

**TESTIMONY OF JOHN CONNELLY
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**U.S. SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
SUBCOMMITTEE ON OCEANS, ATMOSPHERE, FISHERIES AND COAST GUARD**

“THE ROLE OF CERTIFICATION IN REWARDING SUSTAINABLE FISHING”

SEPTEMBER 24, 2013

The National Fisheries Institute (NFI) is pleased to present to the Senate Commerce Committee Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard our views on “The Role of Certification in Rewarding Sustainable Fishing.”

National Fisheries Institute and Its Engagement in Sustainability

The National Fisheries Institute is America’s largest seafood trade association. Its membership includes the entire seafood value chain: vessels at sea, importers, processing companies, exporters, distributors, retailers and restaurant groups. The issue of sustainability is fundamental to the Institute’s program because well-managed fisheries are the life blood of the seafood supply chain. Without fish there are no warehousemen storing seafood, no workers cutting fish early in the morning, and no chefs and wait staff providing diners a nutritious and delicious meal.

NFI’s President, John Connelly, serves on several global sustainability organizations’ Board of Directors, including: The World Bank’s ALLFISH program, the tuna-focused International Seafood Sustainability Foundation (ISSF), and the Marine Stewardship Council (MSC). NFI also was instrumental in developing the concept of the Global Seafood Sustainability Initiative (GSSI). The comments submitted reflect NFI’s views and not necessarily the views of ALLFISH, ISSF, GSSI, or MSC.

National Fisheries Institute Sustainability Policy

NFI’s policy is that fisheries management is a fundamental government function. That is, decisions about fisheries management should be made through appropriate government decision bodies. In the case of the United States, fisheries decisions are made through the Fisheries Management Council system and the implementation of the Magnuson Stevens Act (MSA). NFI joins with global fisheries experts in recognizing the NOAA Fisheries-led Council system as robust, transparent, participatory, and science-based. If a seafood company, academic, researcher or conservation group wants to influence U.S. fisheries, they have every opportunity and should engage fully in the Council system.

Because this peer-reviewed system of U.S. management is so robust, NFI believes that any fish managed under MSA's 10 National Standards are sustainable. We acknowledge that some fisheries are still in rebuilding, but the Councils, NOAA Fisheries, and ultimately the Secretary of Commerce have the authority to stop harvesting if the system falters and a fishery becomes in danger.

European Market Demand for Third Party Certification

NFI also recognizes that some markets, especially in Northern Europe, seek a third party certification of sustainability, primarily MSC. There are a number of theories why European markets demand such certifications, the most common being the struggles of the European Union to develop and implement a fisheries policy that protects fish stocks for the future while maintaining the fishing fleets culturally and economically important to many European nations. This challenge has led to concerns about fisheries management in European waters and a conviction that retailers needed to address the situation. The step retailers have taken is third party certification.

Regardless of the rationale, American fisheries are required by European markets to engage in these third party certifications. U.S. fish and fishmeal exports to EU nations totaled nearly \$1.2 billion in 2012 – 21 percent of an overall \$5.7 billion export industry. New England and Alaskan fish exporters in particular cannot ignore their customers' requests for certification. To do so would be to risk losing share to foreign competitors that have submitted to the certification demand.

U.S. Government Policies and Actions Requiring Third Party Certification

In the past few years, in an effort to promote healthy food choices among vendors, the General Services Administration (GSA), with the Department of Health and Human Services (HHS), developed guidelines for good eating options. NFI welcomes that development, because U.S. government policy, promulgated through the Dietary Guidelines for Americans, encourages Americans to eat seafood at least twice weekly. However, for seafood and no other protein, GSA and HHS went beyond healthy eating options and delved into sustainability by requiring third party certification.

The GSA serves as the federal government's "chief procurement officer" and sets policies that other agencies must adhere to in buying decisions. The policy GSA establishes impacts the hundreds of billions of purchases made by the United States Government every year – and has the potential to spill over into private sector purchasing decisions as well.

The Department of the Interior and the National Park Service in June 2013 announced an implementation of GSA policy and that vendors of seafood at Parks must meet the following:

Sustainable Fisheries Where seafood options are offered, provide only those that are “Best Choices” or “Good Alternatives” on the Monterey Bay Aquarium Seafood Watch list, certified sustainable by the Marine Stewardship Council (MSC), or identified by an equivalent program that has been approved by the NPS.

The Marine Stewardship Council (MSC) is a London-based organization that establishes standards for sustainable fisheries. Fisheries seeking certification retain accredited third parties to review the fisheries stock status, environmental impacts, and management controls. Fisheries or consumer products companies wishing to display a logo of certification pay MSC a fee.

The Monterey Bay Aquarium, a private organization in California, has established a list of fish it considers a best environmental choice or an adequate alternative. For graphic balance on handout cards, it has also compiled a long list of fish that it tells consumers to avoid. The Aquarium’s rating system is not transparent, and most U.S. fisheries strongly object to how the Aquarium goes about making its recommendations. In fact, some iconic seafood, such as nearly all canned tuna, is characterized as “avoid.”

In addition to the GSA and NPS actions, there are reports that some vendors to the Department of Defense require suppliers to only source third party certified seafood for Navy and Marine Corps mess halls, Army chow lines, or Air Force restaurants.

National Fisheries Institute’s Concerns with U.S. Government Policies and Actions Requiring Third Party Certification

NFI is deeply concerned about the GSA policy for at least the following ten reasons:

1. GSA’s Policy Questions the Competence of NOAA Fisheries: NOAA Fisheries is regarded as overseeing a world class fisheries management system. The GSA policy to require a third party to certify that seafood caught under the MSA, the 10 National Standards, and the Councils, calls into question the competence of NOAA Fisheries. If NOAA Fisheries is doing its job, as overseen by Congress and the Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard, why is a third party necessary? Conversely, if a third party is necessary, then NOAA must be incompetent.

It is one thing for the private sector to require a third party certification as the price of a sale. But it is quite another for one federal agency to conclude in effect that its sister agency is incompetent at carrying out that agency’s core mission.

2. GSA’s Policy Reinterprets What is “Sustainable Seafood”: GSA policy outlines “standard criteria” as requiring contractors to “Only offer fish/seafood identified as "Best Choices" or "Good Alternatives" on the Monterey Bay Aquarium's Seafood Watch list or certified by Marine Stewardship Council (or equivalent program).”

GSA has not provided a clear rationale for why NOAA-managed fisheries, implementing the MSA law that Congress debated and passed, is an insufficient definition of “sustainability.” Rather, GSA is – without analysis or inquiry of its own – ceding the definition of “sustainability” to groups outside government.

3. GSA’s Policy Confuses Which Government Agencies are Responsible for Food Safety and Sustainability: In a footnote (44) to its policy, GSA states, “Examples of “Best Choices” do not imply government endorsement of these standards. Only endorsements made directly by governing agencies (e.g., USDA, FDA) should be considered government endorsements.”

NOAA is responsible for fisheries management. FDA is responsible for seafood safety. A reference to FDA as a “governing agency” that could “endorse” a standard on sustainability reveals a fundamental misunderstanding of the role of GSA’s sister agencies in sustainability decisions.

4. GSA’s Policy Questions the \$800,000,000 Federal Investment in Research and NOAA Fisheries Operations: NOAA Fisheries budget is about \$880 million. Much of that spending is on research that serves as the foundation of Council decisions. Requiring third party certification calls into question the value of that federal investment in such research.
5. GSA’s Policy Increases Costs to Federal Government or Vendors’ Customers: By limiting choices to only fish certified by a single sustainability group or aquarium’s rankings, the GSA policy is limiting supply. Simple economics suggests that restrained supplies will increase prices.

In internal NPS communications, NPS Director Jarvis acknowledges, “sustainable food choices tend to be more expensive.” This statement is troubling because there is no indication that NOAA-managed fisheries are not already sustainable and no support for why fisheries, and ultimately, GSA’s federal agency “customers” must absorb the extra costs to certify their sustainability.

In the tight fiscal environment, is it appropriate that GSA would develop and other agencies implement a policy that increases costs for the government?

6. GSA’s Policy, with Its Singular Focus on Fish Sustainability, Disadvantages Seafood in the Market: The GSA policy only requires third party certification or aquarium approval for seafood. The Department of Interior and NPS implementation of the GSA policy only references certification requirements for seafood. There is no indication of why seafood solely is singled out for this requirement.

GSA oversees procurement policy for paper plates and paper clips, office supplies and office buildings. Yet GSA has not developed a policy that requires third party review of

those products. The NPS vendors sell hot dogs on buns and lettuce, tomatoes, and carrots in salads. Yet NPS does not require the hot dog maker, the bread maker or the fruit and vegetable farmer to prove the sustainability of their products.

By requiring seafood to undergo third party certification, GSA and implementing agencies are increasing seafood's costs, putting that healthy protein at a competitive price disadvantage to other foods. This is particularly troubling as federal policy, as described in the Dietary Guidelines for Americans, is for federal agencies to encourage increased seafood consumption due to its health benefits.

7. GSA's Policy Reduces Accountability to Congress: One of the reasons the U.S. fisheries management system is a success is that this and other Congressional Committees provide appropriate oversight of MSA implementation and NOAA Fisheries operations. The GSA policy and its implementation, though, begin to cede responsibility for fisheries management to third party groups. Those groups are not accountable to Congressional oversight.

As an example, some third parties grant certification with "conditions." These conditions are changes the fishery must make over a five year period. Several of the conditions may require action by the government in whose waters the harvest occurs. In at least some cases, this means that NOAA Fisheries will be pressured to expend resources to address one fishery's "condition" when NOAA feels another fishery's situation requires more attention and resources. This means that the third party certification process, required to maintain markets in Europe, can and does trump the priorities that Congress and NOAA have identified as more important.

8. GSA's Policy Provides an Unexplained Preference for One Third Party Certification and Aquarium over Others: The GSA policy states it will accept only MSC certifications or Monterey Bay Aquarium rankings. NFI questions the technical expertise of HHS and GSA staff in selecting only these groups for approval. While both organizations may provide value to some groups, GSA and HHS have provided no basis for their decisions in selecting them.

Further, NPS implementation states it will accept an "equivalent program that has been approved by the NPS." NFI is unaware of NPS' technical expertise in selecting other programs that it would deem "equivalent."

In response to an NFI letter to Secretary Jewell about the program, Lena McDowall, DOI Associate Director of Business Services, wrote to NFI on September 5, 2013, that a revision to the guidelines "will no longer endorse a particular certifying body." Even if this change takes place at NPS, it does not change the underlying GSA policy.

9. GSA's Policy Was Developed Without Consultation with the Impacted Seafood Community: In an undated memo to "Associate and Assistant Directors; Regional Directors" with "Subject: National Park Service Healthy Food Choice Standards and Sustainable Food Choice Guidelines for Front Country Operations" NPS Director Jarvis states, "collaboration between NPS, concessioners, and industry and government experts has produced standards and guidelines that will be practical and effective."

Further, in an exchange with Senator Murkowski during a July 25, 2013 Senate Energy and Natural Resources Committee hearing, when asked who was involved in the NPS self-described "yearlong consultation process," Director Jarvis stated, "With the concessioners. With every one of the concessioners. Our food service providers."

Neither NFI nor any other seafood organization was contacted by NPS in development of this policy. As the food sector singled out in the GSA and NPS policies and guidelines, the seafood community would have been able to provide an important perspective to these government deliberations and decisions.

10. NPS Has Expressed A Willingness to Adjust Its Policy, But for Only One Region: In another exchange with Senator Murkowski when pressed, NPS Director Jarvis stated, "What I am willing to do is to change the guidelines so it includes Alaska wild caught fish. I think that's the simple fix here."

The State of Alaska operates an excellent fisheries management system for state waters – one with foundations in the state constitution. In federal waters off Alaska, the Council system ensures a sustainable supply of fish for Americans and global export markets. However, the MSA is a national law. The Council system, while reflecting regional differences, operates in similar fashion in waters off Florida, off New Jersey, and off New Hampshire. An exception to the GSA or NPS policy for a single region is an inadequate and unjust response to the issue.

National Fisheries Institute Recommendations

NFI recommends the following:

1. Congress Should Clarify that NOAA is the Arbiter of Sustainability of U.S. Caught Fish: Congress should enact legislation that clarifies for executive branch agencies that NOAA Fisheries, through its implementation of the Congressionally-debated and enacted Magnuson Stevens Act, establishes what sustainable seafood for U.S. Government purchases is.
2. NOAA Should Buy a Printing Press and Develop a Robust Twitter Account: NOAA Fisheries oversees a world class fisheries management system, with most stocks in excellent shape. NOAA Fisheries scientists report overfishing has ended due to the

requirements of the MSA. Despite that fact, many Americans question the state of the nation's fisheries.

NOAA Fisheries budget is about \$880 million, yet its communications program is limited. The average American hears little from NOAA Fisheries, and often only in response to some report about a supposedly imminent ocean resource calamity. The fact that GSA and HHS developed a policy and NPS began implementation without conferring with NOAA Fisheries is troubling. This lack of consultation suggests that Americans, including officials at NOAA's sister agencies, do not know how the nation's ocean resources are managed. NOAA Fisheries, to a great extent, is a government success story ---- yet few know that story.

Congress should require NOAA Fisheries to develop a robust communications strategy that explains, in lay terms, how the government manages its fisheries resources, the opportunities available for all Americans to engage in the Council system, and the success NOAA Fisheries has had in ensuring an abundance of fish now and for the future.

The communications program need not go to formation of a NOAA eco-label. Labels require an extensive and expensive system behind it that can communicate to the nearly 320 million Americans or more than 500 million Europeans. A major part of that background support system would be communications about why an eco-label can be trusted. So, rather than expend money on an eco-label, NOAA Fisheries should spend a portion of its budget explaining the robustness and success of its management system.

NGOs long ago determined that a broad advertising program is not as effective as a strategy of finding choke points in the supply chain as the best means to impact consumer choices. That is why so few NGOs advertise widely.

While the NOAA communications strategy should include appropriate tools to inform the general public, a focus should be on communicating to the 350 institutional buyers of fish in the United States. These grocery store and restaurant buyers determine what we are offered on the menu or at fish counter. Many of them have developed relationships with various sustainability partners. Few buyers, though, have regular interaction with the appropriate level of Department of Commerce or NOAA staff that can explain that fish caught in U.S. waters is sustainable. Fewer still corporate communications and marketing staff understand the political impacts of their decision to move to a third party certification system.

NFI feels strongly that if retail and restaurant corporate leaders, their communications and public affairs staff, and their buyers in the U.S. and Europe better understood how American fisheries are managed, the demand for third party certifications would be reduced. Absent that communications effort, neither Congress nor NOAA Fisheries

should be surprised if third party certification or private groups' ranking dominates buyers' decisions.

The National Fisheries Institute appreciates the opportunity to provide information to the Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard regarding U.S. government policies and actions and third party certifications of fisheries.