

## Executive Director's Report

### Welcome to Portland

Welcome to Portland, our 100th Plenary Session, and our first Council meeting out of Alaska in the fifteen years since the Magnuson Act was passed by Congress. The notebooks are somewhat thinner than usual, but we still have quite a number of items to complete in the three days allowed for this meeting. We do have one reception this week, hosted by the Oregon Department of Fish and Wildlife, Pacific Marine Fisheries Commission, Midwater Trawlers Co-op, and ProFish International. It will be in this hotel in the International Club, starting at 5:30 p.m. this evening. Tomorrow morning at 7 a.m. we have a Finance Committee meeting; the meeting location will be announced by the end of today's session.

### Council Chairmen's Meeting

The Council Chairmen will meet next week on Tuesday by themselves to develop positions and then with NMFS on Wednesday and Thursday. The agenda is item B-1(a) in this tab and covers a wide array of topics ranging from allocations and limited entry, to observer programs, Japanese tuna fisheries, marine mammal management, budgets, and Council and NMFS workloads. I have been tasked with comparing Council approaches to allocation and observer issues. I'll provide a full report of the meeting and these comparisons at our April Council meeting.

### Habitat Policy

One of the topics on the Chairmen's agenda is habitat conservation. The past several Council meetings I've placed a draft policy statement in your Council notebooks for review and approval. It was initiated at the National Symposium on Coastal Fish Habitat Conservation and first passed to us by the Mid-Atlantic Council, but we have not addressed it because of the press of other business. In your notebook as item B-1(b), is the policy statement as incorporated in a letter of support from the Pacific Council, and a copy of our habitat policy. I would like to touch on the high points and then receive your comments as we prepare for next week's meeting.

### Industry Bycatch Workshop

The bycatch workshop scheduled for February 4-6 in Newport seems to be shaping up into a packed three-day agenda as shown in item B-1(c). As I noted in the last Council mailing, we have endorsed it as an open forum for the exchange of ideas on bycatch management, and I will be sending one or two staff. Also under B-1(c) is additional correspondence concerning the conference.

### Revised SOPP

A copy of the Council's Statement of Organization, Practices, and Procedures is under this tab as item B-1(d). In it you will find revisions that reflect recent changes to the Magnuson Act and to NMFS operational guidelines and regulations for Councils. This will be our first revision of the SOPP since its adoption in June 1990. The corrections are self evident but I would be happy to go over them with you if need be. I think we should have a formal motion to approve the revised version now or later this week after you have had a chance to review the changes.

AP, SSC and PNCIAC

The Advisory Panel and Scientific and Statistical Advisory Committee have chosen their officers for 1992 and we need formal Council approval.

Concerning the Pacific Northwest Crab Industry Advisory Committee, we postponed in December approving new, two-year memberships. There are nine members on the Committee and we will review them and new nominations at the Thursday executive session, and then announce the new slate on Friday. The Committee will meet next on January 29 at the Alaska Fisheries Science Center to review the status of Tanner hybrid management in the Bering Sea, Board of Fisheries issues, and decisions, industry proposals for the 1993 Board meeting, and other issues of interest. The Committee met twice in 1991.

**COUNCIL CHAIRMEN'S MEETING**  
January 22 - 23, 1992  
Hotel King Kamehameha  
75-5660 Palani Road, Kailua Kona, Hawaii 96740  
Telephone: (808) 329-2911, FAX: (808) 329-4602  
Ballrooms 1 & 2

**DRAFT AGENDA**

Wednesday, January 22, 1992, 9:00 a.m.

**1. FISHERIES MANAGEMENT -- ISSUES AND POLICIES**

- |    |   |                                      |
|----|---|--------------------------------------|
| a. | State of United States Fisheries                                | NMFS/Councils                        |
| b. | Highly Migratory Species (inc. oceanic sharks)                  | NMFS/<br>Pacific/Pacific             |
|    | 1) Atlantic   |                                      |
|    | 2) Gulf   |                                      |
|    | 3) Pacific  |                                      |
| c. | Limited Entry   | South Atlantic/NMFS                  |
| d. | Allocation  | North Pacific/NMFS                   |
| e. | Observer Policy and Fees  | North Pacific/NMFS                   |
| f. | Electronic Vessel Tracking Systems,<br>Data Transfer and Fees   | Western Pacific/<br>NMFS/Coast Guard |
| g. | NMFS Policy Development (risk-adverse<br>decision making, etc.) | NMFS                                 |
| h. | Update on FMP Operational Guidelines                            | NMFS                                 |
|    | 1) Analytical requirements                                      |                                      |
|    | 2) Revised Guidelines   |                                      |

Thursday, January 23, 1992, 9:00 a.m.

2. **RELATED RESOURCE MANAGEMENT ISSUES**

- a. **Bycatch Studies and Problems** Gulf/NMFS
- b. **Foreign and Domestic Enforcement** New England/NMFS/Coast Guard
- c. **Revised Marine Mammal Management Regime** Pacific/NMFS
- d. **Habitat Conservation** Caribbean/NMFS
- e. **National Marine Sanctuary Program: Site Evaluation List** NOAA
- f. **Status of Japanese Tuna Fisheries (incl. Japanese concerns about sashimi tuna fleet reduction and market stabilization); Japanese Alternatives to Driftnet Harvesting Methods**

3. **BUDGETS**

NMFS, MID-ATLANTIC, SOUTH ATLANTIC, CONG. STAFF

- a. **1992 Appropriation and Council Funding**
  - 1) **Availability of Funds**
  - 2) **Allocation and Role of Workload Analysis**
- b. **Administrative Procedures**
  - 1) **Timing for 1992 Adjustment**
  - 2) **Timing for 1993 Awards**
  - 3) **Competitiveness Requirement**
  - 4) **Alternatives to Cooperative Agreements with Councils**
- c. **Region and Center Allocations (by Council Area): FY-92 vs. FY-91**
- d. **NOAA Assessments**
- e. **Alternative Funding Sources**
  - 1) **S/K**
  - 2) **Wallop Breaux**
  - 3) **Dedicated Excise Tax**
  - 4) **All of the Above and Others**

4. PROPOSED LEGISLATIVE CHANGES/ACTIONS

Congressional Staff  
COUNCILS, NMFS

5. DIRECTIONS OF FISHERIES MANAGEMENT IN THE 1990s NMFS, COUNCILS

PAU

**PACIFIC FISHERY MANAGEMENT COUNCIL**

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Portland, Oregon 97201

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*EXECUTIVE DIRECTOR*  
*Lawrence D. Six*

*CHAIRMAN*  
*Richard A. Schwarz*

August 6, 1991

AUG 12 1991

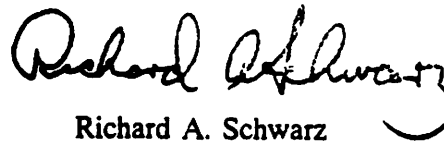
Mr. Axel B. Carlson Jr., Chairman  
Mid-Atlantic Fishery Management Council  
Room 2115 Federal Building  
300 South New Street  
Dover, DE 19901-6790

Dear Mr. Carlson:

In response to your suggestion of June 7, 1991, the Pacific Fishery Management Council (Pacific Council) has adopted a habitat resolution which supports the habitat management motion of the Mid-Atlantic Council. We agree that the united support of all council's will help establish a strong national program to address the continuing loss and degradation of fishery habitat.

The Pacific Council's resolution primarily reflects the recommendations of the recent National Symposium on Coastal Fish Habitat Conservation. However, we have included some additional emphasis and minor changes to address the perspectives of our region and fisheries. Thank you for suggesting this supportive action.

Sincerely,



Richard A. Schwarz  
Chairman

JCC:mmp  
Enclosures

cc: Regional Fishery Management Councils  
Dr. William Fox  
Pacific States Marine Fisheries Commission  
Fishermen Involved in Saving Habitat  
National Coalition for Marine Conservation

## COUNCIL FISHERY HABITAT RESOLUTION

The Pacific Fishery Management Council (Pacific Council) is deeply concerned with the status of fishery habitat management and its impact on the ecological, social and economic condition of West Coast ocean fisheries. For many important fishery stocks, restoration of habitat stands out as the prime factor necessary to assure resource recovery to productive levels. As stated at the recent National Symposium on Coastal Fish Habitat Conservation, "Without good habitat management, managing fisheries to maximize social and economic benefits to the nation is not only more difficult and expensive, but ultimately doomed to failure."

Because insufficient habitat authority within fishery management entities is a major impediment, the Pacific Council believes it is important to join with other regional councils and concerned citizen groups in urging support for legislative and administrative changes in approaching fishery habitat management.

**THEREFORE, BE IT RESOLVED** that the Pacific Council declares its support for the following national habitat management recommendations and goals as found in the recommendations contained in the Executive Summary of "Stemming the Tide," the National Symposium on Coastal Fish Habitat Conservation held in Baltimore, Maryland in March 1991:

1. Adopt and implement a clear national habitat conservation policy;
2. Broaden and strengthen existing environmental statutes to address the whole range of human activities that threaten wetlands and other key habitats;
3. Give fishery managers increased authority and adequate means to protect the habitat of fisheries under management;
4. Increase funding for habitat conservation and research programs;
5. Amend fishery laws to feature tougher habitat conservation provisions;
6. Streamline the federal bureaucracy and improve coordination among federal and state government agencies;
7. Place greater emphasis on enhancing public awareness of habitat issues;  
and
8. Other recommendations of the Symposium.

**BE IT FURTHER RESOLVED** that the Pacific Council also supports the recommendations of the April 1991 National Fish and Wildlife Foundation report pertaining to funding and program development for habitat conservation and restoration:

1. Increase the National Marine Fisheries Service (NMFS) staff responsible for screening and analyzing proposed development plans and projects that may adversely affect fish and shellfish habitat; and
2. Separate and elevate the Habitat Conservation Program to place it on an equal status with the Protected Species Program Office within NMFS.

**AND BE IT RESOLVED** that the Pacific Council supports the two goals of the National Wetlands Policy Forum (see attached resolution of the National Coalition for Marine Conservation):

1. To achieve no overall net loss of the nation's remaining wetlands; and
2. To increase the quality and quantity of the nation's wetlands resource base.

#### Implementing Habitat Recommendations of the National Symposium

The Executive Summary of the National Symposium on Coastal Fish Habitat Conservation (attached) contains specific details to implement each recommendation resulting from the symposium. The Council endorses these specific details with the exception of those for implementing Recommendation 5. Federal projects and federally-approved projects should be required to be consistent with objectives of the Magnuson Fishery Conservation and Management Act (MFCMA). However, these requirements should be incorporated in the organic legislation which directs the federal construction agencies and those with direct habitat management responsibility, rather than making habitat conservation a National Standard in the MFCMA. Expanding, to all fisheries, the MFCMA requirement for regional councils to comment on anadromous fishery issues does not increase regional council habitat authority and may dilute the effectiveness of regional council comments.

The Council wishes to especially emphasize Part C of Recommendation 2 which deals with the impacts of water project management and allocation. The Pacific Council has attached its own specific recommendations to Congress for improving habitat restoration, maintenance and enhancement which reflect this concern. No other factors have more negative impact on salmon stocks under the Pacific Council jurisdiction than water allocation and project management. This is especially true for the highly important and historically productive salmon stocks in the Columbia and California river basins.

Most of the habitat management recommendations are aimed at implementation through NMFS (Department of Commerce). The Council urges broadening of the recommended actions to include The Department of Interior and other appropriate federal agencies.

The Pacific Council notes that Recommendation 6 might better be stated as ". . . streamline the federal bureaucracy to improve coordination . . ." Pacific Council support for this recommendation should not be construed as support for the creation of a "superagency."

Finally, with regard to Recommendation 7, the Pacific Council wishes to note the work of the Pacific States Marine Fisheries Commission and its support of habitat education through Fishermen Involved in Saving Habitat as an example of the kind of efforts possible to effectively educate the public.

PFMC  
07/10/91



**STEMMING THE TIDE**  
**CONSERVATION OF COASTAL FISH HABITAT**  
**IN THE UNITED STATES**

Summary of a National Symposium  
on Coastal Fish Habitat Conservation,  
Baltimore, Maryland  
March 7-9, 1991

Compiled by  
Carl Safina, PhD

Ken Hinman,  
Project Director

## **Acknowledgments:**

The Symposium on Coastal Fish Habitat Conservation was sponsored by the National Coalition for Marine Conservation, National Marine Fisheries Service, U.S. Fish and Wildlife Service, Sport Fishing Institute and Chesapeake Bay Foundation. The Jessie B. Cox Charitable Trust provided financial support for the preparation and publication of this report. Additional support was provided by the New York Sport Fishing Federation.

Carl Safina is Director of Marine Conservation for the National Audubon Society. Ken Hinman is Executive Director of the National Coalition for Marine Conservation. James Chambers, William Goldsborough, Mercedes Lee, Gilbert Radonski and Lee Weddig provided comments on a previous draft.

## **Note:**

The recommendations contained in the Executive Summary and throughout this document are a compilation of recommendations made during the Symposium. Specific recommendations cited do not necessarily represent the exact position of the sponsoring organizations or Symposium participants.

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## PROLOGUE

*In the sea nothing lives to itself...each living thing is linked with all that surrounds it. - Rachel Carson*

The Soviet Union built 30 major dams on rivers flowing into the great estuaries of its south, the Black, Caspian, Azov and Aral Seas. These dams hold back between 30% and 97% of the flow of freshwater into these estuaries. Most of the retained water is used to irrigate cotton and rice in semi-arid and arid areas.

The dams have destroyed fish migration routes, spawning and nursery grounds, and wiped out 90-98% of the valuable species of commercial fish in all the major rivers and estuaries of southern U.S.S.R. All attempts to restore the fisheries have failed. Within just twenty years, the Caspian Sea went from being one of the most productive seas in the world to a virtual biological desert.

With their river inflows diverted, these estuaries dried up, salt dust rose from the river beds and, as if bent on revenge, destroyed the crops for miles around. Economic losses amount to about \$6.5 billion annually. Poisons that would have been washed downriver accumulate in soils and contaminate drinking wells. Infant mortality in these areas is nearly 5 times the Soviet average, a staggering 10% of all babies born.

For these and other reasons, the Soviet Union has come to symbolize the epitome of shortsighted planning, blindness in a misguided search for progress, and disastrous mistakes that can only be rectified by an overhaul of the entire system.

Dr. Michael Rozengurt, the Soviet scientist who studied the ecological, economic and social chaos caused by the U.S.S.R.'s water management policies, has since emigrated to the United States and become a U.S. citizen. Fresh from the disasters of the Soviet Union, he settled in California and commenced studies of San Francisco Bay. One can hardly imagine Dr. Rozengurt's astonishment at the condition of the coastal environment he found in his new homeland. San Francisco Bay and its estuarine system, Dr. Rozengurt warns us, "shows similar signs of deterioration whose scale is only slightly less ominous than that in the northwestern Black and Azov Seas."

## EXECUTIVE SUMMARY

Fish habitat is anywhere that fish are found, and it's disappearing everywhere fish are found. The coastal habitat of marine fish - from deep ocean dwellers to anadromous species that swim far upstream to spawn - extends from hundreds of miles inland to the continental shelf. Key habitat types include coastal rivers, bays, wetlands, mangrove forests, seagrass meadows and coral reefs. Different species require these different habitats at different stages of their lives. But all species of marine fish depend on properly functioning habitat, of a quantity and quality that will sustain their growth, reproduction and survival.

The common perception that coastal habitats, such as wetlands, are wastelands, awaiting conversion to a higher social and economic use, is patently false. They *already are* fulfilling a higher use, free of charge. Coastal wetlands, for instance, maintain nearshore water quality, control shoreline erosion, and provide economic opportunities and enhanced quality of life to commercial and recreational fishermen, hunters, boaters, outdoors enthusiasts and consumers of seafood and other fish products; that is, virtually every man, woman and child in the United States. Over 75% of the U.S. fish catch is made up of species that are dependent on tidal wetlands. The annual economic value of fish dependent upon estuarine habitats is about \$14 billion, according to the National Marine Fisheries Service (NMFS).

Without good habitat management, managing fisheries to maximize social and economic benefits to the nation is not only more difficult and more expensive, but ultimately doomed to failure. In the mid 1980s, NMFS estimated that ongoing wetland losses alone were costing the U.S. fishing industry \$208 million a year. Extensive losses of coastal habitats have occurred most acutely in the southeastern U.S., where commercial fish and shellfish landings have declined a staggering 42% since 1982. It's the same story in every area of the coast. Populations of virtually all estuarine-dependent fish species consumed by people are now the lowest that they have ever been.

The Symposium on Coastal Fish Habitat Conservation, held March 7-9, 1991 in Baltimore, Maryland, examined the rising tide of habitat loss. The inescapable conclusion -- the increasing loss of fish habitat, to pollution, unwise development and other human activities, is the single largest long-term threat to the future viability of the marine fisheries of the United States.

Habitat loss is occurring in spite of an impressive array of regulatory, management and fiscal policies intended to conserve fisheries and their habitat. Unquestionably, when it comes to protecting coastal fish habitat, the nation is not doing enough, and it's not doing it right. Managing fisheries without adequate protection of the habitat that supports fish populations is futile. Consequently, there is an urgent need to:

- \* (1) Adopt and implement a clear national habitat conservation policy;
- (2) Broaden and strengthen existing environmental statutes to address the whole range of human activities that threaten wetlands and other key habitats;
- (3) Give fishery managers increased authority and adequate means to protect the habitat of fisheries under management;
- (4) Increase funding for habitat conservation and research programs;
- (5) Amend fishery laws to feature tougher habitat conservation provisions;
- (6) Streamline the federal bureaucracy and improve coordination among federal and state government agencies; and
- (7) Place greater emphasis on enhancing public awareness of habitat issues.

### The Rising Tide of Habitat Loss

Major threats to fish habitat are as follows:

- Generally, coastal habitat is disappearing in direct proportion to human population density. Growth in coastal areas averages four times the national rate. Over the next several decades, 54% of the U.S. population will live within 50 miles of the coast. The heaviest human development is occurring and will continue to occur in coastal areas where the estuarine dependency of fishes is greatest.

- By the mid 1970s, over half our salt marshes and mangroves, some of the most productive lands anywhere, had been destroyed. California has already lost over 90% of its coastal wetlands. Louisiana has the highest rate of wetland loss in the nation, over 25,000 acres, or 40 square miles, annually. The U.S. Army Corps of Engineers estimates that, at present rates of loss, the Gulf of Mexico shoreline will retreat inland by as much as 33 miles in some areas in the next 50 years. With continued regional wetland loss and degradation, precipitous declines in the Gulf's fisheries may be anticipated.

- Chemical pollutants (pesticides, herbicides, PCBs, oil, trace metals, etc.) are becoming so ubiquitous in coastal waters that they must be considered along with other limiting factors to fish abundance, such as temperature, salinity and oxygen levels. Toxic substances affect spawning behavior, survival of juvenile fish, and the incidence of tumors and deformities. Contaminants also threaten human health. The ten coastal areas at highest risk from pesticide contamination are Albemarle Sound (NC), Chesapeake Bay, Laguna Madre (CA), Pamlico Sound (NC), Winyah Bay, Delaware Bay, Cape Fear River (NC), the Hudson-Raritan estuary (NY/NJ), St. John's River (FL) and Puget Sound (WA), in that order.

- Nutrient pollution affects virtually every estuary subject to moderate human activity. In Chesapeake Bay nutrients from sewage treatment plant effluent, agricultural runoff and atmospheric deposition drastically altered the estuary between 1950 and 1980, causing massive increases in algae growth and water turbidity which led to the loss of 90% of the native bay grasses. An additional 3 million people projected for this area in the next 30 years promises to exacerbate this problem.

- Since the late 1960s, more than 100 dams have eliminated 80-100% of the migration and spawning areas of several important species of fish - salmon, shad, striped bass and others - in the San Francisco Bay ecosystem. Human activities have eliminated Atlantic salmon from most of their U.S. spawning streams and continue to hinder restoration efforts. Dams block many hundreds of miles of historic anadromous fish spawning rivers in the Chesapeake Bay system, including 350 mainstem miles of the Atlantic coast's largest river, the Susquehanna.

- Estuarine nursery areas are dying of thirst due to excessive freshwater diversions from incoming rivers. Freshwater inflow controls the biological productivity of estuaries. Diversion of more than about 30% of normal freshwater flows into estuaries results in increased salinity, decreased nutrients, increased pollutant exposure due to reduced flushing, destruction of migration routes and spawning areas for fishes, and contamination of freshwater sources for human use. Water diversions and dams have devastated California's salmon-supporting habitats. Spawning has been completely eliminated from some Pacific coast rivers; only a fraction is left of the great salmon and steelhead runs of the Columbia River basin. The Snake River run of coho salmon has apparently become extinct.

- The annual dumping of billions of pounds of trash into the oceans was considered merely an aesthetic problem until the mid 1970s. But by the early 1980s, it was recognized that thousands of marine animals, including endangered mammals and sea turtles, seabirds and fishes, were becoming entangled and killed in manmade items.

### Stemming the Tide - A Summary of Recommendations

(1) Implement a clear national policy on habitat conservation. The Administration and Congress must exert the leadership necessary to make protection of our remaining wetlands and other critical fishery habitat a higher national priority. Habitat conservation must be elevated to the highest level within each department and agency, including the Environmental Protection Agency, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and particularly the National Marine Fisheries Service within the National Oceanic and Atmospheric Administration (NOAA). Congress must stand solidly behind agencies charged with stewardship for living resources so that they may effectively carry out the habitat protection laws Congress has enacted, by giving them the political and fiscal support they need to do their jobs. The President's avowed Policy

of No Net Loss of Wetlands must be implemented from the top down by incorporating it into the programs of all federal agencies with habitat responsibility. The concept of no-net-loss should be only the short-term goal of national policy; the long-term objective must be a net gain of wetlands to restore what has already been lost.

(2) Strengthen the Clean Water Act and other environmental statutes.

Congress should enact a stronger Clean Water Act by making no-net-loss of wetlands an expressed goal of the statute, closing loopholes in the wetlands permitting system, and expanding it to include activities not presently covered by the Act. Maximum funding for full implementation should be provided.

(a) Only about 20% of the activities affecting wetlands are covered by the Section 404 dredge and fill permit provision of the Act. Permit requirements cover only the discharge of dredged or fill material. Chemical contamination, flooding, removal of vegetation, construction of pilings, or excavation do not require a permit. Nor does shutting off the flow of freshwater vital to wetland maintenance. In addition, the Corps of Engineers has issued 26 nationwide General Permits and numerous regional ones allowing wetlands alterations with limited public scrutiny.

The 404 program should be extended to cover all activities that could degrade high value wetlands, including agriculture and silviculture. The definition of a wetland in the Wetlands Delineation Manual must be based on biology, not politics. The Act should require states to develop wetland protection plans. It must better control the flow of point and non-point sources of toxic and other pollutants into fish habitat. General permits must be re-examined and in some cases eliminated. The Act should be amended to clearly state that no-net-loss is a short-term goal and net restoration is the long-term goal, as explicitly recommended by the National Wetlands Policy Forum.

(b) Full implementation and enforcement of the erosion control and wetland management provisions of the 1990 Farm Act are needed to protect, restore and enhance aquatic habitats. Because agricultural activities are responsible for degrading water quality and wetlands throughout the U.S., wetland protection provisions of the Clean Water Act and the Farm Act should be consistent.

(c) Water project management and water allocation policy must be altered in a way that protects and improves freshwater flows to fishery-supporting habitats. Freshwater inflows should be secured at or restored to levels approximating their normal (natural) flows in order to maintain the production values of estuaries. Federal subsidies for water diversions which adversely affect fisheries productivity must be eliminated.



(3) Create high level habitat program leadership in NMFS/NOAA, with increased regulatory authority. Habitat conservation should be elevated in stature to provide effective program leadership, by establishing within the National Marine Fisheries Service an Office of Habitat Conservation. Its Director must have full authority over the conduct of the agency's National Habitat Conservation Program, including both research and management components throughout the agency's field structure. Moreover, NOAA should create a Habitat Program Director, reporting to the NOAA Administrator, to provide policy direction and coordinate NOAA's many habitat-related programs. Other NOAA elements dealing in habitat-related areas should directly support the NMFS Habitat Program's involvement in federal and state decision-making processes. Whether by administrative or legislative action, NMFS should be given regulatory authority over projects that could severely damage fishery-supporting habitat. The agency should be authorized to require that all federal actions be consistent with the objectives of approved fishery resource management plans.

(4) Increase funding for federal habitat programs. Protection of habitat is the cheapest investment the nation can make to sustain productive fisheries. But funding for protecting fishery-supporting habitat is chronically insufficient and unstable. NMFS is the only federal agency whose habitat-related funding has not increased over the past decade. In terms of buying power, its funds have actually been cut in half, while the need for NMFS' involvement has grown dramatically with increased coastal habitat degradation. Under-staffed and under-funded, NMFS is unable to fulfill its essential habitat conservation and stewardship mission. Roughly 10,000 development projects are proposed each year, potentially affecting well over 400,000 acres of important habitat. NMFS biologists must review an average of 400 projects each, making it impossible for the agency to adequately protect the public interest in habitats. Research, including the critical areas of wetland functions and contaminant effects, is similarly inadequately funded and staffed. Congress should give immediate consideration to appropriating the resources recommended by the National Fish and Wildlife Foundation and published in its "FY 1992 Wildlife and Fisheries Assessment, National Marine Fisheries Service" (April 1991). Congress should also explore developing a self-perpetuating trust fund, outside of the appropriations process, for NMFS habitat programs.

(5) Add tougher habitat provisions to fishery laws. Federal projects and federally-approved projects should be required to be consistent with objectives of the Magnuson Fishery Conservation and Management Act. The Magnuson Act should be amended to include habitat conservation as one of the National Standards for guiding the management of marine fisheries. The Secretary of Commerce should consider knowledge and experience in habitat issues when appointing individuals to serve on the Regional Fishery Management Councils. The 1990 amendment to the Act expanding Council authority over the habitat of anadromous species should be extended to all fisheries.

(6) Streamline bureaucracy and improve coordination. Thirty-seven federal agencies, in 9 executive level departments, have some authority over activities affecting marine fisheries and habitat. Presently, habitat and environmental concerns are merely one component within many separate agencies with varying missions and are often subordinated to other interests. Federal environmental protection responsibilities should be consolidated, not fragmented, in order to reduce duplicative and conflicting actions. Accountability for habitat protection should be clearly established. Stronger coordination among states and the federal government is essential.

(7) Put greater emphasis on public education. Education may be the most important single consideration in halting the loss of coastal fish habitat. An informed public will lend political support to efforts to strengthen habitat protection. Information on the vital contribution of fisheries and aquatic habitat to economic stability and the quality of life should be a key element of all conservation programs and should be made much more available to the public. In addition, members of Congress need to be educated to the fact that the contribution of fisheries to the national economy is synonymous with wetland, estuary and other habitat protection.

(8) Other recommendations.

(a) A vigorous national marine sanctuary program is needed to protect critical habitat areas, such as reefs, in order to increase the reproductive output of species they support. High value habitats should be legislatively withdrawn from development. Incentives should be used to encourage development away from fragile, irreplaceable natural areas. Federal subsidies for projects that destroy or degrade wetlands must be eliminated.

(b) Wetland restoration is a new art, and proponents have yet to demonstrate that most biological life-support functions of a natural system can actually be restored. Therefore, it is inappropriate to give the development community the impression that project losses can in fact be compensated by attempted restoration or rehabilitation. Until successful restoration of fishery habitats can be demonstrated scientifically, it should not be relied upon by regulators as a certain tradeoff methodology. Rather, it must be considered as an experimental approach until proven for routine application. "Sequenced" mitigation - avoid, minimize and finally compensate for unavoidable impacts - is essential.

(c) Aquaculture has some potential both to reduce pressure on wild fish populations and to supply food for humans. However, plans for aquaculture expansion must recognize the potential for conflict resulting from its requirements for space and water, and potential problems with disease, genetics and pollution may conflict with conservation of natural habitat and wild fisheries.

(d) Research is necessary to evaluate the long-term impacts of all types of water pollutants on marine fish, with extra emphasis on sublethal effects on growth, behavior and reproduction.

(e) A coalition of diverse groups is required to educate the public and highlight the profound importance of habitat problems to all Americans. Commercial and recreational fishermen, the fishing industry, tourist and business interests, environmentalists and others must join forces and work together to support and enhance public and private habitat conservation programs.

PACIFIC FISHERY MANAGEMENT COUNCIL  
RECOMMENDATIONS TO CONGRESS FOR IMPROVING  
FISHERY HABITAT RESTORATION, MAINTENANCE AND ENHANCEMENT

1. ***Establish a policy of no net loss of aquatic habitat resulting from federal activities.*** It is in the best interest of our nation to develop vigorous and prosperous fisheries. Habitat supporting aquatic resources is of national significance to commercial, recreational and Indian tribal fisheries and related industries. The nation's fishery habitat should be enhanced, and habitat losses resulting from federal activities should be fully compensated.
2. ***Encourage full implementation of the mitigation measures in the Water Resources Development Act and other mitigation and restoration acts and programs.*** Existing legislation and programs provide for mitigation of negative impacts to fishery resources, and compensation of losses due to past federal activities. However, the lack of firm commitment on the part of the construction agencies often leads to inaction and missed opportunities. For instance, the Water Resources Development Act of 1986 authorizes the Secretary of the Army to ". . . mitigate damages to fish and wildlife resulting from any water resources project under his jurisdiction, whether completed, under construction, or to be constructed. . . ." Despite this directive from Congress, we know of no instances when the Secretary of the Army has taken advantage of this opportunity.
3. ***Require the actions of the federal construction agencies, principally the Corps of Engineers and Bureau of Reclamation, to be consistent with the Magnuson Fishery Conservation and Management Act (MFCMA) fishery management plans and Pacific Salmon Treaty.***
4. ***Repeal the benefits provided to new hydropower projects by the Public Utility Regulatory Policies Act (PURPA).*** PURPA encourages development of new hydroelectric projects by requiring utilities to buy power produced at private hydropower facilities at extremely high cost, regardless of the need for power or cost of alternative sources of replacement power. Approximately 200 proposed non-federal projects are being actively pursued in the Pacific Northwest alone. These projects represent a significant threat to anadromous fish resources by blocking or delaying migration, or by direct negative impacts on spawning or rearing habitat. The Federal Energy Regulatory Commission has recommended to Congress that PURPA benefits continue to be granted to new hydropower projects. Repeal of PURPA benefits (with no grandfather clause for presently unlicensed or unconstructed projects) would be a major step toward protection and restoration of anadromous fish runs.
5. ***Direct the appropriate departments to develop periodic reports to Congress that provide a national scorecard for determining what is happening to our aquatic habitats in rivers, lakes, marshes, estuaries and coastal zone areas.*** The reports should be developed independently but submitted concurrently. To assure compatibility, Congress should appoint a short-term "blue ribbon" panel from the environmental community to develop the standards, criteria and list of issues each-department must address in its report.
6. ***Direct the Secretaries of Interior and Commerce to conduct a survey of opportunities to restore adversely impacted habitat with a joint summary to Congress by December 1992.*** The survey should be conducted in close coordination with the states, tribes, regional councils, commissions and the federal water development and land management agencies. It should

provide an implementation schedule for restoration measures deemed feasible based on biological and engineering criteria and should estimate costs. Priority consideration should be given to implementing actions that would be lost if delayed, actions that meet fish and wildlife agency priority objectives, and opportunities which provide the greatest restoration benefits in comparison to cost. Restoration projects should be funded in future years with the objective of achieving the majority of the restoration potential by year 2000.

7. *Amend the MFCMA to reflect that past and present habitat degradation, among other factors, has adversely affected the status of some fish stocks. A clear recognition of the impact of habitat degradation provides the need and direction for habitat concern by the regional councils and clarifies the basis for regional council comments on federal projects.*

PFMC  
7/31/89



## NATIONAL COALITION FOR MARINE CONSERVATION

P.O. Box 23298  
SAVANNAH, GEORGIA 31403  
Phone (912) 234-8062

### A RESOLUTION TO PROTECT AMERICA'S WETLANDS

May - "American Wetlands Month" - 1991

WHEREAS, wetlands, the vegetated aquatic ecosystems that include such areas as estuaries, marshes, bogs, and swamps, are widely recognized as some of the most productive natural areas on earth; and

WHEREAS, wetlands provide critical habitat for fish and shellfish, waterfowl and other wildlife; and

WHEREAS, man benefits directly and indirectly from abundant fish and wildlife populations, and also uses wetlands for recreation, erosion control and water quality control; and

WHEREAS, we've only just begun to understand and appreciate the irreplaceable ecological value of wetlands; and

WHEREAS, wetlands have long been misunderstood and abused, allowing these productive areas to be drained, filled, channeled and polluted; and

WHEREAS, we have already destroyed more than half the 200 million acres of wetlands our forefathers found when they settled the lower 48 states; and

WHEREAS, this historical loss has greatly diminished the quantity and quality of the benefits wetlands provide, and continued loss and degradation of wetlands threatens sharp declines in fisheries and wildlife populations in the future, with severe social and economic losses to the nation;

THEREFORE, BE IT RESOLVED, that the National Coalition For Marine Conservation declares May 1991 to be American Wetlands Month.

FURTHER, we resolve to support the two goals of the National Wetlands Policy Forum, namely: 1) to achieve no overall net loss of the nation's remaining wetlands; and 2) to increase the quality and quantity of the nation's wetlands resource base.

The National Coalition for Marine Conservation is proud to join with other national environmental groups, federal and state governments, and others as a co-sponsor of American Wetlands Month. With this resolution, we profess our commitment to wetlands protection. By declaring May 1991 a month to celebrate America's irreplaceable wetlands, we draw attention to the value of wetlands, as

wetlands, as habitat for a wide variety of fish and wildlife and the foundation of our coastal fisheries, and urge others to join with us in working to not only stop wetland loss, but actually increase this valuable natural resource.

### National Goals for Wetlands Protection in 1991

President Bush's stated policy of "no net loss of wetlands" was first articulated by the National Wetlands Policy Forum. But what is often overlooked is that "no net loss" is only the short-term goal set by the Forum; a net increase in the nation's wetlands base is our ultimate objective. Either goal, however, will be impossible to achieve unless we increase regulatory and legislative authority to preserve productive wetlands, and this authority is exercised as part of a clear national wetlands protection policy.

How do we do this? The NCMC\* is urging the President to give a clear directive to all appropriate federal agencies that their first priority is to preserve our remaining wetlands. In addition, the National Marine Fisheries Service and U.S. Fish and Wildlife Service, which now only comment on projects impacting wetlands, should be granted the authority to veto projects they determine could severely damage wetlands and other critical fishery habitats.

Congress must strengthen the Clean Water Act when it renews that law this year. The Act's Sec. 404 program, the only federal statute regulating wetlands use, covers only 20% of activities affecting wetlands. It should be broadened to cover all activities that degrade wetlands, including agriculture and silvaculture, which have caused an estimated 80% of wetland losses. The granting of broad permits, e.g., allowing wetlands up to 10 acres to be filled with limited public scrutiny, should be eliminated, because their cumulative effect on wetlands amounts to "death by a thousand cuts." The law must be amended to better control the flow of point and non-point sources of toxic and other pollutants into wetlands. Finally, states should be required to develop wetlands protection plans under the Clean Water Act.

We need new federal legislation, modeled after several state initiatives, to withdraw high value wetlands from development, and provide incentives to encourage development away from fragile natural areas. Federal subsidies of any kind for projects that destroy or degrade wetlands should be eliminated.

**\*These specific goals are the NCMC's, and may or may not be endorsed by other co-sponsors of "American Wetlands Month."**

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**What You Can Do.** In addition to supporting these and other efforts by national organizations to strengthen wetlands protection programs, you can: - Learn more about wetlands and encourage your government officials and representatives to recognize the special qualities and values of wetlands. - Contact your state and federal wetlands protection agencies to find out what laws, programs and projects protect wetlands in your area. - Organize people in your community to help protect wetlands. - Ask your local newspaper and radio/TV stations to do stories on wetlands protection. For more information, call the WETLANDS HOTLINE 1-800-832-7828.

## NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Policy on Habitat \*Introduction

Efforts to integrate habitat considerations into the fishery management process go back to the inception of the Magnuson Fishery Conservation and Management Act (MFCMA) in 1976. The Act directs the Councils to recommend management plans for commercial and recreational species of fish occurring in the Exclusive Economic Zone throughout the range of the species. Some believed this directive gave the Councils authority to consider fishery related habitat issues within the territorial sea and further inland even though the Councils clearly did not have jurisdiction within State waters. Although some efforts were made to address significant fishery habitat issues, the Councils and the National Marine Fisheries Service (NMFS) concentrated largely on ocean harvest during the first decade of Magnuson Act.

In 1983 the NMFS adopted a National Habitat Conservation Policy, uniting its MFCMA authority with its advisory responsibilities and authority under the Fish and Wildlife Coordination Act (FWCA) and the National Environmental Policy Act (NEPA). The Habitat Conservation Policy provides guidance to the agency regarding its interactions with the Councils and other Federal and State agencies. It also focuses NMFS's habitat conservation efforts on specific habitat problems affecting fishery resources, marine mammals, and endangered marine species. Although the NMFS's policy notifies other agencies and the Councils of NMFS intent, it does not clarify the Councils' role regarding fishery related habitat issues.

In 1986 the Congress amended the Act, essentially codifying elements of the NMFS Habitat Conservation Policy, and giving the Regional Fishery Management Councils new authority and responsibility to include "readily available" habitat information in all fishery management plans. The Amendments direct the Councils, with guidance from NMFS, to evaluate the effect that changes in habitat may have on managed fisheries.

Additionally, the 1986 amendments gave the Councils the opportunity to recommend habitat management measures for ongoing and proposed Federal or State activities which could adversely affect fishery resources for which they have management responsibility. Federal agencies are required to respond specifically and substantively to a Council's recommendations within 45 days. The Amendments also encourage the Councils to monitor state activities and to comment on those that could adversely affect Council managed fishery resources. As the Councils moved to implement the new habitat options and directives in the Magnuson Act amendments, the NMFS issued operational guidelines to help Councils prepare habitat sections for inclusion in fishery management plans.

In response to these amendments, the North Pacific Fishery Management Council has adopted the following policy statement to guide its review of habitat issues. The policy statement itself is followed by descriptions of the responsibilities, guidelines, review process, and definitions that will assist the Council in executing the habitat policy.

\* Approved by the Council in September 1988.

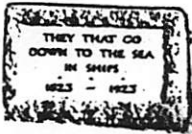


- (3) Significant activities shall be selected for Council consideration if:
  - (a) A proposed Federal action or activity may have significant fishery related impacts.
  - (b) A proposed Federal action or activity is significant and deserves formal Council consideration.
- (4) Council staff or special committees shall develop a draft Council position and forward it to the Council for their action. The following are examples of appropriate Council actions:
  - (a) The Council shall object to proposed Federal activities that could have significant adverse effects on fisheries for which the Council has management responsibility. The Council shall convey their objections, concerns, and recommendations directly to the appropriate Federal regulatory agency.
  - (b) The Council staff or members may testify at public hearings, as needed.
  - (c) The Council may hold public hearings, as appropriate.
- (5) Council staff or special committees shall report on their actions at Council meetings as needed.

Criteria to Define Significant Activities and Policies

Significant activities and policies could include those:

- (1) That may directly affect (e.g., catch, marketability, management options, etc.) fisheries or habitat for which the Council has a management or research interest.
- (2) That could affect habitat important to species managed under the MFCMA, or habitat important to species upon which managed species are dependent for food.
- (3) That may be precedent-setting, highly controversial, or proposed in unique or critical habitat areas.
- (4) That could have a substantial indirect impact on water circulation patterns, nutrient production and export, saltwater intrusion, freshwater inflow, availability of nursery areas, migration corridors, and overwintering areas, etc.
- (5) That could result in releases of toxic or otherwise hazardous wastes.



# NATIONAL INDUSTRY BYCATCH WORKSHOP

February 4 - 6, 1992  
Newport, Oregon

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## Monday, February 3, 1992

3:00 - 8:00 Registration

## Tuesday, February 4, 1992

8:00 - 5:00 Registration

**INTRODUCTION AND OVERVIEWS - Robert W. Schoning  
Corvallis, OR, Session Chairman**

8:00 - 8:15 Welcome and opening remarks - Robert W. Schoning

8:15 - 8:20 Welcome to Newport - Mayor Mark Collson

8:20 - 8:30 Background from Highliners President - Konrad S. Uri,  
Highliners, Seattle, WA

8:30 - 9:00 Opening Bycatch views - R. Barry Fisher  
Midwater Trawlers Cooperative/Highliners, Newport, OR and  
Peter R. Hoar, Gulf and South Atlantic Fisheries Development Foundation, Tampa, FL

9:00 - 9:25 A national and international resource management perspective on bycatch - Mark W.  
Freeberg, Natural Resources Consultants, Seattle, WA.

9:25 - 9:50 An international legal perspective on bycatch -  
William T. Burke, University of Washington, Seattle, WA

9:50 - 10:15 A conservation, public opinion, and political perspective on bycatch -  
(Speaker to be selected)

10:15 - 10:45 Coffee break

10:45 - 12:00 Discussion

12:00 - 1:00 LUNCH

## REGIONAL PROBLEMS AND CURRENT INDUSTRY EFFORTS

**Bart Eaton, Trident Seafoods, Seattle, WA, Session Chairman**

1:30 - 2:00 Has fish bycatch generated overfishing for non-target fish species and/or threatened or  
endangered other sea life? - (National Marine Fisheries Service Scientist tentative)

2:00 - 3:10 New England - Jacob J. Dykstra,  
Point Judith Fishermens Cooperative, Narragansett, R.I.

Mid-Atlantic - (Speaker to be selected)

South Atlantic/Gulf of Mexico - Gary A. Graham, Marine Fisheries Specialist, Texas A & M Sea Grant College Program, Galveston, TX

Pacific - Peter P. Leipzig, Fishermen's Marketing Association, Eureka, CA

3:10 - 3:40 **BREAK**

3:40 - 4:20 Western pacific - (speaker to be selected)

North Pacific - Chris Blackburn, Alaska Groundfish Data Bank, Kodiak, AK

4:20 - 5:00 Summary of national industry efforts - Jane Black, Organization of Louisiana Fishermen, Golden Meadow, LA

5:00 **ADJOURN**

6:00 - 8:00 **Hosted Reception**

### **Wednesday, February 5, 1992**

**MANAGEMENT OPTIONS AND POSSIBILITIES - William G. Gordon, New Jersey Marine Science Consortium, Fort Hancock, NJ, Session Chairman**

8:00 - 8:40 **Looking for solutions - (Speaker to be selected)**

8:40 - 9:10 **Potential for gear technology - Dr. Ellen K. Pitkitch, Fisheries Research Institute/University of Washington, Seattle, WA**

9:10 - 9:40 **Looking for time/area solutions - Dr. Robert Trumble, International Pacific Halibut Commission, Seattle, WA**

9:40 - 10:10 **BREAK**

10:10 - 12:00 **Panel Discussion - Regional speakers from February 4**

12:00 - 1:30 **LUNCH**

**BYCATCH GOALS AND OBJECTIVES - Dr. Edward L. Miles, University of Washington, Seattle, WA, Session Chairman**

1:30 - 2:00 **The need to identify and clarify national management objectives - Dr. Edward L. Miles, University of Washington, Seattle, WA**

### **CONCURRENT WORKSHOPS**

2:00 - 5:00 I. **National bycatch goals - Jim Branson, Halibut Cove, AK, Session Chairman**

- II. Standardized nomenclature and methods of defining bycatch levels and implications - Dr. Donald E. McCaughran, International Pacific Halibut Commission, Seattle, WA, Session Chairman
- III. Solutions from industry - Guy Thornburgh, Pacific States Marine Fisheries Commission, Portland, OR, Session Chairman

6:00 - 7:00 No host cocktails  
7:00 - 8:15 **BANQUET**  
8:15 - 8:45 Keynote speaker (To be selected)  
9:00 **ADJOURN**

### Thursday, February 6, 1992

8:00 - 9:00 Summary of workshop results - Jim Branson, Donald E. McCaughran, and Guy Thornburgh

**POSSIBLE GOVERNMENT/INDUSTRY PROGRAMS - Senior Official, National Marine Fisheries Service, (Tentative) and Dr. Dayton L. Alverson, Natural Resources Consultants, Seattle, WA, Co-Chairmen**

9:00 - 9:40 A government perspective on bycatch - Senior Official, National Marine Fisheries Service (Tentative)

9:40 - 10:10 **BREAK**

10:10 - 10:50 An industry perspective on bycatch - Dr. Dayton L. Alverson, Natural Resources Consultants, Seattle, WA

10:50 - 12:00 Discussion

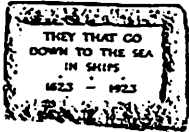
12:00 - 1:30 **LUNCH**

**WORKSHOP SUMMARY AND FUTURE PLANS - Jan. J. Harper, B & H Seafood, Freeport, TX and Robert W. Schoning**

1:30 - 2:00 Summary - Jan J. Harper

2:00 - 5:00 Establish policy statement, program, and long-term working arrangement for national industry bycatch response - Robert W. Schoning

5:00 **ADJOURN**



**NATIONAL INDUSTRY BYCATCH WORKSHOP**  
 February 4 - 6, 1992  
 Newport, Oregon

RECEIVED

JAN - 2 1992

**Steering Committee**  
 Robert W. Schoning,  
 Conference Coordinator  
 622 N.W. Survista  
 Corvallis, Oregon 97330  
 Phone: (503) 753-2700  
 Fax: (503) 737-3590

William A. Adler  
 Mass. Lobstermen's Assoc., Inc.  
 Scituate, Massachusetts

Dr. Dayton L. Alverson  
 Natural Resources Consultants, Inc.  
 Seattle, Washington

Robert D. Alverson  
 Fishing Vessel Owners' Association  
 Seattle, Washington

Alvin R. Burch  
 Alaska Druggers Association  
 Kodiak, Alaska

James D. Cook  
 Pacific Ocean Producers  
 Honolulu, Hawaii

Capt. R. Barry Fisher  
 Midwater Trawlers Cooperative  
 Newport, Oregon

Jan J. Harper  
 B & H Seafood  
 Freeport, Texas

L. John Iani  
 Pacific Seafood Processors Association  
 Seattle, Washington

Herbert A. Larkins  
 American Factory Trawler Association  
 Seattle, Washington

Peter P. Leipsig  
 Fishermen's Marketing Association  
 Eureka, California

Richard T. Lofstad, Jr.  
 Inlet Seafood  
 Montauk, New York

Christopher L. Nelson  
 Bon Secour Fisheries, Inc.  
 Bon Secour, Alabama

John J. Royal  
 Fishermen's Union, Local 33  
 San Pedro, California

Jerry H. Sansom  
 Organized Fishermen of Florida  
 Melbourne, Florida

Walter J. Shaffer  
 South Carolina Shrimpers Association  
 Mt. Pleasant, South Carolina

Robert D. Smith  
 Point Judith Fishermen's Coop. Assoc., Inc.  
 Charlestown, Rhode Island

Nils E. Stolpe  
 New Jersey Commercial Fishermen's Association  
 Haddonfield, New Jersey

Konrad S. Uri  
 K. Fisheries, Inc.  
 Seattle, Washington

Beth A. Stewart  
 Peninsula Marketing Association  
 Juneau, Alaska

December 24, 1991

**TO: Bycatch Workshop Steering Committee, NMFS Regional Directors, Fishery Management Council Directors, and Marine Fisheries Commission Directors**

**FROM: Bob Schoning** *Bob*

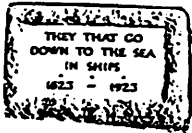
**RE: Progress report and request for assistance**

The invitation packages are being sent on December 27 to individuals in addition to yourselves whose names appear on suggested invitee lists sent by some of you.

There is alleged concern among some Alaska interests that the steering committee isn't broadly enough based, the workshop attendance invitation list is discriminatory and too restrictive, and the agenda is biased favoring trawlers to the detriment of fixed gear operators. The enclosed letter to Arni Thomson is intended to address the reservations and concerns brought to my attention today. It should provide you with a helpful background in case you are questioned about the referenced points.

Please pass the word about the workshop and our sincere desire to invite all legitimate commercial industry interests. Let us know of potential invitees we have missed. If there are items you feel should be added to the agenda if possible, or at least worked into the discussions, let me know right away with suggestions on an appropriate spokesman. Remember, we are not looking for confrontations or gear fights per se. We are trying to find common ground to assist in understanding and collecting information and to work together to get mutually acceptable approaches. We think it is time for the industry to take the lead in this critically important matter and we seek your help and involvement to the extent you are comfortable.

We will keep you informed of significant developments.



# NATIONAL INDUSTRY BYCATCH WORKSHOP

February 4 - 6, 1992

Newport, Oregon

December 19, 1991

## **Steering Committee**

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Conference Coordinator  
622 N.W. Survista  
Corvallis, Oregon 97330  
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Scituate, Massachusetts*

*Dr. Dayton L. Alverson  
Natural Resources Consultants, Inc.  
Seattle, Washington*

*Robert D. Alverson  
Fishing Vessel Owners' Association  
Seattle, Washington*

*Alvin R. Burch  
Alaska Druggers Association  
Kodiak, Alaska*

*James D. Cook  
Pacific Ocean Producers  
Honolulu, Hawaii*

*Capt. R. Barry Fisher  
Midwater Trawlers Cooperative  
Newport, Oregon*

*Jan J. Harper  
B & H Seafood  
Freeport, Texas*

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Pacific Seafood Processors Association  
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Bon Secour Fisheries, Inc.  
Bon Secour, Alabama*

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Fishermen's Union, Local 33  
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South Carolina Shrimpers Association  
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Point Judith Fishermen's Coop. Assoc., Inc.  
Charlestown, Rhode Island*

*Nils E. Slope  
New Jersey Commercial Fishermen's Association  
Haddonfield, New Jersey*

*Konrad S. Uri  
K. Fisheries, Inc.  
Seattle, Washington*

*Beth A. Stewart  
Peninsula Marketing Association  
Juneau, Alaska*

**Mr. Arnie Thomson  
Alaska Crab Coalition  
4901 Leary Way, NW  
Seattle, WA 98107**

**Dear Arnie:**

I understand you have expressed concern about aspects of the forthcoming National Industry Bycatch Workshop in Newport, Oregon February 4-6, 1992. Let me tell you what we are trying to do in the hope it will allay any justified fears.

In some respects, bycatch is the most critical issue facing our fishing industry today. We believe it is time for the U.S. domestic fisheries to take the lead in constructively addressing and eventually minimizing bycatch problems associated with its activities. The problems are many and varied and will require much candid and forthright discussion along with extensive cooperation and coordination over a considerable period of time. We desire the active participation of all segments of the industry to be sure their respective problems are addressed.

A number of months ago a few individuals in the Pacific Northwest conceived of the idea to have a national bycatch workshop to crystallize pertinent thoughts of the domestic industry. A relatively small steering committee was formed from suggestions for participation from around the country in a sincere effort to have appropriate representation. We recognized that every fishery could not be directly involved but leaders from the various geographical regions could speak for their colleagues in the initial planning sessions. Meetings were held in Denver and Seattle at which preliminary plans were developed.

Widely varying, and at times strongly conflicting, views on bycatch are held within the domestic fisheries. It was felt important for the industry to outline and agree upon the basic bycatch problems, possible approaches toward their resolution, and the associated role it wanted to play. Further, it was deemed critical that the industry get its act together as a unified voice first before approaching and working with other entities concerned with bycatch. The stakes are too high and the potential consequences too great to do otherwise.

*A project of The Highliners Association, Seattle, Washington*

December 19, 1991  
page 2

It has become apparent that additional participation in the initial meetings would have been useful, but that is hindsight. The agenda with participating speakers is not firm and the conduct and resulting benefits of the workshop are still ahead of us. There never was, nor is there now, any intent to exclude legitimate members of the commercial industry from participation. To the contrary, we seek and welcome widespread attendance and involvement. In fact, it is essential that we have them to be successful.

There is a voiced, unfounded allegation that the National Marine Fisheries Service is trying to control the workshop. This is absolutely untrue. We have sought participation from NMFS in two ways. The first is for their expertise to help us understand the technical aspects and develop sound approaches toward resolution. The second is for Director Fox to discuss his agency's policies, needs, and plans concerning bycatch issues, to have us learn what role he sees for industry involvement, and to have him interface directly with attendees in a friendly, informal, and mutually beneficial exchange. We believe both are appropriate roles for that agency and its leaders and could make significant contributions to a successful workshop. We are actively soliciting that participation and hope you will support us in those efforts.

Please be assured that there is no hidden agenda, no intent nor effort to prohibit participation of any specific industry elements, nor any desire to pit one segment or gear against the other. One of the fundamental premises of the workshop is to avoid those very things. We must work together. If any of our actions have been misinterpreted from what I have described above, I am sincerely sorry. I apologize for problems that may have inadvertently developed. You represent a segment of the industry that should be involved. If you have views about how to improve the planning and conduct of the workshop, or see a meaningfully productive role for yourself in the program itself, please let me know the details very soon. We hope you will accept this sincere solicitation of your participation.

You will receive in the mail momentarily, as will many other fisheries leaders, an invitation to attend with accompanying registration forms and a draft agenda. This will be the first effort to invite participants, other than planning the workshop with the steering committee. We felt it best to have preliminary administrative and logistical details and the thrust of the agenda developed before sending invitations to assist the potential attendees with affirmative responses. It has taken time, working with various local, regional, and national fisheries organizations, to obtain as complete a list of names of logical invitees nationwide as practical. We may have omitted some and are still seeking appropriate additions. I hope our delay in sending these invitations has not caused individuals to feel they were being excluded or were not wanted. Please help us to correct this misunderstanding if you find places it has occurred.

December 19, 1991  
page 3

I have taken the time to write you this rather lengthy letter because we recognize the leadership role you play in Alaska's commercial fisheries, and that you have expressed concerns which we want to resolve and believe we can. We are determined to do everything we can to have widespread attendance at this potentially successful workshop. Please pass this information to others who may have some of the same concerns you have, and we will try to improve communicating our intentions and plans. If you still have any unanswered questions or concerns, please contact me immediately. The workshop is only an intended first step in a continuing coordinated team effort to minimize bycatch problems. We look forward to your becoming an active member of that team.

Sincerely,



Robert W. Schoning  
Chairman

RWS:jm



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JAN - 6 1992

FISHERIES CONSERVATION ACTION GROUP  
P.O. Box 232  
Petersburg, Alaska 99833  
(907) 772-9323

December 31, 1991

Dr. William W. Fox  
Assistant Administrator for Fisheries  
National Marine Fisheries Service  
Room 9334  
1335 East-West Highway  
Silver Spring, Maryland 20910

To	RICK LAUBER,		
Co.	HAIRMAN, NPZWC		
Fax #			
From	ARNI THOMSON		
Co.			
Fax #	Phone	4163	
Date	Page	of	

 Pitney Bowes  
Facsimile Systems Division

Dear Dr. Fox:

The Fisheries Conservation Action Group (FCAG) is a coalition of organizations in the fishing industry committed to the effective conservation of the fishery resources of the Bering Sea and Gulf of Alaska. Our mission includes the maintenance and improvement of bycatch conservation measures. Our organization is comprised of approximately twenty-five associations of fishers and seafood processing companies that participate principally off the coast of Alaska.

We believe that the federal government can and should play a key role in developing a national bycatch policy. We encourage federal participation in a program that is designed in an objective manner, is truly national in scope, and is representative of all gear types. We believe that prior to conducting a national forum, a series of regional workshops would be in order to insure that an accurate regional perspective could then be presented. The FCAG, however, objects to the government's participation in the so-called National Industry Bycatch Workshop, scheduled for February 4-6, 1992, in Newport, Oregon because it fails to meet these important criteria.

We are convinced that the long-standing financial relationship between the key organizers of the workshop and the major participants in the groundfish trawl industry fatally undermines the credibility of the project. We believe the workshop will fail to yield constructive and objective analyses and recommendations. A national consensus on bycatch can never evolve without active involvement, at the outset, of all gear groups and a sponsor without prejudice.

There can be no doubt that the organizers of the Newport conference are biased. The "draft" agenda was developed over many months without input from the many industry groups that have historically contributed to the development of bycatch conservation measures in the Pacific Northwest. We know now that there was no lack of opportunity to include these groups,

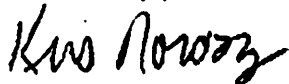
as the Workshop organizers even held a steering committee meeting during Fish Expo in October.

The FCAG is aware of the fact that the Department of Commerce does not control this project. However, it is clear that the Workshop organizers have drawn upon NMFS personnel to give credibility to the planning effort.

Many of the FCAG's members have contacted you and members of Congress to express their opposition to your agency's role in the workshop. On behalf of the coalition, I respectfully urge you to recognize our concerns about your support for a fatally flawed and biased program, and instruct your staff to withhold funds, time, expenses, and endorsements. Support for the workshop will undermine the credibility of the federal fisheries management program, further exacerbate the deep divisions the affected industry already suffers, and compromise future opportunities for your agency to lead the industry forward to a peaceful co-existence between user groups.

Instead, we encourage you to take the trawlers' good notion and move forward to develop a process that is objective and truly national in character.

Sincerely,



Kris Norosz  
President

cc: Congressional Delegations of Alaska, Oregon, and  
Washington  
Governors of Alaska, Oregon, and Washington

**FISHERIES CONSERVATION ACTION GROUP**  
41685 Redoubt Circle  
Homer, Alaska 99603  
Drew Scalzi, Agent

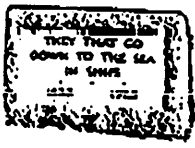
**President:** Kris Norosz, P.O. Box 232, Petersburg, AK 99833  
907 772 9323; Fax: 907 772 9323

**DATE:** December 30, 1991

**SUBJECT: LIST OF CURRENT FCAG MEMBERS**

ASSN./COMPANY/CONTACT	TELEPHONE	FAX
ALASKA CRAB COALITION Arni Thomson	206 547 7560	206 547 0130
ALASKA GROUND FISH DATA BANK Chris Blackburn	907 486 3033	907 486 3461
ALASKA LONGLINE FISH. ASSN. Linda Behnken/ Dan Falvey	907 747 6024	907 747 1470
ALASKA TROLLERS ASSN. Dale Kelley	907 586 9400	907 463 2545
AREA K SEINERS Charles "Chip" Trienen	907 345 2414 907 486 5565	
BERING SEA FISHERMENS' ASSN. John Zuck	907 279 6519	907 258 6688
BRISTOL BAY DRIFTNETTERS Dean Paddock	907 463 4970	907 463 2545
BRISTOL BAY LNGLN./GLNT. CO. William Nicholson	907 842 2386	907 842 5942
CORDOVA DIST. FISH. UNITED Marilyn Leland	907 424 3447	907 424 3430
DEEP SEA FISHERMEN'S UNION John Bruce	206 783 2922	206 783 5811
FISHING VESSEL OWNER'S ASN Erik Olsen	206 284 4720	
FREEZER LONGLINE GROUP Thorn Smith	206 283 7700	206 283 3218
HALIBUT ASSN OF N. AMERICA Shari Gross	206 325 3413	206 324 7590
ICICLE SEAFOODS INC. Bob Brophy/Ralph Hoard	206 282 0988	206 282 7222
KODIAK LNGLNE. VES/OWNERS Linda Kozak	907 486 3781	907 486 2470
N. PACIFIC FISHERIES ASSN. Drew Scalzi	907 235 6369	907 235 6422
OCEAN BEAUTY SEAFOODS INC. Vic Horgan Jr.	206 285 6800	206 281 5897

PETERSBURG VESS. OWNERS ASN.	907 772 9323	907 772 9323
Kris Norosz		
PRIBILOF BERING SFD. LTD.	907 278 2314	907 278 2316
Wm. Arterburn/P. Pletnikoff		
PRINCE WILLIAM SND. SEINERS	907 424 5777	907 424 5837
Dave Clark		
SEAFOOD PRODUCERS COOP.	206 733 7120	206 773 0513
Pete Granger		
SITKA SOUND SEAFOODS	907 747 6662	907 747 6268
Harold Thompson		
UNITED FISHERMEN OF ALASKA	907 586 2820	907 463 2545
Greg Seider		
WESTERN AK COOP. MKTG. ASSN.	907 842 5592	907 842 5942
Dave Jackson		
FISH. VESS. OWNERS ASSN. B.C.	604 321 4744	604 321 2940
Phillip Eby		
PACIFIC CST. FVOAG B.C.	604 732 6587	
Sigurd Brynhjolfson		



# NATIONAL INDUSTRY BYCATCH WORKSHOP

February 4 - 6, 1992  
Newport, Oregon

December 30, 1991

### Steering Committee

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Conference Coordinator  
622 N.W. Survisa  
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William A. Adler  
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Alvin R. Burch  
Alaska Druggers Association  
Ketchikan, Alaska

James D. Cook  
Pacific Ocean Producers  
Honolulu, Hawaii

Capt. R. Barry Fisher  
Midwater Trawlers Cooperative  
Newport, Oregon

Jan J. Harper  
J & H Seafood  
Peeport, Texas

L. John Iani  
Pacific Seafood Processors Association  
Seattle, Washington

Harvey R. Laraine  
American Factory Trawler Association  
Seattle, Washington

Peter P. Leipsig  
Fishermen's Marketing Association  
Eureka, California

Richard T. Lutz, Jr.  
Inlet Seafood  
Monaca, New York

Christopher L. Nelson  
Bon Secour Fisheries, Inc.  
Bon Secour, Alabama

John J. Royal  
Fishermen's Union, Local 33  
San Pedro, California

Jerry H. Sanson  
Organized Fishermen of Florida  
Melbourne, Florida

Walter J. Shaffer  
South Carolina Shrimpers Association  
Mt. Pleasant, South Carolina

Robert D. Smith  
Point Judith Fishermen's Coop. Assoc., Inc.  
Charlestown, Rhode Island

Nils E. Stolpe  
New Jersey Commercial Fishermen's Association  
Haddonfield, New Jersey

Kenneth S. Uri  
K. Fisheries, Inc.  
Seattle, Washington

Bob A. Stewart  
Peninsula Marketing Association  
Juneau, Alaska

Dr. William W. Fox, Jr.  
Director, NOAA/NMFS  
Silver Spring Metro Center 1  
1335 East West Highway  
Silver Spring, MD 20910

Dear Bill:

This is a follow-up on our phone conversation on December 23 relating to the possible participation of you and some of your staff in the forthcoming National Industry Bycatch Workshop to be held in Newport, Oregon February 4-6, 1992. It is intended to address your expressed areas of concern about NMFS participation and to urge you to speak personally as well as to encourage appropriate staff to contribute technical knowledge to the deliberations.

I will comment on the points that troubled you, as I best remember them, and ones I have heard from other sources, but in no particular order of importance. This is a sincere attempt to recount their thrust and respond factually and concisely for potential mutual benefit.

~~Representatives of certain Alaska fishing interests allegedly are urging you and your staff to refrain from participating in the workshop for several reasons. These include: (1) One of them feels he is an active spokesman for, and leader of, specific fishing interests and should have been appointed to the steering committee; (2) he was not invited to the workshop so he is being discriminated against; (3) the agenda and workshop are primarily trawl-oriented and against fixed gear fisheries, and his group will not receive fair treatment in such a forum; (4) Federal funds should not be used to finance NMFS participation in such an alleged intentionally discriminatory and restricted-attendance meeting; and (5) NMFS should not be controlling or playing a leadership role in the organization and conduct of the workshop. As a result these representatives allegedly are actively trying to have: (1) the workshop delayed or canceled; (2) supporting funds withdrawn or denied; (3) Congressional opposition generated; (4) potential keynote speakers from Congress discouraged from participating, and (5) attendance of commercial fisheries interests discouraged.~~

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This individual is not on the steering committee and neither are many other recognized leaders of domestic fisheries interests. A steering committee by definition is relatively small in size to provide guidance and strawmen for the consideration of others. Two of the 20 members are respected Alaska-based representatives of fisheries organizations. Three others have various interests in Alaska fisheries, and another represents the halibut longline vessel owners who fish predominantly in Alaska. Still another is a professional consultant who has served various domestic fisheries organizations including some in Alaska. An ex-officio member of the committee who is coordinating the logistics of the workshop and participating in much of the decision-making is an active commercial fisherman and boat owner from Newport, Oregon, who fishes in Alaska, and is a member of the opposing organization. In addition, the committee contains leaders from many important fisheries in other geographical areas, as it should.

The most important consideration is not who developed the agenda, but what it contains, how the discussion is conducted, and who participates. Those facets are still before us and will be handled fairly, objectively, and productively.

Attendance at the workshop is by invitation to insure that only legitimate commercial fisheries interests attend. The purpose is to develop nationwide industry positions on bycatch issues before industry spokesmen meet with conservationists, recreational fishermen, Congressional interests, and others to minimize bycatch problems. The first invitations containing registration forms and a draft agenda were mailed December 27. No one including this individual got one or will receive one before those are delivered. One was sent to him. We wanted to have a reasonably complete draft program and the logistics of the workshop developed before encouraging attendance. Approximately 250 will have been mailed by next week. The invitation letter solicits names of still other potential invitees.

The agenda is broadly based to encourage discussion on every bycatch issue involving target and non-target species. Representatives from all eight council areas will explain their respective bycatch-oriented problems and serve as a panel in developing solutions. Many highly respected fisheries leaders are active program participants including former NMFS Director Gordon, Pacific States Marine Fisheries Commission Director Thornburgh, International Pacific Halibut Commission Director McCaughran, former North Pacific Fishery Management Council Director Branson, and several other highly regarded spokespersons from the Gulf of Mexico and Atlantic coast fisheries. The issues will be surfaced, discussed, and potential solutions developed in open forum by domestic fisheries leaders from all over the nation. All attendees are urged to participate actively. There is no hidden agenda.

NMFS has publicly urged industry to provide leadership in addressing bycatch issues in commercial fisheries. The industry is responding by convening this workshop. Many NMFS scientists are highly respected authorities on bycatch issues and can contribute much useful information to the workshop. You as NMFS Director can discuss your agency's policies, needs, and plans concerning bycatch issues; outline the role you see for industry involvement; and

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interface directly with attendees in a friendly, informal, and mutually beneficial exchange. What better way is there for government and industry to work together than to have key leaders in both entities engage in candid, directed discussion on a critical subject of mutual importance? Lee Alverson talked with you several times in recent months and understood that you agreed to be on the program along with other NMFS scientists. We were counting on this and developed key roles for you and your team. It came as a frustrating surprise to learn you had directed your staff not to participate and had potentially withdrawn your own participation.

It is entirely appropriate for industry to develop its bycatch positions in-house in consultation with government before going to other interests for assistance and input. NMFS is spending millions of dollars on bycatch-related problems and its representatives are actively and productively participating in associated meetings. Certainly funding attendance of appropriate NMFS leaders, and thereby contributing to the success of a workshop directed toward bycatch solutions, is logical. NMFS employees, undoubtedly attend meetings at which vitally interested individuals are not involved in the pertinent steering committee and have differing opinions on the agenda and one or more of the issues to be discussed. That's the fish business. I assume that in the past you have not denied NMFS involvement because an invitee expressed similar concerns. I know I never did in my five and one-half years as Director. We would have missed out on too many important meetings if that were a consistent policy. We believed the concerns and desires of the great majority of keenly interested and deeply involved attendees warranted our participation and contributions. Further, we also felt that we had a responsibility as a service agency to them as constituents and felt they were entitled to our expertise.

Reportedly, there has been a request of you under the Freedom of Information Act for the financial, and other, involvement in the workshop of the Alaska and Oregon Sea Grant programs. We will be happy to supply the desired information. Sea Grant on a daily basis responds in many ways to the needs and requests of its countless constituents. Convening or assisting in the planning and conduct of meetings and workshops is common. Supporting with funds and efforts a workshop designed to attack a critical nationwide fishing industry problem is consistent with its mission. The agents care about the industry and want to be responsive by contributing their expertise. That's a win-win situation.

Both of us know that NMFS is not trying to nor is it controlling any aspect of the workshop. Assistance has been sought from your regional directors as well as from our steering committee, the eight council directors, and the three marine fisheries commission directors in building an invitation list. They are the individuals who deal on a daily basis with industry and know the organizations best. We want as complete a list as possible and they, collectively, seemed to be the best sources. It is industry's workshop, but NMFS participation in the program is vitally important.

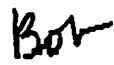
Too many people have contributed too much in various ways to delay or cancel the workshop. We are optimistic but sufficient funding from a variety of sources will be available. We

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sincerely believe that when interested congressional leaders fully recognized what we are trying to do, and also understand what we have done and why, any previous concerns will disappear and they will be supportive, just as are the majority of the nation's domestic fisheries leaders.

I recognize this is an unusually long letter, but I wanted to comment sufficiently on each of the points with which I understand you are concerned to be sure you thoroughly understand our intentions and actions. I sincerely hope you will very carefully and objectively evaluate the contents. You have asked the industry to provide leadership. Convening this workshop is a meaningful response deserving of your participation. We solicit NMFS active involvement and support in this matter of immense mutual importance.

Sincerely,



Robert W. Schoning  
Chairman

RWS:jm



**DRAFT**

**NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
STATEMENT OF ORGANIZATION, PRACTICES, AND PROCEDURES**

~~June 1, 1990~~  
January 7, 1992

**North Pacific Fishery Management Council  
P.O. Box 103136  
Anchorage, Alaska 99510**

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration  
North Pacific Fishery Management Council  
Statement of Organization, Practices, and Procedures**

The North Pacific Fishery Management Council, created by Section 302(a)(7) of the Magnuson Fishery Conservation and Management Act (the Act), hereby publishes a revised Statement of Organization, Practices, and Procedures (SOPP), as required by Section 302(f)(6) of the Act. This is the second revision of the SOPP which was published originally on March 1, 1977 and revised on January 14, 1982. This SOPP was adopted by the Council at a public meeting on June 20, 1989. This SOPP incorporates by reference several more specific policies that have been adopted by the Council regarding plan team operations, Advisory Panel operations, annual management cycles, etc. These policies are part of the reference manuals provided to each member of the Council, its Scientific and Statistical Committee, and its Advisory Panel.

Copies of the SOPP and individual policies may be obtained by writing the Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510. The Council's permanent offices are in Room 306, 605 West Fourth Avenue, Anchorage, Alaska; telephone (907) 271-2809.

**1. COUNCIL JURISDICTION AND FUNCTIONS**

The Council's geographic area of authority includes the Exclusive Economic Zone (EEZ) of the Arctic Ocean, Bering and Chukchi Seas, and Pacific Ocean seaward of Alaska. The states of Alaska, Washington, and Oregon are represented on the Council. The Council will:

- A. Prepare and submit to the Secretary of Commerce (Secretary) or his delegate a fishery management plan with respect to each fishery requiring conservation and management within the Council's geographic area of authority and such plan amendments as are necessary.
- B. Review and comment on applications for foreign fishing transmitted to the Council under a governing international fishery agreement by the Secretary of State under the terms of the Act.
- C. Prepare comments on any fishery management plan or amendments prepared by the Secretary which are transmitted to the Council under Section 304(c)(2) of the Act.
- D. Conduct public hearings at appropriate times and locations in the Council's membership area, to allow interested persons an opportunity to be heard in the development of fishery management plans and amendments and with respect to the administration and implementation of the provisions of the Act. When conducting a hearing outside Alaska, the Council will first consult with the Council in that area.
- E. Submit to the Secretary such periodic reports as the Council deems appropriate, and any other relevant report which may be requested by the Secretary.

- F. Review on a continuing basis, and revise as appropriate, the assessments and specifications contained in each fishery management plan for each fishery within its geographical area with regard to:
- (1) the present and probable future condition of the fishery;
  - (2) the maximum sustainable yield from the fishery;
  - (3) the optimum yield from the fishery;
  - (4) the capacity and the extent to which fishing vessels of the United States will harvest the optimum yield on an annual basis;
  - (5) the portion of such optimum yield on an annual basis which will not be harvested by fishing vessels of the United States and can be made available for foreign fishing.
  - (6) Oversee preparation of the proposed regulations deemed necessary to implement any fishery management plan or amendment which the Council prepares. Those regulations shall be submitted to the Secretary together with the plan or amendment, for action by the Secretary pursuant to Sections 304 and 305 of the Act.
- G. *Comment on and make recommendations concerning any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, is likely to substantially affect the habitat of an anadromous fishery resource under its jurisdiction.*
- G.H. Conduct any other activities which are required by or provided for in the Act or which are necessary and appropriate to the foregoing functions.

The Council expects to participate in international negotiations concerning any fishery matters under the cognizance of the Council. The Council also expects to be consulted during preliminary discussions leading to U.S. positions on international fishery matters, including the allocation of fishery resources to other nations within its area of authority.

## 2. COUNCIL ORGANIZATION

The North Pacific Council has eleven voting members and four non-voting members. The eleven voting members include the Commissioner of the Alaska Department of Fish and Game, Director of the Washington Department of Fisheries, Director of the Oregon Department of Fish and Wildlife, the Alaska Regional Director of NOAA Fisheries, five members appointed by the Secretary from the State of Alaska, and two members appointed by the Secretary from the State of Washington.

The four non-voting members include the Alaska Regional Director of the U.S. Fish and Wildlife Service, the Commander of the Seventeenth Coast Guard District, the Executive Director of the Pacific Marine Fisheries Commission, and a representative of the U.S. Department of State.

### A. Officers and Terms of Office

A Chairman and Vice Chairman are elected from the voting members of the North Pacific Council by a majority vote of the voting members present and voting. Both serve for one year and may

succeed themselves. They are elected at the first regular Council meeting held after August 11 (election meeting) and their terms of office expire at the next meeting after August 11 of the subsequent year. If the Council terms of either or both of the officers end before a regular election meeting, the Council shall appoint at the next regular Council meeting interim officers to serve until the next election meeting.

The Chairman, or in his absence the Vice Chairman, of the North Pacific Council has authority to convene and adjourn meetings and public hearings and designate members of the Council, Scientific and Statistical Committee, and Advisory Panel to attend meetings and public hearings. He will control meetings and hearings by recognizing speakers, establishing the order of business, and designating members of the Council and its advisory bodies as members of committees and working groups. The Chairman certifies the minutes of the meeting as complete and accurate before they are available for general distribution.

**B. Designees**

The Magnuson Act authorizes only the principal State officials, the Regional Directors, and the non-voting members to designate individuals to attend Council meetings in their absence. The Chair of the Council must be notified in writing, in advance of any meeting at which a designee will initially represent the Council member, of the name, address, and position of the individual designated. A designee may not name another designee. However, such officials may submit to the Chair, in advance, a list of several individuals who may act as designee, provided the list clearly specifies who would serve if more than one designee attends. Reimbursement of travel expenses to any meeting is limited to either the member or one designee.

**C. Advisory Groups**

The North Pacific Fishery Management Council has established two formal advisory groups: a Scientific and Statistical Committee and an Advisory Panel.

**(1) Scientific and Statistical Committee**

The Scientific and Statistical Committee (SSC) is composed of experts in biology, statistics, economics, sociology, and other relevant disciplines from the federal, state, and private scientific communities and other appropriate sources.

**(a) Objectives and Duties.** As requested by the Council, through the Council Chairman or the Executive Director, the SSC shall:

**(i)** Provide expert scientific and technical advice to the Council on the development of fishery management policy, fishery management plans and amendments, their goals and objectives, proposed regulations, and criteria for judging plan effectiveness.

**(ii)** Assist in the identification, development, collection, and evaluation of statistical, biological, economics, social and other scientific information deemed relevant to the Council's fishery management planning, particularly with regard to determining the best scientific data available as required by National Standard 2.

(iii) Advise the Council on preparing comments on any relevant fishery management plan or amendment prepared by the Secretary or Secretary's delegate pursuant to Section 304(c) of the Act.

(iv) Submit to the Council reports deemed appropriate by the Committee or requested by the Council.

(v) Perform other appropriate duties as may be required by the Council to carry out its functions under the Act.

(b) Members and Chairman. The SSC has 11 members, all of whom shall be appointed by, and serve at the pleasure of, the Council. They shall be appointed for one year, and may be reappointed. Vacancies may be filled for the remaining unexpired term. The SSC Chairman and Vice Chairman shall be nominated by the Committee from among its members and confirmed by the Council for one-year terms. Agency representatives on the Committee may have an alternate as provided for in the Council's Policy on Scientific and Statistical Committee Alternates.

(c) Administrative Provisions. The committee shall meet as a whole, or in part, at the request of the Chairman of the Committee, with the approval of the Chairman of the Council, as often as necessary to fulfill the Committee's responsibilities, taking into consideration time and budget constraints. It is estimated that the Committee will meet at least five times a year, just before the scheduled Council meetings. The Executive Director of the Council shall provide such staff and other support as the Council considers necessary for Committee activities, within budgetary limitations.

SSC members shall serve without compensation, but may be paid their actual travel expenses in performing their duties in accordance with applicable law and Council travel policy. SSC members shall attend regular Council meetings and hearings as required by the chairman of the Council. Security clearances for SSC members shall be requested as necessary.

(2) Advisory Panel

The Advisory Panel (AP) shall meet as a whole, or in part, at the request of the chairman of the AP with the approval of the Council Chairman, as often as necessary to fulfill the AP's responsibilities, taking into consideration time and budget constraints. It is estimated that the AP will meet at least five times a year just before the scheduled Council meetings.

(a) Objectives and Duties. The AP advises the Council on a continuing basis on the assessments and specifications and measures contained in each of the Council's fishery management plans, especially the capacity and extent to which the fishing vessels of the United States will harvest the resources, the socioeconomic effects of the fishery plans, and potential conflicts between user groups of a given fishery resource or other impacted fisheries. The AP members shall attend Council meetings, public hearings, and work sessions at the request of the Council Chairman to advise on particular fisheries, with particular reference to the socioeconomic implications of managing those fisheries and current trends and development in the fisheries. The AP shall perform such other necessary and appropriate advisory duties as may be required by the Council to carry out its functions under the Act.

(b) Members and Chairman. The Advisory Panel of the North Pacific Fishery Management Council shall be appointed for one year by, and serve at the pleasure of, the Council. The Council will attempt to appoint as broad a spectrum of interests as is possible, including the various fisheries around Alaska, commercial, sport, and subsistence, catching, processing, sales, consumerism, environmental, and general interest. Persons wishing to serve on the Advisory Panel may submit their names with a short resume through the Executive Director. A list of nominees will be kept in the Council headquarters. The Council Chairman shall have authority to fill interim vacancies on the AP from the list of nominees subject to confirmation by the Council at the next regular meeting. The Chairman and Vice Chairman of the AP shall be nominated by a majority of AP members and confirmed by the Council. The size of the AP, qualifications for members, and the nomination and selection process are summarized in the Council's policy on Advisory Panel Structure and Operations.

(c) Administrative Provisions. The AP Chairman or designee will report to the Council. The Executive Director of the Council shall, upon request of the Chairman of the AP, provide such staff and other support as the Council considers necessary for AP activities, within budgetary limitations. Members of the AP shall serve without compensation, but may be paid their actual travel expenses in performing their duties in accordance with applicable law and Council travel policy. Security clearances for AP members shall be requested as necessary.

#### D. Working Groups

The Council appoints plan teams for each of the major fisheries under its management. Members of each team are selected from those agencies and organizations having a role in the research and/or management of fisheries. The team should be small enough to work efficiently and effectively but sufficiently large to provide the diverse experience and knowledge needed to cover all aspects of a particular fishery. At a minimum, teams shall be composed of one member from agencies having responsibility for management of the fishery resources under the jurisdiction of the Council. Nominations of these individuals are at the discretion of the agencies. Other individuals may be nominated by members of the Council, SSC or AP. Appointments to the team will be made by the Council with recommendations from the SSC.

The teams shall:

- (1) prepare and/or review plans, amendments and supporting documents (EISs, RIRs, etc.) for the Council, SSC and AP;
- (2) aggregate and evaluate public/industry proposals and comments;
- (3) summarize and evaluate data related to the biological, economic and social conditions of the fishery;
- (4) conduct and evaluate analyses pertaining to management of the fisheries;

- (5) evaluate the effectiveness of management measures in achieving the plan's objectives; and
- (6) recommend when and how management measures need to be changed.

These and other provisions concerning the teams are included in the Council's Policy on Plan Team Composition, Tasking and Operations.

The Council also may use ad hoc groups that include industry representatives to address resource user conflicts or other issues.

E. Committees

The Council may appoint standing and ad hoc committees from among the voting and non-voting members as it deems necessary for the conduct of Council business.

### 3. COUNCIL MEETINGS AND HEARINGS

The Council will meet at the call of the Chair or upon request of a majority of the voting members. In fulfilling the Council's responsibilities and functions, the Council members may meet in plenary session, in working groups, or individually to hear statements in order to clarify issues, gather information, or make decisions regarding material before them. To provide for review and decision by the Secretary, recommendations of each of these groups must be documented and available. The documentation must include, at a minimum, a statement of the problem, recommendations for corrective action, likely impact on the affected resource, and likely impact on affected user groups. Emergency meetings shall be held at the call of the Chairman or equivalent presiding officer.

The following guidelines apply with respect to the conduct of business at meetings and hearings of the Council and its Scientific and Statistical Committee and Advisory Panel:

A. Notice

Timely notice of each regular meeting, hearing, and each emergency meeting, including the time, place, and agenda of the meeting, shall be published in local newspapers in the major fishing ports of the Council's region (and in other major fishing ports having a direct interest in the affected fishery) and such notice may be given by such other means as will result in wide publicity. Timely notice of each regular meeting and hearing shall also be published in the **FEDERAL REGISTER**.

B. Conduct of Meetings

Each regular meeting and each emergency meeting shall be open to the public. Interested persons shall be permitted to present oral or written statements regarding the matters on the agenda at meetings, within reasonable limits established by the Chair.

- (1) A majority of the voting members constitute a quorum. All decisions of the Council shall be by majority vote of the voting members present and voting. The use of a proxy is not permitted except as allowed for under Section 2B. An abstention does not affect the unanimity of a vote.



(2) A vote is required for Council approval or amendment of a fishery management plan (including any proposed regulations), a Council finding that an emergency exists involving any fishery, or Council comments to the Secretary on fishery management plans developed by the Secretary.

(3) If any voting member disagrees with respect to any matter which is transmitted to the Secretary by the Council, such member may submit a statement to the Secretary, setting forth the reasons for such disagreement. Such statements will accompany the full package submitted to the Secretary by the Council on the matter in question.

*(a) On the final vote on any matter to be transmitted to the Secretary by a Council, the regional director of the National Marine Fisheries Service serving on the Council, or the regional director's designee, when rendering a negative vote, shall submit to the Council within 10 working days after adjournment of the Council meeting, a statement explaining the reason(s) for the vote, which shall be made available to the public upon request and remain on file with the Council.*

(4) Parliamentary procedure will be used in the conduct of the meetings. Agreement among Council members can be reached by consensus and non-voting members are expected to take part in all discussions and indicate their opinions on all specific issues. Those matters pertaining to the approval or disapproval of a fishery management plan or amendment, including proposed regulations, or comments for the Secretary on foreign fishing applications, or Secretarially-prepared management plans, require a vote.

*(5) At any time when a Council determines it appropriate to consider new information from a State or Federal agency or from a Council advisory body, the Council shall give comparable consideration to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to respond to new data or information before the Council takes final action on conservation and management measures.*

C. Record

(1) Minutes of each meeting and hearing shall be kept and shall contain a record of the persons present, an accurate description of matters discussed and conclusions reached, and copies of all statements filed.

(2) Subject to the confidentiality procedures established by the Council on January 28, 1986 (Section 1(i) in the NPFMC Reference Book), and the guidelines prescribed by the Secretary pursuant to Section 303(d) of the Act, the administrative record and minutes of each meeting and records or other documents which were made available to or prepared for or by the Council, committee, or panel incident to the meeting, shall be available for public inspection and copying at a single location in the offices of the Council.

D. Closed Meetings

The Council, Scientific and Statistical Committee, and Advisory Panel shall close any meeting, or portion thereof, that concerns matters or information that bear a national security classification, employment matters, or briefing on litigation in which the Council is interested. If any meeting or portion is closed, the Council, ~~committee or panel~~ concerned shall ~~publish notice of the closure in~~ *notify* local newspapers in the major fishing ports within its region (and in other major, affected

fishing ports), including *in that notification* the time and place of the meeting. For closed meetings, a general list of topics discussed and people present will be maintained as a record of that meeting. *This does not require notification regarding any brief closure of a portion of a meeting in order to discuss employment or other internal administrative matters.*

E. Frequency and Duration

The Council normally meets five times each year. Each meeting generally lasts from three to five days and begins on Tuesday or Wednesday of the meeting week. The Council's SSC and AP generally meet from one to two days before the Council.

F. Location

The Council shall ~~conduct all meetings within Alaska, except meetings with other Councils when inter-Council resources are concerned.~~ *meet at appropriate times and places in any of the constituent States of the Council.* Hearings may be held in any of the member states, except that hearings in Oregon or Washington may only be held after first consulting with the Pacific Fishery Management Council regarding the conduct of such hearings. One or more Council members designated by the Council Chairman may hold hearings.

G. Council Members Compensation

Those voting members of the Council who are not employed by the Federal Government or any State or local government shall receive compensation at the daily rate for ~~GS-18~~ *GS-16 (Step 1)* of the General Schedule. Such compensation shall be limited to attendance at formal meetings of the Council, meetings of standing committees, or any other meeting approved in advance by the Chairman. Such compensation may be paid on a full day's basis whether in excess of eight hours a day or less than eight hours a day. "Homework" time in preparation for any meeting is not compensable nor is travel time to or from such meetings.

The Council Chairman must submit to the Regional Office annually a report of Council member compensation authorized. This report shall identify, for each member, amount paid, dates, and location and purpose of meetings attended. At the discretion of the Council Chairman, Council members may be required to complete a meeting request form if they wish to be compensated for activities other than regular Council meetings.

#### 4. EMPLOYMENT PRACTICES

A. Staffing

The Council staff includes an Executive Director, Deputy Director and other full and part-time employees as determined necessary to the performance of Council functions consistent with budgetary limitations. The Executive Director is responsible to the Council, and the staff is responsible to the Executive Director.

**B. Experts and Consultants**

As long as funding is available in its budget, the Council may contract with experts and consultants as needed to provide technical assistance not available from NOAA. This includes legal assistance clarifying issues, but the Council must contact NOAA General Counsel before seeking outside legal advice. Such legal assistance may not provide services on a continuing basis.

**C. Detail of Government Employees**

The Council may request the detail of other government employees to assist the Council in the performance of its functions. (As cited in [605.25C] of the MFCMA)

**D. Personnel Actions**

All staff employees serve at the pleasure of the Council. The Executive Director may be dismissed by the Council and other staff employees may be dismissed by the Executive Director acting for the Council. Dismissals may be made for misconduct, unsatisfactory performance, and/or lack of funds, with reasonable notice to the employee.

No employee of the Council may be deprived of employment, position, work, compensation, or benefit provided for or made possible by the Magnuson Act on account of any political activity or lack of such activity in support of or in opposition to any candidate or political party in any national, state, county, or municipal election, or on account of his or her political affiliation.

**E. Salary and Wages**

In setting rates of pay for Council staff, the principle of equal pay for equal work must be followed. Salary ranges for any new position will be set by the NOAA Personnel Section. COLA and equalization pay will be added to each employee's base pay at the level set by the Office of Personnel Management. No staff level will be above GS-15.

Employees will be entitled to promotions and associated pay raises solely on the basis of merit and performance. The Executive Director, acting for the Council, shall conduct performance reviews at least once a year with each Council employee and will approve promotions and raises based on the employee's performance, length of service, or special accomplishments. Pay raises and annual evaluations for the Executive Director will be accomplished through a review process involving the Chairman and selected members of the Council. Career development, including formal training, will be supported by the Council, subject to budgetary limitations, when directly beneficial to both the employee and the Council.

In conducting official Council business, Council members and staff generally have the same protection from individual tort liability as Federal employees on official actions, and are protected by the Federal workmen's compensation statute, by the minimum wage/maximum hour provisions of the Fair Labor Standards Act (FLSA), and by the rights of access and confidentiality provisions of the Privacy Act (PA).

Council staff are eligible also for unemployment compensation in the same manner as Federal employees.

F. Recruitment

The Council is an equal opportunity employer in full compliance with federal requirements for non-discrimination. Council staff positions are filled solely on the basis of merit, fitness, competence, and qualification. Vacancy announcements will be circulated as widely as possible.

G. Leave

Employees of the Council shall be granted paid leave for holidays, vacations or exigencies, sickness, and civic duties (jury, military reserve obligations) as determined by the Council. These are explained in the Council's personnel rules. A copy of these rules are given to each new employee.

(1) Annual Leave

Full-time Council employees may accrue annual leave at rates not to exceed those for federal employees. Part-time employees accrue leave at the same rate, per hours worked. If the Council so desires, it may credit prior federal, state or local government service for the purpose of determining leave accrual of individual employees. Application of such a policy must be uniform and public.

Employees may carry over up to 240 hours (30 days) unused annual leave from one year to the next. Amounts remaining above 240 hours will be forfeited. Under certain conditions, forfeited annual leave may be restored if it was properly scheduled for use and circumstances beyond the employee's control caused the forfeiture. Approval for this restoration must be obtained from the Council Chair or his/her designee, who will refer to the NOAA Personnel Regulations and other source documents for guidance. Lump sum reimbursements not to exceed 240 hours carryover plus current year earnings of unused leave are authorized upon employee separation.

(2) Sick Leave

Full-time Council employees may accrue sick leave at the rate of two hours per week (13 days per year). Part-time employees may accrue at a percentage of the hours worked compared to 40 hours. Unused sick leave credit may be accumulated without limit. Lump sum payments to the employee upon separation are not authorized. However, at retirement as defined in accordance with the provisions of the Social Security Act or in the event of death of the employee, a deposit may be made to the employee's retirement fund for unused sick leave up to a maximum number of days and contribution per day as allowed by the Alaska Public Employees Retirement System, subject to budgetary limitations.

In meritorious cases, the Council may advance up to one year's earnings of sick or annual leave when it is reasonably expected that the advanced leave will be repaid by the employee. This must be approved by the Council chair or designee (designation must be in writing).

H. Employee Benefits

The Council shall provide its employees group health insurance, life insurance, and retirement plan under the State of Alaska Public Employee System. Total employee benefits may not exceed 20 percent (exclusive of FICA) of employee's gross salary (which includes COLA and equalization pay) without NOAA approval.

I. Travel Reimbursement

(1) The per diem and actual subsistence rates contained in the NOAA Travel Handbook apply.

(2) Actual expenses include transportation by air coach, rail-coach, bus, or privately owned vehicle (automobile or private plane reimbursed on a per-mile basis) room and meals within a reasonable limit established by the NOAA Travel Handbook and incidental expenses such as taxi fares, parking, and telephone calls on official business.

(3) Coach air transportation must be utilized when available. Travel via first class air must be justified on the reimbursement voucher and approved by the Council Chair or his/her authorized representative. Privately owned vehicles (POVs) may be authorized when other modes of transportation are either unavailable or inconvenient. When a POV is authorized for the convenience of the traveler, the reimbursement costs must not exceed the costs of coach air fare. Accommodations equivalent to other-than-first-class should be utilized in the unlikely event that water vessel transportation is required. When substantial savings can be realized by utilizing rail travel, this mode of transportation should be considered when available and adequate.

(4) Council, AP, SSC Members, Non-Federal Travelers. Non-federal members of the Council and members of advisory groups *and Council staff* will be reimbursed for actual expenses incurred in the performance of Council duties. They are not bound by the separate per diem limits for meals and lodging as set forth in the GSA Rules. They are subject, however, to the total reimbursement limits established by the NOAA Travel Handbook for actual expenses, and they must itemize their actual expenses up to the specified limit each day. Lodging and airline receipts are required. The rates are included in the GSA Rules. Federal employees serving in the above capacities are subject to the reimbursement rules of their agencies.

~~(5) Council staff, members of plan teams and others. Members of the Council staff and plan teams, invited experts, consultants, and other specifically invited, unlike those described in paragraph (4) of this section, must adhere to the per diem limits or actual expense requirements set forth in the GSA Rules. Non-NOAA team members may be reimbursed for travel expenses but receive no other compensation from the Council.~~

~~(6)~~(5) NOAA Personnel. Payment for travel by NOAA personnel is not authorized.

~~(7)~~(6) Domestic invitational travel for non-Council personnel may be approved by the Council Chairman, or his/her authorized representative.

J. Foreign Travel

(1) Foreign travel must be approved, in advance, by the Assistant Administrator for Fisheries or designee and by the Grants Officer. Requests for foreign travel approval should be submitted, in writing, at least 15 days in advance to the Assistant Administrator, through the NMFS Office of Management and Budget and the Grants Officer. Routine across-the-border travel to Mexico and Canada is exempt.

(2) The Council Chairman or his/her authorized representative may approve routine across-the-border travel to Canada or Mexico for Council members and employees within specified Federal rates.

(3) Foreign invitational travel for non-Council personnel must be approved as described in paragraph (1) of this section. The per diem limits or actual expense requirements described above also are applicable to non-Council personnel traveling at Council expense. Payment for NOAA personnel from Council funds is not authorized.

## 5. STANDARDS OF CONDUCT

The Council and its staff shall maintain high standards of ethical conduct. These standards include the following principles:

A. No employee of the Council shall use his or her official authority to act in the name of the Council for the purpose of influencing the result of an election to or a nomination for any public elective office.

B. No Council member or employee shall pay, or offer, or promise, or solicit, or receive from any person, firm, or corporation, either as a political contribution or a personal emolument any money, or anything of value in consideration of either support, or the use of influence, or the promise of support, or influence in obtaining a Council decision or for any person, any appointive office, place or employment under the Council.

C. No employee of the Council or member of the Plan Teams shall have a direct or indirect financial interest that conflicts with the fair and impartial conduct of his or her Council duties. Council members with a direct or indirect financial interest shall ensure that it does not conflict with the fair and impartial conduct of his or her Council duties.

D. The Magnuson Act requires that Council nominees, voting members appointed to the Council by the Secretary, and Executive Directors disclose any financial interest of the reporting individual in any harvesting, processing, or marketing activity that is being, or will be, undertaken within any fishery under the jurisdiction of the individual's Council or of any such financial interest of the reporting individual's spouse, minor child, partner, or any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee. The information required to be reported must be disclosed on NOAA Form 88-195, "Statement of Financial Interests for Use by Voting Members, Nominees and Executive Directors of Regional Fishery Management Councils," or such other form as the Secretary, or designee, may prescribe. The report must be filed by nominees for Secretarial appointment before the date of appointment as prescribed by the Secretary. Voting members appointed by the Secretary and Executive Directors must file the report with the Council office before taking office. Individuals must update the form at any time a reportable financial interest is acquired or the financial interests are otherwise substantially changed. The information required to be submitted will be kept on file and made available for public inspection at reasonable hours at the Council offices. A copy of the form may be obtained from the appropriate Regional Office.

## 6. FINANCIAL MANAGEMENT

Office of Management and Budget Circulars No. A-110 and A-122 provide uniform administrative requirements applicable to the North Pacific Fishery Management Council, including standards for financial management, financial reporting, property management, and procurement. The Council will operate in full compliance with these standards.

### A. Cooperative Agreements and Contracts

The Council receives funds through cooperative agreements for two basic types of expenditures: administrative (operations) funds to cover general operating expenses such as salaries, office space, utilities, travel, State liaison activities, etc., and programmatic (or contract) funds primarily designed to fund contracts generated by the Council for development of FMPs (including amendments) or FMP-oriented information.

(1) Administrative. The funding for the administrative and technical support of Council operations is included in the budget of the Department of Commerce and, through the Department, in the budgets of NOAA and NMFS. The Council must submit a formal application (Standard Form 424, Federal Assistance short Form) to the appropriate Regional Director. This application includes a Budget Data Form, a Program Narrative Statement supporting the application, a Statement of General Assurances, and a Budget Summary Worksheet for three fiscal/calendar years.

A Cash Receipts and Disbursement Journal with a monthly Summary of Accounts is required as a minimum bookkeeping system for the administrative budget. In addition, a Statement of Income and Expenses for the Council must be prepared monthly for the Council membership. Each cash disbursement must be approved by the Council Executive Director or Administrative Officer. All checks require signatures from two of the following people: Council Executive Director, the Administrative Officer, or another person designated by the Council.

A Letter of Credit will be established for each cooperative agreement. Drawdowns from the Treasury will be made in accordance with the Department of the Treasury Circular 1075, "Withdrawal of Cash from the Treasury for Advances Under Federal Grants and Other Programs" (31 CFR Part 205).

(2) Programmatic. The Council has adopted a Policy on Identification, Submission, and Review of Proposals for Programmatic Research. The Council may enter into cooperative agreements with Federal agencies, State, and private institutions on matters of mutual interest which further the objectives of the Magnuson Act. Approval from the Secretary of Commerce must be obtained and each agreement must specify the nature and extent of Council participation. The Councils are not authorized to accept gifts or contributions directly. All such donations must be directed to the NOAA Administrator in accordance with applicable NOAA regulations.

Requests for programmatic funding may be submitted at the same time as the Council's administrative budget, or at other times as required by the Assistant Administrator. Documentation should include a cover letter explaining the need for the project, how it contributes to an FMP (proposed, developing or existing), and how it meets criteria outlined in this section.

(3) Contracts. Negotiated and advertised contracts will be administered under the same principles of equality and integrity outlined under the section "Employment Practices" and will generally follow the specifications normally characteristic of contracts with public entities (e.g., public announcement, emphasis on competition, change orders, etc.). Efforts must be made to inform minority firms of planned Council procurements.

**B. Procurement**

All procurements will comply with the Council's Procurement Procedures which were approved by the NOAA Grants Office in 1977. Draft contracts or solicitations relating to the development or monitoring of FMPs must be submitted to the Regional Director. Proposed sole-source procurements over \$5,000 and purchases or leases of automated data processing (ADP) equipment must also be submitted to the Regional Director prior to award. Proposed sole-source contracts over \$10,000 must be approved in writing by the Grants Officer. Final copies of all contracts awarded will be filed with the appropriate Grants Officer.

Competition will be held for all commercial purchases over \$5,000 unless the unique nature of the procurement, unforeseen time constraints, and/or substantiated overall savings (administrative plus contractual) clearly dictate otherwise.

The purchase or lease of ADP equipment by Councils and its subcontractors requires prior approval by the Regional Director. Such approval will be made only after a cost-benefit analysis (system life cost, lease vs. purchase, compatibility, etc.) by the Council demonstrates the economy of the proposed action.

Commodities and services will be procured by means of a document-oriented system, with a receipt, check, or purchase order type document maintained on all transactions. Typical suspense systems will be maintained for any partial and undelivered procurements. Equipment and supplies available in the General Services Administration will usually be given primary consideration, except where cost-effectiveness and efficiency dictate otherwise. A petty cash fund for over-the-counter purchases will be maintained as necessary in the Council staff office.

**C. Property Management**

An accountability system of all non-expendable items of personal property will be maintained by means of an inventory system. An annual inventory report will be submitted to the NOAA Grants Officer. Theft will be reported promptly to the appropriate authorities. Procedures for ensuring adequate control and protection are as follows:

- (1) All non-expendable items will be inventoried.
- (2) Council property will be marked clearly with identifying numbers.
- (3) Sensitive equipment such as cameras will remain secured.
- (4) Disposal of surplus will be performed in accordance with grant provisions.
- (5) A listing of personnel with access to Council property will be maintained in the Council Office.



D. Real Property

The leasing, renting, and acquisition of real property and space will be effected in a manner consistent with customary practices related to contracts with public entities. Real property files will be maintained on all transactions, including litigation, connected therewith.

E. Accounting System

The finance and budget control system will be a direct responsibility of the Administrative Officer, who will maintain full cognizance of, and compliance with, all Department of Commerce requirements, pursuant to the Act, Treasury Department (IRS) regulations as well as any applicable local requirements (state, municipal, etc.).

(1) Financial control will be effected by means of a basic document-oriented accrual accounting system, which will include provisions for at least the following: direct labor (salary); indirect labor (employer contributions for FICA, life and health insurance, retirement, and unemployment taxes), travel expenses (transportation and subsistence), transportation of things, rent and utilities, taxes (non-employment), printing, communications, supplies, equipment, contracts, and any appropriate contra-accounts (contract accruals, etc.).

(2) A general ledger, supported by appropriate journals, will be maintained on all obligations and expenses, including appropriate accruals, and will be used to prepare periodic reports for review by the Executive Director, the Council, or Department of Commerce representatives. As a minimum, a complete financial status report should be completed on a monthly basis. The financial management system will be coordinated with the budget management system so that current and projected fund usage can be determined at any time.

(3) A separate payroll register, indicating all applicable expenses and accruals, will be maintained on each member of the Council and the Council staff.

F. Audits

Audits will be performed biannually by DOC Office of Inspector General or an independent public accountant. NOAA personnel will be invited as appropriate to participate in the audit exit conference.

G. Financial Reporting

Reports will be submitted as required by OMB Circular A-110 to summarize total expenditures and federal funds unexpended, and the status of the Federal cash received. All financial reports will be kept until audited or approved for disposal by the appropriate Department of Commerce representative.

## 7. RECORDKEEPING

### A. Administrative Records for FMPs

(1) The Council and NMFS Headquarters, Regions and Centers collectively are responsible for maintaining records pertaining to the development of FMPs and amendments. In the event of litigation, compilation of an administrative record for a court case will be under the direction of the NOAA General Counsel.

(2) Categories of documents which generally constitute an administrative record include the following:

- (a) Council meeting agendas;
- (b) Minutes of Council meetings;
- (c) Plan Team reports, if any;
- (d) SSC reports;
- (e) AP reports;
- (f) Hearing reports;
- (g) Council reports/recommendations;
- (h) Correspondence relating to the FMP;
- (i) Scoping comments;
- (j) Work plan, if any;
- (k) Discussion papers, if any;
- (l) NEPA documents;
- (m) Regulatory analyses;
- (n) PRA justification;
- (o) Proposed regulations;
- (p) Final regulations;
- (q) Emergency regulations; and
- (r) Notices of meetings (Council, SSC, AP, Team).

### B. Disposition of Records

(1) The goal of an effective disposition program is annually to destroy at least enough unneeded records to equal the volume of records created, while preserving records having long-term or enduring value because of administrative, legal, scientific, or historical importance.

(2) The Council must consult with NOAA before destroying Council records. Financial records (including time and attendance records) are handled according to the stipulations of OMB Circular A-110. The Council must send records associated with FMPs to the appropriate Region for disposition.

(3) All records and documents created or received by Council employees while in active duty status belong to the Federal Government. When employees leave the Council, they cannot take original or file copies of records with them; to do so violates Federal law.

C. Permanent Records

The designation of a file as "permanent" means that the records are appropriate for offer to the National Archives when 20 years old, unless otherwise specified. Destruction of permanent records is not authorized. The following are examples of permanent files:

- (1) EIS files: Documents relating to EISs or environmental assessments. Cut-off at end of calendar year when created. Permanent retention; no approved disposition at this time.
- (2) Annual report files: Input for the DOC Annual Reports and related correspondence. Cut-off at end of calendar year when created; permanent.
- (3) Meeting files: Including agendas, minutes, reports, studies and related correspondence. Cut-off at end of calendar year; permanent.

D. Privacy Act Records

The Council will maintain in its office, under appropriate safeguards in accordance with the Privacy Act (PA), personnel files on employees, experts and consultants under contract, and advisory group members. Maintenance, protection, handling of requests for information, and disclosure and disposition of PA records will be accomplished as provided for in Section 605.27(d) of the Secretary's Guidelines for Council Operation and Administration published as a final rule on January 17, 1989.

E. Freedom of Information Act (FOIA)

All FOIA requests must be submitted in writing. The envelope and letter should be clearly marked "Freedom of Information request." It will be time and date stamped. The Council will respond in a timely manner and will recover allowable costs as provided for in Section 605.27(e) of the Secretary's guidelines.

F. Confidentiality of Statistics

The Council has established appropriate procedures applicable to it and to its committees and advisory panels for ensuring the confidentiality of the statistics that may be submitted to it by Federal or State authorities, and may be voluntarily submitted to it by private persons including, but not limited to, procedures for the restriction of Council employee access and the prevention of conflicts of interest; except that such procedures must, in the case of statistics submitted to the Council by a State, be consistent with the laws and regulations of the State concerning the confidentiality of such statistics. The specific provisions are in the Council's policy on the Confidentiality of Statistics in the Council's reference book.