

***NATIONAL MARINE FISHERIES SERVICE POLICY DIRECTIVE PD 30-122***  
***November XX, 2008***

***Administration and Operations***

***CERTIFICATION OF SUSTAINABLE FISHERIES***

**NOTICE:** This publication is available at: <http://www.nmfs.noaa.gov/directives/>.

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***SUMMARY OF REVISIONS:*** The policy was amended to govern the agency's response to requests by the industry, government or public for a statement by the agency certifying whether or not a federally managed fishery is sustainable. This revision includes a policy statement defining "sustainability" for purposes of the directive in terms of meeting the 10 national standards of the Magnuson-Stevens Act.

Introduction. The original purpose of this directive was to clarify the role and responsibility of the National Marine Fisheries Service (NMFS) relative to private sector certification of sustainable harvest practices for specific U.S. seafood products or fisheries. It was amended in 2008 to govern the agency's response to requests from the industry, government or public for sustainability statements for those fisheries managed by NMFS.

Private sector certification is a widespread practice. Such certification is adopted/sought by various fisheries in the United States and internationally. A fishery may seek certification in the hope of eliciting a higher market price or to obtain market eligibility/entry for its product. Often there is the expectation that the public wants to purchase or would be willing to pay more for products certified and labeled as sustainably harvested, or that trade and commerce among buyers and sellers in certain markets will only occur with certified products. The private certification process generally involves assessment of several aspects of the fishery, including an evaluation of the condition of the fish stock(s), the impact of the fishery methods on the marine environment, and the adequacy of the fishery management system to meet certain criteria determined by the certification entity. Certification usually requires target stocks to be maintained at specified sustainable levels, and that the fishery impacts on the marine environment are minimized.

NMFS, in collaboration with Regional Fishery Management Councils, is the government steward of most federal living marine resources under U.S. jurisdiction. NMFS is often the primary, if not sole, source of scientific and management data and information needed by private sector certification bodies to complete the certification assessment. Moreover, analyses and participation of NMFS staff in the evaluation phase of the private certification process have been requested. Recently, requests have been received by the agency for a direct declarative statement of the government that species managed under NOAA authorities is or is not sustainably managed. While there is no explicit definition of "sustainable" or its derivatives in the

Magnuson Stevens Act, as a matter of policy NMFS has chosen to adopt a definition and apply it in appropriate circumstances.

Objective. It is NMFS policy to neither endorse nor participate directly or indirectly in the private sector certification of fisheries.

It is NMFS policy to respond to requests by the industry, government or public for a statement by the agency certifying a sustainably managed federal fishery in appropriate circumstances.

Authorized actions are described below in “Authorities and Responsibilities.”

NMFS’ primary obligation as steward of federal living marine resources is to carry out the legislative authorities under which it operates: the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA); the Marine Mammal Protection Act; and the Endangered Species Act. Fishery management plans (FMPs) are developed by the Regional Fishery Management Councils and approved and implemented by the Secretary of Commerce in accordance with the 10 National Standards for fisheries management in the MSFCMA. The National Standards prescribe the principles of sustainability that fisheries must follow (e.g., levels of harvest and fishing practices) as U.S. law on sustainable harvest. The open, public participatory process of the MSFCMA and related laws and policies, including notice and comment rulemaking procedures under the Administrative Procedures Act and environmental impact assessments under the National Environmental Policy Act, implement the nation’s **expectations for sustainability and stewardship of fishery resources. These expectations include certain outcomes or performance standards for the well being of biological, socio-economic, cultural and ecological goods and services derived from living marine resources.**

The following section outlines the actions that NMFS will or will not take in response to any stage of a private sector certification process, **and outlines actions that may be taken in response to requests for certification of sustainably managed fisheries under federal authority.**

#### Authorities and Responsibilities.

##### A. With respect to private sector certification:

1. NMFS will provide information to both applicants and certification entities, as described below:
  - a. NMFS will respond to requests for information from applicants and certification entities as it would any other request from the public. Requests will be prioritized, evaluated and answered as any other request for data.
  - b. Information that already exists (e.g., raw or processed data; reports or other sources of information; information on the status of stocks or the status of the management of a fishery) will be provided to the requester as described in (a), but NMFS will not conduct additional research or prepare additional analyses to assist either the applicant or the certification entity in the preparation of the certification application.
2. NMFS will not assist an applicant with preparation of a certification application.
3. NMFS will not review or comment on a certification application or the evaluation of a certification application by request of either the applicant or the certification entity. NMFS may

*elect* to review or comment on any element of a certification application at any stage of the certification process. However, any such review and comment will be conducted independently of the certification process and will not constitute endorsement of or participation in the certification.

4. NMFS will not engage in any substantive discussions or meetings about a specific fishery certification with either the applicant or the certification entity.

5. NMFS will not develop budget or spending plans to accommodate anticipated or ongoing certification applications. NMFS will, however, share plans for future research or data collection that might be of interest to either group upon request.

6. NMFS is under no obligation to change its scientific or management operations to satisfy the conditions of continuation of any private sector certification award. Any changes that are desired of NMFS with respect to scientific information or management should be addressed through the formal, public Fishery Management Council process of FMP development or amendment and/or the NMFS planning, programming, budgeting and execution process.

**B. With respect to the agency's response to requests for sustainability statements requested by the industry, government or public regarding sustainable management of federal fisheries:**

1.a. For stocks of species managed under an approved MSFCMA Fishery Management Plan, the agency may elect to respond to requests for statements confirming that a fishery is sustainably managed. Such a statement shall be based on conformance with the definition and criteria for "sustainably managed" as described below. In making such determination the agency shall utilize the best scientific information available, including the current status of the stock as monitored by the Office of Sustainable Fisheries. The "sustainably managed" determination shall be made for a specific calendar year. The stock shall not be determined to be sustainable if overfishing is occurring or if the stock is in an overfished condition for the year in question.

1.b. For stocks of species managed internationally by a Regional Fishery Management Organization to which the United States is a member, the agency may also elect to respond to requests for statements confirming that a fishery is sustainably managed based on conformance with the definition and criteria for "sustainably managed" as described below.

1.c. For all other stocks for which the agency is not the responsible management authority or a joint partner in the management authority (e.g., state managed fisheries, fisheries managed by other countries, or by Regional Fishery Management Authorities to which the US is not a party), the agency shall not issue certifications regarding whether the fishery is sustainably managed.

2. Such certifications will be signed and issued by the Assistant Administrator or his designee. The concluding statement for stocks of species managed under an approved Magnuson Act Fishery Management Plan will state that the fishery is sustainably managed for the time period in question in accordance with the 10 national standards for fisheries conservation and management of the Magnuson Stevens Act. For stocks of species managed internationally by a Regional Fishery Management Organization to which the United States is a member, the concluding statement will state that the fishery is sustainably managed for the time period in question if the sustainability criteria and management objectives of the RFMO are substantially equivalent to those of the MSA.

Measuring Effectiveness. NMFS Directors will adhere to the authorities and responsibilities as outlined above. Deviation from the policy will be brought to the attention of the Deputy Assistant Administrator for Regulatory Programs and the Director of Scientific Programs for appropriate action.

References. Procedural directives will be issued to implement this policy as needed. **Specifically, using the 10 national standards for fisheries management and conservation in the Magnuson-Stevens Act, the procedural directive will provide guidance and criteria for determining a sustainably managed fishery as defined below.**

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James W. Balsiger, Ph.D.  
Acting Assistant Administrator  
for NOAA Fisheries Service

Date

DRAFT

## Attachment 1

### GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION

#### *Terms*

**Applicant** – An individual, organization or entity that has applied to a certification board for certification of its product.

**Certification** – In fisheries, the act and process of asserting that the fishery meets the criteria established for sustainable harvest.

**Certification entity** – In fisheries, a private sector company designated and accredited to certify seafood as having been sustainably harvested.

**NMFS Director** - A NMFS Headquarters Office, Regional Office or Science Center Director.

**A sustainably managed fishery** is one where fishing activities do not cause or lead to undesirable changes in biological and economic productivity, biological diversity or ecosystem structure and function from one human generation to the next.