

**COUNCIL COORDINATION COMMITTEE**  
**MAY 19-21, 2010**  
**Hotel Captain Cook**  
**Anchorage, Alaska**

**Theme: Navigating National Initiatives**

**<http://www.fisherycouncils.org/CCC/CCC.htm>**

**DRAFT AGENDA (as of April 22, 2010)**

**Wednesday, May 19, 2010**

<b><u>Time</u></b>	<b><u>Discussion Item</u></b>	<b><u>Presenter(s)</u></b>	<b><u>Duration</u></b>
1:00 – 1:30	Welcome comments and open session with Councils	Eric Olson/ Eric Schwaab Councils	30 min.
1:30 – 2:00	Report from North Pacific Research Board/ Alaska Ocean Observing System	Clarence Pautzke Molly McCammon	30 min.
2:00– 2:30	CCC Terms of Reference	Chris Oliver	30 min.
2:30 – 4:00	Ocean Policy Task Force & Coastal and Marine Spatial Planning Status Update and Next Step	Sam Rauch	1 hr. 30 min
4:00 - 4:15	Break		15 min.
4:15 – 5:30	Catch Share Implementation Plan - Status of NOAA Policy - Potential Workshops	Mark Holliday	1 hr 15 min.
5:30	Adjourn for the Day		

**Thursday, May 20, 2010**

8:00 – 9:00	Council Progress on Developing Catch Share Programs	Councils	1 hr.
9:00 – 9:30	ACLs	Galen Tromble	30 min.
9:30 – 10:15	ACLs Continued - Council Round Table Progress and Remaining Hurdles/SSC integration	Councils	45 min.
10:15 – 10:30	Break		15 min.
10:30 – 11:00	National Environmental Policy Act (NEPA) Update - Progress - Potential Workshops - Next Steps - Potential CCC "subcommittee"	Steve Leathery	30 min.

11:00 – 11:30	MPA Network Council Status of Nomination Process	Sam Rauch Councils	30 min
11:30 12:15	President's Budget Other Budget Issues	Gary Reisner Emily Menashes	45 min.
12:15	Lunch		1 hr
1:15 – 1:45	National SSC Workshop	Ned Cyr/ Bob Mahood	30 minutes
1:45 – 2:15	National Standard 2 Guidelines	S&T	30 min.
2:15 – 2:45	Council/NMFS Relations concerning regulatory review process	Councils	30 min.
2:45 - 3:00	Break		15 min.
3:00 – 4:15	Outreach Activities - Individual Council efforts - Collective efforts - Coordination with NOAA - Potential 'Managing our Nation's Fisheries III' conference	Chris Moore Councils	1 hr 15 min.
4:15 – 4:45	Recreational Fishery Report	Russell Dunn	30 min.
4:45 – 5:15	Endangered Species/MMPA issues	Kitty Simonds	30 min.
5:15	Adjourn for the Day		
6:00 – 9:00	Reception - Tower One - 10 <sup>th</sup> Floor - Quarterdeck		
<b><u>Friday May 21, 2010</u></b>			
8:00 – 8:30	SOPPS	William Chappell Tara Scott	30 min.
8:30 – 10:00	<b>Other Issues</b> 5-Year Awards Application Process January 2001 CCC meeting agenda Other?		1 hr 30 min.
10:00 – 10:15	Break		15 min.
10:15 – 12:00	Enforcement NOAA USCG	Alan Risenhoover LCDR Schaeffer Admiral Colvin	1 hr 45 min
12:00	Adjourn		

## DRAFT Terms of Reference for the Council Coordination Committee

### TERMS OF REFERENCE

(March 2010)

1. **Establishment.** Under Section 302(l) of the Magnuson-Stevens Fishery Conservation and Management Act, the Councils may establish a Council Coordination Committee (CCC). The CCC consists of the chairs, vice chairs, and executive directors of each of the eight Councils, or other Council members or staff, in order to discuss issue of relevance to all Councils, including issues related to the implementation of the Act.
2. **Membership.** The CCC consists of three members from each of the regional Councils: the Chair, a Vice-chair, and the Executive Director, or their respective proxies. Councils with more than one Vice-chair will need to determine who participates on the CCC for a given meeting. Only Council staff or Council members may serve as proxies. Work groups or subcommittees may be established to address particular issues, and include members from the CCC, Council staff, and National Marine Fisheries Service (NMFS) staff with expertise as necessary.
3. **Organization.** The CCC will be directed by the Chair and Vice-chair of the Council that is hosting the annual CCC meeting during that calendar year (January 1 through December 31). Councils with more than one Vice-chair will need to determine who will be the CCC Vice-chair in the year when they host the CCC meeting.
  - (a) **Rules of order.** Roberts Rules of Order will be used to conduct business when a decision or recommendation of the CCC is needed. The CCC will operate by consensus whenever possible. Any member of the CCC can make a motion, but each Council will be limited to one vote, made by the chair of each Council (or vice-chair/proxy). Motions approved by the CCC reflect the opinions of the collective CCC, but are not binding on any individual Council. However, these decisions can be made on behalf of all of the regional Councils on a case by case basis, depending on the issue or vote at hand. The responsibility to follow-through on CCC actions, and to represent the CCC in general, falls upon the host Council for that particular calendar year.
  - (b) **Meetings.** The CCC will generally meet twice per year. Generally, an interim meeting is held early in the calendar year to discuss budgets and other pressing matters and is hosted by NMFS in Washington, D.C. The primary, annual CCC meeting is hosted, on a revolving basis, by one of the Councils, generally in later spring or early summer. The CCC Chair for that calendar year may call other meetings as necessary. NMFS, in consultation with the CCC Chair, may schedule periodic conference calls with the CCC to discuss issues of immediate concern. Emergency meetings shall be held at the call of the CCC chair.
  - (c) **Agenda.** For the primary, annual meeting, a draft agenda will be prepared in advance by the host Council and will be distributed to the other Councils and NMFS for review and comment. In the case of the interim meeting, NMFS will develop a draft agenda for review and comment by the Councils. Timely notice of the interim and annual meetings, including the agenda, will be provided, and such notice will be published in the Federal Register.
  - (d) **Executive Sessions.** The CCC may close a meeting, or a portion of a meeting that concerns matters of national security, litigation, employment/personnel matters, or internal administrative issues.

(e) **Minutes.** A written summary of each meeting, except for closed sessions, will be prepared as appropriate by the host council or NMFS, and will be made available to the public. The CCC chairman will certify the accuracy of the meeting summary.

(f) **Public participation.** CCC meetings will be open to the public, but public comment is generally not taken, and will be permitted only at the discretion of the Chair.

**4. Functions.** The CCC is exempt from the requirements of FACA. As such, the CCC's can provide recommendations from leadership of the eight regional fishery management Councils to the Federal Government (usually to the Secretary of Commerce through NMFS). The CCC has adopted the following statement with regards to making recommendations:

*“The MSA states that the CCC is established to discuss issues of relevance to all Councils, including issues related to the implementation of this Act. Although all Councils adhere to the same MSA and national standards, the eight regional Councils often have differing regional priorities, attitudes, relationships, and philosophies about management. It is important that NMFS and the public are aware of these differences. There is a risk that the CCC may be perceived as a body that can present a unified approach or opinion. While opinions can be developed and presented quickly by the CCC the danger of rushing to such opinions and judgments is far outweighed by the more deliberative and thorough approach conducted by a regional Council. In addressing requests by NMFS the CCC should consider whether the regional input from the Council is more appropriate than the CCC. We do not want to lessen the importance of regional perspectives.”*



# Review of NOAA Fisheries Enforcement Programs and Operations

Alan Risenhoover  
Acting Director  
Office of Law Enforcement

**NOAA  
FISHERIES  
SERVICE**



## Mission

**To conserve and protect our nation's marine resources through assuring compliance with the laws and regulations established to manage these resources**



# Four Pillars of OLE

Ecosystem Protection / Conservation

- 1) INVESTIGATIONS & PATROLS - Conduct investigations and patrols to enforce marine resource laws, bring to justice violators and ensure compliance.
- 2) COPPS - Constituent outreach and communication through Community Oriented Policing and Problem Solving (COPPS).
- 3) TECHNOLOGY & VMS - Maximize compliance & fishery management through Vessel Management System (VMS) partnerships.
- 4) PARTNERSHIPS - Enhance and maintain our law enforcement partnerships with other federal, state, local and tribal enforcement agencies, as well as industry, non-governmental organization and “friends group” representatives.



## Office of Inspector General Report

### Review of NOAA Fisheries Enforcement Programs and Operations (January 2010)

- “In short, we found systemic, nationwide issues adversely affecting NOAA’s ability to effectively carry out its mission of regulating the fishing industry.”
- “If not addressed by NOAA’s senior leadership, these issues have the potential to further strain the tenuous relationship that exists in the Northeast Region, and to become problematic in NOAA’s other regions.”
- “[F]ishing laws and regulations are highly complex, making compliance by those in the industry difficult even with the best of intentions.”





## General Findings

1. Senior leadership and headquarters elements need to exercise substantially greater management and oversight of regional enforcement operations.
2. Strengthen policy guidance, procedures, and internal controls in its enforcement operations to address a common industry perception that its civil penalty assessment process is arbitrary and unfair.
3. Reassess the OLE workforce composition to determine if this criminal-enforcement-oriented structure is the most effective for accomplishing its primarily regulatory mission.



## Industry Concerns

- Fishing regulations are unduly complicated, unclear, and confusing.
- NOAA's regulatory enforcement processes are arbitrary and lack transparency.
- NOAA's broad and powerful enforcement authorities have led to a fisheries enforcement posture that is overly aggressive and intrusive.



## Recommendations

1. Ensure NOAA leadership regularly addresses and provides input into enforcement priorities and strategies with regional management, including formal reporting protocols.
  - Involve integration and coordination with headquarters, fisheries management, and science center elements, and
  - Consider reestablishing the position of ombudsman to serve as an interface with the regulated industry



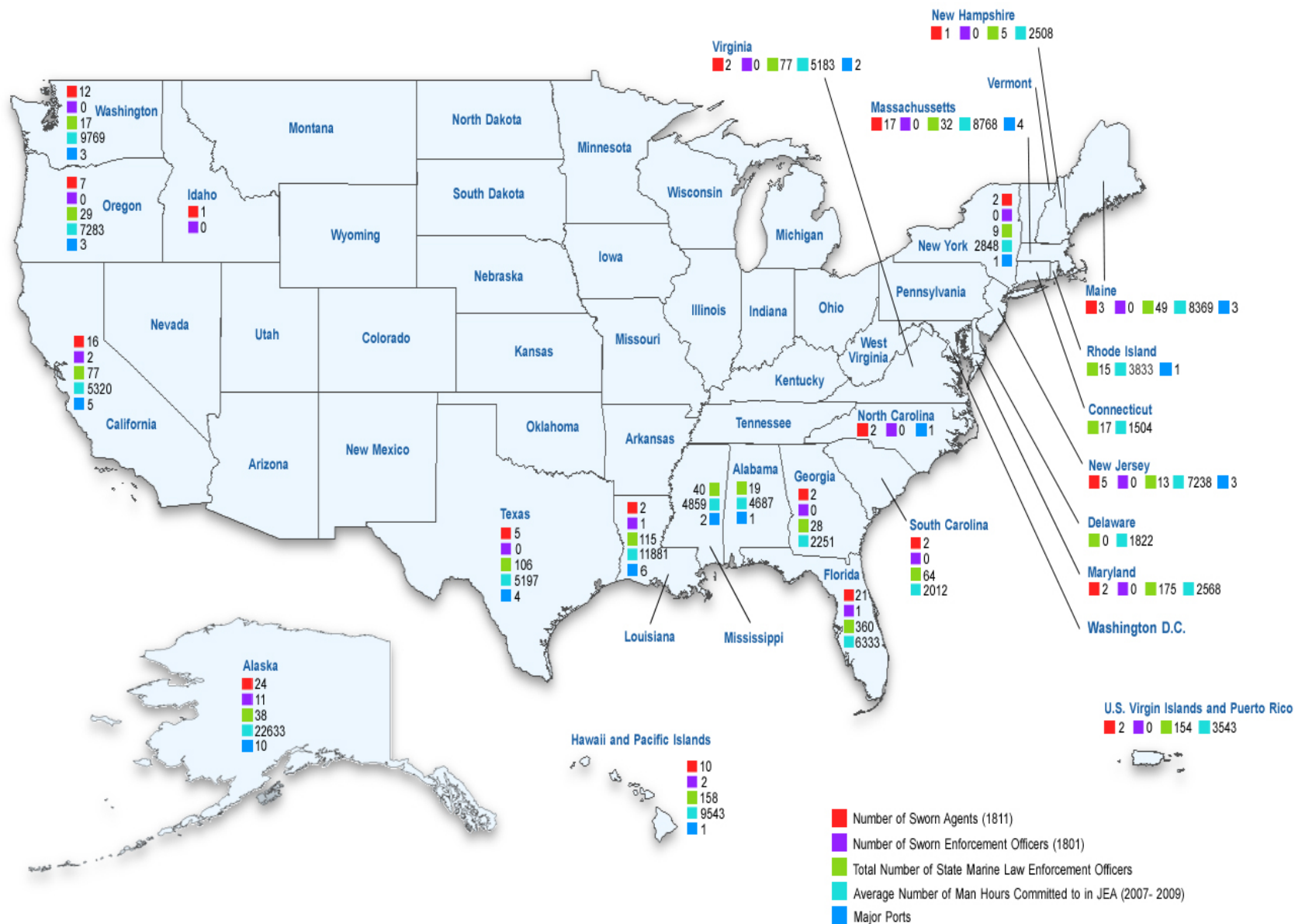
## Recommendation 1: Action Plan

- Develop a process for setting enforcement priorities at the regional and national level (July 29, 2010).
  - Set 2 national and regional priorities;
  - Consult with Regional Councils, other NOAA offices, Federal agencies, State agencies, and stakeholders; and
  - Establish a team to evaluate effectiveness.
- Consider reestablishing the position of an ombudsman (Sept. 15, 2010).



## Recommendations

2. Determine whether NOAA should continue to approach fisheries enforcement from a criminal-investigative standpoint.
  - Determine the appropriate balance and alignment of uniformed enforcement officers/inspectors and criminal investigators;
  - Approximately 98 percent of enforcement caseload has been regulatory/civil and only about 2 percent criminal cases; and
  - Presently 90 percent of workforce are criminal investigators (special agents)





## Recommendation 2: Action Plan

- Freeze on the hiring of criminal investigators until workforce analysis is completed (Oct. 2010).
- Workforce analysis
  - Analysis of tasks/competences of enforcement officers and criminal investigators; benchmarking similar agencies; and workload distribution among NOAA and other Federal and State agencies (May 2010)
  - Develop NOAA recommendations for future workforce composition and external validation (July 2010)
  - Implementation of recommendation on a pilot basis (Oct. 2010)



## Recommendations

3. To promote greater transparency, consistency, and oversight:
  - Develop and implement an internal operating procedures manual for determining civil penalty assessments and fine settlement amounts (GCEL)
  - Institute higher-level review of civil penalty assessment determinations (GCEL)
  - Ensure the National Enforcement Operations Manual is current and provides sufficient policy guidance on regulatory and criminal authorities and procedures (OLE)





## Recommendation 3: Action Plan

- GCEL internal operating procedures manual being developed, including guidance for making charging decisions, proposing civil penalties, and settling cases (Dec. 2010)
- NOAA General Counsel has instituted higher level reviews of proposed charging decisions (Mar. 2010)
- A penalty policy including revisions to penalty and permit schedules is under way (Dec. 2010)
- Plan being developed for reviewing/revising the Natl. Enforcement Operations Manual (Dec. 2010)



## Recommendations

4. Ensure follow-through on GCEL initiatives intended to foster greater industry understanding of and compliance with complex fishing regulations.



## Recommendation 4: Action Plan

- Proposed revision to remove any presumption in favor of the civil penalty or permit sanction assessed by NOAA (published March 18, 2010)
- Hold a Northeast Fishermen's forum and ensure availability of GCEL attorneys at Fishery Management Council meetings
- GCEL will provide public access to enforcement charging information (e.g., number of cases charged, penalties assessed, number of cases settled) (Sept. 2010)



## Recommendations

5. Develop, implement, and effectively utilize reliable, integrated case management information systems
  - Weaknesses in current case management systems
  - Missing or inconsistently entered data
  - Limited ability to generate information on recidivism rates
  - Information on closed cases not comparable between OLE and GCEL systems



## Recommendation 5: Action Plan

- Upgrade GCEL's computer system to provide integrated information and case reporting
- OLE and GCEL systems will “communicate with each other” to provide consistent reports
- Prepare a combined monthly enforcement report to facilitate oversight of NOAA's enforcement program
  - number of cases opened and closed
  - status of open cases,
  - disposition of closed cases, and
  - number and types of cases referred to GCEL and DOJ



## Follow-up Efforts

OIG is currently reviewing 3 additional areas:

1. A forensic review of the asset forfeiture fund.
2. Assess GCEL progress on findings and recommendations.
3. Specific complaints regarding alleged abuses of authority by NOAA enforcement personnel, disparate treatment, and excessive fines.



## How Can the Councils Help?

How do we reduce complexity, simplify requirements, and improve compliance with our regulations and ensure our enforcement programs are effective and transparent?

- Regulatory Improvements
- Process Improvements
- Outreach and communication improvements
- Other ideas?



## Potential Regulatory Improvements

### Effective regulations:

- Simple and easy to understand
- Few as possible and/or concise
- Fish is accountable and traceable throughout the wholesale process



### Enforcement Considerations For Regional Fishery Management Councils

Developed by NOAA Office for Law Enforcement,  
NOAA General Counsel for Enforcement and Litigation, and  
The U.S. Coast Guard

October 2007







## Potential Regulatory Improvements

Compliance and/or enforcement is more difficult if regulations are:

- Man power intensive (monitoring offloads or weighing, etc)
- Complex or convoluted
- Lack accountability (effective paperwork trail)
- Use estimates (estimated weight of catch, catch composition, discards, etc)
- Law enforcement resource intensive (resource limits of OLE, Coast Guard, and States)



## Fishery Management Measure Enforceability Matrix

	<b>Surveillance – Aircraft/Ship/VMS</b>	<b>At-Sea Boarding</b>	<b>Dockside</b>
<b>Limiting Amount/ Percent Landed</b>	No	No	Yes
<b>Limiting Amount/ Percent Onboard</b>	No	Limited	Yes
<b>Prohibiting Retention</b>	No	Yes	Yes
<b>Requiring Retention</b>	Limited	Yes	No
<b>Size Restrictions</b>	No	Yes	Yes
<b>Closed Areas</b>	Yes	Yes	No
<b>Closed Seasons</b>	Limited	Yes	Yes
<b>Gear/Vessel Restrictions</b>	Limited	Yes	Limited
<b>Limited Access Privilege Programs</b>	No	Limited	Yes
<b>Recordkeeping/ Reporting</b>	No	Limited	Yes
<b>Permits</b>	Limited	Yes	Yes



## Potential Process Improvements

- Early and effective involvement of OLE and GCEL in the regulatory process
  - plan development teams
  - fisheries management action teams
  - feedback on current regulatory/enforcement issues
- Expanded use of Council Enforcement Committees
- GCEL attendance at Council meetings
- Better draw on industry knowledge and experience
- Do we need a “Compliance and Enforcement Analysis” for regulations?



## Potential Outreach and Communication Improvements

- Workshops or fishermen forums
- Additional or clearer compliance guides
- Improved web pages or portals for regulations
- “Ask an Agent” or frequently asked question lists
- Additional dock-side communications
- Ombudsman (national and/or regional)
- Fisheries Enforcement E-mail list-serv
- Increased use of social media (e.g., Twitter)
- Communications training for staff

**TO:** Chairman Dave Ortmann

**FROM:** Rod Moore

On May 18, 2010, I attended the annual meeting of the parties to the U.S. / Canada Treaty on Pacific Albacore. Although I did not attend as a representative of the Council I was asked by Executive Director Don McIsaac to provide a brief review of the meeting.

Other Council members present were Dave Hogan (Department of State, U.S. delegation leader); Mark Helvey (NMFS SWR); and Brian Corrigan (USCG 13<sup>th</sup> District).

The annual meeting is an opportunity for both parties to exchange catch and effort data, discuss enforcement issues, and address any problems that may have occurred in the preceding year with implementation of the Treaty. Both parties agreed that implementation was going well and that there was a need to begin consultation on renewal of the Treaty, which is currently due to expire in 2011.

For 2009, the NMFS reported that the U.S. had begun charging a standard fee for permit renewals and that it had had no effect on the number of U.S. vessels fishing. Eight U.S. vessels reported landings in Canadian ports during the year, with the majority of effort in the U.S. EEZ. The number of Canadian vessels landing albacore in U.S. ports declined in 2009 from the level in 2008.

Canada reported that 110 Canadian vessels (the number allowed under the Treaty) fished in the U.S. EEZ at some time during the year. Approximately 5200 mt of albacore were taken in this fishery, with 2480 mt reported taken off Washington, 2719 mt reported taken off Oregon, and 1 mt reported taken off California. Approximately 397 mt were caught in the Canadian EEZ off British Columbia. Approximately 471 mt of albacore were landed in U.S. ports by Canadian vessels according to preliminary data compiled by the Department of Fisheries and Oceans.

The delegations discussed on-going work on the formation of advisory committees on data sampling and collection and replacement of vessels under procedures allowed in the treaty. The U.S. noted the need for it to take action on reviewing and circulating past minutes and requesting landings data from the Provincial government in British Columbia.

The USCG noted that AIS requirements were expected to come into force in the near future and that they would apply to both U.S. and Canadian vessels. USCG and NMFS OLE reported on continuing investigations of minor enforcement violations. One collision between a U.S. and a Canadian vessel was reported, with the U.S. vessel cited for not maintaining an adequate bridge watch. No citations were issued to the Canadian vessel but Canadian industry members reported that the vessel's insurance company judged it to be partially at fault. No injuries resulted from the incident. Compliance with U.S. requirements to submit logbooks increased substantially in 2009. Canada reported no major enforcement issues.

The delegations discussed the various rules on vessel identification mandated by the Treaty and other international agreements and agreed that efforts should be made to coordinate the various requirements.

Canadian and U.S. scientific staff present gave a brief update on efforts to conduct a stock assessment on albacore and establish reference points.

For the current year, NMFS described the process used in the U.S. to identify vessels which would be allowed to fish in the Canadian EEZ. DFO reported that they expected no change in the list of vessels

that would be allowed to fish in the U.S. EEZ. The USCG and DFO described efforts being made to potentially increase enforcement efforts in 2010, including additional over-flights by Canada. The U.S. and Canadian fleet representatives reported no problems on the fishing grounds.

The parties then discussed various international agreements that affect albacore and the work by the parties in each, including updates on the U.S. attempt to define current effort levels. Canada noted a preference for catch controls based on spawning stock biomass rather than current effort. This led to a lengthy discussion on how to design a management framework using reference points.

The parties agreed that Canada would host the next meeting, most likely in Vancouver, at a date to be mutually agreed upon.

## REVIEW OF NOAA FISHERIES ENFORCEMENT PROGRAMS AND OPERATIONS

The Enforcement Consultants (EC) reviewed the document *NOAA Fisheries Enforcement Programs and Operations* and appreciates the opportunity to provide related comment. As you know, your EC is structured in a way to ensure that all enforcement entities with a stake in Council business have an opportunity to be a part of the process and comment on issues before you. Our formal committee comments are generally the result of a team approach. However, given that National Oceanic Atmospheric Administration's Office of Law Enforcement (NOAA OLE) is the subject of the Office of the Inspector General (OIG) investigation referenced in the above report, NOAA OLE recused themselves in this matter.

The OIG of the U.S. Department of Commerce recently released investigative findings detailing their evaluation of NOAA OLE. This review was conducted in response to commercial fishing industry complaints. With one exception, the complaints were confined to the East Coast, and though they have not been fully investigated or determined to have merit, recommendations were made from the OIG that could drastically change the NOAA OLE work force composition and direction. The OIG conclusions and perspective became the subject of much discussion during recent Congressional hearings.

Acting OLE Director Alan Risenhoover has provided excerpts of the OIG report to the Council in a document titled "Review of NOAA Fisheries Enforcement Programs and Operations". One of the OIG conclusions in the document ignores West Coast partnerships, our protection achievements and history of success, which is the genesis of our concern. None of the members of the EC or their agencies were contacted by the OIG, demonstrating a lack of interest in understanding how we approach fisheries enforcement in Pacific Fishery Management Council (PFMC) waters.

***"In short, we found systemic nationwide issues adversely affecting NOAA's ability to effectively carry out its mission of regulating the industry"***

OFFICE OF INSPECTOR GENERAL REPORT – general findings

Based on our understanding, not all regional fisheries management Councils are created equal in terms of providing a fishery management and protection system assuring enforcement agencies are engaged at all levels. The NOAA OLE Northwest and Southwest divisions participate with the United States Coast Guard (USCG) and state resource enforcement agencies on the PFMC Enforcement Consultants committee (EC). The design of the PFMC and committed participation by all member agencies has resulted in regulatory and process improvements, more enforceable regulations, flexibility for industry and better communication between regulators and the regulated community. In our opinion, the PFMC structure should serve as a model for the rest of the nation.

The EC's primary focus is to advise the Council on proposed regulatory action. The EC also collaborates on operational issues and takes advantage of time during Council meetings to conduct planning in areas of federal fishery protection priorities. A number of enforcement plans have been put into action. The resulting joint field operations provide benefits, such as the ability to more effectively leverage limited



patrol resources, determine compliance, identify regulatory deficiencies, and bridge jurisdictional gaps. Recent examples include:

### PARTNERSHIP PATROLS

1. **Airport and border emphasis patrols:** To ensure proper catch accounting State Officers and Federal Agents collaborated to inspect commercial shipments.



2. Coastal Commercial / Sport Salmon Patrol





**3. Tri-state Market Emphasis:** State Officers and NOAA Agents traveled to partner states in order to track down illegal operators. The team did not allow borders to stand in the way of enforcement, tracing product marketed out- of- state back to origin.



**4. Shore-side Whiting and By-catch Accounting**



**6. Coastal Halibut Patrol**



**5. ESA Salmon Protection**

*“NOAA needs to reassess its OLE workforce composition to determine if this criminal-enforcement-oriented structure is the most effective for accomplishing its primary regulatory mission”*

It is evident to the EC that the OIG failed to examine the role of the USCG and the States on the West Coast in fisheries enforcement and made negligent and uninformed assumptions about the proper work force structure of NOAA OLE. The relevance of West Coast State enforcement entities have in protecting the nation's fisheries needs to be understood. The three West Coast States and NOAA OLE have a 27 year working relationship since the signing of a Cooperative Enforcement Agreement (CEA) in November of 1983. This relationship has evolved to provide additional law enforcement presence to help secure our country's borders; and more adequately manage, protect, and conserve our nation's marine resources.

The Magnuson -Stevens Fishery Conservation and Management Act (MSFCMA) authorized NOAA to enter into Joint Enforcement Agreements (JEAs) with participating states marine enforcement agencies. JEAs provided funding and authority to the states to enforce federal fishery management regulations. In addition, the West Coast States adopt federal regulations by incorporating them by reference in state law. NOAA OLE and the States of California, Washington and Oregon have worked together for decades to resolve natural resource protection issues and can point to a number of significant successes in enforcement of the Lacey Act, the Endangered Species Act, the MSFCMA and North Pacific Halibut Act.

There is a significant patrol function being accomplished by JEA partners and the USCG, and this should be strengthened. Through the JEA, the West Coast States alone have the potential to leverage over 600 community based uniformed patrol personnel and detectives for federal fishery regulation enforcement that may otherwise be outside of current fiscal constraints of NOAA OLE. While not all these officers are dedicated to enforcing federal fishery regulations, all have the ability and authority to address federal violations when observed or during targeted federal fishery patrols. The USCG also has the ability to act as a force multiplier by supplementing state assets with an additional several hundred at-sea enforcement officers.

***“Approximately 98 percent of enforcement caseload has been regulatory / civil and only about 2 percent criminal cases”.***

Time and effort associated with criminal and civil cases that begin as joint investigations of federal law and are ultimately prosecuted in a state court did not appear to be a part of the analysis. During the 2007-2009 JEA period (an actual time equivalent of about 24 months), West Coast State activity associated with enforcing federal laws resulted in 136,092 contacts; 15,694 arrests / citations / warnings. The West Coast States adopt federal fisheries regulations under state law, and many of the above referenced violations are prosecuted in state criminal court as encouraged by the JEA.

NOAA OLE is responsible for enforcing federal Acts with a mix of civil and criminal provisions. Because of the civil responsibility, some have suggested that instead of hiring agents with criminal investigative ability, uniformed NOAA inspectors with civil authority only, similar to United States Fish and Wildlife Service inspectors may be a reform option. Our experience is that having a criminal investigative background provides an important skill set, regardless of whether you are investigating a criminal or civil case. Although civil violations can involve huge sums or illegal product and profit, many violations of federal civil law have potential to rise to both a federal and state criminal level. As an example, one of West Coast's most notorious

poachers responsible for a \$2 million dollar resource theft is currently serving a 14 year state prison sentence. The violator had a history of federal and state violations, requiring extensive collaboration between State Officers and NOAA OLE investigators to address them. Our experience is that there is clear value in having NOAA OLE investigators pursue high profile and complex cases. That value, along with NOAA's involvement and interactions with JEA partners in joint criminal investigations, was not fully considered in the OIG report.

***“NOAA needs to strengthen policy guidance, procedures, and internal controls in its enforcement operations to address a common industry perception that its civil penalty assessment process is arbitrary and unfair.”***

#### OFFICE OF INSPECTOR GENERAL REPORT – general findings

This OIG recommendation should be aimed at NOAA General Counsel for Enforcement and Litigation (GCEL), regardless, this assumption does not consider the importance of the West Coast approach and JEA partnerships. State Officers and NOAA Agents have a wider range of tools to address violations of federal fisheries regulations than recognized by the OIG. The West Coast States adopt most of the federal fisheries laws and pursue them as state crimes, which have a higher burden of proof and provide greater protection for citizen rights. JEA's encourage the federal –state partnership to consider both state and federal systems when evaluating how to address different levels of violations. NOAA OLE was not credited with using the state tools and venues to address violations of federal law.

Whether the civil penalty assessment process is arbitrary and unfair has been rigorously debated. Any evaluation should be done on a case by case basis, where all the elements of the investigation are considered before concluding that the action taken was not appropriate. We do agree that violations should have clear punishments with ranges that make sense, and that the system has strong due process.

The EC understands the importance of operators and/or vessel owners receiving timely notification of enforcement actions. The inability to be timely may be related to in-depth or complex investigations requiring more time to conclude. Having said that, timely prosecution is the expectation and right of every US citizen. Failure to provide this erodes compliance in the long term.

#### SUMMARY

Our experience on the West Coast demonstrates that the processes associated with PFMC and JEAs maximizes the effectiveness of law enforcement efforts by defining Pacific Coast and the nations marine fisheries priorities, supporting comprehensive cooperative planning efforts, and enable inter-jurisdictional fisheries enforcement operations. However, all programs have room for improvement.

The EC believes that the Council can continue to help improve upon our collective responsibility to protect the nations living marine resources by communicating to upper NOAA management the following:

- The PFMC structure should be used as a model for other regions, ensuring enforcement partners from NOAA OLE, USCG, and State Officers are properly engaged in the regulatory process.
- Instead of placing limited authority Federal uniformed officers or inspectors in the field, recognize general authority state officers are already present and engaged in community based resource protection. State enforcement agencies already have the infrastructure in place, as well as trained and equipped personnel to meet needs. Special Agents can be viewed as the corresponding “detective force”, with it’s state and USCG partners.
- The JEA pool of 15 to 17 million dollars available nationwide for all Coastal States has remained static since JEA program inception and should be increased. Additional and consistent funding of trained state officers would enhance uniformed presence within fishing communities.
- GCEL personnel involved in case prosecutions should be integrated into the Council process.
- Continue to consider regulatory improvements as suggested in Enforcement Considerations for Regional Fishery Management Councils found on Pg 20,21,22 of the *Review of NOAA Fisheries Enforcement Programs and Operations* report when making fisheries management decisions.

PFMC  
06/17/10

**204<sup>th</sup> Session of the  
Pacific Fishery Management Council  
June 10-17, 2010**



Crowne Plaza Hotel  
1221 Chess Drive, Foster City, CA 94404  
Telephone 650-570-5700

Proposed June 2010 Council Meeting Agenda Summary								
Thursday & Friday June 10, 11	Saturday June 12	Sunday June 13	Monday June 14	Tuesday June 15	Wednesday June 16	Thursday June 17		
Advisory Body Meetings – schedule begins on page 7	8:00 am Closed Executive Session	Highly Migratory Species Management	Groundfish Management	Coastal Pelagic Species Management	Groundfish Management	Groundfish Management		
	9:00 am General Session Call to Order			Groundfish Management				
	Groundfish Management							
	Salmon Management	Groundfish Management				Administrative Matters		
	Habitat Issues							
	Highly Migratory Species Management							

**NOTE REGARDING ANCILLARY MEETINGS:**

Refer to the Schedule of Ancillary Meetings, which begins on page seven, for a complete listing of various technical and administrative committees, advisory bodies, work groups, state delegations, and special sessions scheduled throughout the week.

# Proposed Detailed AGENDA

**SATURDAY, JUNE 12, 2010**

## **Closed Executive Session** *Balboa Columbus Ballroom*

**8:00 am**

This session is closed to all except Council members, their designees, and others designated by the Council Chair to discuss litigation and personnel matters.

## **General Council Session** *Balboa Columbus Ballroom*

**9:00 am**

### **A. CALL TO ORDER**

#### **A.1 Opening Remarks**

**Dave Ortmann, Chair**

#### **A.2 Roll Call**

**Don McIsaac**

#### **A.3 Executive Director's Report**

**Don McIsaac**

#### **A.4 Agenda**

**Dave Ortmann**

- a. **Council Action:** Approve Agenda

### **B. GROUND FISH MANAGEMENT**

#### **B.1 National Marine Fisheries Service Report**

- a. Regulatory Activities

**Frank Lockhart**

- b. Fisheries Science Center Activities

**Elizabeth Clarke**

- c. Reports and Comments of Advisory Bodies and Management Entities

- d. Public Comment

- e. Council Discussion

### **C. SALMON MANAGEMENT**

#### **C.1 Fishery Management Plan Amendment 16, Annual Catch Limits and Accountability Measures**

- a. Agenda Item Overview

**Chuck Tracy**

- b. Reports and Comments of Advisory Bodies and Management Entities

- c. Public Comment

- d. **Council Action:** Adopt Preliminary Alternative for Public Review

### **D. HABITAT**

#### **D.1 Current Habitat Issues**

- a. Agenda Item Overview

**Kerry Griffin**

- b. Report of the Habitat Committee

**Fran Recht**

- c. Reports and Comments of Advisory Bodies and Management Entities

- d. Public Comment

- e. **Council Action:** Consider Habitat Committee Recommendations

**SATURDAY, JUNE 12, 2010 (CONTINUED)**

**E. HIGHLY MIGRATORY SPECIES MANAGEMENT**

**E.1 Recommendations to International Fishery Management Organizations**

- a. Agenda Item Overview **Kit Dahl**
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. **Council Action:** Approve Process and Recommendations for Input to the Northern Committee of the Western and Central Pacific Fisheries Commission and Inter-American Tropical Tuna Commission

**SUNDAY, JUNE 13, 2010      General Council Session**

***Balboa Columbus Ballroom***

**8:00 am**

**A. CALL TO ORDER (RECONVENE)**

**Dave Ortmann**

**A.5 Commencing Remarks**

**Don McIsaac**

**E. HIGHLY MIGRATORY SPECIES MANAGEMENT (CONTINUED)**

**E.2 Fishery Management Plan Amendment 2, Annual Catch Limits and Accountability Measures**

- a. Agenda Item Overview **Kit Dahl**
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. **Council Action:** Adopt Final Amendment

**E.3 Changes to Routine Management Measures for 2011-2012**

- a. Agenda Item Overview **Kit Dahl**
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. **Council Action:** Initial Identification of Preliminary Management Changes for Further Consideration

**B. GROUND FISH MANAGEMENT (CONTINUED)**

**B.2 Fishery Management Plan Amendment 23, Annual Catch Limits and Accountability Measures**

- a. Agenda Item Overview **John DeVore**
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. **Council Action:** Adopt Final Amendment



**MONDAY, JUNE 14, 2010    General Council Session**

***Balboa Columbus Ballroom***

**8:00 am**

**A. CALL TO ORDER (RECONVENE)**

**Dave Ortmann**

**A.6 Commencing Remarks**

**Don McIsaac**

**B. GROUND FISH MANAGEMENT (CONTINUED)**

**B.3 Tentative Adoption of Harvest Specifications, Rebuilding Plan Revisions, and Management Measures for 2011-2012 Fisheries**

- a. Agenda Item Overview **Kelly Ames, John DeVore**
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. **Council Action:** Tentatively Adopt Overfishing Limits, Acceptable Biological Catches, Annual Catch Limits, Rebuilding Plan Revisions, and Management Measures for 2011-2012 Fisheries

**B.4 Stock Assessment Planning for 2013-2014 Fishery Guidance**

- a. Agenda Item Overview **John DeVore**
- b. Stock Assessment Options **Elizabeth Clarke**
- c. Reports and Comments of Advisory Bodies and Management Entities
- d. Public Comment
- e. **Council Action:** Adopt Final Terms of Reference, Stock Assessments list and Assessment Schedule for 2011

**TUESDAY, JUNE 15, 2010    General Council Session**

***Balboa Columbus Ballroom***

**8:00 am**

**A. CALL TO ORDER (RECONVENE)**

**Dave Ortmann**

**A.7 Commencing Remarks**

**Don McIsaac**

**F. COASTAL PELAGIC SPECIES MANAGEMENT**

**F.1 Pacific Mackerel Management for 2010-2011**

- a. Agenda Overview **Kerry Griffin**
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. **Council Action:** Approve Stock Assessment and Essential Fish Habitat review; Harvest Guideline; and Management Measures

**F.2 Fishery Management Plan Amendment 13, Annual Catch Limits and Accountability Measures**

- a. Agenda Item Overview **Mike Burner**
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. **Council Action:** Adopt Final Amendment



## **TUESDAY, JUNE 15, 2010 (CONTINUED)**

### **B. GROUND FISH MANAGEMENT (CONTINUED)**

#### **B.5 Consideration of Inseason Adjustments**

- a. Agenda Item Overview **Kelly Ames**
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. **Council Action:** Adopt Final Recommendations for Adjustments to 2010 Groundfish Fisheries (Continues on Wednesday as necessary)

#### **B.6 Regulatory Deeming for Fishery Management Plan (FMP) Amendment 20 (Trawl Rationalization) and Amendment 21 (Intersector Allocation)**

- a. Agenda Item Overview **Jim Seger**
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. **Council Action:** Consider Regulatory Deeming and Implementing Issues for the FMP Amendments (Continues on Wednesday and Thursday as necessary)

## **WEDNESDAY, JUNE 16, 2010 General Council Session**

### ***Balboa Columbus Ballroom***

**8:00 am**

#### **A. CALL TO ORDER (RECONVENE)**

**David Ortmann**

#### **A.8 Commencing Remarks**

**Don McIsaac**

### **B. GROUND FISH MANAGEMENT (CONTINUED)**

#### **B.6 Continuation of Regulatory Deeming for FMP Amendment 20 (Trawl Rationalization) and Amendment 21 (Intersector Allocation)**

- a. Agenda Item Overview **Jim Seger**
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. **Council Action:** Consider Regulatory Deeming and Implementing Issues for the FMP Amendments (Continues on Thursday as necessary)

#### **B.5 Continuation of Consideration of Inseason Adjustments**

- a. Agenda Item Overview **Kelly Ames**
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. **Council Action:** Adopt Final Recommendations for Adjustments to 2010 Groundfish Fisheries

**THURSDAY, JUNE 17, 2010 General Council Session**

***Balboa Columbus Ballroom***

**8:00 am**

**A. CALL TO ORDER (RECONVENE)**

**David Ortmann**

**A.9 Commencing Remarks**

**Don McIsaac**

**B. GROUND FISH MANAGEMENT (CONTINUED)**

**B.7 Final Adoption of Harvest Specifications, Rebuilding Plan Revisions, and Management Measures for 2011-2012 Fisheries**

- a. Agenda Item Overview **Kelly Ames, John DeVore**
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. **Council Action:** Adopt Final Overfishing Limits, Acceptable Biological Catches, Annual Catch Limits, Rebuilding Plan Revisions, and Management Measures for 2011-2012 Fisheries

**B.6 Continuation of Regulatory Deeming for FMP Amendment 20 (Trawl Rationalization) and Amendment 21 (Intersector Allocation)**

- a. Agenda Item Overview **Jim Seger**
- b. **Council Action:** Approve Regulatory Deeming and Implementing Issues for the FMP Amendments

**G. ADMINISTRATIVE MATTERS**

**G.1 Approval of Council Meeting Minutes**

- a. Council Member Review and Comments **Dave Ortmann**
- b. **Council Action:** Approve September 2009 Council Meeting Minutes

**G.2 Fiscal Matters**

- a. Agenda Item Overview **John Coon**
- b. Budget Committee Report **Jerry Mallet**
- c. Reports and Comments of Advisory Bodies and Management Entities
- d. Public Comment
- e. **Council Action:** Consider Budget Committee Recommendations

**G.3 Membership Appointments and Council Operating Procedures**

- a. Agenda Item Overview **John Coon**
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. **Council Action:** Elect New Council Chair and Vice Chairs, Consider Changes to Council Operating Procedures and Advisory Body Appointments

**G.4 Future Council Meeting Agenda and Workload Planning**

- a. Agenda Item Overview **Don McIsaac**
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. Council Discussion and Guidance on Future Council Meeting Agenda and Workload Planning

**ADJOURN**

## 204<sup>th</sup> Session of the Pacific Fishery Management Council

JUNE 10-17, 2010

### SCHEDULE OF ANCILLARY MEETINGS

#### THURSDAY, JUNE 10, 2010

	Time	Location
Regulatory Deeming Workgroup	8:00 am	Alexandria II and III
Salmon Technical Team and Habitat Committee – Joint Session	8:00 am	Alexandria I
Habitat Committee	1:00 pm	Drake I
Salmon Technical Team	1:00 pm	Alexandria I

#### FRIDAY, JUNE 11, 2010

	Time	Location
Council Secretariat	8:00 am	Syracuse Room
Groundfish Management Team	8:00 am	Stanford Room
Highly Migratory Species Advisory Subpanel	8:00 am	Drake II
Highly Migratory Species Management Team	8:00 am	Princeton (2 <sup>nd</sup> Floor Exec Tower)
Regulatory Deeming Workgroup	8:00 am	Alexandria II and III
Salmon Technical Team	8:00 am	Alexandria I
Habitat Committee	8:30 am	**Executive Club (6 <sup>th</sup> Floor Main Bldg)
Budget Committee	1:15 pm	Yale Room

#### SATURDAY, JUNE 12, 2010

	Time	Location
Council Secretariat	7:00 am	Syracuse Room
California State Delegation	7:00 am	Alexandria II and III
Oregon State Delegation	7:00 am	Drake I
Washington State Delegation	7:00 am	Drake II
Groundfish Advisory Subpanel	8:00 am	Alexandria II and III
Groundfish Management Team	8:00 am	Stanford Room
Highly Migratory Species Advisory Subpanel	8:00 am	Drake II
Highly Migratory Species Management Team	8:00 am	**Executive Club (6 <sup>th</sup> Floor Main Bldg)
Salmon Technical Team	8:00 am	Alexandria I
Scientific and Statistical Committee	8:00 am	Drake I
Chair's Reception	6:00 pm	Marco Polo Room

#### SUNDAY, JUNE 13, 2010

	Time	Location
Council Secretariat	7:00 am	Syracuse Room
California State Delegation	7:00 am	Alexandria II and III
Oregon State Delegation	7:00 am	Drake I
Washington State Delegation	7:00 am	Drake II
Coastal Pelagic Species Advisory Subpanel	8:30 am	Drake II
Coastal Pelagic Species Management Team	8:30 am	Alexandria I
Groundfish Advisory Subpanel	8:00 am	Alexandria II and III
Groundfish Management Team	8:00 am	Stanford Room
Enforcement Consultants	4:30 pm	Yale Room

**MONDAY, JUNE 14, 2010**

	<b>Time</b>	<b>Location</b>
Council Secretariat	7:00 am	Syracuse Room
California State Delegation	7:00 am	Alexandria II and III
Oregon State Delegation	7:00 am	Drake I
Washington State Delegation	7:00 am	Drake II
Coastal Pelagic Species Advisory Subpanel	8:30 am	Drake II
Coastal Pelagic Species Management Team	8:30 am	Alexandria I
Groundfish Advisory Subpanel	8:00 am	Alexandria II and III
Groundfish Management Team	8:00 am	Stanford Room
Enforcement Consultants	As Necessary	Yale Room

**TUESDAY, JUNE 15, 2010**

	<b>Time</b>	<b>Location</b>
Council Secretariat	7:00 am	Syracuse Room
California State Delegation	7:00 am	Alexandria II and III
Oregon State Delegation	7:00 am	Drake I
Washington State Delegation	7:00 am	Drake II
Groundfish Advisory Subpanel	8:00 am	Alexandria II and III
Groundfish Management Team	8:00 am	Stanford Room
Enforcement Consultants	As Necessary	Yale Room

**WEDNESDAY, JUNE 16, 2010**

	<b>Time</b>	<b>Location</b>
Council Secretariat	7:00 am	Syracuse Room
California State Delegation	7:00 am	Alexandria II and III
Oregon State Delegation	7:00 am	Drake I
Washington State Delegation	7:00 am	Drake II
Groundfish Advisory Subpanel	8:00 am	Alexandria II and III
Groundfish Management Team	8:00 am	Stanford Room
Enforcement Consultants	As Necessary	Yale Room

**THURSDAY, JUNE 17, 2010**

	<b>Time</b>	<b>Location</b>
Council Secretariat	7:00 am	Syracuse Room
California State Delegation	7:00 am	Alexandria II and III
Oregon State Delegation	7:00 am	Drake I
Washington State Delegation	7:00 am	Drake II
Groundfish Management Team	8:00 am	Stanford Room
Enforcement Consultants	As Necessary	Yale Room

\*\*Room Change

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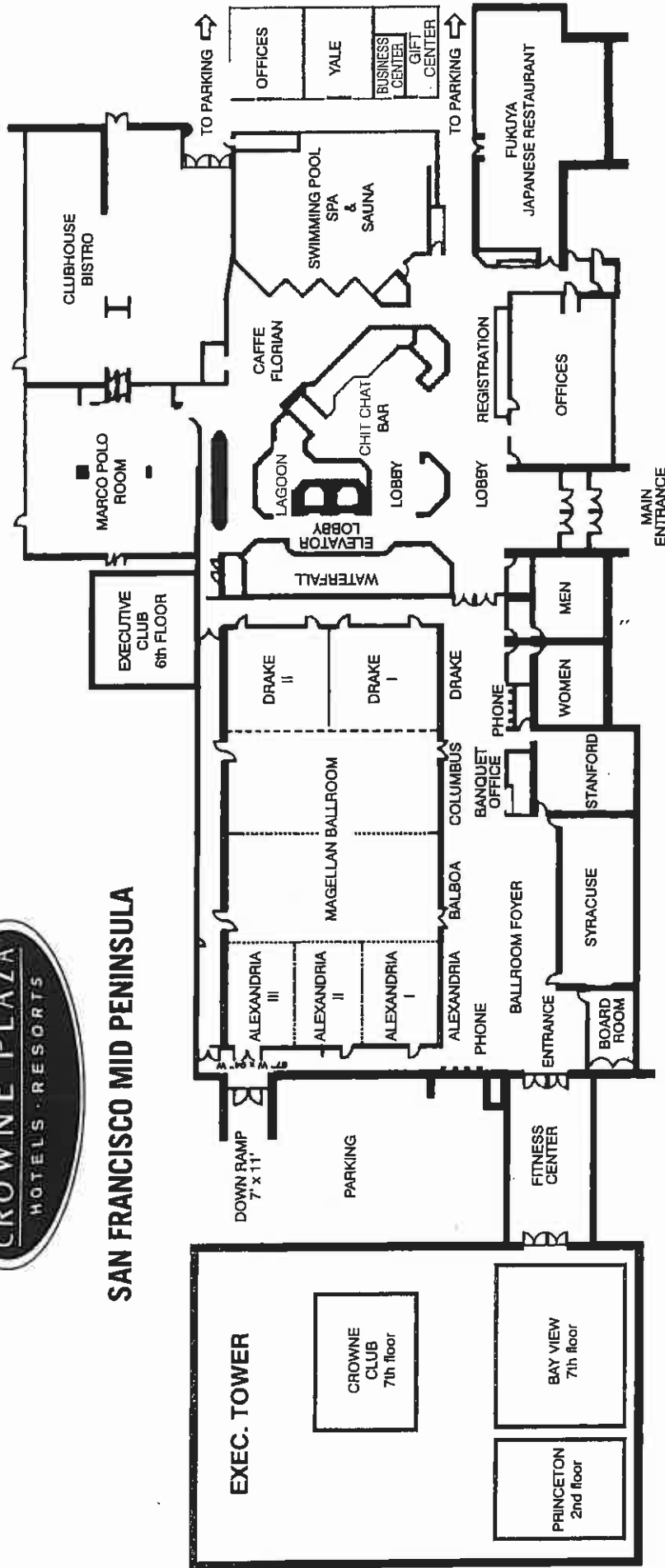
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## SAN FRANCISCO MID PENINSULA

## Banquet Room Diagram



NAME OF ROOM	DIMENSIONS L X W X H	SQ. FT.	BANQUET ROUNDS (PP)	COCKTAIL RECEPTION	CONFERENCE/MEETINGS U-SHAPE   CLASSROOM   THEATRE
Foyer	135 x 31 x 30	4,185			
Foyer A & B	71 x 31 x 30	2,201			
Foyer C & D	64 x 18 x 25	1,152			
Magellan Ballroom	120 x 60 x 12	7,440	680	1,500	1,000
Alexandria	30 x 60 x 12	1,800	150	200	90
Balboa	30 x 60 x 12	1,800	150	200	90
Columbus	30 x 60 x 12	1,800	150	200	90
Drake	30 x 60 x 12	1,800	150	200	90
Yale	23 x 18 x 10	415	40	40	24
Alexandria I	30 x 20 x 12	600	50	60	24
Alexandria II	30 x 20 x 12	600	50	60	24

NAME OF ROOM	DIMENSIONS L X W X H	SQ. FT.	BANQUET ROUNDS (PP)	COCKTAIL RECEPTION	CONFERENCE/MEETINGS U-SHAPE   CLASSROOM   THEATRE
Alexandria III	30 x 20 x 12	600	50	60	24
Drake I	31 x 30 x 12	930	70	100	30
Drake II	31 x 30 x 12	930	70	100	30
Syracuse	48 x 22 x 10	1,056	90	150	48
Stanford	31 x 25 x 10	795	50	60	25
Marco Polo Room	48 x 39 x 10	1,872	120	150	35
Chit Chat Lounge	31 x 25 x —	775	50	70	**
Boardroom	24 x 14 x 10	336	12 / Existing Set-up	***	**
Presidential Suite	24 x 25 x 10	575	6 / Existing Set-up	***	**
Clubhouse Bistro	98 x 51 x 16	5,000	125 / Existing Set-up	200	**
Crowne Club	25 x 27 x 12	675	**	50	**
Bay View	50 x 27 x 12	1,350	80	150	40
Princeton	27 x 24 x 8	660	60	70	22
Executive Club	24 x 18 x 8	432	40	40	15

All numbers reflect maximum number of people per room.

All numbers reflect maximum number of people per room.

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