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# Saltonstall-Kennedy Act: Background and Issues

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SUMMARY

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# Saltonstall-Kennedy Act: Background and Issues

The Saltonstall-Kennedy (S-K) Act of 1954 (15 U.S.C. §713c-3) established a program to provide financial support for research and development of commercial fisheries. The S-K Act created a fund (known as the S-K fund) that is financed by a permanent appropriation 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 needs of the U.S. fishing industry, including but not limited to harvesting, processing, marketing, and associated infrastructure. However, Congress allocates most funding to the National Marine Fisheries Service (NMFS) to fund agency activities related to marine fisheries research and management. Some have questioned whether the allocation of S-K funds reflects the original intent of the S-K Act and whether the S-K Grant Program addresses the needs and priorities of the fishing industry.

Since its creation, the S-K fund's authorizing language and 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 (AFPA) amended the S-K Act to authorize a competitive grant program, known as the Saltonstall-Kennedy Grant Program (S-K Grant Program) and the National Program to support fishing industry research and development projects. Both programs are administered by NMFS, part of the National Oceanic and Atmospheric Administration (NOAA). In the 1980s, the S-K Grant Program focused on fisheries development, but in subsequent years, as U.S. fisheries became fully or overexploited, priorities generally shifted to resource conservation and management. The S-K Grant Program has supported a variety of different projects, such as gear technology research, seafood marketing, aquaculture, and others.

The S-K Grant Program is funded by a permanent appropriation of 30% of the previous calendar year's customs receipts from imports of fish and fish products. These funds are transferred into NOAA's Promote and Develop American Fisheries Products and Research Pertaining to American Fisheries Fund (P&D account). Transfers of revenue into the P&D account have grown steadily from $26.7 million in 1980 to $182.8 million in 2020. Congress subsequently transfers most funds into the Operations, Research, and Facilities (ORF) account within NOAA. Congress has directed NMFS to use funds allocated to the ORF account for specific activities including stock assessments, fishing information networks, survey and monitoring projects, cooperative research, and interjurisdictional fisheries. The remaining funds are available for supporting the annual competitive S-K Grant Program and in some cases the National Program.

Since the early 1980s, Congress has transferred most P&D account funds into the ORF discretionary account, sometimes leaving little or no funding for the specified purposes of the S-K Act. Some critics have questioned whether funds from the P&D account could be used more effectively by targeting fishing industry needs, as Congress originally intended. For example, in the 112th, 113th, and 114th Congresses, bills were introduced that would have used most S-K funds to establish a regional fisheries grant program. By contrast, some have expressed concerns that if significant funding is shifted away from NMFS fisheries management programs, additional funds would need to be appropriated or activities such as data collection and fish population assessments could be compromised. These NMFS activities provide information and analyses used to manage and conserve fish populations.

Some also have questioned whether the S-K Grant Program could be modified to provide the fishing industry with more direct input into the S-K grant process. Currently, NMFS, in consultation with the fishing industry, identifies S-K Grant Program priorities and selects the recipients of S-K grants. Over the last several Congresses, bills have been introduced that would change the procedure for screening, evaluating, and awarding S-K grants. In the 116th Congress, the American Fisheries Advisory Committee Act (H.R. 1218 and S. 494) would establish an industry advisory committee to identify the needs of the fishing industry, develop requests for proposals, review grant applications, and select grant applications for approval. S. 494 was reported on August 16, 2019, by the Senate Committee on Commerce, Science, and Transportation; on September 18, 2019, H.R. 1218 was ordered to be reported by the House Committee on Natural Resources.

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# Introduction

The Saltonstall-Kennedy (S-K) Act of 1954 (15 U.S.C. §713c-3) established a fund (known as the S-K fund) to support U.S. fisheries development and research. Funding originates from a transfer by the Secretary of Agriculture into the Promote and Develop American Fisheries Products and Research Pertaining to American Fisheries Fund (P&D account). The P&D account is administered by the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration (NOAA) in the Department of Commerce.[1] Transfers of revenue into the P&D account have grown steadily from $26.7 million in 1980 to $182.8 million in 2020. Currently, the bulk of P&D account revenue is transferred into the Operations, Research, and Faculties (ORF) account, which supports fisheries science and management administered by NMFS.[2] The remaining funds support the Saltonstall-Kennedy Grant Program (S-K Grant Program) and sometimes the National Program, which focus on fishing industry research and development projects.

Historically, the use of the S-K fund has evolved with changing fisheries management institutions and changing needs of U.S. fisheries.[3] Congress is continuing to consider whether current funding from the P&D account meets the needs of U.S. fisheries and the U.S. fishing industry. Some have questioned whether the U.S. commercial fishing industry receives sufficient opportunities to provide input into the S-K competitive grant process.[4] Due in part to what they perceive as a lack of industry input, some critics assert that NMFS has not distributed funding in accordance with the primary purposes of the S-K Act, such as supporting projects related to the marketing of fish.[5] Another concern is the allocation of funds, and specifically whether there is a need for more financial support of S-K competitive grants than for funding NMFS fisheries science and management activities in the ORF account.[6] However, if funding were reallocated to provide greater support of the S-K Grant Program, Congress may need to consider implications of the likely decrease in funds that would be transferred to ORF from the P&D account to support NMFS fishery research and management activities. **Figure 1** summarizes the flow of funding from the P&D account into NOAA and the S-K program.

[1] NMFS is also known as National Oceanic and Atmospheric Administration (NOAA) Fisheries.

[2] The ORF account, NOAA's largest, funds a portion of all of NOAA's line office budgets, including the National Weather Service; National Ocean Service; Oceanic and Atmospheric Research; NMFS; National Environmental Satellite, Data, and Information Service; and the Office of Marine and Aviation Operations.

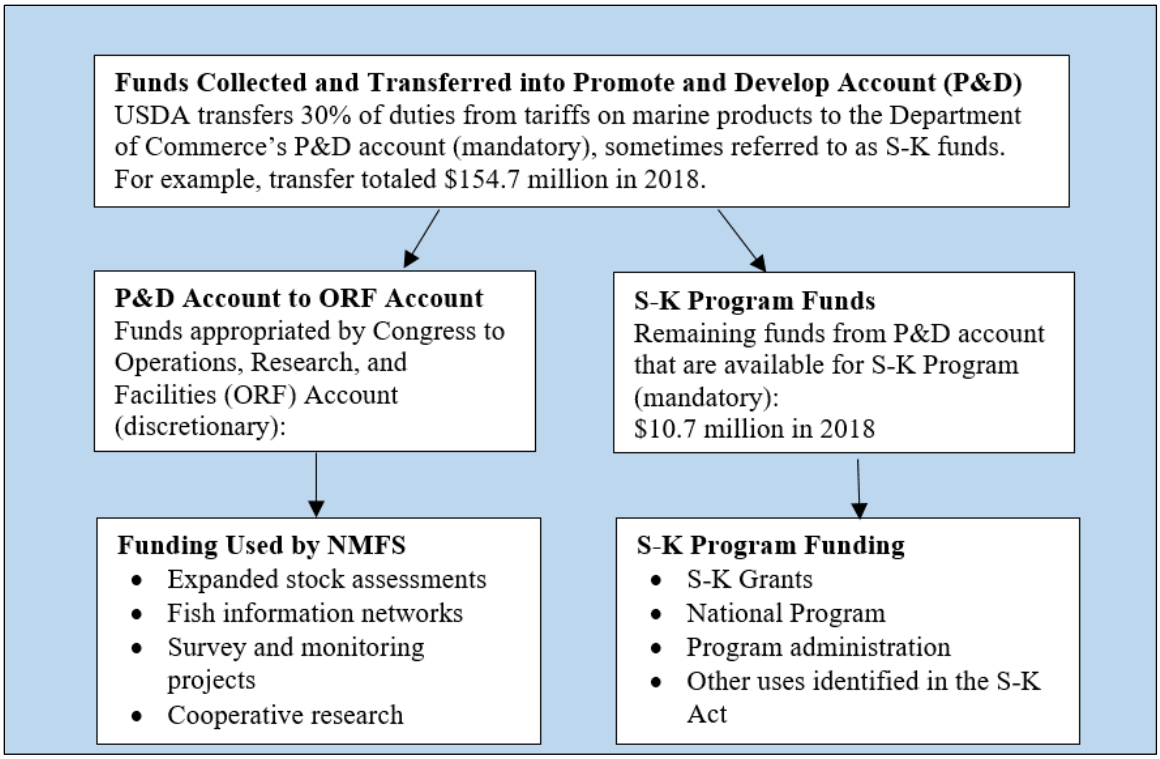
[3] The Magnuson-Stevens Fishery Conservation and Management Act (P.L. 94-265) defines *fishery* as "(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and (B) any fishing for such stocks."

[4] Senator Dan Sullivan, "Senators Pass Bill Out of Committee to Give Fishermen Voice in Grant Process, Boost U.S. Seafood," press release, June 29, 2016.

[5] U.S. Congress, Senate Committee on Commerce, Science, and Transportation, *American Fisheries Advisory Committee Act*, committee print, prepared by Committee on Commerce, Science, and Transportation, 115th Cong., 1st sess., December 11, 2017, p. 2.

[6] "Senators Kerry and Snowe Will Introduce Bill to Restore Intent of Saltonstall-Kennedy Act," *Saving Seafood*, March 9, 2012.

**Figure 1. Flow and Use of Saltonstall-Kennedy Act (S-K) Funds**




**Source:** Adapted from NOAA Fisheries, Saltonstall-Kennedy Research Program, Presentation provided to New England Fishery Management Council, December 6, 2018, at https://s3.amazonaws.com/nefmc.org/7_NE-Council-Presentation_Feedback-Sessions-Final.pdf.

**Notes**: NMFS = National Marine Fisheries Service; Saltonstall-Kennedy (S-K) Act of 1954 (15 U.S.C. §713c-3).

# The Saltonstall-Kennedy Act

## Current Provisions

The S-K Act requires the Secretary of Agriculture to transfer 30% of duties on marine products collected under the so-called Section 32 Program to the Secretary of Commerce.[7] These funds are transferred into the P&D account and made available to NMFS. Currently, the uses of S-K funds as specified in 15 U.S.C. 713c-3 include the following:[8]

- providing grants in support of fisheries research and development projects under subsection (c),
- implementing a national fisheries research and development program under subsection (d),
- implementing the Northwest Atlantic Ocean Fisheries Reinvestment Program, and
- funding the federal share of a fisheries capacity reduction fund.

[7] The program's name is from the section that established the program, Section 32 of the Act of August 24, 1935, Chapter 641, §32; 7 U.S.C. §612c.

[8] 15 U.S.C. §713c-3(c) and (d).

The S-K Act requires the Secretary of Commerce to use no less than 60% of funds to make direct industry-assistance grants pursuant to subsection (c). Subsection (c) refers to topics that may be addressed by research and development grants, including but not limited to harvesting, processing, marketing, and associated infrastructures. Subsection (c) also identifies the terms and conditions of grant awards.

The S-K Act requires the balance of S-K funds to be allocated to finance NMFS activities that support development of U.S. fisheries pursuant to subsection (d). Subsection (d) refers to a national fisheries research and development program (including but not limited to harvesting, processing, marketing, and associated infrastructures), if not adequately covered by projects assisted under subsection (c) of this section or as the Secretary deems appropriate.

## History of the Saltonstall-Kennedy Act

In 1935, Congress passed legislation to provide financial support for domestic agricultural commodity markets. Section 32 of the Act of August 24, 1935, provided a permanent appropriation equal to 30% of gross receipts from all duties collected under customs laws.[9] The act authorized the Secretary of Agriculture to use these funds to support exports and domestic consumption of agricultural commodities. The Act of August 11, 1939, authorized the Secretary of Agriculture to transfer up to $1.5 million from funds collected under Section 32 to support the fishing industry. Funds were transferred to the Federal Surplus Commodities Corporation to purchase and distribute surplus fishery products and to the Secretary of the Interior to promote markets for fishery products of domestic origin.[10] **Table 1** provides a history of legislative changes to the S-K Act.

In 1954, the S-K Act amended the Act of August 11, 1939, to provide additional funding from Section 32 funds to support the U.S. fishing industry.[11] The S-K Act authorized the transfer from the Secretary of Agriculture to the Secretary of the Interior, from the larger Section 32 account's funding, an amount equal to 30% of gross receipts from duties collected on fishery products.[12] These funds were maintained in a separate account for use by the Secretary of the Interior to support the flow of fishery products in commerce, develop and increase markets for fishery products, and conduct research. Annual expenditures from the fund were limited to $3 million, and the balance of the fund was not allowed to exceed $5 million at the end of any year. In 1956, the S-K Act was amended to remove the limit on annual expenditures from the fund. The S-K Act also authorized the Secretary of the Interior to appoint a fishing industry advisory committee to provide guidance on the formulation of policy, rules, and regulations pertaining to requests for assistance, and other matters.[13]

In 1976, the Fishery Conservation and Management Act (FCMA; P.L. 94-265) established a 200-nautical mile fishery conservation zone (FCZ) and brought marine fisheries within the FCZ under domestic control.[14] Foreign fishing was allowed to continue in the FCZ, but the domestic fishing

[9] The Act of August 24, 1935, Chapter 641, §32; 7 U.S.C. §612c. See CRS Report RL34081, *Farm and Food Support Under USDA's Section 32 Program*, coordinated by Jim Monke.

[10] Act of August 11, 1939, Chapter 696; 15 U.S.C. §713c-2. The Act of 1939 authorized the Secretary of Agriculture to transfer these funds to the Federal Surplus Commodities Corporation under the Section 32 program.

[11] Act of July 1, 1954, Chapter 447; 15 U.S.C. §713c-3.

[12] Products included fish, shellfish, mollusks, crustaceans, aquatic plants and animals, and any products thereof, including processed and manufactured products.

[13] Act of July 1, 1954, Chapter 447, §2(c).

[14] On March 10, 1983, President Reagan issued Proclamation 5030, which established the 200-nautical mile exclusive

industry was granted priority fishing rights under the FCMA.[15] In the following years, U.S. policy emphasized development of domestic fisheries and replacement of foreign fishing with domestic fishing in the FCZ.[16] According to the Government Accountability Office, until 1979, NMFS used nearly all S-K funds to support fisheries management and development activities; it granted only small amounts to the fishing industry for development projects.[17] In 1979, likely because of growing industry support of domestic fisheries development, NMFS made available approximately $5.3 million of S-K funds to regional fisheries development foundations, universities, private industry, and state and local governments.[18]

In 1980, Congress formally authorized the current competitive S-K Grant Program in Section 210 of the American Fisheries Promotion Act (AFPA; P.L. 96-561). The AFPA directed the Secretary of Commerce to use at least 50% of S-K funds for the S-K Grant Program and the balance of funds for a National Program. Both programs supported research and development efforts to address areas such as harvesting, processing, marketing, and related infrastructures. By 1980, the transfer from the U.S. Department of Agriculture (USDA) had grown to $26.7 million (**Table A-1**). The AFPA also formally transferred responsibility for administering the fund from the Secretary of the Interior to the Secretary of Commerce. The House committee report accompanying the AFPA noted that the definition of *fishery* includes recreational fishing and that recreational projects would be eligible for grants.[19] The AFPA also removed a section that established the S-K fishing industry advisory committee; the advisory committee had been previously terminated pursuant to the Federal Advisory Committee Act (P.L. 92-463).[20]

In subsequent years, Congress made additional changes to the allocation and use of the S-K fund (**Table 1**). The Highway Improvement Act of 1982 (P.L. 97-424) increased the share of funds used for the competitive grant program from 50% to 60%. In the following years, potential uses of the fund were broadened to include the Fisheries Promotion Fund (P.L. 99-659), the Northwest Atlantic Ocean Fisheries Reinvestment Fund (P.L. 102-567), and the federal share of a fishing capacity reduction program (P.L. 104-297). Congress established the Fisheries Promotion Fund to support domestic and international markets for domestically produced seafood. A portion of S-K funds was transferred to the fund from FY1987 to FY1991 for this purpose (**Table A-1**).[21]

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economic zone (EEZ). The EEZ provided sovereign rights over the natural resources in the zone, including fisheries, and replaced the fishery conservation zone established by the Fishery Conservation and Management Act (P.L. 94-265) in 1976.

[15] Foreign fishing was allocated the surplus after U.S. domestic fishing needs were met. Allocations to foreign operations were terminated when the surplus was completely utilized by U.S. domestic fishing.

[16] The capacity of U.S. domestic fishing fleets increased during the 1980s; by 1990, domestic fleets had replaced nearly all foreign fishing fleets operating in the U.S. EEZ.

[17] U.S. Government Accountability Office (GAO), *Uses of Saltonstall-Kennedy Fisheries Development Funds*, August 30, 1985, at http://www.gao.gov/assets/150/143275.pdf. GAO was called the General Accounting Office when the report was written in 1985. Hereinafter cited as GAO, 1985.

[18] GAO, 1985.

[19] U.S. Congress, House Committee on Merchant Marine and Fisheries, *American Fisheries Promotion Act*, to accompany H.R. 7039, 96th Cong., 2nd sess., June 26, 1980, H. Rept. 96-1138, p. 39.

[20] 5 U.S.C. App., Section 14 of Federal Advisory Committee Act (P.L. 92-463) terminated advisory committees within two years of the law's enactment (January 5, 1973) unless the committee was renewed within that two-year period or, in the case of a committee established by Congress, its duration is otherwise provided by law.

[21] Funding levels included $750,000 in FY1987, $2.6 million in FY1988, $3 million in FY1989, $2 million in FY1990, and $2 million in FY1991.

**Table 1. History of Legislation Related to the Saltonstall-Kennedy Act**

| Year | Act | Brief Description |
|---|---|---|
| 1935 | Act of August 24, 1935, Chapter 641, Section 32 | Established a permanent appropriation (§32) to set aside 30% of annual customs receipts; supported the farm sector by purchasing surplus commodities and funding a variety of other activities. |
| 1939 | Act of August 11, 1939 (P.L. 76-392), Chapter 696, Section 1 | Authorized the purchase and distribution of surplus fishery products with funding of up to $1.5 million per year. |
| 1954 | Act of July 1, 1954 (Saltonstall-Kennedy Act), Chapter 447 | Required U.S. Department of Agriculture to transfer to the Department of Commerce 30% of duties on marine products to fund U.S. fisheries and limited expenditures to no more than $3 million per year. |
| 1956 | Fish and Wildlife Act of 1956, Act of August 8, 1956, Chapter 1036, Section 12(b) | Removed limitation on annual expenditures. |
| 1980 | American Fisheries Act (P.L. 96-561), Title II, Section 210 | Authorized competitive grants and national fisheries research and development programs; directed that at least 50% of funds be used for competitive grant program, with the balance for the National Program. |
| 1983 | Highway Improvement Act of 1982 (P.L. 97-424), Title IV, Section 423(a) | Increased competitive grant share to at least 60% of funds; stipulated that S-K funds were to be used exclusively for promoting U.S. fisheries. |
| 1986 | Fish and Seafood Promotion Act of 1986 (P.L. 99-659), Title II, Section 209(e) | Expanded authorized uses of S-K funds to include the Fisheries Promotion Fund for several years. |
| 1992 | National Oceanic and Atmospheric Administration Authorization Act of 1992 (P.L. 102-567), Title IX, Section 902(c) | Expanded authorized uses of S-K funds to include implementation of the Northwest Atlantic Ocean Fisheries Reinvestment Program. |
| 1996 | Sustainable Fisheries Act (P.L. 104-297), Title I, Section 116(c) | Expanded authorized uses of S-K funds to include the federal share of a fishing capacity reduction program. |
| 2013 | Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6), Title I | Restricted the use of the Promote and Develop Fisheries Products funds transferred to the Operations, Research, and Facilities account to cooperative research, annual stock assessments, data collection, interjurisdictional fisheries grants, and fisheries information networks. Subsequent appropriations acts have adopted similar language. |

**Source:** CRS.

## Revenue

The revenues that are transferred into the P&D account from USDA are derived from duties on fishery products, "including fish, shellfish, mollusks, crustaceans, aquatic plants and animals, and any products thereof, including processed and manufactured products."[22] The P&D account is a mandatory fund that requires no periodic reauthorization or appropriation.[23] Transfers from

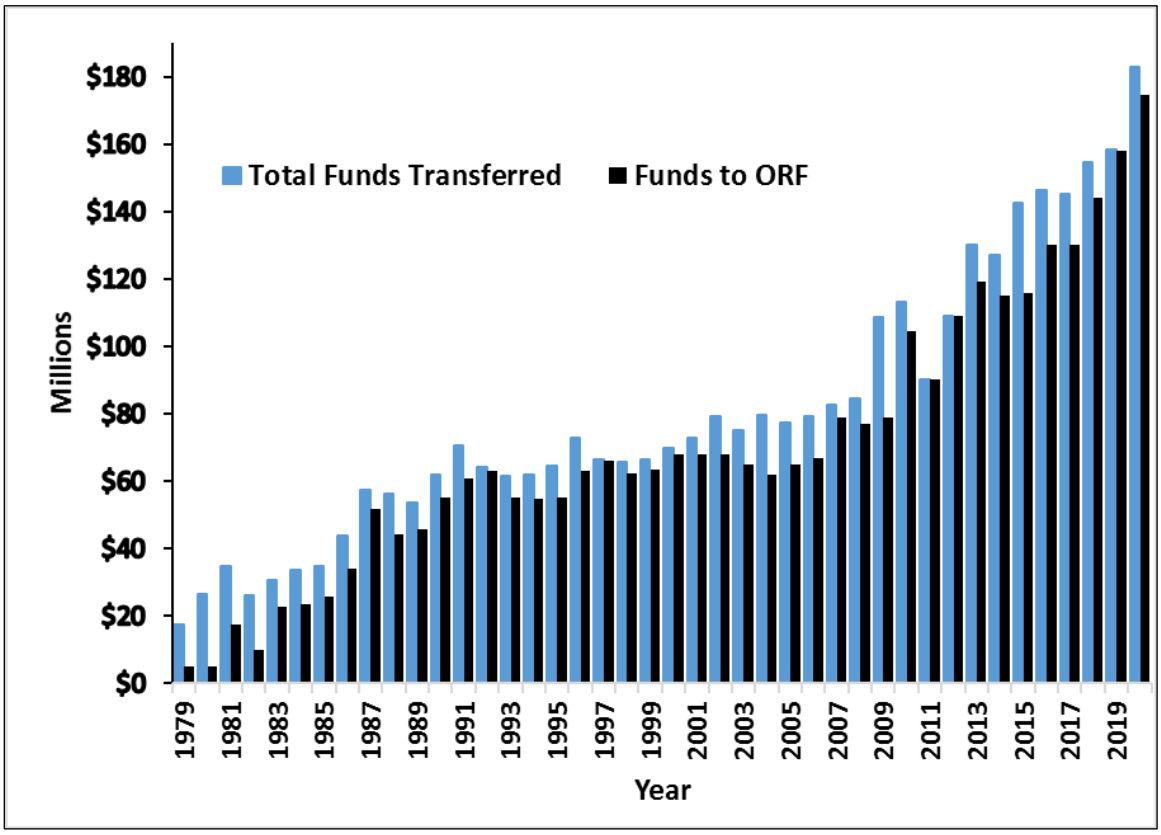
[22] Duties are collected by calendar year but not appropriated for use until the subsequent fiscal year (i.e., collections from CY2012 would be appropriated in FY2014).

[23] When funds from the P&D account are used to offset ORF funding, the funding is considered to be discretionary because the ORF is a discretionary account. However, P&D funds used for the S-K Grant Program or the National

USDA to NOAA's P&D account have steadily increased from $26.7 million in 1980 to $182.8 million in 2020 (**Figure 2**).[24] In CY2017, approximately 77% of revenues were from duties collected on imports of nonedible marine products, including jewelry, ink, various chemicals, and skins.[25] The remaining 23% of revenues were from duties on imports of edible seafood products. Tariffs on edible fish products have been reduced or eliminated for many seafood products, and most remaining duties are collected on canned products such as tuna or processed products such as fish sticks. In CY2017, most duties were collected on imports from India ($89.9 million), China ($86.2 million), Thailand ($79.8 million), Italy ($53.2 million), and France ($36.2 million).[26]

**Figure 2. Total Funds Transferred From USDA and Funds Transferred to Operations, Research, and Facilities (ORF)**

(FY1979 to FY2019)




**Source:** National Oceanic and Atmospheric Administration (NOAA), Budget Office, Email, January 20, 2020; National Marine Fisheries Service (NMFS), *Saltonstall-Kennedy Grant Program: Fisheries Research and Development Reports* 2008, 2001, 1991-1992, 1987-1990, and 1982-1986.

**Notes:** USDA = U.S. Department of Agriculture. For a detailed account of funding, see **Table A-1**.

Program are identified in law and used by NOAA as mandatory funding.

[24] According to NOAA's FY2021budget request, a legislative proposal is being developed to appropriate mandatory funding to the Department of Commerce directly rather than as a transfer from USDA. This change would be part of a broader reform of the USDA Section 32 program.

[25] NOAA Ocean and Coastal Budget Formulation and Communication, NOAA Budget Office, July 12, 2018. For more information on tariffs on fish products, see Chapters 3 and 16 of the Harmonized Tariff Schedule, at https://hts.usitc.gov/current.

[26] NOAA Ocean and Coastal Budget Formulation and Communication, NOAA Budget Office, July 12, 2018.

# Use of Funds

## Operations, Research, and Facilities Account

Congress has allocated a growing portion of revenue in the P&D account to the ORF account rather than funding the S-K Grant Program as prescribed by the S-K Act. The transfer to the ORF account has ranged from $5 million, or 29% of the P&D account in 1979, to over $130 million in the five most recent years (FY2016-FY2020), which is more than 90% of the annual transfer into the P&D account (**Table 2**). ORF funds are used "to support fisheries research and management activities including the analysis and decision-making that supports ecosystem approaches to management."[27] Often the allocation of most funds to the OFR account limits the funding that is available for the specified purposes of the S-K Act.

In the last three fiscal years (FY2018-FY2020), the NOAA budget request proposed that all P&D account funding be transferred to the ORF account in support of NMFS activities. However, the Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6), restricted the use of P&D funds that are transferred into the ORF account. It limited this funding to fisheries activities related to cooperative research, annual stock assessments, survey and monitoring projects, interjurisdictional fisheries grants, and fish information networks. In subsequent years, agency budget requests have reflected this intent by identifying similar areas, and Congress has continued to include similar language in appropriations laws and accompanying Senate committee reports.[28]

## Remaining Funding

In most years, the majority of the funds that remain in the P&D account after the transfer into the ORF account have been used for the competitive S-K Grant Program as described in subsection (c) of the S-K Act and the National Program as described in subsection (d) (**Table 2**).[29] The amount of remaining funding for the S-K Grant Program has varied considerably from year to year, ranging from no funding in FY2011 and FY2012, when Congress did not leave any remaining funding for S-K program, to its highest level of $29.5 million in FY2009 (**Table 2**). The S-K Act directs the Secretary of Commerce to use no less than 60% of funds for fisheries research and development grants pursuant to subsection (c). The Secretary also is required to use the remaining funds to finance NMFS activities directly related to U.S. fisheries development, as outlined in subsection (d). Since 1982, S-K grant funding has been less than 30% of total transfers from USDA, and it has been significantly lower in most years. In many years, Congress did not fund the National Program or provided a small portion of the remaining funds for that purpose.

Historically, financial support also was provided for the Fisheries Promotion Fund, which was funded between $750,000 and $3 million from FY1987 to FY1990. (**Table A-1**). No funding has been provided for the Fisheries Promotion Fund since 1991. From FY2003 to FY2006, most funding remaining after the ORF transfer was used for congressionally directed projects that supported several regional seafood marketing initiatives (**Table A-1**).[30] Annual S-K reports and

[27] NOAA, NMFS, *The Saltonstall-Kennedy Grant Program: Fisheries Research and Development, Report 2011*.

[28] P.L. 113-76, P.L. 113-235, P.L. 114-113, and P.L. 115-31 added the S-K Grant Program to the list of fishery-related activities that should be funded from the P&D account. Fishery-related activities identified in P.L. 115-141, P.L. 116-6, and P.L. 116-93 included the S-K Grant Program, fishery data collection, surveys and assessments, and interjurisdictional fisheries.

[29] 15 U.S.C. §713c-3(c) and (d). A portion of the remainder also has been used to administer the use of S-K funds for the S-K Grant Program and the National Program.

[30] S-K funds also have supported congressionally directed projects focused generally on regional marketing initiatives, including $10 million in FY2003, $17.5 million in FY2004, $12 million in FY2005, and $12 million in FY2006.

other sources indicate that S-K funds have not been used for either the Northwest Atlantic Ocean Fisheries Reinvestment fund or the fishing capacity reduction program.

## Saltonstall-Kennedy Grant Program

According to NMFS, the S-K program's general goals are to 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. Historically, examples of areas funded by the S-K Grant Program have included enhancing markets for fishery products, examining fishery management options, and developing more efficient and selective fishing gear. Projects often have focused on both state and federal marine commercial fisheries, but other sectors—such as aquaculture and recreational fishing—also have been eligible for and received support.

NMFS solicits proposals as a federal funding opportunity on the federal grants website, which includes funding priorities, application requirements, and proposal evaluation criteria. Funding priorities are developed in coordination with regional fishery management councils, interstate fishery commissions, NMFS science centers, and NMFS regional offices. For example in 2020, S-K program priorities are seafood promotion, development, and marketing, and science or technology that promotes sustainable U.S. seafood production and harvesting.[31]

The review process includes (1) pre-proposal review, (2) technical review and ranking, (3) panel review and ranking, and (4) grant selection. Pre-proposals undergo an administrative review by NOAA staff, a review by subject matter experts, and S-K program evaluation. Full review includes administrative screening; technical review by federal, public, and private sector experts; and funding recommendations by program and NMFS leadership. NMFS also may solicit comments and evaluation from a constituent review panel composed of three or more representatives chosen by the NMFS assistant administrator of fisheries.[32]

Funding of proposals is recommended by the S-K program manager; constituent panel ranking (if applicable); and input from NMFS regional directors, science center directors, and office directors. The agency selecting official, the NMFS assistant administrator, determines which proposals will be funded. The decision is based on the order of the proposals' ranking and other considerations, such as availability of funding, balance and distribution of funds, and duplication.[33] Recently, NMFS has been considering whether the program and fishing industry would benefit from placing greater emphasis on monitoring approved projects and disseminating results. During 2019, feedback sessions were arranged with regional fishery management councils to solicit constituents' views on how to improve the dissemination and use of results from funded projects.[34]

[31] NOAA Fisheries, "Saltonstall-Kennedy Grant Program: Funding Opportunities," December 2019, at https://www.fisheries.noaa.gov/grant/saltonstall-kennedy-grant-program.

[32] Panelists are chosen from the fishing industry, state government, nongovernmental organizations, and others.

[33] NMFS, "FY20 Saltonstall-Kennedy Competition," May 31, 2019, at https://www.grants.gov/web/grants/search-grants.html?keywords=saltonstall (search in "Archived" status).

[34] Mid-Atlantic Fishery Management Council, "Saltonstall-Kennedy Grant Program - Public Feedback Webinar," press release, June 14, 2019, at http://www.mafmc.org/council-events/2019/saltonstall-kennedy-grant-program-public-feedback-webinar.

**Table 2. Requested and Enacted ORF Transfers and S-K Grant Funding**

(funding in thousands of dollars)

| Year | Request ORF Transfer | Request S-K Grant Funding | Enacted ORF Transfer | Remaining Funding for S-K Program[a] |
|---|---|---|---|---|
| 2007 | 77,000 | 2,283 | 79,000 | 3,816 |
| 2008 | 77,000 | 5,816 | 77,000 | 7,594 |
| 2009 | 79,000 | 5,594 | 79,001 | 29,510 |
| 2010 | 104,600 | 9,400 | 104,600 | 8,771 |
| 2011 | 104,600 | 8,771 | 90,239 | 0 |
| 2012 | 66,200 | 5,000 | 109,098 | 0 |
| 2013 | 119,064 | 5,000 | 119,064 | 11,172 |
| 2014 | 123,164 | 8,208 | 115,000 | 12,187 |
| 2015 | 123,164 | 8,208 | 116,000 | 26,615 |
| 2016 | 130,164 | 13,574 | 130,164 | 16,225 |
| 2017 | 130,164 | 15,647 | 130,164 | 14,909 |
| 2018 | 154,199 | 0 | 144,000 | 10,664 |
| 2019 | 154,868 | 0 | 157,980 | 426 |
| 2020 | 158,407 | 0 | 174,774 | 8,009 |

**Sources:** NOAA, Budget Office, Email, January 20, 2020; NOAA, Budget Office, Email, December 2, 2019.

a. Includes the S-K Grant Program, National Program, and NMFS administrative costs.

# Issues for Congress

Some fishing industry representatives have questioned whether the U.S. commercial fishing industry and fishing communities could benefit from greater direct support from S-K funding. Two of the main concerns have been whether the competitive grant process should include greater fishing industry input and whether a greater portion of P&D funds should be allocated to the annual S-K Grant Program. Some assert that NMFS decides by its own criteria which programs receive grants and that in some cases the fishing industry's priorities do not match those of NMFS.[35] They contend that broader, more direct fishing industry participation is needed to inform the process of identifying the needs and priorities of grant funding.

Another concern has been whether a greater portion of P&D funding should be allocated to the S-K Grant Program.[36] Some contend that Congress, as reflected in statute, intended to provide at least 60% of funds to the S-K Grant Program and remaining funding to the National Program for fishing industry research and development.[37] However, shifting significant funding from current NMFS activities may prompt questions about whether additional discretionary funding would be forthcoming to support other NMFS functions, such as data collection and fish population assessments.

[35] Senator Dan Sullivan, "Sullivan Applauds Senate Passage of American Fisheries Advisory Committee Act," press release, July 28, 2018.

[36] Leslie Taylor, "Opinion: Don't Be Fooled by NOAA Grants Increase," October 24, 2014.

[37] Senator Kerry, "Introduction of S. 2184," *Congressional Record*, daily edition, March 12, 2012, p. S1579.

# Congressional Actions

## Funding Allocation

Several bills were introduced during the 112th, 113th, and 114th Congresses that would have significantly changed the allocation of P&D funding. Similar versions of the Fisheries Investment and Regulatory Relief Act in each of these Congresses would have allocated funding to fisheries management regions and would have established a regional fisheries grant program.[38] Under these bills, each regional fishery management council would have established a fishery investment committee, which would focus resources on strengthening regional fisheries management.[39] Each fishery investment committee would have

- developed a regional fishery investment plan;
- reviewed grant applications and projects to implement regional fishery investment plans; and
- made recommendations on grant applications.

The regional fishery investment plans would have identified research, conservation, and management needs, as well as corresponding actions to rebuild and maintain fish populations and associated fisheries. Each regional investment plan would have been required to include topics related to

- supporting stock surveys, stock assessments, and cooperative fishery research;
- improving the collection and accuracy of recreational and commercial data;
- analyzing social and economic impacts of fishery management decisions;
- providing financial assistance and investment for fishermen and fishing communities;
- developing methods or technologies to improve the quality and value of landings;
- researching and developing conservation engineering technologies; and
- restoring and protecting fish habitat.[40]

Investment plans would have been reviewed by the Secretary of Commerce to ensure consistency with the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. §§1801 et seq.). Limited funding also would have been provided for administrative costs of the grant program and for the development and implementation of investment plans.

Under these versions of the Fisheries Investment and Regulatory Relief Act, the Secretary of Commerce also would have established a regional fisheries grant program to provide funds to advance the regional priorities identified in the regional fishery investment plans. The Secretary would have awarded grants only to projects that would implement regional fishery investment plans and to projects recommended by respective regional fishery investment committees and approved by each regional fishery management council. The Secretary would have been required

[38] The Fisheries Investment and Regulatory Relief Act of 2012 (H.R. 4208 and S. 2184) was introduced during the 112th Congress; the Fisheries Disaster Relief and Research Investment Act (H.R. 799) was introduced during the 113th Congress; and the Fisheries Investment and Regulatory Relief Act of 2015 (H.R. 2106) was introduced in the 114th Congress. No further action was taken following introduction of any of these bills.

[39] Regional fishery management councils were established under the Fishery Conservation and Management Act (currently known as the Magnuson-Stevens Act) to develop fishery management plans that conserve and manage fisheries in federal waters.

[40] Research priority plans are developed by regional fishery management councils according to 16 U.S.C. §1852(h)(7).

to allocate 70% of funds from the P&D account to the eight council regions. Half of this funding would have been allocated equally among the councils, and half would have been distributed according to the combined economic impact of recreational and commercial fisheries in each region.

The Secretary also would have been required to allocate 20% of funds for a national fisheries investment program that would support rebuilding and maintaining fish populations and promote sustainable fisheries. Funding would have been divided equally among five general areas: (1) regional fisheries commissions; (2) seafood promotion; (3) fisheries management; (4) fisheries disasters; and (5) other needs, including highly migratory species and international fisheries. Each of the bills would have limited the transfer of ORF funding from the P&D account to 10% of receipts. The legislation also included a provision to provide funding to review regulations and procedures used to implement management under the Magnuson-Stevens Fishery Conservation and Management Act and to make recommendations to streamline regulations and incorporate new information into the management process.

### Stopping the Transfer to the Operations, Research, and Facilities Account

In the 114th Congress, a section of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2014 (S. 2991) would have attempted to stop the transfer of P&D funds to the ORF account. According to Section 205 of S. 2991, it would not be in order in the Senate or in the House of Representatives to consider any bill, resolution, amendment, or conference report that would reduce any amount in the fund (P&D account).[41] This change in the Senate and House rules would have allowed any Senator or Representative to stop the transfer of P&D funds to the ORF discretionary account by making a point of order that a rule is being violated. No further action was taken following the introduction of S. 2991.

## American Fisheries Advisory Committee Act

In the 116th Congress, identical versions of the American Fisheries Advisory Committee Act (S. 494 and H.R. 1218) were reported or ordered reported from the committees of jurisdiction in the Senate and the House.[42] The bills would establish an American fisheries advisory committee and would change the process for awarding S-K competitive grants. The committee would

- identify the needs of the seafood industry;
- develop requests for proposals;
- review grant applications; and
- select grant applications for approval.

Currently, NMFS is responsible for these functions, and NMFS considers industry input during the selection process. Both bills also would expand the specified purposes of fisheries research

[41] A point of order is a claim from the floor made by a Senator or Representative that a rule of the House of Representatives or Senate is being violated. If the chair sustains the point of order, the action in violation of the rule is not permitted.

[42] S. 494 was reported by the Senate Committee on Commerce, Science, and Transportation on August 16, 2019, and H.R. 1218 was ordered to be reported by the House Committee on Natural Resources on September 18, 2019. Similar versions also were introduced in previous Congresses, including S. 3087, reported in the 114th Congress; S. 1322, passed the Senate in the 115th Congress; and H.R. 5775, introduced in the 114th Congress; and H.R. 214, introduced in the 115th Congress.

and development projects by explicitly including projects that focus on fisheries science and recreational fishing.[43]

The committee would be composed of representatives from six geographic regions of the United States.[44] The Secretary of Commerce would appoint three members from each region, including (1) an individual with experience as a seafood harvester or processor, (2) an individual with experience in recreational or commercial fishing or growing seafood, and (3) an individual who represents the fisheries science community or the relevant regional fishery management council. The Secretary also would appoint four at-large members, including (1) an individual who has experience in food distribution, marketing, retail, or service; (2) an individual with experience in the recreational fishing industry supply chain; (3) an individual with experience in the commercial fishing industry supply chain; and (4) an individual who is an employee of NMFS with expertise in fisheries research.[45] The committee members would meet twice annually, and meetings would rotate among the six regions.

The Secretary of Commerce would identify three or more experts to undertake technical review of grant applications, which would occur prior to committee review. The Secretary also would be required to develop guidance related to technical review, including criteria for elimination of applications that fail to meet a minimum level of technical merit. A grant would not be approved unless the Secretary was satisfied with the applicant's technical and financial capability. Based on the committee's recommendations, the Secretary would evaluate the proposed project according to listed criteria and other criteria the Secretary may require. If the Secretary fails to provide funds to a grant selected by the committee, the Secretary would be required to send a written document to the committee justifying the decision.

[43] Projects related to recreational fisheries and science historically have been included, but these projects are not explicitly considered in the statute.

[44] Region 1 would include Alaska and the Western Pacific, including Hawaii, the Commonwealth of the Northern Mariana Islands, and the territories of Guam and American Samoa. Region 2 would include Connecticut, Rhode Island, Massachusetts, New Hampshire, and Maine. Region 3 would include Texas, Louisiana, Mississippi, Alabama, Florida, Arkansas, Puerto Rico, and the Territory of the U.S. Virgin Islands. Region 4 would include California, Oregon, Washington, and Idaho. Region 5 would include New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia. Region 6 would include Michigan, Minnesota, Wisconsin, Illinois, Indiana, Ohio, and Pennsylvania.

[45] Individuals with experience in recreational and commercial supply chains are defined as fishermen, manufacturers, retailers, and distributers.

# Appendix. History of Financing Under the Saltonstall-Kennedy Act

**Table A-1. Financing History of the Saltonstall-Kennedy Program**

(in thousands of dollars)

| Fiscal Year | Transfer to P&D[a] (nominal $) | Transfer to P&D (real $[b]) | NMFS ORF Offset | Fisheries Promotion Fund | Directed by Congress[c] | Remainder[d] |
|---|---|---|---|---|---|---|
| 1979 | 17,436 | 51,373 | 5,000 | 0 | 0 | 12.436 |
| 1980 | 26,679 | 72,265 | 5,000 | 0 | 0 | 21,697 |
| 1981 | 35,000 | 86,368 | 17,500 | 0 | 0 | 17,500 |
| 1982 | 26,200 | 60,433 | 10,000 | 0 | 0 | 16,200 |
| 1983 | 30,600 | 67,635 | 22,600 | 0 | 0 | 8,000 |
| 1984 | 33,600 | 71,705 | 23,600 | 0 | 0 | 10,000 |
| 1985 | 34,900 | 72,066 | 25,900 | 0 | 0 | 9,000 |
| 1986 | 43,700 | 88,241 | 34,100 | 0 | 0 | 9,600 |
| 1987 | 57,400 | 113,413 | 51,600 | 750 | 0 | 5,050 |
| 1988 | 56,300 | 107,701 | 44,400 | 2,600 | 0 | 9,300 |
| 1989 | 53,600 | 98,594 | 45,600 | 3,000 | 0 | 5,000 |
| 1990 | 61,900 | 109,813 | 55,000 | 2,000 | 0 | 4,900 |
| 1991 | 70,800 | 121,286 | 60,900 | 2,000 | 0 | 7,900 |
| 1992 | 64,100 | 107,116 | 63,100 | 0 | 0 | 1,000 |
| 1993 | 61,400 | 100,264 | 55,000 | 0 | 0 | 6,400 |
| 1994 | 61,944 | 98,985 | 54,800 | 0 | 0 | 7,144 |
| 1995 | 64,765 | 101,344 | 55,500 | 0 | 0 | 9,265 |
| 1996 | 72,893 | 111,947 | 63,000 | 0 | 0 | 9,893 |
| 1997 | 66,381 | 100,168 | 66,000 | 0 | 0 | 381 |
| 1998 | 65,730 | 97,967 | 62,380 | 0 | 0 | 3.350 |
| 1999 | 66,430 | 97,731 | 63,380 | 0 | 0 | 3,050 |
| 2000 | 69,920 | 100,807 | 68,000 | 0 | 0 | 1,920 |
| 2001 | 72,828 | 102,629 | 68,000 | 0 | 0 | 4,828 |
| 2002 | 79,127 | 109,709 | 68,000 | 0 | 0 | 11,127 |
| 2003 | 75,220 | 102,438 | 65,000 | 0 | 10,000 | 220 |
| 2004 | 79,724 | 106,016 | 62,000 | 0 | 17,250 | 474 |
| 2005 | 77,539 | 100,048 | 65,000 | 0 | 12,000 | 539 |
| 2006 | 79,284 | 99,143 | 67,000 | 0 | 12,000 | 284 |
| 2007 | 82,816 | 100,836 | 79,000 | 0 | 0 | 3,816 |
| 2008 | 84,594 | 100,884 | 77,000 | 0 | 0 | 7,594 |

| Fiscal Year | Transfer to P&D[a] (nominal $) | Transfer to P&D (real $[b]) | NMFS ORF Offset | Fisheries Promotion Fund | Directed by Congress[c] | Remainder[d] |
|---|---|---|---|---|---|---|
| 2009 | 108,511 | 127,897 | 79,001 | 0 | 0 | 29,510 |
| 2010 | 113,371 | 132,514 | 104,600 | 0 | 0 | 8,771 |
| 2011 | 90,239 | 103,425 | 90,239 | 0 | 0 | 0 |
| 2012 | 109,098 | 122,701 | 109,098 | 0 | 0 | 0 |
| 2013 | 130,236 | 143,849 | 119,064 | 0 | 0 | 11,172 |
| 2014 | 127,187 | 137,862 | 115,000 | 0 | 0 | 12,187 |
| 2015 | 142,615 | 152,731 | 116,000 | 0 | 0 | 26,615 |
| 2016 | 146,389 | 155,377 | 130,164 | 0 | 0 | 16,225 |
| 2017 | 145,073 | 151,359 | 130,164 | 0 | 0 | 14,909 |
| 2018 | 154,664 | 157,646 | 144,000 | 0 | 0 | 10,664 |
| 2019 | 158,406 | 158,406 | 157,980 | 0 | 0 | 426 |
| 2020 | 182,783 | 182,783 | 174,774 | 0 | 0 | 8,009 |

**Sources:** National Oceanic and Atmospheric Administration (NOAA), Budget Office, 2020, January 20, 2020; NOAA, Budget Office, FY2007–FY2019, December 2, 2019; NOAA; National Marine Fisheries Service (NMFS), *The Saltonstall-Kennedy Grant Program*: *Fisheries Research and Development, Report 2008*, August 1, 2008, p. 4; NOAA, NMFS, *The Saltonstall-Kennedy Grant Program*, Fisheries Research and Development, Report 2001, August 1, 2001, p. 8; NOAA, NMFS, *The Saltonstall-Kennedy Grant Program*: *Fisheries Research and Development, Report 1991-1992*, 1992, p. 3; NOAA, NMFS, *The Saltonstall-Kennedy Grant Program*: *Fisheries Research and Development, Report 1987-1990*, 1990, p. 3; NOAA, NMFS, *The Saltonstall-Kennedy Grant Program, Fisheries Research and Development, Report 1982-1986*, 1986, p. 2.

a. Funds transferred from the U.S. Department of Agriculture to NOAA.

b. Real dollars calculated from Bureau of Economic Analysis, GDP deflator, Table 1.1.7.

c. Funding appropriated by Congress to seafood marketing boards and programs in FY2003, P.L. 108-7; FY2004, P.L. 108-199; FY2005, P.L. 108-447, and FY2006, P.L. 109-108.

d. Remainder includes funds used for the Saltonstall-Kennedy Grant Program, the National Program, and administrative costs.

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