

**WRITTEN TESTIMONY
OF
CAPT. ROBERT F. ZALES, II
PRESIDENT**

NATIONAL ASSOCIATION OF CHARTERBOAT OPERATORS

FOR HEARING ON

H.R.3094, “*GULF STATES RED SNAPPER MANAGEMENT AUTHORITY ACT*”

**BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES, SUBCOMMITTEE on WATER,
POWER, and OCEANS**

OCTOBER 22, 2015

Chairman Fleming, Ranking Member Huffman, and Members of the Subcommittee, my name is Robert F. Zales, II and I am appearing today on behalf of the National Association of Charterboat Operators (NACO). I wish to thank you for your kind invitation to present testimony on H.R. 3094 that will add desperately needed and long overdue flexibility to the management of Gulf of Mexico red snapper by allowing the five Gulf States the ability to take over management of this species.

NACO is a 501 (c) (6) non-profit trade association representing charter boat owners and operators across the United States including the Great Lakes with a substantial membership from the Gulf of Mexico. My family and I have been in the charter and commercial fishing sectors for 50 years with concentration of charter fishing over the last 10 years. Until this past May I have been actively involved in the fishery management process for over 26 years providing advice, testimony, publications, and helping to design charter fishing data collection programs on Federal, State, and Local levels. Due to my

mother's recent medical issues that began this past April I have resigned from all of the voluntary advisory positions I have held for over 26 years to take care of her but still stay abreast of all issues that affect my industry.

Let me start by stating the vast majority of our members in the Gulf have absolutely no confidence in the continued management of red snapper by the National Marine Fisheries Service (NMFS). Over the past several years stakeholders have made request after request to the State Marine Resource agencies to take over data collection and provide more local control over red snapper management. These efforts have resulted in all five Gulf States to developing new and improved data collection methods and an important effort in Congress to advance H.R. 3094 that will provide State control of red snapper. Once the State Marine Resource agencies are provided the authority to manage red snapper you will see more support and more involvement in helping the States develop local management plans that will benefit all recreational anglers.

For many years we have worked to institute change in the traditional management system of the NMFS by attempting to work with the agency. We have worked with Congress to make positive changes to the Magnuson Stevens Fishery and Conservation Management Act (MSA) on collection of recreational fishery data and other management issues. While our efforts to work with the NMFS and Congress have helped improve some management measures, unfortunately, they have not been near enough. Sadly, we are acutely aware of the devastating impacts of the last reauthorization of the MSA as amended through January 12, 2007 to fishermen, their families, supporting businesses, and fishing communities by the increasing loss of JOBS. The current requirements of the MSA are overly restrictive and require arbitrary rebuilding timelines based on no science.

The rigid requirements of the MSA prevent the management Councils from having any flexibility in recommending management measures that will rebuild our resources while allowing fishermen to fish. Both can and should be allowed which is why we fully support and encourage the passage of H.R.3094.

Our problems with the NMFS management of red snapper are many and apparently cannot be fixed under federal management. While the scientific modeling of the red snapper stock is now showing improvement, it is far behind what we experience in the real world. In the Gulf of Mexico when you put a baited hook in the water odds are you will catch a red snapper. Red snapper has been managed in the Gulf since the early '80s when we could hardly find a red snapper to where they are almost all we catch, yet the number of days available to the recreational sector has steadily declined since 1996 and have been drastically reduced since 2007. While the NMFS has failed to provide timely and accurate red snapper stock assessments during this period the five Gulf States have been able to manage their own stocks of red drum, speckled trout, and other state regulated species. Florida has also properly managed snook. ***While federal management has consistently reduced access and opportunity to recreational anglers the States have steadily increased access and opportunity.***

Red snapper is not the only fishery where the NMFS has failed in management. I started in the fishery management process over 26 years ago working with king mackerel when the quota had been reduced to 2 million pounds, the lowest ever. Over the last 26 years, every mackerel stock assessment has shown some increase in biomass except for the last few years where it has been static. Every Science and Statistical Committee recommendation during this period was to only allow fishing to the 50% level of

available biomass and they consistently told the Council if their recommendation was exceeded the fishery would never grow and could collapse. Until the 2007 Reauthorization of the MSA in most years the Council set the Total Allowable Catch at the edge of the overfishing level exceeding the SSC recommendation. Since 2007 the Council has set the TAC at the SSC recommendation. From 1988 to 2005 the harvest of king mackerel not only met the TAC but in most years exceeded the TAC. In all years the stock increased in biomass contrary to the SSC recommendations as can be seen in every graph developed. The current king mackerel stock assessment indicates the stock is heavily weighted by older fish yet we catch all sizes. The red snapper fishery has responded in a similar fashion as regardless of any perceived over run of the TAC over the rebuilding period, the stock has steadily increased in biomass. The latest trigger fish stock assessment indicates the stock is declining yet we see a steady increase in abundance and size of trigger fish. The NMFS has bragged about their success and use as their shining example of expert fishery management the complete rebuilding of the Gulf gag grouper fishery, yet gag grouper are rarely caught in both the recreational and commercial fisheries. In fact the recreational fishery has only harvested a little more than 50% of the quota the past two years and the commercial quota, also managed under an IFQ program, has only harvested 70% in 2014 and only 45% to date for 2015. When you view the biomass growth graphs of red snapper and king mackerel over time you see a steady upward pattern, with no decline in any year, regardless of any quota over runs.

The NMFS has consistently punished the recreational sector by reducing allowed days of fishing for red snapper due to over runs which clearly have never adversely affected the growth of the fishery or restricted any efforts to reach the rebuilding target. You

can clearly understand why we feel the NMFS is not capable of and/or unwilling to manage recreational fisheries.

In 2009, in retaliation to the State of Florida and the charter for hire fleet for their action to keep state waters open to recreational red snapper fishing when the NMFS closed the EEZ, Dr. Crabtree, (Regional Administrator NMFS SERO) had the Gulf Council pass a regulatory amendment (typically known as 30B) that restricted all federally permitted charter for hire vessels to compliance with federal regulations. Regardless of what States might allow in their own state waters federally permitted charter for hire vessels must comply with the strictest federal regulations for red snapper in federal and state waters. This single act has created more disruption and division among the recreational sector than any other action I have witnessed in over 26 years. It has turned angler against angler, charter vessel owner against charter vessel owner, and caused a significant rift in the recreational angling community.

In Florida, as of June 30, 2015, there were 1,747 vessels, including Captains, licensed by Florida to charter for hire vessel owners that carry up to 6 or more passengers. These numbers are state wide as there is no way to distinguish between the east and west coast. Of these 734 are federally permitted Gulf charter for hire vessels. This means that when the State of Florida decides, in the best interest of the State and their anglers, to keep red snapper open in State waters 734 charter for hire vessels cannot provide access to red snapper for the recreational anglers who hire us to provide a platform giving them the opportunity to fish recreationally. The single act of Dr. Crabtree creating the 30B rule has denied access to and the opportunity to catch red snapper to thousands of recreational anglers. Charter vessel owners and operators do not harvest recreational fish, the

recreational angler on board does. Charter vessels are simply the platforms providing anglers the opportunity to fish recreationally.

For many years environmental organizations such as the Environmental Defense Fund (EDF) have pushed for vessel fleet reduction by pushing for Individual Fishing Quotas (IFQs), also called Catch Shares. EDF was successful scheming with the NMFS and a small group of red snapper commercial fishermen in instituting IFQs and since 2007 the commercial red snapper fishery has been managed by IFQs. By design the size of the commercial fishing fleet has steadily declined since 2007 (25% reduction from 2007 to 2011) under the consolidation of the fleet by the NMFS providing individual ownership of the red snapper resource to select individuals. The vast majority of the commercial red snapper quota is owned by a small group of individuals who the NMFS has enriched – really, made millionaires by giving them the public fishery resource. Today over 15% of the red snapper commercial quota is owned by people who do not even own a vessel as they do not fish the IFQs, rather they lease their shares out to other commercial fishermen, much like the old time plantation owner who allowed share croppers to farm the land. Ownership of red snapper quota with the ability to harvest and sell the fish or lease to others provides more financial return than any stock available on the stock market.

Because of the 30B rule for federally permitted charter for hire vessels and the constant reduction of fishing days for red snapper by the NMFS there has been an active push by the NMFS and EDF funded and supported puppet fishing associations and a small group of federally permitted charter for hire vessel owners to segregate the permitted for hire vessels from the total recreational sector and to institute Catch Shares for red snapper on

the fleet. The well - funded effort by EDF through their skill, puppet associations, such as the Charter Fishermen's Association, Shareholder Alliance, and Gulf Seafood Institute, over the past several years has resulted in the recently NMFS - approved amendment 40 severing the recreational charter for hire sector from the rest of the recreational sector. This amendment was approved by a 9-7 council vote over the thousands of objections and public testimony provided by stakeholders. The vast majority of permitted charter for hire vessel owners do not support this segregation. By instituting Catch Shares (IFQs) in the for hire fleet the Federal Government will cause a reduction of vessels available to the public thus reducing access and availability to the fishery. ***This effort is the NMFS answer to their failure to properly manage the recreational red snapper fishery.***

NACO fully supports H.R. 3094 which would move the management of Gulf red snapper to the five Gulf States. I submit that the vast majority of charter for hire vessels owners, including federally permitted vessels owners, are fed up with the failure of the NMFS management as has been demonstrated at countless Council meetings and communications from constituents. The pseudonym for EDF in the Gulf is the "Charter Fishermen's Association". Despite the CFA assertions, the majority of charter for hire fleet opposes the status quo, and we support Representative Graves' legislation, H.R. 3094.

Recreational fisheries are not commercial fisheries and cannot be managed in the same way. Recreational fishing is more popular than golf in the United States and recreational anglers want access to public fishery resources where they have an opportunity to catch. State Marine Resource Agencies have a better understanding of the importance of recreational fishing and provide more access to public participation in their management

efforts which has shown to provide a more efficient and better management system. All you have to do is look at the successes of State managed marine resources. State Agencies can act faster than the NMFS on all issues of management from allowing more access to abundant resources to reacting to natural or manmade disasters.

In particular, red snapper management is not and should not be a one size fits all scheme. There are 866 miles of coastline from Key West, FL to Brownsville, TX and every area in between has different fishing seasons, different tourist seasons, and different needs. Each of the five Gulf States knows far better of their needs and have proven their ability to properly manage their marine resources. States can provide improved and more accurate recreational fishery data as has been recently proven in Louisiana, Alabama, Mississippi, and with new efforts in Florida. State Marine Resource managers provide more timely stock assessments and better understand the social and economic impacts of recreational fishing.

H.R 3094 requires the States to provide a management plan that will provide how to conduct assessments, data collection, and annual management measures and timelines. New data collection programs are already in place or are being designed. State enforcement agencies are better equipped to handle enforcement and address any enforcement issues. State management of fisheries in federal waters is currently allowed; an example in the Gulf is red drum where the states must meet Gulf wide conservation goals but are allowed the flexibility to meet those goals. The Gulf States are already responsible for managing commercial and recreational fisheries in state waters and share management for several species with other states. Each state has proven to be a successful steward of both state and federally managed species. Funding is already

provided by the NMFS to the states for data collection and enforcement. NOAA funds the data analysis so that funding will simply need to be reallocated from the NMFS to the states to conduct the analysis.

At this time stakeholders have not had an active part in developing the framework created by the State Marine Resource Directors. Because this is a framework for action no state has provided any true concept of how the new management system will work. Because State Marine Resource Commissions routinely act based on much stakeholder input we can expect any proposed management plan to include a major role from all stakeholders in the development of a plan. In fact, the regional management proposal offers stakeholders more opportunities to participate in the management process through the states' existing legislative and regulatory processes, commission meetings, various committees and task forces, public outreach meetings and surveys. Regional management makes it easier for the public to participate through more local and more convenient outlets.

Regional management provides the individual states the flexibility to review all approaches for assessing and managing the fishery and to select strategies that fit best. With respect to assessment, the individual states will look for strategies that provide the most accurate picture of the stock and fishery status, including models based on fishing mortality estimates and spawning potential ratios (similar to what is currently used); simpler analyses based on relative abundance trends, size of fish, and geographic distribution; or models based on numbers of fish removed as opposed to fishing mortality estimates. Regardless of the method used, assessment strategies will go through a thorough scientific review from the states and must show that harvest levels are

sustainable. The states must routinely assess the health of the fishery in their waters, and periodically, cooperatively assess the health of the stock Gulf-wide.

The states will have the ability to use a management strategy that best fits the fishery as it is accessed by their state's anglers. Each state must assess the efficacy of their actions on an annual and ongoing basis and make adjustments (in-season if necessary) in response to the latest information about the stock and fishery to maximize fishing opportunity.

This approach recognizes there are regional differences in the fishery based on how the fishery developed, the needs of the state regarding the fishery, and local tradition and practice. This is a superior approach to the current management system, which treats red snapper as one stock, fished one way across the entirety of the Gulf. In Florida such an approach could help develop a Florida Management Plan that could allow red snapper fishing in the fall and winter south of Tampa and spring and summer north of Tampa. Federally permitted charter for hire vessels would not be restricted by the 30B rule.

Each Gulf state would formally agree to comply fully with management measures developed through the Plan under a memorandum of agreement. The GSR SMA plan allows states to request additional accountability options through the U.S. Secretary of Commerce if a state or states adopt measures deemed to be inconsistent with the plan.

As pointed out above the current NMFS management system has failed to properly manage red snapper, especially the users. Stock assessments every four years or more are inadequate. A recreational data collection and analysis system that was never developed to track quotas or conduct in season adjustments is only slightly better today than 26 years ago, even under the 2007 Congressional mandate to develop a more accurate

improved system. Currently and over the past three years the Gulf Council and NMFS are working to develop and implement an electronic data collection system for the charter for hire fleet. This system is still years away from implementation all the while the States of Louisiana, Alabama, and Mississippi have *considered, developed, and implemented new data collection systems in less than a year*. Constant efforts by the NMFS to create disruption among the commercial and recreational sectors and now between the recreational charter for hire and private recreational sectors only proves the NMFS has failed to properly manage this fishery.

Just in my small coastal community of Panama City, Florida, according to the local Tourist Development Council, **15% of Tourism Dollars** comes from saltwater recreational fishing. The complete failure by the NMFS to properly manage red snapper has cost my community and others countless revenue and adversely affected small family businesses. Efforts by the Gulf States to keep their waters open after the NMFS has closed the fishery have helped to enhance the social and economic conditions of the coastal communities while the additional harvest of red snapper has not harmed the resource as it continues to grow every year. It is clear the States can better manage the fishery as they have proven in their management of their own resources. Stakeholder involvement is more effective on the State level as the State resource agencies respond much faster to that concern. We view State management as our only savior in being able to have access to the resource so we have an opportunity enjoy it.

Mr. Chairman, this concludes my testimony. Again, I truly appreciate the invitation and opportunity to provide you and the committee with this information. I will be pleased to respond to any questions.