

Congress of the United States

Washington, DC 20515

July 27, 2022

The Honorable Gina M. Raimondo
Secretary of Commerce
1401 Constitution Ave. NW
Washington, D.C. 20230

Dear Secretary Raimondo:

As many of us wrote to you over a year ago, we are at a critical juncture in recreational fisheries management in the Gulf of Mexico—and across our nation. At that time, we urged you to exercise the flexibility afforded in the Magnuson-Stevens Act by embracing status quo management of Red Snapper in the Gulf of Mexico until the National Marine Fisheries Service (NMFS) could fully integrate the best available science into management decisions. NMFS’s recent proposed rule¹ indicates that they would rather rely on outdated and fundamentally flawed data than embrace the best available science, as is required by the Magnuson-Stevens Act.

We recognize the complexity of this management structure and the committed work that NMFS has done to try to implement it. However, much like a city that built one-off roads simply to connect to new attractions, the overall structure has become unnecessarily convoluted. We urge you to rethink this proposed rule and work with us and our state managers to implement common sense solutions that will untangle this regulatory knot while setting a strong precedent for how state and federal management can work together to more effectively and sustainably manage recreational fisheries.

This regulatory knot is exemplified by the proposed rule moving forward with calibration. It is no secret that NMFS’s Marine Recreational Information Program (MRIP) is an inaccurate and poor data set. National Standard 2 of the Magnuson-Stevens Act requires conservation and management measures to be “based on the best scientific information available.”² As our letter pointed out a year ago, multiple studies, including by the National Academies of Science (NAS), deemed MRIP to have “fundamental” flaws. Even after improvements in 2017, NAS still has questions regarding MRIP’s ability to meet the needs of in-season management.³ Furthermore, NMFS’s own representatives admit that MRIP is not designed for the short term catch monitoring that is needed for in-season management and that the State programs—which NMFS helped design and certified⁴—are.⁵

¹ <https://www.federalregister.gov/d/2022-13695>

² 16 U.S.C. § 1851(a)(2)

³ National Academies of Sciences, Engineering, and Medicine 2021. *Data and Management Strategies for Recreational Fisheries with Annual Catch Limits*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/26185>

⁴ <https://www.fisheries.noaa.gov/recreational-fishing-data/certified-recreational-fishing-survey-designs>

⁵ NOAA Fisheries, *State Management Program for Recreational Red Snapper: Final Amendment 50A to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico* 162 (“Because

This proposed rule ignores the Council and Congress's intent. When the Gulf Fishery Management Council adopted the calibrations in 2021, it intentionally delayed calibration so NMFS could propose more accurate ways to incorporate the States' data. To further that work, Congress appropriated \$2 million for NMFS to research an effective calibration solution. By requiring the States to calibrate their more accurate—and NMFS certified—catch data to an outdated and fundamentally flawed MRIP, NMFS has failed to find an effective solution and is not making decisions based on the best available science while refusing to appropriately integrate the new data.

As a result, states like Mississippi and Alabama—whose programs are NMFS certified—are proposed to have their annual catch limits (ACLs) cut more than fifty or sixty percent because NMFS calibration method indicates they are underestimating catch. However, from the opposite perspective, Mississippi and Alabama's catch programs suggest the rest of the Gulf States are actually overestimating catch. Thus, the rest of the Gulf States could sustainably be catching more Red Snapper each year and contributing to the Gulf's economy and conservation efforts. Meanwhile, the largely ignored, but scientifically groundbreaking \$10 million Great Red Snapper Count indicates that those fish are, in fact, there to be caught.

Even disregarding calibration, NMFS's proposed rule still chooses to ignore the directives of the Magnuson-Stevens Act with its ACL decisions. In addition to requiring use of the best available science, the Magnuson-Stevens Act's first National Standard requires NMFS to allow for the optimum, or maximum sustainable, yield from a fishery. Put simply, this means to allow for as much fishing as is sustainable for the population—a directive that NMFS intended to follow when they thought there were only one-third of the Red Snapper we now know are in the Gulf.

Before the Great Red Snapper Count, the annual catch limits allowed fishing to 97% of the sustainable limit, a number that arguably would represent maximum sustainable yield. Now that NMFS knows there are three times more fish than previously thought, the proposed ACL would only allow fishing to 60% of what would be sustainable. This decision relies heavily on non-targeted bottom long-line sampling—instead of the superior Great Red Snapper Count that proves there are nearly three times as many fish as NMFS previously thought. Yet again, this proposed rule is not based on accurate science and ignores the Magnuson-Stevens Act's explicit instruction to fish to the optimum yield.

This is about more than getting to catch an extra fish; NMFS's decision ignores the importance of balancing predator-prey relationships. Red Snapper are predatory fish by nature,

many of the states have more timely data collection programs, NMFS believes they are well suited to prevent the private angling component from exceeding its quota and the entire recreational sector from exceeding the ACL.”)

and leaving them unchecked upsets the delicate balance of our managed fisheries. By not harvesting Red Snapper at appropriate levels, the species is allowed to flourish and decimate populations of other species lower on the food chain. This is why it is vital that the best available science is used in decisionmaking.

The Red Snapper fishery is important to our culture and is a major economic driver in the Gulf. Our anglers are our best stewards, and no one wants to preserve the stock more than they do. As stated in our previous letter, NMFS data states that anglers spent over \$13.5 billion in the Gulf in 2017. Taxes on boat fuel and fishing equipment pay into the Sport Fish Restoration and Boating Trust Fund which in turn pays for critical conservation and infrastructure programs and projects in all fifty states. When we lose fishing time, we lose conservation dollars, and NMFS's proposed rule puts Gulf anglers in an unjustified time out.

We all want this state management initiative to be successful, and the Gulf States are working hard to see that it is. However, we must express our frustration when we see NMFS, not only failing to do their part, but preventing us in the Gulf from doing ours. We stand ready to assist NMFS however we can to make this initiative work and to set an effective example for other fisheries—especially as we watch our neighbors on the Atlantic coast try their hand at untangling a similar regulatory knot.

Sincerely,



Garret Graves
Member of Congress



Roger Wicker
United States Senator



Richard C. Shelby
United States Senator



Ted Cruz
United States Senator

Bill Cassidy, M.D.

Bill Cassidy, M.D.
United States Senator

John Kennedy

John Kennedy
United States Senator

Cindy Hyde-Smith

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Tommy Tuberville
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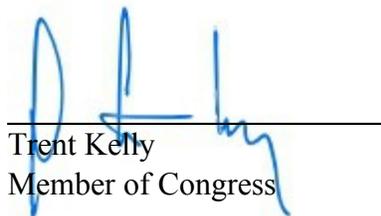
Brian Babin, D.D.S.
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Earl L. "Buddy" Carter
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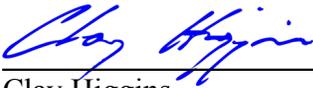
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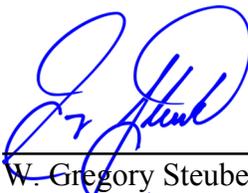
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Michael Guest
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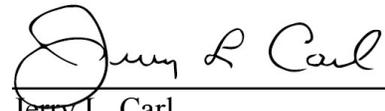
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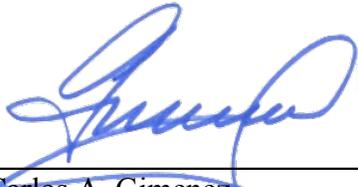
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