Statement of William T. Hogarth, Ph.d., Acting Assistant Administrator For Fisheries, National Marine Fisheries Service, U.s. Department of Commerce

Mr. Chairman and Members of the Subcommittee, thank you for inviting me to this hearing on capacity reduction programs and subsidies in the fisheries sector. I am William T. Hogarth, the Acting Assistant Administrator for Fisheries in the National Oceanic and Atmospheric Administration/Department of Commerce.

The subjects of this hearing are two related issues: fishing capacity reduction and the subsidies provided by the Federal Government to the fishing industry, in particular subsidies that influence levels of capacity. More specifically, this hearing will address two recently completed reports. The first report, issued by the General Accounting Office almost a year ago, assesses Government programs to reduce overcapacity through publicly funded buyouts. The second report was mandated in the 1996 Sustainable Fisheries Act amendments to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to examine the influence of subsidies and other Federal programs in both the expansion and contraction of fishing capacity. One theme that appears in both reports is the use of public funds, or subsidies, to achieve reductions of overcapacity in the fish harvesting sector.

NMFS POLICES ON MANAGING CAPACITY AND PROVIDING SUBSIDIES:

THE HISTORIC VIEW

Before I discuss these two reports and comment on their findings, I thought it would be helpful to the Subcommittee to review briefly the larger context. Accordingly, I would like to spend a few moments on the Federal Government's historic role in, first, promoting and managing capacity, and, second, providing publicly funded economic assistance to the fisheries sector. The key point is that these roles have evolved considerably over the last two decades, and, once we understand those changes, we can address these two reports.

When the Magnuson-Stevens Act was passed 25 years ago, the U.S. fishing industry lacked the capacity to harvest all the resources in our 200-mile Exclusive Economic Zone (EEZ). Congress, NMFS and the industry embarked on a program to promote domestic capacity. Now, we are confronted with a situation in which there is overcapacity in many federally managed fisheries.

Viewed historically, it is apparent that Federal laws, programs and policies to promote the development of the U.S. fishing industry from 1977 to roughly 1990 are among the reasons we are now dealing with overcapacity. To place these issues in a more meaningful context, I thought it would be helpful to review briefly how "undercapacity" became "overcapacity." When the United States established a 200-mile fishery conservation zone in 1976, the Fishery Conservation and Management Act (FCMA), and the American Fisheries Promotion Act (1980) launched a broadly supported Congressional and Administration policy of promoting growth in domestic harvesting capacity and Americanization of the zone. As a result, in the years up to about 1990, foreign operations were gradually phased out and domestic landings, revenues, and exports increased.

U.S. government policy fostered this growth in harvesting capacity in many ways. Domestic fishermen were encouraged to engage in fisheries that had previously been dominated by foreign vessels, including fisheries for species that were considered "underutilized" in the U.S. market. Investment tax credit provisions in the IRS code until 1986 stimulated spending on new vessel construction. Federal loans, loan guarantees, and tax

deferral programs stimulated the purchase, repair, and refitting of fishing vessels. Direct grant programs, such as the Saltonstall-Kennedy Fishery Development Grants program, provided seed money for new product development and other projects. Foreign allocations and trade policies were linked through the so-called "Fish and Chips" initiative to promote foreign market opportunities for U.S. producers.

I think it is important to point out that these policies were successful in achieving full domestic use of the EEZ resources in a relatively short period of time. By the end of the 1980s, the U.S. EEZ was, for all practical purposes, fully Americanized, with no directed foreign fishing and only modest levels of foreign participation in "over-the-side" joint ventures. The United States became a major fishing power, and one of the top few seafood exporters in the world. However, it soon became clear that at least some key segments of the harvesting sector had developed excessive production capacity. Traditional fisheries stocks suffered major declines in parts of the U.S. EEZ. User conflicts among domestic groups of fishermen multiplied. By the end of the 1980s, everyone involved, including the Congress, NMFS, the Regional Fishery Management Councils (Councils) and industry became increasingly interested in ways to constrain harvesting capacity to more sustainable levels.

NMFS and the Councils began to explore various forms of limited entry in many federally managed fisheries; direct grants for research and development declined and various other domestic and international market promotion activities were curtailed or terminated. Congress passed the Commercial Fishing Vessel Anti-Reflagging Act of 1987 that placed more restrictive limits on foreign investments in U.S.-documented and -flagged fishing vessels.

FROM PROMOTING TO MANAGING CAPACITY

Nevertheless, it was clear by the early 1990s that the overcapacity problem persisted and was extremely serious in certain fisheries. In the Northeast groundfish fisheries, for example, the resources were declining and could not support existing levels of effort and capacity. In the North Pacific fisheries for Alaska pollock and other bottomfish species, the race to invest in both at-sea and shoreside facilities, spurred by domestic policies, foreign investments, and attractive export opportunities, created a major user conflict during practically the entire decade.

Now I would like to review briefly the major programmatic and legal tools that have capacity-constraining implications:

o Buybacks

The most obvious and explicit means of addressing overcapacity is to buy out surplus vessels and/or permits. For almost a decade, Congress, NMFS and various industry groups moved toward more direct and aggressive interventions in the capacity problem. Starting in 1994, the Federal Government began to purchase redundant vessels and/or permits in selected fisheries. Initially, publicly funded vessel/permit buybacks were conducted in the Northeast groundfish and Pacific Northwest salmon fisheries. From 1994 to 1999, a total of almost $56 million was appropriated under various statutes to fund seven separate buybacks in the Northeast multispecies, Gulf of Mexico fisheries, Northwest salmon, and Alaska pollock and crab fisheries.

The 1996 amendments (SFA) to the Magnuson-Stevens Act authorized a new type of buyback, in which public and private resources could be used to fund the removal of redundant vessels. The SFA's Section 312 (b)-(e), Fishing Capacity Reduction Program, stipulated that buybacks conducted under this provision must

"prevent the replacement of fishing capacity removed by the program," be "cost-effective," and "obtain the maximum sustained reduction in fishing capacity at the least cost." Funding could be provided from a variety of public sources and from "an industry fee system." NMFS has expended considerable effort in the last few years to develop rules to implement these public/private partnerships.

The 1998 American Fisheries Act (AFA) legislated a buyback of nine at-sea Alaska pollock vessels with a direct Federal payment and a Federal loan that pollock fishermen will repay with assessments levied on their future first sales. Technically, the AFA buyback was achieved through direct legislation rather than under Section 312 of the Magnuson-Stevens Act, but the key point is the public/private partnership in paying its costs.

o Limited Entry

Limited entry provisions have a long history in domestic fisheries, and often serve as a first step toward more restrictive measures. In U.S. federally managed fisheries, the Councils and NMFS paid increasingly serious attention to this category of regulations, and introduced limited entry in most FMPs. At the present time, practically all federally managed fisheries have at least some form of limited entry from a control date to a moratorium on new entrants. Generally, limited entry, in particular its stronger forms, constrain or prevent new entrants but do not effectively limit the capacity of existing participants in a fishery. Nevertheless, limited entry may be a first step in a program of restricting participation in fisheries.

o Systems Based on Allocations to Individuals or Specific Groups

During the early 1990s, some of the Councils also began to consider management systems based on allocations to individuals or specific groups as a means to enhance the effectiveness of the management process, improve the industry's economic performance, and reduce overcapacity. One example is Individual Fishery Quotas (IFQs), in which an allocation or share of the catch is assigned to an individual participant/vessel in the fishery. IFQs were introduced in the surf clam/ocean quahog and wreckfish fisheries in the Atlantic and in the sablefish/halibut fishery in the North Pacific during the 1990s, and all three IFQs have, according to the 1999 National Academy of Sciences report mandated by the SFA, had some capacity-constraining effects in those fisheries.

These systems include a variety of arrangements, not all of which assign quotas to individual participants. Community development quotas (CDQs), which were established in the 1990s for western Alaska native communities, are another form of such a system. Fisheries cooperatives, although not harvest rights-based systems in the strict sense, may function like IFQs. The 1998 American Fisheries Act created various cooperatives of Alaska pollock producers. More recently, another cooperative of fishermen in the Alaska sea scallop fishery was formed.

IFQs, CDQs, and the Alaska Bering Sea pollock cooperatives have had discernible capacity mitigating effects, and generally have yielded appreciable levels of economic and conservation benefits. In the two Atlantic IFQs for surf clam/ocean quahog and wreckfish, in which quotas shares are highly transferable, the decline in participation has been most dramatic.

o Statutory Regulations on Vessel Construction, Ownership and Size

Although maritime laws generally are not categorized as instruments that manage capacity, these statutes do have implications for levels of harvesting capacity. Recently, U.S. laws that govern these matters have

become more restrictive, first in 1987, with the passage of the Commercial Fishing Vessel Anti-Reflagging Act, and then in 1998, with the AFA. Under U.S. law, fishing vessels, to be documented by the U.S. Coast Guard, must be constructed in domestic shipyards and U.S. citizen ownership shares must be 75 percent. In addition, the 1998 AFA restricted, with certain specific exemptions, the eligibility for fishery endorsements of vessels greater than 165 feet in registered length, more than 750 gross registered tons, and with engines capable of producing more than 3,000 shaft horsepower. These documentation requirements prevent foreign-built and foreign-controlled vessels from participating in federally managed fisheries and limit the eligibility of extremely large vessels. Available data and studies do not support any firm conclusions about the net effects of these statutes on fishing capacity.

NMFS INITIATIVES ON THE FISHING CAPACITY ISSUE

During the last several years, NMFS has pursued a number of voluntary initiatives dealing with fishing capacity in both the international and domestic spheres.

In the international arena, NMFS, working with the Department of State, dedicated considerable efforts to technical consultations and negotiations leading to the 1999 agreement in the United Nations Food and Agriculture Organization (FAO) of an international plan of action on the management of fishing capacity (IPOA/capacity). The IPOA/capacity is a voluntary and not a binding agreement, but we feel that it represents a potentially important step in the right direction in our efforts to deal cooperatively with other nations on this difficult issue. Most notably, all FAO members who agreed to the IPOA/capacity must produce national plans of action to better manage capacity levels in their domestic fisheries by the end of 2002, and to "reduce and progressively eliminate all factors, including subsidies and economic incentives ... which contribute to the build-up of excessive fishing capacity." An important and fundamental point about the FAO agreement is that international cooperation on this issue should yield benefits for U.S. fishermen and federally managed fisheries, in particular those fisheries in which there is both U.S. and foreign participation.

In the domestic arena, NMFS established a performance measure under its strategic plan that explicitly addresses this issue. Several years ago, under the planning element, Build Sustainable Fisheries, we agreed to an objective "to reduce the number of overcapitalized fisheries by 20 percent by 2005."

In 1998, NMFS established a working group of agency economists and other fisheries specialists to develop definitions and measures of capacity and overcapacity. This group has worked for more than two years on these complicated issues. Recently, the internal working group issued a report that identifies capacity in most federally managed fisheries based on qualitative indicators. The working group will soon issue another report on technical and economic definitions and measures of capacity. We continue to work on assessments of quantitative measures of capacity, and convened a meeting of experts two weeks ago to review the progress we have made thus far on these measures. This recent meeting concluded with an agreement on methodologies that can be used to measure capacity in fisheries from several different perspectives.

With these metrics, I hope that NMFS will be able to prepare quantitative assessments of capacity levels in all, or nearly all, federally managed fisheries, just as we do for the status of stocks. I believe that this technical work is extremely important, because it will enable us, first, to develop plans and monitor progress in dealing with overcapacity, and, second, to assess the effectiveness of government actions, such as buybacks, to deal with this problem. Finally, NMFS has agreed in the FAO IPOA/capacity to reduce domestic subsidies that promote overcapacity, and this brings us to the second broad theme of this hearing. As we did with the capacity issue, it would be helpful to review briefly the evolution of NMFS' thinking on

the subsidies issue.

SUBSIDIES IN THE FISHERIES SECTOR

Subsidies is a term of trade law that has traditionally been applied to a category of government measures that confer unfair and, under certain conditions, actionable adverse effects in international markets. Indeed, the single binding international agreement that disciplines subsidies, including subsidies in fisheries, is the 1994 World Trade Organization's (WTO) Agreement on Subsidies and Countervailing Measures. During the last decade, however, as concerns intensified about overfishing and overcapacity in world fisheries, international organizations, national governments and private groups became increasingly interested in the environmental, as well as trade, effects of subsidies. In the fisheries sector, the connection that received the greatest attention was the relationship between, on the one hand, subsidies provided to fishermen, and, on the other, unacceptably high levels of overfishing and overcapacity.

In the context of this broader debate, some governments and experts made the point that certain government payments that qualify as subsidies under the 1994 WTO subsidies agreement may have positive environmental effects. As an example, publicly funded buybacks of redundant fishing vessels and/or permits may be a subsidy, but, because they reduce excess capacity, don't promote production or increase trade, are also environmentally beneficial or at least benign, and are therefore "good" subsidies.

The recent domestic and international debate on subsidies in the fisheries sector has placed considerable emphasis on the distinction between "good" and "bad" subsidies, i.e., between subsidies that constrain capacity or enhance resources, and other subsidies that promote excessive levels of effort and capacity. Seen in this context, U.S. practice has evolved significantly during the last few decades. During the first decade or so after the FCMA, the United States Government funded a number of subsidies that did, explicitly or implicitly, promote higher levels of fishing effort and capacity. Some of these effort- and capacity-enhancing subsidies, such as loan guarantees, tax deferral programs, and fishery development grants, were administered by NMFS, while other subsidies were implemented by other Federal agencies, such as the Department of Agriculture.

During the last decade, NMFS has scaled back and redirected a number of these effort- and capacity-enhancing subsidies, placing relatively more emphasis on programs that reduce effort and capacity and that support sustainable resources. Publicly funded buybacks of surplus fishing vessels and/or their permits are the best example of this.

Finally, during the last several years, NOAA joined the Office of the United States Trade Representative in developing and promoting an international initiative on subsidies. Under this proposal, during the next global round of multilateral trade negotiations, World Trade Organization members will agree to phase out trade-distorting and environmentally harmful subsidies in fisheries. Such a global agreement, combined with improvements in management, would ultimately have a capacity-constraining effect. To promote this international initiative, NMFS has also played an active role in recent years in the preparation of various international studies of fisheries sector subsidies, for example, in FAO, the Organization for Economic Cooperation and Development and the Asia Pacific Economic Cooperation Forum.

GAO AND SFA-MANDATED REPORTS

With this background in mind, I would like to turn now to the two reports that are the subjects of this hearing: (1) the report issued last year by GAO on vessel buybacks, and (2) the 1999 Magnuson-Stevens

Act-mandated report on the implications of subsidies and other Federal programs for the expansion and contraction of capacity in federally managed fisheries.

o THE GAO REPORT ON CAPACITY REDUCTION

The first of these is the GAO report, Entry of Fishermen Limits Benefits of Buyback Programs**,** which was issued in June 2000. Essentially, this report assesses three buyback programs in (1) New England groundfish, (2) Bering Sea pollock, and (3) Washington State salmon fisheries. These programs were funded under different laws, included a mix of grants and loans, and involved aggregate public costs of $130 to $140 million from 1995 to 2000. GAO's key finding is that the effectiveness of buybacks in fisheries can be hampered by:

o the entry of bought-out fishermen into other fisheries;

o the activation of latent permits in bought-out fisheries; and

o capital (input) stuffing, i.e., increased efforts and investments by fishermen who remain in

bought-out fisheries.

The GAO report concluded that the buybacks administered in the New England groundfish fleet were less effective than the vessel and permit buybacks in the Alaska Bering Sea pollock and Washington State salmon fisheries. In summary, these three vessel and permit buyback programs had a mixed record as publicly funded measures to achieve reductions in fishing capacity. To improve the effectiveness of capacity reduction programs, GAO made a number of recommendations, of which we believe the most important were that:

o NMFS should make greater effort to measure harvesting capacity in more fisheries;

o the effectiveness of buyouts should be more systematically evaluated;

o buybacks must be somehow tailored to prevent post-buyback entry into other fisheries; and o capacity reduction programs should be accompanied by management measures, such as cooperatives and other systems based on allocations to individuals or specific groups, that will address the "race to fish."

NMFS RESPONSE TO THE GAO REPORT

NMFS has already provided technical comments on the GAO report, which were appended (with GAO's responses to the NMFS comments) to the June 2000 report. In addition, the agency published in the Federal Register, on May 18, 2000, an interim final rule implementing Section 312 (b-e) (Fishing Capacity Reduction Program) of the Magnuson-Stevens Act, which explains in detail the agency's views on how to implement buybacks funded from both public and private sources. In this hearing, therefore, I would like to confine my comments to what are the most fundamental issues.

First, NMFS agrees that we need better definitions and measures of capacity and overcapacity in fisheries.

We also agree that NMFS should, to the degree that is practical, regularly monitor and assess the effects of

completed buybacks. On this score, we point out that the NMFS Northeast Fisheries Science Center conducts such an annual report on the New England buybacks; that the pollock cooperatives issue reports with this type of information, to the North Pacific Fishery Management Council; and that Washington State reports on the salmon permit buybacks to the Washington State Fish and Wildlife Commission.

In addition, NMFS agrees that buybacks should be administered in ways that prevent the entry of bought-out boats in other fisheries. This is a complicated and technical issue. The circumstances of each buyback fishery would have to be examined separately. For example, the potential entry of bought-out vessels depends significantly on whether the buyback targets vessels, permits, or both.

Finally, we agree that, ideally, vessel and permit buybacks should be accompanied by changes in the basic management system that will lead to a better harmonization of fishing capacity with available resources. At the same time, we are compelled to note that such an approach to capacity reduction may require a time-consuming and politically contentious process.

As a general comment, NMFS welcomes the GAO report and agrees with most of its major findings, but also notes that buybacks are designed to provide timely assistance in a wide variety of different circumstances in distressed fisheries. Therefore, while we agree with GAO on most of its major points, we are also compelled to deal with these situations on a case-by-case basis.

o THE MSA-MANDATED REPORT ON SUBSIDIES AND CAPACITY

Among the many reports mandated by the Sustainable Fisheries Act amendments was the Federal Fisheries Investment Task Force Report, issued in July 1999. Essentially, the report was completed by a task force of 22 non-Government experts, representing all geographic regions and perspectives. It examined broadly the Federal role, through subsidies and other Government programs, in the expansion and contraction of harvesting capacity in federally managed fisheries.

The task force looked at this issue historically, from the introduction of extended jurisdiction in 1977 to the present, and included a number of case studies on capacity levels in specific fisheries. Just as important, the task force did not confine its study to NMFS subsidies and programs, but also examined the role of a wide variety of activities of other Federal agencies. Taking this broad view of the problem, the task force studied in some detail a number of issues that had not received much scrutiny, such as the roles of the U.S. Department of Agriculture lending programs in fisheries, the policies of the Small Business Administration, the effects on fisheries habitat of U.S. Army Corps of Engineer projects in the Mississippi delta and in the Florida Everglades, and the implications for fisheries investments of the Investment Tax Credit until its reform in 1986.

The task force paid considerable attention to NMFS programs, in particular the Fisheries Obligation Guarantee (FOG) and the Capital Construction Fund (CCF), which, among programs administered by NMFS, had the best documented effects on capacity levels in federally managed fisheries. As a general observation, the task force report concluded that the FOG and CCF programs, in conjunction with other economic assistance measures and development policies administered by NMFS and other Federal agencies, had some capacity-enhancing implications for some U.S. fisheries in certain periods, but that these effects are difficult to measure precisely.

The FOG, which was transformed in 1996 into a direct loan program, no longer finances new harvesting capacity additions. However, the CCF does promote additions to capacity levels. It is noteworthy that the

task force report includes a lengthy discussion of various ways in which the CCF program could be amended to solve this problem e.g., by permitting withdrawals from CCF accounts for purposes other than building new and refitting existing vessels; however, the task force did not agree on any specific reform proposal.

NMFS RESPONSE TO THE TASK FORCE REPORT

NMFS generally agrees with the findings and recommendations of the task force report. The report's historical focus, the treatment of programs implemented by all Federal agencies, the case study approach, and the discussion of subsidies to sectors other than fisheries (riverine navigation, land development, and hydroelectric power) were all interesting and welcome.

In addition, the chapters in the task force report on the concepts of capacity and subsidies incorporated recent work on these issues, including efforts supported by NMFS, and presented these themes in an engaging and thought-provoking manner.

Generally, NMFS has, as much as its discretionary authority allows, dramatically reduced the scope of subsidies and other programs that enhance fishing capacity, and placed progressively much greater emphasis on subsidies and other programs that reduce capacity. Since 1997, NOAA has been working with the USTR on an international World Trade Organization initiative to reform trade-distorting and environmentally harmful subsidies.

The only major capacity enhancing NMFS-administered subsidy is the tax deferral program, the CCF. NMFS is willing to engage interested parties in a dialogue on the future of the CCF.

In conclusion, I believe that there must be a strong program to tailor fishing capacity to the availability resources if we are to maintain sustainable fisheries, the economic viability of the industry and the safety of the fleet.

Mr. Chairman, I appreciate the opportunity to testify before the Committee today and am prepared to respond to questions from Members.

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