

*Pictures  
on  
Wednesday*

AGENDA B-1  
DECEMBER 2009

## EXECUTIVE DIRECTOR'S REPORT

### Arctic Issues

The International Arctic Fisheries Symposium was held October 19-21 in Anchorage. The Council helped sponsor the symposium along with NPRB, NOAA, and other agencies and groups. Ambassador David Balton was a key participant, and he noted that the State Department will use some of the summary remarks in the symposium's proceedings as the United States discusses future Arctic fishery management issues with other nations. Bill Wilson presented the Council's new Arctic FMP which was a conspicuous part of this meeting as it was referenced by Senator Murkowski, Senator Begich, and Governor Parnell in their remarks to the symposium participants. Proceedings are available at [www.nprb.org/iafs2009/proceedings](http://www.nprb.org/iafs2009/proceedings).

### Plan Team Nomination

Item B-1(a) is a letter from Dr. DeMaster nominating Dr. Tom Gelatt to serve on the Aleutian Islands Fishery Ecosystem Plan Team. Tom has extensive field research experience with marine mammals, and is currently the Leader of the Alaska Ecosystems Research Program at the National Marine Mammal Lab. The SSC will also be reviewing his nomination package and making a recommendation to the Council.

### Board of Fish proposals

Following on our meeting yesterday with the Board of Fish, the proposals currently under consideration by the BOF are referenced under Item B-1(b). The Council may wish to defer further discussion, and formulation of potential comments to the BOF, until the staff tasking agenda item later in this meeting.

### Catch Share Task Force report

I have been told that NOAA's Catch Share Task Force Report will be unveiled this week, and Dr. Balsiger may be here to present that report to the Council, likely on Thursday or Friday.

### SSC National Workshop

A second national SSC Workshop was held November 10-13 in St. Thomas to discuss best practices and technical approaches for setting scientifically based annual catch limits. This workshop was funded by all of the regional councils, and hosted by the Caribbean Fishery Management Council. Dave Witherell coordinated the workshop, and NPFMC SSC members in attendance were Pat Livingston, Keith Criddle, and Franz Mueter. Workshop discussions revealed that there is wide diversity among the Councils on how they are approaching the ACL requirements, particularly with respect to incorporating scientific uncertainty in the determination of OFL and ABC, the use of vulnerability analyses, peer review of stock assessments, and ways to address data poor situations. A report is being drafted, and should be ready for distribution by early February.

### AFA pollock cooperative agreements/reports

Updated annual cooperative agreements are due December 1 (or letters indicating no substantive changes to the agreements). These are on file with the Council office for those interested in getting copies. Draft end-of-year annual reports have been submitted by some of the cooperatives, but final reports are not due until February, in time for review by the Council at the February meeting.

### Council family pictures

Today, Wednesday the 9<sup>th</sup>, during the lunch hour. SSC at noon, AP at 12:15, staff at 12:30, Council members at 12:45. In the Spruce Room on the 1<sup>st</sup> Floor. Please be on time!

### Travel claims

Please get them in by the end of the year... or risk not getting reimbursed!!!

### Events this week

Joint Council/BOF meeting – The Council and Alaska Board of Fish will meet jointly on Tuesday, December 8, beginning at 11:00 am, to discuss a number of issues of mutual interest. The agenda for that meeting is included under Item B-1(c).

Committee meetings – The Non-Target Species Committee met on Sunday, December 6 and will be providing a report to the Council later this week. The Council's Enforcement Committee will meet on Monday, December 7, from 1:00 to 5:00 pm in the Fireweed Room, and the Ecosystem Committee will meet that day from 10:00 am to 5:00 pm in the Aspen/Spruce Room. The Council's Steller Sea Lion Mitigation Committee will meet on Tuesday, December 8, at 5:30 pm in the AP meeting room.

Young Fishermen's Summit – Sponsored by Alaska Sea Grant, with support from the NPFMC and other agencies and organizations, the annual Young Fishermen's Summit is being held this week, with a reception scheduled for Tuesday evening, December 8, from 6:00 to 8:00 pm in the Chart Room. Council, SSC, AP, and staff members are encouraged to attend and visit with the Summit participants.

Northern Fiber Optic Link presentation – On Wednesday, December 9 (tonight) representatives from the Northern Fiber Optic Link project will host a public workshop in the AP room, around 5:00 pm (or shortly after the AP breaks for the day). Item B-1(d) is a copy of a flyer summarizing this project, including the proposed seafloor locations for the fiber optic cables.

Industry Chinook IPA presentation – On Thursday, December 10, representatives from the pollock industry will hold a meeting to describe their latest efforts relative to Incentive Plan Agreements (IPAs) pursuant to the Council's recent Chinook salmon bycatch amendment package. These presentations will occur at 6:00 pm in the AP meeting room.

Executive Session on Friday – An Executive Session of the Council is scheduled for Friday, December 11, starting at around 12:30 pm and lasting perhaps until 1:30 pm. The primary purpose of this session is to review AP and SSC nominations for the upcoming year.

Finance/Executive Committee meeting – The Council’s Finance/Executive Committee will meet (also in executive session) Friday evening at around 5:30 pm to review the status of Council funding, our recent five-year budget award application (for 2010-2014), and related personnel considerations. Location for the meeting will be provided to Committee members.



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE

Alaska Fisheries Science Center  
7600 Sand Point Way NE  
Seattle, WA 98115

November 16, 2009

Chris Oliver, Executive Director  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

Dear Chris:

The Alaska Fisheries Science Center recommends that Dr. Tom Gelatt be considered to serve on the Aleutian Islands Fishery Ecosystem Plan team. Tom currently serves as the Leader of the Alaska Ecosystems Program in the National Marine Mammal Lab. His knowledge of Steller sea lion and northern fur seal population dynamics in Alaska would provide useful expertise to the team. I have included Tom's curriculum vitae for your consideration.

We appreciate the opportunity to provide experts to support the AI Fishery Ecosystem plan team.

Sincerely,

A handwritten signature in black ink that reads "Douglas P. DeMaster".

Douglas P. DeMaster, Director

Cc: F/AKC2 Pat Livingston  
NPFMC Diana Evans  
Attachments



Thomas S. Gelatt  
Alaska Ecosystems Program  
National Marine Fisheries Service  
Alaska Fisheries Science Center  
National Marine Mammal Lab  
[Tom.Gelatt@noaa.gov](mailto:Tom.Gelatt@noaa.gov)

Tom Gelatt has been the Leader of the Alaska Ecosystems Research Program at the National Marine Mammal Lab since September of 2004. He is responsible for overseeing a scientific research program investigating reasons for the population decline in Steller sea lions and northern fur seals in Alaska. Prior to his current position with the National Marine Fisheries Service, Dr. Gelatt held a similar position as the Principal Investigator of the Steller sea lion research program with the Alaska Department of Fish & Game from 2001-2004. In both positions Dr. Gelatt supervised or participated in the design, collection, and analyses of all of the procedures conducted under the marine mammal permits issued. In addition, Dr. Gelatt also has extensive experience in conducting field research on and handling of Antarctic pinnipeds and Alaskan sea otters.

#### EMPLOYMENT

Sept. 2004 – Present, Leader, Alaska Ecosystems Program, National Marine Fisheries Service, Alaska Fisheries Science Center, National Marine Mammal Lab. Seattle, WA.  
March 2001 – Sept. 2004, Principal Investigator, Steller Sea Lion Program, Alaska Dept. of Fish and Game, Anchorage, AK.  
1992 - 2001, Graduate Research Assistant, University of Minnesota, St. Paul, MN.  
1991 - 1992, District Wildlife Biologist, Targhee National Forest, Ashton, ID.

#### EDUCATION

Ph.D. Wildlife Conservation - University of Minnesota, 2001. Dissertation: Male reproductive success, inbreeding, and relatedness of Weddell seals in McMurdo Sound, Antarctica.  
M. S. Wildlife Conservation - University of Minnesota, 1996. Thesis: Time budgets and activity patterns of sea otters at Amchitka Island, Alaska.  
B. S. Fisheries and Wildlife Management with honors - Montana State University, 1987

#### PUBLICATIONS

Gelatt, T.S., C. Davis, I. Sterling, D. Siniff, C. Strobeck, and I. Delisle. 2009. History and fate of a small isolated population of Weddell seals at White Island, Antarctica. *Conservation Genetics*, DOI: 10.1007/s10592-009-9856-6  
Yochem P. K., B. S. Stewart, T. S. Gelatt, and D. B. Siniff. 2009. Health Assessment of Weddell Seals, *Leptonychotes weddellii*, in McMurdo Sound, Antarctica. PP. 123 - 138 in K.R. Kerry and M.J. Riddle (eds.), *Health of Antarctic Wildlife: A Challenge for Science and Policy*, DOI: 10.1007/978-3-540-93923-8\_8. Springer-Verlag Berlin Heidelberg.

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- Hastings, K. K., T. S. Gelatt, and J. K. King. Postbranding survival of Steller sea lion pups at Lowrie Island in Southeast Alaska. 2009. *Journal of Wildlife Management* 73:1040-1051.
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# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME ALASKA BOARD OF FISHERIES

SEAN PARNELL, GOVERNOR

ADF&G  
P.O. BOX 115526  
JUNEAU, AK 99811-5526  
PHONE: (907) 465-4110  
FAX: (907) 465-6094

Eric Olson, Chairman  
North Pacific Fishery Management Council  
605 West 4th, Suite 306  
Anchorage, Alaska 99501-2252

November 13, 2009

Dear Chairman Olson,

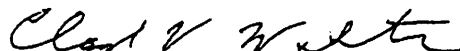
During its October 2009 work session, the Alaska Board of Fisheries received a report from Stefanie Moreland, ADF&G's Extended Jurisdiction Program Manager, that identified a number of regulatory proposals of possible interest to the North Pacific Fisheries Management Council. I would like to bring these proposals to the attention of the Council and invite the Council's review and comment.

Attached is a list of the 22 proposals which we have identified as potentially affecting fisheries of common interest to both the Council and the Board. Thirteen of the proposals are scheduled for Board action during the Alaska Peninsula/Aleutian Islands Finfish meeting scheduled for February 2-6, 2010 in Anchorage. Nine are scheduled for Board action during the Statewide Finfish and Supplemental Issues meeting scheduled for March 16-20, 2010, also in Anchorage. The Board request written materials two weeks prior to the regulatory meetings.

There will be an opportunity for an initial description of these proposals presented by ADFG staff during our upcoming joint NPFMC/BOF meeting on December 8, 2009.

I look forward to the continued coordination on these important fishery topics. Thank you.

Sincerely,



Vince Webster  
Chairman, Alaska Board of Fisheries

cc: Chris Oliver, Executive Director, NPFMC  
Jane DiCosimo, Senior Plan Coordinator, NPFMC  
Sue Salvesson, NOAA Fisheries  
Stefanie Moreland, Extended Jurisdiction Program Manager, ADF&G

**DRAFT AGENDA**

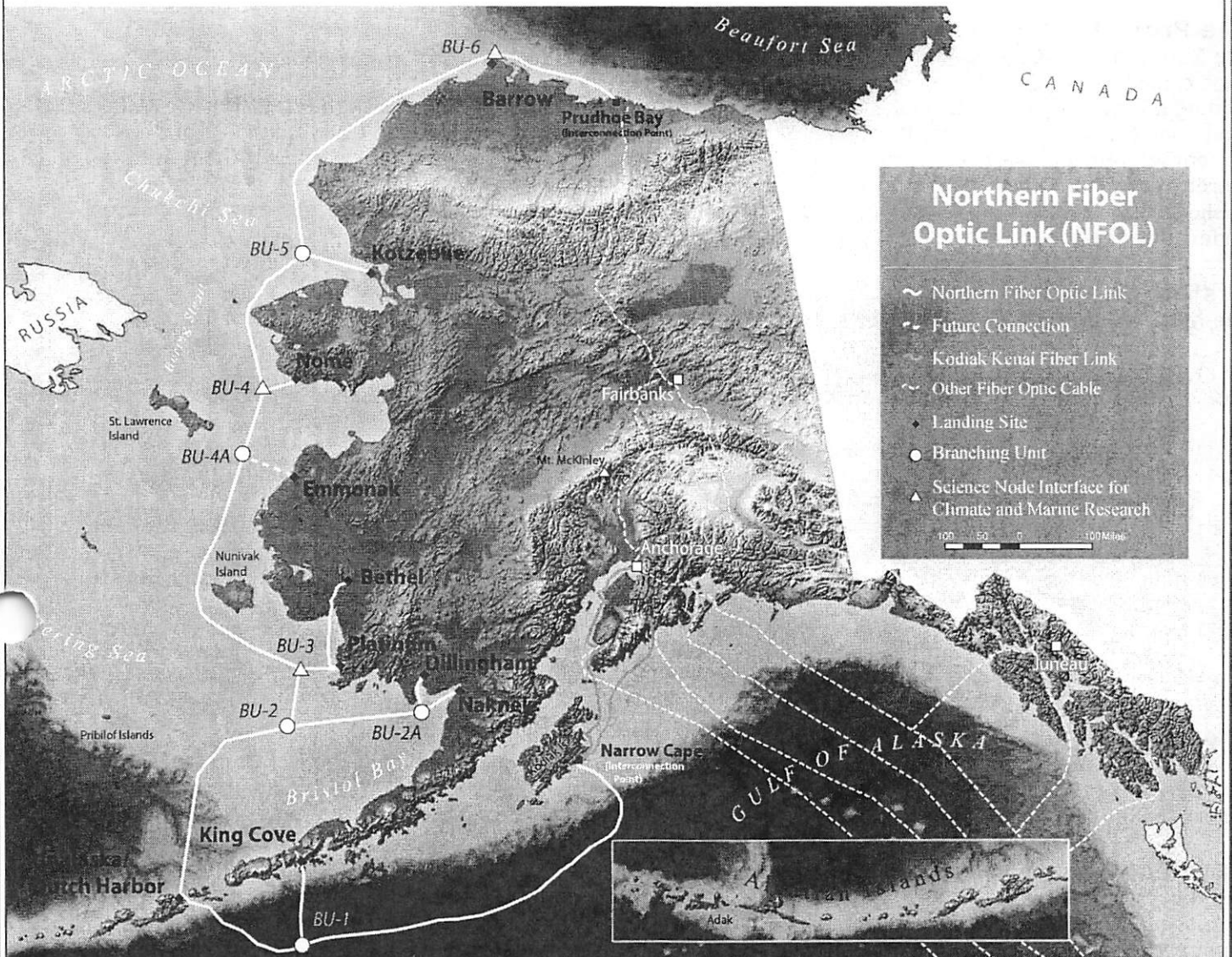
Joint NPFMC/Board of Fish meeting  
Tuesday, December 8, 2009  
Anchorage, Alaska  
Hilton Hotel Aleutian Room  
**11:00 am to 5:00 pm**  
(LUNCH on site from 12:30 pm to 1:00 pm)

1. Call to order (Mr. Olson will Chair)
2. Approve Agenda
3. Review Joint Protocol Agreement (Chris Oliver and Jim Marcotte)
  - Review current Joint Protocol Agreement and revised draft developed by Executive Directors
  - Consider approving revised Joint Protocol Agreement
4. Status of Steller Sea Lion Biological Opinion (Bill Wilson - Council/NMFS staff)
  - Receive background report on SSL and groundfish interactions
  - Review impacts relative to previous Board of Fish proposals
  - Receive report on current Biological Opinion process and potential impacts
5. Discuss Board proposals potentially affecting federal groundfish fisheries (Wayne Donaldson/ other ADF&G staff)
  - Receive summary of relevant Board proposals
  - Discuss process for formulating potential Council comments (could be done during staff tasking agenda item at December Council meeting)
6. Status of GOA cod federal actions (Jeannie Heltzel - Council staff)
  - Receive overview of proposed action
  - Specific discussion of jig sector management and parallel waters aspects
7. Status of chum salmon bycatch action (Diana Stram/Nicole Kimball - Council staff)
  - Review action on Chinook salmon bycatch and timeline for implementation
  - Receive overview of chum stock status (ADF&G)
  - Receive overview of alternatives, salmon bycatch workgroup recommendations, outreach plan, and timeline for analysis/Council action
8. Update on broader Council community/rural outreach (Nicole Kimball - Council staff)
  - Receive overview of initiative and review previous and current recommendations of the Council's Outreach Committee
9. Crab and scallop annual catch limits, crab overfishing (Diana Stram - Council staff)

- Review progress on crab and scallop annual catch limits (ACLs)
  - Review requirements for Council and BOF to implement crab rebuilding amendments
10. Update on Walrus and fishery interactions issues (Bill Wilson/Diana Evans - Council staff)
    - Receive overview of issues and status of Council considerations
    - Review letter from USFWS to Council suggesting coordination with State of Alaska
  11. Update on Arctic Fishery Management Plan (Bill Wilson - Council staff)
  12. Update on Federal Groundfish Observer Program restructuring initiative (Nicole Kimball - Council staff)
  13. Other business
  14. Public comment on all agenda items
  15. Council/Board of Fish action where necessary
    - Identify issues of concern to either body and establish timeline/processes for future communication
    - Consider issues for possible deferral to Joint Protocol Committee
  16. Adjourn

# NORTHERN FIBER OPTIC LINK

## CONNECTING AMERICA



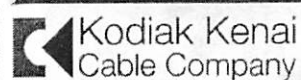
Distance Learning

Homeland Security

Climate and Marine Research

Economic Development

Telemedicine



[www.northernfiberlink.info](http://www.northernfiberlink.info)

# NORTHERN FIBER OPTIC LINK

## Project Overview

### The Project

The Northern Fiber Optic Link (NFOL) will extend the Kodiak Kenai Fiber Link system via submarine fiber optic cable from Narrow Cape on Kodiak Island to the Aleutian Islands, Western and Northern Alaska with landing points at King Cove, Unalaska (Dutch Harbor), Naknek (King Salmon), Dillingham, Platinum, Bethel, Emmonak (future site), Nome, Kotzebue, Barrow and Prudhoe Bay (Deadhorse). When fully built out the system will provide 142 rural communities access to high speed, high-capacity broadband for the first time, thereby connecting the region's hospitals, medical clinics, schools, remote university campuses, libraries, public safety offices, U. S. Coast Guard communications sites, commerce and industry facilities, and future undersea laboratories with real-time, reliable, high speed telecommunications.

### System Specifications

The NFOL will be configured as follows:

- (1) Cable Length: approximately 3,550 miles,
- (2) Trunk and Branch Configuration with eighteen segments comprised of 14 repeatered and 4 non-repeatered segments,
- (3) Two fiber pairs on each Trunk segment and 4 fiber pairs on each Branch segment,
- (4) Eleven Cable Landing Stations (CLS); BU4A with a fiber stub included for a future landing to service communities along the Yukon River,
- (5) Three Science Node Interfaces along the trunk for servicing future ocean observatories (BU3, BU4 and BU6 as denoted on the map by the yellow triangles,
- (6) Initial Operating Capacity: 52 Wavelengths, each with 10 Gbps data rate, for a capacity of 520 Gbps distributed across the eleven cable landing stations,
- (7) Full Operating Capacity; 96 Wavelengths for a capacity of 960 Gbps on each fiber pair, providing a total system capacity of 1.92 Tbps,
- (8) Design Lifetime of System: 25 years.

### Broadband Loan & Grant Proposal

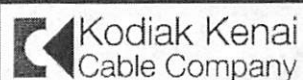
The Kodiak-Kenai Cable Company, LLC (KKCC) proposes to fund the construction of the Northern Fiber Optic Link by utilizing a combination RUS loan/grant or an NTIA grant. Upon completion of this new system, KKCC will lease and/or sell capacity to telecommunications carriers on a competitively neutral basis.

### The Result

The NFOL will improve communications reliability dramatically and will offer last-mile providers access to high-speed broadband capacity to the largest "unserved" rural geographic area of the United States. Improved internet and telecommunications services will transform educational and economic opportunities as well as enable access to telemedicine for the rural communities connected by the System, and will enable real time remote climate and ocean sensing and other advanced capabilities for marine research. The design meets the region's current capacity requirements and provides significant additional capacity to accommodate future growth.

### The Company

The Kodiak-Kenai Cable Company, LLC (KKCC) was formed in 2001 by Old Harbor Native Corporation and Ouzinkie Native Corporation to design and construct the Kodiak Kenai Fiber Link. This 600-mile marine fiber optic system was successfully completed on time and on budget and was placed in service January, 2007. The Company offers high-speed broadband capacity and services to telecommunications carriers and connectivity for the rural communities and approximately 60,000 residents of the Kenai Peninsula and Kodiak Island. KKCC is a socially and economically disadvantaged small business concern as defined under Section 8(a) of the Small Business Act.



[www.northernfiberlink.info](http://www.northernfiberlink.info)

\* \* \* \* \*  
[FR Doc. E9-28958 Filed 12-4-09; 8:45 am]  
BILLING CODE 4510-26-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 600**

[Docket No. 080102007-91368-02]

RIN 0648-AW18

**Magnuson-Stevens Fishery Conservation and Management Act; Regional Fishery Management Councils; Operations**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Supplementary proposed rule; request for comments.

**SUMMARY:** NMFS proposes changes to the regulations that address the operations and administration of Regional Fishery Management Councils (Councils). The regulatory changes are needed to clarify which Council documents should be available to the public, clarify Council member nomination procedures, clarify financial disclosure requirements for Council members, and revise the security assurance procedures for nominees to and members of the Councils.

**DATES:** Written comments must be received no later than 5 p.m. e.d.t. on January 6, 2010.

**ADDRESSES:** You may submit comments, identified by "RIN 0648-AW18," by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.

- *Fax:* 301-713-1175.

- *Mail:* Alan Risenhoover, Director, Office of Sustainable Fisheries, National Marine Fisheries Service, 1315 East-West Highway, SSMC3, Silver Spring, MD 20910. Please mark the outside of the envelope "Council Operations."

*Instructions:* All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter n/a in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe pdf file formats only.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the Office of Sustainable Fisheries at the mailing address or fax number specified above and by e-mail to

[David.Rostker@omb.eop.gov](mailto:David.Rostker@omb.eop.gov), or fax to (202) 395-7285.

**FOR FURTHER INFORMATION CONTACT:** William Chappell, at 301-713-2337.

**SUPPLEMENTARY INFORMATION:** Section 302 of the Magnuson-Stevens Act includes provisions for the establishment and administration of the Councils. On March 27, 2009 at 74 FR 13386, NMFS published a proposed rule affecting these regulations. Subsequent to the publication of that proposed rule, several issues regarding Council operations and appointments to the Councils have demonstrated a need for additional proposed changes to the regulations. These proposed changes are all administrative in nature and would increase the transparency of the Council process to the public or improve the efficiency of the Council member appointments process. A discussion of the specific proposed changes follows.

*Government Accounting Office (GAO) report recommendations.*

On May 20, 2009, the GAO submitted a report on the Western Pacific Fishery Management Council (GAO-09-508R Fisheries Management) that provided several recommendations to improve the transparency of the Council's operations. NMFS' considers two of those recommendations appropriate for all Councils. The first recommendation was for the Council to maintain current and archived copies of documents available for public inspection, such as the Council's meeting minutes and briefing book materials, on the Council's Web site. The second recommendation was for the Council to adopt procedures that require Council meeting minutes to include not only a Council member's statement of recusal from voting, but also the nature of the financial interest that would be affected.

Some of the Councils already maintain many of their documents on their web sites. Among documents that may be available are current drafts of fishery management plan (FMP) amendments the Council is developing,

proposed regulatory amendments to FMPs, and analysis for those actions. Documentation (briefing book documents) for upcoming Council meetings may also be posted, as are meeting summaries. In some cases, transcripts of past meetings may also be available. Some Councils have their FMPs and amendments posted, along with current regulations or links to them. Other archival documents such as histories of the FMPs and synopses of FMPs are often available.

Posting of information is limited by the size of the server supporting the Council's Web site and the staff time and expertise in posting and maintaining documents on the server. In some cases, documents are so large that posting them on the Web site is impracticable, so they are made available for retrieval through a file sharing protocol (FTP) site. Because of variations among the Councils, NMFS proposes that Councils post their documents "to the extent practicable." Current documents and information related to current and recent meetings are of a higher priority than documents related to past actions. However, both are of interest to the public. Posting them on the Internet or making them readily available through an FTP site or other technology improves the transparency of the Council process to the public and reduces the amount of staff time needed in responding to inquiries from the public. For documents too large to maintain on the Web site, not available electronically, or seldom requested, the Council must provide copies of the documents for viewing at the Council office during regular business hours or may provide the documents through the mail.

In response the GAO's recommendation, NMFS proposes that a Council member's statement of recusal from voting would also include the nature of the financial interest that would be affected and to require that Council meeting minutes include that information. Under the current regulations at § 600.235(e), Council members are already required to identify the financial interest that would be affected if they wanted to participate in the deliberations on an issue for which they have recused themselves. This proposal would go a step further in requiring them to identify the financial interest any time they recuse themselves. This identification would make the reason behind the recusal and the interests at stake more transparent to the other members of the Council and to the public.

**Obligatory/at large issue for Council member nominations.**

Sec. 600.215 (b)(5) contains confusing language regarding nominations for non-concurrent expiration of obligatory and at-large seats. It is uncertain whether this situation has ever arisen. Due to the standard expiration date of appointments (August 10), this particular situation may never arise. In the unlikely event that a Council seat would be vacated near to the time of the annual appointment process, the Secretary has the authority to either include that seat in the general solicitation for nominees or require a separate nomination process.

**Financial disclosure and corporate connections.**

Current guidance, either in the regulations at § 600.235(a) or on the financial disclosure form, do not specify disclosing corporate connections of companies for which a nominee works. This has become a concern, particularly if the company in question is solely owned by another corporation, meaning that there can be conflict of interest that is not necessarily obvious or disclosed. The financial disclosure regulations are proposed to be expanded to cover this situation. Further, NMFS plans to substantially update the financial disclosure form to better accommodate the revised requirements of the law and the fact that some Council members are neither actively fishing nor do they directly own fisheries related businesses.

In addition, NMFS is proposing to amend the regulations at § 660.235(b)(2) to clarify that Council members must update their financial disclosure forms annually and file the updated form with the Executive Director of the Council by February 1 of each year, regardless of whether any information has changed on that form.

**Security assurances**

Sec. 600.240(a) currently requires a background check (NACI) for all nominees and members. This check can take in excess of three months to complete, especially when a large number of checks are requested simultaneously, as for Council member nominees. In order to reduce the large glut of work caused by the nomination process, as well as the extra work done by the nominees that are not appointed, NMFS proposes that only those nominees selected be required to submit the forms necessary to begin a background investigation. Further, NMFS proposes that appointments be made conditional upon a favorable

background investigation. Otherwise, under current regulations, it would take a 2/3 vote of the Council to remove a member.

**Classification**

This action has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

This proposed rule would update operational and administrative procedures of the eight Regional Fishery Management Councils. It consists of varied measures that respond to emerging Council issues. The proposed rule includes:

1. Requirement for Councils to maintain publically available documents on its Internet site to the extent practicable;
2. Removing confusing language regarding the non simultaneous appointment of obligatory and at large seats;
3. Requirement for Councils members to identify whether organizations they are associated with are subsidiaries of companies having interests in the fisheries;
4. Requirement for Council members to identify the financial interest affected when recusing themselves from votes; and
5. Removing a requirement for nominees for membership to Fishery Management Council to submit forms for a background check and make other minor changes to conform to current security practice.
6. Clarifies that Council members must update their financial disclosure forms annually and file the updated form with the Executive Director of the Council by February 1 of each year, regardless of whether any information has changed on that form.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under Control Number 0649-0192. Public reporting burden for completing and submitting the Statement of Financial Interests, Form 88-195, is estimated to average 35 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and

by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov) or fax to (202) 395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

**List of Subjects in 50 CFR Part 600**

Administrative practice and procedure, Confidential business information, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

Dated: December 1, 2009.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 600 as follows:

**PART 600—MAGNUSON-STEVENSON ACT PROVISIONS**

1. The authority citation for part 600 continues to read:

**Authority:** 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

2. In § 600.150, add paragraph (b) to read as follows:

**§ 600.150 Disposition of records.**

\* \* \* \* \*

(b) Each Council is required, to the extent practicable, to maintain documents generally available to the public on its Internet site. Documents for posting must include: fishery management plans and their amendments for the fisheries for which the Council is responsible, drafts of fishery management plan amendments under consideration, analysis of actions the Council has under review, minutes of past meetings of the Council its committees, materials provided to Council members in preparation for meetings, and other Council documents of interest to the public. For documents too large to maintain on the Web site, not available electronically, or seldom requested, the Council must provide copies of the documents for viewing at the Council office during regular business hours or may provide the documents thorough the mail.

3. In § 600.215, revise (b)(5) to read as follows:

**§ 600.215 Council nomination and appointment procedures.**

\* \* \* \*

(b) \* \* \*

(5) When the terms of both an obligatory member and an at-large member expire concurrently, the Governor of the state holding the expiring obligatory seat may indicate that the nominees who were not selected for appointment to the obligatory seat may be considered for appointment to an at-large seat, provided that the resulting total number of nominees submitted by that governor for the expiring at-large seat is no fewer than three different nominees.

\* \* \* \*

4. In § 600.235, revise paragraph the definition of *Financial interest in harvesting processing lobbying, advocacy, or marketing* in paragraph (a) and paragraphs (b)(2) and (d) to read as follows:

**§ 600.235 Financial disclosure.**

(a) \* \* \*

*Financial interest in harvesting processing lobbying, advocacy, or marketing* (1) includes:

(i) Stock, equity, or other ownership interests in, or employment with, any company, business, fishing vessel, or other entity or any subsidiary of such entities engaging in any harvesting, processing, or marketing activity in any fishery under the jurisdiction of the Council concerned;

(ii) Stock, equity, or other ownership interests in, or employment with, any company or other entity or any subsidiary of such entities that provides equipment or other services essential to harvesting, processing, or marketing activities in any fishery under the jurisdiction of the Council concerned, such as a Chandler or a dock operation.

(iii) Employment with, or service as an officer, director, or trustee of, an

association whose members include companies, vessels, or other entities engaged in harvesting, processing, or marketing activities, or companies or other entities providing services essential to harvesting, processing, or marketing activities in any fishery under the jurisdiction of the Council concerned; and

(iv) Employment with an entity or any subsidiaries of such entity providing consulting, legal, or representational services to any entity engaging in, or providing equipment or services essential to, harvesting, processing, or marketing activities in any fishery under the jurisdiction of the Council concerned, or to any association whose members include entities engaged in the activities described in paragraphs (1)(i) and (ii) of this definition;

\* \* \* \*

(b) \* \* \*

(2) The Financial Interest Form must be filed by each nominee for Secretarial appointment with the Assistant Administrator by April 15 or, if nominated after March 15, 1 month after nomination by the Governor. A seated voting member appointed by the Secretary must file a Financial Interest Form with the Executive Director of the appropriate Council within 45 days of taking office; must file an update of his or her statement with the Executive Director of the appropriate Council within 30 days of the time any such financial interest is acquired or substantially changed by the affected individual or the affected 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; and must update his or her form annually and file that update with the Executive Director of the appropriate Council by February 1 of

each year, regardless of whether any information has changed on that form.

\* \* \* \*

(d) Voluntary recusal. An affected individual who believes that a Council decision would have a significant and predictable effect on that individual's financial interest disclosed under paragraph (b) of this section may, at any time before a vote is taken, announce to the Council an intent not to vote on the decision and identifying the financial interest that would be affected.

\* \* \* \*

5. In § 600.240, revise paragraph (a) to read as follows:

**§ 600.240 Security assurances.**

(a) DOC Office of Security will issue security assurances to Council members following completion of favorable background investigations. A Council member's appointment is conditional until such time as the background investigation has been favorably adjudicated. The Secretary will revoke the member's appointment if that member receives an unfavorable background investigation. Security assurances will be valid for 5 years from the date of issuance. A security assurance will not entitle the member to access classified data. In instances in which Council members may need to discuss, at closed meetings, materials classified for national security purposes, the agency or individual (e.g., Department of State, U.S. Coast Guard) providing such classified information will be responsible for ensuring that Council members and other attendees have the appropriate security clearances.

\* \* \* \*