



# Current Issues in Implementing the Magnuson-Stevens Fishery Conservation and Management Act

A Workshop for Members of the Regional Fishery  
Management Councils

October 18 - 20, 2004

Radisson Plaza Lord Baltimore Hotel  
Baltimore, Maryland

**Workshop  
Purpose:**

To inform Council members on current topics in fishery management, including policy issues and MSFCMA processes. The main purpose is informational, with discussion encouraged to clarify issues.

**Workshop  
Format:**

Each segment will have a focus presentation accompanied by a panel of NOAA Fisheries and Council representatives. After the focus presentation (15-20 minutes), panelists will have the opportunity to comment on the presentation and ask questions (10 minutes). The floor will then be opened for Council member questions and further clarification (20-30 minutes).

**Attire:**

Business Casual

## Monday, October 18

3:00 – 6:00 p.m.	<b>Registration</b>	<i>Calvert Ballroom</i>
6:00 – 8:00 p.m.	<b>Informal Welcoming Reception</b>	<i>Versailles Ballroom</i>

## Tuesday, October 19

7:30 – 9:00 a.m.	<b>Registration</b>	<i>Calvert Ballroom</i>
8:30 – 9:00 a.m.	<b>Continental Breakfast</b>	<i>Calvert Ballroom</i>

9:00 – 10:00 a.m.

## **Welcome and Opening Remarks**

*Calvert Ballroom*

**Moderator: John H. Dunnigan**, Director, Office of Sustainable Fisheries, NOAA Fisheries

**William T. Hogarth**, Assistant Administrator, NOAA Fisheries

10:00 – 10:15 am

## **Morning Break**

10:15 – 12:00

## **Ecosystems Approaches to Management (EAM)**

noon

### **1. EAM: What are They?**

**Rebecca Lent**, Deputy Assistant Administrator, NOAA Fisheries

Within marine fisheries, there is a continuum of single species management to Ecosystem Approaches to Management (EAM). For fisheries under Federal management, we are at different spots on the continuum, but there has been general movement toward EAM. Common definitions of EAM will be presented along with examples where EAM has been applied taking into account bycatch, habitat, and socio-economic impacts and use of NEPA analyses to integrate the consideration of these impacts. NOAA and the Fishery Management Councils are poised to lead the change for EAM, taking into account the footprint of fisheries and other impacts on the marine environment.

### **2. Guidelines for EAM**

**Mark Holliday**, Director, Office of Policy, NOAA Fisheries

NOAA Fisheries has developed a discussion paper with the subject title to advance implementation of ecosystem approaches to management across Federal agencies. This session will focus on: the origins and context for development of the guidelines; strategic goals and objectives for ecosystem approaches to management; a proposed set of processes and organizational structure for advancing ecosystem approaches nationally; and possible roles and implication for Regional Fishery Management Councils. The relationship of the guidelines to recommendations of the Pew Ocean Commission and the U.S. Commission on Ocean Policy will be highlighted. Discussion of potential next steps for the adoption and use of the guidelines will be sought.

### **3. Review of Ecosystem Pilot Programs**

**Gregg Waugh**, Deputy Executive Director, South Atlantic Fishery Management Council

The South Atlantic, Gulf of Mexico, Mid-Atlantic and New England Councils each have pilot programs to explore ecosystem-based management. With the Habitat Plan as a cornerstone, the South Atlantic Council is developing an ecosystem-based approach to resource management. Evolution of the Habitat Plan into a Fishery Ecosystem Plan (FEP), and transition from single species management to ecosystem-based management, will require a greater understanding of the South Atlantic Bight ecosystem (“our” ecosystem) and the complex relationships among humans, marine life and essential fish habitat. This effort will provide a more comprehensive understanding of the biological, social and economic impacts of management. The South Atlantic Council is using a three-pronged approach: 1. Mapping fishermen and documenting their catch/bycatch as they move across fisheries within our ecosystem; 2. Expanding existing relationships with other management agencies in our ecosystem to coordinate ecosystem-based management; and 3. Expanding and refining the South Atlantic Ecopath Model and exploring development of embedded sub-models for the *Oculina* Bank HAPC, The Florida Keys, Deepwater Snapper Grouper Habitat and Albemarle-Pamlico Sound. An overview of approaches being explored by the other three Councils will also be presented.

12:00 – 1:30 p.m.

**Lunch** (*On Your Own*)

1:30 – 3:30 p.m.

## **Science Issues**

### **1. Fisheries Management & the Best Available Science**

**Steve Murawski**, Chief, Population Dynamics Division, Northeast Fisheries Science Center, NOAA Fisheries

National Standard 2 of the Magnuson-Stevens Fishery Conservation and Management Act requires that in developing fishery management plans, “...*conservation and management measures shall be based upon the best scientific information available.*” This standard recognizes two fundamental principles: (1) that when faced with multiple data sources contributing information on a particular topic, the highest quality, most credible information should have precedence, and (2) even in relatively “data-poor” situations, decision making should nevertheless use the best information available and proceed. While “best scientific information available” is not defined explicitly in legislation, there is widespread agreement in both the scientific community and in policy communities on criteria and procedures for determining which data constitute best available. The development of guidelines for the incorporation of scientific information has been recommended by a recent National Research Council study examining issues surrounding national Standard 2. Briefly, these proposed guidelines cover relevance, inclusiveness, objectivity, transparency and openness, timeliness and peer review of information. Many of these proposed steps have already been implemented as standard practice in developing scientific information supporting the Councils.

### **2. Cooperative Research**

**John Boreman**, Director, Northeast Fisheries Science Center, NOAA Fisheries

Cooperative research is defined as a scientific activity involving two or more parties that gain more collectively than separately in the pursuit of a shared research goal. The cooperative research program involving NOAA Fisheries and the fishing industry is growing rapidly, to the point where millions of dollars are now being spent each year on joint scientific activities. The rapid growth has included some growing pains, however, that are primarily related to perhaps unrealistic expectations by both the agency and fishing industry. A number of problems, none of which are insurmountable, still need to be overcome if cooperative research is going to be established as a mainstay in fisheries science and management. As we move into the era of ecosystem-based fisheries management, partnering with industry, academia, and non-profit organizations in the design, collection, analysis, and presentation of scientific information will undoubtedly become more important to successful stewardship of our living marine resources.

3:30 – 3:45 p.m.

## **Afternoon Break**

3:45 – 5:00 p.m.

## **Economic Performance of Fisheries**

### **1. Dealing with Overcapacity: Individual Transferable Quotas**

**Lee Anderson**, Professor of Marine Studies, University of Delaware

According to FAO and NMFS definitions, overcapacity exists when the productive capacity of a fleet in terms of harvest is greater than the productive capacity of the fish stock in terms of harvest *when* the stock is at the desired size. When stock size is less than the desired level, dealing with overcapacity is a dynamic process where the stock must be rebuilt and simultaneously the fleet size must be adjusted so that its productivity will match that of the rebuilt stock. During the stock rebuilding phase, the required fleet capacity may be temporarily less than that which will be required at its completion. The presentation will cover how these issues may be addressed using an Individual Transferable Quota program. Comparisons will be made to how buyback programs address these issues.

## 2. Dealing with Overcapacity: Buyback Programs

**Donald McIsaac**, Executive Director, Pacific Fishery Management Council

In late 2003, the National Marine Fisheries Service implemented a Congressional appropriations resolution under Public Law 108-7 to reduce fishing capacity in the West Coast groundfish fishery. A total of 91 of the 263 limited entry groundfish trawl vessels, excluding the 10 vessels associated with the catcher-processor fleet, were permanently retired by federal purchases in a bid-based program. These 91 vessels bought out cannot fish anywhere in the world again and the associated permits, including 121 State permits for Dungeness crab and Pacific shrimp, were terminated. The program was funded by a \$10 million federal direct appropriation and a \$36 million federal loan to be paid back by those remaining in the fishery. Various characterizations of capacity reduction average about one third of the previous fleet. Average annual revenues of remaining permits are expected to increase by 53% if catches and prices remain static. There are 32 permits remaining in the fishery that had little or no landings in 2002; 9 of these have transferred ownership, including to individuals that sold vessels in the buy-back program. However, several factors mitigate concern of latent effort replacing some of the benefits of the buy-back program, including the Pacific Council placement of a control date of November, 2003 for consideration of an Individual Quota program for this fishery.

5:00 – 6:00 p.m.

### **Prospects for Magnuson-Stevens Reauthorization** (Invited Congressional Staff)

6:00 – 8:00 p.m.

### **Reception**

*Versailles Ballroom*

## **Wednesday, October 20**

7:30 – 8:00 a.m.

### **Continental Breakfast**

*Calvert Ballroom*

8:00 – 9:00 a.m.

### **Improving Fisheries Regulations: Regulatory Streamlining and Performance Measures for Fisheries Management**

**John H. Dunnigan**, Director, Office of Sustainable Fisheries, NOAA Fisheries  
NOAA Fisheries has been working with the Councils for the past few years to improve the timeliness and quality of our fishery management actions through the Regulatory Streamlining Project. This presentation will review progress to date on Regulatory Streamlining. In addition, a new approach for measuring Council and agency performance in managing fisheries will be presented. Under current performance measures, progress is only recognized when a rebuilding plan is approved or an overfished stock is fully rebuilt. No recognition is given for incremental progress of management actions that lead to reduced fishing mortality and/or increased biomass.

9:00 – 10:00 a.m.

### **Revising the Guidelines for National Standard 1**

**Richard Methot**, Office of Science & Technology, NOAA Fisheries

NOAA Fisheries has undertaken a revision of the Guidelines for National Standard 1 (NS1) using recommendations of a NMFS Working Group, comments received from the Advanced Notice of Public Rulemaking in 2003, and further comments received on the summer 2004 draft of the revised guidelines. NS1 deals with optimum yield and requirements for ending overfishing and

rebuilding overfished fisheries (stocks). This dual mandate for optimal exploitation and protection from overexploitation is always contentious as evidenced by the diversity of -opinion in the excellent comments received and the care being taken to produce a revised set of guidelines. The proposed revision will not undertake a broad rewriting or expansion of the guidelines; the primary goal is to clarify, simplify and amplify sections of the current NS1 Guidelines. The most substantive changes recommended by the Working Group are to strengthen the requirements for quickly ending overfishing, to establish fishing mortality targets specifically designed to avoid exceeding the fishing mortality limit, and to, within limits, increase the flexibility of rebuilding time horizons. The default level of abundance below which a stock is determined to be in need of a rebuilding plan is simplified to ½ of the abundance level that would produce MSY. A strategy is proposed to deal with the large number of minor stocks of unknown status by clustering them into assemblages, with each assemblage's status determination possibly based upon assessment of one or more indicator stocks

10:00 – 10:15 am **Morning Break**

10:15 – 11:15 am **Protected Species Issues**

**Laurie Allen, Director, Office of Protected Resources, NOAA Fisheries**

Fisheries often interact with protected resources, some interactions result in injury or mortality. This continues to be a major conservation challenge for NOAA Fisheries. The Protected Resources Program is meeting this challenge through science and management initiatives supported primarily by the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA). Success depends on the capability to provide proactive conservation to species at risk and, where possible, prevent the need for listing; listing when necessary; and, providing for species recovery and conservation, both domestically and internationally. All of this must be based on sound science providing accurate assessment of species status, including human impacts. The program is working with fishery managers to reduce interactions with marine mammals and turtles through both the MMPA take reduction planning process and implementation of ESA recovery program initiatives, such as the Atlantic and Gulf Sea Turtle Conservation Strategy, and the ESA Section 7 consultation provisions. The program is also developing policy guidance to improve our ability to assess the risk to ESA-listed species from fishing and other human activities, to revise our species recovery planning to identify priorities, and to establish criteria and procedures for ESA decision making that are transparent and replicable. Many of these actions are being undertaken in cooperation with Fishery Management Councils and the Magnuson-Stevens Fishery Conservation and Management Act process.

11:15 – 12:00  
noon

**Marine Protected Areas and Marine Sanctuaries**

1. Progress on Implementation of the MPA Executive Order

**Joseph A. Uravitch, Director, NOAA's MPA Center**

Executive Order 13158, marine protected areas (MPAs), calls for NOAA and the Department of the Interior to lead the effort to develop a scientifically based, comprehensive National System of MPAs and to help strengthen the management, protection and conservation of MPAs. Conservation of our natural and cultural heritage, the ability to support the continued sustainable extraction of renewable living marine resources, and the interests of federal, state, and tribal agencies, Regional Fishery Management Councils, and stake holders are key considerations in the development of the National System of MPAs. This presentation will briefly summarize the work of NOAA's National MPA Center to improve its scientific, training, technical assistance, and information transfer capabilities, and then will focus on the ongoing process and timetable for National System development.

## 2. A National Marine Sanctuary Program Overview: Finding Common Ground

**Margo E. Jackson**, Senior Policy Advisor, National Marine Sanctuary Program, NOAA

Since 1972, the National Marine Sanctuary Program (NMSP) has pursued its mandate of designating and protecting unique and special places in the marine and Great Lakes environments. The Program today protects 13 National Marine Sanctuaries and 1 Coral Reef Ecosystem Reserve. The NMSP, NOAA Fisheries and the Fishery Management Councils have common constituencies and manage common resources, including fish populations as an integral part of a sanctuary ecosystem. The National Marine Sanctuary Act mandates a specific role for the Fishery Management Councils in the production of Sanctuary fishing regulations. The challenge to the NMSP, NOAA Fisheries and the Fishery Management Councils is to work together to find the best way to utilize our authorities to protect and sustain the nation's marine ecosystems.

12:00 – 1:30 p.m.

### **Formal Lunch**

*Versailles Ballroom*

**Conrad C. Lautenbacher Jr.** Vice Admiral, U.S. Navy (Ret.),  
Under Secretary of Commerce for Oceans and Atmosphere  
(invited speaker)

1:30 – 2:30 p.m.

### **Future Plans for Council Member Training & Orientation**

**Susan Hanna**, Professor, Coastal Oregon Marine Experiment Station, Oregon State University

**Gilbert Sylvia**, Superintendent, Coastal Oregon Marine Experiment Station, Oregon State University

The regional fishery management council system faces difficult challenges in achieving sustainable fisheries. These include rebuilding stocks, reducing overcapacity, sustaining fishing communities, implementing ecosystem-based approaches, and improving the cost-effectiveness of research and management. Management decisions that address these needs require a wide range of biological, ecological, economic and social information and core competencies in these areas among key participants in the council process. The U.S. Commission on Ocean Policy recommended that all newly appointed members of regional fishery management councils be required to complete a training course within six months of their appointment that includes fishery science and stock assessment, social science and fishery economics, and legal mandates. This presentation reviews the recommendation for council member training and outlines a proposed national strategy to assess training needs and facilitates a discussion among workshop participants to assess perspectives on the need for council member training and discuss areas of training needs and alternative training approaches.

2:30 – 3:00 p.m.

### **Current Legal Issues**

**Samuel D. Rauch**, Assistant General Counsel for Fisheries, NOAA Fisheries

Recent trends in litigation regarding the types and numbers of lawsuits brought against NOAA Fisheries arising from actions taken under the Magnuson-Stevens Act and related laws will be discussed. The presentation will also review the trends in court decisions reached in these law suits

3:00 – 3:15 p.m.

**Afternoon Break**

3:15 – 4:00 p.m.

**Governance Role of Fishery Management Councils under Regional Ecosystem Management**

**Paul Howard**, Executive Director, New England Fishery Management Council

The National Commission on Ocean Policy has made recommendations that could significantly affect the existing role and operations of Fishery Management Councils. The impact of these recommendations; specifically changes in Council membership, the separation of the decision making process for science and management issues, and the establishment of regional ecosystem councils will be discussed.

4:00 – 5:30 p.m.

**Open Discussion: “Our Shared Vision for the Future of U.S. Fisheries and What We Can Do To Make It Happen”**

**William T. Hogarth**, Assistant Administrator, NOAA Fisheries

5:30 p.m.

**Wrap-Up and Adjourn**