

REPORT OF THE WASHINGTON AND OREGON DEPARTMENTS OF FISH AND
WILDLIFE ON OPEN COMMENT

The Washington and Oregon Departments of Fish and Wildlife (WDFW and ODFW) would like to provide the attached comments regarding the Joint Enforcement Agreements (JEAs) that the state enforcement agencies have had with NOAA for several years. State enforcement agencies rely on JEA funds to fulfill responsibilities associated with the Magnuson-Stevens Fisheries Conservation and Management Act to ensure conservation objectives for federally managed fisheries are achieved as well as the goals and objectives of the Endangered Species Act and Marine Mammal Protection Act. In addition to funding, JEAs serve as a conduit for coordination and communication among state law enforcement agencies, National Marine Fisheries Service (NMFS), and the NOAA Office of Law Enforcement on NOAA and state enforcement priorities and activities.

If the Council is agreeable, WDFW and ODFW would like to propose that these comments form the basis of a letter from the Council to NOAA expressing concern about the future of JEA funding and describing what is at risk if the Cooperative Enforcement Program is eliminated or JEA funds are diverted elsewhere. In addition to the proposed Program reduction in the President's budget, it is our understanding that NOAA has implemented changes to the way JEA funds are allocated among the states, and has created a competitive grant program for the funds. Not only does this introduce a high degree of uncertainty relative to funding state enforcement activities and future planning, the states that have relied on those funds have already made investments in enforcement personnel and equipment that could be unfunded.

Additionally, the Council may wish to consider proposing a joint letter for consideration by the Council Coordinating Committee. We note that some draft language has been circulating for Congressional consideration and proposes the Council consider similar language, such as:

The Council [Coordinating Committee] finds NMFS's proposal to eliminate the Cooperative Enforcement Program unacceptable, as it would significantly degrade the ability of NOAA and the states to fulfill their enforcement responsibilities related to federally-managed fisheries. Furthermore, we are concerned that a competitive funding allocation is not reflective of the important partnership with state law enforcement agencies. We recommend the NMFS Office of Law Enforcement utilize a stable funding model, and to ensure that monitoring and inspection activities for federal requirements are fully integrated with the priorities of state/territorial enforcement partners in order to ensure maximum effectiveness of both NOAA and the partner agencies.

JOINT ENFORCEMENT AGREEMENTS BETWEEN WEST COAST STATE ENFORCEMENT AGENCIES AND NOAA FISHERIES

The Magnuson Stevens Management and Conservation Act (MSA) authorized NOAA to enter into Joint Enforcement Agreements (JEAs) in 2001 with participating state marine enforcement agencies. JEAs maximize the effectiveness of law enforcement efforts by defining state and national marine fisheries priorities, support comprehensive cooperative planning efforts, and enable inter-jurisdictional fisheries enforcement operations. While West Coast states have authority granted by the MSA to regulate vessels under the laws of those respective states outside of their territories, and within the Exclusive Economic Zone, JEAs expand the existing state authority to enforce federal regulations and to receive funding for such efforts.

Statement of Problem

The president's budget proposal calls for the elimination of funding for JEAs. This highly productive and results-oriented program, funded at a rate of \$17-\$18 million per year, allows states to deploy more than 3,500 marine officers to partner with NOAA to protect living marine resources. NOAA is unable to effectively perform these duties alone.

While harvests of West Coast fisheries still contribute billions of dollars annually to the nation's economy, there is an emergent need to enhance the federal enforcement presence at landing sites and on the water, not go the other direction. Many stocks of federally regulated fish have been designated as "overfished" or listed as "threatened" or "endangered." In the last ten years, new management strategies to address conservation concerns have resulted in additional patrol responsibility for entities charged with the enforcement of a very complex, but important, set of regulations.

Statement of Need

Without question, state officer deployment through JEAs has been proven to be the best approach to achieving compliance in federally managed fisheries and is important to achieving conservation objectives set by Regional Fishery Management Councils.

The United States Coast Guard's (USCG's) mission in homeland defense and other responsibilities have reduced their presence in marine fisheries enforcement. In addition, NOAA's work force deployment plan has resulted in replacing investigators (who occupied a more significant role in addressing large scale and cross border resource violations) in favor of limited authority enforcement officers.

Our understanding is that future build-out of uniformed NOAA officers will utilize funds intended for the states. Losing or diverting JEA funds will result in less protection at a greater cost to the federal government, the states, and the communities that rely on sustainable fisheries.

With adequate and protected funding, the states have demonstrated they are capable of fulfilling the fisheries enforcement mission with officers who:

- have the ability to leverage state authorities that fill gaps in federal authority and regulations;
- relate to the communities that depend on these resources; and
- can demonstrate a greater result for the investment.

At Risk Activities

- I. Maintaining order in domestic federally regulated fisheries requires consistent law enforcement presence. NOAA and USCG do not possess the capability to ensure adequate compliance within many fisheries. JEA funding security to eligible states provides for a more optimum patrol effort and ability to support compliance programs.
- II. Lacey Act enforcement at the Border, Airports and retail market places have gained minimal attention by Federal entities. Millions of dollars in illegal natural resources are imported and exported annually to ready markets. While JEAs have provided funding for an increase in the monitoring of this activity with measurable results, this is now at risk. With funding surety, States are able to leverage additional local authorities to conduct inspections and more effectively discover violations.
- III. Federal regulations associated with fish habitat enforcement are limited. JEAs have provided funding for more law enforcement presence to address habitat destruction in areas where species are sensitive. Without adequate protection, commercial, recreational, and Native American communities are negatively affected.

Requested Funding Protection

To maintain the best use of federal and state law enforcement resources and support fisheries protection at the highest level, we respectfully request that Congress protect and maintain funding for this important JEA program as a line item in the budget.