

U.S. COMMISSION ON
OCEAN POLICY



Testimony

By

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Before

**The U.S. Senate Committee on Commerce, Science and Transportation
Room 562, Dirksen Senate Office Building**

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Chairmen Stevens and Inouye and Members of the Committee, I am pleased to appear before you today in my capacity as the Chairman of the U.S. Commission on Ocean Policy, to discuss legislation to reauthorize the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

Before I begin, I would like to thank the Chairmen for the invitation to the US Commission on Ocean Policy and the Pew Oceans Commission to both share views in conference with your staff as they developed the MSA reauthorization legislation under consideration today. The conference was particularly helpful given the relative similarities in the fisheries recommendations of the two Commissions. As most of you are aware, Leon Panetta and I have been collaborating to help move an ocean agenda forward on Capitol Hill, in the Administration, and out in the states and regions. We have focused our efforts on those areas where our respective reports reached similar conclusions, such as the need for a better governance regime, greater focus on advancing ocean and coastal science, and, relevant to today's discussion, changes in fisheries management and science. These are issues that enjoy wide, bipartisan support and we are both dedicated to supporting the implementation of these recommendations.

As authors and sponsors of the *Oceans Act of 2000*, I would like to thank you again for your vision and recognition of the need for a dramatic shift in the management of our nation's oceans, coasts and Great Lakes. The Commission's final report, "*An Ocean Blueprint for the 21st Century*," clearly identifies the multitude of ocean-related problems facing the nation, and provides numerous recommendations for addressing these issues. It is particularly rewarding to see some of the Commission's fisheries-related recommendations incorporated into the MSA legislation currently under consideration by the Committee.

The Commission addressed a broad array of issues, but few attracted the level of concern or interest that fisheries engendered. At every regional meeting around the nation fisheries-related issues were discussed and debated. Over the course of nine regional meetings there were 11 panels dedicated to living marine resource issues. And this does not include the extensive public and written comments presented to the Commission on fisheries issues. The inputs were invaluable and formed the basis for chapter 19, *Achieving Sustainable Fisheries*. With 30 pages of text and 27 recommendations, Chapter 19 is twice as long and contains twice the number of recommendations as most other chapters in the report. Also worth noting is that many of the fisheries recommendations are relatively detailed, ranging from a call for better training for Council members, to suggesting various levels of peer review for fisheries science.

I am providing these details because the Commission worked long and hard on fisheries related issues and believes that its recommendations are balanced and reflect the best interest of the nation. These recommendations are not unfamiliar to the fishing community since many reflect the results of studies and analyses that have been released over the past decade. What is unique is having them all gathered into one set of coherent recommendations, providing senior decision makers, such as yourselves, the opportunity to understand the interplay among key concepts, such as improving the use of independent science in the decision making process and enhancing training for Council members who must digest and apply this increasingly complex scientific information. As we note in our report, Mr. Chairman, what we are recommending is basically codifying the process that has worked so successfully in the North Pacific Fisheries Management Council. You are justified in your pride in this Council and its conservative management approach, which has served the region, and our nation, so well.

Before I use my remaining time to focus on a few key provisions, I want to inform the Committee that I have included an appendix to my testimony that contains a statement of principles that we believe should guide the MSA

reauthorization process. These fisheries-related principles were developed as part of the collaborative effort of the two Commissions and reflect the broader, overarching guiding principles identified in the US Commission's report.

I would like to take the remaining time to highlight key provisions that we support and suggest some additions that we believe will help strengthen the legislation.

Strengthening use of independent science in management decisions.

I want to commend the bill's authors and sponsors for the inclusion of provisions in the bill that mandate the Science and Statistical Committees (SSCs) to recommend acceptable biological catch levels or optimum yields to their Councils. This represents a significant step towards one of the key fishery recommendations of the Commission. However, I strongly recommend that the Committee further enhance this provision by also adopting the Commission's recommendation mandating that the Councils use the guidance provided by the SSCs.

The Commissioners felt strongly that the Regional Fisheries Management Councils should be required to adhere to scientific advice provided by the SSCs. This requirement is based on information that a lack of adequate scientific information has not been the main culprit in most instances of overfishing. Rather, a 2002 National Research Council report concluded that the problem in many cases of overfishing was that the Regional Councils disregarded or downplayed valid scientific information when setting harvest guidelines¹. This problem is exacerbated by increasing pressure on fishery managers to maximize the total allowable catch instead of pursuing a more cautionary approach that factors in a conservation buffer in the event stock assessment information is found to be lacking or an unanticipated natural event causes elevated mortality within a fishery.

Further exacerbating the problem of exceeding total allowable catch levels is the fact that neither NOAA Fisheries nor the Secretary of Commerce have adequately exercised their authority to prevent the Councils from taking such risky actions. Thus, the problem of overfishing cannot be isolated to one source, but is a result of systemic problems. Thus, we are suggesting establishment of a safeguard in the process by allowing the SSC to set a total allowable catch that cannot be exceeded. Unless another measure can be identified to avoid the capitulation of Council members and administration

¹ National Research council. Science and Its Role in the National Marine Fisheries Service. Washington, DC: National Academy Press, 2002.

officials to economic and political pressure that result in overharvesting, a mandate for the Councils to follow SSC recommended catch levels is necessary. I strongly encourage the Committee to consider incorporating a more forceful provision requiring the Council's to use the guidance provided by the SSC's.

The Commission also made recommendations to help ensure the qualification and impartiality of SSC members, as well as suggestions for strengthening and mandating a peer review process for fisheries information, which have not been fully incorporated into the legislation. Full implementation of this collection of measures would represent an important step towards reinstilling confidence in the process by which fisheries science is collected, analyzed and used, reducing grounds for unnecessarily burdensome lawsuits and the diversion of scarce resources towards competing science.

Ecosystem-based Management

Ecosystem-based management is an important theme in both Commissions' reports and there is agreement that fisheries management should be informed and guided by long-term objectives set for both the fishery and the ecosystem. The goal is to move towards a management approach that considers linkages between living and nonliving components of the sea, land, atmosphere, balancing ecological needs with the health and vitality of human communities. While we are not looking for legislatively mandated standards for ecosystem-based management, MSA reauthorization offers an important opportunity to introduce ecosystem-based management as a central concept, especially as a mechanism to enhance collaboration among government agencies.

The Commission recommended the development of regional ocean information systems whose objective would be to use the resources and expertise of governmental and nongovernmental entities to develop a better understand of ecosystem processes within eco-regions. This information would be particularly useful in helping meet NEPA requirements, providing baseline information that would significantly contribute to the requirement of identifying cumulative impacts as part of environmental impacts statements. Clearly, such a collaborative effort and the resultant information would be of great benefit to fishery managers and the Regional Councils. Again, I point to work being performed in the North Pacific through the Gulf of Alaska Ecosystem Monitoring and Research Program as well as the North Pacific Research Board, as examples of regional ecosystem-based efforts that contribute significantly to the overall fisheries management process.

These are the types of initiative we would like to see instituted throughout the nation. Therefore, we recommend that the legislation incorporate language supporting a transition towards ecosystem-based management.

International

The effective management and conservation of global marine species, and the enforcement of international treaties, require a combination of domestic, bilateral, regional, and international approaches. Although regulation of fisheries on the high seas is conducted within broad regions of the seas, the existing regional fishery organizations generally struggle in their effort to ensure compliance with the provisions of these agreements. They lack adequate financial resources or enforcement capabilities, allowing member states to opt out of individual management measures they dislike. This, I presume, is the basis for the international provisions contained in the bill. While I strongly support efforts to strengthen an international enforcement regime that will improve compliance with sound living marine resource management objectives, I am not the appropriate witness to comment on the specific provisions contained in the bill.

However, I would like to note the Commission's report includes a number of recommendations aimed at addressing international issues, and I encourage the Committee to engage the appropriate officials from the Department of State, Commerce, and other relevant agencies, through the new White House Committee on Ocean Policy, in a review of these provisions. I also strongly encourage the Members of this Committee to communicate to Senate Majority Leader Frist its desire to have the United Nations Convention on Law of the Sea brought to the Senate floor for its approval early next year. U.S. accession to UNCLOS will greatly enhance our nation's capacity to negotiate more forceful international regimes for the conservation of living marine resources as well as other important matters. Accession to UNCLOS is one of the top priorities of the US Commission on Ocean Policy.

Other Provisions

I commend the co-authors and sponsors of the bill for the inclusion of provisions that are responsive, in whole or in part, to recommendations made by the Commission including:

- establishment of a national cooperative research and monitoring program, an important element in the broader effort to strengthen the quality of fisheries science;

- a call to establish a recreational fishing license program, allowing managers better information on this significant sector of the fishing community;
- establishment of a bycatch reduction program that addresses the need to reduce and minimize mortality;
- providing guidance on the establishment of limited access programs, giving fisheries managers access to an effective tool, where appropriate and supported by the community;
- a system for states to enter into cooperative enforcement agreements with the Secretary of Commerce;

As the Committee moves forward in its MSA deliberations, we believe that the legislation can be further strengthened by:

- including guidance requiring governors to submit a slate of candidates that represents a broad cross-section of the public as nominees to the regional councils;
- requiring the Councils to establish and initiate a periodic peer review process to evaluate the scientific information used by the SSCs;
- mandating the training of new council members;
- enhancing the provision on the role of the SSC by providing the NOAA Administrator with the authority to appoint SSC members that are nominated by the councils and whose qualifications are reviewed by an independent entity; and
- enhancing the bycatch program by directing the Secretary to evaluate the effectiveness of the program after 2 years.

Closing

I will close by commending the Committee and its staff for its bipartisan approach to soliciting input from fisheries stakeholders and the effort to capture the Commission's recommendations. The Chairmen and Members of this Committee are clearly committed to building on the success of the 1996 amendments to the Act, and the current legislation reflects this commitment. Fishing is a dominant factor in the health of ocean and coastal ecosystems and I believe that the Committee recognizes the leadership role the industry must play in the transition towards an ecosystem-based management approach, an approach that will rely on good science and a process that enjoys the confidence and support of the fishermen and the general public.

I appreciate your collective effort to move forward in the implementation of the Commission's recommendations and am prepared to respond to questions from Members of the Committee.

JOINT OCEAN COMMISSION INITIATIVE

Appendix A

Statement of Principles for Improving Fishery Management and Recovery

September 8, 2005

In 2003 and 2004, two major national commissions—the U.S. Commission on Ocean Policy and the Pew Oceans Commission—released reports that identified similar priorities and made complementary recommendations in a number of key areas of ocean policy. In late 2004, the Joint Ocean Commission Initiative formed to continue educating people about the work of the two Commissions and to pursue implementation of the recommendations made in their reports. The Joint Ocean Commission Initiative is guided by a ten-member Task Force (five from each Commission) that is led by Admiral James Watkins and Mr. Leon Panetta, chairs of the U.S. Commission and the Pew Commission, respectively.

The Joint Ocean Commission Initiative is committed to a set of fundamental principles that are articulated in both reports and that should ground all ocean policy reform. Many of these principles are reflected in the priorities for fishery management and recovery highlighted in both Commission reports, including: (1) shifting toward ecosystem-based management, (2) maintaining and enhancing ecosystem services, (3) strengthening the scientific process and basing decisions on science, (4) broadening public participation, (5) enhancing a stewardship ethic, and (6) ensuring adequate funding to support fishery management and recovery.

Based on the findings and recommendations of the U.S. Commission on Ocean Policy and the Pew Oceans Commission, the Joint Ocean Commission Initiative believes the concepts listed below must guide and be incorporated into meaningful and effective fisheries legislation.

- ***Ecosystem-based Management.*** Fisheries management should be informed and guided by long-term objectives set for both the fishery and the ecosystem, and thereby consider linkages between different living and nonliving components of the sea, land, atmosphere, and the health and vitality of human communities.
- ***Base Management on Independent Science.*** Strengthen the use of science in management by requiring Regional Fishery Management Councils to adhere to allowable biological limitations determined by their Science and Statistical Committee, setting catch limits at or below these limitations, and establishing a consistent and independent peer review processes for the science used in decision making.
- ***Fallback Provisions.*** As an incentive toward timely and responsible action to address overfishing and the degradation of essential fish habitat, require fallback provisions to be implemented when management plans are not developed within a required time frame.
- ***Dedicated Access Privileges.*** Authorize fishery managers to use dedicated access privileges. Establish national guidelines that allow for regional implementation that is consistent with those guidelines.
- ***Enforcement.*** Expand cooperative fisheries enforcement programs between federal and state enforcement entities. The programs should clarify the role of the Coast Guard and should emphasize joint training, stronger and more consistent information sharing, and increased use of enforcement technology such as Vessel Monitoring Systems.

- **Cooperative Research.** Direct NOAA to create an expanded, regionally-based collaborative research program that involves the fishing community and federal, state, and academic scientists. Research should benefit from linkages to the Integrated Ocean Observing System. Funds for such cooperative research projects should be awarded on a competitive basis.
- **Bycatch Reduction.** Bycatch should be addressed continuously to ensure the sustainability of fisheries and ecosystem services. Fishermen should be allowed to keep fish they catch within conservation limits, rather than be forced to discard and waste one species because it is in a target fishery for another. Bycatch reduction efforts should include accounting for such resources with regard to Total Allowable Catch.
- **Council Membership.** Require governors to submit a slate of candidates that represents a broad cross-section of the public as nominees to the regional councils.
- **Training.** Require training on a variety of topics relevant to fishery management for new Regional Fishery Management Council members and make such training available to representatives from interest groups and industries.
- **Education.** Foster public understanding of ocean resources, including the importance of conservation measures aimed at sustaining fisheries and the linkages between human health and the health of oceans.
- **International Leadership.** Promote adoption and observance of international standards for the sustainable harvest of coral reef and other living marine resources.

Reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act should incorporate these and other relevant guiding principles as articulated in the reports of the U.S. Commission on Ocean Policy and the Pew Oceans Commission. The Joint Ocean Commission Initiative has identified fisheries management as a priority issue and will continue to monitor developments in this area.

For more information on the Joint Ocean Commission Initiative, please contact Laura Cantral at Meridian Institute (202-354-6444 or lcantrol@merid.org).