

Improving NEPA-related Scoping in the Council Process Draft Proposal

Introduction

After the Magnuson-Stevens Act, the National Environmental Policy Act (NEPA) has arguably become the most important federal mandate governing Council decision-making. Enacted in 1970, NEPA requires federal agencies (and by extension, the Council) to evaluate the environmental effects of their activities. The Act's mandate is procedural rather than substantive, and one of its most important provisions directs agencies to consider public concerns in their decision-making. The Council serves this function, since its processes are open to public comment; include input from state, tribal and federal agencies; and Council decisions are advisory to NMFS, the implementing agency. However, in recent years NMFS and the Council have faced legal challenges to their decisions, which have included allegations that the NEPA-related analyses supporting these decisions have been inadequate.

Despite extensive public input in the Council process, judicial decisions in favor of plaintiffs in a series of cases on the basis of NEPA violations suggests that more could be done to improve these NEPA-related practices. A broader cross-section of the affected public could be consulted, issues raised through public participation could be better documented, and the range of issues thus documented could be better connected to the environmental analyses supporting Council decisions. These improvements need not entail a substantial increase in administrative burden; indeed, they should stress efficiency. After all, NEPA documents are meant to be "analytic not encyclopedic." Better analysis can be achieved by focusing on issues of concern to the public and thus narrowing the scope of the analysis. This suggests that more attention be given to a key component in the NEPA process: scoping. Scoping is an "early and open process for determining the scope of issues to be addressed [in an environmental assessment or environmental impact statement] and for identifying the significant issues related to the proposed action" (40 CFR 1501.7).

A focused scoping process, with explicit methods, exercises, and procedures, could streamline decision-making by narrowing the scope of issue analyzed. Better documentation of the process would make analyses more defensible. A generalized scoping process is outlined below, which would for the most part use existing processes, but would make scoping more explicit and result in better documentation of the process. This is not a "one size fits all" process; a broad framework is proposed with the expectation that the specifics will be tailored to the circumstances surrounding each action that is to be scoped.

Proposal Identification - Process Design

As a first step, Council and NMFS staff identify new proposals that have emerged and make an initial assessment of the type of analysis required (CE, EA, EIS) and the extent of scoping required. A proposal can be defined as a proposed action at its earliest stage of development, which will ultimately result in a Council recommendation to NMFS to implement a regulation, approve an FMP amendment, or take some other action. Generally, this is at a stage before potential impacts have been identified, any substantive analysis has occurred, or alternatives developed. Proposal identification should be an explicit part of the Council-NMFS Regions follow-up call that occurs after each Council meeting. Proposals arising during the preceding Council meeting would be identified, discussed and documented during this conference call. For each proposal the following items would be discussed and documented:

- What is the nature of the proposal and what stage is it at?
- Has a decision schedule and/or timeline been identified?

- What type of NEPA analysis will be required? (At this stage it may not be possible to answer this question. But it should be possible to determine whether any type of NEPA analysis is required.)
- Who is likely to have primary responsibility for doing the analysis, preparing the documents and generally shepherding the decision through the process?
- What type of and how much scoping should occur?
- Should a scoping team (see below) be formed and if so, what would be its composition?

A similar conference call may also be needed a week or so before Council meetings if proposals arise in the interim between meetings that are likely to appear on the Council agenda for the first time at the next meeting, or are in the process of evolving from a consideration or "below the line" objective to an active proposal. A pre-meeting conference during which a scoping team is identified would allow that scoping team to have their initial meeting during the upcoming Council meeting.

Scoping Team Formation - Development of Scoping Document

Depending on the outcome of proposal identification, a scoping team may be formed for a particular proposal. (Scoping teams would not be used in all instances; they would be formed only for those actions sufficiently complex or controversial as to require an EIS or large EA.) To maximize their effectiveness team size should be kept small. An ideal size would be no more than five members, although this should be balanced against the need for appropriate representation. Depending on the nature of the proposal, team members would be drawn from:

- Council staff
- NMFS staff
- Council advisory bodies (including plan teams and SSC)
- Council members
- Advisory (e.g., EPA) and cooperating agencies (e.g., USFWS)

In addition, the Council and/or NMFS Region (NW or SW) NEPA Coordinators would be a part of every scoping team.

The role of scoping teams is flexible, depending on the nature of the action, team composition, and objectives of the Council and NMFS. Generally, their role would be confined to the scoping process; they would not be responsible for analysis and final document preparation. However, in some cases a scoping team could function more like an "interdisciplinary team," assuming total responsibility for scoping, analysis, document preparation and follow-up. (The U.S. Forest Service Decision Protocol Version 2.0 provides an example framework of a team-based approach and structured decision cycle that could be adapted to a broader role for scoping teams. The Decision Protocol is available at <http://www.fs.fed.us/forum/nepa/dp2roadmap.htm>.)

Ideally, once formed the scoping team could have a face-to-face meeting to preliminarily scope issues, plan scoping meetings (see below), and develop scoping documents and public notices. During this preliminary meeting the scoping team would address the topics outlined above for the process design phase in greater detail. The meeting should result in the information necessary to produce a **scoping document**, a schedule of scoping meetings, and the necessary notices (*Federal Register*, Council website, NMFS-NWR/SWR websites, Council newsletter). The scoping document serves as background for scoping meeting participants, and would generally be more important for external (public) scoping. It should be a brief, non-technical document covering the following points:

- What is the proposed action? Why is it being proposed? Who is likely to be affected?
- What issues have NMFS, the Council, and/or the scoping team identified? What are the likely environmental and socioeconomic impacts of the proposed action?
- Have any alternatives been identified? If so, briefly describe them.

- When and where will scoping meetings occur?
- Is an EA or EIS planned? If known, what is the schedule for document production? (For example, when will the DEIS be completed and available for public comment ?)
- When and where will Council decision-making on the proposed action likely occur?
- When will the proposed action be implemented? What is its duration?

The scoping team would assign one or more members to prepare the information document. (If a scoping team is not formed, then the responsible staff member would prepare the scoping document.) It may be that the scoping document overlaps with, or is replaced by, public notices. In most cases existing methods of information dissemination, such as the Council website and newsletter should suffice for these public notices. If appropriate, the team could identify other venues, such as other organizations' newsletters or web sites, local newspapers, mailing lists, etc. Council activities also must be noticed in the Federal Register, and if an EIS is planned a notice of intent must be published. The scoping document should also provide the basis for these FR notices. It would also go in the Council meeting briefing book and/or be a reference for writing the situation summaries that go in the briefing book.

Scoping Meetings

Scoping will vary in extent and form depending on the proposed action. It can be characterized as internal/external and informal/formal. Internal scoping involves agency staff and those already substantially involved in the Council process (such as advisory bodies) while external scoping may be generally classified as involving "the public." Informal scoping ranges from meetings and discussion among agency staff to small-group meetings with the public, which allow a lot of give-and-take. Public hearings and public comment during Council meetings may be classified as formal scoping. There is less opportunity for discussion and development of ideas through exchange among participants.

The scoping team could identify one or more of the following scoping opportunities:

- Written comments. (If written comments are the only form of scoping that will occur it is unlikely that a scoping team would be formed, unless the team will be responsible for the whole decision cycle.)
- Internal scoping with NMFS divisions that may have information and oversight related to the action. For example, the Protected Resources Division could assist in identifying issues and providing information related to endangered species.
- Public hearings normally scheduled as part of the decision process (e.g., the salmon hearings).
- Scoping sessions with advisory bodies during their meetings.
- Solicitation of comments from state and federal government agencies, in cases where they are not adequately represented in the Council process.
- Public scoping sessions held during Council meeting week (but outside the Council agenda).
- Public scoping meetings held in affected communities.
- A scoping session as part of the Council agenda. Generally, this would involve Council discussion and public comment as with any other agenda item. It may be different from a topic agenda item to the degree that it focuses on environmental assessment topics such as identifying environmental impacts.

Individual scoping team members would be assigned to staff/lead specified scoping meetings so that the whole team would not attend every scoping meeting. By deploying individual team members this way extensive scoping could be carried out efficiently. One key to successful scoping meetings will be developing processes and techniques for conducting them. General guidance needs to be developed on effective

techniques, based on other agencies' experience. (CEQ Guidance on Scoping gives some general pointers on how to run a scoping meeting, for example.) Key staff should also receive training in meeting facilitation techniques. These techniques and skills will help ensure that scoping meetings generate focused, useful output.

Production of the Scoping Summary

After scoping meetings are over, the scoping team would prepare a written **scoping summary**. Preparation of the summary would be facilitated by a second meeting. This meeting would give the team a chance to discuss the results of the scoping meetings and translate them into the list of issues that will be evaluated in the environmental document. (If such a meeting is not feasible this task could be accomplished through email and teleconferences.) It also needs to provide the rationale for any issues and/or alternatives eliminated from detailed analysis.

The scoping summary should form the basis for developing the environmental compliance document (EA, EIS). At the least, it would contain information found in the first chapter of the environmental compliance document: the proposed action, purpose and need, and summary of scoping. Depending on the extent of scoping, the summary may also present at least a preliminary list of alternatives, serving as the basis for the second chapter of the environmental compliance document. Finally, by detailing the list of issues to be analyzed in the environmental document, as revealed through scoping, the team may be able to outline the impact analysis comprising the fourth chapter of the environmental compliance document. At the least, the summary of impacts table usually included in the second chapter could be drafted, even if the cells are not filled in. Guidance recommends that the first two chapters of the environmental compliance document serve as an executive summary.¹ The scoping summary could be in a similar format and thus aid in preparing the final document, much like a book or research proposal.

The scoping summary, perhaps in an appendix, should also summarize public comments made during scoping sessions, Council meetings and public hearings, as appropriate. Contracting to have relevant portions of the tapes of Council meetings, and any tapes made at other sessions, transcribed would facilitate this process. This information could also be used to track public opinion about issues.

The scoping summary would be disseminated through the usual channels (website, Council mailing list); in addition, participants in public scoping meetings should be sent a copy. If the scoping summary is equivalent to the first part of the environmental compliance document, a shorter (less than 10 pages) "summary of the summary" may need to be prepared for wide dissemination.

The Council should also maintain a schedule of proposed activities allowing the public and Council process participants to track the progress of various decisions. The USFS Umatilla National Forest website provides an example (<http://www.fs.fed.us/r6/uma/sopa/sopa.htm>). Scoping documents could be linked to such a schedule.

Handoff or Follow-on - Scoping Teams as Interdisciplinary Teams

The scoping summary forms a strong basis for further development of the environmental document. Once completed, the scoping team may disband with the scoping summary handed off to designated staff for further development and completion of the environmental document. As mentioned above, in some cases the scoping team could be responsible for supporting the whole decision cycle. Team members might be responsible for all tasks, including analysis and writing, or "farm out" specific components and then assemble a final product representing a combination of their efforts and those pieces they have commissioned others to complete.

¹ "Chapters 1 and 2 (1: Purpose of and Need for Action and 2: Alternatives Including the Proposed Action) present managerial information to the decision-maker and any interested publics. These two chapters usually contain almost everything a decision-maker needs to know" (Larry H. Freeman and Sidney L. Jenson. 1998. How to Write Quality EISs and EAs. Second Edition. Woods Cross (UT): The Shipley Group, Inc. Page 2.)

In the early stages of development it would be advisable to follow a "handoff" model whereby scoping teams are only responsible through production of the scoping summary. Once this model has been successfully tested, an expanded role in the form of an interdisciplinary team could be tried out.

Proposal for Integrating Scoping Methods Into the Council Process

The Council and NMFS would begin implementing the scoping procedures outlined here at the follow-up conference call after the June 2003 Council meeting, if any new proposals are identified. The use of a scoping team would be tested on one or a few proposals to evaluate its efficacy. Whether or not any other proposal is identified in June (or September), a scoping team would be organized for the 2004-2005 groundfish specifications/management measures.

In support of scoping the following products would be developed/implemented during the test phase:

- Form to document proposals identified in pre- or post-Council meeting conference calls.
- Web page design for schedule of proposed activities on Council web site.
- More detailed documentation of the scoping process in the form of:
 - Guide for scoping teams on preparing the information document and public notices.
 - Guide for scoping teams on techniques for running a scoping meeting.
 - Guide for scoping teams on how to prepare a scoping summary.

Projected Costs and Evaluation

Implementation of a more explicit scoping process, including the use of scoping teams, entails some direct costs in terms of team meetings, the production of information documents and scoping summaries, additional training, development of guidance materials, and any additional staff time needed to coordinate the process. These costs should be more than compensated by resulting benefits. These benefits should include: effectively narrowing the range of issues analyzed in environmental compliance documents, ensuring that a reasonable range of alternatives are developed, a more defensible NEPA analysis in the event of litigation, and potentially more efficient, rapid development of environmental compliance documents (EAs/EISs).

As noted above, this approach should be used on a trial basis for one or two proposals. Once the Council recommendation/environmental compliance documents for these proposed actions are submitted, the efficacy of this scoping process should be formally evaluated. Evaluation criteria could include:

- Did the process add to staff workload? If so, why and by how much?
- In comparison to past actions of similar complexity, was it easier to develop the environmental compliance document as a result of scoping?
- How did participants (team members, Council, advisory bodies, the public) rate the process? Were their concerns more effectively addressed in the environmental compliance document?
- Did the process help improve the quality of the resulting environmental compliance document? (If an EIS, EPA comments and ratings could be used for this assessment.)
- What specific recommendations can be made for improving the process?

This evaluation should justify any added costs entailed in more explicit scoping. If it cannot, this approach should be rethought or abandoned.

IMPROVEMENTS IN MEETING NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) REQUIREMENTS FOR COUNCIL ACTION

Situation: After the Magnuson-Stevens Act, the National Environmental Policy Act (NEPA) has arguably become the most important federal mandate governing Council decision-making. Enacted in 1970, NEPA requires federal agencies (and by extension, the Council) to evaluate the environmental effects of their activities. The Act's mandate is procedural rather than substantive, and one of its most important provisions directs agencies to consider public concerns in their decision-making. By the same token, citizen suits have been an important mechanism forcing agencies to follow NEPA-mandated procedures. In recent years National Marine Fisheries Service (NMFS) and the Council have faced legal challenges to their decisions, which have included allegations that the NEPA-related analyses supporting these decisions have been inadequate. Although the Council process accommodates substantial public participation, the success of plaintiffs in a series of these cases suggests that more could be done to improve these NEPA-related practices. These improvements need not entail a substantial increase in administrative burden; indeed, they should stress efficiency. After all, NEPA documents are meant to be "analytic not encyclopedic." Better analysis can be achieved by focusing on issues of concern to the public and thus narrowing the scope of the analysis. This suggests that more attention be given to a key component in the NEPA process: scoping.

Scoping is an "early and open process for determining the scope of issues to be addressed [in an environmental assessment or environmental impact statement] and for identifying the significant issues related to the proposed action" (40 CFR 1501.7). At its core, the Council serves this function, since its processes are open to public comment; include input from state, tribal, and federal agencies; and Council decisions are advisory to NMFS, the implementing agency. However, the Council could better serve this function in a number of ways: a broader cross-section of the affected public could be consulted, issues raised through public participation could be better documented, and the range of issues thus documented could be better connected to the environmental analyses supporting Council decisions. Better scoping can streamline the environmental analysis process, and by extension allow more informed decision-making. By eliminating issues that are not germane to the proposed action, the analysis can better evaluate potentially significant impacts. If scoping is a well-documented public process, this narrowed scope is also defensible to subsequent challenges since an inclusive process have been used to identify issues of concern to the public. In a similar way, a robust scoping process can ensure that reasonable range of alternatives has been identified for the analysis.

Council staff have considered procedural improvements that would help to ensure well-documented scoping occurs in the early stages of proposal development. The key feature of this procedural innovation would be the formation of "scoping teams," who would be responsible for conducting and documenting scoping from the outset. Scoping teams would not be used in all instances; they would be formed only for those actions sufficiently complex or controversial as to require an Environmental Impact Statement (EIS) or large Environmental Assessment (EA). The process would begin by ensuring that proposals are formally identified at their earliest stage. Once identified, a scoping team would be formed to conduct scoping for that proposal; such teams would draw their membership from Council and NMFS staff, advisory bodies, the Council, and other agencies as appropriate. (Although seeking broad representation, these teams should be kept small to ensure their effectiveness; teams could be as small as two people and shouldn't be larger than five unless the issue warrants.) Scoping teams would engage in the following tasks:

- Prepare a scoping document describing the proposal and summarizing any issues and alternatives that have emerged from internal scoping. The scoping document would help inform the public and facilitate subsequent scoping opportunities.
- Conduct scoping meetings with agencies, during Council meetings, and with the public. Individual team members would conduct meetings with different groups to maximize coverage.
- Prepare a scoping summary listing the issues raised through scoping, any alternatives that have been put forward, and providing the rationale for the choice of issues analyzed in the subsequent EA or EIS. This scoping summary would form the basis for the subsequent EA or EIS.

A project tracking page could be added to the Council website, showing what proposals are in development, their stage of development, and allowing the public to download informational material related to the proposal.

In most cases the scoping team would hand off the results of its work, in the form of the scoping document, to Council or NMFS staff who will prepare the EA or EIS. However, the possibility is left open that scoping teams could be involved in all stages of the process, including analysis and document preparation.

Any new procedure, like the one outlined here, must have demonstrable benefits that outweigh any additional costs. Wherever possible direct costs, such as meetings of scoping teams, would be minimized by, for example, holding them during Council meeting week. Developing guidelines and materials to make scoping meetings effective, and providing training in meeting facilitation techniques to key staffers, would help ensure a better process; these represent another direct cost. There will also be some new indirect costs, in terms of the staff time involved. While this is a genuine concern, savings should be realized later in the process by explicitly linking issue identification to the analysis in the environmental document and, at any rate, the additional staff time costs would result in a higher-quality document.

This scoping process, involving scoping teams, could be implemented in June of this year on a trial basis, and used for one or a few proposals. Its efficacy would then be evaluated and, if appropriate, use of scoping teams would be expanded.

Council Action:

1. Discuss and comment on proposal to improve scoping.

Reference Materials:

1. Scoping Proposal (Exhibit H.1, Attachment 1).

Agenda Order:

- a. Agendum Overview
- b. Reports and Comments of Advisory Bodies
- c. Public Comment
- e. Council Discussion

Kit Dahl

PFCM
02/25/03

PLANNING SESSION ON IMPROVING COUNCIL MEETING EFFICIENCY

Situation: At the November Council meeting, the Council asked for a separate agendum on the March Council meeting agenda for the purpose of a discussion of ways to improve the efficiency of Council meetings. Staff will make a short presentation about such topics as opportunities to better manage the length of Council meetings, opportunities for additional Council member interaction with advisory bodies, and mechanisms for feedback to Council staff to continuously improve the efficiency of Council meetings. After hearing from advisory bodies and the public, the Council should discuss ways to improve the conduct and efficiency of Council meetings, and provide direction to staff as appropriate.

Council Task:

- 1. Discussion of ways to improve Council Meeting efficiency and provide direction to staff as appropriate.**

Reference Materials:

1. None.

Agenda Order:

- a. Agendum Overview
- b. Reports and Comments of Advisory Bodies
- c. Public Comment
- d. Council Discussion

Don McIsaac

PPMC
02/24/03



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

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David Cupka, Chairman
Clarence Wayne Lee, Vice Chairman

Robert K. Mahood, Executive Director
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AGENDA

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL MEETING
HOLIDAY INN BEACH RESORT
200 SOUTH BEACHVIEW DRIVE, JEKYLL ISLAND, GEORGIA 31527
TELEPHONE: (800) 753-5955, (912) 635-3311, FAX: (912) 635-2901
MARCH 3-7, 2003

Monday, March 3

1:30 P.M. to 5:00 P.M.

COMMITTEE MEETING

Snapper Grouper Committee/Lee (TAB 1)

1. Presentation on the results of the Vermilion Snapper & Black Sea Bass Stock Assessment and Review Workshops/Jim Berkson
2. Status of NC observer work on bycatch/Daniel
3. NMFS report on estimating bycatch from logbooks/John Poffenberger
4. Progress report on economic data collection via logbook/Jim Waters/John Merriner
5. Status of the electronic logbook study/O'Malley

Tuesday, March 4

8:30 A.M. to 12:00 Noon

COMMITTEE MEETINGS

Snapper Grouper Committee cont./Lee (TAB 1)

6. Review draft Amendment 13 and develop recommendations for Council - ACTION

12:00 Noon to 1:30 P.M.

Lunch

1:30 P.M. to 5:00 P.M.

Snapper Grouper Committee cont./Lee (TAB 1)

7. Review draft Amendment 13 and develop recommendations for Council (continued) - ACTION

Wednesday, March 5

8:30 A.M. to 12:00 Noon

COMMITTEE MEETINGS

Snapper Grouper Committee cont./Lee (TAB 1)

8. Review draft Amendment 13 and develop recommendations for Council (continued) - ACTION
9. Status of Amendment 14

12:00 Noon to 1:30 P.M.

Lunch

Wednesday, March 5

1:30 P.M. to 2:30 P.M.

2:30 P.M. to 5:00 P.M.

Thursday, March 6

8:30 A.M. to 10:30 A.M.

10:30 A.M. to 12:00 Noon

12:00 Noon to 1:30 P.M.

1:30 P.M. to 5:00 P.M.

1:30 - 1:45

1:45 - 3:45

3:45 - 5:00

5:00 - 6:00

Friday, March 7

8:30 A.M. to 12:00 Noon

8:30 - 9:00

9:00 - 9:15

COMMITTEE MEETINGS

Highly Migratory Species Committee/Dean (TAB 2)

1. Report on the HMS Advisory Panel meeting
2. Discuss current HMS issues

Habitat Committee/Cole (TAB 3)

1. Committee action on Advisory Panel recommendations - **ACTION**
2. Guidance on revision of Policy Statement - **ACTION**

**Advisory Panel Selection Committee/Southerland (TAB 4)
(Closed Session)**

1. Review membership applications and develop recommendations - **ACTION**

Executive Committee/Cupka (TAB 5)

1. Review and discuss major issues raised at the Council Chairmen/NOAA Fisheries meeting
2. Report on Cupka/Lee/Mahood/Waugh meeting with Bill Hogarth and his staff
3. Status of Shrimp Amendment 6

Lunch

COUNCIL SESSION (TAB 6)

Call to Order, Introductions & Roll Call
Adoption of Agenda
Approval of December Minutes/Cupka (see minutes CD)

Snapper Grouper Committee Report/Lee (TAB 1)
>> Council consideration of draft
Amendment 13 - **ACTION**

Presentation of proposed regulatory changes in Gray's Reef National Marine Sanctuary (Attachment 1)/Reed Bohne
>> Council discussion and action - **ACTION**

Legal briefing on litigation affecting the Council/Monica Smit-Brunello (Closed Session)

COUNCIL SESSION (TAB 6)

AP Selection Committee Report/Southerland (TAB 4)
>> Appoint new AP members - **ACTION**

Highly Migratory Species Committee Report/Dean (TAB 2)

Friday, March 7

COUNCIL SESSION (TAB 6)

9:15 A.M. to 12:00 Noon

9:15 - 9:30

Habitat Committee Report/Cole (TAB 3)

9:30 - 10:30

Presentation on the Marine Recreational Fisheries Statistics Survey (MRFSS)/Dave Van Voorhees

10:30 - 11:15

NMFS status reports/Crabtree:

- >> Golden/Red Crab/Skate FMP management unit issues
- >> Shrimp Amendment 5 implementation
- >> Sargassum FMP
- >> Dolphin Wahoo FMP
- >> SEDAR Committee Process
- >> Implementation of ACCSP in the Southeast Region
- >> Landings for: (Attachment 2)
 1. Atlantic king mackerel
 2. Gulf king mackerel (eastern zone)
 3. Atlantic Spanish mackerel
 4. Snowy grouper
 5. Golden tilefish
 6. Wreckfish
 7. Greater amberjack
 8. South Atlantic octocorals

11:15 - 12:00

Agency and Liaison Reports

Other Business

Upcoming Meetings/Mahood (Attachment 3)

ADJOURN

*****Except for advertised (scheduled) public hearings and public comment, the times and sequence specified on this agenda are subject to change*****

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

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DEC 23 2002

PFMC

December 20, 2002

MEMORANDUM

TO: Persons on Agenda Mailing Matrix

FROM: Wayne E. Swingle

SUBJECT: Agenda



Attached are the committee schedule and revise agenda for the January 13-16, 2003 Council meeting in San Antonio, Texas. The agenda was revised to place the Habitat Protection Committee report as the first order of business after public testimony.

WES:plk

Attachments: Committee Schedule and Agenda

c: Staff, w/attachments

12/16/02

COMMITTEE SCHEDULE
GULF OF MEXICO FISHERY MANAGEMENT COUNCIL
HOLIDAY INN RIVERWALK
TANGO BALLROOM
SAN ANTONIO, TEXAS
JANUARY 13-14, 2003

Monday, January 13, 2003

8:00 a.m. - 10:30 a.m.

Shrimp Management Committee (Tab D)

- Texas Closure
 - Review of the Texas Industry (Haby)
 - NMFS Biological Report
 - NMFS Economic Report
 - Shrimp AP Recommendations
 - Committee Recommendations
- Draft Amendment 13 Options Paper
 - Staff Revisions
 - Committee Recommendations

10:30 a.m. - 11:30 a.m.

Mackerel Management Committee (Tab C)

- Draft Regulatory Amendment/EA
 - Staff Presentation
 - Committee Recommendations

- recess -

1:00 p.m. - 5:30 p.m.

Reef Fish Management Committee (Tab B)

- TAC for Red and Yellowedge Groupers
 - RFSAP Report
 - SEP Report
 - SSC Recommendations
 - AP Recommendations
 - Committee Recommendations

12/16/02

REVISED

COUNCIL AGENDA

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

HOLIDAY INN RIVERWALK

TANGO BALLROOM

SAN ANTONIO, TEXAS

JANUARY 15-16, 2003

Wednesday, January 15, 2003

- I. Call to Order and Introductions - Fensom
(8:30 a.m. 8:35 a.m.)
- II. Adoption of Agenda - Fensom
(8:35 a.m. - 8:40 a.m.)
- III. Approval of Minutes (Tab A) -Fensom
(8:40 a.m. - 8:45 a.m.)
- IV. Public Testimony¹ - Fensom
 - a. Cooperative Texas Shrimp Closure
 - b. Yellowedge and Red Grouper TAC and Regulatory Recommendations
(8:45 a.m. - 12:00 noon)

- recess -

- V. Committee Reports
 - a. Habitat Protection Committee (Tab J) - Morris
(1:30 p.m. - 3:30 p.m.)
 - b. Reef Fish Management (Tab B) - Minton
(3:30 p.m. - 5:30 p.m.)

- recess -

¹ Persons testifying must turn in the registration card prior to the start of the testimony period.

Agenda Schedule

North Pacific Fishery Management Council
Anchorage Hilton

April 2 thru April 9, 2003

Sunday Mar 30	SSC King Salmon Room	AP Dillingham/Katmai Room	Council Aleutian Room
Monday, Mar 31	8:00am C-3 SSL C-4 EFH	8:00am C-1 GOA Rationalization	
	1:00pm C-5 PGSEIS C-6 BSAI Cod Allocation	1:00pm C-2 Crab Rationalization	
Tuesday, Apr 1	8:00am C-1 GOA Rationalization C-7 IRIU	8:00am C-2 Continued	1:00pm Council/Board Joint Protocol Committee Meeting
	1:00pm C-8 Observer Program D-1 Groundfish Issues	1:00pm C-3 SSL	
Wednesday, Apr 2	8:00am D-1 Continued	8:00am C-4 EFH	8:00am Call to Order B Reports C-1 GOA Rationalization
	1:00pm Continue if necessary	1:00pm C-5 PGSEIS C-6 BSAI Cod Allocation	1:00pm C-1 Continued
Thursday, Apr 3		8:00am C-6 Continued C-7 IRIU	8:00am C-2 Crab Rationalization
		1:00pm C-7 Continued C-8 Observer Program	1:00pm C-2 Continued
Friday, Apr 4		8:00am C-9 Halibut Subsistence C-10 CDQ Program	8:00am C-3 SSL
		1:00pm D-1 Groundfish Issues	1:00pm C-4 EFH
Saturday, Apr 5		8:00am D-2 Staff Tasking	8:00am C-5 PGSEIS C-6 BSAI Cod Allocation
		1:00pm Continue if necessary	1:00pm C-6 Continued C-7 IRIU
Sunday, Apr 6			8:00am C-7 Continued
			1:00pm C-7 Continued C-8 Observer Program
Monday, Apr 7			8:00am C-9 Halibut Subsistence C-10 CDQ Program
			1:00pm D-2 Staff Tasking D-1 Groundfish Issues
Tuesday, Apr 8			8:00am D-1 Continued
			1:00pm Continue if necessary

NOTE: The above agenda items may not be taken in the order in which they appear and are subject to change as necessary. All meetings are open to the public with the exception of Council Executive Sessions.

SCIENTIFIC AND STATISTICAL COMMITTEE REPORT ON
PLANNING SESSION ON IMPROVING COUNCIL MEETING EFFICIENCY

The Scientific and Statistical Committee (SSC) requests the Council to consider incorporating the following into its Council Operating Procedures:

The SSC requires good documentation and ample review time in order to provide the best possible advice to the Council. Agencies and review document authors should be responsible for ensuring materials submitted to the SSC are technically sound, comprehensive, clearly documented, and identified by author. If there is any uncertainty on the part of authors regarding SSC expectations, authors should clarify assignments and expectations of deliverables with the meeting Chair. In order that there be adequate time for careful review, documents and materials destined for review by the SSC or any of its subcommittees must be received at the Council office at least two weeks prior to the meeting at which they will be discussed and reviewed. The Council will then provide copies to appropriate SSC members at least five working days prior to the meeting. If this deadline cannot be met, it is the responsibility of the author to contact the meeting Chair prior to the two-week deadline, so appropriate arrangements, rescheduling, and cancellations can be made in a timely and cost-effective manner. This deadline applies to all official SSC activities and meetings.

PPMC
03/12/03

H. J. Res. 2

One Hundred Eighth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday,
the seventh day of January, two thousand and three*

Joint Resolution

Making consolidated appropriations for the fiscal year ending September 30, 2003,
and for other purposes.

*Resolved by the Senate and House of Representatives of the
United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the "Consolidated Appropriations Resolution, 2003".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this joint resolution is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. References.

DIVISION A—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES PROGRAMS APPROPRIATIONS, 2003

Title I—Agricultural Programs
Title II—Conservation Programs
Title III—Rural Development Programs
Title IV—Domestic Food Programs
Title V—Foreign Assistance and Related Programs
Title VI—Related Agencies and Food and Drug Administration
Title VII—General Provisions

DIVISION B—COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 2003

Title I—Department of Justice
Title II—Department of Commerce and Related Agencies
Title III—The Judiciary
Title IV—Department of State and Related Agency
Title V—Related Agencies
Title VI—General Provisions
Title VII—Rescissions

DIVISION C—DISTRICT OF COLUMBIA APPROPRIATIONS, 2003

Title I—Federal Funds
Title II—District of Columbia Funds
Title III—General Provisions

DIVISION D—ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, 2003

Title I—Department of Defense—Civil: Department of the Army
Title II—Department of the Interior
Title III—Department of Energy
Title IV—Independent Agencies
Title V—General Provisions

DIVISION E—FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS, 2003

Title I—Export and Investment Assistance

H. J. Res. 2—63

SCIENCE AND TECHNOLOGY

TECHNOLOGY ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Under Secretary for Technology/Office of Technology Policy, \$9,886,000.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, \$359,411,000, to remain available until expended, of which not to exceed \$282,000 may be transferred to the "Working Capital Fund".

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Manufacturing Extension Partnership of the National Institute of Standards and Technology, \$106,623,000, to remain available until expended: *Provided*, That hereafter the Secretary of Commerce is authorized to enter into agreements with one or more nonprofit organizations for the purpose of carrying out collective research and development initiatives pertaining to 15 U.S.C. 278k paragraph (a), and is authorized to seek and accept contributions from public and private sources to support these efforts as necessary.

In addition, for necessary expenses of the Advanced Technology Program of the National Institute of Standards and Technology, \$180,000,000, to remain available until expended, of which \$60,700,000 shall be expended for the award of new grants before October 1, 2003.

CONSTRUCTION OF RESEARCH FACILITIES

For construction of new research facilities, including architectural and engineering design, and for renovation and maintenance of existing facilities, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c-278e, \$66,100,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including maintenance, operation, and hire of aircraft; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and relocation of facilities as authorized, \$2,313,519,000, to remain available until September 30, 2004: *Provided*, That fees and donations received by the National Ocean Service for the management of the national marine sanctuaries may be retained and used for

the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: *Provided further*, That, in addition, \$65,000,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries": *Provided further*, That grants to States pursuant to sections 306 and 306A of the Coastal Zone Management Act of 1972, as amended, shall not exceed \$2,000,000, unless funds provided for "Coastal Zone Management Grants" exceed funds provided in the previous fiscal year: *Provided further*, That if funds provided for "Coastal Zone Management Grants" exceed funds provided in the previous fiscal year, then no State shall receive more than 5 percent or less than 1 percent of the additional funds: *Provided further*, That, of the \$2,395,519,000 provided for in direct obligations under this heading (of which \$2,313,519,000 is appropriated from the General Fund, \$65,000,000 is provided by transfer, and \$17,000,000 is derived from deobligations from prior years), \$417,933,000 shall be for the National Ocean Service, \$580,066,000 shall be for the National Marine Fisheries Service, \$374,740,000 shall be for Oceanic and Atmospheric Research, \$698,767,000 shall be for the National Weather Service, \$150,616,000 shall be for the National Environmental Satellite, Data, and Information Service, and \$173,397,000 shall be for Program Support: *Provided further*, That, of the amount provided under this heading, \$273,022,000 shall be for the conservation activities defined in section 250(c)(4)(K) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That no general administrative charge shall be applied against an assigned activity included in this Act and, further, that any direct administrative expenses applied against an assigned activity shall be limited to 5 percent of the funds provided for that assigned activity so that total National Oceanic and Atmospheric Administration administrative expenses shall not exceed \$243,000,000: *Provided further*, That any use of deobligated balances of funds provided under this heading in previous years shall be subject to the procedures set forth in section 605 of this Act: *Provided further*, That the Secretary of Commerce will designate a National Marine Fisheries Service Regional Office for the Pacific Area within 60 days of enactment of this Act: *Provided further*, That the existing National Marine Fisheries Service Southwest Region and Fisheries Science Center and Northwest Region and Fisheries Science Center shall not be merged or reorganized to form the new National Marine Fisheries Service Pacific Area Regional Office, that the current structure, organization, function, and funding of the Southwest and Northwest Centers will not be changed except for funds that are already dedicated to the Hawaiian Islands, and that each regional organization will have the lead responsibility for its own programs: *Provided further*, That the Secretary of Commerce may enter into cooperative agreements with the Joint and Cooperative Institutes as designated by the Secretary to use the personnel, services, or facilities of such organizations for research, education, training, and outreach.

In addition, for necessary retired pay expenses under the Retired Serviceman's Family Protection and Survivor Benefits Plan, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55), such sums as may be necessary.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

(INCLUDING TRANSFERS OF FUNDS)

For procurement, acquisition and construction of capital assets, including alteration and modification costs, of the National Oceanic and Atmospheric Administration, \$759,030,000, to remain available until March 1, 2006, except for funds appropriated for the National Marine Fisheries Service Honolulu Laboratory and for the National Environmental Satellites, Data, and Information Service, which shall remain available until expended: *Provided*, That unexpended balances of amounts previously made available in the "Operations, Research, and Facilities" account for activities funded under this heading may be transferred to and merged with this account, to remain available until expended for the purposes for which the funds were originally appropriated: *Provided further*, That of the amounts provided for the National Polar-orbiting Operational Environmental Satellite System, funds shall only be made available on a dollar for dollar matching basis with funds provided for the same purpose by the Department of Defense: *Provided further*, That of the amount provided under this heading for expenses necessary to carry out conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, including funds for the Coastal and Estuarine Land Conservation Program, \$76,179,000, to remain available until expended: *Provided further*, That the Secretary shall establish a Coastal and Estuarine Land Conservation Program, for the purpose of protecting important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural or recreational state to other uses: *Provided further*, That none of the funds provided in this Act or any other Act under the heading "National Oceanic and Atmospheric Administration, Procurement, Acquisition and Construction" shall be used to fund the General Services Administration's standard construction and tenant build-out costs of a facility at the Suitland Federal Center.

PACIFIC COASTAL SALMON RECOVERY

For necessary expenses associated with the restoration of Pacific salmon populations and the implementation of the 1999 Pacific Salmon Treaty Agreement between the United States and Canada, \$90,000,000: *Provided*, That this amount shall be for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

In addition, for a final payment pursuant to the 1999 Pacific Salmon Treaty Agreement, \$40,000,000, of which \$25,000,000 shall be deposited in the Northern Boundary and Transboundary Rivers Restoration and Enhancement Fund, and of which \$15,000,000 shall be deposited in the Southern Boundary Restoration and Enhancement Fund: *Provided*, That this amount shall be for the conservation activities defined in section 250(c)(4)(E) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

H. J. Res. 2—66

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed \$1,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended (Public Law 100-627), the American Fisheries Promotion Act (Public Law 96-561) and the International Dolphin Conservation Program Act (Public Law 105-42), to be derived from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed \$1,000, to remain available until expended.

FISHERIES FINANCE PROGRAM ACCOUNT

For the cost of direct loans, \$287,000, as authorized by the Merchant Marine Act of 1936, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$5,000,000 for Individual Fishing Quota loans, and not to exceed \$59,000,000 for Traditional direct loans, of which not less than \$40,000,000 may be used for direct loans to the United States distant water tuna fleet: *Provided further*, That none of the funds made available under this heading may be used for direct loans for any new fishing vessel that will increase the harvesting capacity in any United States fishery.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For expenses necessary for the departmental management of the Department of Commerce provided for by law, including not to exceed \$5,000 for official entertainment, \$44,954,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11, as amended by Public Law 100-504), \$20,635,000.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by the Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary of Commerce that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefore, as authorized by law (5 U.S.C. 5901–5902).

SEC. 203. Hereafter none of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve.

SEC. 204. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: *Provided further*, That the Secretary shall notify the Committees on Appropriations at least 15 days in advance of the acquisition or disposal of any capital asset (including land, structures, and equipment) not specifically provided for in this or any other Commerce, Justice, State Appropriations Act.

SEC. 205. Any costs incurred by a department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title or from actions taken for the care and protection of loan collateral or grant property shall be absorbed within the total budgetary resources available to such department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 206. Hereafter the Secretary of Commerce may award contracts for hydrographic, geodetic, and photogrammetric surveying and mapping services in accordance with title IX of the Federal Property and Administrative Services Act of 1949.

SEC. 207. The Secretary of Commerce may use the Commerce franchise fund for expenses and equipment necessary for the maintenance and operation of such administrative services as the Secretary determines may be performed more advantageously as central services, pursuant to section 403 of Public Law 103–356: *Provided*, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made for the purpose of providing capital shall be used to capitalize such fund: *Provided further*, That such fund shall be paid in advance from funds available to the Department and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automated data processing (ADP) software and systems (either acquired or donated), and an amount

necessary to maintain a reasonable operating reserve, as determined by the Secretary: *Provided further*, That such fund shall provide services on a competitive basis: *Provided further*, That an amount not to exceed 4 percent of the total annual income to such fund may be retained in the fund for fiscal year 2003 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment, and for the improvement and implementation of department financial management, ADP, and other support systems: *Provided further*, That such amounts retained in the fund for fiscal year 2003 and each fiscal year thereafter shall be available for obligation and expenditure only in accordance with section 605 of this Act: *Provided further*, That no later than 30 days after the end of each fiscal year, amounts in excess of this reserve limitation shall be deposited as miscellaneous receipts in the Treasury: *Provided further*, That such franchise fund pilot program shall terminate pursuant to section 403(f) of Public Law 103-356.

SEC. 208. Notwithstanding any other provision of law, of the amounts made available elsewhere in this title to the "National Institute of Standards and Technology, Construction of Research Facilities", \$14,000,000 is appropriated to fund a cooperative agreement with the Medical University of South Carolina, \$6,000,000 is appropriated to the Thayer School of Engineering for the nanocrystalline materials and biomass research initiative, \$3,000,000 is appropriated to the Institute for Information Infrastructure Protection at the Institute for Security Technology Studies, \$4,000,000 is appropriated for the Institute for Politics, and \$1,260,000 is appropriated to the Franklin Pierce Manse.

SEC. 209. Of the amount available from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries", \$10,000,000 shall be provided to develop an Alaska seafood marketing program. Such amount shall be made available as a direct lump sum payment to the Alaska Fisheries Marketing Board (hereinafter "Board") which is hereby established to award grants to market, develop, and promote Alaska seafood and improve related technology and transportation with emphasis on wild salmon, of which 20 percent shall be transferred to the Alaska Seafood Marketing Institute. The Board shall be appointed by the Secretary of Commerce and shall be administered by an Executive Director to be appointed by the Secretary. The Board shall submit an annual report to the Secretary detailing the expenditures of the board.

SEC. 210. (a) The Secretary of Commerce is authorized to award grants and make direct lump sum payments in support of an international advertising and promotional campaign developed in consultation with the private sector to encourage individuals to travel to the United States consisting of radio, television, and print advertising and marketing programs.

(b) The United States Travel and Tourism Promotion Advisory Board (hereinafter "Board") is established to recommend the appropriate coordinated activities to the Secretary for funding.

(c) The Secretary shall appoint the Board within 30 days of enactment and shall include tourism-related entities he deems appropriate.

(d) The Secretary shall consult with the Board and State and regional tourism officials on the disbursement of funds.

(e) There is authorized to be appropriated \$50,000,000, to remain available until expended, and \$50,000,000 is appropriated to implement this section.

SEC. 211. From funds made available from the "Operations and Training" account, not more than \$50,000 shall be made available to the Maritime Administration for administrative expenses to oversee the implementation of this section for the purpose of recovering economic and national security benefits to the United States following the default under the construction contract described in section 8109 of the Department of Defense Appropriations Act for Fiscal Year 1998 (Public Law 105-56): *Provided*, That the owner of any ship documented under the authority of this section shall offset such appropriation through the payment of fees to the Maritime Administration not to exceed the appropriation and that such fees be deposited as an offsetting collection to this appropriation: *Provided further*, That notwithstanding any other provision of law, one or both ships originally contracted under section 8109 of Public Law 105-56 may be constructed to completion in a shipyard located outside of the United States and the owner thereof (or a related person with respect to that owner) may document 1 or both ships under United States flag with a coastwise endorsement, and notwithstanding any other provision of law, and not later than 2 years after entry into service of the first ship contracted for under section 8109 of Public Law 105-56, that owner (or a related person with respect to that owner) may re-document under United States flag with a coastwise endorsement 1 additional foreign-built cruise ship: *Provided further*, That: (1) the owner of any cruise ship documented under the authority of this section is a citizen of the United States within the meaning of 46 U.S.C. 12102(a), (2) the foreign-built cruise ship re-documented under the authority of this section meets the eligibility requirements for a certificate of inspection under section 1137(a) of Public Law 104-324 and applicable international agreements and guidelines referred to in section 1137(a)(2) thereof and the 1992 Amendments to the Safety of Life at Sea Convention of 1974, and that with respect to the re-documented foreign-built cruise ship, any repair, maintenance, alteration, or other preparation necessary to meet such requirements be performed in a United States shipyard, (3) any non-warranty repair, maintenance, or alteration work performed on any ship documented under the authority of this section shall be performed in a United States shipyard unless the Administrator of the Maritime Administration finds that such services are not available in the United States or if an emergency dictates that the ship proceed to a foreign port for such work, (4) any ship documented under the authority of this section shall operate in regular service transporting passengers between or among the islands of Hawaii and shall not transport passengers in revenue service to ports in Alaska, the Gulf of Mexico, or the Caribbean Sea, except as part of a voyage to or from a shipyard for ship construction, repair, maintenance, or alteration work, (5) no person, nor any ship operating between or among the islands of Hawaii, shall be entitled to the preference contained in the second proviso of section 8109 of Public Law 105-56, and (6) no cruise ship operating in coastwise trade under the authority of this section or constructed under the authority of this section shall be eligible for a guarantee of financing under title XI of the Merchant Marine Act 1936: *Provided further*, That any cruise ship to be documented

under the authority of this section shall be immediately eligible before documentation of the vessel for the approval contained in section 1136(b) of Public Law 104-324: *Provided further*, That for purposes of this section the term "cruise ship" means a vessel that is at least 60,000 gross tons and not more than 120,000 gross tons (as measured under chapter 143 of title 46, United States Code) and has berth or stateroom accommodations for at least 1,600 passengers, the term "one or both ships" means collectively the partially completed hull and related components, equipment, and parts of whatever kind acquired pursuant to the construction contract described in section 8109 of Public Law 105-56 and intended to be incorporated into the ships constructed thereto, the term "related person" means with respect to a person: a holding company, subsidiary, or affiliate of such person meeting the citizenship requirements of section 12102(a) of title 46, United States Code, and the term "regular service" means the primary service in which the ship is engaged on an annual basis.

SEC. 212. (a) The Secretary of Commerce shall implement a fishing capacity reduction program for the West Coast groundfish fishery pursuant to section 212 of Public Law 107-206 and 16 U.S.C. 1861a (b)-(e); except that the program may apply to multiple fisheries; except that within 90 days after the date of enactment of this Act, the Secretary shall publish a public notice in the Federal Register and issue an invitation to bid for reduction payments that specifies the contractual terms and conditions under which bids shall be made and accepted under this section; except that section 144(d)(1)(K)(3) of title I, division B of Public Law 106-554 shall apply to the program implemented by this section.

(b) A reduction fishery is eligible for capacity reduction under the program implemented under this section; except that no vessel harvesting and processing whiting in the catcher-processors sector (section 19 660.323(a)(4)(A) of title 50, Code of Federal Regulations) may participate in any capacity reduction referendum or industry fee established under this section.

(c) A referendum on the industry fee system shall occur after bids have been submitted, and such bids have been accepted by the Secretary, as follows: members of the reduction fishery, and persons who have been issued Washington, Oregon, or California Dungeness crab and Pink shrimp permits, shall be eligible to vote in the referendum to approve an industry fee system; referendum votes cast in each fishery shall be weighted in proportion to the debt obligation of each fishery, as calculated in subsection (f) of this section; the industry fee system shall be approved if the referendum votes cast in favor of the proposed system constitute a simple majority of the participants voting; except that notwithstanding 5 U.S.C. 553 and 16 U.S.C. 1861a(e), the Secretary shall not prepare or publish proposed or final regulations for the implementation of the program under this section before the referendum is conducted.

(d) Nothing in this section shall be construed to prohibit the Pacific Fishery Management Council from recommending, or the Secretary from approving, changes to any fishery management plan, in accordance with applicable law; or the Secretary from promulgating regulations (including regulations governing this program), after an industry fee system has been approved by the reduction fishery.

(e) The Secretary shall determine, and state in the public notice published under paragraph (a), all program implementation aspects the Secretary deems relevant.

(f) Any bid submitted in response to the invitation to bid issued by the Secretary under this section shall be irrevocable; the Secretary shall use a bid acceptance procedure that ranks each bid in accordance with this paragraph and with additional criteria, if any, established by the Secretary: for each bid from a qualified bidder that meets the bidding requirements in the public notice or the invitation to bid, the Secretary shall determine a bid score by dividing the bid's dollar amount by the average annual total ex-vessel dollar value of landings of Pacific groundfish, Dungeness crab, and Pink shrimp based on the 3 highest total annual revenues earned from such stocks that the bidder's reduction vessel landed during 1998, 1999, 2000, or 2001. For purposes of this paragraph, the term "total annual revenue" means the revenue earned in a single year from such stocks. The Secretary shall accept each qualified bid in rank order of bid score from the lowest to the highest until acceptance of the next qualified bid with the next lowest bid score would cause the reduction cost to exceed the reduction loan's maximum amount. Acceptance of a bid by the Secretary shall create a binding reduction contract between the United States and the person whose bid is accepted, the performance of which shall be subject only to the conclusion of a successful referendum, except that a person whose bid is accepted by the Secretary under this section shall relinquish all permits in the reduction fishery and any Dungeness crab and Pink shrimp permits issued by Washington, Oregon, or California; except that the Secretary shall revoke the Pacific groundfish permit, as well as all Federal fishery licenses, fishery permits, area, and species endorsements, and any other fishery privileges issued to a vessel or vessels (or to persons on the basis of their operation or ownership of that vessel or vessels) removed under the program.

(g) The Secretary shall establish separate reduction loan sub-amounts and repayment fees for fish sellers in the reduction fishery and for fish sellers in each of the fee-share fisheries by dividing the total ex-vessel dollar value during the bid scoring period of all reduction vessel landings from the reduction fishery and from each of the fee-share fisheries by the total such value of all such landings for all such fisheries; and multiplying the reduction loan amount by each of the quotients resulting from each of the divisions above. Each of the resulting products shall be the reduction loan sub-amount for the reduction fishery and for each of the fee-share fisheries to which each of such products pertains; except that, each fish seller in the reduction fishery and in each of the fee-share fisheries shall pay the fees required by the reduction loan sub-amounts allocated to it under this paragraph; except that, the Secretary may enter into agreements with Washington, Oregon, and California to collect any fees established under this paragraph.

(h) Notwithstanding 46 U.S.C. App. 1279(b)(4), the reduction loan's term shall not be less than 30 years.

(i) It is the sense of the Congress that the States of Washington, Oregon, and California should revoke all relinquishment permits in each of the fee-share fisheries immediately after reduction payment, and otherwise to implement appropriate State fisheries management and conservation provisions in each of the fee-share fisheries that establishes a program that meets the requirements

of 16 U.S.C. 141861a(b)(1)(B) as if it were applicable to fee-share fisheries.

(j) The term “fee-share fishery” means a fishery, other than the reduction fishery, whose members are eligible to vote in a referendum for an industry fee system under paragraph (c). The term “reduction fishery” means that portion of a fishery holding limited entry fishing permits endorsed for the operation of trawl gear and issued under the Federal Pacific Coast Groundfish Fishery Management Plan.

SEC. 213. (a) The National Oceanic and Atmospheric Administration is authorized to enter into a lease arrangement whereby the National Oceanic and Atmospheric Administration will relocate the National Weather Service Forecasting Office in Galveston County, League City, Texas to a Galveston County facility and, in exchange, Galveston County may use the existing National Oceanic and Atmospheric Administration National Weather Service Forecasting Office.

(b) Neither the National Oceanic and Atmospheric Administration National Weather Service nor Galveston County will charge the other rent for use of the space and each will be responsible for the operation, maintenance and renovation costs it incurs.

SEC. 214. (a) Hereafter, habitat conservation activities, enforcement and surveillance—cooperative enforcement and vessel monitoring, stock assessments—data collection, and highly migratory shark fishery research under the heading, “National Oceanic and Atmospheric Administration, Operations, Research and Facilities”, shall be considered to be within the “Coastal Assistance sub-category” in section 250(c)(4)(K) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(b) For fiscal year 2004 and thereafter, response and restoration activities, Cooperative Research, Protected Species activities, Endangered Species Act—Marine Mammals, Sea Turtles and Other Species, Endangered Species Act—Right Whales, Marine Mammal Protection, and Sea Grant (except for the fellowship program) under the heading, “National Oceanic and Atmospheric Administration, Operations, Research, and Facilities”, shall be considered to be within the “Coastal Assistance sub-category” in section 250(c)(4)(K) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(c) All references to outlays in title VIII of Public Law 106–291 are repealed.

This title may be cited as the “Department of Commerce and Related Agencies Appropriations Act, 2003”.

TITLE III—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance, and operation of an automobile for the Chief Justice, not to exceed \$10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed \$10,000 for official reception and representation expenses;

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric
Administration

50 CFR Part 600

[Docket No. 030128024-3024-01; I.D.
121002A]

RIN 0648-AQ63

Fisheries of the United States; National
Standard 1

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

ACTION: Advance notice of proposed
rulemaking; consideration of revision to
national standard 1 guidelines.

SUMMARY: NMFS announces that the
agency is considering revisions to the
national standard guidelines for
national standard 1 that specify criteria
for determining overfishing and
establishing rebuilding schedules. There
have been concerns expressed by the
scientific community, fisheries
managers, the fishing industry, and
environmental groups regarding the
appropriateness of some aspects of these
guidelines, particularly in light of new
issues arising from rebuilding programs
that have been underway for several
years. This action solicits public input
on the effectiveness and appropriateness
of the national standard 1 guidelines in
complying with the requirements of the
Magnuson-Stevens Fishery
Conservation and Management Act
(Magnuson-Stevens Act).

DATES: Comments must be submitted in
writing by March 17, 2003.

ADDRESSES: Comments may be mailed to
Mr. John H. Dunnigan, Director, Office
of Sustainable Fisheries, Room 13362,
1315 East-West Highway, Silver Spring,
MD 20910; or faxed to 301-713-1193.
Comments will not be accepted if
submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT:
Mark R. Millikin, at 301-713-2341 or
via e-mail at Mark.Millikin@noaa.gov.

SUPPLEMENTARY INFORMATION: National
standard 1 reads, "Conservation and
management measures shall prevent
overfishing while achieving, on a
continuing basis, the optimum yield
from each fishery for the United States
fishing industry." In 1996, the
Sustainable Fisheries Act (SFA)
amended the Magnuson-Stevens Act (16
U.S.C. 1801, *et seq.*) to, among other
things, provide definitions for
"overfishing" and modify the definition
of "optimum yield." The Magnuson-
Stevens Act, in section 303(a)(10), now

requires each fishery management plan
(FMP) to "specify objective and
measurable criteria for identifying when
the fishery to which the FMP applies is
overfished." In addition, section 304(e)
specifies requirements for rebuilding
overfished fisheries. The revised
national standard guidelines, including
national standard 1, were proposed at
62 FR 41907, August 4, 1997, and
published as final guidelines at 63 FR
24212, May 1, 1998.

As they currently exist, the national
standard 1 guidelines provide
definitions and require determination,
to the extent possible, of maximum
sustainable yield (MSY), or an
acceptable surrogate; specification of
status determination criteria including a
maximum fishing mortality threshold
and a minimum stock size threshold;
ending overfishing and rebuilding
overfished stocks; and specification of
optimum yield (OY) in fisheries.

In response to the SFA, these national
standard guidelines were implemented
in 1998, over 5 years ago. Since that
time, we have developed new
perspectives, new issues, and new
problems regarding their application.
Concerns that have been identified for
possible revision include, but are not
limited to, the following:

1. The definition and use of the
minimum stock size threshold (MSST)
for determining when a stock is
overfished. There has been considerable
discussion about the utility of the
concept of MSST, the definition of
MSST contained in the guidelines,
difficulties in estimating the MSST
(especially in data-poor situations), and
identifying appropriate proxies for
MSST.

2. Calculation of rebuilding targets
appropriate to the prevailing
environmental regime. Currently, the
guidelines do not address how
rebuilding targets should accommodate
changing environmental conditions.
Rebuilding rates based upon current
stock productivity may be inconsistent
with rebuilding targets based upon
historical stock productivity when there
are persistent, long-term changes in
environmental conditions.

3. Calculation of maximum
permissible rebuilding times for
overfished fisheries. The SFA
established a maximum allowable 10-
year rebuilding time for a fishery, except
where the biology of the fish will not
allow it or the fishery is managed under
an international agreement. If the
minimum time for a fishery to rebuild
is 10 years or greater, the maximum
allowable rebuilding time under the
guidelines becomes the time to rebuild
in the absence of any fishing mortality,

plus one mean generation time. This has
created a discontinuity where the
difference in allowable rebuilding times
between a stock with a minimum
rebuilding time of 9 years and another
stock with a minimum rebuilding time
of 11 years, may be several decades in
the case of long-lived species. This
results in the need for much more
restrictive management measures in the
first case compared to the second, even
though there is not much difference
between them in terms of rebuilding
potential.

4. The definitions of overfishing as
they relate to a fishery as a whole or a
stock of fish within that fishery. There
are currently over 900 fish stocks
identified for the purpose of
determining their status with regard to
overfishing, many of which are caught
in small amounts and whose status is
unknown. Combining assessments and
status determination criteria for
assemblages of minor stocks may make
more sense biologically and
economically than attempting to assess
and manage them one by one. Further
guidance is needed on the most
ecologically sound and economically
expedient ways to manage these
fisheries.

5. Procedures to follow when
rebuilding plans require revision after
initiation, especially with regard to
modification of the rebuilding time
frame. The guidelines do not currently
address what to do when observed
rebuilding rates are greater or lower
than expected or when new assessments
change estimates of rebuilding targets or
other parameters.

NMFS solicits input from the public
regarding: (1) whether or not the
national standard 1 guidelines should
be revised and (2) if revisions are
desired, what parts of the national
standard 1 guidelines should be revised,
how they should be revised, and why.
NMFS will use the information in
determining whether to proceed with a
revision to the existing guidelines, and
if so, the issues to be addressed.

This advance notice of proposed
rulemaking has been determined to be
significant for the purposes of Executive
Order 12866.

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

Dated: February 10, 2003.

John Oliver,

*Deputy Assistant Administrator for
Operations, National Marine Fisheries
Service.*

[FR Doc. 03-3758 Filed 2-13-03; 8:45 am]

BILLING CODE 3510-22-S

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

The Commons at Rivergate

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(813) 228-2815 • FAX (813) 225-7015

e-mail: gulfcouncil@gulfcouncil.org

February 21, 2003

03.FEB.00*CC5434

Dr. William Hogarth
NOAA SSMC3 RM 14564
1315 East West Highway
Silver Spring, Maryland 20910-3282

RECEIVED

FEB 21 2003

Dear Dr. Hogarth:

PFMC

We are respectfully requesting that the comment period on consideration of revisions to the National Guidelines for National Standard 1 be extended. We feel that potentially the revisions to these guidelines may have more impact on the management system and stakeholders than some of the pending Congressional legislation. Because of the importance of the issues being addressed in your Federal Register Notice and the related issues discussed at the last Council Chairs meeting, we feel the time allowed for Council is completely inadequate. It does not even allow some Councils the time to comment as a corporate body. Therefore, we are requesting the period for comment be extended by 60 days. By that time we will have an idea of the Congressional schedule for amending the Magnuson-Stevens Act, which almost assuredly will result in redefining "overfished".

We thank you for your consideration of this request.

Best personal regards.

Sincerely,

Jim
James Fensom
Chairman

WES:JF:ldc

c: Council
Other Councils
Jack Dunnigan
Staff

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108TH CONGRESS
1ST SESSION

H. RES. 30

Concerning the San Diego long-range sportfishing fleet and rights to fish
the waters near the Revillagigedo Islands of Mexico.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 2003

Mr. CUNNINGHAM submitted the following resolution; which was referred to
the Committee on Resources

RESOLUTION

Concerning the San Diego long-range sportfishing fleet and
rights to fish the waters near the Revillagigedo Islands
of Mexico.

Whereas the long-range sportfishing fleet of San Diego has
fished the waters off Mexico's Revillagigedo Islands since
the early 1970's under agreements with various agencies
of the Mexican Government including the Mexican Navy,
the National Ecology Institute, and the Department of
the Environment, Natural Resources, and Fisheries;

Whereas, in June 1994, the President of Mexico declared the
islands would become part of a biosphere reserve and or-
dered an overall management plan, to include fishing reg-
ulations, to be completed within 1 year;

Whereas, in late 1994, the Mexican Navy closed the islands
to fishing until the management plan was complete;

Whereas, on January 21, 1995, the Mexican Government agreed to issue provisional permits allowing the San Diego sportfishing fleet to fish the waters more than 500 meters from the islands and announced that it would continue to do so until such time as a management plan was completed;

Whereas the Mexican Government has not completed a management plan for the islands;

Whereas, on March 26, 2002, without warning, the Mexican Government revoked all permits to fish within 6 nautical miles of the islands;

Whereas this action is having a devastating impact on the San Diego long-range sportfishing fleet, its employees, and tourism associated with the fleet;

Whereas Mexico's continued refusal to allow the sportfishing fleet access to the islands' waters will cause serious economic harm to the San Diego long-range sportfishing industry including layoffs, loss of boat sales, bankruptcies, and a negative annual economic impact of \$5,500,000;

Whereas, since March 26, 2002, the San Diego long-range sportfishing fleet has been working with the Mexican Government and the United States Departments of State and Commerce to restore their right to fish these waters off the islands, as outlined by previous agreements made with agencies of the Mexican Government;

Whereas the Mexican Government's inaction in addressing this dilemma is impacting the economic well being of numerous United States and Mexican businesses and the San Diego region;

Whereas the San Diego region and Mexico have enjoyed a long history of excellent trade relations and working together for mutual benefit; and

Whereas unilateral action such as the closure of the islands to all sportfishing represents a step backward from the free-trade environment and spirit of cooperation that the region and the Nation have tried to build with Mexico: Now, therefore, be it

- 1 *Resolved*, That the House of Representatives urges
- 2 the Departments of State and Commerce to work with
- 3 their counterparts in the Mexican Government to resume
- 4 issuing permits for the San Diego long-range sportfishing
- 5 fleet to fish the waters more than 500 meters from the
- 6 Revillagigedo Islands, as they have for the past 30 years.

○

LEGISLATIVE MATTERS

Situation: The Legislative Committee will meet March 10, 2003 to review several federal legislative issues. These include:

1. 2003 appropriations, including West Coast groundfish buyback program.
2. National Marine Fisheries Service consideration to revise National Standard 1 guidelines.
3. House Resolution 30 – concerning the San Diego long-range sportfishing fleet access to waters near Revillagigedo Islands, Mexico.
4. Draft Magnuson-Stevens Fishery Conservation and Management Act reauthorization text.

The Legislative Committee will provide a summary report to the Council, which might include recommendations for Council actions.

Council Action:

1. Consider recommendations of the Legislative Committee.

Reference Materials:

1. Exhibit H.3, Attachment 1 – Excerpt from H.J. Res 2 – 2003 Omnibus Appropriations.
2. Exhibit H.3, Attachment 2 – Advanced Notice of Proposed Rulemaking.
3. Exhibit H.3, Attachment 3 – House Resolution 30.

Agenda Order:

- a. Agendum Overview
- b. Legislative Committee Report
- c. Reports and Comments of Advisory Bodies
- d. Public Comment
- e. **Council Action:** Consider Recommendations of the Legislative Committee

Dan Waldeck
Dave Hanson

PFMC
02/21/03

108TH CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Ms. COLLINS introduced the following bill; which was read twice and referred
to the Committee on _____

A BILL

To reauthorize and amend the Magnuson-Stevens Fishery
Conservation and Management Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fisheries Science and
5 Management Improvement Act of 2003”.

6 **SEC. 2. AMENDMENT OF MAGNUSON-STEVENSON FISHERY**
7 **CONSERVATION AND MANAGEMENT ACT.**

8 Except as otherwise expressly provided, whenever in
9 this Act an amendment or repeal is expressed in terms
10 of an amendment to, or repeal of, a section or other provi-
11 sion, the reference shall be considered to be made to a

1 section or other provision of the Magnuson-Stevens Fish-
2 ery Conservation and Management Act (16 U.S.C. 1801
3 et seq.).

4 **SEC. 3. ENSURING USE OF BEST SCIENTIFIC INFORMATION**
5 **AVAILABLE.**

6 (a) DEFINITION OF BEST SCIENTIFIC INFORMATION
7 AVAILABLE.—Section 3 (16 U.S.C. 1802) is amended by
8 adding at the end the following:

9 “(47) The term ‘best scientific information
10 available’, with respect to fishery conservation and
11 management and stocks of fish, means information
12 that—

13 “(A) is directly related to the specific issue
14 under consideration;

15 “(B) is based on a statistically valid sam-
16 ple such that any conclusions drawn are reason-
17 ably supported and not speculative;

18 “(C) has been independently peer-reviewed;

19 “(D) has been collected within a period
20 that is reasonably related to the specific issue
21 under consideration;

22 “(E) is consistent with information that is
23 available from other reliable sources; and

1 “(F) may include, but not consist solely of,
2 anecdotal information collected from the har-
3 vesting and processing of fish.”.

4 (b) PROHIBITION ON USE OF OTHER INFORMATION
5 IN FISHERY MANAGEMENT DECISIONS.—Section
6 301(a)(2) (16 U.S.C. 1851(a)(2)) is amended by inserting
7 “only” after “shall be based upon”.

8 **SEC. 4. PEER REVIEW OF STOCK ASSESSMENTS.**

9 (a) STOCK ASSESSMENT DEFINED.—Section 3 (16
10 U.S.C. 1802), as amended by section 3(a), is further
11 amended by adding at the end the following:

12 “(48) The term ‘stock assessment’ means a re-
13 port that contains an assessment of the health of a
14 stock of fish, including estimates for such stock of—

15 “(A) the population;

16 “(B) the population that is of spawning
17 size;

18 “(C) the rate of mortality; and

19 “(D) the rate of recruitment.”.

20 (b) SCIENTIFIC REVIEW COMMITTEES.—Section
21 302(g) (16 U.S.C. 1852(g)) is amended by adding at the
22 end the following:

23 “(6)(A) Each Council may establish one or
24 more scientific review committees to conduct peer re-

1 views of all stock assessments prepared for fisheries
2 under the Council's jurisdiction.

3 “(B) A committee established under this para-
4 graph by a Council shall consist of at least one
5 member from each of the committees established
6 under paragraphs (1) and (3) by the Council, at
7 least one member who is not affiliated with the au-
8 thors of the stock assessments under review, and
9 such other members as the Council considers appro-
10 priate, excluding the authors of the stock assessment
11 reviewed by the committee.”.

12 (c) REQUIREMENT TO CONDUCT REVIEWS.—Section
13 404 (16 U.S.C. 1881c)) is amended by adding at the end
14 the following:

15 “(e) INDEPENDENT PEER REVIEW.—The Secretary
16 shall conduct an independent and confidential peer review
17 of any stock assessment conducted under this section be-
18 fore the assessment is used to further the purposes, policy,
19 and provisions of this Act. The review shall consider the
20 peer review of the stock assessment conducted by a sci-
21 entific review committee established under section
22 302(g)(6).”.

23 **SEC. 5. OBSERVERS.**

24 (a) FISHERY MANAGEMENT PLAN REQUIREMENT.—
25 Section 303(a) (16 U.S.C. 1853(a)) is amended—

1 (1) by striking “and” at the end of paragraph
2 (13);

3 (2) by striking the period at the end of para-
4 graph (14) and inserting “; and”; and

5 (3) by adding at the end the following:

6 “(15) to the extent that observers are deployed
7 on a fishing vessel that is a vessel of the United
8 States or to a United States fish processor under
9 the provisions of the fishery management plan or
10 regulations implementing the fishery management
11 plan, comply with the goals and objectives required
12 under subsection (e).”.

13 (b) REQUIREMENTS FOR UNITED STATES OBSERVER
14 PROGRAMS.—Section 303 (16 U.S.C. 1853) is amended
15 by adding at the end the following:

16 “(e) REQUIREMENTS FOR UNITED STATES OB-
17 SERVER PROGRAMS.—(1) Before establishing under this
18 Act a program that, with respect to a fishery, utilizes ob-
19 servers deployed on a fishing vessel that is a vessel of the
20 United States or observers deployed to a United States
21 fish processor, the Council with jurisdiction over the fish-
22 ery, shall establish—

23 “(A) a set of goals and objectives and an imple-
24 mentation schedule for the program; and

1 “(B) a statistically reliable method for achiev-
2 ing such goals and objectives.

3 “(2) In the case of a highly migratory species fishery,
4 the Secretary, instead of a Council, shall take actions re-
5 quired of the Council under paragraph (1).

6 “(3) The goals and objectives required under para-
7 graph (1) shall ensure that—

8 “(A) the various harvesting and processing sec-
9 tors in the fishery are treated equitably;

10 “(B) the costs of the program are appropriately
11 shared by all beneficiaries, including participants in
12 other fisheries; and

13 “(C) a fishing vessel or fish processor to which
14 an observer is deployed is not, as a result of that de-
15 ployment, put at a disadvantage with respect to
16 other vessels or processors in that fishery or in other
17 fisheries.”.

18 **SEC. 6. ESSENTIAL FISH HABITAT.**

19 (a) HABITAT AREAS OF PARTICULAR CONCERN DE-
20 FINED.—Section 3 (16 U.S.C. 1802), as amended by sec-
21 tion 4(a), is further amended—

22 (1) in paragraph (10), by striking “waters” and
23 all that follows and inserting “marine waters and
24 discrete, unique, benthic structures that—

1 “(A) exist within an exclusive economic
2 zone, but only in discrete areas; and

3 “(B) have been determined under regula-
4 tions issued by the Secretary to be crucial to
5 spawning, breeding, and the continued produc-
6 tion of a specific stock of fish.”; and

7 (2) by adding at the end the following:

8 “(49) The term ‘habitat area of particular con-
9 cern’ means any area that—

10 “(A) is a discrete, vulnerable subunit of es-
11 sential fish habitat that is required for a stock
12 to sustain itself; and

13 “(B) is designated in a fishery manage-
14 ment plan under the national criteria issued by
15 the Secretary under section 305(b)(1)(E).”.

16 (b) SPECIFICATION OF NATIONAL CRITERIA.—Sec-
17 tion 305(b)(1) (16 U.S.C. 1855(b)(1)) is amended by add-
18 ing at the end the following:

19 “(E)(i) Not later than 1 year after the date of the
20 enactment of the Fisheries Science and Management Im-
21 provement Act of 2003, the Secretary shall issue national
22 criteria for designating a habitat as a habitat area of par-
23 ticular concern.

24 “(ii) The national criteria shall, at a minimum, in-
25 clude a requirement that the designation of a habitat as

1 a habitat area of particular concern be based on informa-
2 tion regarding habitat-specific density of a fish stock, and
3 growth, reproduction, and survival rates of that stock
4 within the designated area.”.

5 (c) DESCRIPTION IN FISHERY MANAGEMENT
6 PLANS.—Section 303(a)(7) (16 U.S.C. 1853(a)(7)) is
7 amended to read as follows:

8 “(7)(A) describe and identify habitat areas of
9 particular concern for the fishery based on the
10 guidelines established by the Secretary under section
11 305(b)(1)(A);

12 “(B) minimize to the extent practicable adverse
13 effects on habitat areas of particular concern caused
14 by fishing that prevent a stock of fish from sus-
15 taining itself on a continuing basis; and

16 “(C) identify other actions to encourage the
17 conservation and enhancement of such habitat
18 areas.”.

19 (d) GUIDELINES, RECOMMENDATIONS, AND INFOR-
20 MATION OF SECRETARY.—Section 305(b) (16 U.S.C.
21 1855(b)) is amended—

22 (1) in paragraph (1)—

23 (A) in subparagraph (A)—

1 (i) by striking “shall, within 6 months
2 of the date of enactment of the Sustainable
3 Fisheries Act,” and inserting “shall”; and

4 (ii) by striking “essential fish habitat”
5 each place it appears and inserting “habi-
6 tat areas of particular concern”;

7 (B) in subparagraph (B)—

8 (i) by striking “essential fish habitat”
9 and inserting “habitat areas of particular
10 concern”; and

11 (ii) by striking “the habitat” both
12 places it appears and inserting “such habi-
13 tat areas”; and

14 (C) in subparagraphs (C) and (D), by
15 striking “essential fish habitat” each place it
16 appears and inserting “habitat areas of par-
17 ticular concern”;

18 (2) in paragraph (2), by striking “essential fish
19 habitat” and inserting “habitat areas of particular
20 concern”;

21 (3) in paragraph (3), by striking “essential fish
22 habitat” each place it appears and inserting “habitat
23 areas of particular concern”; and

24 (4) in paragraph (4)—

25 (A) in subparagraph (A)—

- 1 (i) by striking “essential fish habitat”
2 and inserting “habitat areas of particular
3 concern”; and
4 (ii) by inserting “areas” after “such
5 habitat”; and
6 (B) in subparagraph (B) by inserting
7 “areas” after “such habitat”.

8 **SEC. 7. DETERMINING AND REBUILDING OVERFISHED**
9 **FISHERIES.**

10 (a) DEFINITIONS.—Section 3 (16 U.S.C. 1802), as
11 amended by section 6(a), is further amended—

12 (1) by striking paragraph (29) and inserting
13 the following:

14 “(29)(A) The term ‘overfished’ refers to a stock
15 of fish that, as a result of fishing, is at a population
16 level beneath that necessary to produce 50 percent
17 of the maximum sustainable yield.

18 “(B) The term ‘overfishing’ means a rate or
19 level of harvest by commercial and recreational fish-
20 ing that results in a reduction in the population level
21 of the fish stock beneath that necessary to produce
22 50 percent of the maximum sustainable yield.”; and

23 (2) by adding at the end the following:

24 “(50) The term ‘carrying capacity’ means the
25 maximum population level of a stock of fish that the

1 current state of the environment will support and
2 which changes as the state of the environment
3 changes.

4 “(51) The term ‘maximum sustainable yield’
5 means the long-term average maximum amount of
6 surplus production that can be removed on an an-
7 nual basis by both commercial and recreational fish-
8 ermen that could be continuously taken from a stock
9 of fish under the existing carry capacity, and which
10 is adjusted as the carrying capacity changes.

11 “(52) The term ‘surplus production’, with re-
12 spect to a stock of fish, means any quantity of fish
13 that is removed from the stock of fish which, when
14 added to the quantity of fish foreseeably lost from
15 this stock due to natural mortality, exceeds the
16 quantity of fish the stock of fish is capable of repro-
17 ducing through growth and reproduction.”.

18 (b) DETERMINATION AND REBUILDING PROCESS.—
19 Section 304(e) (16 U.S.C. 1854(e)) is amended—

20 (1) in paragraph (1)—

21 (A) by striking “(1)” and inserting
22 “(1)(A)”;

23 (B) by striking “fisheries” each place it
24 appears and inserting “stocks of fish”;

1 (C) by striking the last sentence and in-
2 serting the following: "A stock of fish shall be
3 classified as approaching a condition of being
4 overfished if, based on the best scientific infor-
5 mation available and other appropriate factors,
6 the Secretary estimates that the stock of fish
7 will become overfished within two years."; and

8 (D) by adding at the end the following:

9 "(B) If the Secretary determines that insufficient in-
10 formation is available on which to conclude that a stock
11 of fish is approaching a condition of being overfished, the
12 Secretary shall immediately notify the appropriate Council
13 and within one year after such notification implement a
14 cooperative research program designed to provide the in-
15 formation needed to determine whether or not the stock
16 of fish is approaching a condition of being overfished.";

17 (2) by striking paragraph (2) and inserting the
18 following:

19 "(2) If the Secretary determines at any time that a
20 stock of fish is overfished, the Secretary shall immediately
21 notify the appropriate Council and request that action be
22 taken to end overfishing and to implement conservation
23 and management measures to rebuild the stock of fish.
24 In the case of a multispecies fishery, such conservation
25 and management measures shall not require that fishing

1 be reduced for those stocks of fish that are not overfished.
2 The Secretary shall publish each notification under this
3 paragraph in the Federal Register.”;

4 (3) in paragraph (3)—

5 (A) by striking “Within one year of” and
6 inserting “Within three years after”; and

7 (B) in subparagraph (A), by striking “to
8 end overfishing” and inserting “to address over-
9 fishing”;

10 (4) in paragraph (4)—

11 (A) by striking “For a fishery that is over-
12 fished”, and inserting “For a fishery that has
13 an overfished stock of fish,”; and

14 (B) by striking subparagraph (A) and in-
15 serting:

16 “(A) specify a period for addressing over-
17 fishing and rebuilding the overfished stock or
18 stocks in the fishery that is as brief as prac-
19 ticable, taking into account the status, biology,
20 and carrying capacity of any overfished stocks,
21 the best scientific information available, the cu-
22 mulative social and economic impacts, rec-
23 ommendations by international organizations in
24 which the United States participates, and the

1 interaction of the overfished stock or stocks
2 within the marine ecosystem;”;

3 (5) in paragraph (5)—

4 (A) by striking “within the one-year pe-
5 riod” and inserting “within the three-year pe-
6 riod”;

7 (B) by striking “that a fishery is over-
8 fished” and inserting “that one or more stocks
9 of fish in a fishery are overfished”; and

10 (C) by striking “regulations to stop over-
11 fishing” and inserting “regulations to address
12 overfishing”;

13 (6) in the second sentence of paragraph (6), by
14 striking “to stop overfishing of a fishery” and in-
15 serting “to address overfishing of a stock or stocks
16 of fish in a fishery effectively”; and

17 (7) in paragraph (7)—

18 (A) in the first sentence, by inserting “and
19 the best scientific information available related
20 to the fishery management plan, plan amend-
21 ment, or regulations” before “at routine inter-
22 vals”;

23 (B) in the second sentence, by striking
24 “ending overfishing” and inserting “effectively

1 addressing overfishing, sufficient data collec-
2 tion,”;

3 (C) by striking “or” at the end of subpara-
4 graph (A);

5 (D) by striking the period at the end of
6 subparagraph (B) and inserting “; or”; and

7 (E) by adding at the end the following:

8 “(C) design and implement a cooperative re-
9 search program to collect the best scientific informa-
10 tion available for such fish stocks.”.

11 **SEC. 8. OPTIMUM YIELD CAP.**

12 Section 3(28)(B) (16 U.S.C. 1802(28)(B)) is amend-
13 ed by striking “reduced” and inserting “modified”.

14 **SEC. 9. NATIONAL STANDARD REGARDING CUMULATIVE**
15 **IMPACTS.**

16 Section 301(a)(8) (16 U.S.C. 1851(a)(8)) is amended
17 to read as follows:

18 “(8) Conservation and management measures
19 shall, consistent with the conservation requirements
20 of this Act (including the prevention of overfishing
21 and rebuilding of overfished stocks), take into ac-
22 count the importance of fishery resources to fishing
23 communities, and the cumulative economic and so-
24 cial impact of fishery conservation and management
25 measures on such communities, in order to—

1 “(A) provide for the sustained participa-
2 tion of such communities; and

3 “(B) minimize, to the extent practicable,
4 adverse economic impacts on such commu-
5 nities.”.

6 **SEC. 10. FINDINGS, PURPOSE, AND POLICY REGARDING**
7 **FISH AS FOOD.**

8 (a) FINDINGS.—Section 2(a) (16 U.S.C. 1801(a)) is
9 amended by adding at the end the following:

10 “(11) Fish comprise an important natural re-
11 newable resource of food, and fisheries have per-
12 formed a traditional and essential role in providing
13 high-quality, protein-laden food for human use.

14 “(12) Fish comprise an important source of es-
15 sential nutrients, particularly Omega-3 fatty acids,
16 and medical scientists agree that some of the world’s
17 most serious diseases can be prevented by increased
18 consumption of fish.”.

19 (b) PURPOSE.—Section 2(b) (16 U.S.C. 1801(b)) is
20 amended—

21 (1) by striking “and” at the end of paragraph
22 (6);

23 (2) by striking the period at the end of para-
24 graph (7) and inserting “; and”; and

25 (3) by adding at the end the following:

1 “(8) to promote conservation and management
2 of fishery resources that will enhance food supply,
3 income, and economic growth of the United States.”.

4 (c) POLICY.—Section 2(c) (16 U.S.C. 1801(c)) is
5 amended—

6 (1) by striking “and” at the end of paragraph
7 (6);

8 (2) by striking the period at the end of para-
9 graph (7) and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(8) to ensure that conservation and manage-
12 ment measures contribute to the food supply, econ-
13 omy, and health of the United States.”.

14 **SEC. 11. COMPLIANCE WITH NATIONAL ENVIRONMENTAL**
15 **POLICY ACT OF 1969.**

16 (a) IN GENERAL.—Title III is amended by adding
17 at the end the following:

18 **“SEC. 315. COMPLIANCE WITH NATIONAL ENVIRONMENTAL**
19 **POLICY ACT OF 1969.**

20 “Any fishery management plan, amendment to such
21 a plan, or regulation implementing such a plan that is pre-
22 pared in accordance with sections 303 and 304 of this Act
23 is deemed to have been prepared in compliance with the
24 requirements of section 102(2)(C) of the National Envi-
25 ronmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).”.

1 **SEC. 12. TECHNICAL CORRECTION AND CLINICAL AMEND-**
2 **MENTS.**

3 (a) DEFINITION.—Section 3 (16 U.S.C. 1802) is
4 amended by redesignating the paragraph (33) (relating to
5 waters of a foreign nation) that follows paragraph (45)
6 as paragraph (46).

7 (b) TABLE OF CONTENTS.—The table of contents in
8 the first section is amended—

9 (1) by striking the following items:

“Sec. 312. Effective date of certain provisions.

“Sec. 313. North Pacific fisheries research plan.

“Sec. 314. Northwest Atlantic Oceans Fisheries Reinvestment Program.”;
and

10 (2) by adding at the end the following:

“Sec. 315. Compliance with National Environmental Policy Act of 1969.”.

The expansion of distance learning opportunities in particular will have an enormous impact by making training accessible to individuals who want to become realtime writers but do not live in metropolitan areas. Also, need based scholarships offered using these grants funds would be subject to an agreement with the National Telecommunications and Information Administration to provide realtime writing services for a period of time.

We must act quickly because the shortage of individuals trained as realtime writers will only grow more severe as the captioning mandate in the 1996 Telecommunications Act continues to take effect. Failure to act could leave the 28 million deaf or hard of hearing Americans without the ability to fully participate in many of the professional, educational, and civic activities that other Americans enjoy. Congress was not able to complete work on this urgent matter before the end of the 107th Congress, so we must redouble our efforts. I would urge all senators to support the swift passage of this legislation.

By Mr. ALLEN (for himself and Mr. WARNER):

S. 481. A bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments, and for other purposes; to the Committee on Governmental Affairs.

Mr. ALLEN. Mr. President, I rise today to introduce a bill to fairly assist injured Federal employees. This legislation will adjust Federal employees retirement computations to offset reductions in their retirement arising from on-the-job injuries covered by the Workers Compensation program. I introduced similar legislation last session that was passed by the Senate. I would like to thank my colleague Senator WARNER the senior Senator from Virginia, for his valuable support in cosponsoring this important effort.

This bill addresses a problem in the retirement program for Federal employees that has been recognized but unresolved since 1986 when the current retirement system was established. Unfortunately, complications arising from the Tax Code and the Workers Rehabilitation Act of 1973 have blocked any solution.

My resolve to address this problem was inspired by Ms. Louise Kurtz, a Federal employee from Virginia who was severely injured in the September 11 attack on the pentagon. She suffered burns over 70 percent of her body and lost all of her fingers. She has had many painful surgeries and faces additional surgeries in the future. She continues to endure rehabilitation over a year after suffering her injuries, yet still hopes to return to work some day. Current law, however, does not allow Mrs. Kurtz to contribute to her retirement program while she is

recuperating and receiving Workers' Compensation disability payments. As a result, after returning to work and eventually retiring, she will find herself inadequately prepared and unable to afford to retire because of the lack of contributions during her recuperation.

As Ms. Kurt's situation reveals, Federal employee under the Federal Employees Retirement System who have sustained an on-the-job injury and are receiving disability compensation from the Department of Labor's Office of Worker's Compensation Programs are unable to make contributions or payments into Social Security or the Thrift Savings Plan. Therefore, the future retirement benefits from both sources are reduced.

This legislation offsets the reductions in Social Security and Thrift savings Plan retirement benefits by increasing the Federal Employees Retirement System Direct Benefit calculation by one percentage point for extended periods of disability.

The passage of this bill ensures that the pensions of our hard-working federal employees will be kept whole during a period of injury and recuperations, especially now that many of them are on the frontlines of protecting our homeland security in this new war on terror. By protecting the retirement security of injured Federal employee, we have provided an incentive for them to return to work and increased our ability to retain our most dedicated and experienced Federal workers. This is a reasonable and fair approach in which the whole Senate acted in a logical and compassionate manner last fall. Let us do so again.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ANNUITY COMPUTATION ADJUSTMENT FOR PERIODS OF DISABILITY.

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (i) as subsection (k); and

(2) by adding at the end the following:

“(l) In the case of any annuity computation under this section that includes, in the aggregate, at least 2 months of credit under section 8411(d) for any period while receiving benefits under subchapter I of chapter 81, the percentage otherwise applicable under this section for that period so credited shall be increased by 1 percentage point.”

(b) CONFORMING AMENDMENT.—Section 8422(d)(2) of title 5, United States Code (as added by section 122(b)(2) of Public Law 107-135), is amended by striking “8415(i)” and inserting “8415(k)”.

(c) APPLICABILITY.—The amendments made by this section shall apply with respect to any annuity entitlement which is based on a separation from service occurring on or after the date of enactment of this Act.

By Ms. COLLINS:

S. 482. A bill to reauthorize and amend the Magnuson-Stevens Fishery Conservation and Management Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. COLLINS (for herself and Ms. SNOWE):

S. 483. A bill to authorize the Secretary of the Army to carry out a project for the mitigation of shore damages attributable to the project for navigation, Saco River, Maine; to the Committee on Environment and Public Works.

Ms. COLLINS. Mr. President, I rise today to introduce two pieces of legislation that will improve the lives of our Nation's fishermen who are struggling to make a living on the sea.

Fishing is more than just a profession in New England. Fishing is a culture and a way of life. This way of life is being threatened, however, by excessive regulation and unnecessary litigation. Despite scientific evidence of a rebound in fish stocks, New England's fishermen are suffering under ever more burdensome restrictions. Everyday, I hear from fishermen who struggle to support their families because they have been deprived of their right to make an honest living on the seas. The “working waterfronts” of our communities are in danger if disappearing, likely to be replaced by development. When that happens, a part of Maine's heritage is lost forever.

Today, I am introducing a package of amendments to the Magnuson-Stevens Act that will deliver a resource management strategy that is balanced, responsive, and sensible. It recognizes the fishermen's strong commitment to conserving the stocks, and acknowledges fishermen as partners in fisheries management.

The Fisheries Science and Management Improvement Act of 2003 will address much needed improvements in the science and regulatory standards of fisheries management. The Nation's fisheries management system, as it is currently designed, is broken. If anyone doubts this is the case, I want to point out that more than 100 lawsuits are currently pending against the Department of Commerce involving fisheries management plans.

Litigation is no way to manage one of our Nation's most important ecological and economic resources. The fact is, the courts are simply not well-suited to making biological and regulatory decisions. Fisheries management is best left to those who know the subject best: the fishermen, scientists, and regulators working together cooperatively.

No one in the country knows this better than New England groundfishermen. Over the last two years, a court case has thrown New England's groundfishing industry into a crisis. The case ended when a Federal judge ordered severe restrictions on groundfishing, including a 20-percent

cut in Days-at-Sea. The effect of this court order has been simply catastrophic for New England's groundfishing industry—an industry made up of small, independently-owned, and often family-owned, businesses.

These severe restrictions were ordered despite the fact that the science clearly demonstrates that the biomass for New England groundfish has increased every year since 1996. If the biomass is increasing, and the stock is clearly rebuilding, it makes no sense to enforce an arbitrarily structured and unscientifically based timeframe on the rebuilding process. This is especially true when the survival of a culture is at stake.

My legislation would inject consistency and common-sense standards into the fisheries management process: it addresses the importance of solid and reliable science in fisheries management. It strengthens the definition of "best scientific information available" and requires scientific data, including all stock assessments, to be peer-reviewed and to include the consideration of anecdotal information gathered from the people who know fishing best—the fishermen themselves. My bill ensures that the process of rebuilding stocks is based on rational and comprehensive science. Under current law, when fisheries are classified as overfished, the Councils are required to implement rebuilding plans to attain a historic high level of abundance within ten years, regardless of whether or not the current state of the marine environment can sustain such an abundance level. My bill redefines the concept of "overfishing" to take into consideration natural fluctuations in the marine environment. It also eliminates the ten-year rebuilding requirement—a requirement that has no foundation in science—and requires rebuilding periods to take into consideration the biology of the fish stock and the economic impact on fishing communities.

The legislation also addresses problems with the current conception of Essential Fish Habitat. Currently, the entire Exclusive Economic Zone has been defined as Essential Fish Habitat instead of more discrete units of habitat as originally conceived. Further, current law allows the Councils to regulate the impacts of fishing activity on Essential Fish Habitat, while the Councils cannot regulate other commercial activities—such as mining and coastal development and the laying of telecommunications cables—that affect these areas. My bill focuses the management of these areas on "Habitat Areas of Particular Concern"—more discrete units of fish habitat that are more consistent with the congressional intent behind the Essential Fish Habitat concept.

My proposal treats the fishing industry as a legitimate interest in fisheries management by acknowledging the important role that commercial fishing plays in food security and healthy food

consumption. My bill also ensures that the cumulative economic and social impacts of fisheries management decisions are considered, rather than assessed in isolation from one another.

Finally, the legislation would reduce the litigation burden on the fisheries management system. My proposal ensures that fishery management plans are pre-determined to be compliant with NEPA requirements, thereby preventing NEPA law from being used in an incorrect way to regulate fisheries. It would still require fishery management plans to meet all the other conservation provisions, including those governing rebuilding of overfished stocks, set out in the law. The Nation's Councils have asked for this protection from lawsuits so they may resume their proper role as a regulatory body.

I want to acknowledge the important role that my colleagues Senators SNOWE and KERRY, Chair and Ranking Member of the Oceans and Fisheries Subcommittee, are playing in addressing the problems of Magnuson-Stevens. My hope is that my proposal will help propel a discussion in the upcoming months as their committee moves forward with their own ideas.

The second piece of legislation I am offering is the Commercial Fishermen Safety Act of 2003, a bill to help fishermen purchase the life-saving safety equipment they need to survive when disaster strikes. I am pleased to be joined by my good friend from Massachusetts, Senator KERRY, in introducing this legislation. Senator KERRY has been a leader in the effort to sustain our fisheries and to maintain the proud fishing tradition that exists in his state and throughout the country.

The release of the movie *The Perfect Storm* provided millions of Americans with a glimpse of the challenges and dangers associated with earning a living in the fishing industry. While based on a true story, the movie merely scratches the surface of what it is like to be a modern-day fisherman. Everyday, members of our fishing communities struggle to cope with the pressures of running a small business, complying with extensive regulations, and maintaining their vessels and equipment. Added to these challenges are the dangers associated with fishing, where disaster can strike in conditions that are far less extreme than those depicted by the movie.

Year-in and year-out, commercial fishing is among the nation's most dangerous occupations. According to data compiled by the Coast Guard and the Bureau of Labor Statistics, 536 fishermen have lost their lives at sea since 1994. In fact, with an annual fatality rate of about 150 deaths per 100,000 workers, fishing is 30 times more dangerous than the average occupation.

The year 2000 will always be remembered in Maine's fishing communities as a year marked by tragedy. All told, nine commercial fishermen lost their lives off the coast of Maine in the year 2000, exceeding the combined casualties of the three previous years.

Yet as tragic as the year was, it could have been worse. Heroic acts by the Coast Guard and other fishermen resulted in the rescue of 13 commercial fishermen off the coast of Maine in the year 2000. In most of these circumstances, these fishermen were returned to their families because they had access to safety equipment that made the difference between life and death.

Coast Guard regulations require all fishing vessels to carry safety equipment. The requirements vary depending on factors such as the size of the vessel, the temperature of the water, and the distance the vessel travels from shore to fish.

When an emergency arises, safety equipment is priceless. At all other times, the cost of purchasing or maintaining this equipment must compete with other expenses such as loan payments, fuel, wages, maintenance, and insurance. Meeting all of these obligations is made more difficult by a regulatory framework that uses measures such as trip limits, days at sea, and gear alterations to manage our marine resources.

The Commercial Fishermen Safety Act of 2003 lends a hand to fishermen attempting to prepare in case disaster strikes. My bill provides a tax credit equal to 75 percent of the amount paid by fishermen to purchase or maintain required safety equipment. The tax credit is capped at \$1500. Items such as EPIRBs and immersion suits cost hundreds of dollars, while life rafts can reach into the thousands. The tax credit will make life-saving equipment more affordable for more fishermen, who currently face limited options under the federal tax code.

I believe these two bills will assist our Nation's fishermen as they struggle to make their living on the seas. Fishing is a legitimate profession that deserves to be treated with the common-sense and consistency that we treat other professions. The legislation I am introducing gives these communities the tools they need to safely make their living in a way that still protects the resource.

By Mr. LEAHY (for himself and Ms. SNOWE):

S. 484. A bill to amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes; to the Committee on Environmental and Public Works.

Mr. LEAHY. Mr. President, the risks and health effects of mercury contamination continue to be serious and immediate. We have known about mercury pollution for many years. It remains one of, if not the last of, the

108TH CONGRESS
1ST SESSION

H. R. 1024

To establish in the National Marine Fisheries Service a pelagic longline highly migratory species bycatch and mortality reduction research program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2003

Mr. SAXTON introduced the following bill; which was referred to the Committee on Resources

A BILL

To establish in the National Marine Fisheries Service a pelagic longline highly migratory species bycatch and mortality reduction research program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. HIGHLY MIGRATORY SPECIES BYCATCH MOR-**
4 **TALITY REDUCTION RESEARCH PROGRAM.**

5 (a) ESTABLISHMENT OF A PROGRAM.—(1) There is
6 established within the National Marine Fisheries Service
7 a pelagic longline highly migratory species bycatch and
8 mortality reduction research program. The Program shall

1 be developed by a design team established by the Secretary
2 of Commerce. The Program design shall be submitted to
3 the Secretary no later than 120 days after the first meet-
4 ing of the design team and shall include a statistically sig-
5 nificant recommendation for the level of observer coverage
6 on pelagic longline fishing vessels that is necessary to
7 monitor the fishery effectively and participate in the re-
8 search program. The design team shall be available as a
9 resource to the Secretary throughout the research and the
10 development of the recommendations.

11 (2) The program shall identify and test a variety of
12 pelagic longline fishing gear configurations and uses and
13 determine which of those configurations and uses are the
14 most effective in reducing highly migratory species mor-
15 tality. The program shall place an emphasis on deter-
16 mining the gear configurations and uses that are the most
17 effective in reducing blue and white marlin mortality in
18 the exclusive economic zone of the United States in the
19 Atlantic Ocean. The program shall also include a provision
20 for observers to be placed on pelagic longline fishing ves-
21 sels for the purposes of monitoring the fishery and partici-
22 pating in the research program.

23 (3) The highly migratory species program shall con-
24 duct research to determine the impact of existing time and
25 area closures designed to reduce the bycatch of longline

1 vessels. The program shall focus on whether existing clo-
2 sures should be modified to decrease bycatch by longline
3 vessels and shall determine what adjustments to the exist-
4 ing boundaries and temporal constraints should be made
5 as a result of any research. Any vessel participating in
6 the program shall be provided an observer by the National
7 Marine Fisheries Service. The full cost of the observer and
8 any incidental costs to the vessel as a result of being in-
9 cluded in the research program shall be paid for by the
10 National Marine Fisheries Service. The National Marine
11 Fisheries Service may authorize, without notice and com-
12 ment, scientific research permits authorizing a vessel to
13 enter and fish in any closed area in the Atlantic Ocean
14 so long as there is 100 percent observer coverage and the
15 activities of the vessel are in furtherance of the research
16 program. Access to any closed area may be granted only
17 after consideration of the scientific need for access.

18 (b) DESIGN TEAM.—(1) Knowledgeable members of
19 the pelagic longline fishing sector, the recreational billfish
20 and tuna sector, and the conservation community, along
21 with scientists associated with each such entity, shall be
22 appointed by the Secretary to the program design team.
23 Each of the sectors shall to the extent practicable be fairly
24 represented on the design team. The design team shall not
25 exceed nine members only one of which may be an em-

1 ployee of the Federal Government. The design team shall
2 select a chairman and establish its own rules of operation.
3 Each member of the design team who is not employed by
4 the Federal Government shall be compensated in the man-
5 ner provided for members of a Fishery Management Coun-
6 cil under section 302(d) of the Magnuson-Stevens Fishery
7 Conservation and Management Act (16 U.S.C. 1852(d)).

8 (2) The design team shall not be considered to be
9 an advisory committee for the purposes of the Federal Ad-
10 visory Committee Act (5 U.S.C. App.), but shall hold its
11 deliberations in meetings for which prior notice is pub-
12 lished in the Federal Register and that are open to the
13 public.

14 (c) MID-ATLANTIC CONSERVATION ZONE FOR HIGH-
15 LY MIGRATORY SPECIES.—Section 304(g) of the Magnu-
16 son-Stevens Fishery Conservation and Management Act
17 (16 U.S.C. 1854(g)) is amended by adding at the end the
18 following:

19 “(3) MID-ATLANTIC CONSERVATION ZONE FOR
20 HIGHLY MIGRATORY SPECIES.—

21 “(A) No person shall engage in pelagic
22 longline fishing—

23 “(i) in the lower mid-Atlantic Con-
24 servation Zone in the period beginning Au-

1 gust 15 and ending October 1 each year;
2 or

3 “(ii) in the upper mid-Atlantic Con-
4 servation Zone in the period beginning
5 July 15 and ending September 1 each
6 year.

7 “(B) In this paragraph the term ‘lower
8 mid-Atlantic Conservation Zone’ means the
9 area that is enclosed by a series of geodesics
10 connecting in succession the points at the fol-
11 lowing coordinates:

12 “(i) 36 degrees 30 minutes north lati-
13 tude, 75 degrees 0 minutes west longitude.

14 “(ii) 37 degrees 0 minutes north lati-
15 tude, 75 degrees 0 minutes west longitude.

16 “(iii) 38 degrees 0 minutes north lati-
17 tude, 74 degrees 0 minutes west longitude.

18 “(iv) 38 degrees 0 minutes north lati-
19 tude, 73 degrees 0 minutes west longitude.

20 “(v) 37 degrees 0 minutes north lati-
21 tude, 74 degrees 0 minutes west longitude.

22 “(vi) 36 degrees 30 minutes north
23 latitude, 75 degrees 0 minutes west lon-
24 gitude.

“(C) In this paragraph the term ‘upper mid-Atlantic Conservation Zone’ means the area that is enclosed by a series of geodesics connecting in succession the points at the following coordinates:

“(i) 38 degrees 0 minutes north latitude, 74 degrees 0 minutes west longitude.

“(ii) 40 degrees 0 minutes north latitude, 72 degrees 0 minutes west longitude.

“(iii) 39 degrees 0 minutes north latitude, 72 degrees 0 minutes west longitude.

“(iv) 38 degrees 0 minutes north latitude, 73 degrees 0 minutes west longitude.

“(v) 38 degrees 0 minutes north latitude, 74 degrees 0 minutes west longitude.

“(D) This paragraph shall not apply after the end of the 4-year period beginning on the date of the enactment of this paragraph.”.

(d) REPORT TO CONGRESS.—The Secretary of Commerce shall submit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(1) an interim report of the findings of the research conducted under this section within two years after the date of enactment of this Act; and

1 (2) a final report with the necessary regulatory
2 documents to initiate implementation of any adjust-
3 ments to time and area closures, gear configura-
4 tions, or fishing techniques warranted as a result of
5 the research.

6 (e) AUTHORIZATION OF APPROPRIATIONS.—For re-
7 search under this section there is authorized to be appro-
8 priated to the Secretary of Commerce \$5,000,000 for fis-
9 cal years 2004 through 2008.

○

108TH CONGRESS
1ST SESSION

S. 487

To amend the Internal Revenue Code of 1986 to provide a business credit against income for the purchase of fishing safety equipment.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 2003

Ms. COLLINS (for herself and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide a business credit against income for the purchase of fishing safety equipment.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Commercial Fishermen
5 Safety Act of 2003”.

6 **SEC. 2. CREDIT FOR PURCHASE OF FISHING SAFETY**
7 **EQUIPMENT.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to business-related credits) is amended by
 2 adding at the end the following new section:

3 **“SEC. 45G. FISHING SAFETY EQUIPMENT CREDIT.**

4 “(a) GENERAL RULE.—For purposes of section 38,
 5 in the case of an eligible taxpayer, the fishing safety equip-
 6 ment credit determined under this section for the taxable
 7 year is 75 percent of the amount of qualified fishing safety
 8 equipment expenses paid or incurred by the taxpayer dur-
 9 ing the taxable year.

10 “(b) LIMITATION ON MAXIMUM CREDIT.—The credit
 11 allowed under subsection (a) with respect to a taxpayer
 12 for the taxable year shall not exceed \$1,500.

13 “(c) ELIGIBLE TAXPAYER.—For purposes of this sec-
 14 tion, the term ‘eligible taxpayer’ means a taxpayer en-
 15 gaged in a fishing business.

16 “(d) DEFINITIONS.—For purposes of this section—

17 “(1) FISHING BUSINESS.—The term ‘fishing
 18 business’ means the conduct of commercial fishing
 19 as defined in section 3 of the Magnuson-Stevens
 20 Fishery Conservation and Management Act (16
 21 U.S.C. 1802).

22 “(2) QUALIFIED FISHING SAFETY EQUIPMENT
 23 EXPENSES.—

24 “(A) IN GENERAL.—The term ‘qualified
 25 fishing safety equipment expenses’ means an

1 amount paid or incurred for fishing safety
2 equipment for use by the taxpayer in connection
3 with a fishing business.

4 “(B) FISHING SAFETY EQUIPMENT.—The
5 term ‘fishing safety equipment’ means—

6 “(i) lifesaving equipment required to
7 be carried by a vessel under section 4502
8 of title 46, United States Code, and

9 “(ii) any maintenance of such equip-
10 ment required under such section.

11 “(e) SPECIAL RULES.—

12 “(1) IN GENERAL.—Rules similar to the rules
13 of subsections (c), (d), and (e) of section 52 shall
14 apply for purposes of this section.

15 “(2) AGGREGATION RULES.—All persons treat-
16 ed as a single employer under subsection (a) or (b)
17 of section 52 or subsection (m) or (o) of section 414
18 shall be treated as one person for purposes of sub-
19 section (a).

20 “(f) DENIAL OF DOUBLE BENEFIT.—No deduction
21 shall be allowed under this chapter (other than a credit
22 under this section) for any amount taken into account in
23 determining the credit under this section.

24 “(g) BASIS ADJUSTMENT.—For purposes of this sub-
25 title, if a credit is allowed under this section with respect

1 to any equipment, the basis of such equipment shall be
 2 reduced by the amount of the credit so allowed.”.

3 (b) LIMITATION ON CARRYBACK.—Section 39(d) of
 4 the Internal Revenue Code of 1986 (relating to transition
 5 rules) is amended by adding at the end the following new
 6 paragraph:

7 “(11) NO CARRYBACK OF FISHING SAFETY
 8 EQUIPMENT CREDIT BEFORE EFFECTIVE DATE.—No
 9 portion of the unused business credit for any taxable
 10 year which is attributable to the fishing safety
 11 equipment credit determined under section 45G may
 12 be carried to a taxable year ending before the date
 13 of the enactment of section 45G.”.

14 (c) CONFORMING AMENDMENTS.—

15 (1) Section 38(b) of the Internal Revenue Code
 16 of 1986 (relating to general business credit) is
 17 amended by striking “plus” at the end of paragraph
 18 (14), by striking the period at the end of paragraph
 19 (15) and inserting “, plus”, and by adding at the
 20 end the following new paragraph:

21 “(16) the fishing safety equipment credit deter-
 22 mined under section 45G(a).”.

23 (2) Subsection (a) of section 1016 of such Code
 24 is amended by striking “and” at the end of para-
 25 graph (27), by striking the period at the end of

1 paragraph (28) and inserting “, and”, and by add-
2 ing at the end the following new paragraph:

3 “(29) in the case of equipment with respect to
4 which a credit was allowed under section 45G, to the
5 extent provided in section 45G(g).”.

6 (d) CLERICAL AMENDMENT.—The table of sections
7 for subpart D of part IV of subchapter A of chapter 1
8 of the Internal Revenue Code of 1986 is amended by add-
9 ing at the end the following new item:

“Sec. 45G. Fishing safety equipment credit.”.

10 (e) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2003.

○

LEGISLATIVE COMMITTEE REPORT

Chairman, Dr. David Hanson, called the Legislative Committee (Committee) to order at 10 a.m., Monday, March 10th. The Committee discussed current legislation and related congressional activities.

Language providing for a buyback program in the West Coast groundfish fishery was included in omnibus 2003 appropriations legislation (Exhibit H.3, Attachment 1, Sec. 212, page 70). The Legislative Committee continues to endorse the strong need for capacity reduction in the West Coast groundfish fishery. A buyback program, as provided for in legislation, could be a useful capacity reduction tool. The Legislative Committee requests information from National Marine Fisheries Service (NMFS) about the potential workload requirements on NMFS and the Pacific Fishery Management Council (Council) to develop and implement a buyback program. The Committee also requests information on the anticipated schedule for development and implementation.

The Legislative Committee reviewed Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) reauthorization bills. Given congressional workload, it is unlikely that major reauthorization of the Magnuson-Stevens Act will occur in 2003. Currently, there is no moratorium on development of individual fishing quota (IFQ) programs. The Legislative Committee notes that this provides the opportunity to the West Coast groundfish industry to initiate an IFQ program. Moreover, the Committee believes the Council should encourage the groundfish industry to initiate development of an IFQ program. Specific to reauthorization bill S. 482 (Exhibit H.3, Supplemental Attachment 4), the Committee notes the need for equity in development of fee-based management. That is, all sectors under a management system should be required to contribute fees to the system, not just those sectors under an IFQ program. Also, under a fee-based program, the Committee notes the need for clarity concerning which program costs are to be funded through the fee system. Finally, fees collected under a newly designed fee-based management system should be used to fund the new costs resulting from that program and not to cover existing management costs.

The Legislative Committee was requested by representatives of the albacore troll fishery to consider supporting efforts for legislation needed to implement provisions of the revised U.S./Canada albacore treaty. The Committee is generally supportive of legislative language included in a 2002 draft of Magnuson-Stevens Act reauthorization legislation developed by NMFS. If requested by a member of Congress, the Legislative Committee recommends the Council consider endorsing efforts to develop implementing legislation.

The Legislative Committee also discussed the NMFS announcement about their consideration of revising National Standard-1 guidelines (Exhibit H.3, Attachment 2). The Committee recommends the Council direct the Executive Director to write a letter in response to the NMFS request for comment. The draft comments developed by staff (attached) should be included in the response letter.

Lastly, the Legislative Committee discussed efforts to revise the Capital Construction Fund (CCF). Legislation is anticipated on this matter, but has yet to be introduced by Congress. Generally, the Legislative Committee endorses efforts to reduce capacity and over-capitalization in West Coast fisheries.

A revised CCF could provide a means to reduce capacity and capital. The Committee will continue to monitor congressional activity on this issue.

The Committee commends staff for their work and recommends the Council direct staff to continue to track fisheries-related legislation and provide input to congressional staff, as appropriate.

PPMC
03/13/02

Attachment

Draft Comments Regarding NMFS Consideration of Review of National Standard-1 Guidelines

Generally, supportive of formal and inclusive consideration of whether National Standard-1 (NS-1) guidelines should be revised. As with any policy, periodic review provides opportunity to respond to new information, changes in thinking, or unforeseen consequences since the policy was developed and implemented.

NS-1 guidelines are not a perfect fit with many of the West Coast stocks declared overfished (e.g., darkblotched rockfish and bocaccio). The Council is striving to fully comprehend and account for extremely low productivity of certain West Coast stocks and the affects of unfavorable oceanographic and other environmental variables on recruitment.

It would be helpful to explore mechanisms for ensuring rebuilding plans are in accord with and adaptive to environmental and other variables. Strive to ensure successful rebuilding. Maintain emphasis on stock rebuilding, but factor in other considerations.

Regional Councils are on the front line implementing NS-1. Therefore, councils should be full and formal participants, especially tapping into the expertise of council Scientific and Statistical Committees (SSCs).

Specific areas of focus –

- Inclusion of adaptive management.
- Review of maximum sustainable yield concept in general.
- Uncertainty, risk, precaution – where and how are these concepts incorporated? into stock size estimation, status determination? into management process? How should levels of precaution be tied to life span, productivity, and short/long-term environmental conditions.
- Discontinuity of rebuilding time horizons – less than 10 years, 10 years, much greater than 10 years. Choices among these time horizons depend on very fine distinctions in current biomass, unfished biomass, etc. Deriving point estimates of these values can be very difficult.
- Under data poor situations, current guidance for determining stock status (e.g., Restrepo *et al.*) can result in very constraining (i.e., precautionary) management, which causes significant economic impacts to the fishery. Given limited scientific and economic information, how should precautionary management be balanced against economic impacts.
- Will consult with our SSC and other advisory bodies for other specific NS-1 changes and concerns.

APPOINTMENTS TO ADVISORY BODIES, STANDING COMMITTEES, AND OTHER FORUMS

Situation: The issues for this agenda include guidance and action on appointments to advisory bodies as described below.

1. **Appointments to vacancies on the Groundfish Advisory Subpanel (GAP) for completion of the 2001-2003 term** - The following nominees were submitted for the advertised GAP vacancies:

- California Charter Boat Operator - Mr. Daniel R. Strunk, Pierpoint Sportfishing, Redondo Beach, CA

Nominated by Self

- Fixed Gear At-large Fisher - Mr. Gary Richter, Santa Barbara, CA
Nominated by: Mr. Phil Shenk, Point Conception Groundfisherman's Association and Tim Athens

The nomination letters for these appointments are contained in Closed Session A, Attachment 1.

2. **Appointments to the Groundfish Management Team (GMT)** - The following nominees were submitted for confirmation by the Council to National Marine Fishery Service (NMFS) vacancies on the GMT:

- NMFS Northwest Region - Ms. Becky Renko

- NMFS Southwest Fishery Science Center - Dr. Xi He

The nomination letters for these appointments are contained in Closed Session A, Attachment 2.

At the current time, a vacancy continues to exist on the GMT for a second representative from the Oregon Department of Fish and Wildlife.

3. **Appointment to the Highly Migratory Species Advisory Subpanel (HMSAS)** - No nominations were received to fill the vacancy for the Northern Processor (north of Cape Mendocino) position on the HMSAS. The Council may wish to reopen nominations for this position or consider other action in light of the lack of response.
4. **Appointment to the Scientific and Statistical Committee (SSC)** - The Council staff has advertised for a social scientist to fill the at-large vacancy left by Dr. Brian Allee. No nominations have been received. Council Operating Procedure 4 calls for at least three social scientists on the SSC. Currently there are only two.
5. **Other Appointments or Advisory Body Issues or Information** - The Council may wish to use this agenda to further consider the proposed Model Evaluation Workgroup and Ad Hoc Open Access Committee.

Council Action:

1. **Consider Appointing nominees to the GAP and GMT positions.**
2. **Direct Council staff with regard to those positions which do not have nominees confirmed (i.e., the HMSAS and SSC).**

Reference Materials:

1. Letters of Nomination to the GAP (Closed Session A, Attachment 1).
2. Letters of Nomination to the GMT (Closed Session A, Attachment 2).

Agenda Order:

- a. Agendum Overview
- b. Appointments to Advisory Bodies (Groundfish Advisory Subpanel, Groundfish Management Team, Scientific and Statistical Committee, Highly Migratory Species Advisory Subpanel, Other)
- c. Reports and Comments of Advisory Bodies
- d. Public Comment
- e. **Council Action:** Consider Appointing New Members and Addressing Other Membership Issues

John Coon

PFMC
02/25/03

FINANCIAL MATTERS

Situation: At the time of the last Budget Committee (BC) meeting in November 2002, Congress had not acted on the appropriations bill that includes the Council's calendar year 2003 funding, and Council staff had not submitted a final budget. The BC approved the staff's general budget priorities and scheduled a special BC meeting for the March Council meeting to receive information on final fiscal year 2003 appropriations.

At this time, Congress has passed an omnibus bill which provides a total of \$14.5 million for all eight regional Council's, and the President is expected to sign it. This is up slightly from the \$14.15 million provided in 2002. The BC will review the budget information and provide a report to the Council at the March meeting.

Council Action:

1. Consider recommendations of the BC.

Reference Materials:

1. Supplemental Budget Committee Report (Exhibit H.5.a.).

Agenda Order:

- a. Budget Committee Report
- b. **Council Action:** Consider Recommendations of the Budget Committee

Jim Harp

PFMC
02/20/03

REPORT OF THE BUDGET COMMITTEE

The Budget Committee received an Executive Director Report by Dr. Donald McIsaac that included two items: status of calendar year (CY) 2002 expenditures and funding for CY 2003.

Total CY 2002 budget expenditures in the grant for Council operations are nearly completed and the grant has been spent as projected at the November meeting. The small amount projected to be remaining will be placed in the unfunded leave account.

The CY 2003 base level needs for the Council have been fully funded. In addition to the Council's base grant, the total CY 2003 funds include monies for highly migratory species and the continuing NEPA grant which includes funds from the NMFS regional and headquarters offices and the Northwest Science Center. A preliminary draft of the CY 2003 operating budget indicates about \$5,000 may be available for additional projects, such as funding the Salmon Model Evaluation Workgroup. The Executive Director is still seeking additional funds to cover other expanding Council activities such as coastal pelagic species meetings, essential fish habitat Environmental Impact Statement (EIS), the Programmatic EIS, Open Access Committee, and marine reserves.

Other Topics

The Budget Committee members discussed the new travel agency and reported that the initial experience has been very positive.

The Budget Committee will receive an update on the 2004 meeting locations at the June Council meeting.

PFMC
03/14/03

COUNCIL STAFF WORK LOAD PRIORITIES

Situation:

At the November Council Meeting, the Council discussed Council staff workload priorities for the period November 4, 2002 through April 11, 2003. This was done out of recognition that the March and April Council meetings are only three weeks apart, that the March Council meeting would not have groundfish management matters on the agenda, and that workload management through the winter time period would focus on achieving priorities for the expected aggregate agenda of the March and April Council meetings.

Exhibit H.6.a shows the workload priorities for the November 4, 2002 through April 11, 2003 period. The Executive Director will discuss progress made on items shown on Exhibit H.6.a.

At the April 2003 Council Meeting, the Council will review Council staff workload priorities for the period between the April and June Council meetings.

Council Task:

1. Discussion of Council staff workload priorities.

Reference Materials:

1. Council Staff Workload Priorities for November 4, 2002 through April 11, 2003 (Exhibit H.6.a)

Agenda Order:

- a. Agendum Overview
- b. Council Discussion and Guidance

Don McIsaac

PPMC
02/25/03

COUNCIL STAFF WORKLOAD PRIORITIES FOR NOVEMBER 4, 2002 THROUGH APRIL 11, 2003
(Bolded tasks represent a Core Program Responsibility)

	Salmon	Groundfish	CPS	HMS	Other
ACTIVE	SAFE Doc: Annual Review Preseason Rpts	Complete Final 2003 Mgmt Specs EIS Emergency Reg EA (Jan-Feb 2003)	Ann. Mgmt Specs - sardine	FMP: Final Processing	Admin Necessities (Briefing Book, minutes, Advisory Body coord, etc.)
	Annual Specs and EA	SAFE Doc Vol 2, 2002			
	Public Hearings - Options	Limited Role to complete A-17		HMSPDT meeting	
	SSC methodology review	Amendment 16 - proc & stndrds options	Pln & Coord. 2003 STAR review		Legislative Com follow-up
	Pacific Halibut Mgmt	Amendment 16 - Species Reblgd Plns			Status of Stocks Rpt
		Darkblotched rockfish			Marine Reserve coord
		Pacific Ocean Perch			Current Litigation response
		Cowcod			
		Lingcod			
		Widow Rockfish			
CONTINGENT		Canary Rockfish			
		Yelloweye Rockfish			
		Programmatic & EFH EISs			
		Current Litigation Response			
		Plan and Coord. 2003 STAR			
		Ad Hoc VMS Committee			Research & Data Needs
	Model Eval Work Group	COP on A-17 red-green thresholds	Regulatory Amendment:		
		Add Pollack to FMP list	Sardine Allocation		
	Amendment: Central Valley Chinook	Amendment 16 - Species Reblgd Plns	Attend Trinat'l Sardine Forum		
		Bocaccio Rockfish & Whiting			
DELAYED		Whiting	Update FMP w/ Amendment 9		
	Update FMP w/A-14	SSC Bycatch Workshop	Update FMP w/ Amendment 10		
		Open Access Committee			
		Individual Fishing Quotas (IFQ)			
		Update FMP through Amendment 14			
	Current Litigation response	Permit Stacking Implementation:			
	Amendments:	Fixed-Gear (owner on board; 6 permits)			
	S Falcon coho allocation	Trawl Committeee			
	OCN matrix	Ad Hoc EFP Process & Stds Committee			
		SSC B ₀ & MSY Workshop			
DELAYED		Amendment - CA nearshore delegation			
		Full retention pilot program			
		Amendment 15 - AFA			

Exhibit H.6.a
Staff Workload Priorities
March 2003

2/25/2003

APRIL 2003 COUNCIL MEETING AGENDA

Situation: Because of the short time between the March and April Council meetings, the Council must approve the final April Council meeting agenda at the March meeting. The proposed draft agenda for Council review is attached (Exhibit H.7, Draft April Agenda), and the overall draft layout of the meeting is displayed below.

DRAFT APRIL COUNCIL MEETING AGENDA SUMMARY

<i>Monday, April 7</i>	<i>Tuesday, April 8</i>	<i>Wednesday, April 9</i>	<i>Thursday, April 10</i>	<i>Friday, April 11</i>
	Closed Executive Session	Groundfish Management	Groundfish Management	Groundfish Management Salmon Management (If Necessary)
			Pacific Halibut Management	
	Salmon Management		Highly Migratory Species Management	
	Habitat Issues		Coastal Pelagic Species Management	
	Marine Reserves	Salmon Management	Salmon Management	Administration
4 p.m. Public Comment Period (for items <u>not</u> on the agenda)				
Ancillary meetings for advisory subpanels, technical teams, subcommittees, etc. begin Sunday (see last page of detailed Council agenda for daily schedule).				

Council Action:

1. Adopt final April Council meeting agenda.

Reference Materials:

1. Draft April Agenda (Exhibit H.7.a).

Agenda Order:

- a. Consider Agenda Options
- b. Identify Priorities for Advisory Body Consideration
- c. **Council Action:** Adopt Final Agenda for the April 2003 Meeting

PPMC
02/26/03

PRELIMINARY DRAFT COUNCIL MEETING AGENDA, APRIL 7-11, 2003, VANCOUVER, WA

AG #	E	AGENDA TOPICS/COMMENTS	COUNCIL TASK	REVIEW PRIORITY		
				SSC	HC	Other or *Not at Mtg1/
		Monday, April 7				
		Ancillary Meetings - see Ancillary Schedule				
		Tuesday, April 8				
	1.0	Closed Session: Personnel & Litigation - 8 am	Info/Discussion			
		Appointments - SSC, STT, HMSAS & other?				
		Litigation Status (E. Cooney)				
A.	0.4	Call to Order: Opening, Roll Call, ED Rpt, Agenda, Minutes - 9:00 am				
		Approve Agenda	Action			
		Approve Minutes - None	Action			
B.		Salmon Management				
1	0.7	NMFS Report	Info			SAS, STT
		Mitchell Act Funding: Update				
		Progress Rpt on Developing Goals & Obj for Mitchell Act Funding				
2	0.5	Identify Stocks Not Meeting Escapement Goals for 3 Consecutive Years	Action	X		SAS, STT
3	0.5	Methodology Review Process for 2003	Action	X		SAS, STT
4	2.5	Tentative Adoption of 2003 Ocean Salmon Mgmt Measures for Analysis	Action			EC, SAS, STT
C.		Habitat Issues				
1	0.5	Essential Fish Habitat (EFH) Issues - HC Rpt	Action		X	GAP, SAS
D.		Marine Reserves				
1	0.5	Update on MR Activities	Info	X	X	GAP, SAS, HMSAS*, CPSAS
2	1.0	Planning for Federal Waters Portion of CINMS	Info/Action?	X	X	GAP, SAS, HMSAS*, CPSAS
	0.5	4 pm Public Comment Period	Info			
	8.1					
		Wednesday, April 9				
E.		Groundfish Mgmt - 8 am				
1	0.5	NMFS Rpt	Info			GAP, GMT
2	1.5	Report on the Bycatch Workshop	Info	X		GAP, GMT
3	1.0	Status of Fisheries and Consideration of Inseason Adjustments	Action			EC, GAP, GMT
4	0.5	Review of the Process for setting 2004 GF Specs (3 vs. 2 mtg process)	Action			GAP, GMT
5	2.5	Prelim Draft A-16 (Rebuilding Plans)	Action	X		GAP, GMT
		Process & Stdnds; & 4 plans--Darkblotched, POP, Lingcod, Canary				
6	1.0	Update on VMS Process	Info			EC, GAP, GMT
7	1.0	Update on Near Shore Mgmt - OR & CA (Deferral in June for CA?)	Info			GAP, GMT
B.		Salmon Mgmt (Continued)				
5	0.5	Clarify Council Direction on 2003 Management Measures (If Necessary)				SAS, STT
	8.5					
		Thursday, April 10				
E.		Groundfish Mgmt (continued) - 8 am				
8	0.8	Criteria & Standards for Approving EFPs	Action	X		GAP, GMT
9	0.5	Final Action on Inseason Mgmt	Action			EC, GAP, GMT
F.		Pacific Halibut				
3	0.6	Adopt final 2003 Incidental Catch Regs for Salmon Troll & Fixed-Gear Sablefish Fisheries	Action			EC, SAS, GAP, GMT
G.		Highly Migratory Species Management				
1	0.3	NMFS RPT	Info			HMSAS*, HMSPTD*
H.		Coastal Pelagic Species Mgmt				
1	0.3	NMFS Rpt	Info			CPSAS, CPSMT
2	3.0	Approve Final Reg. Amendment and Analysis for Changes to Sardine Allocation	Action	X		CPSAS, CPSMT
B.		Salmon Mgmt Continued				
6	2.5	Final Action on 2003 Salmon Management Measures	Action			SAS, STT
	8.0					

PRELIMINARY DRAFT COUNCIL MEETING AGENDA, APRIL 7-11, 2003, VANCOUVER, WA

AG #	E	AGENDA TOPICS/COMMENTS	COUNCIL TASK	REVIEW PRIORITY		
				SSC	HC	Other or *Not at Mtg1/
		Friday, April 11				
E.		Groundfish Management (continued) - 8 am				
6	1.0	Status of the Programmatic Groundfish FMP EFH EIS	Info	X		GAP, GMT
7	0.5	U.S. - Canada Whiting Agreement	Info			GAP, GMT
8	1.0	Groundfish Strategic Plan Implementation	Info			GAP, GMT
		Fleet Reduction; Permit Stacking; Open Access Limitation				
B.		Salmon Mgmt (continued)				
7	0.5	Clarification of Final Action on Salmon Management Measures (If Necessary)	Action			SAS, STT
I.		Administration				
1	0.5	Annual Coast Guard Report	Info			ALL
2	0.8	Legislative Matters - Rpt of the Legislative Committee (rpt on buyback, etc.)	Action			
3	0.3	Appointments to Advisory Bodies, Standing Com., & Other Forums	Action			
		GMT, HMSAS, SSC, STT, & Other Replacements or Additions?				
4	0.5	Workload Planning and Results of Staff Strategic Goals Workshop	Info			
5	0.5	Draft June Agenda	Action			
	5.6					

1/ Anticipates each advisory subpanel will review agenda items for its particular FMP.

Informational Reports (available in Briefing Book, but no time scheduled on Agenda):

1			
2			

Other Possible Agenda Items:

Status of the Programmatic Groundfish FMP EIS
Development of COP on Red/Green Thresholds for Multi-Year Mgmt
MRFSS Update

Due Dates:

Invitation Memo:	3/4
FR Notice:	3/14
Meeting Notice Mailed:	3/17
Final day to submit draft BB items for supervisory review:	COB 3/19
Final day to receive public comments for placement in BB:	COB 3/21
Cover memos for Ancillary Meetings:	Noon 3/24
Briefing Book Mailing:	COB 3/27
Final Day to receive public comments for distribution to Council on first day of mtg:	COB 4/1

ANCILLARY MEETINGS AT APRIL COUNCIL MEETING				
Day	Group	Start Time	Continuing Through	Staffing
Sunday:				
	A. GMT	1:00 PM	Thur.	JDD/MDB
	KFMC	1:00 PM	Fri.	
Monday:				
	B. GAP	8:00 AM	Thur.	JDD/MDB
	C. SAS	8:00 AM	Fri.	CAT
	D. STT	8:00 AM	Fri.	CAT
	E. SSC	8:00 AM	Tue	DAW
	F. HC	10:00 AM	Mon.	JDG
	G. Legislative	10:00 AM	Mon.	DM/DAW
	Chair's Briefing	3:30 PM	Mon.	DM/JC
Tuesday:				
	H. EC	5:30 PM	Thur.	JLS
Wednesday:				
	I. CPSAS	8:00 AM	Thur.- noon	DAW
	J. CPSMT	8:00 AM	Thur.- noon	DAW
Thursday:				
Continuation of CPSAS, CPSMT, EC, SAS, and STT				
Friday:				
Continuation of EC, SAS, and STT				

OTHER POSSIBLE AGENDA ITEMS FOR THE APRIL 2003 COUNCIL MEETING AGENDA

Monday

Tuesday

Salmon

Model Evaluation Work Group (0.5 hrs)
Mass Marking Mandate (0.75 hrs)

Wednesday

Groundfish

Changes in the 2003 groundfish Stock Assessment Review (STAR) process (0.5 hrs)
Status of Observer Data (Monday Advisory Body presentation?) (1.0 hrs)
Cooperative Research (Monday GAP/GMT presentation?) (0.5 hrs)
Status of Buyback Program (Monday Legislative Committee presentation?) (0.5 hrs)
Status of the Programmatic Environmental Impact Statement (0.5 hours)
Development of Red/Green Emergency Alarm Threshold for Multi-year Management (1.0 hrs)
MRFSS update (0.3 hrs)

Thursday

Coastal Pelagic Species

STAR Terms of Reference (0.5 hrs)

Friday

Administration
Enhanced Communication with Fishing Communities (1.5 hrs)
Electronic Logbooks (Monday Advisory Body presentation?) (1.0 hrs)

PFMC
03/14/03

GROUND FISH MANAGEMENT TEAM (GMT) COMMENTS ON
APRIL 2003 COUNCIL MEETING AGENDA

The Groundfish Management Team (GMT) plans to begin its meeting in April on either Saturday evening or Sunday morning. The GMT respectfully requests that the Council not take up groundfish management issues until Wednesday, April 9, in order to give the GMT and the Groundfish Advisory Subpanel sufficient time for discussion.