

**World Wildlife Fund\*National Audubon Society\*Natural Resources Defense  
Council\*Environmental Defense\*National Parks and Conservation  
Association\*KAHEA\*Conservation Law Foundation\*American Oceans Campaign\*  
The Ocean Conservancy\*Oceana\*Sierra Club\*Marine Conservation Biology Institute**

Thursday, August 15, 2002

Dear Member of Congress:

On behalf of our environmental organizations and the millions of members they represent, we write to express our opposition to H.R. 3104, H.R. 3547 and S. 1314, the Freedom to Fish Act (FFA.)

We think the FFA is contrary to the basic tenets of United States marine conservation law and policy and urge you to withhold your support for it. We offer the following reasons why the FFA should be rejected.

First, the FFA would seriously undermine current law and Executive mandates. It would effectively preclude Federal Fishery Management Councils from using their authority under the Magnuson-Stevens Fishery Conservation and Management Act to use area closures to rebuild stocks and protect habitats. The FFA's requirements would also undermine the National Marine Sanctuaries Act (NMSA) by giving Regional Councils the ability to override Sanctuary protections and effectively exempt fish resources from NMSA's conservation mandate and other requirements. This would include interfering with the Northwestern Hawaiian Islands Sanctuary designation process and numerous other public review processes currently underway (in some cases, well-advanced) to revise management plans in several of our National Marine Sanctuaries.

The FFA would also undermine Executive Order 13178, which established the Northwestern Hawaiian Islands Reserve and mandates the establishment of a Sanctuary that "complements or supplements" the Reserve, based on the precautionary approach. Finally, the bill undermines the purpose of Executive Order 13158, which calls for "an expanded and strengthened comprehensive system of marine protected areas" in order to "enhance the conservation of our Nation's natural and cultural marine heritage and the ecologically and economically sustainable use of the marine environment for future generations." The Bush Administration supports implementation of these Executive Orders.

Second, the FFA puts the nation's already stressed fishery resources at risk. The FFA's evidentiary standard would make it virtually impossible to close any areas of the oceans to recreational fishing. The FFA effectively eliminates a key tool from the toolbox available to resource managers: establishing areas that are closed to all fishing and other extractive uses. Such areas are needed to rebuild depleted fish stocks, protect key fish spawning and nursery areas, protect important habitats for fish and endangered marine wildlife, conduct research and serve a host of other conservation and management needs. The National Research Council and other leading scientists have stated that we must close some areas to all fishing sectors to all extractive activities—including fishing sectors—if we want to rebuild depleted stocks and

restore the health of our oceans, and have sustainable recreational and commercial fisheries for future generations.

While not a replacement for other fisheries management tools, the ability to close areas to both recreational and commercial fishing is an essential option for effective ecosystem management. Such area closures have proven to be effective in increasing the abundance and diversity of fish and protecting habitats inside their borders, and there is evidence that they can contribute to increased fish catches outside their borders. Closed areas provide “insurance policies” against future management errors and unfavorable environmental change. They also act as real world laboratories for studying natural and human-caused changes in the marine environment and for evaluating the effectiveness of various management measures.

Third, the proposed measures are contrary to the United States’ obligation under international law—such as the United Nations Straddling Stock Agreement and the FAO Code of Conduct for Responsible Fishing—to utilize a precautionary approach in managing fish populations.

Lastly, the FFA would place the interests of one class of ocean users - in this case, recreational fishing - above those of all others, such as the general public, commercial fishermen, marine and tourism businesses. This would be at odds with the approach of balancing all uses, which the basis of a majority of U.S. natural resource statutes.

Sincerely,

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