

Committee on Resources

Subcommittee on Fisheries Conservation, Wildlife and Oceans

**Statement of Paul W. Parker, Executive Director,
Cape Cod Commercial Hook Fishermen's Association
on Behalf of the
Marine Fish Conservation Network
Before the
House Subcommittee on Fisheries Conservation, Wildlife and Oceans
on the
Impact of the Regulatory Flexibility Act on Fisheries Management
April 29, 1999**

Good morning Mr. Chairman and Members of the Subcommittee. My name is Paul Parker, I am a commercial cod fisherman from West Chatham, Massachusetts and Executive Director of the Cape Cod Commercial Hook Fishermen's Association (CCCHFA). I am appearing today on behalf of the Marine Fish Conservation Network (Network). The Network is a coalition of more than 80 national, regional, and local environmental, commercial and recreational fishing, and marine science organizations dedicated to the conservation of marine fish. The CCCHFA is one of several groups that represent commercial fishermen who are members of the Network. I am pointing this out because too often the Network is portrayed as a coalition of environmentalists - ignoring the fact that a significant number of its members represent commercial and recreational interests. In fact, many commercial and recreational interests are some of the strongest advocates of marine fish conservation, they have to be, their livelihoods depend on healthy fish stocks. Without fish there will be no fishermen. It's that simple.

As I said, I'm a fisherman, not a lawyer, so I'm not going to debate the merits the Regulatory Flexibility Act or the various legal cases that have been brought by some commercial fishing groups against NMFS for not complying with the Act. What I do want to talk about is my concern, and the Network's concern, that critical fish conservation measures may be held hostage to debates over economics. As I understand it, the Act requires that NMFS, when developing fish conservation regulations, consider alternatives that accomplish the objectives of the Magnuson-Stevens Act and that minimize any significant economic impacts on small businesses, like fishing operations. The important point here is that the alternatives considered must be consistent with the objectives of the Magnuson-Stevens Act to conserve and manage U.S. fisheries. If several alternatives are equally protective of marine fish, but have varying degrees of adverse economic impact to fishermen, then NMFS should choose the alternative that has the least economic impact. However, the Regulatory Flexibility Act should not be used to undercut needed fishery conservation measures. This is short-sighted and will in the long-term lead to more and greater economic hardships for fishermen.

The Network's other concern is the recent proliferation of lawsuits against NMFS, challenging its implementation of the Act. Again, we agree that NMFS should evaluate the economic impacts of fisheries regulations and if possible choose alternatives with the least economic impacts that still meet conservation or other needs. However, we are very concerned that these lawsuits are being used to block unpopular, but needed, conservation measures. As you may know, there was an article in the November 1998 issue of *National Fishermen* that discussed NMFS's requirements under the Regulatory Flexibility Act and National Standard 8 to evaluate the economic impacts of its actions. While the article imparted important information on NMFS's legal requirements, it spent far too much time discussing the fact that legislative changes adopted in 1996 subject NMFS Regulatory Flexibility Act implementation activities to judicial review. The clear implication I drew from reading the article is that if you don't like NMFS's economic analysis, sue them. While we believe that NMFS should be held accountable, we are very concerned that some groups will use this new requirement to block conservation measures, thus making it increasingly hard for NMFS to protect the long-term sustainability of our fisheries.

What can the Subcommittee do? Well, first the Subcommittee should consider clarifying the requirements of the Regulatory Flexibility with regard to the type of analysis required and the effect of that analysis. We suggest that the Subcommittee specifically say that, although NMFS should consider the economic impacts of its actions, it is not required to adopt alternatives that do not provide needed conservation benefits to the fishery. This will ensure that conservation measures are not watered down simply to minimize the economic impacts. We also suggest that the Magnuson-Stevens Act be amended to make it clear that conservation measures, such as annual catch limits, cannot be set aside because of economic concerns. This will ensure that courts cannot set aside conservation measures on purely economic grounds. Finally, the Subcommittee should support increased funding and personnel to ensure that NMFS has adequate resources to conduct needed economic analyses.

As we have seen over and over again in New England, NMFS and the New England Council have bowed to economic concerns at the expense of the fish. This has resulted in the imposition of draconian regulations, such as the recent closure of much of the Gulf of Maine to groundfish fishing. This has created severe economic impacts to many groundfish fishermen. Had the Council and NMFS imposed adequate interim measures in the 1980's we would not be in the dire straits that we find ourselves now. Mr. Chairman, the best way to save the fishermen is to save the fish. Don't let the Regulatory Flexibility Act be used to prevent the adoption of important conservation measures. In the long-run, we'll all pay a much higher price if you don't.

Thank you for the opportunity to testify and I would be happy to answer any questions.

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