

## LEGISLATIVE COMMITTEE REPORT

The Legislative Committee discussed current legislation provided in the briefing book. The committee is encouraged by Senate Bill 1106, legislation for national standards for fishing quota programs. The current bill reflects comments made by the Pacific Fishery Management Council (Council) previously. It appears the legislation will move through Congress in the near future. The committee recommends the Council encourage fishery participants and other stakeholders to support the legislation. The committee also recommends the Council reaffirm their call to the groundfish industry to initiate development of individual fishing quota programs, notably for the limited entry trawl fishery.

The Legislative Committee discussed Senate Bill 1193, which would modify the Capital Construction Fund (CCF) to provide for withdrawals for fishermen leaving the industry. 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 current bill appears to be widely supported and the committee recommends the Council encourage its constituents to support the legislation. Broad constituent support will be especially helpful given the large number of congressional committees that will review and consider the CCF bill.

Comprehensive legislation to reauthorize the Magnuson-Stevens Fishery Conservation and Management Act has not been introduced and is likely to be delayed due to competing legislative activity and changes to the chairs of the Senate Appropriations and Commerce committees. The Committee will continue to monitor congressional activity on this issue.

Relative to the West Coast groundfish buyback program, the committee reviewed the Notice of a Proposed Fishing Capacity Reduction Program (Exhibit H.1, Attachment 3). In April, the Council was informed by National Marine Fisheries Service (NMFS) that Council involvement, for the time being, would be limited to commenting on the proposed implementation process. The Legislative Committee would appreciate an update from NMFS about their expectations for Council involvement and workload.

Per Council guidance, Council staff continues to invite congressional representatives and their staff to Legislative Committee meetings and Council meetings. 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  
06/20/03

108th CONGRESS

1st Session

**S. 1193**

To provide for qualified withdrawals from the Capital Construction Fund for fishermen leaving the industry and for the rollover of Capital Construction Funds to individual retirement plans, and for other purposes.

**IN THE SENATE OF THE UNITED STATES**

**June 5, 2003**

Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Finance

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**A BILL**

To provide for qualified withdrawals from the Capital Construction Fund for fishermen leaving the industry and for the rollover of Capital Construction Funds to individual retirement plans, and for other purposes.

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Capital Construction Fund Qualified Withdrawal Act of 2003'.

**SEC. 2. AMENDMENT OF THE MERCHANT MARINE ACT OF 1936 TO ENCOURAGE RETIREMENT OF CERTAIN FISHING VESSELS AND PERMITS.**

(a) IN GENERAL- Section 607(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(a)) is amended by adding at the end the following: 'Any agreement entered into under this section may be modified for the purpose of encouraging the sustainability of the fisheries of the United States by making the termination and withdrawal of a capital construction fund a qualified withdrawal if done in exchange for the retirement of the related commercial fishing vessels and related commercial fishing permits.'

(b) New Qualified Withdrawals-

(1) IN GENERAL- Section 607(f)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(f)(1)) is amended--

(A) by striking `for:' and inserting

`for--';

(B) by striking `vessel' in subparagraph (A) and inserting `vessel;';

(C) by striking `vessel, or' in subparagraph (B) and inserting `vessel;';

(D) by striking `vessel.' in subparagraph (C) and inserting `vessel;'; and

(E) by inserting after subparagraph (C) the following:

`(D) the payment of an industry fee authorized by the fishing capacity reduction program under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b));

`(E) in the case of any such person or shareholder for whose benefit such fund was established with respect to any vessel operated in the fisheries of the United States, or any shareholder of such person, a rollover contribution (within the meaning of section 408(d)(3) of the Internal Revenue Code of 1986) to such person's or shareholder's individual retirement plan (as defined in section 7701(a)(37) of such Code);

`(F) the payment of the net proceeds deposited into the fund from a sale described in subsection (b)(1)(C)(ii) to a person retiring related commercial fishing vessels and permits;

`(G) the acquisition of a vessel monitoring system as a safety improvement for a fishing vessel; or

`(H) the acquisition or construction of fishing gear designed to minimize or avoid bycatch as required under section 301(a)(9) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(9)).'.

(2) REDUCTION PROGRAM SALE PROCEEDS ALLOWED IN DETERMINING DEPOSIT CEILING- Section 607(b)(1)(C) of such Act (46 U.S.C. App. 1177(b)(1)(C)) is amended by striking `or (ii)' and inserting `(ii) the sale of any agreement vessel or fishing permit retired through the fishing capacity reduction program under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)), or (iii)'.

(3) CERTAIN QUALIFIED WITHDRAWALS TREATED AS WITHDRAWN FROM THE CAPITAL ACCOUNT- Section 607(e)(2)(B) of such Act (46 U.S.C. App. 1177(e)(2)(B)) is amended by adding at the end `unless such portion represents gain from a sale described in subsection (b)(1)(C)(ii) and is withdrawn for any purpose provided under subparagraph (D), (E), or (F) of subsection (f)(1),'.

(4) SECRETARY TO ENSURE RETIREMENT OF VESSELS AND PERMITS- The Secretary of Commerce by regulation shall establish procedures to ensure that any person making a qualified withdrawal authorized by section 607(f)(1)(F) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(f)(1)(F)) retires the related commercial use of fishing

vessels and commercial fishery permits.

(c) Conforming Amendments-

(1) IN GENERAL- Section 7518(e)(1) of the Internal Revenue Code of 1986 (relating to purposes of qualified withdrawals) is amended--

(A) by striking `for:' and inserting

`for--';

(B) by striking `vessel, or' in subparagraph (B) and inserting `vessel';

(C) by striking `vessel.' in subparagraph (C) and inserting `vessel';

(D) by inserting after subparagraph (C) the following:

`(D) the payment of an industry fee authorized by the fishing capacity reduction program under section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a);

`(E) in the case of any person or shareholder for whose benefit such fund was established with respect to any vessel operated in the fisheries of the United States, or any shareholder of such person, a rollover contribution (within the meaning of section 408(d)(3)) to such person's or shareholder's individual retirement plan (as defined in section 7701(a)(37));

`(F) the payment of the net proceeds deposited into the fund from a sale described in subsection (a)(1)(C)(ii) to a person retiring related commercial fishing vessels and permits;

`(G) the acquisition of a vessel monitoring system as a safety improvement for a fishing vessel; or

`(H) the acquisition or construction of fishing gear designed to minimize or avoid bycatch as required under section 301(a)(9) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(9)).'.

(2) REDUCTION PROGRAM SALE PROCEEDS ALLOWED IN DETERMINING DEPOSIT CEILING- Section 7518(a)(1)(C) of such Code is amended by striking `or' at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

`(ii) the sale of any agreement vessel or fishing permit retired through the fishing capacity reduction program under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)), or'.

(3) CERTAIN QUALIFIED WITHDRAWALS TREATED AS WITHDRAWN FROM THE CAPITAL ACCOUNT- Section 7718(d)(2)(B) of such Code is amended by adding at the end `unless such portion represents gain from a sale described in subsection (a)(1)(C)(ii)

and is withdrawn for any purpose provided under subparagraph (D), (E), or (F) of subsection (e)(1),'

(4) SECRETARY TO ENSURE RETIREMENT OF VESSELS AND PERMITS- The Secretary of the Treasury by regulation shall establish procedures to ensure that any person making a qualified withdrawal authorized by section 7518(e)(1)(F) of the Internal Revenue Code of 1986 retires the related commercial use of fishing vessels and commercial fishery permits referred to therein.

(d) EFFECTIVE DATE- The amendments made by this section shall apply to withdrawals made after the date of enactment of this Act.

*END*

"small business concern" in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

#### SEC. 4. CONSUMER ENERGY COMMISSION.

(a) **ESTABLISHMENT.**—There is established a commission to be known as the "Consumer and Small Business Energy Commission".

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The Commission shall be comprised of 20 members.

(2) **APPOINTMENTS BY THE SENATE AND HOUSE OF REPRESENTATIVES.**—The majority leader and minority leader of the Senate and the Speaker and minority leader of the House of Representatives shall each appoint 4 members, of whom—

(A) 2 shall represent consumer groups focusing on energy issues;

(B) 1 shall represent small businesses; and

(C) 1 shall represent the energy industry.

(3) **APPOINTMENTS BY THE PRESIDENT.**—The President shall appoint 1 member from each of—

(A) the Energy Information Administration of the Department of Energy;

(B) the Federal Energy Regulatory Commission;

(C) the Federal Trade Commission; and

(D) the Commodities Future Trading Commission.

(4) **DATE OF APPOINTMENTS.**—The appointment of a member of the Commission shall be made not later than 30 days after the date of enactment of this Act.

(c) **TERM.**—A member shall be appointed for the life of the Commission.

(d) **INITIAL MEETING.**—The Commission shall hold the initial meeting of the Commission not later than the earlier of—

(1) the date that is 30 days after the date on which all members of the Commission have been appointed; or

(2) the date that is 90 days after the date of enactment of this Act, regardless of whether all members have been appointed.

(e) **CHAIRPERSON AND VICE CHAIRPERSON.**—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission, excluding the members appointed under subparagraphs (B), (C), and (D) of subsection (b)(3).

(f) **EXECUTIVE COMMITTEE.**—The Commission shall have an executive committee comprised of all members of the Commission except the members appointed under subparagraphs (B), (C), and (D) of subsection (b)(3).

(g) **INFORMATION AND ADMINISTRATIVE EXPENSES.**—The Federal agencies specified in subsection (b)(3) shall provide the Commission such information and pay such administrative expenses as the Commission requires to carry out this section, consistent with the requirements and guidelines of the Federal Advisory Commission Act (5 U.S.C. App.).

(h) **DUTIES.**—

(1) **STUDY.**—

(A) **IN GENERAL.**—The Commission shall conduct a nationwide study of significant price spikes in major United States consumer energy products since 1990.

(B) **MATTERS TO BE STUDIED BY THE COMMISSION.**—In conducting the study, the Commission shall—

(i) focus on the causes of the price spikes, including insufficient inventories, supply disruptions, refinery capacity limits, insufficient infrastructure, any over-regulation or under-regulation, flawed deregulation, excessive consumption, over-reliance on foreign supplies, insufficient research and development of alternative energy sources, opportunistic behavior by energy companies, and abuses of market power;

(ii) examine the effects of price spikes on consumers and small businesses;

(iii) investigate market concentration, opportunities for misuse of market power, and any other relevant market failures; and

(iv) consider—

(I) proposals for administrative actions to mitigate price spikes affecting consumers and small businesses;

(II) proposals for legislative action; and

(III) proposals for voluntary actions by energy consumers and the energy industry.

(2) **REPORT.**—Not later than 270 days after the date of enactment of this Act, the Executive Committee shall submit to Congress a report that contains—

(A) a detailed statement of the findings and conclusions of the Commission; and

(B) recommendations for legislation, administrative actions, and voluntary actions by energy consumers and the energy industry to protect consumers from future price spikes in consumer energy products, including a recommendation on whether energy consumers need an advocate on energy issues within the Federal Government.

(i) **TERMINATION.**—

(1) **DEFINITION OF LEGISLATIVE DAY.**—In this subsection, the term "legislative day" means a day on which both Houses of Congress are in session.

(2) **DATE OF TERMINATION.**—The Commission shall terminate on the date that is 30 legislative days after the date of submission of the report under subsection (h)(2).

By Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY):

S. 1193. A bill to provide for qualified withdrawals from the Capital Construction Fund for fishermen leaving the industry and for the rollover of Capital Construction Funds to individual retirement plans, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, I am pleased today to introduce the Capital Construction Fund Qualified Withdrawal Act of 2003. My friends and colleagues, Senator SMITH and Senator MURRAY, join me in introducing this important bill.

In January of 2000, a fishery disaster was declared by the Secretary of Commerce for the West Coast groundfish fishery. Due to major declines in fish population, the Pacific Fisheries Management Council decreased groundfish catch quotas by 90 percent. Today, the groundfish fishery in Oregon and adjoining States in the Pacific Northwest continues to face daunting challenges as a result of this disaster. Fishery income has dropped 55 percent and over a thousand fishers face bankruptcy. The Pacific Fishery Management Council has called for a 50 percent reduction in fishing capacity as part of their strategic plan for the recovery of the fishery. This legislation supports this effort by reforming the Capital Construction Fund in a way that will ease the groundfish fishers' transition away from fishing.

The Capital Construction Fund, CCF, Merchant Marine Act of 1936, amended 1969, 46 U.S.C. 1177, has been a way for fishers to accumulate funds, free from taxes, for the purpose of buying or refitting fishing vessels. It was conceived at a time when the federal government wanted to help capitalize and expand American fishing fleets. The program was a success: it led to a larger U.S. fishing fleet. However, fish populations declined and the U.S. commercial fish-

ing fleet is now over-capitalized. The CCF's usefulness has not kept up with the times, and now it exacerbates problems facing U.S. fisheries, including the West Coast groundfish fishery.

Now is the time to help fishers, who wish to do so, to leave the fleet.

In Oregon, the amounts in CCF accounts range from \$10,000 to over \$200,000. This legislation changes current law to allow fishers to remove money from their CCF for purposes other than buying new vessels or upgrading current vessels, without losing up to 70 percent of their CCF funds in taxes and penalties. This legislation changes the CCF so fishers who want to opt out of fishing are not penalized for doing so.

This bill takes a significant step towards helping fishermen and making the West Coast groundfish fishery and the commercial fishing industry sustainable by amending the CCF to allow non-fishing uses of investments. This bill amends the Merchant Marine Act of 1936 and the Internal Revenue Code to allow funds currently in the CCF to be rolled over into an IRA or other types of retirement accounts, or to be used for the payment of an industry fee authorized by the fishery capacity reduction program, without adverse tax consequences to the account holders. This bill will also encourage innovation and conservation by allowing fishers to use funds deposited in a CCF to develop or purchase new gear that reduces bycatch.

I look forward to working with my colleagues to pass this legislation.

By Mr. DEWINE (for himself, Mr. LEAHY, Mr. GRASSLEY, Mr. CANTWELL, and Mr. DOMENICI):

S. 1194. A bill to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I rise today, along with Senators DOMENICI, LEAHY, GRASSLEY, and CANTWELL, to introduce the "Mentally Ill Offender Treatment and Crime Reduction Act of 2003." This bipartisan measure would, among other things, create a program of planning and implementation grants for communities so they may offer more treatment and other services to mentally ill offenders. Under this bill, programs receiving grant funds would be operated collaboratively by both a criminal justice agency and a mental health agency.

The mentally ill population poses a particularly difficult challenge for our criminal justice system. People afflicted with mental illness are incarcerated at significantly higher rates than the general population. According to the Bureau of Justice Statistics, while only about five percent of the American population has a mental illness, about 16 percent of the State prison population has such an illness. The Los Angeles County Jail, for example,



108TH CONGRESS  
1ST SESSION

# H. R. 1690

To protect diverse and structurally complex areas of the seafloor in the United States exclusive economic zone by establishing a maximum diameter size limit on rockhopper, roller, and all other groundgear used on bottom trawls, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 9, 2003

Mr. HEFLEY (for himself, Mr. PASCRELL, Mr. UDALL of Colorado, Mr. GREENWOOD, Mr. ENGEL, Mr. HONDA, Mr. MORAN of Virginia, Mr. FALEOMAVAEGA, Mrs. DAVIS of California, Mr. PALLONE, Mr. CASTLE, and Mr. HOLT) introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To protect diverse and structurally complex areas of the seafloor in the United States exclusive economic zone by establishing a maximum diameter size limit on rockhopper, roller, and all other groundgear used on bottom trawls, 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 "Ocean Habitat Protec-  
5 tion Act".

- 1           (1) \$8,000,000 for providing gear transition as-
- 2           sistance under section 4(a);
- 3           (2) such sums as may be necessary for—
- 4                 (A) making payments under section 4(b);
- 5           and
- 6                 (B) providing economic assistance under
- 7           section 4(c); and
- 8           (3) \$100,000,000 for carrying out section 5.

○

1           (4) Scientists now recognize deep-sea corals to  
2           be as diverse as, and more widely distributed than,  
3           shallow, reef-forming tropical corals.

4           (5) Deep-sea corals typically exhibit slow  
5           growth, extreme longevity, and highly patchy dis-  
6           tribution, predominating along continental margins,  
7           sea mounts, and ridges.

8           (6) Deep-sea coral habitats are subject to grow-  
9           ing human pressures, particularly as a result of the  
10          rapid spread of deep-sea trawl fisheries into new re-  
11          gions and new grounds, aided by the explosive devel-  
12          opment of navigational, fish-finding, and other tech-  
13          nologies.

14          (7) The exceptional diversity, uniqueness, and  
15          vulnerability of deep-sea corals necessitates that  
16          their mapping and conservation be given a high pri-  
17          ority.

18          (8) Bottom trawling reduces habitat complexity  
19          and biological diversity by leveling geologic bedforms  
20          and by killing, removing, crushing, burying, and ex-  
21          posing benthic organisms, including deep-sea corals  
22          and sponges, to predators and scavengers, thereby  
23          significantly reducing their value for economically  
24          and ecologically important fishes and other marine  
25          life. The resultant reduction in biodiversity is detri-

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) Complex seafloor habitats created by geo-  
4 logic structures and structure-forming organisms are  
5 essential to the maintenance of marine biodiversity  
6 and to numerous fish species, including commercially  
7 and recreationally targeted species, which rely on  
8 them for spawning, food, and shelter from predation.

9 (2) The diverse fish and other marine species  
10 that are associated with three-dimensional, struc-  
11 turally complex seafloor habitats within the exclusive  
12 economic zone of the United States—

13 (A) constitute valuable and renewable nat-  
14 ural resources;

15 (B) are an essential component of marine  
16 biodiversity;

17 (C) contribute to the food supply, economy,  
18 and health of the United States;

19 (D) support the economies of coastal com-  
20 munities; and

21 (E) provide recreational opportunities.

22 (3) Living organisms, such as deep-sea corals  
23 and sponges, which create complex habitat, have not  
24 been adequately studied for their potential benefit to  
25 society or for their ecological importance to fish spe-  
26 cies and other forms of marine life.

(12) Numerous scientific studies show that bottom trawling is especially damaging to three-dimensional, structurally complex habitats such as corals, boulder fields, sponge beds, and gravel bottoms. According to a National Research Council report, “there is enough information currently available to support efforts to improve the management of the effects of these fishing gears on seafloor habitats.”. (National Research Council Report 2002, page 66).

(13) Prohibiting the use of large rockhopper, roller, and other groundgear is a practical, precautionary, and enforceable measure to protect structurally complex, benthic marine habitats from the damaging effects of bottom trawling.

**SEC. 3. PROHIBITION ON USE OF LARGE FOOTROPE DEVICES ON BOTTOM TRAWL GEAR.**

**(a) POLICY AND PURPOSE.—**

(1) **POLICY.**—It is the policy of the United States that essential fish habitat, including complexly structured bottom habitats, be protected from damage in order to protect the species that benefit from the habitat.

(2) **PURPOSE.**—The purpose of this section is to restrict access of bottom trawls to complexly structured seafloor habitats, composed of geologic

1        mental to many commercially and recreationally im-  
2        portant species and to the industries and people that  
3        depend on them.

4            (9) In the past, the practice of bottom trawling  
5        was conducted mainly on soft bottom areas, and was  
6        rarely used in three-dimensional, structurally com-  
7        plex habitats.

8            (10) Technological modifications to bottom  
9        trawls, including the creation of large rockhopper  
10       and roller gear and chafing gear, facilitate the use  
11       of bottom trawls in rocky and other complex marine  
12       habitats that were once refuges for fishes and other  
13       marine life.

14           (11) The expansion in the use of bottom trawls  
15       from soft bottom areas to three-dimensional, struc-  
16       turally complex habitats over the past 25 years has  
17       had and continues to have significant, adverse ef-  
18       fects on the diversity and habitat complexity of these  
19       areas, particularly on deep-sea corals and sponges  
20       which, due to their fragility, slow growth, and lon-  
21       gevity, may take decades to centuries to recover  
22       from a single pass of a trawl. With repeated trawl-  
23       ing in the same area, the damage may be irrevers-  
24       ible.

1 exclusive economic zone from the prohibition under  
2 paragraph (1) if—

3 “(A) the Council having jurisdiction over  
4 the area submits to the Secretary—

5 “(i) substantial evidence that—

6 “(I) the area is comprised pre-  
7 dominately of sand and mud bottom;  
8 and

9 “(II) the use of rollers, bobbins,  
10 or other rotating devices in excess of  
11 8 inches in diameter that are affixed  
12 to the footrope of bottom trawl nets  
13 used for fishing in the area is nec-  
14 essary to prevent a significant in-  
15 crease from rates of bycatch of non-  
16 target managed species as of the date  
17 of the enactment of this subsection, or  
18 to provide significant other benefits;

19 “(ii) the specific geographic bound-  
20 aries of the area; and

21 “(iii) a credible and effective vessel  
22 monitoring plan that would require a vessel  
23 monitoring system on board all vessels en-  
24 gaged in bottom trawl fishing in the area;  
25 and

1 and biogenic structures, that are found scattered  
2 throughout the Federal exclusive economic zone.

3 (b) PROHIBITION.—Section 307 of the Magnuson-  
4 Stevens Fishery Conservation and Management Act (16  
5 U.S.C. 1857) is amended—

6 (1) by inserting “(a) IN GENERAL.—” before  
7 “It is unlawful—”; and

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

9 “(b) BOTTOM TRAWL FISHING.—

10 “(1) PROHIBITION.—It is unlawful for any per-  
11 son to use a bottom trawl with rollers, bobbins, tires,  
12 rockhoppers, or any other devices that are affixed to  
13 the footrope (also known as the sweep) and that are  
14 in excess of 8 inches in diameter, for fishing that is  
15 subject to the jurisdiction of the United States, in-  
16 cluding fishing by a vessel of the United States be-  
17 yond the equivalent of the exclusive economic zone  
18 of all countries.

19 “(2) EXEMPTION OF FISHING IN CERTAIN  
20 AREAS.—Paragraph (1) shall not apply to fishing in  
21 an area that is exempted by the Secretary under  
22 paragraph (3).

23 “(3) EXEMPTED FISHING AREAS.—(A) The  
24 Secretary may exempt fishing in an area of the ex-

1           “(A) the captain, master, or individual in  
2 charge of the vessel has declared to the Sec-  
3 retary in the manner prescribed by the Sec-  
4 retary in regulations, prior to the trip, his or  
5 her intention to use the gear in an area of mud  
6 or sand bottom covered by an exemption under  
7 section 307(b)(3); and

8           “(B) the vessel has on board a functioning  
9 vessel monitoring system required by regula-  
10 tions issued by the Secretary under section  
11 307(b)(3)(B)(ii).”.

12 **SEC. 4. ASSISTANCE.**

13       (a) GEAR TRANSITION ASSISTANCE.—The Secretary  
14 of Commerce may provide to a person that is the owner  
15 of a qualified fishing vessel under subsection (d), on a one-  
16 time basis, financial assistance in an amount not to exceed  
17 \$4,000 per qualified fishing vessel owned by the person,  
18 to pay for any of the following:

19           (1) The depreciated cost of rockhoppers, rollers,  
20 tires, bobbins, or other similar devices in excess of  
21 8 inches in diameter that are part of the fishing  
22 gear of the vessel on the date of the enactment of  
23 this Act and that are disposed of in a manner that  
24 is approved by the Secretary.

“(B) the Secretary—

“(i) determines that the evidence and plan are satisfactory; and

“(ii) issues regulations that implement the vessel monitoring plan.”.

(3) **EFFECTIVE DATE.**—Section 307(b)(1) of the Magnuson-Stevens Fishery Conservation and Management Act, as amended by this subsection, shall take effect upon the expiration of the 1-year period beginning on the date of the enactment of this Act, and shall apply to fishing after that period.

(4) **REBUTTABLE PRESUMPTION.**—Section 310(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1860(e)) is amended by adding at the end the following:

“(4) For purposes of this Act, it shall be a rebuttable presumption that any vessel that is shoreward of the outer boundary of the exclusive economic zone, or beyond the equivalent zone of all countries, and that has on board gear comprised of a trawl net with rollers, bobbins, tires, rockhoppers, or any other devices attached to the footrope of the trawl net that are in excess of 8 inches in diameter, is engaged in fishing using such gear, unless—

1                   ulations, to cease fishing in bottom trawl  
2                   fisheries; and

3                   (ii) does not continue fishing in other  
4                   fisheries; and

5                   (B) any individual who is a member of the  
6                   crew of a qualified fishing vessel the owner of  
7                   which applies within 6 months after the date of  
8                   the enactment of this Act to cease fishing in  
9                   bottom trawl fisheries.

10                  (2) INCLUDED ASSISTANCE.—Economic assist-  
11                  ance under this subsection may include—

12                   (A) income assistance—

13                   (i) for a period of not to exceed 2-  
14                   years; and

15                   (ii) in an amount not to exceed the  
16                   amount of income earned by the vessel  
17                   owner or crew member, as applicable, in  
18                   the taxable year preceding the date of the  
19                   application for assistance that is attrib-  
20                   utable to the fishing vessel or employment  
21                   on the qualified fishing vessel, as reported  
22                   to the Internal Revenue Service; and

23                   (B) funds for training for nonfishery em-  
24                   ployment that the Secretary determines reason-  
25                   able, for a period of not to exceed 2 years.

1           (2) The cost of converting trawl nets that are  
2           part of the fishing gear of the vessel on the date of  
3           the enactment of this Act to footrope gear that is 8  
4           inches or less in diameter.

5           (b) PAYMENT FOR PROMPT CONVERSION.—The Sec-  
6           retary of Commerce may provide to a person that is the  
7           owner of a qualified fishing vessel under subsection (d)  
8           a one-time payment of \$10,000, if the person, by not later  
9           than 6 months after the date of the enactment of this  
10          Act—

11                 (1) ceases to engage in trawling; and

12                 (2) commits to not engage in fishing other than  
13           fishing exclusively with fixed gear comprised solely  
14           of any combination of fishpots, fishtraps, or hook-  
15           and-line gear.

16           (c) ECONOMIC ASSISTANCE.—

17                 (1) VESSEL OWNERS AND CREWS.—The Sec-  
18           retary of Commerce shall, based on such factors as  
19           the Secretary considers to be relevant, provide eco-  
20           nomic assistance to—

21                         (A) the owner of a qualified fishing vessel  
22           who—

23                                 (i) applies within 6 months after the  
24                                 date of the enactment of this Act, in the  
25                                 manner prescribed by the Secretary in reg-

1       diverse bottom habitats of the exclusive economic  
2       zone of the United States; and

3               (2) complete such program within 10 years  
4       after the date of the enactment of this Act.

5       (b) COOPERATION OF OTHER AGENCIES AND COUN-  
6       CILS.—The head of each Federal agency and each Re-  
7       gional Fishery Management Council shall cooperate with  
8       the Secretary to provide relevant information for purposes  
9       of this section.

10       (c) USE OF INFORMATION BY COUNCILS.—Each Re-  
11       gional Fishery Management Council shall use the informa-  
12       tion made available by the Secretary under subsection (a)  
13       as appropriate to make determinations otherwise required  
14       by law regarding seafloor habitats that should be protected  
15       from bottom trawling, other types of fishing gear, and  
16       other types of human impacts.

17       (d) REPORTS.—The Secretary shall report to the  
18       Congress on the progress made in carrying out the pro-  
19       gram under subsection (a), by not later than 1 year after  
20       the date of the enactment of this Act and annually there-  
21       after.

22       **SEC. 6. APPROPRIATIONS.**

23       There are authorized to be appropriated to the Sec-  
24       retary of Commerce—

1           (3) REPORT.—The Secretary of Commerce  
2           shall, by not later than 12 months after the date of  
3           the enactment of this Act, submit a report to the  
4           Congress estimating the costs of implementing this  
5           subsection.

6           (d) QUALIFIED FISHING VESSELS.—A vessel shall be  
7           a qualified fishing vessel for purposes of this section if  
8           it is a vessel of the United States authorized to be used  
9           for trawl fishing by a permit under the Magnuson-Stevens  
10          Fishery Conservation and Management Act (16 U.S.C.  
11          1801 et seq.) that is in effect on date of enactment of  
12          this Act.

13          (e) PROHIBITION ON ISSUANCE OF TRAWL PER-  
14          MIT.—The Secretary of Commerce shall not issue any per-  
15          mit that authorizes trawl fishing by an individual who re-  
16          ceives economic assistance under this section.

17          **SEC. 5. SCIENTIFIC INFORMATION ON SEAFLOOR HABITAT.**

18          (a) IN GENERAL.—Not later than 1 year after the  
19          date of the enactment of this Act, the Secretary of Com-  
20          merce, in consultation with the United States Geological  
21          Survey, shall—

22                 (1) undertake a program to collect, and make  
23                 available to Regional Fishery Management Councils,  
24                 information and maps on the existence, location,  
25                 composition, condition, and protected status of the

*M. J. Smith*

## REPORT OF THE BUDGET COMMITTEE

The Budget Committee reviewed the status of the calendar year (CY) 2002 base grant, CY 2003 base grant expenditures through April, the supplemental grants for National Environmental Policy Act (NEPA) activities and the groundfish programmatic and essential fish habitat environmental impact statements (EISs), and contracts with Pacific States Marine Fisheries Commission (PSMFC).

Dr. Don McIsaac reported the following information:

- Staff is in the process of closing the CY 2002 grant, pending resolution of final billings from one vendor.
- The audit exit briefing for the CY 2002 grant is scheduled for July 10<sup>th</sup>. The final audit will be presented to the Budget Committee at the September Council meeting.
- The CY 2003 expenditures for the four-month period ending April 30, 2003 are on track with the operating budget.
- The NEPA & Groundfish EIS grant will be amended to extend into 2004. From January through April 30, 2003, (33% of the year), approximately 25% of the currently available grant funds had been expended.
- The initial contract with PSMFC to assist in the groundfish EISs was expended in January and February 2003 to assist in completion of Amendment 16 (Rebuilding Plans). A supplemental contract is pending to enhance development of the groundfish programmatic and EFH EISs.

The Budget Committee discussed the dates for the Council meetings in 2006 and 2007. The proposed dates and locations are attached, along with calendars for 2006 and 2007.

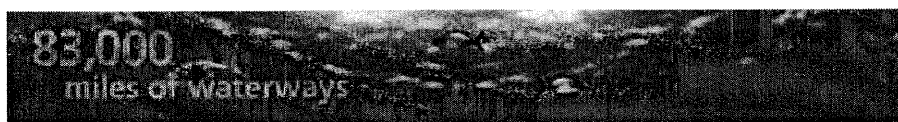
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## Proposed 2006 and 2007 Council Meeting Dates

2006	Areas to Solicit Hotels
March 5-10	Northern California & Idaho
April 2-7	Oregon & Washington
June 11-16	Washington, Oregon & California
September 10-15	Washington & Oregon
November 12-17	California
Holidays and Observances:	
April 16 Easter Sunday	November 10 Veteran's Day
June 18 Father's Day	November 23 Thanksgiving Day
September 4 Labor Day	

2007	Areas to Solicit Hotels
March 4-9	Washington, Oregon & Idaho
April 1-6	Northern California
June 10-15	Washington & Oregon
September 9-14	Washington, Oregon & Idaho
November 4-9	California
Holidays and Observances:	
April 8 Easter Sunday	November 12 Veteran's Day
June 17 Father's Day	November 22 Thanksgiving Day
September 3 Labor Day	

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## Calendar for year 2006 (USA)

### January 2006

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### February 2006

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## Calendar for year 2007 (USA)

### January 2007

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### October 2007

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STATE OF CALIFORNIA -- THE RESOURCES AGENCY

GRAY DAVIS, Governor

DEPARTMENT OF FISH AND GAME

4665 Lampson Avenue, Suite C  
LOS ALAMITOS, CA 90720  
(562) 342-7108 FAX: (562) 342-7139



June 19, 2003

Dr. Donald O. McIsaac, Executive Director  
Pacific Fishery Management Council  
7700 NE Ambassador Place, Suite 200  
Portland, Oregon 97220-1384

Subject: California Department of Fish and Game's Appointment of Representative on the  
Pacific Fishery Management Council's Salmon Model Evaluation Work Group

Dear Dr. McIsaac:

It is with pleasure that the California Department of Fish and Game (Department) appoints Mr. Allen Grover to represent us on the Pacific Fishery Management Council's new on the Salmon Model Evaluation Work Group. Mr. Grover is a Senior Biologist-Specialist with the Department and heads up our Ocean Salmon Project Research and Management Team.

Mr. Grover presently serves as the Department's representative on the Pacific Fishery Management Council's Salmon Technical Team and comes to this new assignment with a wealth of knowledge in salmon stock assessment, harvest management, and fisheries modeling. He was instrumental in the recent revisions of the Klamath Ocean Harvest Model which have contributed greatly to the management of the Klamath River salmon fishery. Mr. Grover is also part of a team tasked with developing a Fishery Regulatory Assessment Model (FRAM) to better address Chinook salmon contributions from California's Central Valley stocks. It is without a doubt that Mr. Grover will prove an asset on the Salmon Model Evaluation Work Group. Since Mr. Grover is already a representative on the Salmon Technical Team, I have not attached a Curriculum Vitae for this appointment.

The Department supports the Pacific Fishery Management Council's development of the Salmon Model Evaluation Work Group and believes that this team will contribute significantly towards improving salmon fishery assessment modeling techniques.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Wolf".

PATRICIA WOLF  
Marine Region Manager

cc: Eric Larson, Ecosystem Coordinator, California Department of Fish and Game  
Marija Vojkovich, Ecosystem Coordinator, California Department of Fish and Game  
Allen Grover, Ocean Salmon Project, California Department of Fish and Game

108TH CONGRESS  
1ST SESSION

# S. 1106

To establish National Standards for Fishing Quota Systems.

---

IN THE SENATE OF THE UNITED STATES

MAY 22, 2003

Ms. SNOWE (for herself and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

---

## A BILL

To establish National Standards for Fishing Quota Systems.

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 “Fishing Quota Act of  
5 2003”.

6 **SEC. 2. FISHING QUOTA SYSTEMS.**

7 (a) IN GENERAL.—Section 303 of the Magnuson-Ste-  
8 vens Fishery Conservation and Management Act (16  
9 U.S.C. 1853) is amended—

10 (1) by striking subsection (b)(6) and inserting  
11 the following:

1 “(6) establish a limited access system for the  
 2 fishery in order to achieve optimum yield if, in devel-  
 3 oping such system, the Council and the Secretary  
 4 take into account—

5 “(A) the conservation requirements of this  
 6 Act with respect to the fishery;

7 “(B) present participation in the fishery;

8 “(C) historical fishing practices in, and de-  
 9 pendence on, the fishery;

10 “(D) the economics of the fishery;

11 “(E) the capability of fishing vessels used  
 12 in the fishery to engage in other fisheries;

13 “(F) the cultural and social framework rel-  
 14 evant to the fishery and any affected fishing  
 15 communities;

16 “(G) the fair and equitable distribution of  
 17 a public resource; and

18 “(H) any other relevant considerations.”;

19 (2) by striking subsection (d) and inserting the  
 20 following:

21 “(d) FISHING QUOTA SYSTEMS.—

22 “(1) ESTABLISHMENT.—Any fishery manage-  
 23 ment plan or amendment that is prepared by any  
 24 Council, or by the Secretary, with respect to any

1 fishery, may establish a fishing quota system con-  
2 sistent with the provisions of subsection (b)(6).

3 “(2) IN GENERAL.—The Councils and Secretary  
4 shall ensure that any such fishing quota system sub-  
5 mitted and approved after September 30, 2002,  
6 complies with the requirements of this Act and—

7 “(A) shall prevent any person from acquir-  
8 ing an excessive share of the fishing quotas  
9 issued, as appropriate for the fishery, and es-  
10 tablish any other limits or measures necessary  
11 to prevent inequitable concentration of quota  
12 share;

13 “(B) shall provide for the fair and equi-  
14 table initial allocation of quota share and in  
15 such allocation—

16 “(i) shall take into account present  
17 and historic participation in the fishery;

18 “(ii) shall consider allocating a por-  
19 tion of the annual harvest to entry-level  
20 fishermen, small vessel owners, skippers,  
21 crew members, and fishing communities;  
22 and

23 “(iii) may allocate shares among cat-  
24 egories of vessels or gear types;

1           “(C) shall contain provisions for the reg-  
2           ular review and evaluation of the system, in-  
3           cluding timetables and criteria for evaluating  
4           performance, and actions to be taken for failure  
5           to meet the criteria;

6           “(D) shall contain criteria that would gov-  
7           ern limitation, revocation, renewal, reallocation,  
8           or reissuance of fishing quota, including:

9                   “(i) reallocation or reissuance of  
10                  quota revoked pursuant to section 308 of  
11                  this Act;

12                  “(ii) revocation and reissuance of fish-  
13                  ing quota if the owner of the quota cease  
14                  to substantially participate in the fishery;  
15                  and

16                  “(iii) exceptions to revocation or limi-  
17                  tation in cases of death, disablement,  
18                  undue hardship, or in any case in which  
19                  fishing is prohibited by the Secretary;

20           “(E) shall provide a process for appeals of  
21           decisions on—

22                   “(i) eligibility of a person to receive or  
23                  bid for an allocation of quota shares; and

24                   “(ii) limitations, restrictions and rev-  
25                  ocations of quota held by a person;

1           “(F) shall promote management measures  
2           to improve the conservation and management of  
3           the fishery, including reduction of bycatch;

4           “(G) shall provide for effective enforce-  
5           ment, monitoring, management of such system,  
6           including adequate data collection and use of  
7           observers at least at a level of coverage that  
8           should yield statistically significant results;

9           “(H) may provide for the sale, lease or  
10          transfer of quota shares and limitations thereto;

11          “(I) shall provide a mechanism, such as  
12          fees as authorized by section 304(d)(2), includ-  
13          ing fees payable on quota transfers to recover  
14          costs related to administering and implementing  
15          the program, including enforcement, manage-  
16          ment and data collection (including adequate  
17          observer coverage), if the assessment of such  
18          fees is proportional to the amount of quota held  
19          and fished by each quota holder and if such  
20          fees are used only for that fishing quota sys-  
21          tem;

22          “(J) shall consider the use of community  
23          or area-based approaches and strategies in de-  
24          veloping fishing quota systems and consider  
25          other management measures, including meas-

1 ures to facilitate formation of fishery coopera-  
 2 tive arrangements, taking into account prox-  
 3 imity to and dependence on the resource, con-  
 4 tribution of fishing to the social and economic  
 5 status of the community, and historic participa-  
 6 tion in the fishery; and

7 “(K) shall include procedures and require-  
 8 ments necessary to carry out subparagraphs  
 9 (A) through (J).

10 “(3) NO CREATION OF RIGHT, TITLE, OR IN-  
 11 TEREST.—A fishing quota or other limited access  
 12 system authorization—

13 “(A) shall be considered a permit for the  
 14 purposes of sections 307, 308, and 309;

15 “(B) may be revoked or limited at any  
 16 time in accordance with this Act, including for  
 17 failure to comply with the terms of the plan or  
 18 if the system is found to have jeopardized the  
 19 sustainability of the stock or the safety of fish-  
 20 ermen;

21 “(C) shall not confer any right of com-  
 22 pensation to the holder of such fishing quota or  
 23 other such limited access system authorization  
 24 if it is revoked or limited;

1           “(D) shall not create, or be construed to  
2           create, any right, title, or interest in or to any  
3           fish before the fish is harvested; and

4           “(E) shall be considered a grant of permis-  
5           sion to the holder of the fishing quota to engage  
6           in activities permitted by the fishing quota sys-  
7           tem.

8           “(4) ELIGIBILITY.—Persons eligible to hold  
9           fishing quota shares are persons who are United  
10          States citizens, or who are United States nationals  
11          or permanent resident aliens qualified by Federal  
12          law to participate in the fishery.

13          “(5) DURATION.—Any fishing quota system es-  
14          tablished under this section after the date of enact-  
15          ment of the Fishing Quota Act of 2003 shall expire  
16          at the end of a 10-year period beginning on the date  
17          the system is established, or at the end of successive  
18          10 year periods thereafter, unless extended by a  
19          fishery management plan amendment in accordance  
20          with this Act, for successive periods not to exceed 10  
21          years.

22          “(6) REFERENDUM PROCUDURES.—

23                 “(A) Except as provided in subparagraph  
24                 (C) for the Gulf of Mexico commercial red  
25                 snapper fishery, a Council may not submit, and

1       the Secretary not approve or implement a fish-  
2       ery management plan or amendment that cre-  
3       ates a fishing quota system, including a secre-  
4       tarial plan, unless such a system, as ultimately  
5       developed, has been approved by more than  
6       two-thirds of those voting in a referendum  
7       among eligible permit holders. If a fishing  
8       quota system fails to be approved by the req-  
9       uisite number of those voting, it may be revised  
10      and submitted for approval in a subsequent ref-  
11      erendum.

12           “(B) The Secretary shall conduct the ref-  
13      erendum referred to in this paragraph, includ-  
14      ing notifying all persons eligible to participate  
15      in the referendum and making available to  
16      them information concerning the schedule, pro-  
17      cedures and eligibility requirements for the ref-  
18      erendum process and the proposed fishing  
19      quota system. The Secretary shall within one  
20      year of enactment of the Fishing Quota Act of  
21      2003 publish guidelines and procedures to de-  
22      termine procedures and voting eligibility re-  
23      quirements for referenda and to conduct such  
24      referenda in a fair and equitable manner.

1           “(C) The provisions of section 407(c) shall  
2           apply in lieu of this paragraph for any fishing  
3           quota system for the Gulf of Mexico commercial  
4           red snapper fishery.

5           “(D) Chapter 35 of title 44, United States  
6           Code, (commonly known as the “Paperwork Re-  
7           duction Act”) does not apply to the referenda  
8           conducted under this paragraph.

9           “(7)(A) No provision of law shall be construed  
10          to limit the authority of a Council to submit, or the  
11          Secretary to approve, the termination or limitation,  
12          without compensation to holders of any limited ac-  
13          cess system permits, of a fishery management plan,  
14          plan amendment, or regulation that provides for a  
15          limited access system, including an fishing quota  
16          system.

17          “(B) This subsection shall not apply to, or be  
18          construed to prohibit a Council from submitting, or  
19          the Secretary from approving and implementing,  
20          amendments to the North Pacific halibut and sable-  
21          fish, South Atlantic wreckfish, or Mid-Atlantic surf  
22          clam and ocean (including mahogany) quahog indi-  
23          vidual fishing quota programs.

24          “(8)(A) A Council may submit, and the Sec-  
25          retary may approve and implement, a program

1       which reserves up to 25 percent of any fees collected  
2       from a fishery under section 304(d)(2) to be used,  
3       pursuant to section 1104A(a)(7) of the Merchant  
4       Marine Act, 1936 (46 U.S.C. App. 1274(a)(7)), to  
5       issue obligations that aid in financing the—

6               “(i) purchase of fishing quotas in that fish-  
7               ery by fishermen who fish from small vessels;  
8               and

9               “(ii) first-time purchase of fishing quotas  
10              in that fishery by entry level fishermen.

11             “(B) A Council making a submission under  
12             subparagraph (A) shall recommend criteria, con-  
13             sistent with the provisions of this Act, that a fisher-  
14             man must meet to qualify for guarantees under  
15             clauses (i) and (ii) of subparagraph (A) and the por-  
16             tion of funds to be allocated for guarantees under  
17             each clause.”.

18       (b) INDEPENDENT REVIEW.—Section 303 of the  
19       Magnuson-Stevens Fishery Conservation and Manage-  
20       ment Act (16 U.S.C. 1853) is further amended by adding  
21       at the end the following:

22             “(e)(1) Within 5 years after the date of enactment  
23             of the Fishing Quota Act of 2003, and every 5 years there-  
24             after, the National Research Council shall provide an inde-

1 pendent review of the effectiveness of fishing quota sys-  
2 tems conducted in Federal fisheries.

3 “(2) The review shall be conducted by an independent  
4 panel of individuals who have knowledge and experience  
5 in fisheries conservation and management, in the imple-  
6 mentation of fishing quota systems, or in the social or eco-  
7 nomic characteristics of fisheries. The National Research  
8 Council shall ensure that members of the panel are quali-  
9 fied for appointment, are not active quota share holders,  
10 and provide fair representation to interests affected by  
11 such programs.

12 “(3) The independent review of fishing quota systems  
13 shall include—

14 “(A) a determination of how fishing quota sys-  
15 tems affect fisheries management and contribute to  
16 improved management, conservation (including by-  
17 catch reduction) and safety in the fishery;

18 “(B) formal input in the form of testimony  
19 from quota holders relative to the effectiveness of  
20 the fishing quota system;

21 “(C) an evaluation of the social, economic and  
22 biological consequences of the quota system, includ-  
23 ing the economic effects of the system on fishing  
24 communities;

1           “(D) an evaluation of the costs of imple-  
2           menting, monitoring and enforcing the systems and  
3           the methods used to establish or allocate individual  
4           quota shares; and

5           “(E) recommendations to the Councils and the  
6           Secretary to ensure that quota systems meet the re-  
7           quirements of this Act and the goals of the plans,  
8           and recommendations to the Secretary for any  
9           changes to regulations issued under section 304(i).

10          “(4) The Secretary shall submit the report to the  
11       Congress and any appropriate Councils within 60 days  
12       after the review is completed.”.

13          (c) ACTION ON LIMITED ACCESS SYSTEMS.—Section  
14       304 of the Magnuson-Stevens Fishery Conservation and  
15       Management Act (16 U.S.C. 1854) is amended by adding  
16       at the end the following:

17          “(i) ACTION ON LIMITED ACCESS SYSTEMS.—Within  
18       1 year after the date of enactment of the Fishing Quota  
19       Act of 2003, the Secretary shall issue regulations which  
20       establish requirements for establishing a fishing quota sys-  
21       tem. Nothing in this paragraph prohibits a Council or the  
22       Secretary from initiating development of a fishing quota  
23       system consistent with the provisions of this Act pending  
24       publication of the final regulations.”.

1 (d) DEFINITIONS.—Section 3 of the Magnuson-Ste-  
 2 vens Fishery Management and Conservation Act (16  
 3 U.S.C. 1802) is amended by—

4 (1) adding at the end the following:

5 “(46) The term ‘United States Citizen’ means  
 6 an individual who is a citizen of the United States  
 7 or a corporation, partnership, association, or other  
 8 entity that qualifies to document a fishing vessel as  
 9 a vessel of the United States under chapter 121 of  
 10 title 46, United States Code.”; and

11 (2) striking “ ‘individual fishing quota’ ” in  
 12 paragraph (21) and inserting “ ‘fishing quota sys-  
 13 tem’ ”.

14 (e) CONFORMING AMENDMENTS.—

15 (1) The following provisions of that Act are  
 16 amended by striking “individual fishing quota” and  
 17 inserting “fishing quota”:

18 (A) Section 304(c)(3) (16  
 19 U.S.C.1854(c)(3)).

20 (B) Section 304(d)(2)(A)(i) (16  
 21 U.S.C.1854(d)(2)(A)(i)).

22 (C) Section 402(b)(1)(D) (16 U.S.C.  
 23 1881a(b)(1)(D)).

1 (D) Section 407(a)(1)(D), (c)(1), and  
2 (c)(2)(B) (16 U.S.C. 1883(a)(1)(D), (c)(1), and  
3 (c)(2)(B)).

4 (2) Section 305(h)(1) (16 U.S.C. 1855(h)(1)) is  
5 amended by striking “individual”.

6 **SEC. 3. GULF OF MEXICO FISHING QUOTA SYSTEMS.**

7 Section 407(c) of the Magnuson-Stevens Fishery  
8 Conservation and Management Act (16 U.S.C. 1883) is  
9 amended by adding at the end the following:

10 “(3) The initial referendum described in para-  
11 graph (1) shall be used to determine support for  
12 whether the sale, transfer, or lease of quota shares  
13 shall be allowed.”.

○

May 22, 2003

CONGRESSIONAL RECORD — SENATE

S6985

to enforce pathogen performance standards that will protect public health. Let's not turn our back on food safety and consumer protection at such a critical time for food safety and security. I encourage my colleagues to join this effort to protect our food supply and public health.

By Mr. BOND:

S. 1105. A bill to authorize the Secretary of the Interior to study the suitability and feasibility of designating the French Colonial Heritage Area in the State of Missouri as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BOND. Mr. President, I rise today to introduce legislation recognizing the historical significance of downtown Sainte Genevieve, MO. Sainte Genevieve was the first European settlement west of the Mississippi River, and still contains many structures and artifacts that have survived from its rich early history. Establishing this area as a unit of the National Park System will provide an unparalleled opportunity for Americans to be educated about our Nation's colonial past.

Sainte Genevieve was founded by French settlers in 1735. These early pioneers traveled south from French Canada, and built the rare French Colonial style structures that remain in place to this day. Today, the city contains an invaluable wealth of Native American and French Colonial sites, artifacts, and architecture. Perhaps most impressively, downtown Sainte Genevieve contains three of only five poteaux-en-Terre, post in the ground, vertical log French homes remaining in North America, dating from approximately 1800.

In addition to the historic downtown district, the area adjacent to Sainte Genevieve is rich in historic sites. The "Grand Champ" common field of the French colonists still retains its original field land pattern. The area's saline salt springs were an important industry source for Native American and European settlers. And nearby ceremonial mounds are evidence of a prehistoric Native American village.

This area is a truly valuable asset to the State of Missouri, and I feel that it is only fair to share it with the entire Nation by establishing the French Colonial Heritage Area as a unit of the National Park System. My legislation would take the first step toward such an establishment by directing the National Park Service to conduct a study of the historic features of Sainte Genevieve. After a thorough study, I am confident that the National Park Service will determine that Sainte Genevieve is the best tool with which to tell the important and fascinating story of the French in the New World.



By Ms. SNOWE (for herself and Mr. KERRY):

S. 1106. A bill to establish National Standards for Fishing Quota Systems;

to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today, along with Senator KERRY, to introduce the Fishing Quota Act of 2003 which will address one of the most complex policy questions in fisheries management—fishing quotas. This bill will amend the Magnuson-Stevens Fishery Conservation and Management Act to authorize the establishment of new fishing quota systems. This legislation will in no way whatsoever force Fishing Quota programs upon any regional fishery management council and this is not a mandate to use Fishing Quota programs. Rather, it is intended to provide the councils with an additional conservation and management tool.

Fishing Quota programs can drastically change the face of fishing communities and the fundamental principles of conservation and management. Therefore, this legislation was developed in a careful and meaningful manner over the span of many years with significant input and participation from all of the many affected and interested parties.

In 1996, Congress reauthorized the Magnuson-Stevens Fishery Conservation and Management Act through enactment of the Sustainable Fisheries Act, SFA. The SFA contained the most substantial improvements to fisheries conservation since the original passage of the Magnuson-Stevens Act in 1976. More specifically, the SFA included a five year moratorium on new fishing quota programs and required the National Academy of Sciences, NAS, to study and report on the issue.

In 1999, the NAS issued its report, *Sharing the Fish*, which contained a number of critically important recommendations addressing the social, economic, and biological aspects of Fishing Quota programs. The Fishing Quota Act of 2003 incorporates many of the recommendations in this report and provides the regional councils with the flexibility to adopt additional NAS recommendations.

During the 106th Congress, the Subcommittee on Oceans and Fisheries traveled across the country and held six hearings on reauthorizing the Magnuson-Stevens Act. We began the process in Washington, DC, and then visited fishing communities in Maine, Louisiana, Alaska, Washington, and Massachusetts. During the course of those hearings, we heard official testimony from over 70 witnesses and received statements from many more fishermen during open microphone sessions at each field hearing. The Subcommittee heard the comments, views, and recommendations of Federal and State officials, regional council chairmen and members, other fisheries managers, commercial and recreational fishermen, members of the conservation community, and many other interested in these important issues. After these hearings, I introduced the Individual Fishing Quota Act of 2001, S. 637, at the

beginning of the 107th Congress beginning the legislative dialogue. Since then, we have heard from many stakeholders who assisted the Subcommittee in shaping and re-shaping this bill.

The Fishing Quota Act of 2003 creates a framework under which fishery management plans, FMPs, or plan amendments may establish a new fishing quota system. As with other components of fisheries conservation and management, there is no "one-size-fits-all" solution to Fishing Quota programs. Therefore, this bill sets certain conditions under which Fishing Quota programs may be developed, if such a program is desired. In doing so, it clearly provides the regional fishery management councils and the affected fishermen with the flexibility to shape any new Fishing Quota program to fit the needs of the fishery.

The bill ensures that any regional council which establishes a new fishing quota program will promote sustainable management of the fishery; require fair and equitable allocation of fishing quotas; minimize negative social and economic impacts on local coastal communities; ensure adequate enforcement of the system; and take into account present participation and historical fishing practices of the relevant fishery. Additionally, the bill requires the Secretary of Commerce to conduct referenda to ensure that those most affected by fishing quotas will have the opportunity to formally approve the adoption of any new fishing quota program by a two-thirds vote.

This bill authorizes the potential allocation of fishing quotas to fishing vessel owners, fishermen, and crew members who are citizens of the United States. In addition, participation in the fishery is required for a person to obtain quota. Moreover, this bill permits councils to allocate quota shares to entry-level fishermen, small vessel owners, or crew members who may not otherwise be eligible for individual quotas. While this bill authorizes the transfer of fishing quotas, it requires the regional councils to define and prohibit an excess accumulation of quota shares.

This is a good bill which allows Fishing Quota programs to be created where they are needed and desired. The Fishing Quota Act of 2003 incorporates many of the suggestions we heard from those men and women who fish for a living and those who are most affected by the law and its regulations. I appreciate the participation of Senator KERRY and all the impacted stakeholders who assisted in drafting this legislation. I look forward to moving this bill through the legislative process toward final passage.

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

S. 1106

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Fishing Quota Act of 2003".

**SEC. 2. FISHING QUOTA SYSTEMS.**

(a) **IN GENERAL.**—Section 303 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853) is amended—

(1) by striking subsection (f)(6) and inserting the following:

“(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

“(A) the conservation requirements of this Act with respect to the fishery;

“(B) present participation in the fishery;

“(C) historical fishing practices in, and dependence on, the fishery;

“(D) the economics of the fishery;

“(E) the capability of fishing vessels used in the fishery to engage in other fisheries;

“(F) the cultural and social framework relevant to the fishery and any affected fishing communities;

“(G) the fair and equitable distribution of a public resource; and

“(H) any other relevant considerations.”;

(2) by striking subsection (d) and inserting the following:

“(d) **FISHING QUOTA SYSTEMS.**—

“(1) **ESTABLISHMENT.**—Any fishery management plan or amendment that is prepared by any Council, or by the Secretary, with respect to any fishery, may establish a fishing quota system consistent with the provision of subsection (b)(6).

“(2) **IN GENERAL.**—The Councils and Secretary shall ensure that any such fishing quota system submitted and approved after September 30, 2002, complies with the requirements of this Act, and;

“(A) shall prevent any person from acquiring an excessive share of the fishing quotas issued, as appropriate for the fishery, and establish any other limits or measures necessary to prevent inequitable concentration of quota share;

“(B) shall provide for the fair and equitable initial allocation of quota share and in such allocation—

“(i) shall take into account present and historic participation in the fishery;

“(ii) shall consider allocating a portion of the annual harvest to entry-level fishermen, small vessel owners, skippers, crew members, and fishing communities; and

“(iii) may allocate shares among categories of vessels or gear types.

“(C) shall contain provisions for the regular review and evaluation of the system, including timetables and criteria for evaluating performance, and actions to be taken for failure to meet the criteria;

“(D) shall contain criteria that would govern limitation, revocation, renewal, reallocation, or reissuance of fishing quota, including:

“(i) reallocation or reissuance of quota revoked pursuant to section 308 of this Act;

“(ii) revocation and reissuance of fishing quota if the owner of the quota cease to substantially participate in the fishery; and

“(iii) exceptions to revocation or limitation in cases of death, disablement, undue hardship, or in any case in which fishing is prohibited by the Secretary;

“(E) shall provide a process for appeals of decisions on—

“(i) eligibility of a person to receive or bid for an allocation of quota shares; and

“(ii) limitations, restrictions and revocations of quota held by a person.

“(F) shall promote management measures to improve the conservation and management of the fishery, including reduction by bycatch;

“(G) shall provide for effective enforcement, monitoring, a management of such system, including adequate data collection and use of observers at least at a level of

coverage that should yield statistically significant results;

“(H) may provide for the sale, lease or transfer of quota shares and limitations thereto;

“(I) shall provide a mechanism, such as fees as authorized by section 304(d)(2), including fees payable on quota transfers to recover costs related to administering and implementing the program, including enforcement, management and data collection (including adequate observer coverage), if the assessment of such fees is proportional to the amount of quota held and fished by each quota holder and if such fees are used only for that fishing quota system;

“(J) shall consider the use of community or area-based approaches and strategies in developing fishing quota systems and consider other management measures, including measures to facilitate formation of fishery cooperative arrangements, taking into account proximity to and dependence on the resource, contribution of fishing to the social and economic status of the community, and historic participation in the fishery; and

“(K) shall include procedures and requirements necessary to carry out subparagraphs (A) through (J).

“(3) **NO CREATION OF RIGHT, TITLE, OR INTEREST.**—A fishing quota or other limited access system authorization—

“(A) shall be considered a permit for the purposes of sections 307, 308, and 309;

“(B) may be revoked or limited at any time in accordance with this Act, including for failure to comply with the terms of the plan or if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;

“(C) shall not confer any right of compensation to the holder of such fishing quota or other such limited access system authorization if it is revoked or limited;

“(D) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested; and

“(E) shall be considered a grant of permission to the holder of the fishing quota to engage in activities permitted by the fishing quota system.

“(4) **ELIGIBILITY.**—Persons eligible to hold fishing quota shares are persons who are United States citizens, or who are United States nationals or permanent resident aliens qualified by Federal law to participate in the fishery.

“(5) **DURATION.**—Any fishing quota system established under this section after the date of enactment of the Fishing Quota Act of 2003 shall expire at the end of a 10-year period beginning on the date the system is established, or at the end of successive 10 year periods thereafter, unless extended by a fishery management plan amendment is accordance with this Act, for successive periods not to exceed 10 years.

“(6) **REFERENDUM PROCEDURES.**—

“(A) Except as provided in subparagraph (C) for the Gulf of Mexico commercial red snapper fishery, a Council may not submit, and the Secretary not approve or implement a fishery management plan or amendment that creates a fishing quota system, including a secretarial plan, unless such a system, as ultimately developed, has been approved by more than two-thirds of those voting in a referendum among eligible permit holders. If a fishing quota system fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

“(B) The Secretary shall conduct the referendum referred to in this paragraph, including notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures and eligibility require-

ments for the referendum process and the proposed fishing quota system. The Secretary shall within one year of enactment of the Fishing Quota Act of 2003 publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

“(C) The provisions of section 407(e) shall apply in lieu of this paragraph for any fishing quota system for the Gulf of Mexico commercial red snapper fishery.

“(D) Chapter 35 of title 44, United States Code, (commonly known as the “Paperwork Reduction Act”) does not apply to the referendum conducted under this paragraph.

“(7)(A) No provision of law shall be construed to limit the authority of a Council to submit, or the Secretary to approve, the termination or limitation, without compensation to holders of any limited access system permits, of a fishery management plan, plan amendment, or regulation that provides for a limited access system, including a fishing quota system.

“(B) This subsection shall not apply to, or be construed to prohibit a Council from submitting, or the Secretary from approving and implementing, amendments to the North Pacific halibut and sablefish, Southern Atlantic wreckfish, or Mid-Atlantic surf clam and ocean (including mahogany) quahog individual fishing quota programs.

“(8)(A) A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 1104A(a)(7) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274(a)(7)), to issue obligations that aid in financing the—

“(i) purchase of fishing quotas in that fishery by fishermen who fish from small vessels; and

“(ii) first-time purchase of fishing quotas in that fishery by entry level fishermen.

“(B) A Council making a submission under subparagraph (A) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under clauses (i) and (ii) of subparagraph (A) and the portion of funds to be allocated for guarantees under each clause.”.

(b) **INDEPENDENT REVIEW.**—Section 303 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853) is further amended by adding at the end the following:

“(e)(1) Within 5 years after the date of enactment of the Fishing Quota Act of 2003, and every 5 years thereafter, the National Research Council shall provide an independent review of the effectiveness of fishing quota systems conducted in Federal fisheries.

“(2) The review shall be conducted by an independent panel of individuals who have knowledge and experience in fisheries conservation and management, in the implementation of fishing quota systems, or in the social or economic characteristics of fisheries. The National Research Council shall ensure that members of the panel are qualified for appointment, are not active quota share holders, and provide fair representation to interests affected by such programs.

“(3) The independent review of fishing quota systems shall include—

“(A) a determination of how fishing quota systems affect fisheries management and contribute to improved management, conservation (including bycatch reduction) and safety in the fishery;

“(B) formal input in the form of testimony from quota holders relative to the effectiveness of the fishing quota system;

“(C) an evaluation of the social, economic and biological consequences of the quota system, including the economic effects of the system on fishing communities;

"(D) an evaluation of the costs of implementing, monitoring and enforcing the systems and the methods used to establish or allocate individual quota shares; and

"(E) recommendations to the Councils and the Secretary to ensure that quota systems meet the requirements of this Act and the goals of the plans, and recommendations to the Secretary for any changes to regulations issued under section 304(i).

"(4) The Secretary shall submit the report to the Congress and any appropriate Councils within 60 days after the review is completed."

(c) ACTION ON LIMITED ACCESS SYSTEMS.—Section 304 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1854) is amended by adding at the end the following:

"(i) ACTION ON LIMITED ACCESS SYSTEMS.—Within 1 year after the date of enactment of the Fishing Quota Act of 2003, the Secretary shall issue regulations which establish requirements for establishing a fishing quota system. Nothing in this paragraph prohibits a Council or the Secretary from initiating development of a fishing quota system consistent with the provisions of this Act pending publication of the final regulations."

(d) DEFINITIONS.—Section 3 of the Magnuson-Stevens Fishery Management and Conservation Act (16 U.S.C. 1802) is amended by—

(1) adding at the end the following:

"(46) The term 'United States Citizen' means an individual who is a citizen of the United States or a corporation, partnership, association or other entity that qualifies to document a fishing vessel as a vessel of the United States under chapter 121 of title 46, United States Code."; and

(2) striking "'individual fishing quota'" in paragraph (21) and inserting "'fishing quota system'";

(e) CONFORMING AMENDMENTS.—

(1) The following provisions of that Act are amended by striking "'individual fishing quota'" and inserting "'fishing quota'";

(A) Section 304(c)(3) (16 U.S.C. 1854(c)(3)).

(B) Section 304(d)(2)(A)(i) (16 U.S.C. 1854(D)(2)(A)(i)).

(C) Section 402(b)(1)(D) (16 U.S.C. 1881a(b)(1)(D)).

(D) Section 407(a)(1)(D), (c)(1), and (c)(2)(B) (16 U.S.C. 1883(a)(1)(D), (c)(1), and (c)(2)(B)).

(2) section 305(h)(1) (16 U.S.C. 1855(h)(1)) is amended by striking "individual".

### SEC. 3. GULF OF MEXICO FISHING QUOTA SYSTEMS.

Section 407(c) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1883) is amended by adding at the end the following:

"(3) The initial referendum described in paragraph (1) shall be used to determine support for whether the sale, transfer, or lease of quota shares shall be allowed."

Mr. KERRY. Mr. President, I rise today with my colleague, Ms. SNOWE, to introduce the Fishing Quota Act of 2003, legislation to establish national criteria governing the use of individual fishing quota IFQ systems. Work began in earnest on this bipartisan bill in the Commerce Committee last spring, as the expiration of the national moratorium on the use of IFQs approached, and small boat fishermen voiced concerns that existing legislative criteria governing the use of IFQs would not offer sufficient protection to communities. I would like to thank Subcommittee Chair SNOWE for her efforts to work with me and with other members of the Commerce Committee on

this legislation, which draws from separate IFQ legislation that both Senator SNOWE and I introduced beginning in the 106th Congress.

The IFQ moratorium established under the 1996 Sustainable Fisheries Act was set to expire September 30, 2000. Senator SNOWE and I supported a 2-year extension of that moratorium to allow for hearings and full consultation with affected groups on the issues surrounding IFQs. Our discussions focused on the need to provide regional flexibility to use IFQs as a management tool, while providing national "rules of the road." Such rules of the road would ensure IFQ systems developed after expiration of the moratorium are adopted with the support of the fishery, allocate quota fairly and equitably, address region-specific needs, further the conservation and management goals of the Magnuson-Stevens Act, prevent consolidation of quota, address the needs of small fishing communities, and recognize both the public nature of the resource and that issuance of an IFQ does not give rise to a compensable property right.

To develop such rules, we worked with fellow Commerce Committee members, including Senators BREAUX, LOTT, BOXER, STEVENS, and CANTWELL, consulted with interested groups, and obtained technical advice from the National Marine Fisheries Service. While New England has historically been opposed to IFQs, other regions are interested in utilizing IFQ programs in certain fisheries. I believe the resulting bill provides a balance between the need to provide national policy guidance that considers the concerns of communities and harvesters, but allows for development of IFQ systems, where appropriate, on a fishery-by-fishery basis. This preserves the balanced regional approach to fishery management that Congress intended in the Magnuson-Stevens Act. I also want to clarify that this bill does not authorize the establishment of "processor quota," and relates only to issuance of harvester quota.

The bill Senator SNOWE and I are introducing today sets forth a set of national criteria that councils wishing to adopt IFQs would follow. Importantly, this bill contains a provision that directs councils to consider the use of community or area-based approaches and strategies that would preserve the vitality of small fishing communities, including the allocation of quota to a fishing community. It also directs councils to consider use of other management measures, including those that would facilitate formation of fishery cooperative arrangements, taking account of the dependence of coastal communities on these fisheries.

This bill addresses many of the concerns raised by fishermen, and I understand the many concerns of small fisherman in New England regarding the use of IFQs. I believe this bill gives fishermen the power to decide whether to implement an IFQ program and en-

sures that those who do will operate under a fair system. First, no region could implement an IFQ system without approval of a two-thirds majority of eligible permit holders through a referendum process run by the Secretary of Commerce. In addition, any IFQ system developed under the legislation would have to meet a set of national criteria. These national criteria would include: (1) ensuring a fair and equitable initial allocation of quota, including the establishment of an appeals process for qualification and allocation decisions, taking into account present and historic participation in the fishery; (2) establishing limits necessary to prevent inequitable concentration of quota share; (3) preventing any person from acquiring an "excessive share"; (4) considering allocation of a portion of the annual harvest specifically to small fishermen, skippers, crew members, fishing communities, or categories of vessels or gear types; and (5) providing for revocation of quota if the owner is no longer an active fisherman.

I also believe this bill responds to concerns that IFQ systems would undermine the national interest in conserving fishery resources held in the public trust. In order to respond to those concerns, the bill would: (1) specify that an IFQ is a permit under the Magnuson-Stevens Act and does not confer any right of compensation or any right, title or interest to any fish before it is harvested; (2) established that the quota expires after 10 years, unless extended by a fishery management plan; (3) require that the systems promote management measures to improve the conservation and management of the fishery, including reduction of bycatch; (4) provide for regular review and evaluation of the system, including specifying actions to be taken for any failure to meet the criteria; (5) require that the systems provide for effective enforcement, monitoring, and management, including use of observers; and (6) require that quota be revoked from individuals found to be subject to civil penalties under section 308 of the Magnuson-Stevens Act.

The bill also would require a 5-year recurring independent review of IFQ systems by the National Research Council, to: (1) evaluate the effectiveness of such systems and determine who the systems contribute to improved management, conservation and safety; (2) evaluate the social, economic and biological consequences of the systems, including economic impacts on fishing communities; (3) evaluate the costs of implementation; and (4) provide recommendations to ensure the systems meet Magnuson-Stevens Act requirements and the goals of the plans.

I believe this legislation provides guidelines for the use of IFQs that will help ensure the health of our marine fisheries. During the last reauthorization of the Magnuson-Stevens Act, our

Nation's fisheries were at a crossroads, and action was required to remedy our marine resource management problems, to preserve the way of life in our coastal communities, and to promote the sustainable use and conservation of our marine resources for future generations and for the economic good of the Nation. We must stay the course, and this bill will help us do just that. I remain committed to the goal of establishing biologically and economically sustainable fisheries so that fishing will continue to be an important part of the culture and economy of coastal communities throughout Massachusetts, as well as the economy of the Nation.

By Mr. THOMAS:

S. 1107. A bill to enhance the Recreation Fee Demonstration Program for the National Park Service, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. THOMAS. Mr. President, I rise today to introduce the Recreation Fee Authority Act of 2003. This legislation modifies the congressionally created Recreation Fee Demonstration Program.

The issue of user fees on public lands is a difficult one. As you know, our Nation's parks and recreation areas are in serious trouble and have significant maintenance and infrastructure needs. The National Park Service alone has roughly a \$5 billion backlog in maintenance and infrastructure repair. There are a number of reasons for this funding shortage, including poor park management, congressional inaction and apathy from the American public.

Currently, the Recreation Fee Demonstration Program allows the National Park Service, Bureau of Land Management, Fish and Wildlife Service and the U.S. Forest Service to collect and expend funds for areas in need of additional financial support. Agencies collect fees for admission to a unit or site for special uses such as boating and back country camping fees and are able to use 80 percent of the receipts for protection and enhancement in that area. Fees are typically used for visitor services, maintenance and repair of facilities as well as cultural and natural resource management. The remaining 20 percent is used on an agency-wide basis for parts of the system, which are precluded from participating in the Recreation Fee Demonstration program.

The legislation I am introducing today allows permanent authorization of the Recreation Fee Demonstration Program for national parks, and provides some new flexibility. For example, many visitors frequent national and State parks, but are not allowed to use State and national passes interchangeably. In cooperation with State agencies, the Secretary of the Interior will be authorized to enter into revenue sharing agreements to accept state and national park passes at sites within that state—providing a cost savings and convenience for the visitor.

In the past, concerns have been expressed about "nickel and dime" efforts where there appears to be a lack of planning and coordination by agency officials. Fee programs under this legislation would be established at fair and equitable rates. Each unit would perform an analysis to consider benefits and services provided to the visitor, cumulative effect of fees, public policy and management objectives and feasibility of fee collection. This review would serve as a business plan for each site so that managers could utilize scarce resources in the most efficient manner.

The Recreation Fee Demonstration program was an effort by Congress to allow public land agencies to obtain funding in addition to their annual appropriations. This legislation will help provide resources for badly needed improvement projects and ensure an enhanced experience for all visitors.

We need to guarantee our national treasures are available for generations to come. I believe that Congress, the National Park Service and those interested in helping our parks should cooperate on initiatives to protect resources, increase visitor services and improve management throughout the system. Working together, we can ensure that these areas will remain affordable and accessible for everyone.

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. 1107

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Recreational Fee Authority Act of 2003".

#### SEC. 2. RECREATION FEE AUTHORITY.

(a) IN GENERAL.—Beginning in Fiscal Year 2004 and thereafter, the Secretary of the Interior ("Secretary") may establish, modify, charge, and collect fees for admission to a unit of the National Park System and the use of National Park Service ("Service") administered areas, lands, sites, facilities, and services (including reservations) by individuals and/or groups. Fees shall be based on an analysis by the Secretary of—

(A) the benefits and services provided to the visitor;

(B) the cumulative effect of fees;

(C) the comparable fees charged elsewhere and by other public agencies and by nearby private sector operators;

(D) the direct and indirect cost and benefit to the government;

(E) public policy or management objectives served;

(F) economic and administrative feasibility of fee collection, and

(G) other factors or criteria determined by the Secretary.

(b) NUMBER OF FEES.—The Secretary shall establish the minimum number of fees and shall avoid the collection of multiple or layered fees for a wide variety of uses, activities or programs.

(c) ANALYSIS.—The results of the analysis together with the Secretary's determination of appropriate fee levels shall be transmitted to the Congress at least three months prior

to publication of such fees in the Federal Register. New fees and any increases or decreases in established fees shall be published in the Federal Register and no new fee or change in the amount of fees shall take place until at least 12 months after the date the notice is published in the Federal Register.

(d) ADDITIONAL AUTHORITIES.—Beginning on October 1, 2003 the Secretary may enter into agreements, including contracts to provide reasonable commissions or reimbursements with any public or private entity for visitor reservation services, fee collection and/or processing services.

(e) ADMINISTRATION.—The Secretary may provide discounted or free admission days or use, may modify the National Park Passport, established pursuant to Public Law 105-391, and shall provide information to the public about the various fee programs and the costs and benefits of each program.

(f) STATE AGENCY ADMISSION AND SPECIAL USE PASSES.—Effective October 1, 2003 and notwithstanding the Federal Grants Cooperative Agreements Act, the Secretary may enter into revenue sharing agreements with State agencies to accept their annual passes and convey the same privileges, terms and conditions as offered under the auspices of the National Park Passport, to State agency annual passes and shall only be accepted for all of the units of the National Park System within the boundaries of the State in which the specific revenue sharing agreement is entered into except where the Secretary has established a fee that includes a unit or units located in more than one State.

#### SEC. 3. DISTRIBUTION OF RECEIPTS.

(a) Without further appropriation, all receipts collected pursuant to the Act or from sales of the National Park Passport shall be retained by the Secretary and may be expended as follows—

(1) 80 percent of amounts collected at a specific area, site, or project as determined by the Secretary, shall remain available for use at the specific area, site or project, except for those units of the National Park System that participate in an active revenue sharing agreement with a State under Section 2(f) of this Act, not less than 90 percent of amounts collected at a specific area, site, or project shall remain available for use.

(2) The balance of the amounts collected shall remain available for use by the Service on a Service-wide basis as determined by the Secretary.

(3) Monies generated as a result of revenue sharing agreements established pursuant to Section 2(f) may provide for a fee-sharing arrangement. The Service shares of fees shall be distributed equally to all units of the National Park System in the specific States that are parties to the revenue sharing agreement.

(4) Not less than 50 percent of the amounts collected from the sale of the National Park Passport shall remain available for use at the specific area, site, or project at which the fees were collected and the balance of the receipts shall be distributed in accordance with paragraph 2 of this Section.

#### SEC. 4. EXPENDITURES

(a) USE OF FEES AT SPECIFIC AREA, SITE, OR PROJECT.—Amounts available for expenditure at a specific area, site or project shall be accounted for separately and may be used for—

(1) repair, maintenance, facility enhancement, media services and infrastructure including projects and expenses relating to visitor enjoyment, visitor access, environmental compliance, and health and safety;

(2) interpretation, visitor information, visitor service, visitor needs assessments, monitoring, and signs;

(3) habitat enhancement, resource assessment, preservation, protection, and restoration related to recreation use, and

**Federal Register** document. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

**List of Subjects in 40 CFR Part 60**

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: May 22, 2003.

**Robert Brenner,**

*Acting Assistant Administrator for Office of Air and Radiation.*

[FR Doc. 03-13416 Filed 5-27-03; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 61 and 63**

[FRL-7490-5]

**Approval of the Clean Air Act, Section 112(l), Authority for Hazardous Air Pollutants: Management and Control of Asbestos Disposal Sites Not Operated After July 9, 1981: State of New Hampshire Department of Environmental Services**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve New Hampshire Department of Environmental Services' (NHDES) request to implement and enforce its regulation entitled "Management and Control of Asbestos Disposal Sites Not Operated After July 9, 1981" in lieu of the National Emission Standard for Asbestos (Asbestos NESHA) as it applies to certain inactive waste disposal sites. Approval of this request would make NHDES' rules Federally enforceable and would apply only to those inactive waste disposal sites not operating after July 9, 1981, which are subject to the Asbestos NESHA (*i.e.*, sites operated by certain asbestos mills, manufacturers, and fabricating facilities). NHDES' request seeks no change in delegation relative to inactive asbestos waste disposal sites operating after July 9, 1981 (*i.e.*, NHDES will continue to regulate such facilities according to the Asbestos NESHA).

In the final rules section of this **Federal Register**, EPA is approving NHDES' request as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no relevant

adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, EPA will take action on this proposed rule. If the EPA receives relevant adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will then address all public comments received in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period in this action.

**DATES:** Written comments must be received on or before June 27, 2003.

**ADDRESSES:** Written comments should be mailed concurrently to the addresses below: Steven Rapp, Chief, Air Permits, Toxics, and Indoor Programs Unit (CAP), U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Boston, MA 02114 and Philip J. O'Brien, PhD, Director, Waste Management Division, New Hampshire Department of Environmental Services, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095. Copies of the requests for approval are available for public inspection at EPA's Region I Office, Air Permits, Toxics, and Indoor Programs Unit, during normal business hours.

**FOR FURTHER INFORMATION CONTACT:** Ida McDonnell, Air Permits, Toxics, and Indoor Programs Unit, U.S. EPA Region I, One Congress St., Suite 1100 (CAP), Boston, MA 02114, (617) 918-1653.

**SUPPLEMENTARY INFORMATION:** In the final rules section of this **Federal Register**, EPA is approving the State's submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, *see* the direct final rule which is located in the rules section of this **Federal Register**.

Dated: April 15, 2003.

**Robert W. Varney,**

*Regional Administrator, EPA New England.*

[FR Doc. 03-13175 Filed 5-27-03; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 600**

[Docket No. 030509119-3119-01; I.D. 032603D]

RIN 0648-AQ99

**Magnuson-Stevens Act Provisions; Fishing Capacity Reduction Program; Pacific Coast Groundfish Fishery; California, Washington, and Oregon Fisheries for Dungeness Crab and Pink Shrimp**

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

**ACTION:** Notice of proposed fishing capacity reduction program; request for public comments.

**SUMMARY:** NMFS issues this notice about a voluntary fishing capacity reduction program in the Pacific Coast groundfish fishery. After a successful referendum, harvesters that are accepted to participate would be paid to surrender their fishing permits and restrict their vessels. A loan, which would be repaid by fishermen remaining in the fishery, will finance the majority of the program's cost. The program will invite bids from permit owners of groundfish trawl permits (except those harvesting whiting and processing it at sea) that are willing to surrender their fishing privileges, score the bids in a reverse auction against the value of bidders' harvests, and then conduct a referendum regarding repayment of the loan. If the referendum is successful, accepted bidders must relinquish their California, Oregon, and Washington fishing licenses for Dungeness crab and pink shrimp; accepted bidders must also surrender their Federal groundfish permit, as well as all other Federal fishing licenses associated with the fishing vessel named in their bids. The fishing vessels involved will never again be eligible to fish. If the referendum is not successful, bidders are excused from all such obligations. The groundfish program aims to increase the remaining harvesters' productivity, help financially stabilize the fishery, and help conserve and manage its fish. This

notice also contains the groundfish program's pro forma invitation to bid and bidding document.

**DATES:** NMFS must receive comments by June 27, 2003.

**ADDRESSES:** Mail or fax written comments about the proposed groundfish program to Michael L. Grable. In addition to public comments about the program's substance, NMFS also seeks public comment about any ambiguity or unnecessary complexity in this notice. Copies of a draft environmental assessment and regulatory impact review are available from NMFS upon request. The mailing address is: Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3282. The primary fax number is (301) 713-1306. The secondary fax number is (301) 713-1939. NMFS will not accept e-mail or Internet comments. If a comment involves any aspect of this notice's collection of information requirements, send the comment both to Michael L. Grable and to the National Oceanic and Atmospheric Administration Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Michael L. Grable, (301) 713-2390.

**SUPPLEMENTARY INFORMATION:**

**I. General**

Enacted on February 20, 2003, Section 212 of Division B, Title II, of Public Law 108-7 (section 212) authorizes a fishing capacity reduction program (program) for that portion of the limited entry trawl fishery under the Pacific Coast Groundfish Fishery Management Plan whose permits, excluding those registered to whiting catcher-processors, are endorsed for trawl gear operation (reduction fishery). The program's objective is to reduce the number of vessels and permits endorsed for the operation of groundfish trawl gear. Vessels that catch and process whiting at sea are ineligible to participate. The program also involves corollary fishing capacity reduction in the California, Oregon, and Washington fisheries for Dungeness crab and pink shrimp (fee-share fisheries). Sections 1111 and 1112 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1279f and 1279g) (Title XI) authorize loans for financing the cost of fishing capacity reduction programs (reduction loans). The program has two appropriations. A \$10 million appropriation, found at section 501(b) of Division N, Title V, of Public Law 108-7, directly funds part of the program's

cost. The second, a \$0.5 million appropriation, included in Public Law 107-206, funds the Federal Credit Reform Act cost of authorizing a \$36 million reduction loan.

Although largely consistent with the framework regulations for fishing capacity reduction (promulgated pursuant to section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1861a(b)-(e) (found at 50 CFR 600.1000 *et seq.*), section 212 supersedes some of the provisions of both the framework regulations and the Magnuson-Stevens Act.

When fishing capacity reduction is undertaken pursuant to the Magnuson-Stevens Act provisions, NMFS implements each reduction program by adding an implementing section to the framework regulations. However section 212 renders some of the Magnuson-Stevens Act provisions and much of the framework regulations inapplicable. Among other things, the groundfish program applies to more than one fishery. Section 212 also requires NMFS to implement the groundfish program by publishing a notification and an invitation to bid in the **Federal Register** rather than by promulgating additional regulations. In addition, section 212 supersedes one provision of Title XI, by extending the reduction loan's term to 30 years.

**II. Reduction Cost**

The amount paid to harvesters in exchange for surrender of their fishery privileges (reduction cost) may equal, but may not exceed, \$46 million. A \$10 million appropriation will fund part of the reduction, and future harvesters will finance any remainder.

**III. Program Summary**

NMFS will mail to each "permit owner" (as 50 CFR 660.302 defines the term "permit owner") of a groundfish permit endorsed for trawl gear operation (other than those issued to whiting catcher-processors) an advance notice that NMFS will formally invite bids for capacity reduction by mailing them a bidding package. Such notice and the bidding package will be mailed to the permit owner at the owner's address of record.

The bidding package will contain, among other things, an invitation to bid and a bidding document. The invitation to bid will specify the terms and conditions under which bids are made and accepted. If the Secretary formally accepts a bid, the bidding document, in conjunction with the invitation to bid, will constitute a reduction contract

between the bidder and the United States.

No bidder may bid before receiving the bidding package. Bidders must submit bids on provided forms and in strict conformance with the requirements of the invitation to bid. NMFS will reject any nonconforming bids.

The invitation to bid and bidding document will be similar to the pro forma invitation to bid and bidding document (see addenda to this notification). What follows is a general summary of the relevant provisions.

To submit a bid, bidders must mail or otherwise deliver their bids to NMFS at the address specified in the invitation to bid. Each bidder is responsible for ensuring that NMFS receives his or her bid before the specified bid receipt deadline. NMFS will reject any bid that arrives after the bid receipt deadline; such a bid will be deemed unresponsive to the invitation to bid. All terms and conditions of the invitation to bid or the bidding document are final at the time NMFS mails the bidding package. Thereafter, NMFS will not alter or negotiate any term or condition.

Each bid must specify:

- (a) The exact bid amount,
- (b) The reduction vessel the bidder proposes to remove from fishing (reduction vessel),
- (c) The groundfish reduction permit,
- (d) Any other Federal permits registered to or used on the reduction vessel,
- (e) All California, Oregon, or Washington issued permits for Dungeness crab or pink shrimp registered to or used on the reduction vessel (fee-share reduction permits), and
- (f) Any catch history used as the basis of permit issuance that was accrued on the reduction vessel.

The bidder must both own the reduction vessel and be the permit owner, as well as be the registered holder of all other reduction permits. The groundfish reduction permit must be registered for use on the reduction vessel. However, the bidder need not include any non-Federal permit that neither is registered to nor used on the reduction vessel.

By completing and submitting a bidding document to NMFS, each bidder makes an irrevocable offer to the United States. No bidder, once having submitted a bid to NMFS, is entitled to withdraw or in any way amend the bid.

Each bidder must offer to relinquish all of his or her Federal permits and any state permits for pink shrimp or Dungeness crab. Additionally, each person submitting a bid must offer to relinquish the reduction vessel's legal

authority to participate in any fishery, by offering to permanently:

(a) Allow imposition of title restrictions that remove the reduction vessel's fisheries endorsement,

(b) Relinquish eligibility for any present or future U.S. Government approval under section (9)(c)(2) of the Shipping Act, 1916 (46 U.S.C. App. 808(c)(2)) for placement of the reduction vessel under foreign registry or operation under the authority of a foreign country, and

(c) Relinquish any other present or future reduction vessel fishing privilege or fishery eligibility claim of any kind, including any based on the reduction vessel's catch.

If a reduction vessel is registered only under state jurisdiction (*i.e.*, it is not Federally documented) it must be scrapped.

After bidding, the bidder must continue to hold all reduction permits and own the reduction vessel until: NMFS notifies the bidder that NMFS rejects the bid, the bid expires without NMFS having accepted or rejected it, NMFS notifies the bidder that a reduction contract between the bidder and the United States no longer exists, or NMFS tenders reduction payment to the bidder and the bidder relinquishes all reduction permits and the reduction vessel's fishing privileges.

NMFS will determine which bids it accepts by using a reverse auction. Upon receipt of each bid, NMFS will determine a bid score by dividing each bid amount by the average annual total ex-vessel dollar value of the Pacific groundfish, Dungeness crab, and pink shrimp landed by the bidder's reduction vessel. NMFS will average the three highest total annual revenues from groundfish, Dungeness crab, and pink shrimp during 1998, 1999, 2000, or 2001.

NMFS will accept the responsive bid with the lowest bid score and then successively accept each additional responsive bid with the next lowest bid score until either there are no more bids to accept or acceptance of the bid with the next lowest bid score would cause the reduction cost to exceed the maximum reduction cost. If any two or more bid scores are exactly the same, NMFS will first accept the bid it received first.

NMFS will mail each bidder either a bid acceptance notice or a bid rejection notice. NMFS' acceptance of a bid offer will form a fully binding reduction contract between the bidder and the United States. Each party's obligation to perform in accordance with the terms and conditions of any reduction

contract will, however, be subject to the results of the fee referendum.

After bids are formally accepted, NMFS will establish up to seven reduction loan sub-amounts, one for the reduction fishery and one for each of the fee share fisheries. A reduction sub-amount is a fishery's share of the reduction loan and is in proportion to the fishery's share of the total ex-vessel dollar value of the groundfish, Dungeness crab, and pink shrimp which all reduction vessels landed during the four-year period from 1998 through 2001. Post-reduction fees from each of these fisheries will repay its respective reduction loan sub-amount.

Specifically, NMFS will calculate each reduction loan sub-amount as follows. NMFS will separately add up the total ex-vessel values of landings, for the four-year period 1998 through 2001, for the reduction fishery (*i.e.*, groundfish trawl fishery) and the fee-share fisheries (the three Dungeness crab fisheries and the three pink shrimp fisheries). Then NMFS will divide each of the seven totals by the aggregate value of all of the landings from all seven fisheries to derive seven quotients. NMFS will then multiply the reduction loan amount by each of the quotients to determine the loan sub-amount that each of these fisheries must repay.

NMFS will conduct the referendum as soon as practicable after bid acceptance. The referendum's sole purpose will be to determine whether the voters who cast referendum ballots authorize the fee required to repay the reduction loan.

NMFS will mail referendum information, voting instructions, and a referendum ballot(s) to the permit owner of each groundfish permit in the reduction fishery and to the person who is the holder of record of each state-issued pink shrimp or Dungeness crab permit (collectively, eligible voters). NMFS will include information about the following bid acceptance results:

- (a) The program's reduction cost,
- (b) The seven reduction loan sub-amounts,
- (c) The number of permits that will be relinquished,
- (e) The number of reduction vessels, and
- (f) The total ex-vessel dollar values of reduction vessel landings, in the reduction fishery and in each of the six fee-share fisheries, during each year from 1998 through 2001.

NMFS will mail eligible voters a separate referendum ballot for each groundfish permit they own and every pink shrimp or Dungeness crab permit they hold. In other words, eligible voters will have one ballot for every such permit they hold.

Immediately after the deadline for NMFS' receipt of ballots, NMFS will tally votes, fishery by fishery, and multiply each tally by the quotients used in calculating the reduction loan sub-amounts. The products of this multiplication will be the vote tallies for the respective fisheries weighted in proportion to each fishery's reduction loan sub-amount.

If the weighted total of approving votes is greater than the weighted total of disapproving votes, the referendum is successful. The referendum is unsuccessful if the weighted total of disapproving votes is the same as or exceeds the weighted total of approving votes. NMFS will mail each eligible voter a notice about the referendum's outcome.

If the referendum is unsuccessful, the fee will not be approved; and NMFS will mail a notice to each accepted bidder that neither the accepted bidder nor the United States has any further obligation under any reduction contract.

If the referendum is successful, NMFS will request, from each accepted bidder, specific and written payment instructions for disbursing the reduction payment. Upon a bidder's receipt of such a request for payment instructions, the bidder must stop fishing and must retrieve all fishing gear previously deployed from the reduction vessel. Bidders must relinquish their permits and return their groundfish permit and any other Federal permit associated with the reduction vessel to NMFS. The bidder must also certify that they have complied with the requirements of the reduction contract.

NMFS will:

(a) Revoke all groundfish permits and all other reduction permits,

(b) Notify California, Oregon, and Washington that accepted bidders have relinquished their fee-share reduction permits,

(c) Request the Secretary under whom the U.S. Coast Guard operates to revoke the fisheries endorsements of all Federally-documented reduction vessels, and

(d) Request the Secretary under whom the U.S. Maritime Administration operates to make all Federally-documented reduction vessels permanently ineligible for any present or future U.S. Government approval under section (9)(c)(2) of the Shipping Act, 1916 (46 U.S.C. App. 808(c)(2)) for placement of a reduction vessel under foreign registry or operation under the authority of a foreign country.

These reduction vessel revocations and restrictions run with the vessels' titles and bind subsequent owners.

The bidder must immediately scrap the state-registered reduction vessel and allow NMFS to observe and certify the scrapping.

After receiving a bidder's payment instructions and certification of compliance, NMFS will disburse the reduction payment, unless NMFS has

reason to believe that the bidder has not performed in accordance with his or her duties and obligations. NMFS will disburse reduction payments only to accepted bidders, unless they explicitly instruct NMFS to do otherwise. If a reduction vessel needs to be scrapped, NMFS will withhold funds sufficient to

cover the cost of such scrapping until its completion.

#### IV. Program Process

The following table outlines, in chronological order, the program's process:

Step	Action
One .....	NMFS publishes this notice in the <b>Federal Register</b> , together with a pro forma invitation to bid and bidding document.
Two .....	NMFS receives and analyzes public comments.
Three .....	NMFS publishes a final notice in the <b>Federal Register</b> , together with the final draft of the invitation to bid and bidding document.
Four .....	NMFS mails each permit owner of a groundfish trawl permit (other than those issued to whitening catcher-processors) a notice that indicates that NMFS will subsequently mail him or her a bidding package.
Five .....	NMFS formally invites each qualified bidder to bid by mailing to him or her a bidding package that also informs him or her that a referendum will occur after NMFS has accepted bids.
Six .....	NMFS mails a notice to persons holding any fee-share fishery permit (other than those to whom NMFS sent the mailing in step five) indicating that NMFS has invited bids. The notice will also state that NMFS will, without further notice, mail him or her a referendum ballot(s) and voting instructions after NMFS has accepted bids.
Seven .....	Bidders submit bids.
Eight .....	NMFS receives bids until the bid receipt deadline.
Nine .....	NMFS scores, tallies, and accepts or rejects each bid and mails to each bidder an acceptance or rejection notice.
Ten .....	NMFS mails to each person eligible to vote in the referendum a ballot(s) and voting instructions.
Eleven .....	The referendum occurs.
Twelve .....	NMFS receives votes until the vote receipt deadline and afterwards tallies the votes.
Thirteen (A) .....	If the referendum fails: (a) NMFS mails to each eligible voter a notice that the referendum is unsuccessful, and (b) NMFS mails to each accepted bidder a notice that the reduction contracts are without force and/or effect.
Thirteen (B) .....	If the referendum is successful: (a) NMFS mails to each accepted bidder a notice that the referendum is successful and reminds him or her that he or she must perform the reduction contract duties and obligations, (b) NMFS mails to each person who voted a notice indicating that the referendum was successful, (c) NMFS publishes a reduction payment tender notification in the <b>Federal Register</b> , (d) NMFS tenders reduction payments to each accepted bidder by requesting the bidder's payment instructions, (e) Accepted bidders relinquish their reduction permits and reduction vessel fishing privileges, and (f) Accepted bidders certify their compliance with their contractual obligations.
Fourteen .....	NMFS disburses reduction payments upon its receipt of payment instructions and certification of compliance.
Fifteen .....	NMFS undertakes a separate rulemaking about fee payment and collection.
Sixteen .....	NMFS establishes fee amounts.
Seventeen .....	(a) NMFS mails fish sellers and fish buyers a reduction loan fee payment and collection notice, (b) Fish sellers begin paying the fees, and fish buyers begin collecting and disbursing the fees to NMFS, and (c) NMFS receives collected-fee disbursements from fish buyers.

#### V. Reduction Loan

The reduction loan's repayment maturity will be 30 years. Its principal amount will be the total of all reduction payments made under this program, less \$10 million. NMFS will determine the reduction loan's interest rate in accordance with the framework regulations at 50 CFR 600.1012.

#### VI. Fee Payment and Collection

Section 212 provides that the United States may enter into agreements with

California, Oregon, and Washington to collect the fees that repay the reduction loan. Unless and until NMFS arranges to do so, however, fish sellers will pay the fees and fish buyers will collect, deposit, disburse, record, and report on the fees in accordance with the applicable portions of the framework regulations.

NMFS will establish any fee rates necessary for fish sellers to repay the reduction loan sub-amount applicable to the reduction fishery and to each of the

six fee-share fisheries. NMFS will undertake a separate rulemaking to do this. The fee rates may not exceed five percent of the delivery value of fee fish from each of these fisheries, but will be less if NMFS determines that smaller percentages are sufficient to amortize the respective reduction loan sub-amounts over the 30-year reduction loan's term.

## VII. Sample Invitation To Bid and Bidding Document

The addenda to this notification are the pro forma invitation to bid and bidding document.

### *Classification*

The Assistant Administrator for Fisheries, NMFS, determined that this action is consistent with Public Law 107-206, Public Law 108-7, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws.

In compliance with the National Environmental Policy Act, NMFS prepared a draft environmental assessment for this action. The assessment discusses the program's impact on the natural and human environment. NMFS will send the draft assessment to anyone who requests NMFS to do so (*see ADDRESSES*).

The Office of Management and Budget has determined that this notice is significant under Executive Order 12866. NMFS has prepared a Regulatory Impact Review (RIR) for this action (*see ADDRESSES*).

NMFS believes any Federalism implications arising from this notice are highly unlikely, however, consultations with the States of Washington, Oregon, and California are ongoing.

This notice contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The Office of Management and Budget (OMB) has approved these information collections under OMB control number 0648-0376. NMFS estimates that the public reporting burden for these requirements will average 4 hours for submitting a bid, 4 hours for voting in a referendum, and 1 hour for advice (if any) about a conflict on a vessel ownership or permit claim. Persons affected by this action would also be subject to other collection-of-information requirements referred to in this action and also approved under 0648-0376. These requirements and their associated response times are 10 minutes for completing and filing a fish ticket, 2 hours for submitting a monthly fish buyer report, 4 hours for submitting an annual fish buyer report, and 2 hours for making a fish buyer/fish seller report when one party fails to either pay or collect the fee.

These response estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. Send comments regarding this burden estimate, or any other aspect of this data

collection, including suggestions for reducing the burden, to both NMFS and OMB (*see ADDRESSES*).

Notwithstanding any other provision of law, no person is required to respond to, and no person is subject to a penalty for failure to comply with, an information collection subject to the requirements of the PRA unless that information collection displays a currently valid OMB control number.

NMFS has determined that this notice will not significantly affect the coastal zone of any state with an approved coastal zone management program. This determination has been submitted for review by the States of Washington, Oregon, and California.

In addition to public comment about the substance of this action, NMFS also seeks public comment on any ambiguity or unnecessary complexity arising from the action's language.

**Authority** : Pub. L. 107-206, Pub. L. 108-7, 16 U.S.C. 1861a(b-e), and 50 CFR 600.1000 *et seq.*

Dated: May 21, 2003.

**William T. Hogarth,**

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

[These addenda will not be codified in the Code of Federal Regulations.]

**BILLING CODE 3510-22-P**

**ADDENDUM 1-INVITATION TO BID:  
FISHING CAPACITY REDUCTION PROGRAM  
FOR THE PACIFIC COAST GROUND FISH FISHERY**

**I. Invitation:**

The United States of America, acting by and through the Secretary of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Financial Services Division (referred to herein as "NMFS"), does hereby extend an invitation to those holding limited entry fishing permits endorsed for the operation of trawl gear and issued under the Federal Pacific Coast Groundfish Fishery Management Plan, other than those issued for vessels harvesting and processing whiting in the catcher-processors sector (as defined under section 660.323(a)(4)(A) of title 50, Code of Federal Regulations), to submit bids for the West Coast Groundfish Fishing Capacity Reduction Program (Program), in response to this invitation.

After a successful industry referendum, and in exchange for the payments specified in their respective bids, those accepted for participation shall relinquish their abovementioned groundfish trawl permits, other than permits for whiting catcher-processors, (herein referenced as "groundfish reduction permit"); relinquish all permits for pink shrimp or Dungeness crab issued by the States of Washington, Oregon or California (herein referenced collectively as "fee-share reduction permits"); relinquish all other Federal fishery permits stemming from the use or ownership of the vessels named in their respective bids; scrap or allow the revocation of fishing endorsements and the restriction of title of the vessels named in their respective bids (herein referenced as "reduction vessel"); and surrender any other present or future rights, entitlements, privileges, fishing permits or harvest authorizations derived, in whole or in part, from the use or ownership of the vessel named in their respective bids or from any harvests made under any permit, license or other harvest authorization. Those participating shall do so voluntarily.

**II. Eligible Parties:**

NMFS invites, as qualified bidders, all those who possess groundfish reduction permits to submit bids for capacity reduction. All those submitting bids must be able to relinquish such groundfish reduction permits, fee-share reduction permits, other Federal permits, as well as relinquish or surrender any claim to any future harvest privileges stemming from such permits or from catch history. In addition bidders must be able to agree to title restrictions that permanently revoke their vessels' legal authority to fish. Although only qualified bidders may submit bids in response to this invitation, all persons holding permits for any reduction fishery or fee-share fishery may vote in the abovementioned referendum. Each such person will have one vote for every permit he or she holds.

### **III. Bid Submissions:**

To submit a bid, you must complete the section of the "Fishing Capacity Reduction Bid and Terms of Agreement for Capacity Reduction" entitled "Fishing Capacity Bid Submission" (also referenced herein as "bidding document") by providing the requested information, entering the dollar amount of the desired reduction payment, and signing where indicated. Upon completion, send this bidding document to the address found below.

A bid may not be submitted on any form other than the bidding document that NMFS mailed to you.

Complete and submit the bidding document only if it is your intention to create an irrevocable offer to the United States to permanently relinquish your groundfish reduction permit, fee-share reduction permits, and other Federal permits associated with your reduction vessel, as well as allow either the scrapping (at your expense) or the revocation of your reduction vessel's legal authority to fish anywhere in the world.

NMFS will not accept bids that fail to reflect the terms and conditions set forth in this invitation to bid, although NMFS may, at its option, contact a bidder in an attempt to correct deficiencies. The submission of any bid containing false information may subject the bidder to substantial penalties as described in the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §1801 *et seq.*, and other applicable law.

### **IV. Required Bid Contents**

Groundfish reduction permit. You must identify and offer your groundfish reduction permit. At the time of bidding, you must be the permit owner, as that term is defined in 50 C.F.R. 660.302, of such groundfish reduction permit.

Reduction Vessel. You must identify the vessel for whose operation your groundfish reduction permit is registered at the time you bid. You must be, at the time you bid, the owner of record of the reduction vessel.

If, at the time of reduction payment tender, your reduction vessel is not documented under Federal law, you must immediately scrap the reduction vessel at your own expense and afford NMFS full opportunity to observe and confirm such scrapping.

Reduction Vessel's Fishing Privileges. You must offer to relinquish the reduction vessel's legal authority to fish anywhere in the world by agreeing to restrictions that remove: (1) fisheries trade endorsement, pursuant to 46 U.S.C. §12108; (2) any qualification for any present or future U.S. Government approval for placing the vessel under foreign registry or operating under the authority of a foreign country, pursuant to section (9)(c)(2) of the Shipping Act, 1916 (46 U.S.C. App. §808(c)(2)); and (3) any other privilege, right or entitlement that allows your reduction vessel to fish anywhere else in the world.

The abovementioned restrictions shall run with the reduction vessel's title, such that you or any future owners may never use the reduction vessel for fishing. After reduction payment

tender, the reduction vessel may only operate under United States flag. If your reduction vessel is ever re-flagged or ever again used for fishing after reduction payment tender, the reduction vessel is subject to being scrapped at your expense.

Fee-share Reduction Permit. Your bidding document must identify and include each fee-share reduction permit (if any) that the official permit records of California, Oregon, or Washington indicate that you hold on *[DATE OF FEDERAL REGISTER PUBLICATION OF INITIAL NOTICE TO BE LATER DETERMINED AND INSERTED HERE]* and which was registered to your bid's reduction vessel on such date or, if such permit was not then so registered, which you ever used for fishing on your reduction vessel.

Other reduction permit. Your bidding document must identify and include any and all other Federal permits (if any) that NMFS' permit records show you hold on *[DATE OF FEDERAL REGISTER PUBLICATION OF INITIAL NOTICE TO BE DETERMINED AND INSERTED HERE]* and which was registered to your reduction vessel on such date or, if such permit was not then so registered, which you ever used for fishing from your reduction vessel.

#### **V. Bidding Document Completion**

In the bidding document entitled, "Fishing Capacity Reduction Bid and Terms of Agreement for Capacity Reduction," you must:

- (1) State your name, business address of record, telephone number, and (if available) electronic mail address;
- (2) State your bid amount in U.S. dollars;
- (3) Identify, by groundfish permit number, your bid's groundfish reduction permit and include an exact photocopy of this permit (which NMFS issued);
- (4) If your bid's reduction vessel is Federally documented, identify it by vessel name and official number and include an exact photocopy of the vessel's official document (which the National Vessel Documentation Center issued);
- (5) If your bid's reduction vessel is not Federally documented, identify it by vessel name and state registration or other identification number and include an exact photocopy of whatever official vessel registration, identification, or other documentation the controlling authority issued;
- (6) Identify, by permit number, each of your fee-share reduction permits that the appropriate state fishery management authority issued, and include an exact photocopy of each of them;
- (7) Identify, by permit number, each of your other Federal permits and include an exact photocopy of each of them (which NMFS issued);
- (8) Identify any liens or security interests on any item specified in your bid;

(9) Make certain statements, declarations, and affirmations with respect to your reduction fishing interest and provide any other information that the bidding document may require;

(10) Sign the bidding document; and

(11) Acknowledge your signature of the bidding document before a notary public.

In the event that you are submitting a bid on behalf of another person or entity, include proof that you are authorized to bind such person or entity. For instance, if you are signing for a corporation, include a photocopy of your corporate by-laws, articles of incorporation, board resolution, or other document indicating that you are authorized to submit a bid and thereby bind the corporation. If necessary, please consult your legal advisor for assistance.

Your signature and submission of the bidding document constitutes an irrevocable offer, consistent with the bidding document's terms and conditions, to the United States.

## **VI. Bidding Procedures:**

Bidding Package Mailing Date. On or before *[BIDDING PACKAGE MAILING DATE TO BE LATER DETERMINED AND INSERTED HERE]*, NMFS will mail a bidding package to each groundfish reduction permit owner. The mailing will include, among other things, this document, a bidding document, and further instructions for completing your bid and submitting it to NMFS. You may not submit a bid until after you have received your bidding package.

Bidding Opening Date. The bidding opening date is *[BIDDING OPENING DATE TO BE LATER DETERMINED AND INSERTED HERE]*. You should not submit your bid before this date.

Bidding Closing Date. The bidding closing date is *[BIDDING CLOSING DATE TO BE LATER DETERMINED AND INSERTED HERE]*. You must mail or otherwise deliver your bid so that NMFS physically receives it on or before this date. NMFS will stamp your bid with the date and time NMFS first receives your bid. Your bid will be rejected if its stamped date and time is later than the bidding closing date.

Bid Expiration Date. The bid expiration date is *[BID EXPIRATION DATE TO BE LATER DETERMINED AND INSERTED HERE]*. Your bid will expire on this date unless NMFS notifies you that NMFS has accepted your bid by mailing its written acceptance notice to you at your address of record.

Delivering Your Bid. You must mail or otherwise deliver your bid to NMFS. You may choose to use U.S. mail, deliver it by an express mail service, or deliver it in person. However, you solely bear any risk associated with your method of delivery. NMFS is not responsible for mail or deliveries that are lost or misdirected. NMFS will deem your bid to be "submitted" only when NMFS receives your bid.

All bids must be addressed and delivered to:

Michael L. Grable  
Chief, Financial Services Division  
National Marine Fisheries Service  
National Oceanic and Atmospheric Administration  
Room 13100  
1315 East-West Highway  
Silver Spring, MD 20910

Bid Scoring and Acceptance.

NMFS will determine the bid score of any bid by dividing each bid's dollar amount by the average of the three greatest annual revenues earned from groundfish, Dungeness crab, and pink shrimp (as measured as total ex-vessel dollar value of catch landed by the reduction vessel) during 1998, 1999, 2000, or 2001.

NMFS will determine which responsive bids it will formally accept by using a reverse auction in which NMFS first accepts the responsive bid with the lowest bid score and successively accepts each additional responsive bid with the next lowest bid score until either there are no more responsive bids to accept or acceptance of the last responsive bid with the next lowest bid score would cause the reduction cost to exceed the maximum reduction cost. If any two or more bid scores are exactly the same, NMFS will first accept the bid that NMFS first received.

As soon as possible after the reverse auction, NMFS will mail each bidder, at their address of record, either a bid acceptance notice or a bid rejection notice.

NMFS's formal acceptance of your bid will create a binding contract between you and the United States (referred to herein as "reduction contract"). In case of a breach of a reduction contract provision, the reduction contract may be specifically enforced, as provided by applicable law.

If NMFS accepts your bid, NMFS will not transfer any groundfish reduction permit or other reduction permit in your bid to any other person unless, and until, the reduction contract is no longer in effect and such permits no longer need to be relinquished.

Bid Rejection. You must complete the bidding document in strict compliance with the requirements in this invitation to bid. NMFS will, regardless of bid scores, reject any bid that is unresponsive to, or does not fully accord with, this invitation to bid and other applicable law. NMFS will reject a bid that:

- (1) Is incomplete or inaccurate;
- (2) Is submitted on a document other than the bidding document;

- (3) Specifies a qualified bidder that is not the permit owner of the required groundfish reduction permit;
- (4) Specifies a qualified bidder that is not the holder of record of any required fee-share reduction permit(s) or other reduction permit(s);
- (5) Specifies a qualified bidder that is not the owner of record of the required reduction vessel;
- (6) Fails to include an element the groundfish program requires;
- (7) Attempts to revise, alter, or negotiate any provision of the bidding document or of the bidding package;
- (8) Is late; or
- (9) Is otherwise not responsive to the bidding package and consistent with applicable law.

**VII. Other Program Rules:**

All bid scorings, rankings, rejections, and acceptances shall constitute final agency action at the time NMFS acts.

Once you deliver your bid to NMFS, your bid is irrevocable. You may not alter, rescind, or substitute any aspect of your bid and your bid will remain in effect until the bid expiration date.

If an industry referendum approves the industry fee system, the United States will tender reduction payment by requesting written payment instructions from you. The United States shall, thereafter, disburse reduction payments equal to the bid amounts specified in each bid once you have certified your compliance with your contractual duties and obligations.

You must hold, own, or retain all of your reduction fishing interest, as included or specified in your bid, and remain fully and legally entitled to offer the same until:

- (1) The bid expires;
- (2) NMFS notifies you that NMFS rejects the bid;
- (3) NMFS notifies you that a reduction contract does not exist; or
- (4) NMFS tenders reduction payment and you comply with your reduction contract obligations.

You are directed to review the documents included in the bidding package, including this Invitation to Bid and the bidding document entitled "Fishing Capacity Reduction Bid and

Terms of Agreement for Capacity Reduction", as well as the applicable law, for specific terms and conditions affecting this bid. Bidders are solely responsible for being aware of and understanding the full legal effects and implications of a bid submission. NMFS strongly suggests that you review these documents with your legal advisor.

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3282.

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

(OMB Control No. 0648-0376, expiring 07/31/2005)

**ADDENDUM 2-FISHING CAPACITY REDUCTION BID  
and  
TERMS OF AGREEMENT FOR CAPACITY REDUCTION**

I.

**THIS AGREEMENT**, entered into this \_\_\_\_ day of \_\_\_\_\_, by and between the Person(s) named in the portion of this document entitled "Fishing Capacity Reduction Bid Signature" as the Qualified Bidder (herein referenced as "Bidder") and the United States of America, acting by and through the Secretary of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS), Financial Services Division (referenced herein as the "Secretary").

**WITNESSETH:**

**Whereas**, the Secretary has sent an Invitation to Bid for the Fishing Capacity Reduction Program (Program) to those holding limited entry fishing permits issued under the Federal Pacific Coast Groundfish Fishery Management Plan (Groundfish FMP) endorsed for the operation of trawl gear (other than whiting catcher-processors);

**Whereas**, such Program is carried out pursuant to authority found in Division B, Title II, § 212 of Pub. Law 108-7; Division N, Title V, § 501(b) of Pub. Law 108-7; § 212 of Pub. Law 107-206; as well as authority found in 16 U.S.C. §1861a (b)-(e) and other applicable law;

**Whereas**, in accordance with such authority, a notification was published in the Federal Register announcing Program requirements;

**Whereas**, the Secretary has promulgated framework regulations generally applicable to all fishing capacity reduction programs, portions of which are applicable to this Program, and such framework regulations are found at 50 CFR §600.1000 et seq.;

**Whereas**, the key terms, "Reduction Fishery" and "Fee-Share Fishery" are statutorily defined for this Program;

**Whereas**, such Program can only remove fishing capacity after an industry referendum approves an industry fee system;

**Whereas**, this Document will be submitted by the bidder in direct response to such aforementioned Invitation To Bid and is expressly subject to requirements in such Invitation To Bid and the requirements of the aforementioned regulations and other applicable law;

**Whereas**, the Groundfish Program's express objective is to permanently reduce harvesting capacity in the reduction fishery and the fee-share fisheries; and

**Whereas**, it is the expressed sense of Congress that the States of Washington, Oregon, and California should revoke and render void all state permits relinquished as a part of this program immediately after disbursement of reduction payment.

**NOW, THEREFORE,** for good and valuable consideration and the premises and covenants hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Incorporation of Recitals. The foregoing recitals are true and correct and are expressly incorporated herein by this reference.
2. Incorporation of Invitation to Bid. The requirements of the Invitation to Bid are expressly incorporated herein by this reference.
3. Bidding Document. By completing the portion of this Document entitled the "Fishing Capacity Reduction Bid Submission" and submitting this Document to the Secretary in the manner the Invitation to Bid describes, the bidder hereby, irrevocably offers to relinquish its Federal fishing permit(s), as well as all of its Dungeness crab permit(s) and pink shrimp permit(s) issued by the States of Washington, Oregon, or California; offers to permanently remove its reduction vessel from fishing by either scrapping or allowing the placement of title restrictions; and offers to relinquish any other right, entitlement, fishery permit, fishery license, area and species endorsement, and any other fishery privilege or harvest authorization, if any, derived, in whole or in part, from either the use or ownership of its Reduction Vessel. (Such items offered shall be collectively referenced herein as "Reduction Fishing Interest".) If any deficiencies in a bid are discovered, prior to rejection, NMFS may, at its sole discretion, contact the bidder in an attempt to correct a bid deficiency.
4. Groundfish Reduction Permit. The bidder will specify, as a Groundfish Reduction Permit, a valid limited entry permit endorsed for the operation of groundfish trawl gear under the Pacific Coast Groundfish Fishery Management Plan. Such specification shall not include any permits registered to vessels harvesting and processing whiting in the catcher-processors sector, as defined in §660.323(a)(4)(A) of title 50, Code of Federal Regulations. The bidder acknowledges that it offers such Groundfish Reduction Permit for permanent revocation.
5. Fee-Share Reduction Permits. The bidder will specify any and all of its Dungeness crab permit(s) and pink shrimp permits(s) for fisheries in the States of Washington, Oregon, or California (herein referenced, collectively, as "Fee-Share Reduction Permits") that have been issued to the bidder or the Reduction Vessel. The bidder acknowledges that it offers to permanently relinquish the aforementioned Fee-Share Reduction Permits with the expectation that the issuing authorities will ultimately revoke them or otherwise permanently render them invalid.
6. Other Reduction Permits. The bidder will specify any and all Federal fishery permits, licenses, area and species endorsements, harvest authorizations, or fishery privileges, other than the Groundfish Reduction Permit, (herein referenced as "Other Reduction Permits") issued to either the Reduction Vessel or to persons on the basis of their operation or ownership of that Reduction Vessel. The bidder

will offer to relinquish, offer to surrender, or offer for revocation any such permits, licenses, endorsements, authorizations, or privileges, as well as any Reduction Vessel fishing histories, if any, or other present or future claims of eligibility for any fishery based upon such permits, licenses, endorsements, authorizations, privileges or histories.

7. Reduction Permit(s) Held by Bidder. The bidder shall not specify in any bid any Groundfish Reduction Permit, Fee-Share Reduction Permit, or Other Reduction Permit for which the bidder is not the person to whom any such permit is issued according to NMFS' official permit records or the official permit records of California, Oregon, or Washington.
8. Reduction Vessel. The bidder will specify a Reduction Vessel. The Reduction Vessel must exist, i.e., neither be lost nor destroyed. The bidder shall only specify a Reduction Vessel for which it is the owner of record. If the bidder should specify a Reduction Vessel that lacks Federal documentation, the bidder shall offer to scrap such vessel at the bidder's expense.
9. Reduction Vessel Fishing Privileges. In the event that the bidder specifies a Federally documented vessel as a Reduction Vessel, the bidder will offer to impose or allow title restrictions that have the effect of permanently revoking or relinquishing such Reduction Vessel's legal ability to fish anywhere in the world. Such items subject to revocation or relinquishment (herein referenced collectively as "Reduction Vessel Fishing Privileges") are as follows: Reduction Vessel's fisheries trade endorsement under 46 U.S.C. §12108; the Reduction Vessel's eligibility for the approval required under section 9(c)(2) of the Shipping Act, 1916 (46 U.S.C. App. §808(c)(2)), for the placement of a vessel under foreign flag or registry, as well as its operation under the authority of a foreign country; and the Reduction Vessel's ability to fish under U.S. flag outside the U.S. Exclusive Economic Zone or anywhere else in the world.
10. Reduction Payment. The bidder will specify a dollar amount (herein referenced as "Reduction Payment") in exchange for which it is willing to surrender, relinquish, restrict, or allow the revocation of such items, including, but not necessarily limited to, the aforementioned Groundfish Reduction Permit, Fee-Share Reduction Permits, Other Reduction Permits, Reduction Vessel Fishing Privileges, and relevant fishery histories (if any). In the event that the bidder specifies a non-Federally documented vessel as a reduction vessel, the bidder must also be willing to scrap such vessel (in addition to surrendering, relinquishing, restricting, or allowing the revocation of such items detailed above) in exchange for such specified dollar amount.
11. Additional Elements. The bidder shall include with its bid an exact photocopy of each Reduction Vessel's official registration or vessel documentation (e.g. that issued by the U.S. Coast Guard's National Vessel Documentation Center (NVDC) for Federally documented vessels), and an exact photocopy of each Groundfish Reduction Permit, Fee-Share Reduction Permit, and Other Reduction Permit.
12. Use of Official Permit Databases. The Secretary shall use the appropriate official

permit database to determine the bidder's address of record, verify the bidder's eligibility to bid, determine the record holder of the bid's various specified Permits, and verify that every Groundfish Reduction Permit, Fee-Share Reduction Permit, or Other Reduction Permit associated with a specified Reduction Vessel is included in the bid.

13. Use of NVDC. The bidder acknowledges that the Secretary will use the records of the NVDC to determine the owner of record for a Federally documented Reduction Vessel and the appropriate State records to determine the owner of record of a non Federally documented vessel.
14. Bidder to Ensure Accurate Records. The bidder, to the best of its ability, will ensure that the records of the relevant permitting authorities and the NVDC are accurate and correct.
15. Bid Submissions are Irrevocable. The parties hereto acknowledge as the essence hereof that the bidder voluntarily submits to the United States a firm and irrevocable bid specifying a Reduction Payment for which the bidder is willing to relinquish, restrict, or allow the revocation of the Reduction Fishing Interest. Upon submission of a bid, the bidder hereby waives any privilege or right to change, modify, alter, rescind or cancel such bid. The Parties further agree that the time marked on the bid by NMFS upon the receipt thereof, pursuant to the terms of the Invitation to Bid, shall constitute the time of bid submission.
16. Bidder Retains Bid Elements. After submitting a bid, the bidder shall continue to hold, own, or retain each Groundfish Reduction Permit, Fee-Share Reduction Permit, Other Reduction Permit, Reduction Vessel and any other aspect of the Reduction Fishing Interest specified in this Document until such time as the bid expires, the bid is rejected, the bid or bidder is determined ineligible for participation, the Reduction Payment is tendered and the bidder complies with its obligations under the Reduction Contract, or the bidder's performance is otherwise excused by the Secretary.
17. Bid Rejection. A bid that fails to provide all of the required information or is deemed in any way unresponsive or not in conformance with the Invitation to Bid or applicable law will be deemed ineligible for consideration and will be rejected, unless the defect is corrected prior to the close of the Bid Submission Period.
18. Notarized Signatures of All Parties Required. A bid that fails to contain the notarized signatures of all parties will be deemed ineligible for consideration and will be rejected.
19. Rejections Constitute Final Agency Action. Rejections are conclusive and constitute final agency action as of the date of rejection.
20. Effect of Bid Submission. By submitting a bid, which constitutes an irrevocable offer, that conforms to the requirements, as stated within the Invitation to Bid and herein, the bidder is entitled to have its bid considered for acceptance by the Secretary.

21. Acceptance by Reverse Auction. In accordance with applicable requirements, such as those stated in this Document, the Invitation to Bid, and applicable law, the Secretary shall accept bids using a reverse auction. The Secretary shall formally notify the bidder if its bid is accepted.
22. Reduction Contract Formed. The bidder acknowledges that the formal acceptance of a bid by the Secretary shall form a binding contract. Such binding contract constitutes a Reduction Contract. The terms of such Reduction Contract are contained in this Document and also incorporate the requirements of the Invitation to bid by reference exactly as if they had been fully and exactly stated within this Document.
23. Reduction Contract Binding. Upon such acceptance, the Reduction Contract will become enforceable against and binding on the parties. The Parties will abide by the terms and conditions of the resultant Reduction Contract unless the Secretary provides the bidder with written notice indicating that the bidder is excused from the performance of any or all such terms and conditions.
24. Reduction Contract Subject to Federal Law. Any Reduction Contract so formed will be subject to applicable Federal law.
25. Notice to Creditors. Upon notice of bid acceptance, the bidder agrees to notify creditors or other parties with interests in Reduction Vessels or Groundfish Reduction Permits, Fee-Share Reduction Permits, or Other Reduction Permits that it has entered into a Reduction Contract.
26. Industry Referendum. Referendum approval of the industry fee system is an occurrence over which neither the bidder nor the Secretary has control.
27. Referendum Results. After an Industry Referendum, the Secretary shall inform the bidder of the results of such referendum.
28. Unsuccessful Referendum Excuses Performance. An unsuccessful referendum, wherein the weighted total of disapproving votes is the same as or exceeds the weighted total of approving votes, excuses the parties hereto from their obligations to perform their duties under any Reduction Contract formed by acceptance of this bid. In the event of such occurrence, the United States need not tender Reduction Payment nor does the bidder need to relinquish, transfer, restrict or allow the revocation of any element named below in the section entitled "Fishing Capacity Bid Submission."
29. Expiration of Reduction Contract. In the event that the aforementioned Referendum is unsuccessful, any reduction Contract or outstanding bid shall expire and be of no further force or effect.
30. Bidder Responsibilities upon Successful Referendum. Upon notice of a successful Industry Referendum, the bidder shall immediately become ready to relinquish, restrict, or allow the revocation of, as appropriate, all Groundfish Reduction Permits,

Fee-Share Reduction Permits, Other Reduction Permits, or Reduction Vessel Fishing Interests.

31. Written Payment Instructions. After a successful Industry Referendum, the Secretary shall request and the bidder shall give NMFS written payment instructions for Reduction Payment disbursement.
32. Request for Payment Instructions Constitutes Tender. Such aforementioned request for written payment instructions constitutes tender of Reduction Payment, as such is specified in 50 C.F.R. 1011.
33. Bidder Responsibilities upon Tender. Upon such aforementioned tender of Reduction Payment, the bidder shall immediately relinquish, restrict, or allow the revocation of, as appropriate, its Groundfish Reduction Permit, Fee-Share Reduction Permit(s), Other Reduction Permit(s), and Reduction Vessel Fishing Interest. The bidder must return its Groundfish Reduction Permit and Other Reduction Permits (if any) to NMFS. Also upon such tender, the bidder shall forever cease all fishing for any species with the Reduction Vessel and immediately retrieve all of its fixed fishing gear deployed in any fishery. The bidder shall certify compliance with its duties and obligations under the Reduction Contract and shall include such certification with the aforementioned payment instructions.
34. Reduction Vessel Lacking Federal Documentation. Upon Reduction Payment tender, the bidder shall immediately scrap any vessel that it specified as a Reduction Vessel that is documented solely under state law or otherwise lacks documentation under Federal law. Such vessel shall be scrapped at the bidder's expense. The bidder shall allow NMFS, its agents, or its appointees reasonable opportunity to observe and confirm such scrapping. The bidder shall conclude such scrapping within a reasonable time.
35. Future Harvest Privilege Extinguished. Upon Reduction Payment tender, the bidder shall waive, surrender, withdraw, or extinguish by other means any other claim derived, in whole or in part, either from the use or ownership of the Reduction Vessel or from any harvests made under any permit, license or other harvest authorization, as specified below, that could ever qualify the bidder for any future limited access fishing license, fishing permit, harvest authorization.
36. Post Tender Use of Federally Documented Reduction Vessel. After Reduction Payment tender, the bidder may continue to use a Federally documented Reduction Vessel for any legal purpose except fishing and can transfer the vessel, subject to all restrictions imposed by the Reduction Contract and applicable law, to a new owner. The bidder or any subsequent owner shall only operate such Reduction Vessel under the United States flag. In the event the bidder or subsequent owners fail to abide by such restrictions, the bidder acknowledges and agrees to allow the United States to pursue any and all remedies available to it, including seizing the Reduction Vessel and scrapping it at the expense of the bidder.
37. Secretary's Actions upon Tender. Contemporaneously with tendering Reduction Payment, without regard to any party's refusal or failure to perform its duties and

obligations under a Reduction Contract, the Secretary will permanently render void the bidder's Groundfish Reduction Permit and any Other Reduction Permits, notify the relevant states that the bidder has relinquished its Fee-Share Reduction Permits, notify the NVDC in order to revoke the Reduction Vessel's fisheries trade endorsements, notify the U.S. Maritime Administration in order to make the Reduction Vessel ineligible for the approval of requests to place it under foreign registry or operate under a foreign country's authority; note in the appropriate NMFS records that any fishing histories, if any, accrued on the Reduction Vessel will never again be available to anyone for any fisheries purpose; and implement any other restrictions imposed by applicable law.

38. Material Disputes to be Identified. Members of the public shall be able to advise NMFS in writing of any material dispute with regard to any aspect of any bid, up until NMFS receives such aforementioned payment instructions. Such a material dispute shall neither relieve the bidder of any duties or obligations under any Reduction Contract nor shall it affect the United States' right to enforce performance of the terms and conditions of any Reduction Contract.
39. Reduction Payment Disbursement. Once the bidder's payment instructions and certification of compliance are received, the United States shall disburse to the bidder the amount specified as a Reduction Payment as soon as practicable, unless such disbursement is otherwise excused. Any Reduction Payment disbursement shall be in strict accordance with the bidder's payment instructions. Unless bidder's payment instructions direct NMFS to the contrary, the United States shall disburse the whole of the Reduction Payment to the bidder.
40. Reduction Payment Withheld for Scrapping or for Other Reasons. In the event that a Reduction Vessel must be scrapped, the Secretary shall withhold from disbursement an amount sufficient to scrap such vessel. The Secretary shall withhold such sum until the vessel is completely scrapped. The Secretary may confirm, if the Secretary so chooses, that the vessel has been scrapped before disbursing any amount withheld. If the Secretary has reason to believe that the bidder has failed to comply with any of the terms and conditions as stated herein, the Secretary shall withhold disbursement until such time as the bidder performs in accordance with the terms and conditions of the Reduction Contract.
41. Bidder Assistance with Restriction. The bidder shall, upon the United States' request, furnish such additional documents, undertakings, assurances, or take such other actions as may be reasonably required to enable the United States to restrict, invalidate, or revoke any component of the bid's Reduction Fishing Interest in accordance with the terms and conditions of a Reduction Contract or requirements of applicable law.
42. Recordation of Restrictions. Upon revocation of all the Reduction Vessel Fishing Privileges, the bidder shall ensure that such revocation is recorded with the Reduction Vessel's title, such that the Reduction Vessel, regardless of its subsequent ownership, may never again fish for any species anywhere in the world under any conditions. Such term "fishing" includes the full range of activities defined in 16 U.S.C. §1802.

43. Lack of State Revocation Notwithstanding. In the event that California, Oregon, or Washington should fail to permanently revoke any Fee-Share Reduction Permit, the bidder will nevertheless be permanently barred from ever exercising any fishing privilege or claim associated with any such Fee-Share Reduction Permit. Moreover, the bidder will neither transfer nor allow any other person to exercise any fishing privilege or claim associated with any such Fee-Share Reduction Permit.
44. Reduction Element Omission. In the event that the Secretary accepts a bid wherein the bidder failed, for any reason, to specify and designate any Groundfish Reduction Permit, Fee-Share Reduction Permit, Other Reduction Permit, or Reduction Vessel that should have been specified in this Document, any requirements or terms and conditions that should have otherwise applied to such omitted item shall nevertheless still be applicable. Upon discovery by either or both parties, the bidder shall act in accordance with Program requirements.
45. Remedy for Breach. As money damages may not be a sufficient remedy for breach of the terms and conditions as set forth in this Document, the Parties explicitly agree and authorize specific performance, in addition to any money damages, as a remedy for any breach of Reduction Contract terms. In the event of breach by the bidder, the Secretary will take any reasonable action he deems necessary to carry out the Program's purpose as set forth above.
46. Waiver of Data Confidentiality. The bidder consents to the public release of any information the bidder may provide pursuant to Program requirements, including any information provided as a part of this bid or any other means, so long as the Secretary finds that the release of such information is necessary to achieve this Program's stated goals. The bidder shall and hereby explicitly waives any claim of confidentiality otherwise afforded to financial, catch, or harvest data, as well as trade secrets, fishing histories, or other personal information, otherwise protected from release under 16 U.S.C. §1881a(b) or any other law. In the event such information is released, the bidder shall and hereby does forever fully and unconditionally release and hold harmless the United States and its officers, agents, employees, representatives, of and from any and all claims, demands, debts, damages, duties, causes of action, actions and suits whatsoever, in law or equity, on account of any act, failure to act, or event arising from, out of, or in any way related to, the release of any information associated with this Program.
47. Oral Agreements Invalid. This Document and the Invitation to Bid contain the final terms of any Reduction Contract between the bidder and the United States. They represent the entire and exclusive agreement between the parties. All parties hereto forever waive all right to sue, or otherwise counterclaim against each other based on any claim of past, present, or future oral agreement between the parties.
48. Severable Provisions. The provisions of this contract are severable and, in the event any portion thereof is held to be void, invalid, non-binding, or otherwise unenforceable, the remaining portion thereof shall remain fully valid, binding, and enforceable against all parties hereto.

49. Disputes. Any and all disputes arising in connection with the Fishing Capacity Reduction Program, including, but not limited to, the Invitation to Bid, this bid or any Reduction Contract shall in all respects be governed by the Federal laws of the United States, and the bidders and all other parties to the Reduction Contract irrevocably submit themselves to the jurisdiction of the Federal courts of the United States and/or to any other Federal administrative body authorized to adjudicate such disputes, as set forth under applicable law.

50. Fishing Capacity Bid Submission:

I. Completion and submission. The bidder must fully, faithfully, and accurately complete this portion of this Document and thereafter submit this full Document to NMFS in accordance with the Invitation to Bid.

II. Bidder information.

(a) Insert the Qualified Bidder's name [must be the full legal name of the person, partnership, or corporation who is, at the time of bidding, the owner of record of the Bid's Reduction Vessel and the permit owner of the Groundfish Reduction Permit, the holder of record of each other Reduction Permit (if any), and the holder of record of each Fee-Share Reduction Permit (if any)]:

--

(b) Insert the Bidder's full address of record:

--

(c) Insert the Bidder's full business telephone number:

--

(d) Insert the Bidder's business full electronic mail address (if available):

--

III. Groundfish Reduction Permit number. Insert the full permit number of the Bid's Groundfish Reduction Permit. Enclose with this document an exact photocopy of such permit:

--

IV. Other Reduction Permit (if any). Insert the full permit number of each of the Bid's other Reduction Permits. Enclose with this document an exact photocopy of each such permit:


V. Fee-Share Reduction Permit (if any). Insert the full permit number, issuing state, and Fee-Share fishery for each of the bid's Fee-Share Reduction Permits. Enclose with this document an exact photocopy of each such permit:

PERMIT NUMBER	ISSUING STATE	FISHERY

VI. Reduction Vessel. Insert the full official name of the bid's Reduction Vessel and:

(a) If such vessel is Federally documented, insert the vessel's full official number. Enclose with this document an exact photocopy of such vessel's official document:

VESSEL'S NAME	VESSEL'S NUMBER

(b) If such vessel is state registered or otherwise documented, insert the vessel's full registration or other documentation number. Enclose with this document an exact photocopy of such vessel's official registration certificate or other form of official documentation:

VESSEL'S NAME	VESSEL'S NUMBER	STATE OF REGISTRATION

VII. Bid Price. Insert, in U.S. dollars, the Bidder's full bid amount:

--

VII. Bid signature.

In compliance with applicable law, this Document and the Invitation to Bid, I, the Qualified Bidder, submit the above written Bid Price as an irrevocable offer to the United States for the permanent revocation and surrender of the Groundfish Reduction Permit, any Fee-Share Reduction Permit(s), any Other Reduction Permits, and the Reduction Vessel's Fishing Privileges, all as identified in this bid or as required under applicable law.

I acknowledge that the acceptance of this bid by the United States and tender of the Reduction Payment to bidder in the amount written above (less any sum withheld for scrapping any Reduction Vessel lacking Federal documentation) will, among other things, permanently render the Reduction Vessel ineligible for any fisheries worldwide, including, but not limited to, fishing on the high seas or in the jurisdiction of any foreign country while operating under United States flag, and will impose or create other legal and contractual restrictions and obligations that restrict or revoke the complete Reduction Fishing Interest, as well as revoke or restrict any other fishery privileges or claims associated with the Reduction Vessel, Groundfish Reduction Permit, any Fee-Share Reduction Permit, or Other Reduction Permit, as more fully set forth in the Invitation to Bid and applicable law.

By completing the sections above and signing below, I acknowledge that I have fully and completely reviewed this Document and the Invitation to Bid. I attest and warrant that I am fully able to enter into a Reduction Contract, and if I am completing the sections above and signing below on behalf of another person or

entity, I attest and warrant that I have express, written permission or grant of authority to bind such person or entity to the terms and conditions of a Reduction Contract. I expressly represent to the United States that I fully understand the consequences of a bid submission, pledge to abide by the terms and conditions of any Reduction Contract, and are aware of and consent to any and all remedies available upon the breach of any Reduction Contract or submission of a bid that fails to conform with applicable law. I expressly warrant and attest that all information included herein is accurate.

**IN WITNESS WHEREOF**, I, the Qualified Bidder, have executed this Document, in accordance with the requirements as specified above, on the date written below. Moreover, the Parties, hereto, execute an agreement which constitutes a Reduction Contract as of the date the Document is signed by the United States.

Signature	
Print Name	
Print Title	
Date	

State of \_\_\_\_\_

County of \_\_\_\_\_

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me and said person acknowledged that he/she signed this "FISHING CAPACITY REDUCTION BID and TERMS OF AGREEMENT FOR CAPACITY REDUCTION," on oath stated that he/she was authorized to execute the instrument and acknowledged it to be the free and voluntary act of his/hers for the uses and purposes mentioned in the document.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
My appointment expires

United States of America,  
Acting by and through the Secretary of Commerce,  
National Atmospheric Administration,  
National Marine Fisheries Service,  
Financial Services Division

By: \_\_\_\_\_  
Chief, Financial Services Division

Date: \_\_\_\_\_

[FR Doc. 03-13274 Filed 5-27-03; 8:45 am]

BILLING CODE 3510-22-C

## LEGISLATIVE MATTERS

Situation: The Legislative Committee will meet June 16, 2003 to review federal legislative issues and a National Marine Fisheries Service (NMFS) proposed fishing capacity reduction program.

Senate Bill 1106 was recently introduced in the Senate (Exhibit H.1, Attachment 1). As described in the *Congressional Record*, this bill would establish national standards for fishing quota programs (Exhibit H.1, Attachment 2).

NMFS has published notice of a proposed fishing capacity reduction program, which would implement the West Coast groundfish fishery buyback program. The notice describes the program, the bidding process for potential participants, and contains the bidding document (Exhibit H.1, Attachment 3). NMFS requests comments be submitted by June 27, 2003.

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.1, Attachment 1, Senate Bill 1106 – May 22, 2003.
2. Exhibit H.1, Attachment 2, *Congressional Record*, pp. S6985-6988.
3. Exhibit H.1, Attachment 3, Notice of Proposed Fishing Capacity Reduction Program, 68FR31653-31677.
4. Exhibit H.1.b, Supplemental Legislative Committee Report.

#### 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  
06/03/03

## 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. **Appointment to the Scientific and Statistical Committee (SSC) for completion of the 2001-2003 term** - The following nominees were submitted for the advertised SSC Social Scientist vacancy:

- Dr. Stephen M. Barrager, Stanford, CA  
Nominated by Dr. Josh Eagle, Director, Stanford Fisheries Policy Project, Stanford University Law School
- Dr. Donald M. Schug, Davis, CA  
Nominated by: Self
- Dr. R. Bruce Rettig, Corvallis, OR  
Nominated by: Self

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

2. **Replacement for the Oregon Department of Fish and Wildlife (ODFW) position on the Salmon Technical Team (STT)** - The ODFW has requested that Mr. Craig Foster replace Mr. Curt Melcher as the agency representative on the STT (Closed Session A, Attachment 2).

3. **Appointments to the Salmon Model Evaluation Workgroup (MEW)** - The following nominees were submitted for confirmation by the Council to MEW:

- |  |                  |
|--|------------------|
| • Washington Department of Fish and Wildlife | Mr. Larrie LaVoy |
| • Northwest Indian Fisheries Commission      | Mr. Andy Rankis  |
| • National Marine Fisheries Service          | Mr. Dell Simmons |
| • U.S. Fish and Wildlife Service             | Mr. Henry Yuen   |

The nomination letters for these appointments are contained in Closed Session A, Attachment 3 and Closed Session A, Supplemental Attachment 4.

The STT and SSC positions can be filled either through separate appointments or from the pool of tribal/agency appointments. The Council should consider how best to fill those positions.

4. **Appointments to vacancies on the Highly Migratory Species Advisory Subpanel (HMSAS)** - At the time of the June Council meeting, no nominations had been received to fill the Northern Processor (north of Cape Mendocino) position on the HMSAS. Announcements requesting nominees for these positions will be issued prior to the September Council meeting and the Council will hopefully have nominees to consider for appointment at that meeting.

5. **Other Appointments or Advisory Body Issues or Information** - At the time of Briefing Book preparation, no other appointment issues were identified.

### Council Action:

1. Confirm the appointment for the Social Scientist position on the SSC.
2. Confirm the replacement for the ODFW position on the STT.
3. Confirm appointments for agency and tribal positions on the MEW.
4. Provide guidance on MEW appointments for STT and SSC positions.
5. Provide discussion and guidance on soliciting nominees for the HMSAS.
6. Discuss other advisory body membership issues as necessary.

Reference Materials:

1. Letters of Nomination to the SSC (Closed Session A, Attachment 1).
2. Letter of Nomination to the STT (Closed Session A, Attachment 2).
3. Letters of Nomination to the MEW (Closed Session A, Attachment 3).
4. Letters of Nomination to the MEW (Closed Session A, Supplemental Attachment 4).

Agenda Order:

- a. Agendum Overview
- b. Appointments to the Highly Migratory Species Advisory Subpanel,  
Scientific and Statistical Committee, Salmon Technical Team,  
Salmon Model Evaluation Workgroup, and Other Membership Issues
- c. Reports and Comments of Advisory Bodies
- d. Public Comment
- e. **Council Action:** Consider Appointing New Members and Addressing Other  
Membership Issues as Necessary

Chuck Tracy

PFMC  
06/02/03

# **Proposed Preliminary Three Meeting Outlook for the Pacific Council** (All Candidate Agenda Items Listed; Shaded Items are Contingent)

<b>September</b> 9/8/03 Seattle, Washington	<b>November</b> 11/3/03 Del Mar, California	<b>March</b> 3/8/04 Tacoma, Washington
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## **Coastal Pelagic Species**

Update on Implementation of Reg. Amendment  
Consider Initiation of FMP Amendment for  
Sardine Allocation (for final approval 6/2005)

## **Coastal Pelagic Species**

CPS Fishery Update  
Consider Initiation of FMP Amendment for  
Sardine Allocation (for final approval 6/2005)  
Pacific Sardine Stock Assessment  
and Harvest Guideline for 2004

## **Coastal Pelagic Species**

Review Initiation of FMP Amendment for  
Sardine Allocation (for final approval 6/2005)

## **Groundfish**

2003 Inseason Management  
Status of Observer Data Implementation

## **Groundfish**

2003 Inseason Management

## **Groundfish**

Pacific Whiting ABC, OY, & Mgmt Measures

2004 Annual Specifications & Mgmt Measures:  
Final Adoption

Stock Assessments for 2005-06 Mgmt  
2005-06 Annual Specifications: Step 1  
Preliminary ABCs & Oys  
Amendment 16-3: Initial Consideration  
VMS: Next Steps

## **VMS: Guidance on Pilot Program & Expansion**

EFPs: Criteria & Initial Rev. of 2004 Applications  
PEIS: Adoption of Options for Public Review

EFPs: Final Action on 2004 Applications  
PEIS: Final Adoption  
EFH EIS: Approve EFH Assessment Model  
(including joint Adv. Body Session)

Red-Green Light Threshold: Initial Consideration

Red-Green Light Threshold: Final Action

Planning for SSC Bycatch Workshop II  
Planning for B<sub>0</sub> & MSY Workshop  
Whiting ITQs  
Alternative Mgmt Approaches

GF Strategic Plan Formal Review  
Capacity Reduction  
Open Access  
Makah Rockfish Enhancement Proposal  
Proposed CA Nearshore Mgmt Authority

## **Habitat Issues**

Habitat Committee Report

Coral & Living Substrates Rpt from NMFS

## **Habitat Issues**

Habitat Committee Report

## **Habitat Issues**

Habitat Committee Report

9:51 AM 06/20/03  
Don McIsaac

# **Proposed Preliminary Three Meeting Outlook for the Pacific Council** (All Candidate Agenda Items Listed; Shaded Items are Contingent)

September 9/8/03 Seattle, Washington	November 11/3/03 Del Mar, California	March 3/8/04 Tacoma, Washington
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## **Highly Migratory Species**

Update on NMFS Approval of FMP

## **Highly Migratory Species**

Update on NMFS Approval of FMP  
High Seas Longline Limited Entry Update

## **Marine Protected Areas**

CINMS: Consider Range of alternatives  
Update on other MPA Issues

## **Marine Protected Areas**

CINMS: Adopt preferred alternative  
Update on other MPA Issues  
SSC White Paper

## **Pacific Halibut**

Fishery Update  
Proposed Changes for 2004: for Public Review

## **Pacific Halibut**

Fishery Update  
Proposed Changes for 2004: Final Action

## **Salmon**

Fishery Update  
MEW Update  
Methodology Review: Final Prioritization  
Including Puget Snd. Coho Conservation Obj.

## **Salmon**

Fishery Update  
Consider Modification of 3/15 Opening for  
OR Troll & Rec. S. of Cape Falcon  
Methodology Review: Final Action  
Including Puget Snd. Coho Conservation Obj.  
2004 Pre-season Schedule  
Review of Exp. Fisheries Proposals

## **Salmon**

Inseason Mgmt for Openings Prior to 5/1 (Ft. Bragg)  
Adopt 2003 Mgmt Options for Public Review  
Update on Cons. Obj.--CV Winter & Spring Chinook  
Methodology Review: Final Action if Necessary

Final Approval of Exp. Fisheries Proposals

## **Administrative**

Communication Plan Update  
Legislative Committee Rpt  
Budget Committee Rpt  
Review & Proposed Changes to Adv. Body  
COPs & Call for Nominations to 2004-06 Term  
Workload Planning & Draft Nov Agenda  
NOAA Fisheries Regional Forum  
(2 hrs Mon. P.M. & 3 hrs Tue. A.M.)

## **Administrative**

Communication Plan  
Legislative Committee Rpt  
Budget Committee Rpt  
Adopt Changes to Adv. Body COPs & Make  
Appointments to 2004-06 Adv. Body Term  
Workload Planning & Draft March Agenda  
Research and Data Needs Process

## **Administrative**

Legislative Committee Rpt  
Interim Appts & Replacements  
Workload Planning & Draft April Agenda  
Report on Conference (MSA--the first 25 years)

Council Staff Work Planning Time Line<sup>1/</sup> for Groundfish Annual Specifications and Rebuilding Plans (as of May 1, 2003)

Product	2003											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2004 spex				STAR	GMT (5/5-9)	Council action- prelim. spex (6/17-20)	GMT (7/21-25)	Initial DEIS rough draft (8/20)	Final Council action (9/9-12)	DEIS to NMFS HQ (10/14); EPA (10/17); NOA in FR (10/24)	ER EA to NMFS HQ (11/21) 2/	Pub. com- ments due (12/8) To Admin Staff 12/31
2005-06 spex									STAR (week of 9/15)	GMT (10/14-17)	Council action- prelim. spex (11/4-7)	
Amendment 16-1: P&S EA	Draft (1/31)	GMT (2/3-7)	Council Meeting Briefing Book (3/19)	Prelim. Council action (4/8-11)	Pub. Rev. (5/5); Final draft in Council Meeting Briefing Book (5/28)	Final Council action (6/17-20)	NMFS HQ (7/14)					
Amendment 16-2: EIS#1 DB, POP, lingcod, & canary RPs	Draft (DB) (1/31)	GMT (2/3-7)	Initial DEIS w/ cum. anal. 3/ (3/19)	Scoping; Prelim. Council action (4/8-11)	Public Review Draft (5/28); DEIS draft w/ cum. effects (5/28)	Final Council action (6/17-20)		To Admin Staff 8/18 for P&E	DEIS to NMFS HQ (9/8); EPA (9/12); NOA in FR (9/19)		Pub. com- ments due (11/3)	FEIS to NMFS HQ (12/5); EPA (12/12); NOA in FR (12/19)
Amendment 16-3: EIS#2 cowcod, YE, widow RPs 4/										Initial DEIS rough draft w/out cumulative effects (10/15) 3/	Scoping; Prelim. Council action (11/4-7)	
Amendment 16-4: EIS#3 boc, whiting RPs 4/												

1/ This schedule is contingent on: a) Council budget and staffing levels at full 2002 operational capabilities, and b) no litigation, fishery management emergencies, or unanticipated Council priorities that demand substantial Council staff workload.

2/ No proposed and final rule notice and comment period on Interim Regulations or Emergency Regulations for Jan-Feb 2004 (as in last two years).

3/ Initial draft of alternatives and analyses, without cumulative impacts section.

4/ Bocaccio may be included in Amendment 16-3 depending on availability of updated stock assessment information

# Council Staff Work Planning Time Line<sup>1/</sup> for Groundfish Annual Specifications and Rebuilding Plans (as of May 1, 2003)

Product	2004											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2004 spex	FEIS to NMFS HQ (1/12); EPA (1/16); NOA in FR (1/23)	ROD (2/27)										
2005-06 spex		GMT	Initial DEIS rough draft (3/19)	Council action- final OYs, refine prelim mgt. spex (Apr Council Meeting)	DEIS (5/28)	Final Council action (Jun Council Meeting)		DEIS to NMFS HQ (8/9); EPA (8/13); NOA in FR (8/20)		Pub. comments due (10/4); FEIS to NMFS HQ (10/18); EPA (10/22); NOA in FR (10/29)	ROD (11/29)	
Amendment 16-2: EIS#1 DB, POP, lingcod, & canary RPs	ROD (1/23)											
Amendment 16-3: EIS#2 cowcod, YE, widow RPs 4/			Public Review Draft (2/6)	DEIS (3/19)/	Final Council action	DEIS to NMFS HQ (6/14); EPA (6/18); NOA in FR (6/25)		Pub. comments due (8/9); FEIS to NMFS HQ (8/23); EPA (8/27)	NOA in FR (9/3)	ROD (10/4)		
Amendment 16-4: EIS#3 boc, whiting RPs 4/			Initial DEIS rough draft w/out cumulative effects 4/ (3/17)	Scoping; Prelim. Council Action (4/9-12)	DEIS draft (5/26)	Final Council Action (6/14-18)						

1/ This schedule is contingent on: a) Council budget and staffing levels at full 2002 operational capabilities, and b) no litigation, fishery management emergencies, or unanticipated Council priorities that demand substantial Council staff workload.

2/ No proposed and final rule notice and comment period on Interim Regulations or Emergency Regulations for Jan-Feb 2004 (as in last two years).

3/ Initial draft of alternatives and analyses, without cumulative impacts section.

4/ Bocaccio may be included in Amendment 16-3 depending on availability of updated stock assessment information

**STAFF PROPOSED DRAFT COUNCIL MEETING AGENDA, SEPTEMBER 8-12, 2003, SEATTLE, WA**

AG #	TIME	AGENDA TOPICS/COMMENTS	COUNCIL TASK	REVIEW PRIORITY		
				SSC	HC	Other or *Not at Mig1/
		<b>Monday, Sept 8 - 8:00 am</b>				
		Ancillary Meetings - see Ancillary Schedule		X	X	EC, GAP, GMT
	0.75	Closed Session: Personnel & Litigation - 3:30 pm		X		
		Appointments - New Adv. Body Term 2004-2006	Action			
		Litigation Status (E. Cooney)	Info			
A.	0.25	Call to Order: Opening, Roll Call, ED Rpt, Agenda, Minutes				
		Approve Agenda	Action			
		Approve Minutes - April and June	Action			
B.		Groundfish Mgmt				
1	0.50	NMFS Rpt (including update on VMS)	Info			EC, GAP, GMT
	<b>1.50</b>					
		<b>NOAA Fisheries Open Forum -- 7-9 pm</b>				
		<b>Tuesday, Sept 9 - 8:00 am</b>				
A.	3.00	NOAA Fisheries Open Forum (continued)				
B.		Groundfish Mgmt (continued)				
2	1.00	Status of Observer Data Implementation	Info	X		GAP, GMT
3	1.50	Adopt Final Harvest Levels and Other Specs. for 2004 (OYs and ABCs)	Action	X		GAP, GMT
4	2.00	Status of Fisheries & Initial Consideration of Inseason Adjustments	Action			EC, GAP, GMT
	0.50	4 pm Public Comment Period	Info			
	<b>8.00</b>					

STAFF PROPOSED DRAFT COUNCIL MEETING AGENDA, SEPTEMBER 8-12, 2003, SEATTLE, WA

AG #	TIME	AGENDA TOPICS/COMMENTS	COUNCIL TASK	REVIEW PRIORITY	
				SSC	HC Other or *Not at Mtg1/
Wednesday, Sept 10					
C.		Habitat Issues			
1	0.50	Habitat Committee Rpt	Action	X	GAP, SAS*
D.		Salmon Mgmt			
1	0.10	Fishery Update	Info		SAS*, STT*
2	0.40	Model Evaluation Workgroup: Progress Report on Initial Mtg	Info/Guidance		SAS*, STT*
3	0.50	Methodology Review: Final Prioritization of Issues	Action	X	SAS*, STT*
E.		Pacific Halibut Mgmt			
1	0.25	Status of 2003 Fisheries	Info		GAP, SAS*
2	0.50	Changes to Catch Sharing Plan & Annual Regs. - Adopt for Pub. Rev.	Action		GAP, SAS*
F.		Coastal Pelagic Species Mgmt			
1	0.20	NMFS Rpt	Info		CPSAS*, CPSMT*
G.		Highly Migratory Species Management			
1	0.20	NMFS RPT	Info		HMSAS*, HMSPDT*
B.		Groundfish Mgmt (continued)			
5	2.00	Final Consideration of Inseason Adjustments	Action		EC, GAP, GMT
6	3.50	Groundfish Mgmt Measures for 2004: Tentative Adoption for Analysis	Action		EC, GAP, GMT, SAS*
	8.15				
		Council Chairman's Reception -- 6:00-7:30 pm			
Thursday, Sept 11					
H.		Marine Protected Areas			
1	2.00	Federal Waters Portion of CINMS: Identify Alternatives	Action	X	GAP, SAS*, HMSAS*, CPSAS*
2	0.50	Update on Other MPA Issues	Info	X	GAP, SAS*, HMSAS*, CPSAS*
B.		Groundfish Mgmt (continued)			
7	1.00	Planning for future Stock Assessment Processes	Info	X	GAP, GMT
8	1.50	Red-Green Light Threshold: Initial Consideration	Action	X	EC, GAP, GMT
9	1.00	Groundfish PEIS: Adoption of Options for Public Review	Action		GAP, GMT
10	1.00	EFP: Approve Final Criteria & Consider Initial EFP Proposals for 2004	Action	X	GAP, GMT
11	1.00	Groundfish Mgmt Measures for 2004--Council Clarification as Needed	Action		EC, GAP, GMT, SAS*
	8.00				

**STAFF PROPOSED DRAFT COUNCIL MEETING AGENDA, SEPTEMBER 8-12, 2003, SEATTLE, WA**

AG #	TIME	AGENDA TOPICS/COMMENTS	COUNCIL TASK	REVIEW PRIORITY		
				SSC	HC	Other or *Not at Mtg1/
Friday, Sept 12						
I.		Administration				
1	0.30	Legislative Matters - Rpt of the Leg. Com. (rpt on buyback, etc.)	Action			
2	0.30	Financial Matters	Action			
3	1.00	Appointments to Advisory Bodies, Standing Com., & Other Forums	Action	X	X	All
		Adopt Changes to COPs & Request Nominations for 2004-2006 term				
4	0.70	Workload Planning & Draft November Agenda	Action			
B.		Groundfish Management (continued)				
12	3.00	2004 Groundfish Mgmt Measures: Final Adoption	Action			EC, GAP, GMT, SAS*
	5:30					

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	Communication Plan Update	Info				
2	Update on MPA Issues--Federal Adv. Council, etc.	Info	X	X		GAP, GMT

**Other Possible Agenda Items:**

1.50	Consider Initiation of FMP Amendment for Sardine Allocation	Action				CPSAS*, CPSMT*
2.00	VMS: Guidance on Pilot Program & Expansion to other Fisheries	Info/Guidance				EC, GAP, GMT
0.25	Whiting ITQs: Short Briefing on Coop Style Fisheries Mgmt	Info				EC, GAP, GMT
1.00	Alternative Mgmt Approaches	Info/Guidance				EC, GAP, GMT
0.75	Corals & Living Substrates Rpt from NMFS	Info		X		EC, GAP, GMT
	Direction for SSC Bycatch II Workshop	Info/Guidance	X			EC, GAP, GMT
	Direction for SSC B <sub>0</sub> & MSY Workshops	Info/Guidance	X			EC, GAP, GMT
	Presentation on Using Real-time Electronic Logbook Data	Info	X			EC, GAP, GMT

**Due Dates:**

Invitation Memo:

FR Notice:

Meeting Notice Mailed:

Final day to submit draft BB items for supervisory review:

Final day to receive public comments for placement in BB:

Cover memos for Ancillary Meetings:

Briefing Book Mailing:

Final Day to receive pub. comments for distr. to Council 1st day of mtg:

8/6 ?

8/15?

8/19?

COB 8/20

COB 8/25

Noon 8/26

COB 8/28

COB 9/2

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graph TD
    A[Current Litigation response Amendments:  
S Falcon coho allocation  
OCN matrix  
Central Valley Chinook] --> B[COP on A-17 red-green thresholds  
Amendmt 16-3: Species Rebidg Plns  
Cowcod, Widow & Yelloweye Rockfish  
Amendmt 16-4: Species Rebidg Plns  
Bocaccio Rockfish & Whiting  
Individual Fishing Quotas (IFQ)  
Open Access Committee  
Permit Stacking Implementation:  
Fixed-Gear (owner on board; 6 permits)  
Trawl Committee]
    B --> C[Groundfish  
SSC B0 & MSY Workshop  
Full retention pilot program  
Amendment 15 - AFA]
    C --> D[Update FMP w/ Amend. 17 upon approval]
  
```

The diagram is a vertical flowchart. It begins with a box on the left containing 'Current Litigation response Amendments:' followed by a list: 'S Falcon coho allocation', 'OCN matrix', and 'Central Valley Chinook'. An arrow points down to a larger box containing 'COP on A-17 red-green thresholds', 'Amendmt 16-3: Species Rebidg Plns', 'Cowcod, Widow & Yelloweye Rockfish', 'Amendmt 16-4: Species Rebidg Plns', 'Bocaccio Rockfish & Whiting', 'Individual Fishing Quotas (IFQ)', 'Open Access Committee', 'Permit Stacking Implementation:', 'Fixed-Gear (owner on board; 6 permits)', and 'Trawl Committee'. Another arrow points down to a box labeled 'Groundfish' which contains 'SSC B<sub>0</sub> & MSY Workshop', 'Full retention pilot program', and 'Amendment 15 - AFA'. A final arrow points down to the text 'Update FMP w/ Amend. 17 upon approval'.

GROUND FISH ADVISORY SUBPANEL STATEMENT ON  
STAFF WORK LOAD PRIORITIES AND SEPTEMBER 2003 COUNCIL MEETING AGENDA

The Groundfish Advisory Subpanel (GAP) expresses its frustration with the increasing workload and decreasing amount of time available to accomplish its work.

In the past few years, the GAP has had to extend its start time to early Monday and - for the past few meetings - mid-day on Sunday. At the same time, the Council has added GAP agenda items (the GAP covered 20 agenda items this week). Keep in mind that GAP members are not compensated for their time spent on the GAP; all but three members are taking time away from their personal businesses to serve on the GAP.

We all recognize fisheries management has become more complex and some "agenda creep" is inevitable. Further, implementation of multi-year management may offer some relief in the future; but for now, we have a definite problem.

The GAP, therefore, proposes that the September agenda include only those groundfish-related items that are essential for completing the 2004 management process. Any other groundfish items should be put off until November, including any discussion of marine protected area issues. The GAP also suggests that the GAP Chair work with the Council Executive Director to better coordinate timing of groundfish agenda items during the week.

PPMC  
06/19/03