



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910

RECORD OF DECISION
for the
FINAL PROGRAMMATIC ENVIRONMENTAL IMPACT
STATEMENT
on
Continued Implementation of the Saltonstall-Kennedy Research and
Development Program

National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Office of Management and Budget, Financial Assistance Division

March 24, 2023

I. Introduction

This Record of Decision (ROD) documents the decision made by National Oceanic and Atmospheric Administration's (NOAA's), National Marine Fisheries Service's (NOAA Fisheries'), Financial Assistance Division to continue operating the Saltonstall-Kennedy Research and Development Program (S-K Program) in accordance with Congressional directives set forth in the Saltonstall-Kennedy Act of 1954 (S-K Act; 15 U.S. Code [U.S.C.] 713c-3). The S-K Program is managed by NOAA Fisheries within NOAA Headquarters, located in Silver Spring, Maryland. The goal of the S-K Program is to address the needs of fishing communities, optimize economic benefits by building and maintaining sustainable fisheries and practices and increase opportunities to keep working waterfronts viable. The S-K Program facilitates this goal primarily through its annual Saltonstall-Kennedy Grant Competition through awarding grants for marine fishery projects, currently ranging from a minimum of \$25,000 to a maximum of \$300,000. The S-K Program implements projects that foster the promotion, marketing, research, and development of U.S. fisheries and their associated fishing sectors. The S-K Program is implemented across NOAA's five fisheries regions: Alaska, New England/Mid-Atlantic, Pacific Islands, Southeast, and West Coast. The S-K Program has funded a variety of projects, including gear technology research, seafood marketing, aquaculture, and others.

Background

The S-K Act established a program to provide financial support for research and development of any aspect of U.S. commercial fisheries (e.g., commercial wild capture, recreational, cultural and subsistence, and marine aquaculture). The S-K Act created a fund (known as the S-K Fund) that is financed by a permanent transfer of a portion of import duties on marine products. S-K funds are distributed by the Secretary of Commerce as grants and cooperative agreements to address the needs of the U.S. fishing industry, including but not limited to harvesting, processing, marketing, and associated infrastructure. S-K funding is allocated to NOAA Fisheries to fund agency activities related to marine fisheries research and

management that are consistent with the intent of the S-K Act. The intent of the S-K Act is to address the needs of U.S. fisheries and associated fishing sectors by funding projects that benefit fishing communities through promotion, development, and marketing (PDM).

Since its creation, the S-K Fund's authorizing language and funding priorities have evolved with changes to the fishing industry, new or amended federal laws governing fisheries management, and changing federal agency responsibilities. In 1980, the American Fisheries Promotion Act amended the S-K Act to authorize a competitive grant program, and a National Program to fund needed fishery industry projects that are not otherwise funded through the competitive process. Grants and cooperative agreements are provided under both the S-K Program and the National Program, and can occur in any of NOAA's five fisheries regions. In the 1980s, the S-K Program focused on fisheries development, but in recent years (2010–2020) funding priorities generally shifted to PDM resource conservation and management. The S-K Program has supported a variety of projects, such as gear technology research, seafood marketing, aquaculture, and others.

II. Proposed Action (Promotion, Marketing, Research, and Development Alternative)

The Proposed Action is to continue funding and implementing projects consistent with NOAA's S-K Program through its existing programmatic framework. Pursuant to the S-K Act, 15 U.S.C. 713c-3, the S-K Program Programmatic Environmental Impact Statement (PEIS) evaluated the continued funding and implementation of the S-K Program's activities to "address the needs of fishing communities in optimizing economic benefits by building and maintaining sustainable fisheries and practices, dealing with the impacts of conservation and management measures, and increasing other opportunities to keep working waterfronts viable." Historically, the S-K Program has had a diverse set of funding priorities, selecting between two and seven funding priorities annually. The permanent, primary priority will always be projects that meet the purpose of PDM of U.S. fisheries and their associated fishing sectors; however, additional priorities can change. The two current priorities are (1) PDM, and (2) Science or Technology that Promotes Sustainable U.S. Seafood Production and Harvesting.

The Proposed Action in the S-K Program PEIS clearly described the component activities that would predictably be implemented over time and the jurisdictions in which the S-K Program would be implemented. The analysis is programmatic and provides sufficient information to predict the general impacts anticipated from implementation of the projects consistent with the S-K Program. Therefore, the description is primarily qualitative, not quantitative. Project-specific impacts will be evaluated, as necessary, on a case-by-case basis based on clear descriptions of the specific parameters of the scope and scale of each proposed project that has been initially selected for S-K Program funding. No S-K Program funds would be spent for project-specific actions until after all applicable environmental compliance requirements for the action are completed.

The types of activities the S-K Program anticipates funding would support the S-K Program's goal and annual funding priorities, and would include several categories of activities, including but not limited to:

- Seafood promotion and marketing
- Research and monitoring
- Gear testing, bycatch reduction, and processing studies
- Aquaculture
- Socioeconomic research
- Outreach, education, and planning

Purpose and Need

The purpose of the Proposed Action is threefold:

- Address the needs of fishing communities, consistent with NOAA's mandate through the S-K Act;
- Ensure that NOAA continues to meet the intent and requirements of the S-K Act; and
- Assist NOAA in meeting its mission, “To understand and predict changes in climate, weather, oceans, and coasts, to share that knowledge and information with others, and to conserve and manage coastal and marine ecosystems and resources.”

The Proposed Action is needed to implement the S-K Act and funding program to build and maintain sustainable fisheries, optimize economic benefits, and increase other opportunities to keep working waterfronts viable.

III. Public Involvement Summary

NOAA published three notices in the Federal Register, two of which resulted in comments.

On February 23, 2021, NOAA published a Notice of Intent (NOI) to prepare a PEIS in the Federal Register (86 FR 10941). This NOI initiated a 30-day scoping period during which the public and agencies were invited to provide input on the scope of the PEIS. In addition, NOAA hosted three virtual public scoping meetings between March 9 and 11, 2021.

NOAA received six distinct written comments and one distinct verbal comment through the public scoping process. NOAA received comments supporting and opposing the preparation of a PEIS for the S-K Program. In general, portions of the comments received were opposed to specific parts of the S-K Program. These comments fell into two categories – opposition to inclusion of offshore finfish aquaculture projects in the PEIS for the S-K Program, and comments about the implementation of S-K Program funding. Rationale, when provided, included concerns for impacts from offshore finfish aquaculture, and concerns about the use of S-K Program funding, respectively. Comments resulted in consideration of an alternative precluding offshore finfish aquaculture projects from S-K Program funding. However, it was not carried forward because it did not meet the screening criteria for developing reasonable alternatives, as explained in the Draft PEIS.

On April 22, 2022, NOAA Fisheries released a Draft PEIS and published a Notice of Availability (NOA) (87 FR 24131). Notice of the availability of the Draft PEIS was subsequently published in the U.S. Environmental Protection Agency’s weekly NOA on May 13, 2022 (87 FR 29310), initiating a 45-day public comment period, which ended on June 27, 2022. NOAA Fisheries received three written comments during the public comment period, two of which contained substantive comments on the Draft PEIS. One comment suggested that NOAA Fisheries prioritize projects that use fewer fossil fuels, apply stricter greenhouse gas (GHG) emission standards, and create stricter mitigation measures for GHG emissions. NOAA Fisheries considered these comments but did not analyze GHG impacts from S-K funded projects in the PEIS further, because NOAA Fisheries had considered GHG impacts and concluded that S-K Program project vessels represent a negligible portion of total oceanic vessel traffic and any impacts to air quality will also be imperceptible or non-detectable, and therefore, negligible. Additionally, any impacts will be minimized through compliance with comprehensive maritime protocols on a project specific basis. The other comment asked that the PEIS be revised to consider the impact of the S-K Program on the global plastic pollution crisis, particularly with respect to derelict or abandoned fishing gear. NOAA

Fisheries noted that it had considered impacts of plastic pollution from fishing gear as part of the overall analysis in the Draft PEIS, but NOAA Fisheries added additional analysis to the project types as it relates to any impacts of marine debris from fishing and gear deployment to carry out S-K Program projects.

On October 19, 2022, NOAA Fisheries released the Final PEIS and published a NOA (87 FR 63480). Notice of the availability of the Final PEIS was subsequently published in the U.S. Environmental Protection Agency's weekly NOA on October 21, 2022 (87 FR 64030), initiating a 30-day waiting period before publication of the Record of Decision, which ended on November 21, 2022. NOAA received no comments during the 30-day waiting period after publishing the Final PEIS.

IV. Decision to Be Made

The decision to continue implementing the S-K Program is informed by a Final PEIS published in the *Federal Register* on October 19, 2022, and documented and explained in this ROD. This ROD includes a statement of the decision made, description of the Proposed Action, synopses of alternatives considered and the factors evaluated in selecting the Proposed Action, a statement that all practicable means to avoid or minimize environmental harm from the alternative selected will be evaluated and implemented on a project-specific basis, a summary of comments received from the public, and a discussion of other required coordination and consultation. Included in the synopses of alternatives is identification of the selected alternative.

This ROD is issued pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. §§ 4321 *et seq.*), the Council on Environmental Quality (CEQ) NEPA regulations at 40 CFR Parts 1500-1508¹ ("CEQ regulations"), and NOAA's procedures for implementing NEPA set forth in NOAA Administrative Order (NAO) 216-6A and its Companion Manual².

V. Alternatives Considered

NOAA considered two alternatives, a No Action Alternative and a Promotion, Marketing, Research, and Development Alternative (Proposed Action). NOAA identified the Promotion, Marketing, Research, and Development Alternative as the preferred alternative.

Under the No Action Alternative, the S-K Program would not fund projects that address the needs of fishing communities, optimize economic benefits by building and maintaining sustainable fisheries, and increase other opportunities to keep working waterfronts viable. Under the No Action Alternative, no impacts on the physical, biological, and social environments would occur from any of the S-K Program project types. However, the long-term beneficial impacts resulting from these projects would also not be realized. The S-K Program would continue to exist and receive funds from permanent appropriation of a portion of import duties on marine products through the S-K Act. However, any evaluation of potential alternative uses of those funds or potential effects from such uses would be speculative in nature and are not included in the analysis of the No Action Alternative.

¹ This PEIS and ROD were prepared using the 2020 CEQ NEPA Regulations. The effective date of the 2020 CEQ NEPA Regulations was September 14, 2020, and reviews begun after this date are required to apply the 2020 regulations unless there is a clear and fundamental conflict with an applicable statute. 40 CFR §§ 1506.13, 1507.3(a). This PEIS and ROD began on February 23, 2021, and accordingly proceeded under the 2020 regulations.

² NOAA NAO 216-6A, *Compliance with the National Environmental Policy Act, Executive Orders 12114, Environmental Effects Abroad of Major Federal Actions; 11988 and 13690, Floodplain Management; and 11990, Protection of Wetlands*, issued April 22, 2016, and the Companion Manual for NAO 216-6A, *Policy and Procedures for Implementing the National Environmental Policy Act and Related Authorities*, issued January 13, 2017.

Under the Promotion, Marketing, Research, and Development Alternative (Proposed Action), NOAA would continue funding projects that are consistent with the scope of the S-K Program. The Proposed Action would enable NOAA to continue focusing its funding and activities on seafood promotion and marketing, gear testing and bycatch reduction studies, aquaculture, research and monitoring, socioeconomic research, and outreach, education, and planning. Under the Proposed Action, continuing to fund S-K Program projects would have no potential for significant impacts. Impacts of the Proposed Action are primarily beneficial, ranging from minor to moderate in magnitude. The few adverse impacts are primarily minor. Anticipated impacts from the six main project types are summarized below.

- Seafood Promotion and Marketing: Minor to moderate, direct and indirect, short-term, beneficial impacts to socioeconomic resources. No impacts to biological and physical resources.
- Research and Monitoring: Minor, direct, short-term, adverse impacts, and minor, indirect, long-term, beneficial impacts to all resources within all environments, except socioeconomic resources. Minor to moderate, direct and indirect, short-term, beneficial impacts to socioeconomic resources.
- Gear Testing, Bycatch Reduction and Processing Studies: Minor, direct, short-term, adverse impacts and minor, indirect, long-term, beneficial impacts to all resources within all environments, except socioeconomic resources. Minor to moderate, direct and indirect, short-term, beneficial impacts to socioeconomic resources.
- Aquaculture: Minor, direct, short-term, adverse impacts to all resources within all environments, except water quality and socioeconomic resources. Minor, indirect, long-term, beneficial impacts to all resources within all environments, except socioeconomic resources. Minor to moderate, direct, short-term, adverse and beneficial impacts to water quality. Minor to moderate, direct and indirect, short-term, beneficial impacts to socioeconomic resources.
- Socioeconomic Research: Minor to moderate, direct and indirect, short-term, beneficial impacts to socioeconomic resources. No impacts to physical and biological resources.
- Outreach, Education and Planning: Minor to moderate, direct and indirect, short-term, beneficial impacts to socioeconomic resources. No impacts to physical and biological resources.

In addition to the two alternatives analyzed in the PEIS, NOAA Fisheries considered, but did not carry forward for further analysis, three other potential alternatives: (1) remove offshore finfish aquaculture projects from the list of possible S-K Program projects to be funded; (2) fund only promotion, development, and marketing projects; and (3) terminate the S-K Program. NOAA Fisheries considered but rejected each of these potential alternatives because they did not meet one or more of the screening criteria for developing reasonable alternatives. In particular, removing offshore finfish aquaculture projects would not meet NOAA's Aquaculture Strategic Plan; funding only promotion, development, and marketing projects would not provide flexibility in priorities within the S-K Program; and terminating the S-K Program would not meet most of the screening criteria, including the purpose and need of the S-K Program, NOAA's mission statement, or relevant strategic plans.

VI. Environmentally Preferable Alternative

The Promotion, Marketing, Research, and Development Alternative is the environmentally preferable alternative. Three of the six main project types under this Alternative (Seafood Promotion and Marketing; Socioeconomic Research; and Outreach, Education, and Planning) would have no impacts to physical or biological resources, and some beneficial impacts to socioeconomic resources. The other three main project types (Research and Monitoring; Gear Testing, Bycatch Reduction, and Processing Studies; and Aquaculture) would all have some minor, direct, short-term adverse impacts, but some minor, indirect, long-term beneficial impacts. Under the No Action Alternative, there would be no impacts to physical, biological, or socioeconomic resources, but the long-term beneficial impacts resulting from S-K Program-funded projects would not be realized. Taken as a whole, the anticipated overall beneficial impacts, and the lack of significant adverse impacts, of the Promotion, Marketing, Research, and Development Alternative make it the environmentally preferable alternative, as compared to the No Action Alternative.

VII. Rationale for Selection of the Promotion, Marketing, Research, and Development Alternative (Proposed Action)

NOAA selected the Promotion, Marketing, Research, and Development Alternative as the preferred alternative. Implementation of the S-K Program under the Proposed Action will allow for the funding of actions through Federal financial assistance, for all possible types of projects that meet the intent of the S-K Act and the needs of U.S. fishing communities, consistent with the scope of the S-K Program. As discussed in the Final PEIS and this ROD, the preferred alternative will ensure that NOAA continues to meet the intent and requirements of the S-K Act and assist NOAA in meeting its strategic goals and its mission, and provide the S-K Program with flexibility in choosing priorities each year while also considering the funding environment. The preferred alternative will allow NOAA to implement the S-K Act and S-K Program to build and maintain sustainable fisheries, optimize economic benefits, and increase other opportunities to keep working waterfronts viable. The no action alternative, on the other hand, would not fund such projects, and thus would not help NOAA to achieve these goals. Therefore, NOAA determined that the Promotion, Marketing, Research, and Development Alternative will best meet the purpose and need and decided to select and implement the Proposed Action. Implementation of the Proposed Action will also include best management practices (BMPs), plus any mitigation measures imposed through compliance with relevant statutes, to address any adverse environmental impacts. These will be determined and incorporated into an action on a project-specific basis, as appropriate.

VIII. Other Required Coordination and Consultation

The Proposed Action may trigger a broad range of environmental compliance processes because of the potential for impacts to regulated public trust resources. Each project funded under the S-K Program is required to undergo a NEPA review prior to any action taken. During the NEPA review process, the project is analyzed under all other applicable environmental laws, statutes, and Executive Orders. NOAA will continue to coordinate and engage in consultation, as appropriate, with partners and other agencies to facilitate compliance with any associated requirements, including when permits are required, on a project-specific basis.

IX. Mitigation Measures, Monitoring, and Best Management Practices

The analysis within the Final PEIS and this ROD concludes that the Proposed Action is not anticipated to result in significant impacts for any resource. As such, NOAA has not proposed a discrete set of additional mitigation measures for implementation of the Proposed Action. However, for all projects funded under the S-K Program, or similar projects, NOAA expects that

BMPs will be implemented, as appropriate, in an effort to avoid or minimize potential effects on physical and biological resources in the affected environment. These measures include standard practices typically employed by researchers and vessel operators and include, but are not limited to, the following:

- As part of the S-K Program application process, NOAA requires all applicants to provide a description of all necessary federal, state, and local government permits and approvals that are necessary for the proposed work to be conducted; a determination of whether or not permits or approvals have been satisfied; and a list of existing federal, state, or local government programs or activities that the project would affect.
- Where practical, research vessels should use fixed moorings, drifting, or live boating (maintaining a stationary location using the vessel engine) to avoid substrate impacts from anchoring.
- All vessel operators should be licensed and highly trained, with an appropriate U.S. Coast Guard license or equivalent NOAA Corps experience for the vessel size.
- Researchers conducting studies funded by the S-K Program will report incidental marine mammal and sea turtle observations as part of their regular protocols.
- When practical, shore-based research activities should avoid sensitive timing periods in areas known to support sea turtle nesting, marine bird nesting, or marine mammal haulouts and rookeries unless those areas are the direct subject of research activities.
- If sensitive marine mammal breeding and rearing areas cannot be avoided during sensitive periods, researchers must comply with the MMPA and obtain an Incidental Harassment Authorization, as applicable.
- All research vessels must attempt to maintain a safe distance between marine mammals and their vessels at all times.
- All vessels operated under S-K Program grants should transit live bottom/artificial habitats at slow speeds and avoid transiting near tide lines where turtles may be foraging.
- Aircraft operations, if required for research or monitoring, would not occur below 200 feet in elevation in proximity to marine mammal haulout sites.
- Projects that outplant shellfish will use only disease-free individuals that are either native to or naturalized to the local environment.
- Projects that require the use of equipment placed on the seafloor, lakebed, or riverbed including anchors will properly secure equipment to minimize bottom disturbance and impacts on benthic habitats.
- All S-K Program aquaculture projects, which utilize field research and assessments of shellfish and laboratory and rearing research on finfish and shellfish, will adhere to the Aquaculture Best Management Practices described in Appendix E of the Final PEIS.

Any additional mitigation measures and BMPs will be identified through consultations and incorporated into an action on a project-specific basis, as appropriate. Therefore, all practicable means to avoid or minimize environmental harm from the alternative selected have been considered and will be incorporated on a project-specific basis and considered adopted for the purposes of the Final PEIS and this ROD.

Informed by the information in the Saltonstall-Kennedy Research and Development Program Final Programmatic Environmental Impact Statement and other relevant material available in the record, including materials referenced or incorporated by reference in the Final PEIS, I certify that NOAA has considered all of the alternatives, information, analyses, and objections submitted by State, Tribal, and local governments and public commenters for NOAA's consideration in the development of the PEIS.

Daniel A. Namur, Director
Financial Assistance Division, NOAA Fisheries

Date