



Announcement of Legislative Development

March 2007

Magnuson-Stevens Fishery Conservation and Management Act Reauthorized

On January 12, 2007, the President signed the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 into law, strengthening the 1996 provisions and extending the Act until 2013. What follows are brief summaries of some of the key amendments and changes.

Science and Statistical Committees

The Fishery Management Councils (Councils) must establish scientific and statistical committees (SSCs) that will help develop and evaluate scientific information for the development of fishery management plans. The SSCs must provide the Councils with ongoing scientific advice for establishing acceptable biological catch, preventing overfishing, establishing maximum sustainable yield, and achieving rebuilding targets. After January 1, 2008, the Secretary of Commerce (Secretary) must report any financial conflicts of interest of the Councils and SSC members to Congress. The Secretary and each Council may establish a peer review process for the scientific information used to advise the Council about conservation and management of the fishery.

Ending Overfishing

Fishery management plans must establish a mechanism for specifying annual catch limits at a level that prevents overfishing. The catch limits must be established by 2010 for fisheries already subject to overfishing and 2011 for other fisheries. The catch limit requirements will not apply to a fishery for species with a life cycle of approximately one year, unless that fishery is subject to overfishing. Within two years of a stock being declared overfished, Councils are required to develop and implement a rebuilding plan.

Limited Access Privilege Programs

Councils may submit a limited access privilege program (LAPP) to the Secretary for approval. LAPPs may also be initiated if the Secretary certifies a petition submitted by more than fifty percent of permit or allocation holders. Except for the Gulf of Mexico commercial red snapper fishery, the Gulf Council must have approval of a majority voting in a referendum prior to submission or Secretarial approval of a LAPP. The New England Council must have approval of more than two-thirds of those voting in a referendum prior to submission or Secretarial approval of a LAPP. For multi-species permits in the Gulf of Mexico, only participants who have substantially fished those species are eligible to vote in the referendum.

The LAPPs must promote fishing safety, fishery conservation and management, and

social and economic benefits. LAPPs established in an overfished fishery must assist in rebuilding. If the fishery has over-capacity, the LAPP must contribute to reducing capacity. Only persons or entities that meet eligibility and participation requirements in the LAPP may harvest fish under the LAPP. The Council and the Secretary must give a detailed review five years after the implementation of the programs and at least every seven years thereafter. The LAPPs must include an enforcement system, an appeals process, and an information collection and review process.

In developing LAPPs, Councils or the Secretary must establish procedures to ensure fair and equitable initial allocations; consider the basic cultural and social framework of the fishery; include measures to assist entry-level and small vessel owners, captains, crew and fishing communities; ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program; and authorize limited access privileges to harvest fish for those substantially participating in the fishery. A limited access privilege must be renewed every ten years, unless it has been revoked, limited, or modified due to a violation of any term in the plan.

Fisheries Conservation and Management Fund

The Secretary must establish a fund to improve fishery harvest data collection, cooperative fishery research and analysis, and development of new technologies. The fund must also be used to analyze the health benefits and risks of seafood, market sustainable U.S. fish products, improve recreational data collection, and provide financial assistance to fishermen to offset their costs with implementing changes to meet the requirements of federal laws. Amounts generated from quota set-asides, appropriations received for the fund, and monies from states or other entities may be deposited into the fund. Every two years, money from the fund will be apportioned among the eight Council regions.

Cooperative Research and Management Program

The Secretary must establish a regionally-based cooperative research and management program. Funds will be available on a competitive basis for projects addressing the critical needs that are identified by the Councils in consultation with the Secretary. By July 12, 2007, the Secretary must promulgate regulations, in consultation with the Councils, to provide an efficient system for awarding experimental fishing permits.

Deep Sea Coral Protection

The Secretary must establish a program to identify research on deep sea corals, map the locations of deep sea corals, monitor activity in deep sea coral habitats, conduct research on deep sea corals and survey methods, and develop technologies to assist fishermen to reduce the interactions of fishing gear with deep sea coral. The Secretary and Councils must submit biennial reports to Congress on the progress of the program. Fishery management plans may designate zones where deep sea corals live and restrict certain types of fishing in those zones based on an assessment of the benefits and impacts of the closure, so long as the closure is based on the best scientific information available, the conservation benefit is determined, and there is a timetable for review of the effect of the closure.

International Fisheries

The Secretary may undertake activities to promote improved monitoring and compliance for high seas fisheries or fisheries governed by international fishery management agreements by several means, including sharing information on harvesting and processing capacity and illegal, unreported, and unregulated (IUU) fishing activities with relevant law enforcement organizations. The Secretary and the Secretary of State must provide Congress a report by January 12, 2009 and every two years thereafter detailing, among other things, the status of international marine resources in which the United States has an interest. The report must also identify and list nations in which fishing vessels are engaged or have been engaged in the preceding two years in IUU fishing. Sixty days after submitting the report, the Secretary must notify the offending nations and encourage them to take corrective actions. The Secretary must also list nations whose fishing vessels are engaged, or have been engaged during the preceding calendar year, in certain activities that result in bycatch of a protected living marine resource. The Secretary must engage these nations in discussions to facilitate treaties and agreements that will reduce the bycatch of such species. The Secretary must establish separate procedures that certify to the Congress whether nations are taking appropriate actions to address IUU fishing or bycatch of protected living marine resources, as specified in the Act. Based upon these procedures, any nation identified in the biennial report that is not certified, or that is negatively certified, is subject to the sanctions of the High Seas Driftnet Enforcement Act.

The Secretary, in consultation with the Secretary of State, and in cooperation with the relevant fishery management Councils and advisory committees, must take actions to improve the effectiveness of international fishery management organizations by urging those organizations to incorporate market-related measures against governments whose vessels engage in IUU fishing; seeking adoption of lists of non-compliant vessels; seeking international adoption of a centralized system to monitor fleets in relevant areas; increasing the use of observers and technologies to monitor compliance; and seeking adoption of stronger port state controls in all nations. The entities must also urge international fishery organizations to which the United States is a member to adopt market-related measures to combat IUU fishing. The entities must also urge other nations to take all steps necessary to prevent marine resources harvested by vessels engaged in IUU fishing from being traded or imported.

Bycatch Reduction Engineering Program

No later than January 12, 2008, the Secretary, along with the Councils and other entities, must establish a bycatch reduction program. The regionally-based program must be coordinated with the cooperative research and management program and provide information and outreach to fishery participants. The program may allow fishery management plans to institute incentives to establish individual bycatch quotas, promote gear with low bycatch rates, and other methods that will reduce total bycatch and seabird interactions.

Klamath Salmon Plan and study

No later than July 12, 2007, the Secretary of Commerce must complete a recovery plan for Klamath River Coho salmon and make it available to the public. On July 12, 2009, and every two years thereafter, the Secretary must submit a report to the appropriate

committees in Congress on the efficacy of the plan.

Summer Flounder

The Secretary may extend the time for rebuilding summer flounder to January 2013, if the Secretary determines that overfishing is not occurring and a mechanism is in place to ensure overfishing does not occur; stock biomass levels are increasing; the biomass rebuilding target previously applicable to such stock will be met or exceeded within the new time for rebuilding; monitoring will ensure rebuilding continues; and the extension is based on the best scientific information available and will allow for continued rebuilding.

Ecosystem Research

By July 12, 2007, the Secretary and Councils must undertake a study on the state of the science for advancing the concepts and integration of ecosystem considerations in regional fishery management. The Secretary may provide technical advice and assistance to the Councils for the design of regional pilot programs built on the ecosystem advisory panel recommendations or the completed study.

Council Member Training

The Secretary, in consultation with the Councils and the National Sea Grant College Program, must develop a training course by July 12, 2007. Relevant training topics may include fishery science and basic stock assessment methods, fishery management techniques, data needs, and Council procedures, social science and fishery economics, tribal treaty issues, legal requirements of the Act, and other legal and regulatory requirements. The training must be available to new and existing Council members, staff from the regional offices and regional science centers of NMFS, and it may be available to committee or advisory panel members if resources are available. The training is required for Council members appointed after January 12, 2007, and the course must be completed within one year of Council member appointments. Council members who have completed training 24 months prior to January 12, 2007 do not have to meet the requirement.

Provided by:

National Sea Grant Law Center

University Of Mississippi
Kinard Hall, Wing E – Room 256
University, MS 38655

Phone: (662) 915-7775

Email: sealaw@olemiss.edu

<http://www.olemiss.edu/orgs/SGLC>