
October 19, 2012

Karl Moline
National Marine Fisheries Service
Fisheries Statistics Division F/ST1, Room 12441
1315 East West Highway
Silver Spring, MD 20910

Alan Risenhoover
Acting Deputy Administrator for Regulatory Programs
National Marine Fisheries Service
1315 East West Highway
Silver Spring, MD 20910

Re: Proposed Rule to Revise Regulations Governing the Confidentiality of Information Submitted Under the Magnuson-Stevens Act: NOAA-NMFS-2012-0030

Dear Mr. Risenhoover and Mr. Moline:
We collectively submit this letter in response to the National Marine Fisheries Service’s (NMFS) proposed rule regarding confidentiality of information under the Magnuson-Stevens Fishery Conservation and Management Act (MSA).¹ We urge NMFS to withdraw and redraft the proposed rule in a manner that will not unnecessarily stifle public participation in the management of public trust ocean resources, including depleted fish populations and protected species.

Our nation’s ocean wildlife and fish are public trust resources managed on our behalf by NMFS. These resources belong to the American public, and the entire nation has a stake in the jobs and revenues generated from them. U.S. fish populations alone support hundreds of thousands of jobs in the tourism, fishing and seafood industries. According to the National Oceanic and Atmospheric Administration (NOAA), commercial and recreational fishing currently generates $183 billion per year for the U.S. economy and supports more than 1.5 million full and part-time jobs.² Moreover, millions of taxpayer dollars are invested each year in fisheries management including the collection of data by professional observers on fishing vessels. This information about what fish are caught, where they are caught, and interactions with other ocean wildlife is essential for the public to understand how our fish populations are being managed and how those decisions affect ocean ecosystems. Access to this information is necessary for the public to participate effectively in the management process and to ensure that our fisheries are managed responsibly and sustainably for the benefit of present and future generations.

NMFS has interpreted the intent of Congress on confidentiality of information too broadly and in ways that undermine the purpose, policy and requirements of the MSA itself. Specifically, the proposal restricts public access to the best scientific information available and inhibits the ability of the interested public to participate in, and advise on, the development of fishery management plans that govern the conservation and management of the nation’s ocean fish populations and the marine wildlife and habitat that can be affected by fishing.³

The proposed rule would improperly restrict public access to many types of fishery data central to the public’s ability to understand the management and performance of fisheries, including information generated from tax payer-funded science. As such, the proposal undermines the MSA’s public participation requirements, and is inconsistent with federal policies on scientific integrity, transparency and openness in government. The implications of this rule are significant for maintaining transparency in management decisions and providing a level playing field among managers, non-governmental scientists and the general public.

Given these significant problems, we urge NMFS to withdraw this flawed proposal entirely and replace it with one that ensures public access to fisheries information. A new proposal must preserve transparency, participation and collaboration so that researchers, scientists and members of the public can exercise their right to contribute to the successful management of our nation’s publicly owned ocean resources.

³ See 16 U.S.C. § 1801(a)(8), (b)(5), (c)(3).
Sincerely,

Ivy Fredrickson
Staff Attorney, Conservation Programs
Ocean Conservancy

Lee Crockett
Director, U.S. Fisheries Campaigns
Pew Environment Group

Elizabeth Mitchell
President
Association for Professional Observers

Patrice McDermott
Executive Director
OpenTheGovernment.org

William W. Fox, Jr., Ph.D.
Vice President, Fisheries
World Wildlife Fund – US

Roger Fleming
Attorney
Earthjustice

John Wonderlich
Policy Director
The Sunlight Foundation

Eric Bilsky
Assistant General Counsel
Oceana

Seth Atkinson
Staff Attorney
Natural Resources Defense Council

Monica Goldberg
National Policy Deputy Director, Oceans
Environmental Defense Fund

Peter Shelley
Senior Counsel
Conservation Law Foundation

Pam Lyons Gromen
Executive Director
National Coalition for Marine Conservation

Jeff Ruch
Executive Director
Public Employees for Environmental Responsibility

Phil Kline
Senior Ocean Campaigner
Greenpeace

Todd Steiner
Executive Director
Turtle Island Restoration Network

Sonny Albarado
President
Society of Professional Journalists

Mitch Jones
Common Resources Program Director
Food & Water Watch

Katherine McFate
President and CEO
OMB Watch

Miyoko Sakashita
Oceans Director
Center for Biological Diversity

Bill Chandler
Vice President for Government Affairs
Marine Conservation Institute

Bea Edwards
Executive Director
Government Accountability Project

Peter Thompson
Educator
Atlantic States Legal Foundation
Mark Mahnkey
Director, Public Policy
Washington Civil Rights Council

Lillian Armstrong
Executive Director
Citizens United to Protect the Maurice River and its Tributaries

Roy Morrison
Director
Southern New Hampshire University, Sustainability Department

Derek Owen
President
Citizens for a Future New Hampshire

Dionne Linda
President
New Hampshire Animal Rights League

Kerry Logan
Fisheries Observer

Keith Davis
Fisheries Observer

Kerry Lynn
Fisheries Observer

Brian Burton
Fisheries Observer

Jonathan Combs
Fisheries Observer

Ebol Rojas
Fisheries Observer

Caroline Snyder
Chair
Citizens for Sludge-Free Land

Suzanne Fournier
Coordinator
Speaking for Animals in New Hampshire

Joshua Arnold
President
Global Awareness Local Action

Ken Pruitt
Managing Director
Environmental League of Massachusetts

Carol Carson
President
New England Coastal Wildlife Alliance

Richard McNutt
President
Tidewaters Gateway Partnership

Rev. Dr. Mary Westfall
Senior Minister, Head of Staff
Community Church of Durham, UCC

Will Hopkins
Executive Director
New Hampshire Peace Action

Reverend Fletcher Harper
Executive Director
GreenFaith

Sarah Brown
Project Director
Green Alliance

Joe Palatto
President
Asbury Park Fishing Club

Nada Khader
Executive Director
WESPAC Foundation
Diana Van Buren  
President  
North Fork Audubon Society

Rob Weltner  
President  
Operation SPLASH

Patricia Aitken  
Executive Director  
Friends of the Bay (Oyster Bay, NY)

Paul Gallay  
Hudson Riverkeeper

Emily Figdor  
Director  
Environment Maine

Dr. Ben Steele  
Chair  
Colby Sawyer College, Natural Sciences Department

Mark Kelley  
Advisor, New England School of Communications Student Chapter  
Society of Professional Journalists

Lee van der Voo  
Member of Sunshine Committee  
Oregon and SW Washington Chapter, Society of Professional Journalists

Captain Bill Sheehan  
Hackensack Riverkeeper

Bob Lewis  
Executive Director  
St. Mary's River Watershed Association

John Rumpler  
Environmental Attorney  
Environment America, MD/Chesapeake Bay

Dr. Ella Philappne  
Executive Director  
Passaic River Coalition

Todd James  
President  
7 Mile Island Environment Club

Don Eley  
President  
Friends of Blue Hill Bay

Dwayne Shaw  
Executive Director  
Downeast Salmon Federation

Michael Thompson  
Chair  
Friends of Maine's Seabird Islands

Suzanne Goucher  
President  
Maine Freedom of Information Coalition

Fred Akers  
River Administrator  
Great Egg Harbor Watershed Association

William Perry  
Executive Director  
Common Cause Georgia

Joseph Crawford  
Manager, Folly Beach & IOP Fishing Piers  
Charleston County Parks and Recreation Commission

Randy Brown  
General Manager  
Metal Trades Marine (SC)

Nicholas Macpherson  
Dockmaster  
Bohicket Marina
Bill Hanahan
Partner
Resort Boating (SC)

Capt. Eric Heiden
Retired, USCG Captain

Capt. Bob Olin
Retired, USCG Captain

Cyrus Buffman
Executive Director
Charleston Waterkeepers

Gil Shuler
Creative Director and Owner
Gil Shuler Graphic Design, Inc.

Steve Mateo
Director
SW Homes (Texas)

Jim Schuner
Executive Vice President
DSW Homes (Texas)

Scott Hickman
Captain
Circle H Outfitters (Texas)

Darrell Hingle
Owner
Hingle Guide Service (Texas)

Jeff Raffel
Chair
Common Cause Delaware