



# The Rise of the Recreational Fishing Lobby

By Alexandra Carter and Michael Conathan March 19, 2018

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## Introduction

In 1976, when Congress first passed comprehensive legislation to begin managing the nation's fisheries, its primary goal was to push foreign factory fishing fleets further from U.S. shores.<sup>1</sup> At the time—however absurd it seems now—there was no legal mechanism in place to prevent other countries' vessels from vacuuming out waters as close as 12 nautical miles from shore. On fair days, Russian trawlers could be seen from the beaches of Massachusetts and the rocky coasts of Alaska.

Recreational fishing was an afterthought for federal regulators. The concept of overfishing—defined as taking more fish out of the ocean in a year than the remaining population can replace—was still new, so policymakers did not consider that anglers with rods and reels, primarily casting from the beach or small pleasure boats near shore, could cause ecological damage. In addition, the vast majority of recreational fishing was carried out in state waters, which, in most states, extend to just three nautical miles from shore.

Yet as the law evolved through major reauthorizations, including most recently in 2006, Congress began to give greater recognition to the needs and impacts of the recreational fishing sector.<sup>2</sup> After all, while the methods of recreational fishermen may be different, in many cases they are targeting the same species as their commercial fishing counterparts; and there are a lot more of them.

In the 2016 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, for example, the U.S. Fish and Wildlife Service estimated that 8.3 million Americans ages 16 and older participated in saltwater fishing that year.<sup>3</sup> National Oceanic and Atmospheric Administration (NOAA) statistics from the 2015 Fisheries Economics of the United States Report show that the recreational fishing sector was responsible for adding \$36.08 billion to the U.S. economy during that year, which amounts to 37.33 percent of the total value-added by recreational and commercial fishing combined.<sup>4</sup> Additionally, the value-added rate per pound of fish landed for recreational

fishing was 25 times greater than that of commercial fishing.<sup>5</sup> Essentially, by these metrics, recreational fishing has a significantly larger economic impact per pound of fish harvested than does commercial fishing.

Today, Congress is considering another reauthorization of the nation's primary law governing fisheries, which has become known as the Magnuson-Stevens Fishery Conservation and Management Act (MSA). While the authorizations of appropriations, which were established by the law's 2006 overhaul, only lasted through 2013, the MSA remains in force. Legislators continue to appropriate funds to administer the act and have not felt tremendous pressure to pop the hood and tinker with it—a sign that the law is largely working as intended. It is hard to quibble with the results.<sup>6</sup> The strict foundational reliance on the best available science has made U.S. fisheries arguably the best-managed in the world. As of 2018, 44 different fish stocks have successfully been rebuilt to healthy population levels following historic overfishing. Rebuilt fishery stocks mean that more fish are available to catch, which directly contributes to economic gains for both the recreational and commercial sectors.

And while commercial fishing interests seem relatively content with the status quo, some recreational fishing organizations—driven by what they perceive to be inequities in regulatory systems that favor commercial fishermen as well as by a surge in political clout—are clamoring for changes to the MSA. Fights over allocation of the total allowable catch of species like red snapper in the Gulf of Mexico and summer flounder in the mid-Atlantic have pitted anglers, charter boat captains, and some recreational gear and boat manufacturers against their commercial counterparts.

In the past, outdoor recreation advocates have measured the success of their policy advocacy through fishery abundance, focusing on keeping their resource plentiful. However, in recent years, some recreational equipment manufacturers have joined forces with the majority of recreational fishing organizations to support changes to the law that would provide greater recreational access to fisheries while weakening science-based safeguards that promote the health and abundance of fish stocks. This emphasis on access at the expense of abundance reflects the business model of the equipment industry: Selling more boats, tackle, and gear requires perpetual growth in the number of fishing participants not just the size of fish populations.

Just as anglers' fishing effort on the water affects marine ecosystems, this sudden surge of lobbying power proves that recreational advocates are also having a significant effect on the political ecosystem. All this leads to the question: If the prioritization of fish abundance is now being superseded by the pursuit of opportunity to fish, precisely what is it that recreational advocates are fighting to access? This issue brief highlights the varied priorities of recreational fishing advocates—and what they mean for fisheries legislation. It also considers where those hoping to responsibly reauthorize the MSA could start.

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## Access versus abundance

Over the course of the Obama administration, the recreational fishing lobby began to gain momentum and find a political voice. Industry observers point particularly to an inflammatory op-ed published in ESPN Outdoors in March 2010. The piece begins with an unfounded suggestion that the National Ocean Policy initiated under President George W. Bush and carried on by President Barack Obama “could prohibit U.S. citizens from fishing.”<sup>7</sup> Although an ESPN editor issued a prompt clarification that the story included “several errors in the editing and presentation” and the internet watchdog site Snopes.com subsequently declared the original piece’s alarming statements “false,” the ensuing uproar helped kindle a spark that has contributed to a tonal shift among some members of the recreational fishing lobby.<sup>8</sup>

One major recreational fishing group, the Recreational Fishing Alliance (RFA), which represents arguably the most out-of-the-mainstream segment of the access-focused recreational fishing industry, appears to be gaining political influence in the fisheries debate. The group, which publicly supported Donald Trump’s presidential candidacy and sells “Fishermen for Trump” bumper stickers, has taken an active role in regulatory decisions.<sup>9</sup> The organization trumpets inflammatory rhetoric on its website, insinuating that there’s a “national conspiracy by environmentalists to deny your right to fish.” Its appeal for members asserts that the group’s founder, Jim Donofrio, “wonders how any angler could ‘pimp out’ their friends in exchange for privatization schemes.”<sup>10</sup> The RFA was among a group of fishing industry and manufacturing leaders who launched into action after the election, working with the Trump administration to ease restrictions on their avocation and, in the process, roll back the MSA’s science-based provisions and ensuing regulations.

However, despite this lobbying pressure to weaken the MSA’s scientific underpinnings, these voices do not speak for the entire recreational fishing community. There is a growing schism among recreational fishing groups over several key proposed policies—most notably, exemptions to annual catch limits and delays in rebuilding timelines. This difference in opinion has effectively created two camps of recreational fishing advocates: those more interested in promoting and preserving access to fisheries and those primarily concerned with preserving fisheries’ abundance, thus allowing access to increase sustainably.

More-conservation-minded recreational fishing networks representing recreational interests nationwide—including the American Fly Fishing Trade Association and the Marine Fish Conservation Network—tend to comprise the abundance camp and oppose the migration from science-based management. Members travel across the country educating local fishing clubs about how the so-called alternative management methods promoted by access advocates can lead to a greater chance of overfishing and risk the long-term health of national fisheries.<sup>11</sup> These groups also amplify the voices of fishermen who are concerned that the alternative management options could erode the established and successful management techniques currently in use.

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## Summer flounder and red snapper catches illustrate the debate

Since the new administration took the helm, however, recreational access advocates appear to have gained the upper hand. In early 2017, the Atlantic States Marine Fisheries Commission (ASMFC)—the quasi-government body tasked with coordinating management of fisheries that exist mainly in the narrow three-mile band of coastal waters legally controlled by states—considered an addendum to its management plan for summer flounder.<sup>12</sup> This popular recreational fishing target is primarily found in the mid-Atlantic states.<sup>13</sup> Despite other states’ acknowledgement of the necessity to reduce fishing to ensure the long-term stability of the summer flounder population, the RFA’s home state of New Jersey proposed an alternate plan,<sup>14</sup> which the ASMFC deemed illegal because it was weaker than the plan that the commission had established.<sup>15</sup> By law, the secretary of commerce serves as the arbiter in such situations; and in an unprecedented move, Commerce Secretary Wilbur Ross recently overruled the ASMFC and allowed New Jersey’s plan to stand.<sup>16</sup> In July 2017, under the Freedom of Information Act, the Natural Resources Defense Council requested documents from the Department of Commerce related to this decision; although the organization has received a few documents, it filed litigation in early January challenging the department’s failure to produce full documentation.<sup>17</sup>

Shortly after this decision, recreational access advocates struck another blow against science-based fishery management—again, thanks to Secretary Ross. After years of overfishing, science-based management plans have allowed the Gulf of Mexico’s red snapper population to rebound from historic low levels; however, the total biomass remains well below its target.<sup>18</sup> Compared with a decade ago, there is now a greater abundance of red snapper, and many of the fish are larger now than they were before the rebuilding period. But the population is still not as healthy as it should be. Furthermore, the recreational red snapper fishery in the Gulf of Mexico accounts for nearly half of all landings of red snapper in the Gulf.<sup>19</sup>

As the Gulf’s red snapper population has bounced back, anglers have begun to catch more fish at higher rates, which has allowed the recreational sector to reach its annual catch quota faster. Anglers can fish in both state and federal waters—and catches in both of these waters are considered when calculating overall red snapper quota. The matter is further complicated because the species’ annual catch limit is set in pounds, while individual recreational fishermen are given a so-called “bag limit” for their harvest, meaning that each angler is allowed to catch a certain number of fish. Since the average size and weight of a red snapper has increased as the population has rebuilt, anglers reach their annual catch limit while putting fewer fish into their bags. So even though managers have been able to raise the catch limit each year since 2010, anglers in state waters have caught a larger share of the catch faster, and seasons in federal waters have been shortened in an attempt to prevent anglers from exceeding their cap.<sup>20</sup>

As a result, in 2017, the federal waters recreational red snapper season was originally just three days long—not because limits were too low but rather because so many fish were projected to be caught in state waters.<sup>21</sup> Still, advocates for recreational access used this short federal season to raise a protest, and in June of that year, the Commerce Department announced it would permit a 39-day extension to the recreational red snapper season in federal waters of the Gulf of Mexico.<sup>22</sup> This was in direct contravention of the existing fishery management plan for snapper that was established by the Gulf of Mexico Fishery Management Council—and despite the fact that recreational anglers had exceeded their federal quota in each of the previous six years.

In a lawsuit filed against the Department of Commerce, environmental groups argue that extending the season so dramatically will surely exceed the catch limit and lead to overfishing of the Gulf’s red snapper population. In fact, Earl Comstock, director of policy and strategic planning for the Commerce Department, admitted as much to Secretary Ross in writing before the decision.<sup>23</sup> In a June 1 letter, in reference to the proposed red snapper season extension, Comstock wrote, “It would result in overfishing of the stock by six million pounds (40%).” The lawsuit also estimates that the season extension could delay rebuilding progress by up to six years. Comstock wrote a second letter to Secretary Ross on June 7, in which he explained the near certainty that stakeholders would file a lawsuit against the decision as well as the need for Congress to include a provision in the 2018 MSA reauthorization to waive the legally mandated regulatory consequences of such severe quota overages in order to keep recreational fisheries open for future years.<sup>24</sup>

On December 20, 2017, a federal judge issued a stay in the red snapper case. The court will now oversee the recreational red snapper season for 2018, and the Department of Commerce cannot approve another extension.<sup>25</sup> The judge also found that management plans for the red snapper stock must adhere to the current rebuilding schedule, which would extend through 2032. This decision reinforces the legal necessity of science-based fishery management and highlights the illegality of Secretary Ross’ decision.

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### Bad omens for the legislative process

With recreational access advocates’ clear foothold resulting in unprecedented and possibly illegal decisions from the Trump administration in fisheries management along the Atlantic and Gulf coasts, they have also pressured Congress to amend the MSA and exempt recreational fishing from some of the law’s key provisions. But their efforts have been met with opposition from some in the commercial fishing sector and their more conservation-minded peers in the recreational sector.

Thanks to previous MSA reauthorizations, America’s fisheries are among the best-managed in the world and overfishing has been all but eliminated in U.S. waters. Each species has established catch limits that cannot exceed a level recommended by scientists, and fishery managers must employ accountability measures in order to ensure adherence to

the law. The results have been resoundingly positive, with more than 40 fish populations being rebuilt to sustainable levels since 1996. Yet, as described above in the case of red snapper, when species have been overfished for years, simply ending overfishing does not entirely solve the problem. It takes time to repair the damage overfishing has caused. Fishermen still must take fewer fish in order for populations to bounce back to long-term sustainable levels.

Historically, commercial and recreational harvesters have largely supported the MSA because of the law's contributions to the long-term stability of fish stocks, a profitable fishing industry, and a vibrant coastal economy.<sup>26</sup> However, in 2014, some recreational advocates, led by recreational gear manufacturers who perceived a bias in national fishery management in favor of the commercial industry, organized the Commission on Saltwater Recreational Fisheries Management—better known as the Morris-Deal Commission, after its two initial chairs Johnny Morris, CEO of Bass Pro Shops, and Scott Deal, president of Maverick Boats. This organization included industry groups such as the RFA, the American Sportfishing Association, the Coastal Conservation Association, and the Theodore Roosevelt Conservation Partnership, as well as other representatives from manufacturers and retailers of saltwater angling boats and gear.

In 2014, the Morris-Deal Commission produced a report detailing the economic benefits of the recreational fishing industry, suggesting that current federal law was skewed too heavily in favor of the commercial industry and recommending changes to the law in order to increase access for anglers.<sup>27</sup> Many of the commission's stated goals do not adhere to the practices of best available science currently in use. Two of its most troubling recommendations are that management should be based on long-term harvest rates instead of the currently mandated science-based annual catch limits and that managers should have more leeway to extend timelines for fish populations to rebuild.

Both of these recommendations would be problematic for marine ecosystems and coastal communities. NOAA has estimated that \$32 billion and 500,000 jobs could be added to the economy annually if all fish stocks were rebuilt.<sup>28</sup> However, this economic growth cannot be realized if fisheries are caught in a boom and bust cycle that results from overfishing and subsequent population decline. Proposals that delay rebuilding timelines or reduce compliance with scientific advice under the guise of giving fishery managers more latitude will create loopholes and prioritize short-term economic and social interests over the health of fishery resources and long-term economic gains.

In addition to getting the Trump administration on their side, recreational access advocates have gained momentum in Congress. In the past two congressional sessions, bills have been introduced to address the red snapper issue, including bicameral legislation—sponsored in the House by Rep. Garret Graves (R-LA) and in the Senate by Sen. Bill Cassidy (R-LA)—that would take the unprecedented step of upending centuries-old law by extending state management jurisdiction beyond its current limit in the Gulf of Mexico.<sup>29</sup>

More comprehensive bills are also making their way through both houses of Congress. In the Senate, the Modernizing Recreational Fisheries Management Act of 2017—introduced by Sen. Roger Wicker (R-MS)—includes provisions based on recommendations from the Morris-Deal report.<sup>30</sup> As introduced, the bill would have given regulators the opportunity to exempt recreational fisheries from annual catch limits, weaken rebuilding requirements, and restrict innovation and accountability in the recreational fishing sector by delaying managers' ability to issue experimental fishing permits.

Although many of the most troubling provisions were significantly improved before the U.S. Committee on Commerce, Science, and Transportation passed the bill in February 2018,<sup>31</sup> conservation groups and their allies in the recreational fishing community are concerned that the bill could serve as a point of negotiation with a much worse and wider-ranging piece of legislation currently working its way through the House. A larger MSA reauthorization bill that, in December 2017, was passed out of the U.S. House Committee on Natural Resources on a party-line vote, contains provisions to extend rebuilding timelines and weaken the scientific underpinnings of the MSA.<sup>32</sup> That bill is currently awaiting a vote before the full House of Representatives.

Meanwhile, as the voices of recreational access advocates seem to be carrying more weight, the more conservation-minded groups are gaining steam. Fifteen fishing community coalitions, recreational fishing organizations, and commercial fishing associations sent letters to Congress opposing the rollback of science-based fishery management provisions within the MSA.<sup>33</sup> These letters come on top of similar letters from more than 60 nongovernmental organizations and 200 scientists.<sup>34</sup>

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## Responsible revisions to the MSA

Of course, there are aspects of the Magnuson-Stevens Act that are due for an update. There is near unanimous agreement among fishery stakeholders that improving the quality of fisheries data would be a tremendous benefit. Fisheries science and statistics can only create population estimates as accurate as the foundational data on which they are based. When incomplete or inaccurate data are used to make management calculations, fisheries managers end up with very large margins of error, which can quickly lead to questionable decisions. On paper, the solution is simple: collect better quality data. Historically, implementation of this ideal has been problematic. Fish are notoriously difficult to count because they are hard to see and are constantly in motion; they also feed on each other.

In commercial fisheries, it is relatively easy to get catch data because there are relatively few boats catching a lot of fish that can be tracked through processing facilities and sale records. Recreational fisheries are a different matter. Millions of fishermen participate, and it is impossible for regulators to track each individual. Some recreational fishery

advocates have suggested using smartphone apps to enhance the collection of recreational data.<sup>35</sup> While there may be some promise in such methods, they remain imperfect. Not all anglers own smartphones, and they may not be able to correctly identify their catch. Furthermore, they may not choose to log their catch voluntarily every time they go fishing. After all, as every fish moves the recreational sector closer to meeting its quota, there is a reverse incentive that discourages reporting.

Researchers from the University of Florida recently conducted a study of the utility of smartphone apps in Florida's recreational sector.<sup>36</sup> The study compared data from NOAA's Marine Recreational Information Program survey to data from iAngler, a pilot program for voluntary reporting. The researchers concluded that the app entries had significant biases that made the system an unreliable source of data. They hypothesized that if these biases could be corrected, iAngler and technologies like it could improve data information quality and provide valuable catch-rate data to fisheries managers. Another study conducted by the University of Minnesota examined the biases in fishery-focused citizen science smartphone apps.<sup>37</sup> The study opined that it will eventually be beneficial to integrate fishery smartphone apps but acknowledged that it would take time and deliberate management. The report recommended that fisheries scientists develop formalized standards for metadata and data collection in order to create a shared minimum data set; it also advised app designers to create incentives for anglers to use the apps, such as gamification—earning points and badges as well as other virtual competitions—and integration with social media. So while self-reporting cannot fully replace other data collection methods, there could certainly be a place for it in future cooperative research initiatives.

Since all species within a shared ecosystem affect one another, NOAA has slowly been implementing ecosystem-based fisheries management since 1996.<sup>38</sup> Many organizations have expressed their opinions on how best to manage the ecosystem as a whole instead of addressing species one at a time. For example, the Marine Fish Conservation Network and the Morris-Deal Commission have outlined the need to identify forage fish, such as herring or menhaden.<sup>39</sup> Some of these species are targeted for commercial harvest, but they also serve a critical ecosystem function as main food sources for other species, from commercially important fish like tuna to marine mammals and seabirds.<sup>40</sup> Both access- and abundance-focused recreational advocates note that annual catch limits for forage fish species typically do not take into consideration their greater ecosystem function, instead focusing only on ensuring that enough fish remain for the population to perpetuate itself. Both access- and abundance-focused recreational advocates believe that at least some forage fish species should have fishery management plans to ensure that their populations remain high enough to provide adequate food supply for a healthy and balanced ecosystem.

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## Conclusion

Access to fisheries without an adequate abundance of fish is an empty victory. The only way to ensure a pleasurable experience for the anglers of today and tomorrow—and a profitable enterprise for the commercial sector—is to maintain management principles founded in sound science and with an eye toward long-term productivity. Interested parties have central concerns, most notably the need for more reliable fisheries data, improvement in ecosystem-based management, and updated utilization of management technology. Maintaining the Magnuson-Stevens Act's foundation of peer-reviewed, science-based decisions will facilitate cooperation between varying stakeholders and result in a collaborative national fisheries policy that benefits both the recreational and commercial sectors.

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## Endnotes

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