

Public Testimony Sign-Up Sheet

Agenda Item B Reports

NAME (PLEASE PRINT)	AFFILIATION
1 / Stephen Taukn	Groundwell Fisheries Movement
2 / Lori Swanson	Groundfish Forum
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

EXECUTIVE DIRECTOR'S REPORT

Welcome to Ed Dersham

While he may not be sitting at the table until our April meeting, I want to congratulate Ed on his recent appointment to the Council, and welcome him formally to the process! Ed of course is already well-schooled on Council process and issues so we look forward to him hitting the ground running in April.

Passing of Don Collingsworth

As most of you know, Don Collingsworth passed away in January. Don was a long-time figure and leader in Alaska fisheries management, serving as Commissioner of ADF&G and as Deputy Regional Administrator for NMFS Alaska Region, including a stint as Council Chairman during 1989 and 1990. Item B-1(a) is Don's obituary as it appeared recently in the Juneau Empire.

Bob Mace article

Recalling another, dearly missed friend to all, Item B-1(b) is a copy of a recent article from the Eugene, Oregon Register-Guard which details the legacy Bob left via he and Phyllis' \$2.5 million endowment for the Mace Watchable Wildlife Chair and scholarship fund at Oregon State University, and the planned Watchable Wildlife Education Center at Jackson County Expo Park.

For your information, Item B-1(c) is a copy of correspondence I recently received from Bob's daughter expressing his family's gratitude for the honor bestowed on Bob through our Council's Bob Mace Distinguished Service Award.

CCC meeting, MSA, and budget update

In early January an interim meeting of the Council Coordination Committee (CCC) was held with NOAA Fisheries leadership in Washington, D.C., where we discussed a number of topics including the status of various MSA reauthorization issues and budget issues. In attendance from our Council were Eric Olson, John Bundy, Chris Oliver, and David Witherell. Jim Balsiger, Sue Salvesson, and Doug DeMaster were in attendance from the NMFS Alaska Region. As most of you know by now, John Oliver has been named Acting Assistant Administrator following Bill Hogarth's departure. The main annual CCC meeting will be held in May, hosted this year by the Caribbean Fishery Management Council.

Item B-1(d) is the latest MSA summary taken from the NMFS website. Relative to a few key issues, I can tell you that we are still awaiting publication of the regulations implementing annual catch limits, and we are still awaiting publication of the guidelines (in regulation) for development of LAPPs. Hopefully these proposed regulations will be published soon, and we can ascertain whether further comments are necessary (I suspect they will be). On the NEPA front, the CCC subcommittee assigned to track this issue (Chris Oliver, Dan Furlong, and Bob Mahood) was allowed to meet with NOAA and CEQ representatives on December 19 to review and comment on the draft proposed rule. While I am restricted from divulging any of the details, I can tell you that the general approach is unsettling, to say the least. The general approach is to formalize in regulation the NEPA process as the vehicle for everything we do, incorporating all MSA and other applicable law into that NEPA vehicle (as opposed to the other way around as proposed in the CCC strawman from February 2007). I and most of the other members of the

CCC are concerned that this approach will simply solidify the overapplication of NEPA, rather than streamline it, contrary to Congressional intent. Additionally, there is a concern that under this approach Council authorities under MSA could be eroded in lieu of NMFS authorities under NEPA. NMFS and CEQ were receptive to several minor adjustments recommended by the CCC subcommittee, but the overall approach remains a serious concern. I have transmitted to NMFS, CEQ, and OMB (via letter) these general concerns with the draft proposed rule, as well our collective dissatisfaction with how the agency treated the Councils in terms of the 'consultation' required by the Act. My latest understanding is that NMFS intends to publish a proposed rule sometime within the next month or two. At that time the Council may wish to submit formal comments (and the CCC which meets in May will likely submit collective comments).

Regarding budget matters, I cannot speak to the overall NMFS budget but I will update you on the status of Council funding generally. Overall, the collective eight-Council baseline funding (of which we share 15.65%) was increased by about \$2 million relative to 2007. However, the separate line item for the NPFMC (which has been a significant part of our overall funding since 2001, and which was lumped within the 'Alaska composite' the past two years), did not survive this year's budget, such that our overall funding for 2008 is decreased relative to 2007. I am still discussing this with NOAA Fisheries leadership and others, and hoping to get at least some portion of that funding restored. Item B-1(e) is a copy of the letter summarizing these budget matters as discussed at the CCC meeting, including a discussion of SSC/AP stipends (more on that below). Item B-1(f) is a response from Alan Risenhoover which reflects the final allocation of funds to the eight regional Councils.

Regarding stipends, there was money appropriated in the category of 'enhanced peer review processes', which is being interpreted by NOAA Fisheries to include some form of stipends to the SSC members (sorry AP!). This category also includes set-asides for other peer review processes, including the standing Center for Independent Experts (CIE) review process, such that only a limited amount (around 200k) is available nationwide for SSC stipends in 2008. NMFS has proposed an amount of \$215 per day (based on total projected SSC days in 2008), while the CCC is suggesting that stipends not be paid in 2008, and instead those funds go directly to support general Council operations. If NMFS determines that stipends must be provided, the CCC is suggesting an amount of \$100 per day. Stay tuned.

On another issue discussed by the CCC, Item B-1(g) is a letter regarding the composition of the Board contained in DRAFT legislation for the "National Fish Habitat Conservation Act". Basically we are saying that, if such legislation is enacted and such a Board is created, there should be a representative of the regional fishery management Councils on that Board.

Proposed rule for revising EFP process (MSA requirement)

Item B-1(h) is a copy of the proposed rule (comments due by March 20) for revising the process for granting exempted fishing permits (EFPs) and scientific research activities. I have provided this to you because I have received some inquiries as to what exactly the proposed changes imply, and whether the Council might wish to comment on the rulemaking. Generally, the proposed revisions appear to streamline the process for granting EFPs, but it is unclear to me whether the revisions would still (a) require some level of Council consultation prior to the agency granting an EFP, and (b) if an activity is reclassified as scientific research (and thereby does not require an EFP) would there still be some level of consultation with the Council. Regardless of whether classified as research or exempted fishing, it may be prudent to still have some consultation role by the Council as such activities are usually of keen interest to the Council for a variety of reasons.

Comments on Deep Sea Coral Report to Congress (MSA requirement)

Another MSA requirement was for biennial reports to Congress on steps taken to identify, monitor, and protect deep sea coral areas....". Council staff reviewed the draft report compiled by NMFS, identified some areas of concern with the draft report, and provided comments which are contained under Item B-1(i).

National Bycatch Report

Item B-1(j) is the letter I wrote to Dr. Karp following our December meeting, and his response to our concerns. We will continue to work with Dr. Karp to hopefully ensure that our concerns are addressed in the context of the report.

Oceana comment letter on 2008 groundfish specifications

For your information, Item B-1(k) is a copy of the comment letter from Oceana to NMFS regarding the 2008 groundfish specifications. Specifically, the letter raises a number of concerns with BSAI pollock, BSAI flatfish, and GOA pollock specifications. NMFS will respond to this letter in their 'response to comments' on the proposed specifications.

ACS fiber optics cable

There is a flyer available which summarizes work on an underwater fiber optics cable project, and I will work with ACS representatives and the Council Chair to arrange some kind of more detailed briefing on this during our April meeting.

Electronic monitoring workshop

Nicole and I have been working with NMFS Alaska Region and Center folks, in conjunction with NPRB staff, to organize a workshop on electronic monitoring (as an alternative or supplement to human observers or for other purposes), as suggested by the NPRB last year and to which the Council concurred. We have made good progress in terms of identifying key participants, invited speakers, the focus of the workshop and panel format, and other logistics. We have pinned down the dates of July 29-30 and the location will be the Jim Traynor conference room at the Alaska Fisheries Science Center in Seattle. That room can accommodate up to 100 persons. We will likely have some sort of registration process as attendance will have to be limited to 100. Further specifics will be provided either before or at our April meeting.

Recommendations on operating procedures

The Council recently discussed some potential adjustments to our general operating procedures and meeting logistics. These discussions focused on document timing, meeting length, and how issues are dealt with relative to staff tasking. I believe that, relative to document timing (which in turn affects agenda structure for any given meeting), we simply need to continue to strive for the target of getting documents to you two weeks prior to the meeting. If we are successful in doing so, then we will be better able to plan our agendas and keep to that plan.

Relative to agenda issues and staff tasking, I think our last meeting illustrated our ability to, in most cases, deal with tasking related to each agenda item when we are on that agenda item, rather than postponing discussions to staff tasking. We always will need to 'circle back' when we get to staff tasking and assess the overall landscape at that time.

Relative to the goal of shorter Council meetings, our meeting this week is scheduled for six days rather than seven, so we are well on our way! Seriously however, our ability to schedule this meeting for six days was partly due to our postponement (at the last meeting) of a couple of significant Gulf of Alaska issues that would otherwise have been scheduled for this meeting. It may be more difficult to achieve this goal at our two upcoming meetings. Related to this issue is how we set our three-meeting outlook – after discussions with our Council Chair, I am suggesting that we be a bit careful about setting that three-meeting outlook to concretely at each meeting. We do need to discuss it of course, and get a general sense of the Council as to how and when the various issues will be developed and addressed by the Council; however, I believe that the Chair and I need to retain considerable flexibility to adjust the meeting agendas based on developments that often occur in between Council meetings, and to allow us to better achieve the general goal of shorter meetings.

I have also had discussions with various agency representatives regarding our agency ('B') reports at the beginning of each meeting. These are important as they provide critical background and context for nearly every issue we address at each meeting. However, we believe that we can achieve some efficiency in this regard, and shorten the time we spend on these reports at many of our meetings. For example, while we would still receive full written reports at each meeting, the oral presentations can focus on highlights from these written reports, or on issues that are relevant to upcoming agenda items for that meeting. At some meetings we will necessarily need to receive the longer, more detailed reports (such as end of the year catch and bycatch reports). Another example suggested by LCDR Raggone is to consider only receiving verbal reports from the USCG at our February, June, and December meetings, similar to how we currently handle the NMFS Enforcement reports. I think it will be a somewhat iterative process to achieve the appropriate balance of efficiency and necessary information from these various reports.

North Aleutian Basin Energy/Fisheries Workshop

Alaska Sea Grant is organizing a series of workshop to provide a forum for discussing issues relative to energy exploration in the northern Aleutian Basin and potential interactions with fisheries. Our Council Chair Eric Olson is a member of the steering committee which has been established, and has already participated in planning sessions for a workshop scheduled for March 18-19 here in Anchorage. Item B-1(1) is a DRAFT agenda for that workshop. I just wanted to make everyone aware of the workshop – it should provide an interesting forum for discussion of these issues.

Events this week

There is an industry sponsored reception tomorrow evening (Thursday) from 6:00 to 9:00 pm in the South Room. That is this room actually, so we have to break it down tomorrow by 5:00 pm. I also want to welcome John Pappalardo, the Chairman of the New England Council, to our meeting this week. I am fairly certain that he will make it to this meeting, because I know that he is eager to collect from me on our football wager from early January.

Subject: Don Collingsworth R.I.P. (Former Commissioner ADFG and NPFMC Chair)
From: MCA Tom Gemmell <tomgemmellmca@ak.net>
Date: Fri, 25 Jan 2008 09:11:24 -0900
To: MCA Tom Gemmell <tomgemmellmca@ak.net>

DON COLLINSWORTH

Juneau Empire

Juneau resident Don W. Collingsworth died Jan. 23, 2008, at his home, surrounded by his family. His illness was brief, and death came a short two weeks after being diagnosed with a prion disease. He was 66.

He was born Sept. 6, 1941, in Glendale, Calif., to Les and Marie Collingsworth. His parents moved to northern California when he was a young boy. He married Nancy Jewell, his high school sweetheart, in 1966. In 1976, they moved with their two young daughters to Juneau, where he went to work for the Commercial Fisheries Entry Commission.

Later, and during Gov. Jay Hammond's second term, he was appointed deputy commissioner of Fish and Game. He served as commissioner of Fish and Game under Gov. Sheffield and Gov. Cowper. Before he retired in 1997, he was the deputy regional administrator for the National Marine Fisheries Service in Juneau. With a spirit that was larger than life itself, he always seemed to have a twinkle in his eye, his family said. The love he shared with his family and his ability to bring a smile to all those who knew him were unsurpassed. According to his family, he was admired in the workplace for his unwavering leadership and dedication to making sound decisions. Away from the office, his time with family and friends was lived to the fullest, they said.

He enjoyed shooting his traditional bow at the archery range, hunting, camping, fishing and traveling. He and Nancy took several trips to South Africa and traveled the United States extensively. Over the years, they also spent a great deal of time at their cabin in Tenakee Springs, enjoying the Alaska outdoors with each other and their family.

He was preceded in death by his mother; and brother-in-law, Bill Patch.

He is survived by his father and stepmother, Elsie, of California; wife, Nancy Collingsworth, of Juneau; daughters, Dawn Germain and her husband, Tom, of Juneau, and Kris Dorsey and her husband, Ryan, of Angoon; brothers, Rex Collingsworth and his wife, Jeanne, and Ken Collingsworth, of California; sister-in-law, Beverly Patch, of Tenakee Springs; grandchildren, Casey, Wendy and Johnathan Germain, and new grandbaby, Emma Dorsey; and many good friends and family members.

As he requested, the family has honored his wishes not to hold a formal memorial service. They will spread his ashes at his favorite hunting spot and will have a celebration of life this summer.

In lieu of flowers, the family suggests that remembrances in his name be made to the National Prion Disease Pathology Surveillance Center ("NPDPS"), Case Western Reserve University, 2085 Aldebert Road, Room 419, Cleveland, Ohio, 44106, or Hospice and Home Care of Juneau, 419 Sixth St., Juneau, AK 99801.

http://juneauempire.com/stories/012508/obi_240264062.shtml

The Register-Guard: *Outdoors: Outdoors*

A watchable wildlife legacy

By Mike Stahlberg The Register-Guard
Published: January 15, 2008 09:19AM



We like to watch.

Not just television, which is what a simple gardener named Chance had in mind when he uttered the line "I like to watch" in the movie "Being There."

We also enjoy observing nature's creatures large and small. Which is what the late Robert "Bob" Mace had in mind when he coined the phrase "Watchable Wildlife," thereby becoming the father of what would eventually become a national wildlife viewing movement.

Mace, a retired Oregon Department of Fish and Wildlife biologist and administrator, died of congestive heart failure in November 2006 at his home along the Rogue River near Central Point. He was 84.

Even in death, Mace and his wife of 61 years, Phyllis (who died in 2005) continue to support wildlife.

The Maces bequeathed \$2.5 million to "watchable wildlife" programs — including a \$1.5 million endowment for the Mace Watchable Wildlife Chair and scholarship fund at Oregon State University, and \$1 million for a planned Watchable Wildlife education center at Jackson County Expo Park.

It was 1979 — the same year Peter Sellers earned a Best Actor nomination for his performance as Chance the gardener in "Being There" — that Mace came up with the term "watchable wildlife."

The similar timing of those two watch-word events was, apparently, pure chance.

Mace, then chief of the game division of the Oregon Department of Fish and Wildlife, was simply looking for a term better than "nongame wildlife," which is how species that weren't hunted, fished or trapped were then described.

"The 'nongame' term bothered me because it was a negative term, and here were all these wonderful species of wildlife that people were interested in looking at and were in my view not being given proper attention," Mace said in a 2005 oral history interview recorded by a former colleague, Warren Aney of Tigard, who provided a copy of the interview to The Register-Guard.

Thumbing through his thesaurus one day, Mace said, "I was going through the W's and got to the word 'watch.' Then I said 'watchable ... watchable wildlife.' And my secretary said 'That's it!'"

“And that’s where the term started.”

The terminology began echoing across the national landscape following the 1981 North American Wildlife and Natural Resources Conference in Washington D.C., where Mace handed out 100 lapel buttons featuring a drawing of a raccoon and the words “I support WATCHABLE WILDLIFE.”

The “watchable” phrase “permanently changed the way many people think of small animals from robins and raccoons to salamanders, frogs and butterflies,” according to a history posted on the Mace Watchable Wildlife web site.

“I think that really did spread the word because nowadays watchable wildlife is a growing concern,” Mace said in 2005. “One state I know of has a watchable wildlife license plate. Missouri allocates a portion of its sales tax to it. In any event, it’s become a well-known term and one that I’m proud to be associated with.”

In fact, the term is now used almost universally by state and federal agencies, many of which have signed a memorandum of understanding with Watchable Wildlife, Inc., a Colorado-based non-profit organization formed to promote “wildlife viewing as a viable economic and conservation enterprise for communities throughout Canada, the United States and Mexico.”

Sixteen states — including California, Washington and Idaho — are members of the Watchable Wildlife, Inc. Most of the others, including Oregon, have a “working relationship.”

Among other things, the organization (www.watchablewildlife.org) sells state wildlife guide books and provides guidelines for standardized wildlife viewing area signs, including the familiar binoculars logo.

Fittingly, the Oregon Wildlife Viewing Guide was the first one created through the National Watchable Wildlife Program.

However, Oregon “lost some momentum around wildlife viewing” in the mid-1990s due to the “fallout” from budget cuts, according to Peg Boulay of the ODFW’s Wildlife Diversity Program.

Also, the term “watchable wildlife” seems to have fallen out of favor with ODFW, having been replaced by “wildlife diversity” and even Mace’s hated “nongame.”

That’s in part due to the fact that, through popular usage, the “watchable” moniker has grown beyond what Mace originally intended and now encompasses all wildlife, whether hunted or not, says Bruce Dugger, an assistant professor who currently holds the Mace Watchable Wildlife Chair in the Department of Fisheries and Wildlife at Oregon State University.

“The watchable wildlife movement has expanded to include just about anything,” Dugger said. “Birdwatchers are just as interested in waterfowl as they are songbirds. And elk and deer are very popular for people to go to watch.”

Boulay says ODFW biologists generally agree “it doesn’t matter what you call it, we just support the concept of providing information so people can enjoy the wildlife.”

Meanwhile, The Maces’ donations to OSU are used to support research projects conducted by the Mace Professor and student scholarships. Dugger is using the funds for research into sandhill cranes and Dusky geese and wetlands management.

The Maces actually began making annual donations for the program in 1993, and 15 or 16 Mace scholarship winners have already graduated, Dugger said.

The endowment that became available following Bob Mace’s death will nearly triple the amount of money available annually, Dugger said.

The fund will also be used for “public outreach initiatives,” such as the Mace Watchable Wildlife Web site (<http://fw.oregonstate.edu/mace/>). That site includes the first comprehensive list of watchable wildlife options in Oregon.

The Web site also includes a roster of “citizen science” opportunities, which go a step beyond just watching. There, members of the public can learn how they can help gather data scientists can use to track population trends for such species as birds, butterflies, dragonflies and salamanders.

The Maces’ \$1 million donation to Jackson County is earmarked for a 6,000-square-foot education center dedicated to teaching youngsters about the wonders of wildlife.

Mace himself had a lifelong interest in wildlife. He grew up on a farm near Medford, where he graduated from high school in 1938. He got his degree in Game Management from Oregon State College in 1942.

After four years in the Navy, he went to work for the Oregon Game Commission’s wildlife department in 1946.

During a 35-year career with the state wildlife agency, Mace spent a dozen years overseeing the big game management program. He spearheaded the reintroduction of bighorn sheep, which had been extirpated from the state, by arranging to bring about two dozen animals captured in British Columbia to Hart Mountain in southeast Oregon.

He also helped transplant wild turkeys and produced educational films and pamphlets on various big game species.

Long after retiring from the ODFW, Mace continued to represent Oregon on the North Pacific Fishery Management council, which oversees Alaskan waters frequented by Oregon salmon and steelhead during their time at sea.

“He was a take-charge guy,” Oregon Fish and Wildlife Commission co-chair Don Denman told the Medford Mail Tribune newspaper shortly after Mace’s death. “He believed the best way to get something done was to go after it and get it done.”

“It’s going to be a different wildlife world without Bob’s input,” Denman said.

Nonetheless, Mace’s financial and linguistic contributions to wildlife are sure to continue.

“I think this term will outlive us,” Mace said. “and I hope it will continue to be part of conservation, and of the public’s interest in viewing these enjoyable and wonderful wildlife species that creep, crawl, fly, swim or whatever.”

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Subject: Bob Mace Distinguished Service Award

From: Linda Marr < >

Date: Thu, 17 Jan 2008 12:39:09 -0800

To: chris.oliver@noaa.gov

CC: Richard <mace@ >, Carol <carolamace@ >

Dear Chris Oliver, Stephanie Madsen, and the North Pacific Fishery Management Council,

On behalf of my brother, Richard, and my sister, Carol, I wish to thank you for the wonderful honor you bestowed on our father by establishing the Bob Mace Distinguished Service Award.

Dad's work on the Council was especially important to him and he spoke often about it, the respect he felt for other Council members, and his gratitude to the fine staff. It is indeed fitting that the first award be presented to the entire professional staff. He would have agreed with your choice.

Thank you for keeping his memory alive in such a way. Please accept my apologies for taking so long to acknowledge your wonderful tribute to him. We all miss him, and I know he would join us in wishing the staff and Council a most successful year ahead.

Sincerely, Linda Marr

MSRA Reauthorization Tracking: by Status update of tasks (30 items) As of January 18, 2008

Task	Due date	Status	Additional Information
Annual Catch Limits (1 item)			
<p>1. Establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability. The amendment made by subsection (a)(10)—(1) shall, unless otherwise provided for under an international agreement in which the United States participates, take effect— (A) in fishing year 2010 for fisheries determined by the Secretary to be subject to over fishing; and (B) in fishing year 2011 for all other fisheries; and (2) shall not apply to a fishery for species that have a life cycle of approximately 1 year unless the Secretary has determined the fishery is subject to overfishing of that species; and (3) shall not limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(1) or 1854(e), respectively).</p> <p>2. Requires that rebuilding plans be submitted 2 years after stock declared and overfishing is ended immediately.</p>	01/01/10	On Track	<p>* Annual Catch Limits must be in place for overfished stocks by 1/01/10. However, the task tracked here is GUIDELINES to be provided to NMFS/Councils to establish a mechanism for specifying annual catch limits. NMFS intends to have guidelines in place in 2008.</p> <p>A Notice of Intent published on 2/14/07 (72 FR 7016). The public comment period is closed.</p> <p>Scoping meetings are complete. A summary of comments received may be viewed at: http://www.nmfs.noaa.gov/msa2007/catchlimits.htm#publiccomments</p>
Bycatch (1 item)			
<p>1. Program: The Secretary, in cooperation with the Councils and other affected interests, and based upon the best scientific information available, shall establish a bycatch reduction program, including grants, to develop technological devices and other conservation engineering changes designed to minimize bycatch, seabird interactions, bycatch mortality, and post-release mortality in Federally managed fisheries. The section specifies program requirements.</p> <p>2. Incentives: Authorizes councils to establish a system of incentives for bycatch reduction, including establishment of individual bycatch quotas.</p> <p>3. Seabird Bycatch: Authorizes Sec., in coordination with the Sec. of Interior, to undertake projects in cooperation with industry to improve information and technology to reduce seabird bycatch.</p>	01/12/08	Completed	<p>The incentives and seabird bycatch tasks (items 2 and 3) do not have associated statutory deadlines but are being tracked with the overall bycatch program task because these components are part of the overall bycatch reduction program in section 316 of the revised Magnuson-Stevens Act.</p> <p>A Policy Directive establishing this program was signed by NMFS on January 11, 2008. The Directive may be found at www.nmfs.noaa.gov/directives</p>

Task	Due date	Status	Additional Information
Conflict of interest (1 item)			
On January 1, 2008, and annually thereafter, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on action taken by the Secretary and the Councils to implement the disclosure of financial interest and recusal requirements of this subsection, including identification of any conflict of interest problems with respect to the Councils and scientific and statistical committees and recommendations for addressing any such problems.	01/01/08	Delayed	NMFS prepared guidance for the Councils on what information to collect for the annual report to Congress.
Council Liaison (1 item)			
The MA Council, in consultation with the NE Council, shall submit a report to the Senate Committee on Commerce, Science, and Transportation - (1) describing the role of council liaisons between the MA and NE Councils, including an explanation of council policies regarding the liaison's role in Council decision-making since 1996; (2) describing how management actions are taken regarding the operational aspects of current joint FMPs, and how such joint plans may undergo changes through amendment or framework processes; (3) evaluating the role of the NE and the MA Council liaisons in the development and approval of management plans for fisheries in which the liaisons or members of the non-controlling Council have a demonstrated interest and significant current and historical landings of species managed by either; (4) evaluating the effectiveness of the various approaches developed by the Councils to improve representation for affected members of the non-controlling Council in decision-making, such as use of liaisons, joint management plans, and other policies, taking into account both the procedural and conservation requirements of the MSA; and (5) analyzing characteristics of NC and FL that supported their inclusion as voting members of more than one Council and the extent to which those characteristics support RI's inclusion on a second Council (the MA Council).	10/12/07	Completed	The MA Council prepared this report in consultation with the NE Council. NMFS provided assistance as requested. The report can be viewed at: http://www.nmfs.noaa.gov/msa2007/
Deep Sea Coral Report to Congress (1 item)			
The Secretary, in consultation with the Councils, shall submit biennial reports to Congress and the public on steps taken by the Secretary to identify, monitor, and protect deep sea coral areas, including summaries of the results of mapping, research, and data collection performed under the program.	01/12/08	Delayed	The Report to Congress will draw heavily from "The State of Deep Coral Ecosystems of the United States", which was called for in the President's Ocean Action Plan. The status report was released on December 10, 2007 and can be found at: http://www.nmfs.noaa.gov/habitat/dce.html

Task	Due date	Status	Additional Information
Ecosystem Research (1 item)			
Requires Sec., in consultation with the Councils, to undertake and complete a study on the state of science for integration of ecosystem considerations in regional fisheries management. The study should build upon the recommendations of the advisory panel (established under Section 406 of MSA). Stipulates what must be included in study.	07/12/07	Delayed	NMFS plans to conduct a workshop in Nov 2007 (revised date is Jan 2008) with participation from the Councils, NMFS Science Centers and the Ecosystem Principles Advisory Panel. A NMFS Steering Group has been formed and is planning the workshop program. A report will be prepared for delivery to Congress in July 2008.
Environmental Review Process - NEPA (1 item)			
The Secretary shall, in consultation with the Councils and the Council on Environmental Quality, revise and update agency procedures for compliance with the National Environmental Policy Act (42 U.S.C. 4231 et seq.). Specifies requirements of the procedures. First part of schedule specifies when revised procedures are to be proposed. Proposed rule shall provide 90 days for public comment. Requires that the Secretary promulgate final procedures for compliance with the National Environmental Policy Act (42 U.S.C. 4231 et seq.) no later than 12 months after the date of enactment.	01/12/08	Delayed	The National Marine Fisheries Service solicited public comment through April 20, 2007, on the environmental review provisions required by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA). For more information, see: http://www.nmfs.noaa.gov/msa2007/docs/notice_to_public_5.pdf A summary of the public comments received has been posted on the website. See: http://www.nmfs.noaa.gov/msa2007/publiccomments.htm
Experimental Fishing Permits (1 item)			
Requires Sec., in consultation with the Councils, to promulgate regulations that establish an expedited, uniform, and regionally-based process for issuance of experimental fishing permits.	07/12/07	Delayed	A proposed rule was published on 12-21-2007 (72 FR 72657). See: http://frwebgate3.access.gpo.gov/cgi-bin/waisgate.cgi?WAIIdocID=24729325294+3+0+0&WAIAction=retrieve The public comment period for this rule ends 03-20-2008.
Fishery Science (1 item)			
Secretaries of Commerce and Education shall collaborate to study if there is a shortage of individuals with post-baccalaureate degrees in fisheries science and shall submit a report to congress detailing the findings and recommendations of the study.	07/12/07	Delayed	The NMFS Office Of Science and Technology has contracted with the American Fisheries Society to determine if there is a shortage of individuals with post-baccalaureate degrees in fisheries science. A survey of over 80 fishery-related departments in higher learning institutions in the U.S. was distributed in July 2007. The report of survey results is expected to be available by early 2008.
Framework 42 (1 item)			
The Secretary of Commerce shall conduct a unique, thorough examination of the potential impact on all affected and interested parties of Framework 42 to the Northeast Multispecies FMP and report the Secretary's findings. The report shall include a detailed discussion of the provisions specified in the section.	02/12/07	Completed	See: http://www.nmfs.noaa.gov/msa2007/Framework42ReporttoCongressFinalFinal.pdf
Hurricane (2 items)			
The Secretary of Commerce shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives	07/12/07	Completed	This report has been submitted to Congress and may be viewed at: http://www.nmfs.noaa.gov/msa2007/docs/Fisheries_Report_Final.pdf

Task	Due date	Status	Additional Information
Committee on Resources on the impact of Hurricane Katrina, Hurricane Rita, and Hurricane Wilma on— (1) commercial and recreational fisheries in the States of Alabama, Louisiana, Florida, Mississippi, and Texas; (2) shrimp fishing vessels in those States; and (3) the oyster industry in those States.			
The Secretary of Commerce shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on the impact of Hurricane Katrina, Hurricane Rita, and Hurricane Wilma on habitat, including the habitat of shrimp and oysters in those States.	07/12/07	Completed	This report has been submitted to Congress and may be viewed at: http://www.nmfs.noaa.gov/msa2007/docs/HurricaneImpactsHabitat_080707_1200.pdf with errata: http://www.nmfs.noaa.gov/msa2007/docs/errata_080707.pdf
IFQ Referenda Guidelines (LAPP) (1 item)			
Within 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.	01/12/08	Delayed	This project was discussed at the Gulf Council meeting on June 4: http://www.gulfcouncil.org/Beta/GMFMCWeb/downloads/committee%20schedule-607.pdf and at the New England Council on June 19: http://www.nefmc.org/calendar/index.html
International fisheries (3 items)			
Amends the High Seas Driftnet Fishing Moratorium Protection Act to require the Secretary, in consultation with the Sec of State, to provide to Congress, a biennial report that includes— (1) the state of knowledge on the status of International living marine resources shared by the U.S. or subject to treaties or agreements to which the U.S. is a party, including a list of all such fish stocks classified as overfished, overexploited, depleted, endangered, or threatened with extinction by any international or other authority charged with management or conservation of living marine resources; (2) a list of nations whose vessels have been identified under section 609(a) or 610(a), including the specific offending activities and any subsequent actions taken pursuant to section 609 or 610; (3) a description of efforts taken by nations on those lists to comply take appropriate corrective action consistent with sections 609 and 610, and an evaluation of the progress of those efforts, including steps taken by the U.S. to implement those sections and to improve international compliance; (4) progress at the international level, consistent with section 608, to strengthen the efforts of international fishery management organizations to end IUU fishing; and (5) steps taken by the Secretary at the international level to adopt international measures comparable to those of the U.S. to reduce impacts of fishing and other practices on protected living marine resources, if no international	01/12/09	On Track	An advance notice of proposed rulemaking and request for public comments was published June 11 (72 FR 32052-5; http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/pdf/E7-11254.pdf) to solicit public comments on a procedure for certifying IUU fishing flag states and a procedure for certifying flag states whose fishing vessels are responsible for unacceptable levels of bycatch of protected living marine resources. Notice of three public input sessions was published (72 FR 33436): July 2 in Silver Spring, MD; July 5 in Long Beach, CA; and July 5 in Seattle, WA). Identification and certification decisions are required elements of the biennial report. Target date for publication of a proposed rule is May '08; target date for publication of a final rule is TBD.

Task	Due date	Status	Additional Information
<p>agreement to achieve such goal exists, or if the relevant international fishery or conservation organization has failed to implement effective measures to end or reduce the adverse impacts of fishing practices on such species.</p> <p>The Secretary shall establish a procedure for determining if a nation identified under subsection 609(a) and listed in the report under section 607 has taken appropriate corrective action with respect to the offending activities of its fishing vessels identified in the report under section 607, providing for notice and an opportunity for comment by any such nation. The Secretary shall determine, on the basis of the procedure, and certify to the Congress no later than 90 days after the date on which the Secretary promulgates a final rule containing the procedure, and biennially thereafter in the report under section 607— (A) whether the government of each nation identified under subsection (a) has provided documentary evidence that it has taken corrective action with respect to the offending activities of its fishing vessels identified in the report; or (B) whether the relevant international fishery management organization has implemented measures that are effective in ending the illegal, unreported, or unregulated fishing activity by vessels of that nation.</p>			
<p>The Secretary shall publish a definition of the term 'illegal, unreported, or unregulated fishing' for purposes of this Act, including in the definition, at a minimum—(A) fishing activities that violate conservation and management measures required under an international fishery management agreement to which the United States is a party, including catch limits or quotas, capacity restrictions, and bycatch reduction requirements; (B) overfishing of fish stocks shared by the United States, for which there are no applicable international conservation or management measures or in areas with no applicable international fishery management organization or agreement, that has adverse impacts on such stocks; and (C) fishing activity that has an adverse impact on seamounts, hydrothermal vents, and cold water corals located beyond national jurisdiction, for which there are no applicable conservation or management measures or in areas with no applicable international fishery management organization or agreement.</p>	04/12/07	Completed	<p>Definition published in the Federal Register on April 12, 2007, at 72 FR 18404-5. See: http://e257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/pdf/07-1830.pdf</p>
<p>The Secretary, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall designate a Senate-confirmed, senior official within the National Oceanic and Atmospheric Administration to perform the duties of the Secretary with respect to international agreements involving fisheries and other living marine resources, including policy development and representation as a U.S. Commissioner, under any such</p>	01/12/09	Targets/Milestones Being Established	

Task	Due date	Status	Additional Information
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International agreements.

Joint Enforcement Agreements (2 items)

Requires NMFS and Coast Guard to transmit a joint report to Congress on feasibility, value, and cost of using GMDSS (or other similar data system) for fishery management, conservation, enforcement, and safety purposes with the Federal government bearing the capital costs of any such system; the cumulative impact of existing requirements for commercial vessels; whether such data systems would overlap existing requirements or render them redundant; how data from systems could be integrated; how to maximize data-sharing opportunities between State and Federal agencies; and an assessment of the development, purchase, and distribution of systems to regulated vessels.	04/12/08	On Track	The contractor was selected in September 07 to draft the report. The report is currently under development and on track for completion in mid-April 2008.
The Secretary shall implement data-sharing measures to make any data required to be provided by this Act from satellite-based maritime distress and safety systems, vessel monitoring systems, or similar systems— (A) Directly accessible by State enforcement officers authorized under subsection (a) of this section; and (B) Available to a State management agency involved in, or affected by, management of a fishery if the State has entered into an agreement with the Secretary under section 402(b)(1)(B) of this Act.	10/12/09	On Track	On Track

King/Tanner Crab (1 item)

Sec. Comm shall amend the FMP for the BSAI King and Tanner Crabs for the Northern Region (as that term is used in the plan) to authorize—(A) an eligible entity holding processor quota shares to elect on an annual basis to work together with other entities holding processor quota shares and affiliated with such eligible entity through common ownership to combine any catcher vessel quota shares for the Northern Region with their processor quota shares and to exchange them for newly created catcher/processor owner quota shares for the Northern Region; and (B) an eligible entity holding catcher vessel quota shares to elect on an annual basis to work together with other entities holding catcher vessel quota shares and affiliated with such eligible entity through common ownership to combine any processor vessel quota shares for the Northern Region with their created catcher/processor owner quota shares for the Northern Region.	04/12/07	Completed	AMENDMENT APPROVED. • NOA published 2/5/07 - 72 FR 5255 • Comment period ended: 4/6/07 • Amendment was approved by NMFS on 4/12/07
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Marine Recreational Fisheries Information (1 item)

1. Sec. Comm, in consultation with reps of the rec fishing	01/12/09	On Track	To develop an improved recreational fishing data collection program, an Executive Steering
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Task	Due date	Status	Additional Information
<p>Industry and experts in statistics, technology, and other appropriate fields, shall establish a program to improve the quality and accuracy of information generated by MRFSS. The program must take into account the 2006 NRC report "Review of Recreational Fisheries Survey Methods." Identifies the goal of the program and what it shall include. The Sec. must complete the program and implement the Improved MRFSS by January 1, 2009. Within 24 months of establishment of the revised MRFSS program, requires Sec. to submit a report to Congress describing progress toward achieving the program goals and objectives.</p> <p>2. Creation of National Registry Program for Marine Recreational Fishing. The "Sec. Comm shall establish and implement regionally based registry program for recreational fishermen in each of the 8 fishery management regions. Program shall not require a fee before January 1, 2011 and shall provide for (a) registration (including identification and contact information) of individuals who engage in recreational fishing in EEZ, for anadromous species, or for Continental Shelf fishery resources beyond EEZ and (b) if appropriate, the registration (including the ownership, operator, and identification of the vessel) of vessels used in such fishing. Secretary shall exempt from registration under the program recreational fishermen and charter fishing vessels licensed, permitted, or registered under laws of a State if Secretary determines information from State program is suitable for the Secretary's use or is used to assist in completing marine recreational fisheries statistical surveys, or evaluating the effects of proposed conservation and management measures for marine recreational fisheries."</p>			<p>Committee was established and met for the first time in March. Members include fisheries managers and scientists from NOAA Fisheries, the interstate marine fisheries commissions, and the regional fishery management councils. Executive Steering Committee has established the Operations Team. OT has begun to set milestones and timelines for issue-specific work groups. The OT estimates making the program proposal available for public comment by July, 2008 See: http://www.st.nmfs.noaa.gov/RecSurveyUpgrade/RecSurveyUpgrade.html</p> <p>The recreational registry task (2 above) does not have an associated statutory deadline but it is being tracked with data collection task because the registry information is needed to support data collections improvements required in the new MRIP.</p>
<p>Overcapacity (1 item)</p> <p>Subject to the availability of funds, the Secretary shall, within 12 months after the date of the enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 submit to the Congress a report—</p> <p>(i) identifying and describing the 20 fisheries in United States waters with the most severe examples of excess harvesting capacity in the fisheries, based on value of each fishery and the amount of excess harvesting capacity as determined by the Secretary;</p> <p>(ii) recommending measures for reducing such excess harvesting capacity, including the retirement of any latent fishing permits that could contribute to further excess harvesting capacity in those fisheries; and</p> <p>(iii) potential sources of funding for such measures.</p>	01/12/08	Delayed	<p>NMFS has conducted capacity assessments for fisheries in each region. All 8 regional reports have been delivered.</p> <p>NMFS is currently drafting a comprehensive report consistent with the required provisions. NMFS will coordinate with the Councils on how best to address the problem of excess harvesting capacity in specific fisheries.</p>

Task	Due date	Status	Additional Information
Pacific Groundfish (1 item)			
<p>Requires the Pacific Fishery Management Council to develop a proposal for an appropriate rationalization program for the Pacific trawl groundfish and whiting fisheries, including the shore-based sector of the Pacific whiting fishery. In developing the rationalization proposal, the Pacific Council must fully analyze alternative program designs, assess the proposal's impact on conservation and economies of the communities, fishermen, and processors participating in the groundfish trawl fisheries, including the shore-based sector of the Pacific whiting fishery. Requires the Pacific Council to submit the proposal and related analysis to Congress within 24 months of enactment.</p>	01/12/09	On Track	<p>The PFMC met from June 10 -15, 2007 and voted to approve a list of alternatives for preliminary analysis. A detailed list of the alternatives may be found here: <http://www.pcouncil.org/bb/2007/0607/E9a_ATT2.pdf></p> <p>The Groundfish Advisory Committee provided its recommendations to the PFMC at its November 2007 meeting. Briefing Book documents on the TIQ alternatives can be found under Agenda Item D.7 here: <http://www.pcouncil.org/bb/2007/bb1107.html#groundfish></p>
Salmon Recovery Plan (1 item)			
<p>The Secretary of Commerce shall complete a recovery plan for Klamath River Coho salmon and make it available to the public. Within 2 years of enactment, and annually thereafter, the Sec. is required to submit a report to Congress on the actions taken under the recovery plan and other law relating to the recovery of Klamath River Coho salmon and how these actions are contributing to its recovery; progress on restoration of salmon spawning habitat, including water conditions that relate to salmon health and recovery (with emphasis on the Klamath River and its tributaries below Iron Gate Dam); the status of other Klamath River anadromous fish populations, and actions taken by the Sec. to address the 2003 National Research Council's recommendations regarding monitoring and research on Klamath River salmon stocks.</p>	01/12/09	On Track	<p>A presentation was made at the PFMC the week of April 2nd, 2007.</p> <p>A notice of availability of the recovery plan was published in the Federal Register on July 10, 2007 (72 FR 37512). The recovery plan is available at: http://swr.nmfs.noaa.gov/salmon/MSRA_RecoveryPlan_FINAL.pdf</p>
Secretarial Action on State-waters fishing (1 item)			
<p>The Secretary of Commerce shall determine whether fishing in State waters— (A) without a New England Multispecies groundfish fishery permit on regulated species within the multispecies complex is not consistent with the applicable Federal fishery management plan; or (B) without a Federal bottomfish and seamount groundfish permit in the Hawaiian archipelago on regulated species within the complex is not consistent with the applicable Federal fishery management plan or State data are not sufficient to make such a determination. If the Secretary makes a determination that such actions are not consistent with the plan, the Secretary shall, in consultation with the Council, and after notifying the affected State, develop and implement measures to cure</p>	03/12/07	Completed	<p>Analyses completed and are available at: NERO: http://www.nmfs.noaa.gov/msa2007/docs/NER_section_110_20070226.pdf PIRO: http://www.nmfs.noaa.gov/msa2007/docs/section_110_analysis_PIRO_20070321.pdf</p>

Task	Due date	Status	Additional Information
the inconsistency pursuant to section 306(b).			
Training (2 items)			
Requires the Sec., in consultation with the Councils and the National Sea Grant College Program, develop a training course for new Council members. Training course shall be made available to new and existing Council members and staff from the RO's and RSC's of NMFS, and may be made available to committee or advisory panel members as resources permit.	07/12/07	Completed	New member Council training is scheduled for the week of October 15, 2007. A syllabus of the training program is available at: http://www.nmfs.noaa.gov/msa2007/docs/council_training_syllabus_200707_v2.pdf
Council members appointed after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 shall complete a training course that meets the requirements of this section not later than 1 year after the date on which they were appointed. Any Council member who has completed a training course within 24 months before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 shall be considered to have met the training requirement of this paragraph.	01/12/09	Completed	New member training was conducted the week of October 23, 2007.
Tsunami (4 items)			
The National Weather Service, in consultation with other relevant Administration offices, shall transmit to Congress a report on how the tsunami forecast system under this section will be integrated with other United States and global ocean and coastal observation systems, the global earth observing system of systems, global seismic networks, and the Advanced National Seismic System.	01/12/08	Final Action Pending	View NWS charter here: http://www.ppl.noaa.gov/weather_water/TsunamiPage.html View Indian ocean tsunami warning system program here: http://www.iotws.org/ev_en.php?ID=1267_201&ID2=DO_TOPIC
The National Weather Service, in consultation with other relevant Administration offices, shall transmit a report to Congress on how technology developed under section 806 is being transferred into the program under this section.	01/12/10	On Track	View NWS charter here: http://www.ppl.noaa.gov/weather_water/TsunamiPage.html View Indian ocean tsunami warning system program here: http://www.iotws.org/ev_en.php?ID=1267_201&ID2=DO_TOPIC
The Administrator shall establish a process for monitoring and certifying contractor performance in carrying out the requirements of any contract to construct or deploy tsunami detection equipment, including procedures and penalties to be imposed in cases of significant contractor failure or negligence.	04/12/07	Completed	View NWS charter here: http://www.ppl.noaa.gov/weather_water/TsunamiPage.html View Indian ocean tsunami warning system program here: http://www.iotws.org/ev_en.php?ID=1267_201&ID2=DO_TOPIC
Comptroller General of the U.S. shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives that (1) evaluates the current status of the tsunami detection, forecasting, and warning system and the tsunami hazard mitigation program established under this title, including progress toward tsunami inundation mapping of all	01/31/10	On Track	View NWS charter here: http://www.ppl.noaa.gov/weather_water/TsunamiPage.html View Indian ocean tsunami warning system program here: http://www.iotws.org/ev_en.php?ID=1267_201&ID2=DO_TOPIC

Task	Due date	Status	Additional Information
<p>coastal areas vulnerable to tsunami and whether there has been any degradation of services as a result of the expansion of the program; (2) evaluates the NWS's ability to achieve continued improvements in the delivery of tsunami detection, forecasting, and warning services by assessing policies and plans for the evolution of modernization systems, models, and computational abilities (including the adoption of new technologies); and (3) lists the contributions of funding or other resources to the program by other Federal agencies, particularly agencies participating in the program.</p>			

MSRA Implementation: by Status Update (49 items) – As of January 18, 2008

Issue	MSRA Citation	Output	Status	Additional Information
Access to Certain Information (1 item)				
Revises provisions specifying access to confidential information.	203	Undetermined	2-In Progress	
CDQ Bycatch limitations (1 item)				
Revises bycatch limitations	116(a)	Regulatory Change	6-Completed	<p>Final rules implementing Amendments 80 (72 FR 52668) and 85 (72 FR 50788) to the FMP for BSAI Groundfish issued to increase CDQ allocations for species supporting directed fisheries. The CDQ Panel made its allocation decision for 2008 fisheries in early October and provided it to NMFS.</p> <p>CDQ allocations represent ongoing activities for the agency. Each year, the CDQ Panel will make its allocation decision under this section of the MSRA and provide it to NMFS. However, no further action relative to this task is required at this time. Should the CDQ Panel not reach consensus, NMFS would issue rules defining the process by which it would make the allocations as provided for in the revised Magnuson-Stevens Act.</p>
Community-Based Habitat Restoration Program (1 item)				
Requires Sec. of Commerce to establish a community-based fishery and coastal habitat restoration program to implement and support the restoration of fishery and coastal habitats.	117	Program	5-Final Review	<p>A description of NOAA's Community-Based Restoration Program can be found at: http://www.nmfs.noaa.gov/habitat/restoration/projects_programs/crp/index.html</p> <p>NOAA published an Omnibus Federal Register Notice on July 2, 2007 to announce the availability of FY2008 competitive federal grant funds (http://www.nmfs.noaa.gov/habitat/restoration/funding_opportunities/funding_nationwide.htm) . Through NOAA's Community-based Restoration Program, funds are provided to implement individual, grass-roots restoration projects to restore fish habitat. Deadline for applications closed September 27, 2007.</p>
Cooperative Research and Management Program (1 item)				
Requires Sec., in consultation with the Councils, to establish a regional cooperative research and management program. Funds would be provided on a competitive basis and based on regional fishery management needs. Under cooperative research and management program, priority is given to projects that: - collect data to improve, supplement, or enhance stock assessments; - assess the amount and type of bycatch or post-release	204	Program	2-In Progress	

Issue	MSRA Citation	Output	Status	Additional Information
mortality; - use conservation engineering designed to reduce bycatch; - identify HAPCs and habitat conservation methods; and collect and compile economic and social data.				
Council Coordination Committee (1 item)				
Authorizes the Councils to establish a Council coordination committee consisting of chairs, vice chairs, and executive directors to discuss issues of relevance to all Councils.	103(g)	Other	6-Completed	The Councils have established the CCC via motions passed at recent meetings. Information on these motions is available from the Councils.
Council SOPPs Revisions (1 item)				
<p>1. Requires that conflict of interest disclosures be made available on the internet, as well as at the Council offices</p> <p>2. Authorizes the tribal representative on the Pacific Council to designate as an alternate, during the period of the representative's term, an individual knowledgeable concerning tribal rights, tribal law, and the fishery resources of the geographical area concerned.</p> <p>3. Within the list of Gulf Council nominees that is submitted to the Sec. [through FY 2012], requires Governors to include at least one nominee each from the commercial, recreational, and charter fishing sectors, and one other nominee who is knowledgeable on fisheries conservation and management. If Governor's list does not meet requirements, requires the Sec. to publish a notice in the Federal Register asking State residents to submit names and biographical information of nominees that meet unmet requirement. Further stipulates that an individual who owns or operates a fish farm outside of the United States from may not be a representative of the commercial or recreational fishing sector.</p> <p>4. Modify notice requirements for regular and emergency Council meeting, and for closed Council meetings.</p> <p>5. Require that each council establish, maintain, and appoint the members of a SSC to assist in the development, collection, evaluation, and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to [an FMP]. Requires each SSC provide ongoing scientific</p>	103(a),(b),(e),(f),(i),(j)	Revise Council SOPPs	2-In Progress	

Issue	MSRA Citation	Output	Status	Additional Information
<p>advice for fishery management decisions, including recommendations for acceptable biological catch and MSY; and reports on stock status and health, bycatch, habitat status, socioeconomic impacts of management measures, and sustainability of fishing practices.</p> <p>Requires SSC members be Federal employees, State employees, academicians, or independent experts with strong scientific or technical credentials and experience.</p> <p>6. SSCs are required to hold meetings in conjunction with Council meetings, to the extent practicable.</p>				
Data Collection (1 item)				
<p>Authorizes collection of proprietary and economic info, i.e., strikes restriction on info that would disclose proprietary or confidential commercial or financial info.</p> <p>Authorizes Secretary to implement an information collection or observer program to obtain additional info for fisheries management.</p>	202	Other	7-No action needed	<p>If the Secretary determines that information is necessary for developing, implementing, revising, or monitoring a fishery management plan, or for determining whether a fishery is in need of management, the Secretary may, by regulation, implement an information collection or observer program requiring submission of such additional information for the fishery.</p>
Deep Sea Coral Research/Management (1 item)				
<p>1. Requires the Sec., in consultation with appropriate Councils and in coordination with other Federal agencies and educational institutions, to establish a Deep Sea Coral Research and Technology Program and submit information to the appropriate Councils</p> <p>2. Authorizes designation of zones in areas where deep sea corals are identified under section 408 (i.e., the new Deep Sea Coral Research and Technology Program), to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals. FMPs may take into account the different circumstances affecting fisheries from different States and ports, including distances to fishing grounds and proximity to time and area closures. FMPs may include measures to conserve target and non-target species and habitats, considering the ecological factors affecting fishery populations.</p>	105 and 211	Program	2-In Progress	<p>The President's Ocean Action Plan has identified a priority for efforts to survey, research, and protect deep sea coral communities. NOAA is committed to working with partners to improve the conservation of these important ecosystems. On December 10, 2007, NOAA published "The State of Deep Coral Ecosystems of the United States", called for in the President's Ocean Action Plan. This peer-reviewed report, prepared by NOAA's Coral Reef Conservation Program, provides the first comprehensive national assessment of these unique and vulnerable ecosystems and provides a baseline for future research and management efforts under the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act. The report can be found at: http://www.nmfs.noaa.gov/habitat/dce.html.</p> <p>Deep sea coral related research and management tasks without statutory deadlines were combined because of the interrelated nature of the work.</p>

Issue	MSRA Citation	Output	Status	Additional Information
Economic Impacts (1 item)				
<p>Requires that any rebuilding plans that reduce the overall harvest take into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector.</p> <p>Revises National Standard 8 by inserting "by utilizing economic and social data that meets the requirements of paragraph (2)" after "fishing communities".</p>	104(a)	Undetermined	6-Completed	Implementation of the economic impact requirements, as a task, will be tracked under activities conducted under the Fishery Impact Statement/Required Provisions task.
Emergency regulations (1 item)				
Extends the second emergency period from 180 days to 186 days.	108	Other	6-Completed	Agency guidance has been updated to reflect this change.
Findings with IUU Fishing (1 item)				
Adds a finding that international cooperation is necessary to address illegal, unreported, and unregulated (IUU) fishing.	402	Other	7-No action needed	This language is self-implementing. No further action is required to comply with this provision of the MSRA.
Fisheries Conservation and Management Fund (1 item)				
<p>Require Sec. to establish and maintain a Fishery Conservation and Management Fund. Monies in the Fund must be used for: - improving harvest data collection; - cooperative fishery research & analysis; - development of technologies to improve seafood quality; - analysis of the benefits & risks of seafood consumption; - marketing of sustainable U.S. fishery products; - improving data collection under the MRFSS; & - providing financial assistance to fishermen for the modification of fishing practices and gear to meet MSA requirements. Authorizes deposits generated through quota set-asides, appropriations, and funds from States, private/public entities, or non-profit organizations.</p> <p>Requires the Sec. to apportion monies in the Fund every 2 years (without appropriation or fiscal year limitation) among the 8 Council regions, based on regional priorities identified through the Council process, except no region can receive less than 5 percent of the Fund in each allocation period. Monies from the fund may not be used to defray the costs of complying with MSA requirements.</p>	208	Other	5-Final Review	

Issue	MSRA Citation	Output	Status	Additional Information
Fisheries Hurricane Assistance Program (1 item)				
<p>115 Requires Sec. to establish an assistance program for the Gulf of Mexico commercial and recreational fishing industry. Appropriated funds must be allocated among the Gulf states in proportion to the percentage of the fishery landed by each state. (Funds allocated to Florida must be based exclusively on the proportion of catch landed by the Florida Gulf Coast fishery.) Of the funds made available to each state, 2% must be distributed to fishermen with a demonstrated record of compliance with turtle excluder and bycatch reduction regulations. The rest of the funds must provide for personal and small business assistance, domestic product marketing and seafood promotion, state seafood testing programs, development of limited entry programs, assistance or incentives for use of turtle excluder and bycatch reduction devices, and voluntary capacity reduction programs for shrimp fisheries under limited access programs.</p>	<p>Other</p>	<p>6-Completed</p>	<p>Appropriations sent to Gulf States in September 2007.</p>	
Fishery Impact Statement/Required Provisions (1 item)				
<p>101(a), 101(b), 104(a), Encompasses a variety of revisions to MSA with respect to economic and social impacts, particularly as the address the requirements of each FMP and what it must include in its fishery impact statement. Includes discussion of likely effects of management on safety of human life at sea.</p>	<p>Other</p>	<p>2-In Progress</p>	<p>The economic, social, cumulative impact analysis and safety-at-sea provisions have been combined into a single task because of the similarity of data and analysis required under the MSRA.</p>	
Fishing Capacity Reduction (1 item)				
<p>112(a) Authorizes Sec. to pay the owner of a fishing vessel under a fishing capacity reduction program if such vessel is scrapped or subject to title restrictions, all permits are surrendered, and all claims associated with present and future limited access system permits are relinquished. Prohibits Sec. from making a payment under a fishing capacity reduction program, with respect to a vessel that will not be scrapped, unless the Sec. certifies that the vessel will not be used for any fishing, including fishing in the waters of a foreign nation and fishing on the high seas. Strikes subsection (e) under 312 and inserts new implementation plan, including framework regulations, program regulations, harvester</p>	<p>Guidelines</p>	<p>2-In Progress</p>		

Issue	MSRA Citation	Output	Status	Additional Information
proponent's implementation plan, participation contracts, reduction auctions, and bid invitations.				
Guidance to U.S. Commissioners to International Fishery Management Efforts (1 item)				
<p>1. Amends HSDMPA to: Requires the Secretary, in consultation with the Secretary of State, and in cooperation with relevant fishery management councils and any relevant advisory committees, to take actions to improve the effectiveness of international fishery management organizations in conserving and managing fish stocks under their jurisdiction. Actions include—(a) urging specified action by international fishery management organizations to which the United States is a member—(b) urging action by international fishery management organizations to which the United States is a member, as well as all members of those organizations, to adopt and expand the use of market related measures to combat illegal, unreported, or unregulated fishing —(c) urging action by other nations at bilateral, regional, and international levels, including the Convention on International Trade in Endangered Species of Fauna and Flora and the World Trade Organization to take all steps necessary, consistent with international law, to adopt measures and policies that will prevent fish or other living marine resources harvested by vessels engaged in illegal, unreported, or unregulated fishing from being traded or imported into their nation or territories.</p> <p>2. Requires that (a) in managing any fisheries under an international fisheries agreement to which the US is a party, the appropriate Council or Secretary shall take into account the traditional participation in the fishery, relative to other nations, by fishermen of the US on fishing vessels of the US; (b) MSA provisions be communicated and promoted when the United States participates in an RFMO that does not have a process for developing formal plans to rebuild.</p> <p>3. When establishing catch allocations under international fisheries agreements, the Sec., in consultation with the head of the Coast Guard and the Sec. of State, is required to ensure that all catch history (associated with a U.S. vessel) remains with the United States in that fishery,</p>	4(2), 401,402,403,407	Policy statement	6-Completed	<p>The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, P.L. 109-479 (MSRA) contains a number calls for action relevant to U.S. delegations to international fisheries meetings. Many of the actions called for are initiatives that the United States is already undertaking. A policy document has been prepared compiling these calls for action for the information and use of heads of U.S. delegations to relevant international fisheries meetings. A meeting of U.S. Commissioners to Regional fisheries management organizations was held January 10-11, 2008, and the meeting reviewed the policy statement, yielding only one comment, which was positive. The statement, cosigned by the Assistant Administrator for Fisheries and the Deputy Assistant Secretary of State for Oceans and Fisheries, is available at: http://www.nmfs.noaa.gov/msa2007/</p>

Issue	MSRA Citation	Output	Status	Additional Information
<p>and is not transferred or credited to any other nation or vessel of such nation.</p> <p>4. Authorizes the Sec. to undertake specified activities to promote improved monitoring and compliance for high seas fisheries or fisheries governed by international fishery management agreements.</p> <p>5. Reiterates Finding with IUU Fishing (MSA Section 2(12)) that international cooperation is necessary to address illegal unreported, and unregulated fishing.</p>				
Habitat Restoration due to Hurricane Effects on Shrimp and Oyster Fisheries and Habitats (1 item)				
<p>The Secretary shall carry out activities to restore fishery habitats, including the shrimp and oyster habitats in Louisiana and Mississippi.</p>	213	Other	6-Completed	<p>Congress provided \$128 million in federal funds to be distributed to the 5 Gulf of Mexico states affected by the 2005 hurricane season. The funds were provided to the Gulf States Marine Fishery Commission in August 2006 via a one-time NOAA grant to be distributed to the states. The states received varying amounts of funding based on the severity of the impacts to their shrimp and oyster habitats. Some of the funds (\$1.2M) will be used to administer and coordinate the funds, and monitor the activities in each state.</p>
Herring Study (1 item)				
<p>Authorizes Sec. to conduct a cooperative research program to study distribution, abundance, and the role of herring as forage fish in the Northwest Atlantic. Sec. would be required to engage multiple fisheries sectors and stakeholder groups in planning, designing, and implementation of program. Final results must be presented within 3 months of study's completion and an interim report must be provided at the end of FY 2008. Authorizes \$2,000,000 for study during FY 2007-FY 2009.</p>	205	Study	4-Funding Currently Unavailable	<p>Funding is currently unavailable for this study.</p>
Hurricane Grants (1 item)				
<p>Subject to the availability of appropriations, requires Sec. to provide assistance and loan forgiveness to eligible holders of fishery finance program loans for expenditures within the declared fisheries disaster area as a result of Hurricane Katrina or Hurricane Rita. For FY 2006-FY 2012, \$15,000,000 is authorized to be appropriated to the Sec. for each eligible holder.</p>	114	Guidelines	3-Waiting/Delayed	

Issue	MSRA Citation	Output	Status	Additional Information
Impact of Turtle Excluder Devices on Shrimping (1 item)				
Requires the Undersecretary of Commerce to execute an agreement with the National Academy of Sciences to jointly conduct a multi-year, comprehensive study to measure utilization of turtle excluder devices (TEDs), analyze the impacts on sea turtle mortality, and evaluate innovative technologies to increase shrimp retention in TEDs while ensuring sea turtle protection. When conducting this study, the Undersecretary must ensure that observers are placed onboard commercial shrimp fishing vessels where appropriate or necessary. Requires the National Academy of Sciences to submit biannual reports to Congress with a summary of preliminary findings and conclusions until a final report is submitted to Congress.	212	Study	4-Funding Currently Unavailable	Currently funding is not available for this study. However, NMFS is conducting background assessments of the available information and research to determine to what extent study-related issues may already have been addressed.
Implementation of Western and Central Pacific Fisheries Convention (1 item)				
Implements the Convention on the Conservation and Management of the Highly Migratory Stocks in the Western and Central Pacific Ocean.	501	Other	2-In Progress	Nominations for the Permanent Advisory Committee to the U.S. Commissioners have been received in response to solicitations published in the Federal Register on two occasions, July 11 (72 FR 37730) and September 18, 2007 (72 FR 53230). Selection of the Committee members is not yet completed, in part because the Commissioners, who have yet to be appointed, are integral in that process.
International Overfishing and Domestic Equity (1 item)				
Requires the Sec., in cooperation with the State Department, to immediately take appropriate action at the international level to end overfishing if the Sec. of Commerce determines a fishery is overfished, or approaching a condition of being overfished due to excessive international pressure, and there are no management measures to end overfishing under an international agreement.	406	Other	7-No action needed	No additional action is needed to implement this requirement of the MSRA. NMFS annually publishes the "Report to Congress on the Status of US Fisheries" that reports the status of each stock relative to overfished and overfishing status. NMFS will use this information to work to end overfishing in the international arena.
Investment in Seafood Processing (1 item)				
Requires the Sec. to work with the Small Business Administration (SBA) and other Federal agencies to develop financial and other mechanisms to encourage U.S. investment in seafood processing facilities in the United States for fisheries that lack processing capacity.	106(c)	Program	2-In Progress	

Issue	MSRA Citation	Output	Status	Additional Information
Joint Enforcement Agreements (1 item)				
Requires Sec. of Commerce to promptly enter into a confidentiality agreement with a State if a written opinion or certification is provided allowing State to maintain confidentiality of information, or reasonable assurance is provided that the State will protect confidential information.	111(a)	Agreement/MOU	6-Completed	Language in joint enforcement agreements between NMFS and the States has been revised to reflect the new Magnuson-Stevens requirements for data confidentiality.
LAPPs (1 item)				
Authorizes submission and approval of Limited Access Privilege programs (LAPPs) that meet certain requirements, detailed in Sec. 106.	106(a)	Guidelines	2-In Progress	The Office of Sustainable Fisheries sought public comment on guidance for the LAPP provisions found in section 303A of the Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006. The comment period closed on September 30, 2007 and all comments received through October 31, 2007 were accepted. (http://www.nmfs.noaa.gov/sfa/PartnershipsCommunications/lapp/LAPPguidance.htm)
Multi-Year Research Priorities (1 item)				
Requires Councils develop, in conjunction with the SSC, multi-year research priorities for fisheries, fisheries interactions, habitats, and other areas of research that are necessary for management purposes, for 5-year periods. Requires research priorities be updated as necessary and submitted to the Sec. and National Marine Fisheries Service (NMFS) regional science centers for consideration in developing research priorities and budgets for the region of the Council.	103(d)(2)	Other	2-In Progress	
North Pacific Fisheries Conservation (1 item)				
Authorizes the North Pacific Council to establish a system, or systems, of fees, which may vary by fishery, management area, and observer coverage level, to pay for the cost of implementing a fisheries research plan.	214	FMP Amendment	3-Waiting/Delayed	
Northern Pacific Halibut Act (1 item)				
Amends the Northern Pacific Halibut Act to increase penalties. Amends the Northern Pacific Halibut Act to add section on revocation or suspension of permits.	301-302	Other	7-No action needed	This language is self-implementing. No further action is required to implement with this provision of the MSRA.
Observers (1 item)				
Revises observer requirements for foreign	404	Other	6-Completed	No action is currently necessary for this task. The new MSRA provision

Issue	MSRA Citation	Output	Status	Additional Information
<p>fisheries in the Pacific Insular Area. The Sec. of Commerce, in consultation with the WPFMC, determines adequate monitoring methods for harvest, bycatch, and compliance with U.S. law by foreign vessels that fish under a Pacific Insular Area fishing agreement.</p>				<p>takes effect only when there is a PIAFA in place (and corresponding conservation plan). Under the MSA, Marine Conservation Plans must be in place before a Pacific Insular Area Fishing Agreement (PIAFA) can be implemented. There are four MCPs currently in place or under review. There has been no PIAFA to date.</p> <p>No action is currently necessary for this task. The new MSRA provision takes effect only when there is a PIAFA in place (and corresponding conservation plan). Under the MSA, Marine Conservation Plans must be in place before a Pacific Insular Area Fishing Agreement (PIAFA) can be implemented. There are four MCPs currently in place or under review. There has been no PIAFA implemented to date.</p> <p>Monitoring programs would be part of the PIAFA negotiations held with the foreign applicant. The specifics of the proposed monitoring would probably not be included in the PIAFA itself, but would be described in detail in associated documents. The Secretary would review the proposed monitoring plan to ensure that it met the requirements of the MSRA and any other applicable law. At that time, the Secretary would determine the appropriate regulatory action, including any necessary rule-making. Previous similar programs have been implemented via public notice of availability and comment, and proposed and final rules.</p>
Oregon and California Salmon Fishery (1 item)				
<p>Makes Federally recognized Indian tribes and small businesses adversely affected by Federal closures and fishing restrictions in the Oregon and California 2006 fall Chinook salmon fishery eligible to receive direct assistance under section 312(a) of the Act and section 308(d) of the Interjurisdictional Fisheries Act. In providing assistance, the Sec. is prohibited from using more than 4% of any monetary assistance for administrative costs.</p>	113(c)	Other	6-Completed	<p>Congress provided \$60.4 million in federal funds to be distributed to fishermen, tribes, and businesses affected by the 2006 Klamath commercial fishery disaster. The Pacific States Marine Fisheries Commission will distribute funds via a \$60 million NOAA grant that was approved this August. The Commission worked with California and Oregon and the Hoopa and Yurok Tribes to develop the grant application. In designing the program, the PSMFC also consulted with State Governors and West Coast Congressional Delegations. A portion of the fund (\$1.3 million) will be used to coordinate, plan, administer and monitor disaster funding activities, including public outreach.</p>
Pacific Whiting (1 item)				
<p>Implements the Agreement Between the Government of the United States and the Government of Canada on Pacific Hake/Whiting signed in Nov. 2003. (Section 601-611)</p>	601	Program	2-In Progress	<p>A Federal Register notice seeking nominations for advisory panel members was published on Oct. 24, 2007 (72 FR 60317).</p>
Peer Review (1 item)				
<p>Authorizes that the Secretary and each Council may establish a peer review process for that Council for scientific information used to advise the Council about the conservation and management of the fishery. The review process, which may include existing committees or panels, is deemed to satisfy the requirements of the guidelines issued pursuant to section 515 of</p>	103(b)	Undetermined	2-In Progress	

Issue	MSRA Citation	Output	Status	Additional Information
the Treasury and General Government Appropriations Act for Fiscal year 2001 (Public Law 106-554—Appendix C; 114 Stat. 2763A-153).				
Prohibited Acts (1 item)				
Prohibits the import, export, transport, sale, receipt, acquisition or purchase of fish taken, possessed, transported, or sold in violation of foreign law or regulation. Prohibits the use of any fishing vessel after the Sec. of Commerce has paid the vessel owner under a fishing capacity reduction program. Prohibits the use of any fishing vessel in Federal or state waters, on the high seas, or in the waters of another country, after the Sec. has made a payment to the owner of the fishing vessel under a fishing capacity reduction program.	118	Other	7-No action needed	This language is self-implementing. No further action is required to comply with this provision of the MSRA.
Puget Sound Regional Shellfish Settlement (1 item)				
Implements the Puget Sound Regional Shellfish Settlement	702	Other	7-No action needed	Requirements apply to the Secretary of Interior rather than Secretary of Commerce. Therefore, NOAA Fisheries Service will not be tracking this task. Doug Tedrick, Special Assistant to the Director, Bureau of Indian Affairs in the Department of the Interior, is the contact for this issue.
Reauthorization of other acts (1 item)				
Reauthorizes the following legislation: - Atlantic Striped Bass Conservation Act (increases authorization to Sec. of Commerce to \$1 mill annually for FY 2006-2011); and - Yukon River Salmon Act of 2000 (authorizes \$4 mill annually for FY 2006-2011). - Shark Finning Prohibition Act (reauthorizes Act through FY 2011 at current funding level); - Pacific Salmon Treaty Act (reauthorizes Act through FY 2009 and transfers language establishing a Northern Boundary and Southern Boundary Restoration and Enhancement Fund - under the 1999 Pacific Salmon Treaty Agreement between the U.S. and Canada - from an omnibus appropriations bill in 2001, to the Pacific Salmon Treaty Act); and - Extends state authority for managing the Dungeness Crab fishery (under P.L. 105-384) through 2016. - Interjurisdictional Fisheries Act (General appropriations of \$5 mill FY 07-12). - Anadromous Fish Conservation Act (authorizes \$4.5 mill FY07-12).	302	Other	7-No action needed	This language is self-implementing. No further action is required to implement this provision of the MSRA.

Issue	MSRA Citation	Output	Status	Additional Information
Regional Disaster Relief and Evaluation (1 item)				
<p>1) Authorizes Sec., upon request and in consultation with the Governors of affected States, to establish a regional economic transition program to provide disaster relief assistance to fishermen, charter fishing operations, processors, and owners of related fishery infrastructure affected by a catastrophic regional fishery disaster, as defined in the bill.</p> <p>1a) Subject to the availability of appropriations, the program shall provide funds or other economic assistance to affected entities or governmental entities for disbursement to affected entities for meeting immediate regional shoreside infrastructure needs, financial assistance and job training, fishing capacity reduction, and other activities authorized under section 312(a) of the Act or section 308(d) of the Interjurisdictional Fish. Act.</p> <p>1b) Authorizes that any fisherman who decides to scrap a fishing vessel under the program shall be eligible for job training assistance.</p> <p>2) Within 2 months after a catastrophic regional fishery disaster, the Secretary shall provide the Governor of each State participating in the program a comprehensive economic and socio-economic evaluation of the affected region's fisheries.</p>	113	Regulatory Change	2-In Progress	<p>The National Marine Fisheries Service (NOAA Fisheries) is today seeking early comment on proposed definitions, procedures and provisions for the new regional disaster relief provisions of the Magnuson-Stevens Fishery Conservation Act. Comments or information must be received no later than 5 PM on January 4, 2008: http://www.nmfs.noaa.gov/msa2007/docs/NMFS_request4comments_disaster_assistance.pdf</p> <p>Regional Disaster Relief and Evaluation tasks were combined because of the interrelated nature of the work. The declaration of a disaster under these circumstances triggers a required evaluation of the effect on the region's fisheries.</p>
Regional Ecosystem-based Management & Research (1 item)				
Authorizes Sec. to provide technical and grant assistance to the Councils for development of regional pilot programs that build upon recommendations of the advisory panel and the study.	210	Other	7-No action needed	The MSRA authorizes the Secretary to provide technical advice and assistance to the Councils for the development and design of regional pilot programs that build upon the recommendations of the advisory panel and the study both established under Section 406 of the Magnuson-Stevens Act to advance ecosystem considerations in regional fishery management. No further action or guidance is needed to implement this authorization.
Restoration Study (1 item)				
Authorizes Sec. to conduct a study to update scientific information and protocols needed to improve restoration techniques for coastal habitat. Authorizes \$500K for FY 2007	206	Study	4-Funding Currently Unavailable	Funding is currently unavailable for this study.
Rockfish Demonstration Program (1 item)				
Amends program from 2 years to 5 years.	218	FMP Amendment	2-In Progress	

Issue	MSRA Citation	Output	Status	Additional Information
SEAK Capacity Redux - Appropriations (1 item)				
For SE Alaska Fisheries Communities Capacity Reduction Amends Section 209 of the DOC and related Agencies Appropriations Act, 2005, by inserting new amounts	121	Other	7-No action needed	This language is self-implementing. No further action is required to implement this provision of the MSRA.
Shark Feeding (1 item)				
Prohibits feeding of sharks to attract sharks for purposes other than harvest in the EEZ off Hawaii	119	Other	7-No action needed	This language is self-implementing. No further action is required to implement this provision of the MSRA.
Stipends (1 item)				
Subject to the availability of appropriations, the Secretary shall pay a stipend to SSC members that are not employed by the Federal government or a State government agency.	103(b)	Revise Council SOPPs	2-In Progress	
Study on the Acidification of the Oceans (1 item)				
Requires the Sec. to request the National Research Council conduct a study on the acidification of the oceans and how this process affects U.S. fisheries.	701	Study	4-Funding Currently Unavailable	Funding is currently unavailable for this task. However, NMFS would be required to conduct the study from current funding if the current version of the 2008 Senate appropriations bill becomes law.
Summer Flounder Rebuilding (1 item)				
Allows Secretary to extend the time for rebuilding of summer flounder under certain conditions	120(a)	Other	6-Completed	NMFS determined that the 2007 fishing specifications for summer flounder would meet the requirements of the MSRA. NMFS issued an emergency rule implementing the 2007 specifications (72 FR 2458) and an extension of the emergency rule (72 FR 32813) to extend the specifications to the end of 2007.
Technical Revisions to 50 CFR 600 (1 item)				
<p>1. Specifies that TALFF is discretionary except that TAL shall be zero for fisheries determined by the Secretary to have adequate or excess domestic harvesting capacity.</p> <p>2. Defines new terms and revises existing terms under MSA.</p> <p>3. Amends jurisdiction of the Caribbean. Inclusion in the technical revisions to the 600 regs is per agreement with the SERO (H. Blough).</p>	Sections 3 and 5(3), 102	Regulatory Change	2-In Progress	<p>This task encompasses MSRA provisions that are non-discretionary and require no interpretation or further guidance from NOAA Fisheries to implement. Examples of the revisions include changes in definitions, statements of fact and inclusion of new terms.</p> <p>The MSRA provision that modifies the Caribbean Council's jurisdiction is an administrative issue and will be included in the general technical amendment. An update to Council FMPs may be needed for the Caribbean Council to include a description of its jurisdiction.</p>
Use of Fishery Finance Program for Sustainable Purposes (1 item)				
Amends section 53706(a)(7) of title 46, United States Code, to read as follows:	209	Regulatory Change	2-In Progress	

Issue	MSRA Citation	Output	Status	Additional Information
<p>“(7) Financing or refinancing— “(A) the purchase of individual fishing quotas in accordance with section 303(d)(4) of the Magnuson-Stevens Fishery Conservation and Management Act (including the reimbursement of obligors for expenditures previously made for such a purchase); “(B) activities that assist in the transition to reduced fishing capacity; or “(C) technologies or upgrades designed to improve collection and reporting of fishery-dependent data, to reduce bycatch, to improve selectivity or reduce adverse impacts of fishing gear, or to improve safety.”.</p>				
Western Pacific Fishery Demonstration Projects (1 item)				
<p>Eliminates requirement that Sec. of Interior provide funding for Western Pacific fishery demonstration projects and clarifies which fishery communities are eligible to receive grants for these projects.</p>	207	Other	7-No action needed	<p>No further action is required to implement this provision of the MSRA. The Department of Commerce has been the lead in providing grants for demonstration projects. The language clarifies the term community which had been defined earlier statute.</p>
Western Pacific Sustainable Fisheries Fund (1 item)				
<p>Requires that fines and penalties, imposed on foreign vessels for violations occurring within the EEZ off Midway Atoll, Johnston Atoll, Kingman Reef, Palmyra Atoll, Jarvis, Howland, Baker, and Wake Islands, be deposited into the Western Pacific Sustainable Fisheries Fund (established under section (7) of this section).</p>	Section 6	Other	6-Completed	<p>The Western Pacific Sustainable Fisheries Fund was established previously under the Magnuson-Stevens Act. A process to administer the fund is place and is functioning as described under the MSRA. Any payments received by the Secretary under a Pacific Insular Area fishery agreement for any Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands are deposited in the fund. The funds are primarily spent to further conservation and management objectives, including implementation of a marine conservation plans. Fines for several recent penalties have been deposited.</p>
WP and NP Community Development (1 item)				
<p>Establishes regionally-based pilot program for marine education and training in the Western Pacific and North Pacific to foster understanding, practical use of knowledge, and technical expertise relevant to stewardship of living marine resource. Specifies program components.</p>	109	Program	2-In Progress	



Pacific Fishery Management Council

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Donald K. Hansen, Chairman Donald O. McIsaac, Executive Director

January 17, 2008

Mr. John Oliver
Acting Assistant Administrator
National Marine Fisheries Service
1315 East-West Hwy
Silver Spring, MD 20910

Re: FY 2008 Budget Matters

Dear Mr. Oliver: ^{S.O.}

Thank you for hosting the January 8-10 Council Coordination Committee (CCC) meeting in Silver Spring, Maryland. We greatly appreciate the efforts of your staff in organizing, convening, and facilitating this important meeting. We particularly appreciate the quick turnaround efforts of you and your staff in dealing with the recent adoption of a Federal budget and what it may mean for funding the Regional Fishery Management Council (RFMC) activity in 2008.

I have been tasked by the CCC with reporting their response to the budget agenda item elements discussed at this meeting. This will include information provided verbally at the meeting as well as additional requested information we were not able to provide at that time. This response is presented in the categorical areas of discussion at the meeting: (1) funding associated with the replication of 2007 level operational capabilities (2007 current services), (2) funding for new Magnuson-Stevens Reauthorization Act (MSRA) related activities, and (3) stipends for Scientific and Statistical Committee (SSC) members.

Replication of 2007 Level Current Services

The Councils were asked for recommendations on funding allocation for the following amounts, together with a discussion of whether the total amount would replicate the amount of services provided for in FY 2007 for purposes of base Council operations (matters such as Council meetings and Council staffing directly associated with base and ongoing Council operations, as opposed to funding provided for Pacific Sea Turtle recovery, specific projects with a clear beginning and a clear ending, or one time events such as travel costs associated with the September 2007 MSRA workshop).

Historic Base Funding for RFMC	\$14.790 M
2008 Increase to Base Funding for RFMC	\$ 2.200 M
National Environmental Policy Act (NEPA)	\$ 0.990 M
Regulatory Streamlining (RSP)	~\$ 0.792 M
2008 Dedicated Funding for Limited Access Privilege Program (LAPP)	<u>~\$ 0.354 M</u>
Total	~\$19.126 M

The CCC recommends that the traditional allocation among Councils be used for the Historic Base Funding for RFMC, NEPA, and RSP amounts. After some discussion about a workload-based allocation of the 2008 Increase to RFMCs, the CCC recommends that the traditional allocation among Councils also be used to allocate this amount. For the 2008 Dedicated Funding for the LAPP, the Councils recommend the amount be split equally among the six Councils with ongoing or new LAPPs. Table 1 shows the quantities associated with these allocation recommendations. Table 2 shows the specific LAPP, progress expected in 2008 and general spending plan for each Council involved in the new LAPP funding, as submitted by each Council Executive Director.

The total amount of funding provided to Councils for base operations in 2007 was \$20.6 M, including the base RFMC line item amount; just over \$2 M for Coral Task Force matters, South East Data and Assessment Review processes, and other routine matters; \$1 M from the Alaska Composite line item for the North Pacific Fishery Management Council (NPFMC); and the \$1 M supplement provided at the New Orleans CCC meeting. In the aggregate, the FY 2008 amount above (~\$19.1 M) falls short of the amount needed to replicate 2007 base level services (~\$21.611 M, if one assumes 5-percent as a reasonable estimate of such incumbent inflationary costs as salary levels, per diem, lodging, etc.). However, if one assumes the Coral Task Force et al. and half the \$1 M additional for the NPFMC are continued and the New Orleans supplemental funding is not repeated, this aggregate of FY 2008 funding (~\$21.641) could be considered as generally replicating the total 2007 level of current services in 2008 (~\$21.611 M) for all RFMCs collectively.

Funding for New MSRA Implementation Activities

It is our understanding that dedicated funding was not specifically designated in the adopted budget for new MSRA Council activities expected to occur at the respective Council forums; further, it is also our understanding that this is the case for most National Marine Fisheries Service (NMFS) activities needed to implement MSRA mandates during 2008. The CCC therefore requests that an additional \$2 M be provided to the Councils from your assessment of accessible funding as you proceed with final decision making on the allocation of the full FY 2008 NMFS budget. We understand that there are many competing priorities that also fall into this category of important matters with undesignated specific funding; the CCC asks that this request for \$2 M be judged in the context of the potential consequences of not providing the funding, as we presume will be done for similar priority projects with insufficient funding.

For the small individual Council budgets, the consequences will be either (1) not conducting new MSRA activities, or (2) dropping or delaying components of the ongoing base operations. These two alternatives represent a genuine conundrum, as both new MSRA and ongoing base activities are considered required. In the former category, the Councils had hoped to be provided funding to respond to all the new activities called for by the MSRA; such activities on just this CCC meeting agenda included

- formal comment on revised National Standard 1 guidelines;
- formal comment on annual catch limit (ACL) and accountability measure (AM) guidelines;
- Fishery Management Plan (FMP) Amendments to accomplish ACL and AM specifications in the MSRA;
- formal consultation and comment on a revised environmental review procedures;
- formal comment on NMFS 5-year research plans;
- additional SSC meetings;
- Marine Recreation Information Program activities;
- implementation of new international provisions and regulations (three Councils);

- formal comment on exempted fishing permit procedures; and
- revisions of Statement of Organization, Practices, and Procedures and other "omnibus" technical changes to regulations.

There are also other additional expectations for MSRA related Council activity. In order to conduct some of these MSRA activities, without designated funding, Councils will need to delay, curtail, or eliminate core base activities. There is great concern that this conundrum would adversely affect routine matters NMFS considers essential, such as providing fishery specifications to manage current fisheries and end any overfishing.

Stipends

There was considerable discussion about the proposal for stipends for qualified SSC members at a calculated rate of ~\$215 per day based on average information from 2007. Discussions occurred during the initial day the idea was introduced, the day Dr. Murawski spoke of the NMFS proposal in detail, and after the final joint session of the CCC meeting had concluded. In particular, it seemed strikingly incongruous to provide funding for SSC stipends and provide no funding for any other MSRA activities, such as development of ACL and AM FMP Amendments and other high priority matters listed above.

Based on an extensive discussion at the conclusion of the CCC meeting, the following describes the sense of the CCC.


For this year only, the CCC recommends that NMFS not pay honorariums (stipends) to SSC or Advisory Panel members and that any such designated funding instead be made available to the Council to cover the costs of additional SSC meeting days for MSRA purposes and allocated to Councils based on demonstrated need. If NMFS feels honorariums to SSC members are required, the CCC recommends that the level be set at \$100 per day.

In the event that formulaic calculations are used to determine daily rates for 2008 purposes, the CCC asks that the information in attached Table 3 be used; it reflects our current projections for 2008 as to the number of eligible members and the number of meeting days.

In closing and on behalf of the CCC, thank you again for your efforts in hosting a meaningful CCC meeting. We want to emphasize our appreciation of your decision-making prior to the CCC meeting relative to the total RFMC amount in the FY 2008 Administration Budget and the allocation of the aggregate Councils and Commissions line item subsequent to budget adoption. Should you or your staff have any questions on the content of this letter, please do not hesitate contacting me or one of the other RFMC Executive Directors.

DOM:kam

Sincerely,



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

Enclosures:

Table 1-January 8-10, 2008 CCC Consensus Recommendation for Allocation of FY 2008 Funding in Six Categories

Table 2-Limited Access Privilege Program for Regional Fishery Management Councils in Association with Equal Allocations of a \$354 K FY 2008 Funding Total Increment

Table 3-Assessment of Stipends for Scientific and Statistical Committee Members, as REVISED January 2008¹

Cc: Council Chairs

Mr. George Geiger
Mr. Donald K. Hansen
Mr. W. Peter Jensen
Mr. Sean Martin
Mr. Thomas McIlwain
Mr. Eric Olson
Mr. John Pappalardo
Mr. Eugenio Piñeiro-Soler

Council Executive Directors

Mr. Daniel Furlong
Mr. Paul Howard
Mr. Robert Mahood
Mr. Chris Oliver
Mr. Miguel Rolón
Ms. Kitty Simonds
Mr. Wayne Swingle

Mr. Samuel Rauch
Mr. Alan Risenhoover
Mr. Gary Reisner
Dr. Steven Murawski
Mr. William Chappell
Ms. Heidi Lovett

Table 1. January 8-10, 2008 CCC Consensus Recommendation for Allocation of FY 2008 Funding in Six Categories.

<u>Council</u>	<u>Traditional %</u>	<u>Old RFMC</u>	<u>Additional RFMC</u>	<u>RSP</u>	<u>NEPA</u>	<u>LAPP</u>	<u>MSRA</u>	<u>Total</u>
NEFMC	0.14650	\$ 2.167	\$ 0.322	\$ 0.116	\$ 0.145	\$ 0.059	TBD	\$ 2.809
MAFMC	0.12700	\$ 1.878	\$ 0.279	\$ 0.101	\$ 0.126	\$ 0.059	TBD	\$ 2.443
SAFMC	0.10750	\$ 1.590	\$ 0.237	\$ 0.085	\$ 0.107	\$ 0.059	TBD	\$ 2.077
GFMC	0.12950	\$ 1.915	\$ 0.285	\$ 0.103	\$ 0.128	\$ 0.059	TBD	\$ 2.490
CFMC	0.06850	\$ 1.013	\$ 0.151	\$ 0.054	\$ 0.068		TBD	\$ 1.286
PFMC	0.14675	\$ 2.170	\$ 0.323	\$ 0.116	\$ 0.146	\$ 0.059	TBD	\$ 2.814
NPFMC	0.15650	\$ 2.315	\$ 0.344	\$ 0.124	\$ 0.155	\$ 0.059	TBD	\$ 2.997
WPFMC	0.11775	\$ 1.742	\$ 0.259	\$ 0.093	\$ 0.117		TBD	\$ 2.211
Total	1.00000	\$ 14.79	\$ 2.20	\$ 0.79	\$ 0.99	\$ 0.354	TBD	\$ 19.128

Table 2. Limited Access Privilege Program (LAPP) for Regional Fishery Management Councils (RFMC) in Association with Equal Allocations of a \$354 K FY 2008 funding total increment.

<u>RFMC</u>	<u>LAPP</u>	<u>Progress Expected in 2008</u>	<u>General Spending Plan</u>
NEFMC	Scallop Individual Trawl Quotas and sector allocation alternatives; multispecies sector allocations.	1) Feb Council Meeting (CM): Approve range of alternatives for Multispecies; 2) Apr CM: Approve range of alternatives for scallops 2) Jun CM: Approve Multispecies Draft Environmental Impact Statement (DEIS); 3) Oct CM: Final decisions on Multispecies Amendment 4) Nov CM: Council approval of scallop alternatives for DEIS.	Fund staff support for plan development costs related to management actions for Scallops and Multispecies that include LAPPs.
MAFMC	Amendment 1 to Tilefish FMP; and, 2.) Amendment 11 to Squid, Mackerel, and Butterfish FMP.	It is anticipated that an IFQ system will be implemented under Amendment 1 to the Tilefish FMP (anticipated Secretarial submission is May of 2008). Under Amendment 11 to the Squid, Mackerel, and Butterfish FMP it is anticipated that a limited entry system will be implemented for the mackerel fishery and that proposed change to the mackerel fishery will be submitted for Secretarial action in late 2008.	For Tilefish, there will be four Public Hearings convened in early 2008. At the Council's April meeting there will be a vote to approve for Secretarial submission Amendment 1 to the Tilefish FMP. The approved action will be submitted in May. For Mackerel, there will be Committee meetings with advisors sometime in March to finalize alternatives for Amendment 11. At the April Council meeting, the Council will approve the DEIS and Public Hearing document. Four Public Hearings will be convened during the summer of 2008. During the October Council meeting, the Council will approve Amendment 11 for Secretarial submission and the approved package will be submitted following that meeting, i.e., November or December.

Table 2 cont. Limited Access Privilege Program (LAPP) for Regional Fishery Management Councils (RFMC) in Association with Equal Allocations of a \$354 K FY 2008 funding total increment.

<u>RFMC</u>	<u>LAPP</u>	<u>Progress Expected in 2008</u>	<u>General Spending Plan</u>
SAFMC	Amendment 18 to the Snapper Grouper FMP will establish a LAPP for the snapper grouper complex of species.	The Council's LAPP Work Group (industry + NGO reps) will hold three meetings in January, February and March to finalize options and recommendations for the design of a LAPP program. Council staff will prepare an options paper based on the LAPP Work Group recommendations for the Council's consideration at the March Council meeting. Also, public scoping sessions will be held. The Council and SSC will review the first draft of Amendment 18 at the June Council meeting. Staff will then revise and analyze the actions and alternatives, which the Council will review in September. Staff will make appropriate revisions to the actions and alternatives in Amendment 18 for the Council and SSC to review and approve for public hearing at the December 2008 Council meeting.	Funding will be used for the LAPP Work Group meetings, Council and SSC meetings related to development of Amendment 18 and 7 scoping sessions.
GFMC	Complete development of multispecies IFQ for grouper aggregate and tilefish.	During 2008, Council to select preferred alternatives from options paper, prepare public hearing draft, hold public hearings, convene Ad Hoc Grouper IFQ AP (AHGIFQAP) for review and comment, and convene Socioeconomic Panel (SEP) and Standing SSC for review and comment. Approve Amendment for referendum comments by the industry. Draft final implementing regulations (Note: AHGIFQAP met 7 times during 2006-2007 to develop their recommendations to Council).	Fund meetings of AHGIFQAP, SSC, SEP, and Council Committee. Fund public hearings and conduct referendum.

Table 2 cont. Limited Access Privilege Program (LAPP) for Regional Fishery Management Councils (RFMC) in Association with Equal Allocations of a \$354 K FY 2008 funding total increment.

<u>RFMC</u>	<u>LAPP</u>	<u>Progress Expected in 2008</u>	<u>General Spending Plan</u>
PFMC	Limited Entry Program for the Groundfish Open Access Fishery.	1) March CM: Environmental Assessment (EA) Outline and Council selection of a suite of alternatives for analysis; 2) Sept CM: draft EA and FMP Amendment and selection of preferred alternative; 3) March 2009 CM: Final Council Action.	Fund meetings of the Groundfish Management Team, Groundfish Advisory Subpanel, and SSC; hire contractor to work on EA and FMP Amendment.
NPFMC	Pacific Halibut Sport Charter Quota Share Amendment.	Analysis of alternative for sport charter sector to purchase or lease quota share.	Fund contract assistance to provide economic analysis of alternatives.

Table 3. Assessment of Stipends for Scientific and Statistical Committee (SSC) members, as REVISED January, 2008¹.

	Council	# members who meet stipend criteria (A)	# of meetings/year (B)	Average length of meeting (in days)(C)	Total number of work days (=A*B*C)
SSC	North Pacific	12	5	3	180
	Gulf of Mexico ²	13	3	2	78
	Caribbean SSC	8	4	4 ³	128
	SEDAR/CFMC	1	4	4 ³	16
	South Atlantic SSC	13	4	3	156
	SEDAR	1	6	5	30
	Pacific ⁴	6	17 ⁵	2.8	148
	New England SSC	15			150
	SAW/SARC	3	N/A	N/A	30
	Mid-Atlantic	8	4	1	32
	Western Pacific	14	3	4 ³	168
Total SSC		N/A	N/A	N/A	808
					Sum of column above
		Total	Total	Average	
	Number of SSC members x average meetings/yr x average length	N/A	N/A	N/A	1116
	Half of Council daily rate	\$215	x	1116	\$239,940
				estimate, rounded up	\$250,000

¹ Revisions from the estimates of the number of eligible members, numbers of meetings per year and average number of days per meeting presented at the January 8-10, 2008 CCC meeting. Original numbers were presumed to be averages of past meetings in 2006-2007, including only full SSC meeting days; revised numbers are estimates of 2008 based on (1) subcommittee and stock assessment peer review meeting days would be stipend-qualified in addition to full SSC meeting days, (2) some Councils would pay stipends on travel days, as is the case for Council members and (3) for some Councils, there would be more full SSC meeting days in 2008 due to MSRA related matters; additionally there were updates as to the number of eligible members.

² No update/revision received from the GFMC; may not include SEDAR days.

³ Includes stipend payment on travel days.

⁴ Includes full SSC meetings, SSC subcommittee meetings, and STAR process meetings.

⁵ Five full SSC meetings, 12 individual subcommittee or STAR process meetings. This row is not horizontally multiplicative since all eligible six SSC members do not attend all 17 possible meetings.

Subject: FY 2008 Council Funding

From: Alan Risenhoover <Alan.Risenhoover@noaa.gov>

Date: Tue, 29 Jan 2008 17:01:49 -0500

To: Paul Howard <Paul.Howard@noaa.gov>, Dan Furlong <Dan.Furlong@noaa.gov>, Robert Mahood <Robert.Mahood@noaa.gov>, Miguel Rolon <miguel_rolon_cfmc@yahoo.com>, Wayne Swingle <wayne.swingle@gulfcouncil.org>, Donald McIsaac <Donald.McIsaac@noaa.gov>, Kitty Simonds <Kitty.Simonds@noaa.gov>, Chris Oliver <chris.oliver@noaa.gov>

CC: _NMFS Regional Admins <NMFS.Regional.Admins@noaa.gov>, John Oliver <John.Oliver@noaa.gov>, Samuel Rauch <Samuel.Rauch@noaa.gov>, Steve Murawski <Steve.Murawski@noaa.gov>, Gary Reisner <Gary.Reisner@noaa.gov>, Chris Mantzaris <Chris.Mantzaris@noaa.gov>, Buck Sutter <Buck.Sutter@noaa.gov>, Tony Morton <Tony.Morton@noaa.gov>, Barry Thom <Barry.Thom@noaa.gov>, Michael Tosatto <Michael.Tosatto@noaa.gov>, Doug Mecum <Doug.Mecum@noaa.gov>, Galen Tromble <Galen.Tromble@noaa.gov>, Emily Menashes <Emily.Menashes@noaa.gov>, George Darcy <George.Darcy@noaa.gov>, Phil Steele <Phil.Steele@noaa.gov>, Mark Helvey <Mark.Helvey@noaa.gov>, Frank Lockhart <Frank.Lockhart@noaa.gov>, Alvin Katekaru <Alvin.Katekaru@noaa.gov>, Sue Salvesson <Sue.Salvesson@noaa.gov>, Mark Holliday <Mark.Holliday@noaa.gov>, John Boreman <John.Boreman@noaa.gov>

Dear Executive Directors ---

Based on our discussions at the recent CCC meeting and a close review of your letter regarding Council funding, attached are the allocations by Council and funding source for FY 2008.

By way of explanation, the Council line was funded at \$17.34 million for FY 2008 (\$14.79 million base, a \$2.18 million increase for MSRA activities, and a \$0.37 million increase for LAPP development). Additionally, RSP funding of \$0.79 million and NEPA funding of \$0.99 million are also allocated to the Councils. All this totals \$19.1 million out of these lines for FY 2008, an increase of \$2.5 million over last year.

The funding has been allocated per the CCC recommendation (i.e., based on the traditional Council formula) for all funds except the new LAPP funding. While the CCC provided an allocation of the LAPP increase to six Councils, the Agency believes that this small amount of funding must be targeted more specifically to only those Councils that will be addressing LAPP (or DAP) programs that are at a critical stage in FY 2008. Therefore, an allocation of differing amounts will be made to only four Councils. These Councils should include specific write ups in their grant proposals for the expenditure of these funds. All Councils should address general performance and results in their grant documents as well.

The allocation of the funding (approx. \$0.50 million) for peer review and stipends will be coordinated by the Office of Science and Technology. A note on that process will be out soon from Dr. Boreman.

In the CCC letter, its noted that "dedicated funding was not specifically designated in the adopted budget for new MSRA Council activities." However, the \$2.20 million increase in the Council line is for MSRA implementation, much like the \$6.50 million provided to the Agency.

Finally its important to point out that many Councils have, and will continue, to receive funding from

other sources in FY 2008. These additional sources of funding will be decided on a case-by-case basis with the parts of the Agency that have allocated the funding in the past.

Give me a call if you have any questions. Otherwise we can discuss on the conference call that will be held Feb. 19 or 22 (still waiting for a couple responses).

Thanks.

FY 2008 Councils Funding.xls	Content-Type: application/vnd.ms-excel Content-Encoding: base64
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		2008	2008	2008	2008	2008	2008	2008
<u>Council</u>	<u>traditional %</u>	<u>RFMC</u>	<u>Council LAPPS</u>	<u>Total Council PPA</u>	<u>RSP</u>	<u>NEPA</u>	<u>Peer Review Stipends</u>	<u>Total</u>
NEFMC	0.14650	\$ 2,486,196	\$ 121,017	\$ 2,607,213	116,120	\$ 144,890		\$ 2,868,223
MAFMC	0.12700	\$ 2,155,270	\$ 100,000	\$ 2,255,270	100,663	\$ 125,604		\$ 2,481,537
SAFMC	0.10750	\$ 1,824,343	\$ 75,000	\$ 1,899,343	85,070	\$ 106,318		\$ 2,090,731
GFMC	0.12950	\$ 2,197,698	\$ 75,000	\$ 2,272,698	102,480	\$ 128,077		\$ 2,503,255
CFMC	0.06850	\$ 1,162,488		\$ 1,162,488	54,208	\$ 67,747		\$ 1,284,443
PFMC	0.14675	\$ 2,490,438		\$ 2,490,438	115,884	\$ 145,137		\$ 2,751,459
NPFMC	0.15650	\$ 2,655,901		\$ 2,655,901	123,876	\$ 154,780		\$ 2,934,557
WPFMC	0.11775	\$ 1,998,290		\$ 1,998,290	92,907	\$ 116,456		\$ 2,207,653
Total	1.00000	\$ 16,970,624	\$ 371,017	\$ 17,341,641	\$ 791,208	\$ 989,009	TBD	\$ 19,121,858

**REGIONAL FISHERY MANAGEMENT COUNCIL'S
COUNCIL COORDINATING COMMITTEE**

January 29, 2008

Mr. Gordon Robertson
Vice President, American Sportfishing Association
225 Reinekers Lane, Suite 420
Alexandria VA 22314

Dear Mr. Robertson,

The purpose of this letter is to address the proposed board member composition in the draft legislation for the "National Fish Habitat Conservation Act" (NFHCA). At the January 8-10, 2008 meeting of the Council Coordinating Committee (CCC), Susan-Marie Stedman briefed our members on the draft Bill.

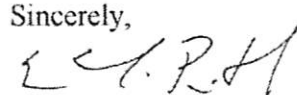
On behalf of the CCC, I am requesting that the draft NFHCA Bill SEC. 4(B) BOARD MEMBERSHIP be modified by adding the following: "one shall represent the eight Regional Fishery Management Councils (RFMCs) based upon the nomination of the Council Coordinating Committee (CCC)." Because of our role in protecting marine fish habitat, we believe it is essential that the RFMCs be represented on the Board.

The CCC is comprised of the eight RFMCs' Chairmen, Vice-Chairmen and Executive Directors and was established in the Magnuson-Stevens Reauthorization Act of 2007 (P.L. 109-479) to collectively represent and coordinate the management activities of the RFMCs. The RFMCs are responsible for the management of the fisheries resources and the protection of marine fish habitat occurring in federal waters, generally from 3 miles to 200 miles offshore of the United States (including the U.S. Virgin Islands, the Commonwealths of Puerto Rico and the Northern Mariana Islands, the Territories of American Samoa and Guam and the eight U.S. Pacific Remote Island Areas).

Successful management and protection of our nation's marine fishery habitats is a major goal of the RFMCs. Through our management processes to protect Essential Fish Habitat (EFH) we are working with Federal and state agencies, environmental NGOs and fishermen to ensure that the marine habitats our fisheries depend on are protected. In our efforts to incorporate ecosystem-based management into our processes, the RFMCs must consider the impacts on land-based habitat and water quality that are occurring and how those impacts will affect the marine fishery resources under our jurisdictions. We believe the fish habitat conservation partnerships (and projects) being developed under the National Fish Habitat Board have the potential of greatly enhancing the RFMCs' ecosystem-based management efforts. Because of our interest in this habitat/ecosystem connection, we believe the RFMCs can provide beneficial support for this legislation.

Your positive consideration of our request would be greatly appreciated.

Sincerely,

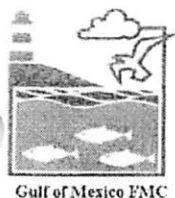


Eugenio E. Pineiro, Chairman
Council Coordinating Committee

cc: Council Coordinating Committee Members

John Cooper, Chairman NFHB

John Oliver, Acting Assistant Administrator for Fisheries, NOAA



Gulf of Mexico EMC

lease in million barrels of oil equivalent (MMBOE):

Water depth	Minimum royalty suspension volume (MMBOE)
(1) 200 to less than 400 meters	17.5
(2) 400 to less than 800 meters	52.5
(3) 800 meters or more	87.5

8. Section 260.117 is removed.

9. The title of § 260.124 and the introductory language of paragraph (b) are revised to read as follows:

§ 260.124 How will royalty suspension apply if MMS assigns a lease issued in a sale held after November 2000 to a field that has a pre-Act lease?

* * * * *

(b) If we establish a royalty suspension volume for a field as a result of an approved application for royalty relief submitted for a pre-Act lease under part 203 of this chapter, then:

* * * * *

[FR Doc. 07-6161 Filed 12-20-07; 8:45 am]
BILLING CODE 4310-MR-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 071121736-7619-01]

RIN 0648-AR78

Magnuson-Stevens Act Provisions; Experimental Permitting Process, Exempted Fishing Permits, and Scientific Research Activity

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes new and revised definitions for certain regulatory terms, and procedural and technical changes to the regulations addressing scientific research activities, exempted fishing, and exempted educational activities under the Magnuson-Stevens Fishery Conservation and Management Act. This action is necessary to provide better administration of these activities and to revise the regulations consistent with the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA). NMFS intends to clarify the regulations, ensure necessary information to complete

required analyses is requested and made available, and provide for expedited review of permit applications where possible.

DATES: Comments must be received by March 20, 2008.

ADDRESSES: You may submit comments, identified by RIN 0648-AR78, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>
- Fax: 301-713-1193, Attn: Jason Blackburn
- Mail: Alan Risenhoover, Director, Office of Sustainable Fisheries, 1315 East-West Highway, SSMC3, Silver Spring, MD 20910, Attn: EFP Comments

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. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Send comments on collection-of-information requirements to the same address and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (Attn: NOAA Desk Officer), or email to David_Rostker@omb.eop.gov, or fax to (202) 395-7285.

Copies of the categorical exclusion (CE) prepared for this action are available from NMFS at the above address or by calling the Office of Sustainable Fisheries, NMFS, at 301-713-2341.

FOR FURTHER INFORMATION CONTACT: Jason Blackburn at 301-713-2341, or by e-mail at jason.blackburn@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background and Need for Action

On May 28, 1996, NMFS established procedures pertaining to scientific research, exempted fishing, and exempted educational activities (61 FR 26435). These procedures were established to provide minimum standards for dealing with scientific research, exempted fishing and exempted educational activities under the Magnuson-Stevens Act. These standards clarified the requirements for those managing and enforcing the fishery regulations, and for the public. These regulations were subsequently codified in 50 CFR part 600 (61 FR 32538, June 24, 1996). Shortly thereafter, the Magnuson-Stevens Act was amended by the Sustainable Fisheries Act, which included important provisions dealing with essential fish habitat (EFH), rebuilding of overfished fisheries, and the requirement to minimize bycatch and bycatch mortality to the extent practicable. These new requirements resulted in an increased interest in fisheries research.

On January 12, 2007, the MSRA was enacted. Section 204 of the MSRA added a new Cooperative Research and Management Program section (Section 318) to the MSA. Section 318(d) of the revised MSA requires that the Secretary, through NMFS, "promulgate regulations that create an expedited, uniform, and regionally-based process to promote issuance, where practicable, of experimental fishing permits."

A major reason for the expansion in fisheries research has been the need to minimize bycatch and the mortality of bycatch as required under National Standard 9 of the Magnuson-Stevens Act. Much of this effort has been concentrated on studies investigating fish behavior and the development and testing of new gear technology and fishing techniques to minimize bycatch and promote the efficient harvest of target species.

Over the years, many questions have arisen regarding the differences between a scientific research activity and fishing and how NMFS interprets each type of activity under the implementing regulations. The existing regulations

contain three authorizations for catching fish outside prescribed fishing regulations: Scientific research from a scientific research vessel, exempted fishing under NMFS-issued exempted fishing permits (EFPs), and exempted educational activities. As these types of activities have increased in both volume and variety, NMFS and the affected public have identified several aspects of the regulations that could be improved in order to streamline the permitting of exempted fishing and exempted educational activities, and the acknowledgment of scientific research.

Proposed Changes from the Current Regulations

NMFS is proposing substantive and administrative changes to the current regulations, including revising and adding definitions; clarifying the differences among scientific research, exempted fishing, and exempted educational activities; clarifying the difference between conservation engineering and gear testing; clarifying the need for and extent of data required to be collected in conjunction with exempted fishing and exempted educational activities; clarifying the application process for obtaining an EFP; exempting research projects funded by quota set-asides from the requirement to publish separate notices; and defining whether and to what extent the NMFS Observer Program requires EFPs. These topics are discussed in more detail below.

Changes to Existing Definitions

In § 600.10 Definitions, three definitions would be added and several others revised. As part of the Sustainable Fisheries Act, Congress authorized the Secretary of Commerce (Secretary) to use private sector vessels, equipment, and services to conduct fisheries resource surveys. The Secretary is authorized to structure competitive solicitations to compensate a contractor for a fishery resources survey (i.e., "compensation fishing") by allowing the contractor to retain for sale fish harvested during the survey. If, however, the contractor is not expected to harvest during the survey the quantity or quality of fish that would allow for adequate compensation for the survey, the Secretary is authorized to structure the solicitation so as to provide that compensation by allowing the contractor to harvest on a subsequent voyage, and retain for sale, a portion of the allowable catch of the fishery as specified in a contract or EFP. Foreign vessels would not be allowed to engage in compensation fishing outside the scope of the applicable scientific

research plan, or outside the time frame in which the actual scientific research activity is being conducted.

This proposed rule would define "compensation fishing" and authorize, as appropriate, this activity as a reason for issuing an EFP. Compensation fishing as described under section 402(e)(2)(B) of the Magnuson-Stevens Act would be authorized through an EFP. It is proposed that in cases where exemptions are not needed, compensation fishing could be conducted without an EFP. An example of this is the Mid-Atlantic Research Set-aside (RSA) program, where research projects are funded through compensation fishing. In the RSA program, vessels are either issued a Letter of Acknowledgment (LOA) or an EFP. Vessels receive an LOA if they will be conducting research. Vessels receive an EFP if they will be compensation fishing and need an exemption from the regulations. For example, an EFP would be needed for a participating vessel to harvest and land their quota during a fishery closure. The compensation fishing provisions within the NMFS general regulations dealing with scientific research and exempted fishing (§ 600.745), would apply unless fishery-specific compensation fishing regulations are in place, such as those in the West Coast Groundfish regulations (§ 660.350).

A new definition would also be added for "conservation engineering." Section 404(c)(2) of the Magnuson-Stevens Act describes conservation engineering as an area of research that includes the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize bycatch, promote efficient harvest of target species, and minimize adverse effects on EFH. Because a significant number of fishery stocks are either overfished or experiencing overfishing, NMFS is concerned that bycatch of these species will make it more difficult to control mortality. Conservation engineering has become an important field of research and has led to cooperative research ventures involving NMFS, researchers, and fishermen.

For the same reasons that conservation engineering has become important, NMFS is concerned about its potential impacts on fishery resources. Conservation engineering activities often take commercial quantities of fish. In the past, these projects have been considered fishing and not scientific research because the Magnuson-Stevens Act definition of scientific research, as interpreted at § 600.10, excludes "the testing of fishing gear." NMFS believes

the mortality associated with conservation engineering work needs to be properly accounted for. In addition, NMFS wants to ensure that conservation engineering activities do not adversely affect fisheries resources. To best protect fisheries resources while allowing conservation engineering activities, NMFS proposes to define conservation engineering based on section 404(c)(2) of the Magnuson-Stevens Act in a manner that best protects fisheries resources while allowing conservation engineering activities. NMFS also proposes to define "gear testing" to differentiate it from conservation engineering. Gear testing would be defined as an at-sea activity with its sole purpose being the testing of the functionality of fishing gear. When a vessel is performing gear testing, it may not retain fish, and it must meet the specific requirements of any regulation that pertains to fishing and/or gear testing in the applicable fishery. For example, the Alaska management measures require that trawl gear testing must be performed within specified trawl gear test areas.

Some conservation engineering activities would not qualify as a scientific research activity, and would more appropriately require an EFP. To be classified as scientific research:

- At-sea research must meet the criteria for scientific research activity laid out in the regulations, and occur aboard a scientific research vessel;
- A research activity must address a testable hypothesis;
- A research activity must follow a scientific plan that includes sufficient observations and appropriate experimental design to test the hypothesis;
- A research activity must address a fishery management problem or issue;
- All fish captured for research must be necessary to meet the objectives of the experimental design, i.e. the sample size needed to prove or disprove the hypothesis. (This does not include fish captured for compensation fishing).

For example, in the development of a bycatch reduction device, research could be conducted to assess the behavior of target and bycatch species to detect exploitable differences, to determine whether prototype gear modifications achieve the desired stimuli and escape opportunities, to test whether fish respond to those stimuli as expected, or to examine whether a prototype device achieves the expected species separation. If these activities are conducted on a scientific research vessel then an LOA would be sufficient, whereas if these activities are conducted on a vessel not meeting the definition of

a scientific research vessel, then an EFP would be required. However, an opportunity for vessels to conduct sea trials of the resulting devices as proof of concept to determine their practicality and effectiveness with their gear and procedures in actual fishing conditions might qualify for an EFP, but would not be scientific research.

Technical Revisions to Definitions

Several technical revisions are proposed to be made to the Definitions section. In the definitions for "exempted educational activity" and "exempted or experimental fishing," the words "part 635 or" would be removed as redundant, since part 635 is a part of chapter VI of title 50. In the definitions for "region," "Regional Administrator," and "Science and Research Director," the word "five" would be changed to "six" to reflect the creation of the new NMFS Pacific Islands Region and NMFS Pacific Islands Fisheries Science Center. In the definition of "scientific research activity," in the second sentence, the words "or to test a hypothesis" would be revised to read "and to test a hypothesis," making this definition consistent with the new definition of conservation engineering. In the third sentence, the word "issues" would be revised to read "topics" to better describe the object of the research, and the words "or other collateral fishing effects" would be added following the word "bycatch" to encompass the range of potential impacts of fishing on the environment. In the fourth sentence, the words "unless it meets the definition of conservation engineering" would be added following "or the testing of fishing gear" to clarify that conservation engineering may be permissible. In addition, an example is provided to clarify what is meant by "the testing of fishing gear."

In § 600.512(a), for foreign fishing, and § 600.745(a), for domestic fishing, the procedures for acknowledging scientific research activity would be revised by adding "aboard scientific research vessels" to clarify that these sections apply only to scientific research activities aboard scientific research vessels in the Exclusive Economic Zone (EEZ).

To clarify who the designee could be for the Regional Administrator or Director, §§ 600.512(a) and 600.745(a) would be revised so that the Regional Administrator having responsibility for the fishery or the Director of the Office of Sustainable Fisheries (for Atlantic highly migratory species) would be primarily responsible for the issuance of LOAs, but that this responsibility may be delegated to an appropriate NMFS

Science and Research Director, or the Assistant Regional Administrator for Sustainable Fisheries.

The current regulations note that the LOA "is separate and distinct from any permit required under any other applicable law." For laws administered by NMFS, this reference applies to incidental take permits under the Marine Mammal Protection Act (MMPA) or section 10 permits or consultations under the Endangered Species Act (ESA). There may be additional permits required (e.g., from the Corps of Engineers) that are not under the jurisdiction of NMFS. Since the MMPA and ESA are administered by NMFS by the same officials who issue LOAs, it is appropriate for NMFS to consider the effect of the research under the provisions of these laws when the request for the LOA is being reviewed. Therefore, §§ 600.512(a) and 600.745(a) would be modified to indicate that the MMPA and ESA are two laws that may require an additional permit or consultation. NMFS would undertake an initial review of a request for an LOA to determine if any additional permit or consultation is needed. If, after an initial review, the Regional Administrator or Director believes that such a permit or consultation is required and none has been completed, the Regional Administrator or Director would not issue an LOA until required permits are issued and consultations completed. A research vessel that conducts operations without these authorizations may potentially be found in violation of the applicable law.

In addition to the foregoing changes, §§ 600.512(a) and 600.745(a) are proposed to have additional clarifying language added regarding revisions to the scientific research plan and to the rebuttable presumption that a vessel is a scientific research vessel conducting scientific research.

In § 600.745(b)(1), as previously discussed, compensation fishing is proposed to be added as a reason for an EFP. Similarly, although conservation engineering potentially could be described under several other reasons for requesting an EFP, it is proposed to be added as a specific reason for an EFP because of its increasing use in determining ways of avoiding bycatch and the extent of conservation engineering activities.

It has not always been clear to authorized officers or the exempted fishing permittee which regulations they have been exempted from. To provide a clear record of what regulatory exemptions apply to a particular EFP, § 600.745(b)(1) is also proposed to be revised to clearly indicate that a vessel

with an EFP is only exempt from those regulations specified in the EFP.

Changes to Application and Permit Process

In § 600.745(b)(2)(v), NMFS proposes that an applicant for an EFP provide any anticipated impacts of the proposed activity on the environment, including impacts on fisheries, marine mammals, threatened or endangered species, and EFH, as part of an EFP application. Under the National Environmental Policy Act (NEPA), NMFS must make a determination regarding the environmental impact of any permitted activity. This NEPA determination is usually in the form of a CE (i.e., a category of actions which do not individually or cumulatively have a significant effect on the environment and which have been found to have no such effect and for which neither an environmental assessment (EA) or environmental impact statement (EIS) is required), which includes reference to any relevant previous NEPA analysis. Under some circumstances, an activity might require an EA or what may be even more rare, an EIS. Similarly, under § 600.920, NMFS must make a determination of the impact on EFH of any permitted activity and, therefore, needs to be provided with any available information on the activity that has a potential effect on EFH. NMFS recognizes that applicants have routinely provided this type of information as part of their application. This proposed change would document the current practice and clarify the reasons for collecting the information.

A series of changes are proposed in the application process to speed public notification and allow for timely review of an application.

The current regulations state, "... notification of receipt of the application will be published in the *Federal Register* with a brief description of the proposal, and the intent of NMFS to issue an EFP. Interested persons will be given a 15- to 45-day opportunity to comment and/or comments will be requested during public testimony at a Council meeting." NMFS proposes to revise this language to remove "and the intent of NMFS to issue an EFP." The decision to issue an EFP should come after the public notice and comment process. NMFS also proposes to revise the language allowing public discussion of EFP applications at Council meetings, to clarify that Council meeting notices are not a substitute for publishing *Federal Register* notices for EFP applications, but are instead supplemental to that process. If the Council intends to take comments on

EFP applications at a Council meeting, it must include a statement to this effect in the Council meeting notice and meeting agenda. Multiple applications for EFPs may be published in the same **Federal Register** document and may be discussed under a single Council agenda item.

MSA section 318(f) specifically exempts research projects funded by quota set-asides from any new procedures established under section 318. There are existing procedures in place for processing EFP applications associated with these projects, which are necessary for NMFS to properly evaluate and analyze each project's compliance with NEPA, ESA, and MMPA requirements. NMFS believes the current procedures are beneficial to our process and help streamline the review and issuance of EFPs for quota set-aside programs. Therefore, these procedures will be retained. To further expedite the review of EFP applications for such projects, research projects funded through quota set-asides, such as those that participate in the Mid-Atlantic RSA program, will be exempted from the requirement to publish a separate **Federal Register** notice for each EFP application. Notice of selected Mid-Atlantic RSA projects is provided in the RSA section of the annual specifications notice that is published for each fishery management plan with an RSA program. An EA is normally prepared and analyzes the potential impacts of the selected RSA projects as part of each annual specifications process. The majority of the current quota set-aside funded projects are conducted in Northeast fisheries that are managed by the Mid-Atlantic Council. Examples of Mid-Atlantic RSA programs include: summer flounder, scup, black sea bass, squid, and monkfish. In addition, the New England Council has an RSA program for Atlantic sea scallops. RSA projects go through two concurrent processes before they receive their EFPs. There is a grant process, and an EFP process. Since 2003, the NMFS Northeast regional office has streamlined the RSA processes, particularly the EFP application and issuance process. The existing process accommodates variability, as not all fisheries or projects operate in the same manner.

NMFS proposes that § 600.745(b)(3)(i)(C) be revised to include impacts on fisheries and EFH.

In § 600.745(b)(3)(ii), current language states, "The Council(s) or the Administrator or the Regional Administrator shall notify the applicant in advance of any meeting at which the application will be considered, and offer

the applicant the opportunity to appear in support of the application." The language is proposed to be revised to clarify that the applicant has a right to be present and make comments only at public meetings.

In § 600.745(b)(3)(iii), new language is proposed to be inserted that would clarify that NMFS would issue EFPs only after all required analyses and consultations (e.g., NEPA, EFH, ESA and MMPA) have been completed. This is in effect what currently occurs. In § 600.745(b)(3)(iii)(B), confusing language is proposed to be removed and in § 600.745(b)(3)(iii)(C) the language is clarified to indicate that while purely economic allocations could be grounds for a denial, compensation fishing should not be a reason to deny an EFP.

NMFS is proposing language to clarify what terms and conditions should be included in an EFP. As previously discussed, a new paragraph (C) would be added to § 600.745(b)(3)(v) to require that the EFP cite the specific regulations exempted. The subsequent paragraphs would be renumbered accordingly, and the renumbered paragraph (F) would be revised to indicate that observers and electronic monitoring devices may be required. Renumbered paragraph (G) would be revised to specify acceptable records for data reporting and to indicate that incidental catch and bycatch must be reported in all EFPs.

A new paragraph (4) would be added to § 600.745(b) to require that EFP holders must date and sign the permit, and return a copy of the original to the NMFS Regional Administrator or Director, to acknowledge the terms and conditions of the permit. The permit is not valid until signed by the holder. The subsequent paragraphs would be renumbered accordingly.

In § 600.745(b)(5), language relating to revocation, suspension or modification of permits would be removed, as these activities are described in § 600.745(b)(9).

In § 600.745(c)(1), clarifying language is proposed to indicate that NMFS is requesting the research information, and to clarify that the request is made for research exempted from the Magnuson-Stevens Act (research activity conducted from a scientific research vessel).

Section 600.745(c)(2) would be revised to specify that persons operating under EFPs must report their catch at the end of the EFP activity, or at specified intervals during the course of the exempted fishing activity, as determined by the Regional Administrator or Director. This supports the previous discussion and proposed changes concerning the importance of

documenting all catch and bycatch related to EFPs.

Exempted educational activities are a subset of EFPs issued exclusively for educational purposes, i.e., the instruction of an individual or group, and allowing the capture of enough fish to demonstrate the lesson. Section 600.725(n) specifies that the trade, barter, or sale of any fish taken under an exempted educational activity is prohibited. This language is proposed to be repeated in § 600.745(d)(1) for clarity and ease of reference.

Consistent with the discussion regarding EFP applications in § 600.745(b)(2)(v), it is proposed that an applicant for an exempted educational activity provide any anticipated impacts of the proposed activity on the environment; including the fishery, marine mammals, threatened or endangered species, and EFH; as part of an exempted educational activity application.

Section 600.745(d)(3)(ii) would be revised to indicate that terms and conditions are mandatory for exempted educational activities in order to regulate and track catches, consistent with the proposed requirements of § 600.745(b)(3)(v).

As with EFPs, several clarifications are proposed to specify what may be included in the terms and conditions for exempted educational activities. In § 600.745(d)(3)(ii), a new paragraph (B) would be added to require that the exempted educational activity authorization cite the specific regulations exempted. The subsequent paragraphs would be renumbered accordingly, and renumbered paragraph (E) would be revised to specify acceptable records for data reporting.

In § 600.745(d)(3)(iii) and § 600.745(d)(7), NMFS proposes adding language that would require the exempted educational activity authorization specify the person(s) who will be in charge and present for the exempted educational activity to proceed. This would emphasize the educational nature of the activity and provide more assurance that the activity would be carried out as specified in the exempted educational activity authorization.

EFP Requirements for NMFS Observer Program

There have been questions regarding when, or if, observer programs are required to obtain EFPs in order for those observers to conduct catch sampling, biological studies, and retain fish for further analysis when doing so would be in violation of the applicable fishing regulations. In addition, the

fisheries use several types of NMFS-sanctioned observers, including NMFS employees, NMFS contracted observers, and third party contractors who are permitted by NMFS to provide observers in the fishery. There are also various other programs that provide "sea samplers" on fishing vessels: Universities, states, and industry groups. In § 600.745, a new paragraph (e) would exempt observers in the NMFS-sanctioned observer programs described above from the requirement to obtain an EFP. Other programs could continue to provide sea samplers, but would need an EFP to retain prohibited species or otherwise act in contravention of the published regulations.

Classification

Pursuant to section 304 (b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the provisions of section 318(d) and 305(d) of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

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

This proposed rule would provide clarifications of current regulations and information requirements, as well as other administrative requirements regarding scientific research, exempted fishing, and exempted educational activities. The proposed rule would serve only to define terms, clarify distinctions among scientific research activity, exempted fishing, and exempted educational activities, and standardize procedures for applying for and issuing EFPs and authorizations for exempted educational activities as allowed under EFPs.

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 review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB. The public reporting burden for this collection of information is estimated: (1) To average 6 hours per response to send NMFS a copy of a scientific research plan and average 1 hour per response to provide a copy of the cruise report or research publication; (2) to average 1 hour per

response to complete an application for an EFP and average 0.5 hours per response or authorization for an exempted educational activity; and (3) to average 2 hours per response to provide a report at the conclusion of exempted fishing and average 0.5 hours per response to provide a report at the conclusion of exempted educational activities, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the Office of Sustainable Fisheries at the ADDRESSES above, and email 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

Fisheries, Fishing.

Dated: December 18, 2007.

William T. Hogarth,
Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons stated 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 as follows:

Authority: 16 U.S.C. 971 *et seq.* & 1801 *et seq.*

2. In § 600.10, definitions for "Exempted educational activity", "Exempted or experimental fishing", "Region", "Regional Administrator", "Science and Research Director", and "Scientific research activity" are revised, and definitions for "Compensation fishing", "Conservation

engineering", and "Gear testing" are added, in alphabetical order, to read as follows:

§ 600.10 Definitions.

* * * * *

Compensation fishing means fishing conducted for the purpose of recovering costs associated with resource surveys and scientific studies that support the management of a fishery, or to provide incentive for participation in such studies. Compensation fishing may include fishing prior to, during, or following such surveys or studies. Foreign vessels that qualify as scientific research vessels and which are engaged in a scientific research activity may only engage in compensation fishing during the scientific research cruise and in accordance with the applicable scientific research plan. Compensation fishing must be conducted under an EFP if the activity would otherwise be prohibited by regulations under this part.

* * * * *

Conservation engineering means the study of fish behavior and the development and testing of new gear technology and fishing techniques that reduce collateral effects, such as minimizing bycatch and any adverse effects on EFH, and promote efficient harvest of target species. Conservation engineering is considered to be scientific research if it would otherwise meet the definition of a scientific research activity and is conducted by a scientific research vessel. Otherwise, conservation engineering is considered to be fishing, and must be conducted under an EFP if the activity would otherwise be prohibited by regulations under this part.

* * * * *

Exempted educational activity means an activity, conducted by an educational institution accredited by a recognized national or international accreditation body, of limited scope and duration, that is otherwise prohibited by this chapter VI, but that is authorized by the appropriate Regional Administrator or Director for educational purposes.

Exempted or experimental fishing means fishing from a vessel of the United States that involves activities otherwise prohibited by this chapter VI, but that are authorized under an EFP. The regulations in § 600.745 refer exclusively to exempted fishing. References elsewhere in this chapter to experimental fishing mean exempted fishing under this part.

* * * * *

Gear testing means at-sea activity for the purpose of testing the functionality

of fishing gear. During this type of activity, no fish may be retained aboard the vessel. Regional fishery regulations may specify additional requirements that would apply to this activity, such as using designated gear testing areas, testing trawl nets with the codend(s) open, or testing during closed seasons.

* * * * *

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 areas of responsibility.

Regional Administrator means the Director of one of the six NMFS Regions.

* * * * *

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

* * * * *

Scientific research activity is, for the purposes of this part, an activity in furtherance of a scientific fishery investigation or study that would meet the definition of fishing under the Magnuson-Stevens Act, but for the exemption applicable to scientific research activity conducted from a scientific research vessel. Scientific research activity includes, but is not limited to, sampling, collecting, observing, or surveying the fish or fishery resources within the EEZ, at sea, on board scientific research vessels, to increase scientific knowledge of the fishery resources or their environment, and to test a hypothesis as part of a planned, directed investigation or study conducted according to methodologies generally accepted as appropriate for scientific research. At-sea scientific fishery investigations address one or more topics involving taxonomy, biology, physiology, behavior, disease, aging, growth, mortality, migration, recruitment, distribution, abundance, ecology, stock structure, bycatch or other collateral fishing effects, conservation engineering, and catch estimation of finfish and shellfish (invertebrate) species considered to be a component of the fishery resources within the EEZ. Scientific research activity does not include the collection and retention of fish outside the scope of the applicable research plan or the testing of fishing gear, unless it meets the definition of conservation engineering. For example, the testing of fishing gear to examine fish behavior in response to a bycatch reduction device would be conservation engineering and

a scientific research activity, and would therefore not require an EFP. On the other hand, the testing of fishing gear to examine the gear's ability to catch more fish would not be conservation engineering or a scientific research activity, and would therefore be fishing and might require an EFP. Data collection designed to capture and land quantities of fish for product development, market research, and/or public display are not scientific research activities and must be permitted under exempted fishing procedures. For foreign vessels, such data collection activities are considered scientific research if they are carried out in full cooperation with the United States.

* * * * *

3. In § 600.512, paragraph (a) is revised to read as follows:

§ 600.512 Scientific research.

(a) *Scientific research activity.* Persons planning to conduct scientific research activities aboard a scientific research vessel in the EEZ that may be confused with fishing are encouraged to submit to the appropriate Regional Administrator or Director, 60 days or as soon as practicable prior to its start, a scientific research plan for each scientific cruise. The Regional Administrator or Director will acknowledge notification of scientific research activity by issuing to the operator or master of that vessel, or to the sponsoring institution, a letter of acknowledgment (LOA). This LOA is separate and distinct from any permit or consultation required under the Marine Mammal Protection Act, the Endangered Species Act, or any other applicable law. If the Regional Administrator or Director believes that such a permit or consultation is required, the Regional Administrator or Director will not issue the LOA until the vessel obtains such a permit or the consultation is completed. If the Regional Administrator or Director, after review of a research plan, determines that it does not constitute scientific research activity but rather fishing, the Regional Administrator or Director will inform the applicant as soon as practicable and in writing. The Regional Administrator or Director may designate a Science and Research Director, or the Assistant Regional Administrator for Sustainable Fisheries, to receive scientific research plans and issue LOAs. The Regional Administrator, Director, or designee may also make recommendations to revise the research plan to ensure the cruise will be considered to be a scientific research activity. In order to facilitate identification of the activity as scientific research, persons conducting

scientific research activities are advised to carry a copy of the scientific research plan and the LOA on board the scientific research vessel. Activities conducted in accordance with a scientific research plan acknowledged by such a letter are presumed to be scientific research activities. An authorized officer may overcome this presumption by showing that an activity does not fit the definition of scientific research activity or is outside the scope of the scientific research plan.

* * * * *

4. In § 600.745:

A. Redesignate paragraphs (b)(3)(v)(C) through (H) as paragraphs (b)(3)(v)(D) through (I), respectively.

B. Redesignate paragraphs (b)(4) through (8) as paragraphs (b)(5) through (9), respectively.

C. Redesignate paragraphs (d)(3)(ii)(B) through (F) as paragraphs (d)(3)(ii)(C) through (G), respectively.

D. Add paragraphs (b)(3)(v)(C), (b)(4), (d)(3)(ii)(B), and (e).

E. Revise paragraphs (a), (b)(1), (b)(2)(v), (b)(3)(i) introductory text, (b)(3)(i)(C), (b)(3)(ii), (b)(3)(iii) introductory text, (b)(3)(iii)(B), (b)(3)(iii)(C), (b)(3)(v) introductory text, (b)(3)(v)(F), (b)(3)(v)(G), (b)(5), (c), (d)(1), (d)(2)(vii), (d)(3)(ii) introductory text, (d)(3)(ii)(E), (d)(3)(iii), and (d)(7).

The revisions and additions read as follows:

§ 600.745 Scientific research activity, exempted fishing, and exempted educational activity.

(a) *Scientific research activity.* Nothing in this part is intended to inhibit or prevent any scientific research activity conducted by a scientific research vessel. Persons planning to conduct scientific research activities aboard a scientific research vessel in the EEZ are encouraged to submit to the appropriate Regional Administrator or Director, 60 days or as soon as practicable prior to its start, a scientific research plan for each scientific cruise. The Regional Administrator or Director will acknowledge notification of scientific research activity by issuing to the operator or master of that vessel, or to the sponsoring institution, a letter of acknowledgment (LOA). This LOA is separate and distinct from any permit or consultation required by the Marine Mammal Protection Act, the Endangered Species Act, or any other applicable law. If the Regional Administrator or Director believes that such a permit or consultation is required, the Regional Administrator or Director will not issue the LOA until the vessel obtains such a permit or the consultation is completed. If the Regional Administrator or

Director, after review of a research plan, determines that it does not constitute scientific research but rather fishing, the Regional Administrator or Director will inform the applicant as soon as practicable and in writing. The Regional Administrator or Director may designate a Science and Research Director, or the Assistant Regional Administrator for Sustainable Fisheries, to receive scientific research plans and issue LOAs. The Regional Administrator, Director, or designee may also make recommendations to revise the research plan to ensure the cruise will be considered to be scientific research activity or recommend the applicant request an EFP. In order to facilitate identification of the activity as scientific research, persons conducting scientific research activities are advised to carry a copy of the scientific research plan and the LOA on board the scientific research vessel. Activities conducted in accordance with a scientific research plan acknowledged by such a letter are presumed to be scientific research activity. An authorized officer may overcome this presumption by showing that an activity does not fit the definition of scientific research activity or is outside the scope of the scientific research plan.

(b) * * *

(1) *General.* A NMFS Regional Administrator or Director may authorize, for limited testing, public display, data collection, exploratory fishing, compensation fishing, conservation engineering, health and safety surveys, environmental cleanup, and/or hazard removal purposes, the target or incidental harvest of species managed under an FMP or fishery regulations that would otherwise be prohibited. Exempted fishing may not be conducted unless authorized by an EFP issued by a Regional Administrator or Director in accordance with the criteria and procedures specified in this section. An EFP exempts a vessel only from those regulations specified in the EFP. All other applicable regulations remain in effect. The Regional Administrator or Director may charge a fee to recover the administrative expenses of issuing an EFP. The amount of the fee will be calculated, at least annually, in accordance with procedures of the NOAA Handbook for determining administrative costs of each special product or service; the fee may not exceed such costs. Persons may contact the appropriate Regional Administrator or Director to determine the applicable fee.

(2) * * *

(v) The species (target and incidental) expected to be harvested under the EFP,

the amount(s) of such harvest necessary to conduct the exempted fishing, the arrangements for disposition of all regulated species harvested under the EFP, and any anticipated impacts on the environment, including impacts on fisheries, marine mammals, threatened or endangered species, and essential fish habitat.

* * * * *

(3) * * *

(i) The Regional Administrator or Director, as appropriate, will review each application and will make a preliminary determination whether the application contains all of the required information and constitutes an activity appropriate for further consideration. If the Regional Administrator or Director finds that any application does not warrant further consideration, both the applicant and the affected Council(s) will be notified in writing of the reasons for the decision. If the Regional Administrator or Director determines that any application warrants further consideration, notification of receipt of the application will be published in the *Federal Register* with a brief description of the proposal. Research projects funded by quota set-asides, such as those that participate in the Mid-Atlantic RSA program, are exempt from the requirement to publish such a notice. Interested persons will be given a 15- to 45-day opportunity to comment on the notice of receipt of the EFP application. In addition comments may be requested during public testimony at a Council meeting. If the Council intends to take comments on EFP applications at a Council meeting, it must include a statement to this effect in the Council meeting notice and meeting agenda. Multiple applications for EFPs may be published in the same *Federal Register* document and may be discussed under a single Council agenda item. The notification may establish a cut-off date for receipt of additional applications to participate in the same, or a similar, exempted fishing activity. The Regional Administrator or Director also will forward copies of the application to the Council(s), the U.S. Coast Guard, and the appropriate fishery management agencies of affected states, accompanied by the following information:

* * * * *

(C) Biological information relevant to the proposal, including appropriate statements of environmental impacts, including impacts on fisheries, marine mammals, threatened or endangered species, and EFH.

(ii) If the application is complete and warrants additional consultation, the

Regional Administrator or Director may consult with the appropriate Council(s) concerning the permit application during the period in which comments have been requested. The Council(s) or the Regional Administrator or Director shall notify the applicant in advance of any public meeting at which the application will be considered, and offer the applicant the opportunity to appear in support of the application.

(iii) As soon as practicable after receiving a complete application, including all required analyses and consultations (e.g., NEPA, EFH, ESA and MMPA), and having received responses from the public, the agencies identified in paragraph (b)(3)(i) of this section, and/or after the consultation, if any, described in paragraph (b)(3)(ii) of this section, the Regional Administrator or Director shall issue the EFP or notify the applicant in writing of the decision to deny the EFP, and, if denied, the reasons for the denial. Grounds for denial of an EFP include, but are not limited to, the following:

* * * * *

(B) According to the best scientific information available, the harvest to be conducted under the permit would detrimentally affect the well-being of the stock of any regulated species of fish, marine mammal, threatened or endangered species or essential fish habitat; or

(C) Issuance of the EFP would have economic allocation as its sole purpose (other than compensation fishing); or

* * * * *

(v) The Regional Administrator or Director may attach terms and conditions to the EFP consistent with the purpose of the exempted fishing and as otherwise necessary for the conservation and management of the fishery resources and the marine environment, including, but not limited to:

* * * * *

(C) A citation of the regulations from which the vessel is exempted.

* * * * *

(F) Whether observers, a vessel monitoring system, or other electronic equipment must be carried on board vessels operated under the EFP, and any necessary conditions, such as predeployment notification requirements.

(G) Data reporting requirements necessary to document the activities and to determine compliance with the terms and conditions of the EFP and established time frames and formats for submission of the data to NMFS.

* * * * *

(4) *Acknowledging permit conditions.* Upon receipt of an EFP, the holder must date and sign the permit, and return a copy of the original to the NMFS Regional Administrator or Director. The permit is not valid until signed by the holder. In signing the permit, the holder:

(i) Agrees to abide by all terms and conditions set forth in the permit, and all restrictions and relevant regulations under this subpart; and

(ii) Acknowledges that the authority to conduct certain activities specified in the permit is conditional and subject to authorization and revocation by the Regional Administrator or Director.

(5) *Duration.* Unless otherwise specified in the EFP or a superseding notice or regulation, an EFP is valid for no longer than 1 year. EFPs may be renewed following the application procedures in this section.

* * * * *

(c) *Reports.* (1) NMFS requests persons conducting scientific research activities from scientific research vessels submit a copy of any cruise report or other publication created as a result of the cruise, including the amount, composition, and disposition of their catch, to the appropriate Science and Research Director.

(2) Upon completion of the activities of the EFP, or periodically as required by the terms and conditions of the EFP, persons fishing under an EFP must submit a report of their catches and any other information required, to the appropriate Regional Administrator or Director, in the manner and within the time frame specified in the EFP. The report must be submitted to the Regional Administrator or Director no later than 6 months after concluding the exempted fishing activity. Persons conducting EFP activities are also requested to submit a copy of any

publication prepared as a result of the EFP activity.

(d) * * *

(1) *General.* A NMFS Regional Administrator or Director may authorize, for educational purposes, the target or incidental harvest of species managed under an FMP or fishery regulations that would otherwise be prohibited. The trade, barter or sale of fish taken under this authorization is prohibited. The decision of a Regional Administrator or Director to grant or deny an exempted educational activity authorization is the final action of NMFS. Exempted educational activities may not be conducted unless authorized in writing by a Regional Administrator or Director in accordance with the criteria and procedures specified in this section. Such authorization will be issued without charge.

(2) * * *

(vii) The species and amounts expected to be caught during the exempted educational activity, and any anticipated impacts on the environment, including impacts on fisheries, marine mammals, threatened or endangered species, and EFH.

* * * * *

(3) * * *

(ii) The Regional Administrator or Director may attach terms and conditions to the authorization, consistent with the purpose of the exempted educational activity and as otherwise necessary for the conservation and management of the fishery resources and the marine environment, including, but not limited to:

* * * * *

(B) A citation of the regulations from which the vessel is being exempted.

* * * * *

(E) Data reporting requirements necessary to document the activities and

to determine compliance with the terms and conditions of the exempted educational activity.

* * * * *

(iii) The authorization will specify the scope of the authorized activity and will include, at a minimum, the duration, vessel(s), persons, species, and gear involved in the activity, as well as any additional terms and conditions specified under paragraph (d)(3)(ii) of this section.

* * * * *

(7) *Inspection.* Any authorization issued under this paragraph (d) must be carried on board the vessel(s) for which it was issued or be in the possession of at least one of the persons identified in the authorization, who must be present while the exempted educational activity is being conducted. The authorization must be presented for inspection upon request of any authorized officer. Activities that meet the definition of "fishing," despite an educational purpose, are fishing. An authorization may allow covered fishing activities; however, fishing activities conducted outside the scope of an authorization for exempted educational activities are illegal.

(e) *Observers.* NMFS-sanctioned observers or biological technicians conducting activities within NMFS-approved observer protocols are exempt from the requirement to obtain an EFP. For purposes of this section, NMFS-sanctioned observers or biological technicians include NMFS employees, NMFS observers, observers who are employees of NMFS-contracted observer providers, and observers who are employees of NMFS-permitted observer providers.

[FR Doc. E7-24866 Filed 12-20-07; 8:45 am] BILLING CODE 3510-22-S

North Pacific Fishery Management Council

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January 22, 2008

Tom Hourigan
Office of Habitat Conservation
National Marine Fisheries Service
1315 East West Highway
Silver Spring, MD 20510

Dear Tom:

Thank you for allowing us to review the draft *Report to Congress on the Implementation of the Deep Sea Coral Research and Technology Program*. In the spirit of meaningful 'consultation with the Fishery Management Councils', we offer the following comments and suggestions to improve the report.

Our primary concern is the tenor and scope of the report relative to conservation measures taken to protect deep sea corals. As we understand it, this report would fulfill the MSA Section 408 requirement, which requires "biennial reports to Congress and the public on steps taken by the Secretary to identify, monitor, and protect deep sea coral areas, including summaries of the results of mapping, research and data collection performed under the program." This language requires that the report identify steps taken to protect deep sea coral areas. Yet the discussion of conservation measures seems to focus on areas where corals have been found but not protected, rather than progress on coral protection to date.

For example, Table 1 is the initial list of major deep sea coral areas in the US EEZ. The list appears incomplete, and includes only areas identified by the author as containing deep sea corals but not having adequate protection measures. There are three deep sea coral areas listed for the NPFMC region: Bering Sea Escarpment, Aleutian Islands Coral Gardens, and the GOA Primnoa Coral habitats. In each case, the table concludes that these are areas where some corals are not fully protected.

This list raises several additional concerns. How is it determined which deep sea coral areas get on this table and thus sets the priority for future protection? Given that deep sea corals are widely distributed throughout the continental shelf and slope areas off Alaska, why are not the major areas with corals listed? Is it the expectation of NMFS that every deep sea coral colony observed is to be 'protected'? And, why the focus on recent surveys indicating additional coral areas outside the protected zones? For these reasons, we question the inclusion of Table 1 in the report.

Our other major concern is that the discussion of measures to conserve deep sea corals in the North Pacific is incomplete, and potentially misleading. There are only 3 paragraphs here: the first is an overview of the region, the second focuses on the AI coral protection provided by the AIHCA, and the third discusses how the 2007 Northern Bering Sea and basin closures do not contain deep sea corals (an incorrect statement based on data for soft corals – see fig 2.12 of the State of Deep Coral Ecosystems). There is no real discussion about the substantial protections that have been implemented to protect deep sea corals off Alaska; rather the report mentions only one (the AIHCA) of these measures. Perhaps you

can use the description on Pages 93-94 in the State of Deep Coral Ecosystems of the US, which provides a more comprehensive summary of deep sea coral conservation measures in the North Pacific.

The figure (Figure 11) that goes with the Alaska conservation section is inadequate. It only shows the northern Bering Sea EFH closure and a few other miscellaneous Bering Sea closure areas. The figure needs to be redone, and based on Figure 2.22 from the State of Deep Coral Ecosystems report, showing all of Alaska including the Gulf of Alaska, as well as the new Bering Sea marine protected areas.

In addition to these concerns, there are several edits that should be made before the document is finalized.

- One citation is not included in the references (AKFSC 2007).
- The reference to the AIHCA on page 14 says this area covers 370,000 square miles; the actual size of the AIHCA is 277,000 nm².
- The sentence on page 14 states that "NOAA and NPFMC scientists participated in a 2007 Greenpeace-funded expedition to explore benthic habitat on the Bering Sea shelf break that documented some deep sea coral and sponge habitats in the Pribilof and Zhemchug Canyons". This sentence should be deleted as it gives scientific credence to an incomplete survey of an area that found very few and scattered occurrence of deep sea corals. At the very least, please delete 'NPFMC' from the sentence, as none of our staff participated.

Again, thank you for the opportunity to comment on the draft report. If you have any questions, please contact myself or David Witherell of my staff.

Sincerely,

Chris Oliver
Executive Director

North Pacific Fishery Management Council

Eric A. Olson, Chairman
Chris Oliver, Executive Director



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December 26, 2007

Dr. William A. Karp
Alaska Fisheries Science Center
7600 Sand Point Way NE, Bldg 4
Seattle, WA 98115

Dear Bill:

Thank you for your presentation at the December Council meeting, entitled *The National Bycatch Report: Reporting on Discards of Fish and Incidental Mortality of Marine Mammals and Sea Birds and Addressing Deficiencies in Data Quality & Estimation Methodology*. We appreciate being kept apprised on the development of this important report.

Your presentation however did raise some significant concerns and questions regarding the methodology being used in this report. As you know, the Magnuson-Stevens Fishery Conservation and Management Act (MSA) defines bycatch as follows: "The term bycatch means fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such as term does not include fish released alive under a recreational catch and release fishery management program." Further, the MSA defines fish as "finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds."

The first major concern is that the National Bycatch Report will apparently consider the incidental catch of marine mammals and seabirds as bycatch. Marine mammals and seabirds are not fish, and therefore should not be considered bycatch. Although an important conservation issue, the incidental mortality of marine mammals and seabirds should be addressed separately, and not lumped together within the National Bycatch Report.

The second concern is that the report apparently will make no attempt to explicitly classify what portion of discards are regulatory discards and what portion are economic discards. The fishery management program developed for Alaska requires fishermen to discard all crabs, herring, halibut, and salmon taken as bycatch in groundfish fisheries, as well as fish caught in excess of amounts allowed under the regulations. Regulatory bycatch is a substantial portion of the total bycatch, and it is important for the public to understand that these discards are a necessary part of the conservation and management program, and not a result of fishermen simply wasting ocean resources.

A third issue relates to the decision your group made to focus only on at-sea discards, because those are more tractable across the different regions. While extrapolations may be made based on observed vessel discards, many catcher vessels deliver unsorted catch to the processing plants. While I do not have an easy solution to this dilemma, I am concerned that it could produce a disparate view of our overall discard picture.

The Council suggests that NMFS reconsider its approach to the National Bycatch Report based on these comments. The methodology being used currently could, I fear, produce an inaccurate, out-of-context accounting of bycatch and discards in the North Pacific. The Council, NMFS, and the industry have worked hard to develop the largest and most comprehensive observer program in the United States. Data collected by this program should not be ignored just because other areas of the country do not have equivalent information about their fisheries.

We appreciate your offer to provide updates to the Council on the development of the National Bycatch Report. David Witherell of my staff is available, at your convenience, to work with you to more specifically address these concerns, prior to publication of the report.

Sincerely,



Chris Oliver
Executive Director

cc: Dr. Douglas DeMaster
Dr. Jim Balsiger
Dr. John Boreman



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

Alaska Fisheries Science Center
7600 Sand Point Way N.E.
Bldg. 4, F/AKC
Seattle, Washington 98115-0070

January 4, 2008

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

RECEIVED
JAN 10 2008
N.P.F.M.C.

Dear Chris:

Thank you for your letter describing the North Pacific Fishery Management Council's (Council) concerns regarding the National Bycatch Report (NBR). As I mentioned during my presentation at the December, 2007 meeting, I believe it is very important to keep the Council informed about the status of the report and to provide opportunities for discussion and feedback as this initiative advances. I did have the opportunity to discuss most of the issues raised in your letter directly with the Council at the December meeting, and I hope the following responses to the issues raised in your letter will clarify the basis for some of the policy decisions made during the early stages of the NBR project while also providing assurance that we will recognize the relevance and importance of each of these issues relative to the Alaska groundfish fisheries in the text of the report.

As you are aware, bycatch for the purposes of this report is defined as discarded catch of any living marine resource, plus unobserved mortality due to direct encounter with fishing gear. This expanded definition of bycatch was adopted to provide consistency with previous agency reports, including the 1998 and 2004 NMFS bycatch reports that developed the National Bycatch Strategy. Note, however, that it was decided to only provide estimates of at-sea discard in the first version of the report (see discussion below).

The NBR definition is similar to the definition of bycatch in the Magnuson-Stevens Fishery Conservation and Management Act (MSA), where bycatch is defined as: "fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such a term does not include fish released alive under a recreational catch and release fishery management program." We recognize that the NBR definition differs from the MSA definition in the inclusion of marine mammals and seabirds. The MSA excluded these species from its definition of fish (16 U.S.C. § 1802 (2)) (and therefore bycatch), although the Magnuson-Stevens Reauthorization Act expanded the original definition of living marine resources to include "fish, marine mammals, sea turtles, seabirds, and other waterfowl" and broadened the scope of NMFS in monitoring and minimizing the impact of fisheries interactions upon these resources. Since the NBR will provide a comprehensive compilation of bycatch estimates for all living marine resources, the broader definition of bycatch is considered to be more appropriate.



The Council also expressed concern that the NBR will not explicitly distinguish between regulatory and economic discards. For many fisheries, this distinction is not possible, as the data are not available. However, we will provide text information in the body of the report regarding regulatory discard requirements established under the Gulf of Alaska and Bering Sea/Aleutian Islands Groundfish Fishery Management Plans, including a discussion of economic and regulatory discard issues in these fisheries and management measures that have been taken to reduce bycatch.

We recognize the importance of your concern regarding our focus on at-sea discard, and our decision to exclude post-landing discard information in the first edition of the report. This is, of course, particularly important in the North Pacific where a considerable fraction of the groundfish catch is processed at sea. We identified this concern when we developed the terms of reference for the report and our decision was based, in large part, on the lack of verifiable data regarding discard of landed catch. This issue will also be addressed in the text of the report.

I hope I have addressed the concerns raised in the report to your satisfaction, and I look forward to working with you and the Council on this project and other important issues in the coming months and years.

Sincerely,



William A. Karp, Ph.D.
Deputy Science & Research Director,
Alaska Region

cc: Douglas DeMaster
James Balsiger
John Boreman
Lisa Desfosse



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Juneau, AK 99801 USA www.oceana.org

January 7, 2008

Dr. James Balsiger, Regional Administrator
NOAA Fisheries, Alaska Region
709 West Ninth Street
Juneau, AK 99802-1668

RE: 2008/2009 Groundfish Harvest Specifications, RIN 0648-XD69 and RIN 0648-XD67

Dear Dr. Balsiger:

We appreciate this opportunity to comment on 2008 and 2009 catch levels for the Bering Sea, Aleutian Islands, and Gulf of Alaska.

As an initial matter, it is difficult to understand the process in which the Fisheries Service has engaged to address the impacts of the federal groundfish fisheries on the North Pacific ecosystem. The catch specifications as reported in the Federal Register do not match the actual numbers discussed and recommended by the Groundfish Plan Team, Science and Statistical Committee, or the North Pacific Fishery Management Council. We do not understand the discrepancy. The Fisheries Service must evaluate the actual catch levels and explain the process it is using for allowing such levels and for determining future levels.

It is our understanding that the Fisheries Service has not prepared an environmental impact statement (EIS) to evaluate impacts to the environment from the harvest being authorized. The proposed authorization to remove millions of tons of fish from the ecosystem using various types of gear, including trawl gear, is likely to have significant effects on the environment, and on fish habitat in particular. There is no existing National Environmental Policy Act (NEPA) analysis that adequately assesses the effects of this proposed action under the current circumstances. Failure to prepare such an analysis before authorizing the action violates NEPA.

The annual catch of billions of wild fish from the Bering Sea, Aleutian Islands, and Gulf of Alaska must be evaluated in an EIS that addresses ecosystem impacts in a credible manner. Given prevailing ecological and ecosystem conditions and the implication of fishery removals, the Fisheries Service must carefully evaluate the environmental impacts of the Alaskan groundfish fisheries in 2008 and 2009 in a full EIS. We respectfully suggest such an analysis should consider the issues discussed below.

Bering Sea Pollock

The rapidly declining pollock stock in the Eastern Bering Sea (EBS) is a grave concern. Pollock play a central role in the North Pacific ecosystem and are responsible for much of the structure and function of the Bering Sea food web. Pollock, from juvenile to adult, function as both prey and predator for many species. Pollock are critical prey for endangered Steller sea lions, fur seals, and many other species. As predators, pollock may play a role regulating arrowtooth flounder populations.

The pollock stock has been driven to very low levels, and the decline likely has been hastened by increased fishing pressure on the spawning stock. In 2006 and 2007, the fishery removed more than 25% of the spawning aged female pollock. This level of fishing pressure on the spawning stock was

unprecedented, and the stock likely cannot withstand it on a sustained basis. The spawning biomass of pollock is now estimated at only 21 to 28% of what it would be if no commercial harvest had occurred.¹ In other words, without commercial fishing, the Bering Sea would have 72 to 79% greater spawning biomass of pollock than exists today.

Given the rapidly declining stock and increasing fishing pressure on the spawning biomass, the Plan Team recommended a maximum Acceptable Biological Catch (ABC) for pollock of one million metric tons, which is slightly less than the maximum permitted under the Tier 1 rules. We do not support such a large pollock harvest in 2008 and 2009. As detailed below there is enough uncertainty that we believe pollock catch rates should be lower.

In recent years we've seen the longest stretch of poor pollock recruitment on record. While a potentially abundant 2006 year class was seen in surveys, there is no guarantee that this class will be sufficient to rebuild the pollock stock. Indeed, the stock assessment authors caution, "*the high degree of uncertainty in the magnitude of these year classes cannot be overemphasized, particularly as they extend to estimates of future stock size.*"² A pollock harvester recently testified at a Plan Team meeting that "*it felt like we were catching every last pollock in the Bering Sea this year.*"

Further, scientists agree that global warming will affect the Bering Sea and that we are currently seeing signals of these effects. While it is difficult to predict the ecological trajectory, there is general agreement that we have greater uncertainty in fishery projections and thus will have to manage in a more precautionary fashion.³

In addition, there is a significant problem regarding interception of salmon by the pollock trawl fishery. Over 122,000 Chinook salmon were killed by the BSAI pollock trawl fishery in 2007. This level of bycatch is unacceptable. Most of the salmon killed as bycatch in the pollock fishery were bound for Alaskan streams. Fifty-six percent of Chinook salmon caught as bycatch in the pollock fishery in 1997-1999 were of Western Alaskan stock origin, and 40% of these were from Yukon River stocks.⁴ Yukon River Chinook returns have subsequently been below average, escapement goals have not been met, and village Elders have found it more difficult to find fish. The villages of Alakanuk, Emmonak, Kotlik, Mt. Village, St. Mary's, Pilot Station, Marshall, Russian Mission, Anvik, and others further upriver all depend on Yukon River salmon.

Additionally, endangered salmon are being killed by the pollock trawl fishery. Endangered Chinook salmon from the upper Willamette and Lower Columbia River have been recorded as bycatch in the EBS pollock fishery. Chinook salmon bycatch has reached such unprecedented numbers in recent years that it is possible that endangered salmon from other stocks are being intercepted as well.

These extraordinarily high levels of salmon bycatch call into question the Fisheries Service's compliance with the Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, the Pacific Salmon Treaty, and the Convention for the Conservation of Anadromous Stocks in the North

¹ EBS Walleye Pollock 2007 SAFE

² EBS Walleye Pollock 2007 SAFE

³ Testimony of Dr. Gordon Kruse before the U.S. Senate hearing on the effects of climate change on living marine resources, May 2007

⁴ Myers, K.W., R.V. Walker, J.L. Armstrong, and N.D. Davis. 2003. Estimates of the bycatch of Yukon River Chinook salmon in U.S. groundfish fisheries in the Eastern Bering Sea, 1997-1999. Final Report to the Yukon River Drainage Fisheries Association, Contr. No. 04-001. SAFS-UW-0312, School of Aquatic and Fishery Sciences, University of Washington, Seattle. 59pp.

Pacific Ocean. We understand that the Fisheries Service and the Council have embarked on a process to address salmon bycatch, but on-the-water regulations will not be promulgated for several years. It is our understanding that the Fisheries Service is required to take immediate action to reduce salmon bycatch in the pollock trawl fishery.

For these reasons, we urge the Fisheries Service to adopt the SAFE author's Tier 3b recommendations for EBS pollock in the table below:

Tier	Year	Max ABC	OFL
3b	2008	555 thousand mt	677 thousand mt
3b	2009	650 thousand mt	794 thousand mt

Flatfish

We are also concerned about the impacts of a substantially larger flatfish harvest in 2008 and 2009. Flatfish fisheries will undergo a significant increase and redistribution of effort if a substantially larger quota is authorized. While flatfish harvests have been large in the past, particularly the early 1960's when yellowfin sole were overexploited by foreign trawlers, the flatfish fishery in more recent history has been much smaller.

The flatfish fisheries use bottom trawls, and the impacts of bottom trawls on habitat are well documented.⁵ The potential impacts, including bottom habitat impacts, of an increase in the use of bottom trawls and any significant increase or redistribution of fishing effort must be evaluated. Existing analyses are not sufficient for this purpose.

The Essential Fish Habitat (EFH) EIS cannot be used to predict the impacts of a large increase in bottom trawl effort. The EFH EIS reached a conclusion regarding commercial fishing impacts on habitat based on an analysis of fishing effort from 1998 to 2002. This 5-year period ostensibly was selected to represent the current level of fishing effects. Regardless of the accuracy of that assumption or the EFH EIS's conclusions, the projected 2008 yellowfin sole quota is almost double the average catch used to determine trawling impacts in the EFH EIS. The current EFH analysis, therefore, cannot be used to address impacts to seafloor habitat for the projected 2008 yellowfin sole effort because effort, area swept, and total habitat damaged by trawls will change drastically.

In addition, the Alaska Groundfish Harvest Specifications Final EIS (NMFS, 2007) did not address the effects of significant increases or redistribution of fishing effort. As we stated in our October 2006 comment letter on the Alaska Groundfish Harvest Specifications Draft EIS, "The DEIS references the flawed conclusion reached in the EFH EIS that no effects of fishing on EFH are more than minimal, a conclusion with which we fundamentally disagree."⁶

Neither the EFH EIS nor the Alaska Groundfish Harvest Specifications EIS address the effects of increasing and/or redistributing bottom trawl effort. Therefore, under NEPA and MSA, you are required to undertake a new, credible analysis of habitat and bycatch impacts before raising flatfish quotas.

⁵ NAS. 2002. Effects of trawling and dredging on seafloor habitat

⁶ Oceana, *et al.* comments on Essential Fish Habitat Draft Environmental Impact Statement.

Dr. James Balsiger
January 7, 2008
Page 4

Gulf of Alaska Pollock

We are disturbed by recent increases in the amount of bycatch in the Gulf of Alaska pollock fishery from 2005 to 2006. Shortraker and rougheye rockfish bycatch more than doubled to 94.7 mt. Northern rockfish bycatch also rose by more than one order of magnitude from 0.8 mt to 14.5 mt. Pelagic shelf rockfish complex bycatch rose from 2 mt to 9 mt. Pacific cod bycatch doubled to 707 mt; flathead sole bycatch more than tripled to 593 mt; big and longnose skate bycatch increased 5-fold to 36 mt; rex sole increased 7-fold to 154 mt; and miscellaneous flatfish increased 100-fold to 4389 mt. The estimated bycatch of prohibited Bairdi tanner crab rose exponentially from 6 crab to over 86,000 crab. This startling rise in the amount and composition of bycatch also clearly indicates a change in the way pollock are harvested in the Gulf of Alaska. The increase in bycatch of bottom dwelling fish and crab requires substantial analysis not only focused on bycatch, but also focused on habitat impacts.

As detailed in this letter, we are very concerned about the proposed 2008 and 2009 catch levels for the Bering Sea, Aleutian Islands, and Gulf of Alaska. We strongly encourage you to consider the issues and information we have brought forth as you set these catch levels.

Sincerely,



Jim Ayers
Vice President, Oceana

DRAFT AGENDA

**North Aleutian Basin Energy/Fisheries Workshop
March 18-19, 2008 Anchorage Marriott Downtown Hotel, Anchorage, Alaska**

	Minutes	<u>Day 1: Tuesday, March 18, 2008</u>	Person assigned to invite
7:00-8:00am	60	Registration and Coffee	
8:00-8:15am	15	Welcome and Opening Remarks, Announcements, Introductions	
8:15-8:30am	15	Keynote Presentation: Dialogue Is Important The Honorable Sarah Palin, Governor of Alaska	Brian (Ted Stevens could be alternate)
8:30-9:00am	20	Perspectives on Energy/Fisheries Coordination Gordon Slade, Executive Director, One Ocean (Eastern Canada fishing/oil cooperative group)	OK
	10	Q&A	
9:00-9:30am	20	Potential, Facts, Figures, Map, OCSLA & NEPA Permitting and Sale Process, Regulatory Dan Sharp, MMS	OK
	10	Q&A	
9:30-10:00am	20	Offshore Oil and Gas Development Scenario Gregg Nady, Commercial Team Leader for Alaska Exploration, Shell Exploration & Production Company	OK
	10	Q&A	
10:00-10:15am	15	Break	
10:15-11:15am	20	Improved Understanding of North Aleutian Fisheries: Critical Habitat, Species, Locations, Seasons, Gear Types, Methods Jane DiCosimo, NPFMC	OK
	20	Denby Lloyd, ADFG	Brian
	20	Q&A	
11:15-12:00pm	35	Process of Decision Analysis and Risk Assessment	Brian
	10	Q&A	
12:00-1:15pm	75	Lunch on your own	
1:15-3:00pm	5	Panel: Meeting the Environmental Challenge in the North Aleutian Basin: Concerns and Solutions Moderator	Brian
	15	Bubba Cook, WWF	OK
	15	Kelly Harrell, AMCC	OK
	15	John Devens, Prince William Sound RCAC	OK
	15	Jon Kurland, NOAA Fisheries Habitat director	OK
	15	Doug Woodby, ADFG Fisheries Scientist	Brian
	25	Q&A	
3:00-3:15	15	Break	
3:15-5:00pm	5	Panel: Concerns and Issues from the Fishing Industry Moderator Jeff Stephan, United Fishermen's Marketing Association	OK

1/31/2008

	15	Arni Thomson, Alaska Crab Coalition	Jeff
	15	Brent Paine, United Catcher Boats	Jeff
	15	Dale Schwarzmiller, Peter Pan Seafoods	Jeff
	15	Robin Samuelson, Bristol Bay Native Association	Jeff
	15	Eric Olson	OK
	25	Q&A	
5:00-5:15pm	15	Day 1 Wrap-up: Setting the Stage for Day 2	
		<u>Day 2: Wednesday, March 19, 2008</u>	
7:30-8:00am	30	Registration and Coffee	
8:00-8:05am	5	Welcome and Opening Remarks, Announcements	
8:05-9:05am	15	Perspectives on Energy/Fisheries Coexistence in Norway Presentation. Jan Oddvar Soernes, Bodo University	Jan
	15	Bjorn Kristoffersen, Statoil/Hydro	
	15	Elling Lorentsen, The Norwegian Fishermen's Association, Norway	
	15	Q&A	
9:05-10:30am	5	Presentations & Panel Discussion: Oil & Gas Impact and Mitigation Moderator David Holt	OK
	20	Ian Voparil (Shell) Seismic	OK
	20	Discharge, Anchorage EPA expert	David
	20	Oil Spill Risk, Caryn Smith, MMS	Dan Sharp
	20	Q&A	
10:30-10:45am	15	Break	
10:45-12:15pm	5	Panel: North Aleutian Basin Potentially Impacted Communities—Opportunities and Concerns Discussion Topics: Jobs, Economic Development, Maintaining culture, Transportation, Shipping, Ports, Safety, Regional Citizens Advisory Council, How do you balance the value of fisheries resources with oil and gas development? Moderator Keith Criddle	Brian
	10	Shirley Marquardt, Mayor, City of Unalaska	OK
	10	Justine Gundersen, Nelson Lagoon Village	Bob Jeuttner
	10	Alice Ruby, Mayor, City of Dillingham	OK
	10	Dan O'Hara, Mayor, Bristol Bay Borough	Bob
	10	Glen Alsworth, Mayor, Lake and Peninsula Borough	Bob
	10	Stanley Mack, Mayor, Aleutians East Borough	OK
	25	Q&A	
12:15-1:30		Lunch on your own	
1:30-2:45	5	Panel: Native Culture & Subsistence Implications Moderator Sharon Svamy-Syverson	Shirley (BRIAN CALL SHIRLEY MARQUARDT (907-581-1251))
	10	Tiel Smith, Bristol Bay Native Corporation	Shirley
	10	Dmitri Philimonoff, Aleutian Pribilof Island Association	Shirley
	10	Norman Anderson, Bristol Bay Native Association	Shirley

1/31/2008

	10	Robin Samuelson, Bristol Bay Economic Development Corp.	Shirley
	10	Elizabeth Andrews, Director, ADFG Subsistence Division	Shirley
	20	Q&A	
2:45-3:00pm	15	Break	
3:00-4:15pm	5	Panel: Perspectives on Energy/Fisheries in Cook Inlet Moderator Roy Agloinga, Anchorage Rural Affairs Coordinator	Bill Popp
	10	John Williams, Mayor, Kenai Peninsula Borough	Bill
	10	Bill Popp, Anchorage Economic Development Corporation	OK
	10	Roland Maw, United Cook Inlet Drift Association	Bill
	10	Steve Grabacki, study in early 1990s about energy & fisheries in Cook Inlet, Arco et al.	David
	10	Michael Munger, Cook Inlet Regional Citizens Advisory Council	Bill
	10	Bob Shavelson, Cook Inlet Keepers	Bill
	10	Q&A	
		ALTERNATES Sue Saupe from CIRCAC; or Gary Fandrei from Cook Inlet Aquaculture Association	
4:15-4:30	15	Follow-up (proceedings book, Web site, Internet) and future meetings Brian Allee	Clarify
4:30-5:30pm	30	Plenary Dialogue. Attendees list and vote on most important non-addressed concerns. Informal panel to lead a discussion--Bubba Cook, Gregg Nady, Shirley Marquardt, Arni Thomson, Eric Olson 1. What are the topics of most interest to you? 2. How to best go forward to expand the dialogue. a. Another workshop? b. Community meetings? c. Form RCAC? 3. Additional questions from the audience (3x5 cards)	Clarify
End			

Additional Needs:

1. Include posters and maps for viewing during breaks and lunch hour.
2. Panels—All are presentations plus Q&A. 4 panel members is ideal, 5 maximum.
3. For proceedings ask for 2-4 page written summary from presenters; 1 page written summary from each panel member (electronically). Doug S. tape all. Assign one person to take notes and summarize each panel and the plenary dialogue; can be several different people.
4. Use notecards for Q&A or plenary?

DRAFT AGENDA

North Pacific Fishery Management Council

AGENDA B-1
Supplemental
FEBRUARY 2008

Eric A. Olson, Chairman
Chris Oliver, Executive Director

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January 30, 2008

Mr. Steve Leathery
National NEPA Coordinator
NMFS – Office of Assistant Administrator
1315 East-West Highway
Silver Spring, MD 20910

Dear Steve:

Pursuant to our discussions with NOAA Fisheries leadership earlier this month at the Council Coordination Committee (CCC meeting), I am providing you with some general comments regarding the agency's proposed revisions to the NEPA process, revisions which were mandated in the recent Magnuson-Stevens Act (MSA) reauthorization. Speaking for the subcommittee of the CCC assigned with tracking this issue (Chris Oliver – NPFMC, Dan Furlong – MAFMC, and Bob Mahood – SAFMC), we appreciated the opportunity on December 19, 2007 to sit down and review with you and CEQ representatives the proposed regulations to implement a revised process for NEPA compliance within fishery management actions promulgated under the MSA. However, as you well know, we do not consider the process since passage of the MSA to constitute any meaningful 'consultation' with the Councils, as was directed by the MSA.

The Councils were allowed to submit a 'strawman' proposal in February of 2007, which was constructed to incorporate the requirements of NEPA within the MSA process, as was directed by the Act. Following that, NOAA and CEQ worked for the next 10 months developing a significantly different proposal, without any further input or consultation with the Councils. We were only brought back into this loop this past December, when the three members of the CCC subcommittee were allowed to meet with you and review an already largely complete proposed rule. With the understanding that you intend to publish this proposed rule in the next few weeks, it appears highly unlikely that significant changes are possible, thereby rendering our 'consultation' role largely a sham.

Because we were directed to keep the specifics of this draft proposed rule confidential, I am focusing on general rather than specific comments. Because we were not allowed to retain a copy of the proposed rule, my comments are from my handwritten notes and my own memory, so please pardon any inadvertent misquotes. While we believe that some improvements can be made on specific elements of your proposed rule, we believe that the fundamental approach is fundamentally flawed and inconsistent with Congress' intent. Rather than incorporate NEPA into the MSA process (and thereby make MSA the guiding Act relative to fisheries management), your revised procedure subsumes the MSA process within the NEPA process, thereby formally and in regulation making NEPA the primary Act with regard to fisheries management actions promulgated (ostensibly) under the MSA. This fundamental reversal of Congressional intent does not appear to be accidental when one references Section 1500.2a Policy of the draft proposed rule, which states that it is the intent of NMFS (working with the FMCs) to "*interpret and administer the MSA in accordance with the policies set forth in NEPA and in these regulations*".

Congress' direction in the MSA was to incorporate provisions of NEPA within the MSA process. Your proposed rule does just the opposite – it incorporates the MSA process and all other applicable laws for fishery management actions within the NEPA vehicle. The result will be to 'cement' the overapplication of NEPA to fisheries management actions, rather than streamline the application of NEPA within the conservation and environmental protections already implicit or explicit within the MSA. This will make NEPA, formally and by regulation, the driving Act for fisheries management, and relegate the Magnuson-Stevens Act to a backseat status. There is the additional, significant concern on our part that by making NEPA (which is NMFS' authority and responsibility) the driving Act, the Councils' authorities under MSA could be eroded and subsumed within NMFS' authorities under NEPA. Finally, this approach may also create the potential for enhanced litigation fodder under the auspices of NEPA.

Of closely related concern are the changes, either explicit or implicit, relative to the Regional Councils' roles and authorities. By formally incorporating the Councils' decision making process within NEPA (which is the agency's responsibility), the proposed revised procedure subjugates and marginalizes the Councils' authorities and increases NMFS' control over the Council decision-making process. This fundamental change (whether intentional or unintentional) is underscored in numerous places in the document by such statements as "*A key factor in developing this timeline was the understanding of the role of the FMC as an advisory body that narrows alternatives and makes recommendations.....and NMFS as the ultimate decision-maker*". While NMFS certainly retains ultimate approval or disapproval of Council recommendations, the tenor of this statement (and the attendant regulations) minimizes the Councils' decision making role as specified in the MSA. Indeed, except in rare cases of Secretarial amendments, the Councils *decide* whether and when to even initiate consideration (without such a decision in the first place, there would never be any alternatives or decision for NMFS to even contemplate). They then *decide* what alternatives will be considered (subject to influence of NEPA and other applicable laws). They then *decide* (with input from NMFS) when an analysis of alternatives is complete enough to make a Council *decision* to forward for Secretarial (NMFS) review. Finally, the FMC *decides* the action to be forwarded for final review by the Secretary (NMFS).

This process outlined within the MSA clearly intends the Councils to be more than simply 'advisory bodies'. They were intended to develop FMPs and associated fishery management policy, subject to final approval by the Secretary. The role of the Secretary (NMFS) under the MSA is limited to approve, disapprove, or partially approve, NOT to replace the judgment of NMFS for that of the Councils' by selecting a different alternative. As we discussed in December, there is one specific aspect of the proposed rule that we found particularly distressing. That is the added provision in your proposed rule for the Secretary to have the option of "*determining that additional conservation and management measures are necessary*". This is tantamount to substituting NMFS' judgment for that of the Councils', which is clearly contrary to the MSA (and effectively is a major amendment to the MSA). In a related vein, the overall proposed process of placing all fishery management actions squarely under NEPA authority, and placing all documents pursuant to Councils decisions under authority of NMFS, has the potential to create a situation where NMFS controls the alternatives, the analyses, and the ultimate decision which they will then be 'recommending' to themselves.

NMFS may well be the "ultimate decision-maker" under NEPA, as well as under MSA. However, by formally subsuming the entire MSA/Council process under the NEPA umbrella, this revised proposed procedure potentially undermines Council authority and decision-making as is explicitly contained in the MSA. It does not appear that Congress' intent in streamlining the NEPA process was to diminish the Councils' authorities contained in the MSA, or to further elevate NEPA as the driving Act relative to fisheries management policy in the U.S. However, that appears to be the potential net effect of the proposed revised procedure.

Mr. Leathery
January 30, 2008
Page 3

While the revised draft proposed rule does contain opportunities for streamlining some aspects of the process, the major changes appear to be simply changes in terminology, and would explicitly, and by regulation, apply the existing CEQ regulations for NEPA compliance directly to all fishery management actions (in fact, the approach appears to take the easy, convenient path of simply using the existing CEQ regulations for NEPA compliance, and inserting the word 'fisheries' in numerous places). This would appear to be a counterproductive approach to implementation of Congress' intent, which we believe was to recognize the MSA process as the primary Act for fisheries management actions, and to incorporate NEPA compliance therein. It is not merely a difference of semantics. It is not and has never been the intent of the CCC or any Council to avoid the underlying intent of NEPA. However, we continue to believe that underlying intent can be appropriately accommodated without explicitly making NEPA the driving Act for fisheries management actions promulgated under the MSA.

We hope that these critical concerns can be addressed prior to publication of the existing draft proposed rule. We also believe that interested Congressional offices should be afforded the opportunity to review this draft proposed rule prior to its publication, in order to assess its consistency with Congress' intent.

Sincerely,



Chris Oliver
Executive Director

CC: Mr. John Oliver, Acting Assistant Administrator
Dr. James Balsiger, Regional Administrator, NMFS Alaska Region
Council Executive Directors