

September 27, 2013

The Honorable Mark Begich
Chairman, Senate Subcommittee on
Oceans, Atmosphere, Fisheries & Coast Guard
United States Senate
Washington, DC 20510

The Honorable Doc Hastings
Chairman, House Committee on
Natural Resources
U.S. House of Representatives
Washington, DC 20515

The Honorable Marco Rubio
Ranking Member, Senate Subcommittee on
Oceans, Atmosphere, Fisheries & Coast Guard
United States Senate
Washington, DC 20510

The Honorable Peter DeFazio
Ranking Member, House Committee on
Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Senators and Congressmen:

As members of the Seafood Coalition, we are writing to ask you to encourage the National Oceanic and Atmospheric Administration (NOAA) to promulgate a Final Rule implementing information confidentiality provisions of the Magnuson-Stevens Act (MSA) that is consistent with the clear intent of Congress. We understand that NOAA is being lobbied by certain interest groups to lift confidentiality protections that Congress has expressly provided since implementation of the Fishery Conservation and Management Act in 1977 for information submitted by fishing and fish processing companies in compliance with the Act. Please advise NOAA that the Proposed Rule issued by the agency on May 23, 2012 largely reflects Congressional intent and, where it deviates, it is actually less protective of confidential information than Congress intended. NOAA should be advised to conform the rule to the letter and spirit of the law, but otherwise should not deviate significantly from its proposed approach in issuing a Final Rule.

The Seafood Coalition provides a forum for commercial fishing organizations, fish processors, and fishing communities to speak with a unified voice on matters of importance to the U.S. seafood industry. The Coalition represents companies, associations, and communities that account for a substantial portion of the nearly 10 billion pounds of seafood harvested annually. Members of the Seafood Coalition provide hundreds of thousands of jobs for men and women in commercial fisheries and these businesses generated billions of dollars in economic activity.

The members of the Seafood Coalition appreciate the importance of collecting information authorized under the MSA to support necessary fishery management and conservation efforts. As such, industry members provide sensitive information that runs the gamut from proprietary details about fishing operations to specifics of business costs and revenues. In the 1996 MSA reauthorization, Congress recognized that if industry members were going to be required to submit sensitive, proprietary information, then greater confidentiality protections needed to be afforded, as well. The 2006 MSA reauthorization further extended confidentiality protections, including specifically expanding coverage to include observer information, reflecting the exponential growth of such programs across regions.

NOAA's Proposed Rule of May 23, 2012 (FDMS Docket Number NOAA-NMFS-2012-0030) is intended to update current regulations to reflect Congress' 1996 and 2006 changes to the MSA's information confidentiality provisions. NOAA's Proposed Rule is a useful exercise, however, some are attempting to hijack the rulemaking process and pressure the agency to remove protections that Congress clearly intends for those submitting information under MSA requirements.

Indeed, if any changes are to be made, they should broaden the class of protected information, such as that submitted and held confidential prior to 2006 MSA reauthorization, and limit the waiver of confidentiality only as to information specifically exempted by Congress. The proposed rule would subject information to disclosure Congress never intended.

As we enter the MSA reauthorization process in this cycle, there is broad agreement that more information from fishery participants is needed to improve fish stock assessments, particularly in a period of tighter budgeting that limits NOAA Fisheries' fishery independent information collection. Also, it is evident that fishery managers depend on information submitted by fishery participants in making management decisions that ensure sustainable fishing levels and minimize socio-economic impacts in coastal communities. It is also critically important to continue with the progress made in implementing the 2006 MSA catch accountability provisions through enhanced monitoring of fisheries, including use of fishery observer and electronic monitoring programs.

With increased reliance on information from fishery participants, it is essential to foster cooperation and goodwill with the fishing industry. The key to cooperation and goodwill is for NOAA to adhere strictly to Congress' clear intent that information provided will remain confidential except under certain limited circumstances as specified in the Act.

Please urge NOAA in developing its Final Rule to protect confidentiality of information supplied by fishermen and fish processors pursuant to requirements of the MSA and consistent with Congress' intent. Thank you for considering our views.

Sincerely,

Alaska Bering Sea Crabbers Association

Groundfish Forum

Southeastern Fisheries Association

National Fisheries Institute

Oregon Trawl Commission

Alaska Groundfish Data Bank

Pacific Seafood Processors Association

At-sea Processors Association

United Catcher Boats

Fisheries Survival Fund

Long Island Commercial Fishing Association

Coos Bay Trawlers

West Coast Seafood Processors Association

Coalition of Coastal Fisheries

Pacific Whiting Conservation Cooperative

Mid Water Trawlers Cooperative

Columbia River Crab Fishermen's Association

Alaska Whitefish Trawlers