

Executive Director's Report

SSL Research Initiative and Constituency Review Panel

As described in the letter under Item B-1(a), the NMFS is proceeding with a competitive grants program which will make available approximately \$15 million for research related to Steller sea lions (SSL). As part of the process for reviewing grant proposals, a Constituency Panel will be appointed by the Regional Administrator, based at least partly on recommendations from our Council. This panel could be quite large (up to 30 persons) and may be broken into sub-panels grouped around priority research areas. Timing of this process is very short, with review meetings being tentatively scheduled for May 7-8 in Juneau (just ahead of a scheduled RPA Committee meeting), so the Council's recommendations need to be forwarded to Dr. Balsiger by the end of this week. The Council staff is working with NMFS to help coordinate this review, and it is expected that travel support will be provided to the panel members.

NRC study on effects of bottom trawling

Dr. Susan Roberts with the NAS National Research Council (NRC) is inviting our Council members' participation in a meeting scheduled for June 1-2 in Anchorage. The NRC is conducting a study of Effects of Bottom Trawling on Seafloor Habitat and their meeting in Anchorage will include presentations from scientists and stakeholder representatives regarding trawl fisheries in the Alaska region. The public sessions will be the afternoon of the 1st and morning of the 2nd, I believe here at the Hilton. Item B-1(b) is a copy of the study description and roster of committee members. I believe the NRC is still looking for speakers from the industry, science, or environmental communities - if anyone is interested please let me know and I will put you in contact with Dr. Roberts. I hope to have more specific details for you sometime this week.

Magnuson-Stevens Act Reauthorization

MSA reauthorization issues will be the subject of discussion at the upcoming Council Chairmen and ED Meeting in late May. Item B-1(c) is a summary of issues prepared last year by Dr. Pautzke, and Item B-1(d) is the recent testimony of Jim Gilford (Mid-Atlantic Council) to the House Subcommittee hearing. From an administrative perspective, I am particularly interested in the last point of that testimony, which is a suggestion that the Councils' funding be received directly from NMFS, rather than go through the burdensome, and in my mind inappropriate, grant process we are now under. The Council does have an MSA Reauthorization Committee on the books (see discussion under D-1), but I do not believe it has been active recently. One approach to this would be to let Chairman Benton and I report back to you at the June meeting, and determine how to proceed at that time with further potential input from our Council. Or, if there are burning issues that are not covered in the attached materials, we can bring them forward for discussion at the May Chairmen's Meeting. Related to this issue is a recent bill introduced in Congress (Item B-1(e)) by Senators Snowe and McCain, titled 'IFQ Act of 2001', which would specify conditions of IFQ programs established after September 30, 2002.

12 month calendar

Some of you requested that we begin maintaining a 12-month calendar of major events, including Council meetings, Committee meetings, symposiums, etc. Item B-1(f) is a first cut of that, courtesy of Helen.

June agenda

Item B-1(g) is a first cut at our June agenda in Kodiak. I don't need to finalize it at this time, but wanted to give you a general idea of the major issues and potential time requirements. The June meeting is actually looking like a relatively easy meeting, with a few items slipping to October, but it should still be a full week. Major items for June appear at this time to be (1) review of SSL alternatives for analysis over the summer; (2) review of a draft AFA report to Congress; (3) review and comment on the programmatic SEIS; (4) update on the EFH revisions; and, (5) final action on the shark/skate FMP amendment. Final action on the BSAI P. cod pot gear split is tentatively scheduled, though you requested that be held in abeyance until other, related amendments have worked their way through the process.

We need to finalize arrangements for our September meeting, which is tentatively scheduled for the first full week of September, after Labor Day. I am planning this to be a short, single-issue meeting for initial review of the SSL RPA package. The meeting will be here at the Hilton Hotel in Anchorage. The SSC would meet on the 5th and 6th, the AP on the 6th, 7th, and 8th, and the Council on the 7th, 8th, and 9th (and the 10th if necessary).

Postponed agenda items

There are three agenda items which have been postponed from this meeting, or modified for brief status reports - we will discuss these under B-3, NMFS Management Report, and they include: (1) seabird avoidance measures and related research; (2) status of changes to the Observer Program; and, (3) an update on the Essential Fish Habitat (EFH) lawsuit and associated revisions. A fourth issue that is still on our agenda as a separate item is the programmatic SEIS. Steve Davis will give us an update on that later in the week, but the comment period has been extended and will overlap with our June meeting, so that a more detailed review and Council comment would occur in June. NMFS will conduct an open house and formal public hearing tonight, in this room, starting at 5:00 pm or whenever the Council recesses for the day.



UNITED STATES DEPARTMENT
National Oceanic and Atmospheric
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

March 28, 2001

RECEIVED
MAR 28 2001
N.P.F.M.C

David Benton
Chairman
North Pacific Fishery Management Council
605 West 4th Street, Suite 306
Anchorage, AK 99501

Dear Chairman Benton,

Consistent with an FY01 Congressional appropriation providing funding under the Sea Lion Protective Measures initiative, the National Marine Fisheries Service (NMFS) is proceeding with the implementation of a competitive grants program designed to support research projects conducted by entities external to this agency. This Program is referred to as the Steller Sea Lion Research Initiative. A feature of this program entails the use of a two tier proposal review process; an initial technical review to be followed by a constituency review. This program's review procedures call for the establishment of a Constituency Panel, and specifies the following:

"The Program Office will convene the Constituency Panel no later than one week following the conclusion of the Technical Evaluations. The Constituency Panel will comprise no fewer than three representatives to be recommended by the North Pacific Fishery Management Council and selected by the Regional Administrator, Alaska Region. Consistent with laws and regulations governing conflict of interest, composition of the Constituency Panel will consist of at least one representative from the Alaska fishing industry and one representative from an Alaska coastal community."

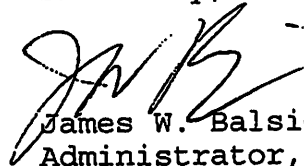
This letter requests your recommendations to the Constituency Panel. We anticipate a very large response to this request for proposals. The constituency review process will ideally occur over a two day period and may involve the discussion and scoring of two hundred or more proposals. There is a likelihood that we will need to break-out the panel into sub-panels grouped around priority areas. Information on the composition and numbers of sub-panels needed will not be available until the week prior to meeting. It is anticipated that circumstances will arise when a panel member, due to conflict of interest concerns, will have to excuse themselves from scoring a proposal. In planning for these



and other potential contingencies, I am requesting that the Council forward a list of potential panel members with the understanding that we may need 30 or more qualified persons for the review. I further request that an agreement be reached on a mechanism that would provide the ability for the Council to react quickly, and under very short notice, to a call from NMFS for additional panel members.

We greatly appreciate the Council's willingness to accept this critical role in recommending membership to the Constituency Panel. NMFS intends for this research selection process to incorporate the views of its stakeholders and with the Council's support, this important level of inclusiveness will be possible.

Sincerely,



James W. Balsiger
Administrator,
Alaska Region

cc: Chris Oliver, NPFMC



cc: CO, SW ✓
UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

TO THOSE INTERESTED IN THE
Steller Sea Lion Research Initiative

Attached is the Federal Register solicitation notice for the Steller Sea Lion Research Initiative. It identifies the priority areas for funding, and contains application instructions and guidelines.

Application (one signed original) must be received in the Alaska Regional office of the National Marine Fisheries Service listed below by close of business **April 23, 2001**. Applications received after that date will **not** be considered, and will be returned. Facsimile applications will not be accepted.

This information and the full application package may be obtained from the Alaska Region web site:

<http://www.fakr.noaa.gov/omi/grants/sslri/>

Or by contacting:

Peter D. Jones
Program Office
National Marine Fisheries Service, NOAA
709 W. 9th Street (for Fed Ex packages)
P.O. Box 21668 (for mailed packages)
Juneau, Alaska 99802-1668

Telephone: (907) 586-7280

Attachment



manufacturer's review and approval. EES measures environmental performance using the environmental life-cycle assessment approach specified in the ISO 14040 series of standards. All stages in the life of a product are analyzed: raw material acquisition, manufacture, transportation, installation, use, and recycling and waste management. Economic performance is measured using the American Society for Testing and Materials (ASTM) standard life-cycle cost method, which covers the costs of initial investment, replacement, operation, maintenance and repair, and disposal. Environmental and economic performance are combined into an overall performance measure using the ASTM standard for Multi-Attribute Decision Analysis.

II. Method of Collection

Data on materials use, energy consumption, waste, and environmental releases will be collected using an electronic, MS Excel-based questionnaire. An electronic, MS Word-based User Manual accompanies the questionnaire to help in its completion.

III. Data

OMB Number: None.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business.
Estimated Number of Respondents: 90.
Estimated Time Per Response: 62.5 hours.
Estimated Total Annual Burden Hours: 1875 hours.
Estimated Total Annual Cost to the Public: \$ (no capital expenditures required).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection;

they also will become a matter of public record.

Dated: March 15, 2001.
Madeleine Clayton,
Departmental Personnel Clearance Officer,
Office of the Chief Information Officer.
[FR Doc. 01-6948 Filed 3-20-01; 11:45 am]
BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 00-1220361; I.D. 022801A]
0648-ZB03

Steller Sea Lion Research Initiative (SSLRI)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of funds.

SUMMARY: NMFS announces that funding will be made available to assist eligible individuals and entities in carrying out research into the causes for the decline of Steller sea lions in waters off Alaska. NMFS issues this notice describing the conditions under which applications will be accepted and selected for funding. Areas of emphasis for the SSLRI Program were derived from specific legislative directives and supported through recommendations received from non-Federal scientific and technical experts and from NMFS research and operations officials.

DATES: Applications for funding under this program are due 5 p.m. Alaskan standard time on April 23, 2001. Applications received after that time will not be considered for funding. No facsimile or electronic applications will be accepted.

ADDRESSES: Send applications to Peter Jones, SSLRI Program, Program Office, NMFS Alaska Region, PO Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Peter Jones (907) 586-7280 or via email at: peter.d.jones@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Authority

The Secretary of Commerce (Secretary) is authorized under 16 U.S.C. 1380 (d)(1) to undertake a scientific research program to monitor the health and stability of the Bering Sea marine ecosystem and to resolve uncertainties concerning the causes of population declines of marine mammals, sea birds, and other living

resources of that marine ecosystem. In the FY 2001 Consolidated Appropriations Act (Pub. L. 106-554, Miscellaneous Appropriations, Div. A, Chap. 2, Section 209(d)), Congress appropriated \$20 million to the Secretary of Commerce for the development and implementation of a coordinated, comprehensive research and recovery program for the Steller sea lion. The purpose of this announcement is to invite the submission of applications for Federal assistance for research into the possible causes of the Steller sea lion decline in the Bering Sea, Gulf of Alaska, and Aleutian Island areas in accordance with Pub. L. 106-554 and to set forth how applications will be selected for funding.

II. Catalog of Federal Domestic Assistance

This program will be added to the "Catalog of Federal Domestic Assistance" (CFDA) under program number 11.439, Marine Mammal Data Program.

III. Program Description

A. Background

The western population of the Steller sea lion (*Eumetopias jubatus*) is listed as an endangered species under the Endangered Species Act (ESA) (16 U.S.C. 1531 *et seq.*). NMFS, in conjunction with the North Pacific Fishery Management Council, has jurisdiction over Federal fisheries management in the Exclusive Economic Zone off Alaska. NMFS also has stewardship responsibility to ensure the protection and recovery of the Steller sea lion. Several groundfish fisheries are conducted in the Bering Sea/ Aleutian Islands and the Gulf of Alaska regions which overlap the designated critical habitat of the Steller sea lion. NMFS conducted a formal consultation, pursuant to section 7 of the ESA, examining the likelihood that Federal commercial groundfish fisheries in prescribed Federal waters off Alaska may jeopardize the continued existence of the Steller sea lion and adversely modify or destroy designated critical habitat. A Biological Opinion released by NMFS on November 30, 2000 concluded that the fisheries for certain groundfish species jeopardize the continued existence of the western population of Steller sea lions and adversely modifies its critical habitat.

This information is provided to serve as a brief summary of the background of this research initiative, not as a comprehensive account of the circumstances surrounding this program's origins. For additional

information (including the full text of the ESA Section 7 Consultation Biological Opinion and the Recovery Plan for the Steller Sea Lion) please refer to research: <http://www.fakr.noaa.gov/protectedresources/stellers.htm> or contact Dr. Michael Payne, Assistant Regional Administrator, Protected Resources Division, National Marine Fisheries Service, Alaska Region, P.O. Box 21668, Juneau, Alaska, (907) 586-7236, Michael.Payne@noaa.gov.

Note: The applicant is responsible for obtaining all Federal, state, and local government permits and approvals for projects or activities to be funded under this announcement. This includes, as applicable, certification under state Coastal Zone Management Plans, section 404 or section 10 permits issued by the Corps of Engineers; experimental fishing or other permits under FMPs; scientific permits under ESA and/or the Marine Mammal Protection Act; and assistance to the Federal government in developing environmental impact statements to meet the requirements of the National Environmental Policy Act.

B. Objectives

The primary objective of the Steller Sea Lion Research Initiative is to provide support to non-Federal entities and individuals for research into the cause of the decline of the Steller sea lion and to develop conservation and protective measures to ensure recovery of the species. A secondary objective is that research products contribute immediate, short-term information relevant to adaptive fishery management strategies in the BS/AI and GOA groundfish fisheries. This does not preclude long-term research efforts that demonstrate a likelihood of (1) improving the understanding of the causes for decline, (2) advancing the ecosystem based knowledge of the species, or (3) improving technologies that would enhance research opportunities.

In an effort to develop a framework to organize the research commitments of various entities in the 2001 research season, the National Marine Fisheries Service has consulted with the National Ocean Service, the Office of Oceanic and Atmospheric Research, the Alaska SeaLife Center, the North Pacific Universities Marine Mammal Research Consortium, the North Pacific Fishery Management Council, the University of Alaska, and the State of Alaska regarding developing research areas. After careful consideration of the recommendations offered by each entity, it is the National Marine Fisheries Service position that the following set of six primary research

areas best synthesize the hypothesis-driven research direction for the SSLRI program.

The hypothesis-driven model categorize research topics into the following six areas:

- (1) Fisheries Competition Hypothesis;
- (2) Environmental Change Hypothesis;
- (3) Predation Hypothesis;
- (4) Anthropogenic Effects Hypothesis;
- (5) Disease Hypothesis; and
- (6) Pollution Hypothesis.

These categories do not represent the Research Priority Areas of this solicitation notice, but they are discussed here because they relate to the funding priorities listed below and because they may be used by NMFS to integrate and coordinate SSLRI research activities approved through this notice. For more information on this, or a copy of the 2001 research matrix developed during the January 24-25, 2001, Steller Sea Lion Research Meeting, please contact Dr. Michael Payne, Assistant Regional Administrator, Protected Resources Division, National Marine Fisheries Service, Alaska Region, P.O. Box 21668, Juneau, Alaska, (907) 586-7236, Michael.Payne@noaa.gov

IV. Funding Availability

This solicitation announces that approximately \$15 million is available in fiscal year (FY) 2001. There is no guarantee that sufficient funds will be available to make awards for all acceptable projects. Publication of this notice does not obligate NMFS to award any specific project or to obligate any available funds.

V. Matching Requirements

Applications must reflect the total budget necessary to accomplish the project, including contributions and/or donations. Cost-sharing is not required for the SSLRI program. If an applicant chooses to cost-share and if that application is selected for funding, the applicant will be bound by the percentage of the cost share reflected in the grant award.

VI. Type of Funding Instrument

The selection of a Funding Instrument (either grant or cooperative agreement) will be determined by the NOAA Grants Office in consultation with the NMFS/AKR Program Office. If the proposed research entails substantial involvement between the applicant and the NMFS, a cooperative agreement will be utilized. Under this agreement, the NMFS Alaska Program Office and Science Center will have substantial interactions with the applicant in planning and executing this

project. This involvement may include the following:

1. Assisting in developing the research direction;
2. Providing access to data and resources;
3. Facilitating partnering with appropriate organizations;
4. Defining measures for evaluation of project performance; and
5. Providing direct involvement in helping to understand, define, and resolve problems in the project's operations.

VII. Duration of Funding and Award Period

Proposals will be accepted with a performance period ranging from 1 to 3 years. Proposed research activities must demonstrate the ability to achieve an outcome and product within the requested award period. An application accepted for funding does not obligate NMFS to provide additional future funding. The award period will depend upon the duration of funding requested by the applicant in the Application for Federal Assistance, the decision of the NMFS' selecting official on the amount of funding, the results of post-selection negotiations between the applicant and NOAA officials, and review of the application by NOAA and DOC officials.

VIII. Eligibility Criteria

A. Eligible applicants are institutions of higher education, hospitals, other non-profits, commercial organizations, state, local, or Indian tribal governments, and individuals.

B. Federal agencies, Federal instrumentalities, including Regional Fishery Management Councils and their employees, Federal employees, including NOAA employees (full-time, part-time, and intermittent personnel or their immediate families), and NOAA offices or centers are not eligible to submit an application under this solicitation or to aid in the preparation of an application during the 30-day solicitation period, except to provide information about the SSLRI program and the priorities and procedures included in this solicitation. However, NOAA employees are permitted to provide information about ongoing and planned NOAA programs and activities that may affect an application. Potential applicants are encouraged to contact Peter Jones at the NMFS Alaska Region Program Office (see ADDRESSES) for information on NOAA programs.

IX. Indirect Costs

The Project Budget form may include an amount for indirect costs if the applicant has an established indirect

cost rate with the Federal government. The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award, or 100 percent of the total proposed direct cost's dollar amount in the application, whichever is less. If applicable, a copy of the current, approved, negotiated indirect cost agreement with the Federal government must be included in the application.

X. Application Forms

Before submitting an application under the SSLRI Program, it is recommended that applicants contact the NMFS Alaska Region Office for a copy of this solicitation's Application Package (see ADDRESSES). The Application Package consists of the standard National Oceanic and Atmospheric Administration's forms, instructions, and guidelines (OMB Control Numbers: 0348-0043, 0348-0044, 0348-0046).

XI. Project Funding Priorities

Funding for a Steller Sea Lion Research Initiative was made available through an FY 2001 Federal appropriations which states:

\$20,000,000 is hereby appropriated to the Secretary of Commerce to remain available until expended to develop and implement a coordinated, comprehensive research and recovery program for the Steller sea lion, which shall be designated to study—(1) available prey species; (2) predator/prey relationships; (3) predation by other marine mammals; (4) interactions between fisheries and Steller sea lions, including localized depletion theory; (5) regime shift, climate change, and other impacts associated with changing environmental conditions in the North Pacific and Bering Sea; (6) disease; (7) juvenile and pup survival rates; (8) population counts; (9) nutritional stress; (10) foreign commercial harvest of sea lions outside the exclusive economic zone; (11) the residual impacts of former government-authorized Steller sea lion eradication bounty programs; and (12) the residual impacts of intentional lethal takes of Steller sea lions. Within available funds the Secretary shall implement on a pilot basis innovative non-lethal measures to protect Steller sea lions from marine mammal predators including killer whales.

For the purpose of this solicitation, funding priorities are:

1. Available prey species;
2. Predator/prey relationships;
3. Predation by other marine mammals;
4. Interactions between fisheries and Steller sea lions, including localized depletion theory;
5. Regime shift, climate change, and other impacts associated with changing

environmental conditions in the North Pacific and Bering Sea;

6. Disease;
7. Juvenile and pup survival rates;
8. Population counts;
9. Nutritional stress;
10. Foreign commercial harvest of sea lions outside the exclusive economic zone;
11. The residual impacts of former government-authorized Steller sea lion eradication bounty programs;
12. The residual impacts of intentional lethal takes of Steller sea lions; and
13. Feasibility study examining the development of innovative non-lethal measures to protect Steller sea lions from marine mammal predations including killer whales.

Examples of viable research topics that are subsets of the funding priorities include:

1. Field studies to assess the Steller sea lion "prey field" in known local areas;
2. Research to improve the measurement of the numbers of Steller sea lions;
3. The development of a probabilistic assessment of the simultaneous pursuit of prey by juvenile Steller sea lions and the fisheries;
4. The development of a population-dynamics model for the western stock of Steller sea lions;
5. Studies to estimate killer whale and shark predation of Steller sea lions, including population abundance studies of transient killer whales;
6. Studies to investigate the effects of environmental degradation, toxic substances, and/or other factors that may impair Steller sea lion endocrine, reproductive, and/or immune system functions;
7. Studies to investigate the effects of diet on Steller sea lion fitness and survival;
8. Studies examining the nutritional limitation of juvenile Steller sea lions, including comparative studies between juveniles in the eastern and western population;
9. Studies to determine current Steller sea lion food habitats, including seasonal changes in prey composition and prey size;
10. Studies to determine the ecological attributes that define spatial extent of sea lion critical habitat;
11. Research into current demographic rates, including age-specific survival and reproduction, juvenile recruitment, and body size;
12. Investigations into population subdivision and movement patterns based on molecular genetic techniques;

13. Research examining pregnant females supporting pups during winter season;

14. Development of new technologies to remotely monitor (across seasons) body condition, mortality, and patterns of spatially explicit foraging effort;

15. Studies to determine the utility of fatty acid signature analyses in quantifying seasonal food habits and the timing of weaning;

16. Analysis of historical satellite tag data to examine foraging depth and distance from rookeries;

17. Studies examining effect on the abundance, distribution, and composition of Steller sea lion prey at spatial and temporal scales pertinent to foraging sea lions;

18. Studies to determine the efficacy of fishery exclusion zones to improve Steller sea lion survival and reproductive rates;

19. Studies directed at determining if commercial fishing activities result in localized depletion of Steller sea lion prey on a scale important to foraging sea lions;

20. Studies that examine potential interactions between Steller sea lions and fisheries managed by the State of Alaska; and

21. Studies that investigate alternative hypotheses regarding historical and recent Steller sea lion population trends.

XII. Evaluation Criteria

A. Evaluation of Proposed Projects

1. *Initial Screening of Applications:* Upon receipt the NMFS Program Office will screen applications for conformance with requirements set forth in this notice. Applications which do not conform to the requirements may not be considered for further evaluation.

2. *Consultation with Interested Parties:* As appropriate, NMFS will consult with NMFS Offices, the NOAA Grants Management Division, Department of Commerce, and other Federal and state agencies, the North Pacific Fishery Management Council, and other interested parties who may be affected by or have knowledge of a specific proposal or its subject matter.

3. *Technical Evaluation:* NMFS will solicit individual technical evaluations of each project application from three or more NMFS scientists. The Technical Evaluation Team will be convened at the NMFS Alaska Region Office no later than one week from the closing date of application period. These reviewers will independently assign scores to applications based on the following evaluation criteria, with weights shown in parentheses:

a. *Soundness of Project Design/Conceptual Approach.* Applications will be evaluated on the applicant's comprehension of the problem(s); the overall concept proposed for resolution; whether the applicant provided sufficient information to evaluate the project technically; and, if so, the strengths and/or weaknesses of the technical design relative to securing productive results. (50 percent)

b. *Project Management and Experience and Qualifications of Personnel.* The organization and management of the project, and the project's principal investigator and other personnel in terms of related experience and qualifications will be evaluated. Those projects that do not identify the principal investigator with his or her qualifications will receive a lower point score. (25 percent)

c. *Project Evaluation.* The effectiveness of the applicant's proposed methods to evaluate the project in terms of meeting its original objectives will be evaluated. (10 percent)

d. *Project Costs.* The justification and allocation of the budget in terms of the work to be performed will be evaluated. Unreasonably high or low project costs will be taken into account. (15 percent)

4. In addition to the above criteria, in reviewing applications that include consultants and contracts, NMFS will make a determination regarding the following:

a. Is the involvement of the primary applicant necessary to the conduct of the project and the accomplishment of its objectives?

b. Is the proposed allocation of the primary applicant's time reasonable and commensurate with the applicant's involvement in the project?

c. Are the proposed costs for the primary applicant's involvement in the project reasonable and commensurate with the benefits to be derived from the applicant's participation?

B. *Constituency Panel Review*

1. The Program Office will compile technical reviews and scores and present these to a second tier review referred to as the Constituency Panel.

2. In the event that the total amount of requested funding for all eligible applications is less than available funds, the Regional Administrator, Alaska Region in consultation with the Assistant Administrator for Fisheries, may elect to forgo the second tier review and proceed to negotiations with the applicants.

3. The Program Office will convene the Constituency Panel no later than one week following the conclusion of the Technical Evaluations. The

Constituency Panel will comprise no fewer than three representatives to be recommended by the North Pacific Fishery Management Council and selected by the Regional Administrator, Alaska Region. Consistent with laws and regulations governing conflict of interest, composition of the constituency panel will consist of at least one representative from the Alaska fishing industry and one representative from an Alaska coastal community. At the discretion of the NMFS Program Office, the Constituency Panel may be separated into single or multiple priority areas for the purpose of expediting review and ensuring necessary subject expertise. After panel discussion of the overall proposal merits, the Constituency Panel members will individually rank the projects. The Constituency Panel is not tasked with reaching consensus on individual project merit. Considered in the rankings, along with the technical evaluation, will be (1) the significance of the proposed research as it will contribute to an understanding of the cause of the decline of Steller sea lion in their western range and (2) the ability of the proposed research to make an immediate or near-term contribution to the understanding of the relationship between the Steller sea lion and fisheries of the North Pacific. Each panelist will rank each project (on a scale of 1 being the lowest to 5 being the highest) in terms of importance or need for funding and provide recommendations on (1) the level of funding and (2) the merits of funding for each project.

XIII. *Selection Procedures*

After projects have been evaluated and ranked, the NMFS Program Office will develop recommendations for project funding. After projects have been evaluated and ranked, the recommendations will be submitted to the Regional Administrator, Alaska Region, who will, in consultation with the Assistant Administrator for Fisheries, determine the projects to be funded, ensuring that there is no duplication with other projects funded by NOAA or other Federal organizations and that the projects selected for funding are those that best meet the objectives of the Steller Sea Lion Research Initiative.

The exact amount of funds awarded to a project will be determined in pre-award negotiations among the applicant, NMFS Program Office, and NOAA Grants Office. Projects should not be initiated in expectation of Federal funding until a notice of award document is received. Although

considerable effort will be made to expedite the review, selection, negotiation, and approval process in order to meet the 2001 research season, applicants are to be advised that, following the project selection, there is an additional review process by NOAA Grants Management Division that can extend beyond 60 days. It is recommended that applicants not request a project start date before June 1, 2001.

XIV. *Other Requirements*

A. *Federal policies and procedures.* Recipients and subrecipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal financial assistance awards. Women and minority individuals and groups are encouraged to submit applications under this program.

Department of Commerce National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities (HBCU), Hispanic Serving Institutions (HSI), and Tribal Colleges and Universities (TCU) in its educational and research programs. The DOC/NOAA vision, mission, and goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in and benefit from Federal Financial Assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

B. *Past performance.* Any first-time applicant for Federal grant funds is subject to a pre-award accounting survey prior to execution of the award. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

C. *Pre-award activities.* If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that they may have received, there is no obligation on the part of DOC to cover pre-award costs.

D. *No obligation of future funding.* If an application is selected for funding, DOC has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of

performance is at the total discretion of DOC.

E. Delinquent Federal debt. No Federal funds will be awarded to an applicant or to its subrecipients who have any outstanding debt or fine until either:

1. The delinquent account is paid in full;
2. A negotiated repayment schedule is established and at least one payment is received; or
3. Other arrangements satisfactory to DOC are made.

F. Name check review. All non-profit and for-profit applicants are subject to a name-check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of, or are presently facing, such criminal charges as fraud, theft, perjury, or other matters that significantly reflect on the applicant's management honesty or financial integrity. Potential non-profit and for-profit recipients may also be subject to reviews of Dun and Bradstreet data or of other similar credit checks.

G. Primary applicant certifications. All primary applicants must submit a completed Form CD-511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

1. Nonprocurement debarment and suspension. Prospective participants (as defined at 15 CFR 26.105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and to the related section of the certification form prescribed here;

2. Drug-free workplace. Grantees (as defined at 15 CFR 26.605) are subject to 15 CFR part 26, subpart F, "Government wide Requirements for Drug-Free Workplace (Grants)" and to the related section of the certification form prescribed here;

3. Anti-lobbying. Persons (as defined at 15 CFR 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions." The lobbying section of the CD-511 applies to applications/bids for grants, cooperative agreements, contracts for more than \$100,000, and to loans and loan guarantees for more than \$150,000.

4. Anti-lobbying disclosures. Any applicant who has paid or will pay for lobbying using any funds must submit a Form SL-LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

H. Lower tier certifications. Recipients shall require applicants/bidders for

subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD-512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form SF-LLL, "Disclosure of Lobbying Activities." Form CD-512 is intended for the use of recipients and should not be transmitted to DOC. A form SF-LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

I. False statements. A false statement on the application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

J. Intergovernmental review. Applications under this program are subject to the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs."

K. American-made equipment and products. Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program.

Classification

Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits, and contracts.

Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act.

This action has been determined to be not significant for purposes of Executive Order 12866.

Applications under this program are subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

Federal participation under the SSLRI Program may include the assignment of DOC scientific personnel and equipment.

This notice contains information collection requirements which are subject to the Paperwork Reduction Act. The use of Standard Form 424, 424A, and SF-LLL have been approved by OMB under the respective control numbers 0348-0043, 0348-0044, and 0348-0046. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act unless

that collection of information displays a currently valid OMB control number.

Authority: Pub. L. 106-554, 16 U.S.C. 1380.

Dated: March 14, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

[FR Doc. 01-7022 Filed 3-20-01; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031401A]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Research Steering Committee in April, 2001. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on Thursday, April 5, 2001, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Sheraton Colonial, One Audubon Road, Wakefield, MA 01880; telephone: (781) 245-9300.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465-0491.

SUPPLEMENTARY INFORMATION: The agenda will include discussion and development of a coordination mechanism between the Council's Research Steering Committee and the industry-based survey (and related projects), cod tagging and bycatch/discard/conservation engineering program currently in the planning stages. The committee also will discuss planning for future regional research needs, including funding requirements.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the

**NOAA GRANTS/COOPERATIVE AGREEMENT APPLICATION CHECKLIST FOR
APPLICATIONS SUBMITTED UNDER THE STELLER SEA LION RESEARCH
INITIATIVE**

The following forms are required from the recipient when submitting an application to the Alaska Region Program Office under the Steller Sea Lion Research Initiative (SSLRI). All forms may be found on the NMFS Alaska Region home page at: <http://www.fakr.noaa.gov/omi/grants/sslri/>

The application package should include:

___ SSLRI Summary Page

___ SF-424, Application for Federal Assistance

___ SF-424A, Budget Information - Non-Construction Programs

___ SF-424B, Assurances

___ CD-511, Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug Free Workplace Requirements

___ CD-512, (This Form Should Remain With Recipient)

___ SF-LLL, Should Only Be Provided If the Recipient is Reporting **Actual Lobbying** Activity

___ Applicants Proposed Statement of Work and Detailed Budget Narrative

___ Curriculum Vitae for Each Principal Investigator

___ Copy of Recipient's Current Indirect Cost Rate Agreement (If one exists)

To Be Completed By Applicant

STELLER SEA LION RESEARCH INITIATIVE SUMMARY PAGE

Project Title:

Project Period: From Date: _____ to _____

Name, Address, and Telephone Number of Applicant:

Principal Investigator(s) and Brief Statement of Qualifications:

Specify Priority(ies) in Solicitation to Which Project Responds:

Summary of Work: (Identify any proposed cooperative activities between the applicant and NMFS, if any)

Project Funding:
Amount of Federal Funding Applied for: \$ _____

For NMFS Use Only

Date Received:

Ecosystem Effects of Fishing: Phase 1 - Effects of Bottom Trawling on Seafloor Habitats

CONTEXT

Policy Context:

As fishing effort has increased dramatically worldwide over the past few decades, the effects of fishing on habitats has become a major concern. The regional fishery management councils that manage most marine fisheries in the United States were given new responsibilities in relation to "essential fish habitat" by the 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act. The amended act requires the councils to "describe and identify essential fish habitat" for each fish stock managed under a fishery management plan, "minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat." Essential fish habitat plans were developed by most councils. Many were approved by the National Marine Fisheries Service (NMFS), although conservation groups have mounted legal challenges regarding the adequacy of some of the plans.

Fishing has a variety of effects on marine habitats and ecosystems, depending on the type of gear used, and the spatial and temporal extent of fishing. NMFS is interested in having the NRC conduct a series of stand-alone, but related, studies that would document what is known about, and additional information that is needed to manage, the effects of various fishing practices. The issue that has been most contentious in recent years is the effect of bottom trawling on seafloor habitats and this topic will be the focus of the first study in the series (see below). Other studies (pending availability of funding from NMFS) may examine the effects of other fixed gear (e.g., traps, pots, longlines), effects of various fishing methods based on fixed nets and seines, and the impacts of bycatch of non-target organisms.

The most obvious and long-lasting disruptions of fish habitats from fishing activities occur at the seafloor, affecting species that live on or in the seafloor for part or all of their lives. Impacts from fixed gear (e.g., pots and traps, bottom longlines) are relatively unstudied, but are probably less extensive than the impacts of mobile gear (i.e., bottom trawls). A great deal of controversy exists about the degree of alteration that bottom trawling causes to seafloor habitats and the organisms that depend on such habitats. At present, there is little synthesis of information about the quantitative relationships among fishing intensity and frequency, fishing gear and techniques used, bottom type and changes in seafloor structure, and productivity, abundance, and diversity of commercial species and other organisms. Information on alteration of marine habitats and benthic communities from bottom trawling and recovery after cessation of trawling is either unknown or not presented in a manner useful for management. Thus, the regional fishery management councils and NMFS are in a position of managing most fisheries in the absence of a scientific consensus on the effects of bottom trawling and other fishing methods on habitats.

Technical Context:

In some marine habitats, bottom trawling may remove or rearrange three-dimensional structure on the seafloor, such as hard and soft corals, sponges, tube worms, plants and seaweed, and rocks. Such structure is thought to serve as nursery areas for juvenile fish and shellfish and habitat for adults, providing hiding places and food. Homogenization of bottom habitats (decreasing bottom roughness) can reduce the diversity of potential food sources and shelter. Bottom trawling can also re-suspend sediments and nutrients, making the water more turbid, and possibly causing undesirable blooms of phytoplankton and affecting the habitat of species living higher in the water column. Disruption of seafloor habitats may affect pelagic and midwater species by changing the species composition of marine areas far from the seafloor as a result of cascades through food webs.

Habitat disruption often occurs against a broader background of overfishing, pollution, and climate and oceanographic variability, making it difficult to detect the specific effects of habitat degradation on fisheries productivity and ecosystem diversity. Scientists have attempted to overcome this problem by doing experimental trawling so that other variables are constant for trawled and untrawled areas.

PLAN OF ACTION

Statement of Task:

This study will be the first in a series that will evaluate available data related to the physical and biological effects of fishing on marine habitats and ecosystems. This first study will (1) summarize and evaluate existing knowledge on the effects of bottom trawling on the structure of seafloor habitats and the abundance, productivity, and diversity of bottom-dwelling species in relation to gear type and trawling method, frequency of trawling, bottom type, species, and other important characteristics; (2) summarize and evaluate knowledge about changes in seafloor habitats with trawling and cessation of trawling; (3) summarize and evaluate research on the indirect effects of bottom trawling on non-seafloor species; (4) recommend how existing information could be used more effectively in managing trawl fisheries; and (5) recommend research needed to improve understanding of the effects of bottom trawling on seafloor habitats.

Preliminary Work Plan:

The committee will conduct its work over a period of 12 months, during which it will meet four times. The committee will seek input from a broad spectrum of scientists, fishermen, and representatives of environmental groups. It will meet in areas where bottom trawl fishing is prevalent, including the New England, Gulf of Mexico, and North Pacific regions.

Committee Biographies

John Steele (Chair) has worked as a Senior Scientist at the Woods Hole Oceanographic Institution since 1977 (Director 1977-89). Dr. Steele earned his D.Sc. in biology in 1964 from University College, London. His research focuses on marine ecosystem dynamics. He is a

former member of the Ocean Studies Board. He received the Alexander Agassiz Medal of the NAS in 1973 and is a Fellow of the Royal Society.

Dayton Lee Alverson worked for the Washington Department of Fisheries, BCF, and NMFS during his career as a fisheries research scientist. Following his retirement from government, he formed Natural Resources Consultants and served as its President and Chairman of the Board. He has recently stepped down from the Chairman of the Board position and currently serves the company as Senior Scientist. Dr. Alverson earned his Ph.D. in fisheries and oceanographic science in 1967. His research has focused on resource surveys and assessment, fish behavior, status of marine stocks, bycatch, natural resource policy and fishing gear technology.

Peter Auster has worked as Science Director at the University of Connecticut, Avery Point Campus since 1992. Dr. Auster earned his M.S. in biological oceanography in 1985 from the University of Connecticut and a Ph.D. in zoology from the National University of Ireland in Galway in 2000. His research focuses on impacts of fishing gear on the environment; role of habitat on the distribution and abundance of mobile fauna; linkages between habitat level processes and population-community dynamics; and the scientific basis for marine protected areas. He is a fellow of the Pew Foundation Program in Marine Conservation and Fishery Management.

Jeremy Collie has been an Associate Professor of Oceanography at the University of Rhode Island since 1993. Dr. Collie earned his Ph.D. in biological oceanography in 1985 from the MIT and Woods Hole Oceanographic Institution joint program. His research focuses on impacts of disturbance on benthic communities; quantitative ecology with emphasis on population dynamics and production of marine mammals; fish population dynamics and management; and predator-prey interactions.

Joseph T. DeAlteris has been a Professor at the University of Rhode Island since 1995. Dr. DeAlteris earned his Ph.D. in 1986 from the Virginia Institute of Marine Science, with a specialization in physical processes. His recent research has focused on aquatic resource harvesting technologies and their impact on the ecosystem, in particular the reduction of bycatch through development of size and species specific fishing gear, and the quantitative evaluation of effects of fishing gear on fish stocks, habitat, and manmade structures placed on and under the seabed.

Linda Deegan has worked as an Associate Scientist at the Marine Biological Laboratory in Woods Hole since 1989. Dr. Deegan earned her Ph.D. in marine sciences in 1985 from the Louisiana State University. Her research focuses on the relationship between ecosystem dynamics and animal populations, effects of habitat degradation on fish community structure, and the importance of fish in exporting nutrients and carbon from estuaries.

Elva Escobar-Briones has worked at the Instituto de Ciencias del Mar y Limnología at the Universidad Nacional Autónoma de México since 1989. Dr. Escobar-Briones earned her Ph.D. in biological oceanography in 1987 from the Universidad Nacional Autónoma de México. Her research focuses on benthic community structure and function. She served as a committee

member of the Ocean Studies Board's Academia Mexicana de Ciencias/National Research Council joint working group on ocean sciences. She has served as head of the Department in Coastal and Ocean Sciences since 1999.

Stephen Hall was Professor of Marine Biology at Flinders University of South Australia before a recent appointment as Director of the Australian Institute of Marine Science. He has published extensively on the structure and functioning of marine ecological systems, focussing especially on the effects of natural and human disturbance. This work has recently culminated in a book on the global effects of fishing on marine communities and ecosystems. Professor Hall has served on numerous national and international committees and is a past chairman of the International Council for the Exploration of the Seas (ICES) Working Group on the Ecosystem Effects of Fishing Activities – a group which provides advice to ICES and the European Commission on fishing effects and other aspects of coastal zone management. He is also a recent recipient of a Pew Fellowship in Marine Conservation.

Gordon Kruse has worked as a Marine Fisheries Scientist at the Alaska Department of Fish and Game since 1989. Dr. Kruse earned his Ph.D. in fisheries science in 1983 from Oregon State University. In his capacity at ADF&G, he leads the state's marine fishery research program which includes shellfish, groundfish, and herring. His research focuses on applied marine fisheries research including population estimation models; stock production parameters; population dynamics; alternative management strategies; fishery oceanography; and ecosystem dynamics. He is currently an affiliate Professor of Fisheries with the School of Fisheries and Ocean Sciences, University of Alaska Fairbanks. Dr. Kruse is a member of the Scallop Plan Team for the North Pacific Fishery Management Council, as well as a State of Alaska Representative to their Ecosystem Committee, and a U.S. Delegate to the Fishery Science Committee of the North Pacific Marine Science Organization (PICES).

Carrie Pomeroy has been an Assistant Research Scientist at the University of California, Santa Cruz since 1995. Dr. Pomeroy earned her Ph.D. in Wildlife and Fisheries Science (with an emphasis in sociology) in 1993 from Texas A&M University, and her M.A. in Marine Affairs and Policy from the University of Miami Rosenstiel School in 1989. Her research focuses on the social, cultural and economic aspects of fisheries and their management; the human dimensions of marine protected areas; and the role of resource users and local knowledge in resource management. She also serves on the Research Activity Panel for the Monterey Bay National Marine Sanctuary.

Kathryn M. Scanlon is a Geologist with the U.S. Geological Survey's Coastal and Marine Geology Program. Ms. Scanlon earned her B.S. in geology in 1976 from Cornell University and her M.S. in geology in 1979 from the State University of New York at Albany. Her research focuses on mapping surficial seafloor geology, interpreting the geologic history of marine environments, and understanding inter-relationships between biological communities and geologic processes in benthic marine habitats.

Priscilla Weeks has worked as a Research Associate at the Environmental Institute of Houston, University of Houston, Clear Lake since 1993. Dr. Weeks earned her Ph.D. in anthropology in

1988 from the Rice University. Her research focuses on cultural anthropology; social aspects of natural resource management and environmental regulations, social aspects of natural resource management and rural development, and cross-cultural scientific collaboration. She is also a member of the socio-economic panel that provides advice to the Gulf of Mexico Fishery Management Council.

Synopsis of Magnuson-Stevens Act Reauthorization/Oversight Hearings 1999-2000

MSY/OY:

1. MSY is not a workable concept. MSY should be goal, not strict standard. Use an average MSY for aggregate species, rather than attempting to keep all species at high abundance despite varying environmental conditions. MSY is single-species approach, when multispecies approach is needed.
2. MSY is an effective concept and should be strictly applied to the fisheries.
3. Flexibility is needed in setting OY; a better definition of OY is needed.

Overfishing Definitions:

1. Overfishing definitions are too restrictive and rebuilding guidelines are unrealistic and impracticable. There should be more flexibility in setting rebuilding schedules so whole fisheries are not shut down. Need to be able to extend rebuilding times past 10 years if justified by social-economic impacts. Not all stocks in low abundance are overfished, but that is what the guidelines lead you to conclude.
2. Congress needs to give NMFS guidance on priority of national standards. NMFS always takes the position that conservation overrides other national standards. Need national standard oversight panel.
3. The overfishing definitions need to be strengthened and applied more diligently by the councils, especially the minimum stock size threshold component. Need to prohibit overfishing of any stock in a mixed stock fishery.
4. **Chairmen:** Need greater latitude in specifying rebuilding periods and social and economic factors have to be given greater emphasis. Also, there are problems with MSY-related definitions of overfishing that need to be resolved.

TACs and Closures:

1. Need to require the setting of hard TACs and closures to ensure conservation of the stocks.
2. Do not impose harvest quotas without hard data. Do not use quotas in recreational fisheries.
3. Compensate fishermen if there are going to be closures.

Improved Science:

1. Need to improve best available science and better define exactly what it is. It should be a guideline rather than a rigid principle. Lack of good data on stock assessments leads to use of more precautionary management and more restrictions on the fisheries.
2. Need a cooperative industry-agency science program. Industry needs to be more involved in setting research priorities. Private sector vessels should be used in stock assessment research. Need more research and surveys. Include stakeholders in research planning. Support collaborative research.
3. There should be greater cooperation and coordination between Canadian and U.S. scientists and managers in managing shared-stock fisheries.
4. Need an arbitration mechanism for resolving problems with NMFS over stock assessments and setting of quotas. NMFS must then implement results of arbitration.
5. Obtain fishery-independent data.
6. Listen to fishermen more on status of stocks.
7. Leave science centers under NOAA, but move NMFS to Agriculture.

Ecosystems/Precautionary Management:

1. Need ecosystem approach rather than using MSY single species management.
2. Incorporate concept of carrying capacity in the Act.
3. Require development and implementation of fisheries ecosystems plans.
4. Mandate the use of a precautionary approach.
5. Limit the use of the precautionary approach.

Social and Economic Data:

1. **Chairmen and NMFS:** Delete prohibition on collecting economic data from processors and improve data collection.
2. Need more studies of social and economic impacts of management measures.
3. Use fishermen's knowledge more.
4. Need to amend Act to require collection of accurate, comprehensive harvesting employment data. Harvesters are considered self-employed and therefore do not count in quarterly surveys of employers performed by the U.S Bureau of Labor Statistics and all States.

Confidentiality of Information:

1. **Chairmen:** Clarify in Section 402 that proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations cannot be disclosed. Includes prohibition on release of observer data from North Pacific Council program.

Observer Programs:

1. National observer program is needed with fees to support it. If language is placed in the Act concerning a national program, it needs to leave each Council as much flexibility as possible in designing their own programs.
2. Need liability insurance against law suits filed by observers.

Fees, Rents and Loans:

1. Need to collect rents from fisheries. Need fees to support observer programs.
2. Need loan program for purchase of safety equipment.
3. **Chairmen:** Need discretionary authority for fees to support observer programs, but oppose imposition of fees that are not regional in nature and dedicated to the councils. Also concerned about the ability of depressed fleets to pay fees.

Essential Fish Habitat:

1. Enhance protection of EFH and implement measures to minimize fishing impacts.
2. Focus the definition of EFH because it is too broad and thus meaningless.
3. Do not apply EFH standards so stringently to non-fishery users such as oil and gas industry because they have to meet the requirements of many other review processes.
4. **Chairmen and NMFS:** Give NMFS and Councils ability to regulate non-fishing vessel activities that affect EFH, particularly coral reefs.
5. **Chairmen:** Either modify the EFH definition to focus it, or give more specific guidance on how to use different types of data.
6. Need marine reserves. Use marine reserves to keep out commercial fisheries, but allow recreational access. Marine reserves will be complicated by a complex array of overlapping jurisdictions.
7. Need to be careful in implementing EFH requirements in state waters.

Bycatch Reduction:

1. Need more measures to reduce bycatch and to monitor and report it.
2. Bycatch reduction devices are necessary in shrimp fishery to reduce bycatch of juvenile red snapper.
3. Bycatch reduction devices should not be imposed on the shrimp fishery.
4. **Chairmen:** Highly migratory species in the Pacific, managed under a Western Pacific Council fishery management plan and tagged and released alive under a scientific or recreational fishery tag and release program, should not be considered bycatch. Turtles should be retained in the definition of "fish" because they are very important in every region and especially in past and possibly future fisheries pursued by indigenous peoples of the Western Pacific Region.

IFQ Moratorium:

1. Continue IFQ moratorium. Need to resolve many issues before letting the moratorium expire.
2. Remove the moratorium on IFQs. Needed as management tool to alleviate overcapacity.
3. **Chairmen:** Rescind the IFQ moratorium. Support allowing councils maximum flexibility in designing IFQ systems and setting the fees charged for initial allocations, first sale and leasing of IFQs.

Council Operations and Composition:

1. **Chairmen:** Remove ability of regional administrators to vote on emergency rules.
2. Give advisory committee chair a vote on the Council.
3. Elect Council members, rather than appoint them.
4. Need to review and strengthen qualifying criteria for Council membership and conflict of interest and recusal requirements.
5. Need to be more flexible in recusal requirements so industry members have more opportunity to vote.
6. Need new representatives on Council: conservationists; lobsterman; designee for tribal seat on PFMC; more commercial fishermen.
7. New amendments should be implemented immediately after approval so that there is no lag and the industry has a better understanding of the regulations.
8. **NMFS:** Allow councils to use any means to notify public about meetings.
9. **NMFS:** Include "commonwealths, territories, and possessions of the U.S. in description of Caribbean Council's authority.
10. **Chairmen and NMFS:** Allow concurrent approval of plans and amendments as well as regulations, and provide for initial 15-day disapproval process.
11. **Chairmen:** Allow councils to resubmit responsive measures without having to submit a complete FMP or amendment as now required by subsection (4) of Section 304(a). Include mandate in Act to require NMFS consult with the councils before disapproving fishery management plans, amendments, or changes made through the abbreviated rule-making process.
12. **Chairmen:** Amend Act to specify that Council member pay be based on the General Schedule that includes locality pay.
13. **Chairmen:** Give councils authority to receive funds or support from other local, state and federal government agencies and non-profit organizations.
14. **Chairmen:** Add additional At-Large seat to the Mid-Atlantic Council with funding identified.

Alternative Management Mechanisms:

1. Explore more local approach to management. Use regional fishery plans with local management.
2. Allow for planning and implementation of innovative fishery management experiments.

Capacity Reduction:

1. Make it legal for New England and Mid-Atlantic councils to develop capacity plans for all species north of Cape Hatteras.
2. Need buyout of capacity for red snapper commercial fishery.
3. Allow community development foundations to purchase, hold and manage quota shares.
4. Participation in buyback programs should be voluntary.
5. Add Kodiak to American Fisheries Act.

(Compiled 4/26/00 by Clarence Pautzke, NPFMC)

**Magnuson-Stevens Fishery Conservation and Management Act
Reauthorization Issues - Council Chairmen's Recommendations**

Presented by

**James H. Gilford, Ph.D., Mid-Atlantic Fishery Management Council
To the Committee on Resources
House Subcommittee on Fisheries Conservation, Wildlife and Oceans
Wednesday, April 4, 2001**

On behalf of the other seven Council chairmen and myself, I thank the members of the Subcommittee for the opportunity to present our views. First let me say the Council chairmen believe the Magnuson-Stevens Act as amended in 1996 is fundamentally a good piece of legislation and it is working. Many of our most important fisheries are recovering and we are seeing significant improvements in a majority of the overfished stocks under management. During the past year winter flounder, white hake, American plaice, yellowtail flounder were some of the species removed from NMFS' list of overfished fisheries. Loligo squid, summer flounder and scup should likewise be removed from that list by the end of this year. The changes I am suggesting today are not substantial, but they will serve to enhance and improve the Act. The numbered points I make in this presentation concern only the reauthorization issues on which the Council chairmen reached consensus. The positions I will cover were developed in June 1999 and have been modified slightly since they were first presented to the Committee on Resources in July of 1999 by Joseph Brancalone, then Chairman of the New England Fishery Management Council. These items are sequenced consistent with the Magnuson-Stevens Act's table of contents, and although numbered they do not reflect any prioritization convention. I will be glad to answer questions on any of the issues I am bringing before you on behalf of the Councils, or on issues of specific concern to the Mid-Atlantic Council.

1. Section 3(29) and Section 304(e) ... Redefine Overfishing

The chairmen believe there are a number of problems related to MSY-based definitions of overfishing. For example, data deficiencies may lead to inappropriate calculations of MSY, which in turn skew overfishing definitions. Ultimately, this could lead to unnecessary social and economic dislocation for fishermen who are subject to measures that are tied to stock rebuilding schedules skewed by unrealistic overfishing definitions. We would like to work with the Subcommittee in seeking solutions to our concerns as the reauthorization process proceeds.

2. Section 302(d) ... Council Member Compensation

The Act should specify that Council member compensation be based on the General Schedule that includes locality pay associated with the geographic locations of the Councils' offices. This action would provide for a more equitable salary compensation. Salaries of members serving in Alaska, the Caribbean, and Western Pacific are adjusted by a COLA. The salary of the federal members of the Councils includes locality pay. The Department of Commerce has issued a legal opinion that prohibits Council members in the continental U.S. from receiving locality pay. Congressional action, therefore, is necessary.

3. **Section 302(f)(4) and (7) ... Receipt of Funds from any State or Federal Government Organization**

Currently Councils can receive funds only from the Department of Commerce, NOAA or NMFS. The Councils routinely work with other government organizations to support research, workshops, conferences, or to procure contractual services. In a number of cases, complex dual contacts, timely pass-throughs, and unnecessary administrative or grant oversight are required to complete the task. The Councils request a change that would give them authority to receive funds or support from local, state and other federal government agencies and non-profit organizations. This would be consistent with Section 302 (f)(4) that requires the Administrator of General Services to provide support to the Councils.

4. **Section 302(i)(3)(A)(ii) ... Review of Research Proposals**

The Act should be amended to include a provision for the Councils to close meetings to the public for the purposes of reviewing research proposals. Some of the Councils now provide and administer funding to researchers and fishermen for data collection and other research purposes. The proposals submitted to the Councils for funding may contain proprietary information that the submitters do not want to make public for various reasons. It will be in the best interests of this process if the Councils have the ability to close meetings to consider these proposals.

5. **Section 303(a)(7) ... Essential Fish Habitat**

The 1996 Act required the Councils to identify and describe EFH, but gave little direction on how to designate EFH. The EFH definition, i.e., "those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity," allows for a broad interpretation. The EFH Interim Final Rule encouraged Councils to interpret data on relative abundance and distribution for the life history stages of each species in a risk-averse manner. This led to EFH designations that were criticized by some as too far-reaching. "If everything is designated as essential then nothing is essential," was a common criticism throughout the EFH designation process on both a national and regional scale. Either the EFH definition should be modified, or the guidance on how to use different types of data should be more specific.

6. **Section 303(b) ... Regulating Non-Fishing Activities of Vessels**

The Council chairmen recommend that Section 303(b) of the Act be amended to provide authority to Councils to regulate non-fishing activities by vessels that could adversely impact fisheries or essential fish habitat (EFH). One of the most damaging activities to such habitat is the anchoring of large vessels near habitat areas of particular concern (HAPC) and other EFH (e.g., coral reefs, etc.). When these ships swing on the chain deployed for anchoring in 100 feet of water, 10 to 20 acres of bottom may be plowed up by the chain dragging over the bottom. Regulation of this type of activity by the Councils should be authorized.

7. **Section 303(b)(7) ... Collection of Economic Data**

The Magnuson-Stevens Act specifies the collection of biological, economic, and socio-cultural data to meet specific objectives of the Act, and requires the fishery management councils to consider this information in their deliberations. However, Section 303(b)(7) specifically excludes the collection of economic data, and Section 402(a) precludes Councils from collecting "proprietary or confidential commercial or financial information." NMFS should not be precluded from collecting such proprietary information so long as it is treated as confidential information under Section 402. Without this economic data, multi-disciplinary analyses of fishery management regulations are not possible, preventing NMFS and the Councils from satisfying National Standard 2: "... conservation and management measures shall be based upon the best scientific information ...", National Standard 8: "... to the extent practicable, minimize adverse economic impacts ...", and other requirements of the Act and the Regulatory Flexibility Act (RFA).

The chairmen recommend resolution of these inconsistencies by amending the Magnuson-Stevens Act to eliminate the restrictions on the collection of economic data. Amending Section 303(b)(7) by removing "other than economic data" would allow NMFS to require fish processors who first receive fish that are subject to a federal fishery plan to submit economic data. Removing this current restriction will strengthen the ability of NMFS to collect necessary data, and eliminate the appearance of a contradiction in the law requiring economic analyses while simultaneously prohibiting the collection of economic data necessary for such analyses.

8. **Section 303(d)(1) ... Rescinding the Congressional Prohibitions on IFOs or ITQs**

Section 303(d)(1) of the Act prohibited a Council from submitting or the Secretary from approving an Individual Fishing Quota (IFQ) system before October 1, 2000. More recently, through the FY2001 Appropriation Act, this moratorium on IFQs/ITQs was extended for an additional two years. If the reauthorization process is completed in 2001, the Council chairmen support rescinding these provisions before the year 2002 deadline. If this does not occur, then the chairmen oppose extending the moratorium on IFQs/ITQs beyond 2002.

9. **Section 303(d)(5) and Section 304(d)(2) ... Establishment of Fees**

The Council chairmen are opposed to the imposition of fees that are not regional in nature and established by the Councils. However, we do support the National Academy of Sciences recommendation that Congressional action allow the Councils maximum flexibility in designing IFQ systems and allow flexibility in setting the fees to be charged for initial allocations, first sale and leasing of IFQs.

10. **Section 304(a) ... FMP Review Program**

The chairmen believe that NMFS, in its review of proposed plans, amendments and framework actions has failed to adequately communicate to the Councils perceived problems in a timely manner. We propose the inclusion of a mandate in the Act to require through an abbreviated rule-making process that NMFS consult with the Councils before disapproving fishery management plans, amendments, or framework actions submitted by the Councils for NMFS approval.

11. Section 304(a) and (b) ... Coordinated Review and Approval of Plans and their Amendments and Regulations

The Sustainable Fisheries Act (SFA) amended Sections 304(a) and (b) of the M-S Act to create separate sections for the review and approval of plans and amendments, and for the review and approval of regulations. Accordingly, the approval process for these two actions now proceeds on separate tracks, rather than concurrently. The SFA also deleted the 304(a) provision allowing disapproval or partial disapproval of an amendment within the first 15 days of transmission. The Council chairmen recommend modification of these provisions to include the original language allowing concurrent approval of plans and amendments as well as regulations and providing for the initial 15-day disapproval process. The Councils would also like the ability to resubmit responsive measures rather than having to submit a complete fishery management plan or amendment as is now required by subsection (4) of Section 304(a).

12. Section 304(e)(4)(A) ... Rebuilding Periods

The Councils should have greater latitude for specifying rebuilding periods than is provided under the National Standard Guidelines. Social and economic factors should be given equal or greater consideration in determining schedules that result in the greatest overall net benefit to the Nation.

13. Section 305(c)(2)(A) ... NMFS Regional Administrator Emergency or Interim Action Vote

For the purpose of preserving the Secretary's authority to reject a Council's request for emergency or interim action, the NMFS Regional Administrator is currently instructed to cast a negative vote even if he/she supports the action. While we recognize the extreme sensitivity in recommending a change to the voting responsibilities of our partners in the National Marine Fisheries Service -- we certainly do not wish to appear to be disparaging the Regional Administrators in any way -- the Council chairmen believe that Congressional intent is being violated by this policy. We suggest a modification to the Act as follows (new language in bold):

(A)the Secretary shall promulgate emergency regulations or interim measures under paragraph (1) to address the emergency or overfishing if the Council, by unanimous vote of the members (**excluding the NMFS Regional Administrator**) who are voting members, requests the taking of such action; and . . .

14. Section 311(a) ... Enforcement

The Council chairmen support the implementation of a cooperative state/federal enforcement programs patterned after the NMFS/South Carolina enforcement cooperative agreement. We applaud the inclusion of fifteen million dollars in the 2001 NMFS budget to expand the program to other states. While it is not necessary to amend the Act to establish such programs it is consistent with the changes needed to enhance management under the Act to suggest to Congress that they consider establishing permanent funding for such cooperative state/federal programs.

15. Section 313(a): see also Section 403 ... Observer Program

The chairmen reaffirm their support to give discretionary authority to the Councils to establish fees to help fund observer programs. This authority would be the same as granted to the North Pacific Council under Section 313 for observers.

16. Section 402(b)(1) and (2) ... Confidentiality of Information

Section 402 replaced and modified former Sections 303(d) and (e). The SFA replaced the word "statistics" with the word "information", expanded confidential protection for information submitted in compliance with the requirements of an FMP to information submitted in compliance with any requirement of the Act, and broadened the exceptions to confidentiality by allowing for disclosure in several new circumstances.

The following draft language clarifies the word "information" in 402(b)(1) and (2) by adding the same parenthetical used in (a), and deletes the provision about observer information. The revised section would read as follows (additions in bold):

(b) **CONFIDENTIALITY OF INFORMATION.--**

(1) Any information submitted to the Secretary by any person in compliance with any requirement under this Act **that would disclose proprietary or confidential commercial or financial information regarding fishing operations, or fish processing operations** shall be confidential information and shall not be disclosed, except ...

(2) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement under this Act **that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations**, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (1)(E).

Other:

Bycatch Issues

There appears to be an inconsistent definition of bycatch, depending on geography. In the Atlantic, highly migratory species harvested in "catch and release fisheries" managed by the Secretary under 304(g) of the Magnuson Stevens Act or the Atlantic Tunas Convention Act are not considered bycatch, but in the Pacific they are. We suggest that highly migratory species in the Pacific, managed under a Western Pacific Council fishery management plan

and tagged and released alive under a scientific or recreational fishery tag and release program, should not be considered bycatch.

Note that there also is an inconsistency between the Magnuson-Stevens Act definition of bycatch and the NMFS Bycatch Plan. The NMFS definition is much broader and includes marine mammals and birds and retention of non-target species. The Council chairmen prefer the Magnuson-Stevens Act definition. We also wish to retain turtles in the definition of "fish" because of their importance in every region and especially in past, and possibly future, fisheries pursued by indigenous peoples of the Western Pacific Region.

Mid-Atlantic Council Issues:

Section 302(a)(1)(A) ... Add New York to the New England Council

New York is a border state between the Mid-Atlantic and New England regions, just like North Carolina is a border state between the Mid-Atlantic and South Atlantic regions. Many fishery regulations divide New York state. Fishermen from the east end of Long Island fish in waters defined as southern New England and use New England fishing techniques. These fishermen target lobster, groundfish, black sea bass and tilefish, all Mid-Atlantic species. Fishermen from central and western Long Island fish in a more traditional Mid-Atlantic style and focus more on Mid-Atlantic species. The Mid-Atlantic regulated mesh area does not begin until one reaches the waters west of 72°30' west longitude. This has the effect of splitting New York. It puts a major part of the new York commercial fleet (Montauk, Greenport and Shinnecock) in the southern New England area, while the balance of the commercial fleet as well as the majority of recreational fishermen and fisheries are located in the waters west of 72°30'. It is recommended that voting membership on the New England Council be increased by two seats (state director and obligatory) to allow for the full representation of New York on the New England Fishery Management Council.

Section 302(i)(2)(c) ... Eliminate newspaper notification of meetings

Given today's communication technology, the requirement to notify the public regarding meetings using local newspapers in major fishing ports is unnecessary. Other means such as press releases, direct mailings, newsletters, e-mail broadcasts, and web page updates of activities and events, including Council meetings are far more effective in communicating with our target audience than a legal notice in a local newspaper. Moreover, it is a lot less costly to use today's digital highway than yesterday's byway. Hence, we support the elimination of this statutorily required method of communicating with the public.

Direct Transfer of Council Funds

Councils are often held hostage by the DOC and NOAA grants process. To avoid this process, and allow the Councils to operate in a more efficient and predictable manner, we recommend that Councils receive direct transfers of funding from NMFS rather than continue the burdensome grant process currently used.

Mr. Chairman, I thank you for this opportunity to comment on the Magnuson-Stevens Act reauthorization. As I mentioned earlier, I will be happy to answer questions or provide information about the positions taken by the Council chairmen.

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IFQ Act of 2001 (Introduced in the Senate)

S 637 IS

107th CONGRESS

1st Session

S. 637

To amend the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) to authorize the establishment of individual fishery quota systems.

IN THE SENATE OF THE UNITED STATES**March 28, 2001**

Ms. SNOWE (for herself and Mr. MCCAIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) to authorize the establishment of individual fishery quota systems.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'IFQ Act of 2001'.

SEC. 2. INDIVIDUAL QUOTA PROGRAMS.

(a) **AUTHORITY TO ESTABLISH INDIVIDUAL QUOTA SYSTEMS-** Section 303 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853) is amended by adding at the end the following:

`(e) SPECIAL PROVISIONS FOR INDIVIDUAL QUOTA SYSTEMS-

`(1) CONDITIONS- A fishery management plan which establishes an individual quota system for a fishery after September 30, 2002--

`(A) shall provide for administration of the system by the Secretary in accordance with the terms of the plan;

`(B) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested;

`(C) shall include provisions which establish procedures and requirements for each Council having authority over the fishery, for--

 `(i) reviewing and revising the terms of the plan that establish the system; and

 `(ii) renewing, reallocating, and reissuing individual quotas if determined appropriate by each Council;

`(D) shall include provisions to--

 `(i) promote sustainable management of the fishery;

 `(ii) provide for fair and equitable allocation of individual quotas under the system;

 `(iii) minimize negative social and economic impacts of the system on local coastal communities;

 `(iv) ensure adequate enforcement of the system, including the use of observers where appropriate at a level of coverage that should yield statistically significant results; and

 `(v) take into account present participation and historical fishing practices, in the fishery; and

`(E) include provisions that prevent any person or entity from acquiring an excessive share of individual quotas issued for a fishery.

`(2) PLAN CHARACTERISTICS- An individual quota issued under an individual quota system established by a fishery management plan--

`(A) shall be considered a grant, to the holder of the individual quota, of permission to engage in activities permitted by the individual quota;

`(B) may be revoked or limited at any time, in accordance with the terms of the plan and regulations issued by the Secretary or the Council having authority over

the fishery for which it is issued, if necessary for the conservation and management of the fishery (including as a result of a violation of this Act or any regulation prescribed under this Act);

(C) if revoked or limited by the Secretary or a Council, shall not confer any right of compensation to the holder of the individual quota;

(D) may be received and held in accordance with regulations prescribed by the Secretary under this Act;

(E) shall, except in the case of an individual quota allocated under an individual quota system established before the date of enactment of the IFQ Act of 2001, expire not later than 5 years after the date it is issued, in accordance with the terms of the fishery management plan; and

(F) upon expiration under subparagraph (E), may be renewed, reallocated, or reissued if

determined appropriate by each Council having authority over the fishery.

(3) ELIGIBLE HOLDERS-

(A) IN GENERAL- Except as provided in subparagraph (B), any fishery management plan that establishes an individual quota system for a fishery may authorize individual quotas to be held by or issued under the system to fishing vessel owners, fishermen, and crew members.

(B) NON-CITIZENS NOT ELIGIBLE- An individual who is not a citizen of the United States may not hold an individual quota issued under a fishery management plan.

(4) PERMITTED PROVISIONS- Any fishery management plan that establishes an individual quota system for a fishery may include provisions that--

(A) allocate individual quotas under the system among categories of vessels; and

(B) provide a portion of the annual harvest in the fishery for entry-level fishermen, small vessel owners, or crewmembers who do not hold or qualify for individual quotas.

(5) Termination or limitation-

(A) GROUNDS- An individual quota system established for a fishery may be limited or terminated at any time if necessary for the conservation and management of the fishery, by--

(i) the Council which has authority over the fishery for which the system is established, through a fishery management plan or amendment; or

(ii) the Secretary, in the case of any individual quota system established by a fishery management plan developed by the Secretary.

(B) EFFECT ON OTHER AUTHORITY- This paragraph does not diminish the authority of the Secretary under any other provision of this Act.

(6) REQUIRED PROVISIONS; REALLOCATIONS- Any individual quota system established for a fishery after the date of enactment of the IFQ Act of 2001--

(A) shall not allow individual quota shares under the system to be sold, transferred, or leased;

(B) shall prohibit a person from holding an individual quota share under the system unless the person participates in the fishery for which the individual quota share is issued; and

(C) shall require that if any person that holds an individual quota share under the system does not engage in fishing under the individual quota share for 3 or more years in any period of 5 consecutive years, the individual quota share shall revert to the Secretary and shall be reallocated under the system to qualified participants in the fishery in a fair and equitable manner.

(7) Exceptions-

(A) HARDSHIP- The Secretary may suspend the applicability of paragraph (6) for individuals on a case-by-case basis due to death, disablement, undue hardship, retirement, or in any case in which fishing is prohibited by the Secretary or the Council.

(B) TRANSFER TO FAMILY MEMBERS- Notwithstanding paragraph (6)(A), the Secretary may permit the transfer of an individual fishing quota, on a case-by-case basis, from an individual to a member of that individual's family under circumstances described in subparagraph (A) through a simple and expeditious process.

(8) DEFINITIONS- In this subsection:

(A) INDIVIDUAL QUOTA SYSTEM- The term 'individual quota system' means a system that limits access to a fishery in order to achieve optimum yield, through the allocation and issuance of individual quotas.

(B) INDIVIDUAL QUOTA- The term 'individual quota' means a grant of permission to harvest a quantity of fish in a fishery, during each fishing season for which the permission is granted, equal to a stated percentage of the total allowable catch for the fishery.'

(b) APPROVAL OF FISHERY MANAGEMENT PLANS ESTABLISHING INDIVIDUAL QUOTA SYSTEMS- Section 304 of that Act (16 U.S.C. 1854) is further amended by adding

after subsection (h) the following:

(i) REFERENDUM PROCEDURE-

(1) A Council may prepare and submit a fishery management plan, plan amendment, or regulation that creates an individual fishing quota or other quota-based program only if both the preparation and the submission of such plan, amendment or regulation are approved in separate referenda conducted under paragraph (2).

(2) The Secretary, at the request of a Council, shall conduct the referenda described in paragraph (1). Each referendum shall be decided by a two-thirds majority of the votes cast by eligible permit holders. The Secretary shall develop guidelines to determine procedures and eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

(j) ACTION ON LIMITED ACCESS SYSTEMS-

(1) In addition to the other requirements of this Act, the Secretary may not approve a fishery management plan that establishes a limited access system that provides for the allocation of individual quotas (in this subsection referred to as an 'individual quota system') unless the plan complies with section 303(e).

(2) Within 1 year after receipt of recommendations from the review panel established under paragraph (3), the Secretary shall issue regulations which establish requirements for establishing an individual quota system. The regulations shall be developed in accordance with the recommendations. The regulations shall--

(A) specify factors that shall be considered by a Council in determining whether a fishery should be managed under an individual quota system;

(B) ensure that any individual quota system is consistent with the requirements of sections 303(b) and 303(e), and require the collection of fees in accordance with subsection (d)(2) of this section;

(C) provide for appropriate penalties for violations of individual quotas systems, including the revocation of individual quotas for such violations;

(D) include recommendations for potential management options related to individual quotas, including the use of leases or auctions by the Federal Government in the establishment or allocation of individual quotas; and

(E) establish a central lien registry system for the identification, perfection, and determination of lien priorities, and nonjudicial foreclosure of encumbrances, on individual quotas.

(3)(A) Not later than 6 months after the date of the enactment of the IFQ Act of 2001, the Secretary shall establish a review panel to evaluate fishery management plans in effect under this Act that establish a system for limiting access to a fishery, including individual quota systems, and other limited access systems, with particular attention to--

- `(i) the success of the systems in conserving and managing fisheries;
- `(ii) the costs of implementing and enforcing the systems;
- `(iii) the economic effects of the systems on local communities; and
- `(iv) the use of auctions in the establishment or allocation of individual quota shares.

`(B) The review panel shall consist of--

- `(i) the Secretary or a designee of the Secretary;
- `(ii) the Commandant of the Coast Guard;
- `(iii) a representative of each Council, selected by the Council; and
- `(iv) 5 individuals with knowledge and experience in fisheries management.

`(C) Based on the evaluation required under subparagraph (A), the review panel shall, by September 30, 2003--

- `(i) submit comments to the Councils and the Secretary with respect to the revision of individual quota systems that were established prior to June 1, 1995; and
- `(ii) submit recommendations to the Secretary for the development of the regulations required under paragraph (2).'

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April

2001

2001

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1 Expanding Oppor. NOAA -Sciences Miss. thru 3 rd No. American Fisheries Econ. Forum-Louisiana	2 PFMC Mtg - CA thru 6th	3 EFH Scoping-Yakutat SEIS Public Hrg- Kodiak	4 EFH Scoping-Dutch Harbor	5 Bering Sea Fisheries Conf - Kamchatka thru 7 th	6 EFH Scoping (T) Fairbanks	7
8	9 NPFMC AP/SSC Anchorage Halibut Charter IFQ Committee NPRB Mtg ICCAT(Tuna)	10 NPFMC AP/SSC NPRB Mtg	11 NPFMC AP/SSC & Council SEIS Public Hearing	12 NPFMC AP/Council	13 NPFMC	14 NPFMC
15 NPFMC Easter	16 NPFMC	17 SSL RPA Cmte-Anch thru 19th	18	19 NOAA Con- stituent Work- shop (DC) SEIS Teleconf. 9-5 1-877-751-8040	20	21
22	23	24 Salmon Nutrient Conf Ore. thru 26 th	25	26 CDQ Policy Committee- Anchorage	27 CDQ Policy Committee- Anchorage	28
29	30 NEPA Work- shop-Anch EFH-JDC/MT/CC thru 5/4					

2001

May

2001

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
	NEPA Training - Anch thru 5/4	1	2	3 Board of Fish Anchorage	4 ^{BOF}	5 ^{BOF}
6	7 RegFlex Workshop-Juneau	8----->	9 SSL RPA Cmte - Juno thru 11 th →	10 →	11 →	12
13	14	15 GOA Ration. Cmtee-Anc	16----->	17	18	19
20	21 Chairmen's Mtg Key West thru 25th RPA Cmte - Stl thru 23rd,24 Annual Tuna Conf. Calif. thru 24 th	22 RPA →	23 RPA →	24 CDQ Policy Committee- Anchorage	25 CDQ Policy Committee- Anchorage	26
27	28	29	30 NMFS Mortality/ biomass Workshop NASA Workshop-thru 6/1	31 →		

June

2001

2001

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
					1 NAS Conference on Effects of Bottom Trawling thru 6/2	2 →
3	4 NPFMC mtg thru 11 th - Kodiak	5	6	7	8	9
10	11 PFMC Mtg thru 15	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27 Conf. On Natural Res. Modeling; Logan, UT thru 30th	28	29	30

July

2001

2001

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25 HA-AVL thru 24 th (T)	26	27	28
29	30	31				



August

2001

2001

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Tentative - late Aug or early Sept: ICC/ Maritime Boundary Mtg - Moscow			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19 AFS Annual Mtg - Phoenix thru 23rd	20	21	22	23	24	25
26	27 Int' Conf - Fishers Knowl. B.C. thru 30th	28	29	30	31	

2001

September

2001

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Tentative - late Aug or early Sept: ICC/ Maritime Boundary Mtg - Moscow						1
2	3 Labor Day	4	5 Special NPMFC Mtg --SSC	6 Special NPMFC Mtg --SSC/AP	7 Special NPMFC Mtg --AP/Council	8 Special NPMFC Mtg --AP/Council
9 Special NPMFC Mtg	10 Special NPFMC Mtg continued (T) PFMC Mtg Portland	11 Grfsh Plan Teams-Stl thru 14th	12	13	14	15
16	17 Central Bering Sea Annl Conf Poland thru 21st	18	19	20	21	22
23	24	25	26	27	28	29

October

2001

2001

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
	1 NPFMC Council mtg week- Seattle	2	3	4	5 PICES - Annual Mtg--Victoria BC, thru 13th	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28 NPAFC* Annual Mtg-Victoria - thru 11/2	29 PFMC Mtg CA thru 11/2	30	31			

*North Pacific Anadromous Fish Commission

November

2001

2001

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1	2	3
4	5	6	7	8	9	10
11	12	13 Grfish Plan Team Mtgs thru 16th	14	15 Fish Expo Seattle	16 Expo→	17 Expo
18	19	20	21	22 Thanksgiving	23	24
25	26	27	28 IPHC Interim Mtg/Seattle thru 29th	29	30	



December

2001

2001

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
						1
2	3 NPFMC mtg week- Anchorage	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

January

2002

2002

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21 ^{IPHC??}	22	23	24	25	26
27	28	29	30	31		



2002

February

2002

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
					1	2
3	4 Council Mtg-Anch thru 11th	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28		

March

2002

2002

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
					1	2
3	4	5	6	7	8	9
10	11 PFMC mtg thru 15th	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31 Easter						



North Pacific Fishery Management Council

David Benton, Chairman
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April 5, 2001

DRAFT AGENDA
151st Plenary Session
North Pacific Fishery Management Council
June 4-11, 2001
Kodiak Best Western Inn
Kodiak, Alaska

Estimated Hours

- A. CALL MEETING TO ORDER
 - (a) Approval of Agenda •
 - (b) Approval of Minutes of Previous Meeting(s) •

- B. REPORTS
 - B-1 Executive Director's Report •
 - B-2 State Fisheries Report by ADF&G •
 - B-3 NMFS Management Report •
 - B-4 Enforcement and Surveillance Reports •
 - B-5 Board of Fisheries Report on LAMPS and Halibut Subsistence (___ hours for A/B items)

- C. NEW OR CONTINUING BUSINESS
 - C-1 Steller Sea Lion Measures (___ hours)
 - (a) Report on research funding.
 - (b) Receive report on independent review.
 - (c) Receive report from the RPA Committee.
 - (d) Finalize alternatives for analysis.

 - C-2 American Fisheries Act (___ hours)
 - (a) Co-op leasing proposal: final action.
 - (b) Report to Congress: review and provide direction.

 - C-3 Community IFO Purchase (___ hours)
 - Review discussion paper and GOACCC proposal and provide direction.

 - C-5 BSAI Crab Rationalization (T) (___ hours)
 - Review committee report; direction to staff.

 - C-6 GOA Groundfish Rationalization (___ hours)
 - Review committee report; direction to staff.

- C-7 Essential Fish Habitat Report. (__ hours)
- C-8 Community Development Quotas Receive Policy Committee report. (__ hours)
- C-9 SEIS Review and comment. (__ hours)
- C-10 Chairman's Meeting/MSA Reauthorization Receive report. (__ hours)

D. FISHERY MANAGEMENT PLANS

- D-1 FMP Amendments (__ hours)
 - (a) Shark/skate management: final action
 - (b) TAC-setting process: final action. (T)
 - (c) BSAI Amendment 68-P. Cod split: final action. (T)
- D-2 Catch and Bycatch (__ hours)
 - (a) GOA Salmon bycatch: review discussion paper; direction to staff
 - (b) Catch and bycatch disclosure: review discussion paper. (T).
- D-3 Staff Tasking (__ hours)

E. PUBLIC COMMENTS

F. CHAIRMAN'S REMARKS AND ADJOURNMENT

Total Agenda Hours: __ hours

**TESTIMONY OF
WILLIAM T. HOGARTH, PH.D.
ACTING ASSISTANT ADMINISTRATOR FOR FISHERIES
NATIONAL MARINE FISHERIES SERVICE
U.S. DEPARTMENT OF COMMERCE**

ON

**REAUTHORIZATION OF THE
MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT**

**BEFORE MEMBERS OF THE
SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS
COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES**

WASHINGTON, D.C.

APRIL 4, 2001

Mr. Chairman and Members of the Subcommittee, thank you for inviting me to this hearing on reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). I am William T. Hogarth, the Acting Assistant Administrator for Fisheries in the National Oceanic and Atmospheric Administration/Department of Commerce. In your invitation of March 19, 2001, you indicated this initial hearing would focus on three items: (1) progress in implementing the 1996 Sustainable Fisheries Act (SFA) amendments; (2) reports mandated by the SFA; and, (3) some issues that our stakeholders have suggested be reviewed during the reauthorization process.

THE 1996 SFA AMENDMENTS: NEW DIRECTIONS IN U.S. FISHERIES POLICY

The Sustainable Fisheries Act (SFA) redirected U.S. fisheries policy in many important areas, but particularly away from promoting growth in the harvesting sector, toward conservation and sustainability of fisheries. NMFS and the regional fishery management councils have worked hard the last four years to implement those changes. Since 1996, NMFS has:

- o established new overfishing definitions and thresholds, and developed detailed guidelines for implementation of national standard 1, as well as for the new national standards, in particular national standards 8 and 9 on impacts on communities and by-catch issues;
- o placed much more emphasis on producing sound and fair regulatory economic and social impact assessments (some in response to Magnuson-Stevens Act mandates, and others pursuant to different laws);

- o identified and described essential fish habitat (EFH) in all 40 existing fishery management plans;
- o continued to promote and implement some form of limited entry in practically all federally managed fisheries; and
- o played an active role in the preparation of a number of reports (some of them annually while others just once) that help us monitor progress in meeting SFA goals and consider all the implications of complex and contentious policy issues.

I would like to describe in more detail our efforts to respond to three key provisions of the SFA that are critically significant in addressing long-term conservation goals: (1) overfishing, (2) bycatch, and (3) essential fish habitat. All three deal, directly or indirectly, with the management of fishing operations, and all of them place a priority on resource conservation. I use the word "conservation" in the broad sense to include conservation, protection, and/or rebuilding of directly targeted fish stocks, of fish and other marine life that is taken incidentally in fishing operations, and of the marine habitat that is vital to targeted stocks, protected species, and to all living marine resources.

o Overfishing

The future health of the nation's fisheries is anything but bleak, as some might have us believe. Although there is much work still to do, we have made great strides in establishing the framework to meet conservation mandates under the Magnuson-Stevens Act, and in implementing new management programs to ensure fisheries at sustainable levels in the future. The foundation for progress is now in place with the publication of revised guidelines for conservation and the establishment of updated overfishing definitions for virtually all federally managed fisheries. Where differences have occurred regarding overfishing criteria and their measurement, we have worked with the Councils and others to overcome those differences and move ahead with new management programs.

We have seen tangible improvements in many stocks. Our annual report to Congress on the Status of Fisheries in the United States provides a snapshot of how the nation's marine fisheries are faring and progress we have made in their management. We now have 75 approved rebuilding plans, of which 45 have been implemented in just the last three years. According to the latest report, the number of stocks with acceptable harvest rates and those that are not overfished both increased appreciably in the last year. In fact, nine stocks have been removed from the "overfished" list, and we expect many more will be similarly reclassified in the coming years. Rebuilding efforts will continue for many of these stocks until they reach maximum sustainable levels. Examples of federally managed fisheries that have exhibited substantial resource recovery are Northeast scallops and haddock, and King mackerel in the Southeast. As I mentioned earlier, although progress has been made, we have much more work to do. While the number of stocks that are not overfished increased last year, the number of stocks that

were found to be overfished increased significantly also. This may, at first, appear contradictory. However, most of the increase was not because of a sudden decline in those stocks, but resulted either from new overfishing definitions or new stock abundance data becoming available. As this data becomes available, the total number of stocks for which determinations can be made changes. For example, there were an additional 37 stocks found to be overfished in 2000. However, 32 of those were reclassified from unknown/undefined to overfished because new overfishing definitions or biological information became available. Increases in the number of overfished stocks are to be expected as we continue to transition to the higher standards of the SFA.

Before leaving this topic, I would point out that rebuilding overfished stocks is just one part of the management equation. The law requires us to consider the plight of the fishing industry and dependent communities as we make management decisions. With the additional funding that Congress has provided, we have expanded our efforts to collect necessary economic and social information, and have significantly improved our impact analyses. We have also revised our guidance in this area, and are working closely with Council and NMFS staffs to implement that guidance. During the current fiscal year, we will hold at least six workshops around the country to discuss the new guidance and help apply the guidance to regional issues. With the continued support of Congress, we hope in the near future to have comprehensive databases, as well as analytical models and other techniques, to enable us to complete more thorough impact analyses for decision makers.

o Bycatch Issues

The SFA added national standard 9, which stipulates that conservation and management measures shall minimize, to the extent practicable, bycatch and mortality associated with bycatch. Incidental harvests of finfish remain a major concern in the Gulf of Mexico shrimp trawl fishery where measures to combat this problem pre-dated the SFA. In recent years, bycatch has become a national issue that affects many gear types, principally trawls and longlines, in a growing number of federally managed fisheries.

We believe that NMFS and the Councils are making meaningful progress in dealing with bycatch, although the problem is highly specific to individual fisheries and gear types and, therefore, resists uniform solutions. In the Gulf of Mexico shrimp trawl fishery, regulations requiring the use of Bycatch Reduction Devices (BRDs) have been implemented progressively, with the result that bycatch levels of finfish, in particular red snapper, are declining. Regulations addressing bycatch problems have been instituted in many other federally managed fisheries.

The agency has continued to support gear research that focuses on this problem. One example is NMFS-supported research on technical means to reduce seabird mortality in longline fisheries. This work has been applied domestically and in the 1999 FAO-sponsored International Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fisheries.

Also of critical concern is the bycatch problem in a number of federally managed fisheries involving incidental takings of protected species. In these situations, several laws may apply. Issues related to some seabirds fall under the Endangered Species Act and those related to turtles and marine mammals often are addressed by both the ESA and the Marine Mammal Protection Act (MMPA). In some cases, other laws such as the Migratory Bird Act apply. Examples abound, but the best known are sea turtles in the shrimp trawl and many finfish fisheries; seabirds in long-line fisheries; and, marine mammals in some commercial fisheries using various gear.

o Essential Fish Habitat

The provisions addressing EFH in the 1996 SFA created new responsibilities for NMFS and the Councils. Section 303 (a) (7) requires that each fishery management plan describe and identify EFH and minimize to the extent practicable the adverse effects of fishing on EFH. In addition, the SFA requires that we identify other actions to encourage the conservation and enhancement of EFH for federally managed fisheries. The SFA also assigned to the Secretary of Commerce the roles of consulting and coordinating with other Federal agencies with respect to actions that may adversely affect EFH. NMFS has heard both praise and concern from our constituents over the increased emphasis we are placing on habitat conservation to implement the EFH provisions of the SFA. We are making progress and are expanding research on identifying, protecting and understanding EFH which is hampered by the limited available information about the habitat requirements of managed fish species.

The EFH provisions of the SFA provided important new tools for NMFS and the Councils to manage sustainable fisheries. By law, we now must ensure that our fishery management decisions consider the potential effects of fishing on the habitats needed by commercially and recreationally important species of fish for their basic life functions. Likewise, we must ensure that our recommendations to Federal and state agencies regarding non-fishing activities are focused on measures needed to conserve the habitats that support managed fisheries.

Three major issues have emerged regarding implementation of these EFH provisions. First, a number of parties have asked why the EFH designations appear to be so expansive. It is true that EFH designations encompass most of the coastal waters and EEZ. However, it is important to realize that a map of all currently identified EFH in U.S. waters comprises the aggregate of separate EFH designations for more than 700 managed species, each with 2 to 4 distinct life stages and seasonal differences in habitat requirements, and many with EFH designated as only bottom habitats or only surface waters. For individual species or life stages, EFH is generally a subset (often 50 to 70 percent) of the total available habitat. The specificity of EFH designations depends on the amount of information available. Much more scientific information is necessary to identify the type and quantity of habitats necessary to achieve a desired level of fish production, or even to specify which habitats contribute most to the growth, reproduction, and survival of the target species. NMFS is continuing to work with the Councils, scientific and research communities to revise and refine EFH designations as additional information becomes

available.

Second, some environmental and fishing groups have said that NMFS and the Councils have not done enough to minimize the adverse impacts of fishing on EFH. Unfortunately, there is limited information to demonstrate a direct link between physical habitat disturbance from fishing gear and decreases in productivity, survival, or recruitment of managed fish species. Where sufficient information is available, NMFS and the Councils are incorporating measures into our management decisions to minimize the effects of fishing on EFH. In addition, NMFS is working in partnership with other agencies and institutions to conduct new research to improve our understanding of the effects of fishing on bottom habitats. NMFS and the Councils are also preparing new environmental impact statements for most of our FMPs to evaluate in detail the effects of fishing on EFH and a range of measures that could be taken to minimize adverse effects. NMFS also is organizing a symposium on the effects of fishing activities on benthic habitats, tentatively scheduled for early 2002.

Third, a coalition of non-fishing industries has expressed concern about the process for consultations between NMFS and other Federal agencies whose actions may adversely affect EFH. The EFH consultations and commenting provisions of the Magnuson-Stevens Act are the only existing mandate that requires Federal agencies to address specifically how proposed actions might affect the habitats needed by federally managed fish species. To streamline the efforts and enhance efficiency, NMFS has strongly urged Federal agencies to wrap EFH consultations into existing environmental review procedures under other laws, and most consultations are being handled with that approach. Federal agencies are assessing the impacts of their actions on important fish habitats, and their decisions are responding to NMFS recommendations on how to avoid or minimize those impacts. NMFS considers this process a significant opportunity to provide scientific advice to other agencies and improve the management of sustainable fisheries.

REPORTS MANDATED BY THE SFA

Associated with these strengthened and new Magnuson-Stevens Act conservation objectives are many reporting requirements. There are two kinds of reports on which I would like to comment. First, there are annual reports that NMFS is required to prepare, for example, the annual reports to Congress on the Status of Fisheries of the United States, which we have now issued four times. The second type of report is typically a one-time study with broad policy implications. Examples include reports prepared by the National Research Council (NRC) on individual fishing quotas and the community development quota program in western Alaska, and a report coordinated by the Atlantic State Marine Fisheries Commission on the government's role in controlling harvesting capacity. We have completed and carefully considered all the reports and studies that were mandated by the SFA. The reports are all unique in that they deal with specific issues for different programmatic ends, but they have in common that they have served highly useful purposes and provided us substantial direction toward more sustainable fisheries.

The agency has completed other SFA-mandated reports that have helped shape and direct some critical scientific missions. The Fishery Research Plan has assisted in guiding and prioritizing our fisheries science programs, and the Fishery Ecosystem Management Study supported NMFS

efforts to do the science required for this more comprehensive and holistic approach to management. Another report prepared by the NRC, Sustaining Marine Fisheries, examined a wide range of management systems, evaluating their potential contribution to sustainable fisheries. Increasingly, these studies advocate a broad view of how to deal with fisheries management issues. In addition, the agency has successfully completed reports on (1) bycatch and incidental harvest research, (2) peer-reviewed red snapper research and management, (3) stock-specific identification of salmon in ocean fisheries, and (4) harvest capacity reduction in New England fisheries.

Some one-time reports, such as the NRC studies of rights-based management systems, have enabled us to examine complex issues like individual fishing quotas (IFQs), through the eyes of outside experts and our commercial, recreational, and environmental constituencies. Still other reports, like the Federal Investment Study on the governmental role in the expansion and contraction of fish harvesting capacity, were valuable mainly because they concentrated on the implications and effects of government programs.

Finally, I think these mandated reports have helped us identify more clearly the scientific and technical issues that need additional study and further deliberation. An obvious example is rights-based management systems, which many agree involve sensitive issues. With the completion of the NRC report on IFQs, Sharing the Fish, NMFS and the Councils have a much better understanding of the economic and social issues that will have to be addressed as we develop a national policy on rights-based management systems. NMFS will continue its review of these and other management systems as it works toward sustainable fishing in all Federally managed fish stocks.

MAGNUSON-STEVENSON ACT REAUTHORIZATION

The SFA formally reauthorized the Act through 1999. The Administration will be developing its position on Magnuson-Stevens Act reauthorization. Accordingly, we have established an internal process, including a designated working group, for soliciting inputs from the NMFS headquarters and field offices and from the eight Councils. Because of Native American interests in certain fisheries and their roles and responsibilities as co-managers of associated resources, our process for soliciting input will also include potentially affected tribal governments. As we move through the reauthorization process, NMFS will provide specific comments on the areas that are vitally important to those who are engaged in the fisheries.

We have heard from many of our constituents and the Councils regarding their concerns. Based on those discussions and our management experiences, the following is a list of issues that may be considered during the reauthorization process.

o Overfishing Definitions and Thresholds: National Standard 1 and Section 304 (e)

A fundamental benchmark in the 1996 SFA is the provision that mandates elimination of overfishing in federally managed fisheries. NMFS has devoted substantial time and effort since 1996 to create overfishing definitions and thresholds that conform with the Magnuson-Stevens

Act mandates and can be applied to many different types of federally managed fisheries.

We believe that we succeeded substantially in meeting this charge with the issuance in May 1998 of guidelines for implementing national standards, including national standard 1, which deals with the prevention of overfishing. We have worked and continue to work closely with all the Councils to help them implement these guidelines in their work on FMPs.

During this process, we received questions from fishermen, environmentalists and all our constituencies on new definitions and thresholds and our annual report on the status of stocks that applies these standards to about 900 distinct fisheries. Some are concerned about a perceived lack of flexibility in developing these definitions and associated management measures. Others feel that in moving from recruitment- to maximum sustainable yield-based definitions, we have effectively raised the conservation standard too high, unnecessarily depriving commercial and recreational users of fishing privileges.

o Individual Fishing Quotas: Section 303 (d)

The SFA established a four-year moratorium (to October 1, 2000) on submission of new IFQs and mandated reports on IFQs and CDQs, which were completed in 1998. These reports, conducted by the National Research Council (NRC), concluded that existing IFQs and CDQs generate conservation and economic benefits, including mitigation of overcapacity, but that many fishing industry constituencies have concerns about their implications, in particular for small fishermen and fishing communities. The NRC report on IFQs, Sharing the Fish, recommended that IFQs be made available as one tool among others that the Councils could use if desired, and that the Congress and NMFS should develop policies on several related issues, such as consolidation and transferability of quota shares. Late last year, Congress extended the IFQ moratorium to October 1, 2002, but, in the interim, authorized two Councils to study and prepare for them. We will continue to work with the Councils, Congress and our constituents to make these tools available in a manner that is appropriate for the regions and stocks under consideration.

o Fishing Capacity Reduction Program: Section 312 (b-e)

Government programs that "buy out" and thereby reduce overcapacity are another means of achieving a fundamental goal of the Magnuson-Stevens Act. Most of these buyouts have been funded with public resources, but another variety would include private sector participation through the payment by industry of fees to pay off the loans required to fund the buyouts. Such public and private buyout partnerships were provided for in the 1996 SFA Section 312 (b-e) provisions that detail the rules for the Fishing Capacity Reduction Program. However, efforts to implement these provisions have revealed concerns that those requirements may be too complicated and time-consuming, particularly with respect to changes in the relevant fishery management plans and the mandatory regulatory assessments.

o Disaster Relief: Section 312 (a)

The resource downturns that are evident in so many of our federally managed fisheries have caused hardships for many fishermen and their respective fishing communities. One SFA program that addresses this need and can also support conservation is fisheries disaster relief. Federal payments to fishing communities and industry groups have been made increasingly frequently under Section 312 (a), the SFA provisions that deal with Fisheries Disaster Relief. The program is much broader and more flexible than most, and some of our constituencies have raised questions about the criteria or standards that govern the designation of a "commercial fishery failure" and a "fishery resource disaster," the use to which disaster relief funds are put, and the Federal and State governmental process for approving activities funded under Section 312 (a).

o **Central Registry System for Limited Access Permits: Section 305 (h)**

The SFA in Section 305 (h) calls for the creation of a central registry system for limited access permits, the so-called lien registry. This provision continues to be the subject of discussions among stakeholders and is being reviewed pending resolution of various issues associated with implementation of the registry.

o **Seabirds and the Management of Bycatch**

The ESA is the primary statutory authority for addressing the incidental catch of seabirds in fisheries that may potentially take an endangered seabird species. Although the Magnuson-Stevens Act provides NMFS with authority to implement measures to reduce seabird incidental takes, the Act does not specifically require the implementation of measures to reduce incidental catches of seabirds, since seabirds are not currently defined as bycatch. It should be noted, too, that the United States has agreed in 1999 to a United Nations Food and Agriculture Organization (FAO)-sponsored international plan of action to reduce seabird mortality in longline fisheries, and committed to develop a national plan to implement the FAO agreement.

o **Timeliness of the Management Review Process**

In simplifying and tightening up the approval process for fishery management plans and amendments in 1996, the SFA created two distinct processes: the review process for plans and amendments, and the review and implementation process for regulations implementing those plans and amendments. This new system has resulted in timing discrepancies. On occasion, the Secretary has had to make an approval decision on a plan or amendment without having the benefit of public comment on the proposed regulations. Concerns have also been raised about the Secretary's inability to return an inadequate plan immediately to the Council, so that it can make changes and have the plan approved in a timely fashion.

CONCLUSION

Mr. Chairman, this concludes my testimony. Again, I want to thank you for the opportunity to testify today and discuss the implementation and reauthorization of the Magnuson-Stevens Act. The Administration looks forward to working with you and other Members on the Committee on

this and other fisheries-related issues in the 107th Congress. I am prepared to respond to any questions you and other Members of the Committee may have.