



Mid-Atlantic Fishery Management Council

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October XX, 2019

The Honorable Rob Bishop
United States House of Representatives
123 Cannon Building
Washington, DC 20515

Subject: MAFMC Comments on H.R. 2236, "*The Forage Fish Conservation Act*"

Dear Representative Bishop:

The Mid-Atlantic Fishery Management Council ("The Council") appreciates the opportunity to comment on H.R. 2236, "*The Forage Fish Conservation Act*," introduced by Representative Dingell (D-MI). The following comments reflect discussion by the Council during our October 2019 meeting. These comments are intended to convey the points of majority Council agreement, but they do not necessarily reflect the perspectives of all members.

Overview of Existing Council Management of Forage Fish

In 2016, the Council adopted a policy of supporting the "maintenance of an adequate forage base in the Mid-Atlantic to ensure ecosystem productivity, structure and function, and to support sustainable fishing communities." The Council acknowledges the important role that forage species play in the marine ecosystem and has worked proactively to effectively manage and conserve these species. The Council has developed several management measures to protect and manage forage fish in the Mid-Atlantic, as described in more detail below. We believe that these existing measures meet the intent of H.R. 2236.

Since 1983, the Council has managed four forage species – Atlantic mackerel, *Illex* squid, longfin squid, and butterfish – under a single Fishery Management Plan (FMP). In 2019, the Council approved an amendment to add Atlantic chub mackerel to this FMP. The Council sets annual catch limits, accountability measures, and other management measures that are intended to prevent overfishing while allowing these fisheries to achieve optimum yield.

In August 2016, the Council designated 16 previously unmanaged forage species groups as "ecosystem components" in all the Council's FMPs and established a commercial possession limit for these species in Mid-Atlantic federal waters. The intent of this action was to prohibit the development of new, and expansion of existing, directed commercial fisheries on certain unmanaged forage species in Mid-Atlantic federal waters until the Council has had an adequate opportunity to assess the scientific information regarding potential impacts to existing fisheries, fishing communities, and the marine ecosystem.

Comments on H.R. 2236

Section 9 of H.R. 2236 would require the Council to add river herring and shad (RH/S) as managed stocks within the Mackerel, Squid, and Butterfish (MSB) FMP. The Council does not believe that management of RH/S under a Council FMP is necessary or appropriate. River herring and shad (RH/S) are already managed by the Atlantic States Marine Fisheries Commission (ASMFC). In October 2016 the Council completed a

comprehensive review of existing and planned conservation and management efforts and concluded that management of RH/S through a Council FMP is not warranted. The rationale for this decision was that (1) there is no evidence that RH/S are targeted in federal fisheries, (2) RH/S are already being effectively managed by the ASMFC, and (3) a Council FMP would not substantially improve the condition of RH/S stocks.

Because RH/S are caught in fisheries targeting other species, the Council works closely with its management partners to promote the conservation of RH/S. The Council limits the incidental catch of river herring and shad in the Atlantic mackerel fishery through a catch cap that can and has closed the directed mackerel fishery when the cap is reached. The New England Council has similar provisions for the Atlantic Herring fishery. The Council reviews river herring catch and abundance information annually when setting the cap and also collaborates with NOAA Fisheries and the ASMFC on a Technical Expert Working Group to help address broader river herring conservation issues.

Section 9 of H.R. 2236 would require the Council to complete an amendment to add RH/S as managed stocks to the MSB FMP within 6 months. Within the following year, the Council would be required to complete additional amendments “in order to develop and implement all required conservation and management measures for such stocks.” These timing requirements are problematic and unrealistic for several reasons. First, the Council could not add RH/S to an FMP without simultaneously establishing management measures for those stocks; the management measures are what makes an FMP. The Magnuson-Stevens Fishery Conservation and Management Act specifies that any FMP must contain the measures which are necessary and appropriate for the conservation of the fishery, to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery (16 U.S.C. §1853(a)(15)). Because the Council would need to add RH/S to the FMP and establish management measures within a single amendment, it does not make sense to include two separate timelines in the bill.

Additionally, the time requirements in Section 9 are not realistic. It generally takes **2.5-4.5 years** to complete a new FMP or major amendment, from the time the Council initiates action to implementation of new regulations. For example, when the Council established management of blueline tilefish through an amendment to the Tilefish FMP, it took about 2.5 years from initiation to final rule. Blueline tilefish is a single species that only resides in offshore federal waters with few stakeholders, narrow habitat requirements, and a clear need for federal management. If appropriate, adding RH/S to an FMP would be a more complex action and take longer to complete. An overview of the FMP/Amendment development process and timeline is available at <http://www.mafmc.org/s/MAFMC-FMP-Amendment-Timeline.pdf>.

Once again, thank you again for the opportunity to comment on this proposed legislation. Please don't hesitate to contact me if you have any questions or would like clarification on any of the comments above. The Council would be pleased to provide additional comments if requested as the bill goes through the legislative process.

Sincerely,

Dr. Christopher M. Moore
Executive Director

Cc: Michael Luisi, Chairman
Mid-Atlantic Fishery Management Council
Council Coordination Committee
Mr. Dave Whaley