

The background of the cover is a vibrant collage of various seafood items. At the top, there's a large octopus with pinkish-red tentacles. To its right is a bright red lobster. Further right are lemons and a piece of salmon. Below the octopus, several blue crabs are visible. The bottom half of the image features a variety of other seafood: large shrimp, two large squid, a scallop, and several fish, including what appears to be a bluefish and a striped bass. All the seafood is resting on a bed of white ice. A teal-colored curved shape is on the left side of the cover.

# Establishing a National Seafood Council

## Report and Recommendations from the Marine Fisheries Advisory Committee

July 1, 2020



The Marine Fisheries Advisory Committee (MAFAC or Committee) presents this report with recommendations to NOAA and the Department of Commerce. MAFAC is a federal advisory committee that advises the Secretary of Commerce on living marine resource matters under the jurisdiction of the U.S. Department of Commerce, primarily NOAA Fisheries. Comprised of membership from a diverse set of perspectives—including commercial, recreational, aquaculture, environmental, academic, state, tribal, seafood, and consumer fisheries interest groups—the Committee has the unique role of working together across all of these sectors to make consensus-based recommendations to NOAA Fisheries. These findings and subsequent recommendations came from the evaluation conducted by the Seafood Promotion Task Group under the MAFAC Commerce Subcommittee, with tremendous input from the seafood community. MAFAC deliberated upon, finalized, and by consensus approved this report and recommendations on July 1, 2020.

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# Executive Summary

Since 2018, the Marine Fisheries Advisory Committee (MAFAC) has been considering what the federal government can do to help improve consumer confidence in, and subsequently consumption of, U.S. seafood in our country, in order to support and increase value of our sustainably managed fisheries and aquaculture. Increasing the consumption of U.S. seafood will also directly improve the health of the American people and support U.S. jobs. Facilitating this is not only in the best interest of the seafood industry but also is a service to the public. Most importantly, MAFAC identified the need to elevate the narrative of the inherent sustainability behind the management practices and harvesting of U.S. wild-capture and aquaculture seafood products, which are not adequately appreciated in the public marketplace.

In investigating what the federal government's role could be to increase U.S. consumption of U.S. seafood, MAFAC learned about the Fish and Seafood Promotion Act of 1986 (FSPA) and identified components of it as potentially viable options to achieving this goal. Specifically, MAFAC determined that establishment of an industry led and federally overseen National Seafood Council under the FSPA could be an effective mechanism to reach the stated goals. To test this hypothesis, MAFAC members developed a concept for what a National Seafood

Council could look like and gathered feedback from the U.S. seafood community. Additionally, MAFAC sought feedback from advisors on the FSPA and implementing regulations in their current forms, to evaluate feasibility of their implementation.

Amidst the later stages of MAFAC's work, the COVID-19 crisis escalated in the United States, creating significant challenges in the U.S. seafood supply chain. These challenges only amplify the need for a National Seafood Council. This Council could enhance resilience for all U.S. seafood-related industries in the face of future disruptions.

Following external engagement and significant Committee discussion, MAFAC is confident the concept for a National Seafood Council will benefit the U.S. seafood industry and, indeed, the consumer. This report documents MAFAC's findings and the recommendations for its implementation. If NOAA Fisheries, NOAA, and the Department of Commerce agree with MAFAC's assessment and recommendations, MAFAC encourages swift implementation and continued communication on this topic with industry and other stakeholders. The timing is appropriate, and industry appears supportive. Any delay could stall and lessen the positive momentum and synergistic opportunities that currently exist.



# Process

## Overview of the Fish and Seafood Promotion Act

As part of its examination, MAFAC reviewed the goals and authorities of the FSPA of 1986 (16 U.S.C. 4001 et seq.). The FSPA established two federally managed marketing capabilities to promote the consumption of domestically harvested seafood. First, it set up a congressionally funded National Fish and Seafood Promotion Council (National Council) for a period of five years (\$11M funded over the full period, through the Saltonstall-Kennedy Act). This National Council, which sunset in 1991, was comprised of industry representatives who directed the spending of the congressionally appropriated dollars to fund a national level, generic seafood marketing and education campaign to benefit the industry as a whole. Second, the FSPA provided the ability for the Secretary of Commerce or designee (NOAA Fisheries) to approve and oversee individual, industry-funded seafood marketing councils for specific types of seafood commodities. In both the national and industry-specific councils, the FSPA requires that NMFS approve or reject proposed individual seafood marketing plans based on the accuracy and scientific validity of the information they present.

When the FSPA was established more than 30 years ago, it was designed in large part to be similar to the authorities provided to the U.S. Department of Agriculture's (USDA) Agricultural Marketing Service under a similar act, the Commodity Act. Under the Commodity Act, agricultural industries initiate the idea for a particular board or council for their commodity, like milk, pork, avocados, peanuts, etc., and bring their interest to USDA. These boards are initiated and funded by industry. They require an industry referendum to be passed that outlines who the members for the board will be, which part of the industry is assessed and how much, and the general goals and strategy of the proposed board. Pending approval by the industry through the referendum, USDA establishes the board by regulation and provides ongoing oversight of all aspects

of its work. Like this USDA structure, establishing a species-specific seafood marketing council requires NOAA Fisheries to oversee an industry referendum to establish a proposed council and its marketing plan.

While the National Council under the FSPA operated via its congressionally appropriated funding from 1987 to 1991, no species-specific seafood marketing councils have been formally proposed or established. In 1996, the regulations implementing the FSPA were removed from the Code of Federal Regulations (CFR) as part of a government-wide Presidential regulatory reform effort. Yet, though the implementing regulations were withdrawn from the CFR, the Act itself remains in effect, and new regulations for individual seafood promotion councils were drafted in 2006 and finalized in 2007 in response to expressed interest from the tuna industry in utilizing the Act's provisions. However, no proposal or referendum by the tuna industry followed.

## Hypothesis and Objectives

**Working Hypothesis:** MAFAC envisions that establishment by the U.S. seafood community of a National Seafood Council using the Fish and Seafood Promotion Act (FSPA) as modified will enable the industry to collectively conduct education, research, and marketing. This could increase U.S. seafood consumption, improve the health of the American people, and provide a return on investment to the U.S. seafood industry by:

- Educating consumers on the health and nutritional benefits of seafood, including debunking misinformation.
- Highlighting the sustainability of wild-capture and aquaculture practices in the United States.
- Progressing needed market and supply chain research and development.
- Providing an overall generic U.S. seafood brand<sup>1</sup> to elevate existing efforts of trade and non-profit groups.
- Unifying a fractionated industry.

<sup>1</sup> MAFAC's use of the term "brand" should not be confused with a brand or logo that may be part of a certification program. MAFAC did not investigate or discuss certification requirements as part of a generic U.S. seafood brand.



## To test the above hypothesis, the following objectives were identified:

**Objective 1:** Provide awareness to the U.S. seafood community about the FSPA and determine if there is interest in establishing a National Seafood Council under the Act as a mechanism to increase U.S. seafood consumption in the United States.

**Objective 2:** Determine how the FSPA and implementing regulation language can be updated to enable establishment of a National Seafood Council.

**Objective 3:** Evaluate government capabilities to educate the broader U.S. seafood industry on the FSPA and provide effective oversight of a board established under the FSPA.

## Work Plan

See Figure 1 for a detailed timeline of the work plan.

### Step 1: Gather information to build a work plan:

The Seafood Promotion Task Group started this task in November 2018 to gauge the interest and the potential value behind a National Seafood Council. MAFAC had conversations with industry players at the 2019 Seafood Expo North America. In addition, MAFAC engaged with three panels at MAFAC meetings, which consisted of members of the seafood industry and participants from existing generic commodity boards under the USDA Agricultural Marketing Service ([see Appendix A](#)).

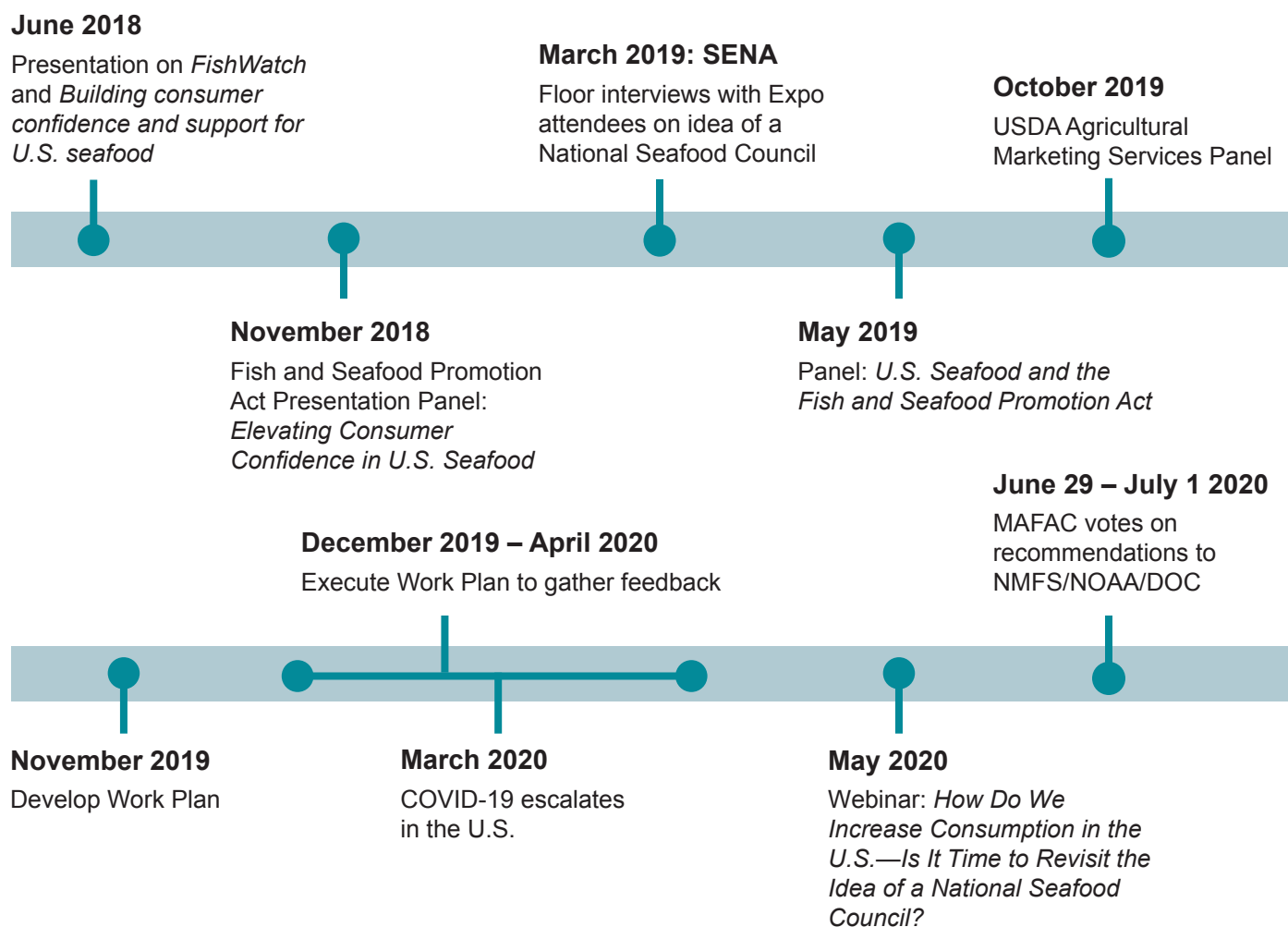
### Step 2: Gather input from the seafood community through interviews and a webinar: From January

through April 2020, the Task Group members conducted 53 interviews with individuals from the seafood industry ([see Appendix B](#)) to obtain feedback on the concept of a National Seafood Council. Interviewees fell into one of two categories: 1) seafood industry member, or 2) employee of an existing seafood-related board, trade organization, or non-profit. Two different sets of questions were developed to guide the interviews with these respective categories ([see Appendix D](#)). The Task Group members identified individuals to interview, with the goal of obtaining diverse geographic and subject matter area representation from throughout the seafood supply chain. Invitations were sent to each individual along with a background information document ([see Appendix F](#)) and the interview questions. Each of the interviews involved about 60 minutes of discussion. Task Group members conducted the interviews, with NMFS staff support from either Adele Irwin or Heidi Lovett to take notes and answer technical questions.

Draft recommendations and findings were developed from April to May 2020. These were presented at a SeafoodSource hosted webinar on May 29, 2020, with the goal to receive additional input on the preliminary recommendations. The webinar was titled “How Do We Increase Consumption in the U.S.—Is It Time to Revisit the Idea of a National Seafood Council?” and the panelists were MAFAC





**Figure 1: Timeline of Work Plan**

members Megan Davis, Florida Atlantic University Harbor Branch Oceanographic Institute; Roger Berkowitz, Sea Foods, LLC; Stefanie Moreland, Trident Seafoods; and Sebastian Belle, Maine Aquaculture Association. The webinar was moderated, included a presentation, and panelists addressed audience questions. There were 344 participants and about 100 questions or comments. This input was taken into consideration and the recommendations were updated.<sup>2</sup>

**Step 3: Gather input from advisors about the usage of the FSPA:** From February to March 2020, several advisors ([Appendix C](#)) generously provided their expertise to educate the Task Group members on both the capabilities and structure of commodity

boards under the oversight of USDA and the role of USDA as an oversight agency. Some also evaluated the limitations, challenges, and potential to establish a National Seafood Council and/or species-specific boards under the existing FSPA and implementing NOAA Fisheries regulations.

**Step 4: MAFAC deliberation and finalization of recommendations:** In June, following consideration of input received from industry and advisors, MAFAC updated their draft recommendations accordingly, and deliberated upon them before discussing and finalizing them during a July 1, 2020 MAFAC meeting vote.

<sup>2</sup> MAFAC did not garner support for a National Seafood Council, which is the role of the industry, but rather surveyed the industry to gauge the needs and challenges of the constituency and their inclinations for a National Seafood Council.







# Findings from Interviews and Advisors, Organized by Work Plan Objectives

## Objective 1 Results: Themes from Interviews with the Seafood Community about the National Seafood Council Concept.

This section reflects the opinions shared by the seafood industry and trade groups ([see Appendix B](#)) during interviews, and MAFAC's identification of themes that emerged. These are the opinions of those interviewed, not those of MAFAC members; please see "Recommendations" section for MAFAC's finalized viewpoints.

### 1. The discussion for having a National Seafood Council is timely and there was overall positive feedback to the concept.

The seafood community was very receptive to speaking with MAFAC members about the concept of the National Seafood Council. The interviewees were very generous with their time and willingness to have these conversations. They were very open and frank with their responses and suggestions. Many of the interviewees expressed the timeliness of this discussion and the urgency to establish this Council, and overall there was positive feedback to the concept. One commented that it should have existed 30 years ago. Most of the interviewees asked to be kept current as to the results and next steps of this effort.

### 2. A National Seafood Council could complement and amplify existing efforts and messaging.

Many seafood industry leaders and members participate in or are employed by a seafood-focused trade organization or non-governmental organization (NGO) that focuses on issues specific to a region, state, community, species, or sector ([Appendix E](#)). The services these existing organizations provide to their members include

government advocacy at the state or federal level on fisheries management issues; developing educational materials for consumers, retailers, and restaurateurs; assisting with marketing and promotion for different sections of the supply chain; messaging on the nutritional and health benefits of consuming seafood; and data on product sustainability.

These organizations are funded through a variety of mechanisms, including mandatory industry assessments from different parts of the supply chain such as permitted or licensed fishermen, processors, and distributors; flat or tiered membership fees; federal and state funding; and/or sponsorship and donations.

Many expressed that they do not have the bandwidth or financial resources to educate, market, and promote and/or focus on market research as much as they feel is necessary to meet the goals of their seafood business or organization, and that a National Seafood Council may be able to provide the scale needed to execute these needs collectively for the industry.

There was a general consensus that a National Seafood Council would benefit and be completely complementary to existing efforts of these existing organizations, because no organization exists that can make the significant impact needed to move the needle on seafood consumption as far as the seafood industry envisions. It is the scale of effort proposed for a National Seafood Council, comparable to the agricultural commodity boards, that the seafood community needs to accomplish this goal. Furthermore, a National Seafood Council could benefit everyone in the supply chain by amplifying the shared, industry-wide messaging, and helping to create consistent messaging across the industry. It could also help to educate and reduce uncertainty for consumers on distinguishing between domestic and imported products, providing accurate information on nutrition, health value, and environmental



impacts. The smaller regional groups could then reiterate these consistent messages and spend more time focusing on marketing their specific products.

A few expressed concerns about how a National Seafood Council could dovetail with existing groups, like regional seafood councils and NGOs, to ensure consistency in messaging and support building a national brand. A few others were not sure how it could complement existing regional efforts, and thought the only viable complement that a National Seafood Council could provide to these efforts would be to create more visibility for all seafood.

### **3. There was mixed input on whether the National Seafood Council could benefit all sectors of the U.S. seafood industry, unify the industry, and increase U.S. seafood consumption.**

There was little to no opposition for including both wild-caught and aquaculture-sourced product in the National Seafood Council's focus; however, there was some opposition to including land-based aquaculture products. Otherwise, there were mixed responses when it came to what products the National Seafood Council should focus on supporting and promoting. Primarily, there were mixed opinions on whether the focus should be on U.S. seafood products only, or both domestic and imported products. Some felt strongly one way, and others were uncertain. There were also individuals who shared that their own personal views on what would be successful were not necessarily in alignment with the priorities of their companies.

The following sections will elaborate on the support provided for why a National Seafood Council should focus on either U.S. product only, or both domestic and imported products.

#### **a) Focus on U.S. seafood only**

Many expressed concern over whether a generic seafood marketing program that includes imports would benefit the U.S. industry, which should be the primary goal of an effort such as this. Their concerns included that imported seafood products are directly causing the erosion of the U.S. seafood industry, making the U.S. products unable to compete with the inexpensive imports. Even in places like Guam, Hawai'i, and Puerto Rico, where there is high demand

for seafood, U.S. seafood is unable to compete with imports. In the Western Pacific, where there is a lack of access to some domestic waters, they are forced to directly compete with foreign vessels not just in the marketplace, but in the fishing grounds on the high seas. These foreign vessels are highly subsidized by their home countries and have fewer regulations, giving them a competitive edge.

There was also a comment that the focus should be on supporting U.S. harvesters, as they are in the most need of assistance in the U.S. supply chain. Many expressed that the U.S. fishing industry is held to some of the strictest fisheries management practices in the world, and it is time that the U.S. efforts be recognized in the marketplace and provided support to compete against imports.

Some comments addressed how a National Seafood Council could unify and ensure continuity of the industry. It was expressed that while the U.S. seafood industry has not historically worked well together, establishing a common goal could help build better working relationships. For the aquaculture and wild-capture sectors, the area of common ground is the marketplace, which is a good place to establish this common goal. Educating the public and improving messaging on the high quality and sustainable fisheries management practices of U.S. products will drive up consumption of domestic product and should be the primary goal. There were several suggestions on how to develop a brand for U.S. seafood (not a certification), how to teach consumers to look for these U.S. products, and how to diversify the sources of demand:

- The current Administration seems to have a pro-"America first" approach, and may support reinforcing U.S. seafood in the marketplace over imports. Other countries like Norway already have these mechanisms in place and have been very successful. In Brazil, there is a government program with a national focus on seafood that advertises eating seafood twice a week, a robust national seafood week, and tax breaks for industry. These are examples of programs that create a broad, national emphasis on the seafood industry that would be very helpful in the United States.
- The story of U.S. seafood is an untold one, and consumers do not understand where seafood comes from or how it gets to them. The seafood



industry needs to actively participate in the new movement to increase consumer consciousness on sourcing and content. By educating consumers on the strict management practices that U.S. fishermen and aquaculturists follow, consumers will place a higher value on buying their seafood from a domestic source, providing U.S. producers with a competitive edge against imports in the marketplace. There is also a significant need to correct misperceptions about aquaculture products; historically, when the wild salmon sector began attacking aquaculture products, sales fell across the board for both wild and aquaculture salmon products.

- There is a need to develop domestic markets and create demand for underutilized fish. Some fish in high abundance and available to harvesters lack an interested consumer base (e.g., West Coast groundfish, since their recent rebuilt status determination).
- Diversifying sources of demand for U.S. seafood beyond restaurants and export markets is needed. The majority of seafood eaten in the United States is in a restaurant setting. There are opportunities to encourage individuals to purchase and cook seafood independently. Developing this demand in the direct-to-consumer space will encourage more consumption of seafood.

Improving access to domestic seafood product to reduce reliance on imports will, in turn, improve food security. This feedback was provided both prior to the COVID-19 pandemic in reference to trade deals and embargoes, and during the COVID-19 crisis due to the current lack of access to foreign products. The current challenges faced by the domestic seafood industry due to the COVID-19 public health crisis have created an “island effect” of sorts within the continental United States, as international trade has been largely restricted. This effect is revealing the vulnerabilities of the seafood industry, including the U.S. reliance on imported product and international outsourcing for processing, which pose a threat to food security in the United States. Puerto Rico has experienced this same isolating effect, post-Hurricane Maria, when their access to seafood was compromised because they were unable to import seafood, which has historically been their most utilized source.

#### **b) Focus on U.S. and imported wild-caught and aquaculture seafood**

Several acknowledged that seafood is a global industry and that this effort should not be reduced to a national focus. The effort should include imports because there is not enough U.S.-caught and -grown seafood available to meet the current demand. In addition, U.S.-caught fish is often processed overseas





and reimported, then technically becoming an imported product. Many processors, vendors, and retailers sell a combination of imported and domestic seafood product, making it difficult to pursue a U.S. focus only without ostracizing these groups that also rely on imports. There was fear expressed that by not including imports, there could be trade or marketing retaliatory efforts by foreign nations.

Another thought emerged that improving access to foreign markets could help facilitate development of infrastructure on U.S. islands such as Puerto Rico to transform them into key landing, processing, and export hubs, thereby increasing demand for U.S. products abroad.

From the consumers' perspective, differentiating between U.S. and imported seafood would only add to the multiple layers of confusion about seafood and would not effectively build a consumer base for U.S. seafood products.

Several expressed a need to not further pit the import and domestic seafood industries against each other to fight over the small market slice of seafood consumers, but to grow the market of seafood consumers. The phrase "a rising tide will lift all boats" applies here, as any effort that aims to increase consumption of seafood will help to increase consumption of U.S. seafood. Others noted,

even if you successfully convince consumers through a campaign to buy U.S. products, when they seek seafood at the grocery store, they will be deterred by the elevated prices of U.S. seafood product. People decide what food to purchase based on 1) price, 2) convenience, and 3) taste. The initial goal of the National Seafood Council should be to grow the seafood market generally, which will require focusing on these three requirements. The example of frozen French fries was given, which has a larger market than seafood in the United States, likely because it hits each of these three requirements. The goal to focus on U.S. product specifically could become a longer-term goal in a later phase.

The industry as a whole—including all businesses focusing on domestic product, import product, or a mixture of both—are at a critical moment; if they are not able to increase U.S. demand for seafood, they will cease to exist. The infighting within the industry only serves as a collective detriment to the whole, and it is imperative that they come together in such a way as this to provide collective messaging. One commented that without something like a National Seafood Council, inclusive of both domestic and import product, the seafood industry is metaphorically rearranging deck chairs on the *Titanic*.

#### 4. The National Seafood Council could develop products and messaging to benefit the seafood industry and consumers

##### a) Communication and messaging

Many benefits and needs of the industry emerged during interviews and supported the value of an industry-led National Seafood Council. The industry expressed that there is a need to build a large-scale marketing, education, and promotion effort, managed by and for the benefit of the entire industry, which no individual institution could fund independently. The only seafood marketing and campaigning that has taken place at the national level is by large-scale chain restaurants, like Red Lobster. This is a void that needs to be filled by industry.

Others highlighted that a National Seafood Council could facilitate communication that benefits both the industry and consumers. One of the challenges with marketing seafood is its diversity, which can also be one of its strengths. There needs to be an effort to use this diversity of seafood as a marketing advantage. Some suggested that highlighting different species might help to educate the public on the seafood available to them. However, others suggested that seafood should be highlighted collectively, not as individual species.

Many thought that a National Seafood Council could readily assist consumers in making decisions about eating seafood. The following are statements that we heard during the interviews: seafood as a product is confusing to people because of the lack of societal awareness of how to prepare it; the mixed messages regarding its sourcing, safety, and nutritional value; and the high price compared to other proteins. For these reasons, people become overwhelmed by purchasing seafood and often walk away from seafood altogether and opt for better understood protein sources, like chicken or beef. Educating the public on and amplifying the message of seafood's health benefits to consumers, and correcting misinformation about seafood safety, will be helpful messaging for the consumer. Most recent studies show the value of consuming more seafood and its positive impact on public health, even for pregnant women. Fetal brain development and

reduced occurrence of heart disease fall into these benefits. The amount of misinformation surrounding seafood safety is greater than the amount of correct information, and this needs to be reconciled. The importance of amplifying the positive health benefits goes beyond the potential economic benefits to the seafood industry and extends to supporting the health of the U.S. public. It is difficult for small-scale efforts, like those of existing species-specific groups or individual companies, to effectively convey this message to consumers on their own. This is the most important message that needs to be conveyed to the consumer, as it will help to create the most demand for the product. In addition, there were comments that it is important to teach people how to cook seafood and how to properly store it. In some cases, people don't purchase seafood because they don't know how to prepare it or because they've had negative experiences with seafood because of improper storage and preparation.

It was noted by some interviewees that fostering consistent and positive messaging will reduce and prevent conflicting messages within the industry that disparage different competing sub-sectors. The Council could develop an agreed-upon script for individuals to use, helping to get buy-in and develop understanding from individuals that issuing disparaging messaging about other seafood sectors can be detrimental for the entire industry.

There was mention that crisis communications and unified messaging are needed to benefit the industry in the face of environmental disasters or third-party public relations attacks on fisheries and aquaculture (e.g., eNGOs, news articles).

In addition, there were comments that the industry could benefit from credibility that government-validated messaging provides. If the public is provided with validated information from a trusted third-party source like the federal government, the message is more likely to be effectively received. If the focus is specific to U.S. seafood, this could be a service the government provides to help domestic producers compete with imports.

Unprompted support for NOAA Fisheries FishWatch was shared. Some interviewees expressed that it is supported with sound science and should be the go-to resource for questions regarding fisheries



management and sustainability. It should be used as the preferred resource over other third-party certification labels, many of which have monetized their services and require payment to be represented. These third-party resources depend on people not understanding U.S. fisheries management practices. It was also felt that, even though the premise of this tool is great, consumers are faced with too many choices for there to be a catchall site.

### b) Marketing expertise and research

Several interviewees expressed that the seafood industry as a whole tends to struggle when it comes to marketing their product. A National Seafood Council could provide marketing expertise and tools to conduct research on market and consumer trends as well as develop common messages and marketing material, all of which could be made accessible to members of the industry. This would allow individual companies and regional marketing boards to tap into this high-level, industry-wide information toolbox for their use and allow them to focus their own efforts on promoting their specific products. Some small companies cannot afford to execute marketing. If they were provided with marketing and supply chain improvement resources, these small businesses could gain a competitive edge and better succeed in the marketplace.

Some of the research questions that interviewees expressed they would like to see a National Seafood Council address include:

- Learn why per capita consumption has remained the same for 30 to 40 years.
- Determine how to set reasonable and attainable goals for increasing consumption of seafood; it is not reasonable to convince a customer who currently only buys seafood twice a year for holiday occasions to start buying it twice a week; set realistic targets.
- Conduct supply chain and consumer behavior research. There is potential for a National Seafood Council to facilitate the transition of the seafood industry from being commodity-minded to driven by consumer demand. It could drastically increase the availability of data on consumer practices and behaviors.
- Conduct a study to understand the next generation of consumers. As an example, millennials have different consumer behaviors than previous generations.

- Conduct research to improve packaging and shelf-life of products and to adapt products to meet consumer needs. Groups like Alaska Seafood Marketing Institute and Genuine Alaska Pollock Producers have had success here by using their market research findings regarding consumer behavior to help develop new products that better appeal to consumers.
- Provide research and guidelines for processors on how to comply with FDA guidelines, which is difficult for smaller enterprises to navigate.
- Determine how jobs will be created throughout the supply chain as the industry grows.

### c) Other remarks

There were some interviewed who expressed that a National Seafood Council would not and could not provide the above benefits for the following reasons:

- The goal of increasing seafood per capita does not take into account inventory of product.
- A Council is not needed to develop and communicate the “brand” of seafood.
- A group like this couldn’t market, but could be educational only.
- The improved success of one subset of seafood—e.g., domestic, imports, wild, or aquaculture—may be to the detriment of another.
- The benefit may only be seen in species of fish that are already very popular, like salmon and shrimp.
- Species-specific generic marketing efforts would be more feasible and more effective. The seafood industry collectively is too fragmented to collaborate, and species groups would be more likely to rally together.
- The needs of the seafood industry can be better addressed by entrepreneurial efforts, like those of chefs or Seafood Nutrition Partnership.

There was also concern that there are current shortfalls in the seafood industry regarding marketing and messaging. In evaluating these questions regarding seafood marketing and messaging, it is important to consider what is happening now and to fill the voids. Right now the seafood industry is not controlling the narrative of their products, and this is instead being dictated by reactive messaging to negative press and various players such as the Walton Foundation, Monterey Bay Aquarium, and James Beard Foundation. There is a need to evaluate whether the narrative that these groups are creating is effective.



## 5. There was general agreement on using mandatory assessment fees as the funding source for an industry-led National Seafood Council, although a lack of clarity on where in the supply chain it should be collected.

### a) Comments regarding the willingness to pay an assessment fee

The seafood community was asked if there was a willingness within the industry to pay an assessment fee. It was clear from the responses regarding memberships to various organizations (see #2) that some types of fees and dues were already being paid by industry members. Some mentioned that it might be a hard sell for members of existing organizations to pay an assessment fee if they are already paying membership fees, but that existing organizations could possibly redirect an existing portion of their funds to such an effort. Others mentioned that people would be willing to pay this fee on top of fees for other organizations because of the added benefits (see #2 and #4). Keeping this in mind, the industry provided these additional responses about assessment fees:

### Value proposition and return on investment

Overall there was agreement that the industry would be willing to pay if there is a demonstrable value proposition or proof of concept that could show a return on investment. Therefore, a strong business case needs to be provided during the garnering support phase. Some expressed the importance of articulating the anticipated activities of the National Seafood Council during the phase to garner support so that industry can determine whether they feel they will benefit from the activities. Individuals will only be willing to pay an assessment fee if it can be shown it is going toward an activity intended to directly benefit them (e.g., a lobsterman will not be willing to participate if their money is going toward a campaign to develop a market for cod).

### Willing participants

Fishermen will be hesitant to pay this additional fee because they already face many costs for requirements like cost recovery and observer

coverage. Those with previous experience with commodity boards and large-scale marketing will likely be more willing to participate. The larger, more sophisticated companies are more likely to understand that such an effort would have an indirect beneficial effect on their sales. States with existing boards like Louisiana and Alaska will likely understand the benefit and be willing to participate. Groups like the tuna industry have banded together in the past to fund efforts (they pooled together \$20M to address the decline of canned tuna consumption), and may be willing to do so again.

### Amount of assessment fee

Some expressed the need for true transparency about what an assessment fee would cost. Others said that the fee should be very small, and some said only those businesses with high enough sales margins will be willing to pay. The willingness to pay assessment fees will likely depend on timing the effort with a strong economy. Participants interviewed before the COVID-19 crisis indicated that the timing was good because of the strong economy, but most of those interviewed after the crisis escalated indicated that it would be difficult to convince members of the seafood industry to pay an additional fee at a time when they are simply trying to keep their businesses afloat.

In regard to some of the mechanisms for determining assessments, there was a suggestion to study existing USDA boards' assessment structures as models, and then build out a white paper to communicate and weigh these various options/templates. Some noted the complexity of the assessments and that imports are easier to assess than domestic product, because they could be assessed while going through customs.<sup>3</sup> Domestic product is more difficult to track because there is no central control point. As an example, it would be difficult to accurately assess the shellfish industry. This is because conducting an assessment assumes there is an accurate accounting of landings, which is not the case for shellfish. In the shellfish industry, from state to state there are inconsistent processing procedures, and few states have truly accountable reporting.

<sup>3</sup> Note: Imports are already taxed duties, but those dollars are going to unrelated food security programs at USDA instead of being used to promote seafood as they were originally intended.



### **Assessment fee and other forms of support**

Some were not sure that a mandatory industry assessment is the most sustainable and effective mechanism to support such an effort. Another comment was that people should be able to request a reimbursement/opt out of the assessment fee. However, it was noted that voluntary payment programs are not able to collect sufficient funding. Others suggested that there could be some sort of federal government match or grant provided as well, such as the NOAA Saltonstall-Kennedy (SK) funding. Some said that because this program would be overseen by the government, supplementing the industry assessment with federal dollars should be possible. However, some recognized that funding from Congress on an annual basis is not reliable. Examples given were fluctuations and historical degradation in access to SK funding. Other comments regarding SK were that it is not a suitable source of funds due to its political difficulties. Although it could be helpful to have federal seed money to show good faith, it would be important to fund primarily with industry assessments. In order for the industry to feel ownership of the effort, they must contribute to the funding pool. The National Seafood Council and its members will make more responsible and effective decisions if their own money is at stake. There were also suggestions that funding should come from a combination of industry assessments, import tariffs, and additional seed money. This type of structure, to support both the domestic and import market, would help to bring the two groups together. The supplementary import tariff funding would help to ameliorate the domestic producers' concerns about collaborating with the importers.

### **Timing**

The timing of the effort is important. It may only be possible to garner support and build the infrastructure to ramp up consumption per capita of seafood for an industry-funded effort while the economy is doing well. The term "building the warship before the war" was used, with the goal of preparing the industry for future dips in the economy.

### **b) Comments on where in the supply chain an assessment fee should apply**

There were no general trends on who or where in the industry supply chain should be assessed. However,

there were a number of comments that finding the narrowest point or the least amount of people as possible in the supply chain would simplify the assessment process and make enforcement more feasible. Assessment should be scaled based on percentage of sales/revenue, not issued as a flat fee or based on landing. As weights of fish vary significantly across seafood (particularly live vs. shelled product), the assessment should be based on value.

Here are the range of comments provided regarding where in the supply chain to assess:

### **Throughout the supply chain**

Some suggested that the assessment should be throughout the supply chain (from harvesters through the retail chain), with a prorated fee based on end-of-year revenues. This would allow for accumulation of significant funds given the large number of retailers and take pressure off one single point. Just assessing fishermen would not accumulate enough money and, as mentioned elsewhere, fishermen already pay many fees and costs. It was suggested that feed producers for aquaculture products should also be included. There was also a suggestion that every employee in the industry, throughout the supply chain, should be assessed. This would create opportunity for those lower down in the structure of large companies to have their voices heard. In this practice, instead of giving a large seafood processor a singular vote, each of its employees would be granted one individually. There was also a comment that a greater number of industry members assessed will result in a higher net revenue; however, the greater the number of groups assessed, the more limited the scope of the effort must become in order to serve more diverse interests.

### **Specific areas of the supply chain**

There were suggestions on specific areas of the supply chain to be assessed, such as the beginning of the supply chain, at first point of entry, or receipt into commerce. If harvesters are the only participants assessed this would provide a focus on U.S. seafood, since processors and distributors rely so heavily on imports. The fee could be tied to the license renewal process of harvesters, and there are likely licensing components on the processor side to which an assessment could be linked. Others mentioned that harvesters face too many existing fees, cannot



bear the brunt of another requirement, and they face fluctuation in revenue year to year based on the availability and the harvest. Other comments on areas of the supply chain to assess included that the processors should cover most of the costs, as they have more steady sources of income and can fall back on imported products if needed. Moving through the supply chain, some suggested that the middle of the supply chain (direct suppliers to retailers, processors, wholesale dealers, and distributors) should be assessed. These groups would likely benefit the most from such a marketing effort, and they tend to have more funding available. This type of marketing effort is part of the core competency of dealers. Others expressed that the fee could be tacked onto the cost of the end product. This would gather more support from industry, as not they but the customer would ultimately be covering the cost. However, others said that the fee should not be tacked onto the cost of the already expensive end product, which, if made any more expensive, would only further incentivize purchase of cheaper imported seafood or other protein sources.

#### **De minimis exemption**

Others suggested that a de minimis exemption should be included, to allow the smallest members of industry exemption. Existing USDA commodity boards (e.g., the Egg Board) have benefitted from including these exemptions, because it is often the case that a board will spend more money tracking

down an assessment fee than the fee itself is worth. Typically, larger corporations are more willing to comply. There was uncertainty as to whether it makes sense to weigh input on a National Seafood Council's activities based on size of assessment fee paid. However, both groups with weighted and unweighted input seem to work, and as long as the results are equitable across the board, this shouldn't matter.

#### **Imports and assessments**

Several comments were made about assessment and imports. For instance, since the vast majority of seafood consumed in the United States is imported, by not including these groups in an assessment, a National Seafood Council would be missing out on a substantial source of funds. A domestically focused effort would likely result in an unintentional increase in demand for imported product through a "free rider" effect, which is not fair. If imports will benefit from such an effort, they should provide funding. It could be beneficial to leverage import dollars to help support the domestic industry, in the same fashion as SK.

#### **c) Alternate funding to assessments**

Some of the interviewees suggested that if federal seed money were provided this would assist with the start-up of the National Seafood Council. There was a suggestion that the articulated goals for this concept of a National Seafood Council directly align with those of SK. A more direct and existing mechanism



to achieve these goals would be to replenish the SK funds, and direct the program to fund activities that address U.S. seafood marketing needs, as was historically done.

## 6. In general, the industry would embrace a National Seafood Council; however, there are impediments to garnering support.

There were a range of suggestions on how a National Seafood Council could be established and how a campaign could garner the support needed. Although some saw no impediments at all, others shared some uncertainties. Here are the multitude of comments:

### a) Who would campaign and/or lead the effort?

Some interviewees suggested that they themselves or boards they are members of would be appropriate leaders to facilitate such an effort. There were suggestions that groups like the National Fisheries Institute and Stronger America Through Seafood could champion this effort. There was also advice that maybe someone needs to be hired to lead a campaign effort, such as a marketing expert or executive director, and this could make a campaign and effort like this possible. This effort would require running a true campaign and doing outreach, which requires full-time attention and funding.

### b) How could support be garnered to successfully set up the National Seafood Council, and what are the impediments?

#### Collaboration

Several responded that this is a timely effort, that it is an interesting and appropriate time to have these discussions, particularly given the recent editorials and discussions questioning whether the seafood industry in America is broken. The legwork to gauge interest in this concept has already been done, and the interest and need for the effort is clear. The contacts established and discussions had throughout these previous efforts can all be reutilized for purposes of this new effort. Others said it would require buy-in and/or leadership from existing boards and trade organizations ([see #2; Appendix E](#)) to succeed. Forums like the regional fishery management councils and Council Coordinating Committee could be appropriate places for industry

to bring this concept. This was further expanded on with the response that unless people have collaboration fatigue, it seems like there are enough open relationships and discussions to be leveraged and build support. However, others thought many will not want to pay to fund an additional effort like this, and people will not be able to differentiate this from existing efforts they participate in. Therefore, some thought there is not an appetite for another group, especially a mandatory one. Others mentioned that there have been many previous efforts to discuss this collectively as an industry, and these have failed. Such failed efforts, like that of the National Fisheries Institute, may indicate it is not possible to be successful going forward or a lack of faith that this would be different. In previous discussions, there was contention over how such an effort would allocate money to focus on regional efforts; Alaskans felt that a large portion should focus on their region, since they are the most valuable fishery. On the flip side, the industry has continued to evolve and is more organized than it has been historically, and the advent of the internet has made marketing significantly more important and effective. One timely comment shared prior to the COVID-19 outbreak that certainly has strong relevance now is that it may take a crisis or galvanizing event to make this effort happen.

#### Expressing long-term vision and return on investment

Many mentioned the need to articulate a long-term vision for the future of seafood consumption in order to garner support. Without some sort of scaled campaign to clarify structure, role, output, and return on investment, it would be difficult for people to understand and buy into the concept. A picture would need to be painted of what the vision is for seafood consumption in the future (say, 20 years), actions outlined that would need to occur in order to achieve this vision, and a projected budget developed for execution of these activities. Noting this will be a very large budget figure, this number would help people understand this cannot be achieved individually, but that a unified campaign such as a the National Seafood Council could do so. While no one individual can write a check like this, collectively the seafood industry can. With regard to communicating the anticipated return on



investment, it is difficult to develop projected metrics of success before such an effort is established. However, the proof of concept has already been shown through the visible success of efforts like the Alaska Seafood Marketing Institute and programs under USDA, which can be used as a proxy for how a National Seafood Council could operate successfully. There was recognition that building a return on investment takes time and would require both patience and a long-term vision from the community. Another challenge is that the seafood industry tends to conflate sales with marketing; a lot of dealers want to see metrics for how a program will directly affect their sales, which is not possible on a company-by-company basis when evaluating a generic marketing program.

#### **Inclusiveness and equality of votes**

There were also responses regarding the statement that, in order to stand up the Council and meet a referendum, more than 50 percent of the industry need to vote in favor of establishment. There were

questions and comments about how to define the 50 percent and who votes. For example, does the 50 percent refer to volume, gross revenue, or number of businesses? Because the seafood industry is so consolidated and the largest companies comprise such a large portion of the industry, if 50 percent is based on a variable like volume or gross revenue, the votes of these companies will be the determining factor. The larger, more vertically integrated companies will likely be more supportive of this concept than the small operators. If each company is given a single vote, this will likely not pass, but if each boat receives a single vote, then it could. Another comment was that the referendum should be conducted not by percentage of market share, but by number of entities. For example, a single company would receive a single vote. This would prevent the organization from favoring the largest players and ensure that smaller players' voices are heard. There was concern from a few that the industry is too self-interested to participate in a collective effort. The industry is incredibly fragmented and does not



work well together. One reason this could be is that fishermen do not have security in their share of fisheries, and so cannot think past their individual fight for share.

This National Seafood Council concept could be successful if the industry is able to create a structure where everyone feels included and heard, and the operating structure is clearly defined. If you have every fishery paying an assessment, that's a lot of chefs in the kitchen that will want to have a final say on what the messaging and activities are. The structure would need to be laid out clearly ahead of time, so as not to derail the effort in a fight over the wheel once an effort begins. Others suggested that providing information on administrative processes and success stories will be helpful to garner support. For example, the informational document that MAFAC provided during the interviews was very helpful ([see Appendix F](#)), and if the National Seafood Council could be compared to existing commodity efforts like those at USDA, this would help provide context and success stories for the model. Putting out basic information like this and information about how commodity programs work helps to educate the community on what such an effort would look like in practice.

### **U.S. seafood and imports when garnering support**

With regard to defining U.S. seafood, some believe that, if it is defined at the harvest level, there may be a more positive response and garnering support to set up a Council would be more feasible. However, by including the processor level, issues will arise, because processors rely so heavily on imported products; this level becomes even more complicated by prepackaged and frozen products that incorporate both domestic and imported product into a single unit (e.g., fish sticks). People will also determine their vote based on who the membership is; U.S. producers will likely not support a National Seafood Council that includes imports, and processors may not support an effort that excludes imports. Some were unsure if the dichotomy between domestic producers and importers could be overcome. The rift between these two groups is strong, and it's uncertain whether they could come together to work on a co-funded and co-managed effort. Others also mentioned that the industry and supply chains are too complicated and diverse to unify. In fact, the

“seafood industry” is actually a collection of multiple industries. There is significant competition within each of these industries, as harvesters are competing for quota and landings, and principal buyers are competing for product.

### **Challenges related to number of seafood companies**

There were comments that there are too many individual companies in the United States and too many individual importers to track and solicit assessments from. This can be seen in the present difficulties of collecting duties from imports. There are so many small players in the industry that would inherently not be tapped for an assessment and become free riders (see #5). In the agricultural community, boards like those for beef and pork were likely easier to stand up because they are more consolidated industries, and so had fewer individuals to accommodate. There was a similar comment about the seafood industry being small compared to the larger agricultural industries with successful USDA-overseen commodity boards. The seafood industry may not be able to accumulate significant funds the way these other larger groups do.

### **Diversity of seafood and commodities**

There was concern that seafood's diversity might be an impediment to the success of a National Seafood Council, and that there would be willingness to pay for species-specific boards, but not a National Seafood Council. Others said seafood, unlike agricultural products, is not truly a single commodity. It is more similar to a food group, like produce (fruits and vegetables), than it is to a single commodity, like avocados. When compared to existing USDA commodity boards, the analogy was made that a seafood board would be the equivalent of having a “nut board,” when in practice there is actually a National Peanut Board. Seafood is diverse on multiple fronts, including region of origin, type of species (some of which are extremely different from one another, e.g., shellfish vs. finfish), and sourcing (aquaculture vs. wild capture). There was an opinion that this diversity is problematic on two fronts; 1) the more diverse a product is, the more difficult it is to market and the more general the statements and work need to be and, in turn, the less effective the effort is; and 2) the more diverse a marketing, research, and/or education initiative is, the less those assessed will be able to see

the impact of the effort on their respective sales and, in turn, the greater the fear among participants that the funding is favoring one party over another. Less competitive seafood categories may feel this effort will only benefit markets for the most lucrative or popular species, like salmon and shrimp, and these popular categories may not feel the need to better perform. Some thought the shellfish industry may fall into this category, as increasing demand for this product is already outpacing their ability to supply it. Others felt that, in general, the shellfish and tribal seafood sectors are interested in this concept.

## 7. There were mixed opinions on the preferred structure and focus of a National Seafood Council.

Some of the interviewees provided comments related to the governance structure of a National Seafood Council. There was input that, to date, effectively sketching out a governance structure is where the seafood industry has failed in making such an effort work. There was also a comment that it will be difficult to identify a clear set of objectives and determine the appropriate representation and assessment structure, but that the devil is in the details.

### Seafood vs. targeted species products

There was surprise that there have been no efforts to establish species-specific boards using the Fish and Seafood Promotion Act, and some thought these could be beneficial for industry. Those with history on the Act noted, while previous attempts under the Act were deemed unsuccessful, there were data showing that after just three short years of efforts an increase in consumption was seen. The leadership for establishing the Act was provided by John Breau, with support from the National Seafood Institute, and was developed to help address the seafood trade deficit. Specifically, Breau's constituents in the Gulf shrimp industry were concerned about competing with imports. While the intent of the Act was to help promote domestic product, in practice its efforts benefitted seafood more generally, which was controversial.

There were thoughts that targeting products/regions with the most potential should be initiated first.

Another comment mentioned that before scaling to a national-level, seafood-wide effort, the work should begin with focus on specific species and fisheries that require the most marketing assistance (e.g., underutilized species that lack market demand). It was suggested that taking a more localized, strategic approach will help to establish a proof of concept—assess it, market it, and then measure the impacts.

### Representatives

One suggested structuring the National Seafood Council by regions. Similar to the regional fishery management council structure, a Council should be organized to include a few representatives from each region, and one each from the processing, aquaculture, and fishing sectors. These representatives could be nominated by Congress or the state, or in a similar manner to the fishery management council appointment process.

### Focus areas of the Council

There were suggestions that if the Council's work was front-loaded with research and development activities, and marketing was adopted further down the road, this might ensure a successful effort. Most of the USDA checkoffs front-loaded their boards to work on research and development. A National Seafood Council could trip up by trying to execute marketing plans first, which are the most controversial. No matter what the message is, members will feel there are flaws in the messaging. In this industry everyone sees the enemy within the seafood industry. There was support for more research in the beginning to directly benefit members from the get-go ([see #4b for some research questions](#)). There was also a comment that most leaders in the seafood industry come from a sales background, not marketing; this often leads to skepticism of marketing efforts. Collectively, the industry does not understand the value of marketing the way other industries do. Others said, the Council would work to garner support if part of the assessment fees were redirected back toward existing state or regionally led efforts. It was mentioned that this is the practice used by the Avocado Board, to ameliorate concerns about paying two separate marketing assessments.



## Objective 2 Results: Findings from Advisors on the Fish and Seafood Promotion Act and Regulation Language

Noting that the seafood industry has changed since the Act was established in 1986, advisors ([see Appendix C](#)) were asked to review the FSPA and regulations to see how the language could be modernized for today's world. They reviewed all aspects of the Act, including both the section establishing the original National Fish and Seafood Promotion Council and the section establishing the potential for industry-run and -funded Councils to be overseen by the Department of Commerce (DOC). They also evaluated whether the administrative structure of the FSPA, its regulations, and NOAA's programs could be modified to better serve the community. Overall, the advisors agreed that the concept of a National Seafood Council is a great opportunity for the industry, and with vision and coordination, it has great potential.

### Comments on FSPA and regulation language

First and foremost, advisors highlighted the importance of having flexibility built into the authorizing statute. The legislation should allow, as much as possible, for the industry to determine for itself what will work best, and then propose it to the Secretary, similarly to USDA's Commodity Act. If the legislation is overly prescriptive, it limits the industry and the Secretary from finding the best possible economic and political arrangement. There were conflicting opinions among the advisors as to how flexible the FSPA and its implementing regulations are, primarily with regard to whether they currently allow for establishment of a seafood-wide council funded by industry through a checkoff. One advisor thinks the Act provides sufficient authority to allow for both multi-species and individual species-specific checkoff programs under section 210 of the Act (16 U.S.C. 2009), interpreting "one or more species" to include all seafood species. Another advisor disagreed, finding that a seafood-wide effort under section 210 would be redundant to the congressionally funded National Fish and Seafood Promotion Council established under section 206 of the Act (16 U.S.C. 4005). This advisor determined that Congress likely intended the National Fish

and Seafood Promotion Council to promote U.S. seafood consumption generally, and species-specific marketing checkoff programs under section 210 to focus on individual efforts. Under this interpretation, revisions to the Act would be necessary to establish a National Seafood Council like MAFAC is proposing.

Some advisors found the original FSPA to be generally burdensome and require excess oversight, but possible to utilize without congressional revision. Another determined it would take some very creative, non-risk-averse lawyers and regulators to determine that the current FSPA could be implemented effectively without legislative changes. If industry and DOC are willing to take on legislation revisions, a revision to make FSPA more similar to a USDA type of checkoff authority could pass through Congress with creativity, persistence, and commitment.

Advisors identified specific challenges in the existing text and suggested revisions for consideration:

### National Fish and Seafood Promotion Council oversight of sub-councils

The current language calls for having the National Fish and Seafood Promotion Council oversee any species-specific groups established under the Act, which is burdensome and likely unnecessary. Furthermore, "all current functions" of the National Fish and Seafood Promotion Council ceased to exist on December 31, 1991, yet the individual and multi-species council language is still active. It was recommended that the language be amended to remove this oversight requirement.

### Domestic and import products

The current language has a bias toward domestic products, even though it does not rule out imports. When considering establishment of a true checkoff program powered by industry funds, it should be noted that imports are likely the biggest component of the U.S. seafood sector and could increase available funding. Increasing available funds by including imports could help improve the efficacy of the effort, but would also require that importers be represented in programming. Since the overall objective is to increase demand for seafood, which benefits all market participants, and since it is a U.S.-administered checkoff, there is little chance of the checkoff working against U.S. interests, regardless of funding sources.



As a rule, checkoff programs are restricted from disparaging competitors, thus a domestically funded-only program would be forbidden from vilifying imported product.

### Checkoff refunds

The current language allows for refunds of checkoff contributions leading up to the referendum, which could be a significant issue. Given that a high proportion of the seafood industry may request refunds, this “opt out” language in the regulations needs to be revisited. Agricultural checkoffs have functioned with refunds before, such as the United Soybean Board, which undermined the program’s goal of creating reliable funding for research, market development and promotion programs, without “free riders.” Not only do refunds reduce the amount and reliability of funding, they add administrative costs and burdens by requiring a system to account for, verify, and return the funds. They also result in members paying for campaigns to lobby industry against requesting refunds, which is money that could be better spent on beneficial programming.

In practice with existing commodity boards, they may only set aside a small percentage of their

assessments for refunds, and if there is not enough money to refund each request in full, a prorated refund is provided. This approach can help keep refund requests and sums low, but requires approval from the oversight agency.

### Referendum timing

The current language requires that a referendum be conducted prior to establishment of a checkoff program. As is provided in USDA’s Commodity Act, it may be desirable to allow the Secretary to approve a charter and conduct a delayed referendum after the established program has had a chance to show results (e.g., after 2 or 3 years). If the industry can make the case to the Secretary, then there would be flexibility for him/her to decide if that justification is valid. While checkoff programs under USDA typically conduct a referendum at the onset and do not utilize this delayed option, it can create the opportunity for the program to prove itself.

One of the advisors noted that the initial National Fish and Seafood Promotion Council was established via Congressional mandate, and it was successfully stood up because it didn’t require a referendum. However, in the instance of a program funded



by industry, it is always recommended that a referendum occur at some point.

Currently, what is considered passage of the referendum reflects both the number of voters (50%+) in the proposed sector(s) and percentage of value (66%+). It is worth evaluating if those conditions are still desirable and what to do if one subsector votes “no” but everyone else votes “yes” if proposing a broad seafood checkoff.

### Representation and term length

FSPA has a somewhat prescriptive description of industry representation. The industry should have as much flexibility as possible to create and update something that is both reflective of the current industry economically, but also can be acceptable politically. FSPA outlines council terms of four years, which is long and should be shortened to three years or less.

### Assessment fee size

As the proposed order for a concrete masonry checkoff program outlines, it makes sense to establish a base-level assessment fee for checkoff programs, but allow the program flexibility to raise that level when it makes sense for the program’s return on investment. The Secretary would have to agree to the increase, with potential additional steps. Within a range, the process should be simple and responsive to enable the board to grow or establish new programs that are good for its industry contributors.

### Checkoff funding sharing

Many national checkoffs have mechanisms to pass back funding to existing analogous regional or sub-sector checkoff programs, which can incentivize participation of those belonging to these existing groups to a new national program. This is not currently authorized in the FSPA. In the case of seafood, it may make sense for the checkoff to have both a broad goal (e.g., promote seafood and fish) and also to help fund existing species product groups and/or existing regional groups (e.g., Alaska Seafood Marketing Institute, Maine Lobster Marketing Collaborative). This allows participants to benefit from the larger message and also have confidence that their specific concerns or interests are addressed (e.g., product promotion or research on more specific products). This is often done to ensure that current specific programs are not lost in the creation of

a national checkoff. For example, in the case of soybeans, it was politically necessary for the revenues to be split 50/50 between the United Soybean Board (USB) and the various state checkoff boards, which was more than enough for the states to continue their pre-USB programs. Nothing precludes the species or regional groups from also contributing some of their funds to the broader effort if they believe that is a better use of the funds. Similarly, the national checkoff organization may decide to have some joint programs with the species or regional groups because it also serves the overall broader agenda. The new Concrete Board language is more similar to USDA’s authority than FSPA by allowing for this funding pass-back option with existing regional groups.

### Fisheries Promotion Fund

The Fisheries Promotion Fund still exists until and unless 16 U.S.C. 4008 is repealed or amended. However, per section 4008(d), deposits to the Fund ceased after FY 1991, and re-starting the flow of deposits into the fund would require an amendment.

## Comments on the structure of the National Seafood Council

The advisors provided the following insights on how a National Seafood Council could be structured, and examples of agricultural commodity board structures:

### Domestic vs. imported seafood in a checkoff program

A critical determination that USDA-overseen checkoffs must make is whether to include domestic product only in their program, or both domestic and import product. As stated above, one of the key goals of these programs is to accrue substantial funding. For this reason, checkoffs that serve industries whose market is constituted of majority import product typically include both domestic and import. Noting that nearly 90 percent of seafood consumed in the United States is imported, some advisors suggested that a seafood checkoff should include imports. While it would be a challenge to bring domestic producers and importers together, this would lead to the most successful seafood checkoff program structure. Here are some examples of USDA-overseen checkoffs that grappled with this domestic vs. import issue:

*Dairy:* The dairy industry initially only included the domestic market in their program and assessments, and found that imports, which make up about 10 percent of the dairy market, were “free riding” off these efforts. The meaning of free riding in this context is that the dairy importers were benefiting from the positive work the dairy board was implementing, even though they themselves were not contributing an assessment to the program. After this free riding issue was identified, the program was amended to include the import industry as well.

*Lamb:* The American Lamb Board checkoff program is a domestically focused program. The impetus for this program was that the domestic industry was struggling so much to compete with imported product that they nearly disappeared altogether. The imported products they primarily competed with were from Australia and New Zealand, and their prices were too competitive. In response, the domestic checkoff program was established, assessing everyone in the domestic lamb supply chain, which was the only model that could generate enough revenue given the state of the industry. Strides were made to increase the demand for U.S. lamb specifically, including efforts such as outreach with white-table-cloth restaurants, and communicating the difference in quality between domestic vs. Australian and New Zealand lamb. Unlike Australian and New Zealand lamb, which are grass-fed throughout their life and consequently smaller, and whose meat is a chewier and more sinewy texture, U.S. lamb are grass-fed until toward the end of their life when they transition to a corn diet, producing a more tender texture in the meat. These communication efforts proved successful, and large buyers like Costco started investing in domestic lamb at large scales. As the domestic market rebounded, New Zealand and Australian producers responded by establishing their own checkoff-like programs to directly compete with the American Lamb Board. The American Lamb Board maintained their domestic status, and they continue to compete with one another aggressively, which is thought to actually benefit both the domestic and import producers. Today, the percentage of domestic and imported lamb sold in the U.S. is about 50/50.

*Flowers:* The flower industry, which failed in their first attempt to establish a checkoff program, is currently undergoing a second attempt. The flower industry, which like the seafood industry is composed of nearly 90 percent imports, initially only proposed including domestic producers, failing to get the effort off the ground. Now, flower sales across the board are down, and the importers and domestic wholesalers are considering a collective import and domestic effort, to include the distributor level.

### Challenge of focusing on all seafood species

Seafood as a category is extremely diverse, and it may be challenging for a research and marketing program to serve such a complex set of products. Typically, the more focused such a program is, the greater return on investment it will provide. By focusing on an entire category of protein like seafood, the return on investment may be inhibited. Within seafood, perception, cost, presentation, and taste can vary drastically, making the option to focus on specific species efforts potentially more viable and effective. If focusing on seafood as a category, it is likely that messaging and programming will be restricted to collective analyses and statements regarding seafood consumption and its health value generally, and will avoid identifying specific subsets of seafood. While this may not provide a strong return on investment as more specific messaging and programming would, it could still be beneficial, and prevent different seafood subset groups from comparing their benefits.

### Funding, assessments, and metrics

**Funding and assessment fees:** One advisor noted it is not likely that a group with less than \$25M a year can make a difference, and it is important for such an effort to be sustained over years to be effective. When determining an assessment fee, it is beneficial to consider the option to scale or change it over time. When setting the initial assessment, it is necessary to come up with good initial and long-term targets, both substantial enough to execute the proposed activities. Periodically, the efficacy of the funding structure should be evaluated and adjusted as needed. USDA-overseen checkoffs report to the government every five years an evaluation of their programming and





funding structure, during which the industry can also reassess its efficacy and benefit to them.

**Where in the supply chain to assess:** It is important to evaluate where in the supply chain an assessment could apply to accrue the significant funds needed. An effective approach is to work backwards, first determining the funding goal, then scenarios within the supply chain to identify what groups could realize this goal. Typically, it is most effective to target the fewest number of people. While a single seafood species group may not be able to collect enough funding individually, a broader group of species may collectively. One advisor suggested that given that species like salmon, shrimp, cod, catfish, tuna, and others comprise the majority of all seafood consumption, assessing these specific industry members could achieve the funding goal. While only these top species groups would be funding the effort, there would likely be peripheral benefits to the other species in a “halo effect.”

**Metrics:** Periodic econometric reports to evaluate the efficacy of the programs are critical, and are typically contracted out to external entities to conduct; Harry Keiser at Cornell is one such evaluation resource. It is also important for groups to consider metrics with which to evaluate their programs in the early stages of their inception.

## Comments on Leadership to Garner Support for the National Seafood Council

The advisors shared insights on the need for leadership to garner support for establishing an industry-checkoff-funded National Seafood Council, and what this leadership role requires. It is critical for this leadership to be provided by an industry group that has a vested interest in establishing the effort. National Fisheries Institute was suggested as such a potential industry group, positioned to lead a seafood specific effort. It is a mistake for industry members to hire agencies to assume the communications role to stand up the checkoff program, as it can tie the industry to then using these agencies once the checkoff is stood up. This pigeonholes the industry, as they should first decide what sort of services and products they require.

## Comments on Oversight Agency for the National Seafood Council

The advisors expressed that there are many advantages to having a federal agency oversee the boards, exemplified by USDA’s oversight of the agricultural commodity boards. USDA, particularly their legal counsel, have been doing this for 50 to 60 years and have developed significant expertise. With the DOC now developing capabilities to oversee a potential concrete masonry checkoff program, there is opportunity for them to also oversee a National Seafood Council under this same structure. The advisors provided specific insight on the following:

### How USDA-overseen checkoff programs are developed

Private attorneys help interested industry members to draft an order and work with them to include the provisions they want (e.g., board membership, determining whether assessments filter back to local agencies, who is assessed). The attorney’s office then submits the order to the oversight agency (USDA), and they work with the agency to reconcile any legal issues or justification of de minimis language in the draft orders. Once the referendum is conducted and if the industry votes to approve establishment, USDA codifies the order into law through the rulemaking process. The board is then officially established and the industry assessment becomes mandatory. Industry then builds the program under the

approved charter, including nominating and selecting board members, who will in turn hire employees and begin assessment collection. At this same time, USDA steps in to provide oversight. It is extremely important to communicate in these early stages that the program is that of industry, not USDA.

### **USDA oversight infrastructure**

USDA's oversight largely consists of monitoring the programs within the bounds of the Commodity Act and their respective rulemakings, and approving budgets and messaging. Approval of messaging includes ensuring that statements are factually correct, and that they do not disparage other products. The commodity board is responsible for collecting, spending, and planning their activities and budgets. Contrary to the fears shared by some seafood industry members that government oversight would make messaging approval slow and ineffective, the advisors familiar with USDA's programs reported that timeliness of USDA's messaging approval process is not typically an issue, and usually takes place within a day. To accommodate immediate messaging needs, like that of social media, some boards work with USDA to approve general messages that can be recycled and reused in real time. In some instances, the boards do disagree with USDA's review of some advertisements (e.g., that some are culturally inappropriate or disparaging), which entails some give-and-take on both sides. An example from the Cotton Board was a campaign in which they compared cotton to "mystery fabric," an alternative term they came to with USDA, instead of the originally proposed comparison to more specific fabric types.

One advisor explained that the commodity boards are pleased with the decentralized USDA oversight model, which prevents establishment of a single office dedicated to overseeing all checkoffs. Industry finds benefit in working directly with USDA subject matter experts on non-checkoff program issues because they feel these staff are their biggest advocates within the agency, and will provide the greatest flexibility in execution of their activities given their market expertise. Depending on the size

of a checkoff program, they may have a marketing specialist assigned specifically to their efforts. While USDA-overseen programs are industry funded, they can also apply for supplemental funds from USDA's Foundation for Food and Agricultural Research, a foundation charged with leveraging public and private resources to increase the scientific and technological research, innovation, and partnerships in agriculture. They are also able to connect with USDA buy-back programs, in which the federal government purchases food products for institutions like public schools.

### **Why DOC/NOAA/Fisheries oversight of a National Seafood Council makes sense**

As stated above, USDA-overseen checkoff programs find benefit in working with agency representatives familiar with their agricultural industries. To gain this same benefit, it makes sense for the National Seafood Council to be overseen by DOC/NOAA/Fisheries, the federal fisheries experts. In the past, the NOAA Fisheries Office of Partnerships had an office of social scientists and economists. Today this expertise still exists, but throughout the agency, including a new Senior Advisor for Seafood Strategy (currently Michael Rubino, Ph.D.). There are also offices in DOC to promote U.S. commodities overseas, with some marketing expertise. DOC shares some authority of the Agricultural Marketing Act of 1946 with USDA, through which both the USDA Agricultural Marketing Service and the NOAA Fisheries Seafood Inspection Program are established.

Additionally, given that the administrative cost of these boards is covered by the checkoff itself, it is probably in their interest to have as many congruous boards as possible, to share the administrative cost over a greater volume of products. Given that DOC may be going through the process of overseeing establishment and governance of a potential concrete masonry board, their process may be relatively simplified, providing a base for the seafood industry to move forward.



## Objective 3 Results: Findings from Interviews with the Seafood Community regarding government agency oversight of the National Seafood Council.

### Government administrative oversight

There was overall agreement about the need for federal, third-party administrative oversight for the National Seafood Council, with support for either NOAA or USDA in this role. Some interviewees who have experience with state-overseen boards already had an understanding of the importance of having government oversight for a mandatory assessment program. They expressed that the government oversight role is key to ensuring transparency, and allows those not directly involved to feel comfortable with how their money is being spent. Others expressed that government administrative oversight would be too slow to facilitate effective marketing. In some instances, when an existing state-overseen board wanted to quickly conduct activities that were time-sensitive, the state didn't approve these activities quickly, and red tape prevented them from executing the effort. The goal of brands is to provide a market promise; it could be difficult for a government to deliver on such market promises. There were very few who suggested that there should be no government administrative oversight. One who felt government administrative oversight would be ineffective suggested that it would be better to create a subsidiary under the National Fisheries Institute to implement this same concept.

### Appropriate oversight agency

The responses from the interviewees included support and concerns for which agency should be the appropriate oversight agency. Some interviewed were unsure and ambivalent regarding which agency (DOC/NOAA Fisheries or USDA) would be the appropriate agency to provide oversight. Several indicated that they would need to learn more about the government oversight role to develop an opinion on this question. Others said that DOC/NOAA Fisheries or USDA would be fine, and no one indicated that an agency other than DOC/NOAA Fisheries or USDA should provide oversight. There were also comments that there is a big separation

between food and seafood, which is partially why marketing has been so difficult for the industry. Selection of the appropriate agency is something to be wary of, as potentially contributing to this divide.

### Department of Commerce, NOAA Fisheries

**Subject matter experts:** Several stated that NOAA Fisheries is the appropriate oversight agency, especially if a National Seafood Council is focused on U.S. products. NOAA Fisheries is the only agency with the appropriate subject matter expertise on fisheries and already provides oversight of this industry. In addition, NOAA Fisheries has a strong connection between its science and management, and has the best interest of fisheries in mind. Others suggested that the National Seafood Council's work could also be tied to NOAA Fisheries' FishWatch.

**Regulatory role vs. seafood promotion:** It was expressed that NOAA Fisheries' role in regulating fisheries puts them in a compromising position to also oversee a marketing effort. There was input that DOC/NOAA Fisheries would need to have enough degrees of separation from the regulatory side to provide effective administrative oversight of a National Seafood Council and promotion of seafood to reduce bias and conflict of interest.

**Political interference:** It was also noted that, although DOC tends to be associated more with trade and promotion, it is important that political interference does not stand in the way of agency oversight of a National Seafood Council. Therefore, it was further suggested that it is important that the structure be such that a National Seafood Council would be protected from political intervention and government overstepping their role. Although the government oversight role is important in protecting industry members, the integrity of industry's role to run and manage the Council needs to be protected and maintained.

**Marketing efforts:** It was pointed out that while NOAA Fisheries does not currently have marketing expertise, it once did and could reestablish this capability. Marketing and food management are outside of their area of expertise; furthermore, validation of nutritional messaging by NOAA will carry no weight, because of their lack of expertise in this area. There could be political pressure to promote certain aspects of fisheries management,



and it would not be beneficial to have politics create pressure on the oversight of a marketing effort. Regulatory agencies also tend to be more cautious, which could be detrimental when overseeing a marketing effort.

**Learning from USDA:** It was expressed several times that NOAA Fisheries would need to be willing to develop the capability and effective oversight from its inception. There was input that the USDA's structure could be used as a model to set up NOAA Fisheries' administrative role for a National Seafood Council. This could be done by having staff from NOAA Fisheries shadow USDA's program to learn about the operations, or contracting USDA to help set up NOAA Fisheries' administrative oversight program. At a minimum, DOC General Counsel (GC) should sit down with USDA GC to understand the legal issues and the services they are required to provide. There is a lot of case study dictating what is and is not allowable under the USDA programs. DOC GC may not have the knowledge base to effectively oversee this. It is an extremely dynamic knowledge base, because it is constantly evolving. They would need to be ready to review items such as employment contracts, claims, and messaging, and make sure best practices are in place. This requires a lot of knowledge transfer, because claims around food are heavily scrutinized.

**Additional Remarks:** NOAA does not manage SK funds well, and an independent group should be managing the budget of a National Seafood Council.

Processors may be less offended by the option of NOAA than harvesters.

### United States Department of Agriculture

A few of the interviewees suggested that USDA would be the appropriate oversight agency, because USDA is likely better equipped as they already have infrastructure and expertise in place through their commodity boards. It was further noted that because this infrastructure is in place, the government does not need to develop the same skill set elsewhere and reinvent the wheel. It was mentioned that because USDA is more food-oriented than DOC/NOAA Fisheries, they understand what it takes to grow market proportion.

Others were concerned that USDA was not the appropriate oversight agency. An example was given that previous interactions with USDA on catfish and their protectionism over this oversight signaled that they do not have the best interest of seafood in mind. It was further expressed that USDA could cause confusion in the supply chain, and there is not a desire for the seafood industry to have to work with yet another federal agency to regulate food products. It was noted that USDA's foreign trade service could create barriers.

As expressed above by many of the interviewees, regardless of whether USDA or DOC/NOAA Fisheries provides oversight, there will need to be close collaboration between the agencies.







# Recommendations for a National Seafood Council

MAFAC's recommendations for establishment of a National Seafood Council were informed by the input provided to them throughout their investigation process, but reflect their own deliberations and decisions as a Committee.

## Recommendation 1: Mission of the National Seafood Council

Establish the National Seafood Council (Seafood Council or Council) using the Fish and Seafood Promotion Act (FSPA), as modified, to support the U.S. seafood community to collectively conduct education, research, promotion, and marketing. The purpose is to increase U.S. seafood consumption, improve the health of the American people, and increase the return on investment to the U.S. seafood industry.

## Recommendation 2: Serves the U.S. Seafood Industry

The National Seafood Council should focus on U.S. seafood as a whole and not at the species-specific level; it should include both wild-capture fisheries and aquaculture.

## Recommendation 3: Resources and Services

The National Seafood Council should provide the following resources and services to support its mission:

- One unified voice for the industry.
- Common, consistent, and positive messaging for the industry in the marketplace.
- Support of U.S. products and industry (both wild-capture fisheries and aquaculture<sup>4</sup>), without disparaging imports. This includes highlighting the sustainability of wild-capture fisheries and

aquaculture in the United States and the diversity of U.S. seafood.

- Direct marketing to and education of consumers about the value of seafood for health and nutritional benefits, how to select and cook seafood, debunking misinformation, and fact checking.
- Research and the collection of reliable and searchable data tied to the mission to increase U.S. seafood consumption. This could include socioeconomic and market data research of the U.S. supply chain from harvesters to consumer.
- Connections or conduit to economists, market experts, crisis managers, and other industry experts on topics relevant to the mission, when needed.
- An overall generic U.S. seafood brand<sup>5</sup> to elevate and complement existing efforts of trade, non-profit, regional, state, and sector-specific groups and organizations to help elevate their messages.
- Sharing stories of the U.S. seafood industry throughout the supply chain from harvest to consumer.

Note, the National Seafood Council's focus will not include lobbying efforts.

## Recommendation 4: Accountability and Transparency

Metrics of success and evaluation of a National Seafood Council should be added to the existing FSPA language and could include some or all requirements listed in the regulations to implement FSPA for species-specific councils.

## Part I, Metrics, Monitoring, and Evaluation

Early in the National Seafood Council's inception, an initial five-year value proposition plan should be established to include metrics and deliverables.

<sup>4</sup> Wild-capture fisheries and aquaculture includes both marine and freshwater species harvested or grown in the U.S. Aquaculture is inclusive of inland, coastal, and offshore U.S. production.

<sup>5</sup> In using the term "brand," MAFAC is not inferring or implying that any certification program is needed.



This should include items such as how to monitor the effects and efforts of the National Seafood Council, including changes in trends in U.S. seafood consumption rates (e.g., increase, no change, or decrease).

To evaluate the efficacy of the National Seafood Council, the first third-party evaluation/econometric report of the Seafood Council should be accomplished in year four to coincide with the initial start-up phase. Future evaluations should be done every three years. The report should communicate the return on investment, which should bolster the value proposition to propose future funding and potential industry assessments.

## Part II, Dissemination of Information

A structure should be developed to share information at least annually to a broad group of relevant stakeholders on the work of the National Seafood Council. This is vital to the success of the Seafood Council and provides useful information for stakeholders. These updates could be in the form of print and digital reports and could be shared or

distributed via presentations, emails, social media posts, and/or listening sessions. These updates should be posted online on dedicated web pages (e.g., on FishWatch, council websites) and should also provide ways that the public and industry can interact and provide feedback.

Stakeholders to keep informed could include the regional fishery management councils, aquaculture industry, restaurant groups, MAFAC, and others that include trade, non-profit, regional, state, and sector-specific organizations.

## Recommendation 5: Source of Funding

The Fisheries Promotion Fund in the FSPA should be restarted to allow for the flow of deposits into this Fund.

- Funding for the Council should come from a dedicated new source of congressionally mandated appropriation that does not detract from other funds. These funds should be appropriated solely to fund implementation of the Council's work. The funds should be allowed



to roll over between fiscal years if appropriated funds are not spent in a fiscal year.

- The funding should be initially no less than \$10M annually. However, to be fully successful, the funding should be \$25M or more annually.
- The funding should be appropriated for a commitment of five years initially, with the option to be renewed on five-year cycles.
- The initial source and original intent of FSPA funding came from the Saltonstall-Kennedy (SK) Fund, which was established to support the domestic fishing industry through import tariffs. Therefore, funding for the reauthorized National Seafood Council to support the domestic industry should come from these same funds. However, these SK funds should not compromise NOAA Fisheries funding (i.e., SK grants and what Congress already appropriates to offset the Operations, Research, and Facilities Fund). It is suggested that the funds for the National Seafood Council could be linked to increased tariff receipts.
- Congressionally approved dollars should be used to start up this effort with a plan to build sustainability with industry support in the future. However, there likely will always need to be a source of congressional funding to match funds, since assessing industry to allocate funds is not a viable option on its own. If in the future an industry assessment is applied, it should be very low to encourage participation and buy-in for the goals and deliverables of the National Seafood Council.

will be independent of NOAA Fisheries, and will be employed by and execute work under the direction of the Council. This should also include a figurehead spokesperson with broad appeal to galvanize people around seafood.

- The Council members should be nominated by the industry and appointed by the Secretary.
  - There should be no more than 17 Council members.
  - The Council should be structured to have an Executive Committee.
  - The Council term should be four years in the initial start-up year of the National Seafood Council, with staggering of seats to ensure continuity of operations. The following terms should be three years.
  - Council members could serve up to two consecutive terms.
- The original Council member structure in the FSPA was heavily focused on production. The newly constituted Council should include representatives throughout the supply chain and marketplace, including:
  - Marketing (not sales) expertise
  - Tribal members, Alaska natives, and Pacific Islanders
  - Small and big business operations
  - Regional and national representatives
  - Commercial fishing
  - Aquaculture
  - Public health and nutrition
  - Restaurants and retail marketplace
  - Culinary arts
  - Non-profit organizations
  - Open rotational seat

## Recommendation 6: Council Member Representation and Governance

### Part I, Representation

The National Seafood Council members will provide the strategic direction for the mission (Recommendation 1), the functions (Recommendation 3), and direct the work of staff.

- The National Seafood Council should select and hire an Executive Director and staff to execute the work of the Council members. These staff

### Part II, Governance

The Council will need to determine the best governance practices to achieve its mission, while ensuring the Seafood Council's future sustainability and industry integration. Existing commodity boards or similar efforts can be used as models.



## Recommendation 7: Oversight Agency

NOAA Fisheries should provide the administrative oversight for the National Seafood Council. The Council should operate and function independently, while maintaining a strong working partnership with NOAA Fisheries and industry.

- Since the National Seafood Council is focused on sustainable U.S. products, NOAA Fisheries is the agency with the appropriate subject matter expertise on fisheries and fishing communities.
- To be most effective, the office handling administrative oversight should have ample degrees of separation from the regulatory side of NOAA Fisheries.
- The oversight office should not replicate the Seafood Council's expertise, and they will not be employed staff of the Seafood Council. It should be capable of monitoring compliance with the Council's budget and prescribed governance structure. The administrative oversight should be similar to what the USDA Agricultural Marketing Service (AMS) provides to the agricultural commodity boards, which includes auditing spending. USDA AMS also provides commodity boards with review of messaging to ensure no bias or disparaging marketing materials. This is a role that NOAA Fisheries should also provide to the Seafood Council.
- Depending on the make-up of the Council, the following resources and skill sets could be part of the oversight office in NOAA Fisheries: marketing expertise/capability to converse with the Council and staff, especially when it comes to messaging, communications, economics, and strategic planning. Other offices or departments of NOAA could also be engaged to support the Council such as the National Sea Grant Program.
- It is highly recommended that NOAA work closely with USDA AMS to utilize their expertise and successes with commodity boards, which includes establishing an office with effective oversight.
  - This would be analogous to the existing relationship between USDA AMS and DOC regarding the proposed concrete masonry board. USDA is providing support and expertise to DOC.
  - It is recommended that an MOU or MOA be used to formalize the relationship between NOAA and USDA to encourage more cooperation in this area of common interest.

## Recommendation 8: Use of FishWatch for Industry and Consumers

NOAA Fisheries should continue to use FishWatch as a resource for the industry and the consumer now, and to complement the work of the National Seafood Council in the future.

- FishWatch should be a key place for information on U.S. wild-caught fisheries, aquaculture, and sustainable practices for both. This would be similar to NOAA being a key place for weather information.
- FishWatch could be used as a testing ground for messaging and to determine what can be done before, during, and after the National Seafood Council is set up.
- Resources and staffing should be increased to ensure a robust FishWatch platform that can expand the National Seafood Council messaging before, during, and after the Seafood Council is set up.

## Recommendation 9: FSPA Statutory Amendments

The NOAA Fisheries Office of Policy and NOAA Office of General Counsel, in consultation with the Department of Commerce Office of General Counsel, should draft amendments to the FSPA to reflect and implement the recommendations in this document. Among other things, the amendatory legislative language should reestablish the National Seafood Council (that sunset in 1991), authorize appropriations consistent with the recommendation in this document, and expand the language in the FSPA to include both U.S. wild-capture fisheries and aquaculture.

## Recommendation 10: Sustain Momentum for a National Seafood Council

It is recommended that, after MAFAC provides these recommendations to the Secretary of Commerce, NOAA Fisheries sustain the momentum and communication about the National Seafood Council concept with industry and relevant stakeholders.

# Appendices

## Appendix A: MAFAC Engagements and Panels

## Appendix B: Interview participants (January–April 2020)

## Appendix C: Advisors on the Fish and Seafood Promotion Act and implementing regulation, and USDA Commodity Board programs

## Appendix D: Interview Questions

## Appendix E: List of organizations noted in response to interview question “Are you a member of an existing seafood board/organization?”

## Appendix F: Resource Materials on MAFAC’s Examination of the Fish and Seafood Promotion Act





## Appendix A: MAFAC Engagements and Panels

November 7, 2018, MAFAC meeting, Fish and Seafood Promotion Act presentation and panel, “Elevating Consumer Confidence in U.S. Seafood”

Presentation on the Fish and Seafood Promotion Act by Jennifer Lukens, Director of NOAA Fisheries Policy

Panelists: John Connelly, National Fisheries Institute; Linda Cornish, Seafood Nutrition Partnership; Steve Markenson, Food Marketing Institute

March 17-19, 2019, Seafood Expo North America, interviews on the floor by MAFAC members Megan Davis and Harlon Pearce on the concept of a National Seafood Council

May 1, 2019, MAFAC meeting, panel “U.S. Seafood Promotion and the Fish and Seafood Promotion Act”

Panelists: Bill DiMento, High Liner Foods; Jana Hennig, Posi+ively Groundfish; Randy Rhodes, Harvest Select Seafood and Harvest Select Catfish

October 15, 2019, MAFAC meeting, presentation and panel “Seafood Promotion in the United States– Looking to USDA Boards for Lessons Learned and Existing Frameworks for Marketing of Generic Commodities”

Panelists: Heather Pichelman, USDA Agricultural Marketing Service; Mary Anne Hansan, Paper and Packaging Board; Steve Lovett, formerly Softwood Lumber Board

January to April 2020, MAFAC interviews with the seafood community

May 29, 2020, Webinar panel hosted by SeafoodSource, “How Do We Increase Consumption in the U.S.– Is It Time to Revisit the Idea of a National Seafood Council?”

MAFAC Panelists: Megan Davis, Harbor Branch Oceanographic Institute; Roger Berkowitz, Legal Sea Foods, LLC; Stefanie Moreland, Trident Seafoods; Sebastian Belle, Maine Aquaculture Association

## Appendix B: Interview participants (January–April 2020)

1. Brad Balderson, Owner, Harmony Seafoods
2. Jacqueline Claudia, Chief Executive Officer and Founder, Love the Wild
3. John Connelly, Executive Director, National Fisheries Institute
4. Linda Cornish, President, Seafood Nutrition Partnership
5. Julianne Curry, Public Affairs Manager, Icicle Seafoods
6. Sonny Davis, General Manager, Quinault Pride Seafood
7. Julie Decker, Executive Director, Alaska Fisheries Development Found.
8. Jason Dela Cruz, Owner, Wild Seafood Company
9. John Dentler, President, Northwest Aquaculture Alliance
10. Bob Desautel, President and Chief Executive Officer, Global Seas
11. Bill Dewey, Director of Public Affairs, Taylor Shellfish
12. Bill DiMento, Vice President of Corporate Sustainability and Government Affairs, High Liner Foods
13. Manny Duenas, President, Guam Fishermen's Cooperative
14. Frank Dulcich, Chief Executive Officer, Pacific Seafood
15. Raimundo Espinoza, Executive Director, Conservación ConCiencia
16. Lyf Gildersleeve, Owner, Flying Fish Company
17. Sam Grimley, Deputy Director, Programs Division Sustainable Fisheries Partnership
18. Buddy Guindon, Owner, Katie's Seafood Market
19. Leigh Habegger, Executive Director, Seafood Harvesters of America
20. Ashley Heimbigner, Communications Director, Alaska Seafood Marketing Institute
21. Jana Hennig, Executive Director, Posi+ively Groundfish
22. Bill Herzig, President, Sustainable Strategies and Initiatives
23. John Kaneko, Executive Director, Hawai'i Seafood Council
24. Jeff Kauffman, Vice President, Central Bering Sea Fishermen's Association
25. Eric Kingma, Executive Director, Hawai'i Longline Association
26. Marianne LaCroix, Executive Director, Maine Lobster Marketing Collaborative
27. Hugh Link, Executive Director, Oregon Dungeness Crab Commission
28. Craig Morris, Executive Director, Genuine Alaska Pollock Producers Association
29. Chris Nelson, Vice President, Bon Secour Fisheries
30. Tim Novotny, Assistant Administrator and Communications Manager, Oregon Dungeness Crab Commission.
31. Dan Obradovich, Processing Sales Manager, Pacific Seafood
32. Wally Pereyra, Chairman and Founder, Arctic Storm Management Group
33. Brad Pettinger, former Director, Oregon Trawl Commission
34. Steve Philips, Group Manager for Seafood, Wegmans
35. Eugenio Piñero, Puerto Rican fisheries
36. John Quinn, Professor, University of Massachusetts, Dartmouth Law School
37. Laura Foley Ramsden, Owner, Foley Fish
38. John Salle, Domestic Marketing and Research and Development Lead, Trident Seafoods
39. Barton Seaver, Chef and Founder, Coastal Culinary Academy
40. Hazel Secor, Cape Flattery Fishermen's Cooperative
41. Chris Sherman, President, Island Creek Oysters
42. Wally Stevens, Chair, Global Aquaculture Alliance
43. Gil Sylvia, Professor, Oregon State University
44. Ewell Smith, Executive Director, Carolina Loggers Association
45. Mary Smith, Director of Sustainability, Inland Seafood
46. Richard Stavis, Chief Executive Officer, Stavis Seafood
47. Wally Stevens, Executive Director, Global Seafood Assurances
48. Laurie Stevens, Executive Director, Southeastern Fisheries Association
49. Al Sunseri, President and Owner, P&J Oyster House
50. Rudy Tsukada, Southcentral Alaska fisherman
51. Shane Underwood, Quinault Pride Seafood
52. John Williams, Executive Director, Southern Shrimp Alliance
53. Jeremy Woodrow, Executive Director, Alaska Seafood Marketing Institute



## Appendix C: Advisors on the Fish and Seafood Promotion Act and implementing regulation, and USDA Commodity Board programs

1. Tom Gleason, Attorney Advisor, NOAA General Counsel
2. Mary Anne Hansan, Executive Director, Paper and Packaging Board
3. Allen Johnson (President) and Andrew Cotton, Allen F. Johnson & Associates
4. Heather Pichelman, Director, Promotion & Economics Division, USDA Agricultural Marketing Service's Specialty Crop Program
5. Wayne Watkinson, Attorney and Founding Partner, Watkinson Miller PLLC

## Appendix D: Interview questions

### Interview questions for members of industry:

1. Are you a member of an existing seafood board/organization? If so, what do you find the benefits to be? Do they provide education, research, or marketing resources?
2. How do you envision a National Seafood Council benefiting all sectors of the U.S. seafood industry, unifying the industry, and increasing U.S. seafood consumption?
3. Do you think the industry has a willingness to pay an industry assessment fee? Regardless, where in the supply chain do you think it would make sense for the assessment fee to apply?
4. Would you see the benefits of being a member of both the trade board/council and the National Seafood Council? And could you see a National Seafood Council complementing the existing boards and councils' marketing efforts?
5. Would DOC and/or NOAA NMFS (like USDA AMS) be the correct oversight agency of a National Seafood Council check off program? If not, why, and what agency would?
6. Would the industry embrace a National Seafood Council? If so, is industry able to establish the coalition necessary to stand up the council and meet a referendum of >50% of the industry? Will they have the leadership needed to put resources toward executing a "campaign" to garner support? If not, what are the impediments?

### Interview questions for existing industry boards, trade groups, and nonprofits:

1. What kinds of services or resources do you provide to your member/donor organizations?
2. How is your assessment process structured? Do members who provide more funding earn a larger seat at the table?
3. Would a National Seafood Council help/complement your organization to meet its goals?
4. How do you envision a National Seafood Council benefiting all sectors of the U.S. seafood industry, unifying the industry, and increasing U.S. seafood consumption?
5. What are impediments to establishing a National Seafood Council?

## Appendix E: List of organizations noted in response to interview question “Are you a member of an existing seafood board/organization?”

\*Note, this is only a list of organizations that were cited during MAFAC’s interviews, and is not a comprehensive list of the seafood related boards and organizations that exist.

Alaska Fisheries Development Foundation  
Alaska Seafood Marketing Institute  
American Indian Agricultural Council’s Group on Export  
Bering Sea Fisheries Research Foundation  
Community Development Quota Program  
Division of Marketing and International Trade for the State of Alaska  
FishChoice.com  
Fisheries Council of Canada  
Food Marketing Institute  
Genuine Alaska Pollock Producers  
Global Aquaculture Alliance  
Global Aquaculture Society  
Guam Fishermen’s Cooperative Association  
Gulf of Mexico Reef Fish Shareholders’ Alliance  
Gulf Oyster Industry Council  
Hawai’i Longline Association  
Hawai’i Seafood Council  
Louisiana Oyster Task Force

Maine Aquaculture Association  
Maine Lobster Marketing Collaborative  
Marine Fisheries Conservation Network  
Marine Stewardship Council  
Massachusetts Aquaculture Association  
Massachusetts Seafood Marketing Program  
National Coalition for Seafood Communities  
National Fisheries Institute  
Northwest Aquaculture Alliance  
Oregon Dungeness Crab Commission  
Pacific Coast Growers Association  
Port Angeles seafood marketing organization  
Posi+ively Groundfish  
Puerto Rico seal of origin  
Seafood Harvesters of America  
Seafood Nutrition Partnership  
Seafood Processors Association  
Seafood Watch  
Seapact  
Shellfish Growers Association  
Southeastern Fisheries Alliance  
Southern Shrimp Alliance  
Sustainable Fisheries Partnership  
United Catcher Boats  
West Coast Seafood Processing Association



## Appendix F: Resource Materials on MAFAC's Examination of the Fish and Seafood Promotion Act

The following background information was shared with each of the industry members MAFAC interviewed, ahead of their discussions.

### Who is MAFAC, and what is this seafood effort the Committee is working on?

MAFAC, the Marine Fisheries Advisory Committee, is a federal advisory committee that advises the Secretary of Commerce on living marine resources matters under the jurisdiction of the U.S. Department of Commerce, primarily NOAA Fisheries. Comprised of membership from a diverse set of perspectives including commercial, recreational, aquaculture, environmental, academic, state, tribal, and consumer fisheries interest groups, the Committee has the unique role of working together across all of these sectors to make consensus based recommendations to NOAA Fisheries.

Over the past few years, the Commerce Subcommittee of MAFAC has been looking into what the government can do to help improve consumer confidence in, and subsequently consumption of, U.S. seafood in the United States, as well as addressing bigger picture supply chain needs.

Increasing the consumption of U.S. seafood could directly improve the health of the American people, and facilitating this is not only in the best interest of the seafood industry but also a service to the public.

MAFAC believes there is a need to elevate the narrative of the inherent sustainability behind the management practices and harvesting of U.S. wild capture and U.S. aquaculture seafood products.

### What work has MAFAC done to investigate this to date? What has it discovered so far?

One of the potential tools MAFAC has identified that may help to address this is the Fish and Seafood Promotion Act. We are investigating the potential the Act may provide for the seafood industry to stand up an industry funded, generic seafood council that could execute marketing, research, and education to benefit the industry as a whole.

Since November 2018, MAFAC began conversations with industry players at the 2019 Seafood Expo North America and by holding panels at three MAFAC meetings to gauge the interest and the potential value behind such a seafood council. Panels have consisted of members of the seafood industry, and also participants of existing generic commodity boards under USDA.

The “hypothesis” of MAFAC is that an industry funded National Seafood Council under the Fish and Seafood Promotion Act (FSPA) would enable the industry to collectively conduct education, research, and marketing. This could increase U.S. seafood consumption, improve the health of the American people, and provide a return on investment to the seafood industry — accomplished by:

- Educating consumers on the health and nutrition benefits of seafood, including debunking misinformation.
- Highlighting the sustainability of wild fisheries and aquaculture in the U.S.
- Progressing needed market and supply chain research and development.
- Providing an overall U.S. seafood brand to elevate existing efforts of trade and non-profit groups.
- Unifying a fractionated industry.

Noting the interest expressed to date, the Commerce Subcommittee has established the goal to test this hypothesis: to determine whether the Act is (or can be with recommended modifications) an effective mechanism to increase U.S. seafood consumption.

### Why is MAFAC engaging you on this topic?

Although we have heard interest expressed from industry on the potential for a generic seafood board, we think there is likely a spectrum of benefits individuals and companies would hope to gain from a National Seafood Council, and also that the diversity of the industry presents challenges.

We want to hear your thoughts as a member of the seafood community to help MAFAC gain a more holistic understanding of what the diverse needs and goals of the industry are.

**MAFAC is not engaging you to garner support for a potential check off program. We are evaluating whether a National Seafood Council would benefit industry, and if so, evaluating whether the administrative capabilities of the Fish and Seafood Promotion Act meet the needs of the seafood industry. Your feedback will assist MAFAC in preparing its final recommendations to NOAA Fisheries and the Department of Commerce on the administrative function.**

## What is the Fish and Seafood Promotion Act?

The Fish and Seafood Promotion Act (FSPA) of 1986 (16 U.S.C. 4001 et seq.) was established with the articulated goal to promote the consumption of domestically harvested seafood. It established two Federally managed marketing capabilities:

### **(1) Congressionally funded National Fish and Seafood Promotion Council**

First, it set up a congressionally funded National Fish and Seafood Promotion Council (National Council) for a period of five years (1987-1991), which was funded at \$10.75 M (equal to ~\$25M in 2019 USD) through the Saltonstall-Kennedy Act funds.

It was comprised of industry representatives who directed the spending of the congressionally appropriated dollars to fund a national level, generic seafood marketing and education campaign to benefit the industry as a whole.

NOAA provided oversight to ensure funds were spent appropriately and to validate the content of their messaging.

Per the legislation, the National Council sun-set in 1991 and was not reauthorized.

Interviews with individuals involved noted the original appropriation was considered “seed money,” and the goal was for industry to take on the financing after this initial 5-year period.

### **(2) Industry assessment-funded councils**

Second, the FSPA provided the ability for the Secretary of Commerce or its designee (NOAA Fisheries) to approve and oversee individual, industry-funded seafood marketing councils for specific types of seafood commodities—“one or more species.”

To propose councils, the industry or the Secretary of Commerce must draft and propose a charter, and provide a list of industry members that would be subject to assessment. If NOAA Fisheries found the proposed charter to be legally permissible, it would conduct a referendum among industry. If greater than 50% voted in favor, the council would be established.

The FSPA also requires that NOAA Fisheries approve or reject proposed individual seafood marketing plans based on the accuracy and scientific validity of the information they present.

This authority of the FSPA has never been implemented because the seafood industry has never proposed a board to the agency. In 2007 the tuna industry expressed interest in establishing a board, but never put forward a proposal.

In 1996, the regulations implementing the FSPA were removed from the Code of Federal Regulations (CFR) as part of a government-wide Presidential regulatory reform effort. Yet, though the implementing regulations were withdrawn from the CFR, the Act itself remained in effect, and new regulations for the individual seafood promotion councils were drafted in 2006 and finalized in 2007 in response to expressed interest from the tuna industry.

### **This second capability was established in perpetuity, and is similar to USDA's Commodity Act.**

MAFAC wants to know if a hybrid of these two authorities may benefit the industry—a National Seafood Council could cover seafood as a whole, funded via industry assessment. Industry assessment is thought to be a more sustainable model than dependence on congressional funding.

## What is the USDA Commodity Act?

When the FSPA was established over 30 years ago, it was designed in large part to be similar to the authorities provided to the USDA's Agricultural Marketing Service under a similar act, the Commodity Act. Under the Commodity Act, agricultural industries initiate the idea for a particular board for their commodity, like milk, pork, avocados, peanuts, etc. (currently 22 boards), and bring their interest to USDA.



These boards are industry initiated and funded. An industry proposal outlines who the members for the board will be, who is assessed and how much, and what the general goals and strategy of the board are, before an industry referendum is initiated.

These boards are also known as “checkoff programs.”

After affirmed by referendum, the USDA establishes the board by regulation and provides ongoing oversight about all aspects of its work. They “follow the money” to ensure it is spent the way the charter calls for, validate messaging, and ensure that assessment fees are paid by industry. The overhead costs of USDA oversight activities are fronted by USDA and refunded in full by the industry from assessment fees, making these 100% industry funded programs.

The Commodity Act also allows commodity board charters to apportion assessment funds back to regional organizations, or to apportion funding for specific activities (e.g., “50% of funds will be spent on supply chain research and development”).

The Commodity Act also requires that established boards conduct return on investment analyses periodically, to ensure continued efficacy. If activities are determined to have declining return on investment, the board may decide to terminate or adjust its spending strategy. These return on investment reports are good indicators of success of commodity boards under USDA—in 2018 it was determined that the Pork Board returned \$25.50 for every \$1 assessed, the Egg Board returned \$8.11 for every \$1 assessed, and in 2017 the Cotton Board returned \$7 for every \$1 assessed.

The Commodity Act explicitly prohibits boards from using funds for activities outside of board administration, marketing, research, promotion, and education, precluding them from lobbying or advocating with lawmakers. This differentiates the boards from other trade associations.

### What is the government’s role in overseeing a commodity board or seafood board?

**The government does not promote the development of boards; rather, it works with industry to let them know that the tool is available to them and also educate them on the process and government oversight role.**

The role of the government is simply administrative and to ensure compliance with the law.

In the proposal and establishment stages of a board, the government will:

- Review proposed board charters to ensure they comply with the law.
- Conduct an industry referendum on proposed board charters.
- Approve and create by order any board that is approved by referendum.

Once established, the government oversight will:

- Appoint members to the industry board (via nomination process).
- “Follow the money” spent by the board to ensure it is being spent appropriately and as the charter specifies.
- Validate the activities of the board, including messaging used in marketing campaigns and crisis communications, to ensure it is factually correct, not disparaging to other commodities, and abides by the law and board charter.
- Enforce the mandatory assessment of industry to fund the board.
- In short, act as the referee. They make sure the board is playing by the rules and that the activities aren’t favoring one subset over another.

A small percentage of the assessment fee is used to cover the administrative responsibility and oversight for each of the commodity boards.

### What does industry have to do to propose a checkoff commodity board or seafood board?

Proposing a checkoff board or council to the government must be 100% industry driven, therefore, it is critical that industry participants are in agreement on the proposal and approach. Ultimately those who would be assessed as outlined under the draft charter will vote on it, so if industry doesn’t support the charter the effort will likely fail.

Typically, robust engagement of the industry *by the industry* prior to the referendum is important to garner support for the effort. The government does not participate in this process, apart from providing information about the government oversight role upon request.

## How would existing boards, trade groups, and nonprofits participate in a National Seafood Council?

These groups and their constituents would benefit from the National Seafood Council by using the work of the Council to elevate their goals and messaging.

These entities would not be industry assessed because they are representatives of industry members.

## Does the Department of Commerce/NOAA Fisheries have infrastructure in place to oversee a proposed National Seafood Council?

Because the National Fish and Seafood Promotion Council sunset in 1991, and industry has never proposed establishment of a species-specific board, NOAA Fisheries does not currently have a program dedicated to providing government oversight under the Fish and Seafood Promotion Act.

However, the Department of Commerce has recently developed capabilities to provide government

oversight of a generic commodity board with the passage of the new Concrete Masonry law that was incorporated into the FY2019 government spending bill.

The new Concrete Masonry law authorizes the concrete industry to propose and fund a generic concrete masonry board overseen by the Department of Commerce, and is set up to mimic the USDA Commodity Act.

Currently, the concrete industry is in the process of working with Commerce to finalize a proposed charter, and expect to conduct a referendum within the year. They have created a website to help spread the word of their proposed effort.

There is not currently an office or program within Commerce dedicated to implementing this government role to oversee the potentially forthcoming concrete masonry checkoff program, and staff support is currently provided across a few different bureaus. However, Commerce is considering establishing a more permanent office, which would create continuous, in-house government oversight infrastructure.







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