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Testimony
Before the Committee on Resources
United States House of Representatives

Hearing on the Operations of the Regional Fishery Management Councils
and the Reauthorization of the Magnuson-Stevens Fishery Conservation
and Management Act

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I am both pleased and honored to provide comments to the Committee on behalf of the New England Fishery Management Council. Providing input is critical to the operations of our Council and the fishermen and communities that are affected by our management actions.

Background

Before I begin, some background concerning New England might be helpful. The New England Council has developed nine fishery management plans to date --- for Groundfish, Scallops, Monkfish, Herring, Small Mesh Multispecies, Red Crab, Spiny Dogfish, Skates, and Atlantic Salmon. Currently, there are two plans that are developed jointly with the Mid-Atlantic Council. The New England Council has the lead in preparing the joint Monkfish Plan. In turn, the Mid-Atlantic Council leads in the preparation of measures for the joint Spiny Dogfish Plan.

New England Groundfish and Sea Scallops

The recent headline-generating events about the status of Atlantic cod have overshadowed a number of important accomplishments that have been achieved by the Council and the fishermen of our region. For the record, I will review some under-reported facts about our groundfish stocks.

The Council's rebuilding efforts for groundfish began in earnest in 1994 with the adoption of closed areas, restrictions on the numbers of permits, and limits on the number of days that can be fished. Between 1994 and 2004 numerous additional actions were taken to accelerate stock rebuilding. These measures were successful for some stocks, but not for others. Georges Bank haddock is the premier success story, as biomass --- the amount of fish in the ocean in terms of weight --- increased by a factor of about eight since 1993. Last month's groundfish stock assessment provides clear evidence that it will recover to near record levels in the next few years and serve as a mainstay of the New England fleet.

Witch flounder, often marketed as grey sole, increased by a factor of five, as did Georges Bank yellowtail flounder. Georges Bank cod abundance, however, is only 18 percent more than in 1994, while Gulf of Maine cod is about 50 percent more abundant than in 1994. Both cod stocks, however, declined in the last three years. Not repeated often enough in recent reports is that despite this decline, cod stocks are projected to increase this year and for the foreseeable future.

Unlike the stock status reports of early 1990's, the latest information makes no mention at all of possible stock collapse for either Georges Bank or Gulf of Maine cod. In fact, there is encouraging news for both cod stocks.

- In the case of Georges Bank cod, fishing mortality has been cut in half since 2001;
- The number of older fish in each stock has increased (older fish are more successful spawners) and

- Recent year classes of young fish are also increasing; if successfully husbanded, they will contribute substantially to rebuilding.

While it is undeniable that we received mixed reviews on groundfish, much of the information provided here has not been included in the recent accounts about the status of cod in New England. It is clear to all that additional management measures will be required to further control fishing on some stocks to address the unacceptably high fishing mortality rates in 2004. The Council has already begun its response to the news despite that restrictive measures initiated in 2004 are starting to achieve their intended results.

New England is not without unqualified successes. The scallop fishery continues to generate increasing economic benefits to the nation, providing a larger supply of scallops for consumers and higher revenues for the fishermen at lower costs.

The landings from the sea scallop fishery in the Northeast increased dramatically to over 50 million pounds in 2003 and reached 60 million pounds in 2004, surpassing observed historic levels. The recovery of the scallop resource and consequent increase in landings and revenues is more striking given that only 12 million pounds of scallops worth \$87 million dollars were landed in 1998. Since then, the value of scallops has increased steadily each year, exceeding \$230 million dollars in 2003 and \$300 million dollars in 2004, despite a reduction in scallop prices.

As a footnote, the scallop fishery is a limited access fishery that has operated under a fishing permit moratorium since 1994. To qualify for a permit, a vessel had to meet defined criteria related to demonstrated landings and a history of participation in the fishery, both to have occurred within a specific timeframe.

The only permit category in the fishery that remains open to all applicants allows vessels to land up to 400 pounds daily. The opportunity has made it possible for many small-scale operators in most New England and many Mid-Atlantic states to access this seasonally important source of revenue. However, given the recent rapid growth of this permit category, a result of the increased value of sea scallops, many fishermen have expressed serious interest in establishing an IFQ program.

Management Programs

Most of the New England Council's major fisheries, including the groundfish fishery, are also managed in the same manner as the sea scallop fishery, with permit moratoria and limited access permit programs. Target Total Allowable Catches (TACs) provide benchmarks to measure progress, while fishing mortality is controlled through a limited number of allowable days-at-sea, gear restrictions, minimum fish sizes, and closed areas.

The exceptions to the target TAC management strategy are the New England Council's Herring Fishery Management Plan, which employs a hard total allowable catch, and the joint Spiny Dogfish Plan, which is managed through a catch quota program. Realizing the need for tighter controls in our fisheries, I anticipate Council approval of a major amendment to the Herring FMP next month that calls for a limited entry program, closing one of the last major open access fisheries in New England.

The small mesh whiting fishery remains open access, although there too, development of a limited access program is scheduled to begin in 2006. Even the participants in New England's tiny red crab fishery have recognized the need for change as they develop a proposal for a fishing cooperative that would manage landings by capping landings with a Total Allowable Catch.

Although the issue associated with individual fishing quotas and other rights-based management systems spark lively debate, the New England Council recently adopted a unique grass roots cooperative program based on fishing history, rather than develop a full-fledged quota allocation system. Implemented as part of the Council's Groundfish Plan in 2004, the innovative approach allows the formation of self-defined harvesting sectors.

Hook fishermen from Cape Cod have been the first to grasp that sector rules promote flexibility as members allocate the catch of fish among sector participants and within the confines of overall conservation restrictions on amount of catch, method of fishing and fishing areas. If successful, the formation of sectors will provide strong incentives to rationalize fishing effort and provide fishermen with a more direct management role.

Briefly, under the rules developed by the Council, groups must apply to NOAA Fisheries to be considered a sector and the Council determines how it will operate in terms of its impact on the fishery by allocating a quota share to the sector. Once fish have been allocated to a sector, members may, in turn, allocate the fish among themselves in any way they choose. Other fishing groups are currently working to establish similar programs. Sector membership is not restricted, but as a practical matter such programs will likely work best for fishermen who fish in the same area with similar gear. About 60 longline fishermen currently participate in the existing hook gear sector program.

Stock Assessments, Peer Review and Integration of Science

The Northeast region uses a formal scientific peer-review process for evaluating and presenting stock assessment results to managers. The Stock Assessment Workshop, or SAW, uses an established protocol to prepare and review assessments for fish stocks off the New England and Mid-Atlantic coasts. Assessments are prepared by SAW working groups (federally-led assessments) and are reviewed by a panel of stock assessment experts called the Stock Assessment Review Committee or SARC. Advice is provided to partner management bodies including the New England and Mid-Atlantic Fishery Management Councils.

The overall SAW process is steered by the Northeast Regional Coordinating Council (NRCC), a group made up of the region's fisheries executives --- the New England and Mid-Atlantic Council chairs, vice-chairs and executive directors; the Atlantic States Marine Fisheries Commission executive director; and NOAA Fisheries Service Regional Administrator and Science and Research Director. Collectively, the group chooses the stocks to be reviewed, terms of reference for those assessments and the overall process and protocol used by the SAW.

The SAW sets management targets for both stock size and exploitation rates and evaluates the status of fish stocks relative to those management targets. Using this information, Council Plan Development Teams (referred to as PDTs) consisting of scientists and technical people from NOAA Fisheries, the Council staff, the states and academia, help the Council develop management measures. The Plan Development Teams provide written analyses that demonstrate that management goals can reasonably be achieved through proposed measures.

Because the Council already receives independently peer-reviewed stock assessment advice, its Scientific and Statistical Committee (SSC) meets when stock assessment advice is conflicting or unclear, or when the Council or its Plan Development Teams request assistance. The Council also has a Social Sciences Advisory Committee (SSAC), consisting of social scientists, including economists, which review the analyses of social, economic and community impacts used in fishery management plans.

Management Challenges

As multispecies stocks rebuild, the New England Council will face challenges in terms of balancing the growing expectations of both recreational and commercial fishermen. It also must find ways to achieve optimum yield from a mix of stocks whose abundance is constantly subject to natural variation, while still adequately protecting certain individual stocks.

Greater abundances of fish also will compound the problems associated with any "single-species" approaches, as the lines between the management of individual fisheries blur. Ecosystem approaches to fisheries management, ideally, will allow the New England Council to integrate all of these considerations into its fishery management plans, but not without better information as well as an understanding and acceptance of the principles behind such an approach.

Overcapacity (the difference between harvesting capacity and target catch levels) exists in many New England fisheries. Overcapacity has led to allocation battles among industry groups, poor economic returns in some fisheries, a reluctance to accept cuts in fishing levels when needed and even unsafe vessel operations. To reduce overcapacity, the Council must develop appropriate dedicated access privileges that also meet the national standards for equity and fairness and provide for the sustained participation of fishing communities.

Recommendations for Reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (MSA)

In a number of instances that I will discuss further, the New England Council is in agreement with the eight Council Chairs who submitted comments on reauthorization last spring. I will briefly reiterate some of their remarks and add a New England Council perspective.

Ending Overfishing and Stock Rebuilding: After extensive discussion and consideration of the Chairs position on this issue, the New England Council supports their proposal to end overfishing within one year and to eliminate the ten-year rebuilding period. However, we have several concerns. Our Council agrees that it is a core responsibility of the Councils to end overfishing as quickly as possible, but points to a need to maintain flexibility in fishery management plans when undertaking such action. This is particularly true in a multispecies management context and when impacts on small fishing communities are likely to be severe.

Ending overfishing in one year would preclude Councils from utilizing alternative but effective strategies to end overfishing such as the phased-in fishing mortality reduction approach adopted in 2004 in Amendment 13 to NEFMC's Northeast Multispecies Fishery Management Plan. That program was developed to allow fishermen to make business decisions while adjusting to significantly reduced opportunities in the fishery over a period of several years and with fixed timeframes for adjustments.

Retaining the flexibility provided for in current law allows Councils to rationally address circumstances in which the status of overfishing is uncertain, such as in the New England Council's Monkfish FMP, or when information on stock status is lacking. Short and arbitrary rebuilding time frames ignore these very real scenarios with potentially disastrous social and economic consequences that may be avoided by utilizing acceptable alternatives.

IFQs: On the issue of individual fishing quotas (including community quotas, area-based quotas, fishing cooperatives and other types of dedicated access privileges), the Council would like to highlight the subject of excessive shares. Recognizing that the subject was addressed in the Chairs' document in general terms only, our Council notes that fishery participants in New England consider this an extremely sensitive issue and a very real threat to fishing communities and small boat fleets. (We also recognize and appreciate the introduction of H.R. 3278, the Fishing Quota Standards Act.) If included in National Guidelines or other provisions contained in any additional draft legislation, the Council wishes to reserve the opportunity to comment further on specific language concerning excessive shares.

Competing Statutes: We strongly support the addition of critical provisions to the Magnuson-Stevens Act to make it fully compliant with the essential intent of the National Environmental Policy Act (NEPA) and hope that new legislation will specify the MSA as the functional equivalent of NEPA. The Chairs have proposed Council preparation of a fishery impact statement that will include all of the types of information included in current Environmental Impact Statements and Environmental Assessments. We add only a comment regarding the public availability of the fishery impact statements. The New England Council suggests a fairly extensive timeframe for public review, such as 30 days. The Chairs language specifies that fishery impact statements be made available at least 10 days prior to the date of final Council action. Public participation is a hallmark of the Council process and a lengthier, yet not excessive timeframe for public review would address any perception that opportunities for input are being curtailed.

Ecosystem Approaches to Management: The New England Council is fully supportive of the Chairs position that the Councils should develop ecosystem-based management documents and that adopting such approaches is a first-order goal. We further agree that a fishery ecosystem plan should provide general guidance to FMP development.

Use of Default Mechanisms: The NEFMC generally supports the language in the Chairs comment that default measures that close fisheries entirely until science and management integration standards are met should not be used. With respect to using emergency and interim rules to address delays in use of the best available science, miscellaneous violations of National Standard 1, or other such potential concerns, we believe that language should be added to eliminate the open-ended extension of emergency and interim rules. Specifically, we suggest that their use should not exceed two years.

Hard TACs: Many of our Council members oppose the requirement for hard TACs in all fisheries as well as the SSC's role in setting those TACs, as outlined in previously circulated staff drafts. As an alternative, we suggest that the Councils establish TACs or target TACs as recommended by SSC's in the Council of jurisdiction. Our Council believes that hard TACs are one of many tools available to manage fisheries and their use should be as appropriate rather than mandated in the MSA.

Bycatch Reporting Requirements: The NEFMC also concurs with the Council Chairs on a revision to this section. The change would entail no less commitment to addressing bycatch and reporting, but would reflect limits imposed by manpower and funds. We agree that to the extent practicable the Councils should establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that

(A) minimize bycatch; and

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

The MSA Does Not Expressly Recognize Framework Actions: The New England Council believes that recognition of framework adjustments to fishery management plans may need to be added to the Act.

Fishing Vessels and Scientific Research: Clarification of the definition of scientific research also needs to be addressed to allow authorized fishing vessels to engage in gear and other types of research without encountering the

complex and lengthy requirements currently associated with the experimental fishery permit process.

Funding for Councils: To adequately address previous as well as any new mandates associated with MSA reauthorization, the Councils must have the funds to support Council activities. This has been a chronic problem for a number of years in the New England region during a period in which the workload has increased exponentially. Management initiatives have been postponed and the quality and timeliness of work products has been affected and counterbalanced only by staff diligence. The Council respectfully requests that Congress address this very pressing issue and provide sufficient funding for mandated activities and any new initiatives that are being contemplated. We also endorse more funding to NOAA Fisheries for the purpose of dedicating more resources to stock assessments and the collection of information to assess socioeconomic impacts.

Mr. Chairman, that concludes my remarks today. On behalf of the New England Council, I reiterate the elements of good fisheries management that I believe we all support --- to end overfishing as quickly as possible and promote sustainable fisheries, encourage greater stewardship, streamline the federal process, and adequately fund and expand the existing data collection and monitoring initiatives. I hope my comments are helpful to you as you move forward with the reauthorization process.