

**CS FOR SENATE JOINT RESOLUTION NO. 27(RES)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-SIXTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE RESOURCES COMMITTEE**

**Offered: 3/10/10**

**Referred: Rules**

**Sponsor(s): SENATORS EGAN, Huggins, Stedman, Meyer, McGuire, Wielechowski, Menard, Paskvan, Ellis, Hoffman, Kookesh, Olson, Davis, Wagoner, Coghill, Dyson, Thomas, Stevens**

**A RESOLUTION**

1   **Urging the federal government to provide funding for domestic seafood marketing and**  
2   **promotional activities.**

3   **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4       **WHEREAS** Alaska seafood products face ever-increasing domestic competition from  
5   imported seafood products, with more than 80 percent of the total fish and seafood consumed  
6   annually in the United States currently originating in foreign countries; and

7       **WHEREAS** effective domestic marketing of Alaska seafood in the face of aggressive  
8   competition from foreign products requires innovative, forceful, and consistent promotion;  
9   and

10       **WHEREAS** the Alaska seafood industry self-assesses a fee on fisheries production to  
11   finance domestic and international marketing of Alaska seafood; and

12       **WHEREAS** the state makes substantial financial contributions to the promotion and  
13   marketing of Alaska seafood; and

14       **WHEREAS** annual funding for the domestic promotion of Alaska seafood is not  
15   sufficient to effectively develop the thriving markets that sustainable Alaska seafood products  
16   merit, especially when confronted with nationally supported promotional programs aimed at

1 United States consumers by key rival producer countries; and

2 **WHEREAS** duties and tariffs on imported seafood products generate approximately  
3 \$280,000,000 annually for the United States Treasury; and

4 **WHEREAS** revenue from anti-dumping and countervailing duties on imported fish  
5 and fish products collected by the United States government total hundreds of millions of  
6 dollars annually; and

7 **WHEREAS** federal revenue derived from the importation of competing seafood  
8 products is not presently made available for the marketing of seafood harvested and produced  
9 domestically; and

10 **WHEREAS** using a portion of the revenue collected on the importation of foreign  
11 seafood products to promote American seafood to domestic consumers will secure American  
12 fisheries and seafood processing jobs, create robust and enduring domestic markets, and  
13 greatly enhance the nutritional value of American diets;

14 **BE IT RESOLVED** that the Alaska State Legislature strongly supports the allocation  
15 of money generated from federal marine and fishery product import tariffs for the domestic  
16 marketing of Alaska seafood; and be it

17 **FURTHER RESOLVED** that the Alaska State Legislature respectfully urges the  
18 United States Congress to pass legislation dedicating a significant portion of marine and  
19 fishery product import tariffs to a national seafood marketing fund to promote domestic  
20 seafood products that face competition from foreign imports; and be it

21 **FURTHER RESOLVED** that the Alaska State Legislature respectfully urges the  
22 Alaska Delegation in Congress to work with representatives of other seafood and fish-  
23 producing states to secure adequate funding for effective and sustained domestic marketing of  
24 American seafood.

25 **COPIES** of this resolution shall be sent to the Honorable Barack Obama, President of  
26 the United States; the Honorable Joseph R. Biden, Jr., Vice-President of the United States and  
27 President of the U.S. Senate; the Honorable Robert C. Byrd, President Pro Tempore of the  
28 U.S. Senate; the Honorable Nancy Pelosi, Speaker of the U.S. House of Representatives; the  
29 Honorable Timothy F. Geithner, United States Secretary of the Treasury; the Honorable Tom  
30 Vilsack, United States Secretary of Agriculture; and the Honorable Lisa Murkowski and the  
31 Honorable Mark Begich, U.S. Senators, and the Honorable Don Young, U.S. Representative,

1 members of the Alaska delegation in Congress.



SENATOR DENNIS EGAN

### **Senate Joint Resolution 27 – National Seafood Marketing**

Senate Joint Resolution (SJR) 27 communicates to the Obama Administration, the Alaska Congressional Delegation, and Congress the Legislature's support for using a portion of federal revenues generated from duties on imported seafood and fish products for marketing American seafood—including that harvested in Alaska.

Since the 1990s, over eighty percent of the fish consumed annually by American families is the product of foreign countries. And every year the governments of many of these countries bankroll multi-million-dollar campaigns to market their seafood to Americans.

While the Alaska seafood industry as well as the state of Alaska contribute millions in funding for marketing purposes, the amounts are not adequate to finance the vigorous, consistent, and innovative promotion that our products require in the face of foreign competition.

Meanwhile, each year hundreds of millions of dollars are derived from duties on these imported fish and fish products that so aggressively compete with American seafood. Yet only an insignificant fraction of this revenue has ever been employed to promote domestically produced seafood.

SJR 27 endorses putting a portion of these revenues to work in developing and maintaining the robust domestic markets that healthy, sustainable Alaskan seafood deserves. The resolution urges Congress to pass legislation dedicating such funding for the effective domestic marketing of American seafood. It asks the Alaska Delegation in Congress to work together with representatives from other seafood producing states to accomplish these goals.

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ALASKA SENATE

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SENATOR.DENNIS.EGAN@LEGIS.STATE.AK.US

# FISCAL NOTE

**STATE OF ALASKA**  
**2010 LEGISLATIVE SESSION**

Fiscal Note Number: SJR27  
 Bill Version: \_\_\_\_\_  
 () Publish Date: \_\_\_\_\_

Identifier (file name): SJR27-DFG-DAS-02-26-10 Dept. Affected: ADF&G  
 Title Urging the federal government to provide funding for RDU Administration and Support  
domestic seafood marketing and promotional activities. Component Administrative Services  
 Sponsor Senator Egan  
 Requester Resources Component Number 479

## Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information					
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
<b>OPERATING EXPENDITURES</b>							
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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## FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2010) cost: \_\_\_\_\_

## POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0	0.0

**ANALYSIS:** (Attach a separate page if necessary)

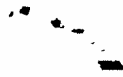
No fiscal impact to Department of Fish and Game

Prepared by: Jeff Hoover, Deputy Director  
 Division: Administrative Services  
 Approved by: Tom Lawson, Director of Administrative Services  
Alaska Department of Fish and Game

Phone 907-465-6077  
 Date/Time 02/26/10 10:45 a.m.  
 Date 2/26/2010

# National Seafood Marketing Coalition

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Julie Decker  
Kevin Adams  
Julianne Curry  
Bruce Wallace

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United Fishermen of Alaska

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# **Creation of a *National Seafood Marketing Coalition***

## **Executive Summary**

U.S. seafood producers have common interests. These common interests are often overshadowed by a variety of conflicts, such as access and allocation. U.S. seafood producers can set aside conflicts in order to focus on areas of common interest.

U.S. seafood producers need parity with other U.S. food producers. The bottom line is that U.S. seafood producers are food producers and struggle with the same issues as other U.S. food producers. However, seafood producers are not included in many of the USDA programs which currently benefit farmers. For example, seafood producers do not receive specific funding for domestic marketing and product development which leaves us behind foreign competitors. Additionally, "wild caught" seafood producers cannot participate in the USDA Farm Service Agency's Loan Program due to the agency's definition of "fish."

These two examples, *marketing and affordable working capital*, address areas which are critical to the survival and success of the U.S. seafood industry. In order to affect positive change for U.S. seafood producers, we need to begin to think strategically. Below is an outline of those strategic steps.

### **Strategic Steps to Success:**

- 1) Create a Coalition
- 2) Define the issue
- 3) Build support
- 4) Identify potential legislative vehicles
- 5) Wait for the correct timing

**Step 1 – Create a Coalition:** The formation of a *National Seafood Marketing Coalition* (Coalition) creates a forum on which to build grass roots support and effect the changes necessary in the industry. The creation of the Coalition is vital to the health of our industry and the survival of our coastal communities.

**Step 2 – Define the issue:** The first issue adopted by the Coalition could be the establishment of a National Seafood Marketing Fund which targets revenues from import duties on fish and fish products as an annual funding source. Other issues may be adopted by the Coalition in the future; however, beginning with one single issue allows the Coalition to focus on building its relationships and support around that issue.

A focused single issue and message with broad support is essential to achieving success. Marketing is an issue which will help all sectors of the industry by bringing higher demand and value to U.S. seafood products.

**Step 3 – Build support:** Grassroots support is the single most powerful influence on our Congressional Delegates. The Coalition must build support at the local, regional and national levels to create an unshakeable foundation of support for its issues. To do this, Coalition members must rally organizations, businesses, communities, and states with interest in the seafood industry, to support Coalition issues in Congress.

**Step 4 – Identify potential vehicles:** The next strategic step for success is to identify potential legislative vehicles on which to attach the Coalition's issue. A potential vehicle could be President Obama's Jobs Bill, mentioned in his State of the Union Address.

**Step 5 – Wait for the correct timing:** The political timing must be correct in order to accomplish our goal.

We must form a strong, supportive Coalition and be strategically smart. Remember, we have legitimate value in our goal; a healthy U.S. seafood industry is good for the economy and good for the country.



# ***National Seafood Marketing Coalition***



## **Proposal to Create a National Seafood Marketing Fund**

***DRAFT-DRAFT-DRAFT***

### **Need**

American seafood products are increasingly forced to compete with imported seafood and many other sources of protein in the domestic marketplace. Consequently, United States fishermen and seafood producers struggle to maintain a healthy business profile. Ex-vessel prices are too low to sustain many domestic fisheries. Fishing jobs are being lost and fishery dependant communities are in decline. It is in the interest of the U.S. to maintain a strong domestic seafood industry.

### **Concept**

Develop national legislation directing a portion of the import duties collected on fish and fish products be dedicated to a National Seafood Marketing Fund (NSMF). The NSMF would market domestic seafood which directly competes with foreign imported seafood. Secondly, the legislation would establish nine (9) Regional Seafood Marketing Boards to receive, manage and direct these dedicated funds.

### **Factual Background**

Seafood imports generate two sources of revenue for the U.S. treasury. First, approximately \$300 million dollars annually (\$282 million in 2008) is generated through duties and tariffs on imported fish and fish products. Second, as much as \$400 million dollars may be generated annually from the antidumping/countervailing duties (AD/CVD) on imported fish and fish products.

The first source of revenue, money collected from import duties on fish and fish products, are funds for the U.S. Department of Agriculture (USDA) and the U.S. treasury. Annually, 30% of these funds are transferred from USDA to the U.S. Department of Commerce (USDC) National Marine Fisheries Service's *Promote and Develop Fisheries Products* (P&D) account. NMFS further allocates a majority of the P&D account to Operations, Research and Facilities (ORF). The remaining portion funds the Saltonstall-Kennedy (S-K) program, which traditionally has few or no proposals to "*promote and develop fisheries products.*" To date, it has been difficult to find the disposition of the

remaining funds retained within the USDA. A breakdown of the appropriation of these funds for fiscal years 2007 & 2008 is listed below:

### Revenue from Import Duties on Fish & Fish Products (millions)

Year	Total Duties in USDA	P&D Account	Remaining in USDA	P&D Account Breakdown	
				ORF	SK
FY07	\$ 276.05	\$ 82.82	\$ 193.23	\$ 79.00	\$ 3.82
% of Total Duties	100%	30%	70%	29%	1%
FY08	\$ 281.98	\$ 84.59	\$ 197.39	\$ 77.00	\$ 7.59
% of Total Duties	100%	30%	70%	27%	3%

The 1956 S-K Act was amended in 1983 to require that 60% of the P&D, or approximately \$50M, be used to fund the S-K program annually. Further, it is interesting to note that the amount of funds used for the S-K program since 1983 has never met this minimum of 60%; the average for this period is 11.8% (including promotional and marketing funds).

From FY1978 to FY2008, import duties on fish and fish products have grown from \$43.3M to \$282M. However, funds available for the S-K program have shrunk from \$13M to \$7.6M. The average for this period is \$7.3M.

The second source of revenue, the antidumping/countervailing duties (AD/CVD), is not currently allocated for any use by domestic seafood producers, although domestic seafood producers are dramatically affected by imported products often subsidized by foreign governments. AD/CVD funds collected from imported seafood have been difficult to definitively identify; however, it is believed to be as much as \$400M annually.

#### **Funding Source**

This proposal suggests an annual funding mechanism for the National Seafood Marketing Fund by utilizing equal portions of the revenue from import duties on fish and fish products and the revenue from AD/CVD. The portion of revenue from import duties on fish and fish products should be equal to the congressional intent of 60% of the P&D account (approximately \$50M annually) which would then be matched with an equal amount from the AD/CVD.

*To be clear, the import duties on fish and fish products targeted for this proposal are the 70% remaining in USDA, not the 30% transferred to NMFS for ORF and S-K.*

### **Structure of Regional Seafood Marketing Boards**

1. Nine (9) Regional Seafood Marketing Boards (Boards) would be established in order to include all U.S. seafood producers which would include mariculture and aquaculture. Eight (8) Boards would geographically parallel the 8 Regional Fishery Management Councils authorized by the Magnuson-Stevens Act. The 9<sup>th</sup> Board would represent in-land domestic seafood production. Marketing activities of each Board would be directed toward seafood caught or products produced in each region.

2. Establish a statutorily “fixed” annual funding mechanism using an equal portion of the import duties on fish and fish products and the AD/CVD. The total amount appropriated annually would be divided into thirds:

- One-third distributed equally to all 9 regional Boards.
- One-third distributed based on the comparative regional value of seafood produced in the most recently reported year.
- One-third distributed based on the comparative regional volume of seafood (metric tons) produced in the most recently reported year.

3. The Boards should be limited in scope to promotion and marketing, including new product development, of seafood harvested and/or produced in each region (e.g. no imported products). “Promotion and marketing, including new product development” should be defined broadly enabling Boards to respond quickly to market needs.

4. Boards serve as the regional “umbrella funding” entity. The Boards’ activities should be limited to the awarding of grants and the distribution of funds through a Request for Proposal process. Boards would not manage marketing programs. Existing marketing or development entities, such as the Wild American Shrimp, Inc., Louisiana Seafood Promotion and Marketing Board, Maine Lobster Promotion Council, Alaska Seafood Marketing Institute, or the California Salmon Council could also apply to the Boards for funding to support their programs.

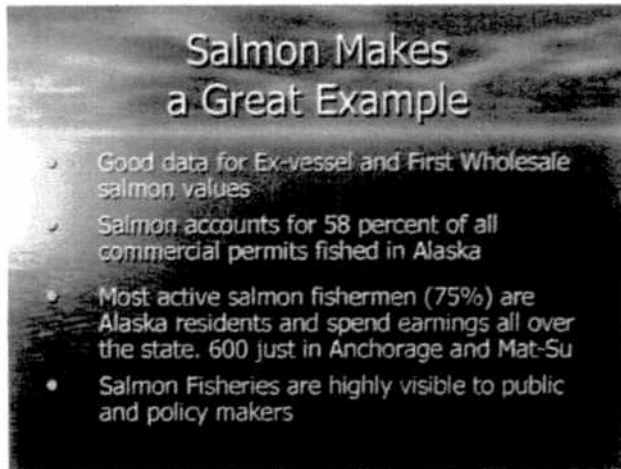
In addition, the Boards, as regional “umbrella” entities, should be encouraged to also focus on smaller (niche) marketing initiatives by requiring Boards to distribute a specific portion of their annual funding to “small businesses” as defined by the Small Business Administration.

Boards can spend no more than 10% of their annual funding for administration and operational expenses.

5. Cooperation between Boards should be encouraged by requiring the Board chairmen to meet semi-annually to discuss common species, marketing projects and issues of concern. Semi-annual meetings could also include representatives from various existing seafood marketing organizations as well.

## Why Marketing?

### An Example from the Alaska Salmon Industry



In 1991, the Alaska salmon industry suffered from a huge influx of imported farmed salmon in consumer-friendly forms.

From 1991 to 2002, the value of Alaska salmon continued to drop as the import of farmed salmon continued to rise.

As the demand for Alaska salmon fell, so did the funds used to market Alaska salmon through the Alaska Seafood Marketing Institute (ASMI). ASMI is funded based on a percent tax on the industry.

As the value of the fishery declined, the marketing funds desperately needed to pull the industry out of the tail-spin were also declining, furthering the downward trend.

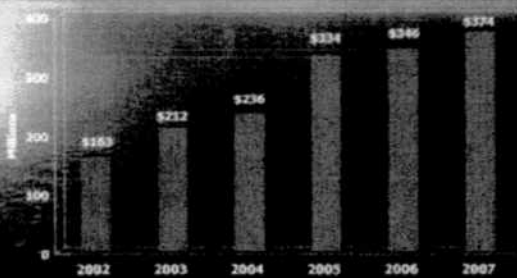
During this time, approximately two-thirds of the fishermen and processing companies went out of business across Alaska.

In 2002, the Alaska salmon industry hit the lowest point of profitability in history.

## Definitions

- Ex-vessel Value, \$1.6 billion in 2007
  - Payment to Harvesters
    - Most common measure, basis for taxation, captures activity of harvest sector only
- First Wholesale Value, Est. \$3.6 billion
  - First sale by a processor to a buyer outside their affiliate network
    - Not commonly used, but captures the full spectrum of economic activity

## Alaska Salmon Ex-Vessel Value



Source: ADF&G

## Value Growth Drivers

- Biology
  - Strong sockeye harvest
  - Record and near-record pink & chum harvest
- Salmon Product-form Shifts
  - Pink salmon
  - Fillet production
- Market Activity
  - Production & consumption growth
  - Market receptive to AK seafood core messages
  - Effective Differentiation

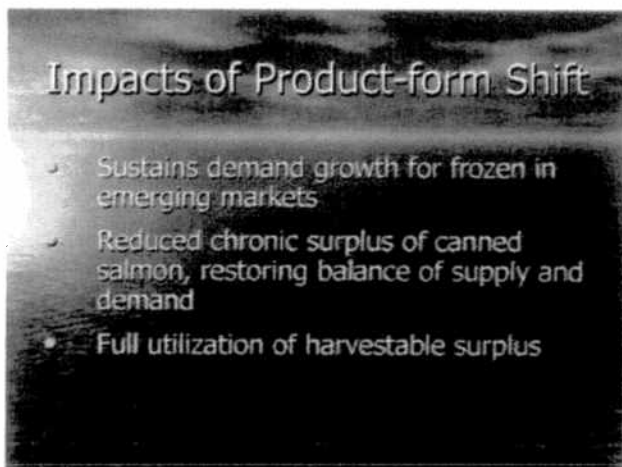
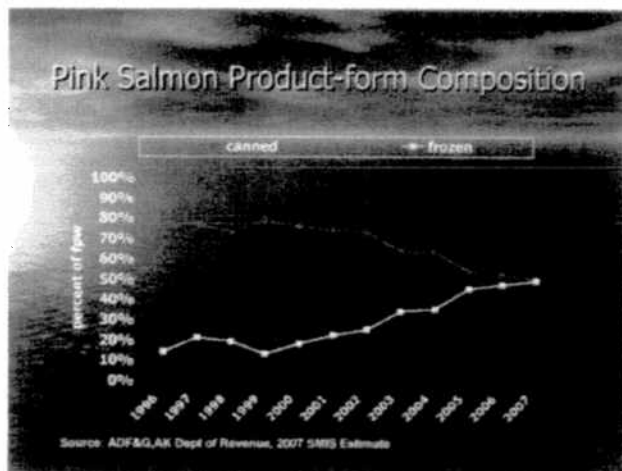
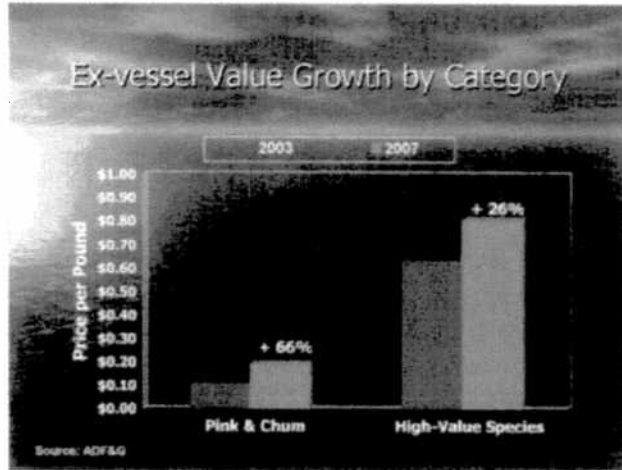
Also in 2002, Governor Frank Murkowski and his Salmon Cabinet designed and implemented the Alaska Salmon Revitalization Plan, funded with approximately \$40 million, plus an equal amount of matching funds from private industry.

At this same time, Senator Ted Stevens created the Alaska Fisheries Marketing Board (AFMB) out of frustration in trying to meet the intent of Congress to use 60% of the Promote & Develop Fisheries Account funds to “promote and develop fisheries products.” AFMB is considered a pilot project to the current proposed National Seafood Marketing Fund.

The AFMB was funded with \$36 million between 2002 and 2007.

The combination of these funds, over \$116 million, was used for marketing, product development and infrastructure with an emphasis on the failing salmon industry.

The positive results of these investments are significant.



### Results of Investments in Marketing:

--Increased quality on vessels and in processing plants.

--Increased the number of new product forms, such as fillets, portions, and consumer-ready products.

--Decreased the number of old product forms, such as canned and headed-and-gutted salmon.

--Changed from focusing on the primary processing industry to the secondary processing industry.

--Changed from focusing on the salmon market to focusing on the food market.

--Changed from a commodity-driven market to a consumer-driven market.

--Brought fishermen, processors, wholesalers and government agencies to the table to determine what was needed as market conditions were dynamically changing.

## First Wholesale: The Full Measure of Salmon Value

- Payment to harvesters
- Processors' profits
- Expenditures on goods and services associated with production in Alaska

As a result of the investments in marketing (quality, product development, infrastructure and advertisement), the value of Alaska salmon began to rise almost immediately.

From 2002 to 2007, the ex-vessel values increased from \$163 million to \$374 million, an increase of 130%.

The first wholesale value of salmon increased from approximately \$550 million to \$850 million.

The price of canned pink salmon rose from \$35.57 to \$57.70 per case.

The amount of sockeye fillets produced continued to rise from approximately 2 millions pounds to almost 14 million pounds.

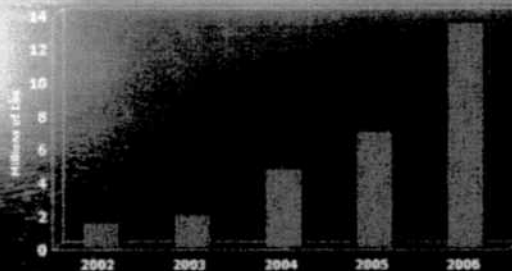
Many of the costs for processors are fixed. Therefore, as profitability began to rise, the percentage of profits that could be shared with fishermen also rose. The price paid to fishermen, as a percentage of the first wholesale value, increased from 29% to 40%.

## Average First Wholesale Value Primary Pink Salmon Products

	<u>Froz H&amp;G</u>	<u>48-tall case</u>
• CY 2003	\$ .41	\$35.57
• CY 2004	\$ .52	\$36.94
• CY 2005	\$ .62	\$41.00
• CY 2006	\$ .82	\$46.12
• Jan-Sep 2007	\$ .75	\$57.70

Source: AK Dept of Revenue

## Alaska Sockeye Fillet Production



Source: AK Dept of Revenue

## Potential Value Growth Inhibitors

- Continuous growth of farmed salmon production
- Record harvest volumes of AK salmon
- Product-form Shifts
  - Capital, market development costs
  - Value added = cost added
- Recent processing sector consolidation

## Market Activity

- Despite factors that normally erode value, Alaska salmon value shows strong growth. Per-pound wholesale value is up, driven by several factors including marketing activity.
- Processing has a high fixed cost load, so wholesale value growth beyond the fixed-cost "tipping point" translates largely into profit
- Profitability increases ex-vessel value and stimulates product-form shifts that position Alaska products for further value growth

## Market Activity

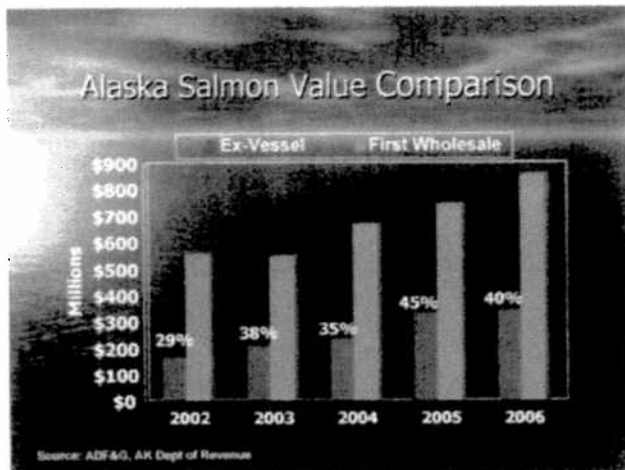
- Marketplace remains very receptive to core messages of Alaska Seafood and Alaska Salmon
- Increased coordination between industry and state marketing efforts
- Increased financial support of private and public marketing efforts
- Ongoing product and market development efforts

The rise in value of Alaska salmon continued even in the face of increased production of farmed salmon, record harvests of Alaska salmon, increased competition from other sources of seafood, and increased marketing efforts from foreign countries. For example, Norwegian salmon companies have budgeted \$15 million for marketing in the U.S. for 2010.

The Alaska Seafood Marketing Institute (ASMI) continues to receive funding for marketing from taxes assessed on the industry. ASMI's budget from assessments is between \$5 million and \$10 million per year to market *all* Alaska Seafood. These assessments allow ASMI to leverage a variety of grants.

Since 2007, the influx of \$116 million in marketing funds is no longer available. However, the ex-vessel value of salmon continues to rise. In 2008, ex-vessel values of Alaska salmon rose to \$452 million, an increase of 177% over 2002 ex-vessel values.



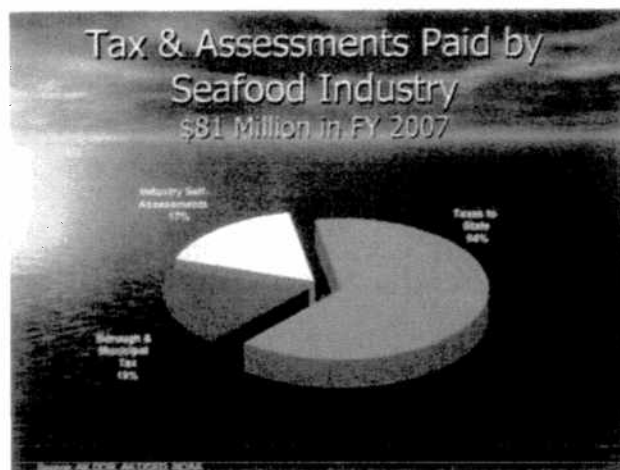


These marketing investments in the Alaska salmon industry were pure economic development.

As the value of the industry increased, economic activity also increased from rural areas of Alaska to urban centers, and even extending to other states which support the industry.



For example, as the industry began to be profitable again, upgrades were made in both the processing and harvesting sectors. Airlines invested in additional cargo capacity as more fillets and high quality salmon were shipped by air. Freight and trucking companies invested in upgrades as distribution lines changed.



Quality improvements and product development meant investments in equipment and machinery (i.e. ice machines, flash freezers and fillet machines) purchased through supply companies all over the country.

## Ex-Vessel Value

- Salmon earnings migrate all over Alaska
  - 75% of active permits held by Alaskans
  - Salmon earnings return to many non-coastal areas of Alaska and elsewhere
- Basis for state taxes & revenue sharing
- Basis for municipal & borough taxes not captured in state data

## Spending on Goods & Services

- Labor & Materials
  - Processing labor
  - Skilled labor, service providers, etc.
- Utilities, economies of scale
  - Potable water
  - Solid waste
  - Electricity
- Shipping, economies of scale
  - Backhaul rates & activity
  - Usage of public infrastructure

As the salmon industry increased in value, the tax revenue from the industry also increased. Salmon industry taxes support the continued marketing of Alaska seafood, the enhancement of the industry, state activities and municipal activities, such as schools and harbors.

This chain of economic impact continues to trickle down and is seen on local, regional, state and federal levels.

**The investment in marketing Alaska salmon is a success story; it is also an example of what marketing can do for any product and the value of aggressive and continued marketing support, such as a *National Seafood Marketing Fund*.**

\*Note: Slides are excerpts from the McDowell Group's presentations to the Alaska Fisheries Marketing Board (Jan. 21, 2008) titled, "Alaska Salmon Industry: Value Growth Drivers, Secondary Impacts" & to the Alaska Seafood Marketing Institute (Feb. 21, 2008) titled "Value of the Alaska Fishing Industry to the State of Alaska".

# CRS Report for Congress

Received through the CRS Web

## Saltonstall-Kennedy Fishery Funding

Eugene H. Buck  
Specialist in Natural Resources Policy  
Resources, Science, and Industry Division

### Summary

The Saltonstall-Kennedy Act established a fund that, among other things, has supported fishery research and development projects, with funding awarded annually on a competitive basis. Recent congressional “earmarks” have preempted the competitive process for awarding funding for industry projects. This report will be updated as this issue evolves.

The Saltonstall-Kennedy (S-K) Act, as amended (15 U.S.C. §713c-3), established a fund (known as the S-K Fund) that the Secretary of Commerce uses to finance projects and cooperative agreements for fishery research and development. Under this authority, projects or cooperative agreements are selected annually on a competitive basis to assist NOAA Fisheries (previously known as the National Marine Fisheries Service) in addressing concerns related to U.S. commercial and recreational fisheries. The S-K Fund is capitalized through annual transfers under a permanent appropriation to the Secretary of Commerce of 30% of the gross receipts collected by the Secretary of Agriculture under the customs laws on imports of fish and fish products.<sup>1</sup>

The objective of the S-K program is to address the needs of fishing communities in providing economic benefits for rebuilding and maintaining sustainable fisheries, and in dealing with the impacts of conservation and management measures.<sup>2</sup> The S-K program has become very important in addressing issues of immediate concern to the commercial fishing industry, by producing many new gear innovations, markets, and management options. Issues addressed have included fish harvesting, seafood quality improvements, domestic and foreign market development, efficiency and productivity improvements, and the costs/profitability of potential fishing industry investments.<sup>3</sup>

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<sup>1</sup> Because of progressive reductions and eliminations of tariffs on edible fisheries products, most of these customs duties come from non-edible products, such as pearls, coral jewelry, etc.

<sup>2</sup> U.S. Dept. of Commerce, National Marine Fisheries Service, *The Saltonstall-Kennedy Grant Program: Fisheries Research and Development*, Report 2003 (Aug. 1, 2003), p. 2.

<sup>3</sup> U.S. General Accounting Office, *Uses of Saltonstall/Kennedy Fisheries Development Funds*, (continued...)

Customs receipts have increased substantially during the life of this program, with almost \$80 million currently being transferred annually to the Secretary of Commerce. **Table 1** summarizes program funding. In 1980, Congress enacted formal program authority to fund fishing industry development projects and expanded this authority in 1983, establishing a minimum percentage of S-K funds to be used to provide financial assistance to projects. The balance of S-K funds were to be used by the Secretary of Commerce for a national program of fisheries research and development to address aspects of U.S. fisheries not adequately addressed by funded industry projects. Beginning in FY1979, increasing amounts of S-K dollars have been transferred to the Department of Commerce's National Oceanic and Atmospheric Administration's (NOAA's) *Operations, Research, and Facilities* (ORF) account, reducing the funds and percentage of funds available for fishing industry projects and the national program. Since FY1982, the S-K program has never allocated the minimum amount (50% after FY1980 and 60% after FY1983) specified by law for industry projects. For example, in FY2002, slightly more than \$79.1 million in customs duty receipts were transferred to the Department of Commerce from the Department of Agriculture. Of this amount, P.L. 107-77 transferred \$68 million to NOAA's ORF account "for necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration."<sup>4</sup> A total of slightly more than \$11.1 million (14.1% of the customs receipts transferred to the Department of Commerce) remained for commercial fishing industry projects, the national program of fisheries research and development, and S-K program administration.

In FY2004 appropriations (P.L. 108-199, 118 Stat. 73, §208 of "General Provisions — Department of Commerce"), congressional earmarks designated funds for specific activities outside the regular competitive award process, and the competitive program was cancelled for FY2004.<sup>5</sup> A similar situation occurred in FY2003. Regardless of the merits of the activities funded through the congressional earmarks, some elements of the commercial fishing industry have expressed frustration when the competitive process is circumvented and projects are funded outside a competitive selection process.<sup>6</sup>

Since the S-K program requires no periodic reauthorization, no recent congressional oversight hearings have been held to review the department's rationale for allocating S-K funds between industry projects and agency base funding; how specific project areas to be funded are selected; how this program is administered and at what cost; how the results of funded projects are reviewed, disseminated, and used; and to what extent the program continues to meet its statutory objectives. Additional questions include whether the S-K

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<sup>3</sup> (...continued)

GAO/RCED0-85-145 (Washington, DC: Aug. 30, 1985), p. ii.

<sup>4</sup> 115 Stat. 774-775.

<sup>5</sup> In several earlier instances, congressional "soft" earmarks were specified in report language associated with annual appropriations. Although such language is not legally binding, NOAA followed the direction in making funds available noncompetitively for various specific projects. Examples include the Interstate Shellfish Sanitation Conference for an education program on naturally occurring *Vibrio vulnificus* in shellfish and the Alaska Fisheries Development Foundation for a report entitled *An Ocean of Answers*.

<sup>6</sup> Discussions among commercial fishermen on the internet discussion group "Fishfolk" fishfolk@mitvma.mit.edu on Mar. 22-25, 2004.

program might be considered a continuing subsidy for the commercial fishing industry, whether the funding of industry projects continues to be useful, how the utility of the S-K program authority may have changed over time, and whether critical research might be done by industry if it were not funded by the S-K program.

Criticism of S-K program management generally comes from elements of the commercial fishing industry. Some critics of S-K Fund management question whether the administration of both regulation and research within the same agency raises questions about objectivity; they suggest that researchers might be hesitant to criticize the agency for its regulatory actions because they might lose access to future or continued project funding. Others suggest that the selection (i.e., restriction) of what types of projects will be funded also may administratively “earmark” funds, such as occurred in FY2003 when about half of all industry project funding (\$5 million of an anticipated \$10.3 million) was identified for direction to Atlantic salmon aquaculture development. Others suggest that the narrow agency identification of projects that would be funded in FY2003 actually prompted the subsequent congressional earmarks to specify projects that are to be funded.

The following chronology presents the development of this program. Key references are identified in footnotes by links to where they may be viewed, with care taken to select those resources that may be least transient. Full citations are not provided to these footnoted documents because of the lengthy organizations and titles for them.

## Chronology

- 07/01/1954 — President Eisenhower signs the Saltonstall-Kennedy Act (68 Stat. 376; 15 U.S.C. §713c-3) into law.
- 06/15/1961 — Senate Commerce Subcommittee on Merchant Marine and Fisheries holds a hearing on fishery research and rehabilitation amendments to the S-K Act.<sup>7</sup>
- 10/01/1978 — NOAA’s National Marine Fisheries Service (NMFS) begins receiving S-K dollars as annual budgetary transfers to NOAA’s *Operations, Research, and Facilities* account.
- 12/22/1980 — Section 210 of the American Fisheries Promotion Act (P.L. 96-561) amends the S-K Act to require that not less than 50% of each fiscal year’s funds be used to provide financial assistance for projects.
- 01/06/1983 — Section 423 of P.L. 97-424 amends the S-K Act to require that not less than 60% of each fiscal year’s funds be used to provide financial assistance for projects.

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<sup>7</sup> U.S. Congress, Senate, Committee on Commerce, Subcommittee on Merchant Marine and Fisheries, *Fishery Research and Rehabilitation (Amendments to Saltonstall-Kennedy Act)*, 87<sup>th</sup> Congress, 1<sup>st</sup> session, hearing on S. 1230 on June 15, 1961 (Washington, DC: GPO, 1961), 103 p.

- 08/30/1985 — The General Accounting Office (GAO) releases a report on the *Uses of Saltonstall/Kennedy Fisheries Development Funds* (GAO/RCED0-85-145), reviewing both NMFS in-house activities and competitive industry projects supported by S-K dollars. GAO examines the adequacy of the project selection process, project monitoring procedures, and the dissemination of project results. GAO presents views on the benefits of this program to the U.S. commercial fishing industry but makes no recommendations.<sup>8</sup>
- 11/14/1986 — The enactment of §209 of P.L. 99-659 creates the Fisheries Promotional Fund, to be capitalized with S-K funds.<sup>9</sup>
- 05/14/2002 — NOAA Fisheries announces the FY2003 S-K Program, allocating \$5 million of an anticipated \$10.3 million for Atlantic salmon aquaculture development.<sup>10</sup>
- 02/20/2003 — President Bush signs P.L. 108-7, wherein §209 (Division B; General Provisions — Department of Commerce) appropriates \$10 million in S-K dollars for the Alaska Fisheries Marketing Board for FY2003.<sup>11</sup>
- 06/30/2003 — NOAA Fisheries announces the FY2004 S-K Program, suggesting that about \$4 million would be available for projects.<sup>12</sup>
- 08/01/2003 — NOAA Fisheries publishes its 2003 S-K Report to Congress.<sup>13</sup>
- 01/23/2004 — President Bush signs P.L. 108-199, wherein §208 (Division B; General Provisions — Department of Commerce)<sup>14</sup> appropriates \$17 million in S-K dollars for various specified fisheries programs for FY2004;<sup>15</sup> a “soft” earmark (H.Rept. 108-221, p. 89) identifies an additional \$250,000 for the Gulf and South Atlantic Fisheries Foundation to continue a *Vibrio* education program.
- 03/19/2004 — NOAA Fisheries announces that the FY2004 competitive S-K Program is being canceled due to insufficient funding and all

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<sup>8</sup> See [<http://161.203.16.4/d11t3/127795.pdf>], visited Mar. 24, 2004.

<sup>9</sup> 16 U.S.C. §4008.

<sup>10</sup> 67 *Federal Register* 34427-34434 (May 14, 2002).

<sup>11</sup> 117 Stat. 78.

<sup>12</sup> 68 *Federal Register* 38678-38690 (June 30, 2003).

<sup>13</sup> See [[http://www.nmfs.noaa.gov/ocs/sk/pdf/03report\\_wsie.pdf](http://www.nmfs.noaa.gov/ocs/sk/pdf/03report_wsie.pdf)], visited Mar. 24, 2004.

<sup>14</sup> 118 Stat. 73-74.

<sup>15</sup> \$10,000,000 to the Alaska Fisheries Marketing Board, \$2,000,000 to the Gulf and South Atlantic Fisheries Foundation, \$2,000,000 to the South Carolina Seafood Alliance, \$1,500,000 to the Oregon Trawl Commission, and \$1,500,000 to the Oregon State University Seafood Laboratory.

applications are being returned to the applicants without further consideration.<sup>16</sup> On its S-K website, NOAA Fisheries notes that the President's budget request for FY2005 also does not provide sufficient funding for the competitive S-K Program.<sup>17</sup>

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<sup>16</sup> 69 *Federal Register* 13021 (Mar. 19, 2004).

<sup>17</sup> See [<http://www.nmfs.noaa.gov/ocs/skhome.html>], visited Mar. 24, 2004.

**Table 1. Financing History of Saltonstall-Kennedy Account**

(thousand \$)

FY	Import duties collected	Transfer from Agriculture	Funds to NOAA ORF	Fishermen's Promotional Fund	Congress. earmarks <sup>a</sup>	Remainder available <sup>aa</sup>	Earmarks and remainder as % of transfer
1978	43,280	12,984	0	0	0	12,984	100%
1979	58,120	17,436	5,000	0	0	12,436	71%
1980	88,930	26,679	5,000	0	0	21,679	81%
1981	116,600	35,000	17,500	0	0	17,500	50%
1982	87,300	26,200	10,000	0	0	16,200	62%
1983	102,100	30,600	22,600	0	0	8,000	26%
1984	119,900	33,600	23,600	0	0	10,000	30%
1985	116,500	34,900	25,900	0	0	9,000	26%
1986	145,600	43,700	34,100	0	0	9,600	22%
1987	191,400	57,400	51,600	750	0	5,050	9%
1988	187,800	56,300	44,400	2,600	0	9,300	17%
1989	178,900	53,600	45,600	3,000	0	5,000	9%
1990	206,500	61,900	55,000	2,000	0	4,900	8%
1991	235,900	70,800	60,900	2,000	0	7,900	11%
1992	213,700	64,100	63,100	0	0	1,000	2%
1993	204,700	61,400	55,000	0	0	6,400	10%
1994	206,500	61,944	54,800	0	0	7,144	12%
1995	215,885	64,765	55,500	0	0	9,265	14%
1996	242,977	72,893	63,000	0	0	9,893	14%
1997	221,270	66,381	66,000	0	0	381	1%
1998	219,110	65,730	62,380	0	0	3,350	5%
1999	221,420	66,430	63,380	0	0	3,050	5%
2000	233,070	69,920	68,000	0	0	1,920	3%
2001	242,760	72,830	68,000	0	0	4,830	7%
2002	263,770	79,130	68,000	0	0	11,130	14%
2003	250,750	75,220	65,000	0	10,000	220	14%
2004	265,747	79,724	62,000	0	17,250	474	22%

<sup>a</sup>.Except for FY2004, this column does not include the "soft" earmarks as previously discussed.

<sup>aa</sup>.This amount includes funds for industry projects, the national program, and NMFS/NOAA Fisheries expenses for administering the industry projects. In FY2003, these administrative expenses were estimated at \$500,000.





## **Alaska Seafood Marketing Institute**

### **Resolution 2009-01**

#### **A RESOLUTION OF THE ALASKA SEAFOOD MARKETING INSTITUTE SUPPORTING FEDERAL FUNDING FOR UNITED STATES PRODUCED SEAFOOD**

- WHEREAS, the State of Alaska in conjunction with the fishing industry created the Alaska Seafood Marketing Institute (ASMI) to market and promote Alaska seafood; and
- WHEREAS, ASMI has worked for 28 years to champion the “Alaska Brand” and to identify Alaska seafood as wild and sustainable; and
- WHEREAS, effective marketing of Alaska’s seafood requires a constant, consistent and long term marketing presence, especially in times of oversupply and new competition; and
- WHEREAS, the Alaska seafood industry has “self assessed” fishery production to pay for ASMI’s promotional activities; and
- WHEREAS, despite the money raised from the Alaska Seafood Industry, ASMI’s promotional activities are often limited and underfunded; and,
- WHEREAS, in times of economic collapse or fishery oversupply, the industry is least able to increase marketing assessments; and
- WHEREAS, the Federal Government collects approximately \$280 million dollars annually through customs laws regulating the importation of fishery products, many of which compete with Alaska’s fishery products; and
- WHEREAS, funds collected from the importation of fishery products are not available for the domestic marketing of American seafood; and
- WHEREAS, using fishery product import revenues to market American seafood will preserve American fishing and seafood processing jobs, U.S. processing capacity and ensure availability of domestic seafood for the American Consumer;

**THEREFORE BE IT RESOLVED, that the Alaska Seafood Marketing Institute strongly supports the use of a portion of federally generated fishery product import revenues for the domestic marketing of Alaska seafood; and**



**THEREFORE BE IT FURTHER RESOLVED, that the Alaska Seafood Marketing Institute's support for the use of a portion of federally generated fishery product import revenues for the domestic marketing of Alaska seafood be communicated to Governor Sean Parnell, the Alaska Legislature, Senators Lisa Murkowski and Mark Begich, Representative Don Young and to the United Fishermen of Alaska.**

(from <http://www.gpoaccess.gov/uscode/browse.html> )

"Saltonstall-Kennedy Act " - Title 15 U.S.C. 713c-3

From the U.S. Code Online via GPO Access  
[[www.gpoaccess.gov](http://www.gpoaccess.gov)]  
[Laws in effect as of January 3, 2007]  
[CITE: 15USC713c-3]

[Page 833-836]

TITLE 15--COMMERCE AND TRADE

CHAPTER 15--ECONOMIC RECOVERY

SUBCHAPTER I--GENERALLY

Sec. 713c-3. Promotion of the free flow of domestically produced  
fishery products

(a) Definitions

As used in this section--

(1) The term ``person'' means--

(A) any individual who is a citizen or national of the  
United States or a citizen of the Northern Mariana Islands;

(B) any fishery development foundation or other private  
nonprofit corporation located in Alaska; and

(C) any corporation, partnership, association, or other  
entity (including, but not limited to, any fishery development  
foundation or other private nonprofit corporation not located in  
Alaska), nonprofit or otherwise, if such entity is a citizen of  
the United States within the meaning of section 50501 of title  
46 and for purposes of applying such section 50501 with respect  
to this section--

(i) the term ``State'' as used therein includes any  
State referred to in paragraph (3),

(ii) citizens of the United States must own not less  
than 75 percent of the interest in the entity or, in the  
case of a nonprofit entity, exercise control in the entity  
that is determined by the Secretary to be the equivalent of  
such ownership, and

(iii) nationals of the United States and citizens of the  
Northern Mariana Islands shall be treated as citizens of the  
United States in meeting the ownership and control  
requirements referred to in clause (ii).

(2) The term ``Secretary'' means the Secretary of Commerce.

(3) The term ``State'' means any State, the District of  
Columbia, the Commonwealth of Puerto Rico, American Samoa, the  
Virgin Islands of the United States, Guam, the Northern Mariana  
Islands, and any other Commonwealth, territory, or possession of the  
United States.

(4) The term "United States fishery" means any fishery, including any tuna fishery, that is, or may be, engaged in by citizens or nationals of the United States or citizens of the Northern Mariana Islands.

(5) The term "citizen of the Northern Mariana Islands" means--

(A) an individual who qualifies as such under section 8 of the Schedule on Transitional Matters attached to the Constitution of the Northern Mariana Islands; or

(B) a corporation, partnership, association, or other entity organized or existing under the laws of the Northern Mariana Islands, not less than 75 percent of the interest in which is owned by individuals referred to in subparagraph (A) or citizens or nationals of the United States, in cases in which "owned" is used in the same sense as in section 50501 of title 46.

(b) Transfer of funds

(1) The Secretary of Agriculture shall transfer to the Secretary each fiscal year, beginning with the fiscal year commencing July 1, 1954, and ending on June 30, 1957, from moneys made available to carry out the provisions of section 612c of title 7, an amount equal to 30 percent of the gross receipts from duties collected under the customs laws on fishery products (including fish, shellfish, mollusks, crustacea, aquatic plants and animals, and any products thereof, including processed and manufactured products), which shall be maintained in a separate fund only for--

(A) use by the Secretary--

(i) to provide financial assistance for the purpose of carrying out fisheries research and development projects approved under subsection (c) of this section, \1\

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\1\ So in original. The comma probably should be a semicolon.

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(ii) to implement the national fisheries research and development program provided for under subsection (d) of this section;

(iii) to implement the Northwest Atlantic Ocean Fisheries Reinvestment Program established under section 1863 of title 16; and

(iv) to fund the Federal share of a fishing capacity reduction program established under section 1861a of title 16; and

(B) the provision of moneys, subject to paragraph (2), to carry out the purposes of the Fisheries Promotion Fund established under

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section 208(a) \2\ of the Fish and Seafood Promotion Act of 1986 [16 U.S.C. 4008(a)].

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\2\ So in original. Probably should be section "209(a)".

(2) There are transferred from the fund established under paragraph (1) to the Fisheries Promotion Fund referred to in paragraph (1)(B) \$750,000 in fiscal year 1987, \$3,000,000 in each of fiscal years 1988 and 1989, and \$2,000,000 in each of fiscal years 1990 and 1991.

(c) Fisheries research and development projects

(1) The Secretary shall make grants from the fund established under subsection (b) of this section to assist persons in carrying out research and development projects addressed to any aspect of United States fisheries, including, but not limited to, harvesting, processing, marketing, and associated infrastructures.

(2) The Secretary shall--

(A) at least once each fiscal year, receive, during a 60-day period specified by him, applications for grants under this subsection;

(B) prescribe the form and manner in which applications for grants under this subsection must be made, including, but not limited to, the specification of the information which must accompany applications to ensure that the proposed projects comply with Federal law and can be evaluated in accordance with paragraph (3)(B); and

(C) approve or disapprove each such application before the close of the 120th day after the last day of the 60-day period (specified under subparagraph (a)) in which the application was received.

(3) No application for a grant under this subsection may be approved unless the Secretary--

(A) is satisfied that the applicant has the requisite technical and financial capability to carry out the project; and

(B) evaluates the proposed project as to--

- (i) soundness of design,
- (ii) the possibilities of securing productive results,
- (iii) minimization of duplication with other fisheries research and development projects,
- (iv) the organization and management of the project,
- (v) methods proposed for monitoring and evaluating the success or failure of the project, and
- (vi) such other criteria as the Secretary may require.

(4) Each grant made under this subsection shall be subject to such terms and conditions as the Secretary may require to protect the interests of the United States, including, but not limited to, the following:

(A) The recipient of the grant must keep such records as the Secretary shall require as being necessary or appropriate for disclosing the use made of grant funds and shall allow the Secretary and the Comptroller General of the United States, or any of their authorized representatives, access to such records for purposes of audit and examination.

(B) The amount of a grant may not be less than 50 percent of the estimated cost of the project.

(C) The recipient of the grant must submit to the Secretary periodic project status reports.

(5)(A) If the cost of a project will be shared by the grant recipient, the Secretary shall accept, as a part or all of that share, the value of in-kind contributions made by the recipient, or made available to, and applied by, the recipient, with respect to the project.

(B) For purposes of subparagraph (A), in-kind contributions may be in the form of, but are not limited to, personal services rendered in carrying out functions related to, and permission to use real or personal property owned by others (for which consideration is not required) in carrying out the project. The Secretary shall establish (i)

the training, experience, and other qualifications which shall be required in order for services to be considered as in-kind contributions; and (ii) the standards under which the Secretary will determine the value of in-kind contributions for purposes of subparagraph (A).

(C) Any valuation determination made by the Secretary for purposes of this paragraph shall be conclusive.

(d) National fisheries research and development program

(1) The Secretary shall carry out a national program of research and development addressed to such aspects of United States fisheries (including, but not limited to, harvesting, processing, marketing, and associated infrastructures) if not adequately covered by projects assisted under subsection (c) of this section, as the Secretary deems appropriate.

(2) The Secretary shall, after consultation with appropriate representatives of the fishing industry, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives, an annual report, that must be submitted not later than 60 days before the close of each fiscal year, containing--

(A) the fisheries development goals and funding priorities under paragraph (1) for the next fiscal year;

(B) a description of all pending projects assisted under subsection (c) of this section or carried out under paragraph (1), in addition to--

(i) a list of those applications approved and those disapproved under subsection (c) of this section, and the total amount of grants made, for the current fiscal year, and

(ii) a statement of the extent to which available funds were not obligated or expended by the Secretary for grants under subsection (c) of this section during the current fiscal year; and

(C) an assessment of each project assisted under subsection (c) of this section or carried out under paragraph (1) that was completed in the preceding fiscal year regarding the extent to which (i) the objectives of the project were attained, and (ii) the project contributed to fishery development.

(e) Allocation of fund moneys

(1) Notwithstanding any other provision of law, all moneys in the fund shall be used exclu

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sively for the purpose of promoting United States fisheries in accordance with the provisions of this section, and no such moneys shall be transferred from the fund for any other purpose. With respect to any fiscal year, all moneys in the fund, including the sum of all unexpended moneys carried over into that fiscal year and all moneys transferred to the fund under subsection (b) of this section or any other provision of law with respect to that fiscal year, shall be allocated as follows:

(A) the Secretary shall use no less than 60 per centum of such moneys to make direct industry assistance grants to develop the United States fisheries and to expand domestic and foreign markets for United States fishery products pursuant to subsection (c) of

this section; and

(B) the Secretary shall use the balance of the moneys in the fund to finance those activities of the National Marine Fisheries Service which are directly related to development of the United States fisheries pursuant to subsection (d) of this section.

(2) The Secretary shall, consistent with the number of meritorious applications received with respect to any fiscal year, obligate or expend all of the moneys in the fund described in paragraph (1). Any such moneys which are not expended in a given fiscal year shall remain available for expenditure in accordance with this section without fiscal year limitation, except that the Secretary shall not obligate such moneys at a rate less than that necessary to prevent the balance of moneys in the fund from exceeding \$3,000,000 at the end of any fiscal year.

(Aug. 11, 1939, ch. 696, Sec. 2, 53 Stat. 1412; July 1, 1954, ch. 447, 68 Stat. 376; Aug. 8, 1956, ch. 1036, Sec. 12(b), 70 Stat. 1124; Pub. L. 89-348, Sec. 1(13), Nov. 8, 1965, 79 Stat. 1311; Pub. L. 96-561, title II, Sec. 210, Dec. 22, 1980, 94 Stat. 3287; Pub. L. 97-424, title IV, Sec. 423(a), Jan. 6, 1983, 96 Stat. 2164; Pub. L. 99-659, title II, Sec. 209(e), Nov. 14, 1986, 100 Stat. 3721; Pub. L. 101-627, title VII, Sec. 703, Nov. 28, 1990, 104 Stat. 4463; Pub. L. 102-567, title IX, Sec. 902(c), Oct. 29, 1992, 106 Stat. 4319; Pub. L. 104-208, div. A, title I, Sec. 101(a) [title II, Sec. 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41; Pub. L. 104-297, title I, Sec. 116(c), Oct. 11, 1996, 110 Stat. 3603.)

#### Codification

Section 50501 of title 46 substituted for section 2 of the Shipping Act, 1916 (46 U.S.C. 802) in subsec. (a)(1)(C) and (5)(B) and such section 50501 substituted for such section 2 in subsec. (a)(1)(C) on authority of Pub. L. 109-304, Sec. 18(c), Oct. 6, 2006, 120 Stat. 1709, section 8(b) of which enacted parts A and B of subtitle V of Title 46, Shipping.

#### Amendments

1996--Subsec. (b)(1)(A)(iii). Pub. L. 104-208 made technical amendment to reference in original act which appears in text as reference to section 1863 of title 16.

Subsec. (b)(1)(A)(iv). Pub. L. 104-297 added cl. (iv).

Pub. L. 104-208 made technical amendment to reference in original act which appears in text as reference to section 1861a of title 16.

1992--Subsec. (b)(1)(A). Pub. L. 102-567 struck out "and" at end of cl. (i) and added cl. (iii).

1990--Subsec. (b)(2). Pub. L. 101-627 substituted "each of fiscal years 1990 and 1991" for "fiscal year 1990".

1986--Subsec. (b). Pub. L. 99-659 designated existing provisions as introductory provisions and subpar. (A) of par. (1) and added pars. (1)(B) and (2).

1983--Subsec. (e). Pub. L. 97-424 amended subsec. (e) generally, which formerly had provided:

"(1) With respect to any fiscal year, not less than 50 percent of--  
"(A) the moneys transferred to the fund under subsection (b) of this section or any other provision of law with respect to that fiscal year; and

“(B) such existing fund moneys carried over into that fiscal year; shall be used by the Secretary during that fiscal year to provide financial assistance for projects under subsection (c) of this section; and the remainder of such moneys in the fund shall be used to implement the national fisheries research and development program established under subsection (d) of this section during that fiscal year.

“(2) Moneys accruing to the fund established under subsection (b) of this section for any fiscal year and not expended with respect to that year shall remain available for expenditure under this section without fiscal year limitation.”

1980--Subsec. (a). Pub. L. 96-561, Sec. 210(2), (3), added subsec. (a) and redesignated former subsec. (a) as (b).

Subsec. (b). Pub. L. 96-561, Sec. 210(1), (2), (4), redesignated subsec. (a) as (b), substituted “transfer to the Secretary” for “transfer to the Secretary of Commerce”, “only for use by the Secretary” for “and used by the Secretary of Commerce”, and provision directing that the fund be used to provide financial assistance for carrying out fisheries research and development projects and to implement the national fisheries research and development program for provision directing that the fund be used to promote free flow of domestically produced fisheries products by conducting a fishery educational service and fishery technological, biological, and related research programs, to acquire, construct, or maintain vessels and other facilities necessary for conducting research, to develop and increase markets for fishery products of domestic origin, and to conduct any biological, technological, or other research pertaining to American fisheries, and struck out former subsec. (b) which authorized any agency or wholly owned government corporation of the United States to transfer to the Secretary of Commerce any vessels or equipment excess to its needs.

Subsec. (c). Pub. L. 96-561, Sec. 210(1), (5), added subsec. (c) and struck out former subsec. (c) which directed the Secretary of Commerce to cooperate with other Federal, State, and local agencies for promotion of free flow of domestically produced fishery products and provided for the appointment of an advisory committee of the American fisheries industry to advise the Secretary in formulation of policy, rules, and regulations.

Subsec. (d). Pub. L. 96-561, Sec. 210(1), (5), added subsec. (d) and struck out former subsec. (d) which authorized the Secretary of Commerce to retransfer any funds available under this section, not to exceed \$1,500,000, to the Secretary of Agriculture to be used for the purposes specified in section 713c-2 of this title.

Subsec. (e). Pub. L. 96-561, Sec. 210(1), (5), added subsec. (e) and struck out former subsec. (e) which provided that the special fund created for use of the Secretary of Commerce under subsec. (a) of this section and the annual accruals thereto be available for each year until expended by the Secretary.

1965--Subsec. (f). Pub. L. 89-348 repealed subsec. (f) which required an annual report to the appropriate committees of Congress on the use of the separate fund.

1956--Subsec. (e). Act Aug. 8, 1956, struck out provisions which limited expenditures to not more than \$3,000,000 in any fiscal year, restricted the balance of the fund to not more than \$5,000,000 at the end of any fiscal year, and required the Secretary of the Interior to retransfer funds in excess of the \$5,000,000 to the Secretary of Agriculture.

1954--Act July 1, 1954, amended section generally, to encourage the distribution of fishery products.



#### Effective Date of 1996 Amendment

Section 101(a) [title II, Sec. 211(b)] of div. A of Pub. L. 104-208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

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#### Effective Date of 1983 Amendment

Section 423(b) of Pub. L. 97-424 provided that: ``The amendment made by subsection (a) of this section [amending this section] shall take effect on October 1, 1983.''

#### Short Title

Section 2 of act Aug. 11, 1939, which enacted this section, is popularly known as the ``Saltonstall-Kennedy Act''.

#### Termination of Reporting Requirements

For termination, effective May 15, 2000, of provisions in subsec. (d)(2) of this section relating to submitting annual report to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 50 of House Document No. 103-7.

#### Abolition of House Committee on Merchant Marine and Fisheries

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

#### Transfer of Functions

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, Sec. 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

#### Continuation of Authorization for Transfer of Funds

Section 12(a) of act Aug. 8, 1956, provided that: ``The authorization for the transfer of certain funds from the Secretary of Agriculture to the Secretary of the Interior and their maintenance in a separate fund as contained in section 2(a) of the Act of August 11,

1939, as amended July 1, 1954 (68 Stat. 376), [now subsec. (b) of this section], shall be continued for the year ending June 30, 1957, and each year thereafter.''

#### Termination of Advisory Committees

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

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