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April 25, 2016

Karen Abrams
National Oceanic and Atmospheric Administration Fisheries Service
1315 East West Highway, SSMC3-OSF-SF3
Silver Spring, MD 20910

Re: Standardized Bycatch Reporting Methodology, Proposed Rule, NOAA-NMFS-2016-0002, RIN 0648-BF51

Dear Ms. Abrams:

We the undersigned organizations urge NOAA Fisheries to withdraw its proposed rule for implementing the Standardized Bycatch Reporting Methodology (SBRM) provision of the Magnuson-Stevens Fishery Conservation and Management Act (MSA).¹ The proposed rule is fundamentally flawed and will do little to provide scientists and managers with the scientific information they need to manage and conserve fisheries and ocean resources. In fact in its current form, it could lead to weakening of existing bycatch reporting programs.

Bycatch—fish and other marine species unintentionally caught by fishermen—is a serious problem in many U.S. fisheries. These fish and other wildlife, such as sea turtles, marine mammals, and seabirds, are often dead or dying when discarded at sea.² This waste of sea life affects the health of ocean ecosystems, puts vulnerable species at risk, means lost economic opportunity for fishermen, and presents persistent challenges for resource managers. Quantifying bycatch, i.e., counting how many animals are killed because of fishing, is critical for the agency to fulfill its responsibilities under the MSA, the Endangered Species Act, and the Marine Mammal Protection Act.

Since 1996, the MSA has required that fishery management plans contain robust bycatch assessment programs.³ SBRMs are intended to provide quality data to scientists and fishery managers to assess how

¹ NOAA, NMFS, Standardized Bycatch Reporting Methodology, Proposed Rule and Request for Comments, 81 Fed. Reg. 9413 (Feb. 25, 2016); 16 U.S.C. § 1853(a)(11).

² While the MSA defines bycatch more narrowly, the agency has other responsibilities under the Endangered Species Act and the Marine Mammal Protection Act. Bycatch assessment is typically done to encompass this broader set of mandates. See National Marine Fisheries Service. 2016. U.S. National Bycatch Report First Edition Update 2 [L. R. Benaka, D. Bullock, J. Davis, E. E. Seney, and H. Winarsoo, Editors]. U.S. Dep. Commer., 90 p. at 7.

³ 16 U.S.C. § 1853(a)(11).

much bycatch is occurring in each fishery and among fisheries, and to create measures to minimize bycatch and promote sustainable management of our nation's fisheries.

However, the agency's proposed rule for SBRMs undercuts this mandate in several ways:

- The proposed rule fails to provide any guidance, or even a general requirement, that SBRMs produce statistically accurate, precise estimates of bycatch.
- The proposed rule would allow SBRMs to only consider the collection of bycatch data, not the assessment of that data.
- The proposed rule would lack any form of standardization across fisheries or regions. This would complicate efforts to understand or assess bycatch trends by making it difficult or impossible to compare bycatch data across fisheries, ecosystems, or regions.
- The proposed rule would create loopholes whereby the design and implementation of an SBRM could be impermissibly constrained by factors such as funding or the magnitude and economic impact to the fishery.

The bycatch data collection programs resulting from this proposal would likely be of extremely limited usefulness, meaning taxpayers and fishermen would be paying for data that would fail to serve its intended purpose, leaving managers without useful information with which to weigh management options. Without a robust understanding of which species are being caught, in what number, and in what fisheries, the agency will fail to meet its legal obligations. The proposed rule is contrary to a plain reading of the law, with Congressional intent, and with the findings of the courts.

Ultimately, data collection programs must meet and be driven by the needs of scientists and managers to accurately understand the degree and scope of bycatch so that sound management measures to minimize bycatch can be developed. The proposed rule, however, would undermine NMFS's ability to minimize bycatch and bycatch mortality and would jeopardize the sustainable management of fish and marine wildlife populations. We urge you to withdraw this deeply flawed proposed rule.

Sincerely,

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