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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
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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.

¹ Confidentiality of Information Proposed Rule, 77 Fed. Reg. 30486 (May 23, 2012).

² NOAA, "Annual NOAA report shows a record number of rebuilt fisheries" (May 14, 2012), *available at* http://www.noaanews.noaa.gov/stories2012/20120514_statusofstocks.html.

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

Sincerely,

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