

Executive Director's Report

Korean Delegation

Pursuant to a training project under the NOAA-Korea Joint Project Agreement, there are a group of Korean fisheries science and management representatives in attendance for part of our meetings. Dr. Low is hosting the group, which consists of:

- Bok-Chul JUNG, Division Director of the Ministry of Food, Agriculture, Forestry, and Fisheries, Seoul, Korea
- Young Woo SON, staff of MIFAFF
- Dr. Jaebong Lee, fisheries scientist at the National Fisheries Research and Development Institute, Busan, Korea
- Dr. Hawsun Sohn, fisheries scientist at NFRDI

I wanted to introduce them and encourage everyone to make them welcome and pass on your thoughts to them on our management process.

Annual CCC meeting

The annual Council Coordination Committee (CCC) meeting was held May 19-22, hosted by the New England Fishery Management Council in Boston, Massachusetts (agenda is attached as Item B-1(a)). Myself and the Chair and Vice-Chair attended to represent the NPFMC, and David Witherell, Denby Lloyd, and Duncan Fields were also in attendance, as were Mr. Mecum and other NOAA Fisheries leadership from around the country and from headquarters, including Dr. Balsiger. The new head of NOAA, Dr. Jane Lubchenco was in attendance for part of the meetings and addressed the Councils on a number of topics including the Administration's renewed emphasis on the use of 'catch shares' as a management tool. During her remarks she informed the Councils that NOAA is initiating a task force to develop guidance for the agency and for the Councils relative to development of 'catch share' programs. One outcome of the CCC meeting will be a request from the eight Councils to be included on that task force, as much of the expertise and authority for such programs rests within the Councils.

On the NEPA issue, we learned last week that NOAA's Office of Planning, Programming, and Integration (PPI, which is a separate NOAA line office) initiated a rewrite of NOAA Administrative Order 216-6, which outlines NOAA's NEPA compliance procedures. This has been in progress since last December, at about the same time that NOAA Fisheries withdrew the proposed rule for NEPA compliance procedures for fisheries management actions under the MSA, which was a result of the mandate for NEPA streamlining in the most recent MSA reauthorization. Given that about 85% of NOAA's NEPA actions are within fisheries, the eight Councils will be recommending to NOAA that any rewrite of Administrative Order 216-6 be done so in consultation with NOAA Fisheries line office, and with the Regional Fisheries Management Councils, and in conjunction with the Congressional mandate from the MSA.

We received some relatively good news on the budget front – while the Councils collectively are still not being funded adequately relative to our responsibilities, we have received a slight increase in FY09, and based on the 2010 budget as submitted we will receive additional funds in 2010, primarily under the 'ACL implementation' heading. The special line item funding that the NPFMC has received in recent years as part of the Alaska composite no longer exists, so we are now working only with our share of the collective, eight-Council line item. We are heading into a new five-year budget/award cycle starting in

2010 and if these budget numbers hold up I will be adding an additional analyst to our current staff as part of the new budget. I intend to hold a Finance Committee meeting, either in conjunction with our October meeting or between now and October, to provide details on the five-year budget which is due to be submitted this fall.

On a budget-related note, the FY09 budget contained funding specifically for "Peer Review and SSC Stipends". Recall that the recent MSA reauthorization called for stipends for SSC members (or Advisory Panel members) based on availability of funding. This funding is specifically authorized for SSC stipends (sorry AP members, maybe later), and NOAA Fisheries has allocated that funding among the eight Councils based on estimated numbers of SSC meeting days, at an assumed rate of \$250/meeting day. So, for those SSC members who are not federal or state marine management agency personnel (sorry to those SSC members, but I did not write this legislation), you will be receiving this stipend, retroactive to the beginning of 2009. This stipend will be only for actual meeting days in attendance.

On the issue of federal ID cards for Council members and staff, we have been informed by NOAA that such ID cards will no longer be issued to Council members (though they may still be issued to Council staff). I am in the process of considering an alternative type of identification card (and possibly travel orders) for Council members, similar to those used by at least two other Councils.

Relative to the Marine Protected Area (MPA) site nomination process for Council/NMFS managed areas, we received a short update from HQ staff indicating that the process (as outlined in the NOAA policy directive from February) is still unfolding, that NMFS may focus on the Councils iteratively (rather than all at once), and that we should expect the letter initiating this process in our region from our RA soon. At least one Council, the WPFMC, has indicated to NMFS that they do not wish to participate in the process outlined and therefore would be recommending none of their managed areas be included in the inventory. At least two other Councils, the CFMC and the SAFMC, have indicated their intent to proceed according to the process outlined in the policy directive. Late this past week I indeed received a letter from the NMFS Alaska Region RA relative to the MPA process. We will address that issue under agenda item C-5.

Regarding the proposed rule for Council SOPPs revisions (Item B-1(b)), comments are due July 6 and I will have a draft comment letter for Council review this week. There are a few issues that require clarification, including the process for deeming and submitting regulations, and the definition of Advisory Panel relative to possible payment of stipends (subject to explicit funding in future budgets).

A more complete summary of the CCC meeting is being compiled by the host Council, including a comparison of 'best practices' across the Councils in five key areas, and I will distribute that when it becomes available. Next year's CCC meeting is being hosted by us, likely the third week of May in Anchorage.

Biennial Council audit

We recently completed our mandatory biennial financial audit, as required under our grant award conditions. Representatives from KPMG will be here on Friday during our Executive Session to summarize the audit results for the Council.

Project tasking overview

I have been involved in recent meetings with NMFS Alaska Region staff to discuss overall workload issues and priorities, for current and pending analyses as well as processing and developing regulations for past Council actions. Mr. Mecum or Ms. Salvesson will likely be speaking to these issues under the B-2 NMFS Management Report, but I wanted to raise the issue here as a prelude to our meeting this week.

While we will address these issues in more detail under Staff Tasking later this week, I wanted to give you an overview of current and potential projects, and related workload issues, as a backdrop to several agenda items we will be discussing this week, and at our October meeting. The intent is to simply provide you an assessment of what Council and NMFS staff are facing currently, and what the implications are relative to a number of projects that the Council has initiated, or might consider initiating in the near future. I will be distributing a chart intended to depict the various projects we have underway, and where they are relative to completion, relative to the resources and timelines associated with pending or potentially new projects.

Council staff losing a star

Bill Wilson, our Protected Species Coordinator and Arctic Shining Star, is going to retire this year and move to Oregon. I knew this was coming eventually but it is still a blow to lose one of our great staff members. Bill is in the lengthy process of moving to Oregon, but he will remain on staff until the end of this year to finish current projects and to help us transition a new staff member into this position, so you will see him again at Council meetings and other venues later this year. We will be posting a vacancy announcement this summer. Best of luck to Bill and Elaine and we look forward to finishing out this year with you.

On a related note, while she formally retired some time ago, Helen Allen has been contracting with us during Council meetings to help run the meetings and take care of meeting minutes. She is finally going to REALLY retire and this will be her last meeting as master of the minutes.

Events this week

On Wednesday evening, June 3 Alaska Sea Grant and the Alaska Marine Conservation Council are hosting a reception at the Top of the World, featuring a presentation and Q&A with Dr. Jeremy Mathis regarding ocean acidification. That event begins at 6:00 pm and there is a flyer attached as Item B-1(c).

We are losing two Council members after this meeting, Gerry Merrigan and Vice-Admiral Gene Brooks. In their honor we are holding a reception on Friday evening from 6:00 pm to 7:30 pm at the Top of the World, 15th floor patio area. This event will feature light food, a no-host bar, and the opportunity to squeeze off a parting shot.

AGENDA¹
COUNCIL COORDINATION COMMITTEE MEETING
LONG WHARF MARRIOTT HOTEL
296 STATE STREET
BOSTON, MASSACHUSETTS
MAY 19-22, 2009

"BEST PRACTICES"

Monday, May 18, 2009

- 4:00-6:00 p.m. Registration Table in hotel lobby; pick up meeting materials & event tickets
(Red Sox game, Duck Tour/dinner)
- 6:00-7:30 p.m. Welcoming reception at hotel (*dinner on your own*)

Tuesday, May 19, 2009

- 7:45 a.m. Continental breakfast available (*Salons ABC*)
- 8:30 a.m. Joint Council/NMFS Session
- Welcome - John Pappalardo, NEFMC Chair
 - Remarks - Dr. Jane Lubchenco, Under Secretary of Commerce for Oceans and Atmosphere
 - Remarks - Dr. Jim Balsiger, Acting Assistant Administrator for Fisheries
- 10:00 a.m. Break
- 10:15 a.m. Separate Council/NMFS Sessions (*Salons ABC / Salons DEF*)
- Roundtable Discussion of Major Issues Each Council is Working on
 - Review each CCC Agenda Item. The goal of the joint sessions with NMFS will be to explain how each Council is addressing the specific agenda issue. Our goal is to share this information to identify best practices employed in each Region.
- 11:45 a.m. Lunch (*on own*)
- 1:00 p.m. Separate Council's Session and NMFS Session (cont.)
- 2:30 p.m. Break
- 2:45 p.m. Separate Council's Session and NMFS Session (cont.)
- 5:00 p.m. Adjourn
- 7:05 p.m. Red Sox v. Toronto Blue Jays game

¹ The established times for addressing items on the agenda may be adjusted as necessary to accommodate the timely completion of discussion relevant to the agenda items. Such adjustments may result in the meeting being extended from, or completed prior to the date established by the agenda.

Wednesday, May 20, 2009

Joint Council's and NMFS Session (Salons ABCDEF)

7:45 a.m. Continental breakfast available (*Salon A Foyer*)

I. 8:30 a.m. ACLs and AMs

Each Council will be allotted 5-10 minutes to discuss how they are progressing with the new MSA requirement to implement of ACLs and AMs. Each council will explain how they are dealing with recreational and state fisheries; low level bycatches in non-directed fisheries; non-target species; the need to accurately monitor ACLs/AMs across all fisheries on a real-time basis. Alan Risenhoover will discuss how NMFS is dealing with the implementation, administration and monitoring of ACLs and AMs, particularly from a resource stand point.

10:00 a.m. Break

II. 10:15 a.m. Ecosystem-Based Management

Each Council will be allotted 5-10 minutes to discuss their efforts to address Ecosystem Based Fisheries Management. In addition, each Council will discuss what, if any, Ocean/Ecosystem governance discussions are going on in their region and how is your Council engaged. Dr. Steve Murawski will discuss ongoing ocean governance discussions in NOAA.

11:45 a.m. Lunch (*on own*)

III. 1:00 p.m. Budgets

Gary Reisner will discuss the 2009 NOAA/NMFS budget (especially in the event there are available funds (soft money) to be identified for Council use), 2010 and 2011 updates. In addition, any follow-up to the Council's 2010-2014, 5 year budget submissions and discuss joint NMFS-Council outreach coordination funding.

2:30 p.m. Break

IV. 2:45 p.m. LAPPs Development and Implementation

Each Council will be allotted 5-10 minutes to discuss existing LAPPs and those under development in their region. Each Council will explain how they are dealing with comprehensive observer coverage and dockside monitoring. Alan Risenhoover will discuss how NMFS is dealing with LAPPs administration and enforcement, particularly from a resource standpoint.

5:45-6:00 p.m. Board a "Duck" for a Historic Tour of Boston followed by dinner at the Union Oyster House

Thursday, May 21, 2009

Joint Council's and NMFS Session (Salons ABCDEF)

7:45 a.m. Continental breakfast available (*Salon A Foyer*)

V. 8:30 a.m. Standardized Management Actions

*Each Council will be allotted 5-10 minutes to discuss the different documents they prepare to submit management actions (Amendments, Frameworks, Specification Packages, etc.); how does each submission differ, how are NEPA requirements incorporated (is there a separate FMP and a separate EIS, or one unified document); how long does each action take from start to submission. **Bill Chappell will discuss the NMFS review processes for the differing submission documents, especially the amount of time needed to review before publication in the Federal Register.***

10:00 a.m. Break

VI. 10:15 a.m. SSC Operating Procedures

*An SSC member and Council staff member who attended the meeting in Hawaii will be asked to brief the CCC on their findings. Each Council will be allotted 5-10 minutes to discuss how they are using their SSCs to establish ABCs and make recommendations. Each Council will discuss their role and their SSC's role in stock assessment and peer review processes. **Bill Michaels will discuss the need for a national peer review policy.***

11:45 a.m. Lunch (*on own*)

VII. 1:00 p.m. Enforcement and Safety

CDR Chris Barrows will report on the Coast Guard's national fishing vessel safety and enforcement issues. Dale Jones, Director of Enforcement, will report on NMFS' national enforcement and VMS issues.

2:30 p.m. Break

VIII. 2:45 p.m. Legislation and Regulation updates

NMFS will provide status reports on the following subjects:

- MPA Nomination Process - Sam Rauch*
- National Standard 2 guidelines, MRIP, Update on 5-year Research Priorities - Bill Michaels*
- NEPA, Coral Reef Conservation Act, National Marine Sanctuary Act, Ocean Heritage Act, Oceans Policy Act, HR 21, HR 4087, HR and 5425 and International Issues - Alan Risenhoover*
- SOPPs - Bill Chappell*

5:00 p.m. Adjourn (*dinner on your own*)

Friday, May 22, 2009

7:45 a.m. Continental breakfast available (*Salon A Foyer*)

IX. 8:30 a.m. Grants Workshop Report

Gary Reisner will summarize the Grants Workshop, which is being held the week before the CCC in Silver Spring. The group will discuss any proposed changes to the 5-year grant process for Councils.

10:00 a.m. Break

X. 10:15 a.m. Council-only session

Wrap up and feedback. The Councils will discuss planning for the Next CCC Meeting – Host Council

CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as _____ by the Postal Service has been terminated.

I certify that I have destroyed all materials subject to protective conditions, relevant to the above matter.

Name _____

Firm _____

Title _____

Representing _____

Signature _____

Date _____

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 080102007-81097-01]

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: Proposed rule; request for comments.

SUMMARY: NMFS proposes changes to the regulations that address the operations and administration of regional fishery management councils (Councils). The regulatory changes are needed to implement amendments to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) that, among other things, govern the Council Coordination Committee (CCC), expand the role of the Councils' Scientific and

Statistical Committee (SSC), require that SSC members disclose their financial interests, and provide for training of Council members and staff. Additionally, the proposed rule would make changes to the regulations requiring Councils to provide procedures for proposed regulations, clarifying restrictions on lobbying, and clarifying timing in the Council member nomination process. The proposed rule would also make technical and minor corrections to the regulations unrelated to the most recent Magnuson-Stevens Act amendments.

DATES: Written comments must be received no later than 5 p.m. e.d.t. on July 6, 2009.

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

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.
- Fax: 301-713-1175.
- Mail: Alan Risenhoover, Director, Office of Sustainable Fisheries, National Marine Fisheries Service, 1315 East-West Highway, SSMC3, Silver Spring, MD 20910. Please mark the outside of the envelope "Council Operations."

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for

example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

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

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the Office of Sustainable Fisheries at the mailing address or fax number specified above and by e-mail to David_Rostker@omb.eop.gov, or fax to (202) 395-7285.

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

SUPPLEMENTARY INFORMATION: Section 302 of the Magnuson-Stevens Act includes provisions for the establishment and administration of the Councils. The Magnuson-Stevens Act was reauthorized on January 12, 2007, with amendments throughout, and this proposed rule would implement some of the changes that were made to Section 302. Additionally, several issues regarding Council operations and membership have prompted proposed

changes to the regulations. Key aspects of the proposed rule are: requirements relative to the CCC; requirements for SSCs and financial interest reporting for SSC members; an update of Council and committee meeting announcement requirements; a requirement for Councils to have procedures for proposed regulations; designation of an alternate for the Indian tribal representative of the Pacific Fishery Management Council; requirements for nominating individuals to the Gulf of Mexico Fishery Management Council; revisions to the process and deadline for governors to submit Council member nominations to the Secretary; restrictions on direct or indirect lobbying by Council members, Council staff, and contractors; addition of lobbying and advocacy as types of financial interest activities that must be reported by affected individuals; and the requirement for new Council members to attend a training course. Additionally, the proposed rule would implement several minor changes in Magnuson-Stevens Act section 302, as well as a number of technical changes and minor corrections, unrelated to the reauthorization of the Act. Many of the key aspects of the proposed rule reiterate statutory requirements of the Magnuson-Stevens Act. NMFS is including this statutory text in regulations so that relevant Council process provisions both statutory and regulatory are presented together for ease of reference.

Statement of Organization, Practices and Procedures (SOPPs)

There have been continuing questions regarding Councils' SOPPs. The general public often does not understand the Councils' functions, how they are organized and what their limits are in fisheries management and policy. SOPPs have provided that information, but the public must go to the Council office for a copy or request a copy by mail. The increased use of the Internet makes it appropriate for the Councils to post their SOPPs on line. Therefore, NMFS proposes to amend § 600.115 to require that Council SOPPs be made available on the Internet. Additionally, NMFS proposes to clarify the regulatory sections with which the SOPPs must comply.

Council Coordinating Committee (CCC)

The proposed rule at a new § 600.117 would govern the CCC. The CCC consists of the chairs, vice chairs, and executive directors of each of the eight Councils or other Council members or staff, and discusses issues of relevance to all Councils, as specified in the

Magnuson-Stevens Act at section 302(l). The CCC is exempt from the requirements of the Federal Advisory Committee Act. Procedures for announcing and conducting open and closed meetings of the CCC are reflected in § 600.135.

Scientific and Statistical Committees (SSCs)

This proposed rule addresses several changes in Magnuson-Stevens Act section 302(g)(1) regarding SSCs. Section 600.133 of the proposed rule requires SSC members, appointed by the Councils, to be Federal employees, State employees, academicians, or independent experts with strong scientific or technical credentials and experience. It also requires SSC meetings to be held in conjunction with Council meetings to the extent practicable.

Section 302(g)(1)(D) of the Magnuson-Stevens Act includes a new requirement that SSC members shall be treated as "affected individuals" for purposes of sections 302(j)(2), (3)(B), (4) and (5)(A) of the Act, which pertain to the disclosure of financial interests by affected individuals. Consistent with the Act, the proposed rule at § 600.235 would require an SSC member to file the Financial Interest Form with the NMFS Regional Administrator within 45 days prior to appointment and within 30 days of substantial changes to his/her financial interests and update his/her form annually. NMFS would retain the records for five years.

Sections 302(j)(5)(B-C), (6) and (7) of the Act include requirements for public inspection of, and access to, Council member Financial Interest Forms and recusals from voting. Because SSC members are not "affected individuals" for purposes of these sections, the proposed rule does not require that SSC members' Financial Interest Forms be made available for inspection or made available on the internet. In addition, the proposed rule states that SSC members are not subject to the restrictions on voting under § 600.235. The proposed rule also clarifies that SSC members are not automatically subject to the requirements of 18 U.S.C. 208, which pertains to actions affecting personal financial interests. Those requirements would only apply if a person is an officer or employee of the executive branch of the United States Government, or falls under another category of persons specified in that statute. NMFS seeks comments from the public on the proposed regulations that would affect the composition, purpose, and operation of the SSC, as well as the financial disclosure requirements for its

members. Finally, existing regulations at § 600.235(h) provide that 18 U.S.C. 208 would also not apply to an affected individual who is in compliance with the requirements of that section for filing a financial disclosure report. Consistent with section 302(j)(8) of the Magnuson-Stevens Act, the proposed rule would clarify this exemption only applies 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."

Additional changes in Magnuson-Stevens Act section 302(g)(1)(A), (B) and (E) regard the function and roles of the SSC and the establishment of a peer review process. Some aspects of those changes were addressed in the National Standard 1 Guidelines revisions (74 FR 3178, January 16, 2009), which included guidance on annual catch limits and accountability measures and other aspects of overfishing and rebuilding. NMFS is continuing to explore other guidance that may be needed regarding these statutory changes.

Magnuson-Stevens Act section 302(g)(1)(F) requires the Secretary, subject to the availability of funds, to pay a stipend to members of SSCs and advisory panels who are not employed by the Federal Government or a State marine fisheries agency. NMFS seeks comment from the public on the implementation of stipends should funding be available. In addition to issues such as the amount and frequency of the payments, and what criteria must be satisfied for one to qualify for the stipend, NMFS seeks input from the public on the funding priority that should be given payment of the stipend, relative to the Councils' other financial obligations.

In anticipation of the stipend requirement, NMFS has begun to examine how Councils develop and use their SSCs, advisory panels, and other advisory committees. One concern has been that Councils use the terms "advisory panel" and "advisory committee" inconsistently. To help prepare for a clear analysis of the number and types of advisory committees and for a determination of who may be entitled to receive the stipend, NMFS proposes definitions in § 600.10 for an "advisory panel", which would be established pursuant to Magnuson-Stevens Act section 302(g)(2), and a "fishing industry advisory committee", established by a Council pursuant to section 302(g)(3)(A). In addition, definitions for "Region," "Regional Administrator," and "Science and Research Director" would be updated to reflect that there

are now 6 regions, each with a regional administrator and a science and research director.

Public Notice of Meetings

The proposed rule at § 600.135 would specify revised means for announcing meetings of a Council, SSC, advisory panels, other committees, and the CCC. The regulations currently require public notification specifically through the news media. The revised regulations would allow for notice of regular, emergency, and closed meetings by any means that will result, per section 302(i)(2)(c) of the Magnuson-Stevens Act, in wide publicity in the major fishing ports of the region and those other ports with an interest in any of the fisheries likely to be addressed in the proceedings. Also, the proposed rule stipulates that notices about regular and emergency meetings by website and e-mail postings alone are not sufficient.

Council Procedure for Proposed Regulations

A new § 600.140 is proposed to be added that would require each Council to establish clear internal procedures for proposed regulations, consistent with Magnuson-Stevens Act section 303(c). Section 303(c) pertains to the submission of proposed regulations to the Secretary which a Council deems necessary or appropriate for the purposes of implementing a fishery management plan or plan amendment and making modifications to regulations implementing a plan or plan amendment. Section 600.140 would require that each Council establish a clear procedure that sets forth how it deems proposed regulations as necessary or appropriate and also how it formally submits such regulations to the Secretary. Section 600.140 proposes that the procedure be described in the Council's SOPP or other written documentation available to the public to inform the public how it operates. The form and detail of the procedure may be prescribed by each Council, and may be based on any existing procedures as appropriate, subject to the requirements of the Magnuson-Stevens Act and approval by the Secretary.

Pacific Fishery Management Council Tribal Member Alternate

The proposed rule would establish a new section, § 600.207, to specify the conditions under which a tribal Indian representative to the Pacific Fishery Management Council may designate an alternate for the period of the representative's term. The requirements for designating an alternate would be similar to those of state members.

Gulf of Mexico Fishery Management Council Nominations

The proposed rule would specify new procedures in § 600.215 for nominating and appointing members to the Gulf of Mexico Fishery Management Council. Consistent with new language in the Magnuson-Stevens Act, the proposed rule requires the Governors of each Gulf state to ensure their list of nominees for appointment to the Council includes representatives of certain fishery sectors, as well as at least one other individual knowledgeable in fishery conservation and management. The rule also provides a process for the citizens of a Gulf coastal state to nominate individuals, should the Governor's nominees be determined by the Secretary to be unqualified for appointment.

Council Member Nomination Process

NMFS proposes to amend § 600.215 regarding the submission of Council member nominations by state governors to allow more flexibility in the timing. Current guidelines require state governors to submit names of Council seat nominees and their complete nomination packages to NMFS by March 15. The proposed rule would soften the deadline, requiring submission of nominees' names by March 15 and allowing until March 31 for submission of the completed nomination packages.

This proposed rule change is needed to accommodate the lengthy and complex procedure for Council nominees to file for and receive official security assurances. The security assurance application procedure requires extensive personal history information to be submitted by computer. Due to timing of the process, software and internet connectivity problems, and availability of the personal information, the security assurance filings can be delayed, resulting in submission of the completed nomination packages after March 15.

Recognizing the difficulty of the process, NMFS has accommodated late submission of nomination packages. NMFS intends to provide states every reasonable opportunity to submit nominations for open Council seats, and, therefore, while submission of the names for nomination must be submitted by March 15, the proposed rule would give states until March 31 to submit the completed nomination package.

NMFS retains the requirement for having completed packages prior to accepting nominations for any seat, and

the option not to consider any nominations for at-large seats not completed by March 31. It remains NMFS' expectation that governors will submit, at a minimum, their list of nominees by March 15.

The Secretary must make Council member appointments by June 27 to allow new members to be seated by August 11 and complete the regular nomination cycle. Any later submission of nominees jeopardizes that process.

Notifying governors and commencing the nomination process earlier may help the situation but would not solve the problem of late nomination package submissions. Currently, NMFS contacts governors each December and January to solicit nominations for upcoming obligatory and at-large seats. Some gubernatorial terms begin in January and a change in administration, as well as other year-end priorities can confound the state's Council nomination process.

Restrictions on Lobbying

NMFS proposes to add a new paragraph concerning lobbying to § 600.225, which sets forth the Council Rules of Conduct. There have been recent questions from the Councils and inquiries from the public regarding what is allowed and not allowed in the way of direct or indirect lobbying by Council members and staff. Direct lobbying involves contacts with legislators, their staffs, or other government officials, either in person or through written or oral communication. Indirect or "grassroots" lobbying involves contacting others and urging them to support or to advocate for improve appropriations or changes to legislation or policy.

To provide Council members, Council staff and members of the public a better idea of restrictions on lobbying activities, NMFS proposes to add a new § 600.227 Lobbying. Restrictions on lobbying activities that apply to the Regional Fishery Management Councils, as recipients of Federal financial assistance, are encompassed in 31, U.S.C. 1352(a)(1) and (2), 15 CFR 28.100(a), and in applicable cost-principles set forth at 2 CFR part 230. As a condition of receiving such assistance, the Councils agree to abide by these restrictions. The proposed § 600.227 would provide not only references to these lobbying restrictions, but also general guidance with respect to certain proscribed actions.

Financial Disclosure by Council and SSC Members

The amended Magnuson-Stevens Act expands the array of business activities

that must be reported by affected individuals in their financial disclosures. An "affected individual" is a person who is nominated by a state Governor or appointed by the Secretary to serve as a voting member of a Council under section 302(b)(2) and (b)(5) of the Magnuson-Stevens Act. Members of an SSC are also considered affected individuals for specific paragraphs of § 600.235. Affected individuals must disclose any financial interests they have in certain activities that may fall under the jurisdiction of the Council. Per the amended Magnuson-Stevens Act, lobbying and advocacy are added to fishery harvesting, processing, and marketing as the types of activities, upon which the individual must report. The proposed rule would implement this change by expanding and updating the definition of financial interests in § 600.235 to include the activities of lobbying and advocacy. It would also remove from the definition of financial interests the exclusion of financial concerns associated with environmental advocacy. For clarity, Financial Interest Form is defined.

Consistent with the Magnuson-Stevens Act, at § 600.235 the proposed rule would require the financial disclosures made by Council members appointed by the Secretary to be posted on the internet and accessible to the public.

Council Member Training

Another new section, § 600.250, addresses a Magnuson-Stevens Act requirement for the Secretary to develop a training course and for newly appointed Council members to attend the training course within one year of appointment. The minimum course content is specified in the Magnuson-Stevens Act and not addressed in this regulation. The course would be made available, not only to new Council members, but also to existing Council members, Council staff, and NMFS staff. The course may also be made available to Council committee and advisory panel members.

Technical Changes

In addition to implementing amendments to the Magnuson-Stevens Act, the proposed rule would make several technical changes and corrections to 50 CFR part 600 subparts A, B, and C. In § 600.105, "intercouncil boundaries," the latitude of the seaward boundary between Virginia and North Carolina would be corrected. In § 600.125, citations to two documents that direct a Council's financial management would be updated. Section 600.10 would be revised to clarify that

one full year must have elapsed after the completion of a member's third consecutive term before that person may take a seat on the same Council. The text of an oath of office would be reinserted in § 600.220. This oath was removed during the regulations consolidation in 1996, however it is still in use by the Councils and it requested by them and others, particularly when new members are about to be sworn in. The oath acknowledges and affirms the members' commitment to the conservation and management of living marine resources. Section 600.240 would be clarified by requiring that background checks be acceptable rather than just completed. Several additional minor corrections and clarifications reflecting changes already discussed would be made throughout the subparts.

Classification

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

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

This proposed rule would update operational and administrative procedures of the eight Regional Fishery Management Councils. It consists of varied measures which implement 2007 amendments to the Magnuson-Stevens Act, respond to emerging Council issues, and make minor changes and technical corrections to the Council regulations. The proposed rule includes:

1. Requirements relative to the Council Coordination Committee (CCC) consisting of Council chairs, executive directors, and others, to work on issues of common concern;
2. Requirements relative to the Scientific and Statistical Committee (SSC) in the regulations and requirements for financial interest reporting by the SSC;
3. Update meeting announcement requirements for the Councils, their committees, advisory panels (AP), Fishing Industry Advisory Committees (FIAC), and the CCC, consistent with the Magnuson-Stevens Act;
4. Requirement for Councils to establish a procedure for proposed regulations submitted to the Secretary;
5. Designation of an alternate for the Indian tribal representative of the Pacific Fishery Management Council;
6. Requirements for nominating individuals to the Gulf of Mexico Fishery Management Council;
7. Revisions to the process and deadline for governors to submit Council member nominations to the Secretary;

8. Restrictions on direct or indirect lobbying of legislators by Council members, Council staff, and contractors.

9. Addition of lobbying and advocacy as types of financial interest activities that must be reported by affected individuals;

10. Specifying that SSC members be treated as "affected individuals" as regards certain financial interest reporting requirements, consistent with the Magnuson-Stevens Act;

11. Requirement that financial disclosures made by appointed Council members to be posted on the internet, consistent with the Magnuson-Stevens Act; and

12. Requirement that new Council members to attend a training course developed by the Secretary, consistent with the Magnuson-Stevens Act.

Additionally, the proposed rule would make several technical changes and minor corrections to the existing regulations. For example, in the section on inter-council boundaries, the latitude of the seaward boundary between Virginia and North Carolina is corrected; citations to two documents that direct the Councils' financial management are updated; and the text of an oath of office is added to the regulations. Several additional minor corrections have been made throughout the subparts.

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

This proposed rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under Control Number 0649-0192. Public reporting burden for completing and submitting the Statement of Financial Interests, Form 88-195, is estimated to average 35 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and by e-mail to David_Rostker@omb.eop.gov 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: March 23, 2009.
Samuel D. Rauch III,

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

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

**PART 600—MAGNUSON-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 standing
committee formed and selected by a
regional fishery management council,
under the authority of Magnuson-
Stevens Act section 302(g)(2), 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). 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 in 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. Formerly
known as Regional Director.
* * * * *

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

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) *Establishment of an SSC.* (1) 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.

(2) 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.

(3) 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.

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

(b) [Reserved]
(c) [Reserved]

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
regular meetings of each Council, CCC,
SSC, and AP, including the meeting
agenda, 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, or such notice must be 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; recommended 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, 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:

(1) A Council, CCC, SSC, AP, or FIAC must close any meeting, or portion thereof, that concerns information bearing a national security classification.

(2) A Council, CCC, SSC, AP, or FIAC 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) A Council, CCC, SSC, AP, or FIAC 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;

FIAC, 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 CCC, a Council, or subsidiary body 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, or FIAC 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 CCC, a Council, or subsidiary body should consult with the NOAA General Counsel Office 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. Section 600.207 is added to subpart C to read as follows:

§ 600.207 Pacific Fishery Management Council Tribal Indian representation 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.

12. 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.

13. In § 600.215, redesignate paragraphs (c), (d), and (e) as paragraphs (d), (e), and (f), respectively; add new paragraph (c); and revise the newly redesignated paragraph (e) to read as follows:

§ 600.215 Council nomination and appointment procedures.

* * * * *

(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) should be forwarded by express mail under a single mailing to 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 should submit lists that contain at least three qualified nominees for each vacant seat. A nomination letter and a nomination kit for each qualified nominee should be forwarded by express mail under a single mailing to the address specified by the Assistant Administrator by March 15.

(ii) Nomination packages that are not substantially complete by March 31 will be returned to the nominating Governor and will be processed no further. At-large members will be appointed from among the nominations submitted by the governors who complied with the nomination requirements.

* * * * *

14. 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."

15. 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.

* * * * *

16. 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 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.

17. 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 (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 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 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 activity in any fishery under the jurisdiction of the Council concerned; and

(iv) Employment with an 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 by each affected individual of any financial interest in harvesting, processing, lobbying, advocacy, or marketing activity, and of any such financial interest of 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.

(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 dispositive.

* * * * *

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

* * * * *

(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.

18. 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 nominees and members following completion of acceptable background checks. Security assurances will be valid for 5 years from the date of issuance. A security assurance will not entitle the member to access classified data. In instances in which Council members may need to discuss, at closed meetings, materials classified for national security purposes, the agency or individual (e.g., Department of State, U.S. Coast Guard) providing such classified information will be responsible for ensuring that Council members and other attendees have the appropriate security clearances.

* * * * *

19. 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. E9-6896 Filed 3-26-09; 8:45 am]

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NPFMC/NMFS Action

Timeline

Action	Status	Staffing	Timeline												
			2009						2010						
			June	July	August	September	October	November	December	January	February	March	April	May	June
Blue = Post Council Action, Rulemaking															
Chinook Salmon Bycatch	Preparation of Final EIS and regulations	NMFS 70% Council 30%													
Halibut Charter catch sharing plan	Preparation of final analytical documents and rulemaking package	NMFS 80% Council 20%													
LLP recency actions	Preparation of final analytical documents and rulemaking package	NMFS 80% Council 20%													
Recent Crab Rationalization program changes	Preparation of final analytical documents and rulemaking package	NMFS 80% Council 20%													
Arctic FMP	Preparation of final analytical documents and rulemaking package	NMFS 90% Council 10%													
Litigation workload	Ongoing	NMFS 90% Council 10%													
BSAI fixed gear parallel waters	Final action in June 2009, rulemaking to follow	NMFS 70% Council 30%													
Halibut Charter Moratorium	Final Rule	NMFS 90% Council 10%													
Subsistence Halibut (Rural Area Residents)	Final Rule	NMFS 90% Council 10%													
Remove inactive Halibut/Sablefish QS	Proposed and Final Rule	NMFS 90% Council 10%													
Rockfish Program sideboard exemption	Final Rule	NMFS 100%													

Action	Status	Staffing
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Green=project underway		
Action	Status	Staffing
Observer Program restructuring	Implementation plan section in progress for October review	NMFS 60% Council 40% for Implementation plan phase
GOA P cod sector splits	Initial review in October	NMFS 10% Council 90%
Permit fees in all fisheries	Initial review in June	NMFS 90% Council 10%
BSAI/GOA squid complex	Initial Review in October 2009	NMFS 20% Council 80%
BSAI skate amendment	Initial review in June	NMFS 30% Council 70%
Misc Other species breakouts	Ongoing, iterative	NMFS 30% Council 70%
Misc crab rationalization changes/major plan amendment	Ongoing considerations	NMFS 20% Council 80%
AI processing sideboards	Initial review in October 2009	NMFS 10% Council 90%
Walrus related discussion papers	Review in December 2009	NMFS 10% Council 90%
GOA P cod sideboards for crab	Initial review in October 2009	NMFS 10% Council 90%
Prib BKC rebuilding	Initial review in December 2009	NMFS 50% Council 50%
Am 80 coop formation	Final action in October	NMFS 90% Council 10%
Am 80 lost vessel replacement	Initial Review October, Final action December	NMFS 90% Council 10%
Bottom trawl sweeps	Initial review in June	NMFS 20% Council 80%

2009

2010

Action

Status

Staffing

June July August September October November December January February March April May June

Yellow = Project initiated but not yet fully underway

Action	Status	Staffing	June	July	August	September	October	November	December	January	February	March	April	May	June	
Annual Catch Limit plan amendments	Report in June on actions necessary - deadline looming - major project	NMFS 50% Council 50% Possible contract help	Yellow													
Salmon FMP ACL or Repeal	To follow after groundfish, crab, and scallop ACLs	NMFS 50% Council 50%														Yellow
Salmon bycatch Data collection program	Discussion paper and Committee report in June 2009	NMFS 50% Council 50% Potential Contract														Yellow
Outreach activities	Issue dependent; committee report in October	NMFS 10% Council 90%	Yellow													
MPA nomination process	Discussion in June or October	NMFS 40% Council 60%														Yellow
CQE Review	Report in October 2009	NMFS 10% Council 90%														Yellow
5-year EFH Review	begin in December 2009	NMFS 80% Council 20%														Yellow
NBS Research Plan	Outline in June, resolve timeline	NMFS 90% Council 10%														Yellow
Purple=Potential new project																
GOA Rockfish Pilot Program	Review in June and provide direction - major analysis needs to be complete by June 2010	NMFS 20% Council 80%, potential for contract assistance														
BSAICHum Salmon Bycatch Management Measures	Review alternatives in June, provide direction (major analysis)	NMFS 30% Council 70%, limited potential for contract assistance														
Salmon and crab bycatch in the GOA	Review discussion paper in October, provide direction	NMFS 20% Council 80%, potential for contract assistance														

Thank you, John and Jim. I greatly appreciate your warm words of welcome. It's a treat for me to be back in Boston and I thank you for the opportunity. Boston holds a special place in my heart. I was here as a grad student and young professor in the 70s – a time of stimulating intellectual debate and a great era for sports fans – Bruins, Celtics and, of course, the Red Sox. I am sorry I cannot stay for the game tonight but Pat Kurkul and Paul Howard have graciously consented to enjoy the game for me. Due to my new responsibilities as Administrator, some of my pleasures need to be vicarious ones, but others are direct. Being here today is a personal pleasure.

I have been anticipating the opportunity to talk with all of you since the President first nominated me to lead NOAA. This group—the Council chairs, the Regional Administrators and the Executive Directors of the Councils—are the focal point for successful fisheries management in the US. And that successful fishery management is closely connected to the health of the ecosystems that in turn sustain life in the oceans. These connections have not always been obvious, but they lie at the heart of our ability to be successful.

In March, I was able to meet with the New England Fishery Management Council to discuss its pending decisions about sectors. I was impressed with the willingness of Council members to have open, frank and respectful discussions about challenging issues, and to work together to solve problems.

Today, with your support and your leadership, I believe that we have an unparalleled opportunity to truly demonstrate that good, stable jobs, stable fisheries and resilient ecosystems can be achieved together. Fishing is an integral part of our cultural heritage and our coastal communities. Fishing is also an important part of the global food supply. The best possible fisheries management will be needed to sustain that supply over the coming years. The challenges we face every day make that a tall order. My principle message to you today is that I, and the team at NOAA, will be partners with you in finding every opportunity to make the health of the oceans go hand-in-hand with the prosperity of fishermen and the well-being of coastal communities.

I will be with you to help seek the resources you need to meet the challenges ahead.

We will be partners in developing NOAA's strategy to manage fisheries to end over-fishing. To rebuild stocks. To improve the economics of fishing, and to protect the ecosystems that sustain fisheries. These goals are not antithetical; they go hand-in-hand.

As partners we will celebrate successes, and together we will seek out and implement solutions to the problems that we find.

And, as a partner with you, I am committed to improving the transparency of our science and the quality of our two-way communications. The Councils provide stakeholders with an important and direct role in managing the Nation's fisheries. Making sure that NOAA provides clear advice and support into that process is key. Just as important is making sure that we are listening to the concerns and ideas that emerge from the Councils.

Before I talk about specific priorities, let me share a little bit about my background.

I was fortunate to grow up in Colorado where I developed a deep appreciation for the land, the rivers and lakes -- hunting and fishing with my father, hiking and camping and sailing with family and friends.

I first became enamored with the oceans during a summer college class in Woods Hole, Massachusetts. To a Colorado native, the newly discovered life in the sea seemed exotic and endlessly fascinating. Little did I realize at the time that life in the oceans is also essential to human prosperity and well-being. My exposure to the oceans was love at first sight and my life's work was set in motion.

As a researcher, teacher, and vocal champion of good science, I have had the opportunity to visit coastal communities around this great Nation: the Pacific, the Gulf, the Atlantic and even the Arctic. I have been struck by the extent to which Americans across the country and from all different perspectives share common desires when it comes to oceans and coasts. We want clean beaches. We want safe healthy seafood. We want stable fisheries. We want abundant wildlife. And we want vibrant coastal communities. What few people recognize is that these outcomes are intertwined with each other and all require healthy oceans.

I believe the work of NOAA and the Councils in the next few years will be an important part of realizing each of those aspirations.

I wish to highlight for you now areas where I see prime opportunities: (1) catch shares, (2) tracking progress, (3) ecosystem approaches to management, and (4) good communication.

NOAA and you are committed to meet the mandate of the Magnuson Act to end overfishing by 2010. We know that annual catch limits are key to achieving that goal. However, just having a good ACL does not mean that it will be effective. It doesn't mean it will be adhered to. Therefore, I challenge you to put as much emphasis on how those catch limits are met as you put on getting the catch limits correct.

Recent scientific analyses show us that fisheries managed with catch share programs perform better than fisheries managed with traditional tools. Even in the first years after implementation, catch share fisheries are stable, and even increase their productivity. The scientific evidence is compelling that that catch shares can also help restore the health of ecosystems and get fisheries on a path to profitability and sustainability. These results... these scientific analyses... are why moving forward to implement more catch share programs is a high priority for me. I see catch shares as the best way for many fisheries to both meet the Magnuson mandates and have healthy, profitable fisheries that are sustainable. Catch shares that are well designed and thoughtfully prepared.

I applaud the many people on the Councils, fishermen and NOAA Fisheries employees who have provided strong and creative leadership to make catch share programs work. For example, Roy Crabtree described for me at last night's reception how the Gulf Council

recently set up a catch share program for red snapper. I understand that Chairman McIlwain and the Council are working to add groupers and other fish to the system. The fishermen were on board with the design of an ITQ system, and the system passed overwhelmingly on a vote of the license holders. In the first year, discards in the fishery decreased 70%, and the price on the dock went up by about 25%. This inspiring example—and the efforts to make a sector approach to catch shares work in New England are just two examples of the kind of good work and results that truly inspire me. I want to find ways to encourage more progress like this.

•NOAA is committed to working with the Councils to ensure we have the necessary resources.

- As you know, in the proposed 2010 budget, we have identified \$18.6M to address the development of sectors in the New England groundfish fishery to continue to assist their transition to a catch share management regime.
- The New England groundfish fishery has been managed primarily by effort controls in the past. Going to catch shares will be a new paradigm for managers and for the industry.
- The funds will be used to develop data systems and infrastructure to support new reporting requirements, along with at sea and dockside monitoring enhancements.

Rest assured though that NOAA is not focusing solely on New England at the expense of other regions or fisheries. All of the Councils will see increases in their allocations in the 2010 request.

The 2010 budget contains a \$4M increase for Councils to implement annual catch limits, and I am committed to making sure that money is well-spent.

NOAA also provides \$1M to Councils annually specifically for catch share programs, and is looking at potential for increases in that support in future years.

In addition to that we are also working with the National Fish and Wildlife Foundation to provide additional resources to Councils to help break through any financial bottlenecks you experience in moving catch shares forward.

To take full advantage of this opportunity, and the resources we hope to make available, today I am announcing a new task force at NOAA to develop a strategy to move forward on making catch share management more available to fisheries in the United States. The goals of the task force will be to:

1. Develop a new NOAA policy on catch shares that ensures that catch shares are fully considered when Councils take up fishery management plan amendments.
2. Make sure that Councils who want to move forward with catch shares have the technical and administrative support to move quickly to design a catch share system while empowering local fishermen to be part of the process.

3. Make sure that catch share designs achieve the best possible environmental and economic performance—supporting healthy ecosystems, meeting annual catch limits, reducing bycatch and habitat damage and enhancing economic performance.
4. Consider whether any organizational changes are needed within NOAA to provide the best possible communication and support.
5. Provide advice to me on how to allocate resources to the Councils to support this work, and how to create milestones so that we can evaluate our progress.

I have asked Monica Medina to chair this task force initially. She will be naming the members of the task force by the end of the month. This will build upon the informal group NOAA has had on this. I have directed her to consult fully with you—the council chairs, the NOAA leadership and staff and the Council Executive Directors and to report back to me by August 1.

I want to emphasize that while I know that catch shares need to be a priority, I need your help making sure that we pursue this priority the right way. I invite your engagement in this effort.

I am very pleased that today we rolled out the annual Status of Stocks Report. The fact that we are reporting on the best single-year improvement in the number of stocks rebuilt is a testament to you and NOAA Fisheries' efforts.

Four stocks were declared fully rebuilt: the northern and southern stocks of monkfish, Atlantic bluefish, and Gulf of Mexico king mackerel.

Three stocks are no longer subject to overfishing, and three stocks have increased in biomass and are no longer overfished.

And while we can claim success, this year's report also shows the challenges that still exist to end overfishing and to rebuild stocks: three stocks have been found to be subject to overfishing and four stocks have been determined to be overfished.

In all, 41 stocks are subject to overfishing and 46 stocks are overfished. Some of these stocks are managed under international agreements, and action by the international community is critical to ending overfishing for them.

This Status of Stocks report is just one example of the absolutely critical role that NOAA needs to play in providing the science to support scientific decisions.

If we truly want to have the aspirations Americans told us they wanted -- clean beaches, stable fisheries, safe seafood, abundant wildlife and vibrant coastal communities -- we need policy and management decisions that are based on a more comprehensive understanding of how ocean ecosystems work.

We talk a lot about managing on an ecosystem basis, but we really don't have the fundamental understanding of ecosystem-based science to really underpin those decisions. There is a huge amount that we don't know about oceans that is desperately needed to inform the kinds of management decisions, especially in light of the dual challenges posed by climate change and ocean acidification.

So one of my goals is to create a mechanism for having more comprehensive ecosystem-based planning that will take stock of the range of activities that can coexist with one another to minimize conflicts, but also ensure that the ecosystem remains healthy and can be recovered.

The final goal that I wish to touch on is communication. NOAA Fisheries does world class science, and has a long, proud tradition of excellence. The challenge we face is that we need to get much better at doing and sharing our science in non-technical terms and in ways that inspire confidence in the results. If we expect people to trust our decisions, we need to be transparent about our science and make ourselves accessible to those who will be affected.

Thank you very much.

June 2, 2009

Dr. Jane Lubchenco, Administrator
National Oceanic and Atmospheric Administration
1401 Constitution Avenue, NW, Room 5128
Washington, DC 20230

Dear Dr. Lubchenco:

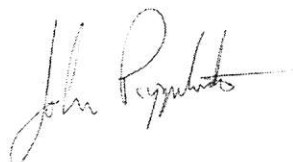
In your remarks at our May Council Coordination Committee meeting in Boston, MA, you announced the creation of a new NOAA task force to develop a strategy to make catch share management programs more available to U.S. fisheries. You outlined five specific goals for the task force and mentioned that members would be named by the end of the month. Additionally, you stated that you have directed the task force chair to consult fully with the eight Council Chairs, NOAA leadership, staffs, and the Council Executive Directors.

We applaud this effort and stand ready and willing to help. We believe that the Councils and their staffs have the experience and expertise to provide invaluable input to meet the task force goals. Additionally, the Councils in section 303A (a) of the Magnuson-Stevens Act have the authority to submit catch share programs for Secretarial approval. Accordingly, we ask that you select representatives from the Councils and their staffs to your task force. We believe that to avoid unnecessary pitfalls our input should be provided earlier during policy development, rather than later.

We would like nothing better than to partner with you in developing NOAA's policy and strategy to move forward with catch shares. Either as members of the task force or as partners in the management process, we are committed to working with NOAA to make catch shares not only a priority, but a successful initiative that will benefit both fishermen and the marine environment on which we all depend.

If you have any questions, please call Paul Howard, Executive Director, New England Fishery Management Council.

Sincerely,



John W. Pappalardo, Chair
New England FMC



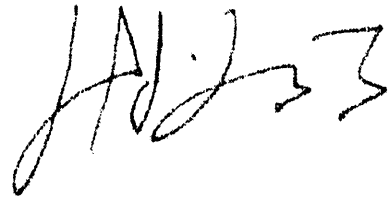
Richard B. Robins, Jr., Chair
Mid-Atlantic FMC



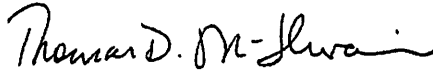
Gulf of Mexico
Fishery
Management
Council



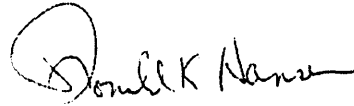
Charles Duane Harris, Chair
South Atlantic FMC




Eugenio Piñeiro-Soler, Chair
Caribbean FMC



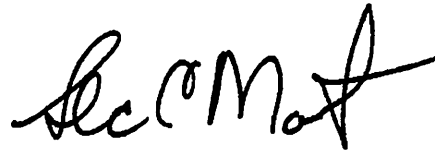
Thomas McIlwain, Chair
Gulf of Mexico FMC



Donald K. Hansen, Chair
Pacific FMC



Eric Olson, Chair
North Pacific FMC



Sean Martin, Chair
Western Pacific FMC

cc: Dr. James W. Balsiger
Samuel D. Rauch III
Council EDs

May 29, 2009

Dr. Jane Lubchenco, Administrator
National Oceanic and Atmospheric Administration
1401 Constitution Avenue, NW, Room 5128
Washington, DC 20230

Dear Dr. Lubchenco:

Thank you again for your participation last week in our Council Coordination Committee meeting. One of our agenda items was "Legislation and Regulation Updates". During our lengthy discussion about the National Environmental Policy Act (NEPA), we became aware of an initiative by NOAA's line office of Planning, Programming, and Integration (PPI) to rewrite Administrative Order 216-6, which prescribes NOAA's NEPA compliance procedures. The initiative apparently began last December 2008, at about the same time that NOAA Fisheries withdrew a proposed rule which would have implemented a revised NEPA compliance procedure for fisheries actions promulgated through the Council under the authority of the Magnuson-Stevens Act (MSA).

The proposed rule was the result of a provision included in the most recent MSA reauthorization [Section 304 (i)], which mandated that NOAA Fisheries revise its NEPA compliance procedures in consultation with CEQ and the Regional Fishery Management Councils. Although we believe that additional coordination and consultation would have been more beneficial during the development of this rule, nevertheless, we worked very hard with NOAA Fisheries from start to finish. We believe that any further development of NEPA compliance procedures, such as those currently undertaken by PPI, would benefit significantly by including a meaningful consultation with the Councils.

It is our understanding that 85 percent of NOAA's NEPA activities are related to Council actions and NOAA Fisheries. It therefore seems prudent that NOAA would approach any revisions to NEPA compliance under the auspices of the Congressional mandate, rather than revise Administrative Order 216-6 through a separate and potentially confounding effort. The Councils have a standing subcommittee of three Executive Directors who have been working with NOAA Fisheries on this issue, and who stand ready to further engage in any effort to revise these procedures.

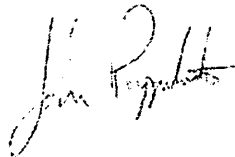


Gulf of Mexico
Fishery
Management
Council

We believe that section 304 (i) of the MSA reauthorization entitled ENVIRONMENTAL REVIEW PROCESS was intended to streamline the NEPA process and integrate it with our MSA process in consultation with the Councils and CEQ. This section also states that updated procedures promulgated in accordance with this section shall be the sole environmental impact assessment procedure for fishery management plans, amendments, regulations, or other actions taken or approved pursuant to the MSA. We are concerned about a potential conflict between the PPI initiative and the provisions in the MSA. We ask how the PPI initiative will be melded with the NEPA revision provision in the MSA.

Your positive consideration and action on this request will be greatly appreciated. We remain committed to work with NOAA regarding any revisions to the current NEPA compliance provisions. If you have any questions, please call Paul Howard, Executive Director, New England Fishery Management Council.

Sincerely,



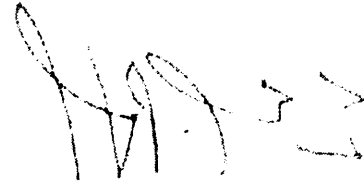
John W. Pappalardo, Jr., Chair
New England FMC



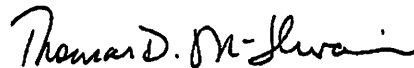
Richard B. Robins, Jr., Chair
Mid-Atlantic FMC



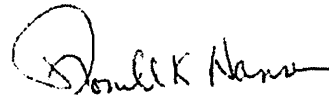
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Caribbean FMC



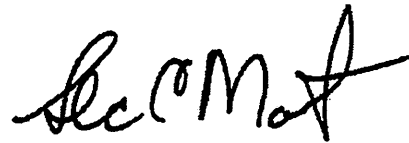
Thomas D. McIlwain, Chair
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Donald K. Hansen, Chair
Pacific FMC



Eric Olson, Chair
North Pacific FMC



Sean Martin, Chair
Western Pacific FMC

cc: Dr. James W. Balsiger
Samuel D. Rauch III
Council EDs

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June 1, 2009

Mr. Alan Risenhoover, Director
Office of Sustainable Fisheries
National Marine Fisheries Service
1315 East-West Highway, SSMC3
Silver Spring, MD 20910

Dear Mr. Risenhoover:

These comments are in response to the proposed rule (FR Vol. 74, No. 58, Friday, March 27, 2009) which proposes changes to the regulations which address the operations and administration of regional fishery management councils (Councils). Generally, the proposed rule appears to contain provisions necessary for compliance with recent amendments to the Magnuson-Stevens Act (MSA), and our comments for the most part are simply to obtain further clarity with regard to some of the provisions. In the interest of simplicity I have grouped our comments by general subject heading.

Definition of Advisory Panel

The proposed rule notes that Councils use the terms 'advisory panel' and 'advisory committee' inconsistently. Coupled with the recent MSA amendments which allow for payment of stipends to "members of SSCs or advisory panels", an appropriate and consistent definition for 'advisory panel' is necessary. Section 302(g)(2) of the MSA specifies establishment of 'advisory panels' as are necessary or appropriate to assist the Council. In the case of the NPFMC, this function is consistent with numerous, ad-hoc committees established by the Council on an issue-by-issue basis, many of which are temporary in nature. These are no-host committees consisting of members of the fishing industry and other interested public.

Section 302(g)(3)(A) on the other hand mandates establishment and maintenance of a 'fishing industry advisory committee' which shall provide information and recommendations on, and assist in the development of, fishery management plans and amendments to such plans. This function is consistent with our long-standing, permanent, 20-member Advisory Panel which represents a broad spectrum of fishing and geographical interests, and which meets in conjunction with the Council at every meeting. While it fits under the label of 'fishing industry advisory committee', we have always called it our Advisory Panel, or AP. It seems clear that the intent of the MSA reauthorization was to provide stipend allowances to this group of advisors (pending availability of funding), rather than to numerous, temporary 'advisory panels' as may be created under Section 302(g)(2).

However, the proposed rule as currently worded would appear to grant stipend allowances to the 302(g)(2) advisory panels, rather than to the 302(g)(3)(A) advisory committees. Simply changing our terminology would not appear to fix this problem, given the specific language contained in the MSA. We suggest that the proposed rule be changed, and clarified, to specifically reference the advisory committees created under the 302(g)(3)(A) mandate, relative to potential future stipend payments. The Council could then develop consistent terminologies based on this clarification.

Process for approving amendments to SOPPs

Section 600.15(b) refers to Secretarial approval of Council SOPPs and amendments to those SOPPs. The MSA does not contain any specific approval process for SOPPs, though it does specify that such SOPPs must be “in accordance with uniform standards prescribed by the Secretary”. While we understand that revisions to the current SOPPs would be reviewed and approved by the Secretary to ensure compliance with the MSA and with the proposed rule, we are concerned that minor, routine administrative changes to our SOPPs in the future would require some type of formal Secretarial approval process. We request that the proposed rule clarify how the Councils would treat future changes to our SOPPs which are minor in nature, and which are not inconsistent with the MSA or current regulations.

Procedure for proposed regulations

The proposed rule contains two requirements relative to the development and submittal of fishery regulations; (1) that the Council establish a written procedure describing how the Council deems proposed regulations necessary or appropriate for purposes of implementing a fishery management plan or amendment, or making modifications to regulations, and (2) the procedure must describe how the Council submits proposed regulations to the Secretary.

Regarding the first point, the Council has already adopted a policy for ‘deeming’ regulations to be developed to implement its actions, pursuant to Section 303(c) and Section 305(d). This process usually defers review of such regulations to the Council Chair/Executive Director prior to submittal, though in some cases a full review of the Council may be warranted prior to submittal. Regarding the second point, the procedures for Secretarial review of proposed regulations submitted by a Council are clearly spelled out in the MSA; however, the process leading up to submittal (transmittal) by the Council is not specified. We presume that the proposed rule simply intends that the Council attempt to clarify the process leading to transmittal in its SOPPs, so long as that process is not inconsistent with the requirements of MSA or any other applicable law. In the case of the NPFMC, this consists of a collaborative process between NMFS Regional staff and Council staff, and is in fact directly related to the ‘deeming’ process described above.

Lobbying

Section 600.27 of the proposed rule contains provisions related to restrictions on lobbying by Council members and staff. It is unclear whether the provisions of this section are different from existing lobbying restrictions, or are an attempt to restate existing restrictions. It would be helpful if this section could be clear whether these provisions represent any changes to existing prohibitions, and perhaps provide greater clarity with regard to these prohibitions.

We appreciate the opportunity to comment on this proposed rule, and urge you to seriously consider these comments prior to finalizing the rule. Please contact me if you have any questions regarding these comments.

Sincerely,

Chris Oliver
Executive Director