

APPENDIX G6: All letters and e-mails from government agencies and representatives

Page Number

- Massachusetts Division of Marine Fisheries – David Pierce.....2
- North Carolina Department of Environment and Natural Resources, Division of Marine Fisheries – Louis Daniel11
- North Carolina Marine Fisheries Commission – Mac Currin.....12
- US Representatives Barney Frank & John Tierney14



Paul J. Diodati
Director

Commonwealth of Massachusetts

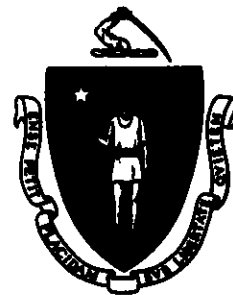
Division of Marine Fisheries

251 Causeway Street • Suite 400

Boston, Massachusetts 02114

(617) 626-1520

fax (617) 626-1509



April 17, 2007

Mr. Mark Millikin
National Marine Fisheries Service
NOAA
1315 East-West Highway
Silver Spring, Maryland 20910

Dear Mr. Millikin:

We offer the following “scoping” comments on NMFS’ proposed “guidance” on development and implementation of MSRA new requirements to end and prevent overfishing. We had anticipated a more balanced NMFS approach to revising “guidance,” i.e., instead of a piecemeal approach disconnecting one National Standard from the next (e.g., NS 1 from 8), we expected an approach recognizing that National Standard considerations overlap and making changes in “guidance” for one without doing so for the others risks ignoring how one National Standard affects another.

We are influenced by our knowing that the term “guidance” is somewhat of a misnomer. Only with great difficulty can Councils deviate from “guidance,” even though it’s not law. For all practical purposes, National Standard “guidance” has no movable boundaries or flexibility and is more akin to a set of strictures.

Our preference is for true guidelines describing the large arena in which we can move and work, not the narrow yard-lines between which we must be confined. This is especially important for the Commonwealth of Massachusetts and other states expected to support federal management even when we disagree with the federal management approaches and have concluded that states’ interests and concerns have been given little weight in the decision-making process. It appears to us that your MSRA “guidance” will lead to those sorts of management approaches.

We’re also influenced by MSRA changes that appear to be almost entirely based on dealing with overfishing and with “fishery” or “fisheries.” We suggest now is the time for NMFS to broaden the scope of its understanding of these terms (defined in MSRA) and how they comport with the mixed-stock fishery(ies) exception described in current guidelines.

This exception was a wise addition to National Standard 1, although it has not been applied as yet. There’s no mistaking the mixed-stock nature of the New England groundfish fishery. For the most part the fishery is a “mixed bag” greatly complicating and adding to the complexity of Council groundfish management approaches. Magnuson-Stevens’ definition of “fishery” fits well with our understanding of groundfish

catches throughout New England, especially catches by trawlers and gillnetters – the primary groundfish gear types.

Since the MSRA emphasis is on overfishing, we recommend guidelines be revised to allow councils to manage with an emphasis on fishing mortality targets – not biomass targets that generally are theoretical, based on data-poor science, or index-based and derived from evolving and potentially incomparable bottom trawl surveys (e.g., Albatross vs. Bigelow surveys and U.S. vs. Canadian Georges Bank surveys). SSCs can provide advice regarding targets for stocks or mixed-stock complexes, but achieving those targets according to rigid timetables thereby potentially crippling councils and the fishing industry obliged to reach those targets, should not be required in all instances. Some targets may be unrealistic and unreachable due to reasons beyond the councils' control (e.g., unexpected, prolonged below average or poor recruitment created by environmental or some indeterminate ecosystem factor).

This approach will be especially desirable when dealing with Canada and Georges Bank groundfish management. We emphasize this consideration. If the U.S. continues its current approach as part of its “understanding” with Canada, U.S. fishermen potentially will be closed out of Georges Bank groundfish fisheries due to our falling behind schedule for achieving very high biomass targets (e.g., Georges Bank cod). Canada will keep fishing because it is not ruled by U.S. biomass targets; fishing mortality targets dictate how the Canadians deal with their negotiations with the U.S., and Canada may refuse to accept or cooperate with NMFS MRSA “guidelines.” States’ and industry support for the “understanding” will wane or end if our “rules of engagement” unfairly disadvantage the U.S. in a way contrary to the “understanding.” We suspect the U.S. might be conciliatory and give Canada flexibility and latitude to the detriment of U.S. interests.

Of course, we understand that NMFS simply cannot divorce itself from biomass considerations. Nevertheless, Magnuson-Stevens does define “overfishing” and “overfished” in the same way: “a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.” Note the sole reference to fishing mortality and use of “fishery,” – not stock(s). We hope this will provide you with the means to better deal with the reality of fisheries management – not all stocks, especially in a mixed stock fishery can rebuild to high biomass targets. Ecosystem considerations are ignored when we try to do so.

Since NMFS favors ecosystem management, we encourage you not to close the door on this better way of managing fisheries in an ecosystem context. As it stands now, your proposed “guidelines” will make creative and effective ecosystem-based management very difficult, if not impossible. This will run counter to the direction councils are headed at NMFS’ urging.

Knowing when a stock(s) is overfished obviously is still important. We don’t and cannot downplay this element of fisheries management; however, we do want to avoid ratcheting down fishing mortality targets every year to extremely low and unrealistic levels to “force” some stocks to rebuild to hypothetical biomass targets by some required time.

Our state-federal, recent experience with fluke has been very instructive. Extending the summer flounder rebuilding timeline by a few years appears to have been the primary motivation for last year’s MSRA. These few years may not be enough to

prevent even further dramatic cuts in catch if rebuilding doesn't proceed as "planned," i.e., recruitment fails to live up to expectations for reasons unrelated to fishing.

Your proposed rule hints at your desire to continue status quo, i.e., fluke-like management scenarios and tribulations, by stressing "more rapid and more certain rebuilding" the more that F is reduced below MFMT, the maximum fishing mortality threshold." Of course, the lower we set F, the greater the chance we rebuild at a faster pace. But at what cost? This approach neglects necessary consideration of socioeconomic impacts and slights National Standards 1 and 8.

We ask NMFS to reflect on its recent experience with fluke rebuilding and Congress' influence through MSRA to prevent immediate, adverse socioeconomic impacts on commercial and recreational fluke recreational fishermen. Congress did not amend the Magnuson Act to force a quick return to management mandates causing socioeconomic impacts the MSRA temporarily addressed.

We now offer comments tied to the specific National Standard 1 scoping questions you have asked.

Role of SSC and other peer review processes in setting ACLs and AMs

MSRA appears to have established part of this role, i.e., "recommendations" are made by the SSC or the peer review process for setting annual catch limits (ACLs) for "managed fisheries." Councils "may not exceed the fishing level recommendations." However, proposed NS 1 guidelines potentially and likely will oblige councils to go far beyond what is necessary to prevent or reduce overfishing, i.e., NMFS requirement that "buffers" be established, i.e., set levels below, perhaps far below, overfishing levels (OFLs) – the MFMTs (maximum fishing mortality thresholds). MFMTs are what define overfishing according to current NS guidelines. It must be clear in revised guidelines that the SSC and peer review recommendations refer to OFLs and not ACLs.

NMFS proposed guidance appears to tweak MSRA terminology so SSCs and peer reviews will dictate the amount of buffer, i.e., determine ACLs, and not OFLs. It was not the intent of Congress to force councils to cut catch more than that required to deal with overfishing concerns (i.e., OFLs in NMFS terminology). Labeling MSRA-required ACLs as NMFS' OFLs, to be reduced by some amount of catch thereby creating even lower ACLs than mandated by Congress, is a NMFS imposition of extra precautionary management potentially to the disregard of social and economic considerations. Councils will lose much if not all of their abilities to factor those considerations into fisheries management decisions. State fisheries management agencies will be seriously disadvantaged.

SSCs and peer review certainly can and should provide details of their analyses and review regarding what levels of catch correspond to different levels of fishing mortality. Councils then can use that information to make their own informed judgments as to what ACLs should be set, i.e., to what extent should allowable catch be reduced below catch corresponding to MFMT.

Furthermore, it is the councils' responsibility to set accountability measures (AMs) – not the SSC or through peer review. It's notable that in the NOAA formal presentation given to the council, examples of AMs are in-season fishery closure if the target catch limit has been reached or overage payback the next fishing year. These examples are not very creative and certainly don't require SSC or peer review

involvement. They are straightforward, standard approaches for dealing with fisheries managed with hard TACs.

We note that in the same presentation NMFS stated AMs must be established for "each fishery/stock." Perhaps now is the time for the councils and NMFS to be innovative and to consider Congress's focus on fishery(ies), not on stocks. For example, throughout the MSRA there are many references to "fishery," such as: "The term 'limited access system' means a system that limits participation in a fishery..." Also, the councils must "develop annual catch limits for each of its managed fisheries..." There is no reference to stock-by-stock catch limits; therefore, we interpret this to mean that for a mixed stock fishery, such as for groundfish, there should and can be some flexibility with catch-setting to enable, for example, use of the mixed stock exception to better ensure the fishing industry isn't forced to lose significant optimum yields from "healthy" stocks.

We suspect NMFS intends to rid itself of the mixed stock exception. We strongly oppose that initiative, if indeed it is NMFS' intent. Our suspicion is based on January 31 correspondence between the New England Council's chairman and Bill Hogarth. Dr. Hogarth noted that the reauthorization requirements specified that "beginning in July 12, 2009, any fishery (our emphasis) newly determined to be overfished, must have a plan in effect to end overfishing two years after the date that NMFS notifies a regional management council that a fishery is overfished. Given the new requirements under the 2006 Magnuson-Stevens Act, I recommend that you not consider the use of the mixed stock exception..." We disagree with Dr. Hogarth's assumption that the MSRA explicitly or implicitly requires the exception's removal. We believe it is critical for NMFS to keep the exception, and then use it, thereby enabling other National Standards to be met, e.g. NS 1 and 8.

Regarding peer review, we caution NMFS to heed the advice of scientists, including its own, regarding external peer review. Refer to the 2006 published paper, "The Center for Independent Experts: The National External Peer Review Program of NOAA's National Marine Fisheries Service (Fisheries 31:590-600). This peer review process needs to be improved before councils are obliged to rely on it entirely and accept "recommendations" that in reality will become dictates due to the MSRA requirements.

The authors of the aforementioned paper noted that the CIE helped "improve the regional stock assessment process and reduced contentious challenges to the agency's science." However, important improvements are needed such as there is "no formal mechanism for obtaining feedback from NOAA Fisheries on the quality or relevance of the reviews," and "quality assurance for the reviewers and the review process need attention." We refer you to that important paper for more details.

Relationship between ACL and OY

This is an important relationship to discuss because NMFS has indicated that before the end of 2007 NMFS will "review each Council's current provisions for ACLs and AMs and recommend any revisions it deems are appropriate." Then NMFS indicates that FMPs without ACLs and AMs "consistent with the MSRA requirement and revised NS1 guidelines" will have to be amended by relevant statutory guidelines.

These statements are very suggestive because they seem to indicate that NMFS will "recommend" ACLs, and even AMs, before SSC or peer review involvement.

Granted, the SSCs' responsibilities have become Herculean as a consequence of the MSRA. Time will be short.

Nevertheless, NMFS or Plan Development Teams should neither determine ACLs (especially AMs) nor performance standards beforehand. All this important work on ACLs must be left to the SSCs and/or peer review. Council and SSC options will be foreclosed and restricted to those provided de facto through NMFS performance standards.

Frankly, the real issue is whether it's appropriate to set "guidelines" that oblige Councils to set catch levels below OFLs and how large should those "buffers" be. Optimum yield still will be as described in Magnuson-Stevens, and for an overfished fishery, provides for rebuilding "to a level consistent with producing the maximum sustainable yield in such fishery." Notwithstanding our stance that MSY values are theoretical and can change dramatically with changing environmental conditions or other ecological factors, we see in these instances of having to rebuild an overfished fishery that OY should equal catch corresponding to some fishing level less than OFL, i.e., $F_{rebuild}$. We suppose that in these cases, ACL would equal catch at $F_{rebuild}$.

Revision of existing overfishing definitions to include OFL

This is unclear. OFL is not a MSRA-specific term. NMFS has introduced this acronym, even though the concept seems self-explanatory and appears to be $F_{threshold}$.

You say OFLs must be established because they are "essential for developing accountability measures and monitoring ACL performance." We disagree; they are not essential. As noted above, NMFS is proposing to add more layers of precaution through the setting of OFLs. As we suggested at the scoping hearing held in Mystic, Connecticut, it appears NMFS is using MSRA to formally implement its precautionary approach for fishery management, an approach that will drive annual mortality targets to levels, even below that assumed for natural mortality for many stocks. This was not the intent of Congress.

Variability in data currently available for each stock (data rich...data poor)

Your question is not clearly phrased; however, we suspect you're asking how councils should manage a fishery when stocks that comprise a fishery have a mix of data-poor and data-rich situations, as well as situations in between. This question should rise to the top of the list. It already has prompted NMFS to convene a workshop to develop advice as to how this question can be answered.

This issue is fraught with difficulty – perhaps even peril – for the fishing industry and managers. If a fishery is "mixed-stock," such as with New England groundfish, and some stocks in the mix are data-poor thereby potentially dictating very precautionary measures for those stocks (one possible workshop recommendation), yields from the mix of stocks that are not overfished and for which overfishing is not occurring will be sacrificed. For this reason the mixed stock exception must be maintained and its use made easier; otherwise, management approaches for dealing with data poor stocks – and there will be many stocks classified in this manner – will be devastating for mixed-stock fisheries, e.g., New England groundfish. Consider that: (1) with the Bigelow replacing the Albatross in NEFSC bottom trawl surveys; (2) with a new net design being used in future Bigelow surveys; and (3) with little time for both vessels to perform required

comparative tows to develop species- and stock-specific conversion factors to preserve use of decades of past survey data, many stocks will become "data-poor" overnight. The start of a new time-series will be necessary, and this will have all sorts of science and management repercussions.

A related science issue is what criteria will be used to establish the data-poor or rich (and in-between) classifications? We suspect the workshop will contribute to this discussion. Furthermore, we imagine that with so-many NE groundfish being assessed in an index-based manner and with the Bigelow (and new net) replacing the Albatross, data-poor stocks will become the norm. For this reason, guidelines should not ratchet down allowable catches for those stocks that suddenly become "data-poor" due to an inability of the federal government to keep the data "good" or at least not "poor." In some way NMFS should seek ways to remain flexible in the manner which stocks are classified and then how those stocks should be managed in the context of a mixed-stock fishery.

Setting ACLs for stocks with unknown status

Do not set ACLs for stocks with unknown status. There will be no basis for setting ACLs. Guesswork is not an appropriate substitute for science. Use of the "best scientific information available" is required. But when the "best" is "bad" or "non-existent," then we do Congress and those we regulate an injustice by our pretending we know stock status, and just as important, that we know how that stock(s) will respond to different levels of catch.

If status is unknown, how can targets be set, unless a dart is thrown at a board, and we all say, "that's where we must head." NMFS is too responsible for that strategy and has a reputation it needs to protect and bolster through wise choices and common sense action.

The focus will have to be on research and our acquiring at least a rudimentary understanding of stock status before we embark on plan development and EISs.

Circumstances in which a numerical ACL cannot be set for a stock, and in such situations, recommendations for adequate and appropriate alternatives to setting a numerical ACL (e.g., prohibitions)

An example of a circumstance in which a numerical ACL cannot be set for a stock would be for skates. Fishermen, processors, and law enforcement officers cannot identify many of the skate species. Species identification guides haven't worked.

When the New England Council's Skate Plan was developed and implemented, we agreed it would take time for fishermen and everyone else to know what they were catching by species and stock. According to the Council's Skate Plan Development Team, we're still faced with the same insurmountable species identification problems.

Without this species/stock-specific information calculations of fishing mortality and assessments of stock status for the purpose of generating numerical ACLs are impossible. Moreover, we're currently obliged to use NEFSC bottom trawl survey data and so-called index-based determinations of mortality and abundance, and those determinations may no longer be possible once we switch from the Albatross to the Bigelow. Time will tell.

To require numerical ACLs for the skate species in the skate complex or assemblage would result in our having another opportunity to use the phrase, "The emperor has no clothes."

Consider that for barndoor skates and thorny skates, for which mortality is believed to be very low when they are returned to the sea, the New England Council simply requires all to be released. Of all the skate species these two can be identified, although with difficulty. The rest pose huge identification problems.

Setting ACLs for stock complexes, stock assemblages, and similar stock groupings

Here's where consideration of the mixed stock exception becomes paramount. Otherwise, assemblages must be managed with emphasis on the stock with the lowest ACL. Other stocks in the assemblage with higher, perhaps much higher ACLs, must be harvested far below what otherwise will be allowable. Large yields will be lost. Socioeconomic impacts will be very large and difficult to justify.

New England is witnessing this situation now, and it might worsen. For example, so-called Gulf of Maine/Cape Cod yellowtail flounder at this time only can support low/modest yields, and fishermen must avoid yellowtail even though this flounder is caught as part of an assemblage. To deal with needed reductions in yellowtail catch, the Council was obliged to reduce by half the days-at-sea (DAS) available for fishermen to fish in the inshore portion of the Gulf of Maine – the 2:1 DAS counting area. A low yellowtail ACL, especially one set below, perhaps far below your proposed OFL, would further devastate inshore fishermen fishing for "assemblage" groundfish "ruled" by the "weak link" in the assemblage – yellowtail.

Variability in the accuracy of management approaches in achieving target fishing levels

We do not quite understand this "question." If you mean should NS 1 require that all management approaches achieve target F with close to 100% probability to obtain "accuracy," then we indicate there's way to obtain that high a probability. There are too many variables, such as level of discarding and mortality of those discards.

Furthermore, there is much uncertainty as to when we achieve any target. Confidence intervals usually are wide. F is not easily calculated, and often F proxies (poor ones at that) must be chosen. Consequently, expecting accuracy in achieving target Fs is a fool errand when the calculation of F itself is far from accurate. We suggest NMFS not overwhelm itself and others, i.e., state partners, by demanding more than data and analyses can provide.

Setting a buffer between ACL and OFL to prevent overfishing, and how to determine the size of the buffer needed.

We've noted above that OFL values should not be set. They are not required by the MSRA. Instead, ACLs must be determined and set with accompanying AM's. Perhaps the best approach will be to reflect on what councils have been doing, especially as of late. For example, when setting TACs for some stocks, the New England council considers setting those TACs with a 75% probability of not being exceeded based on scientific advice, e.g., Georges Bank yellowtail flounder. Furthermore, when large retrospective errors in assessments have been identified, an extra reduction in the TAC

can applied. It seems in these instances that precautionary steps have been taken for those stocks where data are adequate to allow such probability and retrospective error calculations.

A possible NS 1 guideline would be to require the setting of ACLs with 75% probability. However, we suggest that before doing so NMFS should examine how successful past "probability predictions" have been. We're unaware of any past analyses to investigate whether probability predictions in fact have come true. Probability distributions are based on computer multiple runs of a data set(s); however, if data inserted into a model are inaccurate or unrepresentative, then re-sampling a sample one-thousand or more times to generate probability statistics only creates useless probabilities. We suspect this is a current, frequent problem that should not be perpetuated. A thorough critique of the approach must occur.

Another guideline could be to account for assessment retrospective errors for those stocks with assessments enabling calculation of those errors, e.g., VPAs. Of course, the problem is that fewer and fewer stocks are lending themselves to these sorts of analyses and calculations, and they must become survey index-based.

Even index-based assessments are at risk with the advent of the Bigelow, assuming believable comparison or conversion factors to preserve survey time-series data cannot be calculated. We await those critical comparisons that will occur this summer and fall, and we hope next year as well. This is a watershed moment for NMFS' spring and fall bottom trawls surveys.

Establishing the appropriate probability that an ACL will prevent overfishing for a stock

It seems sensible to require a higher probability for achieving F corresponding to ACL, provided you do not establish an OFL and then reduce it to an ACL. By requiring a higher probability you add another layer of precaution, and you become excessively or inordinately precautionary thereby sacrificing yield from "healthy" stocks, especially in a mixed stock situation, e.g., NE groundfish.

Establishing recommendations for in-season management authority and methods to be used as AMs to prevent overfishing

In-season management authority will be important, especially to respond to problems as they arise, e.g., reported discarding of a year-class – discarding that should be addressed through area closures. Quick in-season adjustments to many management measures will be paramount as we continue our "understanding" with Canada and we ready ourselves in New England for the next groundfish amendment (May 2009).

AMs, as you proposed, will be difficult to construct. Requiring hard TACs and closing a fishery that is multispecies when the TAC is reached, or subtracting TAC overages off the next year's TAC sounds straightforward and easy to apply. But, experience in New England with hard quotas applied to just a few of the groundfish stocks back in the late 1970s should not be forgotten. Thirty years later emphasis continues to be on hard quotas with no reflection back to the chaos created by New England hard TAC management after implementation of the FCMA back in the 1970s.

AMs for various sectors of a stock, if an ACL is subdivided for a stock, and the need to still prevent exceeding the overall OFL for the stock

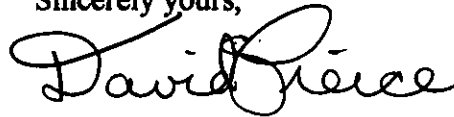
Do not establish AMs for a sector. Current mechanisms for holding sectors accountable seem sufficient. Furthermore, the New England Council currently is addressing sector management for all its plans through an omnibus action.

We appreciate all the work that went into your scoping document as you prepare for National Standard 1 guideline revisions. We're all faced with new challenges caused by the MSRA.

Those challenges must be met with creativity linked to the new so-often-touted need for councils to manage in an ecosystem-based manner. Your proposals will prevent that from happening because they will tie the councils' hands by obliging a continuation and worsening of single specie/stock management. Fortunately, you appear to be open to suggestions; otherwise, you wouldn't have asked so many thought-provoking questions, including those that relate to stock complexes and assemblages.

Still, we come away with the feeling that NMFS intends to accomplish two principal objectives through the MSRA: (1) to use the MSRA and revised NS 1 to formally implement NMFS' precautionary fisheries management approach; and (2) to implement a revised fisheries management agenda far more stringent than desired by Congress. Perhaps you feel Congress wants a management program that is far more restrictive without an awareness and consideration of socioeconomic impact. That was not the intent of Congress. We're certain many in Congress will respond to your scoping comments and echo our concerns.

Sincerely yours,



David E. Pierce, Ph.D.
Deputy Director

Cc: Paul J. Diodati, Director
Mass. Marine Fisheries Advisory Commission
Paul Howard, NEFMC
Daniel Furlong, MAFMC
Vince O'Shea, ASMFC



North Carolina Department of Environment and Natural Resources

Michael F. Easley, Governor
William G. Ross Jr., Secretary

Division of Marine Fisheries

Dr. Louis B. Daniel III, Director

March 30, 2007

Mark Millikin
NOAA/NMFS
1315 East-West Hwy.
Silver Spring, MD 20910

Dear Mr. Millikin,

The N.C. Division of Marine Fisheries appreciates the opportunity to comment on ways to meet the new mandates of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

To avoid duplication of the excellent comments provided by the North Carolina Marine Fisheries Commission, we would simply concur with their comments. We would restate in the strongest possible terms, however, our concerns over the quality and quantity of the data used to make difficult management decisions. While the revised Magnuson-Stevens Act provides language to facilitate improving these data, it is incumbent on NMFS, together with the Regional Fishery Management Councils and state partners to ensure this occurs. North Carolina would also emphasize the need for the Council's Science and Statistical Committees to clearly indicate whether the data are representative of the range of the species to a degree that is adequate for making rational management decisions and not rely on the fact that the data are best available simply because they exist.

North Carolina is hopeful that our issues can be resolved by working with the NMFS and the Councils to develop these guidelines. The reauthorized Magnuson-Stevens Act provides us with a great opportunity to improve critical data shortcomings and make measurable steps forward in ensuring sustainable U.S. fisheries.

Sincerely,

Dr. Louis B. Daniel III, Director
NC Division of Marine Fisheries

LBD/JBC/cb

cc: Mac Currin
Marine Fisheries Commission
Richard Rogers
Mike Buhl

Red Munden
David Taylor
Brian Chevront



**NORTH CAROLINA MARINE FISHERIES COMMISSION
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

COMMISSIONERS

MICHAEL F. EASLEY
Governor

WILLIAM G. ROSS JR.
Secretary

MAC CURRIN
Chairman

DAVID BERESOFF
Bolivia
Dr. B.J. COPELAND
Pittsboro

MIKEY DANIELS
Wanchese
Dr. BARBARA GARRITY BLAKE
Gloucester

JAMES LEUTZE
Wilmington
RUSTY RUSS
Shalotte
BRADLEY STYRON
Cedar Island
MARSHALL WILLIFORD
Edenton

March 29, 2007

Mr. Mark Millikin
NOAA/NMFS
1315 East-West Hwy.
Silver Spring, MD 20910

Dear Mr. Millikin:

The N.C. Marine Fisheries Commission appreciates the opportunity to comment on ways to meet the new mandates of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

We support the need to end overfishing and set annual catch specifications; however, we remain concerned over the quality and quantity of the data oftentimes used to determine stock condition. The Magnuson-Stevens Act states that councils must "specify objective and measurable criteria for identifying when a fishery is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery)." This language should provide the opportunity to require each council's Science and Statistical Committee to report, not only if the data being used for setting annual catch limits are best available, but also to indicate whether the data are representative of the range of the species to a degree that is adequate for making rational management decisions. To continue to manage based on best available data simply because the data exist should no longer be acceptable.

The National Marine Fisheries Service monitors the annual catch limits set by the various councils. Our experience with quotas managed by the regional offices has generally been favorable. The management of quotas by the Highly Migratory Species division; however, has not. In recent years, catches of large coastal sharks were allowed to exceed the quota by as much as 100 percent or more, jeopardizing the participation of other states in the fisheries. Conversely, underharvest of blue fin tuna with unexplained closed seasons from February through March, and the inability to manage the green stick gear in a rational manner adds to coastwide frustration. Owing to the significant value and importance of these fisheries, it is critical that NMFS and the HMS develop a real time quota monitoring system for these and other HMS species.

A related quota monitoring issue is how to manage underharvested quotas, not only for HMS, but council plans, as well. In some years, North Carolina has not met its allocated quota for summer flounder and bluefish. Most fishery management plans are very specific in detailing how overages will be compensated for in the future. However, FMPs tend to be silent on how to deal with underages. Not adding underages to the next year's quota may result in a more conservative biological stance, but at a greater socioeconomic cost to fishermen. Total allowable catch levels are set to determine maximum allowable levels of harvest in a given annual period. Adding some portion of adjusted underages to the next year's quota will not violate a total allowable catch. It simply will allow for the later harvest of fish that would have been allowed if caught earlier. The Magnuson-Stevens Act allows for management based on socioeconomic considerations as long as biological goals are being met. Clearly, adding a portion of underages to the next year's quota is an example of making sure biological quotas are not being violated and at the same time supporting the socioeconomic needs of fishermen. Specific guidance should be developed to assist the councils in determining a consistent approach to this issue.

We look forward to working with the NMFS and the councils to develop these guidelines and believe the reauthorized Magnuson-Stevens Act provides great opportunity to make measurable steps forward in ensuring sustainable U.S. fisheries.

Sincerely,

A handwritten signature in black ink that reads "Mac Currin". The signature is written in a cursive, flowing style.

Mac Currin, Chairman
N.C. Marine Fisheries Commission

Cc: Dr. Louis B Daniel III, Director NCDMF
North Carolina Marine Fisheries Commission

Congress of the United States
Washington, DC 20515

April 17, 2007

Mr. Mark Millikin
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
1315 East-West Highway
Silver Spring, Maryland 20910

Dear Mr. Millikin,

We are writing to offer our comments, pursuant to the NOAA announcements of February 14 and March 19, 2007, regarding the Annual Catch Limit provisions, Accountability Measures and related issues arising from passage of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (MSRA).

The enactment of the MSRA elevates the role of science in the management of our nation's fisheries. This is appropriate, as virtually all stakeholders have urged improvements in fishing research and sought a greater reliance on science in the development of fishery management plans. However, the elevation of science also presents three key challenges, which must be addressed as a regulatory regime for implementation of the new law is developed. Specifically, it is essential that 1) the process by which the scientific information is gathered and analyzed draws from a wide range of sources and methodologies and is reasonably transparent; 2) the science includes serious analysis of the economic and social impacts of management measures as the amended law clearly requires; and 3) the Regional Fishery Management Councils and National Marine Fisheries Service (NMFS) retain the flexibility and the ultimate authority to implement the recommendations of the Scientific and Statistical Committees in ways that are appropriate for the relevant fisheries.

It is also essential that the new law be implemented in a manner that maximizes safety within the commercial fishing industry. Fishing will remain an inherently dangerous job regardless of any steps the government may take. However, it is of utmost importance for fishery managers to avoid any actions which could increase those dangers. No one from New England who makes a living from the sea needs to be reminded of the hazards fishermen face, but the tragic losses of several vessels from the region in recent years have underlined these dangers for members of the general public. Some of the steps that need to be taken to improve safety fall largely outside the scope of the Magnuson Act, and are in the province of the Coast Guard. We are working directly with the Coast Guard and the House Transportation Committee to address these points. But, National Standard 10 remains an integral part of the Act, and, with the adoption of new safety language in the MSRA, it is a statutory mandate that this aspect of the law also receive increased focus as implementing regulations are developed.

Mr. Mark Millikin

Page 2

We would add that a number of the new initiatives required under the MSRA, as well as some of the specific interpretations of aspects of the new law, involve the need for increased funding, and we urge NMFS to join Congressional supporters of the fishing industry in securing the necessary additional funds. In particular, it is evident that, in order to achieve a level of fishery data quality that will allow for the type of science based fishery management contemplated under the new law, the agency needs to have the ability to gather and analyze fishery data on closer to a real time basis than is currently the norm.

A graphic illustration of the difficulties that can arise under the current system can be seen in the agency's work relating to Section 215 of the MSRA, which called for a study on the impact of New England's Framework 42. Unfortunately, because of a lack of up-to-date data, this study was unable to utilize any data from the final version of Framework 42, which went into effect in November of 2006. The most current available data was from several months before that date, meaning that the study, though it did include useful information, was unable to evaluate the most relevant data for its fundamental purpose. The lack of more current data has prevented fishery managers in New England from doing as good a job as they would have liked in developing Framework 42 and other management measures.

In order to help prevent such occurrences in the future, and to make it more likely that the increased role of scientific information in fishery management that is mandated by the MSRA actually takes place in a meaningful way, it will be necessary to devote more funds to data gathering, technology upgrades and other aspects of fishery management. Again, we urge NMFS to provide these funds, and, to the extent the agency is unable to allocate sufficient levels of funding from its budget to accomplish the actions detailed in this letter, we urge the agency to seek the necessary funds from Congress. We will certainly be supportive of any such efforts.

The above matters and others relating to the implementing regulations for the MSRA are discussed in more detail below.

Role of Scientific and Statistical Committees

As detailed in the colloquy (a copy of which is attached) between Congressman Frank and then-Ranking Resources Committee Member (now Chairman) Rahall during the House Floor debate when the MSRA was passed last year, it is crucial that the Scientific and Statistical Committees (SSC) charged with developing annual catch limits (ACL) and making other scientific recommendations draw upon a wide range of scientific sources and opinion as they perform their duties. This colloquy was an important part of the process of building support for the MSRA's easy passage. Taking into account a wide array of fishery science will help ensure both that the science is as accurate and up to date as possible, and that those in the industry whose activities will be in part governed by the SSCs' findings and recommendations will have higher levels of confidence in the those findings and recommendations. In cases where relevant data is acknowledged to be "poor", SSCs should be encouraged to present a range of ACLs, reflecting varying levels of optimism about rebuilding projections, and economic and social impacts, for consideration by the Regional Fishery Management Councils.

Mr. Mark Millikin
Page 3

In effect, the SSCs should, to the extent they can, act in ways that are as consistent as possible with traditional understandings of the scientific method, and that use appropriate mechanisms to ensure scientific integrity. This means that membership on the SSCs should in general not include either those who are responsible for gathering the raw data, or those who will decide how the recommendations will be implemented. It will be necessary to develop strong conflict of interest standards to ensure that those who have ties to, or have received funding or grants from, fishing industry organizations, conservation groups, the Federal Government, or other levels of government, disclose that information.

In addition, to the extent possible, the raw data, the analysis thereof, and the ACL and other recommendations that flow from that analysis should be made public in easily accessible fashion in as close to real time as possible, and should be subject to a thorough peer review process (this latter point is discussed in greater detail below). As in the academic world, it would make sense for pre-publication drafts of this information to be made available by means of a publicly accessible web site, and this should be required in the implementing regulations. In addition, the regulations should require that the publicly available information include minority reports or opinions and some discussion of the process by which a consensus or majority opinion was achieved.

It is also essential that the work of the SSCs include focused analysis of the economic and social impacts of scientific findings, as integrated components of the SSCs' scientific work. This reflects not only the importance of National Standard 8, but also the numerous requirements in the MSRA for enhanced consideration of economic and social impacts. In order to ensure that these impacts are fully considered, the implementing regulations should require that specialists in economic and social analysis of fishery management measures be appointed to the SSCs.

Peer Review Process

The MSRA (in Section 103(b)) states that the Secretary and the Councils "may" establish a peer review process. We believe that a genuine peer review process is an essential element in the effort to ensure that the science used to develop fishery management measures is as robust and accurate as possible. A well designed peer review process will lead to increased confidence by fishermen in the data that is used to formulate management measures, which will in turn foster greater levels of cooperation within the industry in developing and complying with the management measures. While it may not be necessary to provide a full peer review for every action or recommendation of the SSCs, we believe it ought to be required for particularly significant recommendations which are likely to have substantial impacts on fisheries or fishing communities. In emergency situations, cases where there is insufficient funding to conduct a thorough peer review, or otherwise compelling circumstances in which the time needed to conduct the peer review could potentially compromise an important aspect of fishery management, it may make sense not to conduct a peer review. But, absent those conditions, where a recommended ACL or other important SSC finding or recommendation will have a significant impact on a large fishery or multi-species complex, we believe it should be the policy to require or at least strongly encourage the use of the peer review process, and the regulations should reflect that. Again, if additional funding is necessary in order to achieve this goal, NMFS should request it from Congress.

Mr. Mark Millikin
Page 4

The peer review process should, in addition to drawing on the expertise of relevant scientific specialists including economists and social scientists, include input from municipal and state government officials, and representatives of non-profit, advocacy groups and trade associations that have involvement in the fishing industry or knowledge or expertise in fishery, ocean, environmental and maritime matters. As in the case of the SSCs' work, the peer review process should be appropriately transparent, with public access to the findings and recommendations, including minority reports or opinions if any, and some discussion of the process by which a consensus or majority opinion was achieved, as well as required disclosure of any information that may be relevant from a conflict of interest perspective.

Role of Regional Fishery Management Councils

While the role of the SSCs in recommending ACLs and relaying other important scientific information is central to the process by which management plans will be developed under the MSRA, the new law's implementing regulations must make it clear that the ultimate authority for determining how to reach the ACL targets lies with the Regional Fishery Management Councils, subject to NMFS approval. There will no doubt in many cases be a range of possible management approaches for achieving a given ACL recommendation, particularly when more than one species is involved, as in a multi-species complex. Whether the recommended ACL should be achieved by means of input or output controls, a quota or point mechanism, or in some other fashion should be decided by those who have been chosen to serve on the Councils based on their own areas of expertise, which will tend to encompass disciplines beyond the purely scientific that will generally be the areas of focus for SSC members. Indeed, this model would follow a well accepted approach for public decision making, in which scientific or technical experts develop recommended targets, after which policy makers determine the best methods for allocating resources into order to achieve those technical goals.

Given the continuing importance of the Councils in the fishery management process, it is vital that increased funds be provided to allow for more time to review relevant documents, scientific findings and recommendations before decisions are made by Council members. This is one more benefit that will result from making fishing data available in real time or very close to it.

In Council deliberations, as in SSC deliberations, there must be an openness to alternative methodologies. The regulations should make it clear that, as with the SSCs, a range of opinions on how to achieve relevant targets should be considered, and significant alternative approaches should not be ignored because of time pressures. In particular, innovative management approaches like the point system that has emerged in New England should be given a full opportunity to be reviewed, especially in multi-species settings, where that concept is most relevant. By the same token, the regulations should make it clear that the Councils should have some authority to shift ACL targets among individual stocks within multi-species complexes (if such stocks are not overfished) provided the total projected level of fishing remains below the overall ACL for the multi-species complex.

Finally, the regulations should make it clear that the input of outside entities that are part of the peer review process should be incorporated into management plans if relevant, and that Council members, as part of the training required under the MSRA, should receive training in economic and social impacts of fishery management measures.

Mr. Mark Millikin

Page 5

Accountability Measures

The concept of accountability when recommended fishing levels are exceeded is logical, in light of the greater reliance on scientific information under the MRSA. If the necessary financial resources are provided to enhance the overall research and analytical efforts, the instances of significant divergences from projected stock levels will be fewer. On the other hand, the science in this area is still developing, and the roles of non-fishing contributors (including ocean and weather cycles, climate change, and agricultural runoff) on the health of stocks are not fully understood. Thus, there is little doubt that there will continue to be cases of missed targets. However, with the term "accountability measures" undefined in the MSRA, it will be necessary for the Agency to be cautious in developing regulations in this area. The concept of accountability should apply broadly to the entire process of developing projected fishing levels and assessing whether they have been achieved, meaning that the term should apply to the scientific underpinnings of the management measures and the estimates that are used to determine allowable fishing levels, as well as whether the ACL targets are met.

Of particular importance in this discussion, the legislative history on this provision makes it clear that it is not mandatory to deduct "overages" in one year from the subsequent year's allowable level of fishing. The initial Senate-passed version of the new law called for a reduction in fishing effort in the following year by the amount of the previous year's overages. This provision was dropped in the final legislation and replaced by a provision that refers to accountability measures as options. It is clear from this history that overage deductions in the subsequent year, though allowable, are not required. Instead, the regulations should make it clear that there are a range of possible options when ACLs are exceeded.

If, despite the ACL being exceeded, the relevant stock has also exceeded its projected rebuilding levels, no accountability measures might need to be imposed to achieve the law's goals. Alternatively, if the stock levels are determined to require the application of accountability measures, they do not necessarily have to be on a one to one basis (if for example, the relevant stock continues to rebuild at a satisfactory pace), and the accountability measures can also be spread out over a period of years. Furthermore, when it is possible to determine "responsibility" for overages, consideration should be given to allocating accountability measures – if required – on that basis, meaning that efforts should be undertaken to determine the extent to which commercial or recreational fishing activity has played a greater role in any causing overages, taking into account their relative importance within a given fishery or component thereof. Finally, if a stock rebuilds at a significantly faster rate than projected, accountability (for the inaccurate or incomplete science that led to the faulty projections) could mean that higher than anticipated levels of fishing in the subsequent year could be allowed, particularly in the case of a stock that has not been designated as overfished. Accountability must apply in both directions.

The regulations should be drafted so as to reflect all of these possibilities. While the MSRA does not explicitly address accountability in the sense of what should happen when required reductions in fishing effort are met, but the anticipated rebuilding goals are nonetheless not achieved, logic and fairness suggest that in such cases, at a minimum, future ACL recommendations or management measures ought to give greater consideration to alternative models and methodologies, both for rebuilding and for economic and social impacts.

Mr. Mark Millikin
Page 6

Rebuilding Flexibility

We have long believed that it is vital to amend the Magnuson Act to expand upon and clarify the circumstances under which the standard 10-year rebuilding period can be extended. The previous law allowed – and these provisions were not explicitly changed in the MSRA – three exceptions to the general 10 year rebuilding period: “where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise”. (16 U.S.C. 1854 § 304(e)(4)(A)(ii).) Regardless of the specific reasons for extension, we strongly believe that all extensions must have a time limit, and must be structured so as to require continued rebuilding and to reach the original rebuilding target by the end of the extension period.

While the rebuilding flexibility language was not extended on a generic basis in the MSRA, the new law does include (in Section 120) language that would permit an extension of up to three years, if certain conditions are met, for summer flounder. Though Section 120 was drafted for the purpose of addressing specific problems within the summer flounder fishery, the section makes it clear that the Secretary of Commerce has the authority to extend rebuilding periods for other species as well. Specifically, Section 120 states that the Secretary has the authority to extend the rebuilding period for summer flounder “only if” the six enumerated conditions are met, and it then adds that nothing in the section shall be construed to amend the Magnuson Act “or to limit or otherwise alter the authority of the Secretary under that Act concerning other species.” These provisions should clearly be interpreted to mean that the Secretary can extend the rebuilding periods of other species – though perhaps in less limited ways than for summer flounder – beyond the three general exceptions in the law. There is no scientific basis for restricting these considerations to only one species, and the law clearly recognizes that.

When the biomass targets for several New England species were significantly increased in 2002, NMFS Administrator Hogarth agreed in 2003 to extend the rebuilding period beyond the 10-year limit by “re-starting the clock”, which achieved the same purpose as extending the limit beyond 10 years. Considering that 1) the Secretary (acting through the NMFS Director) evidently possessed the authority in 2003 to permit an extension for reasons other than the three grounds explicitly contained in the law; 2) the new law explicitly states that Section 120 does not change that authority; and 3) Section 120 allows an extension for summer flounder “only if” certain conditions are met, it flows logically that the Secretary has and retains the authority to grant extensions for other species for reasons other than the three explicitly in the law, and the MSRA implementing regulations should explicitly so state.

We would add that the six conditions that apply to summer flounder offer a reasonable set of limits for other species, and the Agency may want to consider using those conditions (along with the maximum 3-year extension) for extensions that may apply to other species. But, it is essential in any case that the regulations make it clear that rebuilding extensions for species other than summer flounder for reasons other than the three explicitly in the law are permitted.

Safety

Section 104(a)(5) of the MSRA raises the profile of safety within the Magnuson Act by requiring that the fishery impact statements that are a mandatory part of any Fishery Management Plan or amendment assess, specify and describe the likely effects of the management measures on “the

Mr. Mark Millikin
Page 7

safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery". The purpose of this provision is to ensure that safety is considered on an ongoing basis as management measures are developed, as opposed to being addressed on an ad hoc basis following a recognition, because of a vessel sinking or other serious safety concern, that some element of a management measure may inadvertently increase the likelihood of fishing boats being caught in bad weather or other unsafe conditions. While many factors contributed to the losses of the New England boats in recent years, no one can disagree with the idea that management measures should avoid having the effect of making fishing more hazardous.

Several years ago, it became clear, after their adoption, that New England scallop fishery regulations could have the unintended consequence of making fishing more dangerous than it would otherwise be for those who were governed by the regulations. Specifically, the regulations in certain cases barred vessels, once they left a geographically designated fishing area, from returning to that area even if they only chose to leave temporarily to avoid adverse weather conditions. This had the potential to produce situations in which captains faced pressure to remain in hazardous weather zones longer than they normally would. Similarly, other management measures that limit the number of days on a trip or require steaming time to be counted toward Days at Sea limits, can also have this effect. In addition, there is currently no standardized mechanism by which fishing vessels can be assured that breaking off a trip because of impending bad weather will not produce some reduction or penalty in their allocations. Some recent management regulations affecting the New England area have been more sensitive to these concerns, but until the adoption of this new provision in the MSRA, there was no affirmative requirement (beyond the general requirements of National Standard 10) that safety be explicitly considered in the development of management measures. The implementing regulations should as strongly as possible make it clear that safety must be formally considered as each significant management measure is debated and that safety to the extent possible should be made an integral part of such measures.

As in many other areas of human activity, technological improvements in fishing have had mixed results. Vessel Monitoring Systems (VMS) have proven useful from an enforcement perspective, and less so from a safety perspective. We believe it is essential that NMFS continue to promote upgrades in VMS technology in order to expand the methods by which safety can be improved. The need to strengthen VMS technology so its safety applications can be developed was underlined by several participants at a recent public forum on fishing safety in New Bedford, Massachusetts. They expressed some frustration that the technology was not now reliable enough for safety purposes. The Federal Government Representatives at the meeting (including both Coast Guard and NOAA personnel) indicated that additional funding would be necessary in order to achieve the required improvements. We strongly support additional funding for this purpose, and will be joining with the Agency in seeking the funds, but we also urge that the possible expanded use of VMS for safety purposes be incorporated into the regulations that are drafted to implement Section 104(a)(5) of the MSRA.

Limited Access Privilege Programs (LAPP)

Subparagraph 106(c)(6)(D) of the MSRA details the process by which referenda on adoption of LAPPs are to be conducted for the New England and Gulf of Mexico fisheries. Clause (v) of

Mr. Mark Millikin
Page 8

that subparagraph requires the Secretary to promulgate criteria for determining whether additional fishery participants (other than permit holders) are eligible to vote in a New England referendum "in order to ensure that crew members who derive a significant percentage of their total income from the fishery under the proposed program are eligible to vote in the referendum." As proponents of this provision, we urge that the regulations be drafted so as to give it full effect. Crew members will obviously be affected in significant ways by any program that is adopted under this section of the MRSA, and we strongly believe they should have a say in whether to move forward with a program that will affect their livelihoods. It would be appropriate for the regulations to establish either a specific income percentage or a range of percentages, taking into account crew members' earnings over a period of years including non-fishing earnings, to establish what constitutes a "significant" percentage. But, the percentage should not be set at a level that permits only a small segment of the crew member population in a given area to be eligible to vote. In general, those for whom fishing is their primary means of making a living should be eligible, unless their involvement in the industry has been negligible.

Clause (vi) of subparagraph 106(c)(6)(D) provides that the 2/3 referendum requirement does not apply to sector allocations (as opposed to individual fishing quotas (IFQ), for which the 2/3 requirement does apply). The regulations should make it clear that the term "sector allocation" is intended to apply to relatively small, easily identifiable, discrete components of a fishery, and should not be interpreted to mean, for example, the entire commercial sector in a large geographical area, or a substantial component of a mixed-stock fishery. The mere fact that particular groups self-identify as sectors does not necessarily mean that such groups should be treated as sectors under this subparagraph, absent additional factors relating directly to their methods of fishing that set them apart from others participating in the same fishery. The regulations should clarify that a sector allocation exemption should not lead to a situation in which other participants in the same fishery must comply with an allocation system that operates effectively as an IFQ system, unless there has been in advance an open 2/3 referendum involving all those eligible under the referendum requirements. In general, the regulations should make it clear that the sector allocation exemption cannot be used to evade the 2/3 referendum requirement for IFQs.

The "point system" concept, a version of which has been developed within the New England fishery as a possible mechanism for managing that region's multi-species complex, should not be treated as being subject to the MSRA's LAPP provisions, because a point system does not allocate a quantity of fish or a fixed percentage of a Total Allowable Catch or Annual Catch Limit. Rather, a permit holder has a range of choices on how to access the fishery resource, as is also true, for example, in a Days at Sea format. The implementing regulations should make it clear that a point system would not be governed by the LAPP requirements.

Research Priorities

The MSRA calls for a significant increase in fishery related research, and in Section 103(d) requires a more comprehensive process for establishing research priorities. While there are many areas that would benefit from increased study and analysis, among the areas that we believe would be especially important to designate as priorities, particularly for research relating to New England fisheries, are the following:

Mr. Mark Millikin
Page 9

* The extent to which similar fish stocks that tend to inhabit different geographical areas should be treated as separate stocks for fishery management purposes. Research conducted by the University of Massachusetts Dartmouth School of Marine Science and Technology has determined that there is considerable migration between Gulf of Maine Cod and Georges Bank Cod populations, raising the question of whether the two stocks (or other stocks that interact in similar fashion) ought to continue to be considered as separate stocks.

* The role of non-fishing related factors, including climate change, agricultural and sewer runoff, and coastal development, in fish stock declines.

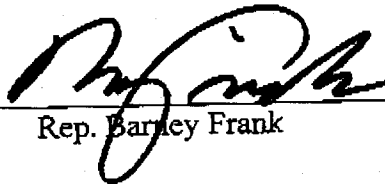
* The appropriateness, from an historical perspective, of biomass targets that have been set for various rebuilding stocks.

* The ways in which the role of humans can and should be incorporated into ecosystem management initiatives.

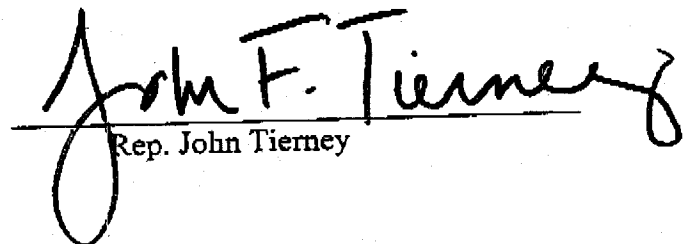
Transition to Sustainable Fisheries

Section 112 of the MSRA expands upon the previous law's provisions relating to vessel and permit buy-back programs. While reducing overcapacity within a fishery can provide important long-term benefits from a sustainability point of view, such programs are obviously also designed in the short-run to reduce fishing activity, and the financial impacts of this reduction go beyond the boat owners and permit holders, affecting also crew members and others who are employed within the industry in shoreside occupations. We have long believed that buy-back programs should be structured so that some of the short-term financial benefit that flows from such programs reaches those who are not boat owners and permit holders, because, as participants in the industry, these other groups are also affected by a reduction in fishing effort in their areas. In general, it is not appropriate for the Federal Government to take action that has a negative financial impact on working people, without providing some form of compensation. Accordingly, we recommend that the MSRA implementing regulations include authority for the Secretary to design, when it is practicable to do so, buy-back programs so as to allow a percentage of the financial gain realized from the programs to be reserved for those who are not boat owners or permit holders.

We appreciate the opportunity to comment on these matters. We are of course available to discuss these points in more detail or if there are any questions.



Rep. Barney Frank



Rep. John Tierney

cc: Dr. William Hogarth, NMFS Administrator
Adm. Conrad Lautenbacher, NOAA Under Secretary
Carlos Gutierrez, Secretary of Commerce

**MAGNUSON-STEVENSON FISHERY CONSERVATION AND
MANAGEMENT REAUTHORIZATION ACT OF 2006**
House of Representatives - December 8, 2006

U.S. House of Representatives
December 8, 2006

Mr. FRANK of Massachusetts. Mr. Speaker, I would ask for a colloquy. One of the key provisions in this is the requirement that the Regional Fishery Management Councils develop annual catch limits based on the Science and Statistical Committees. This annual catch limit provision has the potential to contribute in important ways to the process of improving science. But it is vital that in analyzing the options and preparing recommendations, the committees consider a wide range of scientific opinion to ensure that the management plans that are based on their work represent the best possible scientific understanding of the current state of the relevant fisheries as well as projections for the future.

Is it the ranking member's, soon to be chairman's, understanding that the Science and Statistical Committees will in fulfilling their role under this legislation consider this broad array of scientific opinion and sources?

Mr. RAHALL. Mr. Speaker, will the gentleman yield?

... West Virginia