the harvest prohibition indicated that directed fishing for striped bass in the EEZ would significantly

increase fishing mortality to nearly double the fishing mortality target established under Amendment 6 of the striped bass fishery management plan.[9] Moreover, considering most striped bass that overwinter in the EEZ are female and that research finds that each female striped bass produces roughly 1 million eggs per 10 pounds of body weight, even limited take of these large female fish in the EEZ could have a measurable impact on recruitment. As expressed above, there are emerging challenges with striped bass management and it is unlikely that allowing directed fishing for striped bass in even a small portion of the EEZ would be beneficial at this time.

### **Comments on Protecting Fishermen from Executive Reach**

RFA has grave concerns with regard to the current and future administrations closing down vast areas of the ocean without any scientific justification or input from stakeholders. With a strong presence of the environmental, anti-fishing agenda within NOAA and the Administration, RFA believes this poses a significant threat to both commercial and recreational fishermen. For this reason, the RFA supported language in HR4988 sponsored by former Rep. Southerland in the 113th Congress that would require Congressional approval for marine sanctuary designation under the Antiquities Act. RFA also supported language that was included in the MSA reauthorization bill (HR4742) in the 113th Congress as well that proposed that the MSA would supersede the Antiquities Act in regards to management of marine fisheries within national marine sanctuaries.

In the 114th session of Congress, Mr. Don Young of Alaska has introduced HR330, *The Marine Access and State Transparency Act*, which the RFA supports. HR330, if passed, would require Congressional approval, along with approval from the Governors and legislatures of the states within 100 miles of the proposed area, before the President may declare an area a national monument. Moreover, the public would not be excluded from any national monument until a public review process has been conducted and Congressional approval given. RFA believes HR330 tempers the potential for hasty, agenda driven designations of national marine monuments. Moreover, the bill provides the public, states and Congress an opportunity to comment on national marine monument designations not afforded under current law. RFA supports HR330 and asks that members of the committee co-sponsor the bill.

### **Conclusion**

Magnuson is not working. Of course, if you are from the environmental industry, which is not a legitimate stakeholder, it is working fine by keeping recreational fisherman off of healthy stocks of fish with very restricted access.

The two stakeholder groups, the recreational and commercial fishing communities and their industries, are seeing loss of jobs and income from loss of access to stocks of fish that are healthy. For example, in the boats and harbors magazine called the *Yellow Sheet*, those of us who make or made a living on the water see their pages full of classified ads with party and charter boats for sale. Our industry is dying and it doesn't have to be that way.

Thankfully Congressman Don Young, with the help from Chairman Bishop, and support from Mr. Zeldin passed HR 1335. This very well thought out and pragmatic legislation will address many of the flaws with the current Magnuson Act that need to be addressed.

Stakeholders from New England, Mid-Atlantic, South Atlantic, and the Gulf will gain greater access to stocks of fish if this legislation becomes law. Despite the outright mis-information from the environmental industry, HR 1335 will allow for long term sustainability, rebuilding, and improved access without compromising conservation goals. The bill will also address the data collection issue for our sector and demand more accurate stock assessment and better science when managing fisheries.

Our community will be working hard to make sure we have a Magnuson Act that allows for better access without compromising conservation.

Thank you for providing me the opportunity to testify before the committee.

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[1] The RFA is a national 501(c)(4) non-profit political action organization whose mission is to safeguard the rights of saltwater anglers, protect marine industry jobs, and ensure the long-term sustainability of our Nation's marine fisheries. The RFA represents individual recreational fishermen, recreational fishing boat manufacturers, party and charter boat owners and operators, bait and tackle businesses, marina operators, and other businesses dependent on recreational fishing.

[2] Atlantic States Marine Fisheries Commission. 2011. Striped Bass Stock Assessment Update 2001.

[3] Atlantic States Marine Fisheries Commission. 1989. Amendment 4 to the Atlantic Striped Bass Fishery Management Plan.

[4] U.S. Fish and Wildlife Agency, Chesapeake Bay Office. Striped Bass Fact Sheet.

[5] Atlantic States Marine Fisheries Commission. 1989. Amendment 3 to the Striped Bass Fishery Management Plan.

[6] <http://lbift.com/>

[7] Atlantic States Marine Fisheries Commission. 1989. Fisheries Management Report # 15: Supplement to the Striped Bass FMP Amendment 4

[8] Proceedings of the Atlantic States Marine Fisheries Commission, Atlantic Striped Bass Management Board. August 18, 2005. Page 28