

**Hearing Before the
United States House of Representatives
Committee on Resources**

**Reauthorization of the Magnuson-Stevens Fishery
Conservation and Management Act**

May 3, 2006

Washington, DC

**Written Testimony of
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Mr. Chairman and Members of the Committee:

My name is Donald McIsaac, Executive Director of the Pacific Fishery Management Council. I have trained for and worked in fisheries management for the last 35 years, earning a bachelor of science in fisheries biology, a master's degree in fisheries management, and a Ph.D. in salmon ecology. Prior to becoming Executive Director of the Pacific Council, I worked for 25 years for the Washington and Oregon state fishery management agencies with a focus on interjurisdictional fishery management matters.

Thank you for the opportunity to testify before you today on behalf of the Pacific Council regarding reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act. We appreciate the bill authors bringing in new ideas to this important legislation.

Today I will limit my testimony to three issues, and focus primarily on one issue. The focus of my testimony is the issue of fishing regulations in National Marine Sanctuaries: who should establish such fishing regulations and how should it be done? The second issue is the question of using hard total allowable catch levels in fisheries management and "repayment" of any catch number overages and underages that happen from management imprecision or unforeseeable events. The last issue I want to touch lightly on is an element of the Individual Quota Program legislation.

Fishery Regulation in National Marine Sanctuaries (H.R. 5018, Section 10: COMPETING STATUTES)

On the issue of fishing regulation in waters of National Marine Sanctuaries, legislation needs to be clear and unambiguous that fishing regulations be accomplished through a Regional Fishery Management Council process described in a slightly revised Magnuson-Stevens Fishery Conservation and Management Act and not under the process described in the current National Marine Sanctuaries Act.

I would like to mention several reasons this issue is important to West Coast fishery management.

- A considerable portion of the West Coast lies within a National Marine Sanctuary. As you know, there are four sanctuaries in California, The Channel Islands National Marine Sanctuary, the Monterey Bay National Marine Sanctuary, the Gulf of the Farallones National Marine Sanctuary, and the Cordell Bank National Marine Sanctuary as well as the Olympic Coast National Marine Sanctuary off the coast of Washington. Additionally, Oregon Governor Ted Kulongoski has formally proposed consideration of the entire coast of Oregon for an Oregon Coast National Marine Sanctuary.
- The current status of fishery authority is confusing to public and can impede collaboration between the Regional Fishery Management Councils and National Marine Sanctuaries. I and the Pacific Council have heard frequent public testimony requesting a single fishery management authority, that being the Regional Fishery Management Council where there exists the scientific expertise and open public process intended for this purpose. Mr. Bob Alverson, Pacific Council member and General Manager of the Fishing Vessel Owners' Association, recently commented that “my organization’s fisherman are interested in working with a single entity on fishery management issues rather than multiple authorities and jurisdictions.”
- Competing authorities and jurisdictions do not facilitate the application of ecosystem-based fishery management principles.
- Pacific Council members and members of the public repeatedly refer to promises originally made during the enactment of the National Marine Sanctuaries Act that, although not formalized in act itself, are remembered by members of the public, “Sanctuaries will not become involved in fishery regulation, that will remain in the sole purview of the Regional Fishery Management Councils and the National Marine Fisheries Service, or the individual States in some circumstances”. This common perception of fishing industry participants, coastal communities and Indian tribes on the West Coast is still being put forward today. In a letter to the Oregon Congressional Delegation, Oregon Governor Kulongoski wrote, “I want to emphasize that commercial and recreational fishing will continue within the sanctuary and will continue to be regulated by the Pacific Fishery Management Council and the Oregon Fish and Wildlife Commission based on the management plan for the sanctuary. As you know, a National Marine Sanctuary does not have separate authority to manage or regulate marine fisheries.”

The solution: legislation needs to be clear and unambiguous and state that fishing regulations be accomplished through a Regional Fishery Management Council process under the authority of the Magnuson-Stevens Fishery Conservation and Management Act and not under the process described in the current National Marine Sanctuaries Act.

Regarding the competing statutes of the Magnuson-Stevens Fishery Conservation and Management Act and the National Marine Sanctuaries Act, H.R. 5018 represents an important initial step, but additional clarification is needed.

Existing language in H.R. 5018 Section 10 COMPETING STATUTES is commendable its recognition that fishing regulations promulgated under the National Marine Sanctuaries Act are not currently required to conform to national standards under Section 301(a) of the Magnuson-Stevens Fishery Conservation and Management Act. Neither does the National Marine Sanctuaries Act bring to bear the scientific and fishing industry expertise that exists in Regional Fishery Management Council processes. However, H.R. does not go far enough in achieving kind of clarity on fishery management authority the public expects.

Without amendment, H.R. 5018 does not clearly identify a Regional Fishery Management Council as the sole fishery authority where public fishery management decisions are made. The existing process under Section 304(a)(5) of the National Marine Sanctuaries Act can be applied in a manner which leaves a Regional Fishery Management Council little more than the task of drafting fishery regulatory language to meet the underlying fishery policies and goals as determined by a National Marine Sanctuary.

The Pacific Council would like to see additional federal legislation which builds on the foundation of H.R. 5018 as introduced. The Pacific Council recommends Regional Fishery Management Councils and their associated public processes be formally brought into the early decision-making phases of the National Marine Sanctuary Act process. In this way, the scientific rationale for National Marine Sanctuary goals and objectives can become fully vetted and developed in a collaborative process.

Recent Pacific Council actions to ban the harvest of krill on the West Coast and to prohibit the use of bottom-contacting gear with the Cordell Bank and Monterey Bay National Marine Sanctuaries are good examples of Regional Fishery Management Council and the National Marine Sanctuary collaboration. In these cases, habitat and ecosystem concerns, shared by both the Pacific Council and the

sanctuaries were addressed through the scientific and public processes of the Pacific Council and were efficiently implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. Conversely, fishing regulations in the Channel Islands National Marine Sanctuary have recently been recommended for implementation under the both the Magnuson-Stevens Fishery Conservation and Management Act and the National Marine Sanctuaries Act, a process that has widely been considered to be confusing and inefficient.

Again, the Pacific Council feels legislation needs to be clear and unambiguous that fishing regulations be accomplished through a Regional Fishery Management Council process described in a slightly revised Magnuson-Stevens Fishery Conservation and Management Act and not under the process described in the current National Marine Sanctuaries Act. To achieve this, the Pacific Council stands behind its recommendation to adopt the position of the Regional Fishery Management Council Chairs. This position can be found beginning on the bottom of page 4 of the attached position paper.

This position paper calls for an ecosystem-based approach which broadens Magnuson-Stevens Fishery Management authority to cover the full range of species in the marine environment and calls for jurisdictional clarification through specific amendments to the National Marine Sanctuaries Act.

Total Acceptable Biological Catch Levels – (H.R. 5018, Section 3: SCIENCE-BASED IMPROVEMENTS TO MANAGEMENT)

The Pacific Council supports the existing language in this section of H.R. 5018 and notes the Pacific Council already implements these management principles. Further, the Pacific Council effectively utilizes in-season manage mechanisms to ensure the adopted acceptable biological catch levels are not exceeded whenever possible.

Unlike H.R. 5018, there have been calls for a “penalty” provision in instances where the catch inadvertently exceeds adopted catch levels. The penalty being a commensurate deduction from the following year’s harvest allowance. Others call for a policy to carry both overages and underages into the following year. The Pacific Council disagrees with both of these potential provisions and think they can be unwarranted, disruptive, and dangerous.

Overages should not be deducted from the next year’s harvest because the overage could have a minor biological effect if the overage is minimal under an in-season

management policy and a new stock assessment has takes the overage into account. It can be risky to rollover uncaught harvest allowance to the next year because one possible reason for the underage is an inaccurate stock assessment, a result that is not often discovered within one year.

Limited Access Privilege Programs (H.R. 5018, Section 7)

The Pacific Fishery Management Council is currently in the process of developing an individual quota program for the trawl sector of the groundfish fishery. The Pacific Fishery Management Council strongly recommends that nothing in any MSA reauthorization legislation apply to, or disrupt the ongoing development of potential future amendment of its groundfish trawl individual quota program. Therefore the Pacific Council is supportive of H.R. 5018 proposed language for MSA Section 303A(h) which protects programs under development before the date of the bill's enactment.

Other Topics

I agree with my colleague from the North Pacific Fishery Management Council, Mr. Chris Oliver with regard to integration of the National Environmental Policy Act (NEPA) into the Magnuson-Stevens Act to create great efficiencies in the public process at no loss to the intent of NEPA.

On Friday April 29, 2006, I met with the Pacific Fishery Management Council's Legislative Committee whose agenda focused on reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act. In a forthcoming letter, I will convey the results of the Legislative Committee's section-by-section review of H.R. 5018 which will provide additional comments on the three topics I have highlighted today together with detailed comments on Pacific Fishery Management Council appointments, ecosystem-based fishery management, funding for observer programs, diminished fisheries, and Joint Fisheries Enforcement Agreements.

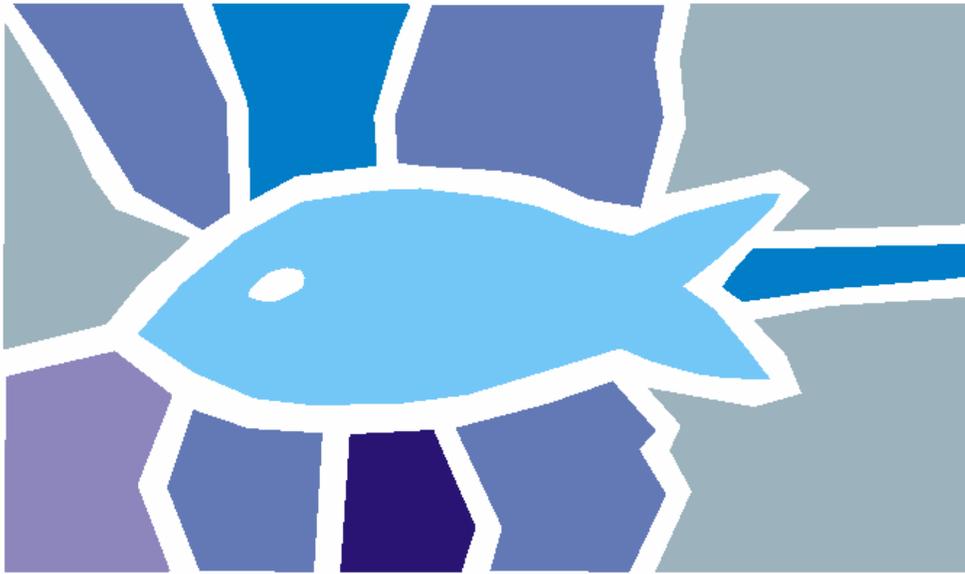
LIST OF ATTACHMENTS

1. Disclosure Requirement for Donald O. McIsaac to testify before the House Committee on Resources, May 2006

2. Positions of the Regional Fishery Management Council Chairs on Reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act, April 2005

**Positions of the Regional Fishery Management
Council Chairs on Reauthorization of the Magnuson-
Stevens Fishery Conservation and Management Act**

April 28, 2005



Preface

The 109th Session of Congress is currently underway and it is anticipated that reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) will be addressed during this Congress. Regional Fishery Management Council (RFMC) input on MSA reauthorization has been requested by U.S. Senators Ted Stevens (R, Alaska), Daniel Inouye (D, Hawaii), Gordon Smith (R, Oregon), and Olympia Snowe (R, Maine), as well as U.S. Representative Wayne Gilchrist (R, Maryland). At the annual meeting of the RFMC Chairs and Executive Directors in Dana Point, California on April 27 – 28, 2005, the collective RFMC Chairs considered various issues associated with MSA reauthorization towards the purpose of developing consensus positions, including previous positions developed in 2001 and 2002.

This document describes the RFMC Chairs' positions on the nine issues developed at the referenced meeting. This document also contains the Council Chairs' positions from 2001 and 2002, as updated on the basis of a review for relevance and consistency with the 2005 positions to insure that any 2005 positions supercede and take precedence over any potential conflicts with prior positions. The Chairs adopted these positions, with the understanding that positions on outstanding relevant issues would be forthcoming at some point in the future.

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Issue 1: Dedicated Access Privileges (Individual Fishing Quotas, Community Quotas, Area-Based Quotas, and Fishing Cooperatives)

Preamble

A reauthorized MSA shall include comprehensive authority to develop dedicated access privilege programs, generally referred to as individual quotas (IQs), but also referred to as area-based quotas, community quotas, fishing cooperatives, allocation systems, or share-based programs.

No later than 18 months after reauthorization, the Secretary of Commerce (Secretary), in consultation with RFMCs, should develop National Guidelines consistent with the recommendations in this document for the establishment of allocation systems, including, but not limited to, IQs, community quotas, and cooperatives. However, the development of these National Guidelines shall not prevent the adoption of a new IQ program or compromise existing IQ programs while the guidelines are under development. Guidelines shall not be applied retroactively, although existing programs may be subject to periodic review and revision by RFMCs as appropriate.

Criteria for Allocation

The initial allocation of interests under an IQ program shall be consistent with existing National Standard 4. The RFMCs shall consider the interests of those who rely on the fishery, including vessel owners, processors, communities, and fishing crews. An IQ program may include provisions to protect these interests. However, goals of the IQ program should also be to create market-based programs and conserve the resource.

Conservation

IQ programs should include incentives to reduce bycatch and discards and to promote conservation wherever possible, consistent with existing National Standard 9.

Limitation on Interests and the Duration of IQ Programs

Shares under an IQ program must have tenure sufficient to support and facilitate reasonable capital investment in the fishery; however, any shares allocated under the program shall be a privilege, which may be revoked without compensation to the holder.

IQ program duration shall be at the individual RFMC's discretion without required sunset.

IQ Program Review

Periodic, comprehensive review of IQ programs shall be required to assess the extent to which the program is meeting original goals and objectives and to assess the social and economic ramifications to program beneficiaries.

Quota Transfers

Appropriate provisions governing transferability, which may include permanent and temporary transfers, shall be subject to limitations consistent with the social objectives of the program and shall be determined by individual RFMCs.

Excessive IQ Shares and Quota Accumulation Limits

The IQ program allowance should include limits on shares, including caps on holdings of a person or use of shares by a person or a single vessel. However, such limitations shall be determined on a program-by-program basis by the individual RFMCs.

Referenda of IQ Programs

Referenda shall not be a mandatory requirement for Secretarial approval of an IQ program. RFMCs may, however, establish requirements for referenda for individually tailored IQ programs.

IQ Program Cost Recovery Fees

IQ programs should include an allowance for the collection of fees to offset management and monitoring costs, including state costs. However, the collection of fees should not exceed 3% of the exvessel value and should take into consideration existing industry-born costs for observers.

Enforcement, Monitoring, and Data Collection

IQ programs should include provisions for effective monitoring and enforcement of the goals and objectives under the program.

Issue 2: Competing Statutes

MSA and National Environmental Policy Act

Following the addition of critical provisions to MSA sections 302, 303, and 305, thereby making MSA fully compliant with the essential intent of National Environmental Policy Act (NEPA), reauthorized legislation should specify MSA as the functional equivalent of NEPA and exempt from NEPA in the same manner as the MSA is exempt from the Federal Advisory Committee Act (FACA). Areas to be addressed include analyzing a full assessment of environmental impacts, a range of reasonable alternatives, cumulative effects, and the extent of analysis on effects to the human environment, as well as a comprehensive public participation process. The specific proposed amendment language is as follows:

SEC. 302 [16 U.S.C. § 1852] REGIONAL FISHERY MANAGEMENT COUNCILS CONTENTS OF FISHERY MANAGEMENT PLANS

(i) PROCEDURAL MATTERS.

(7) Prior to a Council submitting a fishery management plan, plan amendment or proposed regulations to the Secretary as described in Section 303, a Council shall prepare a fishery impact statement that shall

(a) include a range of reasonable alternatives;

(b) specify and assess likely direct and cumulative effects of each alternative on the physical, biological and human environment, including

(i) participants in the fisheries and fishing communities affected by the plan, amendment, or regulation and

(ii) participants in fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council representatives of those participants;

(c) be considered in draft forms during at least two Council meetings; and

(d) be made available to the public in draft form at least 10 days prior to the date of final Council action.

A final fishery impact statement shall be submitted to the Secretary coincident with a final recommendation.

SEC. 303 [16 U.S.C. § 1853] CONTENTS OF FISHERY MANAGEMENT PLANS

(a) REQUIRED PROVISIONS.

Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

...

(9) include a fishery impact statement of the plan or amendment (in the case of a plan or amendment thereto submitted to ~~or prepared by~~ the Secretary after October 4, 1990~~2005~~) which will assess, specify, and describe the likely effects, ~~if any,~~ of the conservation and management measures ~~on~~ **as described in Section 302 (i) 7. Fishery management plans prepared by the Secretary shall conform to the requirements of Section 302 (i) 7.**

~~(A) participants in the fisheries and fishing communities affected by the plan or amendment; and~~

~~(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council representatives of those participants;~~

SEC. 305 [16 U.S.C. § 1855] OTHER REQUIREMENTS AND AUTHORITY

...

(e) EFFECT OF CERTAIN LAWS.—

(1) The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and Executive Order Numbered 12866, dated September 30, 1993, shall be complied with within the time limitations specified in subsections (a), (b), and (c) of section 304 as they apply to the functions of the Secretary under such provisions.

(2) Any plan or amendment or regulation developed under sections 302, 303, and 304 of this act, is deemed to be in compliance with the National Environmental Policy Act.

MSA and National Marine Sanctuary Act

Fishery management authority in national marine sanctuaries (NMS), for all species of fish as defined in the current MSA, shall be under the jurisdiction of the RFMCs and the Secretarial approval process described in the current MSA. This authority shall not be limited to species of fish covered by approved fishery management plans (FMPs), but shall include all species of fish as defined in the current MSA and shall cover the full range of the species in the marine environment. Prior to reaching decisions on the management regulations affecting fishing in NMS waters, a RFMC shall give full consideration of the responsibilities, goals, and objectives of individual NMS and any specific recommendations of the NMS.

In addition to the proposed changes in the MSA above, the RFMCs also recommend the National Marine Sanctuaries Act be amended to achieve jurisdictional clarity as follows:

NATIONAL MARINE SANCTUARIES ACT
SEC. 302. [16 U.S.C. § 1432] DEFINITIONS

As used in this chapter, the term-

...

(8) "sanctuary resource" means any living or nonliving resource of a national marine sanctuary, **excluding fish and Continental Shelf fishery resources under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1811)**, that contributes to the conservation, recreational, ecological, historical, education, cultural, archaeological, scientific, or aesthetic value of the sanctuary; and

SEC. 304. [16 U.S.C. § 1434] PROCEDURES FOR DESIGNATION AND IMPLEMENTATION

(a) Sanctuary Proposal

...

(5) FISHING REGULATIONS-**The appropriate Regional Fishery Management Council shall prepare fishing regulations for any fish and Continental Shelf fishery resources within a sanctuary in accordance with section 302 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1852). The Secretary shall review the proposed fishing regulations in accordance with section 304 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1854), and other applicable statutes. Regional Fishery Management Councils shall cooperate with the Secretary and other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practical stage in drafting any sanctuary fishing regulations. Preparation of fishing regulations under this section shall constitute compliance with section 304(d) of this Act. Fishing in compliance with regulations prepared under this section shall not constitute a violation of this Act.**

MSA and Freedom of Information Act

The MSA should be amended to clarify the confidentiality of observer data relative to the Freedom of Information Act (FOIA); i.e., unless otherwise authorized (as in 402(b)(1)(E) for example), prohibit the release of non-aggregated observer data. Other information such as that generated by electronic monitoring devices (VMS or video cameras, for example) should be afforded similar protection.

State law enforcement officials under a cooperative enforcement agreement with NOAA should be provided access to information and data gathered by the vessel monitoring system (VMS) operated by the National Marine Fisheries Service (NMFS) Office of Law Enforcement, and such information should be allowed for use in prosecutions of state and federal law violations.

The U.S. Coast Guard should be provided access to VMS data for enforcement and homeland security purposes unless otherwise arranged by agreement between agencies for enforcement, homeland security, and maritime domain awareness programs.

Issue 3: Integration of Science in the Fishery Management Process

Separation of Conservation and Allocation Processes

Final determinations of necessary scientific fishery parameters should be made within the RFMC management process and not in separate, distinct bureaucracies.

Councils shall adopt acceptable biological catches (ABCs) within limits determined by their Scientific and Statistical Committees (SSCs) (or appropriate scientific body) and shall set total allowable catches (TACs) and/or management measures, such that catch would be at or below ABC.

Structure and Function of SSCs

The specific structure of the SSC should be based on the policy of each Council consistent with the overall guidance of the MSA.

RFMCs should retain appointment authority for SSCs and establish terms to meet their standard administrative processes.

SSC members should not be subject to any limit to the number of terms they may serve.

When possible, the SSC should meet concurrently with Council meetings and at the same locale.

Opportunity should be provided for regional or national SSC meetings where members from different regions could discuss best practices and seek to identify analytical and research needs.

Best Scientific Information Available

Each Council's SSC shall peer review fundamental analyses needed for fishery management, including such matters as stock assessments, fishery impact models, and projection methodologies. For purposes of compliance with the Data (Information) Quality Act and attendant Office of Management and Budget guidelines, the MSA shall constitute the SSCs as an appropriate alternative review mechanism for influential and highly influential information. The SSC shall make a determination of the best available scientific information prior to Council decision-making and provide the Council with an assessment of the soundness of the scientific conclusions and the uncertainty of the science. The Council will consider the soundness of the data, levels of certainty, and socioeconomic factors when developing catch limits and/or management measures.

Best scientific information available determinations include the social and economic sciences, as well as the physical and biological sciences.

Need for Independent Review

There should be an independent peer review of scientific information and processes used by each Council at appropriate intervals determined by the Council. Such reviews should not be limited to stock assessments, but could also extend to socioeconomic and other types of models and analyses used by the Council.

Use of Default Mechanisms

Default measures that close fisheries entirely until science and management integration standards are met should not be used. Emergency and interim rules may be extended as necessary to address delays in the use of best available science, miscellaneous violations of National Standard 1, or other such potential concerns.

Making Research Relevant

SSCs should develop research priorities and identify data and model needs for effective management.

Other

NMFS should be provided with the support to dedicate more resources to stock assessments and socioeconomic impacts.

Issue 4: Ecosystem Approaches to Management

Overall Conclusions for Ecosystem Approaches

Ecosystem-based management is an important tool for enhancing fisheries and the ecosystems on which they depend.

The RFMCs and NMFS should work collaboratively to pursue an ecosystem approach to fisheries involving all stakeholders, managers, and scientists.

The RFMCs endorse a preference for the use of currently available tools in implementing ecosystem-based management and the resources and funding necessary to better engage those tools.

RFMCs and NMFS regions need to maintain the flexibility to manage regional fisheries. The concept of “national standardization” is incompatible with the need for ecosystem approaches to reflect regional differences.

A holistic approach is a realistic approach only with collaboration among RFMCs and NMFS, partner agencies, and stakeholders.

Regional Ecosystem Planning and the Role of Regional Ocean or Ecosystem Councils

The RFMCs do not support separate ecosystem councils, but do support establishment of regional coordinating bodies comprised of regional authorities/jurisdictions and public expertise to address non-fisheries management issues.

Technical Requirements for an Ecosystem Approach to Fisheries

The RFMCs and NMFS should (1) identify, prioritize, and develop weighting for ecosystem characteristics as recommended by the SSC at the *Managing Our Nation’s Fisheries II* conference (including human characteristics and reference points and performance indicators to measure progress, future monitoring, and research) and (2) inventory current ecosystem projects.

To develop successful ecosystem management, the approach must progress in a deliberate, evolutionary, and iterative process.

Science Limitations

A lack of data should not limit our ability to adopt a realistic ecosystem management approach.

Additional funding is needed to enhance ecosystem data collection and model development. The goals and objectives of any ecosystem management approach must match the reality of available information, the reality of budget limitations, and the evolutionary nature of the process.

The first priority should be to focus on improvements that can realistically be accomplished in the short term, using and improving on our current management tools, existing data sets, and knowledge, recognizing models and available data will differ by region.

Incorporating Ecosystem Planning in FMPs

Councils should develop ecosystem-based management documents for fisheries.

Ecosystem-based FMPs should be a fundamental, first order goal for each Council or region.

If an overarching fishery ecosystem plan is developed, it should provide general guidance to FMP development.

Process for Developing Ecosystem-Based Goals and Objectives

Broadly defined national level objectives should be developed, followed by regionally defined goals and objectives.

A steering committee comprised of Council and NOAA participants in each region or large marine ecosystem should provide recommendations on the process of developing goals and objectives.

Development of National Guidelines for an Ecosystem Approach to Fisheries

National Guidelines should provide general guidance, recognizing the diversity of ecosystems, and not be technical in nature. It is noted that many of the pitfalls in the development of national guidelines for essential fish habitat [EFH] and the complexities of overfishing can be avoided.

Guidance should help Councils and NMFS to use tools available under MSA and other mandates, to evaluate the potential for ecosystem-based management in each region, and address differences among regions.

Elements of an Ecosystem Approach to Fisheries that should be Codified in the MSA

Great caution should be applied in considering amendments to the MSA that include any specific requirements. More specifically, the RFMC are wary of strict regulations and guidelines that will require Councils to produce new FMP amendments across the board (as occurred with new elements in the 1996 Sustainable Fisheries Act), rather than building an ecosystem approach into existing management practices.

Noting the current MSA allows for ecosystem-based management, the RFMCs do not believe it is necessary to amend the MSA to address ecosystem management. Instead, it is recommended that regional guidance be developed to help Councils move forward with an increased level of sophistication.

Issue 5: Rebuilding Time Frame

The RFMCs recommend MSA Section 104-297 (e)(4)(A)(ii) be deleted as follows to address the problems associated with the arbitrary 10-year rebuilding time boundary:

- (2) For a fishery that is overfished, any fishery management plan, amendment, or proposed regulations prepared pursuant to paragraph (3) or paragraph (5) for such fishery shall—
 - (A) end overfishing within one year, and specify a rebuilding period that shall—
 - (i) be as short as possible, taking into account the status, mean generation time, and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem; ~~and~~
 - (ii) ~~not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;~~
 - (B) allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery; and
 - (C) for fisheries managed under an international agreement, reflect traditional participation in the fishery relative to other nations, by fishermen of the United States.

Issue 6: Governor’s Nomination of Council Members

The RFMCs recommend no change in the process for nominating Council members.

Issue 7: FACA and Council Chairs Meetings

The RMFCs recommend amending § 302 of the MSA (16 U.S.C. § 1852) by adding subsection (k) as follows.

SEC. 302 [16 U.S.C. § 1852] REGIONAL FISHERY MANAGEMENT COUNCILS

(k) COMMITTEE OF COUNCIL CHAIRS.

(1) There shall be established a Fishery Management Council Committee of Chairs, consisting of the Chairs, Vice Chairs and Executive Directors of each of the Regional Fishery Management Councils identified in subsection (a)(1), and, in each case, selected under subsection (e)(2), of this section.

(2) The Committee of Chairs shall meet at a minimum annually, to discuss national

policies and issues related to, and the effectiveness of implementation of, this Act and the relationship of these matters to other applicable laws.

(3) Council Members authorized to receive compensation and expenses under subsection (d) of this section shall also receive such for meetings of the Committee.

(4) The requirements of the Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Committee of Chairs, however, the requirements for Councils under subsection (i)(2) of this section shall apply to the Committee of Chairs.

Issue 8: Bycatch Reporting Requirements

The RFMCs recommend the following revision to section 303 (a) (11):

to the extent practicable establish a standardized-reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, ~~to the extent practicable and~~ in the following priority—

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided.

Issue 9: National Saltwater Recreational License

There should be no federal saltwater recreational license. States should be encouraged to maintain or institute licenses.