



## SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

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The Honorable Lindsey O. Graham  
290 Russell Senate Office Building  
Washington, DC 20510

Dear Senator Graham:

Thank you for requesting the South Atlantic Council's thoughts on Senator Wicker's bill, S. 1520, Modernizing Recreational Fisheries Management Act of 2017. The South Atlantic Council developed position statements on a range of key issues being considered as part of the Magnuson-Stevens Act (MSA) reauthorization process. The full position statements are contained in the Council Coordinating Committee (CCC) Working Paper, under regional perspectives (**Attachment 1**). This and other materials related to MSA reauthorization are available from the U.S. Regional Fishery Management Councils' website (<http://www.fisherycouncils.org/msa-reauthorization/>).

Our comments on each section of S1520 are as follows:

- Section 101. Process for allocation review for South Atlantic and Gulf of Mexico mixed-use fisheries.** The South Atlantic Council does not believe a National Academy of Sciences study of allocations is necessary because we have adequate guidance/procedures and it would be an unnecessary expenditure of limited National Marine Fisheries Service (NMFS) funding (estimated cost is about \$1M). The CCC worked with NMFS to define a process for looking at triggers that could be used to reevaluate allocations, and the CCC approved the criteria for initiating fishery allocation reviews at their May 2016 meeting. The recommendation from the CCC was that all Councils establish, within three years or as soon as practicable, the triggers that they are going to be using for allocation review. The South Atlantic Council will be working on this during 2018. The South Atlantic Council does not feel a legislated timeframe for review of allocations is necessary. The triggers identified will determine when a review is needed, and the Council concluded this was sufficient. Adequate guidance is contained in the following three documents developed by the CCC and NMFS: The Criteria for Initiating Fisheries Allocation Reviews – Council Coordinating Committee Allocation Workgroup Guidance Document (**Attachment 2**) and Recommended Practices and Factors to Consider When Reviewing and Making Allocation Decisions (**Attachment 3**) were finalized in July 2016. More recently, these two directives were revised in a new Fisheries Allocation Review Policy (February 2017) (**Attachment 4**).
- Section 102. Alternative Fishery Management.** The provisions in this section would provide greater flexibility for the South Atlantic Council to manage the recreational sector without in-season closures. Management using annual catch limits (ACL) poses a special

challenge for recreational fisheries in the southeast because the management paradigm and the data collection systems are mismatched. In general, when recreational fisheries are catching a lot of fish, it is due to a high abundance and/or availability of fish in the water. Unfortunately, with the resource challenges (funding and personnel) in the Southeast, many of our assessments cannot be updated in a timely enough fashion to allow for an increase in abundance to be translated into an increase in the ACL. As a result, when a big year class enters a fishery (a good thing) the current management paradigm forces the South Atlantic Council to react as if something bad happened, penalizing the fishery with an in-season closure or a reduction in the following year's fishing season. This is an artifact of managing with ACLs that could be addressed by allowing flexibility in how ACLs are applied on an annual basis. There is a fundamental disconnect between the types of information we have available to manage our recreational fisheries and the way the Regional Fishery Management Councils (RFMCs) are required to apply accountability measures (AMs), such as in-season closures. The process would work much better if the RFMCs had greater flexibility in applying ACLs and AMs, particularly in the recreational sector.

Requiring a report from the Secretary of Commerce six months after implementation does not allow the RFMCs sufficient time to develop and provide amendments to NMFS for review and implementation. The MSA process is public and participatory, which requires about 6 months to one year to complete a major amendment. NMFS then requires another 6-18 months to review and implement a major amendment. Requiring a report two years after implementation would be more reasonable.

- 3. Section 103. Study of Limited Access Privilege Programs for Mixed-Use Fisheries.** The South Atlantic Council does not believe a National Academy of Sciences study of limited access privilege programs is necessary because we have adequate guidance/procedures (e.g., NOAA Catch Share Guiding Principles, NOAA Catch Share Policy, and the Magnuson-Stevens Act) and it would be an unnecessary expenditure of limited NMFS funding (estimated cost is about \$1M). The South Atlantic Council and CCC believe that RFMCs should maintain the maximum flexibility possible to develop effective management tools, including catch share programs. Adding excessive and detailed requirements for conducting a referendum is likely to increase the administrative burden for the RFMCs and may reduce the RFMCs' ability to implement the appropriate management program for their fisheries that could include modification of existing catch share measures or new catch share measures. Catch shares is a management tool that should be available to the RFMCs, but the design, timing, and development should be left to individual Councils if they choose to use this tool for a specific fishery. The South Atlantic Council's only Individual Fishing Quota (IFQ) program, wreckfish, was established in 1992. This IFQ program has been good for South Carolina as a number of the shareholders and a majority of the landings are from South Carolina. The South Atlantic Council is currently conducting a review as required by the Magnuson-Stevens Act (MSA). The MSA mandates that the RFMCs review any limited access privilege program every 5-7 years. Since establishing the wreckfish IFQ program, the Council has considered but not pursued the use of catch shares in the snapper grouper mixed-use fishery and the golden crab fishery. While the South Atlantic Council is not currently considering additional catch share programs, the topic is controversial in the South Atlantic.

Therefore, it is important that the South Atlantic Council maintain maximum flexibility in applying referenda to any potential, future catch share program.

4. **Section 104. Rebuilding Overfished Fisheries.** Under the requirements of Magnuson-Stevens, the Regional Fishery Management Councils develop rebuilding plans for overfished stocks. The law requires rebuilding plans to end overfishing within two years and attempt to rebuild stocks within 10 years, if biologically possible. These arbitrary deadlines can be unnecessarily disruptive to fishing communities and local economies. In some cases, if longer timeframes were allowed, fisheries could be rebuilt, or overfishing could be eliminated without devastating the economic livelihood of fishermen and negatively affecting fishing communities. The South Atlantic Council believes that the rebuilding time requirement should be simplified, by eliminating the current arbitrary 10-year requirement and using the biologically-based rebuilding period alternative of one generation time for all situations. The 10-year limit does not treat all stocks with varying life histories fairly and adequately. Short-lived stocks can experience several generations in that time, while long-lived stocks may only experience a fraction of a generation.

In the experience of the South Atlantic Council, the major impacts occur with the requirement to end overfishing immediately. While the impacts from ending overfishing immediately (which requires an immediate and large reduction in the ACL) have been severe and long lasting, the impacts from rebuilding timeframes have not been as major an issue because the initial impact is due to the ACL reduction and because we adjust the annual ACLs (which usually increase over time) based on the rebuilding projections.

A three-year phase-in of catch reductions reduces negative social and economic impacts that would occur if overfishing was ended immediately. The South Atlantic Council has proven success with three-year phase-in reductions to end overfishing for black sea bass and snowy grouper. Black sea bass was completely rebuilt within the rebuilding schedule. Overfishing ended for snowy grouper and, while still overfished, it was 10 years ahead in its rebuilding schedule according to the most recent assessment. The South Atlantic Council believes this strong evidence supports the consideration of longer timeframes to end overfishing.

In summary, the South Atlantic Council feels removing the arbitrary 10-year requirement would be beneficial and more attention should be given to the impacts of ending overfishing immediately, which is where the big reductions occur.

5. **Section 105. Modifications to the Annual Catch Limit Requirement.** The South Atlantic Council and the CCC believes that further consideration of exemptions or alternatives to the existing ACL requirements for data-limited species could improve the RFMCs' ability to provide stability in setting harvest limits. The ad hoc methods sometimes used to establish ACLs for data-limited species often result in quotas that are less predictable, resulting in a loss of stability and yield in some of our most important fisheries. While ACLs and AMs have been effective management tools for many fisheries, they may not be the best tools for managing incidental or small-scale, data-limited fisheries. In these situations, RFMCs should have discretion to determine alternative control mechanisms, such as ecosystem-based fishery management approaches, for data-limited stocks.

Multiple species can be managed together as a complex, as is often the case in mixed-stock fisheries. The abundance of any individual species' stock within that complex will vary in abundance over time, and it is unlikely that all species will be at high abundances at the same time. Therefore, mixed-stock fisheries cannot be adequately managed by applying single-stock principles. Desirable fishery yield should be specified for overall complexes, while allowing individual stocks to experience normal variability.

The South Atlantic Council believes the conditions for exemption from ACL requirements should be expanded to include species like spiny lobster and dolphin because other management tools may provide greater biological benefit and can promote sustainable harvest. Species with short life cycles or unique life histories should be exempt from ACL requirements and associated AMs when these management systems provide no or minimal biological benefit to the sustainability of these stocks. The ACL and AM system has immense value in management and sustainable harvest of most fishery stocks under federal fishery management plans (FMPs), but this does not hold true for all species. For example, the southeastern U.S. spiny lobster stock should be exempt from ACL requirements and associated AMs because it is unique among all federally-managed species in regard to its life cycle and stock dynamics. Recruitment to the southeastern U.S. spiny lobster stock is not linked to local production or stock size and more than 50% of the recruitment comes from external sources. Based on these characteristics, ACLs and AMs provide no biological or conservation benefit to the southeastern U.S. spiny lobster stock. Dolphin exhibit one of the fastest individual growth rates of any recreationally or commercially targeted species, reach sexual maturity within six months of age, are protracted batch spawners, and most (>96%) individuals live less than two years with a maximum age of four years. Given these life history characteristics, dolphin could be compared to an annual crop. Thus, establishing an ACL for this species may not be appropriate.

In addition, the South Atlantic Council believes that acceptable biological catches (ABCs) should not be required for unassessed stocks or for assessed species that have not been re-assessed in 5 years. This would allow the South Atlantic Council to use their informed judgment to set an interim ACL until an ABC was provided. Basing ABCs for unassessed stocks on a quantitative portion of historical landings in the context of the precautionary principle will result in ABCs with no scientific basis that may be open to challenge. Such ABCs could be artificially low, decreasing fishery yield, or too high, posing risk to the stock. The simple fact is that, without a legitimate assessment, neither scientists nor managers can make biomass-based recommendations for ABCs, because historical landings are uninformative for estimating stock abundance. This is particularly true for mixed-stock fisheries, such as the South Atlantic snapper grouper fishery, with a long history of missing, obscured, and inaccurate landings at the species level.

More frequent stock assessments would assist the South Atlantic Council in meeting its obligation of sustainably managing fisheries and would provide more benefits/jobs to the fishing communities.

6. **Section 106. Exempted Fishing Permits.** The existing exempted fishing permit (EFP) procedures provide a sufficient framework for the expedited, uniform, yet regionally-based

process envisioned to test solutions and collect data to address specific management issues. EFPs have been used in the South Atlantic to advance and support fisheries management. The South Atlantic Council and NMFS Southeast Regional Office recently launched development of a review process for EFPs that will provide both the South Atlantic Council and the public an opportunity to provide NMFS comments on EFP applications. Thus, some of the proposed legislative changes to current EFP regulations may be unnecessary and overly prescriptive and may unintentionally constrain the RFMCs' ability to address specific management issues in an expedited fashion. Additionally, restricting EFPs to one year may limit their utility as some projects cannot be completed within that time. Furthermore, a multi-layer review process could impact the ability to address a management need in a timely fashion and unnecessarily deter applicants.

7. **Section 201. Cooperative Data Collection.** Cooperative data collection can benefit the RFMC process and decision-making. Fisheries management can be improved by incorporating additional data, analyses, stock assessments, and surveys from state agencies and non-governmental sources; increasing public involvement and transparency regarding scientific data; and prioritizing improvements to data collection and stock assessment in the southeast. Formation of a federal-state partnership program to improve data collection for recreational anglers would be beneficial. While the South Atlantic Council supports collaborative efforts to improve incorporation and collection of data, we are concerned that some of the proposed legislative changes would be overly prescriptive.

The South Atlantic Council's commitment to improving stakeholder involvement by supplementing existing data collection efforts in the region is exhibited through its Citizen Science Program (Program). Initiated in 2017, the Program aims to advance fisheries management through collaborative science with fishermen, scientists, and managers. The Program will ultimately support citizen science projects to address critical data gaps and improve stock assessments and management decisions.

8. **Section 202. Recreational Data Collection.** The South Atlantic Council and the CCC believe the Marine Recreational Information Program (MRIP) was not designed to provide data for in-season ACL management. The current MRIP methodology cannot be modified nor can sufficient funding be provided such that in-season ACL management will work. We believe alternative methods (e.g., state electronic logbook programs, federal for-hire electronic logbook programs, and electronic logbook programs for private recreational anglers) should be fully implemented where they are available and developed, then evaluated where they do not yet exist. Once evaluated, MRIP should work to quickly certify these alternative methods for use in monitoring recreational catches.

There does not appear to be a plan for the systematic collection of the necessary biological data from recreational fisheries for use in stock assessments (size, age, and reproductive data). Stock assessment data would be greatly improved, as would the assessment results, if NMFS would immediately prepare a written plan for each region and coordinate across regions to address species as they move from one region to another due to changes in the environment. The South Atlantic Council and the CCC believe additional funding is required for successful implementation of such a data collection program.

The South Atlantic Council and the CCC believe more timely and accurate catch estimates that will be accepted by the recreational community (since they are providing the data) will go a long way to improve stock assessments, improve voluntary compliance, and improve accountability within the recreational fishing community.

The Council is concerned that moving current funding from the Saltonstall-Kennedy Grant Program to fund State grant programs would negatively impact ongoing research efforts.

The following efforts by the South Atlantic Council address providing more timely and accurate recreational catch data:

- A. For-hire vessel electronic reporting will greatly improve the timeliness and accuracy of for-hire catch data.** The South Atlantic Council sent its for-hire amendment for formal review on March 3, 2017 and requested mandatory for-hire electronic reporting become effective January 1, 2018.
  
- B. Electronic reporting and federal permitting for private recreational anglers may improve recreational harvest and effort estimates.** The South Atlantic Council requested that NMFS work with the South Atlantic Council to explore the utility, feasibility, and value of federal permits and mandatory reporting for private recreational anglers. The South Atlantic Council is currently working with the Atlantic Coastal Cooperative Statistics Program (ACCSP), state, and private partners on a NMFS-funded project to develop and test an app-based permitting and reporting system for these anglers.

As you can see, the topics covered in S. 1520 are exceptionally important to the Council. Full discussion on many of these issues along with examples are provided within the CCC Working Paper's regional perspectives (**Attachment 1**). We appreciate your consideration of our views as you work on MSA reauthorization, and we are ready to work with you in any way possible.

Thank you for your time and consideration.

Still digging,



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South Atlantic Fishery Management Council

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