

TESTIMONY OF
WILLIAM HOGARTH, Ph.D.
DIRECTOR, FLORIDA INSTITUTE OF OCEANOGRAPHY
UNIVERSITY OF SOUTH FLORIDA
ON
IMPLEMENTATION OF THE MAGNUSON-STEVENSON FISHERY CONSERVATION
AND MANAGEMENT ACT
BEFORE THE
SUBCOMMITTEE ON OCEANS, ATMOSPHERE, FISHERIES, AND COAST GUARD
U.S. SENATE
WASHINGTON, D.C.
March 8, 2011

Senator Begich and members of the Subcommittee, thank you for inviting me to this hearing on how the implementation of certain aspects of the Act is impacting fisheries and the individuals, businesses and communities who depend upon them.

I am Bill Hogarth, Director of the Florida Institute of Oceanography (FIO) which is an Administrative Infrastructure Support Organization (AISO) created by the Florida Legislative and serves under the Board of Governors. FIO consists of 20 members including 11 State University System institutions, the Florida Department of Environmental Protection, Florida Wildlife Research Institute, Mote Marine Lab, University of Miami, Eckerd College, Smithsonian Institution, Florida Sea Grant, NOVA SE University and New College. From 2000 to 2007 I was the Assistant Administrator for Fisheries and Director of the National Marine Fisheries Service. Many of the changes to the Magnuson Stevens Act that occurred in the reauthorization of 2007 occurred during my tenure as Director of the National Marine Fisheries. Today I would like to offer my perspectives on the issues that were important in the 2007 reauthorization, and successes and challenges in implementation of the new requirements to date.

In my tenure as Director of NMFS, I was concerned that detailed regulations on where, when, what gear and how much fish to catch were limiting the ability of fishermen to act as rational businesses. Investments in fisheries vessels, processing and jobs need to be based on a rational business planning environment. In many of the nation's fisheries, allocations to individuals or sectors have allowed regulators to reduce the overall regulatory burden as long as catches do not exceed allocations. The 2007 reauthorization helped to better define catch share programs and encouraged their use, within certain constraints. I continue to support these programs, where appropriate – and they are not necessarily appropriate in all circumstances. In my opinion, the continuing debate about New England groundfish management stems from the fact that we put into place restrictive annual catch limits intended to end overfishing at the same time incorporating a catch share program with its allocations to the various sectors. This is the first time that I recall that important conservation and economic objectives were addressed for such an important fishery simultaneously. Thus there is confusion regarding the purposes of the specific ACLs and the catch share system.

The 2007 reauthorization also emphasized the importance of improving the science, its peer review, and use by the councils. It mandated that advice by Council's Scientific and Statistical Committees could not be exceeded, and called for more research on stock assessments. It also emphasized the importance of cooperative research programs – where NMFS scientists work in concert with fishers to gather important data used to help manage the stocks. During my tenure working with Congress and the Administration, we were able to increase funding for science including the Expand Stock Assessments budget line, and to build several acoustically-quiet fishery survey vessels. Incidentally, these new fishery survey vessels were crucial to the response to the Deepwater Horizon oil spill response because of their diverse capabilities and ability to monitor gas and oil seeping from the vicinity of the well head.

The discussions on the reauthorization of the Magnuson-Stevens Act were very intense and centered to a large extent on the annual catch limits to be set to stop overfishing, prevent overfishing of stocks, and the necessity of the rebuilding timeframe. In evaluating the impacts of not controlling overfishing and overfished stocks it was calculated that we could realize a \$2 billion dollar INCREASE in revenue if we properly managed and rebuilt the stocks

The potential economic impact to the fishing families, businesses and communities created debate on the on balance of conservation and economics. Many options were considered with the final requirements that the Councils have one year to develop the plan, with an end to overfishing occurring as soon as possible not to exceed two years. It is my understanding that an end to overfishing has now been achieved for US fish stocks that are federally managed, but not for some state or International stocks.

Each Council must set ACLS such that overfishing does not occur. As uncertainty in stocks status is caused by many factors: Change in climate and ecosystem condition, type and amount of data, and year to year variation in assessments. This uncertainty can be accounted for by the Councils as they specify probability which in many cases would be at least 50%, if not higher. In fact, some U.S. fisheries lack complete or comprehensive collection programs needed to support stocks assessments. This along with some of the complexes such as reef fish where “weak stocks” that exist must be protected, have presented challenges which need to be addressed. In my opinion, these can be addressed by the Agency reviewing its guidelines for implementing ACLs to see if they can be redefined to help in easing some of the economic impact of preventing overfishing in data poor or weak stocks. I believe reopening Magnuson-Stevens at this point to consider this issue would be counterproductive, the act is working, overfishing has or soon will be ended and increased catches should be available. The Agency should examine every alternative including the requirement to land all fish caught and re-examination of the ACL guidelines as a first step.

As for catch-shares, individual fishing quotas, rights based, market based quotas or whatever term you wish to call this option, should remain a vital part of the tool box for addressing fishery management issues. While I was with the Agency we had implemented approximately 11 market-based programs. These programs not only resulted in increased safety for some fisheries such as the Alaskan crab fishery, but in almost all market based quotas, extended seasons allowed the fisherman to make the decision when to fish, taking advantage of weather, market, etc. There are many options for the Councils and each fishery to consider. The most important part is they must be built from bottom-up and not top-down. At a workshop I commissioned at the Heinz Center in 2002, the main issues were 1) who gets in and 2)

consolidation of permits. The “who” is because many do not have good catch records for various reasons, plus, there may not be provisions for crew members and 2) concern for one group or individual buying the entire quotas. These are still issues today, but can be handled in the developing the plan amendments. The future is operate as a business-make your decision when and where to fish-realize better prices, reduce by catch, etc and increase safety.

The ongoing confusion regarding the use of catch shares and how these programs are being applied is definitely creating an obstacle to helping the industry realize a better price, product and safety decisions. The most difficult situation appears to be in New England, where additional cuts to the annual catch limits for several of the stocks were required to be implemented for the 2010 season to meet the MSRA requirements. Instead of taking additional day-at-sea cuts, the Council opted for implemented the sector based allocation program, which was a voluntary program on the part of the Council. There continues to be confusion regarding the allocations under the catch share program based on the 11 year catch history of fishing along with the overall ACLs necessary to meet conservation requirements. I believe the Industry and Council should be able to work through this issue.

In summary, the 2007 reauthorization of the Magnuson-Stevens Act of 1976 included a number of key changes aimed at ending overfishing, increasing the accountability of the Councils for using best available science, decreasing IUU (illegal, unreported and unregulated) fishing, and managing fisheries consistent with an ecosystem view.

The requirement to end overfishing for some 40 stocks, where documented by previous stock assessments, required Fishery Management Councils (FMCs) to incorporate more stringent measures for New England ground fish, as well as a number of reef fish stocks.

Based on the actions of the FMCs, it appears that the U.S. has fundamentally ended overfishing in federally-managed domestic fisheries. This is an enormous achievement, and one that Congress and the Administration clearly intended in its 2007 reauthorization of MSRA. There are several qualifications to this accomplishment 1) it does not necessarily include state-managed fisheries 2) it does not include stocks managed by Regional Fishery Management Organizations, and 3) it does not mean that all stocks are rebuilt, this will take some time, but we are on the upswing.

One of the most important requirements emphasized in the reauthorization of the MSRA is the need for high quality science supporting the stocks assessment proper and ACLs. While the science used to support the status of stocks determination is generally robust, additional resources are required to make the science more timely, include more stocks, more fisheries independent surveys, and in some cases such as weak stocks and reef stocks complex, increase the precision of assessments. In particular, additional resources are needed in the Gulf of Mexico, South Atlantic, Caribbean, and in New England to increase the production of assessments supporting management. While there are 139 of the most important stocks in the country that are routinely assessed, the Fishery Management Councils have 522 stocks under management, and some of the stocks that are assessed are not done so annually. The requirement to set annual catch limits means that we need to be assessing stocks more frequently in some areas. NOAA needs to increase funding for high quality fishery independent surveys for as many harvested stocks as possible. This includes using its fleet of fishery survey vessels to its full potential.

At the University of South Florida-College of Marine Science we began a new course in Marine Resource Assessment in order to address some of the concerns I have heard about real time data and assessments. This course is being conducted with the aid of National Marine Fisheries Services. We have hired three new Faculty members; have five dedicated fellowships and a large amount of interest from students across the country. We believe this course which will utilize the oceanographic data, and instruments at the College to better understand fish behavior, etc. This should lead to more precise and timely stock assessments.

Improvements in the recreational fishing data were an extremely important requirement of MSRA. The requirements of recreational registrations were designed to strengthen state-by-state recreational fishery data collection programs. These catches are vital to an accurate data collection program to conduct valid stock assessments. The Agency needs to speed up the transition from the old MRFSS system to the new MRIP system which will not use random-digit telephone calls to coastal counties to assess recreational fishing efforts.

Finally, my honest opinion after much thought is that the MSRA does not need to be “re-opened” in order to address the issues raised in my testimony. Congress and the administration need to recognize the enormity of the task it gave NMFS in 2007 reauthorization of the Magnuson-Stevens Act. We in the U.S. are recognized as having excellent laws to management over fisheries; we must find the political strength and resolve to see it through. The fisherman, businesses, communities and American people will realize the benefits, it is working.

In my opinion, we need Congress to provide resources and support to carry out the science and management activities. Thus, the process will be more timely, responsive to stock increases, and more credible in the eye of the fishermen.

The U.S. can be a leader again in fisheries and not rely on importing over 80% of our seafood and over 90% of our shrimp from foreign countries that do not have as stringent conservation standards as the U.S. Rebuilt stocks, effective seafood safety and marketing programs, and a robust aquaculture program will realize over \$2 billion dollars in increased revenue for our coastal communities economy, increased jobs and increased fishing opportunities for our recreational fisherman. The United States has sent a clear signal to the rest of the world that we will achieve sustainable fisheries, which was our commitment to the World Summit on Sustainable Development (WSSD). Importantly, it helps in our international negotiations for stocks that the USA harvests under international agreements.