

Executive Director's Report

Update on ecosystem issues

At our last meeting I updated you on the October 2004 meeting in Baltimore where we discussed a number of issues with NOAA leadership, among those the status of development of ecosystem-related initiatives. At our request (per the November letter to Admiral Lautenbacher), we arranged a meeting between the Council Chairs/Executive Directors and the Admiral, Bill Hogarth, Jack Dunnigan, and other NOAA officials, in conjunction with the annual MAFAC meeting in January. At that meeting the NOAA leadership agreed to include Council representation in ongoing efforts to develop guidelines for ecosystem based management approaches, as well as in drafting of agency positions on ecosystem provisions/requirements for Magnuson-Stevens Act reauthorization this year. A small group of four Council representatives, at the staff level (including myself), will be working with NOAA drafting teams this spring and likely through the summer. The details of this process and our interaction are still being developed.

In the meantime, the Council's own reconstituted Ecosystem Committee, recently appointed by the Council Chair, had an organizational meeting earlier this week. The agenda for that meeting is included as Item B-1(a) and we will provide a summary report to you at this meeting. The members of the small, focused committee are Stephanie Madsen (Chair), Jim Balsiger, Doug Demaster, Jim Ayers, David Benton, David Fluharty, and John Iani.

Solicitation for nomination to ecosystem research and science review panel

This is one of the issues addressed by the Council's Ecosystem Committee, but I wanted to also include it here separately, to be sure that everyone was aware of the solicitation and could provide input as well. The NOAA Science Advisory Board is conducting an external review of NOAA's ecosystem research and science enterprise - the (small) external panel will review and draft recommendations on the appropriateness of the mix of scientific activities conducted and/or sponsored by NOAA. The notice is included under Item B-1(b), and outlines the role of the panel and guidance for submission of nominations, which are due by February 17.

Enforcement Committee

The Council's Enforcement Committee also met earlier this week (yesterday) and we will be providing their reports on issues as they arise during the agenda this week. A full written report will also be made available before the end of the week.

Update on March conference

Planning for the March Fisheries conference in Washington, D.C. is going well, though I don't have any major new information to provide to you at this time. Please check our website periodically for new information (www.managingfisheries.org). Also, remember that NPFMC Council members are automatically registered for the conference, but you have to make your own travel arrangements and hotel reservations! If you have not done so by now, and plan on attending, please do so asap

Legal issues raised to NOAA GC

On December 29 I wrote a letter to NOAA GC requesting legal input on a number of issues related to various agenda items coming up at this meeting, or in the near future. I included that letter in a Council mailing in January, and I am also including it here for your reference during the meeting (Item B-1(c)).

Evening events this week

The North Pacific Observer Program will be holding an overview/workshop tomorrow (Thursday) evening at 6:00 pm in the AP meeting room. Flyers announcing this workshop have been distributed and all interested persons are encouraged to attend.

MPA committee nominations

Item B-1(d) is a FEDERAL REGISTER notice soliciting nominations for up to three additional members on the national Marine Protected Areas Federal Advisory Committee. The deadline appears to be February 13. Nominations are sought for non-federal scientists, resource managers, and persons representing other interests or organizations involved with or affected by marine conservation.

February 25 meeting with Board of Fish

I previously contacted Council members regarding your availability for a joint meeting with the Board of Fish on February 25. Most of you indicated that you could make that date - Item B-1(e) is the letter from the Board requesting this meeting, to discuss a proposal to open certain state waters within Steller sea lion critical habitat in order to facilitate the harvest of AI pollock. An additional area in Cook Inlet is also being considered for similar openings. Council and NMFS staff will speak to the potential implications of this action under the B-7 agenda item. Other issues for discussion could include an update on Board efforts and potential legislation with regard to GOA rationalization efforts, and potential Board proposals regarding crab management (to be considered in March). I will be coordinating with Diana Cote regarding meeting logistics. It has been suggested that a 1:00 pm start time would allow for some to travel that day, and would still allow enough time to complete our business.

DRAFT Agenda

NPFMC Ecosystem Committee

February 7, 2005

I. Review Draft Mission Statement

(Initial mission statement is to “discuss current ecosystem related initiatives and assist in shaping NPFMC positions relative to (1) defining ecosystem based management; (2) structure and Council role in potential regional ecosystem councils; (3) implications of NOAA strategic plan; (4) draft guidelines for ecosystem based approaches to management; (5) draft MSA provisions or requirements relative to ecosystem based management; and, (6) generally coordinating with NOAA and other initiatives regarding ecosystem based management.)

II. Receive update on recent meeting with NOAA leadership at MAFAC meeting

III. Review most relevant, current materials

- November 18, 2004 letter to Admiral Lautenbacher
- November 30, 2004 letter to Dr. Hogarth
- October 2004 ppt presentation from Baltimore meeting with NOAA
- Recent ppt presentations from Dunnigan/Sissenwine RE ecosystem based management
- August 2004 publication from NOAA (Requirements for an Ecosystem Approach to Management of Living Marine Resources)
- January 27, 2005 solicitation for members of a NOAA ecosystem research and science review panel
- December 17, 2004 U.S. Ocean Action Plan

IV Finalize Mission Statement

V Review calendar and establish dates for Committee meetings through June

VI Determine priorities for Committee focus

VII Determine nominations for science review panel (deadline is February 17)

Subject: NOAA Seeks Experts to Review Its Ecosystem Research**Date:** Thu, 27 Jan 2005 18:28:08 -0500**From:** "Gordon J Helm" <Gordon.J.Helm@noaa.gov>**Organization:** NOAA

To: "Scott.Burns" <Scott.Burns@wwfus.org>, adilernia <adilernia@kbcc.cuny.edu>, jim <jim@pop-hawaii.com>, cdorsett <cdorsett@oceanconservancyca.org>, dart <dart@sacemup.org>, jforster <jforster@olypen.com>, jgilmore <jgilmore@atsea.org>, dbkent <dbkent@hswri.org>, Rkramer <Rkramer@igfa.org>, ppl2 <ppl2@humboldt.edu>, melmoon <melmoon@olypen.com>, ado <ado@arctic.net>, ralph-rayburn <ralph-rayburn@tamu.edu>, maggieraymond <maggieraymond@comcast.net>, kroberts <kroberts@agcenter.lsu.edu>, mes <mes@ceimaine.org>, ffkmw <ffkmw@uaf.edu>, TomBilly <TomBilly@comcast.net>, mvpizzini <mvpizzini@uprm.edu>, eschwaab <eschwaab@iafwa.org>, voshea <voshea@asmfc.org>, lsimpson <lsimpson@gsmfc.org>, randy_fisher <randy_fisher@psmfc.org>, phoward <phoward@nefmc.org>, "Chris.Oliver" <Chris.Oliver@noaa.gov>, dfurlong <dfurlong@mafmc.org>, "Donald.McIsaac" <Donald.McIsaac@noaa.gov>, "robert.mahood" <robert.mahood@safmc.net>, "Kitty.Simonds" <Kitty.Simonds@noaa.gov>, "wayne.swingle" <wayne.swingle@gulfcouncil.org>, Miguel.A.Rolon@noaa.gov, francesflt <francesflt@aol.com>, smadsen <smadsen@pspafish.net>, savageclam <savageclam@aol.com>, don <don@danawharfportfishing.com>, "louis.daniel" <louis.daniel@ncmail.net>, moriokar001 <moriokar001@hawaii.rr.com>, morris <morris@ncf.edu>, genopineiro <genopineiro@yahoo.com>

CC: Nicole Le Boeuf <Nicole.Leboeuf@noaa.gov>

To Regional Fishery Management Council Chairs and Executive Directors. and MAFAC members:

Dear Colleague,

This letter is to inform you that the Under Secretary of Commerce for Oceans and Atmosphere has requested that the National Oceanic and Atmospheric Administration (NOAA) Science Advisory Board conduct an external review of NOAA's ecosystem research and science enterprise. The NOAA Science Advisory Board is chartered under the Federal Advisory Committee Act. It provides advice on the scientific and research programs NOAA needs to fulfill its mission, including many stewardship responsibilities for coastal and marine ecosystems.

The NOAA Science Advisory Board is forming an external panel to review and draft recommendations on the appropriateness of the mix of scientific activities conducted and/or sponsored by NOAA to its mission and on the organization of NOAA's ecosystem research and science enterprise. NOAA has established an Internal Ecosystem Task Team to facilitate the review. I chair the internal task team.

NOAA developed a framework for the external review and, on January 27, 2005, published a notice of solicitation for members of an ecosystem research and science enterprise review panel (see attached documents or see <http://www.sab.noaa.gov/Doc/Documents.html>). The notice and the framework

outline the role of the panel members, as well as contain guidance for submission of nominations. As someone with an interest in NOAA's ecosystem research and science, I welcome your contribution to these nominations. Nominations are due February 17, 2005, and must include information regarding the educational background, current occupation, and experience with NOAA, among other elements listed in the notice and the attached framework. Nominations should be submitted electronically to Dr. Michael Uhart (Michael.Uhart@NOAA.Gov).

Although you will also be getting a letter from Dr. Len Pietrafesa, Professor, at the University of North Carolina's Department of Marine, Earth and Atmospheric Sciences and Chair of the NOAA Science Advisory Board, soliciting nominations from you, I wanted to personally make sure that your input was requested. If you should have any questions or require additional information, you may contact Dr. Uhart at 301-713-9121, ext. 159.


Sincerely,

Michael P. Sissenwine
Director of Scientific Programs and
Chief Science Advisor for NOAA Fisheries

 [external team FRAMEWORK.pdf](#)

Name: external team FRAMEWORK.pdf
Type: Portable Document Format (application/pdf)
Encoding: base64

Download Status: Not downloaded with message

 [external team FRN.pdf](#)

Name: external team FRN.pdf
Type: Portable Document Format (application/pdf)
Encoding: base64

Download Status: Not downloaded with message

Gordon.J.Helm@noaa.gov <Gordon.J.Helm@noaa.gov>

decision must be issued no later than 45 days after publication of the subsequent notice. 16 U.S.C. 1465(b).

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance.)

For additional information about this appeal contact Nancy Briscoe, 301-713-1219.

Dated: January 19, 2005.

James R. Walpole,
General Counsel.

[FR Doc. 05-1502 Filed 1-26-05; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No.: 050121013-5013-01]

External Review of NOAA's Ecosystem Research and Science Enterprise

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of solicitation for members of a NOAA ecosystem research and science enterprise review panel.

SUMMARY: The Under Secretary of Commerce for Oceans and Atmosphere has requested the NOAA Science Advisory Board (SAB) to conduct an external review of NOAA's ecosystem research and science enterprise. The SAB is chartered under the Federal Advisory Committee Act and is the only Federal Advisory Committee with the responsibility to advise the Under Secretary on long- and short-range strategies for research, education, and application of science to resource management and environmental assessment and prediction. The SAB is forming an external panel to review and draft recommendations on the appropriateness of the mix of scientific activities conducted and/or sponsored by NOAA to its mission and on the organization of NOAA's ecosystem research and science enterprise.

Nominations to the panel are being solicited herein. The intent is to select from the nominees. However, the SAB retains the prerogative to name people to the review team that were not nominated if it deems it necessary to achieve the desired balance. Once selected, the SAB will post the review panel, with abridged resumes, at: <http://www.sab.noaa.gov/Doc/Documents.html>.

DATES: Nominations should be sent to the address specified and must be received by February 17, 2005.

ADDRESSES: Nominations should be submitted electronically to Dr. Michael Uhart (Michael.Uhart@noaa.gov) or mailed to Dr. Michael Uhart, Executive Director, SAB, NOAA, Rm. 11142, 1315 East-West Highway, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Dr. Michael Uhart: (301) 713-9121, ext. 159.

SUPPLEMENTARY INFORMATION: Panel members shall not be employed or currently funded by NOAA. Nominations should describe the nominee's contact information and qualifications relative to the criteria given below, or include a resume. Anyone is eligible to nominate and self-nominations will be accepted. The external review team will have at least seven members with a variety of backgrounds (recognizing it will not be practical to have all backgrounds represented), with respect to:

1. Scientific disciplines of physical sciences, biological sciences (including fisheries science), and social sciences;
2. Experience in academia, within mission-oriented government agencies, Non-Governmental Organizations, and the private sector;
3. Familiarity with NOAA's mandates; and
4. Being a science provider to key generic groups of stakeholders, science interpreter to groups of stakeholders, science user, or stakeholder with a history of interaction with science providers.

The reviewers should have the following qualifications:

1. National and international recognition within their profession;
2. Knowledge of the scientific information needs to support NOAA's ecosystem stewardship missions, coupled with broad familiarity with NOAA's total mission;
3. Knowledge of, and experience with, the organization and management of complex mission-oriented scientific programs; and
4. No perceived or actual vested interest or conflict of interest that might undermine the credibility of the review.

It is of note that, except for qualification criteria 4, the criteria are not absolute requirements. The qualifications of individuals are expected to be outstanding enough with respect to one or more, but not necessarily all, of the criteria. Because of the limited size of the review panel, management organization expertise must include expertise on ecosystem science or the very special features of

science applied to government decision-making.

The purpose of the review is to answer the following questions: (1) Is the mix of scientific activities conducted and/or sponsored by NOAA appropriate for its mission needs and (2) how should NOAA organize its ecosystem research and science enterprise? The framework for the review, including additional background, is posted at: <http://www.sab.noaa.gov/Doc/Documents.html>.

The review will be conducted and the final report presented to the SAB by November 2005. The review will involve up to three site visits, approximately five meetings and the drafting of the report of the panel's review.

Dated: January 21, 2005.

Louisa Koch,

Deputy Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 05-1480 Filed 1-26-05; 8:45 am]

BILLING CODE 3510-KD-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011905A]

Fisheries of the Gulf of Mexico; Southeastern Data, Assessment, and Review Gulf of Mexico Red Snapper Workshops

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

ACTION: Notice of the Southeastern Data, Assessment, and Review Gulf of Mexico Red Snapper (SEDAR) Review Workshop for Gulf of Mexico Red Snapper.

SUMMARY: The SEDAR process for the Gulf of Mexico red snapper consists of a series of three workshops: a data workshop, an assessment workshop, and a review workshop. The data and assessment workshops are completed. This document announces the schedule for the review workshop.

DATES: The review workshop will be held on April 4-7, 2005. The workshop may adjourn on or before April 7, 2005, at 6 p.m.

ADDRESSES: *Workshop address:* The review workshop will be held at the Country Inn and Suites, 315 Magazine Street, New Orleans, LA 70130; phone: (504)324-5400.

**FRAMEWORK FOR AN EXTERNAL REVIEW OF
NOAA's ECOSYSTEM RESEARCH AND SCIENCE ENTERPRISE**

Prepared by the NOAA Internal Ecosystem Research and Science Task Team¹

Background:

The NOAA Research Review Team (RRT), under the auspices of the NOAA Science Advisory Board, conducted a "Review of the Organization and Management of Research in NOAA." The team's report, along with the SAB transmittal letter accompanying the report, are posted at <http://www.sab.noaa.gov/Doc/Documents.html>.

The RRT report questions where ecosystem research activity is located in NOAA. It contains the following recommendation:

"...NOAA should establish an external Task Team to evaluate and strengthen the structure and function of ecosystem research in, and sponsored by, NMFS, NOS and OAR."

Extracts from NOAA Research Review Team's report relevant to the location of ecosystem research are given in Appendix I (from pages 16-18 of the Report).

NOAA agrees with the recommendation of the RRT for an external review on ecosystems. NOAA has decided that the review should be broad enough to address the entire ecosystem research and science enterprise².

NOAA conducts mission oriented research and scientific activities on a diverse range of topics, on time scales ranging from decadal scale studies of system processes to short term studies for immediate application. NOAA's entire ecosystems research and science enterprise includes:

- Scientific advice and information products tailored to user needs,
- Observational systems to assess and characterize changes in ecosystems and ecosystem uses,

¹The NOAA Internal Ecosystem Research and Science Task Team was established by the NOAA Research Council. Its members are Michael Sissenwine (chair), Peter Ortner, Jean Snider, Sennen Salapare, John Janowiak (Melvyn Gelman, alternate), and Michael Ford.

² The NOAA ecosystem research and science enterprise is the set of NOAA supported activities (internal and external) that adds to the body of scientific knowledge and translates it into products and services that support the Agency's mission.

- Applied research (not tied to immediate user needs) to better understand processes in order to improve the capability of observing systems and the quality of information products (including scientific advice),
- Development based on results of applied research, of new science tools, conservation technologies, and production technologies.

Appendix II elaborates on these categories of scientific activity.

The NOAA ecosystem research and science enterprise needs to support the NOAA Strategic Plan (<http://www.spo.noaa.gov/pdfs/NOAA%20Strategic%20Plan.pdf>), which is based on stakeholder input and internal assessments of NOAA's mandates and mission. The Strategic Plan has four mission goals including an **Ecosystem Goal** to "Protect, restore, and manage the use of coastal and ocean resources through an ecosystem approach." To fulfill the Strategic Plan, NOAA adopted a Planning, Programming, Budgeting, and Execution System (PPBES, <https://www.ppbs.noaa.gov/about.html>). NOAA organized its activities into forty four Programs (https://www.ppbs.noaa.gov/PDFs/program_manager_list.pdf), including nine Programs that address the Ecosystem Goal (1) ecosystem research, (2) ecosystem observation, (3) protected species, (4) fisheries management, (5) aquaculture, (6) coastal and marine resources, (7) habitat, (8) corals, and (9) enforcement. Some of the Programs are managed by a single NOAA Line Office (for the LO structure see <http://www.noaa.gov/pdf/noaa-org-chart030804.pdf>), while others are "matrix managed" across LOs. Most of the NOAA's Ecosystem Research and Science Enterprise is within the Ecosystem Goal. However, the Ecosystem Goal benefits from scientific activities of other Strategic Plan Goals, which, for example, provide environmental information that can be used to help predict ecosystem changes.

What is an ecosystem?

For NOAA's purposes, an *ecosystem* is defined as a geographically specified system of organisms (including humans), the environment, and the processes that control its dynamics.

What is an ecosystem approach to management?

For NOAA's purposes, an *ecosystem approach* to management is management that is adaptive, specified geographically, takes into account ecosystem knowledge and uncertainties, considers multiple external influences, and strives to balance diverse social objectives.

This document offers a framework for conducting the external review. It suggests:

- Terms of Reference,
- Size of the review team and reviewer qualifications,
- A method for selecting review team members,
- An approach for conducting the review.

Terms of Reference

The purpose of the review is to answer the following questions:

1. Is the mix of scientific activities conducted and/or sponsored by NOAA appropriate for its mission needs, including its legislative and regulatory requirements, in terms of
 - Subject matter,
 - Distribution along the continuum from long term research to products for immediate use (including mandated scientific advice),
 - Internal and external (to NOAA) balance?
 - Links to international science programs?

2. How should NOAA organize its ecosystem research and science enterprise, in terms of
 - The relationship to non-ecosystem science activities (e.g., weather, climate or mapping), which is in part an artificial separation,
 - The continuum from long term research to information products for immediate use (including mandated scientific advice),
 - Line Office distribution,
 - Program Structure used in NOAA's Planning, Programming, Budgeting, and Execution System,
 - Other categorization schemes, such as by scientific discipline, mission area or mandate (implicitly including all sectors that are users of science advice), ecosystem or region, internal/external, etc.

In answering these questions, the review should include the following:

1. Strengths and weaknesses of existing organizational structures used by NOAA, and by other entities with missions similar to NOAA's (domestic, foreign and multinational).
2. Advantages and disadvantages of requiring that all scientific activity within a category of research (e.g., long term or short term) be organized in the same way.
3. How well organizational structures and approaches facilitate the transition from research to operations and information products,
4. How well organizational structures and approaches facilitate the transition from research to operations and information products.
5. How well organizational structures and approaches enhance the relevance, responsiveness, quality and credibility of scientific advice and products.

6. Cost implications of organizational structures, including the transition costs of change,
7. Ecosystem related implications of the report of the report of the US Commission on Ocean Policy and the President's Ocean Action Plan.
8. Ecosystem implications of international agencies of which the US is a member (groups including but not limited to regional fisheries management organizations, such as ICES, PICES, CITES, and various UN agencies such as FAO and UNESCO).

Size of the review team and reviewer qualifications

NOAA's ecosystem research and science enterprise is large and diverse. Thus it requires a relatively large review team to do justice to the Terms of Reference. The review team should have at least seven members with a variety of backgrounds (recognizing that even with seven reviewers, it will not be practical to have all backgrounds represented), such as:

1. Scientific disciplines of physical sciences, biological sciences including fisheries science, and social sciences,
2. Experience in academia, within mission oriented government agencies, Non-Governmental Organizations (NGOs), and the private sector,
3. Familiarity with NOAA's mandates,
4. Being a science provider to key generic groups of stakeholders, science interpreter to groups of stakeholders, science user, or stakeholder with a history of interaction with science providers.

The reviewers should have the following qualifications:

1. National and international professional recognition,
2. Knowledge of the scientific information needs to support NOAA's ecosystem stewardship missions, coupled with broad familiarity with NOAA's total mission,
3. Knowledge of, and experience with, the organization and management of complex mission oriented scientific programs,
4. No perceived or actual vested interest or conflict of interest that might undermine the credibility of the review.

It is of note here that except for qualification criteria 4, the criteria are not absolute requirements. The qualifications of some individuals are expected to be outstanding enough with respect to one

or more of the criteria, that being unqualified with respect to another criteria, would not necessarily make them ineligible. Because of the limited size of the review panel, management organization expertise must include expertise on ecosystem science or the very special features of science applied to government decision-making.

A method for selecting review team members

Nominations should be submitted to the NOAA Science Advisory Board (SAB) with justifications that address the candidate's background and qualifications (specifically for the categories above). The nominations should indicate if the candidate has expressed a willingness to serve, if selected.

The results of the review have the potential of being controversial because the results of the review (if implemented) may have direct consequences on social and economic opportunities and/or quality of life of some of NOAA's stakeholders. This is a key reason for providing stakeholders the opportunity to nominate review team members. Moreover, it is important that stakeholders have the opportunity to provide input to the review team, and that the process of selecting reviewers be transparent. Accordingly, nominations will be solicited by a notice in the Federal Register, which summarizes the information in this document. Anyone (from within or outside NOAA) should be eligible to nominate. Individuals may self nominate. However, employees of NOAA or persons currently funded by NOAA should be ineligible to serve as a review team member.

It will be up to the SAB to evaluate the nominees and select the review team members. The intent is to select from the nominees. However, the SAB should retain the prerogative to name people to the review team that were not nominated if it deems it necessary to achieve the desired balance. The SAB will post the review panel, with abridged resumes, for public information, to close the loop on transparency.

An approach for conducting the review

There are several aspects of the review approach that need to be specified, including:

1. Role of the NOAA Internal Ecosystem Research and Science Task Team,
2. Source of data about NOAA's ecosystem research and science enterprise, how it is organized and how other Agencies (US and foreign) organize similar types of scientific activities,
3. Site visits,
4. Mechanism for public input,

5. "Ground truthing" the review.
6. Timetable.

These aspects are addressed below.

Role of the NOAA Internal Ecosystem Research and Science Task Team: The internal task team will work with the Ecosystem Research and Science Review Team to facilitate gathering data and arrangements for review activity, as one source of ideas and insights, and to act as a sounding board for ideas. The communications between the Internal and External teams should be two-way. A "sounding board" suggests the internal team merely responds to ideas from the external team; whereas it is expected that the internal team will already have enormous expertise regarding the issues specified in the Terms of Reference. The internal team will be encouraged to propose ideas (about both problems and potential solutions), not just respond to ideas from then external team. However, it will be solely the role of the "External Ecosystem Research and Science Review Team" to formulate conclusions and recommendations.

Source of data about NOAA's ecosystem research and science enterprise, how it is organized and how other Agencies (US and foreign) organize similar types of scientific activities: Data assembled for the NOAA Research Review (<http://review.oar.noaa.gov/>) will be updated and refined to serve the specific needs of an ecosystem review. The data will include descriptions of:

1. Ecosystem research and science program elements including budgets and staffing levels,
2. Current organizational structures,
3. Partnerships including university relationships,
4. Scientific activities by facility (e.g., laboratory) and organizational structure,
5. Science user needs, given that the needs of users of "ecosystem science" are expected to be a complex issue.
6. Government Performance and Results Act (GPRA) requirements,
7. Planning and programming documents (e.g., 5-Year Research Plan, 20-Year Vision, Program Baseline Assessments),
8. Other subjects of interest to the External Ecosystem Research and Science Review Team.

It is also important for the Review Team to gather information about organizational approaches of other organizations that have similar missions to NOAA's ecosystem stewardship mission.

This might be done by sampling websites (which usually describe organizations), conducting a survey, and/or by interviewing leaders of organizations other organizations. The international experience is particularly important. It is likely that NOAA can profit by learning how other national and multi-national groups are successfully conducting applied marine ecosystem science.

Site visits: The Review Team should make site visits to representative locations (e.g., in terms of Line Office activities, mission areas, scientific disciplines) where ecosystem research and science activities are conducted. These visits should sample activities of NMFS, NOS and OAR. Seattle and South Florida are obvious candidates to be visited, as these are areas where ecosystem sciences are concentrated. Given the relatively large number of NMFS facilities, additional site visits to key facilities are suggested (Woods Hole and La Jolla are good candidates). Charleston is a location where NOS ecosystem science activity is concentrated such that it is a good candidate for a site visit.

Opportunity for public input: Meetings should be arranged with stakeholders, Congressional staff and officials of the Office of Management and Budget. It should be feasible to coordinate stakeholder meetings with the aforementioned facility site visits. Written input might also be solicited by Federal Register Notice. Phone interviews of key constituency spokespersons might be conducted. The draft report will be made available for public comment by publishing it in the Federal Register.

“Ground truthing” the review: There is always a risk that the external review team will come to conclusions or make recommendations that are clearly invalid or unworkable. This usually occurs because the reviewers lack some information or background. Unfortunately, such situations tend to discredit reviews and they are used to dismiss even sound conclusions and recommendations. Therefore, it is prudent to have a knowledgeable group provide feedback on conclusions and recommendations before the report of the review is finalized. This is a role that the Internal Task Team can fulfill at the discretion of the external review team. The external review team may also seek feedback from elsewhere. Ultimately, the conclusions and recommendations must be solely the responsibility of the external review team.

Timetable: The External Review of NOAA’s Ecosystem Research and Science Enterprise should be conducted according to the following schedule:

1. Review “clock” starts when SAB agrees to Framework for the review;
2. By day 10, Federal Register Notice (FRN) soliciting nominations published;
3. By day 30, nominations due to SAB;

4. By day 45, members of the external review team selected;
5. By day 75, initial meeting of external review to become familiar with their charge, and to decide on a course of action;
6. Approximately every 45 days after the initial meeting throughout the period of the review, external review team meetings. The internal task team will be available to participate;
7. By day 100, data about NOAA's ecosystem research and science enterprise collected;
8. By day 150, information on organizational structures used by other entities with similar ecosystem stewardship missions to NOAA's collected;
9. By day 150, site visits and constituency input sessions have been conducted,
10. By day 150, progress report submitted to SAB;
11. By day 180, interim report submitted to SAB;
12. By day 195, interim report made available in Federal Register for public comment;
13. By day 215, FRN public comments due;
14. By day 230, feedback from SAB to external review team;
15. By day 260, external review team finalizes its report, including "ground truthing;"
16. By day 285, SAB reviews and approves report;
17. Days 286-300, set aside as a contingency in case of unavoidable delays.

Appendix I. Extracts from NOAA Research Review Team report relevant to the location of ecosystem research

“We also find that there is a difference between operational responsibilities and regulatory responsibilities. ...In mission areas like fisheries, coastal zone management, or more generally ecosystem-based management, NOAA must provide the best advice on which to base management and regulatory decisions. This scientific advice (e.g. fisheries stock assessment) is best based on work in a research environment. ... NOAA must exercise caution to ensure that the research program is not unduly influenced by regulatory responsibilities, but at same time, it is essential to ensure that the best science is available and responsive to policy and management needs including the regulatory process.”

“Maintaining the research program within NOS and NMFS with appropriate safeguards for the higher-risk, more basic research efforts can do this. It can also be accomplished by having the research in a separate organizational structure with clear and unambiguous responsibility to meet management and regulatory needs. The Review Team notes that the former approach facilitates the provision of scientific advice for management, but the latter approach may provide a more integrated research effort and enhance extramural involvement.”

“...we note that the research being conducted in NMFS and NOS could migrate to OAR, *but only* if the scientific advice associated with ecosystem-based regulatory responsibilities went with the research role.”

“NMFS organization into regional fisheries Science Centers is a useful model for interaction and management of laboratories within regions. In each of the fisheries Science Centers there are several laboratories, each with a specific focus area, but they are managed and administered collectively through the Center. This model could, also, be an effective means of integrating the science and research efforts across the line offices.”

Appendix II: Categories of scientific activity

Observational systems: Ecological observations are the core of the research and science enterprise. They are reoccurring measurements of ecosystem variables (which throughout this document should be understood to including the human dimension) that build time series. Standard procedures (including protocols for quality assurance and data management) are in place for research and scientific activity in this category. The data is used for a variety of purposes, such as input into advice on resource management decisions. While some of the data is used for documents published in the scientific literature, it is also found in advisory products aimed a decision makers, distributed in technical reports, and made accessible in databases.

Scientific advice and information products: These are science-based analyses (both qualitative and quantitative) aimed at reporting on the state of ecosystem variables, the consequence of human activities, and the implications of alternative management decisions. Generally, assessments are tailored to the needs of non-scientific users. They depend heavily on observations and understanding of ecosystem processes obtained through applied research. Assessment results are usually reported in technical documents tailored to user needs. They are also used by researchers conducting syntheses on the state of ecosystems and case studies on the performance of resource management.

Applied Research: This research is mission inspired even though it may be long term without an immediate connection to non-scientific users. It is aimed at advancing understanding of aspects of marine ecosystems with a view at enhancing the capability give scientific advice and provides information products. This research tends to focus on processes that govern populations and ecosystems. It also includes research that improves understanding of technologies, thus leading to development that supports the mission. The primary outlet for this research is the scientific literature. Other scientists are typically the users.

Development: This activity uses the increased understanding produced by the Agency's applied research, and any other pertinent research, to create new tools or methods to increase the capability and/or capacity to provide scientific advice and services to non-researchers. Nevertheless, successful development is usually documented in the scientific literature. It does not include development primarily aimed at research applications (this activity is part of strategic research). There are three subcategories of Development:

- **Development of Science Tools:** Development of science tools provides new applications of technology for observing or new methods (such as models) for assessments.

- **Development of Conservation Technologies:** This development is of new technologies that help to minimize undesirable impacts of human activities on marine ecosystems. This development provides new options for regulating human activities to achieve conservation objectives, without undue negative impact on benefits from the regulated activities.
- **Development of Production Technologies:** This activity provides new options for deriving benefits from human activities associated marine ecosystems. If successful, these technologies will be adopted by the private sector without regulatory requirements (e.g., the private sector has an economic incentive to use the technologies).

North Pacific Fishery Management Council

Stephanie Madsen, Chair
Chris Oliver, Executive Director



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December 29, 2004

Ms. Lisa Lindeman
NOAA General Counsel
P.O. Box 21109
Juneau, AK 99801

Dear Lisa:

Based on discussions at our recent December Council meeting, there are several issues for which we are seeking legal guidance. Some of these will benefit from such guidance at or before our February 2005 meeting, including the BSAI non-pollock groundfish fisheries (and recent legislation in that regard), and the GOA rockfish pilot program. These issues are summarized below:

BSAI Non-Pollock Groundfish Fisheries

In Section 219 of the FY 2005 Appropriations Act is a BSAI Catcher Processor Capacity Reduction Program. The program authorizes \$75 million to reduce the capacity of the catcher processor fleets operating in the BSAI. The program also limits access to the non-pollock groundfish fisheries defined by the Act as the Atka mackerel, flathead sole, Pacific cod, Pacific Ocean perch, rock sole, turbot, or yellowfin sole fisheries in the BSAI. The Council at the December 2004 meeting, asked NOAA GC to provide clarification at the February 2005 meeting of this new program to help interpret the effects on existing management regulations, and those currently under consideration by the Council. Listed below are some of the specific issues of the program that need further clarification.

1. Section 219 (1) of the Act defines AFA Trawl Catcher Processor subsector as owners of each catcher processor listed in paragraphs (1) through (20) of Section 208(e) of the AFA (16 U.S.C. 1851 note). However, Section 208(e) paragraph (21) of the AFA includes certain vessels in the BSAI pollock fisheries that have harvested more than 2,000 metric tons of the pollock in the 1997 directed pollock fishery. Given that the Capacity Reduction Program definition of AFA includes only paragraphs (1) through (20) of Section 208(e) and not paragraph (21), NOAA GC should clarify
 - a. Whether those vessels that qualify for the BSAI pollock fisheries under paragraph (21) of Section 208(e) are precluded from participating in the Capacity Reduction Program and the non-pollock groundfish fishery as AFA vessels.
 - b. Whether those vessels that qualify for the BSAI pollock fisheries under paragraph (21) of Section 208(e) would qualify as Non-AFA Trawl Catcher Processor subsector (provided that they meet the harvest requirements defined by the Act for that sector).

2. Section 219 (6) and (9) define the Longline Catcher Processor subsector and the Pot Catcher Processor subsector, respectively, for purposes of the Capacity Reduction Program and participation in the non-pollock groundfish fisheries. In general, to qualify a participant must have an LLP license that is non-interim and transferable (or that is interim and subsequently becomes non-interim and transferable) and that is endorsed for Bering Sea or Aleutian Islands fixed gear catcher processor fishing activity, with a Pacific cod endorsement. NOAA GC should clarify:
 - a. Whether only LLPs that carry all of these endorsements (including the Pacific cod endorsement) would be eligible to participate in the Capacity Reduction Program or the non-pollock groundfish fisheries as defined by the Act, in their respective sectors.
 - b. Whether LLPs that carry BS and/or AI, catcher processor, fixed gear endorsements are eligible to participate in the non-pollock groundfish fisheries as defined by the Act as catcher vessels (if they are precluded from participating in those fisheries as catcher processors).
3. Section 219 generally defines each sector as being composed of the person who owns a vessel or holds a license or both. Given this wording, the Act is unclear concerning eligibility to participate in the buyback or the non-pollock fisheries.
 - a. Does the act authorize entry to the fishery by:
 - i. Specific persons ?
 - ii. Specific vessels ?
 - iii. Holders of specific licenses?
4. Section 219(7) defines the Non-AFA Trawl Catcher Processor subsector as the owner of each trawl catcher processor that is not an AFA trawl catcher processor that holds a valid LLP license with Bering Sea or Aleutian Islands endorsement and has harvested with trawl gear and processed not less than a total of 150 metric tons of non-pollock groundfish during the period January 1, 1997 through December 31, 2002.
 - a. In determining qualification for the sector, should the catch history associated with the vessel or the LLP be considered for meeting the harvest tonnage requirement? G
 - b. Given that the Council is currently developing a cooperative program for the non-AFA trawl catcher processors along with allocations for the non-pollock groundfish fisheries in Amendment 80, can the Council adopt a more stringent eligibility requirement for participation in non-AFA trawl catcher processor cooperatives than the eligibility requirement set out in the Act?
5. Section 219 does not include certain species (e.g., arrowtooth flounder) in its definition of the non-pollock groundfish fisheries.
 - a. Since some potential target species are not included in the definition of the non-pollock groundfish fisheries, will vessels that hold an LLP, but that do not meet eligibility requirements for participation in the "non-pollock groundfish fisheries" under the statute, be permitted to enter the non-pollock target fisheries not specifically identified in the statute?

6. Relative to further development of Amendment 80 (allocations of flatfish species and cooperative development for the H&G catcher/processor sector), if the Council continues its current course and does not include allocations of those species to AFA sectors, would that in any way compromise those sectors' eligibility for the legislated non-pollock buyback program?
7. An additional, general question concerns the LLP aspects of the legislation; i.e., to the extent that certain aspects of the legislation change the existing LLP eligibility requirements (for purposes of the buyback and/or future fishing privileges), how and when do such changes get implemented? Is an FMP amendment, or regulatory amendment, required to bring our plans in conformance with the legislation? If so, is such an action subject to existing MSA, NEPA, and other requirements, given that the legislation is quite specific in these areas, and does not appear to offer latitude to the Council or NMFS? Should ongoing analyses (such as those associated with Amendment 80 and with Pacific cod allocations in the BSAI) incorporate the assumed license reductions effected by the legislation?

Observer Program Issues

1. Research Plan authority: NOAA GC has made a preliminary determination that the Research Plan authority provided in the MSA (Section 313) to assess a fee for observer coverage cannot be applied to only a subset of vessels in the fisheries for which the Council and NMFS have the authority to establish a fee program. Therefore, according to this determination, any new program for selective fisheries (Alternatives 2 - 6 in the current observer analysis) under the Council's jurisdiction is likely to require statutory authorization unless it is determined that different fees can be assessed against different fisheries/sectors. A need was identified at the December Council meeting to have a formal opinion developed on this issue, in order to have a definitive understanding of whether statutory changes are associated with implementing the alternatives to restructure the funding and deployment mechanism of the NPGOP.
2. Frameworking: While it is expected that the Council and NMFS can set an initial fee percentage that is likely to be sufficient to maintain current coverage levels, some mechanism must be established through which the fee percentage can be adjusted to account for changing management programs and coverage needs, as well as changing coverage costs and ex-vessel prices. The original Research Plan created a framework process under which fee percentages could be adjusted on an annual basis (subject to a 2% cap in statute) in response to changing coverage needs. However, recent (informal) legal guidance on frameworking suggests that an open framework of this sort may no longer be acceptable under the requirements of the Administrative Procedure Act, should the framework mechanism provide NMFS and the Council with the ability to make discretionary changes to the fee percentage. Such discretionary changes may need to undergo the process of notice and comment rulemaking. Additional legal guidance is necessary to determine if any options exist for discretionary fee adjustments that do not involve notice and comment rulemaking.

In addition, the IFQ cost recovery program provides a mechanism by which the IFQ fee is adjusted on an annual basis according to a formula specified in regulation (meaning, no discretionary changes to the fee are possible). Because this formula is explicit and adhered to rigidly each year, NMFS may adjust the IFQ fee percentage on an annual basis through a Federal Register notice without the need for formal notice and comment rulemaking. A general assumption of the current observer analysis is that the Council and NMFS could potentially use the IFQ cost recovery approach to provide annual adjustments to the observer fee

percentage, as long as the formula is explicit and in regulation. While this does not resolve the concern with the inability to make discretionary changes to the fee percentage based on changing management needs, it is necessary to understand the options for adjusting the fee percentage. Legal guidance is requested to confirm this assumption.

Rockfish Pilot Program

Authority to implement the alternatives. The rationalization alternatives under this program are unique, and the ability of the Council to adopt and the Secretary to implement these alternatives could be questioned. The alternatives are:

- 1) Cooperative alternative with a closed class of processors. Under this alternative, harvesters would be permitted to form cooperatives. Cooperatives would receive an allocation based on the history of their members in the harvester qualifying years. Cooperatives would be required to land their harvests with eligible processors. Processors that processed in excess of a threshold amount of rockfish during the years defined by the statute would be eligible.
- 2) Cooperative alternative with processor associations. Under this alternative, each harvester would be eligible to join a cooperative in association with the processor to which it delivered the most pounds in the processor qualifying years defined by the statute. Cooperatives would receive an allocation based on the history of their members in the harvester qualifying years defined in the statute. The specific terms of the cooperative agreement would be subject to negotiation and must be approved by the processor. Although not specified in the description of the alternative, the agreement is likely to create an obligation for the cooperative to deliver a specific portion of landings to the associated processor. Harvester that do not join a cooperative would be permitted to fish in a limited access fishery that would receive an allocation based on the collective histories of non-members of cooperatives.

Membership of processor affiliates in cooperatives. Under all of the alternatives, some processor affiliates are likely to receive harvest shares (or could acquire harvest shares after implementation). The Council is likely to ask for guidance on whether processor affiliates would be permitted to join cooperatives. If so, the scope of cooperative activities that processor affiliates can engage in should be specifically defined.

Penalties for non-members of cooperatives. As defined some of the provisions in the alternatives would reduce allocations to the limited access fishery that are fished by non-members of cooperatives. Some industry members have questioned whether such a reduction is legal (with or without Congressional authority). It is possible that the allocation to the limited access fishery may not be large enough to support a directed fishery. Whether the reduction in the allocation would be the cause of not opening the limited access fishery is uncertain.

Qualifying years for determining allocations. The legislation directing the Secretary to develop the pilot program specifies years of history to recognize for harvesters and for processors. To what extent may the Council recognize different years under its program. The Council could choose either to recognize additional years not specified in the legislation or not recognize some of the years that are specified in the legislation. Does the Council have different latitude with respect to harvesters than for processors?

BSAI Pacific cod allocation

A question that has once again arisen is that of the disposition of the catch history of the 'AFA 9'; i.e., those nine specific vessels which were explicitly addressed in the American Fisheries Act, and whether the non-pollock catch history of those vessels can be counted in determining catch history for the overall AFA catcher/processor sector. Could you please reaffirm or clarify any previous legal opinions in this regard, as it will potentially be a consideration in the Council's development of the BSAI Pacific cod sector allocations?

In summary Lisa, I realize there are a number of significant legal issues raised in this letter. The Council would appreciate your office's response in as timely a manner as is practicable.

Sincerely,



Chris Oliver
Executive Director

CC: Dr. James Balsiger
Ms. Susan Salvesson
Dr. Bill Karp

with sections 751(a)(1), 751(h) and 771(i)(1) of the Act.

Dated: January 14, 2005.

Barbara E. Tillman,
Acting Assistant Secretary for Import Administration.

[FR Doc. E5-251 Filed 1-21-05; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Marine Protected Areas Federal Advisory Committee Request for Nominations

AGENCY: National Ocean Service, NOAA, Department of Commerce.

ACTION: Notice requesting nominations for the Marine Protected Areas Federal Advisory Committee.

SUMMARY: The Department of Commerce is seeking nominations for membership on the Marine Protected Areas Federal Advisory Committee (Committee). The Committee was established to advise the Secretary of Commerce and the Secretary of the Interior in implementing Section 4 of Executive Order 13158 and specifically on strategies and priorities for developing the national system of MPAs and on practical approaches to further enhance and expand protection of new and existing MPAs.

The Department of Commerce is seeking up to three highly qualified individuals. Nominations are sought for non-federal scientists, resource managers, and persons representing other interests or organizations involved with or affected by marine conservation. Individuals seeking membership on the Committee should possess demonstrable expertise in a field related to MPAs or represent a stakeholder interest affected by MPAs. Nominees will also be evaluated based on the following factors: marine policy experience, leadership and organization skills, region of country represented, and diversity characteristics.

DATES: Nominations must be postmarked on or before thirty (30) days from publication date on this notice.

ADDRESSES: Nominations should be sent to: Lauren Wenzel, Marine Protected Areas Center, NOAA, N/ORM, 1305 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Lauren Wenzel, Designated Federal Officer, MPAFAC, National Marine Protected Areas Center, N/ORM, 1305

East-West Highway, Silver Spring, Maryland 20910. (Phone: 301-713-3100 x136, Fax: 301-713-3110); e-mail: lauren.wenzel@noaa.gov; or visit the national MPA Center Web site at <https://www.mpa.gov>.

SUPPLEMENTARY INFORMATION: In Executive Order 13158, the Department of Commerce and the Department of the Interior were directed to seek the expert advice and recommendations of non-federal scientists, resource managers, and other interested persons and organizations through a MPA FAC. The Committee was established in June 2003, and includes 30 members and nine ex-officio members.

The Committee meets at least twice a year. Committee members serve for a term of two or four years.

Each nomination submission should include the proposed Committee member's name and organizational affiliation, a cover letter describing the nominee's qualifications and interest in serving on the Committee, a curriculum vitae or resume of the nominee, and no more than three supporting letters describing the nominee's qualifications and interest in serving on the Committee. Self-nominations are acceptable. The following contact information should accompany each submission: the nominee's name, address, phone number, fax number, and e-mail address if available.

Nominations must be postmarked no later than 30 days from the date of this notice (See ADDRESSES above). The full text of the Committee Charter and its current membership can be viewed at the Agency's Web page at <http://mpa.gov/fac.html>.

Dated: January 13, 2005.

Eldon Hout,
Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 05-1208 Filed 1-21-05; 8:45 am]

BILLING CODE 3510-08-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011805A]

The Institute of Medicine Food and Nutrition Board; Orientation Public Meeting

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

ACTION: Notice of meeting.

SUMMARY: The Institute of Medicine Food and Nutrition Board will meet in Washington, D.C. The meeting agenda can be found in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: The meeting will begin at 1 p.m. and adjourn at 4 p.m. on Tuesday, February 1, 2005.

ADDRESSES: The meeting will be held at the National Academy of Sciences Lecture Room, 2100 C Street, N.W., Washington, D.C.

National Marine Fisheries Service/ National Seafood Inspection Laboratory address: 705 Convent Ave., Pascagoula, MS 39567.

FOR FURTHER INFORMATION CONTACT: E. Spencer Garrett, National Seafood Inspection Laboratory; telephone: 228-769-8964.

SUPPLEMENTARY INFORMATION: The committee's agenda includes the following issues: nutrient relationships in seafood - selection to balance benefits and risks.

Background


Seafood contributes a variety of nutritional benefits to the American diet. They are sources of protein, calcium, iodine, copper, zinc, and omega-3 fatty acids. Furthermore, some nutrients may affect bioavailability, toxicodynamics, and target-organ transport, and thus affect the toxicological response to certain compounds. Contamination of marine resources, however, whether by naturally-occurring or introduced toxicants, is a concern for U.S. consumers because of the potential for adverse health effects. Human exposure to toxic compounds through seafood can be managed by making choices that provide desired nutrients balanced against exposure to such compounds in specific types of seafood that have been found to pose a particular health risk. Consumers, particularly subpopulations that may be at increased risk, need authoritative information to inform their choices. The National Marine Fisheries Service has contracted with the National Academies of Science to produce a report that will recommend approaches to decision-making for selecting seafood to obtain the greatest nutritional benefits, balanced against exposure to potential toxicants and identifies data gaps and research needs. The study objectives will include:

1. Identifying and examining the routes of entry of naturally-occurring and introduced toxicants into the food supply, through seafood sources, and evaluating food consumption patterns of the U.S. population to estimate current levels of intake exposure.

FAX



TO: Distribution

FROM: **Diana Cote** 
Executive Director
Alaska Board of Fisheries

DATE: February 2, 2005

PHONE: 465-6095

FAX: 465-6094

Number of Pages 3 [including this cover page]

Re: Request for Joint Board of Fisheries/North Pacific Fishery Management Council meeting

Enclosed is a copy of the letter recently sent to the NPFMC requesting a joint board/council meeting, and a copy of the walleye pollock proposal that will be in front of the board in March 2005.

Please note a change of suggested date for the joint meeting: we are now looking at **Friday, February 25, 2005** in Anchorage, beginning late morning.

Also note the board's request for NMFS staff and NPFMC staff to attend its March 2005 meeting when the proposal will be addressed.

Please call me if you have any questions.

Enclosures

DISTRIBUTION:

Chris Oliver, NPFMC

Jim Balsinger, NMFS

Doug Mecum, Earl Krygier, Sue Aspelund, Denby Lloyd, Jeff Regnart: ADF&G

Lance Nelson, DOL

Boards Support Section, Alaska Department of Fish and Game
P.O. Box 25526, Juneau, Alaska 99802-5526
Phone: (907) 465-6095 Fax: (907) 465-6094
diana_cote@fishgame.state.ak.us

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

ALASKA BOARD OF FISHERIES

FRANK H. MURKOWSKI, GOVERNOR

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JUNEAU, AK 99802-5526
PHONE: (907) 465-4100
FAX: (907) 465-2332

January 28, 2005

Ms. Stephanie Madsen, Chair
North Pacific Fishery Management Council
605 W. Fourth Ave., Suite 306
Anchorage, AK 99501-2252

Dear Ms. Madsen:

As you are aware, the Board of Fisheries added to its March 2005 meeting agenda consideration of state waters pollock fisheries in the Cook Inlet area and in areas of the Aleutian Islands around Adak. A copy of the proposal generated by the board is enclosed.

The protocol agreement between the board and the North Pacific Fishery Management Council calls for a consultation between the two bodies prior to either taking final action on groundfish issues. Considering upcoming meeting schedules, the board suggests a joint meeting with the council on February 15, 2005, in Anchorage. If this date is not possible, I will work with your executive director Chris Oliver to find a mutually acceptable time.

In addition, the board would appreciate participation of council staff and NMFS staff when it addresses the proposal at its March meeting. The agenda will be drafted by mid-February.

I look forward to hearing from you.

Sincerely,



Diana Cote, Executive Director
Alaska Board of Fisheries

Enclosure

cc: Art Nelson, Chair, Board of Fisheries
Wayne Regelin, Acting Commissioner, ADF&G
Jim Balsinger, Director, National Marine Fisheries Service

PROPOSAL 455. 5 AAC 28.087. Management Plan for Parallel Groundfish Fisheries.
Amend this regulation to provide the following:

Revise walleye pollock closures for Steller sea lion protection in state waters of the Aleutian Islands from 170° to 180° W. long., in state waters of the Western Gulf of Alaska for Steller sea lion protection from 157° to 163° W. long., and in the Cook Inlet Management Area between 149° and 150° W. long., to facilitate harvesting of walleye pollock.

PROBLEM: This proposal is generated by the board at the January 2005 board meeting.

Federal Steller sea lion protection measures have been adopted for state waters under authority of regulation 5 AAC 28.087. The sea lion protection areas apply to vessels fishing for walleye pollock.

The Aleutian Islands walleye pollock fishery has been closed since 1999, however the North Pacific Fishery Management Council recently established a total allowable catch (TAC) of Aleutian Islands pollock in 2005 for the development of Adak. The Aleut Enterprise Corporation seeks to revise walleye pollock closures for Steller sea lion protection in state waters of the Aleutian Islands from 170° to 180° W. long. to facilitate harvesting of the recently-adopted TAC for Aleutian Islands walleye pollock. If adopted, all state waters, within these longitudes, near sea lion haul-outs and critical habitat would be opened to fishing for walleye pollock. State waters surrounding sea lion rookeries within these longitudes would remain closed.

The Aleut Enterprise Corporation also seeks to revise walleye pollock closures in state waters of the Western Gulf of Alaska for Steller sea lion protection from 157° to 163° W. long. If adopted, all state waters, within these longitudes, near sea lion haul-outs and critical habitat would be opened to fishing for walleye pollock. State waters surrounding sea lion rookeries within these longitudes would remain closed.

The department and board have also received a request to issue a permit to allow fishing for walleye pollock in the Cook Inlet Management Area between 149° and 150° W. long. The permit would allow fishing in portions of state waters currently closed to protect Steller sea lions. Under the proposed permit, the 10 nm pollock fishing closures surrounding haul-out protection areas at Chiswell Islands, Seal Rocks (Kenai) and Rugged Island would be reduced to 3 nm. No other haul-outs or rookeries would be affected.

WHAT WILL HAPPEN IF NOTHING IS DONE? Fishing in state waters for walleye pollock will remain closed in Steller sea lion protection areas.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Unknown.

WHO IS LIKELY TO BENEFIT? Fishermen harvesting walleye pollock in state waters that are currently closed, processors that currently have little or no opportunity to purchase pollock, and coastal communities that are economically affected by large-scale pollock fishing closures will benefit from access to the pollock resource.

WHO IS LIKELY TO SUFFER? Unknown.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: ADF&G on behalf of the Alaska Board of Fisheries

(HQ-04-F-350)

Supp. HO before mtg
began

North Pacific Fishery Management Council

Stephanie Madsen, Chair
Chris Oliver, Executive Director



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MEMORANDUM

TO: Council, SSC, AP and staff

FROM: Chris Oliver *Chris*
Executive Director

DATE: February 2, 2005

SUBJECT: E-Z BIZ travel policy

Now that we have our Alaska Airlines E-Z BIZ account up and running (and American Express is no longer our travel agency), and there are such a variety of different fare options and restrictions, I thought it would be a good time to issue some general policy guidelines. Fares on many flight itineraries vary widely, from as little as \$250 to as high as \$1250 (for Anchorage/Seattle round-trip for example) depending on the availability. However, some of these fares are non-refundable, some can only be changed with a set fee, some can only be changed by buying up to a higher fare, some are not upgradeable (or are only upgradeable on the day of flight), etc.

Generally we encourage you to find the best fare you can, though we do not expect you to always get the cheapest fare, given the restrictions associated with some of those fares. We are finding that most of the middle range fares (from \$500 - \$700 for the Anchorage/Seattle itinerary for example) allow ample flexibility while still being below the traditional 'government fare'. While we are encouraging you all to find the lower fares when possible, I realize there needs to be some flexibility and judgement, depending on the specific conditions of the travel planned, and a mid-range fare may be appropriate. For example, if you know for certain that a given trip will not be cancelled or that the date/time will not be changed, it makes more sense to go with a non-refundable ticket, or even a refundable ticket with change fees. In other cases more flexibility is warranted. Particularly when you book well in advance of your travel, the low to mid-range fares are available. We definitely are asking you to stay away from the high end fares whenever possible!

In order to sign up and use E-Z BIZ (if you have not already), Gail needs to invite you as a NPFMC user through email (which she will be doing by mid-February), and you **must respond back with that email**. Once invited, you log on to Alaska Airlines on your own My Alaska Air account and under the menus on the top, go to more and click on Easy Biz. From that point you can start doing your reservations through EZ-BIZ. You will receive all mileage for your travel and it will be charged to the Council credit card (we get 'corporate' miles as well). For travel outside Alaska/Horizon airlines, which is sometimes required, please consult with Gail or Peggy as necessary.

Ecosystem Committee Minutes

February 7, 2005 2-4 pm

South Room, Renaissance Madison Hotel, Seattle, WA

Committee: Stephanie Madsen (Chair), Sue Salvesson (for Jim Balsiger), Doug DeMaster, David Fluharty, David Benton, Jim Ayers, John Iani, Chris Oliver (staff), David Witherell (staff), Diana Evans (staff)

Others present included Bill Wilson, Clem Tillion, Sandra Moller, Terry Leitzell, Thom Smith, John Warrenchuk, Doug Hoedel, Mark Fina, Jennifer Boldt, and Darrell Covey.

The Committee reviewed and adopted the draft mission statement, as follows:

To discuss current ecosystem-related initiatives and assist in shaping NPFMC positions relative to (1) defining ecosystem-based management; (2) structure and Council role in potential regional ecosystem councils; (3) implications of NOAA strategic plan; (4) draft guidelines for ecosystem-based approaches to management; (5) draft MSA provisions or requirements relative to ecosystem-based management; and (6) generally coordinating with NOAA and other initiatives regarding ecosystem-based management.

Chris Oliver briefed the Committee on the January 2005 MAFAC meeting he attended with Stephanie Madsen, and summarized other background materials presented to the Committee. These included NPFMC letters to Admiral Lautenbacher and Dr Hogarth expressing concern about the Councils' involvement in Agency ecosystem initiatives; various presentations given recently by senior NMFS staff regarding ecosystem issues (including some given at the MAFAC meeting); the Ocean Action Plan; and a solicitation for members of a NOAA ecosystem research and science review panel.

The Committee discussed the distinction between NOAA's proposed ecosystem approach to management (EAM) and NMFS' proposed ecosystem approach to fisheries (EAF) strategies, and potential governance structures for each. Doug DeMaster clarified that EAM is a NOAA-wide initiative intended to consider and manage all aspects of marine ecosystems. NOAA has identified ten large marine ecosystems nationwide, at which level performance measures for determining and monitoring ecosystem health will be applied. Three of these are in Alaska: the Arctic, the Bering Sea, and the Gulf of Alaska. Voluntary regional councils have been proposed for each of the large marine ecosystems. EAF, on the other hand, is intrinsically related to EAM, but specifically focuses on fisheries within an ecosystem context. Chris Oliver briefed the committee on his participation in the NMFS-Council working group, which is intended to involve the Councils in NMFS' development of guidelines for EAF.

In preparation for their next meeting, the Committee requested staff to prepare a discussion paper suggesting ways for the NPFMC to be involved in the development of EAM for the Alaska large marine ecosystems. The paper would examine how the NPFMC structure might be utilized to create a voluntary regional EAM governance structure, the benefits and disadvantages of such a role, and funding requirements. The paper should clearly describe the interrelationship of EAF and EAM, and the role of the NPFMC in both.

The Committee also discussed nominating a candidate for the NOAA ecosystem research and science external review panel, and recommended that the Council submit three possible nominations: Dr David Fluharty, Dr Clarence Pautzke, and Dr Gordon Kruse, provided the gentlemen are willing to be considered.

The Committee proposed a meeting schedule, and tentative discussion items for each meeting, as described below.

March 14, afternoon	Teleconference	<ul style="list-style-type: none">• review initial draft of staff discussion paper• preparatory discussions for national conference
April 4, afternoon	Anchorage, during Council meeting	<ul style="list-style-type: none">• update from Chris re Working Group meeting• preparatory discussions for Council chairs' meeting
sometime in May	in person	TBD



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
 P.O. Box 21668
 Juneau, Alaska 99802-1668

HO before mtg.

*Agenda B-1
 Supplemental
 February 2005*

February 4, 2005

MEMORANDUM FOR: William T. Hogarth, PhD
 Assistant Administrator for Fisheries

FROM: *For* James W. Balsiger *Arnold J. Berg*
 Regional Administrator

For Douglas P. DeMaster *Arnold J. Berg*
 Science and Research Director, Alaska Region

SUBJECT: Status of North Pacific Groundfish Observers under the Fair Labor Standards Act (FLSA)

We are requesting your concurrence in our determination that North Pacific Groundfish Observers should be classified as professionals under the FLSA. This determination properly recognizes the professional nature of the work conducted by these observers and resolves some outstanding issues which make it difficult for the North Pacific Fishery Management Council (Council) to restructure the North Pacific Groundfish Observer Program (NPGOP). Incorporating accurate estimates of observer labor rates is important for restructuring alternatives for consideration by the Council. This cannot be achieved while the FLSA status of North Pacific Groundfish Observers remains uncertain.

The National Observer Program Advisory Team (NOPAT) discussed the status of contracted observers under FLSA and the Service Contract Act (SCA) at its October, 2001 and February, 2002 meetings. Positions can be classified as "technical" or "professional" under FLSA. This classification determination can have substantial consequences with respect to remuneration of observers, costs to those who employ observers or contract for observer services, benefits, and other factors. The applicability of SCA to fisheries observers was of particular concern to NOPAT, because SCA provisions place wage rate, overtime, and benefit requirements on employers. The SCA is applicable only to contracted employees whose work is classified as technical. Furthermore, the SCA applies only to employees who are employed to perform services by companies who contract directly with the Federal government to provide those services.

NPGOP observers are not contracted directly by NOAA Fisheries. Rather, they are employed by private companies who contract with fishing companies to provide observer services. Prior to the October 2001 NOPAT meeting, the Department of Labor (DOL) provided an oral determination that the SCA did not apply to NPGOP observers. This



determination was verified in a letter sent to Ms. Victoria Cornish of NOAA Fisheries by Mr. Timothy J. Helm of DOL in June 2003.

In comparison, NPGOP observers' duties are different, more complex, and demanding than the duties of observers deployed in other regions by NOAA Fisheries. Education and training requirements for NPGOP observers are the most comprehensive in the nation. Their responsibilities cover a broad range of requirements for scientific information, inseason target and bycatch quota management, compliance monitoring, and catch accounting to support privileged access to harvesting or processing operations, e.g., IFQ or coops allocation. More detailed position descriptions can be provided upon request.

The minutes of the February 2002 NOPAT meeting indicate that NPGOP observers were not included in the technician classification decision:

The position descriptions should focus on the duties and responsibilities of fisheries observers as technicians. There may be observers working on a professional level [i.e., NPGOP observers], but these would not be included in the DOL catalog since they are exempt from the Service Contract Act.

Your correspondence with Terry Hart Lee of DOC GC (December 2003) indicated that NOAA Fisheries had made the determination that observers should be considered as technicians under the FLSA. We ask that this correspondence be reviewed and that it be pointed out to Ms. Lee that this determination did not apply to NPGOP observers.

At its December 2004 meeting, the North Pacific Fishery Management Council (Council) discussed potential future changes to the NPGOP. Testimony provided during this discussion included a request that NOAA Fisheries consider classifying North Pacific Groundfish Observers as professionals under FLSA. Even though the Council did not take formal action to request this determination, it broadly supported this position during discussion.

The Council is planning to conduct an initial review of alternatives for reconstruction of NPGOP at its June 2005 meeting. We ask, therefore, that this request for concurrence be considered as soon as possible with the goal of completing the determination by early May 2005.

Staff at the NMFS Alaska Regional Office (Sue Salvesson, 907-586-7775) and the Alaska Fisheries Science Center (Bill Karp, 206-526-4194) are available to provide input and assistance during this process.

cc: Chris Oliver, NPFMC

Ho Before mtg



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

February 7, 2005

Agenda B-1
Supplemental
February 2005

Art Nelson, Chairman
Alaska Board of Fisheries
P.O. Box 25526
Juneau, Alaska 99802-5526

Dear Mr. Nelson:

We are preparing to publish final regulations to implement the Crab Rationalization Program (Program) for crab fisheries in the Bering Sea and Aleutian Islands area. The Council adopted the Program in June 2002, with subsequent amendments. In January 2004, Congress authorized the Program and mandated that the Secretary of Commerce approve it by January 1, 2005. We approved the Program in November 2004. We now are preparing the final regulations and administrative systems to implement the Program. We anticipate that the final rule will be published March 1 so that we may issue quota share (QS) and processor quota share (PQS) by early August for the crab quota share fisheries.

We understand that the Alaska Board of Fisheries (Board) anticipates opening the Aleutian Islands golden king crab (AIGKC) fishery on August 15, 2005. We are concerned that participants in the AIGKC fishery will be unable to comply with the Arbitration System portion of the Program by that date. NMFS will not issue individual fishing quota (IFQ) or individual processing quota (IPQ) to participants until they do.

The Arbitration System is designed to address concerns about price negotiations that may arise with the implementation of IFQs and IPQs under the program. The Arbitration System is an integral part of the Program that NMFS is required to approve and implement. We find no legal basis in the Magnuson Stevens Fishery Conservation and Management Act or the Program as adopted by the North Pacific Fishery Management Council to exempt the AIGKC fishery or any other fishery from any provision of the Arbitration System, even for the 2005/2006 start up year.

August 1 is the earliest date NMFS can issue QS and PQS, given the time required for participants to complete applications for QS or PQS and for NMFS to receive and evaluate the applications. Thus, participants may not be able to comply with the requirements of the Arbitration System by August 15. Under the Arbitration System requirements, QS and PQS holders must join Arbitration Organizations, select by mutual agreement the Market Analyst, Formula Arbitrator, and Contract Arbitrators, and report



this information to NMFS (see Attachment). "Mutual agreement" means an amount representing at least 50 percent of the QS and 50 percent of the PQS holders in a fishery. The extent to which participants can select the Market Analyst, Formula Arbitrator and Contract Arbitrators by mid August will be dependent upon voluntary cooperation among fishery participants prior to issuance of QS and PQS. Although preseason informal agreements may be possible, particularly given the small fleet size and limited number of processors, the formal "mutual agreement" will have to occur after QS and PQS issuance because neither NMFS nor the participants will know the amount of QS and PQS held by a person until those amounts are issued. Additionally, even though the possibility exists that participants in this fishery may reach a price settlement prior to August 15, participants would still need to meet the Arbitration System requirements to receive IFQ and IPQ.

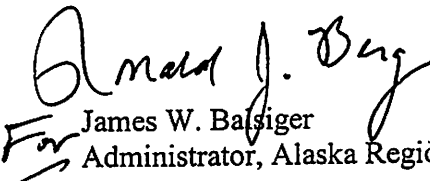
However, even if participants coordinate preseason, they still would have some inherent problems in meeting the Arbitration System time lines by August 15th. After we issue the IFQ and IPQ, negotiations under the lengthy season approach, share matching, and binding arbitration all require certain actions to be taken prior to the start of the season, i.e., share matching can occur beginning 25 days prior to the start of the season; and binding arbitration from 15 to 10 days prior to the season.

The Arbitration System only applies to shoreside QS/IFQ and PQS/IPQ holders. The catcher/processor sector and CDQ groups fishing the CDQ allocation are not affected by the Arbitration System and could begin fishing in the AIGKC fishery on August 15, 2005. Any concern about different start dates for the shoreside and catcher/processor participants may be addressed by a delay in the start date of the AIGKC fishery for the first year of the program. Under the current Fishery Management Plan for crab, any such change must be implemented through the Board process.

The season opening date for the AIGKC fishery is a first-year implementation concern only, and would not affect the season start dates for 2006/2007 and following years. For 2005, a delayed start date would provide the shoreside fleet with an adequate opportunity to meet the requirements of the Arbitration System and provide a "fair start" for all industry participants. The Board meeting in March would provide an opportunity for NMFS to brief the Board on this issue and provide at-sea and shoreside harvesters and processors an opportunity to understand the issue, raise concerns, and consider the implications of changing the season opening date in 2005 for AIGKC fishery from August 15 to a later date.

Please contact Glenn Merrill on my staff if you have any additional questions or concerns about this issue at (907) 586-7228.

Sincerely,


For James W. Balsiger
Administrator, Alaska Region.

Attachment

cc: Chris Oliver, Executive Director
NPFMC

Attachment

To make the Arbitration System available to the participants in the first year of the program, several components must be in place. Specifically, all QS holders and PQS holders need to join an Arbitration Organization which is responsible for selecting a group of experts that can assist in price negotiations: the Market Analyst, Formula Arbitrator, and Contract Arbitrator.

To make sure that these experts have been selected and the process is in place prior to the start of the season, NMFS is considering the following deadlines for the Arbitration System in 2005. The extent to which participants can accomplish these activities earlier than the stated deadlines, NMFS would be able to issue IFQ within a time frame that would allow fishing by the shoreside fleet prior to Oct 15.

NMFS anticipates issuing QS and PQS on or about August 1:

- The deadline for QS and PQS holders to join an Arbitration Organization would be August 15, 2005;
- The deadline for Arbitration Organizations with members who are QS or PQS holders to submit a complete Annual Arbitration Organization Report would be August 20, 2005;
- The deadline for Arbitration Organizations to select the Market Analyst, Formula Arbitrator, and Contract Arbitrators would be September 1, 2005; and
- The deadline for the completion of the Market Report produced by the Market Analyst and Non-Binding Price Formula produced by the Formula Arbitrator would be September 30, 2005.

Public Testimony Sign-Up Sheet

and

**Handouts Received During the
Meeting on this Agenda Item**

Public Testimony Sign Up Sheet

Agenda Item B reports

Feb '05

	NAME (PLEASE PRINT)	AFFILIATION
1	TOM CASEY	FV HANDLER / ALICIA JEAN
2	BILL O'NEILL	Tiquique U.S.
3	GERRY MERRIGAN	PROWLER FISHERIES
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

B-1 Handout
2-12-05 1pm

DRAFT Enforcement Committee Report

February 2005

The NPFMC Enforcement Committee met Tuesday February 8, 2005 with the following members in attendance: Roy Hyder (Chair), Sue Salvesson, Garland Walker, Herman Savikko, Jeff Passer, Mike Cerne. Chris Oliver staffed the meeting.

Also in attendance were numerous Coast Guard personnel, agency personnel, and NMFS Enforcement agents, including Al McCabe, Andy Schroeder, Gregg Caseo, Brian Corrigan, Kenneth Hansen, Mike Adams, Doug DeMaster, Bill Karp, Mark Kirkland, Daryl Covey, Jay Ginter, Sheela McLean, Shannon Fitzgerald.

The following is a summary of the Committee's discussion/recommendations:

Catch Monitoring and Accounting Issues RE Amendment 80

The Committee received a report drafted by NMFS management staff summarizing several, general monitoring and accounting issues associated with proposed amendment 80. The Committee has no specific action or recommendation at this time, recognizing that these issues will be further developed in the analyses for amendment 80, and specific alternatives will be developed for future consideration by the Committee.

Enforcement Precepts Paper

NMFS Enforcement and US Coast Guard representatives developed an enforcement precepts paper intended for general reference by agency analysts and decision makers. The paper is considered a living, evolving document and will be undergoing further review and refinement, and will be widely distributed, including to the Council and AP, and posted on the Council's WEB-site.

Advisory Panel seat

The Committee again discussed the issue of a potential enforcement seat on the Council's AP. While the Committee acknowledged numerous advantages to the idea, there are also numerous complications, and the Committee recommends not appointing such a seat at this time. Current processes allow for enforcement input to the AP (or through various ad-hoc Council committees). The Committee will continue to work with staff to better ensure that Committee recommendations on various issues are brought to the attention of the AP in a timely manner, utilizing teleconferences of the Committee if necessary to get Committee input to the AP at each meeting on relevant agenda topics. The Committee also encourages the Council and AP Chair to continue to recognize NMFS and USCG input during discussions and not rely on staff to fully address all enforcement issues.

EFH Alternative 5B

The issue discussed by the Committee was the need for both VMS requirements and 100% observer requirements relative to 5B, Option 3. It was noted that inclusion of these dual requirements in Option 3 may have been inadvertent, though it was included in the analyses. If the goal is primarily to ascertain vessel location, then VMS (particularly in conjunction with electronic logbooks and/or check-in requirements, for example) is likely sufficient. However, VMS alone does not identify vessel activity (fishing versus transiting) or gear type, and additional technologies would be necessary, and should be explored, to augment VMS in this regard, if additional observer coverage is not required. The Committee also recognized that current initiatives for the observer program should allow for more flexibility in the future in terms of placing observers; that many of the subject vessels already have 100% coverage; that some of the vessels are under 60' (and safety concerns for observers are a consideration in this regard); and, that there is a reduced violation risk overall. The Committee believes that a 100% observer requirement is not necessary, but if not then other options to augment VMS would be needed and should be explored through an agency/industry workgroup.

Other

The Committee received a presentation on the Unimak case from Agent Mike Adams.

The Committee briefly discussed potential enforcement concerns raised by the USCG relative to the Board of Fish proposal to open certain waters inside 3 miles (and the inability to impose VMS requirements).