

## Executive Director's Report

### April 1997 Meeting

The next Council meeting is in Anchorage, the week of April 14. The AP and SSC will start Monday and the Council will begin Wednesday. I do not have an agenda developed yet, but anticipate the meeting will last only through Sunday. The wildcard will be the length of public testimony on the halibut charter issue, if, as now scheduled, there is a final decision then. Other issues tentatively on the April agenda will include initial review of the observer program, 2% Atka mackerel jig allocation, GOA IR/IU, IFQ amendments, and demersal shelf rockfish license limitation; and final review of halibut charterboat proposal, forage fish prohibition, and GOA pelagic shelf rockfish. We also will be reviewing the proposed rule on groundfish and crab license limitation, receive an industry report on possible buyback alternatives, and discuss potential alternatives for inshore-offshore 3. Having said all that, I still think we can be out by Sunday afternoon, late!

### SSC Officers

The SSC will be holding elections of chair and vice-chair this week, and the Council will need to approve the officers elected. The AP will hold their elections in April.

### E-Mail Express Delivery

We would like to have the e-mail addresses of as many Council, AP, and SSC members that have them. Then when we need to quickly distribute a message, letter or memo, it will be just a matter of pushing a button rather than standing at the fax machine for an hour. If you have such an address, please give it to one of the staff members.

### Recusal Regulations

As you are aware, new Section 302(j) is replete with recusal provisions. An excerpt from the Act is under B-1(a). In particular, subparagraph (7)(F) requires the Secretary to consult with the Councils, and by October 11, 1997, promulgate regulations on recusal. Lisa Lindeman volunteered to draft those regulations and would like to give a progress report and seek advice on certain issues.

### Essential Fish Habitat

You will note on the front page of the agenda that essential fish habitat is the subject of three evening meetings this week. On Wednesday, we will hold a work session for the industry, Council family representatives, and any other persons who want to comment on the essential fish habitat guidelines drafted by NMFS. Most members of the Council's Ecosystems Committee will be there Wednesday night to hear this testimony. Then on Thursday night, the committee will meet and develop comments on essential fish habitat for Council review on Saturday. The Ecosystems Committee will also consider other items. On Friday night, NMFS will hold their previously scheduled hearing on essential fish habitat. While that may be the official public hearing, we encourage as many people as possible to show up on Wednesday night to voice their opinions to our work session for our consideration. The Ecosystems Committee wants to gather as many viewpoints as possible Wednesday night before developing their own comments on Thursday night. Agenda item C-6 has the background materials on essential fish habitat.

16 U.S.C. 1852  
M-S Act § 302

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

99-659, 104-297

**(j) DISCLOSURE OF FINANCIAL INTEREST AND RECUSAL.--**

104-297

(1) For the purposes of this subsection--

(A) the term "affected individual" means an individual who--

(i) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2); or

(ii) is a voting member of a Council appointed--

(I) under subsection (b)(2); or

(II) under subsection (b)(5) who is not subject to disclosure and recusal requirements under the laws of an Indian tribal government; and

(B) the term "designated official" means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, in consultation with the Council, to attend Council meetings and make determinations under paragraph (7)(B).

(2) Each affected individual must disclose any financial interest held by--

(A) that individual;

(B) the spouse, minor child, or partner of that individual; and

(C) any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee;

in any harvesting, processing, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction.

104-297

(3) The disclosure required under paragraph (2) shall be made--

(A) in the case of an affected individual referred to in paragraph (1)(A)(i), before appointment by the Secretary; and

(B) in the case of an affected individual referred to in paragraph (1)(A)(ii), within 45 days of taking office.

104-297

(4) An affected individual referred to in paragraph (1)(A)(ii) must update his or her disclosure form at any time any such financial interest is acquired, or substantially changed, by any person referred to in paragraph (2)(A), (B), or (C).

**104-297**

(5) The financial interest disclosures required by this subsection shall--

(A) be made on such forms, in accordance with such procedures, and at such times, as the Secretary shall by regulation prescribe;

(B) be kept on file, and made available for public inspection at reasonable hours, at the Council offices; and

(C) be kept on file by the Secretary for use in reviewing determinations under paragraph 7(B) and made available for public inspection at reasonable hours.

**104-297**

(6) The participation by an affected individual referred to in paragraph (1)(A)(ii) in an action by a Council during any time in which that individual is not in compliance with the regulations prescribed under paragraph (5) may not be treated as cause for the invalidation of that action.

**104-297**

(7) (A) After the effective date of regulations promulgated under subparagraph (F) of this paragraph, an affected individual required to disclose a financial interest under paragraph (2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

(B) At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

(C) Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

(D) Any affected individual who does not vote in a Council decision in accordance with this subsection may state for the record how he or she would have voted on such decision if he or she had voted.

(E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.

(F) The Secretary, in consultation with the Councils and by not later than one year from the date of enactment of the Sustainable Fisheries Act, shall promulgate regulations which prohibit an affected individual from voting in accordance with subparagraph (A), and which allow for the making of determinations under subparagraphs (B) and (C).