

Executive Director's Report

Plan Team nomination

ADF&G Commissioner Lloyd has nominated Ms. Kristin Green for the GOA Groundfish Plan Team. Kristin has been hired as the Region I Groundfish Project Leader in Sitka, to fill the position vacated by Cleo Brylinsky. Her nomination letter and resume' are included under Item B-1(a). Kristin attended the recent Plan Team meetings, pending SSC review of her nomination and formal approval by the Council.

SSC nomination

The Oregon Department of Fish and Wildlife has requested the approval of Ms. Susan Hilber to the SSC, to replace Troy Buell who was the former agency representative on the SSC. Her nomination letter and resume' are under Item B-1(b). Susan is attending this meeting of the SSC pending formal approval by the Council. I also want to extend a note of appreciation to the State of Oregon and to Mr. Robin Brown for his participation at our special August meeting. They have requested that Robin remain the alternate for Ms. Hilber.

We have also been informed that Dr. Seth Macinko will be out of the country on sabbatical from now until May of next year, but has expressed a desire to return to the SSC pending Council approval. Since AP and SSC solicitations occur following this October Council meeting, the Council may wish to discuss whether to specifically solicit for sociological/anthropological expertise at this time. We have an Executive Session tentatively scheduled for Thursday if the Council wishes to have that discussion.

Review of New England fishery management process

Item B-1(c) is just an informational item of interest – a comprehensive review of the fisheries management process in New England is being conducted, which will examine the respective roles of the New England Fishery Management Council, the NMFS Northeast Regional Office, and the NMFS Northeast Fisheries Science Center. Findings from this program review could have implications for other regions.

Notice of funding for Regional Ocean Partnerships

Item B-1(d) is a Federal Register notice for the Regional Ocean Partnership Funding Program (ROPFP), which proposes to provide competitive funding from NOAA for development of Regional Ocean Partnerships (ROPs) and advancement of Coastal and Marine Spatial Planning (CMSP) efforts as envisioned in the Executive Order implementing the final recommendations of the Interagency Ocean Policy Task Force (EO, or IOPTF). Anticipated funding for FY2011 is around \$20 million, with \$10 million potential additional funding (although funds have not actually been appropriated yet). The solicitation is intended to *“support activities contributing to achieving priorities identified by ROPs....including advancement of CMSP...for administration of existing ROPs...and for start-up costs for those regions beginning ROPs”*. The solicitation also states that *“all applicants must coordinate their proposals for a region with the identified lead ROP or planning body for that region”*.

We have been informed that Councils cannot apply for funding directly under this solicitation, but that we may be involved, or coordinate with, proposals under this solicitation. For the Alaska region, there does not yet exist an official, lead ROP (as there does with other Regions), and it is not at all clear to me whether and how the Council might be involved in the development/creation of such a body (and who 'designates' the lead ROP (particularly if there are multiple proposals to create an ROP)). Nor is it clear

to me how such an ROP would juxtapose with the Regional Planning Bodies which are called for in the EO, and which would be appointed by the National Ocean Council (NOC).

The solicitation does state that applicants without an existing lead ROP (such as Alaska) may apply for funding by demonstrating *“that they are working towards a regional ocean partnership.....and that this can be accomplished by providing letters of support for each proposal from the Office of the Governor and lead State and Federal agencies as well as tribes involved in coastal and ocean management”* (page 55545, Section III(C)(6). Given the potential importance of an ROP for this region, the Council indeed may wish to be involved in its formation. The deadline for proposals is December 10, 2010.

As I attempt to gain greater clarity on all of this, I simply wanted to provide a head's up to the Council at this time. For further background I am providing two interesting pieces of recent correspondence from other Council/Regions. Item B-1(e) is a letter from the Pacific Fishery Management Council to the NOC highlighting their recent discussions, and requesting (1) that the West Coast Governors Agreement on Ocean Health (the WCGA, which is the designated lead ROP for the west coast region) be the construct for the regional planning body (specified by the EO), as opposed to some other group; and, (2) that the Pacific Council have a formal seat on that regional planning body. There is also a letter to the WCGA directly, requesting a formal seat on that body, in anticipation apparently of them becoming the formal regional planning body under the EO.

Item B-1(f) is a copy of a recent email (with attachment) from the Chair of the Northeast Regional Ocean Council (which is the designated lead ROP for the northeast region) requesting feedback on a proposed CMSP outline, and providing initial thoughts on how they might develop a funding proposal in time for the December 10 deadline. To give you a sense of where these initiatives seem to be heading, I urge you to look at the DRAFT objectives for CMSP in that outline, particularly Objective 3 (protect fisheries resources and fisheries economy) and Goal 3 (identify areas in need of additional attention for conservation).

Final Rule on Council SOPPs

Item B-1(g) is the long-awaited final rule with regulatory changes that address the operations and administration of the Councils, particularly to address provisions of the 2006 MSA reauthorization. My intent is to revise our SOPPs accordingly and have a revised draft for Council review at the December 2010 meeting. Issues addressed in the final rule include formal establishment of the Council Coordination Committee (CCC); definition of 'advisory panel' for purposes of potential stipends; SSC financial interest and disclosure; disposition and availability to the public of Council documents; lobbying restrictions; procedures for Council member nomination; regulatory 'deeming' requirements; financial disclosure requirements for Council members; and misc. minor/technical changes.

Because our existing SOPPs were used by NOAA as the template for SOPPs revisions, I do not anticipate that a major overhaul will be necessary. One interesting outcome in the final rule has to do with the definition of 'advisory panel' relative to the MSA provisions to provide stipends (subject to specific appropriation of funds for such stipends). Because (1) the MSA allowed for stipends to be paid to members of 'advisory panels', and (2) there are separate definitions in the MSA for 'advisory panel' and for 'fishing industry advisory committee', and (3) our existing AP actually fits the description of 'fishing industry advisory committee', rather than 'advisory panel' (which actually fits the description of various ad-hoc, no-host committees formed by the Council), there was resulting confusion over who was actually eligible for stipends. The final rule resolves this confusion by allowing each Council to declare under which section (definition) of the MSA their 'AP' is organized. Obviously I will be suggesting that we declare our 'AP' as organized under the section allowing a stipend to be paid, noting however that thus far funds have only been specifically appropriated to pay SSC stipends.

I will be consulting with the NMFS Regional Office and NOAA General Counsel to draft the necessary revisions to our SOPPs, and plan on bringing these back for Council review in December.

Events this week

Tuesday evening, October 5, ADF&G will host their annual meeting with the crab fishing industry, beginning at 6:00 pm in the Quarterdeck (Tower 1, 10th floor).

Wednesday evening, October 6, the newly formed Alaska Seafood Cooperative will host a reception, featuring yellowfin sole and rock sole appetizers, from 6:00 to 9:00 pm in the Foredeck Room. The Alaska Seafood Cooperative is expressing their appreciation to the Council family regarding 'Amendment 80' issues, highlighting the new name for their association, and celebrating their recent MSC certification.

On Friday evening, October 8, from 6:00 to 9:00 pm in the Endeavor Room (downstairs) the Council will hold a reception to recognize and honor soon-to-be-departing Council member and current ADF&G Commissioner Denby Lloyd. Denby recently announced his pending retirement and we could not let his decades of service to Alaska and North Pacific natural resource management go without a little bit of hoopla!

USFWS Council seat

For your information, Item B-1(h) is a letter from USFWS designating Denny Lassuy as the alternate to the Director beginning in December 2010, with Don Rivard as second alternate. Mr. Balogh will continue to serve as the designee through this October meeting.

ASMI Third Party Certification Project

Many of you are aware of recent initiatives by the Alaska Seafood Marketing Institute (ASMI) to develop a third-part certification process for Alaska seafood. They will be working with Global Trust, an accredited certification body, assessing fisheries against the criteria and principles of the United Nations Food and Agricultural Organization Code of Conduct for Responsible Fisheries (FAO Code). We expect to cooperate with this initiative (as we have with other certification programs) by providing scientific and management information as appropriate. Item B-1(i) includes the briefing notes for this initiative which were provided to me. Mr. Randy Rice is present at this meeting to provide the Council with an overview of the project.

STATE OF ALASKA

SEAN PARNELL, GOVERNOR

DEPARTMENT OF FISH AND GAME
OFFICE OF THE COMMISSIONER

P.O. BOX 115526
JUNEAU, AK 9911-5526
PHONE: (907) 465-4100
FAX: (907) 465-2332

August 23, 2010

Mr. Chris Oliver
Executive Director
North Pacific Fisheries Management Council
605 W. 4th Suite 306
Anchorage, AK 99501-2252

RECEIVED
AUG 27 2010

Dear Mr. Oliver:

I would like to nominate Kristen M. Green to serve as an ADF&G member of the Gulf of Alaska (GOA) Groundfish Plan Team. Kristen was recently hired as our Region I (Southeast Alaska and Yakutat) Groundfish Project Leader in Sitka to fill the position vacated by Cleo Brylinsky. In her new position, Kristen will provide statistical support to regional fisheries researchers and managers addressing a variety of issues associated with assessment and management of marine resources.

As reflected in her attached resume' Kristen has considerable breadth and depth of knowledge and experience with groundfish research and stock assesment. As was Cleo Brylinsky, I think Kristen will be a valuable asset to the GOA Groundfish Plan Team in their analyses and deliberations regarding assessment and management of GOA groundfish resources.

Thank you for considering Kristen for membership on the GOA Groundfish Plan Team.

Sincerely,



Denby S. Lloyd
Commissioner

KRISTEN MARIE GREEN

907-747-6688

kgreen@mlml.calstate.edu

EDUCATION:

- M.S. Moss Landing Marine Labs. May 2010. GPA: 3.9. Emphasis: Ichthyology
Thesis: Movements of Black Rockfish in Carmel Bay, California
- B.S. University of California, Santa Barbara. 2003. GPA: 3.7. Emphasis: Aquatic Biology
Senior Thesis: Effects of Nitrate Limitation on Giant Kelp Biomass
Graduated with High Honors, Regent's Scholar, Phi Beta Kappa

RESEARCH AND WORK EXPERIENCE:

Groundfish Project Leader, Alaska Department of Fish & Game **8/10-present**

- *Project title:* Groundfish Project, Division of Commercial Fisheries
- *Duties:* Responsible for planning, directing, and supervising all activities associated with the Southeast Groundfish Project, including responsibilities of fishery management, stock assessment, and associated research programs for sablefish, lingcod, and flatfish in Southeast Alaska and Yakutat.

Research Technician, National Geographic Ocean Now Expedition **9/09-8/10**

- *Project title:* Submersible Surveys of Cocos Island and Las Gemelas Seamounts
- *Duties:* Worked with international scientists to document deep-sea habitats off Costa Rica using a manned submersible. Ordered, packed and transported research equipment to Costa Rica; coordinated logistics with National Geographic scientists, and studied the scientific literature to aid in the identification of unknown species. At-sea, participated in submersible dives, managed all project data, and created GIS maps of survey areas. Communicated in Spanish with Costa Rican officials and boat crew. Post-cruise, quantified fishes invertebrates, and habitat from video and conducted statistical data analyses. Co-authored final report to the Costa Rican government and communicated project updates via the Moss Landing Marine Labs Science Blog.

Field Biologist, Copacabana Field Station, Antarctica **10/08-3/09**

- *Project title:* Demography, Reproductive Success, and Foraging Behavior of Brush-Tailed Penguins
- *Duties:* Deployed as a member of a four-person field team to a remote Antarctic island for 5 months. Work included extended solo backcountry hiking to conduct standardized surveys of penguins, skuas, giant petrels, and marine mammals. Trapped adult birds and chicks for banding, radio and satellite transmitter deployment, and diet sampling. Was responsible for field camp and equipment maintenance, resource conservation, and maintaining excellent relationships with team members and scientists at international field stations. Sent monthly field updates to the public via the Moss Landing Marine Labs Science Blog. Communicated in Spanish with international scientists at other field stations, and while traveling through Chile and Peru before and after the field season.

Sea Grant Trainee, Moss Landing Marine Labs **6/07-6/08**

- *Project title:* California Collaborative Fisheries Research Program (CCFRP)
- *Duties:* Planned the inaugural year of a Marine Protected Areas (MPAs) monitoring project in central California. Collaborated with scientists and fishermen to create the initial sampling design and standardized research protocols, which were later adapted as the standardized protocols for CCFRP project. Trained hundreds of volunteer fishermen in standardized sampling protocols, managed a team of scientific field assistants, organized project data using relational databases and created GIS maps for spatial analyses and map publication. Conducted statistical analyses, and assisted with final report.

Research Technician, Moss Landing Marine Labs

5/05–5/07

- *Project title:* Duxbury Reef Collaborative Fisheries Tag-Recapture Study
- *Duties:* Worked with charter boat skippers and recreational fishermen to characterize species composition, relative abundances, and length frequencies of fishes at a potential MPA site. Organized all aspects of the project within scheduling and budgetary constraints (e.g. ordered supplies, coordinated sampling trips, recruited fishermen, and managed field assistants). Created GIS maps, conducted statistical analyses, and compiled historical catch data for meta-analysis. Communicated project results to the fishing community via informational flyers and presented data at public forum and scientific conference presentations. Co-authored the final report.

Research Assistant, NOAA Antarctic Marine Living Resources (AMLR)

1/07–2/07

- *Project title:* Annual NOAA AMLR Vessel Survey
- *Duties:* Worked with a team of international scientists on a research cruise in the Antarctic. Responsible for working long shifts and odd hours to collect data on zooplankton species composition, density, and biomass.

Fisheries Observer, Alaskan Observers, Inc.

2/04– 8/05

- *Project title:* NMFS West Coast Groundfish Observer Program
- *Duties:* Worked with commercial fishermen in a variety of fisheries to collect information on fishing effort, catches and discard. Spent 12-20 days/month at-sea on 20-80 foot-long commercial fishing vessels. At-sea, was responsible for sampling net hauls at all hours of the day to identify and measure marine fishes and invertebrates. Also trained in emergency survival protocols, vessel safety inspections, and in maintaining diplomatic relations with fishermen.

Research Assistant, Palmer Long Term Ecological Research

9/03–11/03

- *Project title:* Long Term Ecological Research on the Antarctic Peninsula: Krill Component
- *Duties:* Used SCUBA in overhanging, ice environments to collect krill. Conducted laboratory experiments to determine size-structure, growth rates, and relative abundances of krill. Operated inflatable boats and plankton tow nets in Antarctic waters.

Research Assistant, Santa Barbara Coastal Long Term Ecological Research

9/01– 8/03

- *Project title:* Patterns of Primary Production: Standing Crop and Productivity of Giant Kelp
- *Duties:* Conducted subtidal surveys of giant kelp via SCUBA, prepared kelp samples for laboratory analysis (use of spectrometer, fluorometer, *in situ* nutrient analyzer).

Research Diver, Marine Science Institute, University of Texas

6/02–7/02

- *Project title:* *Rhizosolenia* Mats in the Pacific (RoMP) Research Cruise
- *Duties:* Prepared and packed for a research cruise to study the ecology, physiology, and vertical migration of diatoms. At-sea, collected diatom specimens using blue-water SCUBA techniques, assisted with laboratory analyses of specimens, and designed and conducted a complementary experiment on *Rhizosolenia* physiology.

Intern, Partnership for the Interdisciplinary Study of Coastal Oceans, Santa Barbara

9/00– 9/01

- *Project title:* Larval Fish Otolith Growth Rates as Predictors of Larval Duration and Juvenile Survival
- *Duties:* Collected juvenile kelp bass using snorkel equipment. Dissected juvenile kelp bass using microscope techniques, determined relationships between otolith length and fish length.

PRACTICAL SKILLS:

- Wilderness First Responder (80-hour course)
- CPR, O₂, and First Aid certifications

- Trained in operating small boats (inflatables, Boston whalers)
- AAUS Scientific diver (Blue-water, Ice, Dry-suit, Nitrox, Rescue certifications)
- Experience using field and communication equipment (GPS, VHF Radio, etc.)
- Spanish (5 years of classes), extended travel in Chile, Argentina, Peru, and Spain

COMPTER SKILLS AND SOFTWARE

- ArcGIS (proficiency in geospatial databases, spatial statistics, and ArcGIS toolboxes)
- MS Access (proficiency in relational databases, query building, managing large datasets)
- Systat (Statistical software)
- Adobe Photoshop (Familiar with photo and graphics editing)
- Matlab

FUNDING AWARDS:

- 2010 Award for Student Presentation at Western Groundfish Conference
- 2008 Packard Grant Moss Landing Marine Labs (\$1000)
- 2008 Meyers Grant, Dr. Earl H. and Ethel Myers Oceanographic and Marine Biology Trust (\$1500)
- Conference Travel Grants

OUTREACH PRESENTATIONS:

- **Teacher's Assistant**, Life Lab Class for K-5th classes, Gateway School, Santa Cruz, CA, 2008-2009
- **Public seminar**, "Summer in Antarctica: Research and life at Copacabana field station," Moss Landing Marine Labs, Moss Landing, CA. May 2009.
- **Guest speaker**, "Penguin research on King George Island," Robert Louis Stevenson School, Carmel, CA. May 2009.
- **Guest speaker**, "Marine Ecology of the Monterey Bay," Santa Cruz Junior Lifeguards, Santa Cruz, CA. July 2008.
- **Teacher Enhancement Program Workshop**, "Presenting Marine Science Curriculum," Moss Landing Marine Labs, Moss Landing, CA. One-week workshop. June 2008.
- **Carmel River School Ocean Week**, Hosted 'Ocean Week' at Moss Landing Marine Labs, including lab tours, presentations, and hands-on activities with 75 elementary school students. May 2008.
- **'Marine Science Day'**, Hosted marine science day for grades K-5th at Captain Cooper Elementary School, Big Sur, CA. February 2008.
- **Guest speaker**, "Scientific Research Diving," Oak Grove High School Oceanography Seminar, Moss Landing, CA. March 2008.
- **Guest speaker**, "Careers in Marine Biology," Huntington Beach High School, Huntington Beach, CA. May 2007.
- **Guest speaker**, "So You Want to Be a Marine Biologist?" Huntington Beach High School, Huntington Beach, CA. May 2006.

PUBLICATIONS AND REPORTS:

Green, K., and R. Starr. 2010. Movements of sub-adult black rockfish (*Sebastes melanops*) in Carmel Bay, California, Implications for the Design of MPAs (In Review, *Marine Ecology Progress Series*)

Starr, R.M., and **K. Green**. 2010. Fishes of Las Gemelas Seamounts and Isla Del Coco. Preliminary Findings of September 2009 Submersible Surveys. Report to the Costa Rican Government.

Starr, R.M., D. Wendt, N. Yochum, **K. Green**, and L. Longabach. 2008. Surveys of Nearshore Fishes in and Near Central California Marine Protected Areas. Final Report Submitted to the Ocean Protection Council and California Sea Grant College Program.

Starr, R.M., and **K. Green**. 2007. Species Composition, Relative Abundance, and Movements of Important Nearshore Fish Species Along the North Central California Coast. Final Report to Pacific States Marine Fisheries Commission.

SELECTED PROFESSIONAL PRESENTATIONS:

Green, K. Movement Patterns of Black Rockfish in Carmel Bay, CA. May 2010. Oral Presentation, Western Groundfish Conference, Juneau, AK. *(Received Student Award for Talk)

Green, K. Movement Patterns of Black Rockfish from an Acoustic Telemetry Study. May 2008. Poster Presentation, Monterey Bay National Sanctuary Currents Symposium, Seaside, CA.

Green, K., R.M. Starr, and R. Thomas. Results from a Three-Year Tag-Recapture Study at Duxbury Reef, California. April 2008. Oral Presentation, Pt. Reyes National Seashore, Point Reyes, CA.

Green, K., R.M. Starr, A.Greenley, and R. Thomas. Species Composition, Size-Structure, and Movements of Nearshore Fishes Along the North Central California Coast. February 2008. Oral Presentation, Western Groundfish Conference, Santa Cruz, CA.

Starr, R.M., R. D. Wendt, N. Yochum, **K. Green**, L. Longabach, and E. Nakada. Collaborative Fishing Surveys of Nearshore Fishes in and Near Central California Marine Protected Areas. February 2008. Poster Presentation, Western Groundfish Conference, Santa Cruz, CA.

Green, K., R.M. Starr, A.Greenley, and R. Thomas. Collaborative Fishing Project, Species Composition and Movements of Nearshore Fishes Determined from a Tag-Recapture Study near Bolinas, California. September 2006. Poster Presentation, California and the World's Oceans Conference, Long Beach, CA.

Greenley, A., R.M. Starr, M. Carr, D. Malone, **K. Green**, D. Osorio, G. Neveloso, and S. Pitruzzello. Relationships Between Commercial Fisheries and Diver Surveys. February 2006. Poster Presentation, Western Groundfish Conference, Newport, OR.

Green, K., R.M. Starr, A.Greenley, and R. Thomas. Species Composition and Movements of Nearshore Fishes Determined from a Tag-Recapture Study near Bolinas, California, February 2006. Poster Presentation, Western Groundfish Conference, Newport, OR.

Green, K., R.M. Starr, A.Greenley, and R. Thomas. First Year of Monitoring at Duxbury Reef, CA: Results from a Collaborative Tag-Recapture Study. May 2006. Oral Presentation, Pt. Reyes National Seashore, Point Reyes, CA.



Oregon

Theodore R. Kulongoski, Governor

Department of Fish and Wildlife
Fish Division
3406 Cherry Avenue NE
Salem, OR 97303
(503) 947-6200
Fax (503) 947-6202/6203
www.dfw.state.or.us



September 16, 2010

Mr. Chris Oliver, Executive Director
North Pacific Fishery Management Council
605 West 4th Suite 306,
Anchorage, AK 99501-2252

RECEIVED
SEP 16 2010

RE: Oregon SSC Appointment

Dear Mr. Oliver:

By this letter, I would like to request your approval for the appointment of Ms. Susan Hilber to the Scientific and Statistical Committee (SSC) of the North Pacific Fishery Management Council (NPFMC), subject to any approval required by the Council.

Ms. Hilber was recently hired to replace Mr. Troy Buell, the former agency representative on the NPFMC's SSC. Ms. Hilber has a good background in sampling design, data analysis, and education.

Ms. Hilber's vita is attached for your review. As you can see from Ms. Hilber's background, she should prove well qualified to participate and provide effective input to the NPFMC through the SSC process.

We appreciate your consideration of this request.

Sincerely,

Gway Kirchner, Assistant Program Manager
Marine Resources Program
Oregon Department of Fish and Wildlife
2040 SE Marine Sciences Drive
Newport, Oregon 97365
Phone: 541.867.0300 x267
Fax: 541.867.0311
gway.r.kirchner@state.or.us

Susan Hilber
533 47th Ave N, St Petersburg, FL 33703
305-304-7099
turtlesusie@aol.com

EDUCATION

University of South Florida, Tampa, FL
M.S. in Coastal Marine Ecology 2006
Thesis: "Spatial and Temporal Patterns of Feeding and Food in Three Species of Mellitid Sand Dollars"

University of Minnesota, Minneapolis, MN
B.S. Ecology, Evolution and Behavior 2002
Areas of Concentration: Ecology and Evolution

School for Field Studies, Center for Marine Resource Studies, South Caicos, Turks and Caicos
Semester Abroad Experience 2001
Areas of Concentration: Marine Ecology and Marine Conservation
Thesis: "Ontogenetic Shifts in Habitat Preference of the Queen Conch, *Strombus gigas*"

AWARDS

- Teaching Assistantship, University of South Florida 2004-2006
- Academic Scholarship, West Group, Inc. 1999 – 2002
- School for Field Studies Academic Scholarship 2001
- Lower Division Major Honors, University of Minnesota 1998 – 2000
- Dean's List, University of Minnesota 1999

RESEARCH AND RELATED EXPERIENCE

Fish and Wildlife Research Institute, Florida Fish and Wildlife Conservation Commission, St Petersburg, FL
Biological Scientist, Fish and Wildlife Health Section 2008 – Present
Conducts histological analysis of fish and invertebrate tissues. Provides statistical analysis of fish health research. Executes necropsies and histological preparation of tissues. Responds to Fish Kill Hotline calls, and conducts site investigations of affected specimens and sites. Enters and proofs data in a MS Access database and maintains other spreadsheets in regard to genetics and fish health specimens. Supports aquaria and upholds good fish husbandry practices. Participates in field sampling of healthy and diseased sport fish.

Environmental Protection Commission of Hillsborough County, Tampa, FL
Environmental Scientist, Wetlands Management Division 2006 - 2007
Conducted wetland delineations. Routinely analyzed soil survey maps and aerial photography. Utilized GIS programs to qualify habitat types. Performed research to assist in implementing the mangrove trimming program and educated other staff members about effects of mangrove trimming. Reviewed construction plans for impacts to wetlands. Also reviewed other types of plans, such as wetland buffer setback encroachments, Tampa Port Authority permits, and miscellaneous activities in wetlands. Assisted citizens with questions regarding the Wetlands Management program. Conducted file history reviews to assist citizens with property development goals.

Environmental Technician, Environmental Resource Monitoring Division 2006
Identified and sorted benthic invertebrates to appropriate taxonomic group using a microscope. Samples were from sites in Tampa Bay and local rivers. In addition, assisted in field work to obtain benthic samples, utilizing a grab sampler and Hydrolab. Samples were used to evaluate diversity and community structure in areas of Tampa Bay subject to environmental damage.

West Coast Connection, Montreal, Canada

Food Director, California Extreme Trip

2004

Charged with budgeting, planning, and carrying out meals for a 26-day camping trip for a traveling teen camp. Assisted the tour director in supervising and helping camp participants through a series of challenging outdoor activities, including rock climbing, whitewater rafting, mountain biking, and surfing. Required to have current certification in CPR, First Aid and life guarding.

University of Minnesota, St Paul, MN

Research Intern, BioCON

2001

Routinely identified the plant species used in the experiment, sort aboveground and belowground biomass, harvested root cores and biomass strips, assisted with nitrogen mineralization analysis, and took light and time-domain reflectometry readings. Most of our work was conducted outside in grasslands; we worked despite high temperatures, rainstorms, humidity, and insects. Also, at certain times, the research required me to work in a lab processing field samples.

Voyageurs National Park Association, Minneapolis, MN

Student Intern

1998-2002

Wrote articles, essays, and took photographs for the quarterly newsletter, *Voyageurs News*. Assisted in editing and organizing the publishing of *Birds of Voyageurs National Park, A Guide to the Birds of the Border Country*, a book written and produced by members of the Voyageurs National Park Association. Wrote grant proposals and assisted in fundraising projects. In charge of all member correspondence, organized mass mailings, and managed membership files. Maintained a media file about Voyageurs National Park. Helped coordinate and run member meetings and quarterly member outings to the park.

TEACHING EXPERIENCE

Hillsborough Community College, Tampa, FL

Adjunct Instructor – Environmental Science, Human Anatomy and Physiology Laboratory I, Diet and Nutrition

2007-2008

Developed syllabus and overall course structure, and administered all grades.

Pasco-Hernando Community College, New Port Richey, FL

Adjunct Instructor – Introduction to Oceanography, Introduction to Environmental Science, Introduction to Biology

2007-2008

Developed syllabus and overall course structure, and administered all grades.

Science Center of Pinellas County, St Petersburg, FL

Instructor

2007

Instructed grade school students on principles and concepts in science. Conducted lab experiments and field exploratory activities with children. Responsible for developing class plans for week-long summer camp classes.

University of South Florida, Tampa, FL

Teaching Assistant – Biology 2010 and Biology 2011

2004-2006

Collaborated on curriculum and exam development, met with students upon request, and graded all written work, including final exam papers.

Seacamp Association, Inc., Big Pine Key, FL

Marine Science Instructor

2002

Utilized snorkeling and scuba diving to provide first-hand environmental education to campers. Responsible for creating lesson plans. Led evening programs, open water life guarding, general supervision of campers, assisted other classes and SCUBA open water certification dives.

PUBLICATIONS AND PAPERS

Hilber, SE and JM Lawrence. Analysis of sediment and gut contents of the sand dollars *Mellita tenuis*, *Encope michelini*, and *Encope aberrans* off the central Florida Gulf coast. Gulf of Mexico Science. *In press*

Hilber, SE and JM Lawrence. 2005. Population characteristics of the sand dollars *Mellita tenuis* and *Encope michelini* off the central Gulf coast of Florida. Florida Scientist 68(supplement 1): 30-31. *Abstract only*

PRESENTATIONS

Lawrence, JM, J Cobb, S Hilber, and J Swigart. Characteristics of populations of the sand dollars *Encope michelini* and *Encope aberrans* off the central Florida Gulf coast. Society for Integrative and Comparative Biology Annual Meeting, Orlando, FL. 4-8 January 2006.

Hilber, SE and JM Lawrence. Population characteristics of the sand dollars *Mellita tenuis* and *Encope michelini* off the central Gulf coast of Florida (poster presentation). Florida Academy of Sciences Annual Meeting, Tampa, FL. 17-19 March 2005.

MEMBERSHIPS

- Ecological Society of America
- Society for Integrative and Comparative Biology
- American Academy of Underwater Sciences

COMMITTEES

- Vice President, Biology Graduate Student Organization (2004-2005)
- Student Representative (2004-2006), Diving Control Board, University of South Florida
- Graduate Student Representative (2005-2006), Curriculum Committee, Biology Department, University of South Florida

LANGUAGES

- English – native language
- French – speak, read and write with proficiency

Subject: NOAA taps Preston Pate to Review Organizational Concerns in New England

From: Saving Seafood Alerts <alerts@savingseafood.org>

Date: Wed, 29 Sep 2010 15:25:45 -0400 (EDT)

To: chris.oliver@noaa.gov

Having trouble viewing this email? [Click here](#)

Saving Seafood

Eric Schwaab taps Preston Pate to Review Organizational Concerns in New England

Mid Atlantic Council Member and former chair of the Atlantic States Marine Fisheries Commission to be joined by management audit organization

NEWPORT, Rhode Island - Sept. 29, 2010 - NOAA Assistant Administrator for Fisheries Eric Schwaab announced plans to conduct a regional assessment and management review of the fishery management process in New England. The focus will be on the relationships among the New England Fishery Management Council, the Northeast Regional Office, and the Northeast Fisheries Science Center and factors affecting the effectiveness of those three entities in carrying out their responsibilities under fisheries law.

In making the announcement, Mr. Schwaab did not admit to shortcomings in the regulatory infrastructure, which has been under fire from industry and elected officials, and Fishery Management Council members. Instead he noted that every organization "no matter how large or how well run" can benefit from such a review, and said that large companies conduct these reviews "not because they believe they are performing poorly" but "to perform better".

Preston Pate, of North Carolina, a current member of the Mid-Atlantic Fishery Management Council and former chair of the Atlantic States Marine Fisheries Commission has been designated to oversee the effort. NOAA also plans to hire a management audit organization to work on the effort.

Last December, New England Fisheries Council Chair John Pappalardo wrote to Commerce Secretary Gary Locke stating "our bureaucracy is often driven by process and protocol rather than by mission and outcome." He said "it has become clear that our region's bureaucracy is unable to efficiently meet its expanded obligations" and asked the Commerce Secretary for "help in implementing a visionary pilot in New England that is a necessary first step in making these critical improvements."

Speaking of the Noting that "the leaders of each entity have repeatedly acknowledged significant challenges with inter-organizational communication, but these challenges appear to be increasing rather than improving.

Chairman Pappalardo asked that the review be conducted by a management consultant, and include:

- Extensive interviews with leadership and staff of each organization as well as a wide range of fishery stakeholders to understand their respective views on the performance of the current system and their suggestions for reforms.
- An objective and thorough evaluation of the internal structure and management practices of each entity.
- A rigorous assessment of the coordination and communication among the three entities and specific suggestions for necessary improvements.
- A detailed and public summary of the findings of this initiative as well as the resulting recommendations.

[Read Mr. Pate's biography from his tenure as director of the North Carolina Division of Marine Fisheries](#)

[Read a 2004 profile of Mr. Pate from National Fisherman](#)

The text of the announcement follows:

NOAA Assistant Administrator Eric Schwaab today announced plans by the agency to conduct a regional assessment and management review of the fishery management process in New England. The focus will be on the relationships among the New England Fishery Management Council, the Northeast Regional Office, and the Northeast Fisheries Science Center and factors affecting the effectiveness of those three entities in carrying out their responsibilities under fisheries law. It is expected that lessons learned will be more broadly applied to other regions.

"Every organization no matter how large or how well run can benefit from constructive guidance as to how it could improve its processes, said Schwaab. "This is something Fortune 500 companies do all the time, not because they believe they are performing

poorly but because they want to ensure they do not miss opportunities to perform better."

A critical component of this review will be to conduct a series of interviews and focus groups to gather information on the current processes, what is working and what could be improved. Input will be sought from members and staff of the New England Fishery Management Council, NOAA Fisheries Service science and management staff, fishing industry leaders, the environmental community and state agencies.

The end result, anticipated in six to twelve months, will be a series of recommendations for improvements in coordination, communication and processes that would enable all three entities to work more efficiently and effectively to better meet our mission of ending overfishing and rebuilding sustainable fisheries.

"I designated Preston Pate, who is currently under contract with NOAA to develop a new survey program for the recreational fishery, to oversee this process," said Schwaab. "Preston is a respected voice in fisheries management and is well suited to carry out this task."

Mr. Pate is a current member of the Mid-Atlantic Fishery Management Council and former chair of the Atlantic States Marine Fisheries Commission. NOAA also plans to secure the services of an external organization experienced in management audits to work with Mr. Pate on this effort.

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recommendations for fishing year 2011 total allowable catches of these same stocks. The day will conclude with the Groundfish Committee's Report which will include a recommendation to take initial action on Framework Adjustment 45 to the Northeast Multispecies FMP. Measures under consideration include revising the pollock status determination criteria, changing the acceptable biological catch for pollock, modifying the Georges Bank yellowtail flounder rebuilding strategy, implementing measures to protect spawning cod in the inshore Gulf of Maine, implementing additional sectors, changing monitoring requirements for handgear A and B permitted vessels and changing the general category scallop vessel restrictions in the Great South Channel. Other issues could be considered as a result of the September 3, 2010 Groundfish Committee meeting. The groundfish agenda items will continue until meeting adjournment at the end of the day.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see ADDRESSES) at least 5 days prior to the meeting date.

Dated: September 7, 2010.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010-22674 Filed 9-10-10; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 100820388-0388-01]

RIN 0648-ZC20

NOAA Regional Ocean Partnership Funding Program—FY2011 Funding Competition

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice.

SUMMARY: The purpose of this document is to advise eligible state, local, territory and tribal governments, regional ocean partnerships, institutions of higher learning, and non-profit and for-profit organizations (requirements described in full announcement) that NOAA is soliciting proposals for competitive funding for Regional Ocean Partnerships that include or emphasize regional Coastal and Marine Spatial Planning (CMSP) efforts. This competition is focused on advancing effective coastal and ocean management through regional ocean governance and the goals for national ocean policy set out in the July 2010 *Final Recommendations of the Interagency Ocean Policy Task Force*, which includes a national CMSP Framework. The Regional Ocean Partnership Funding Program (ROFPF) will support two categories of activities:

(1) Implementation of activities that contribute to achieving the priorities identified by Regional Ocean Partnerships (ROPs) while also advancing CMSP as envisioned in the national CMSP Framework; and
(2) ROP Development and Governance Support for administration and operations of existing ROPs, and for start-up costs of those regions beginning ROPs.

Eligible entities must submit to NOAA full proposals on or before December 10, 2010, in order to participate in this Fiscal Year (FY) 2011 funding opportunity. Total anticipated funding is approximately \$20,000,000 and is subject to the availability of FY 2011 appropriations. Additional funds of approximately \$10,000,000 from NOAA or other Federal agencies may be used for FY 2011 or multi-year awards from this competition. The start date on proposals should be the first day of July, August or September, but no later than October 1, of 2011. Statutory authority for this program is provided under Coastal Zone Management Act, 16 U.S.C. 1456c (Technical Assistance).

DATES: Full proposals must be received no later than 11:59 p.m. ET, December 10, 2010. For proposals submitted through Grants.gov, a date and time receipt indication by Grants.gov will be the basis of determining timeliness. Hard copy applications will be date and time-stamped when they are received.

Full proposals received after the submission deadline will not be reviewed or considered. Anticipated Announcement of Award: June 1, 2011.

ADDRESSES: Full proposal application packages, including any letters of support, should be submitted through the apply function on Grants.gov. If an applicant does not have Internet access, one set of originals (signed) and two copies of the proposals and related forms should be mailed to the attention of James Lewis Free, NOAA Coastal Services Center, 2234 South Hobson Avenue, Charleston, South Carolina 29405-2413. No e-mail or fax copies will be accepted.

FOR FURTHER INFORMATION CONTACT: For administrative questions, contact James Lewis Free, NOAA CSC; 2234 South Hobson Avenue, Room B-119; Charleston, South Carolina 29405-2413, phone 843-740-1185, fax 843-740-1224, e-mail James.L.Free@noaa.gov. For technical questions regarding this announcement, contact Rebecca Smyth, phone 510-251-8324, e-mail Rebecca.Smyth@noaa.gov. To obtain a copy of the *Final Recommendations of the Interagency Ocean Policy Task Force*, please refer to http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf.

SUPPLEMENTARY INFORMATION: Announcement of Funding Opportunity also available at <http://www.csc.noaa.gov/funding/>.

Federal Agency Name(s): Coastal Services Center, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

Funding Opportunity Title: NOAA Regional Ocean Partnership Funding Program—FY 2011 Funding Competition.

Announcement Type: Initial Announcement.

Funding Opportunity Number: NOAA-NOS-CSC-2011-2002718.

Catalog of Federal Domestic Assistance Number: 11.473, Coastal Services Center.

Full Text of Announcement

I. Funding Opportunity Description

A. Program Objectives

This Regional Ocean Partnership Funding Program (ROFPF) is focused on

advancing effective coastal and ocean management through regional ocean governance, including the goals for national ocean policy and coastal and marine spatial planning set out in the July 2010 *Final Recommendations of the Interagency Ocean Policy Task Force*, http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf. In the justification for a national CMSP Framework, the Ocean Policy Task Force (OPTF) underscores the need for planning and governance with the following assessment:

The Nation's interests in the ocean, our coasts, and the Great Lakes support a growing number of significant and often competing uses and activities, including commercial, recreational, cultural, energy, scientific, conservation, and homeland and national security activities. Combined, these activities profoundly influence and benefit coastal, regional, and national economies and cultures. However, human uses of our ocean, coasts, and the Great Lakes are expanding at a rate that challenges our ability to plan and manage them under the current sector-by-sector approach. While many existing permitting processes include aspects of cross-sectoral planning (through, for example, the process governed by the National Environmental Policy Act), most focus solely on a limited range of management tools and outcomes (e.g., oil and gas leases, fishery management plans, and marine protected areas). Missing from this picture is a more integrated, comprehensive, ecosystem-based, flexible, and proactive approach to planning and managing these uses and activities. This new approach would be national in scope to address national interests, but also scalable and specific to regional and local needs. Without such an improved approach, we risk an increase in user conflicts, continued planning and regulatory inefficiencies with their associated costs and delays, and the potential loss of critical economic, ecosystem, social, and cultural services for present and future generations.

The OPTF, the Pew Oceans Commission, the U.S. Commission on Ocean Policy and the Joint Ocean Commission Initiative have all called for stronger regional ocean governance mechanisms to improve our understanding of ocean and coastal ecosystems, and to address fragmented planning and management of societal uses of coastal and ocean lands and waters. The value in this approach is reflected in the rapid engagement by most coastal states in new Regional Ocean Partnerships (ROP). These partnerships have been established to facilitate the effective management of ocean and coastal resources across jurisdictional boundaries by improving communications, aligning priorities, and enhancing resource-sharing between local, State, tribal and Federal agencies.

Coastal and Marine Spatial Planning (CMSP) is an important planning tool for regional ocean governance. CMSP is a comprehensive, adaptive, integrated, ecosystem-based, and transparent spatial planning process, based on sound science, for analyzing current and anticipated uses of ocean, coastal, and Great Lakes areas. Intended to look across multiple sectors and jurisdictions in an objective and collaborative regional fashion, CMSP identifies areas most suitable for various types or classes of activities in order to reduce conflicts among uses, reduce environmental impacts, facilitate compatible uses, and preserve critical ecosystem services to meet societal objectives, including economic, environmental and security considerations. In practical terms, CMSP provides a public policy process for society to better determine how the ocean, coasts, and Great Lakes are sustainably used and protected for future generations. As noted in the OPTF's Final Recommendations, potential opportunities and incentives for regions undertaking CMSP include:

- (1) Encouraging and informing the Federal government to better manage resources or address processes that transcend jurisdictional boundaries;
- (2) Defining local and regional objectives and developing and implementing CMSP in a way that is meaningful to regionally specific concerns;
- (3) Leveraging, strengthening, and magnifying local planning objectives through integration with regional and national planning efforts;
- (4) Proactively addressing concerns over proposed activities impacting State and tribal interests and minimizing use conflicts before they escalate;
- (5) Leveraging support from the Federal government to build CMSP capacity, access CMSP data; and acquire scientific, technical, and financial assistance;
- (6) Accessing data through CMSP Portal(s) and utilizing science tools developed, established, and maintained for CMSP efforts;
- (7) Benefiting from sustained Federal participation on the regional planning bodies that consist of representatives empowered to make decisions and commitments on behalf of their respective agencies, in turn helping to integrate and improve decision-making;
- (8) Providing a clearer and easier point of access for all Federal agencies with regard to ocean, coastal, and Great Lakes issues; and
- (9) Achieving regulatory efficiencies, reduction in administrative delays, and cost savings.

The OPTF's CMSP Framework generally identifies large marine ecosystems (LME) as the basis for defining CMSP regions. LMEs are defined on the basis of consistent ecological conditions and other factors. For CMSP purposes, the United States is subdivided into nine regional planning areas based on LMEs with modifications as necessary to ensure inclusion of the entire U.S. EEZ and Continental Shelf, and to allow for incorporation of existing state or regional ocean governance bodies. For the most part, the boundaries of regional governance structures for the Northeast, Mid-Atlantic, South Atlantic, Gulf Coast, West Coast, and Great Lakes lie within LME boundaries. The OPTF also designates Alaska, Hawaii and the U.S. Pacific Islands, and the U.S. Caribbean as regions, resulting in a total of nine regions. For purposes of this funding opportunity, NOAA will generally use the OPTF-defined regions for consideration in ROPFP funding proposals. Where possible, NOAA has identified an existing lead ROP or planning body for each region (see Section III.C.). Regional Ocean Partnerships are defined as below:

Regional Ocean Partnerships are voluntary, usually multi-state, Governor-established forums that develop shared priorities and take critical action on a broad diversity of ocean, coastal and Great Lakes needs, as relevant to their region. They have different structures and employ varied methods and approaches to enhance the ecological and economic health of the region. Their efforts involve non-governmental stakeholders and all of the multiple state and Federal agencies involved in coastal and ocean management.

For the purposes of this announcement, all applicants must coordinate their proposals for a region with the identified lead ROP or planning body of that region. The goal of this coordination is to ensure awareness, enhance collaboration, and contribute to achieving the best outcomes for regional ocean governance and healthy, resilient and sustainable oceans, coasts and Great Lakes resources.

The ROPFP is intended to support development or implementation of regional ocean governance priorities that also advance the objectives detailed in the OPTF's national CMSP Framework. Regional priorities may be identified in existing ROP plans (e.g., Gulf of Mexico Alliance, Northeast Regional Ocean Council, Mid-Atlantic Regional Council on the Ocean, the South Atlantic Alliance, the Great Lakes

Council of Governors and the West Coast Governors' Agreement on Ocean Health), or emerge through developing ROP efforts. The ROPFP is also intended to support regional ocean governance efforts with funds for administration and operations of existing ROPs, and for development costs of those regions beginning ROPs (including Alaska, Hawaii and the U.S. Pacific Islands, and the U.S. Caribbean).

The ROPFP program will support two categories of activities:

(1) Focus Area 1—Implementation of activities that meet both regional ocean governance priorities identified by ROPs in action plans and other public documents and the purposes and priorities of the national CMSP Framework; and

(2) Focus Area 2 (up to approximately \$3M)—Development and governance support for administration and operations of existing and new ROPs, including development of plans and management of ROP activities.

This funding opportunity supports the Department of Commerce's objectives to "Support coastal communities that are environmentally and economically sustainable," and "Support climate adaptation and mitigation." It also directly contributes to the NOAA strategic goal for Resilient Coasts and Economies, and the objectives therein, including "Comprehensive Ocean and Coastal Planning and Management" and "Resilient Coastal Communities That Can Adapt to Impacts of Hazards and Climate Change."

B. Program Priorities

Focus Area 1

Focus Area 1 funds are intended to support a spectrum of regional ocean governance priorities including those that address national goals for CMSP. CMSP is an important planning tool for supporting a number of regional ocean governance efforts; therefore Focus Area 1 proposals that also advance comprehensive CMSP, either through regional planning processes or through building capacity by addressing relevant CMSP principles will be given highest priority in the final evaluation. The OPTF's CMSP Framework identifies twelve Guiding Principles:

(1) CMSP would use an ecosystem-based management approach that addresses cumulative effects to ensure the protection, integrity, maintenance, resilience, and restoration of ocean, coastal, and Great Lakes ecosystems, while promoting multiple sustainable uses.

(2) Multiple existing uses (e.g., commercial fishing, recreational fishing and boating, marine transportation, sand and gravel mining, and oil and gas operations) and emerging uses (e.g., offshore renewable energy and aquaculture) would be managed in a manner that reduces conflict, enhances compatibility among uses and with sustained ecosystem functions and services, provides for public access, and increases certainty and predictability for economic investments.

(3) CMSP development and implementation would ensure frequent and transparent broad-based, inclusive engagement of partners, the public, and stakeholders, including with those most impacted (or potentially impacted) by the planning process and with underserved communities.

(4) CMSP would take into account and build upon the existing marine spatial planning efforts at the regional, State, tribal, and local level.

(5) CMS Plans and the standards and methods used to evaluate alternatives, tradeoffs, cumulative effects, and sustainable uses in the planning process would be based on clearly stated objectives.

(6) Development, implementation, and evaluation of CMS Plans would be informed by sound science and the best available information, including the natural and social sciences, and relevant local and traditional knowledge.

(7) CMSP would be guided by the precautionary approach as defined in Principle 15 of the Rio Declaration, which states that, "Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation."

(8) CMSP would be adaptive and flexible to accommodate changing environmental conditions and impacts, including those associated with global climate change, sea-level rise, and ocean acidification; and new and emerging uses, advances in science and technology, and policy changes.

(9) CMSP objectives and progress toward those objectives would be evaluated in a regular and systematic manner, with public input, and adapted to ensure that the desired environmental, economic, and societal outcomes are achieved.

(10) The development of CMS Plans would be coordinated and compatible with homeland and national security interests, energy needs, foreign policy interests, emergency response and preparedness plans and frameworks, and other national strategies, including

the flexibility to meet current and future needs.

(11) CMS Plans would be implemented in accordance with customary international law, including as reflected in the 1982 Law of the Sea Convention, and with treaties and other international agreements to which the United States is a party.

(12) CMS Plans would be implemented in accordance with applicable Federal and State laws, regulations, and Executive Orders.

In addition, proposals that also address the national Areas of Special Emphasis as identified in the OPTF July 2010 final report will receive some priority in the evaluation. The Areas of Special Emphasis are:

(1) *Resiliency and Adaptation to Climate Change and Ocean Acidification*: Strengthen resiliency of coastal communities and marine and Great Lakes environments and their abilities to adapt to climate change impacts and ocean acidification.

(2) *Regional Ecosystem Protection and Restoration*: Establish and implement an integrated ecosystem protection and restoration strategy that is science-based and aligns conservation and restoration goals at the Federal, State, tribal, local, and regional levels.

(3) *Water Quality and Sustainable Practices on Land*: Enhance water quality in the ocean, along our coasts, and in the Great Lakes by promoting and implementing sustainable practices on land.

And where applicable:

(4) *Changing Conditions in the Arctic*: Address environmental stewardship needs in the Arctic Ocean and adjacent coastal areas in the face of climate-induced and other environmental changes, and

(5) *Ocean, Coastal, and Great Lakes Observations, Mapping and Infrastructure*: Strengthen and integrate Federal and non-Federal ocean observing systems, sensors, data collection platforms, data management, and mapping capabilities into a national system and integrate that system into international observation efforts.

Therefore, proposals for ROPFP funds might articulate (but are not limited to) how a region would move forward on planning consistent with the OPTF's CMSP Framework; or implement key priority actions of the existing ROPs that would apply CMSP Guiding Principles to an Area of Special Emphasis; or provide tools and information identified as an ROP priority that are also critical for regional CMSP. Some examples of how an applicant might propose to advance an ROP's capacity to conduct comprehensive regional CMSP across

multiple sectors and jurisdictions include:

(1) The synthesis of relevant spatial data on ecosystem structure, function, services and human uses on a regional scale;

(2) The development or application of decision-support tools to help planners and stakeholders assess the implications of alternative ocean use scenarios throughout the region; or

(3) The identification of regional goals and objectives for appropriate uses of ocean and coastal areas.

In addition, the creation of new and innovative partnerships and broader stakeholder engagement beyond the existing governmental relationships of the ROPs will be needed for successful planning and implementation of CMSP. This element needs to be included in projects that will be considered for CMSP efforts.

The CMSP process consists of a series of steps that would eventually lead to the development of a comprehensive, multi-sectoral, and multi-objective CMS Plan. Although the CMSP process envisions optimum flexibility among and within regions, the following essential elements—and how the partners plan to accomplish them—would need to occur in all regions in order to ensure a level of national consistency. The process would be adaptive and refined as regions gain experience with CMSP. In determining whether ROP proposals are using a CMSP approach, applicants should indicate how they are addressing the CMSP Guiding Principles as well as how the proposed approach aligns with the Essential Elements of the CMSP process (also noted in the OPTF's CMSP Framework):

- (1) Identify Regional Objectives.
- (2) Identify Existing Efforts that Should Help Shape the Plan Throughout the Process.
- (3) Engage Stakeholders and the Public at Key Points throughout Process.
- (4) Consult Scientists and Technical and Other Experts.
- (5) Analyze Data, Uses, Services, and Impacts.
- (6) Develop and Evaluate Alternative Future Spatial Management Scenarios and Tradeoffs.
- (7) Prepare and Release for Public Comment a Draft CMS Plan With Supporting Environmental Impact Analysis Documentation.
- (8) Create a Final CMS Plan and Submit for National Ocean Council (NOC) Review.
- (9) Implement, Monitor, Evaluate, and Modify (as needed) the NOC-Certified CMS Plan.

Development and implementation of CMS Plans would be an iterative process leading to a comprehensive, multi-objective, multi-sectoral plan within the first five years. Since each region may have different drivers and capabilities for CMSP, regions may choose to prioritize initial development and implementation steps. While CMSP should help resolve many use conflicts, it is not realistic to expect that all such conflicts would be resolved. Further, partners might agree not to resolve certain issues in a CMS Plan at a particular time, but rather to acknowledge these issues and indicate how the parties would continue to work on them as part of the iterative CMSP process. Such issues may be resolved as data gaps are filled, new information is developed, or as State or Federal legal authorities are enacted, changed, or updated.

For example, offshore energy is an ROP priority that could also address CMSP Guiding Principles. ROPs will need to develop a solid spatial framework and socioeconomic measures to understand the trade-offs and make sound decisions on siting offshore energy facilities—the planning approach, decision support tools and information used in planning for offshore energy siting are also needed for developing an effective regional CMSP. Data collection and data synthesis can also illustrate the intersection between CMSP and many ROP priorities. For example, the collection of seafloor mapping data and relevant products from that data could support siting decisions about waterborne commerce, recreational use of the area, or protection of key resources. These data, fundamental to our understanding of our ocean resources and where activities can occur, are also fundamental to comprehensive CMSP tools.

Focus Area 1 proposals that effectively articulate the connection between the proposed project, CMSP Guiding Principles and Essential Elements and the Areas of Special Emphasis, and the priorities publicly identified by the relevant ROP will receive the highest rankings based upon NOAA's criteria (see Section V.A.).

Focus Area 2

The intent of Focus Area 2, ROP Development and Governance Support, is to help support administration and operations for existing ROPs, and support development for regions that are initiating ROP activities.

Proposals might seek funding for any aspects of these elements in support of ROP development and impact. Some

examples include: Funding for ROP staff support to coordinate and facilitate stakeholder engagement; holding stakeholder engagement meetings; identifying, developing and/or managing implementation of priority activities in the region; establishing a non-profit organization under 26 U.S.C. 501(c)(3) or other fiduciary entity to represent the ROP or entering into a partnership with an existing non-profit organization established under section 501(c)(3) to act as fiduciary; developing annual reports and other outreach materials to demonstrate the importance of broad support for regional ocean governance. ROP participation should be voluntary, emphasize collaborative management, and involve all states in the region.

C. Program Authority

Statutory authority for this program is provided under Coastal Zone Management Act, 16 U.S.C. 1456c (Technical Assistance).

II. Award Information

A. Funding Availability

Total anticipated funding for all ROPFP awards is approximately \$20,000,000 and is subject to the availability of FY 2011 appropriations. Additional funds of approximately \$10,000,000 from NOAA or other Federal agencies may be used for FY 2011 or multi-year awards from this competition. Multiple awards are anticipated from this announcement. The anticipated Federal funding per Focus Area 1 award (min-max) is approximately \$1,000,000 to \$3,500,000. The anticipated Federal funding per Focus Area 2 award (min-max) is approximately \$100,000 to \$500,000.

The anticipated number of awards ranges from twelve (12) to thirty (30), and will be adjusted based on available funding. Applicants must be aware that funds have not yet been appropriated for this program. If additional funding is made available in FY 2011 through Congress for ROPFP, NOAA may select additional FY 2011 proposals for funding rather than open a new competition, or augment FY 2011 awards that were only partially funded.

There is no limit on the number of proposals from each region. Applicants may bundle multiple projects into one proposal, or may submit single projects; however, NOAA will evaluate all projects for readiness and feasibility for completion within the required 2 year time frame. Applicants must note the requirement detailed in Section III.C. for demonstration of coordination with the relevant ROP on projects.

There is no guarantee that funds will be available to make awards for this Federal funding opportunity or that any proposal will be selected for funding. If an applicant incurs any costs prior to receiving an award agreement signed by an authorized NOAA official, they do so at their own risk of these costs not being included in a subsequent award. In no event will NOAA or the Department of Commerce be responsible for any proposal preparation costs. In addition, NOAA and DOC will not be responsible for proposal or project costs if this program fails to receive funding. Recipients and sub-recipients are subject to all Federal laws and agency policies, regulations, and procedures applicable to Federal financial assistance awards. Applicants must be in good standing with all existing NOAA grants and/or cooperative funding agreements in order to receive funds.

B. Project/Award Period

Focus Area 1 is for multiple year awards with project periods up to 24 months. Multiple year awards receive all funding in the first year, but the performance period can be two years. Competitive announcements for this purpose may be published in future years, and if so, applicants may resubmit proposals or submit new proposals for funding in future years.

Focus Area 2 is for multi-year awards. Multi-year awards are partially funded when the awards are approved, but may receive subsequent increments of funding. Proposed projects may request funding for one to three years and once awarded, those awards will not compete for funding in subsequent years.

Proposals in Focus Area 1 or 2 not funded in the current fiscal period may be considered for funding in another fiscal period without NOAA repeating the competitive process outlined in this announcement.

C. Type of Funding Instrument

Applications should be written as cooperative agreements and the proposal should clearly identify this funding instrument in the proposal abstract and cover sheet. Applicants should clearly articulate the Federal roles and responsibilities in implementing the proposal. Examples of Federal involvement include Federal co-leadership of the ROPs, Federal leadership on priority task teams, and staff support to working groups and leadership teams.

III. Eligibility Information

A. Eligible Applicants

All state, local, territory and tribal governments, institutions of higher learning, non-profit and for-profit organizations that may receive and expend Federal funds as legal entities are eligible to apply. As defined at 15 CFR 24.3, local government means a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937), school district, special district, intrastate district, council of governments (whether or not incorporated as a non-profit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

Please note the requirement detailed in Section III.C. for demonstration of coordination with the relevant ROP on projects and funding amounts proposed.

Federal agencies and employees are not allowed to receive funds under this announcement but may serve as collaborative project partners. If Federal agencies are collaborators, applicants should provide detail on the level of Federal engagement in the application. Examples might include, but are not limited to, providing additional funding, in-kind services, or serving in a review capacity.

The lead applicant on any proposal will be responsible for ensuring that allocated funds are used for the purposes of, and in a manner consistent with, this program, including any funds awarded to an eligible sub-awardee.

B. Cost Sharing or Matching Requirement

There is no requirement for cost sharing.

C. Other Criteria That Affect Eligibility

In order to be eligible to compete, a project or applicant must meet one or more of the following criteria, as applicable to the proposed project and Focus Area:

- (1) Represent or directly partner with a member of an existing regional ocean governance partnership;
- (2) Possess the authority, proven capacity, and regional relationships to effectively coordinate the development of a regional ocean governance priorities that engages affected coastal states and territories and their management agencies, including the approved coastal zone management program;
- (3) Demonstrate formal commitments with existing regional ocean governance partnerships and coastal states or

territories (including the approved coastal zone management program) to adopt the plan(s), product(s) or outcome(s) of a proposed project into regional or state ocean management planning processes or coastal and ocean resource management policies.

Where applicable, each proposal must directly involve or include a letter of support or endorsement from the lead ROP for each region (identified below) for the purposes of this funding opportunity. The letter should confirm that the proposed project has been evaluated for its contributions to regional ROG priorities, and specifically indicate concurrence with recommended approach and proposal funding amounts.

The existing lead ROPs identified for each region for the purposes of the ROPFP are:

- (1) Northeast Regional Ocean Council.
- (2) Mid-Atlantic Regional Council on the Ocean.
- (3) South Atlantic Governors' Alliance.

- (4) Gulf of Mexico Alliance.
- (5) West Coast Governors' Agreement on Ocean Health.

(6) Council of Great Lakes Governors. During FY 2011, applicants for Alaska, Hawaii, Pacific Island Commonwealths and Territories, and the Caribbean will be allowed to compete for Focus Area 1 funds by demonstrating that they are working towards a regional ocean partnership in their respective regional planning areas as identified above. This can be accomplished by providing letters of support for each proposal from their respective Office of the Governor and lead State and Federal agencies as well as tribes involved in coastal and ocean management. Part of this application must outline steps towards creating a ROP. Applicants from these regions where no ROP currently exists are strongly encouraged to also submit proposals for Focus Area 2 funds in order to develop ROP capacity for regional ocean governance and CMSP objectives. These regions will be eligible for Focus Area 1 funding in FY 2012 and beyond once they establish the partnerships needed for comprehensive ocean governance.

Allowable uses for funds:

Direct and indirect costs for administering the ROPFP award are allowable and must be incurred within the award period. Note that administrative costs may be included, but the total amount allocated for costs of this nature should be minimized to the greatest extent possible. Direct and indirect costs may include time spent by staff for project planning,

implementation, and review. If an application includes indirect costs, the amount must be based on the indirect cost rate negotiated and approved by the applicant's cognizant Federal agency. The total amount allocated for indirect costs may not exceed the value of 20 percent of the Federal share, e.g., a proposal requesting \$250,000 in Federal funds may include a maximum of \$50,000 for indirect costs in the budget. Applicants requesting indirect costs will be required to submit a copy of their indirect cost rate agreement.

IV. Application and Submission Information

A. Address To Request Application Package

Application packages for full proposals are available through the apply function on Grants.gov. If an applicant does not have Internet access, application packages can be requested from James Lewis Free at 2234 South Hobson Avenue, Charleston, South Carolina 29405-2413; 843-740-1185; or James.L.Free@noaa.gov.

B. Content and Form of Application Submission

(1) Focus Area 1 Proposals:

Full proposal applications must be 15 pages or less (single-spaced, 11 or 12-point font and exclusive of appendices). The 15-page limit does not include the proposal title page, a table of contents (if included), the project summary (referenced below), and any appendices. Appendices should be limited to materials that directly support the main body of the proposal (e.g., detailed budget information, support letters, resumes, references, lists of data sources, maps, and/or required Federal forms as noted above in Section IV.B.1). Applicants should number the pages in the proposal and any appendices. Appendices may be paginated as stand-alone documents (individually) or as part of the larger document. Proposals failing to comply with the format prescribed in this section will be deemed incomplete and will not be considered for further review.

Required Elements

All funding application packages must contain the following components:

(1) Title Page (Proposal Cover Sheet). Include proposal title, complete contact information for the Principal Investigator and Financial Representative, duration of proposed project, funding type (cooperative agreement), and amount of funding request.

(2) Project Summary. Provide a one to two-page summary of the proposed

project. The summary should be written for easy understanding by a broad audience and contain the following sections:

- i. Project Name/Title.
- ii. Primary Contact (name, address, phone, fax, e-mail).
- iii. Recipient Organization or Institution (If the project is intended to be administered under an existing NOAA Cooperative Institute, please state which Institute will administer the award).
- iv. Other Investigators (name, affiliated organization, institution or agency).
- v. Brief Project Summary (whether for Focus Area 1 or Focus Area 2, or both) including objectives, ties to ROP priorities and applicable CMSP approaches, and intended benefits.
- vi. Partners.
- vii. Proposed funding for each year of the project. If the proposal includes funding to NOAA to provide technical assistance on the project, make sure to note the amounts by year and line office that is the intended recipient of the funds.

(3) Project Description. All project descriptions (proposals) must include the following sections:

- i. *Goal and Objective(s)*. Describe in the narrative the specific project goals and objectives to be achieved. In particular, note the connection to regional ocean governance, including ROP priorities and, where applicable, how CMSP can be applied to address those priorities, and expected outcomes. Recipients will be required to submit semi-annual reports describing progress toward these goals and objectives. Provide a description of measures of success that will be used to evaluate progress and success in achieving the goals and objectives of the project.
- ii. *Background*. Provide sufficient background information for NOAA and non-NOAA reviewers to independently assess the significance of the proposed project for advancing regional coastal and ocean planning and management priorities. Summarize the problem to be addressed, identified needs and the status of ongoing efforts to address them. Summarize the relationship of the proposed work to other ongoing or planned regional ocean governance efforts.

iii. *Partnerships*: Provide information on the range of partners, including local, State, tribal, and Federal government as well as non-governmental organizations, academia, and industry. Include the roles and support each key partner is providing and how the ROP will include and grow partnerships as appropriate to achieve the goals of both the ROP and as appropriate, CMSP.

iv. *Audience*. Identify specific users of the results of the project, describe how they will use the results, and identify

any training that will be needed for users to make full use of the results.

v. *Approach*. Provide a work plan that: identifies specific tasks to be accomplished; explains the technical approach (including quality assurance) needed to accomplish the tasks; identifies the roles of partners and cooperators; and identifies potential obstacles to successful completion of the goals and objectives. Describe how users are involved in the planning and design process. The work plan must clearly address data management requirements, and the steps to be taken to achieve efficient and effective data access and archiving that is compliant with Federal regulations. Identify methods that will be used to ensure that the project will be coordinated to achieve active and meaningful participation by all partners and appropriate stakeholders in the region. Clearly identify the roles and responsibilities of the Federal partners.

vi. *Benefits*. Identify, with a high degree of specificity, the uses of the information derived from the work, and the benefits that will be achieved from those uses, or by particular users of the information, as well as society as a whole. Document how valid user requirements are guiding the proposed work. Describe how the information from the project will be delivered to those users, and any special considerations or requirements for ensuring or improving the delivery of information.

vii. *Milestone Schedule*. Display time lines for major tasks, target milestones for important intermediate and final products, and key project outcomes.

viii. *Project Budget*. Provide a budget description that follows the categories and formats in the NOAA grants package (Standard Form 424-A) and a brief narrative justification of the budget. Detailed budget information, such as a repeat of the information in Form SF-424A along with more details should be included in an appendix. In this appendix, the budget narrative also shall clearly identify the cost of separable elements of the proposed work and shall identify the elements of the project that the cooperator would recommend for revision or elimination if sufficient funding is not available for all proposed activities. Applicants must itemize and describe the intended use of equipment costing \$5,000 or greater that will be purchased under the award. Applicants must complete a lease versus purchase analysis for any equipment \$5,000 or greater. For proposals to carry out basic or applied scientific research, non-profit institutions of higher education or non-profit organizations

whose primary purpose is conducting scientific research should identify, if possible, who will be requested to retain ownership of any equipment purchased through grant funds after the project ends. The budget narrative must also provide, to the extent possible, detailed information on travel, including costs, a description of anticipated travel, destinations, the number of travelers, and a justification of how the requested travel is directly relevant to the successful completion of the project. If actual trip details are unknown, applicants must state the basis for the proposed travel charges. Applicants should allocate travel funds for any coordination meetings at regional or national levels. Foreign travel must receive prior approval, and therefore, should be included in the proposal to avoid having to request prior approval after the project starts. Applicants may factor in travel costs for participation in a NOAA Grants Management Division workshop for recipients, as well as for meeting with NOAA staff and/or key project personnel.

(4) Appendices

i. **Mandatory Detailed Budget Information**, including budgets of subawards and contracts. Information should include the name of the entity receiving funds, the location of the entity receiving the funds (for example, city, state, and Congressional district), and the location of the primary place of performance under the contract/subaward.

ii. **Resumes**. Provide resumes of the Principal Investigator for the project and other key personnel critical to the success of the project. Ensure that resumes address qualifications relevant to conducting the proposed work. Please limit resumes to a maximum of two pages for each key investigator.

iii. **National Environmental Policy Act (NEPA)**—Under the National Environmental Policy Act (NEPA), NOAA must analyze the potential environmental impacts of projects or proposals seeking funding from NOAA. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA Web site: <http://www.nepa.noaa.gov> including our NOAA Administrative Order 216-6 for NEPA, http://www.nepa.noaa.gov/NAO216_6_TOC.pdf and the Council on Environmental Quality implementation regulations, http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm.

Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species

and habitat to be affected, possible construction activities, and any environmental concerns that may exist (for example, the use and disposal of hazardous or toxic chemicals, introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems).

After the application is submitted, NOAA may require additional information to fulfill NEPA requirements. If NOAA determines that an environmental assessment is required, applicants may also be requested to assist in drafting the assessment. Applicants may also be required to cooperate with NOAA in identifying and implementing feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for the denial of an application. In some cases if additional information is required after an application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment.

Applicants are required to answer the questions indicated in this Announcement of Federal Funding Opportunity. Applicants should answer the NEPA questions to the best of their ability with as much detail as possible. If the applicant does not answer all the questions indicated in the Announcement of Federal Funding Opportunity the application may be considered incomplete.

Some of the questions may overlap with material provided in other parts of the application. This overlap occurs because the answers to the questionnaire are provided to NOAA staff members who do not review the other parts of the application. If appropriate, the applicant may copy the information from other parts of the application and paste it into the answers to the questionnaire. Many questions have a "yes" or "no" response. If the response is "no" the applicant does not need to elaborate on their answer. If the response is "yes" the question will have a second part asking the applicant to provide more information.

Applicant NEPA questions are as follows:

Question C1. Is the proposed activity going to be conducted in partnership with NOAA or would the proposed activity require NOAA's direct involvement, activity, or oversight? If yes, describe NOAA's involvement, activity, or oversight, including

the name of the office or program that is involved.

Question C2. Would the proposed activity involve any other Federal agency(ies) partnership, direct involvement, activity, or oversight? If yes, provide the name(s) of the agency(ies) and describe its involvement, activity, or oversight.

Question D1. Provide a brief description of the location of the proposed activity.

Question E1. List any Federal, State, or local permits, authorizations, or waivers that would be required to complete the proposed activity. Provide the date the permit, authorization, or waiver was obtained or will be obtained. Provide copies of the permit, authorization, or waiver as appropriate. Was a NEPA analysis prepared for the permit, authorization, or waiver? If yes, state the title of the NEPA analysis and provide copies of the NEPA analysis.

Question F1. Is there the potential for the proposed activity to cause changes that would be different from normal ambient conditions (for example, temperature, light, turbidity, noise, other human activity levels, etc.)? If yes, describe the changes and the circumstances that would cause these changes.

Paperwork Reduction Act Statement

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, and SF-LLL have been approved by OMB under the respective control numbers 0348-0043, 0348-0044, 0348-0040, and 0348-0046. The application requirements specific to the NOAA Regional Ocean Partnership Funding Program have been approved by the Office of Management and Budget under Control Number 0648-0538. Public reporting burden for this collection of information is estimated to average 3 hours 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 suggestions for reducing this burden to Ms. Cristi Reid, NOAA Office of Program Planning and Integration, SSMC 3, Room 15700, 1315 East West Highway, Silver Spring, MD 20910. The information collection does not request any proprietary or confidential information. No confidentiality is provided.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

(2) Focus Area 2 Proposals

Full proposal applications must be 5 pages or less (single-spaced, 11 or 12-point font and exclusive of appendices). The 5-page limit does not include the proposal title page, a table of contents (if one is included), the project summary referenced below and any appendices. Appendices should be limited to budget, resumes and support letters. Applicants should number the pages of the proposal and any appendices. Appendices may be paginated as stand-alone documents (individually) or as part of the larger document. Proposals failing to comply with the format prescribed in this section will be deemed incomplete and will not be considered for further review.

Required Elements

All funding application packages must contain the following components:

(a) Title Page (Proposal Cover Sheet). Include proposal title, complete contact information for the Principal Investigator and Financial Representative, duration of proposed project, funding type (cooperative agreement), and amount of funding request.

(b) Project Summary. Provide a one-page summary of the proposed project.

The summary should be prepared to be readable to a broad audience and contain the following sections:

- i. Project Name/Title.
- ii. Primary Contact (name, address, phone, fax, e-mail).
- iii. Recipient Organization or Institution.
- iv. Other Investigators (name, affiliated organization, institution or agency).
- v. Brief Project Summary including objectives, ties to ROP Development and Governance, and intended benefits.
- vi. Partners.
- vii. Proposed funding for each year of the project. If the proposal includes funding to NOAA to provide technical assistance on the project, make sure to note the amounts by year and line office that is the intended recipient of the funds.
- viii. If the project is intended to be administered under an existing NOAA Cooperative Institute, state which Institute will administer the award.

(a) Project Description. All project descriptions (proposals) must include the following sections:

i. *Goal and Objective(s)*. Describe in the narrative the specific project goals and objectives to be achieved. In particular note the connection to ROP Development and Governance. Objectives should be specific for each year of the work plan presented. Recipients will be required to submit semi-annual progress reports in which progress against these goals and objectives will be reported.

ii. *Background*. Provide sufficient background information for NOAA and non-NOAA reviewers to independently assess the significance of the proposed project. Summarize the problem to be addressed and the status of ongoing efforts to address the identified needs. Summarize the relationship of the proposed work to other ongoing or planned regional ocean governance efforts.

iii. *Partnerships*: Provide information on how the project will build the partnerships, especially cross governmental on all state, tribal and Federal agencies with interest in coastal and ocean management as well as partnership building with industry, nongovernmental organizations, and academia.

iv. *Audience*. Identify specific users of the results of the project, describe how they will use the results, and identify any training that will be needed for users to make full use of the results.

v. *Approach*. Provide a work plan that: identifies specific tasks to be accomplished; explains the technical approach (including quality assurance) needed to accomplish the tasks; identifies the roles of partners and cooperators; and identifies potential obstacles to successful completion of the goals and objectives. Describe how users are involved in the planning and design process. The work plan must clearly address data management requirements, and the steps to be taken to achieve efficient and effective data access and archiving that is compliant with Federal regulations. Clearly identify the roles and responsibilities of the Federal.

vi. *Benefits*. Identify, with a high degree of specificity, the uses of the information derived from the work, and the benefits that will be achieved from those uses, or by particular users of the information, as well as society as a whole. Document how valid user requirements are guiding the proposed work. Describe how the information from the project will be delivered to those users, and any special considerations or requirements for ensuring or improving the delivery of information.

vii. *Milestone Schedule*. Display time lines for major tasks, target milestones for important intermediate and final products, and key project outcomes.

viii. *Project Budget*. Provide a budget description that follows the categories and formats in the NOAA grants package (Standard Form 424-A) and a brief narrative justification of the budget.

ix. Detailed budget information, such as a repeat of the information in Form

SF-424A along with more details should be included in an appendix. In this appendix, the budget narrative also shall clearly identify the cost of separable elements of the proposed work and shall identify the elements of the project that the cooperator would recommend for revision or elimination if sufficient funding is not available for all proposed activities.

x. Applicants must itemize and describe the intended use of equipment costing \$5,000 or greater that will be purchased under the award. Applicants must complete a lease versus purchase analysis for any equipment \$5,000 or greater. For proposals to carry out basic or applied scientific research, non-profit institutions of higher education or non-profit organizations whose primary purpose is conducting scientific research should identify, if possible, who will be requested to retain ownership of any equipment purchased through grant funds after the project ends. The decision on grant ownership requests will be made by the Grants Officer before or during the grant close out process.

xi. The budget narrative must also provide, to the extent possible, detailed information on travel, including costs, a description of anticipated travel, destinations, the number of travelers, and a justification of how the requested travel is directly relevant to the successful completion of the project. If actual trip details are unknown, applicants must state the basis for the proposed travel charges. Applicants should allocate travel funds for any coordination meetings at regional or national levels. Foreign travel must receive prior approval, and therefore, should be included in the proposal to avoid having to request prior approval after the project starts. Applicants may factor in travel costs for participation in annual NOAA Grants Management Division workshops for recipients, as well as for meeting with NOAA staff and/or key project personnel.

(3) Appendices

(a) *Mandatory Detailed Budget Information*, including budgets of subawards and contracts. Information should include the name of the entity receiving funds, the location of the entity receiving the funds (for example, city, State, and Congressional district), the location of the entity receiving funds (city, State, and Congressional district), and the location of the primary place of performance under the contract/subaward.

(b) *Resumes*. Provide resumes of the Principal Investigator for the project and other key personnel critical to the success of the project. Ensure that

resumes address qualifications relevant to conducting the proposed work. Please limit resumes to a maximum of two pages for each key investigator.

(c) National Environmental Policy Act (NEPA)—Under the National Environmental Policy Act (NEPA), NOAA must analyze the potential environmental impacts of projects or proposals seeking funding from NOAA. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA Web site: http://www.nepa.noaa.gov/including_our_NOAA_Administrative_Order_216-6_for_NEPA, http://www.nepa.noaa.gov/NAO216_6_TOC.pdf and the Council on Environmental Quality implementation regulations, http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm.

Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (for example, the use and disposal of hazardous or toxic chemicals, introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems).

After the application is submitted, NOAA may require additional information to fulfill NEPA requirements. If NOAA determines that an environmental assessment is required, applicants may also be requested to assist in drafting the assessment. Applicants may also be required to cooperate with NOAA in identifying and implementing feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for the denial of an application. In some cases if additional information is required after an application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment.

Applicants are required to answer the questions indicated in this Announcement of Federal Funding Opportunity. Applicants should answer the NEPA questions to the best of their ability with as much detail as possible. If the applicant does not answer all the questions indicated in the Announcement of Federal Funding

Opportunity the application may be considered incomplete.

Some of the questions may overlap with material provided in other parts of the application. This overlap occurs because the answers to the questionnaire are provided to NOAA staff members who do not review the other parts of the application. If appropriate, the applicant may copy the information from other parts of the application and paste it into the answers to the questionnaire. Many questions have a "yes" or "no" response. If the response is "no" the applicant does not need to elaborate on their answer. If the response is "yes" the question will have a second part asking the applicant to provide more information.

Applicant NEPA questions are as follows:

Question C1. Is the proposed activity going to be conducted in partnership with NOAA or would the proposed activity require NOAA's direct involvement, activity, or oversight? If yes, describe NOAA's involvement, activity, or oversight, including the name of the office or program that is involved.

Question C2. Would the proposed activity involve any other Federal agency(ies) partnership, direct involvement, activity, or oversight? If yes, provide the name(s) of the agency(ies) and describe its involvement, activity, or oversight.

Question D1. Provide a brief description of the location of the proposed activity.

Question E1. List any Federal, state, or local permits, authorizations, or waivers that would be required to complete the proposed activity. Provide the date the permit, authorization, or waiver was obtained or will be obtained. Provide copies of the permit, authorization, or waiver as appropriate. Was a NEPA analysis prepared for the permit, authorization, or waiver? If yes, state the title of the NEPA analysis and provide copies of the NEPA analysis.

Question F1. Is there the potential for the proposed activity to cause changes that would be different from normal ambient conditions (for example, temperature, light, turbidity, noise, other human activity levels, etc.)? If yes, describe the changes and the circumstances that would cause these changes.

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information is estimated to average 3 hours 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 suggestions for reducing this burden to Ms. Cristi Reid, NOAA Office of Program Planning and Integration, SSMC 3, Room 15700, 1315 East West Highway, Silver Spring, MD 20910. The information collection does not request any proprietary or confidential information. No confidentiality is provided.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

C. Intergovernmental Review

Applications under this program are subject to Executive Order 12372, "Intergovernmental Review of Federal Programs" for states that participate in this process. It is the state agency's responsibility to contact their state's Single Point of Contact (SPOC) to find out about and comply with the state's process under EO 12372. A list of the participating states and the clearinghouse points of contact can be found at http://www.whitehouse.gov/omb/grants_spoc.

D. Funding Restrictions

None.

E. Other Submission Requirements

(1) Letter of Endorsement—As detailed in Section III.C., where applicable, each proposal must include a letter of support or endorsement from the lead ROP identified for each region for the purposes of this funding opportunity.

(2) Full proposal application packages, including any letters of support, should be submitted through the apply function on [Grants.gov](http://www.grants.gov). The standard NOAA funding application package is available at www.grants.gov. Please be advised that potential funding applicants must register with [Grants.gov](http://www.grants.gov) before any application materials can be submitted. An organization's one time registration process may take up to three weeks to complete so please allow sufficient time to ensure applications are submitted before the closing date. The [Grants.gov](http://www.grants.gov) site contains directions for submitting an application, the

application package (forms), and is also where the completed application is submitted.

(3) If an applicant does not have Internet access, one set of originals (signed) and two copies of the proposals and related forms should be mailed to the attention of James Lewis Free, NOAA Coastal Services Center, 2234 South Hobson Avenue, Charleston, South Carolina 29405-2413. No e-mail or fax copies will be accepted. Full proposal application packages, including any letters of support, should be submitted together in one package.

V. Application Review Information

A. Evaluation Criteria

(1) *Importance and/or relevance and applicability of proposed project to the program goals (50 percent)*: This ascertains whether there is intrinsic value in the proposed work and/or relevance to NOAA, Federal, regional, State, or local activities.

For Focus Area 1, questions related to this criterion include:

(a) Does the proposal identify clear goals and objectives that are consistent with ROP priorities and, as appropriate, the CMSP Framework (available at http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf)? For applicants from regions without an established ROP (e.g., Alaska and Hawaii), does the proposal demonstrate that they are working towards a regional ocean partnership?

(b) To what extent does the proposal address CMSP Guiding Principles?

(c) Does the proposal address an Area of Special Emphasis?

(d) Does the proposal identify outcomes that are focused and realistic given the time frame and scope of the project?

(e) Will the proposal advance ROP priorities and regional CMSP efforts? For applicants from regions without an established ROP, does the proposal advance regional CMSP efforts as well as show how the region will work towards establishing a ROP?

(f) If applicable, does the proposal clearly identify ROP goals for CMSP development? Are they achievable?

(g) Does the proposal identify primary partners, expand existing partnerships, and key stakeholders and describe how they will participate in project activities, including CMSP activities where applicable?

(h) Does the proposal reflect strong support from project partners?

(i) Does the proposal demonstrate either direct involvement or a letter of support from the lead ROP in the region? For applicants from regions

without an established ROP, is the proposal supported by the relevant governors and lead State and Federal agencies and tribes involved in coastal and ocean management?

(j) Will the proposal result in benefits that are region-wide or transferable to other ROP and CMSP priorities and regions?

For Focus Area 2, questions include:

(a) Does the proposal contribute to the establishment or implementation of a long term regional ocean partnership?

(b) Does the proposal identify an effective development process that will result in a consensus for regional priorities, specific action steps to address those priorities, and tangible outcomes that will be accomplished?

(c) Establishing a regional ocean partnership may come with challenges/barriers (i.e., entities in a region may be accustomed to traditions of competing for economic development, research funding, and other financial or social benefits). To what extent does the proposal identify such challenges/barriers and explain how such barriers will be overcome?

(d) Does the proposal adequately identify methods in which development activities will be coordinated to achieve active and meaningful participation by all partners, including various levels of governments, and appropriate stakeholders in the region?

(e) Does the proposal include methods to achieve lasting coordination for regional ocean governance and for the implementation of a regional ocean partnership?

(f) Does the partnership include participation by a large cross section of state, Federal and tribal governments and participation by other relevant interest groups?

(2) *Technical and scientific merit (25 percent)*: This assesses whether the approach is technically sound and/or innovative, if the methods are appropriate, and whether there are clear project goals and objectives.

Questions relevant to this criterion include:

(a) Is the approach appropriate for the stated goals and objectives?

(b) Are the project goals and objectives achievable within the proposed time-frame?

(c) Does the proposed approach incorporate current guidance, scientific, and/or technical advancements in the design and implementation of the proposed work?

(d) If geospatial data are to be acquired, does the proposal promote interoperability with other components of regional and national geospatial systems? Has a thorough search been

conducted to ensure that data do not already exist that can meet the intended purpose of the proposed acquisition? Will the data be collected to national and/or international standards and specifications that promote multi-purpose uses in the future per Federal Geospatial Data Committee standards and the Ocean and Coastal Mapping Integration Act of 2009? Does the proposal comply with Executive Order 12906, *Coordinating Geographic Data Acquisition and Access: The National Spatial Data Infrastructure*?

(3) Overall qualifications of the funding applicants (15 percent): This criterion ascertains whether the funding applicant and identified collaborators possess the necessary education, experience, training, facilities, and administrative resources to accomplish the project. Questions relevant to this criterion include:

(a) Are the investigators qualified and is the organizational framework appropriate to conduct a project of the nature and scope proposed?

(b) Are investigators from other agencies and institutions within the region included as key personnel on the project to capitalize on available expertise and promote a regional approach?

(c) Does the proposal adequately address the capacity of the applicant and partners to implement proposed work?

(d) Does the proposal adequately define how participation and accountability among principle investigators and partners will be sustained to the continued progress and success?

(4) *Project costs and metrics (10 percent)*: This criterion evaluates the budget to determine if it is realistic and commensurate with the project needs and time-frame. Questions relevant to this criterion include:

(a) Does the proposal demonstrate that the budget is commensurate with project needs?

(b) Is the cost effectiveness of the proposal optimized through strategic partnerships with collaborating institutions, agencies, or private sector partners?

(c) Are the budget and budget justification adequately detailed to determine how requested funds will be used (i.e. salary, equipment, supplies, travel, etc.)?

(5) *Outreach and education (0 percent)*: NOAA assesses whether this project provides a focused and effective education and outreach strategy regarding NOAA's mission to protect the Nation's natural resources. This

competition does not include this criterion.

B. Review and Selection Process

An initial administrative screening is conducted to determine compliance with requirements/completeness. All proposals will be evaluated and individually ranked in accordance with the assigned weights of the above evaluation criteria by at least three independent peer reviewers through a full merit review process (*i.e.*, a mail and panel review process). A mix of Federal and non-Federal reviewers will be used. No consensus advice will be given by the independent peer reviewers through mail reviews or on the review panels. The merit reviewer's ratings are used to produce a rank order of the proposals. The Selecting Official shall award according to rank order unless there is a specific justification for selecting out of rank order based upon factors listed in Section V.C. The Selecting Official or designee may also negotiate the funding level of the proposals to be recommended for funding. The Selecting Official will make the final recommendation for award to the Grants Officer, who is authorized to obligate the funds and execute the award. Proposals that are not funded in the current fiscal period may be considered for funding in another fiscal period without having to repeat the competitive review process.

C. Selection Factors

The merit review ratings shall provide a rank order to the Selecting Official for final funding recommendations. A program officer may first make recommendations to the Selecting Official applying the selection factors below. The Selecting Official shall award in the rank order unless the proposal is justified to be selected out of rank order based upon one or more of the following factors:

1. Availability of funding.
2. Balance/distribution of funds:
 - a. Geographically.
 - b. By type of institutions.
 - c. By type of partners.
 - d. By research areas.
 - e. By project types.
3. Whether this project duplicates other projects funded or considered for funding by NOAA or other Federal agencies.
4. Program priorities and policy factors.
5. Applicant's prior award performance.
6. Partnerships and/or Participation of targeted groups.
7. Adequacy of information necessary for NOAA staff to make a NEPA

determination and draft necessary documentation before recommendations for funding are made to the Grants Officer.

The Selecting Official or designee may negotiate the funding level of the proposal.

D. Anticipated Announcement and Award Dates

The start date on proposals should be the first day of July, August or September, but no later than October 1, of 2011.

VI. Award Administration Information

A. Award Notices

Applications recommended for funding by the selecting official will be forwarded to the NOAA Grants Management Division by the Program Office. The applicant will be notified by the program office by e-mail that their application was recommended for funding. The applicant must be aware that the notification by the program office is NOT the official award notice. Official notification happens only when the applicant receives an award notice from the Grants Officer either by postal mail or electronically.

Unsuccessful applications for all Coastal Services Center programs will be destroyed after any FY 2012 funding actions are considered. Unsuccessful applicants will be notified by e-mail that their application was not recommended for funding no later than the proposed state date of the proposal.

B. Administrative and National Policy Requirements

Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements

Administrative and national policy requirements for all Department of Commerce awards are contained in the Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the Federal Register notice of February 11, 2008 (73 FR 7696). This notice may be obtained under http://www.access.gpo.gov/su_docs/fedreg/a080211c.html.

Limitation of Liability

In no event will NOAA or the Department of Commerce be responsible for any proposal preparation costs. In addition, NOAA and DOC will not be responsible for project costs if this program fails to receive funding. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds.

National Environmental Policy Act (NEPA) Requirements

See the NEPA information in Section IV., B., of this announcement.

C. Reporting

Grant recipients will be required to submit financial and performance (technical) progress reports electronically through the NOAA Grants On-Line System. Instructions for submitting financial and progress reports will be provided by the NOAA Grants Management Division.

VII. Other Information

After electronic submission of the application through Grants.gov, the person submitting the application will receive within the next 24 to 48 hours two e-mail messages from Grants.gov updating them on the progress of their application. The first e-mail will confirm receipt of the application by the Grants.gov system, and the second will indicate that the application has either been successfully validated by the system before transmission to the grantor agency or has been rejected because of errors. After the application has been validated, this same person will receive another e-mail when the application has been downloaded by the Federal agency.

Official notification of an award notice is provided by the Grants Management Division, not the program office. If one incurs any costs before receiving an award agreement from an authorized NOAA grant official, one would do so solely at one's own risk of these costs not being included under the award.

The Coastal Services Center will not release the names of applicants submitting proposals unless ordered by a court or requested to do so by an appropriate NOAA official and administrative protocol. Applicants can use a NOAA public search feature to find out information about NOAA awards <https://grantsonline.rdc.noaa.gov/flows/publicSearch/begin.do> or go through the Freedom of Information Act process to request more information about grant competitions. More information about the NOAA FOI process is online at <http://www.rdc.noaa.gov/foia/>.

Successful applicants will be requested to ensure that all interim progress reports indicate whether financial reports have been submitted to NOAA's Grants Management Division and are up-to-date. Applicants in their final progress report will be asked to (a) Clearly state the resulting impact of their project and products in the coastal

management community; and (b) certify that "Final financial reports have been submitted to NOAA's Grants Management Division and a final funding draw-down has been made through the Automated Standard Application for Payments (ASAP)."

If equipment is purchased with grant funds, applicants may be asked to submit an equipment inventory in accordance with 15 CFR 14.34(f)(3), 15 CFR 24.32(b) or 15 CFR 24.32(d)(2) as an appendix to progress reports. Further, the program office recommends that recipients request disposition instructions for equipment approximately 150 days before the project period ends to allow sufficient time to have equipment disposition requests addressed before a project period ends. Equipment disposition instructions typically require that recipients complete an "other" award action request in Grants Online. NOAA will provide instructions for disposition in accordance with 15 CFR 14.34(g)-(h) and 15 CFR 24.32(g)(2).

Please be advised that potential funding applicants must register with Grants.gov before any application materials can be submitted. An organization's one time registration process may take up to three weeks to complete so please allow sufficient time to ensure applications are submitted before the closing date. To use Grants.gov, applicants must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number and be registered in the Central Contractor Registry (CCR). Allow a minimum of five days to complete the CCR registration. (Note: Your organization's Employer Identification Number (EIN) will be needed on the application form.)

The Grants.gov site contains directions for submitting an application, the application package (forms), and is also where the completed application is submitted. Applicants using Grants.gov must locate the downloadable application package for this solicitation by the Funding Opportunity Number or the CFDA number (11.473). Applicants will be able to download a copy of the application package, complete it off line, and then upload and submit the application via the Grants.gov site.

After electronic submission of the application, the person submitting the application will receive within the next 24 to 48 hours two e-mail messages from Grants.gov updating them on the progress of their application. The first e-mail will confirm receipt of the application by the Grants.gov system, and the second will indicate that the application has either been successfully validated by the system before

transmission to the grantor agency or has been rejected because of errors. After the application has been validated, this same person will receive another e-mail when the application has been downloaded by the Federal agency.

Christopher C. Cartwright,
Associate Assistant Administrator for
Management and CFO/CAO, Ocean Services
and Coastal Zone Management.
[FR Doc. 2010-22645 Filed 9-10-10; 8:45 am]
BILLING CODE 3510-JE-P

DEPARTMENT OF COMMERCE

International Trade Administration [A-583-841]

Polyvinyl Alcohol From Taiwan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Import Administration,
International Trade Administration,
Department of Commerce.

SUMMARY: The U.S. Department of Commerce (the Department) preliminarily determines that sales of polyvinyl alcohol (PVA) from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV) as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the "Suspension of Liquidation" section of this notice. Interested parties are invited to comment on this preliminary determination.

Pursuant to requests from the respondent, we are postponing by 60 days the final determination and extending provisional measures from a four-month period to not more than 6 months. Accordingly, we will make our final determination not later than 135 days after publication of this preliminary determination.

DATES: *Effective Date:* September 13, 2010

FOR FURTHER INFORMATION CONTACT: Thomas Schauer or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-0410 or (202) 482-4477 respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Act or the Department's regulations, 19 CFR part 351, are to those provisions in effect on September

27, 2004, the date of initiation of this investigation.

Background

On September 27, 2004, the Department initiated the antidumping duty investigation on PVA from Taiwan. See *Initiation of Anti Dumping Duty Investigation: Polyvinyl Alcohol From Taiwan*, 69 FR 59204 (October 4, 2004) (*Initiation Notice*). On October 22, 2004, the International Trade Commission (ITC) made a preliminary determination that there was not a reasonable indication of injury due to imports of the subject merchandise. See *Polyvinyl Alcohol From Taiwan*, 69 FR 63177 (October 29, 2004). As a result, the Department terminated the investigation.

The petitioner appealed the negative ITC preliminary determination to the Court of International Trade (CIT). On remand from the CIT, the ITC reversed its preliminary determination and found instead that there was a reasonable indication of injury due to imports of the subject merchandise. The CIT affirmed the ITC's remand determination. See *Celanese Chemicals, Ltd. v. United States*, Slip Op. 08-125 (CIT 2008). DuPont, an importer of the subject merchandise, appealed the CIT's decision to the Court of Appeals for the Federal Circuit (CAFC). On December 23, 2009, the CAFC affirmed the ITC's decision. See *Polyvinyl Alcohol From Taiwan; Determination*, 75 FR 15726 (March 30, 2010). The ITC notified the Department of its affirmative determination in the preliminary phase of an antidumping duty investigation concerning imports of PVA from Taiwan on March 25, 2010. See letter from the ITC dated March 25, 2010. On April 20, 2010, the Department issued a decision memorandum which stated that the deadline for its preliminary determination is July 18, 2010. See memorandum to Laurie Parkhill dated April 20, 2010, at 10.

On April 20, 2010, we issued the antidumping questionnaire to Chang Chun Petrochemical Co., Ltd. (CCPC). On May 24, 2010, we received a response to section A of our questionnaire from CCPC. On June 10, 2010, we received a response to sections B-D of our questionnaire from CCPC. We issued supplemental questionnaires to CCPC and received responses to these questionnaires from CCPC.

On June 17, 2010, the petitioner requested that the Department postpone its preliminary determination by 50 days. In accordance with section 733(c)(1)(A) of the Act, we postponed our preliminary determination by 50 days. See *Postponement of*



Pacific Fishery Management Council

7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384
Phone 503-820-2280 | toll free 866-806-7204 | Fax 503-820-2299 | www.pcouncil.org
Mark Cedergreen, Chairman Donald O. McIsaac, Executive Director

October 1, 2010

Ms. Nancy Sutley and Dr. John P. Holdren, Co-chairs
National Ocean Council
White House Council on Environmental Quality
722 Jackson Place, NW
Washington, DC 20503

Re: Advancing Marine Spatial Planning on the West Coast

Dear Ms. Sutley and Dr. Holdren:

At its most recent meeting, September 11-16 in Boise, Idaho, the Pacific Fishery Management Council (Pacific Council) considered Executive Order 13547 regarding marine spatial planning in United States territorial waters. The Pacific Council heard presentations from the National Marine Fisheries Service and the West Coast Governors Agreement on Ocean Health (WCGA) Executive Committee, and took public testimony prior to a discussion of appropriate action by the Pacific Council. The primary purpose of this letter is to communicate two key recommendations toward advancing marine spatial planning on the West Coast: (1) the regional planning body for the West Coast should be a construct of the West Coast Governors Agreement, as opposed to other potential candidate groups, and (2) the Pacific Council should have a formal seat on the regional planning body ultimately established.

Mr. Sam Rauch, Deputy Assistant Administrator for the National Marine Fisheries Service, provided an excellent overview of the Interagency Ocean Policy Task Force, a national perspective of marine spatial planning developments, and comments about the Federal intent to work with regional management entities to accomplish regional implementation of marine spatial planning. He made particular note of the Final Recommendations of the Interagency Ocean Policy Task Force and Executive Order 13547. He also spoke of possible implementation measures and their implications.

Dr. Usha Varanasi, Director, National Marine Fisheries Service Northwest Fisheries Science Center and Ms. Jessica Keys, Natural Resources Policy Advisor, Oregon Governor's Office, both members of the West Coast Governors Agreement Executive Committee, described the current status and activities of the WCGA, and emphasized the many areas of common interest with the Pacific Council. These include ecosystem based approaches to fishery management and habitat protection, seafloor mapping, ocean observing systems, and sustainable coastal communities. Ms. Keys described a developing intent of the WCGA to seek designation as the West Coast regional planning body implementing Executive Order 13547, and requested that the Council assign a point of contact with regard to participation in the marine spatial planning process, especially as it evolves into regional implementation led by regional planning bodies. The

Pacific Council assigned me to serve as the policy-level liaison as the National Ocean Council (NOC) and the WCGA move toward regional implementation of marine spatial planning.

Under discussion, the Pacific Council noted the strong working relationship between the Council and the WCGA, as evidenced by the WCGA's stated desire to "enhance its partnership with the Council" and the recommendation in its Action Plan that the Pacific Council be the body implementing regional ecosystem-based fishery management. It was also noted that successful implementation of the spirit of Executive Order 13547 would require close coordination between the regional planning body and the Pacific Council. We are not currently aware of any competing candidates seeking formal designation as the West Coast regional planning body, but there are possible interest coalitions that may apply. However, the Pacific Council is very comfortable with our first recommendation: that the NOC formally recognize a construct of the West Coast Governors Agreement on Ocean Health as the regional planning body for implementation of marine spatial planning on the West Coast. The WCGA has demonstrated its effectiveness and leadership, and would serve as an ideal organization taking the lead in establishing a functioning regional planning body.

Secondly, the Pacific Council requests that the regional planning body, assumed here to be a construct of the WCGA, include a dedicated seat at any decision table for a representative of the Pacific Council. We note that Part Four of the Interagency Ocean Policy Task Force Report recognizes the "unique statutory responsibilities under the Magnuson-Stevens Fishery Conservation and Management Act" and states that the regional planning bodies would establish a formal mechanism for consultation with Regional Fishery Management Councils. Establishing a formal seat on the regional planning body for the Pacific Council will serve to further the purpose of the Executive Order, the missions of both the WCGA and the Pacific Council, and will cement strong partnership and links between managers, scientists, and coastal communities. The Pacific Council's regional governance responsibilities under the Magnuson-Stevens Act and successful open, public, transparent process represent a natural fit in a forum charged with an optimal, coordinated, institutional approach to marine spatial planning.

In a time of increasing pressure on our ocean resources, collaborative and coordinated approaches are necessary to achieve the kind of effective marine spatial planning that will ensure sustainable ecosystem services and resilient coastal communities. We feel the WCGA can provide for an effective regional planning body, and should be recognized as the foundational entity in this regard. The Pacific Council's successful infrastructure and public interface process makes it an effective partner for implementing marine spatial planning in the future, and therefore should be formally seated at the regional planning body table. Please do not hesitate to contact me with any questions or concerns you may have with the above recommendations.

Sincerely,



D. O. McIsaac, Ph.D.
Executive Director

KFG:rdd

C: Mr. Brian Baird
Ms. Joan Barminski
Dr. John Coon
Ms. Jessica Keys
Mr. Bob Nichols
Mr. Sam Rauch
Mr. Eric Schwaab
Ms. Alexis Strauss
Dr. Usha Varanasi
Pacific Council Members
Pacific Council Staff Officers
Regional Fishery Management Council Executive Directors



Pacific Fishery Management Council

7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384
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Mark Cedergreen, Chairman Donald O. McIsaac, Executive Director

October 1, 2010

Executive Committee of the West Coast Governors Agreement on Ocean Health
Governor's Natural Resources Office
Public Service Building, Suite 126
255 Capitol Street NE
Salem, OR 97310

Dear Members of the Executive Committee:

On behalf of the Pacific Fishery Management Council (Pacific Council), I wish to express our appreciation for the presentation by Dr. Usha Varanasi and Ms. Jessica Keys, at the Pacific Council's recent meeting in Boise, Idaho. Dr. Varanasi and Ms. Keys provided a succinct description of the West Coast Governors Agreement on Ocean Health (WCGA) and noted several common areas of interest between the WCGA and the Pacific Council. Examples include Ecosystem-Based Management of the California Current large marine ecosystem, and sustaining coastal communities. As the lead fisheries management entity on the U.S. West Coast (working closely with the National Marine Fisheries Service), the Pacific Council has a vested interest in working in partnership with the WCGA on ocean management issues.

Coastal and marine spatial planning will play a major role in ocean management, and the Council desires to work collaboratively with entities pursuing marine spatial planning. The National Ocean Council recently issued its Final Recommendations of the Interagency Ocean Policy Task Force (July, 2010) that establishes a structure for regional implementation of marine spatial planning by regional planning bodies; and the Pacific Council supports a construct of the WCGA as the official regional planning body. In anticipation of such a designation by the National Ocean Council, and based on the unique and comprehensive mandate that the Council has for ensuring sustainable ocean health; we request you include in your planning, a seat on the regional planning body dedicated to a representative of the Council. This would benefit both the WCGA and the Pacific Council, in their common pursuit of sustainable ecosystems and resilient coastal communities. It would also serve to establish a strong partnership between managers, scientists, and coastal communities.

Please give serious consideration to our request for a formal seat on the regional planning body that we presume you will be proposing to the National Ocean Council. The Council's initiatives on Ecosystem-Based Management and its primary objective of ensuring long-term viability of fisheries and communities makes it an effective partner for implementing marine spatial planning

Page 2

in the future; and we look forward to a long-term working relationship with the West Coast Governors Agreement. Please contact me with any questions or concerns you may have.

Sincerely,



D. O. McIsaac, Ph.D.
Executive Director

KFG:rdd

C: Dr. John Coon
Dr. John Holdren
Mr. Sam Rauch
Mr. Eric Schwaab
Ms. Nancy Sutley
Pacific Council Members
Pacific Council Staff Officers
Regional Fishery Management Council Executive Directors

From: Diers, Ted [mailto:Ted.Diers@des.nh.gov]
Sent: Wednesday, September 29, 2010 3:39 PM
To: delaney@coastalstudies.org; Heather Deese; rribb@gso.uri.edu; peter.wellenberger@wildlife.nh.gov; dest@wellsnerr.org; panderson@maine.edu; charles.ehler@mac.com; David@thekeeleygroup.com; John Annala; tshyka@gmri.org; fcourt@cove.com; ivar.babb@uconn.edu; Jack.Wiggin@umb.edu; jgreene@TNC.ORG; mccann@gso.uri.edu; smoura@massoceanpartnership.org; nnapoli@massoceanpartnership.org; ru.morrison@neracoos.org; John.Duff@umb.edu; Les Kaufman; Andrew Rosenberg; spaulding@oce.uri.edu; jpederso@MIT.EDU; Paul Howard; Priscilla Brooks; MCGEEL@BATTELLE.ORG; rsnyder@islandinstitute.org; sfarady@rwu.edu; vernadelauer@yahoo.com; Rachel.Strader@moore.org; Heather Leslie; sylvain.deguise@uconn.edu; Jonathan.Pennock@unh.edu; jrunge@gmri.org; bcp@gso.uri.edu
Cc: Babb-Brott, Deerin (EEA); Adrienne Harrison; Betsy.Nicholson; Leyden, Kathleen; Christian Williams; Weber, John (EEA); Grover Fugate; Thompson, Brian; cote mel; Lyons.Regina@epamail.epa.gov; Susan Russell-Robinson; angel.mccoy@mms.gov; Carlisle, Bruce (ENV); LaBelle, Robert; erin.trager@mms.gov
Subject: Northeast CSMP Outline -- review requested by 10/8

Dear Partners,

The Northeast Regional Ocean Council (NROC), a collection of states and Federal agencies, continues its role as a convener for regional dialogue on coastal and marine spatial planning. With the Ocean Policy Task Force's Final Recommendations and CMSP Framework released in July, NROC is moving into a leadership role to set the trajectory for success in the Northeast.

This email is both a request for feedback on a CMSP Outline we have drafted, and a heads-up on a process we will use for projects to be considered in a Northeast proposal in response to NOAA's Federal Funding Opportunity for Regional Ocean Partnerships.

<http://www07.grants.gov/search/search.do?&mode=VIEW&oppId=57212>

Please feel free to forward this email to your colleagues we have missed.

NROC CMSP Outline

Based on the experience of states and federal members here in the Northeast, NROC has drafted a general

outline of a CMS Plan process for several reasons:

- 1) To begin to organize our thinking and the work in this region around a clear set of goals and objectives. This organization will better position us a community to continue momentum on CMSP here in NE and to assist the Regional Planning Body (when formed) with a product that can be used as a springboard for developing a formal regional CMS Plan.
- 2) To provide you, our partners, with an outline for CMSP to help us understand how your work can contribute to the larger regional picture.
- 3) To provide a centerpiece for the upcoming NOAA funding opportunity. Please understand that this outline is meant to serve as a high level outline to provide structure and will adapt as we move forward in response to the federal Executive Order.

Action: Please review the attached outline and share high level comments on goals and objectives. For instance, please answer:

- What is your initial reaction to the outline? Are we headed in the right direction?
- Under existing goals, do you have any major suggestions for improvement?
- Any major aspects missing?

Please send your comments to Stephanie Moura, who is providing contract support, smoura@massoceanpartnership.org by COB next Thursday, October 8th. Your feedback will be incorporated into a revised version that will be used as basis for funding opportunity.

Heads-up

Next week you will receive a request to provide information on how your existing or future work could contribute to the NROC CMSP Outline. You will have approximately 3 weeks to send us this narrative. These ideas will be taken up for deliberation later this Fall by NROC and packaged by Dec 10, 2010 to meet NOAA's RFP deadline.

Many thanks for your help. Please call or email if you have any questions.

Ted Diers
State Chair, Northeast Regional Ocean Council

Ted Diers
New Hampshire Coastal Program
Department of Environmental Services
222 International Drive, Suite 175
Portsmouth, NH 03801

603-559-0027
fax 603-559-0029
[NH Coastal Program Website](#)

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NROC CMSP Outline 9 29 final draft for distribution.doc

NROC CMSP Outline
Content-Description: 9 29 final draft for
distribution.doc

DRAFT Outline of Regional Coastal Marine Spatial Planning Process for New England

DISCLAIMER: NROC has drafted this outline as a starting point for the New England region and realizes that this work does not reflect the full stakeholders, including those who will have a formal role in the planning process.

Purpose: NROC is committed to developing a regional ocean plan to support ecosystem-based management of New England's marine environment and its human uses, working collaboratively with government and tribal partners and all stakeholders.

NROC objectives are:

- Objective 1: achieve state and regional renewable energy goals
- Objective 2: protect ecologically significant areas
- Objective 3: protect fisheries resources and fisheries economy

NROC Desired Outcome: A regional plan that

- 1) Characterizes environmental resources and human uses
- 2) Identifies important ecological and human use resources
- 3) Provides broad-scale information for renewable energy siting
- 4) Establishes regional management policies/guidelines
- 5) Is implemented through federal and state agencies/policies/regulations
- 6) Establishes framework for evolution of management and prioritizes supporting data needs
- 7) Reflects regional objectives

NROC Operating Principles:

- The regional ocean planning should recognize that a healthy ocean ecosystem includes human activities and is the basis for all of the benefits gained from our interactions with the oceans
- Regional ocean planning should minimize conflicts between new and existing uses
- Regional ocean planning should focus on outcomes: a comprehensive environmental characterization of the planning area with focus on practical outcomes (short term and longer term)
- Subjects of particular importance include renewable energy siting (particularly wind energy), conservation, and coordination with fisheries management
- The scale and level of detail should be commensurate with the data available (either existing or acquirable) for the three year planning process, with the capacity of the region to engage, develop and implement a meaningful process and plan, and with biogeographic distinctions within the region
- The proposed outline represents a new approach to ocean management; the planning process should not
- The planning process will engage and reflect the participation of stakeholders and the public

- The planning process will be participatory and transparent (and an early action should be to define the terms of this bullet and the preceding bullet)

Goal 1: Determine the goals, objectives, desired outcomes and planning framework for the New England region, with broad-based public and stakeholder participation supported by member states, Tribes, and federal agencies; continue broad-based participation throughout planning process

Objective 1.1. Ensure that each step of the planning process (goals and objectives, data acquisition, mapping, development of draft plan, etc) is informed by ongoing collaborative process

Action 1.1.1 – Develop planning process that incorporates broad-based participation of stakeholders, beginning with development of plan goals, objectives, and desired outcomes

Objective 1.2. Implement process for regional stakeholder participation

Action 1.2.1 – Identify appropriate stakeholders (federal, regional, statewide, local)

Action 1.2.2 – Implement appropriate public involvement mechanisms during all stages of plan development (goal setting, data acquisition, mapping, review of draft plan, etc.)

Goal 2: Understand the ecological, social and economic environment of the planning area as the basis for sound management

Objective 2.1: Define environmental, social, and economic aspects of the planning area that are of priority interest, using an ecosystem services approach (identifying existing and desired human benefits derived from the ocean ecosystem—this will enable tradeoff/scenario analysis described below).

Objective 2.2: Identify geographic scope and appropriate scale of information: Define area (state waters and state waters out to EEZ boundary)

Objective 2.3: Define appropriate scale for data gathering and analysis

Objective 2.4: Develop baseline characterization of ecological, social and economic conditions for the planning area

Action 2.4.1 – Based on goals and objectives, and results of Objectives 2.1, 2.2, and 2.3, define needed/desired components of baseline data (may include projections of anticipated/desired conditions)

Action 2.4.2 – Based on Action 2.4.1 outcome, develop inventory of existing data: human uses, natural resources, natural processes (currents, etc.)

Action 2.4.3 – Develop inventory of available qualitative information

Action 2.4.4 – Develop derived products from existing data

Action 2.4.5 – Prepare baseline characterization (maps + accompanying text)

Objective 2.5: Identify future data needs to further management objectives

Action 2.5.1 - Identify geographic or issue-based data gaps, or data products, necessary to achieve plan goals

Action 2.5.2 - Develop work plan to complete items in Action 2.5.1

Goal 3: Identify Areas in Need of Additional Attention for Conservation

Objective 3.1: Identify ecologically significant areas

Action 3.1.1– Define “ecologically significant”, considering issues related to geographical scale, climate change effects and shifts in habitat, protection of biodiversity, vulnerability of habitats/species to particular human uses, and state of scientific understanding of the ecosystem; consider application of ecosystem services approach outlined in Objective 2.1 above.

Action 3.1.2 Develop inventory of existing data (species/habitats)

Action 3.1.3– Develop methodology for using data to spatially represent outcome of Action 3.1.1

Objective 3.2 – Identify areas significant for commercial and recreational fishing

Action 3.2.1– Define “significant for commercial and recreational fishing”, considering issues related to geographical scale, shifts in effort over time, and state of scientific understanding

Action 3.2.2– Develop inventory of existing data

Action 3.2.3 – Develop methodology for using data to spatially represent outcome of Action 3.2.1

Objective 3.3 : Identify management measures to protect identified areas

Action 3.3.1 - Develop policy statements for areas identified in Action 3.1.3 and 3.2.3

Action 3.3.2 – Identify regulatory and non-regulatory management measures

Action 3.3.3 – Identify appropriate federal/state coordination mechanisms

Action 3.3.4 – Identify future data/information needs to further management objectives

Goal 4: Identify Areas of Current and Potential Future Uses

Objective 4.1: Identify locations for current and potential future uses

Action 4.1.1 Determine spatial and temporal conflicts and compatibilities among existing human uses and between human uses and marine resources; consider application of ecosystem services approach outlined in Objective 2.1 above

Action 4.1.2 – Project current trends in the needs of existing human activities

Action 4.1.3 – Estimate spatial requirements for new demands for ocean space

Action 4.1.4 – Assess tradeoffs and develop alternative use scenarios

Action 4.1.5 – Assess compatibility with existing management plans

Action 4.1.6 – Identify areas suitable for potential development

Objective 4.2: Specific to renewable energy, identify plan mechanisms for achieving identified state and regional renewable energy goals. Specifically:

Action 4.2.1 –Identify existing marine renewable energy goals as expressed by individual states

Action 4.2.2—Identify opportunities and obstacles to achieving those goals, e.g. related to the existing grid/infrastructure, technology

Action 4.2.3 – Based on the results of Actions 4.2.1 and 4.2.2, and incorporating the approach identified in Objective 4.1, identify areas potentially suitable for commercial renewable energy development

Objective 4.3 : Identify management measures to protect identified areas

Action 4.3.1 - Develop policy statements for areas identified in Action 4.2.6 and 4.3.3

Action 4.3.2 – Identify regulatory and non-regulatory management measures

Action 4.3.3 – Identify appropriate federal/state coordination mechanisms

Action 4.3.4 – Identify future data/information needs to further management objectives

Goal 5: Provide regional management governance structure and coordination mechanisms for state and federal decision-making

Objective 5.1: Review existing regulatory, management and planning frameworks to identify how they can be integrated and improved to achieve plan objectives

Action 5.1.1: Review existing frameworks and identify roadblocks to necessary changes

Action 5.1.2: Make recommendations for needed changes to enhance consistency of agency determinations with plan

Objective 5.2: Develop plan consistent with existing state, federal and regional management plans and regulations

Action 5.2.1 – Define existing management measures to incorporate into plan

Action 5.2.2 – Develop future coordination mechanisms with pertinent agency regulators to achieve shared goals

Action 5.2.3 – Identify future data/information needs to further management objectives

Objective 5.3: Develop regional management policies to guide future planning/review/regulatory actions in the planning area

Objective 5.4: Building on the success of NROC, recommend operating principles and structure for a regional ocean management body in response to the National Framework and Executive Order

Action 5.4.1 Develop and evaluate options

Action 5.4.2 Seek input on stakeholder and partner engagement

Action 5.4.3 Seek support from National Ocean Council on preferred management structure and mechanisms for channeling

conservation and management measures, including in cases of *force majeure* and where the Assistant Administrator has determined that such services are essential to the safety, health, and welfare of the crew.

[FR Doc. 2010-24196 Filed 9-24-10; 8:45 am]
BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 080102007-0337-03]

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: Final rule.

SUMMARY: NMFS publishes changes to the regulations that address the operations and administration of the Regional Fishery Management Councils (Councils). The regulatory changes implement the 2006 amendments to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) that, among other things, establish the Council Coordinating Committee (CCC), require that the Councils' science and statistical committee (SSC) members disclose their financial interests, and provide for training of Council members and staff. Additionally, this final rule clarifies the Council documents that should be available to the public; the restrictions on lobbying; the procedures for Council member nomination, including timing for submission of nominations; and also requires Councils to provide procedures for deeming regulations necessary and or appropriate for implementing fishery management plans and plan amendments. These regulations also set forth additional financial disclosure requirements for Council members, and revise the security assurance procedures for nominees to and members of the Councils. Finally, this rule makes technical and minor corrections to the regulations unrelated to the most recent Magnuson-Stevens Act amendments.

DATES: Effective October 27, 2010.

ADDRESSES: Written comments regarding the burden-hour estimates or other aspects of the collection-of-

information requirements contained in this rule may be submitted to Alan Risenhoover, Director, Office of Sustainable Fisheries, National Marine Fisheries Service, 1315 East-West Highway, SSMC3, Silver Spring, MD 20910, Fax: 301-713-1175, and by e-mail to OIRA_Submission@omb.eop.gov, or fax to (202) 395-7285.

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

SUPPLEMENTARY INFORMATION: A proposed rule for this action was published on March 27, 2009 (74 FR 13386), with public comment accepted though July 6, 2009. Several Regional Fishery Management Councils requested that the comment period be extended, and NMFS responded by extending the public comment period to November 2, 2009 (74 FR 31224, June 30, 2009). Subsequently, NMFS published a supplementary rule addressing elements of this action on December 7, 2009 (74 FR 64042, December 7, 2009), with a comment period ending January 6, 2010. A detailed description of the statutory and regulatory authority and need for this rule is contained in the preamble of the proposed rules and is not repeated here.

This final rule does not finalize regulations on all the elements of the proposed rules. For those elements not finalized in this action, additional public comment will be sought on the proposed rules, or a new proposed rule may be issued for public comment. Specifically, issues regarding stipends for Scientific and Statistical Committees (SSCs) and Advisory Panels need additional public review and comment. Issues addressing the functions of SSCs have been addressed by a recent rulemaking, i.e., the publication of the final rule on National Standard 1 Guidelines, (74 FR 3178, January 16, 2009), or will be addressed in other actions (i.e. pending National Standard 2 Guidelines (proposed rule published at 74 FR 56724, December 11, 2009).

Comments on the Proposed Rule

NMFS received thirteen written responses from organizations and individuals to a call for comments on a proposed rule published on March 27, 2009 (74 FR 13386). Responses included five letters from fishery management councils, one from an attorney for a fishing industry group, three from environmental non-governmental organizations (ENGOS), a letter from the U.S. Small Business Administration (SBA), and three on-line submissions from individuals.

In response to the supplemental proposed rule (74 FR 64042, December 7, 2009), NMFS received a second letter from one of the fishery management councils and two from ENGOS that had previously commented. A fishing industry association and the Marine Mammal Commission (MMC) also responded to the request for comments.

Comment 1: A letter from an ENGO supported the idea of defining the terms "advisory panel" (AP) and "fishing industry advisory committee" (FIAC) and differentiating the groups from one another. Three Councils commented that the definitions should not distinguish between the types of advisory groups for the purposes of authorizing stipends for one, the APs, but not for the other, the FIACs. They noted that the names given advisory groups and the functions of those groups are not consistent with the proposed rule and vary in usage from Council to Council. Also, one respondent noted that Magnuson-Stevens Act Sec. 302(g)(4) refers to the formation of APs, yet it is not referenced in the proposed definition of advisory panels and asks if this is an oversight.

Response: Under the Magnuson-Stevens Act, the Councils are authorized to establish committees and advisory panels at Sec. 302(g)(1) (SSCs), (g)(2) (APs), and (g)(3) (FIACs) as per separate sections of the statute. Sec 301(g)(4) authorized the Secretary to establish APs for Atlantic highly migratory species. Council practice, however, has made little distinction between APs and FIACs. In addition, what would be considered an AP under Sec. 302(g)(2) is often called a committee, and the terms have been used interchangeably and inconsistently from Council to Council. The 2007 reauthorization of the Magnuson-Stevens Act authorized stipends for APs, but not for FIACs. The proposed rule suggested definitions to aid Councils in distinguishing which Council advisory groups' members would be authorized to receive a stipend. In order to determine their eligibility for stipends and whether they are required to meet the meeting notice requirements of 50 CFR 600.135, these definitions are retained and the Councils are now required to declare under which section in the Magnuson-Stevens Act the organization is organized.

Comment 2: A letter from ENGOS suggested the term "fishing industry advisory committee" be replaced by "community advisory panel" to ensure the definition does not preclude membership by individuals who are not representatives of the fishing industry.

Response: The proposed definition of the term "fishing industry advisory committee" is taken from the term's usage in Sec. 302(g)(3)(A) of the Magnuson-Stevens Act. NMFS cannot change the term in the Magnuson-Stevens Act; however, there is nothing in the Magnuson-Stevens Act that would preclude a Council's discretion to establish a community advisory panel or other advisory groups with representation from a broad set of interests.

Comment 3: Several commenters responded to NMFS' request for guidance on the payment of stipends to certain members of the SSCs and APs. One commenter stated that stipends were meant primarily to compensate and enable participation by experts who would not normally be employed and paid directly to do so. The Magnuson-Stevens Act specifies that SSC and AP members who are federal employees and state marine fisheries agency staff are not entitled stipends. Other individuals who are similarly employed (e.g., by state enforcement agencies, marine fisheries commissions, ENGOs, tribal governments, etc.) should also not be entitled to stipend funds. One commenter noted that the amounts paid as stipends to SSC and AP members should be the same for all Councils and should be at the same rate as Council members are paid for their service. Another respondent recommended that stipends should not be paid until the eligibility criteria and business rules for payment are specified in the Council's statements of organization, practices, and procedures. A letter from ENGOs stresses that funding for SSC and AP stipends should be given a high priority.

Response: The final rule reiterates the eligibility for stipends as it was presented in the 2006 reauthorization of the Magnuson-Stevens Act. In addition, the final rule clarifies that employees of State agencies that have management, conservation, or enforcement jurisdiction over marine fisheries in their state are considered employees of State marine fisheries agencies and thus are ineligible for stipends. Similarly, employees of tribal agencies with marine fisheries responsibilities are considered employees of State marine fisheries agencies.

Comment 4: Respondents from industry, Councils, ENGOs, and a government agency expressed support for the proposal requiring Councils to post their statements of organization, practices, and procedures (SOPPs) on the Council website. The SBA suggested that the SOPPs also should be made available by other means (e.g., printed

copies upon request) for individuals without Internet access.

Response: NMFS concurs with the comments. Through this final rule, each Council is required to post its SOPP on the Council's Internet site. Copies of SOPPs are currently available for download from most of the Council websites and will remain available in print format upon request to the Council.

Comment 5: Two Councils, noting that SOPPs must be approved by the Assistant Administrator of the NMFS, asked for clarification on the process for making minor edits and technical corrections to the SOPP and asked whether such amendments, so long as they are consistent with the Magnuson-Stevens Act, can be made without NOAA approval.

Response: SOPPs are a means for Councils to describe how their procedures and practices are consistent, not only with the Magnuson-Stevens Act, but also with a body of law associated with federal assistance and grant administration. NMFS understands the need for some flexibility to allow a Council to make minor changes to its SOPP. NMFS has drafted procedures for Secretarial approval of SOPP amendments. The procedures will be posted on the NMFS policy directives system Web site. They will provide guidance on how to effect minor technical changes and when Secretarial approval is needed.

Comment 6: One Council, which has recently made a number of improvements to its SOPP based on recommendations made by the General Accounting Office (GAO), suggested that the GAO's recommended measures be applied to all of the Councils and addressed in a standardized manner in all of the SOPPs.

Response: The recommendations of the GAO report that are applicable to all Councils have been addressed in this final rule. Specifically, Council members will now be required to specify the nature of the financial interest when recusing themselves. Further, Councils are now required to maintain current and archived copies of documents available for public inspection on their Web sites. The availability of documents on the Web sites should reduce the need and volume of material needed in response to Freedom of Information Act requests.

Comment 7: An ENGO asked for NMFS to specify with which regulatory requirements the SOPPs must comply.

Response: The requirements of a SOPP are included in Subchapter B (50 CFR §§ 600.105 to 600.115). The regulatory and administrative

requirements that must be addressed in a SOPP may change occasionally as policies and governing statutes are updated. Rather than listing the requirements in regulation, NMFS will provide the Councils with a SOPP template listing the basic requirements of the SOPP as part of the SOPPs amendment procedures.

Comment 8: Two Councils requested that the basis for salary of Council executive directors be put on par with that of NMFS Regional Administrators and the senior executive service pay scale. Also, they suggested that commensurate adjustments should be made to the salaries of Council staffs.

Response: NMFS notes the comment; however, this topic is outside the scope of this rulemaking.

Comment 9: A commenter from an ENGO supported expanding the role of the SSC. A representative of a fishery association noted that the Magnuson-Stevens Act calls for both an SSC and a peer review body, and suggested that the SSC should consist of individuals with technical expertise in various fisheries and a peer review panel should be separate and distinct from it.

Response: This final rule addresses only the organization of the SSC. The role of the SSC with regard to its responsibilities and Magnuson-Stevens Act National Standard 2 is detailed in § 600.315 and is outside the scope of this rulemaking. It is a topic of the separate National Standard 2 rulemaking (proposed rule published at 74 FR 65724, December 11, 2009).

Comment 10: One respondent suggested adjusting the roles of the SSC to ensure the determination of the annual catch limit (ACL) is completely separated from the determination of how to allocate the ACL.

Response: The role of the SSC relative to the determination of ACLs is addressed in regulations implementing Magnuson-Stevens Act National Standard 1 at § 600.310 and is outside the scope of this rulemaking.

Comment 11: With regard to announcing forthcoming Council and committee meetings, one commenter stated that 45 days advanced notice is necessary to allow fishing industry members to plan their attendance. The commenter also suggested that the term "wide publicity" be read to require publication of meeting announcements in local and national trade magazines and distribution via the vessel monitoring system (VMS) in order to reach more industry members. The SBA stated its support for the changes in meeting announcement media, including the condition that

announcement over the Internet alone is not sufficient.

Response: NMFS agrees that meetings of all types should be announced as far ahead as possible, however, the minimum 14-day advance notification requirements are retained. Councils need the flexibility of shorter notification windows in order to ensure the meetings can provide a timely response to emerging and urgent issues. Schedules for most full Council meetings and many major committee meetings are usually established well in advance of the meeting date. Full agendas for the meetings, however, may not be known until just several weeks prior to the meeting. The Councils are encouraged to provide as much advance notice of meetings as is possible and use the media, including industry publications, which will be most effective for meeting announcements. NMFS does not concur that announcing meetings is an appropriate use of the VMS due to low data transmission rates and high costs to the fishermen.

Comment 12: One commenter cited the Magnuson-Stevens Act provision that SSC meetings should be held, to the extent practicable, in conjunction with Council meetings. The commenter noted that some Councils appear to have made little effort to align the meetings and to ease the burden on those people who would like to attend both.

Response: NMFS encourages Councils to adjust their meeting schedules to allow SSC and Council meetings to be held in conjunction with one another. However, scheduling of Council and committee meetings is a function of how each Council operates. Some Councils have successfully aligned the Council meetings with SSC and other committee meetings. Others are supporting processes in which the SSC meeting must precede Council meetings by a certain period in order for the SSC's outcomes to be considered in the Council meeting.

Comment 13: In three letters from ENGOs, respondents expressed concern that the meeting announcement requirements do not seem to apply to Interdisciplinary Planning Teams, consisting of members and NMFS/Council staff and occasionally relying on input from outside experts (also called Plan Development Teams, Fishery Management Action Teams, or Technical Teams). They stated that the meetings of such teams should be fully open to the public and announced in advance, just as Council meetings are; or otherwise, the use of such teams should be discontinued.

Response: Many Councils have ad hoc planning and development teams that

are not constituted under MSA Section 302(g), and are not subject to the meeting notice and conduct requirements as for a Council or AP meeting. These groups are organized for the purpose of preparing information for subsequent review of a Council, AP, or other MSA Section 302(g) committee. Presentation of their work products at a Council, AP, or other MSA Section 302(g) committee meeting, followed by public comment provides adequate public input. To the extent practicable, NMFS encourages notice and public attendance meetings of these ad hoc planning and development teams.

Comment 14: Comments from industry representatives, ENGOs, the Councils, and the SBA supported the proposed rule requiring Councils to establish a written procedure for deeming proposed regulations necessary or appropriate for the purposes of the Magnuson-Stevens Act and for submitting proposed regulations to the Secretary. The SBA recommended that NMFS provide guidance to the Councils on the procedures in order to ensure consistency and transparency across Councils.

Response: The NOAA General Counsel for Fisheries has consulted with the Councils, through the Council Coordinating Committee, on the requirements for deeming proposed regulations necessary or appropriate for the Council's purposes. Different Regions and Councils have different agreements concerning who does regulatory drafting. Therefore, each NMFS regional office, the Council, the Council attorney-advisor from the NOAA Office of General Counsel, and NOAA General Counsel for Fisheries will collaborate to ensure the procedures are efficient, responsive to specific regional needs, consistent with the Magnuson-Stevens Act, and transparent from the public's perspective.

Comment 15: Letters from an ENGO, an industry association representative, the MMC, and the SBA supported the proposed requirement for each Council to post on its Internet website a variety of documents, including fishery management plans (FMPs), FMP amendments under consideration, supporting analysis of alternatives, minutes of past meetings of the Council and its committees, and the pre-meeting information packages that are provided to Council members. Both respondents stated that NMFS should require and support the ability of the Councils to maintain the information technology infrastructure capacity necessary to fulfill this requirement and that the

posting of a document should never be considered impracticable.

Response: NMFS concurs with the comments and agrees that there should be no technological constraints to Councils posting their current and archived documents on the Internet. This final rule does not retain the "to the extent practicable" clause, but it has been revised to require the Councils to maintain copies of documents too large to maintain on the Web site at the Council office for viewing during regular business hours.

Comment 16: One Council commented that a Council should not be required to record and post on the Internet minutes from the meetings of its committees and advisory bodies. Wide distribution of meeting reports should suffice.

Response: NMFS considers it a responsibility of the each Council to post records of the Council and the Council's committees on the Internet. The intent of the rule is not to require Councils to change their formats for taking down a record of meetings of the Council and its committees, but to require that those records, whatever their format, be made available for viewing via the Council's Internet site. The language in this final rule has been adjusted so as not to imply that verbatim minutes of advisory group meetings are required.

Comment 17: One Council stated its disagreement with the proposed requirement that past Council members take a full year break in service before becoming eligible for reappointment to fill an off-cycle opening.

Response: NMFS acknowledges the comment, but makes no change to the requirement in this final rule. The previous requirement was for a one-year break in service between appointments and this requirement stands. The intent of the change to this section was to remove obsolete language. NMFS interprets the intent of the requirement of the Magnuson-Stevens Act at Section 302(b)(3) as providing the opportunity for a variety of people to serve on Councils. This rule reduces the opportunity to put forth a candidate who will resign shortly after appointment, allowing the member with 3 consecutive terms to apply immediately for that position. This rule does not preclude a Council member from being nominated for a term beginning one year after completing his or her third term.

Comment 18: One Council supported the proposed changes that would allow more time for submission of member nomination packages. A letter from ENGOs stated that existing regulations

concerning Council nominations and appointments provide for a clear and fair process and that simply adhering to the existing requirements would solve many procedural challenges. Further, they suggest that the period between the nomination and paperwork submission deadlines will be used for intense activism by opponents of the nominees to derail the appointments.

Response: NMFS retains the March 15 date for substantially complete nomination packages to be received from the Governors. NMFS drafted the proposed rule to address recurrent problems in the nomination and appointment processes regarding the submission of information for background investigations. This final rule requiring the background investigation to be initiated after the member is conditionally appointed will afford more time in which to receive and prepare extensive background and security assurance documents. Therefore, the deadline for package submission is unchanged in this final rule.

Comment 19: One respondent suggested that NMFS contact state governors earlier in the year and specify qualifications for nominees, and, by January 15, should detail the process in the *Federal Register* and set up a dedicated website with information. Also, after the nomination deadline passes, NMFS should commit to publishing the nominees' names on the website within five days.

Response: NMFS acknowledges the comments as helpful ideas for consideration in the future, but will not specify these details in regulation because current regulations are sufficient to address these concerns. NMFS contacts governors' offices regarding nominations beginning in December. NMFS makes a formal request for nominations from each governor in mid January. An earlier formal request is not practicable in some cases, due to changes in state administration in January following state elections in November. NMFS follows up with a reminder to the Governors in mid February and works closely with the governors' offices and state representatives on the Councils to help in completing the packages. Council members, state representatives and governors' offices are very aware of upcoming Council seat vacancies, and earlier notification is not likely to solve the problem of late nomination package submissions. NMFS does provide a public list of nominees once all nominees have completed an initial vetting.

Comment 20: One letter suggested that NMFS require each nomination package to include a letter from the nominee to the governor requesting to serve on the Council.

Response: NMFS concurs that it would be helpful to have written acknowledgement from nominees acknowledging their nomination and their commitment to serve on the Council if appointed by the Secretary. This suggestion will be added to the requirements of the nomination materials submitted to the governors and/or the nominees rather than in this regulation.

Comment 21: One commenter suggested that NMFS should specify how governors can replace nominees who turn out to be unqualified or unsuitable for appointment.

Response: The current regulations at 50 CFR 600.215(e) state that governors should submit a list of at least three qualified nominees for each open seat. In the event that a preferred nominee is deemed unsuitable or unqualified, an alternate will be selected from the list submitted by the governor. Under section 302(b)(2)(C), if the Secretary determines that any individual is not qualified, the Secretary shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question. An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under section 302(k).

Comment 22: One respondent noted support for including the oath of office for Council members in the rule.

Response: NMFS acknowledges the comment. The oath of office is unchanged in this final rule.

Comment 23: In the supplementary proposed rule, a heading at 50 CFR 600.235(a) lists "advocacy" and "lobbying" as types of reportable financial interest relationships, yet the definitions in the proposed rule text do not include references to advocacy or lobbying. The definition should be updated to indicate the types of income stemming from advocacy and lobbying that must be disclosed by affected individuals.

Response: Both proposed rules referred to the existing rule, so changes proposed in the first proposed rule did not appear in the second proposed rule. In this final rule, the proposed changes from both proposed rules have been adopted and consolidated. NMFS considers any income derived from lobbying or advocacy to be disclosable.

Therefore, NMFS did not specify the types of income as it would be too limiting on what is reportable.

Comment 24: Three Councils commented on the proposed new regulations regarding lobbying by Council members, staff, and contractors. Two called for clarification on how the rule bears on interactions between Council members/staff and the executive branch, particularly as regards a Council's obligations under the Magnuson-Stevens Act to advise and direct the Secretary of Commerce and to consult with other agencies on essential fish habitat. A third Council and an ENGO suggested that NMFS specify how the new regulations differ from existing regulations on lobbying and provide greater clarity with regard to specific prohibited activities.

Response: The regulations regarding lobbying make no change from previous law or guidance, but serve to provide some general direction and emphasis on this matter. The rule has no effect on the Council's interactions with NMFS and other agencies pursuant to a Council's obligations under the Magnuson-Stevens Act. Nor does the rule affect Council interaction with NMFS regarding Council administration, budget, and planning. The regulations do highlight the pre-existing limits regarding the Councils' interaction with Congress by specifically prohibiting attempts to influence the introduction and content of legislation.

Comment 25: One ENGO addressed the subject of Council member conflicts of interest and recusal in two separate letters. The commenter suggested that voluntary recusal is insufficient and that NMFS establish mandatory requirements for Council members to recuse themselves from discussion and voting when they have interests likely to be directly affected by the outcome of the vote. The ENGO suggested that non-compliance with the recusal requirement should be penalized and the subject vote should be vacated.

Response: While NMFS acknowledges the commenter's concern, we believe existing regulations and penalties are sufficient. Existing regulations at 50 C.F.R. § 600.235(c)(1) require that an affected individual may not vote on any Council decision that would have a significant and predictable effect on a financial interest disclosed in his/her report. Paragraph (i) of the same section states that it is unlawful for an affected individual to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required by this section, or to knowingly vote on a Council decision in violation of this section. In addition to the penalties

applicable under the Magnuson-Stevens Act, a violation of this provision removes that person from the exemption from 18 U.S.C. 208, the general federal conflict of interest statute, and may result in criminal prosecution. This may also result in removal of the affected individual from Council membership.

Comment 26: An ENGO stated its support for the requirement to have Council members identify their affected financial interests when recusing themselves. Further, they called for a requirement to have the recusals and the stated affected financial interests included in the official public record of the meeting.

Response: NMFS agrees that Council minutes must record when member recuse themselves and the reasons for that recusal, however no changes are made to the regulations. Since a Council member must state the reason for a recusal as noted at § 600.235(d), it follows that the Council minutes must reflect that. Further, Statements of financial interest are already a matter of record and available at Council meetings as noted at § 600.235(b)(3).

Comment 27: An ENGO called for all votes made by each Council member to be included in the official public record of the meetings.

Response: NMFS does not agree that all votes by a Council need a roll call vote. Motions and the votes taken on them are already required to be in the minutes under Roberts Rules of Order, as practiced by all Councils. Not all votes taken by a Council require a roll call and a specific record of each member's vote. Voting in accordance with Robert's Rules of Order may take several forms. A Council member may call for a vote by roll call, in which case each member's vote is recorded. This is the usual case for important or contentious votes. Other forms of voting, i.e., a hand vote, may not result in a record of voting by each individual member, but by a count. A voice vote may be taken when the issue is more routine, i.e., motion to adjourn. Some votes, such as those for officers, may be by secret ballot.

Comment 28: A letter from ENGOs expressed concern that the revised guidelines regarding conflict of interest might be construed to preclude an ENGO's representative on a Council from voting. The respondent argues that NMFS should make a distinction between representatives of ENGOs and those from industry as regards the financial stake consequent to a Council vote. Employment in an ENGO alone should not be grounds for determining a conflict of interests exists.

Response: NMFS concurs with this interpretation of the conflict of interest guidelines. The condition of being employed by an ENGO should in itself not be grounds for a Council member's recusal, unless it is reasonable to conclude that the outcome of the vote may have a significant and predictable effect on the financial interests of the member. No changes to the regulations are necessary.

Comment 29: A representative of an industry association commented that SSC members should be subjected to the same recusal guidelines as Council members.

Response: Magnuson-Stevens Act considers SSC members to be "affected individuals" and as such specifies certain provisions under section 302(j), "Disclosure of Financial Interest and Recusal," apply to SSC members. The Magnuson-Stevens Act does not specify that subparagraph (j)(7), which requires recusal from Council votes under certain circumstances, applies to SSC members. NMFS has not set forth financial recusal requirements for SSC members in this final rule; however, Councils may establish local procedures for its committees and advisory groups that would call on members to announce their financial interests in the subject matter of the proceedings.

Comment 30: A Council suggested that the consequence of an SSC member not completing the financial disclosure form should be stated in the rule.

Response: The consequences of an affected individual's falsifying or failing to complete the financial disclosure form are specified in 50 CFR 235(i). It is unlawful for an affected individual to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required. Consequences of an SSC member's non-compliance with the requirement to submit a correct, complete, and current financial disclosure form may include removal from the SSC, censure by the Council, and civil prosecution for falsifying information in an official form, subject to penalties under the Magnuson-Stevens Act and 18 U.S.C. 208 conflict of interest guidelines.

Comment 31: Several commenters noted the inadequacy of NOAA's current forms for disclosing one's financial interests. The form is awkward for those who are not employed in the fishing industry, and it does not accommodate reporting on all of the interests addressed under the Magnuson-Stevens Act. One commenter provided very detailed suggestions for revising the form.

Response: NMFS acknowledges the need to update the financial disclosure

form. A new form is being drafted and will be submitted for clearance through the procedures of the Paperwork Reduction Act subject to the outcome of this rule. Under these procedures a notice requesting comments on the draft form will be published in the **Federal Register** in the fall of 2010.

Comment 32: An ENGO supports the requirement that Council members update their financial disclosures annually.

Response: NMFS concurs with this current requirement.

Comment 33: Several respondents commented on the types of income and the sources of income that must be disclosed by affected individuals. An industry association representative and the SBA called on NMFS to require disclosure of any grants or other financial interests held by any SSC member, particularly where the issue is of concern to the management process. Further, the term "financial interest" should be broadened and clarified to include any income, grant, or other monetary or in-kind remuneration received by any of the persons or entities from any organization seeking to influence the decisions of any Council for which the SSC provides advice.

Response: NMFS is revising the financial disclosure form and will provide instructions that make clear what sources and types of income are reportable.

Comment 34: Two letters from ENGOs supported the proposed requirement for affected individuals to disclose employment by subsidiaries and associates of entities that may be affected by Council decisions. An industry association noted that such business relationships may not be knowable to the affected individual. The industry association suggested that this provision not be implemented until further deliberation of the implications of the provision and the breadth of its applicability.

Response: NMFS is revising the financial disclosure form and will provide instructions that make clear what sort of business relationships will be reportable. NMFS will specify in this final rule that parent entities and subsidiaries of the entity providing compensation to the affected individual will have to be listed on the form if the entities are involved in regional fisheries under the jurisdiction of the subject Council.

Comment 35: A respondent suggested that NMFS rephrase 50 CFR 600.235(c)(2) to clarify existing regulations that currently can be read as treating IFQ-managed fisheries

differently from others for determining when recusal is required.

Response: NMFS concurs with the comment and has revised the sentence as suggested to clarify that holding any percentage of IFQ is not dispositive of the question of whether a Council decision will have a "significant and predictable effect on a financial interest" requiring recusal. Rather, the percentage IFQ held will be used to assess the relative financial interests of the Council member.

Comment 36: A letter from ENGOS expressed the concern that background investigations would not be conducted for all nominees to a Council seat, but only for those appointed to the Council. The ENGOS called for a requirement for all individuals nominated for a Council seat to disclose any prior felony convictions as part of the nomination packages submitted to the Secretary, and in so doing, helping to avoid removal of an appointed Council member when prior felonies are discovered as the security assurances are completed.

Response: NMFS does not agree that background investigations are needed for all nominees prior to their appointment. Reviews by the governors and enforcement checks by NMFS have been found to be adequate for initial selections. Appointments conditional upon a favorable background investigation will ensure that only suitable appointments are made. The additional work required by the nominee and by the agency investigating the information for background investigations is costly and time consuming, resulting in few or no differences in appointments.

NMFS conducts initial vetting and enforcement checks of nominees in which most issues that would affect a nominee's ability to serve are discovered. It is expected that governors will conduct some level of background and suitability review before nominating individuals to the Council per Magnuson-Stevens Act requirements. A past felony conviction may be disqualifying. Further, the background investigation forms require disclosure of past criminal history. Failure to report such matters truthfully and fully would be grounds for an unfavorable background check.

Comment 37: A respondent stated support for making final Council appointments conditional upon favorable background investigation and noted that NMFS should specify what circumstances would result in an unfavorable background investigation triggering revocation of Council membership.

Response: NMFS agrees that final Council appointments are contingent upon a favorable background check. This requirement is retained in the final rule. While it would be inappropriate, because of national security considerations, to list all criteria that would be cause for disapproval, some of the most obvious reasons for an unfavorable background investigation are noted in the response to Comment 36, above. Background investigations explore a great variety of information about the nominee and a favorable check indicates that the person is acceptable as an employee of the United States. Finally, background investigations are confidential, and reasons for determining a nominee is unsuitable for appointment will not be disclosed to the public.

Comment 38: Two respondents addressed the requirement for new Council members to attend training. One called for NMFS to provide training materials to nominated members before their swearing-in. The other suggested that the training be required of veteran members and Council staffs and that the subject matter should include innovations in fisheries science in addition to legal and procedural matters.

Response: The Magnuson-Stevens Act requires that training be provided to newly appointed members; therefore, they receive top priority for training resources in order to ensure NMFS is compliant with the Magnuson-Stevens Act. NMFS has made training available to veteran members and staff subject to availability of space and funding. NMFS posts all past training materials on the Internet and sent training materials to Council nominees prior to swearing-in in 2010 and will do so in the future.

NMFS also received comments on a number of other topics that are not addressed in the proposed or final rule. Subjects discussed in these comments included the length of NEPA documents, diversity of representation of sectors in Council membership, NMFS's role in overseeing the Council and approving its decisions, the status of overfishing relative to the quality of management provided by the Councils, procedural transparency, and standards for Council websites. NMFS takes notes of all these comments, but will not address these matters further, as they are not relevant to the subjects addressed in this particular rulemaking.

Changes from the Proposed Rule

In § 600.10, the definitions for "advisory panel (AP)" and "fishing industry advisory committee (FIAC)" were retained. As noted in the response

to Comment 1, Council practice has made little distinction between the two types of advisory group, therefore, this final rule requires that the section of the Magnuson-Stevens Act under which the panel or committee or other group was formed be identified.

In § 600.10, the definition for "Regional Administrator" has been further revised by removing the reference to the previous title of "Regional Director", as this title is no longer in use.

In § 600.133, paragraph (b) is moved to a new § 600.134. Paragraph (c) reserved for peer review is removed, as peer review will be addressed in the National Standard Guideline 2 final rule, codified at § 600.315. Paragraphs (a)(1)–(a)(4) are redesignated as paragraphs (a)–(d).

A new § 600.134 is added to explain that SCC and AP members may be eligible to receive stipends. State marine fisheries agencies are defined as including any state or tribal agency that has conservation, management, or enforcement responsibility for any marine fishery resources.

In § 600.135, the wording of paragraphs (a), (c), and (d) is revised to clarify that all committees of each Council must follow the procedures of the section. Committees do not include groups that consist of only Council staff and Federal employees.

In § 600.150(b), the regulation has been revised to require pertinent documents to be on each Council's Internet site, with alternative methods of retrieval for specific documents. The words "to the extent practicable" have been removed.

In § 600.215(e), in the introductory language, the wording regarding receipt of the nomination packages is revised to reinstate and clarify the requirement that nomination packages must be received by March 15 each year. The language is carried forward to paragraph (e)(2). This is made possible by a change to § 600.240 that now requires only persons appointed as Council members to get security assurances instead of all nominees, reducing time and administrative burden.

In § 600.235, the definition of "Financial interest in harvesting, processing, lobbying, advocacy, or marketing" is revised to clarify in what entities a Council member must declare a financial interest. The language is revised by changing "any subsidiary of such entities" to the following: "employment with any entity that has any percentage ownership in or by another entity".

In § 600.235(c), the language is clarified to explain that the percentage

of an affected individual's percentage holdings in an IFQ is used to determine the individual's financial interest in a fishery, since this percentage can be directly related to total financial benefits in the fishery.

In § 600.240, the requirement for background investigations to be reinitiated every 5 years for serving members is rescinded. This requirement matches current requirements for Federal employees requiring the same level of background investigation.

Classification

The Acting Director, Office of Sustainable Fisheries, NMFS, determined that this final rule is necessary for the conservation and management of the fisheries and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule 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 during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for is published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none has been prepared.

This final 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 OIRA Submission@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: September 21, 2010.

Samuel D. Rauch III,
Deputy Assistant Administrator For
Regulatory Programs, National Marine
Fisheries Service.

■ For the reasons set out in the preamble, NMFS amends 50 CFR part 600 as follows:

PART 600—MAGNUSON-STEVENS 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 § 600.10, add definitions for "Advisory panel (AP)," and "Fishing industry advisory committee (FIAC)" in alphabetical order; and revise the definitions for "Region", "Regional Administrator", and "Science and Research Director" to read as follows:

§ 600.10 Definitions.

Advisory panel (AP) means a committee formed, selected, and formally designated as a Magnuson-Stevens Act Section 302(g)(2) advisory panel by the Council's Statement of organization, practices, and procedures (SOPP), or by a formal charge to the committee made by the chair and recorded in the Council's minutes, to assist it in carrying out its functions. An AP may include individuals who are not members of the Council.

Fishing industry advisory committee (FIAC) means an advisory group formed and selected by a regional fishery management council under the authority of the Magnuson-Stevens Act section 302(g)(3)(A) and formally designated in the Council's SOPP or by a formal charge to the FIAC made by the chair and recorded in the Council's minutes. A FIAC is not an "advisory panel" as defined under this section.

Region means one of six NMFS Regional Offices responsible for administering the management and development of marine resources of the United States in their respective geographical regions.

Regional Administrator means the Administrator of one of the six NMFS Regions described in Table 1 to § 600.502, or a designee.

Science and Research Director (also referred to as "Center Director") means the Director of one of the six NMFS Fisheries Science Centers described in Table 1 to § 600.502, or a designee.

■ 3. In § 600.15:

a. Redesignate paragraphs (a)(9) through (a)(15) as paragraphs (a)(11) through (a)(17), respectively.

b. Redesignate paragraphs (a)(5) through (a)(8) as paragraphs (a)(6) through (a)(9), respectively.

c. Add new paragraphs (a)(5) and (a)(10) to read as follows:

§ 600.15 Other acronyms.

(a) ***
(5) CCC—Council coordination committee

(10) FIAC—Fishing industry advisory committee

■ 4. In § 600.105, revise paragraph (b) to read as follows:

§ 600.105 Intercouncil boundaries.

(b) *Mid-Atlantic and South Atlantic Councils.* The boundary begins at the seaward boundary between the States of Virginia and North Carolina (36°33'01.0" N. lat), and proceeds due east to the point of intersection with the outward boundary of the EEZ as specified in the Magnuson-Stevens Act.

■ 5. In § 600.115, revise paragraph (b) to read as follows:

§ 600.115 Statement of organization, practices, and procedures (SOPP).

(b) Amendments to current SOPPs must be consistent with the guidelines in this section, subpart C of this part, the terms and conditions of the cooperative agreement (the funding agreement between the Council and NOAA that establishes Council funding and mandates specific requirements regarding the use of those funds), the statutory requirements of the Magnuson-Stevens Act, and other applicable law. Upon approval of a Council's SOPP amendment by the Secretary, a notice of availability must be published in the Federal Register that includes an Internet address from which the amended SOPP may be read and downloaded and a mailing address to

which the public may write to request copies.

* * * * *

■ 6. Section 600.117 is added to subpart B to read as follows:

§ 600.117 Council coordination committee (CCC).

(a) The Councils may establish a Council coordination committee (CCC) consisting of the chairs, vice chairs, and executive directors of each of the eight Councils or other Council members or staff, in order to discuss issues of relevance to all Councils.

(b) The CCC is not subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App. 2). Procedures for announcing and conducting open and closed meetings of the CCC shall be in accordance with § 600.135.

■ 7. In § 600.125, revise paragraph (a) to read as follows:

§ 600.125 Budgeting, funding, and accounting.

(a) Council grant activities are governed by 15 CFR part 14 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit and Commercial Organizations), 2 CFR part 230 (Cost Principles for Non-Profit Organizations), 15 CFR part 14 (Audit Requirements for Institutions of Higher Education and Other Non-Profit Organizations), and the terms and conditions of the cooperative agreement.

* * * * *

■ 8. Section 600.133 is added to subpart B to read as follows:

§ 600.133 Scientific and Statistical Committee (SSC).

(a) Each Council shall establish, maintain, and appoint the members of an SSC to assist it in the development, collection, evaluation, and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.

(b) Each SSC shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices.

(c) Members appointed by the Councils to the SSCs shall be Federal employees, State employees,

academicians, or independent experts and shall have strong scientific or technical credentials and experience.

(d) An SSC shall hold its meetings in conjunction with the meetings of the Council, to the extent practicable.

■ 8a. Section 600.134 is added to read as follows:

§ 600.134 Stipends.

Stipends are available, subject to the availability of appropriations, to members of committees formally designated as SSCs under Sec. 301(g)(1)(a) or APs under Sec. 302(g)(2) of the Magnuson-Stevens Act who are not employed by the Federal Government or a State marine fisheries agency. For the purposes of this section, a state marine fisheries agency includes any state or tribal agency that has conservation, management, or enforcement responsibility for any marine fishery resource.

■ 9. In § 600.135, paragraphs (a), (b), (c), (d), and (e) are revised to read as follows:

§ 600.135 Meeting procedures.

(a) Regular meetings. Public notice of a regular meeting, including the meeting agenda, of each Council, CCC, SSC, AP, FIAC, or other committees established under Magnuson-Stevens Act, Sec. 302(g), must be published in the Federal Register at least 14 calendar days prior to the meeting date. Appropriate notice by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery) must be given. E-mail notification and website postings alone are not sufficient. The published agenda of a regular meeting may not be modified to include additional matters for Council action without public notice given at least 14 calendar days prior to the meeting date, unless such modification is necessary to address an emergency under section 305(c) of the Magnuson-Stevens Act, in which case public notice shall be given immediately. Drafts of all regular public meeting notices must be received by NMFS headquarters office at least 23 calendar days before the first day of the regular meeting. Councils must ensure that all public meetings are accessible to persons with disabilities, and that the public can make timely requests for language interpreters or other auxiliary aids at public meetings.

(b) Emergency meetings. Drafts of emergency public notices must be transmitted to the NMFS headquarters office at least 5 working days prior to the first day of the emergency meeting. Although notices of and agendas for

emergency meetings are not required to be published in the Federal Register, notices of emergency meetings must be promptly announced through any means that will result in wide publicity in the major fishing ports of the region. E-mail notification and website postings alone are not sufficient.

(c) Closed meetings. After proper notification by any means that will result in wide publicity in the major fishing ports within the region and, having included in the notification the time and place of the meeting and the reason for closing any meeting or portion thereof to the public, a Council, CCC, SSC, AP, FIAC, or other committees:

(1) Must close any meeting, or portion thereof, that concerns information bearing a national security classification.

(2) May close any meeting, or portion thereof, that concerns matters or information pertaining to national security, employment matters, or briefings on litigation in which the Council is interested.

(3) May close any meeting, or portion thereof, that concerns internal administrative matters other than employment. Examples of other internal administrative matters include candidates for appointment to AP, SSC, and other subsidiary bodies and public decorum or medical conditions of members of a Council or its subsidiary bodies. In deciding whether to close a portion of a meeting to discuss internal administrative matters, the Council, CCC, SSC, AP, FIAC, or other committees should consider not only the privacy interests of individuals whose conduct or qualifications may be discussed, but also the interest of the public in being informed of Council operations and actions.

(d) Without the notice required by paragraph (c) of this section, a Council, CCC, SSC, AP, FIAC, or other committees may briefly close a portion of a meeting to discuss employment or other internal administrative matters. The closed portion of a meeting that is closed without notice may not exceed two hours.

(e) Before closing a meeting or portion thereof, the Council, CCC, SSC, AP, FIAC, or other committees should consult with the NOAA Office of General Counsel to ensure that the matters to be discussed fall within the exceptions to the requirement to hold public meetings described in paragraph (c) of this section.

* * * * *

■ 10. Section 600.140 is added to subpart B to read as follows:

§ 600.140 Procedure for proposed regulations.

(a) Each Council must establish a written procedure for proposed regulations consistent with section 303(c) of the Magnuson-Stevens Act. The procedure must describe how the Council deems proposed regulations necessary or appropriate for the purposes of implementing a fishery management plan or a plan amendment, or making modifications to regulations implementing a fishery management plan or plan amendment. In addition, the procedure must describe how the Council submits proposed regulations to the Secretary.

(b) The Councils must include the procedure for proposed regulations in its SOPP, see § 600.115, or other written documentation that is available to the public.

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

§ 600.150 Disposition of records.

* * * * *

(b) Each Council is required 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 plans and plan amendments under consideration, analysis of actions the Council has under review, minutes or official reports of past meetings of the Council and its committees, materials provided by the Council staff 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 through the mail.

■ 12. Section 600.207 is added to subpart C to read as follows:

§ 600.207 Pacific Fishery Management Council Tribal Indian representative and alternate.

(a) The tribal Indian representative to the Pacific Fishery Management Council may designate an alternate during the period of the representative's term. The designee must be knowledgeable concerning tribal rights, tribal law, and the fishery resources of the geographical area concerned.

(b) New or revised designations of an alternate by the tribal Indian representative must be delivered in writing to the appropriate NMFS

Regional Administrator and the Council chair at least 48 hours before the designee may vote on any issue before the Council. In that written document, the tribal Indian representative must indicate how the designee meets the knowledge requirements under paragraph (a) of this section.

■ 13. In § 600.210 revise paragraph (c) to read as follows:

§ 600.210 Terms of Council members.

* * * * *

(c) A member who has completed three consecutive terms will be eligible for appointment to another term one full year after completion of the third consecutive term.

■ 14. In § 600.215, redesignate paragraphs (c), (d), and (e) as paragraphs (d), (e), and (f), respectively; add paragraph (c); and revise paragraph (b)(5) and the newly redesignated paragraph (e) 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.

* * * * *

(c) Nominees to the Gulf of Mexico Fishery Management Council. (1) The Governors of States submitting nominees to the Secretary for appointment to the Gulf of Mexico Fishery Management Council shall include:

(i) At least one nominee each from the commercial, recreational, and charter fishing sectors, except that an individual who owns or operates a fish farm outside the United States shall not be considered to be a representative of the commercial or recreational sector; and

(ii) At least one other individual who is knowledgeable regarding the conservation and management of fisheries resources in the jurisdiction of the Council.

(2) Notwithstanding the requirements of paragraphs (a) and (b) of this section, if the Secretary determines that the list of names submitted by the Governor does not meet the requirements of

paragraph (c)(1) of this section, the Secretary shall:

(i) Publish a notice in the *Federal Register* asking the residents of that State to submit the names and pertinent biographical data of individuals who would meet the requirements of this section that were not met for appointment to the Council; and

(ii) Add the name of any qualified individual submitted by the public who meets the requirements of this section that were not met to the list of names submitted by the Governor.

(3) The requirements of this paragraph (c) shall expire at the end of fiscal year 2012, meaning through September 30, 2012.

* * * * *

(e) *Nomination deadlines.*

Nomination packages (governors' letters and completed nomination kits) must be forwarded by express mail under a single mailing to arrive at the address specified by the Assistant Administrator by March 15. For appointments outside the normal cycle, the Secretary will provide a deadline for receipt of nominations to the affected Council and state governors.

(1) *Obligatory seats.* (i) The Governor of the state for which the term of an obligatory seat is expiring should submit the names of at least three qualified individuals to fill that seat by the March 15 deadline. The Secretary will appoint to the Pacific Fishery Management Council a representative of an Indian tribe from a list of no fewer than three individuals submitted by the tribal Indian governments.

(ii) If the Governor or tribal Indian governments fail to provide a nomination letter and at least three complete nomination kits by March 15, the obligatory seat will remain vacant until all required information has been received and processed and the Secretary has made the appointment.

(2) *At-large seats.* (i) If a Governor chooses to submit nominations for an at-large seat, he/she must submit lists that contain at least three qualified nominees for each vacant seat. A nomination letter and a nomination kit for each qualified nominee must be forwarded by express mail under a single mailing to arrive at the address specified by the Assistant Administrator by March 15.

(ii) Nomination packages that are not substantially complete by March 15 may be returned to the nominating Governor. At-large members will be appointed from among the nominations submitted by the governors who complied with the nomination requirements.

* * * * *

■ 15. Section 600.220 is revised to read as follows:

§ 600.220 Oath of office.

As trustees of the nation's fishery resources, all voting members must take an oath specified by the Secretary as follows: "I, [name of the person taking oath], as a duly appointed member of a Regional Fishery Management Council established under the Magnuson-Stevens Fishery Conservation and Management Act, hereby promise to conserve and manage the living marine resources of the United States of America by carrying out the business of the Council for the greatest overall benefit of the Nation. I recognize my responsibility to serve as a knowledgeable and experienced trustee of the Nation's marine fisheries resources, being careful to balance competing private or regional interests, and always aware and protective of the public interest in those resources. I commit myself to uphold the provisions, standards, and requirements of the Magnuson-Stevens Fishery Conservation and Management Act and other applicable law, and shall conduct myself at all times according to the rules of conduct prescribed by the Secretary of Commerce. This oath is given freely and without mental reservation or purpose of evasion."

■ 16. In § 600.225 redesignate paragraphs (b)(2) through (b)(8) as paragraphs (b)(3) through (b)(9) respectively; and add a new paragraph (b)(2) to read as follows:

§ 600.225 Rules of conduct.

* * * * *

(b) * * *

(2) Council members, employees, and contractors must comply with the Federal Cost Principles Applicable to Regional Fishery Management Council Grants and Cooperative Agreements, especially with regard to lobbying, and other restrictions with regard to lobbying as specified in § 600.227 of this part.

* * * * *

■ 17. Section 600.227 is added to subpart C to read as follows:

§ 600.227 Lobbying.

(a) Council members, employees and contractors must comply with the requirements of 31 U.S.C. 1352 and Department of Commerce implementing regulations published at 15 CFR part 28, "New Restrictions on Lobbying." These provisions generally prohibit the use of Federal funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with the award. Because the Councils receive in

excess of \$100,000 in Federal funding, the regulations mandate that the Councils must complete Form SF-LLL, "Disclosure of Lobbying Activities," regarding the use of non Federal funds for lobbying. The Form SF-LLL shall be submitted within 30 days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed. The recipient must submit the Forms SF-LLL, including those received from subrecipients, contractors, and subcontractors, to the Grants Officer.

(b) Council members, employees, and contractors must comply with the Federal Cost Principles Applicable to Regional Fishery Management Council Grants and Cooperative Agreements summarized as follows:

(1) Title 2 CFR part 230 - Cost Principles for Nonprofit Organizations (OMB Circular A-122) is applicable to the Federal assistance awards issued to the Councils.

(2) The purpose of the cost principles at 2 CFR part 230 is to define what costs can be paid on Federal awards issued to non-profit organizations. The regulation establishes both general principles and detailed items of costs.

(3) Under 2 CFR part 230, costs for certain lobbying activities are unallowable as charges to Federal awards. These activities would include any attempts to influence:

(i) The introduction of Federal or state legislation;

(ii) The enactment or modification of any pending legislation by preparing, distributing, or using publicity or propaganda, or by urging members of the general public to contribute to or to participate in any demonstration, march, rally, fundraising drive, lobbying campaign, or letter writing or telephone campaign.

(4) Generally, costs associated with providing a technical and factual presentation directly related to the performance of a grant, through hearing testimony, statements, or letters to Congress or a state legislature are allowable if made in response to a documented request.

(5) Costs associated with lobbying to influence state legislation in order to reduce the cost or to avoid material impairment of the organization's authority to perform the grant are also allowable.

■ 18. In § 600.235:

a. In paragraph (a), add paragraph (3) to the definition of "Affected individual", remove the definition of "Financial interest in harvesting,

processing, or marketing", and add definitions for "Financial Interest Form" and "Financial interest in harvesting, processing, lobbying, advocacy, or marketing" in alphabetical order.

b. Revise paragraph (b).

c. Revise paragraph (c)(2) and add paragraph (c)(4).

d. Revise paragraphs (d), (h), and (i).

The revisions and additions read as follows:

§ 600.235 Financial disclosure.

(a) * * *

Affected individual * * *

(3) A member of an SSC shall be treated as an affected individual for the purposes of paragraphs (b)(1), (b)(5) through (b)(7), and (i) of this section.

* * * * *

Financial Interest Form means NOAA Form 88-195, "STATEMENT OF FINANCIAL INTERESTS For Use By Voting Members of, and Nominees to, the Regional Fishery Management Councils, and Members of the Scientific and Statistical Committee (SSC)" or such other form as the Secretary may prescribe.

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 employment with any entity that has any percentage ownership in or by another entity engaging in any harvesting, processing, lobbying, advocacy, 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 employment with any entity that has any percentage ownership in or by another entity that provides equipment or other services essential to harvesting, processing, lobbying, advocacy, 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 any harvesting, processing, lobbying, advocacy, or marketing activities, or companies or other entities providing services essential to harvesting, processing, lobbying, advocacy, or marketing activities in any fishery under the jurisdiction of the Council concerned; and

(iv) Employment with an entity that has any percentage ownership in or by another entity providing consulting, legal, or representational services to any

entity engaging in, or providing equipment or services essential to harvesting, processing, lobbying, advocacy, 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;

(2) Does not include stock, equity, or other ownership interests in, or employment with, an entity engaging in scientific fisheries research in any fishery under the jurisdiction of the Council concerned, unless it is covered under paragraph (1) of this definition. A financial interest in such entities is covered by 18 U.S.C. 208, the Federal conflict-of-interest statute.

(b) *Reporting.* (1) The Magnuson-Stevens Act requires the disclosure of any financial interest in harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction. An affected individual must disclose such financial interest held by that individual; 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. The information required to be reported must be disclosed on the Financial Interest Form (as defined in paragraph (a) of this section), or such other form as the Secretary may prescribe.

(2) The Financial Interest Form must be filed by each nominee for Secretarial appointment to the Council with the Assistant Administrator by April 15 or, if nominated after March 15, one 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.

(3) The Executive Director must, in a timely manner, provide copies of and

updates to the Financial Interest Forms of appointed Council members to the NMFS Regional Administrator, the Regional Attorney who advises the Council, the Department of Commerce Assistant General Counsel for Administration, and the NMFS Office of Sustainable Fisheries. These completed Financial Interest Forms shall be kept on file in the office of the NMFS Regional Administrator and at the Council offices, and shall be made available for public inspection at such offices during normal office hours. In addition, the forms shall be made available at each Council meeting or hearing and shall be posted for download from the Internet on the Council's website.

(4) Councils must retain the Financial Interest Form for a Council member for at least 5 years after the expiration of that individual's last term.

(5) An individual being considered for appointment to an SSC must file the Financial Interest Form with the Regional Administrator for the geographic area concerned within 45 days prior to appointment. A member of the SSC must file an update of his or her statement with the Regional Administrator for the geographic area concerned within 30 days of the time any such financial interest is acquired or substantially changed by the SSC member or the SSC member'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 Regional Administrator by February 1 of each year.

(6) An individual who serves as an SSC member to more than one Council shall file Financial Interest Forms with each Regional Administrator for the geographic areas concerned.

(7) The Regional Administrator shall maintain on file the Financial Interest Forms of all SSC members for at least five years after the expiration of that individual's term on the SSC. Such Forms are not subject to sections 302(j)(5)(B) and (C) of the Magnuson-Stevens Act.

(c) * * *

(2) As used in this section, a Council decision will be considered to have a "significant and predictable effect on a financial interest" if there is a close causal link between the decision and an expected and substantially disproportionate benefit to the financial interest in harvesting, processing, lobbying, advocacy, or marketing of any 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, relative to the financial interests of other participants in the same gear type or sector of the fishery. The relative financial interests of the affected individual and other participants will be determined with reference to the most recent fishing year for which information is available. However, for fisheries in which IFQs are assigned, the percentage of IFQs assigned to the affected individual will be the determining factor.

* * * * *

(4) A member of an SSC is not subject to the restrictions on voting under this section.

(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 identify the financial interest that would be affected.

* * * * *

(h) The provisions of 18 U.S.C. 208 regarding conflicts of interest do not apply to an affected individual who is a voting member of a Council appointed by the Secretary, as described under section 302(j)(1)(A)(ii) of the Magnuson-Stevens Act, and who is in compliance with the requirements of this section for filing a financial disclosure report. The provisions of 18 U.S.C. 208 do not apply to a member of an SSC, unless that individual is an officer or employee of the United States or is otherwise covered by the requirements of 18 U.S.C. 208.

(i) It is unlawful for an affected individual to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required by this section, or to knowingly vote on a Council decision in violation of this section. In addition to the penalties applicable under § 600.735, a violation of this provision may result in removal of the affected individual from Council or SSC membership.

■ 19. 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. 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.

* * * * *

■ 20. Section 600.250 is added to subpart C to read as follows:

§ 600.250 Council member training.

(a) The Secretary shall provide a training course covering a variety of topics relevant to matters before the Councils and shall make the training course available to all Council members and staff and staff from NMFS regional offices and science centers. To the extent resources allow, the Secretary will make the training available to Council committee and advisory panel members.

(b) Council members appointed after January 12, 2007, shall, within one year of appointment, complete the training course developed by the Secretary. Any Council member who completed such a training course within 24 months of January 12, 2007, is considered to have met the training requirement of this section.

[FR Doc. 2010-24222 Filed 9-24-10; 8:45 am]
BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 100120036-0360-02]

RIN 0648-XT99

Fisheries of the Northeastern United States; Black Sea Bass Fishery; 2010 Black Sea Bass Specifications; Emergency Rule Extension; Correction

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

ACTION: Temporary rule; correction.

SUMMARY: On July 7, 2010, NMFS published in the *Federal Register* a temporary rule to extend the emergency action to increase the 2010 black sea bass specifications. The preamble text of that rule incorrectly identified the

revised commercial quota and recreational harvest limit (RHL) based on the increased 2010 black sea bass total allowable landings (TAL). This document corrects those values to ensure that they are consistent with the revised 2010 black sea bass specifications.

DATES: Effective August 10, 2010, through December 31, 2010.

FOR FURTHER INFORMATION CONTACT: Sarah Heil, Fishery Management Specialist, (978) 281-9257.

SUPPLEMENTARY INFORMATION: A temporary rule to extend the emergency action to increase the 2010 black sea bass specifications was published in the *Federal Register* on July 7, 2010 (75 FR 38935). On page 38935 of that rule, the commercial quota is incorrectly listed as 1,813,000 lb (822 mt), and the RHL is listed as 1,887,000 lb (856 mt). The corrected values for these specifications are as follows: The commercial quota is 1,758,610 lb (798 mt) and the RHL is 1,830,390 lb (830 mt).

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator (AA) for NOAA, Fisheries finds good cause to waive prior notice and opportunity for additional public comment for this action because any delay of this action would be contrary to the public interest. This rule corrects the commercial quota and RHL values published in the *Federal Register* on July 7, 2010 (75 FR 38935), as part of the extension to the emergency rule to increase the 2010 black sea bass specifications. The measures in the extension to the emergency rule, published in the *Federal Register* on July 7, 2010, were intended to be the same as those published in the initial emergency action on February 10, 2010 (75 FR 6586). However, the extension to the emergency rule incorrectly identified the revised commercial quota and RHL values based on the increased 2010 black sea bass TAL. To delay this correction notice would cause confusion over the revised 2010 black sea bass specifications because of the disparity between the revised specifications and the commercial quota and RHL values that were incorrectly identified in the extension to the emergency rule. Immediate publication of the corrected commercial quota and RHL will rectify any confusion on the revised 2010 black sea bass specifications. For the reasons provided above, the AA also finds good cause, pursuant to 5 U.S.C. 553(d)(3), to waive the 30-day delayed effective period for this correction.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

This final rule is exempt from review under Executive Order 12866.

Correction

Accordingly, the final rule FR Doc. 2010-16498, published on July 7, 2010 (75 FR 38935), is corrected as follows:

1. On page 38935, In the second column, in the first full paragraph, in the twentieth line, "1,813,000 lb (822 mt)," is corrected to read "1,758,610 lb (798 mt)," and in the twenty-second line, "1,887,000 lb (856 mt)," is corrected to read "1,830,390 lb (830 mt),".

Dated: September 21, 2010.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2010-24219 Filed 9-24-10; 8:45 am]
BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0910051338-0151-02]

RIN 0648-XZ07

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Trip Limit Reductions and Gear Modifications for the Common Pool Fishery

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

ACTION: Temporary rule; inseason adjustment of landing limits and gear requirements.

SUMMARY: This action decreases the landing limits for Gulf of Maine (GOM) cod to 100 lb (45.4 kg) per days-at-sea (DAS) up to 1000 lb (453.6 kg) per trip, Georges Bank (GB) yellowtail flounder to 100 lb (45.4 kg) per trip, and white hake to 100 lb (45.4 kg) per DAS up to 500 lb (226.8 kg) per trip; expands the trawl gear restriction in the U.S./Canada Management Area to include the entire Western U.S./Canada Area; and authorizes the use of the rope separator trawl in the Western U.S./Canada Area for NE multispecies vessels fishing in the common pool for the remainder of



United States Department of the Interior

FISH AND WILDLIFE SERVICE

1011 E. Tudor Road
Anchorage, Alaska 99503-6199



PLEASE REFER TO FWS/AFES

SEP 28 2010

RECEIVED
SEP 29 2010

Chris Oliver, Executive Director
North Pacific Fishery Management Council
605 West 4th, Suite 306
Anchorage, Alaska 99501-2252

Dear Mr. Oliver:

This letter is to inform you of changes to the U.S. Fish and Wildlife Service representation on the North Pacific Fishery Management Council. Greg Balogh, our current representative, has moved to a new position within the Service and will be unable to continue his functions on the Council beyond the upcoming October meeting. Denny Lassuy, with our Alaska Regional Office Fisheries and Ecological Services Program, will serve as my alternate representative on the Council thereafter. Don Rivard, with our Office of Subsistence Management, may continue to occasionally represent the Service for specific agenda items important to federal subsistence fishery management. Denny will be prepared to participate in the December, 2010, meeting in Anchorage.

Please contact Denny Lassuy at (907)786-3813 with any questions or concerns.

Sincerely,

E. Andrew Smith
Acting Regional Director

Alaska Seafood Marketing Institute (ASMI)

Responsible Fisheries Management Certification for Alaska Fisheries

BRIEFING NOTE FOR FISHERY MANAGERS

Under an ASMI initiative, Alaska fisheries will enter assessment for third party, independent certification against the criteria and principles of the United Nations Food and Agriculture Organization Code of Conduct for Responsible Fisheries ("FAO Code").

This briefing note is intended to provide fishery managers and associated fishery participants, guidance on the types of information that will be useful to the assessment and on carrying out meetings and consultations with fishery managers and associated fishery participants.

The intention of certification is to provide a third party process by which Alaska fishery managers can proactively demonstrate responsible management and sustainable utilization of Alaska's fishery resources. The certification will be conducted by Global Trust Certification Ltd., under contract to ASMI, and the assessment will follow a number of consecutive steps:

STEP 1:	Information Collection, Review and Stakeholder Identification
STEP 2:	Fishery Consultation and On-site Information Collection/verification
STEP 3:	On-going Verification /Information Review and Assessment Reporting
STEP 4:	Peer Review
STEP 5:	Final Report and Certification

Step 1 constitutes the information collection, fishery overview and assessment planning. Step 2 will form part of the more detailed interrogation and verification of fishery management systems, and fishery operations. This will involve on-site consultation with the key management organizations and practitioners of the fishery in order to gather relevant information for carrying out the assessment. It is likely that later steps (3) will require further consultation with fishery managers and participants where clarification may be required. After an independent Peer Review (4), there may be a requirement for further consultation on certain items raised during this step in the process.

The on-site consultation phase will be carried out by Global Trust auditors in a professional, expedient, and courteous manner so as to facilitate the exchange of information relevant and helpful to the assessment and verification process.

The primary goal is to collect the information needed to conduct a robust assessment of the fishery.

On-site Consultation Planning

The assessment process will require that a series of on-site visits and meetings with staff of fishery organizations are conducted. A broad plan is to commence the on-site consultation step between May and June of this year for the first fisheries for assessment. Further details will be presented to fishery managers and participants to allow for planning and preparation.

Objective of Consultation Meetings

The objective of the consultation meetings is to allow those directly connected with the fishery to contribute to the assessment process by submitting information and expert knowledge on the management practices of the fishery. First hand information gathered through consultation and 'witnessed-assessment' is a valuable part of the process for verification of responsible fishery management practice against the FAO Code.

Examples of Types of Fishery Information

The assessment of Alaska fisheries will require a variety of information types and sources to be reviewed and assessed as part of the process of verifying compliance to the FAO Code. Examples of the type of information include:

- Information on the implementation of federal and state fishery statutes and regulations for the allocation and management of fishery resources.
- Information on the implementation of federal and state statutes and regulations that have bearing on the management of Alaska fisheries.
- Fishery Management Plans – e.g. North Pacific Management Council GOA fishery management plans and BSAI groundfish fishery management plans (FMPs); ADFG Salmon Enhancement Plans, Annual Management Plans & Reports and News Releases.
- Harvest data - e.g. ADFG Alaska catch, effort and ex-vessel value data and reports, NPFMC economic status sections of SAFE reports.

- Examples of official records of fishing activities- vessel fishing logs, NMFS Weekly Reports, ADFG Fish Tickets, at sea observer logs and reports.
- The activities and output of fishery stock survey and assessments – e.g. ADFG Salmon forecasts, NPFMC Stock Assessment & Fishery Evaluation (SAFE) reports, NMFS Reports on Fishery Assessments.
- Additional and connected survey, scientific assessment and studies concerning reports on the fishery and the ecosystem important for the responsible management of stocks.

Use of Information

It is important to stress that information gathered during the on-site consultation step will be treated respectfully and used only for the purposes for carrying out the assessment. The information will be evaluated and reported upon as part of the Final Assessment Report for Certification. Unless expressly stated by the fishery stakeholder, information will be referenced in the final report either as a reference to a specific document or printed material or in the form of outcomes of each consultation meeting. Circumstances where a fishery manager or participant has expressed a need for confidentiality will be treated with the utmost respect by Global Trust.

For Further Information

The ASMI website has a certification page: (www.alaskaseafood.org/sustainability/certification.html) where further information will be made available in order to keep managers informed and up-dated on the progress of the assessments.

Contacts

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Julie McDonald
Program Administrator
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 juliemcdonald@gtcert.com

**DRAFT NOAA Guidance on Implementing the
“Avoid Harm” Provisions of the MPA Executive Order 13158
October 4, 2010**

I. Background and Purpose:

In May 2000, President William Jefferson Clinton signed Executive Order 13158 (the Order) to establish and strengthen a National System of MPAs. The Order lays out a number of provisions including Section 5 regarding a Federal agency’s responsibilities to avoid harm. Section 5 states:

“Agency Responsibilities. Each Federal Agency whose actions affect the natural or cultural resources that are protected by an MPA shall identify such actions. To the extent permitted by law and to the maximum extent practicable, each Federal agency, in taking such action, shall avoid harm to the natural and cultural resources protected by an MPA. In implementing this section, each Federal agency shall refer to the MPAs identified under Subsection 4 (d)”.

NOAA will be held accountable for complying with all provisions, including the avoid harm provisions, according to Section 6 of the Order, which states:

Accountability. Each Federal agency that is required to take actions under this order shall prepare and make public annually a concise description of actions taken by it in the previous year to implement the order, including a description of written comments by any person or organizations stating that the agency has not complied with this order and a response to such comments by the agency.

Section 5 of the Order was further interpreted in Section V.D. of the 2008 *Framework for the National System of Marine Protected Areas of the United States of America* (Framework), which lays out five components towards implementation of the avoid harm provision of the Order. The Framework also clarifies that each Federal agency is responsible for its own implementation of the avoid harm provision. The five components identified in the Framework are:

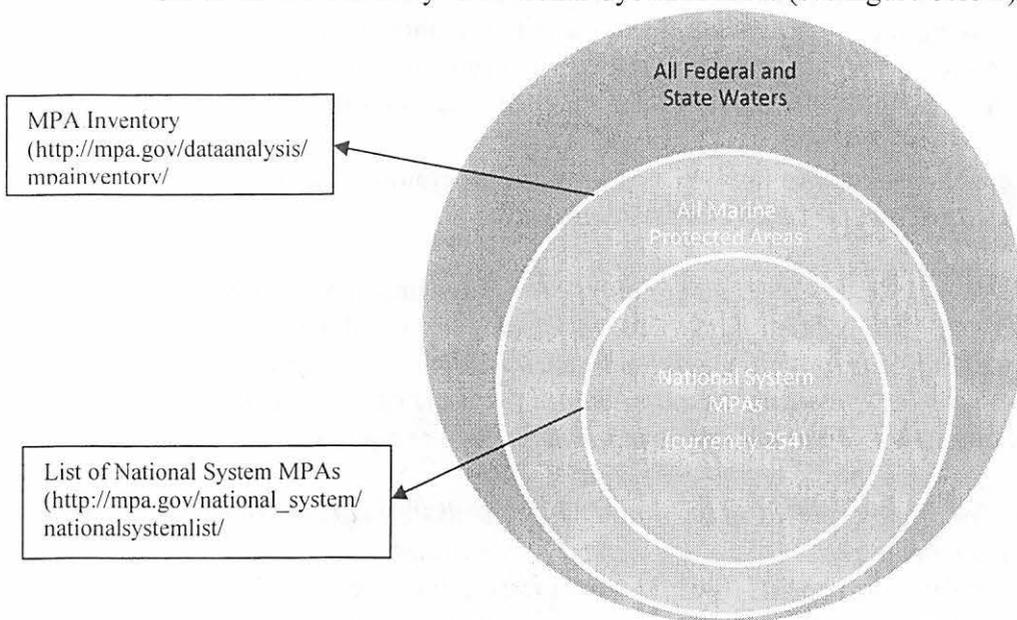
- The MPA Center will collect, maintain, and make publicly available via the MPA Center’s website all relevant regulatory and resource information for MPAs that are subject to agency requirements under Section 5, in the form of a list of National System MPAs.
- Federal agencies shall 1) identify their activities that affect the natural or cultural resources protected by individual national system MPA and 2) to the extent permitted by law and to the maximum extent practicable avoid harm to those resources. Both should be accomplished through existing management or review authorities. (Section V.D. of the Framework).
- Federal agencies will report their actions to implement Section 5, any comments received and responses to such comments as required by Section 6 of the Order. Comments and responses will be made available annually via www.mpa.gov.
- The MPA Center will, upon request, facilitate support for policy and coordination assistance through existing agency review processes.

- As needed, the MPA Center, working with federal agencies, will produce voluntary technical guidance and best practices on priority issues to assist federal agencies in their determination of impacts to marine resources protected by the national systems MPA and options for avoiding harm.

The purpose of the following guidance is to establish how NOAA will implement the avoid harm provisions of the Order and the Framework in the context of NOAA actions, authorities, and requirements.

II. Programmatic Scope:

The scope of NOAA's Guidance to implementing the "Avoid Harm" provisions of the Order is relevant only to National System MPAs (see figure below).



The requirement to avoid harm applies to natural and cultural resources identified for protection by the MPA managing entity's authorizing legislation, regulations and/or management plans. For example, in a national system MPA established solely and expressly to protect benthic resources, activities that only affect pelagic species would probably not be considered subject to the "avoid harm" requirement.

Compliance with this Guidance does not relieve any agency of any other legal consultation requirements to protect MPA resources (see Attachment 3 for a list of authorities governing NOAA MPAs in the National System). In order to streamline the review process, MPA management agencies may integrate this guidance into their existing permit and consultation processes.¹ Federal action agencies subject to the Avoid

¹ For example, NOAA programs proposing to take actions affecting any National Marine Sanctuary will engage the Office of National Marine Sanctuaries in consultation pursuant to Section 304(d) of the National Marine Sanctuaries Act.

Harm provisions of the Order should refer to the MPA List for information on authorities governing National System MPAs.² Federal action agencies should also refer to Appendix 3 for a list of authorities and existing consultation processes governing NOAA-managed MPAs in the National System, and contact that agency directly for further information about specific requirements of that MPA management authority.

III. NOAA's roles and responsibilities:

NOAA potentially plays three different roles in implementing the "avoid harm" provisions of the Order:

1. As an agency that authorizes and/or permits activities in National System MPAs, NOAA is a Federal agency that may cause and avoid harm to its own National System MPAs or National System MPAs managed by another state, territorial, local, tribal, or Federal agency.
2. As an agency that manages MPAs in the National System of MPAs, NOAA plays a role in protecting and avoiding harm to the resources protected by of those MPAs.
3. As the agency charged with coordinating the Order's directive through the National MPA Center, NOAA's role is also to report on its own efforts to avoid harm to resources protected by the MPAs and to compile a consolidated report on all Federal agencies efforts to avoid harm.

IV. Definitions:

In implementing the avoid harm provision of the Order, NOAA defines the following terms. The definitions used in this document may not mirror identical or similar terms used under other mandates such as the Coastal Zone Management Act, Marine Mammal Protection Act, Magnuson Steven's Act, Endangered Species Act, etc.

- "actions": means proposed activities authorized, funded, or undertaken by NOAA.
- "affect": means having greater than minimal adverse effects to MPA resources, individually or cumulatively.
- "avoid harm to the maximum extent practicable" – means apply the variety of factors at the agency's discretion to minimize adverse effects to MPA resources.
- "MPA resource": means natural or cultural resource identified for protection by the MPA managing entity's authorizing legislation, regulations and/or management plan.

² This information is available at http://mpa.gov/national_system/nationalsystemlist. Information on authorities is currently incomplete, but is being updated in 2010.

V. Guidance to document and avoid harm to the maximum extent practicable in MPAs

1. Prior to taking any action that could affect MPA resources, NOAA offices/programs should use Attachment 1 to document that the following steps were taken to avoid harm to the maximum extent practicable to MPA resources.
 - a. NOAA will avoid harm to the maximum extent practicable caused by proposed NOAA actions to all MPA resources in conjunction with implementing existing NOAA mandates. NOAA will document its efforts to avoid harm by using, whenever possible, existing environmental review processes and requirements. For NOAA actions that may cause harm to a NOAA-managed MPA resource, NOAA will seek to resolve any potential conflicts between NOAA programs using established NOAA-internal coordination procedures.
 - b. When considering an action that could affect MPA resources managed by NOAA or other agencies, NOAA will take the following steps:
 - i. NOAA will identify its proposed actions that affect MPA resources.
 - ii. NOAA will identify and document any adverse effects of a proposed NOAA action on MPA resources, document the steps NOAA has taken to minimize adverse effects to MPA resources, and conclude whether or not NOAA has avoided harm to MPA resources to the maximum extent practicable. NOAA will document its conclusion regarding whether or not it avoided harm to the maximum extent practicable in the Record of Decision for all final actions and send copies of these records to the National Marine Protected Areas Center. See Attachment 1.
 - iii. NOAA should reference the regulations or management plans that established the MPA as the definitive source for determining MPA resources. NOAA may use information about MPA resources that will be posted at www.mpa.gov as a first step for determining the effects of the NOAA action on MPA resources. NOAA programs should also contact the relevant MPA managers potentially affected by its proposed action to inform them about the proposed action and any associated agency or public comment opportunities and, where appropriate, consult with them regarding measures to avoid harm.
 - iv. If NOAA determines it cannot avoid harm, it should explain the reason.

2. If NOAA concludes that another Federal action agency has failed to avoid harm to the maximum extent practicable to a NOAA-managed MPA resource, as defined by this guidance, NOAA should articulate its determination to the Federal action agency and propose recommendations to alter the proposed action to avoid harm to the maximum extent practicable to the NOAA-managed MPA resources. In carrying out this responsibility, NOAA should consider the following:
 - a. NOAA should transmit its recommendations to the Federal action agency as soon as practicable, in time to maximize the influence of NOAA's recommendations on the proposed Federal action.
 - b. NOAA's recommendations should include a determination that the action agency's proposed action will fail to avoid harm to the maximum extent practicable and provide a justification for that conclusion.
 - c. NOAA's recommendations may include a range of options that NOAA believes are appropriate to avoid harm to NOAA MPA resources to the maximum extent practicable, including changes to the proposed action to minimize its adverse effects or recommendation that the proposed action not be taken.
 - d. NOAA should reference the regulations or management plans that established the MPA as the definitive source for determining MPA resources. NOAA's recommendations may also reference information about MPA resources that will be posted at <http://mpa.gov/nationalsystem/nationalsystemlist/>.
 - e. NOAA should avoid any duplication of effort, and should use existing interagency consultation procedures as appropriate (e.g., NEPA commenting procedures, Endangered Species Act consultation procedures, section 304(d) of the National Marine Sanctuaries Act).
 - f. NOAA may use language contained in Attachment 2 as a template.
 - g. If more than one NOAA program is involved in reviewing an agency action under this section, the MPA Center will consolidate comments from NOAA offices/programs and transmit them to the other Federal action agency relative to this guidance. This coordination will minimize the chances of NOAA issuing conflicting comments about MPA resource impacts. If only one NOAA program is reviewing an agency action under this section, that program will copy the MPA Center on all comments provided.

VI. Guidance for NOAA on identifying MPA resources

The MPA Framework requires the MPA Center to “collect, maintain, and make publicly available via the MPA Center’s website all relevant regulatory and resource information for MPAs that are subject to agency requirements under Section 5, in the form of a list of National System MPA.” To that end, NOAA, as coordinator of the MPA Center, with the Department of Interior, will ask all agencies that manage national system MPAs to provide a list of resources protected by the MPA. The agency should also provide the reference to the authorizing regulation or management plan that identifies those MPA resources. This information will be displayed in the existing List of National System Marine Protected Areas located at (<http://mpa.gov/nationalsystem/nationalsystemlist/>) and will be available to inform NOAA and other federal agency actions related to the requirement to avoid harm to MPA resources.

Attachment 1:

DETERMINATION OF COMPLIANCE WITH SECTION 5 OF THE MPA EXECUTIVE ORDER 13158 (TO BE APPENDED TO ANY NOAA FINAL RULE PACKAGE OR NOAA ACTION)

Insert the following language into clearance package for all RODs.

Pursuant to Section 5 of the MPA Executive Order 13158 regarding NOAA's obligation to avoid harm to National System MPA resources to the maximum extent practicable, [NOAA Line Office] has determined that:

Section [reference appropriate section] of [identify the appropriate documents] identifies adverse effects of this action to MPA resources. These resources include [list resources] of [list National System MPA(s)]. NOAA has assessed those impacts [reference appropriate document] and based on that assessment [NOAA Line Office] has determined [reference the analysis] that the [final action]:

- Will avoid harm to the extent permitted by law and *to the maximum extent practicable* to National System MPA resources because 1) it will result in no greater than minimal adverse effects to National System MPA resources, individually or cumulatively, or 2) *NOAA has applied the variety of factors at its discretion to minimize the adverse effects to National System MPA resources.*

[If avoidance of harm is constrained by law, identify the law and explain the constraint.]

Attachment 2:

TEMPLATE LANGUAGE NOAA OFFICES/PROGRAMS MAY USE TO NOTIFY ANOTHER FEDERAL ACTION AGENCY OF POTENTIAL HARM TO NOAA-MANAGED MPA RESOURCES.

NOAA should, whenever possible, provide the following comments in conjunction with existing agency or public commenting mechanisms (e.g. NEPA comments and/or Endangered Species Act, Magnuson Act, National Marine Sanctuaries Act, Coastal Zone Management Act consultations).

Pursuant to Section 5 of Executive Order 13158 requiring Federal agencies to avoid harm to National System MPAs, NOAA provides the following comments. NOAA believes [name Federal agency] proposed action to [describe proposed action] would harm NOAA-managed MPA resources because [provide justification and explanation for NOAA's determination]. NOAA recommends that the [action agency] take the following steps to protect MPA resources pursuant to Executive Order 13158. [NOAA recommendations may include changes to the proposed action to minimize its effects or recommendation that the proposed action not be taken].

Attachment 3:

LEGAL AUTHORITIES FOR NOAA-MANAGED MPAS IN THE NATIONAL SYSTEM OF MPAS

This list will be updated as new MPAs are added the national system. As of June 2010, the legal authorities for NOAA-managed sites are:

(NEED TO ADD CITATION FOR SANCTUARIES, NATIONAL ESTUARINE RESEARCH RESERVES)

[Fwd: Avoid Harm for the Council's comments]

Subject: [Fwd: Avoid Harm for the Council's comments]

From: William Chappell <William.Chappell@noaa.gov>

Date: Mon, 04 Oct 2010 14:51:23 -0400

To: Paul Howard <PHoward@NEFMC.ORG>, Christopher M Moore <Christopher.M.Moore@noaa.gov>, Bob Mahood <robert.mahood@safmc.net>, Miguel Rolon <miguel_rolon_cfm@yahoo.com>, Steve Bortone <Steve.Bortone@gulfcouncil.org>, Donald McIsaac <Donald.McIsaac@noaa.gov>, Chris Oliver <chris.oliver@noaa.gov>, Kitty Simonds <Kitty.Simonds@noaa.gov>

CC: Emily Menashes <Emily.Menashes@noaa.gov>, Carrie Selberg <carrie.selberg@noaa.gov>, Heather Sagar <Heather.Sagar@Noaa.Gov>, Lauren Wenzel <Lauren.Wenzel@noaa.gov>

All

Attached is the "DRAFT NOAA Guidance on Implementing the Avoid Harm Provisions of the MPA Executive Order 13158". NOAA has developed the guidance to describe how it intends to implement the "avoid harm" provision of E.O. 13158. We would appreciate Fishery Management Council review and comment by October 18, 2010.

Please send your comments to Lauren Wenzel and Heather Sagar at the e-mail addresses above/below.

Respectfully,
Bill C.

----- Original Message -----

Subject: Avoid Harm for the Council's comments

Date: Mon, 04 Oct 2010 11:12:43 -0400

From: Heather Sagar <Heather.Sagar@Noaa.Gov>

To: William Chappell <William.Chappell@noaa.gov>, Emily Menashes <Emily.Menashes@noaa.gov>, Carrie Selberg <carrie.selberg@noaa.gov>

CC: Lauren Wenzel <Lauren.Wenzel@noaa.gov>

Morning Bill-

Could you please send the attached "DRAFT NOAA Guidance on Implementing the *Avoid Harm* Provisions of the MPA Executive Order 13158"

to Councils and request comments be sent to Lauren Wenzel and me by 10/18/10. This has been an issue the Councils have been very interested in and are looking forward to their suggestions.

Thanks-
Heather

--
Heather Sagar
Office of the Assistant Administrator
NOAA's National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910
Phone: (301) 713-2239

--
William D. Chappell
Chief, Regulatory Services Division (F/SF5)
NOAA Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910
Phone: 301-713-2337x169
Fax: 301-713-1175

Draft NOAA Guidance - Avoid Harm to NS MPAs 10-4-10.docx	Content-Type: application/vnd.openxmlformats-officedocument.wordprocessingml.document
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North Pacific Fishery Management Council

Eric A. Olson, Chairman
Chris Oliver, Executive Director



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Visit our website: <http://www.alaskafisheries.noaa.gov/npfmc>

February 19, 2010

Mr. Douglas Mecum
Acting Regional Administrator
National Marine Fisheries Service
P.O. Box 21668
Juneau, AK 99802-1668

Dear Mr. Mecum:

At its February 2010 meeting, the North Pacific Fishery Management Council received briefings on the schedule for the upcoming draft *status quo* Biological Opinion (BiOp) and a report from its Steller Sea Lion Mitigation Committee (Committee). We also reviewed NMFS' response to our previous request for input on the Center for Independent Experts' (CIE) terms of reference for their pending review of the draft BiOp. Based on discussions during that February meeting, the Council expressed some overarching perspectives that we believe are critical to the Council's potential involvement in development of RPAs for the 2011 fishing year, depending on the findings in the draft BiOp; i.e., if the BiOp contains a jeopardy and/or adverse modification (JAM) determination.

The Council tasked its Committee with reviewing the draft Biological Opinion at its March 9-12, 2010 meeting in Juneau. The Committee will provide comments on the BiOp to the Council at its April 2010 meeting, which may inform the Council's development of comments on the draft BiOp to NMFS. Further, the Committee is tasked with commenting on the feasibility of the Council developing appropriate SSL mitigation measures (RPAs) given the content and findings of the draft BiOp. Key to this feasibility is the level of definition of any performance standards included in the draft BiOp. If the performance measures are overly prescriptive, it will not be useful to engage the Committee and Council process in the development of potential RPAs. Conversely, any performance measures will need to provide the Council and its Committee enough definition of problem areas to allow us to craft responsive management actions. It is the Council's intent, upon consideration of the Committee comments and recommendations, to decide whether or how to further engage the Committee and the Council process in the development of potential SSL mitigation measures for the 2011 fishing year.

The Council also requests that NMFS prepare a concise white paper that would be made available concurrently with the draft BiOp, which would clearly describe the methodology NMFS is using to determine the current status (total count) of Western Distinct Population Segment (DPS) SSLs relative to the downlisting criteria in the Final Steller Sea Lion Recovery Plan, including:

- The specific methodology used in the Recovery Plan to determine the 42,500 animal baseline found in downlisting criterion 1 (Recovery Plan, p. xiii).

- The specific methodology used to establish the 53,100 animal target set for 2015, described in downlisting criterion 1.
- A clear determination of the current status of the WDPS as gauged against these criteria by applying the specific methodology used to calculate the 42,500 animal baseline.

If this information is clearly discernable in the draft BiOp, a separate white paper may not be necessary. However, the Council believes this information is critical to framing the information and findings in the draft BiOp.

Finally, the Council wishes to express its appreciation for the opportunity to comment on the Center for Independent Experts (CIE) Statement of Work (SOW) and Terms of Reference (TOR). The Council's SSC also provided comments on the SOW and TOR for consideration by the Council. The SSC's comments are incorporated as appropriate in the Council's comments provided here. The Council offers the following comments to improve the CIE process by focusing the review more on the science and its interpretation, and by enhancing the transparency of the review:

- a) The Council reiterates its request of December 23, 2009 to modify the review schedule to allow the public, SSLMC, SSC, and Council the opportunity to review and comment on the draft BiOp prior to the CIE review. The TOR and SOW should be modified to task the reviewers to consider any such comments in their review of the draft BiOp. The intent is not for separate input to the CIE from the various bodies, but that the Council would be the vehicle to synthesize that input and forward to NMFS and the CIE.
- b) The Council recommends that the TOR and SOW be modified to request the CIE to review and consider all of the science relevant to the analysis of factors affecting the status and recovery of the WDPS, not just the science provided in the draft BiOp to support its conclusions. The CIE reviewers should be tasked to assess, among other things, the information provided to the SSLMC at its January 2010 meeting. This information, including the minutes from the recent SSLMC meeting, should be made available to the reviewers prior to the review. Preparation of a comprehensive bibliography of relevant research may be necessary to fulfill this recommendation.
- c) The Council recommends that the TOR and SOW be modified to specifically task the CIE to review the relevant genetic papers, brand re-sight data, survey counts, and other relevant data on EDPS animals that may be found within the range of the WDPS, and WDPS animals that may be found within the range of the EDPS, and to make a recommendation on how these animals be counted when the agency calculates the WDPS population.
- d) The Council recommends that the TOR and SOW be modified to task the CIE to assess the relationship between population trends and downlisting criteria, and whether there are factors (other than fishing) affecting the recovery of the WDPS, including predation, changes in the ecosystem/carrying capacity, emigration, or other factors that should be taken into account.
- e) The Council concurs with the recommendation of the SSC regarding pre-review documents and further recommends that the background materials provided to the CIE reviewers include the studies and reports provided to the SSLMC at its January 2010 meeting, along with the genetic, brand re-sight data, and other scientific information or studies identified above. The

Mr. Doug Mecum
February 19, 2010

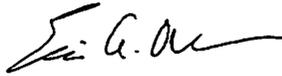
Page 3

basic analyses and data should also be provided to the CIE reviewers for studies such as the Fishery Interaction Team (FIT) analysis presented to the SSLMC, not just the Powerpoint presentations. These materials should be provided to the CIE reviewers well before the CIE begins its work in order to provide time for a thorough review.

- f) The Council concurs with the comments by the SSC regarding the requirements for CIE reviewers, pre-review documents, and the SSC's suggestion for revising the second bullet under item 3 in the TOR.
- g) The Council also concurs with the recommendations by the SSC regarding the schedule of milestones and deliverables (although specific dates may need to be adjusted to conform to the schedule), and further recommends that the CIE schedule be modified to provide the CIE reviewers adequate time to perform their reviews. Currently the SOW indicates that the reviewers will have a maximum of 10 days to complete the review.

The Council appreciates the work conducted by NMFS to complete the draft BiOp, and particularly for accommodating our request to comment on the CIE review process. The above information will greatly assist the Council as it reviews the draft BiOp. Moreover, the suggested revisions to the CIE review process, Terms of Reference, and Statement of Work will significantly enhance the transparency and scope of the review process. We believe that accommodation of our requests is critical to the review of the draft BiOp. Please contact me or the Council's Executive Director if you have any questions regarding these requests.

Sincerely,



Eric Olson
Chairman

Cc: Dr. James Balsiger
Dr. Douglas DeMaster
Ms. Kaja Brix



**UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration**

*National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668*

January 22, 2010

Eric Olson
Chair, North Pacific Fishery Management Council
605 W 4th Ave Suite 306
Anchorage, AK 99501-2252

Dear Mr. Olson:

Thank you for your letter requesting additional information from the National Marine Fisheries Service (NMFS) in regard to the upcoming groundfish status quo Biological Opinion (BiOp). We address below the points raised by your letter as you enumerated them (in italics, with responses in regular type).

1. *The Council requested input to the draft Terms of Reference (TOR) for the Center for Independent Experts (CIE) review of the BiOp.* NMFS is attaching the TOR for your review and comment. As you are aware, NMFS intends to have the CIE review the rationale and information used to support the conclusion in the BiOp, but not the conclusion itself.
2. *The Council requested that the BiOp schedule allow for public and Council review prior to the CIE review.* NMFS can accommodate this request by releasing the BiOp to the public and the Council prior to the CIE review. We can charge the CIE with review of the information contained in the BiOp and additional information, recognizing that this format may delay the finalization of the BiOp and implementation of any changes that may need to be made to the fisheries. NMFS is using all of the best available information in the analyses conducted in the BiOp.
3. *Will the Agency be using the downlisting criteria as guidance for the analysis in the consultation?* NMFS will use the Recovery Plan and the downlisting criteria contained within that plan as a general framework for assessing the capacity of the population, and the habitat that supports that population, recover.
4. *The Council asked the Agency to provide the years we will use to measure performance of the current SSL protection measures i.e., are we using the base year of 2000 to measure SSL trends.* The trend in abundance of SSL is based on data collected over approximately 30 years. It is this overall trend that provides indication as to the trajectory of the population. A subset of years may be informative for some purposes but will not be the sole basis by which the population is measured.



5. *With respect to trends in wSSL non-pup abundance, NMFS reported at the Council's February 2009 meeting that the trends across the range were an overall 14% increase over the period 2000 to 2008, or an annual increase of 1.7%. At that time, NMFS posed a hypothesis that the counts in the eastern portion of the wSSL range were inflated due to animals from the eSSL moving west to Kayak Island or other nearby areas. Partial counts were done in the summer 2009, and NMFS is now reporting that the overall increase in the wSSL population may be around 12% or a 1.4% annual rate of increase. NMFS further reported that genetics or tagging work is needed to confirm the hypothesis. Since the 1.4% number is linked to a hypothesis, will the 1.7% increase measured last year be used in the BiOp?*

The results of the summer 2009 non-pup survey in the northern Gulf of Alaska supported the hypothesis that there was an early summer movement of sea lions between SE Alaska (eastern stock) and the Prince William Sound area (western stock) in 2008 that affected trend analyses in both stocks. The analysis used in the new Biological Opinion will use the most up to date information available. The trend will be calculated through 2008, but will use the information obtained in 2009 on seasonal movements between stocks that resulted in the 12% overall increase between 2000 and 2008. However, it should be noted that both of the estimated annual rates of population change between 2000 and 2008 (1.4% per year using the 2009 information to adjust the 2008 counts, and 1.7% per year using the unadjusted 2008 data) are not significantly different from 0 and as such do not meet the recovery criteria noted in the 2008 Steller Sea Lion Recovery Plan.

Also, how will the wSSL animals (as determined by genetics and brand/resight data) found in the eSSL region be accounted for in wSSL trends used in the BiOp? For example, there are two rookeries (Graves and White Sisters) in the eSSL range where genetic samples and observations of branded animals indicate that 60% and 40%, respectively, of these animals and their pups are of wSSL origin. Are these females and their pups accounted for in the 1.7% annual rate of increase for pups and non-pups in the wSSL population?

NMFS will determine SSL stock trends based on counts of pups and non-pups on terrestrial sites during the breeding season within the designated ranges of the eastern and western stocks (E and W of 144°W, respectively), as modified by any information on seasonal movement across stock boundaries. The survey counts report the number of Steller sea lions (pups and non-pups) counted in aerial photos taken of particular rookeries and haulouts. The rookeries and haulouts are grouped by region and ultimately by stock. The genetic makeup of the animals at the time they are photographed is unknown and has never been included in these counts.

6. The 2008 SSL Recovery Plan reported the total U.S. non-pup wSSL population at 42,500 animals. How was this calculated considering the issues described in No. 5 above? What would this total U.S. non-pup wSSL population number be today if calculated using this methodology.

The number reported in the 2008 SSL Recovery Plan is 45,000. This is an estimate of the total western Steller sea lion population (pup and non-pup) in Alaska in 2005. It was based on the number of pups counted in aerial photographs in 2005 (9,950) multiplied by 4.5 (rounded to the nearest 1000). Using the 2009 pup production estimate (11,120) and the same methodology, the total western SSL population in Alaska is estimated to be 50,000 in 2009. The issues described in No. 5 do not affect these total population estimates because they are based on pup counts not non-pup counts, which are the subject of No. 5. The 4.5 multiplier on pup production comes from a life table of a stable equilibrium Steller sea lion population derived by Calkins and Pitcher (1982). It is the total number of sea lions (pups and non-pups) divided by the number of pups. Any pup multiplier based on a life table is only valid for use in estimating total population size if the underlying vital rates (survival and natality) that form the basis of the life table are known. In the case of the western SSL population in AK, the vital rates within each region are not known. It is for this reason that NMFS determines wSSL status by monitoring trends in pups and non-pups at key sites across the range rather than by estimating changes in total population size.

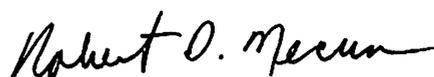
- 7. The Council requested the fishery catch data as used in the BiOp. Those tables are available and will be provided to the Council electronically with submission of this letter. NMFS began to look at these catch data in response to the Council's request to reinitiate consultation on the federal groundfish fisheries.*
- 8. NMFS reported on its plans for future SSL survey and other research. It appears that NMFS is planning to devote the majority of its resources to continued investigations in the Northern Gulf of Alaska including branding and genetics work. The Council requests that, instead of continuing to focus on this region, that emphasis be placed on filling the gaps in the western and central Aleutian Islands where surveys have not been completed in several years. In addition, SSL natality studies in areas such as the eastern Aleutian Islands would be useful; these data could be used to compare natality rates with other areas of the wSSL in an attempt to better understand the dynamics of pup production and survival.*

NMFS agrees that the Western and Central Aleutian Islands require the most attention as they are the areas showing the greatest and most rapid population declines. NMFS will continue to conduct annual aerial surveys of the entire western stock including the areas in question. The inability to complete these surveys in these areas in recent years has not been due to research focus. Rather, logistical difficulties such as weather delays, mechanical breakdowns,

and most recently the closure of the Shemya airstrip have limited the survey extent.

NMFS is continuing to study vital rates, including natality, of Steller sea lions in the eastern Aleutian Islands (as well as in the central and eastern Gulf of Alaska) as part of a brand-resighting program. Permanent marking of pups was reinitiated in the western stock in 2000 in the central Gulf of Alaska, and in 2001 in the eastern Aleutians and eastern Gulf. Therefore, the oldest marked sea lion currently alive in the eastern Aleutians is only 8 years old. Female Steller sea lions can become sexually mature at 3 years old (at the earliest) and first give birth at age 4, but only a small fraction (<10%) develop this quickly. Prime breeding ages for Steller sea lion females occur between 6 and 20 years old. Consequently, any study of sea lion natality rates in the western stock has just begun, since marked females are just now entering their prime breeding ages. NMFS has not had the opportunity to capture adult females for study over the last several years because of permitting issues, but is now actively developing new capture and analytic methods to directly measure female sea lion condition and reproductive status. NMFS hopes to test these techniques during the next several field seasons within the range of the wSSL. However, it is not expected that these new methods and capture techniques will provide significant new information for at least the next several years due to limited sample sizes. It is for this reason that continued study of the large number of permanently marked animals is critical.

Sincerely,



Robert D. Mecum
Acting Administrator, Alaska Region

Attachments:
TOR for CIE review
Fishery Catch Tables- electronically

cc: Jim Balsiger
Sam Rauch
Jim Balsiger
Kaja Brix
Sue Salveson
John Lepore

Statement of Work
(Subtask T007-04, 11 December 2009)

External Independent Peer Review by the Center for Independent Experts

Review of the 2010 Draft National Marine Fisheries (NMFS) Biological Opinion on the Effects of the Bering Sea/Aleutian Islands and Gulf of Alaska Federal Groundfish Fisheries and the State of Alaska Parallel Fisheries on ESA Listed Species and Designated Critical Habitats, Including Steller Sea Lions and Their Designated Critical Habitat

Scope of Work and CIE Process: The National Marine Fisheries Service's (NMFS) Office of Science and Technology coordinates and manages a contract to provide external expertise through the Center for Independent Experts (CIE) to conduct impartial and independent peer reviews of NMFS scientific projects. This Statement of Work (SoW) described herein was established by the NMFS Contracting Officer's Technical Representative (COTR) and CIE based on the peer review requirements submitted by NMFS Project Contact. CIE reviewers are selected by the CIE Coordination Team and Steering Committee to conduct the peer review of NMFS science with project specific Terms of Reference (ToRs). Each CIE reviewer shall produce a CIE independent peer review report with specific format and content requirements (**Annex 1**). This SoW describes the work tasks and deliverables of the CIE reviewers for conducting an independent peer review of the following NMFS project.

Project Description: Under Section 7 of the ESA, NMFS Alaska Region is preparing a draft programmatic Biological Opinion. A Biological Opinion is the summary document produced by NMFS that includes (1) the opinion of the agency as to whether or not the Federal action is likely to jeopardize the continued existence of a listed species, or result in adverse modification of designated critical habitat; (2) a summary of the information on which that opinion is based; and (3) a detailed discussion of the effects of the action on listed species and designated critical habitat.

In this opinion, NMFS PRD has evaluated the effects of three actions:

- Authorization of groundfish fisheries under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area;
- Authorization of groundfish fisheries under the Fishery Management Plan for Groundfish of the Gulf of Alaska; and
- State of Alaska parallel groundfish fisheries for pollock, Pacific cod, and Atka mackerel

The objective of the evaluation in this biological opinion is to determine if the aforementioned groundfish fisheries, as implemented under their respective FMPs and State management plans, are likely to jeopardize the continued existence of listed species and/or are likely to destroy or adversely modify designated critical habitat. Based on the directives of the ESA and implementing regulations, as well as Court findings with respect to previous opinions, the scope of this consultation and resulting opinion is comprehensive. Through the consultation which has

led to this Biological Opinion. NMFS has considered not only the effects of the fisheries themselves, but also the overall management framework as established under the respective FMPs. It is NMFS' intent to determine if that management framework includes sufficient conservation and management measures to insure the protection of listed species and their critical habitat.

The main listed species of concern is the endangered western distinct population segment of the Steller sea lion. The designated critical habitat of concern is critical habitat designated for Steller sea lions. The document also evaluates the effects of the action on the threatened eastern distinct population segment of Steller sea lion and the effects on two species of ESA-listed whales: humpback whales and sperm whales.

The draft biological opinion that is the subject of this review is the result of a reinitiated Section 7 consultation. Thus, NMFS has previously consulted on the effect of the Bering Sea/Aleutian Islands groundfish fisheries, the Gulf of Alaska groundfish fisheries, and the State of Alaska parallel groundfish fisheries.

On November 30, 2000, NMFS issued a FMP level biological opinion that evaluated the effects of authorization of the BSAI and GOA FMPs on ESA-listed species, as required by section 7(a)(2) of the ESA. Through that consultation and the resulting biological opinion, NMFS found that the FMPs, as proposed, would jeopardize both the western and eastern distinct population segments (DPSs) of Steller sea lion and adversely modified their designated critical habitat. As a result, a reasonable and prudent alternative (RPA) was provided and partially implemented in 2001.

In January 2001, an RPA committee, comprised of members of the fishing community, the conservation community, NMFS, State agencies and the Council's Science and Statistical Committee, was formed to develop an alternative RPA. In July of 2001, the action agency (SFD) proposed this alternative RPA to replace the components of the original FMP action that had resulted in the jeopardy and adverse modification finding in the 2000 FMP-level consultation. In 2001, NMFS prepared a project level biological opinion which reviewed the revised action and determined that it was not likely to jeopardize or adversely modify critical habitat. The Court reviewed the 2001 Biological Opinion and found that it was arbitrary and capricious and remanded the opinion back to NMFS for revision. In response to the Court order, NMFS prepared a supplement (NMFS 2003) to the 2001 biological opinion (NMFS 2001), which affirmed NMFS's conclusions that the revised FMP actions were not likely to jeopardize ESA-listed species or adversely modify critical habitat. In the 2001 Biological Opinion (2001:8) NMFS specified that:

“...the FMP level biological opinion will remain in effect as NMFS' coverage at the plan level, and this opinion” (the 2001 opinion) will address the project level effects on listed species that would be likely to occur if the Council's preferred action were implemented.”

Since the conclusion of the 2000 and the 2001 consultations and the completion of the resulting biological opinions and supplement, all subsequent modifications and proposed modifications to

the action have been considered through informal consultations except for a March 9, 2006 Biological Opinion on the issuance of an exempted fishing permit (EFP) to support a feasibility study using commercial fishing vessels for acoustic surveys of pollock in the Aleutian Islands subarea.

On October 18, 2005, the North Pacific Fishery Management Council (Council) requested that NMFS SFD reinitiate consultation on the BSAI and GOA FMPs. The Council's request was based on the recognition that a substantial amount of new research on Steller sea lions has been published since NMFS completed the 2000 Biological Opinion, such that an evaluation of the FMPs in light of that new information would be prudent. The consultation was formally reinitiated in April of 2006.

Thus, the basis for the reinitiation of consultation is the new information available to the agency as a result of approximately 10 years of intensive research on SSL in Alaska. The new information pertains to the status of the species, the trend and abundance, and the impacts of the existing conservation measures as well as the prosecution of the federal fisheries and the State of Alaska parallel groundfish fisheries. Additionally, since NMFS wrote the last Programmatic Biological opinion in 2000, the subsequent project level biological opinion in 2001, and the 2003 supplement, a considerable amount of information has been collected on topics of relevance to understanding the effects of this action. For example, there is considerable new information on the ways in which fisheries might have effects on various populations and the ecosystems in which they occur, the potential effects that global warming and natural environmental variability might have on the marine ecosystems of the North Pacific; and other topics that are relevant to understanding ways in which listed species and designated critical habitats might be affected by these fisheries.

The subject of review would be the **scientific information** contained in the Biological Opinion **and not the conclusions of the Opinion as per the ESA thresholds**. The reviewers would be asked to comment on the adequacy of the best available science and of the appropriate use of that science to reach the conclusions about potential effects of the actions on listed species and designated critical habitats. The reviewers would be asked to critically evaluate whether NMFS has used the best available science appropriately to consider not only the effects of the fisheries themselves, but also the overall management framework as established under the respective FMPs. As it is NMFS' intent to determine if that management framework includes sufficient conservation and management measures to insure the protection of listed species and their critical habitat, the review should evaluate whether NMFS has appropriately and sufficiently evaluated this question.

The Terms of Reference (ToRs) of the peer review are attached in **Annex 2**.

Requirements for CIE Reviewers:

Three CIE reviewers shall conduct an impartial and independent peer review in accordance with the SoW and ToRs herein. Each CIE reviewer's duties shall not exceed a maximum of 10 days (this may need to be longer) to complete all work tasks of the peer review described herein. CIE reviewers shall have the expertise, background, and experience to complete an independent

scientific peer review in accordance with the SoW and ToRs herein. CIE combined reviewer expertise shall include: fishery science; fishery effects on ecosystems and/or ecosystem management of fisheries; marine mammal biology and ecology, with emphasis on otariids, if possible; and familiarity with the standards of the Endangered Species Act Section 7 in relation to conservation biology.

The CIE reviewers shall have the expertise necessary to complete an impartial peer review and produce the deliverables in accordance with the SoW and ToR as stated herein.

Location of Peer Review:

Each reviewer shall conduct the peer review as desk review, therefore no travel is required.

Statement of Tasks:

Each CIE reviewer shall conduct necessary preparations prior to the peer review, conduct the peer review, and complete the deliverables in accordance with the SoW and milestone dates as specified in the Schedule section.

Prior to the Peer Review: Upon completion of the CIE reviewer selection by the CIE Steering committee, the CIE shall provide the CIE reviewer information (name, affiliation, and contact details) to the COTR, who forwards this information to the NMFS Project Contact no later than the date specified in the Schedule of Milestones and Deliverables. The CIE is responsible for providing the SoW and ToRs to the CIE reviewers. The NMFS Project Contact is responsible for providing the CIE reviewers with the background documents, reports, foreign national security clearance, and information concerning other pertinent meeting arrangements.

Pre-review Background Documents: Approximately two weeks before the peer review, the NMFS Project Contact will send all necessary background information and reports for the peer review to the CIE reviewers by electronic mail, shall make this information and these reports available at an FTP site available to the CIE reviewers, or shall provide electronic links to all background documents. In the case where the documents need to be mailed, the NMFS Project Contact will consult with the CIE on where to send documents. The CIE reviewers shall read all documents in preparation for the peer review.

Below is a tentative list of pre-review documents to be sent to the CIE reviewers as background information of the peer review:

1. Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Areas. North Pacific Fishery Management Council. April 2009.
<http://alaskafisheries.noaa.gov/npfmc/fmp/bsai/bsai.htm>

2. Fishery Management Plan for Groundfish of the Gulf of Alaska. North Pacific Fishery Management Council. April 2009. Available at:
<http://alaskafisheries.noaa.gov/npfmc/fmp/goa/goa.htm>
3. Aleutian Islands Fishery Ecosystem Plan. North Pacific Fishery Management Council. December 2007. Available at:
http://www.fakr.noaa.gov/npfmc/current_issues/ecosystem/AIFEPbrochure1207.pdf
4. 2000 Endangered Species Act Section 7 Consultation Biological and Incidental take Statement. Authorization of Bering Sea/Aleutian Islands groundfish fisheries based on the Fishery Management Plan for the Bering Sea/Aleutian Islands Groundfish; and Authorization of Gulf of Alaska groundfish fisheries based on the Fishery Management Plan for Groundfish of the Gulf of Alaska. November 2000. National Marine Fisheries Service. 2000. Available at: <http://fakr.noaa.gov/protectedresources/stellers/section7.htm>
5. 2001 Biological Opinion and Incidental Take Statement. October 2001. Authorization of Bering Sea/Aleutian Islands groundfish fisheries based on the Fishery Management Plan for the Bering Sea/Aleutian Islands Groundfish as modified by amendments 61 and 70; and Authorization of Gulf of Alaska groundfish fisheries based on the Fishery Management Plan for Groundfish of the Gulf of Alaska as modified by amendments 61 and 70. Parallel fisheries for pollock, Pacific cod, and Atka mackerel, as authorized by the State of Alaska within 3 nm of shore, plus selected supporting documents. National Marine Fisheries Service. 2001. available at:
<http://fakr.noaa.gov/protectedresources/stellers/section7.htm>
6. 2003 Supplement to the Endangered Species Action Section 7 Biological Opinion and Incidental take statement of October 2001, plus appendices. National Marine Fisheries Service. 2003. available at: <http://fakr.noaa.gov/protectedresources/stellers/section7.htm>
7. Judge Zilly's Order Remanding some aspects of the 2001 biological opinion to NMFS for further action. United States District Court, Western District of Washington at Seattle. December 18, 2002. Available at:
<http://fakr.noaa.gov/protectedresources/stellers/biop2002/final.htm>
8. Background information on the ESA and NMFS' responsibilities for implementing the ESA is available from the NMFS Office of Protected Resources web site at: Available at:
<http://www.nmfs.noaa.gov/pr/laws/esa.htm>.

These documents and other background material (or links to them) will be provided to the CIE reviewers by the Project Contact according to the schedule herein.

Documents 1 through 9 are available for pre-review by February 14, 2010 (may need to modify this date). This list of pre-review documents may be updated up to two weeks before the peer review. Any delays in submission of pre-review documents for the CIE peer review will result in delays with the CIE peer review process. Furthermore, the CIE reviewers are responsible for

only the pre-review documents that are delivered to them in accordance to the SoW scheduled deadlines specified herein.

Any delays in submission of pre-review documents for the CIE peer review will result in delays with the CIE peer review process, including a SoW modification to the schedule of milestones and deliverables. Furthermore, the CIE reviewers are responsible only for the pre-review documents that are delivered to the reviewer in accordance to the SoW scheduled deadlines specified herein.

Desk Peer Review: The primary role of the CIE reviewers is to conduct an impartial peer review in accordance with the SoW and ToRs to ensure that the best available science is utilized for NMFS evaluations of the potential effects of actions on endangered species and designated critical habitat under Section 7 of the Endangered Species Act. **Modifications to the SoW and ToRs can not be made during the peer review, and any SoW or ToRs modifications prior to the peer review shall be approved by the COTR and CIE Lead Coordinator.**

Contract Deliverables - Independent CIE Peer Review Reports: Each CIE reviewer shall complete an independent peer review report in accordance with the SoW. Each CIE reviewer shall complete the independent peer review according to the required format and content as described in Annex 1. Each CIE reviewer shall complete the independent peer review addressing each ToR as described in Annex 2.

Specific Tasks for CIE Reviewers: The following chronological list of tasks shall be completed by each CIE reviewer in a timely manner as specified in the **Schedule of Milestones and Deliverables**.

- 1) Conduct necessary pre-review preparations, including the review of background material and reports provided by the NMFS Project Contact in advance of the peer review;
- 2) Conduct an independent peer review in accordance with the ToRs (Annex 2);
- 3) No later than REPORT SUBMISSION DATE, each CIE reviewer shall submit an independent peer review report addressed to the "Center for Independent Experts," and sent to Mr. Manoj Shivlani, CIE Lead Coordinator, via email to shivlanim@bellsouth.net, and CIE Regional Coordinator, via email to *{CIE will insert email}*. Each CIE report shall be written using the format and content requirements specified in Annex 1, and address each ToR in Annex 2;
- 4) CIE reviewers shall address changes as required by the CIE review in accordance with the schedule of milestones and deliverables.

Schedule of Milestones and Deliverables: CIE shall complete the tasks and deliverables described in this SoW in accordance with the following schedule.

Draft Schedule:

1 March 2010	NMFS Project Contact sends the CIE Reviewers the report and background documents TENTATIVE DATE
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1-12 March 2010	Each reviewer conducts an independent peer review as a desk review
26 March 2010	CIE reviewers submit CIE independent peer review reports to the CIE Lead Coordinator and CIE Regional Coordinator
2 April 2010	CIE submits CIE independent peer review reports to the COTR
5 April 2010	The COTR distributes the final CIE reports to the NMFS Project Contact and Regional Administrator

Modifications to the Statement of Work: Requests to modify this SoW must be made through the Contracting Officer's Technical Representative (COTR) who submits the modification for approval to the Contracting Officer at least 15 working days prior to making any permanent substitutions. The Contracting Officer will notify the CIE within 10 working days after receipt of all required information of the decision on substitutions. The COTR can approve changes to the milestone dates, list of pre-review documents, and Terms of Reference (ToR) of the SoW as long as the role and ability of the CIE reviewers to complete the SoW deliverable in accordance with the ToRs and deliverable schedule are not adversely impacted. The SoW and ToRs cannot be changed once the peer review has begun.

Acceptance of Deliverables: Upon review and acceptance of the CIE independent peer review reports by the CIE Lead Coordinator, Regional Coordinator, and Steering Committee, these reports shall be sent to the COTR for final approval as contract deliverables based on compliance with the SoW. As specified in the Schedule of Milestones and Deliverables, the CIE shall send via e-mail the contract deliverables (the CIE independent peer review reports) to the COTR (William Michaels, via William.Michaels@noaa.gov).

Applicable Performance Standards: The contract is successfully completed when the COTR provides final approval of the contract deliverables. The acceptance of the contract deliverables shall be based on three performance standards: (1) each CIE report shall have the format and content in accordance with Annex 1, (2) each CIE report shall address each ToR as specified in Annex 2, (3) the CIE reports shall be delivered in a timely manner as specified in the schedule of milestones and deliverables.

Distribution of Approved Deliverables: Upon notification of acceptance by the COTR, the CIE Lead Coordinator shall send via e-mail the final CIE reports in *.PDF format to the COTR. The COTR will distribute the approved CIE reports to the NMFS Project Contact and regional Center Director.

Key Personnel:

William Michaels, Contracting Officer's Technical Representative (COTR)
 NMFS Office of Science and Technology
 1315 East West Hwy, SSMC3, F/ST4, Silver Spring, MD 20910

William.Michaels@noaa.gov

Phone: 301-713-2363 ext 136

Manoj Shivlani, CIE Lead Coordinator

Northern Taiga Ventures, Inc.

10600 SW 131st Court, Miami, FL 33186

shivlanim@bellsouth.net

Phone: 305-383-4229

NMFS Project Contact:

Kaja Brix,

Protected Resources Director

NMFS, Alaska Region, 709 W.9th St., Juneau AK, 99802-1668

Kaja.Brix@noaa.gov,

Phone: 907-586-7824

Annex 1: Format and Contents of CIE Independent Peer Review Report

1. The CIE independent report shall be prefaced with an Executive Summary providing a concise summary of the findings and recommendations.
2. The main body of the reviewer report shall consist of a Background, Description of the Individual Reviewer's Role in the Review Activities, Summary of Findings for each ToR, and Conclusions and Recommendations in accordance with the Terms of Reference (ToRs).
 - a. Reviewers should discuss their independent views of findings, conclusions, and recommendations for each ToRs.
 - b. The CIE independent report shall be a stand-alone document as an independent peer review.
3. The reviewer report shall include as separate appendices as follows:
 - Appendix 1: Bibliography of materials provided for review
 - Appendix 2: A copy of the CIE Statement of Work

Annex 2: Terms of Reference

1. Read and assess the March 1, 2010 draft Biological Opinion on the BSAI and GOA groundfish fisheries; and state waters parallel fisheries for pollock, Atka mackerel, and Pacific cod.
2. Make an assessment as to whether the scientific information constitutes a reasonable rationale for the conclusion in accordance with the requirements of section 7 and implementing regulations under the Endangered Species Act. A Biological Opinion under section 7 of the ESA does not require proof that a federal action jeopardizes the continued existence of a listed species or destroys or adversely modifies critical habitat. The ESA requires that an action agency ensure that the federal action does not jeopardize or adversely modify or destroy critical habitat.
3. CIE reviewers are requested to specifically focus on and address the following questions in their review reports:
 - Does the Biological Opinion thoroughly describe what is known about the status of the listed species.
 - Does the Biological Opinion thoroughly describe the effects (direct and indirect) of the action on the listed species and its critical habitat.
 - Can you identify any additional literature that should be brought to bear on this Opinion.
 - Can you identify any additional assessment/analysis that should contribute to a conclusion in this Opinion.
 - In accordance with section 7 of the ESA does the Biological Opinion draw a reasonable conclusion based on the evidence with respect to the standard of “jeopardy” for the listed species and with respect to the standard of “adverse modification” as defined by the ESA and implementing regulations for critical habitat. Note that the regulatory definition for adverse modification was struck down by the courts. NMFS is working under the definition as contained in the Act and a guidance memo issued by the agency on November 7, 2005 (attached).