

FUTURE COUNCIL MEETING AGENDA PLANNING

The primary purpose of this agenda item is to provide initial information to Council Members early in the meeting to facilitate planning for future meeting agendas. This is especially important at the March meeting since the April Agenda must be finalized on Friday, March 14 for submission to the Federal Register. In addition, because of the very heavy agendas over this next year and issues with hotel availability to meet those needs, the Council staff has provided initial planning documents for all Council meetings for the remainder of 2008.

The Executive Director will review the timeline of decision points for key groundfish projects (Attachment 1), the four-meeting outlook and April through November preliminary proposed Council meeting agendas (Attachments 2 through 6), note written public comments (four included with the briefing book under Agenda Item B.1.c), and respond to any questions the Council may have regarding these initial planning documents.

Regarding the four public comments, the first two express concern and request future agenda time for reviewing the program implementing the vessel monitoring system (VMS). The other two concern the Marine Protected Area agenda item currently scheduled for the April Council meeting. The first of these provides information on an independent scientific analysis of the need for marine protected areas within the Monterey Bay National Marine Sanctuary (MBNMS) and requests the Council to have the Scientific and Statistical Committee (SSC) review this analysis. If the Council agrees, this could require an SSC Report and Council action at a future meeting. The second comment is comprised of two February 15, 2007 letters from Mr. Paul Michel, MBNMS Superintendant, regarding matters that could be considered by the Council at the April Council meeting.

This agenda item is essentially informational in nature, however, after hearing any reports and comments from advisory bodies or the public, the Council may wish to provide guidance to staff to help prepare for Agenda Item B.5, at which time final consideration of the meeting outlook and draft April Agenda are scheduled.

Council Tasks:

- 1. Receive information on potential agenda topics for the next four Council meetings.**
- 2. Receive information on an initial draft agenda for the April Council meeting.**
- 3. Provide guidance on the development of materials for Agenda Item B.5 (April agenda and four-meeting outlook).**

Reference Materials:

1. Agenda Item B.1.a, Attachment 1: Council Meeting Decision Points for Groundfish Trawl Rationalization, Intersector Allocation, and 2009-2010 Biennial Management Specifications.
2. Agenda Item B.1.a, Attachment 2: Preliminary Draft Four-Meeting Outlook for the Pacific Council.
3. Agenda Item B.1.a, Attachment 3: Preliminary Proposed Council Meeting Agenda, April 7-12, 2008, Seattle, Washington.

4. Agenda Item B.1.a, Attachment 4: Preliminary Proposed Council Meeting Agenda, June 6-13, 2008, Foster City, California.
5. Agenda Item B.1.a, Attachment 5: Preliminary Proposed Council Meeting Agenda, September 7-12, 2008, Boise, Idaho.
6. Agenda Item B.1.a, Attachment 6: Preliminary Proposed Council Meeting Agenda, November 2-7, 2008, San Diego, California.
7. Agenda Item B.1.c, Public Comments 1-4.

Agenda Order:

- a. Agenda Item Overview
- b. Reports and Comments of Advisory Bodies
- c. Public Comment
- d. Council Discussion of Future Council Meeting Agenda Topics

Don McIsaac

PFMC
02/26/08

<p align="center">Council Meeting Decision Points for Groundfish Trawl Rationalization, Intersector Allocation, and 2009-2010 Biennial Management Specifications</p>

Council Meeting	Trawl Rationalization EIS	Intersector Allocation EA or EIS	2009-10 Biennial Specifications EA or EIS
March, 2008 (Sacramento)	Refine Tracking & Monitoring & Program Administrative Provisions		
April, 2008 (Seattle)	Analytical Results Briefing	Final Council Action	Adopt Preferred ABC/OYs & Refined Mgmt. Measures
June, 2008 (Foster City)	Prelim. DEIS; Adopt Preferred Alternative		Adopt Final ABC/OYs & Mgmt Measures
September, 2008 (Boise)	Hearings in October		
November, 2008 (San Diego)	Final Council Action		

Preliminary Draft Four-Meeting Outlook for the Pacific Council
(Contingent Items are Shaded and Counted in Time Estimate)

<p align="center">April Seattle, WA (4/6-4/12/2008) Estimated Hours of Council Floor Time = 41.3</p>	<p align="center">June Foster City, CA (6/6-13/2008) Estimated Hours of Council Floor Time = 43.0</p>
<p><u>Administrative</u> Closed Session; Open Session Call to Order; Min. Legislative Committee Report</p> <p>Interim Appointments to Advisory Bodies MSA Reauthorization Implementation 3 Mtg Outlook, Drft Nov Agenda, Workload (2 sessions) Public Comment on Non-Agenda Items</p>	<p><u>Administrative</u> Closed Session; Open Session Call to Order; Min. Legislative Committee Report Fiscal Matters Interim Appointments to Advisory Bodies (& EFH) MSA Reauthorization Implementation 3 Mtg Outlook, Drft Mar Agenda, Workload (2 sessions) Public Comment on Non-Agenda Items Research & Data Needs: Adopt for Pub Rev</p>
<p><u>Coastal Pelagic Species</u></p>	<p><u>Coastal Pelagic Species</u> Pac. Mackerel Harvest Guideline 2008-2009: Adopt Final Guideline and Mgmt Measures</p>
<p><u>Ecosystem FMP</u></p>	<p><u>Ecosystem FMP</u></p>
<p><u>Enforcement Issues</u> US Coast Guard Annual Fishery Enforcement Report</p>	<p><u>Enforcement Issues</u></p>
<p><u>Groundfish</u> NMFS Report 2007 Inseason Management (2 Sessions) Trawl Rationalization Analytical Results Briefing Intersector Allocation: Adopt Final Preferred Alt</p> <p>2009-2010 Mgmt Recommendations: Adopt</p> <ol style="list-style-type: none"> 1) Preferred ABCs & OYs, & Prelim Revised RB Plns 2) Range of Refined Mgmt Meas. for Pub Rev, & if possible, a Preferred Alt. (Parts I & II) 	<p><u>Groundfish</u> NMFS Report 2008 Inseason Management (2 Sessions) Trawl Rationalization: Preliminary DEIS--Adopt Pref. Alt.</p> <p>Stock Assessments: Adopt Final TOR, List of Stocks to be Assessed, & Review Schedule for 2009 EFH 5 year Review: Scope Issues & Appt. Committee for Comprehensive Rev (May require subcommittees as well) 2009-2010 Mgmt Recommendations: Adopt</p> <ol style="list-style-type: none"> 1) Tentative Final Spx, RB Plans, & Mgmt Measures 2) Clarification to Tentative Adoption if Nec 3) Final <p>EFPs for 2009: Preliminary Rev & Comment</p>

Preliminary Draft Four-Meeting Outlook for the Pacific Council
(Contingent Items are Shaded and Counted in Time Estimate)

April Seattle, WA (4/6-4/12/2008) Estimated Hours of Council Floor Time = 41.3	June Foster City, CA (6/6-13/2008) Estimated Hours of Council Floor Time = 43.0
<u>Habitat Issues</u> Habitat Committee Report	<u>Habitat Issues</u> Habitat Committee Report
<u>Highly Migratory Species</u> NMFS Rpt New EFPs for 2008: Adopt Final IATTC Recommendations	<u>Highly Migratory Species</u> NMFS Rpt Routine Mgmt Meas.: Identify any Proposed Changes
<u>Marine Protected Areas</u> New MPA's: Comment on New Proposals by MBNMS	<u>Marine Protected Areas</u> New MPA's: Comment on New Proposals by MBNMS
<u>Pacific Halibut</u> Incidental Catch Regs for 2008: Adopt Final	<u>Pacific Halibut</u>
<u>Salmon</u> 2008 Mgmt Measures: Adopt Final (4 agenda items) 2008 Methods Review: Process & Prelimin Topics PSC CWT Work Group Rpt	<u>Salmon</u>
<u>Information Reports</u>	<u>Information Reports</u> Salmon Fishery Update
<u>Special Sessions</u> None	<u>Special Sessions</u> None
Standard Floor Time = 32 hr	

Preliminary Draft Four-Meeting Outlook for the Pacific Council
(Contingent Items are Shaded and Counted in Time Estimate)

<p>September Portland, OR (9/7-9/12/08) Estimated Hours of Council Floor Time = 33.3</p>	<p>November San Diego, CA (11/2-11/7/2008) Estimated Hours of Council Floor Time = 45.8</p>
<p><u>Administrative</u> Closed Session; Open Session Call to Order; Min. Legislative Committee Report Fiscal Matters Interim Appointments to Advisory Bodies MSA Reauthorization Implementation 3 Mtg Outlook, Drft Nov Agenda, Workload (2 sessions) Public Comment on Non-Agenda Items Research & Data Needs: Adopt Final</p>	<p><u>Administrative</u> Closed Session; Open Session Call to Order; Min. Legislative Committee Report Fiscal Matters Interim Appointments to Advisory Bodies MSA Reauthorization Implementation 3 Mtg Outlook, Drft Mar Agenda, Workload (2 sessions) Public Comment on Non-Agenda Items</p>
<p><u>Coastal Pelagic Species</u></p>	<p><u>Coastal Pelagic Species</u> STAR Panel 2008 TOR: Adopt for Pub Rev Pac. Sardine: Approve Stk Assmnt & Mgmt Measures Amendment 11: Review Sardine Allocation</p>
<p><u>Ecosystem FMP</u></p>	<p><u>Ecosystem FMP</u></p>
<p><u>Enforcement Issues</u> State Activity Rpt</p>	<p><u>Enforcement Issues</u></p>
<p><u>Groundfish</u> NMFS Report 2008 Inseason Management (2 Sessions) Open Access License Limitaton: Adopt Final EFH 5 Year Review: Approve Outside Proposals for Inclusion in Review [Nonagenda item: If Nec, SSC may review certain EFPs for 2009]</p>	<p><u>Groundfish</u> NMFS Report 2008 & 2009 Inseason Management (2 Sessions) Trawl Rationalization: Adopt Final for DEIS EFPs for 2009: Adopt Final Recommendations</p>

Preliminary Draft Four-Meeting Outlook for the Pacific Council
(Contingent Items are Shaded and Counted in Time Estimate)

September Portland, OR (9/7-9/12/08) Estimated Hours of Council Floor Time = 33.3	November San Diego, CA (11/2-11/7/2008) Estimated Hours of Council Floor Time = 45.8
<u>Habitat Issues</u> Habitat Committee Report	<u>Habitat Issues</u> Habitat Committee Report
<u>Highly Migratory Species</u> NMFS Rpt Routine Mgmt Meas.: Adopt Proposed Changes for Analysis WCPFC Northern Committee Actions: Provide Recom. High Seas Shallow-set Longline Amendment: Adopt Alternatives for Pub Rev	<u>Highly Migratory Species</u> NMFS Rpt Routine Mgmt Meas.: Adopt Final WCPFC Recommendations
<u>Marine Protected Areas</u> MPA Issues	<u>Marine Protected Areas</u> MPA Issues
<u>Pacific Halibut</u> Changes to 2009 CSP & Regs: Adopt for Pub Rev Halibut Bycatch Est for IPHC: review Halibut Abundance Estimation for 2009	<u>Pacific Halibut</u> Changes to 2009 CSP & Regs: Adopt Final Halibut Abundance Estimation for 2009
<u>Salmon</u> 2008 Methodology Review: Select Final Rev Priorities Mitchell Act EIS: Provide Council Comments	<u>Salmon</u> Preseason Salmon Mgmt Sched for 2008: Approve 2007 Methodology Review: Adopt Final Changes
<u>Information Reports</u> Salmon Fishery Update Final SAFE Rpt (HMS)	<u>Information Reports</u> Salmon Fishery Update
<u>Special Sessions</u> None	<u>Special Sessions</u> Joint Session Mon Night--Trawl Rationalization

PRELIMINARY PROPOSED COUNCIL MEETING AGENDA, APRIL 6-12, 2008, SEATTLE, WASHINGTON

	Sun, Apr 6	Mon, Apr 7	Tues, Apr 8	Wed, Apr 9	Thurs, Apr 10	Fri, Apr 11	Sat, Apr 12
Day-Time Council Floor Matters			<u>ENFORCEMENT</u> 1. Annual USCG Rpt. (1 hr) <u>HABITAT</u> 1. Current Issues (45 min) <u>SALMON</u> 1. 2008 Mgmt Measures: Tentative Adoption for Analysis (2 hr 45 min) <u>PACIFIC HALIBUT</u> 1. Incidental 2008 Catch Regs (Salmon Troll and Sablefish): Adopt Final (30 min) <u>GROUNDFISH</u> 1. Mgmt Specifications for 2009-10: Adopt a Range & Preferred Alt. of ABCs, OYs, & RB Plans (3 hr)	<u>GROUNDFISH</u> 2. NMFS Report (45 min) 3. Amendment 21 (Intersector Allocation): Adopt Final Preferred Alt (3 hr) <u>SALMON</u> 2. Clarify Mgmt Options for Analysis if Necessary (1 hr) 3. PSC CWT Workgroup Rpt (1 hr) 4. 2008 Methodology Review: Select Methods to Review (45 min) <u>MPA</u> 1. New MPAs: Comment on Proposals by MBNMS (2 hr)	<u>ADMINISTRATIVE</u> 2. Legislative Matters (30 min) <u>GROUNDFISH</u> 4. Consider Inseason Adjustments for 2008 Fisheries (2 hr) 5. Mgmt Measures for 2009-10—Part I: Adopt Prelim. Range for Analysis (3 hr) <u>SALMON</u> 5. Mgmt Measures for 2008: Adopt Final (2 hr)	<u>SALMON</u> 6. Clarify Final Action if Nec (30 min) <u>ADMINISTRATIVE</u> 3. Implement MSRA (2 hr) <u>HIGHLY MIGRATORY</u> 1. NMFS Rpt (30 min) 2. Recommendations to IATTC (1 hr) 3. New EFPs for 2008: Adopt Final Recommendations (3 hr) <u>ADMINISTRATIVE</u> 4. Interim Appointments (15 min) 5. Approve Minutes (15 min) 6. Plan Future Council Mtg Agenda & Workload Priorities (30 min)	<u>GROUNDFISH</u> 6. Mgmt Measures for 2009-10—Part II: Adopt Range & Preferred Alt. for Pub Rev (3 hr) 7. Final Inseason Adjustments (2 hr) 8. Trawl Rationalization Analytical Results Briefing (2 hr)
		2 hr 15 min	8 hr	8 hr 30 min	7 hr 30 min	8 hr	7 hr
Committees	1:00 pm GAP 1:00 pm GMT 1:00 pm LC	8:00 am GAP 8:00 am GMT 8:00 am SAS 8:00 am STT 8:00 am SSC 9:00 am HC 1:30 pm ChB 4:30 pm EC	8:00 am EC 8:00 am GAP 8:00 am GMT 8:00 am SAS 8:00 am STT 8:00 am SSC ..	8:00 am EC 8:00 am GAP 8:00 am GMT 8:00 am SAS 8:00 am STT	8:00 am EC 8:00 am GAP 8:00 am GMT 8:00 am SAS 8:00 am STT 8:00 am HMSAS 8:00 am HMSMT	8:00 am EC 8:00 am GAP 8:00 am GMT 8:00 am SAS 8:00 am STT 8:00 am HMSAS 8:00 am HMSMT	8:00 am EC

Council-sponsored evening sessions: Chair's Reception on Monday at 6:00 pm
Total Floor Hours = 41.25

2/26/2008 3:36 PM

PRELIMINARY PROPOSED COUNCIL MEETING AGENDA, JUNE 6-13, 2008, FOSTER CITY, CALIFORNIA

	Jun 6-7	Sun, June 8	Mon, Jun 9	Tue, Jun 10	Wed, Jun 11	Thu, Jun 12	Fri, June 13
Day-Time Council Floor Matters	<p>FRI, JUN 6 No Council Floor Session. See Advisory Body meetings below held in the Hilton and Crowne Plaza Hotels.</p> <p>SAT, JUN 7 No Council Floor Session. See Advisory Body meetings below held in the Hilton & Crowne Plaza Hotels.</p> <p>Note: HC meets week prior to Council Mtg</p>	<p><u>HILTON HOTEL</u> <u>CLOSED SESSION 9 AM</u> <u>OPEN SESSION 10 AM</u> 1-4. Open & Approve Agenda (15 min) <u>ADMINISTRATIVE</u> 1. Future Agenda Pln (15 min) 2. Minutes (15 min) <u>HABITAT</u> 1. Current Is. (45 min) <u>ADMINISTRATIVE</u> 3. Res & Data Needs: Adopt for Pub Rev (1 hr 30 min) <u>GROUNDFISH</u> 1. NMFS Rpt (45 min) <u>OPEN PUBLIC COMMENT</u> Comments on Non-Agenda Items (45 min) <u>HIGHLY MIGRATORY SPECIES</u> 1. Routine Mgmt Meas.: Identify Changes (1 hr 30 min)</p>	<p><u>CROWNE PLAZA HOTEL</u> <u>GROUNDFISH</u> 2. Stk Assessments: Adopt Final TOR, Stocks, & Sched for 2009 (1 hr) 3. Preliminary Review of EFPs for 2009 (2 hr) <u>COASTAL PELAGIC SPECIES</u> 1. Pacific Mackerel Stk Assessment & HG: Adopt 2008-2009 Final (1 hr) <u>ADMINISTRATIVE</u> 4. Implement MSRA (ACL's etc.) (4 hr)</p>	<p><u>GROUNDFISH</u> 4. Tentative Adoption of 2009-10 GF Biennial Mgmt Specs & Mgmt Measures (6 hr) 5. GF EFH 5 Year Rev: Scope Issues & Appt Committee (2 hr)</p>	<p><u>GROUNDFISH</u> 6. Inseason Adjustments (2 hr) 7. Amendment 20: Trawl Rationalization Alts: Adopt Prelim DEIS (6 hr)</p>	<p><u>GROUNDFISH</u> 7. A-20 (cont) (2 hr) 8. Clarify Tent Adoption if Nec (1 hr 30 min) <u>MARINE PROTECTED AREAS</u> 1. Comment on New Proposals by MBNMS (2 hr) <u>GROUNDFISH</u> 9. Final Inseason Adjustments (1 hr) <u>ADMINISTRATIVE</u> 5. Leg Matters (30 min) 6. Fiscal Matters (15 min) 7. Appointments & COP (15 min) 8. 3-Mtg Outlook, Sept Agenda, Wrkld (30 min)</p>	<p><u>GROUNDFISH</u> 10. 2009-10 GF Mgmt Spx & Measures: Final Adoption (4 hr)</p>
		7 hr	8 hr	8 hr	8 hr	8hr	4 hr
Committees	<p>Fri-Sat, Jun 6-7 Crowne Plaza 8:00 am GAP 8:00 am GMT Sat, Jun 7 Hilton Hotel 1:00 pm SSC 1:30 pm BC 2:30 pm LC 4:00 pm ChrBr</p>	<p>8:00 am GAP 8:00 am GMT 8:00 am SSC 5:00 pm EC</p>	<p>8:00 am EC 8:00 am GAP 8:00 am GMT 8:00 am SSC 4:30 pm EC</p>	<p>8:00 am EC 8:00 am GAP 8:00 am GMT</p>	<p>8:00 am EC 8:00 am GAP 8:00 am GMT</p>	<p>8:00 am EC 8:00 am GAP 8:00 am GMT</p>	<p>8:00 am GMT</p>

Council-sponsored evening sessions: Tuesday Evening--6:00 pm Chairman's Reception

Total Floor Hours = 43

2/26/2008 3:38 PM

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Agenda Item B.1.a
Attachment 4
March 2008

PRELIMINARY PROPOSED COUNCIL MEETING AGENDA, SEPTEMBER 7-12, 2008, BOISE, IDAHO

	Sun, Sept 7	Mon, Sept 8	Tue, Sept 9	Wed, Sept 10	Thu, Sept 11	Fri, Sept 12
Day-Time Council Floor Matters		<p><u>CLOSED SESSION 9 AM</u></p> <p><u>OPEN SESSION 10 AM</u></p> <p>1-4. Open & Approve Agenda (15 min)</p> <p><u>ADMINISTRATIVE</u></p> <p>1. Future Agenda Pln (15 min)</p> <p><u>PACIFIC HALIBUT</u></p> <p>1. Changes to 2009 CSP: Adopt for Pub Rev (45 min)</p> <p>2. Halibut Bycatch Est. for IPHC: Review (45 min)</p> <p>3. Halibut Abundance Estimation Method for 2009: Review Issues (1 hr)</p> <p><u>SALMON</u></p> <p>1. 2008 Methodology Rev: Select Final Rev Priorities (45 min)</p> <p>2. Mitchell Act EIS: Provide Comments (1 hr 30 min)</p> <p><u>OPEN PUBLIC COMMENT</u></p> <p>Comments on Non-Agenda Items (45 min)</p>	<p><u>ENFORCEMENT</u></p> <p>1. State Activity Report (1 hr)</p> <p><u>HABITAT</u></p> <p>1. Current Issues (45 min)</p> <p><u>HIGHLY MIGRATORY SPECIES</u></p> <p>1. NMFS Rpt (45 min)</p> <p>2. Routine Mgmt Measures: Adopt Proposed Changes for Analysis (1 hr 30 min)</p> <p>3. WCPFC Northern Committee Actions: Provide Council Recommendations (1 hr)</p> <p>4. High Seas Shallow-set Longline Amendment: Adopt Alts for Pub Rev (3 hr)</p>	<p><u>GROUND FISH</u></p> <p>1. NMFS Rpt (45 min)</p> <p>2. Amendment 22: Open Access License Limitation: Adopt Final Alt for Implementation (4 hr)</p> <p>3. Initial Inseason Adjustments (2 hr)</p>	<p><u>ADMINISTRATIVE</u></p> <p>2. Implement MSRA (ACL's etc.) (2 hr)</p> <p>3. Research & Data Needs: Adopt Final (1 hr 30 min)</p> <p><u>GROUND FISH</u></p> <p>4. GF EFH 5 Year Rev: Appt Com & Screen Issues (3 hr)</p> <p>5. Final Inseason Adjustments (1 hr)</p>	<p><u>MARINE PROTECTED AREAS</u></p> <p>1. Comment on New Proposals by MBNMS (2 hr)</p> <p><u>ADMINISTRATIVE</u></p> <p>4. Leg Matters (30 min)</p> <p>5. Minutes (15 min)</p> <p>6. Fiscal Matters (30 min)</p> <p>7. Appointments & COP (15 min)</p> <p>8. 3-Mtg Outlook, Sept Agenda, Wrkld (30 min)</p>
		7 hr	8 hr	6 hr 45 min	7 hr 30 min	4 hr
Committees	8:00 am GAP 8:00 am GMT 8:00 am SSC 2:00 pm LC 4:00 pm BC 7:00 pm ChB	8:00 am EC 8:00 am GAP 8:00 am GMT 8:00 am SSC 8:00 am HMSAS 8:00 am HMSMT 9:00 am HC	8:00 am EC 8:00 am GAP 8:00 am GMT 8:00 am HMSAS 8:00 am HMSMT	8:00 am EC 8:00 am GAP 8:00 am GMT	8:00 am EC 8:00 am GAP 8:00 am GMT	8:00 am GMT

Council-sponsored evening sessions: Tuesday Evening--6:00 pm Chairman's Reception
Total Council Floor Time = 33.25 hr

2/26/2008 3:54 PM

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Agenda Item B.1.a
Attachment 5
March 2008

PRELIMINARY PROPOSED COUNCIL MEETING AGENDA, NOVEMBER 2-7, 2008, SAN DIEGO, CALIFORNIA

	Sun, Nov 2	Mon, Nov 3	Tue, Nov 4	Wed, Nov 5	Thu, Nov 6	Fri, Nov 7
Day-Time Council Floor Matters	<p>CLOSED SESSION 3 PM</p> <p>OPEN SESSION 4 PM</p> <p>1-4. Open & Approve Agenda (15 min)</p> <p>ADMINISTRATIVE</p> <p>1. Future Agenda Pln (15 min)</p> <p>OPEN PUBLIC COMMENT</p> <p>Comments on Non-Agenda Items (45 min)</p>	<p>PACIFIC HALIBUT</p> <p>1. Changes to 2009 CSP: Adopt Final (45 min)</p> <p>2. Halibut Abundance Estimation Method for 2009: Review Issues (1 hr)</p> <p>SALMON</p> <p>1. 2009 Preseason Salmon Mgmt Sched.: Approve (30 min)</p> <p>2. 2008 Methodology Review: Adopt Final Changes for 2009 (1 hr 30 min)</p> <p>HIGHLY MIGRATORY SPECIES</p> <p>1. NMFS Rpt (45 min)</p> <p>2. Routine Mgmt Measures: Adopt Final (1 hr 30 min)</p> <p>3. WCPFC Actions: Provide Council Recommendations (1 hr)</p>	<p>HABITAT</p> <p>1. Current Issues (45 min)</p> <p>GROUNDFISH</p> <p>1. NMFS Rpt (45 min)</p> <p>2. EFPs for 2009: Adopt Final Recommendations (3 hr)</p> <p>ADMINISTRATIVE</p> <p>2. Implement MSRA (ACL's etc.) (4 hr)</p>	<p>COASTAL PELAGIC SPECIES</p> <p>1. STAR Panel 2008 TOR: Adopt for Public Review (1 hr)</p> <p>2. Pac. Sardine: Approve Stk Assmnt & Mgmt Measures (2 hr)</p> <p>3. Amend. 11: Review Sardine Allocation (2 hr)</p> <p>GROUNDFISH</p> <p>3. Initial Inseason Adjustments for 2008 & 2009 (2 hr)</p> <p>MARINE PROTECTED AREAS</p> <p>1. MPA Issues (2 hr)</p>	<p>GROUNDFISH</p> <p>4. Part I--Amendment 20: Trawl Rationalization: Adopt Final Preferred Alt for DEIS (8 hr)</p> <p>ADMINISTRATIVE</p> <p>3. Leg Matters (30 min)</p> <p>4. Minutes (15 min)</p> <p>5. Fiscal Matters (30 min)</p> <p>6. Appointments & COP (15 min)</p> <p>7. 3-Mtg Outlook, Sept Agenda, Wrkld (30 min)</p>	<p>GROUNDFISH</p> <p>4. Part II--Amendment 20: Trawl Rationalization: Adopt Final Preferred Alt for DEIS (6 hr)</p> <p>5. Final Inseason Adjustments (1 hr)</p>
	2 hr 15 min	7 hr & 2 hr in evening	8 hr 30 min	9 hr	8 hr	9 hr
Committees	<p>1:00 pm GAP</p> <p>1:00 pm GMT</p> <p>1:00 pm SSC</p> <p>2:00 pm ChB</p> <p>5:00 pm TIQC</p> <p>?? LC</p> <p>?? BC</p> <p>?? HMSAS & MT</p>	<p>8:00 am CPSAS</p> <p>8:00 am CPSMT</p> <p>8:00 am EC</p> <p>8:00 am GAP</p> <p>8:00 am GMT</p> <p>8:00 am SSC</p> <p>9:00 am HC</p> <p>?? HMSAS & MT</p>	<p>8:00 am CPSAS</p> <p>8:00 am CPSMT</p> <p>8:00 am EC</p> <p>8:00 am GAP</p> <p>8:00 am GMT</p>	<p>8:00 am EC</p> <p>8:00 am GAP</p> <p>8:00 am GMT</p>	<p>8:00 am EC</p> <p>8:00 am GAP</p> <p>8:00 am GMT</p>	<p>8:00 am GAP</p> <p>8:00 am GMT</p>

Council-sponsored evening sessions: Monday Evening—7:00 pm Trawl Rationalization Briefing/Question & Answer Session

Tuesday Evening--6:00 pm Chairman's Reception

Total Council Floor Time = 45.75 hr

2/26/2008 3:47 PM

HIGHLY MIGRATORY SPECIES ADVISORY SUBPANEL REPORT ON
FUTURE COUNCIL MEETING AGENDA PLANNING

The Highly Migratory Species Advisory Subpanel (HMSAS) would like to comment on Agenda Item B.1.c, Public Comment 4, a letter from the Monterey National Marine Sanctuary Superintendent, Paul Michel, to the Sanctuary Advisory Council. The letter indicates their intention to move forward without coordination between the Sanctuary and the Pacific Fishery Management Council (Council) in answering a key question: does the Monterey National Marine Sanctuary need additional marine protected areas to meet its conservation goals? The Alliance of Communities for Sustainable Fisheries, in a letter to Paul Michel and Don Hansen, refers to an analysis being conducted to answer that question. We encourage further review by the Scientific and Statistical Committee and National Marine Fisheries Service Legal Counsel of this full document to better understand the analysis and report back to the Council for the April meeting MPA consideration.

The HMSAS also recommends that with respect to Agenda Item B.1.a, Attachment 2, that the item on the September 9-12, 2008 agenda, HMS – WCPFC Northern Committee Actions: “Provide Recommendations” be moved to the June 6-13, 2008, agenda under HMS. The WCPFC Northern Committee meeting is in Tokyo, September 9-11, 2008, and if the Council waits until the September Council meeting, the recommendations will not be given any consideration.

PFMC
03/09/08

Kenyon Hensel
871 Elk Valley Rd
Crescent City Ca
95531
707-465-6857

To the Pacific fisheries Management Council,

I ask the council to please reconsider it's policy on Vessel Monitoring systems in the Open Access sector. The small boats found in this sector are under distress trying to comply with current law. The law, as it has been written, creates both financial and physical stresses on small boat owners.

On boats under thirty feet in length, there is rarely space or battery power to place and run the available VMS units. Crescent City harbor currently has no electricity to the small boat slips on its docks. This has been the case since last year's high winds. Heavy storms and old infrastructure cause regular power outages on these docks. Without shore side power it may be impossible to keep VMS units and auto bilge pumps working at the same time. This could mean sinking or flooding of boats at the dock, and VMS outages from battery drain. I would like to discuss the idea of tying these units into our main battery shut off switches. If the boat were in use, the unit would be on. Do we really need to monitor the boats when they are at the dock?

My Boston Whaler has no room on its small dash for any more electronics. If the VMS unit was a small box that could go under dash, I might be able to accommodate it, though antenna placement would be questionable. My above dash units are prone to salt spray and vibration abuse. While the first VMS unit might be free, I cannot afford to replace even the cheapest VMS on a regular basis. While I get some protection by disconnecting my other electronics when not in use, this is currently not an option for the VMS, making its replacement or repairs a short maintenance cycle, possibly causing considerable financial hardship.

If I try to avoid this hardship by not having a VMS and staying in state waters, I lose access to important weather safe, and productive fishing grounds. All fishermen in our area know to be respectful of our south winds. They come up fast, some times days ahead of the forecast, and create large chop across our northwest swells. This chop also pushes your vessel on shore. Running south into the light morning breeze is a standard precaution in our harbor, but winter weather runs the fish to the outside edges of our reefs. On our south reef, that edge is just outside of state waters.

So now I have to fish the outside edge of the north reef all winter to stay in state waters and still have a chance of decent catches. That means a dangerous trip through heavy chop any time an unexpected south wind comes up which occurs on a regular basis. So due to VMS, I have lost access to my safe southern fishing grounds. This will cost me both money (those grounds are closer and very productive), and may someday compromise my safety.

As a solution to this problem, please reopen the VMS discussions. There are possible solutions like; tying the VMS to our battery shut off switches, limiting the units to boats over thirty feet, or even requiring that the VMS is only placed on a boat after it is caught violating the RCA. VMS does not replace on the water enforcement, so why not make it part of the penalty phase, instead of a required burden.

Kenyon Hensel

Subject:
VMS monitoring
From:
lucky50@humboldt1.com
Date:
Wed, 13 Feb 2008 17:10:48 -0800 (PST)
Feb 10, 08

Dear council chair Hansen,

We would like to see the VMS requirement on open-access groundfish vessels revisited.

During the previous public comment period it was impossible for affected parties to make informed comments because few if any fishermen knew the details of implementation. Since open access vessels are only allowed approximately 18 trips per year into federal waters for sablefish it seems overkill to subject a 24 foot boat to the expense, hassle and risk of 24 hour a day year around monitoring.

The local VMS provider "Faria Watchdog" only sells annual plans with a \$38-\$78 monthly service charge, a \$240 dollar deactivation fee and a \$60 dollar reactivation fee. The unit itself is valued at three thousand dollars and if it is reliable as the other marine electronics it will have to be replaced every 3 years. So I'm estimating an annual cost of at least \$1500 a year for maintenance and monitoring. That's approximately ten percent of my income from federal groundfish. Even though my boat sits on a trailer several months a year the monthly service charge still applies. Since it's my understanding that the VMS providers are subcontracted by NMFS it seems reasonable that reduced or waived rates during exempted periods could be arranged.

Fuel consumption and the costs both monetary and environmental will also increase under current VMS requirements. Current VMS regulations prohibit fishing for groundfish and non-groundfish species the same trip. No longer will fishermen be able to set longline for sable and return to the RCA to fish for salmon or flatfish potentially resulting in twice the fuel and time consumption. Battery drain caused by the VMS unit will also make it dangerous to shut off your engine and drift when gear is soaking for fear of not starting.

The time requirements of VMS will also be extraordinary. During the year I participate in numerous fisheries including Dungeness crab, Salmon, Sable, Nearshore and may even take up slime eel fishing this season, not to mention sport salmon and bottom fishing. While I'm a little unclear as to when I'm supposed to make a declaration I'm guessing it will be about everyday, so try to imagine how much time as well as cell phone minutes I'll use doing it. As I understand it I only need to make a declaration when I'm groundfishing in federal waters, but what's enforcement going to say when I'm sport salmon trolling in the RCA without a declaration?

The most serious problem posed by the current VMS requirement is the risk to life and property. Small boats moored without shore power as well as those that lose shore power during a severe winter storm are

most at risk. Automatic bilge pumps run by batteries are all that keep boats afloat. A constant drain on batteries from a VMS unit especially during inclement weather will result in the vessel sinking. A weak battery coupled with rain, waves or leaking will result in the bilge pumps failing and the vessel swamping. At Trinidad, my home port, severe weather makes it risky if not impossible to row to my boat during winter storms sometimes for weeks on end. The vessel owners life will also be imperiled trying to save a sinking vessel or being stranded at sea by engine failure from a dead battery. By only requiring VMS monitoring on groundfish trips in the EEZ these disastrous situations can be mitigated or avoided.

We want to see over-fished stocks recover and the integrity of the RCA protected as much as anyone. However the current implementation of the VMS requirement goes far beyond protecting the RCA, it endangers lives and property as well as increasing costs and fuel consumption. Current management only allows open-access vessels retention of 200 pounds a month of shelf rockfish, the complex being protected by the RCA. Sable live outside the RCA and Nearshore live between the RCA and shore so there is no incentive for a open-access fishermen to target groundfish species in the RCA. Until the dollar value of the open-access quota for shelf rockfish surpasses the federal poverty level VMS shouldn't apply to open-access vessels because there is no reason to fish in the RCA.

Until this situation can be adequately resolved four simple suggestions could alleviate the immediate threats to smaller vessels caused by the current VMS requirement.

1. Waive the VMS requirement on open-access boats under 35 feet. or
2. Allow the VMS unit to be attached to a battery disconnect switch so that it is only "on" when the boat is running to minimize battery drain and
3. Allow the trip declarations to be made for a single day to minimize the reporting requirements and
4. Allow the unit to be deactivated for those months when an open-access vessel is not participating in the groundfish fishery in federal waters and require providers to waive the deactivation and reactivation fees.

Although many of my comments reflect my personal situation they are not unique. Many small boat owners especially those mooring boats in open harbors such as Trinidad, Shelter Cove and Point Arena as well as other northern ports will face similar situations as a result of the current VMS mandate. I am therefore asking the PFMC to re-open the public comment period and reconsider the current implementation requirements.

Sincerely,

Mike Zamboni
CA Commercial Beach Fishermen's Assn.
Endorsed by
Trinidad Bay Fishermen's Marketing Assn.
Humboldt Fishermen's Marketing Assn.

Alliance of Communities for Sustainable Fisheries

256 Figueroa Street #1, Monterey, CA 93940

(831) 373-5238

www.alliancefisheries.com

February 11, 2008

Paul Michel, Superintendent
Monterey Bay National Marine Sanctuary
299 Foam Street
Monterey CA 93940

Don Hansen, Chair
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, Oregon 97220-1384

Subject: Independent scientific analysis of the question: Does the MBNMS need additional MPAs to meet its conservation goals and preserve ecosystem health?

Action Requested: Forward this Analysis to the PFMC's Science and Statistical Committee for their review and report their conclusions to the Council.

Dear Paul and Don,

This analysis of the need, if any, for additional Marine Protected Areas (MPAs) within the Federal waters portion of the Monterey Bay National Marine Sanctuary (MBNMS) is being conducted on behalf of the Alliance of Communities for Sustainable Fisheries (ACSF) to provide information to the MBNMS and to the Pacific Fishery Management Council that is unlikely to be developed in the MBNMS's MPA Workgroup (MPAWG), which is led by Sanctuary Staff. Its purpose is to bring some of the best fishery biology, socioeconomic and legal minds to bear on the question: Are more MPAs needed in the MBNMS to meet its conservation goals and to assure ecosystem health? The analysis of this question is appropriate for the Mission of the ACSF, a 501(c)(3) organization:

The Alliance of Communities for Sustainable Fisheries advocates for the heritage and economic value of fishing to California Coastal Communities. To preserve and enhance that value, the Alliance offers a broadly representative educational and promotional voice for waterfront communities to work constructively with interested agencies, individuals, and other marine protection organizations in order to ascertain and guarantee that: (1) the best and most current oceanographic, socio-economic, and fisheries science is accurately compiled; (2) this science is readily available to the public for use in crafting and promoting public policy; (3) the linkage between healthy sustainable fisheries, marine conservation, and coastal communities is firmly established in the public mind.

The Alliance of Communities for Sustainable Fisheries (ACSF) both as individual members participating in this MPA Workgroup, as well as from the viewpoint of outside observers, did not feel that the Sanctuary's MPAWG process was designed to create an impartial science based foundation to answer the question regarding the need for additional MPAs. The ACSF felt that the MPAWG process was unlikely to ever fully assess the full range of existing regulations and programs both for fisheries management and other conservation measures that are relevant. Further, there was little discussion about how the National Marine Sanctuary Act (NMSA) coordinates with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), or how the NOAA Strategic Plan relates to all NOAA programs. Concerns were expressed in the MPAWG about the methodology used and quality of work that could be expected from the MBNMS's contractor for socio-economic products. When ACSF members suggested that the culture and heritage of fishing in MBNMS-region coastal communities is an important resource to be protected by the MBNMS along with biological resources, this was rejected out of hand. Lastly, the ACSF felt that the emphasis of this workgroup was focused on reducing fishing opportunities, and was unlikely to fairly consider other management tools which may be equally, or even more effective, to preserve the ecosystem health of the Monterey Sanctuary, but with fewer costs to the fishing community.

In addition to the failure of the MBNMS to provide any scientific analysis of the "need" question, two other significant shortcomings have emerged from this MPA discussion. First, it appears that the Monterey Bay National Marine Sanctuary, and for that matter perhaps the National Marine Sanctuary Program as a whole, has no real method of measuring whether or not the policies and purposes of the National Marine Sanctuary Act are being met. When asked to provide a quantitative assessment of the degree to which MBNMS regulations and programs accomplish Program goals, Sanctuary Staff was unable to provide this. It also appears to be the case that the MBNMS can not provide any assessment as to the degree to which other state and federal regulations and programs also contribute to meeting the Sanctuary's conservation and ecosystem health goals. This would include programs such as those put in place by the Pacific Fishery Management Council, the State of California's new MPA network, and a wide variety of other regulations, such as the California Coastal Act, the Marine Mammal Protection Act, the Clean Water Act, and other programs. This inability to measure the degree to which its goals are already being met by regulations and programs inevitably leads to the question, "How can the Sanctuary know that it needs additional protection if it can't measure the effectiveness of programs and regulations that are in place already?" It is exactly on this point that this scientific analysis was commissioned, to try to put some of the best scientific minds to create measurements for such things as the health and functioning of the ecosystem.

The last, very significant shortcoming that has emerged from this discussion of additional MPAs is in regard to the MBNMS's failure to live up to its Congressional mandate to provide leadership for coordinated and comprehensive marine resource management amongst all other federal, state, and local agencies. The MBNMS failed to demand comprehensive and coordinated management during the State's MLPA

process to the detriment of regional fisheries and true ecosystem benefits. We believe that a well-coordinated MPA program that integrated the RCA, EFH areas, Davidson Seamount, and the specific legal requirements of the MLPA, with true stakeholder involvement, would have created a network that looked considerably different than from the approved plan, and offer true ecosystem benefits with less cost or displacement to fishermen. The Sanctuary Program cannot pretend to be doing ecosystem-based management unless it is willing to actually provide leadership for this kind of comprehensive and coordinated management. The importance of this failure cannot be overstated.

With this being said, the ACSF has enjoyed a constructive relationship with MBNMS staff in conducting the Alternative Analysis. The new Sanctuary Superintendent, Paul Michel, and Policy Advisor Huff McGonigal and GIS Analyst Sophie De Beukelaer, have all been most helpful. We hope that meaningful discussions will occur in the context of this Analysis between the MBNMS Staff, the PFMC, and the fishing community.

This Analysis is broken into several broad questions...

1. What is the legal relationship between the National Marine Sanctuary and the Magnuson-Stevens Acts? How do these Acts coordinate and compliment with each other? This analysis is done by Bud Walsh, an attorney for Davis Wright Tremaine LLP, San Francisco, and is attached as "Exhibit A".
2. What regulations, programs, and special closures affect sustainable fisheries and the health of the ecosystem in the MBNMS region? Can the conservation benefits of these programs be quantified? This section has been prepared by Dr. Richard Parrish, recently retired from NOAA Fisheries. MBNMS staff has also contributed to the section that describes the conservation benefits of the Sanctuary Program. Dr. Parrish is also the lead scientist for this Alternative Analysis, and wrote the "Introduction and Project Context Section".
3. What is the health of the ecosystem in the MBNMS region? How much protection is enough? Are more spatial closures or other types of conservation measures needed to satisfy the requirements of both the NMSA and the Magnuson-Stevens Act? This section is written by Dr. Ray Hilborn of the University of Washington School of Fishery Science and Dr. Carl Walters of the University of British Columbia. This section includes the use of modeling exercises to study the ecosystem consequences of existing and future spatial closures.
4. Are additional MPAs needed to satisfy pressing research needs about the status of the ecosystem within the Sanctuary region? Dr. Doyle Hanan, a retired fisheries biologist formerly with the California Department of Fish and Game, wrote this analysis.
5. If additional MPAs are needed, what types of socio-economic analysis must be done to avoid negative socio-economic and environmental consequences, enhance benefits, and meet the requirements of law? Dr. Barbara Walker of the Institute for Social, Behavioral, and Economic Research at the University of California, Santa Barbara, has written this section.

With the exception of the “Legal” chapter, each chapter of this report has been submitted for external peer review. As soon as those reviews are completed, they will be forwarded to the MBNMS and the PFMC, along with the final chapters, including changes warranted by the peer review.

The preliminary conclusion of this scientific Analysis is that the existing protections put into place by the State Fish & Game Commission and the Pacific Fishery Management Council, along with a wide range of other State and Federal regulations and programs, assure the healthy functioning of the ecosystem in the region of the MBNMS. No additional MPAs are needed for the MBNMS to meet its conservation or research goals. The ACSF requests that the PFMC’s science and statistical committee review this Analysis for accuracy. If this Analysis is correct, this is good news, and should be welcomed by resource managers, fishermen, and the general public. This analysis should be used by the MBNMS as a basis for deciding if it will continue to plan for MPAs. Any future MPA proposal that might come to the Council from the MBNMS or a NGO should be weighed against this scientific Analysis.

Thank you for your consideration of this request.

Sincerely,

Frank Emerson
Co-Chair, ACSF

Supporting Associations & Organizations

- Pacific Coast Federation of Fishermen’s Association
- Port San Luis Commercial Fishermen’s Association
- Morro Bay Commercial Fishermen’s Association
- Monterey Commercial Fishermen’s Association
- Fishermen’s Association of Moss Landing
- Santa Cruz Commercial Fishermen’s Marketing Association
- Half Moon Bay Fishermen’s Marketing Association
- Fishermen’s Alliance
- Western Fishboat Owners Association
- Ventura County Commercial Fishermen’s Association
- Federation of Independent Seafood Harvesters
- Golden Gate Fishermen’s Association
- Port San Luis Harbor District
- City of Morro Bay Harbor
- City of Monterey Harbor
- Moss Landing Harbor District
- Santa Cruz Port District
- Pillar Pt. Harbor, San Mateo County Harbor District

cc:

Representative Sam Farr
Representative Lois Capps
Representative Anna Eshoo



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE

Monterey Bay National Marine Sanctuary
299 Foam Street
Monterey, California 93940

February 15th, 2008

Dear Members of the MPA Working Group and Sanctuary Advisory Council,

As you know, the time has come for a decision on the need for marine protected areas (MPAs) in federal waters of the Monterey Bay National Marine Sanctuary (MBNMS). I want to begin by thanking you for contributing your perspectives and knowledge to the consideration of this important issue. Your involvement over the last five years has been invaluable to increasing our understanding of the issue. The presentations and discussions we had at the December Advisory Council meeting were especially helpful and I commend you for your thoughtful input.

The National Marine Sanctuary Program (NMSP) has broad congressional direction to protect marine ecosystems. While the scope of this mandate allows for the management flexibility needed to protect dynamic sanctuary environments, charting the best course of action often takes time and patience. This is due to both the complexity of ocean issues and the NMSP's emphasis on extensive public input. In 2001, the MBNMS solicited this input from the public as part of a review and rewrite of its management plan. Over a five year period, the MBNMS received thousands of comments, held over a hundred meetings, and with the help of the SAC, identified 26 priority action areas that represent the future of Sanctuary management. Of these 26, the highest priority was the issue of marine protected areas in the Sanctuary. Given the complexity and diversity of opinions on this topic, the MBNMS convened a multi-stakeholder working group to develop a plan for evaluating the utility and potential siting of MPAs. As the State of California was re-focusing on MPAs in state waters through the Marine Life Protection Act, the MBNMS working group focused its attention on MPAs in the Sanctuary's federal waters (beyond 3 miles).

Over the last five years MBNMS staff and the members of the MPA working group have compiled data layers, completed a resource assessment, conducted socioeconomic studies, sponsored workshops, and developed a web-based decision support tool. However, while the working group was able to compile and consider all of this information, it was not able to agree on the fundamental question of whether there is a need for MPAs in federal waters. It was the MBNMS's hope that consensus on the question of need could be reached, or that by focusing on specific areas, all sides might be able to live with particular MPA configurations. However, in the absence of consensus on this question it is the MBNMS's responsibility to consider the arguments on both sides and make a decision regarding whether to move forward with a process to propose new MPAs. To that end, in December 2007, the MPA working group members presented their arguments for and against federal water MPAs to the Sanctuary Advisory Council, which in turn gave its advice to the MBNMS. Since then, we have received about twelve thousand comments on this issue and I have continued to meet with stakeholders and partners to explain the process and solicit input.



With the benefit of the community's advice, input from partner agencies, and the last six years of consideration, the MBNMS has concluded that there is a need for MPAs in the federal waters of the Sanctuary. The following pages discuss the reasons in support of this decision.

The Role of the National Marine Sanctuaries Act (NMSA)

The NMSA is unique in that the primary purpose is to set aside nationally significant areas of the marine environment for their permanent protection and to provide comprehensive ecosystem management to achieve this goal. As such, the NMSA provides broad authority for management actions focused on the protection and conservation of the full spectrum of biological diversity at a sanctuary. It can also fill gaps in protection that other authorities, such as the Magnuson-Stevens Fishery Conservation Act (MSFCA), Marine Mammal Protection Act, or Endangered Species Act, are not able to address. Through the NMSA, Congress mandated that national marine sanctuaries be managed to maintain the habitats and ecological services of the natural assemblage of living resources that inhabit these nationally significant marine areas. Among the purposes and policies of the NMSA is provision of authority for comprehensive and coordinated management to maintain the natural biological communities and to protect, restore, and enhance natural habitats, populations, and ecological processes. In specifying the management of "natural biological communities," "natural assemblages of living resources," and "natural habitats," rather than focusing on species populations *per se*, Congress essentially mandated that national marine sanctuaries be managed to protect and conserve ecosystem structure and function.

The Benefits of MPAs

As has been described to the Advisory Council in the past, the MBNMS has used zoning, or spatial management, extensively since its designation in 1992. The MBNMS has zones where:

- A harmful human activity otherwise prohibited throughout the Sanctuary is allowed (motorized personal watercraft, harbor dredge disposal, jade collecting)
- A harmful human activity is specifically prohibited (shark chumming, low over-flights)

These areas have proven effective in the context of managing the Sanctuary ecosystem by restricting or otherwise managing human activities.

Scientific research has shown that carefully crafted MPAs can be effective tools for conserving the diversity of animals and plants, protecting habitats, and increasing both numbers and individual sizes of some species. Recent studies have shown that an MPA, in which the removal or alteration of marine life is prohibited or restricted, generally contains a greater abundance of species, higher diversity of species, and larger fish within its boundaries relative to similar habitats outside the protected area. These larger fish produce many more young than do smaller fish, and studies for some species have shown that their young are healthier and more likely to survive. MPAs have also been shown to be a useful tool for preventing, slowing, or reversing the degradation of ocean habitats and maintaining the diversity and abundance of species inhabiting them.

Ocean ecosystems worldwide are threatened because of pollution, overfishing, habitat destruction or coastal development. In response, many governments, scientists, conservation organizations, commercial groups and citizens are increasingly discussing the idea of establishing new, well-designed MPAs to complement existing ocean management strategies.

In the United States, both the U.S. Commission on Ocean Policy and Pew Oceans Commission recently declared that our oceans are in trouble, and are calling for MPAs to be used as a management tool to support the protection of ocean ecosystems.

Existing Spatial Management Efforts in the MBNMS

Interest in implementing a system of marine protected areas has increased in California too. In 1999, the Legislature and Governor approved the Marine Life Protection Act (MLPA) mandating the state to design and manage an improved network of marine protected areas in state waters to protect marine life and habitats, marine ecosystems, and marine natural heritage. Currently the California Resources Agency and California Department of Fish and Game are partnering with others to achieve the goals of the MLPA, with initial efforts focused on developing a MPA network for California's central coast region. In September 2007, after an intensive public processes in ocean governance, the first round of 29 new state MPAs (204 square miles) went into effect on the central coast. 27 of the 29 areas are within the MBNMS.

In the federal waters of the Sanctuary, there are other spatial management measures in place that protect Sanctuary resources from extraction. For example, in 2002, as a means of protecting depleted groundfish species such as bocaccio and canary rockfishes, the Pacific Fishery Management Council and NOAA Fisheries imposed depth-based restrictions on the trawl and non-trawl groundfish fisheries termed Rockfish Conservation Areas (RCAs). Furthermore, in June of 2006, NOAA Fisheries published the final rule designating and protecting Essential Fish Habitat (EFH) for Pacific groundfish. The action closed large areas of the west coast, primarily to bottom trawling.

However, while the existing spatial management measures in state and federal waters of the Sanctuary provide valuable protections from fishing impacts in certain habitats. Those habitats further offshore are either not adequately represented in existing MPAs, or not fully protected by the gear based restrictions associated with EFH or the temporary RCAs.

The Need for MPAs in the MBNMS

The MBNMS has three principal reasons for moving forward with MPAs in the federal waters of the Sanctuary: 1) There is a need for areas where the natural ecosystem structure and function are restored and maintained; 2) there is a need for research areas to examine human impacts to the marine environment; and 3) there is a need to preserve some areas in their natural state for future generations. Additional detail in support of these reasons is provided below. Further, the MBNMS, in consultation with NOAA Fisheries, will be releasing shortly an ecosystem analysis in support of this decision.

1) There is a need for areas where the natural ecosystem structure and function is restored and maintained.

The environmental condition of the Sanctuary is subject to major alterations that are largely due to the effects of human activities. Threats to Sanctuary resources, such as water quality or habitat complexity, fall into two general categories: 1) those that involve exploitation of resources above a certain level or threshold and 2) those that destroy or degrade marine habitats

and their associated biological communities. Exploitation includes both directed harvest and incidental take of marine life. Threats to habitat include activities leading to physical alteration, various sources of pollution, coastal development, and introduction of alien species. Many of these threats are interrelated and have cumulative impacts.

The Sanctuary ecosystem has been impacted from human activity (e.g., fishing activities) to a degree where the MBNMS believes that it is appropriate to set aside some areas in federal waters where these impacts are minimized. These impacts include altered size and age structure of fish and invertebrate species, altered habitats, altered species assemblages and biodiversity, reduced abundance, and altered ecosystem function. Where appropriate, it is envisioned MPAs in Federal waters could build off of and supplement the state MPAs established under the MLPA in the Sanctuary. While there are other management measures in place such as those under the MSFCA, their stated purpose is to manage fisheries and are not designed to provide areas where the natural ecosystem structure and function are restored and maintained throughout the Sanctuary's representative habitats.

It is important to reiterate that the primary purpose of any action taken by the MBNMS to establish MPAs in the Sanctuary is the conservation of Sanctuary ecosystem structure and function. This action would not be taken for the purpose of managing any single human activity or impact, but rather to manage for the protection of the Sanctuary ecosystem from a wide variety of existing or potentially new threats.

2) There is a need for research areas to examine human impacts to the marine environment.

Setting aside areas of the Sanctuary as MPAs can provide critical research opportunities in offshore habitats in order to more fully understand the effects of fishing and other uses on the Sanctuary environment. Even though the Sanctuary is one of the better understood marine areas in the world, there is a need to better distinguish human induced change from natural variability. In its 2001 publication entitled "Marine Protected Areas – Tools for Sustaining Ocean Ecosystems," the National Research Council characterized the need for MPAs to help understand marine ecosystems:

Understanding the influence of human actions on marine systems is critical to evaluating the need for and effectiveness of management actions, but differentiating between natural and anthropogenic events is extremely difficult. Any indicator of change in a system must be compared to a well-defined natural standard, or benchmark, against which the magnitude of the change can be evaluated to determine its cause and significance. Without control areas, such as MPAs, that are relatively free from human influence to compare with areas altered by human activities, explaining the sources of variability becomes even more difficult...There is a significant need for fishery-independent sampling programs that include areas closed to fishing and other activities that disturb fish populations and habitats.

While the new MPAs in state waters do afford the opportunity to distinguish human induced change from natural variation and fluctuation, offshore habitats are not represented. These

deeper water habitats are distinct from those nearshore as is their likely response to fishing impacts. Understanding impacts in these commercially important offshore areas is not only critical to effective Sanctuary management, but is also potentially key to effective ecosystem based fisheries management.

The Marine Life Protection Act was intended in part to help the State understand the marine environment by providing the opportunity to study areas that are not directly impacted by fishing. Having comparable areas in federal waters, potentially adjacent to state MPAs, would have the benefit of not only providing a greater range of habitat types in which to study the effects of fishing, but larger contiguous areas could provide better control sites and enhanced opportunity for complementary federal and state research efforts.

3) There is a need to preserve some areas in their natural state for future generations.

Section 301(a)(4)(c) of NMSA states that the National Marine Sanctuary System will maintain for future generations the habitat, and ecological services, of the natural assemblages of living resources that inhabit national marine sanctuaries (16 U.S.C. 1431(a)(4)(c)). There are certain areas of the Monterey Bay National Marine Sanctuary environment with extraordinary features or attributes, such as habitat, biological diversity, or sensitivity, and warrant a higher level of protection than is currently provided by MBNMS regulations or those of other authorities, so that those features remain conserved for future generations in as close to a natural state as possible. This rationale of “wildernesses of the sea” (areas of the marine environment that, like their counterpart on land, have inherent or intrinsic value due solely to their unique and/or exceptional qualities and receive the maximum level of protection) received strong support during the public comments periods on this process, as well as during the comment period for the Joint Management Plan Review.

In addition, affording these areas with an elevated level of protection will provide them security against currently unknown human and environmental impacts and threats that may arise in the future. Changes in technology to a wide variety of marine-dependent human activities, such as energy development, communication systems, desalination, or aquaculture often result in significant deviations from how the activity had been previously conducted. In many cases, although these technological changes occur quickly, it takes several years for their impacts to be fully understood. Although the impacts of these activities may not immediately be known, it is the NMSP’s responsibility to steward our sanctuaries and to ensure, as much as possible, that they are enjoyed and appreciated by the American public in the future. Providing certain areas of the Sanctuary with elevated protection, while continuing to allow compatible uses elsewhere, furthers this goal.

Furthermore, by managing these areas with additional protections in place, the MBNMS seeks to reduce the effects of cumulative impacts from human activities or from large scale environmental changes, such as climate change that are already occurring or may occur in the future. Restricting extractive or invasive human activities in these areas is expected to limit the effects on their special qualities to only those impacts that may occur as part of environmentally-driven events. Marine protected areas, by controlling for impacts from extractive human activities, will allow the MBNMS to assess the nature and severity of these events over time.

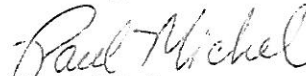
Conclusion

While this decision comes after years of public process and stakeholder input, much work remains ahead. Over the next several months, MBNMS staff will be asking the Sanctuary Advisory Council and the Pacific Fishery Management Council for input on how best to build on the efforts of the MPA working group to ensure an effective and timely public process. In deciding to move ahead, the NMSP is committing to dedicate the resources necessary to fully capitalize on the community's continued input as well as to adequately understand the ecological and socioeconomic impacts of any proposed action.

Any regulatory action proposed by NOAA to designate MPAs in Federal waters, whether under the NMSA, MSFCA or both, to specifically designate areas will be accompanied with a full environmental analysis per the requirements of the National Environmental Policy Act and the Administrative Procedure Act.

Thank you again for your valuable time and advice, and willingness to help chart the course.

Sincerely,

A handwritten signature in cursive script that reads "Paul Michel".

Paul Michel
Superintendent



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Monterey Bay National Marine Sanctuary
299 Foam Street
Monterey, California 93940

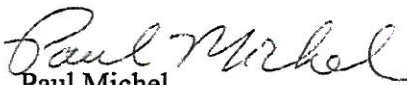
February 15th, 2008

Dear Members of the Sanctuary Advisory Council,

At the December 13th and 14th Sanctuary Advisory Council (SAC) meeting in Monterey, you provided your perspectives on the need for marine protected areas (MPAs) in Federal waters. That input was invaluable and I want to again thank you for your insights. Having found after careful consideration that there is a need for MPAs in Federal waters (see separate decision document), the MBNMS is now focused on the process ahead. At the December meeting, many of you also provided thoughts on how any process to move forward with MPAs should look. The attached draft list of concepts for a process builds upon what I heard from SAC members and can help define the road ahead. I would like to ask you to consider these concepts and provide preliminary input and advice at the February meeting and, after a chance for further consideration, again at the April meeting. In the meantime I will be meeting with NOAA Fisheries and the Pacific Fishery Management Council to discuss the best means of incorporating their input as well.

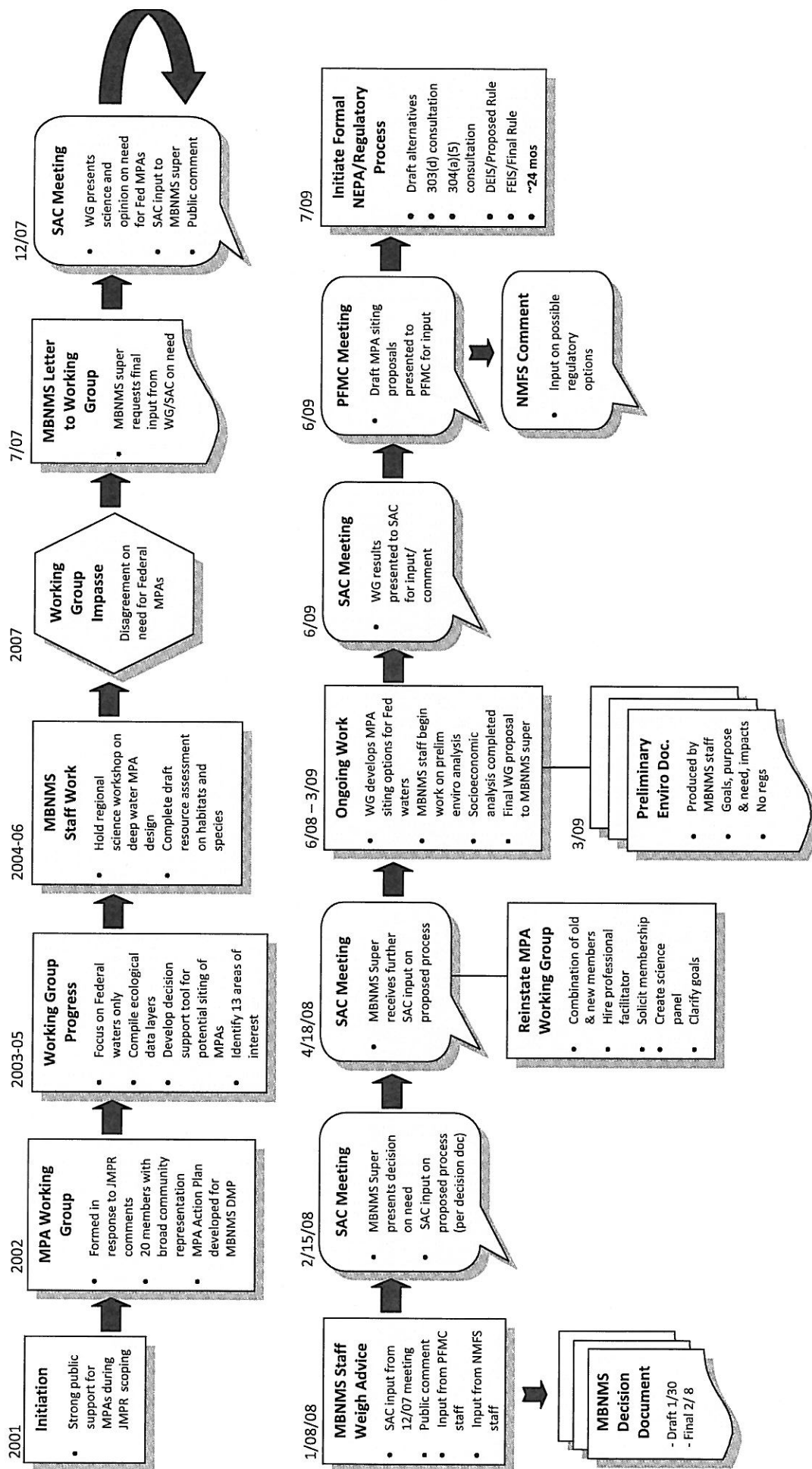
Our goal is to establish a process that builds on the work that has been done by the MPA working group over the last five years. Carrying on from this point with well defined parameters and timelines will help ensure that the continuing effort remains inclusive and deliberate, but is also targeted and efficient. Thank you and I look forward to your input.

Sincerely,


Paul Michel
Superintendent



DRAFT DECISION PROCESS AND TIMELINE for the MONTEREY BAY NMS CONSIDERATION OF MARINE PROTECTED AREAS



Concepts for a Process to Move Ahead with MPAs in the Monterey Bay National Marine Sanctuary

The following concepts are draft and are put forward by the MBNMS for consideration and feedback from the Sanctuary Advisory Council:

1. Over the last 5 years, much work has gone into the consideration of MPAs including the development of tools, products and goals. To the maximum extent possible, the process ahead should capitalize on this previous work
2. The membership of the MPA working group should remain approximately the same, although some adjustment to stakeholder representation may be warranted (i.e. add groundfish representation)
3. Science members should remain involved but serve as subject matter experts, not as stakeholders. A separate but public science panel should be convened to evaluate eventual proposals
4. Working group meetings should be professionally facilitated
5. Working group and science panel meetings should be public and any products made publicly available
6. The MPA planning process should provide for appropriate PFMC input and coordination
7. There is a need for socioeconomic study to understand the impacts of Federal water MPAs
8. A starting point for discussions should be the Areas of Interest previously identified by the working group that are adjacent to MPAs in state waters
9. Adjacent State and Federal waters MPAs should generally have parallel regulations
10. Once the planning process begins, the working group will have approximately 6 meetings over 6 months to develop proposals to forward to the Sanctuary Advisory Council. The SAC will then provide it's advice to the MBNMS, and the MBNMS will consult with the PFMC regarding implementation
11. Any decision regarding how MPAs will be implemented under the NMSA, the MSA, or both will be made in the future in close coordination with NOAA Fisheries, and PFMC

AMERICAN ALBACORE FISHING ASSOCIATION

4252 Bonita Road, #344
Bonita, CA 91902-1420
(619) 941-2307
www.AmericanAlbacore.com

February 18, 2008

VIA EMAIL TO: PFMC.COMMENTS@NOAA.GOV

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, Oregon 97220-1384

Re: U.S. North Pacific Albacore Fishery: Requests for Consideration; Limited Access
Program Discussions, HMS Permit Actions, and Amendment of FMP

Mr. Chairman and members of the Council,

The American Albacore Fishing Association (AAFA) is a nonprofit corporation made up of American commercial fishing vessels that participate in the West Coast troll & bait-boat albacore fishery.¹

The West Coast albacore fishery remains the last “open access” fishery available on our coast. HMS permits are readily available for anyone who wishes to participate in the fishery.

When the Council established a “control date” of March 9, 2000, it intended to discourage speculative entry into Pacific Coast HMS fisheries. The control date was to provide the Council with adequate time to determine whether it would limit participation in the fisheries.

Rather than discourage speculation, the establishment of the control date has helped foster an undesirable practice among HMS permit holders. When applying for, or renewing, HMS permits, it is now commonplace to designate numerous additional gear types. This has resulted in the HMS permit database becoming a poor reflection of fishery participation data.

There are additional unintended side effects that stem from the establishing of the control date. The ensuing years of relative inaction have served to create uncertainty in the

¹ AAFA is founded upon the belief that, by promoting the environmental benefits of the troll and bait-boat fisheries and promoting the health benefits of tuna consumption, the economic viability of these traditional “pole & troll” fisheries can be sustained.

Pacific Fishery Management Council

Re: U.S. North Pacific Albacore Fishery: Requests for Precautionary Approach;
Limited Access Program Discussions, HMS Permit Actions; Amendment of FMP

fishery. Current vessel owners face uncertain consequences if they replace their current vessel or obtain an additional vessel. Current crewmembers desiring to captain their own vessels are reluctant to invest in a fishery with its future in limbo.

Meanwhile, albacore processors and buyers claim that the U.S. fleet is unable to deliver adequate quantities of fish and that foreign fleet contributions are necessary. AAFA believes that action by this Council could provide greater certainty for the albacore fishery's participants and that such actions would enable the U.S. albacore fishery to prosper.

The possibility of a limited entry, *aka* limited access, program for albacore has been mentioned in recent years in some of the Council's situation summary documents. In the past, the issue did not generate much interest. However, circumstances have changed and reconsideration of the issue is warranted.

At the present time, international resolutions of the IATTC and the WCPFC call for caps on fishing effort and recent albacore stock assessments have called for reductions in fishing mortality. In this environment, it is becoming apparent that action is necessary to address the "open access" feature of this albacore fishery.

AAFA is aware of the need for ensuring adequate time for thorough analysis of the issues. Discussion of the potential benefits, as well as studying the lessons of other limited access programs, will take time. For these reasons, we believe that discussions regarding the possibility of a limited entry program should be initiated now.

Accordingly, AAFA respectfully requests that the Council assign its HMS Management Team and HMS Advisory Subpanel to initiate discussions in consideration of a limited access program for the West Coast albacore fishery.

AAFA believes that an effective and sound limited access program would help to ensure the future of this sustainable fishery, its participants, and the fishing communities and coastal economies it supports.

Related to AAFA's request for initiating discussions of a limited access program is AAFA's concern over the continued issuance of HMS permits.

In light of international resolutions, stock assessment recommendations, and the Council's intention to discourage speculation in the fishery, AAFA respectfully presents a number of recommendations for the Council's consideration and adoption.

AAFA recommends that the Council consider establishing a 10-year moratorium on the issuance of new HMS permits for gear types that take significant amounts of albacore (as either target or non-target catch).

Pacific Fishery Management Council

Re: U.S. North Pacific Albacore Fishery: Requests for Precautionary Approach;
Limited Access Program Discussions, HMS Permit Actions; Amendment of FMP

AAFA recommends that the Council undertake efforts to improve the accuracy of the HMS permit database by initiating a review of the permit database aimed at removing gear type designations from issued HMS permits that have little or no landings data associated with them over a reasonable time frame.

Fishery gear types and methods that are selective, i.e. have minimal by-catch, should be encouraged and promoted for their contributions to sustainable fisheries and the essential fishing communities they support. Efforts should be undertaken to preclude other gear types from negatively impacting the albacore fishery through excessive or unacceptable by-catch, discards, or other negative effects.

AAFA recommends that the Council direct the amendment of the Fishery Management Plan (FMP) to address the anticipated impacts of a significant increase in effort, catch, or by-catch by particular gear types. It is also recommended that such amendment of the FMP be undertaken in accordance with the goals and requirements of the National Standards Guidelines, 50 CFR 600, and related case law.

AAFA believes these suggestions are but potential first steps toward moderating short-term future increases in albacore fishing capacity and effort which would help stabilize fishing mortality and work toward ensuring the sustainability of the albacore fishery for this and future generations.

Thank you for your time and consideration.

Sincerely,

Chip Bissell
AAFA representative

TO: Pacific Fishery Management Council

3/04/08

FROM: Mike Shedore

F/V Cinda S

Northwest Albacore Producers Association

P.O. Box 146

Astoria, Oregon 97103

Phone- 503 440 7499

SUBJECT: Albacore Pole+Line/Troll Limited Entry within West Coast EEZ

My name is Mike Shedore. I am an albacore fisherman/processor and boat owner with 30 years of continuous participation in the Pole and Line/troll albacore fishery off the West Coast.

I am affiliated with Northwest Albacore Producers Association, a group of like minded individuals with similar levels of experience and participation in this fishery. I also maintain membership in AAFA and WFOA, two other albacore related organizations.

We ask the council once again, as was done through similar correspondence last year, to place the issue of Limited Entry for the coastal pole and line/troll fleet on the table, on the Council Agenda, for input and action during future meetings.

There was an established control date put in place in 2000 to address this issue and since that time the subject has only received cursory attention by the Council. What has occurred during this time is increased speculative effort .

This increased speculative effort will compromise the viability of this fishery. What has prevented the potential free for all of effort is the current economics of the fishery which can be described in one word and maybe an expletive or two which I will refrain from using, and the economic viability is poor.

We were looking at ex-vessel prices last year for the bulk of our coastal production at between \$.70 cents and \$.85 cents a pound, which is not much higher than what is paid for bait in the coastal crab fishery. These ex-vessel

prices have been flat for a long time. But long time fishermen with catch history, economic dependence and innovation on their own and thru organizations such as AAFA and WFOA are making inroads into the value added market here and abroad and there is significant potential for the coming season and beyond for our full time fleet to realize some return on our efforts in realizing some good gains in prices.

But the looming specter of literally hundreds of vessels jumping into this fishery unchecked when economic conditions are good, which will come about, is the threat (overcapitalization) that the Council needs to and has an obligation to address.

This fishery is the last major open access fishery on the West Coast! The fishery takes place in a relatively small portion of our coast. The resource and the marketplace, the safety and investment of long time producers will be compromised and impacted by allowing unfettered entry, which cannot take place in other major fisheries within our EEZ. The Council needs to act . All the factors that are in place in other fisheries that justify effort control, that I have mentioned, are present in this fishery.

It was referenced to me that certain individuals that advise the Council, either indirectly or directly, have stated that “no other country or management bodies either federally or internationally have promoted limited entry or effort controls on albacore”. That statement is false. Countries that have domestic albacore fisheries within their respective EEZ’s similar to ours such as Canada and New Zealand, regardless of what is going on in the international arena, have and do impose effort control (Limited entry). I remind you, our coastal albacore fishery takes place in our own EEZ.

Thank you once again for your consideration..

Mike Shedore

MAGNUSON-STEVENSON ACT REAUTHORIZATION IMPLEMENTATION

The Council, National Marine Fisheries Service (NMFS) and the other seven Regional Fishery Management Councils (RFMCs) have made progress implementing various new provisions in the Magnuson-Stevens Act (MSA) as amended by the *Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006* (MSRA). The Council has revised its Council Operating Procedures regarding research and data needs and the function of its Scientific and Statistical Committee (SSC), revised and updated financial disclosures for Council and SSC members, and provided substantial comments on key MSRA provisions, most notably those focused on ending overfishing and improving the environmental review process. NMFS has completed a one-year status report on MSRA implementation which highlights achievements to date and tracks completed, pending, and delayed projects (Agenda Item B.2.a, Attachment 1).

The Council has been anticipating proposed guidelines and/or regulations on several important MSRA provisions such as (1) a proposed rule for expedited, uniform, and regionally-based exempted fishing permits (EFPs), (2) a draft Environmental Impact Statement (DEIS) from NMFS regarding the process for establishing annual catch limits and accountability measures designed to prevent overfishing, and (3) a proposed rule for a new environmental review process for fishery management actions,

Regarding the first matter, on December 21, 2007, NMFS published revised definitions and procedural changes for scientific research activities and EFPs (Agenda Item B.2.a, Attachment 2). The need to minimize bycatch has increased the use and variety of scientific research activities and EFPs in recent years. Under the Cooperative Research Program (new MSA Section 318), NMFS is working to standardize and streamline the issuance of permits or the acknowledgement of scientific activities. Comments on this proposed rule must be submitted to NMFS by March 20, 2007. On a related topic, NMFS has requested Council input on establishing a consistent application of agency policy regarding permit fees, including fees for the issuance of EFPs (Informational Report 1).

Regarding the other two matters, no review materials were available by the deadline for the advance March Briefing Book. The MSRA status report (Agenda Item B.2.a, Attachment 1) schedules these items for publication in the spring of 2008. Staff will continue to work with NMFS on implementation of MSRA provisions and review materials will be distributed at the first Council meeting following their publication by NMFS.

Regarding the third matter, in December 2007, select members of the Council Coordination Committee participated in an internal review of proposed environmental review requirements under the MSA and the National Environmental Policy Act (NEPA). Mr. Chris Oliver, Executive Director of the North Pacific Fishery Management Council attended the meeting. And in a letter to Mr. Steve Leathery, NMFS National NEPA Coordinator, dated January 30, 2008, Mr. Oliver expressed concern about the direction of the proposed policy revisions and the lack of significant NMFS coordination with the RFMCs (Agenda Item B.2.a, Attachment 3).

Council Action:

Review proposed changes to EFP regulations and address other new requirements, as available.

Reference Materials:

1. Agenda Item B.2.a, Attachment 1: *Implementation of the Magnuson-Stevens Reauthorization Act of 2006: 1-Year Status Report*, NMFS.
2. Agenda Item B.2.a, Attachment 2: Proposed rule regarding new and revised definitions for certain regulatory terms, and procedural and technical changes to the regulations addressing scientific research activities, exempted fishing, and exempted educational activities.
3. Agenda Item B.2.a, Attachment 3: January 30, 2007 letter from Mr. Chris Oliver to Mr. Steve Leathery regarding proposed environmental review requirements.

Agenda Order:

- a. Agenda Item Overview
 - b. Reports and Comments of Advisory Bodies
 - c. Public Comment
 - d. **Council Action:** Review proposed changes to EFP regulations and address other new requirements, as available.
- Mike Burner

PFMC

02/19/08

Implementation of the Magnuson-Stevens Reauthorization Act of 2006

1-Year Status Report

January 12, 2008

Introduction

On January 12, 2007, President Bush signed into law the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (MSRA). The new law (P.L. 109-479) is groundbreaking in several respects: it mandates the use of annual catch limits and accountability measures to end overfishing, it provides for widespread market-based fishery management through limited access programs, and it calls for increased international cooperation.

NOAA's National Marine Fisheries Service (NOAA Fisheries) is working to fully implement the MSRA. The MSRA requires a variety of new reports, studies, Secretarial determinations, and other activities to be completed by specific dates. There are also many required provisions that do not have specific due dates, but must be implemented. The Office of Sustainable Fisheries (SF) has been tracking the implementation of all these activities. For tracking purposes, SF has divided all tasks associated with implementation of MSRA into 3 priority levels:

- ❖ Priority 1 – Time constrained – date-specified in the Act
- ❖ Priority 2 – Required to be implemented but no specific date
- ❖ Priority 3 – Action is authorized, but not required

This report documents the status of all tasks related to the implementation of the MSRA.

Additional details on individual tasks can be found on the NOAA Fisheries MSRA implementation website at:

<http://www.nmfs.noaa.gov/msa2007>



The following Priority 1 items were due within the first 12-months.

Within 30 days (February 12, 2007)

- Framework 42 Report (Section 215(b)) – **Completed** ☑

Within 60 days (March 12, 2007)

- Secretarial determination of Federal and State consistency related to groundfish management in New England and Hawaii (Section 110) – **Completed** ☑

Within 90 days (April 12, 2007)

- Define the term “illegal, unreported, or unregulated fishing” (Section 403) – **Completed** ☑
- Amend the FMP for Bering Sea Aleutian Islands King and Tanner Crabs (Section 122a) – **Completed** ☑
- Establish a process for monitoring and certifying contractor performance regarding any contract to construct or deploy tsunami detection equipment (Section 804) – **Completed** ☑

Within 6 months (July 12, 2007)

- Develop a recovery plan for Klamath River Coho salmon (Section 113(b))– **Completed** ☑
- Develop a training course for new Council members (Section 103(g)) – **Completed** ☑
- Promulgate regulations to establish an expedited, uniform, and regionally-based process for issuing Exempted Fishing Permits (Section 204) – **Pending**
 - Proposed rule published December 21, 2007, is open for public comment until March 20, 2008.
- Report on the impacts of Hurricanes Katrina, Rita, & Wilma on commercial and recreational fisheries in the states of Alabama, Louisiana, Florida, Mississippi, and Texas (Section 213) – **Completed** ☑
- Report on the impacts of Hurricanes Katrina, Rita, & Wilma on fisheries habitat in the states of Alabama, Louisiana, Florida, Mississippi, and Texas (Section 213) – **Completed** ☑
- Propose revised NEPA-MSA procedures for compliance with NEPA (Section 107) – **Pending**
 - A proposed rule is expected during the spring of 2008.
- Report on the state of science for integration of ecosystem considerations in regional fisheries management (Section 210) – **Pending**
 - The report is expected during the summer of 2008.

Within 8 months (September 12, 2007)

- Assess Post-Baccalaureate education in fisheries sciences (Section 217) – **Pending**
 - This report is currently under review within the agency.

Within 9 months (October 12, 2007)

- Report on Council Management Coordination (Completed by MAFMC) (Section 216) – **Completed** ☑

Within 1 year (January 12, 2008)

- Conflict of Interest Report to Congress (January 1, 2008) (Section 103(i)(4)) – **Pending**
 - This report is currently under review within the agency.
- Develop IFQ referenda guidelines (Section 106(a)) – **Pending**
 - Proposed procedures are expected to be published in the spring of 2008.
- Develop revised NEPA-MSA procedures (Section 107) – **Pending**
 - A proposed rule is expected in the spring of 2008.
- Deep Sea Coral Report to Congress – **Pending**
 - This report is currently under review within the agency.
- Establish a Bycatch Reduction Engineering Program (Section 116(a)) – **Completed** ☑

The following Priority 1 tasks are **ongoing and are due within 2 or more years.**

Within 2 years (January 12, 2009)

- Establish a program to improve recreational fisheries data.
 - A proposed rule to establish the process and requirements for anglers and for-hire vessels to register with NMFS if they fish in the EEZ is expected in the spring of 2008.
 - Pilot projects for 2008 have been selected.
- Publish the 1st Illegal, Unreported, or Unregulated (IUU) Biennial Report, procedures, & certification. This report will be issued *biennially after its initial issuance*.
 - A proposed rule on a procedure for certifying IUU fishing flag states and a procedure for certifying flag states whose fishing vessels are responsible for unacceptable levels of bycatch of protected living marine resources is expected in the late spring of 2008.
- Report on recovery progress and actions taken to implement the Klamath River Coho salmon recovery plan. *January 12, 2009, annual report thereafter*.
 - The recovery plan was completed and made available to the public.
 - Actions are being taken under the plan, and a report will be drafted for the required date.

Beyond 2 years (2010 and beyond)

- Amend all fishery management plans to meet annual catch limit (ACLs) requirements. ACLs are required in fishing year 2010 for stocks subject to overfishing and in fishing year 2011 for all others.
 - The agency is currently drafting guidelines to assist in the implementation of this requirement.
 - NMFS solicited public comment in the late winter of 2007 and held 9 public meetings. The agency received 2,690 comments. A summary of public comments has been posted to the MSRA website.
 - A proposed rule issuing guidelines on ACLs and AMs is expected in the spring of 2008.

In Summary, during the first year of implementation:

- 11 Priority 1 tasks are **Complete** ☒
- 11 tasks are **on track** for completion by statutory deadlines
- 8 tasks are **delayed**

The agency is also implementing, to the extent practicable, other tasks under the MSRA that are either required or authorized. Below is a summary of those tasks, identified as Priority 2 (required) and Priority 3 (authorized).

Priority 2¹ tasks (44) & Priority 3² tasks (6) – Summary as of January 12, 2008

21 tasks are **complete** or require **no specific action** to be effective (for instance, are self-implementing under the law or are statements of intent).

1. *CDQ Bycatch limitations*
 2. *Council Coordination Committee*
 3. *Emergency regulations - Extends the second emergency period from 180 days to 186 days.*
 4. *Fisheries Hurricane Assistance Program - Establishes an assistance program for the Gulf of Mexico commercial and recreational fishing industry*
 5. *Habitat Restoration due to Hurricane Effects on Shrimp and Oyster Fisheries and Habitats*
 6. *Joint Enforcement Agreements – Revises JEAs*
 7. *Observers - Revises observer requirements for foreign fisheries in the Pacific Insular Area.*
 8. *Oregon and California Salmon Fishery - 2006 fall Chinook salmon fisheries eligible to receive direct assistance*
 9. *Summer Flounder Rebuilding - Allows Secretary to extend the time for rebuilding of summer flounder under certain conditions*
 10. *Western Pacific Sustainable Fisheries Fund - Requires certain fines and penalties be deposited into the Western Pacific Sustainable Fisheries Fund*
 11. *Findings with illegal, unreported, and unregulated (IUU) Fishing – Congress finds that international cooperation is necessary to address IUU fishing*
 12. *International Overfishing and Domestic Equity- requires us to immediately take appropriate action at the international level to end overfishing*
 13. *Northern Pacific Halibut Act - Amends the Northern Pacific Halibut Act to increase penalties.*
 14. *Prohibited Acts- adds prohibitions to the law*
 15. *Puget Sound Regional Shellfish Settlement – implements the settlement*
 16. *Regional Ecosystem-based Management & Research*
 17. *SEAK Capacity Redux – Appropriations - For SE Alaska Fisheries Communities Capacity Reduction*
 18. *Shark Feeding - Prohibits feeding of sharks to attract sharks for purposes other than harvest in the EEZ off Hawaii*
 19. *Data Collection – Authorizes collection of proprietary and economic info*
 20. *Reauthorization of other fisheries acts*
 21. *Western Pacific Fishery Demonstration Projects – revises requirements*
- 2 tasks are in **final review**
 1. *Community-based Habitat restoration program*
 2. *Fisheries Conservation and Management Fund*
 - 19 tasks are **in progress**.
 1. *Access to Certain Information - Revises provisions specifying access to confidential information.*
 2. *Cooperative Research and Management Program- Establish a regional cooperative research and management program.*
 3. *Council SOPPs Revisions – Incorporates various changes from MSRA that impact Council SOPPs*
 4. *Deep Sea Coral Research/Management - Establish a Deep Sea Coral Research and Technology Program & submits information to the appropriate Councils*

¹ Required without a due date

² Authorized, but not required

5. *Economic impacts* – Revises text with regards to analyses
 6. *Fishery Impact Statement Requirements* - Revises text with regards to analyses
 7. *Fishing Capacity Reduction* – Revises provisions under which a FCR can operate
 8. *Guidance to U.S. Commissioners to International Fishery Management Efforts*
 9. *Implementation of Western and Central Pacific Fisheries Convention*
 10. *LAPPs* – Provides guidance on the implementation of limited access privilege programs
 11. *Multi-Year Research Priorities* – Requires regularly updated research priorities
 12. *Pacific Whiting* - Implements the Agreement between the Government of the United States and the Government of Canada on Pacific Hake/Whiting signed in Nov. 2003.
 13. *Peer Review* – Authorizes establishment of a process that satisfies IQA
 14. *Regional Disaster Relief and Evaluation* – establishes a regional economic transition program
 15. *Rockfish Demonstration Program* - Amends program from 2 years to 5 years.
 16. *Stipends* – payment of a stipend to SSC members under certain restrictions
 17. *Technical Revisions to 50 CFR 600*
 18. *WP and NP Community Development* - Establishes regionally-based pilot programs
 19. *Use of Fishery Finance Program for Sustainable Purposes* – amends USC
- 4 items currently have **no funding** associated with them, so no activities are being conducted for them at this time.
 1. *Restoration study* - Authorizes a study to update scientific information and protocols needed to improve restoration techniques for coastal habitat.
 2. *Study on the acidification of oceans*
 3. *Impact of TEDs on Shrimping*
 4. *Herring study*
 - 2 tasks are **delayed**
 1. *Hurricane grants*
 2. *North Pacific Fisheries Convention*
 - 1 task is **not yet started**
 1. *Investment in Seafood Processing* – a project plan is currently being developed

Links to completed Priority 1 projects:

Project	Date Completed	Link to completed product
Northeast Region's Framework 42 Report to Congress:	January 2007	http://www.nmfs.noaa.gov/msa2007/Framework42ReporttoCongressFinalFinal.pdf
Secretarial determination of Federal and State consistency related to groundfish management in New England and Hawaii	March 20 (NE); March 27 (PI); April 17, 2007 (to Hill)	http://www.nmfs.noaa.gov/msa2007/docs/NER_section_110_20070226.pdf http://www.nmfs.noaa.gov/msa2007/docs/section_110_analysis_PIRO_20070321.pdf
Define the term "illegal, unreported, or unregulated (IUU)"	April 12, 2007 72 FR 18404	http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/pdf/07-1830.pdf
Klamath River Coho Salmon Recovery Plan	July 10, 2007	http://swr.nmfs.noaa.gov/salmon/MSRA_RecoveryPlan_FINAL.pdf
Council Training	July 2007	http://www.nmfs.noaa.gov/msa2007/docs/council_training_syllabus_200707_v2.pdf
Hold training course that meets requirements of MSRA	October 2007	New member training was conducted the week of October 23, 2007.
Hurricane report to Congress on habitat	August 2007	http://www.nmfs.noaa.gov/msa2007/docs/HurricaneImpactsHabitat_080707_1200.pdf Errata: http://www.nmfs.noaa.gov/msa2007/docs/errata_080707.pdf
Hurricane report to Congress on Fisheries	August 2007	http://www.nmfs.noaa.gov/msa2007/docs/Fisheries_Report_Final.pdf
Mid-Atlantic Fishery Management Council's Report to Congress on Council Management Coordination	October 11, 2007	http://www.nmfs.noaa.gov/msa2007/docs/CMCR_Final.pdf
Process for monitoring and certifying contractor performance	March 21, 2007	View NWS charter here: http://www.ppi.noaa.gov/weather_water/TsunamiPage.html View Indian ocean tsunami warning system program here: http://www.iotws.org/ev_en.php?ID=1267_201&ID2=DO_TOPIC
Bycatch Reduction Engineering Program	January 11, 2008	http://www.nmfs.noaa.gov/msa2007/

lease in million barrels of oil equivalent (MMBOE):

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

8. Section 260.117 is removed.
9. The title of § 260.124 and the introductory language of paragraph (b) are revised to read as follows:

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

* * * * *

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

* * * * *

[FR Doc. 07–6161 Filed 12–20–07; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 071121736–7619–01]

RIN 0648–AR78

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

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

ACTION: Proposed rule; request for comments.

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

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

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

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

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

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

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

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

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

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

SUPPLEMENTARY INFORMATION:

Background and Need for Action

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

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

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

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

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

Proposed Changes from the Current Regulations

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

Changes to Existing Definitions

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

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

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

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

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

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

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

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

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

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

Technical Revisions to Definitions

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

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

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

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

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

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

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

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

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

Changes to Application and Permit Process

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

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

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

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

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

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

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

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

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

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

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

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

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

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

documenting all catch and bycatch related to EFPs.

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

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

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

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

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

EFP Requirements for NMFS Observer Program

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

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

Classification

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

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

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

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

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

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

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

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the Office of Sustainable Fisheries at the ADDRESSES above, and email to David_Rostker@omb.eop.gov, or fax to (202) 395-7285.

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

List of Subjects in 50 CFR Part 600

Fisheries, Fishing.

Dated: December 18, 2007.

William T. Hogarth,

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

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

PART 600 MAGNUSON—STEVENS ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

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

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

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

§ 600.10 Definitions.

* * * * *

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

* * * * *

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

* * * * *

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

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

* * * * *

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

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

* * * * *

Region means one of six NMFS Regional Offices responsible for administering the management and development of marine resources in the United States in their respective geographical areas of responsibility.

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

* * * * *

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

* * * * *

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

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

* * * * *

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

§ 600.512 Scientific research.

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

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

* * * * *

4. In § 600.745:

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

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

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

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

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

The revisions and additions read as follows:

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

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

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

(b) * * *

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

(2) * * *

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

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

* * * * *

(3) * * *

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

* * * * *

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

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

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

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

* * * * *

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

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

* * * * *

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

* * * * *

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

* * * * *

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

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

* * * * *

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

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

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

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

* * * * *

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

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

publication prepared as a result of the EFP activity.

(d) * * *

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

(2) * * *

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

* * * * *

(3) * * *

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

* * * * *

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

* * * * *

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

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

* * * * *

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

* * * * *

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

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

[FR Doc. E7-24866 Filed 12-20-07; 8:45 am]

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January 30, 2008

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FEB 11 2008

PFMC

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

Dear Steve:

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

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

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

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

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

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

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

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

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

Sincerely,



Chris Oliver
Executive Director

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



New England Fishery Management Council

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John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

March 5, 2008

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

Re: NEFMC Comments on the December 21, 2007 Proposed Rule: Experimental Fishing Permit Process, Exempted Fishing Permits and Scientific Research Activities

Dear Mr. Risenhoover:

Thank you for the opportunity to comment on the proposed rule concerning the Experimental Fishing Permit (EFP) process and other associated changes discussed in the agency's 12/21/07 document. The New England Fishery Management Council (Council) and its Research Steering Committee have tracked this subject for a number of years and, because of our keen interest and involvement in cooperative research and research set-aside programs, offer the following comments.

For years the Council has supported a consistent and expedited EFP process that enables cooperative research to be conducted in a timely, cost-effective manner without compromising the scientific rigor of approved projects. While there have been improvements to this process in the Northeast, particularly in eliminating the backlog of projects, impediments remain. And despite some proposed modifications that may be helpful, we are left with more questions than answers.

First and foremost, we believe the Regional Councils were not engaged enough in the preparation of the proposed rule. The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 explicitly calls for the Secretary to promulgate regulations in consultation with the Councils. While well-intended, we do not think the several staff-to-staff conference calls initiated by Silver Spring accomplished the required consultation.

The New England Council also believes the proposed rule neglects the mandate to create a regionally-based process. We recognize the document contains a number of remedies to some specific regional problems, but allows little if any flexibility to address regional problems overall. This is a very important issue for researchers, fishermen and managers in our area given that the EFPs from the Northeast constitute a very large percentage of the EFPs issued overall.

The New England Council's specific issues are as follows:

We see very little if any streamlining in the program as outlined in the proposed rule. Where streamlining does occur, for example in exempting research projects funded by quota set-asides from the requirement to publish a *Federal Register* (FR) notice, the process used as an example to justify elimination of the FR step is not consistent with the NEFMC fishery management plan process. In the case of the current Scallop and Monkfish Fishery Management Plan (FMP) Research Set-Aside Programs, specific experiments are neither identified nor analyzed through the FMP process. Only the impacts on fishing mortality are accounted for through the establishment of research Total Allowable Catches. Furthermore, the reviews that are conducted by the agency's Regional Office staff and through the NOAA Grants process serve defined purposes but do not allow for meaningful input by the full Council.

The Council believes this particular attempt at streamlining effectively blocks its ability to comment on projects funded through mechanisms provided for in its own FMPs. As an alternative and outside of the EFP process, we believe much closer scrutiny should be given to streamlining the NOAA Grants process under which these programs are administered.

We also suggest streamlining in the case of compensation fishing, which in the proposed rule appears to always require a separate EFP. Where possible, and this may only be feasible in New England, the Council suggests that at the same time an EFP or Letter of Acknowledgement (LOA) is issued to principal investigators, an EFP is also issued to the vessel that will undertake the associated compensation fishing. This should be allowed if the specifics of the compensation fishing are properly described at the time the initial project EFP is granted (i.e. compensation vessel identified, amount of pounds harvested or days stated, location of activity, catch reporting, notification to the agency when fishing will commence, etc.).

The attempt to classify "conservation engineering" as scientific research appears to be a good idea, but raises questions not clarified in the proposed rule. For instance, conservation engineering is proposed to be something that can only be done on scientific research vessels; everything else is "gear testing" for which there can be no retention of fish, or so it appears, even under an EFP. Further discussion is needed on this issue, particularly with the affected parties who have participated in cooperative research.

Two additional but related problems could be remedied by initiating discussion with affected parties in our region: 1) fishing vessels continue to be excluded from the definition of a scientific research vessel; and 2) the requirement for an EFP for “conservation engineering” projects is dependent on whether the research is conducted on a scientific research vessel, for which an LOA is granted, or a commercial fishing vessel, which would require an EFP.

The proposed rule would allow NMFS observers and biological technicians to sample fish on commercial vessels without an EFP, but would require university and other fish sampling programs to have an EFP. We believe this is another instance where streamlining can be accomplished and recommend the agency initiate a dialogue with states, universities and institutions that have participated in the EFP process to develop a better alternative.

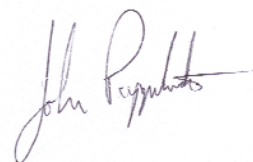
The proposed rule appears to maintain the NEPA review requirements for issuing EFPs, thus keeping the process administratively burdensome. Similarly, the proposed rule restricts the ability of the Regional Administrator to issue an LOA for projects that have not addressed potential Endangered Species Act or Marine Mammal Protection Act issues. While this sounds like one-stop shopping, we do not believe this is the case and see few benefits to the proposal and more likely an even more protracted process.

Overall, the Council finds the proposed rule does not contribute toward an expedited EFP process, the intent of this exercise, nor are regional issues addressed in a manner that would promote the issuance of EFPs to qualified applicants. Many of the proposals even hinder progress that has already been made in the Northeast. We have found the proposals complex, unclear in structure and intent and confusing when attempting a comparison to what currently exists.

For these reasons, the New England Council strongly recommends that the National Marine Fisheries Service withdraw the current proposed rule and hold, at least in New England, a regional workshop to better understand the impediments that must be addressed in the EFP process so the benefits of cooperative research can be maximized. The Council and its staff firmly believe such an exercise will yield a revised and improved proposed rule and are willing to assist in bringing the interested parties together.

Meanwhile, the Council looks forward to working with you as development of the rule continues. If you have any questions, please feel free to contact Executive Director Paul Howard or staff member Patricia Fiorelli at 978.465.0492, or via email at phoward@nefmc.org and pfiorelli@nefmc.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Pappalardo".

John Pappalardo
Chairman

MEMBERSHIP APPOINTMENTS AND COUNCIL OPERATING PROCEDURES (COP)

During this agenda item, the Council will consider changes in advisory body membership, appointments to other forums, and relevant changes in Council Operating Procedures.

Council Advisory Body Appointments

The Council needs to consider and approve the following advisory body membership changes.

Groundfish Management Team (GMT)

National Marine Fisheries Service (NMFS) Southwest Fisheries Science Center (SWFSC) nominates Mr. Edward J. Dick to replace Dr. John Field as the SWFSC representative on the GMT (Closed Session A.1.a, Attachment 1).

Habitat Committee (HC)

California Department of Fish and Game (CDFG) has notified the Council that its representative on the HC, Mr. Steve Turek, is unable to continue in that assignment and will be replaced by Mr. Larry Hanson. Further, Ms. Vicki Frey will act as the designated alternate to Mr. Hanson (Closed Session A.1.a, Attachment 2).

Highly Migratory Species Advisory Subpanel (HMSAS)

Mr. Robert Fletcher has submitted his resignation from the Southern Charter Boat Operator position on the HMSAS, effective March 15 (Closed Session A.1.a, Attachment 3).

In response to a Council vacancy announcement for the Southern Charter Boat Operator position on the HMSAS, the Council received one nomination. The Sportfishing Association of California has nominated Captain Buzz Brizendine (Closed Session A.1.a, Attachment 4).

Scientific and Statistical Committee (SSC)

The Washington Department of Fish and Wildlife (WDFW) has informed the Council of the imminent departure of their representative on the SSC, Mr. Tom Jagielo, from employment with the agency. To provide for an immediate replacement on the SSC, WDFW nominates Dr. Theresa Sou to serve as their representative (Closed Session A.1.a, Attachment 5).

Remaining Vacancies on Permanent Council Advisory Bodies

The following advisory body positions are vacant with no nominations:

- | | |
|--|--|
| • GMT | NMFS NW Region, 2 nd Position |
| • Habitat Committee | IDFG Position |
| • Highly Migratory Management Team (HMSMT) | IATTC Position |

On October 31, 2007, the Council sent a letter (Closed Session A.1.a, Attachment 6) to Mr. Guillermo A. Compéan, Director, Inter-American Tropical Tuna Commission (IATTC), requesting reconsideration of their action to withdraw representation on our Highly Migratory Species Management Team (HMSMT). To date, there has been no reply and no representative was sent to the January HMSMT meeting. The Council should consider what, if any, follow-up action is warranted on this issue and instruct staff appropriately.

Update on Appointments to Other Forums

Western and Central Pacific Fisheries Commission (WCPFC)

Since the November meeting, the Council's nomination of Ms. Marija Vojkovich to the WCPFC has been informally accepted by the Department of State. The Council's nomination of Dr. Kit Dahl as an advisory body member on the WCPFC is still pending.

U.S.-Canada Pacific Hake/Whiting Commission

As noted at previous meetings, the Secretary of Commerce has acknowledged our Council's recommendation for Mr. Phil Anderson to serve on the U.S. Section of the Joint Management Committee of the U.S.-Canada Pacific Hake/Whiting Commission. However, any notice of appointment awaits final ratification of the treaty.

Changes to COP

At the November meeting, the Council approved changes, for public review, to COP 15, Salmon Estimation Methodology Updates and Review, to clarify review roles of the SSC, Salmon Technical Team, and Model Evaluation Workgroup (Agenda Item B.3.a, Attachment 7). At this meeting, the Council needs to take final action on the changes to COP 15.

Council Action:

- 1. Confirm or provide other guidance for appointments to Council advisory bodies and COP changes, including GMT, HC, HMSAS, HMSMT, SSC, and COP 15.**

Reference Materials:

1. Closed Session A.1.a, Attachment 1: NWFSC Resignation and Nomination to GMT.
2. Closed Session A.1.a, Attachment 2: CDFG Resignation and Nomination to HC.
3. Closed Session A.1.a, Attachment 3: Resignation of Mr. Robert Fletcher from HMSAS.
4. Closed Session A.1.a, Attachment 4: Nomination of Mr. Buzz Brizendine to HMSAS.
5. Closed Session A.1.a, Attachment 5: WDFW Resignation and Nomination to SSC.
6. Closed Session A.1.a, Attachment 6: Council letter to Mr. Compéan, IATTC.
7. Agenda Item B.3.a, Attachment 1: COP 15, Salmon Estimation Methodology Updates and Review.

Agenda Order:

- a. Agenda Item Overview
- b. Reports and Comments of Advisory Bodies
- c. Public Comment
- d. **Council Action:** Appoint New Advisory Body Members and Consider Changes to Council Operating Procedures as Needed

John Coon

PFMC
02/25/08

COUNCIL OPERATING PROCEDURE**Salmon Estimation Methodology Updates and Review**

Approved by Council: 07/10/85

Revised: 11/19/87, 03/09/89, 04/06/95, 06/23/97, 03/11/05

PURPOSE

To establish procedures for the review and approval of Council estimation methodologies, utilizing the Scientific and Statistical Committee (SSC), ~~and~~ the Salmon Technical Team (STT), and the Model Evaluation Workgroup (MEW). This oversight review of current and proposed methodologies for abundance and harvest projection, experimental fishing permits (EFPs), and conservation objectives is intended to help clarify the technical basis for the Council's management actions. It should function to provide peer review of the technical estimation and modeling procedures, to ensure the best and most objective technical analyses possible, to minimize confusion during the preseason option development process, and to resolve disputes over methodology.

OBJECTIVES AND DUTIES

During the March and April meetings or at other appropriate times, the SSC, in conjunction with the STT and ~~Model Evaluation Workgroup (MEW)~~, will identify methodology issues which need documentation and/or merit a full review. The SSC is responsible for reviewing new or changed methodology as opposed to specific applications of the methodology. Examples of issues that could merit a full review include new model algorithms, methods for incorporating base data into models, forecasting methods for major PFMC stocks, experimental design of proposed experimental fisheries, and technical changes to stock complexes or conservation objectives. Examples of issues that do not merit full review include updating existing data sets in models, changing coded-wire-tag representation for modeled stocks, adding new stocks to models, and changing data ranges used to estimate parameters in models. Issues in this latter category will be reviewed within the MEW or STT, and can be implemented without formal review by the SSC and approval of the Council; provided both the Council and SSC receive updates on such changes; however, if warranted, the Council may require additional review by the SSC.

At the September meeting tThe SSC will inform the Council of the methodologies ~~selected~~ ready for review and recommend a review schedule. The SSC also will notify the Council of assistance needed from management entities and the MEW to accomplish the review.

The appropriate management entities, either themselves or with ~~with~~ assistance from the MEW, are expected to provide background information on procedures and data bases for methodologies undergoing full review, as well as early notification and documentation of anticipated changes in procedures for methodologies not under full review in a particular year. Management entities, who submit proposals for the Methodology Review ~~with assistance from the MEW~~, are

responsible for ensuring that materials they provide to the SSC and Council are technically sound, clearly documented, and identified by author. Documents should receive internal entity review before being sent to the Council. To provide adequate review time for the SSC, materials must be received in the Council office at least ~~three~~two weeks before scheduled review meetings.

The SSC and STT will report to the Council at the November meeting on the results of these reviews and provide recommendations for all proposed methodology changes. During the November meeting, the Council will adopt all proposed changes to be implemented in the coming season or will provide directions for handling any unresolved methodology problems.

During each March meeting, the STT will report on the status of all current estimation procedures and models used in analyzing the management options and identify any problems or potential changes to model inputs or parameters that could occur prior to completion of the annual preseason management process in April.

PROPOSED EDITS TO FIRST PARAGRAPH OF COP 15

15

COUNCIL OPERATING PROCEDURE

Salmon Estimation Methodology Updates and Review

Approved by Council: 07/10/85

Revised: 11/19/87, 03/09/89, 04/06/95, 06/23/97, 03/11/05

PURPOSE

To establish procedures for the review and Council approval of ~~Council~~ salmon estimation methodologies, utilizing the Scientific and Statistical Committee (SSC), the Salmon Technical Team (STT), and the Model Evaluation Workgroup (MEW). ~~This oversight~~ The review of current and proposed methodologies for abundance and harvest projection, experimental exempted fishing permits (EFPs), and conservation objectives is intended to help clarify the technical basis for the Council's management actions. ~~It should function~~ The procedure is intended to provide peer review of the technical estimation and modeling procedures, to ensure the best and most objective technical analyses possible, to minimize confusion during the preseason option development process, and to resolve disputes over methodology.

PFMC
03/13/08

FUTURE COUNCIL MEETING PLANNING, APRIL 2008 COUNCIL MEETING AGENDA,
AND WORKLOAD PRIORITIES

This agenda item requests guidance on the following three matters:

1. The Council four-meeting outlook (April, June, September, and November 2008).
2. The draft agenda for the April 2008 Council meeting in Seattle, Washington.
3. Identification of priorities for advisory body consideration at the next Council meeting.

The Council preliminarily reviews items 1 and 2 (above) under Agenda Item B.1 on Sunday, March 9, 2008. With the inclusion of any input gathered from that review or other Council actions during the week, the Executive Director will review supplemental proposed drafts of the two items listed above and discuss any other matters relevant to the Council meeting agendas and workload. After considering any reports and comments from advisory bodies and public, the Council will adopt a final April Council meeting agenda and provide guidance for future agenda development. Adopting a final agenda is necessary as the *Federal Register* notice for the April Council meeting must be filed at the end of the March meeting. The Council also has the opportunity to identify priorities for advisory body consideration for the April 2008 Council meeting.

Council Action:

- 1. Provide guidance on potential agenda topics for the next four Council meetings.**
- 2. Adopt a final agenda for the April 2008 Council meeting.**
- 3. Identify priorities for advisory body consideration at the next Council meeting.**

Reference Materials:

1. Agenda Item B.5.a, Supplemental Attachment 1: Preliminary Four-Meeting Outlook for the Pacific Council.
2. Agenda Item B.5.a, Supplemental Attachment 2: Draft Proposed Council Meeting Agenda, April 6-12, 2008, Seattle, Washington.

Agenda Order:

- a. Agenda Item Overview
- b. Reports and Comments of Advisory Bodies
- c. Public Comment
- d. **Council Action:** Adopt April 2008 Council Agenda and Provide Guidance on Future Meetings and Priorities for Advisory Body Consideration

Don McIsaac

PFCM
02/22/08

Preliminary Draft Four-Meeting Outlook for the Pacific Council
(Contingent Items are Shaded and Counted in Time Estimate)

<p align="center">April Seattle, WA (4/6-4/12/2008) Estimated Hours of Council Floor Time = 41.0</p>	<p align="center">June Foster City, CA (6/6-13/2008) Estimated Hours of Council Floor Time = 44.0</p>
<p><u>Administrative</u> Closed Session; Open Session Call to Order; Min. Legislative Committee Report Interim Appointments to Advisory Bodies MSA Reauthorization Implementation 3 Mtg Outlook, Drft Nov Agenda, Workload (2 sessions) Public Comment on Non-Agenda Items</p>	<p><u>Administrative</u> Closed Session; Open Session Call to Order; Min. Legislative Committee Report Fiscal Matters Interim Appointments to Advisory Bodies (& EFH) MSA Reauthorization Implementation 3 Mtg Outlook, Drft Mar Agenda, Workload (2 sessions) Public Comment on Non-Agenda Items Research & Data Needs: Adopt for Pub Rev</p>
<p><u>Coastal Pelagic Species</u></p>	<p><u>Coastal Pelagic Species</u> Pac. Mackerel Harvest Guideline 2008-2009: Adopt Final Guideline and Mgmt Measures</p>
<p><u>Ecosystem FMP</u></p>	<p><u>Ecosystem FMP</u></p>
<p><u>Enforcement Issues</u> US Coast Guard Annual Fishery Enforcement Report</p>	<p><u>Enforcement Issues</u></p>
<p><u>Groundfish</u> NMFS Report 2007 Inseason Management (2 Sessions) Intersector Allocation: Adopt Final Preferred Alt 2009-2010 Mgmt Recommendations: Adopt 1) Preferred ABCs & OYs, & Prelim Revised RB Plns 2) Range of Refined Mgmt Meas. for Pub Rev, & if possible, a Preferred Alt. (Parts I & II)</p>	<p><u>Groundfish</u> NMFS Report 2008 Inseason Management (2 Sessions) Trawl Rationalization: Preliminary DEIS--Adopt Pref. Alt. Stock Assessments: Adopt Final TOR, List of Stocks to be Assessed, & Review Schedule for 2009 EFH 5 year Review: Scope Process & Appt. Committee for Comprehensive Rev (May require subcommittees as well) 2009-2010 Mgmt Recommendations: Adopt 1) Tentative Final Spx, RB Plans, & Mgmt Measures 2) Clarification to Tentative Adoption if Nec 3) Final EFPs for 2009: Preliminary Rev & Comment</p>

Preliminary Draft Four-Meeting Outlook for the Pacific Council
(Contingent Items are Shaded and Counted in Time Estimate)

April Seattle, WA (4/6-4/12/2008) Estimated Hours of Council Floor Time = 41.0	June Foster City, CA (6/6-13/2008) Estimated Hours of Council Floor Time = 44.0
<u>Habitat Issues</u> Habitat Committee Report	<u>Habitat Issues</u> Habitat Committee Report
<u>Highly Migratory Species</u> NMFS Rpt New EFPs for 2008: Adopt Final IATTC Recommendations	<u>Highly Migratory Species</u> NMFS Rpt Routine Mgmt Meas.: Identify any Proposed Changes WCPFC Northern Committee Actions: Provide Recom.
<u>Marine Protected Areas</u> Comment on MPA Need Criteria for MBNMS OCNMS "Condition Report"	<u>Marine Protected Areas</u> New MPA's: Comment on New Proposals by MBNMS
<u>Pacific Halibut</u> Incidental Catch Regs for 2008: Adopt Final	<u>Pacific Halibut</u>
<u>Salmon</u> 2008 Mgmt Measures: Adopt Final (4 agenda items) 2008 Methods Review: Process & Prelimin Topics PSC CWT Work Group Rpt	<u>Salmon</u>
<u>Information Reports</u>	<u>Information Reports</u> Salmon Fishery Update
<u>Special Sessions</u> Trawl Rationalization Analytical Results Briefing	<u>Special Sessions</u> None
Standard Floor Time = 32 hr	

Preliminary Draft Four-Meeting Outlook for the Pacific Council
(Contingent Items are Shaded and Counted in Time Estimate)

September Portland, OR (9/7-9/12/08) Estimated Hours of Council Floor Time = 32.3	November San Diego, CA (11/2-11/7/2008) Estimated Hours of Council Floor Time = 45.8
<u>Administrative</u> Closed Session; Open Session Call to Order; Min. Legislative Committee Report Fiscal Matters Interim Appointments to Advisory Bodies MSA Reauthorization Implementation 3 Mtg Outlook, Drft Nov Agenda, Workload (2 sessions) Public Comment on Non-Agenda Items Research & Data Needs: Adopt Final	<u>Administrative</u> Closed Session; Open Session Call to Order; Min. Legislative Committee Report Fiscal Matters Interim Appointments to Advisory Bodies MSA Reauthorization Implementation 3 Mtg Outlook, Drft Mar Agenda, Workload (2 sessions) Public Comment on Non-Agenda Items
<u>Coastal Pelagic Species</u> 	<u>Coastal Pelagic Species</u> STAR Panel 2008 TOR: Adopt for Pub Rev Pac. Sardine: Approve Stk Assmnt & Mgmt Measures Amendment 11: Review Sardine Allocation
<u>Ecosystem FMP</u> 	<u>Ecosystem FMP</u>
<u>Enforcement Issues</u> State Activity Rpt	<u>Enforcement Issues</u>
<u>Groundfish</u> NMFS Report 2008 Inseason Management (2 Sessions)	<u>Groundfish</u> NMFS Report 2008 & 2009 Inseason Management (2 Sessions) Trawl Rationalization: Adopt Final for DEIS
Open Access License Limitaton: Adopt Pref. Alt for Pub Rev	
EFH 5 Year Review: Approve Outside Proposals for Inclusion in Review	
[Nonagenda item: If Nec, SSC may review certain EFPs for 2009]	EFPs for 2009: Adopt Final Recommendations

Preliminary Draft Four-Meeting Outlook for the Pacific Council
(Contingent Items are Shaded and Counted in Time Estimate)

September Portland, OR (9/7-9/12/08) Estimated Hours of Council Floor Time = 32.3	November San Diego, CA (11/2-11/7/2008) Estimated Hours of Council Floor Time = 45.8
<u>Habitat Issues</u> Habitat Committee Report	<u>Habitat Issues</u> Habitat Committee Report
<u>Highly Migratory Species</u> NMFS Rpt Routine Mgmt Meas.: Adopt Proposed Changes for Analysis	<u>Highly Migratory Species</u> NMFS Rpt Routine Mgmt Meas.: Adopt Final WCPFC Recommendations
High Seas Shallow-set Longline Amendment: Adopt Final Preferred Alt	
<u>Marine Protected Areas</u> MPA Issues	<u>Marine Protected Areas</u> MPA Issues
<u>Pacific Halibut</u> Changes to 2009 CSP & Regs: Adopt for Pub Rev Halibut Bycatch Est for IPHC: review Halibut Abundance Estimation for 2009	<u>Pacific Halibut</u> Changes to 2009 CSP & Regs: Adopt Final Halibut Abundance Estimation for 2009
<u>Salmon</u> 2008 Methodology Review: Select Final Rev Priorities Mitchell Act EIS: Provide Council Comments	<u>Salmon</u> Preseason Salmon Mgmt Sched for 2008: Approve 2007 Methodology Review: Adopt Final Changes
<u>Information Reports</u> Salmon Fishery Update Final SAFE Rpt (HMS)	<u>Information Reports</u> Salmon Fishery Update
<u>Special Sessions</u> None	<u>Special Sessions</u> Joint Session Mon Night--Trawl Rationalization

PROPOSED COUNCIL MEETING AGENDA, APRIL 6-12, 2008, SEATTLE, WASHINGTON

	Sun, Apr 6	Mon, Apr 7	Tues, Apr 8	Wed, Apr 9	Thurs, Apr 10	Fri, Apr 11	Sat, Apr 12
Day-Time Council Floor Matters		<p><u>CLOSED SESSION</u> 12:30 pm</p> <p><u>A. CALL TO ORDER</u> 1:30 pm</p> <p>1-4. Open & Approve Agenda (15 min)</p> <p><u>B. OPEN PUBLIC COMMENT</u> 1. Comments on Non-Agenda Items (45 min)</p> <p><u>C. ADMINISTRATIVE</u> 1. Future Agenda Planning—Part I (30 min)</p> <p>Special Session: Trawl Rationalization Analytical Results Briefing (2 hr)</p>	<p><u>D. ENFORCEMENT</u> 1. Annual USCG Rpt. (1 hr)</p> <p><u>E. HABITAT</u> 1. Current Issues (45 min)</p> <p><u>F. SALMON</u> 1. 2008 Mgmt Measures: Tentative Adoption for Analysis (2 hr 45 min)</p> <p><u>G. PACIFIC HALIBUT</u> 1. Incidental 2008 Catch Regs (Salmon Troll and Sablefish): Adopt Final (30 min)</p> <p><u>H. GROUND FISH</u> 1. Mgmt Specs. for 2009-10: Adopt Preferred ABCs, OYs, & Revised RB Plans (3 hr)</p>	<p><u>H. GROUND FISH</u> 2. NMFS Report (45 min) 3. Amendment 21 (Intersector Allocation): Adopt Final Preferred Alt (3 hr)</p> <p><u>F. SALMON</u> 2. Clarify Mgmt Options for Analysis if Necessary (1 hr) 3. PSC CWT Workgroup Rpt (1 hr) 4. 2008 Methodology Review: Select Methods to Review (45 min)</p> <p><u>H. GROUND FISH</u> 4. Consider Inseason Adjustments for 2008 Fisheries (2 hr)</p>	<p><u>C. ADMINISTRATIVE</u> 2. Legislative Matters (30 min)</p> <p><u>H. GROUND FISH</u> 5. Mgmt Measures for 2009-10—Part I: Adopt Prelim. Range for Analysis (3 hr)</p> <p><u>F. SALMON</u> 5. Mgmt Measures for 2008: Adopt Final (2 hr)</p> <p><u>I. MPA</u> 1. Comment on MPA Need Criteria for MBNMS (1 hr 30 min) 2. OCNMS "Condition Report" (1 hr)</p>	<p><u>F. SALMON</u> 6. Clarify Final Action if Nec (30 min)</p> <p><u>C. ADMINISTRATIVE</u> 3. Implement MSRA (2 hr)</p> <p><u>J. HIGHLY MIGRATORY</u> 1. NMFS Rpt (45 min) 2. Recommendations to IATTC (1 hr 30 min) 3. New EFPs for 2008: Adopt Final Recommendations (1 hr 30 min)</p> <p><u>C. ADMINISTRATIVE</u> 4. Interim Appointments & COP Changes (15 min) 1. Future Agenda Planning—Part II (30 min)</p>	<p><u>H. GROUND FISH</u> 6. Final Inseason Adjustments (2 hr) 7. Mgmt Measures for 2009-10—Part II: Adopt Range & Preferred Alt. for Pub Rev (3 hr)</p>
		4 hr 30 min	8 hr	8 hr 30 min	8 hr	7 hr	5 hr
Committees	1:00 pm GAP 1:00 pm GMT 1:00 pm LC	8:00 am GAP 8:00 am GMT 8:00 am SAS 8:00 am STT 8:00 am SSC 9:00 am HC 10:30 am ChB 4:30 pm EC	8:00 am EC 8:00 am GAP 8:00 am GMT 8:00 am SAS 8:00 am STT 8:00 am SSC ..	8:00 am EC 8:00 am GAP 8:00 am GMT 8:00 am HMSMT 8:00 am SAS 8:00 am STT	8:00 am EC 8:00 am GAP 8:00 am GMT 8:00 am SAS 8:00 am STT 8:00 am HMSAS 8:00 am HMSMT	8:00 am EC 8:00 am GAP 8:00 am GMT 8:00 am SAS 8:00 am STT 8:00 am HMSAS 8:00 am HMSMT	8:00 am EC

Council-sponsored evening sessions: Chair's Reception on Monday at 6:00 pm
Total Floor Hours = 41 hr

3/14/2008 1:16 PM

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Agenda Item B.5.a
Supplemental Attachment 2
March 2008

GROUND FISH MANAGEMENT TEAM REPORT ON FUTURE COUNCIL MEETING
PLANNING, APRIL 2008 COUNCIL MEETING AGENDA, AND WORKLOAD
PRIORITIES

The Groundfish Management Team (GMT) reviewed the Preliminary Proposed Council Meeting Agendas for the remainder of the year (Agenda Items B.1.a Attachments 3-6) and offers the following comments.

The April agenda item is fully prescribed with inseason, management measures for 2009-2010, intersector allocation, and the trawl rationalization analytical results briefing. The GMT recommends that our priority for the meeting be to adopt biennial groundfish specifications and management measures for 2009-2010 and inseason. Comments on other agenda items can only be provided as time permits.

The June agenda is also particularly full given the need to adopt biennial groundfish specifications and management measures for 2009-2010, adopt a stock assessment schedule for 2009, and begin the five-year review of essential fish habitat. These items are in addition to the often lengthy suite of inseason management measure considerations that arise in June each year and the scheduled adoption of trawl rationalization alternatives for the preliminary draft Environmental Impact Statement. The Council has scheduled the GMT and other advisory bodies to start on Friday, June 6 at 8:00 a.m. in an attempt to accommodate the schedule, with the Council convening on Friday, June 13. The GMT notes that our priority for the meeting will be to adopt biennial groundfish specifications and management measures for 2009-2010 and inseason. Comments on other agenda items will be provided only as time permits. This extended schedule will be particularly demanding, especially considering that after the Council meeting the team will need to reconvene in Portland to finalize the management measures for 2009-2010.

The GMT appreciates the magnitude of the workload before the Council and the timing necessary to discuss several important long-term initiatives (e.g. intersector allocation, trawl rationalization, and Open Access limitation) this year. However, a balance between important initiatives and workload is imperative to a successful process. Given that increasingly complex inseason action is necessary for west coast fisheries, sufficient time must be provided. The GMT and Groundfish Advisory Subpanel (GAP) work well together, however increasingly, the GMT lacks the necessary time to fully engage with the GAP on alternative inseason management proposals. This iterative process is crucial to balance conservation objectives with consideration of the needs of industry and communities. Additionally, as evidenced at the last two Council meetings, as workloads increase it has become increasingly difficult for the team to produce the quality products that the Council has come to expect from the team. Furthermore, as the team is forced to prioritize comments on agenda items, the Council sacrifices the opportunity to receive advisory body input.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
Olympic Coast National Marine Sanctuary
115 East Railroad Avenue, Suite 301
Port Angeles, WA 98362-2925

March 11, 2008

Mr. Don McIsaac
Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place
Suite 101
Portland, Oregon 97220-1364

Dear Mr. McIsaac:

The Olympic Coast National Marine Sanctuary (OCNMS) seeks the assistance of the Pacific Fishery Management Council and the Scientific and Statistical Committee (SSC) in reviewing portions of a report on the condition of sanctuary resources. The report, which is being prepared by sanctuary staff and selected subject matter experts, contains information that relates to marine fisheries. We would like to have the opinion of members of the SSC on our interpretation of that information to ensure the report's accuracy and to encourage early coordination between the PFMC and OCNMS.

The Office of National Marine Sanctuaries (ONMS) is in the process of developing "Condition Reports" for all sanctuaries as part of its System-wide Monitoring Program. The primary purpose of the document is to report in a standardized way on the status and trends of water quality, habitat, living resources and maritime archaeological resources and the human activities that affect them. Evaluations of status and trends are made by sanctuary staff, based on interpretation of quantitative and, when necessary, non-quantitative assessments and observations of scientists, managers and users. Therefore, ratings reflect the collective level of concern among participants based on their knowledge and perceptions of local problems. The report will also describe the anthropogenic pressures on these resources and explain management responses to the pressures.

The report will serve as a tool to determine if the OCNMS is achieving its resource protection and improvement goals and as a supporting document in the OCNMS Management Plan Review Process, scheduled to begin in September 2008. The OCNMS condition report will be released to the public in advance of scoping meetings and will help inform the public on key issues facing the sanctuary. In the event that the condition report identifies fishing as a negative factor affecting marine resources, the issue may be prioritized and further evaluated during the OCNMS management plan review,



eventually lead to programmatic, policy or regulatory changes, including actions brought before or initiated by the PFMC. To clarify, we are not making any proposals at this time to change OCNMS regulations.

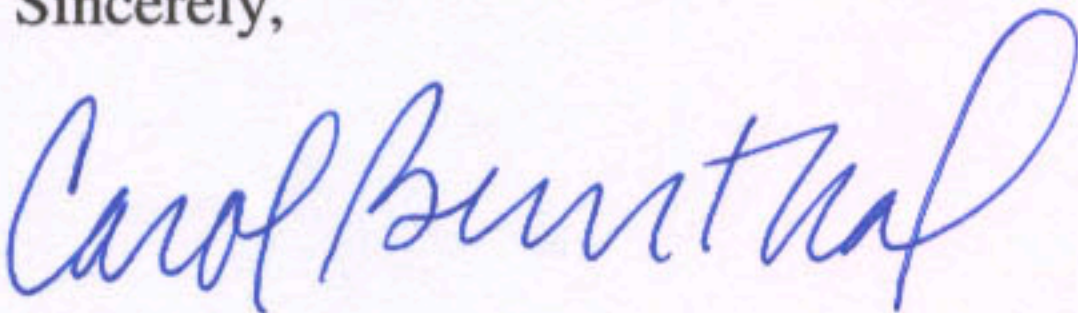
The SSC plays an important role in providing scientific advice for fishery management decisions and in providing peer review for the Council. Early review by SSC will allow time to consider and incorporate their expert opinion and perspectives into the final document and to help inform any subsequent deliberations.

If you can accommodate our request, a first draft of the condition report will be provided to the SSC in time for your April meeting. In order to allow us to finalize the report prior to public scoping, we request your written comments within three (3) weeks of receiving the draft report. We understand that normally such a review would take place over the course of two meetings; however, waiting until the June meeting for feedback would result in a delay in drafting the report and the OCNMS management plan review schedule. The draft report will also be provided to the Olympic Coast National Marine Sanctuary Advisory Council, Olympic Coast Intergovernmental Policy Council and experts involved in creating the resource ratings. A final peer review will be conducted and the final condition report will be publicly available on the OCNMS and ONMS websites.

The guidelines for SSC review and additional background on the Condition Report is provided in Attachments 1 and 2. If it would be helpful, national marine sanctuary program staff could also give a presentation and answer any questions on the intent, purpose and structure of the condition report and proposed SSC review at the March PFMC meeting.

Thank you for considering this request. I am confident that PFMC involvement will improve the quality of the document and ensure that management decisions rely on the best available science. If you have any questions, please don't hesitate to call me at 360-457-6622, Ext 11.

Sincerely,



Carol Bernthal
Sanctuary Superintendent

Attachments

Cc: William Douros, ONMS

Attachment 1

OCNMS Condition Report Charge to Reviewers

As you review the document, please do so recognizing that the report is much like an executive summary that is based on sanctuary-specific data that may not be presented in detail within the report. To the extent possible, references and web links to existing data are given, and appropriate summary graphics or data are shown, but original sources are likely to contain much more information than the condition report.

The 17 questions listed in the report and in Attachment 2 are asked of all sanctuaries. The interpretation of the questions by sanctuary staff, and their responses to the questions are standardized according to the descriptions and explanations provided in Appendix A. We are not requesting your review of this portion of the report, as these standards were established by the original panel of experts who designed SWiM, and in subsequent design modifications. You are welcome to review as much of the report as you like, the most substantive sections of the report being Site History and Resources, Pressures on the Sanctuary, State of Sanctuary Resources, and Responses to Pressures. But given your relevant experience and knowledge of the fisheries resources of Olympic Coast National Marine Sanctuary, there are certain questions within the section titled State of Sanctuary Resources for which your review is particularly important. For these, we are interested in your expert opinion of our judgments of resource status and trends, the bases for judgment, and whether you feel that other data could or should have been incorporated into the ratings. We welcome any recommendations you may have regarding additional data or information sources that may improve assessments of resource conditions. In our opinion, the questions that are most likely contain or benefit from information within your area of expertise are (please note that additional explanation can be found for each question in Appendix 2):

1. **Are specific or multiple stressors, including changing oceanographic and atmospheric conditions, affecting water quality and how are they changing?** The question has to do with multiple stressors, which may include changing environmental conditions that are reflected in fisheries data or in the quality of harvested species.
3. **Do sanctuary waters pose risks to human health and how are they changing?** This question concerns the risk posed to humans by sanctuary waters, and we sometimes include information about shellfish or other closures as evidence of problems.
4. **What are the levels of human activities that may influence water quality and how are they changing?** Though the question concerns the level of human activities that might affect water quality, it would benefit from greater understanding about whether discharges from large vessels, perhaps including fishing vessels, are affecting water quality in the sanctuary.
5. **What are the abundance and distribution of major habitat types and how are they changing?** Among other things, we are interested in any evidence of changing habitat quality resulting from fishing.
6. **What is the condition of biologically-structured habitats and how is it changing?** We seek information on the status and trends of habitats with substantial amounts of biogenic structure.
7. **What are the contaminant concentrations in sanctuary habitats and how are they changing?** We are interested to know whether there may be fisheries data that inform us on whether there are likely to be contaminants in sanctuary habitats.
8. **What are the levels of human activities that may influence habitat quality and how are they changing?** We are interested in learning more about the *levels* of any destructive fishing activities that occur within the sanctuary.
9. **What is the status of biodiversity and how is it changing?** There might be information on biodiversity that comes from the fishing community that would help us respond to this question. Most relevant may be changes that have been observed in food web structure due to altered populations of predators and prey, and extirpations that may have occurred.
10. **What is the status of environmentally sustainable fishing and how is it changing?** This may be the most important question for you to help with. Note that while it requires information on levels of harvesting



and stock status, the responses paired with each color rating try to focus on the extent to which harvesting alters the ecosystem and its ability to withstand the impacts of harvesting.

11. **What is the status of non-indigenous species and how is it changing?** If fisheries data indicate anything about the history of invasives in OCNMS, it would be helpful to add it to our response on this question.
12. **What is the status of key species and how is it changing?** For purposes of your review, please consider the status of keystone species in the ecosystem, and those that have special protected status.
13. **What is the condition or health of key species and how is it changing?** We are interested in information on the condition/health of the species identified in Question 12, particularly with regard to evidence of stress and their ability to contribute to the next generation.
14. **What are the levels of human activities that may influence living resource quality and how are they changing?** Among other things, this question addresses *levels* of fishing. Your review is therefore critical here.

On behalf of the staff of the National Marine Sanctuary Program, I thank you for taking the time to review this report. I am confident that your assistance will improve the quality of the document and ensure that management decisions rely on the best available science and dependable judgments of knowledgeable experts.



Attachment 2

Rating Scheme for System-Wide Monitoring Questions

The purpose of this appendix is to clarify the 17 questions and possible responses used to report the condition of sanctuary resources in "Condition Reports" for all national marine sanctuaries. Individual staff and partners utilized this guidance, as well as their own informed and detailed understanding of the site to make judgments about the status and trends of sanctuary resources.

The questions derive from the National Marine Sanctuary Program mission, and a system-wide monitoring framework (National Marine Sanctuary Program, 2004) developed to ensure the timely flow of data and information to those responsible for managing and protecting resources in the ocean and coastal zone, and to those that use, depend on, and study the ecosystems encompassed by the sanctuaries. They are being used to guide staff and partners at each of the 14 sites in the sanctuary system in the development of this first periodic sanctuary condition report. The questions are meant to set the limits of judgments so that responses can be confined to certain reporting categories that will later be compared among all sites, and combined.

Following a brief discussion about each question, statements are presented that were used to judge the status and assign a corresponding color code. These statements are customized for each question. In addition, the following options are available for all questions: "N/A" - the question does not apply; and "Undet." - resource status is undetermined.

Symbols used to indicate trends are the same for all questions: "▲" - conditions appear to be improving; "—" - conditions do not appear to be changing; "▼" - conditions appear to be declining; and "?" - trend is undetermined.

Question 1 (Water/Stressors): Are specific or multiple stressors, including changing oceanographic and atmospheric conditions, affecting water quality and how are they changing?

This is meant to capture shifts in condition arising from certain changing physical processes and anthropogenic inputs. Factors resulting in regionally accelerated rates of change in water temperature, salinity, dissolved oxygen, or water clarity, could all be judged to reduce water quality. Localized changes in circulation or sedimentation resulting, for example, from coastal construction or dredge spoil disposal, can affect light penetration, salinity regimes, oxygen levels, productivity, waste transport, and other factors that influence habitat and living resource quality. Human inputs, generally in the form of contaminants from point or non-point sources, including fertilizers, pesticides, hydrocarbons, heavy metals, and sewage, are common causes of environmental degradation, often in combination rather than alone. Certain biotoxins, such as domoic acid, may be of particular interest to specific sanctuaries. When present in the water column, any of these contaminants can affect marine life by direct contact or ingestion, or through bioaccumulation via the food chain.

[Note: Over time, accumulation in sediments can sequester and concentrate contaminants. Their effects may manifest only when the sediments are resuspended during storm or other energetic events. In such cases, reports of status should be made under Question 7 – Habitat contaminants.]

Good	Conditions do not appear to have the potential to negatively affect living resources or habitat quality.
Good/Fair	Selected conditions may preclude full development of living resource assemblages and habitats, but are not likely to cause substantial or persistent declines.
Fair	Selected conditions may inhibit the development of assemblages, and may cause measurable but not severe declines in living resources and habitats.
Fair/Poor	Selected conditions have caused or are likely to cause severe declines in some but not all living resources and habitats.
Poor	Selected conditions have caused or are likely to cause severe declines in most if not all, living resources and habitats.



Question 2 (Water/Eutrophic Condition): What is the eutrophic condition of sanctuary waters and how is it changing?

Nutrient enrichment often leads to planktonic and/or benthic algae blooms. Some affect benthic communities directly through space competition. Overgrowth and other competitive interactions (e.g., accumulation of algal-sediment mats) often lead to shifts in dominance in the benthic assemblage. Disease incidence and frequency can also be affected by algae competition and the resulting chemistry along competitive boundaries. Blooms can also affect water column conditions, including light penetration and plankton availability, which can alter pelagic food webs. Harmful algal blooms often affect resources, as biotoxins are released into the water and air, and oxygen can be depleted.

Good	Conditions do not appear to have the potential to negatively affect living resources or habitat quality.
Good/Fair	Selected conditions may preclude full development of living resource assemblages and habitats, but are not likely to cause substantial or persistent declines.
Fair	Selected conditions may inhibit the development of assemblages, and may cause measurable but not severe declines in living resources and habitats.
Fair/Poor	Selected conditions have caused or are likely to cause severe declines in some but not all living resources and habitats.
Poor	Selected conditions have caused or are likely to cause severe declines in most if not all living resources and habitats.

Question 3 (Water/Human Health): Do sanctuary waters pose risks to human health and how are they changing?

Human health concerns are generally aroused by evidence of contamination (usually bacterial or chemical) in bathing waters or fish intended for consumption. They also emerge when harmful algal blooms are reported or when cases of respiratory distress or other disorders attributable to harmful algal blooms increase dramatically. Any of these conditions should be considered in the course of judging the risk to humans posed by waters in a marine sanctuary.

Some sites may have access to specific information on beach and shellfish conditions. In particular, beaches may be closed when criteria for safe water body contact are exceeded, or shellfish harvesting may be prohibited when contaminant loads or infection rates exceed certain levels. These conditions can be evaluated in the context of the descriptions below.

Good	Conditions do not appear to have the potential to negatively affect human health.
Good/Fair	Selected conditions that have the potential to affect human health may exist but human impacts have not been reported.
Fair	Selected conditions have resulted in isolated human impacts, but evidence does not justify widespread or persistent concern.
Fair/Poor	Selected conditions have caused or are likely to cause severe impacts, but cases to date have not suggested a pervasive problem.
Poor	Selected conditions warrant widespread concern and action, as large-scale, persistent, and/or repeated severe impacts are likely or have occurred.

Question 4 (Water/Human Activities): What are the levels of human activities that may influence water quality and how are they changing?

Among the human activities in or near sanctuaries that affect water quality are those involving direct discharges (transiting vessels, visiting vessels, onshore and offshore industrial facilities, public wastewater facilities), those that contribute contaminants to stream, river, and water control discharges (agriculture, runoff from impermeable surfaces through storm drains, conversion of land use), and those releasing airborne chemicals that subsequently deposit via particulates at sea (vessels, land-based traffic, power plants, manufacturing facilities, refineries). In addition, dredging and trawling can cause resuspension of contaminants in sediments.

Good	Few or no activities occur that are likely to negatively affect water quality.
Good/Fair	Some potentially harmful activities exist, but they do not appear to have had a negative effect on water quality.



Fair	Selected activities have resulted in measurable resource impacts, but evidence suggests effects are localized, not widespread.
Fair/Poor	Selected activities have caused or are likely to cause severe impacts, and cases to date suggest a pervasive problem.
Poor	Selected activities warrant widespread concern and action, as large-scale, persistent, and/or repeated severe impacts have occurred or are likely to occur.

Question 5 (Habitat/Abundance/Distribution): What are the abundance and distribution of major habitat types and how are they changing?

Habitat loss is of paramount concern when it comes to protecting marine and terrestrial ecosystems. Of greatest concern to sanctuaries are changes caused, either directly or indirectly, by human activities. The loss of shoreline is recognized as a problem indirectly caused by human activities. Habitats with submerged aquatic vegetation are often altered by changes in water conditions in estuaries, bays, and nearshore waters. Intertidal zones can be affected for long periods by spills or by chronic pollutant exposure. Beaches and haul-out areas can be littered with dangerous marine debris, as can the water column or benthic habitats. Sandy subtidal areas and hardbottoms are frequently disturbed or destroyed by trawling. Even rocky areas several hundred meters deep are increasingly affected by certain types of trawls, bottom longlines, and fish traps. Groundings, anchors, and divers damage submerged reefs. Cables and pipelines disturb corridors across numerous habitat types and can be destructive if they become mobile. Shellfish dredging removes, alters, and fragments habitats.

The result of these activities is the gradual reduction of the extent and quality of marine habitats. Losses can often be quantified through visual surveys and to some extent using high-resolution mapping. This question asks about the quality of habitats compared to those that would be expected without human impacts. The status depends on comparison to a baseline that existed in the past - one toward which restoration efforts might aim.

Good	Habitats are in pristine or near-pristine condition and are unlikely to preclude full community development.
Good/Fair	Selected habitat loss or alteration has taken place, precluding full development of living resource assemblages, but it is unlikely to cause substantial or persistent degradation in living resources or water quality.
Fair	Selected habitat loss or alteration may inhibit the development of assemblages, and may cause measurable but not severe declines in living resources or water quality.
Fair/Poor	Selected habitat loss or alteration has caused or is likely to cause severe declines in some but not all living resources or water quality.
Poor	Selected habitat loss or alteration has caused or is likely to cause severe declines in most if not all living resources or water quality.

Question 6 (Habitat/Structure): What is the condition of biologically-structured habitats and how is it changing?

Many organisms depend on the integrity of their habitats and that integrity is largely determined by the condition of particular living organisms. Coral reefs may be the best known examples of such biologically-structured habitats. Not only is the substrate itself biogenic, but the diverse assemblages residing within and on the reefs depend on and interact with each other in tightly linked food webs. They also depend on each other for the recycling of wastes, hygiene, and the maintenance of water quality, among other requirements.

Kelp beds may not be biogenic habitats to the extent of coral reefs, but kelp provides essential habitat for assemblages that would not reside or function together without it. There are other communities of organisms that are also similarly co-dependent, such as hard-bottom communities, which may be structured by bivalves, octocorals, coralline algae, or other groups that generate essential habitat for other species. Intertidal assemblages structured by mussels, barnacles, and algae are another example, seagrass beds another. This question is intended to address these types of places, where organisms form structures (habitats) on which other organisms depend.

Good	Habitats are in pristine or near-pristine condition and are unlikely to preclude full community development.
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Good/Fair	Selected habitat loss or alteration has taken place, precluding full development of living resources, but it is unlikely to cause substantial or persistent degradation in living resources or water quality.
Fair	Selected habitat loss or alteration may inhibit the development of living resources, and may cause measurable but not severe declines in living resources or water quality.
Fair/Poor	Selected habitat loss or alteration has caused or is likely to cause severe declines in some but not all living resources or water quality.
Poor	Selected habitat loss or alteration has caused or is likely to cause severe declines in most if not all living resources or water quality.

Question 7 (Habitat/Contaminants): What are the contaminant concentrations in sanctuary habitats and how are they changing?

This question addresses the need to understand the risk posed by contaminants within benthic formations, such as soft sediments, hard bottoms, or biogenic organisms. In the first two cases, the contaminants can become available when released via disturbance. They can also pass upwards through the food chain after being ingested by bottom dwelling prey species. The contaminants of concern generally include pesticides, hydrocarbons, and heavy metals, but the specific concerns of individual sanctuaries may differ substantially.

Good	Contaminants do not appear to have the potential to negatively affect living resources or water quality.
Good/Fair	Selected contaminants may preclude full development of living resource assemblages, but are not likely to cause substantial or persistent degradation.
Fair	Selected contaminants may inhibit the development of assemblages, and may cause measurable but not severe declines in living resources or water quality.
Fair/Poor	Selected contaminants have caused or are likely to cause severe declines in some but not all living resources or water quality.
Poor	Selected contaminants have caused or are likely to cause severe declines in most if not all living resources or water quality.

Question 8 (Habitat/Human Activities): What are the levels of human activities that may influence habitat quality and how are they changing?

Human activities that degrade habitat quality do so by affecting structural (geological), biological, oceanographic, acoustic, or chemical characteristics. Structural impacts include removal or mechanical alteration, including various fishing techniques (trawls, traps, dredges, longlines, and even hook-and-line in some habitats), dredging channels and harbors and dumping spoil, vessel groundings, anchoring, laying pipelines and cables, installing offshore structures, discharging drill cuttings, dragging tow cables, and placing artificial reefs. Removal or alteration of critical biological components of habitats can occur along with several of the above activities, most notably trawling, groundings, and cable drags. Marine debris, particularly in large quantities (e.g., lost gill nets and other types of fishing gear), can affect both biological and structural habitat components. Changes in water circulation often occur when channels are dredged, fill is added, coastal areas are reinforced, or other construction takes place. These activities affect habitat by changing food delivery, waste removal, water quality (e.g., salinity, clarity and sedimentation), recruitment patterns, and a host of other factors. Acoustic impacts can occur to water column habitats and organisms from acute and chronic sources of anthropogenic noise (e.g., shipping, boating, construction). Chemical alterations most commonly occur following spills and can have both acute and chronic impacts.

Good	Few or no activities occur that are likely to negatively affect habitat quality.
Good/Fair	Some potentially harmful activities exist, but they do not appear to have had a negative effect on habitat quality.
Fair	Selected activities have resulted in measurable habitat impacts, but evidence suggests effects are localized, not widespread.
Fair/Poor	Selected activities have caused or are likely to cause severe impacts, and cases to date suggest a pervasive problem.
Poor	Selected activities warrant widespread concern and action, as large-scale, persistent, and/or repeated severe impacts have occurred or are likely to occur.



Question 9 (Living Resources/Biodiversity): What is the status of biodiversity and how is it changing?

This is intended to elicit thought and assessment of the condition of living resources based on expected biodiversity levels and the interactions between species. Intact ecosystems require that all parts not only exist, but that they function together, resulting in natural symbioses, competition, and predator-prey relationships. Community integrity, resistance and resilience all depend on these relationships. Abundance, relative abundance, trophic structure, richness, H' diversity, evenness, and other measures are often used to assess these attributes.

Good	Biodiversity appears to reflect pristine or near-pristine conditions and promotes ecosystem integrity (full community development and function).
Good/Fair	Selected biodiversity loss has taken place, precluding full community development and function, but it is unlikely to cause substantial or persistent degradation of ecosystem integrity.
Fair	Selected biodiversity loss may inhibit full community development and function, and may cause measurable but not severe degradation of ecosystem integrity.
Fair/Poor	Selected biodiversity loss has caused or is likely to cause severe declines in some but not all ecosystem components and reduce ecosystem integrity.
Poor	Selected biodiversity loss has caused or is likely to cause severe declines in ecosystem integrity.

Question 10 (Living Resources/Extracted Species): What is the status of environmentally sustainable fishing and how is it changing?

Commercial and recreational harvesting are highly selective activities, for which fishers and collectors target a limited number of species, and often remove high proportions of populations. In addition to removing significant amounts of biomass from the ecosystem, reducing its availability to other consumers, these activities tend to disrupt specific and often critical food web links. When too much extraction occurs (i.e. ecologically unsustainable harvesting), trophic cascades ensue, resulting in changes in the abundance of non-targeted species as well. It also reduces the ability of the targeted species to replenish populations at a rate that supports continued ecosystem integrity.

It is essential to understand whether removals are occurring at ecologically sustainable levels. Knowing extraction levels and determining the impacts of removal are both ways that help gain this understanding. Measures for target species of abundance, catch amounts or rates (e.g., catch per unit effort), trophic structure, and changes in non-target species abundance are all generally used to assess these conditions.

Other issues related to this question include whether fishers are using gear that is compatible with the habitats being fished and whether that gear minimizes by-catch and incidental take of marine mammals. For example, bottom-tending gear often destroys or alters both benthic structure and non-targeted animal and plant communities. "Ghost fishing" occurs when lost traps continue to capture organisms. Lost or active nets, as well as lines used to mark and tend traps and other fishing gear, can entangle marine mammals. Any of these could be considered indications of environmentally unsustainable fishing techniques.

Good	Extraction does not appear to affect ecosystem integrity (full community development and function).
Good/Fair	Extraction takes place, precluding full community development and function, but it is unlikely to cause substantial or persistent degradation of ecosystem integrity.
Fair	Extraction may inhibit full community development and function, and may cause measurable but not severe degradation of ecosystem integrity.
Fair/Poor	Extraction has caused or is likely to cause severe declines in some but not all ecosystem components and reduce ecosystem integrity.
Poor	Extraction has caused or is likely to cause severe declines in ecosystem integrity.



Question 11 (Living Resources/Invasive Species): What is the status of non-indigenous species and how is it changing?

Non-indigenous species are generally considered problematic, and candidates for rapid response, if found, soon after invasion. For those that become established, their impacts can sometimes be assessed by quantifying changes in the affected native species. This question allows sanctuaries to report on the threat posed by non-indigenous species. In some cases, the presence of a species alone constitutes a significant threat (certain invasive algae). In other cases, impacts have been measured, and may or may not significantly affect ecosystem integrity.

Good	Non-indigenous species are not suspected or do not appear to affect ecosystem integrity (full community development and function).
Good/Fair	Non-indigenous species exist, precluding full community development and function, but are unlikely to cause substantial or persistent degradation of ecosystem integrity.
Fair	Non-indigenous species may inhibit full community development and function, and may cause measurable but not severe degradation of ecosystem integrity.
Fair/Poor	Non-indigenous species have caused or are likely to cause severe declines in some but not all ecosystem components and reduce ecosystem integrity.
Poor	Non-indigenous species have caused or are likely to cause severe declines in ecosystem integrity.

Question 12 (Living Resources/Key Species): What is the status of key species and how is it changing?

Certain species can be defined as “key” within a marine sanctuary. Some might be keystone species, that is, species on which the persistence of a large number of other species in the ecosystem depends - the pillar of community stability. Their functional contribution to ecosystem function is disproportionate to their numerical abundance or biomass and their impact is therefore important at the community or ecosystem level. Their removal initiates changes in ecosystem structure and sometimes the disappearance of or dramatic increase in the abundance of dependent species. Keystone species may include certain habitat modifiers, predators, herbivores, and those involved in critical symbiotic relationships (e.g. cleaning or co-habiting species).

Other key species may include those that are indicators of ecosystem condition or change (e.g., particularly sensitive species), those targeted for special protection efforts, or charismatic species that are identified with certain areas or ecosystems. These may or may not meet the definition of keystone, but do require assessments of status and trends.

Good	Key and keystone species appear to reflect pristine or near-pristine conditions and may promote ecosystem integrity (full community development and function).
Good/Fair	Selected key or keystone species are at reduced levels, perhaps precluding full community development and function, but substantial or persistent declines are not expected.
Fair	The reduced abundance of selected keystone species may inhibit full community development and function, and may cause measurable but not severe degradation of ecosystem integrity; or selected key species are at reduced levels, but recovery is possible.
Fair/Poor	The reduced abundance of selected keystone species has caused or is likely to cause severe declines in some but not all ecosystem components, and reduce ecosystem integrity; or selected key species are at substantially reduced levels, and prospects for recovery are uncertain.
Poor	The reduced abundance of selected keystone species has caused or is likely to cause severe declines in ecosystem integrity; or selected key species are at severely reduced levels, and recovery is unlikely.



Question 13 (Living Resources/Health of Key Species): What is the condition or health of key species and how is it changing?

For those species considered essential to ecosystem integrity, measures of their condition can be important to determining the likelihood that they will persist and continue to provide vital ecosystem functions. Measures of condition may include growth rates, fecundity, recruitment, age-specific survival, tissue contaminant levels, pathologies (disease incidence tumors, deformities), the presence and abundance of critical symbionts, or parasite loads. Similar measures of condition may also be appropriate for other key species (indicator, protected, or charismatic species). In contrast to the question about keystone species (#12 above), the impact of changes in the abundance or condition of key species is more likely to be observed at the population or individual level, and less likely to result in ecosystem or community effects.

Good	The condition of key resources appears to reflect pristine or near-pristine conditions.
Good/Fair	The condition of selected key resources is not optimal, perhaps precluding full ecological function, but substantial or persistent declines are not expected.
Fair	The diminished condition of selected key resources may cause a measurable but not severe reduction in ecological function, but recovery is possible.
Fair/Poor	The comparatively poor condition of selected key resources makes prospects for recovery uncertain.
Poor	The poor condition of selected key resources makes recovery unlikely.

Question 14 (Living Resources/Human Activities): What are the levels of human activities that may influence living resource quality and how are they changing?

Human activities that degrade living resource quality do so by causing a loss or reduction of one or more species, by disrupting critical life stages, by impairing various physiological processes, or by promoting the introduction of non-indigenous species or pathogens. (Note: Activities that impact habitat and water quality may also affect living resources. These activities are dealt with in Questions 4 and 8, and many are repeated here as they also have direct effect on living resources).

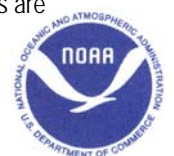
Fishing and collecting are the primary means of removing resources. Bottom trawling, seine-fishing, and the collection of ornamental species for the aquarium trade are all common examples, some being more selective than others. Chronic mortality can be caused by marine debris derived from commercial or recreational vessel traffic, lost fishing gear, and excess visitation, resulting in the gradual loss of some species.

Critical life stages can be affected in various ways. Mortality to adult stages is often caused by trawling and other fishing techniques, cable drags, dumping spoil or drill cuttings, vessel groundings, or persistent anchoring. Contamination of areas by acute or chronic spills, discharges by vessels, or municipal and industrial facilities can make them unsuitable for recruitment; the same activities can make nursery habitats unsuitable. Although coastal armoring and construction can increase the availability of surfaces suitable for the recruitment and growth of hard bottom species, the activity may disrupt recruitment patterns for other species (e.g., intertidal soft bottom animals) and habitat may be lost.

Spills, discharges, and contaminants released from sediments (e.g., by dredging and dumping) can all cause physiological impairment and tissue contamination. Such activities can affect all life stages by reducing fecundity, increasing larval, juvenile, and adult mortality, reducing disease resistance, and increasing susceptibility to predation. Bioaccumulation allows some contaminants to move upward through the food chain, disproportionately affecting certain species.

Activities that promote introductions include bilge discharges and ballast water exchange, commercial shipping and vessel transportation. Releases of aquarium fish can also lead to species introductions.

Good	Few or no activities occur that are likely to negatively affect living resource quality.
Good/Fair	Some potentially harmful activities exist, but they do not appear to have had a negative effect on living resource quality.
Fair	Selected activities have resulted in measurable living resource impacts, but evidence suggests effects are



localized, not widespread.

Fair/Poor

Selected activities have caused or are likely to cause severe impacts, and cases to date suggest a pervasive problem.

Poor

Selected activities warrant widespread concern and action, as large-scale, persistent, and/or repeated severe impacts have occurred or are likely to occur.

Question 15 (Maritime Archaeological Resources/Integrity): What is the integrity of known maritime archaeological resources and how is it changing?

The condition of archaeological resources in a marine sanctuary significantly affects their value for science and education, as well as the resource's eligibility for listing in the National Register of Historic Places. Assessments of archaeological sites include evaluation of the apparent levels of site integrity, which are based on levels of previous human disturbance and the level of natural deterioration. The historical, scientific and educational values of sites are also evaluated, and are substantially determined and affected by site condition.

Good

Known archaeological resources appear to reflect little or no unexpected disturbance.

Good/Fair

Selected archaeological resources exhibit indications of disturbance, but there appears to have been little or no reduction in historical, scientific, or educational value.

Fair

The diminished condition of selected archaeological resources has reduced, to some extent, their historical, scientific, or educational value, and may affect the eligibility of some sites for listing in the National Register of Historic Places.

Fair/Poor

The diminished condition of selected archaeological resources has substantially reduced their historical, scientific, or educational value, and is likely to affect their eligibility for listing in the National Register of Historic Places.

Poor

The degraded condition of known archaeological resources in general makes them ineffective in terms of historical, scientific, or educational value, and precludes their listing in the National Register of Historic Places.

Question 16 (Maritime Archaeological Resources/Threat to Environment): Do known maritime archaeological resources pose an environmental hazard and is this threat changing?

The sinking of a ship potentially introduces hazardous materials into the marine environment. This danger is true for historic shipwrecks as well. The issue is complicated by the fact that shipwrecks older than 50 years may be considered historical resources and must, by federal mandate, be protected. Many historic shipwrecks, particularly early to mid-20th century, still have the potential to retain oil and fuel in tanks and bunkers. As shipwrecks age and deteriorate, the potential for release of these materials into the environment increases.

Good

Known maritime archaeological resources pose few or no environmental threats.

Good/Fair

Selected maritime archaeological resources may pose isolated or limited environmental threats, but substantial or persistent impacts are not expected.

Fair

Selected maritime archaeological resources may cause measurable, but not severe, impacts to certain sanctuary resources or areas, but recovery is possible.

Fair/Poor

Selected maritime archaeological resources pose substantial threats to certain sanctuary resources or areas, and prospects for recovery are uncertain.

Poor

Selected maritime archaeological resources pose serious threats to sanctuary resources, and recovery is unlikely.

Question 17 (Maritime Archaeological Resources/Human Activities): What are the levels of human activities that may influence maritime archaeological resource quality and how are they changing?

Some human maritime activities threaten the physical integrity of submerged archaeological resources. Archaeological site integrity is compromised when elements are moved, removed, or otherwise damaged. Threats come from looting by divers, inadvertent damage by scuba diving visitors, improperly conducted archaeology that does not fully document site disturbance, anchoring, groundings, and commercial and recreational fishing activities, among others.



Good	Few or no activities occur that are likely to negatively affect maritime archaeological resource integrity.
Good/Fair	Some potentially relevant activities exist, but they do not appear to have had a negative effect on maritime archaeological resource integrity.
Fair	Selected activities have resulted in measurable impacts to maritime archaeological resources, but evidence suggests effects are localized, not widespread.
Fair/Poor	Selected activities have caused or are likely to cause severe impacts, and cases to date suggest a pervasive problem.
Poor	Selected activities warrant widespread concern and action, as large-scale, persistent, and/or repeated severe impacts have occurred or are likely to occur.