

Testimony of Ronal W. Smith  
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Before the House Committee on Resources  
Hearing on the Operations of the Regional Fishery Management Councils  
And

The Reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act

October 27, 2005

Good afternoon Mr. Chairman, Members of the Committee. I am Ronal Smith, Chairman of the Mid-Atlantic Fishery Management Council.

The Mid-Atlantic Council currently has seven operational Fishery Management Plans. Two of them are managed jointly with the New England Fishery Management Council and five are managed by the Mid-Atlantic Council. These plans cover thirteen species and fourteen stocks. All of our recreational fisheries are open access fisheries with the principal management measures being: size limits; seasonal closures; and, bag limits. All of our commercial fisheries require vessel permits. Some (summer flounder, scup, black sea bass, Loligo and Illex squid, tilefish, monkfish) are limited access fisheries. Two, surfclam and ocean quahog, are governed using Individual Transferable Quotas (ITQs). The remaining four (bluefish, mackerel, spiny dogfish, butterfish) are open access. We currently use a single species management approach and use annual commercial quotas and recreational targets as the principal means to control fishing mortality on our managed stocks. Of the thirteen species under management, only two are currently experiencing overfishing; summer flounder and monkfish. Of the fourteen stocks we manage, currently only butterfish and scup are categorized as overfished, and these two categorizations were just made in the past six months.

Stock assessments for our species are developed through a stock assessment workshop (SAW) process facilitated by the NMFS' Northeast Fisheries Science Center and includes the New England Council, ourselves,

Regional States, and the Atlantic States Marine Fisheries Commission. The Councils and the Commission identify their needs to the agency and through a Northeast Region Coordinating Council (NRCC) that prioritizes which stocks are to be assessed. Two assessment workshops are convened during the calendar year at which time three to five stocks are usually assessed. Following the workshops, which are composed of scientists from various disciplines and organizations, results are peer reviewed by a stock assessment review committee (SARC) comprised of experts assigned from the NOAA-sponsored Center for Independent Expertise (CIE). The results of the scientific peer review are provided to the agency for purposes of dissemination to the three management authorities for their use in developing management actions.

Using the best stock assessment information available Mid-Atlantic Council staff develops recommendations regarding annual harvest levels and related management measures. These staff recommendations are provided to the Council's appropriate fishery Monitoring Committees for their review and action. Monitoring Committees as used by the Mid-Atlantic Council are in effect species Scientific and Statistical Committees (SSC). They are comprised of experts from various disciplines and meet in conjunction with the principal Council staff scientist responsible for a particular fishery. The Monitoring Committee develops its own recommendations through a process that allows the public to witness and question the staff's and Committee's recommendations and the sources of information on which those recommendations were made. The Council's Species Committee then convenes and it reviews both the staff recommendations and the Monitoring Committee's recommendations to develop its recommendations for Council consideration. The Species Committee's recommendations along with the staff's and Monitoring Committee's recommendations, are presented to the Council for its action. When the Council formally adopts its recommendations for plans and annual specifications these decisions are communicated by the staff, together with their justifications, to the Secretary who then uses the federal rule-making process to implement them.

All Mid-Atlantic Council funding comes exclusively from federal grants provided by the Department of Commerce's National Oceanic and Atmospheric Administration's grant office. The Council's grant is an administrative one. For our current fiscal year we received approximately \$2 million. We do not receive funds to conduct any scientific data collection activity, nor do we manage any research activities. The National Marine Fishery Service is charged to provide the Councils the data and science-based information necessary for the Councils to do their analyses and make recommendations to the Secretary.

This past March our Council provided thirteen recommendations to appropriate House and Senate Subcommittees that it would like Congress to address when it reauthorizes the Magnuson-Stevens Act. I have taken the liberty of including

these recommendations as an addendum to my testimony. I will highlight just one of our high priority recommendations. We would like to see the Magnuson-Stevens Act provide the Councils and NMFS a Federal Advisory Committee Act (FACA)-like exemption from the National Environmental Policy Act (NEPA). Under the Magnuson-Stevens Act, Councils and their Committees are exempt from the Federal Advisory Committee Act requirements. We believe that a similar exemption should be created regarding the National Environmental Policy Act requirements. We believe that Fishery Management Plans and their Amendments prepared in compliance with Sections 303 and 304 of the Magnuson-Stevens Act satisfy the requirements of Section 102(2) of the National Environmental Policy Act. Hence, language to this effect included in a reauthorized Magnuson-Stevens Act would provide all Councils the relief they need. Many environmental special interest groups feel NEPA is necessary to protect both fish stocks and the environment when in fact the Magnuson-Stevens Act itself is a more powerful piece of environmental legislation. Since the passage of the Sustainable Fishery Act in 1996 environmental special interests have used the National Environmental Policy Act as a litigation tool. Resources that would have otherwise gone to address fishery management issues have been diverted to litigation associated with National Environmental Policy Act procedural defects. The consequence of this is that NMFS, overly sensitive to lawsuits, has developed a culture of "bullet proofing" itself from lawsuits. Some outrageous examples of this "bullet proofing" culture are the North Pacific Council's 7,000 page EIS for its Alaskan Groundfish Fisheries and the New England Council's 5,000 page EIS for its Groundfish Fisheries. To borrow and paraphrase the late Will Roger's, he never read a government publication he didn't like, I can assure you he never read a fisheries EIS. These documents are

incomprehensible to the general public but they do satisfy the government's lawyers and NEPA analysts.

As for new challenges for our Council, I believe bycatch and discard issues, and evolving ecosystem based management techniques and data needs represent serious future problem areas. For example, the Sustainable Fisheries Act of 1996 added a bycatch National Standard requiring us to minimize bycatch and, if we cannot do that, then reduce the mortality on such bycatch. Moreover, our plans are required to establish a standardized bycatch reporting methodology. These requirements appear reasonable, but in reality they are often unattainable given our current state of knowledge and data collection systems. Frankly, the NMFS does not currently have sufficient data that would allow Councils to reasonably meet the requirements to reduce bycatch. We need better, more timely, and more complete catch data in our directed fisheries to adequately address bycatch. To appreciate this situation think about the fishing public. Let's assume a recreational angler is targeting a popular recreational species like summer flounder. However, instead of catching summer flounder, he catches and discards dogfish, bluefish, skates, and sea robins. How many times does this happen? How many fishermen experience this outcome? How many of the discarded bycatch survive? Think about it - if you have gone fishing for a specific species and caught a variety of fish, what data collecting entity did you tell? Multiply that personal experience by millions and you can understand and appreciate the lack of reporting infrastructure to address these bycatch requirements. Commercial sector reporting is better, but there is room for improvement regarding accurate recording of its bycatch. It's a serious problem in the Mid-Atlantic, and will remain so until dedicated resources are made available to address the issue.

Overall, the present Magnuson-Stevens Act process does work. However, as currently constructed it is very cumbersome and too time consuming.

I thank you for having invited me to provide my views about Council operations and reauthorization of the Magnuson-Stevens Act. I sincerely appreciate the honor and opportunity to appear before the Committee.