

Re: Space for Exec Dir AFMB

Subject: Re: Space for Exec Dir AFMB

From: "John Gorman" <John.Gorman@noaa.gov>

Date: Fri, 05 Dec 2003 10:44:05 -0900

To: William Hines <William.Hines@noaa.gov>

CC: Jim Balsiger <Jim.Balsiger@noaa.gov>, john.oliver@noaa.gov, ron.berg@noaa.gov, Peter D. Jones <Peter.D.Jones@noaa.gov>

Bill,

I agree we need to discuss this further. Absent the AFMB's need for temporary space, and given the disaster awaiting us in the FY04 Conference Report, it's unlikely the Region will be interested in the vacant IRS space. Note that GSA leases generally require a minimum commitment of five years. The annual rent for this particular space (830 square feet) would be approximately \$21K. If the Board is not prepared to make a long-term commitment, this may not be a workable solution.

I will be in Seattle all of next week attending Juneau Project and Pribilof Island meetings. I've briefed Pete Jones on this situation. He can represent me in any follow up discussions.

John

William Hines wrote:

Thanks, gentlemen, I am looking for office space for the short term and I do not expect the AFMB to lease space in the federal building for the long-term. This will only make sense unless the Alaska Region determines that the space can be utilized once the AFMB either secures its own office space in Juneau or disappears. I think we need to sit down and discuss this, but I want you to know that I personally appreciate your assistance and willingness to help.

Bill

----- Original Message -----

From: "Jim Balsiger" <Jim.Balsiger@noaa.gov>

Date: Thursday, December 4, 2003 1:30 pm

Subject: Space for Exec Dir AFMB

John- I received your phone message about the space in the Federal Building that could accommodate the AFMB. If this space suits Bill Hines, we should probably place our marker on it. Our understanding should be that when the omnibus appropriation bill passes that legitimizes the exec dir, then funds from the AFMB would be used to pay the lease. jim

John Gorman <John.Gorman@noaa.gov>
Chief Operating Officer
National Marine Fisheries Service, Alaska Region
Operations, Management & Information

Re: AK Fisheries Marketing Bd letter]

Subject: [Fwd: Re: AK Fisheries Marketing Bd letter]
From: Jim Balsiger <Jim.Balsiger@noaa.gov>
Date: Tue, 10 Jul 2007 12:55:15 -0800
To: tonya Woods <Tonya.Woods@noaa.gov>

----- Original Message -----

Subject: Re: AK Fisheries Marketing Bd letter
Date: Thu, 19 Jun 2003 11:57:02 -0400
From: William Hines <William.Hines@noaa.gov>
To: Jim Balsiger <Jim.Balsiger@noaa.gov>
CC: Ron Berg <Ron.Berg@noaa.gov>, Lisa Lindeman
<Lisa.Lindeman@noaa.gov>
References: <7020cb7e.cb7e7020@noaa.gov>

If Commerce's lawyers are not concerned about it, then neither am I. We need to put this organization together "by the numbers" to avoid any criticism, both regionally and nationally since everyone will be looking at this. This Board is unique and unprecedented in Commerce, so I am extremely sensitive to do things right and ensure the intent of Congress is carried out. I am the one on the front line for this, as well as the person who will be held accountable. Thanks.

Bill

Jim Balsiger wrote:

> I think it would be a mistake to not find a way to allow Austerman to
> be associated with the Board. We need to allow the governor's office
> some access to the Board. jim

> ----- Original Message -----

> From: "William Hines" <William.Hines@noaa.gov>
> Date: Tuesday, June 17, 2003 2:14 pm
> Subject: Re: AK Fisheries Marketing Bd letter

>
> > We are talking appointment Ron, if you are appointed, you are a
> > member of the
> > Board, voting or lack thereof notwithstanding. I have forwarded the
> > Congressional Record on this which Senator Stevens details who
> > shall comprise
> > the Board.

> >
> > Bill

> >
> > Ron Berg wrote:
> >
> > > But, Austerman is an ex officio member. that's not the same as
> > being a
> > > member.
> > >
> > > William Hines wrote:
> > >
> > > > Yes, Alan Austerman cannot be appointed as a member, the Board
> > can only
> > > > have 11 as per the legislation. I spoke with Wapole about
> > this yesterday
> > > > and he concurs with my assessment. I spoke to Stevens's
> > office about this
> > > > as well.
> > > >
> > > > Bill
> > > >
> > > > Ron Berg wrote:
> > > >
> > > > > Bill, HQs has asked us to respond to the Governor's letter
> > (I emailed
> > > > this to you yesterday) that recommended the AFMB's members,
> > including> > > the ex official member. We intend to draft a
> > response for Hogarth's
> > > > signature to Evans, recommending that Evans accept the
> > Governor's> > > recommendations.
> > > >
> > > > Any problems with this approach?
> >
> >

Subject: [Fwd: Re: [Fwd: Review of NOAA's International Programs and Budget--ACTION--By July 22, 2003]]

From: Jim Balsiger <Jim.Balsiger@noaa.gov>

Date: Tue, 10 Jul 2007 12:55:08 -0800

To: tonya Woods <Tonya.Woods@noaa.gov>

----- Original Message -----

Subject:Re: [Fwd: Review of NOAA's International Programs and Budget--ACTION--By July 22, 2003]

Date:Fri, 11 Jul 2003 23:13:03 -0800

From:William Hines <William.Hines@noaa.gov>

To:Ron Berg <Ron.Berg@noaa.gov>

CC:Peter D Jones <Peter.D.Jones@noaa.gov>, John Gorman <John.Gorman@noaa.gov>, Jim Balsiger <Jim.Balsiger@noaa.gov>

Ron, until we hear otherwise, I am still an FTE with NMFS Alaska Region assigned as the International Policy Coordinator recently returning from D.C. after an 18 month detail. Despite my nomination to serve as Executive Director for the nascent Alaska Fisheries Marketing Board, I have not been officially notified by Admiral Lautenbacher/Bill Hogarth that I will act in this capacity. The process is underway. Therefore, until official notification from NOAA, I still maintain my portfolio. Thanks.

Bill

----- Original Message -----

From: "Ron Berg" <Ron.Berg@noaa.gov>

Date: Friday, July 11, 2003 4:58 pm

Subject: [Fwd: Review of NOAA's International Programs and Budget--ACTION--By July 22, 2003]

> Please work on this assignment. We should be able to use Bill Hines' activities (Yukon River, Donut Hole, etc) to form the baseline.
> I'm not aware that Bill is involved in any of these activities anymore.
> Eventually, we'll either backfill or assign Bill's activities to existing staff. So, for staff identification, we can probably say "Incumbent."

> ----- Original Message -----

> **Subject:** Review of NOAA's International Programs and

> **Budget--ACTION--By July 22, 2003**

> **Date:** Fri, 11 Jul 2003 18:15:41 -0400

> **From:** "Bill Hogarth" <Bill.Hogarth@noaa.gov>

> Organization: NOAA
> To: NMFS Regional Admins
> <NMFS.Regional.Admins@noaa.gov>, NMFS Science Directors
> <NMFS.Science.Directors@noaa.gov>, NMFS HQ Office
> Directors <NMFS.HQ.Office.Directors@noaa.gov>
> CC: Rebecca Lent <Rebecca.Lent@noaa.gov>, John Oliver
> <John.Oliver@noaa.gov>, Jim Mccallum
> <Jim.Mccallum@noaa.gov>, Michael Sissenwine
> <Michael.Sissenwine@noaa.gov>, Rachel Husted
> <Rachel.Husted@noaa.gov>, Gloria Thompson
> <Gloria.Thompson@noaa.gov>, Ron Berg
> <Ron.Berg@noaa.gov>, Joe Scordino
> <Joe.Scordino@noaa.gov>, Chris Mantzaris
> <Chris.Mantzaris@noaa.gov>, Buck Sutter
> <Buck.Sutter@noaa.gov>, Jim Coe <Jim.Coe@noaa.gov>, Linda
> Jones <Linda.Jones@noaa.gov>, Richard A Neal
> <Richard.A.Neal@noaa.gov>, Frank Almeida
> <Frank.Almeida@noaa.gov>, Alex Chester
> <Alex.Chester@noaa.gov>, Alan Risenhoover
> <Alan.Risenhoover@noaa.gov>, Garry Mayer
> <Garry.Mayer@noaa.gov>, Robin Tuttle
> <Robin.Tuttle@noaa.gov>, Bruce Morehead
> <Bruce.Morehead@noaa.gov>, Donna Wieting
> <Donna.Wieting@noaa.gov>, Mark Spurrier
> <Mark.Spurrier@noaa.gov>

> MEMORANDUM FOR: Regional Administrators, Science and Office Directors

> FROM: William T. Hogarth, Ph.D.
> Assistant Administrator for Fisheries

> SUBJECT: ACTION--Review of NOAA's International Programs and Budget
> Due July 22, 2003

> Vice Admiral Lautenbacher has asked Deputy Assistant Secretary for
> International Affairs Bill Brennan, through the International Affairs
> Council, to compile a comprehensive inventory of NOAA's international
> programs and budgets.

> In a June memorandum to the Assistant Administrators, DAS Brennan
> described the task as:
> "...to identify NOAAs international programs and its budget so as to
> better understand how to work strategically towards future
> programs and
> budgets. The first step is to identify all of NOAA's international
> activities and associated resources, using as broad a definition as
> possible. This is a large undertaking, and to my knowledge, it
> has not
> been done before. Once we know the big picture, we will be better
> prepared to determine what appropriately constitutes NOAA's
> international effort. Eventually, this will allow us to secure and
> allocate resources strategically."

> Please follow the attached instructions (Attachment 1) for each staff
> person or activity.
> An inventory of staff with international duties prepared in

- > January 2002
- > is attached (Attachment 2). Please review, update and expand the
- > inventory for your organization. It can be used as a beginning point
- > for the broader task. The F/ST document International Agreements
- > Concerning Living Marine Resources of Interest to NOAA Fisheries
- > is also
- > very useful as a reference <http://nmfs.noaa.gov/sfa/international>
- >
- > Please submit the required information to Jim McCallum no later than
- > July 22. He can be reached by email (jim.mccallum@noaa.gov) or by
- > phone at (301) 713-2259, ext. 112; fax (301) 713-2258.
- >
- > Attachment 1: THE TASK
- >
- > NOAA Office of International Affairs provided the following
- > guidance for
- > the inventory:
- >
- > Guidelines:
- > 1. Use FY 2003 as baseline (you can note anticipated outyear
- > activities).
- > 2. Anything that involves other countries or participants from other
- > countries is to be considered international (for this stage of the
- > review).
- >
- > Each NOAA Fisheries Headquarters Office, Regional Office, and Science
- > Center)
- >
- > A. Identify all staff that handle any international issues--include:
- > (1) Name
- > (2) Office
- > (3) Issue
- > (4) Amount of their time spent on the issue(s) [exact amount
- > is not
- > necessary - please estimate by percent].
- >
- > Example: Rollie Schmitt, Director, Office of Habitat Conservation;
- > International Whaling Commission; 25% (75% "domestic")
- >
- > B. Identify all international travel during FY 2003--include:
- > (1) Name(s) of traveler
- > (2) Date of travel
- > (3) Destination
- > (4) Purpose
- >
- > Clearly designate which is
- > (1) NOAA funded for NOAA officials
- > (2) NOAA funded invitational travel
- > (3) Reimbursable funding for NOAA officials, or
- > (4) Other
- >
- > (Please make sure that the information you provide is correct and
- > consistent with the FRS).

- >
- > C. Identify all international projects and activities during FY
- > 03--include:

- > (1) Meetings or activities attended or hosted outside the United States,
- > (2) Meetings or activities conducted in the United States for international organizations (bilateral, multilateral or NGO),
- > (3) Domestic and/or internal meetings and activities which include international participants (including visiting scientists)
- >
- > For each project or activity, please identify:
 - > (1) Staff time and funding allocated (identify funding source, whether funds are from NOAA or external)
 - > (2) Type of activity, such as training course (ie TEDS training), technical assistance (ie NWS MITCH), workshop (ie US/China Natural Disaster Workshop), bilateral exchange MEXUS-Gulf), negotiations (ie WSSD), meetings of international/multilateral organizations (ie PICES), or conference (ie WCPA).
 - > (3) Title of project (4) Participants (general)
- >
- > Attachment 2--NOAA Fisheries Staff In Headquarters, Regional Offices, and Science Centers Involved in International Activities
- >
- > The following document needs to be updated and expanded to include the following information:
 - > Identify all staff that handle any international issues.
 - > Include:
 - > 1. Office
 - > 2. Name
 - > 3. Issue
 - > 4. Total amount of their time spent on the issue(s) [measure by percent].
- >
- > Office of Sustainable Fisheries
- >
- > International Fisheries Division (Silver Spring) (updated July 2)
- >
- > Dean Swanson Division Chief, WCPFC, CCAMLR trade permits, International Bycatch
 - > Reduction Task Force, care taking U.S. -Columbia, FAO support, NAFO 100 %
 - > Paul Niemeier U.S., Japan CC, U.S.-Russia ICC, Atlantic driftnets, caretaking Pacific
 - > Hake, U.S.-E.U., NPAFC, PSC, driftnets, Donut 100 %
 - > Kim Blankenkoper ICCAT, NASCO, GIFAS 100 %
 - > Patrick Moran NAFO, U.S.-Canada, caretaking IPHC, APEC FWG, OESI Agreement with
 - > DOS 100 %
 - > Erika Carlsen ICCAT, trade and environment, WW@BW, FTAs, deep sea fishing conference
 - > 100 %
 - > Bob Dickinson HSFCA, foreign fishing, U.S. fishing in Russian zone 100 %
 - > Catherine Corson LWOP
 - > Jennifer Olson CCAMLR trade permits, cable analysis and distribution, program support 100 %
- > Michele Alford Secretarial support 100 %
- >

- >
- > Atlantic Highly Migratory Species Division (Silver Spring)
- >
- > Chris Rogers Division Chief; ICCAT support on domestic HMS
- > management issues
- >
- > National Seafood Inspection Laboratory (Pascagoula, MS)
- >
- > E. Spencer Garrett NSIL Division Chief, Codex International Food
- > Standards Program,
- > CCAMLR, US Gulf-Mexus, WTO, World Health Organization, FAO (food
- > quality and safety
- > issues); NSF International Council of Public Health Consultants
- >
- > Kimberly Dawson Patagonian Toothfish Import DCD Program
- > Sandra Sharp Interstate Shellfish Sanitation Conference
- > Alvin P. Rainosek International Standards Organization
- > Kevin Amos Office of International Epizootics; Pacific Northwest Fish
- > Health Protection Committee
- >
- > Angela Ruple Seafood Society and Technology Society of the Americas
- >
- >
- > NOAA Enforcement (Silver Spring)
- >
- > Dale Jones International Enforcement Issues
- >
- >
- > Office of Protected Resources (Silver Spring) (partially updated
- > 7/2/03)
- > Nancy Daves CITES, SPAW Protocol, IUCN, FAO 100 %
- > Chris Yates IWC 100 %
- > Simona Roberts CEC %
- > Vacant IATTC
- > Barbara Schroeder IAC, International turtle issues %
- > Vacant CITES - Coral species trade
- > Peter Fippinger (Contractor) CBD %
- > Winnie Chan (Contractor) IWC %
- >
- >
- > Office of Science and Technology (Silver Spring)
- >
- > Suzanne Bolton Antarctic Research Issues, Arctic Research Issues,
- > Climate/IPCC
- > Steven Brown Ireland/Iceland Cooperation in Fisheries Science; CITES
- > Mark Chandler Russian/Ukraine Fisheries Data Rescue
- > Ned Cyr GCRMN; GLOBEC/LMEs; IOC/GOOS, WSSD
- > John Everett UN Atlas of Oceans
- > Mark Holliday FAO Statistics
- > Steve Koplun CCAMLR, FAO Statistics
- > Pamela Mace CITES Marine Species Listing Criteria; World Fisheries
- > Congress
- > Lamarr Trott US-Vietnam

- > ~~Robin Tuttle Arctic Council, CAFF, CAFF/CPAN, CCAMLR lead, FAO~~
- > Coordination for
- > NMFS, FAO/COFI 100 %

- > John Ward FAO Fishing Capacity
- >
- >
- > Office of Constituent Services (Silver Spring)
- >
- > Linda Chaves Deputy Office Director; Fisheries Trade and Industry
- > Services; WTO, APEC,
- > UN's Committee on Sustainable Development and FAO, bilateral
- > negotiations for improved
- > trade and investment opportunities in the international fisheries
- > sector.
- > Greg Schneider Fisheries Trade and Industry Services; WTO, APEC, UN's
- > Committee on
- > Sustainable Development and FAO
- >
- >
- > Office of Habitat Conservation
- >
- > Rollie Schmitt Office Director; U.S. Commissioner to ICCAT and IWC
- >
- > Office of Management and Budget
- >
- > Jim McCallum International Coordinator, Management and Budget Issues
- >
- >
- > Alaska Regional Office
- >
- > James W. Balsiger AK Regional Administrator, U.S. Rep to the Northern
- > Boundary and
- > Transboundary Rivers Restoration and Enhancement Fund under the
- > US-
- > Canada Pacific
- > Salmon Treaty; Commissioner for North Pacific Anadromous Fish
- > Commission; Intl. Halibut
- > Commission; Convention on the Conservation and Mgmt. of Pollock
- > Resources in Central
- > Bering Sea
- > William Hines AK Region Intl Affairs Coordinator; Intl. Halibut
- > Commission
- > Jeff Passer Intl. Halibut Commission, Enforcement
- > Phil Smith Intl. Halibut Commission
- > Kim Rivera Seabird Working Group and NPOA
- >
- > Alaska Science Center
- > Douglas DeMaster IWC
- > Jim Coe
- > Sue Moore IWC
- > Jeff Breiwick IWC
- > Paul Wade IWC
- > Michael Dahlberg North Pacific Anadromous Fish Commission (NPAFC)
- > John Helle NPAFC, US/Canada Salmon Treaty
- > William Heard NPAFC, US/Canada Salmon Treaty
- > Loh-Lee Loh International Pacific Halibut Commission, International

- > Consultative Committee of

- > the Convention for the Conservation and Management of Central
- > BeringSea Pollock (Donut

- > Hole Convention)
- > Richard Marasco Donut Hole Convention; PICES
- > Anne Hollowed PICES
- > Patricia Livingston PICES
- > William Karp ICES
- > David Somerton ICES
- >
- > Northwest Regional Office
- >
- > D. Robert Lohn
- > Joe Scordino
- > Larry Rutter U.S. Federal appointed Commissioner of the Pacific
- > SalmonCommission
- > Dave Cantillon U.S. Federal appointed member of the Fraser River
- > Panel of the Pacific Salmon
- > Commission. Support for PSC.
- > Bill Robinson U.S. Federal appointed alternate member of the Fraser
- > River Panel of the Pacific
- > Salmon Commission.
- > Keith Schultz U.S. Federal member of the Fraser River Technical
- > Committee
- > Peter Dygert U.S. Federal appointed member of the Southern Panel
- > of the
- > PSC
- > Chuck Walters On short-term contract (recently retired) as U.S.
- > SectionCoordinator for the
- > Pacific Salmon Commission
- > Lenore Wright Staff support to the U.S. Section of the Pacific Salmon
- > Commission
- > Michele Joubert Staff support to the U.S. Section of the Pacific
- > SalmonCommission
- > Del Simmons U.S. Chair of the bilateral PSC Chinook Technical
- > Committee.
- > Yvonne deReynier Pacific Halibut Commission
- >
- > Northwest Science Center
- >
- > Usha Varanasi
- > Rick Brodeur PICES: Biological Ocean. Committee, Working Group 14,
- > Technical Committee
- > for Continuous Plankton Recorder Project; GLOBEC, GOOS
- > Walt Dickoff Federation of Comparative Endocrinological
- > Societies, Intl
- > Planning Com.
- > Robert Iwamoto U.S.-Japan Bilateral Agreement, Natural Resource
- > Committee
- > Linda Jones U.S.-Russia Bilateral Agreement, Data Recovery
- > Robert Kope Pacific Salmon Commission, Chinook Technical Committee
- > Margaret Krahn U.S.-Korea Bilateral Agreement, Marine Env. Pollution
- > Pete Lawson PSC, Selective Fisheries Committee
- > Conrad Mahnken U.S.-Japan Bilateral Agreement, Natural Resource
- > Committee
- > Rick Methot U.S.-Canada: Groundfish Treaty Technical Subcommittee,

- > Pacific Whiting
- > Committee
- > William Peterson PICES; GLOBEC; GOOS

- > Mike Rust U.S.-Norway Bilateral Agreement
- > Norma Sands PSC, Data Sharing Committee
- > John Stein IWC, PICES Marine Env. Quality Committee; U.S. Chile
- > Cooperative Agreement on
- > Harmful Algal Blooms; Puget Sound/Georgia Basin International Task
- > Force
- > Vera Trainer PICES Working Group 15
- > Cynthia Tynan IWC; GLOBEC; GOOS
- > Waldo Wakefield ICES
- > John Williams Intl. Assoc. of Hydraulic Engineering and Research, Fish
- > Passage WG
- > Gary Winans Pacific Salmon Commission
- >
- > Southwest Regional Office
- >
- > Rod McInnis
- > Cathy Campbell Marine Mammal Team Leader: IATTC, AIDCP
- > Raymond Clarke SPTT; MHLIC; Pacific Island Fishery Agreement; Standing
- > Committee on Tuna
- > and Billfish; Interim Scientific Committee
- > Patricia Donley Senior Business and Industry Specialist: IATTC, AIDCP
- > Chris Fanning Business and Industry Specialist: AIDCP
- > Svein Fougner Assistant RA, Sustainable Fisheries; IATTC; AIDCP;
- > U.S.-
- > Canada Albacore
- > Treaty
- > William Jacobson Business and Industry Specialist: AIDCP
- > Charles Karnella Administrator for NMFS Pacific Area Island Office;
- > SPTT; MHLIC; Pacific
- > Island Fishery Agreement
- > John Kelly Pacific Island Fishery Agreement
- > James Lecky Assistant RA, Protected Resources; IATTC; AIDCP
- > Marilyn Luipold SPTT; MHLIC
- > Georgia Matsukawa SPTT
- > Rodney McInnis Acting SW Regional Administrator; IATTC; AIDCP;
- > U.S.-
- > Canada Albacore
- > Treaty; SPTT; MHLIC
- > Allison Routt Tuna-Dolphin Fishery Policy Analyst; IATTC; AIDCP
- > Gordon Yamasaki SPTT; Standing Committee on Tuna and Billfish
- > John Naughton International habitat issues
- >
- >
- > Southwest Fisheries Science Center
- > George Boehlert PICES
- > Robert Brownell IWC; U.S.-Russia Agreement on Protection of the
- > Environment; IUCN; CITES
- > Peter Dutton IUCN, Sea Turtle Genetics Task Force; Asociacion ANAI
- > Roger Hewitt CCAMLR Scientific Committee, WG-EEM
- > Rennie Holt CCAMLR Scientific Committee
- > Michael Laurs Standing Committee on Tuna and Billfish
- > William Perrin IUCN, CITES Senior Scientist for Marine Mammals
- > Steve Reilly International Dolphin Conservation Program Agreement;
- > IATTC

- > Gary Sakagawa IATTC; Interim Scientific Committee for Tunas and
- > Tuna-Like Species;

- > Multi-Lateral High Level Consultations for the Pacific; Standing
- > Committee on Tuna and
- > Billfish; South Pacific Commission; Forum Fisheries Agency;
- > U.S.-Canada Bilateral
- > Michael Tillman SW Science Center Director; International Dolphin
- > Conservation Program
- > Agreement; Deputy US Commissioner for IWC; MexUS-Pacifico
- > ScientificResearch
- > Agreement; IATTC; Interim Scientific Committee for Tunas and
- > Tuna-Like Species;
- > U.S.-Chile Bilateral Agreement; PICES
- >
- >
- > Pacific Islands Regional Office
- >
- >
- > Pacific Islands Fisheries Science Center
- >
- >
- > Northeast Regional Office
- >
- > Jennifer Anderson NAFO Standing Committee on International Control
- > (STACTIC)
- > Mary Colligan NASCO; North American Commission Working Group
- > on Introductions and Transfers
- > Peter Colosi GOMC (primary contact for NE Regional Office)
- > David Gouveia TMGC (primary contact for NE Regional Office)
- > Deirdre Kimball Gulf of Maine Aquaculture Committee, WSSD
- > Pat Kurkul NE Regional Administrator, U.S. Commissioner to NAFO,
- > TMGC John Witzig ICES
- >
- >
- > Northeast Science Center
- > John Boreman
- > Chadwick Brown NASCO, ICES North Atlantic Salmon WG
- > Steven Cadrin ICES ACFM
- > Anthony Calabrese ICES, U.S.-China Aquaculture Panel
- > Phillip Clapham IWC
- > Lisa Hendrickson NAFO, ICES WG on Cephalopod Fisheries
- > Larry Jacobson GLOBEC Small Pelagics WG
- > Greg Lough ICES ASC
- > Sharon MacLean ICES WG on Pathology and Disease
- > Ralph Mayo NAFO
- > Richard Merrick ICES Marine Mammal Population Dynamics WG; ICES/NAFO
- > Harp and
- > Hooded Seals Working Group
- > David Mountain ICES ASC, NAFO
- > Thomas Noji Gulf of Maine Council, ICES ACME and WG on Marine Habitat
- > Mapping
- > William Overholtz U.S.-Canada Herring Committee; ICES WG on Fisheries
- > Acoustics
- > Debra Palka IWC
- > Ken Sherman LMEs

- > ~~Mike Sissenwine NEFSC Director; FAO Subcommittee on Aquaculture; FAO~~
- > Technical
- > Consultation on Status and Trends; ICES; ICCAT (Bluefin Tuna

- > Science); IOC Conference on
- > Ocean Exploration; WSSD
- > Sheila Stiles ICES WG on Application of Genetics in Fisheries and
- > Mariculture
- > Fredric Serchuk NAFO
- > Tim Smith IWC Science Coordinator
- > Frederick Thurberg ICES WG on Bio. Effects of Contamination
- > Gordon Waring ICES Marine Mammal Population Dynamics WG; ICES/NAFO
- > Harpand
- > Hooded Seals Working Group
- > James Weinberg ICES WG on Ecosystem Effects of Fishing
- > Susan Wigley ICES SG on Discard and Bycatch Information
- > Gary Wikfors ICES/IOC WG on Harmful Algal Bloom Dynamics
- >
- > Southeast Regional Office
- >
- > Roy Crabtree
- > James Barbour International Turtle Excluder Device Program (gear
- > expert)
- > Dave Bernhart Inter-American Convention for the Protection and
- > Conservation of Sea Turtles;
- > MOU on the Conservation and Management of Marine Turtles and their
- > Habitats of the Indian
- > Ocean and Southeast Asia; International Turtle Excluder Device
- > Program (Endangered
- > Species Act Team Leader)
- > Kendall Falana International Turtle Excluder Device Program (gear
- > expert)
- > Jack Forrester International Turtle Excluder Device Program (gear
- > expert)
- > Eric Hawk International Turtle Excluder Device Program (biologist)
- > Robert Hoffman International Turtle Excluder Device Program
- > (biologist)
- > John Mitchell International Turtle Excluder Device Program (Fishery
- > Research, Harvesting
- > Systems Branch)
- > Dale Stevens International Turtle Excluder Device Program (gear
- > expert)
- > Wendy Taylor International Turtle Excluder Device Program (gear
- > expert)
- > Southeast Science Center
- >
- > Brad Brown IOCARIBE, President and Chair of U.S. Delegation
- > Scott Nichols TED Technology Transfer
- > Jerry Scott ICCAT, Head of U.S. Scientific Delegation
- > Steve Swartz IWC
- > Nancy Thompson SE Science Center Director; MEXUS-GULF
- >

Marketing Board

Subject: Marketing Board

From: John Oliver <John.Oliver@noaa.gov>

Date: Thu, 24 Jul 2003 09:26:38 -0400

To: William Hines <William.Hines@noaa.gov>

Bill -- call me. We had a call from Murkowski's Office on the Marketing Board. jo

Re: [Fwd: Re: Alaska Fisheries Marketing Board]

Subject: Re: [Fwd: Re: Alaska Fisheries Marketing Board]
From: John Oliver <John.Oliver@noaa.gov>
Date: Sat, 26 Jul 2003 14:26:23 -0400
To: William Hines <William.Hines@noaa.gov>

Bill -- the weeks of Jul 28, Aug 4 & Aug 11. jo

William Hines wrote:

Thanks, John, I will let you know. What is the best time frame for you?

John Oliver wrote:

Bill, Hogarth was downtown this morning and spoke to Rayder. He wants you to work with me to get this moving. Let me know when you are coming back to town. I'll try to call you later today. Thanks, jo.

----- Original Message -----

Subject: Re: Alaska Fisheries Marketing Board
Date: Thu, 24 Jul 2003 19:56:56 -0400
From: "Scott Rayder" <Scott.Rayder@noaa.gov>
To: William Hines <William.Hines@noaa.gov>
CC: bill.hogarth@noaa.gov, john.oliver@noaa.gov
References: <17895dc8.5dc81789@noaa.gov>

With the obs summit I don't have time--this may be a good idea. I have no problems with it. And when Congress leaves we can focus on it.

William Hines wrote:

Scott, NMFS HQ and I have fielded inquiries from Senator Stevens' and Governor Murkowski's offices about the Alaska Fisheries Marketing Board. The interest is high, but I think we may need someone back there to push this through if possible. I know with Glynda's and Sloan's departure, it may a little difficult to move such initiatives forward. Do you think it would be useful for me to travel back to D.C. for about 7-10 days to track this and help in anyway? There is nothing more I can do with respect to the Board until the Board members are appointed and I am designated as the Interim Executive Director by NOAA/NMFS. Thanks.

Bill

Re: [Fwd: Re: Alaska Fisheries Marketing Board]

Subject: Re: [Fwd: Re: Alaska Fisheries Marketing Board]
From: John Oliver <John.Oliver@noaa.gov>
Date: Mon, 28 Jul 2003 07:36:51 -0400
To: William Hines <William.Hines@noaa.gov>

Bill -- can you come the week before as well? It may take more than a week given others and vacation schedule and we will all be gone the following week. jo

William Hines wrote:

John, the week of August 11th works best for me. Let's do it then. I will bring salmon, halibut and king crab!

Bill

----- Original Message -----

From: "John Oliver" <John.Oliver@noaa.gov>
Date: Saturday, July 26, 2003 10:26 am
Subject: Re: [Fwd: Re: Alaska Fisheries Marketing Board]

Bill -- the weeks of Jul 28, Aug 4 & Aug 11. jo

William Hines wrote:

Thanks, John, I will let you know. What is the best time frame for you?

John Oliver wrote:

Bill, Hogarth was downtown this morning and spoke to Rayder. He wants you to work with me to get this moving. Let me know when you are coming back to town. I'll try to call you later today. Thanks, jo.

----- Original Message -----

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From: "Scott Rayder" <Scott.Rayder@noaa.gov>
To: William Hines <William.Hines@noaa.gov>
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Re: [Fwd: Re: Alaska Fisheries Marketing Board]

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members are
appointed and I am designated as the Interim Executive
Director by
NOAA/NMFS. Thanks.
Bill

Subject: Sen Stevens -- AK Marketing Board

From: John Oliver <John.Oliver@noaa.gov>

Date: Thu, 31 Jul 2003 17:38:08 -0400

To: Scott Rayder <Scott.Rayder@noaa.gov>, William Hines <William.Hines@noaa.gov>, Todd Ungerecht <Todd.Ungerecht@noaa.gov>

CC: Stewart Harris <Stewart.Harris@noaa.gov>, Emily Lindow <Emily.Lindow@noaa.gov>, Heath Heikkila <Heath.Heikkila@noaa.gov>

Heads Up about a call I had from Mat Paxton --

This afternoon I had a call from Mat Paxton complaining that Commerce was not moving on setting up the AK Marketing Board. Everytime he thinks they are moving forward the DOC lawyers throw up another road block. Bottomline from Mat, the Senator is about the blow his lid.

I told Mat that Bill Hines was coming to DC the week of Aug 11 and that he and I were going to work with the Department to get this moving. That calmed him down and he was appreciative. However I fear that if Bill and I are not successful that this is our last chance and the Senator will be doing whatever irate Senators do. The conversation ended on a pleasant note and I'm optimistic that Bill and I can get this thing moving. jo

[Fwd: Alaska Fisheries Marketing Board]

Subject: [Fwd: Alaska Fisheries Marketing Board]
From: John Oliver <John.Oliver@Noaa.gov>
Date: Wed, 13 Aug 2003 10:00:02 -0400
To: William Hines <William.Hines@noaa.gov>

Bill, here is what you sent to John. (BJ)

----- Original Message -----
Subject: Alaska Fisheries Marketing Board
Date: Mon, 04 Aug 2003 12:07:20 -0800
From: "William Hines" <William.Hines@noaa.gov>
Organization: NOAA Fisheries
To: John Oliver <John.Oliver@noaa.gov>
CC: Brenda Jans <Brenda.Jans@noaa.gov>

John, I have drafted a document for your review and edits. The memo is from the Admiral to the Secretary recommending two things: 1. Appoint the members (12) and, 2. Appoint Bill Hines as the Acting Executive Director. Let me know if there is anything else you need. Thanks.

Bill

Alaskafisheriesmarketingboard.wpd	Content-Type: application/x-unknown-content-type-WP9Doc Content-Encoding: base64
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[Fwd: [Fwd: Alaska Fisheries Marketing Board]]

Subject: [Fwd: [Fwd: Alaska Fisheries Marketing Board]]
From: John Oliver <John.Oliver@noaa.gov>
Date: Fri, 14 Sep 2007 13:54:59 -0400
To: Tonya Woods <Tonya.Woods@noaa.gov>

(b)(5) redacted

3pp

----- Original Message -----

Subject:[Fwd: Alaska Fisheries Marketing Board]
Date:Wed, 13 Aug 2003 10:00:02 -0400
From:John Oliver <John.Oliver@Noaa.gov>
Organization:NOAA
To:William Hines <William.Hines@noaa.gov>

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John Oliver
John.Oliver@noaa.gov
Deputy Assistant Administrator
National Marine Fisheries Service
(301)713-2239

DRAFT

MEMORANDUM FOR: Donald L. Evans
Secretary of Commerce

FROM: Vice Admiral Conrad Lautenbacher, Retired
NOAA Administrator

SUBJECT: Establishment of the Alaska Fisheries Marketing Board

This responds to the nomination of 12 members to the Alaska Fisheries Marketing Board (Board) by Alaska Governor Frank Murkowski in a letter to you dated June 6, 2003 and to which you responded that you have initiated the process of review. Additionally, a NOAA Employee, Mr. William P. Hines, had been nominated by Senator Ted Stevens of Alaska in a letter to you dated April 10, 2003, to serve as the Executive Director for the Board.

Background

Section 209 of the Department of Commerce and Related Agencies Appropriations Act, 2003, (Title II, Division B, Pub.L. 108-7 (Feb. 20, 2003)), makes \$10 million available to the Board "to develop an Alaska seafood marketing program." The section reads further as follows:

Such amount shall be made available as a direct lump sum payment to the Alaska Fisheries Marketing Board (hereinafter "Board") *which is hereby established* to award grants to market, develop, and promote Alaska seafood and improve related technology and transportation with emphasis on wild salmon, of which 20 percent shall be transferred to the Alaska Seafood Marketing Institute. The Board *shall be appointed by the Secretary* and administered by an Executive Director *to be appointed by the Secretary*. The Board shall submit an annual report to the Secretary detailing the expenditures of the Board.

Emphasis added. The funds identified by § 209 were appropriated from the "the amount available from the fund entitled 'Promote and Develop Fishery Products and Research Pertaining to American Fisheries.'" That account is identified in the Treasury as a NOAA account (13X5139) with 15 U.S.C. § 713c-3 (also referred to as the Saltonstall-Kennedy Act) as its statutory basis.

Discussion

[REDACTED]

[REDACTED]

(b)(5)
Att Client
Prod.



Conclusion



predecise

[Fwd: Alaska Fisheries Marketing Board]

Subject: [Fwd: Alaska Fisheries Marketing Board]
From: John Oliver <John.Oliver@noaa.gov>
Date: Fri, 14 Sep 2007 13:52:51 -0400
To: Tonya Woods <Tonya.Woods@noaa.gov>

(b)(5) redaction

----- Original Message -----

Subject: Alaska Fisheries Marketing Board
Date: Thu, 14 Aug 2003 10:14:33 -0400
From: William Hines <William.Hines@noaa.gov>
Organization: NOAA
To: John Oliver <John.Oliver@noaa.gov>, Brenda Jans
<Brenda.Jans@noaa.gov>

John, Brenda, changes have been made and additional information added. Probably need to get to Rayder for the Admiral's signature and passed to the Secretary's office.

Bill



John Oliver
John.Oliver@noaa.gov
Deputy Assistant Administrator
National Marine Fisheries Service
(301)713-2239

DRAFT DECISION MEMORANDUM

MEMORANDUM FOR: Donald L. Evans
Secretary of Commerce

FROM: Vice Admiral Conrad Lautenbacher, Retired
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Discussion

b)(5)

[REDACTED]

[REDACTED]

[REDACTED]

Additionally, during discussions with Senator Stevens' staff, the number of Board members appointed to the Board should total no more than 11 members, each serving a two year term.

Conclusion

[REDACTED]

If you concur, please sign the enclosed letters.

[Fwd: Alaska Fisheries Marketing Board]

Subject: [Fwd: Alaska Fisheries Marketing Board]
From: John Oliver <John.Oliver@noaa.gov>
Date: Fri, 14 Sep 2007 13:52:51 -0400
To: Tonya Woods <Tonya.Woods@noaa.gov>

----- Original Message -----

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Date: Thu, 14 Aug 2003 10:14:33 -0400
From: William Hines <William.Hines@noaa.gov>
Organization: NOAA
To: John Oliver <John.Oliver@noaa.gov>, Brenda Jans
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Probably need to get to Rayder for the Admiral's signature and passed to
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Discussion

[REDACTED]

[REDACTED]

Handwritten notes:
Hansen
of
10/20/03
(b)(5)

(b)(5)

[REDACTED]

Conclusion

[REDACTED]

If you concur, please sign the enclosed letters.

DRAFT

Mr. William P. Hines
NMFS Alaska Region
P.O. Box 21668
Juneau, Alaska 99802

Dear Mr. Hines:

I am pleased to appoint you as the Acting Executive Director of the Alaska Fisheries Marketing Board. Pending additional statutory language by Congress, you will serve as the Acting Executive Director as part of your official duties as a Department of Commerce employee.

I wish you the best of luck in your endeavor.

Warm regards,

Donald L. Evans

DRAFT

Draft

The Honorable Frank H. Murkowski
Governor of Alaska
P.O. Box 110001
Juneau, Alaska 99811-0001

Dear Governor Murkowski:

Pursuant to Title II, Department of Commerce and Related Agencies, Section 209, of the Consolidated Appropriations Resolution of 2003 (Public Law 108-7), I am pleased to appoint the following individuals for a two year term to the Alaska Fisheries Marketing Board (Board):

Mr. Al Burch
Mr. Paul Dale
Mr. Duncan Fields
Mr. Joe Gulley
Mr. Jim Jansen
Mr. Trevor McCabe

Mr. Ray Riutta
Mr. Bruce Schactler
Alaska State Senator Ben Stevens
Mr. Bob Thorstenson, Jr.
Mr. Mark Tupper

(b)(5)



I remain greatly interested in the workings of the Alaska Fisheries Marketing Board and look forward to the results of their important mission.

Warm regards,

Donald L. Evans

cc: The Honorable Ted Stevens, United States Senator
The Honorable Lisa Murkowski, United States Senator
The Honorable Don Young, United States Representative
Alaska State Senator Ben Stevens
Mr. William Hines
Mr. Al Burch

Mr. Paul Dale
Mr. Duncan Fields
Mr. Joe Gulley
Mr. Jim Jansen
Mr. Trevor McCabe
Mr. Ray Riutta
Mr. Bruce Schactler
Mr. Bob Thorstenson, Jr.
Mr. Mark Tupper

Subject: AK Marketing Board

From: John Oliver <John.Oliver@noaa.gov>

Date: Tue, 02 Sep 2003 10:24:04 -0400

To: Jim Balsiger <Jim.Balsiger@noaa.gov>, William Hines <William.Hines@noaa.gov>

Letter to Gov Murkowski naming the members to the Marketing Board was signed last week. The letters to the board members should be signed this week. jo

[Fwd: Alaska Fisheries Marketing Board]

Subject: [Fwd: Alaska Fisheries Marketing Board]
From: "William Hines" <William.Hines@noaa.gov>
Date: Wed, 03 Sep 2003 09:15:30 -0800
To: John Oliver <John.Oliver@noaa.gov>
CC: Bill Hogarth <Bill.Hogarth@noaa.gov>

John, fyl. I am in the process of putting together things for the Board, but I think I need to be formally tasked to implement the Board as part of my official duties.

Bill

Subject: Re: Alaska Fisheries Marketing Board
From: <gbecker@doc.gov>
Date: Mon, 23 Jun 2003 18:09:08 -0400
To: "William Hines" <William.Hines@noaa.gov>
CC: Scott Rayder <Scott.Rayder@noaa.gov>

Bill

You are right, according to DOC GC's office, you cannot serve officially as the ED until the legislative fix has been made. However, it is my understanding that you can go ahead and move forward with setting up the board as part of your official duties, without the title of ED, as long as you are given such responsibilities by Admiral Lautenbacher. This needs to come from NOAA, not DOC.

Hope this helps and, please let me know what else you need.

Glynda

Glynda Becker
Office of the Secretary
Office of Legislative and Intergovernmental Affairs
U.S. Department of Commerce
Phone: 202-482-2032
Fax: 202-501-8147

"William Hines"

<gbecker@doc.gov>, Scott Rayder <William.Hines@noaa.gov>
aa.gov> To: glynda becker
cc:

Board

Subject: Alaska Fisheries Marketing

06/23/2003 03:05

PM

Glynda, do you know what the requirements are for me to organize the nascent Alaska Fisheries Marketing Board? I leave next week with the understanding that I cannot be officially appointed until legislative language is included in a Bill. Such language has been provided to Senator Stevens staff. I do need something that designates me as the NOAA official responsible for organizing the Board until my appointment is finalized. Should it come from Lautenbacher?

I understand the importance of getting things going, thus, I am leaving with little or no guidance on how to proceed and with no charge. Not a good feeling. What do I need to do to help?

Scott, if you want me to serve as your Lena Point Project Manager, I think I will require some official notification that I am yours and the Admiral's representative on the project. Otherwise, there is no point for me to serve in such capacity. Your call.

Thanks,
Bill

William Hines <William.Hines@noaa.gov>
International Policy Coordinator
NOAA Fisheries
Alaska Region

Re: Alaska Fisheries Marketing Board.eml

Content-Type: message/rfc822
Content-Encoding: 7bit

✓
Loan

Subject: SE Loan

From: "Rob Zuanich" <rpz@psvoa.com>

Date: Wed, 8 Feb 2006 14:58:23 -0800

To: Michael.A.Sturtevant@noaa.gov, Mike.Franco@noaa.gov

CC: tmccabe@mccabe-law.com

Gentlemen:

It was a pleasure meeting both of you today. I greatly appreciated your comments to help us as best you can to reach the \$21 million loan amount.

During our discussion I mentioned my confusion over how you determined that a 3.0% landing fee would only generate sufficient revenue to service an \$18 million loan. Perhaps a walk through some of the initial math is explanatory:

The estimated real ex-vessel price for all salmon is \$.21 in 2005 dollars with a 2% inflation rate:

The estimated 2006 revenue is: $213,000,000 (\$.21) (.02) = \$45,624,600$

The 2006 landing fee is: $\$45,624,600 (.03) = \$1,368,738$

The 2007 landing fee is: $\$1,368,738 (1.02) = \$1,396,113$

The 2008 landing fee: $\$1,396,113 (1.02) = \$1,424,035$

The 2009 landing fee: $\$1,424,035 (1.02) = \$1,452,516$

The 2010 landing fee $\$1,452,516 (1.02) = \$1,481,566$

The 2011 landing fee $\$1,481,566 (1.02) = \$1,511,974$

Under a 40 year loan term, the 2006 (year 1) landing fee services a \$19 million loan. By 2009 (year 4) the landing fee can service a \$20 million loan; and by 2011 (year 7) a \$21 million loan.

Now of course the in 2016 (year 11) we have a 15% reduction in harvest, which returns the landing fee to approximately \$1.4 million; but by 2045 (year 40) the landing fee is in excess of \$2.5 million.

Based on these numbers, I assumed we could easily service \$20 million and that inflation over time would offset the initial shortfalls allowing us to service \$21 million.

Am I missing something?

Thanks,

Rob Zuanich

Subject: Re: SE Loan
From: Michael A Sturtevant <Michael.A.Sturtevant@noaa.gov>
Date: Fri, 10 Feb 2006 11:00:25 -0500
To: Rob Zuanich <rpz@psvoa.com>
CC: Mike.Francisco@noaa.gov, tmccabe@mccabe-law.com

We enjoyed meeting you as well and look forward to working with you in the future to make this program a success. The numbers you used below provide a good example of the reasons not to get into a numbers debate and further stress the importance of the assumptions used.

The McDowell Report, and my subsequent calculations, used a \$0.21 ex-vessel price in 2006 as the starting point and included a 2% inflation rate. Therefore the baseline 2006 revenue is \$44,814,000. The numbers below used 2005 as the \$0.21 per pound price starting point which correspondingly lowers all the fee revenues. As we indicated though, OMB ultimately makes the loan determination decision. We can't anticipate how they will react but previous history indicates a conservative approach. The bottom line here is that OMB will have the final say on whether the loan authority included in the legislation will be supportable by this fishery.

We will do our best to implement the program in a timely fashion in whatever way the law may eventually require. All the best.

Rob Zuanich wrote:

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Am I missing something?

Thanks,

Rob Zuanich

Michael A. Sturtevant <michael.a.sturtevant@noaa.gov>
 Financial Services Division
 National Marine Fisheries Service
 National Oceanic and Atmospheric Administration

Subject: RE: SE Loan
From: "Rob Zuanich" <rpz@psvoa.com>
Date: Fri, 10 Feb 2006 08:55:11 -0800
To: "Michael A Sturtevant" <Michael.A.Sturtevant@noaa.gov>
CC: Mike.Francisco@noaa.gov, tmccabe@mccabe-law.com

Mike:

Thanks for the response and a peek at how you reached your number. Of course I share your hope for a successful program and do agree that OMB must ultimately sign off on the loan amount.

I am attaching the most current SRA reduction plan, which we trust gives you a clear view of how we see the program proceeding. Please let me know whether you (or others) see any inconsistencies vis a vis the proposed legislation or NOAA requirements. Thanks.

From: Michael A Sturtevant [mailto:Michael.A.Sturtevant@noaa.gov]
Sent: Friday, February 10, 2006 8:00 AM
To: Rob Zuanich
Cc: Mike.Francisco@noaa.gov; tmccabe@mccabe-law.com
Subject: Re: SE Loan

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Thanks,

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SRA Draft Plan.doc	Content-Type: application/msword Content-Encoding: base64
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Fleet Consolidation Program for the Southeast Alaska Salmon Purse Seine Fishery

SUMMARY: This program establishes a fleet consolidation program in the fishery. The program will permanently reduce the number of permits, promote economic efficiency and improve the long-term management of the fishery. The program is authorized under Alaska State law, special federal legislation and certain provisions of the federal Magnuson-Stevens Act (MSA) governing fishing capacity reduction programs. Program participation is voluntary. Under the program, the Southeast Revitalization Association (SRA) will certify payment to individuals who agree to relinquish permits. SRA will finance the cost of the program through grants and proceeds from a loan to be repaid by remaining permit holders.

Statutory and Regulatory Background

The authority for the SRA to conduct a program to consolidate or reduce fishing permits is Alaska Statute 16.40.250. The Consolidated Appropriations Act of 2005 (section 209 Of Title II of Division B of Public Law 108-447) authorized the National Marine Fisheries Service (NMFS) to establish up to a \$50 million loan to finance the program and appropriated \$500,000 for the cost of the loan. That law was subsequently amended (*describe law not yet enacted*) reducing the loan amount to (\$TBD) million and clarifying the respective roles of the NMFS and SRA relative to development and implementation of the program. The authority for making a loan of this type is sections 1111 and 1112 of the Merchant Marine Act, 1936. To supplement program financing, an estimated (\$TBD) million in grants to be administered by the Alaska Department of Fish and Game (ADF&G) will be made available to the SRA from funds appropriated for to the "Pacific Coast Salmon Recovery Fund" (PCSRF). The PCSRF was established, in part, to address harvest restrictions place on Southeast Alaskan fisheries through the 1999 Pacific Salmon Treaty Agreement. Under the program, the SRA will design and implement a consolidation plan and the NMFS will conduct the referendum and would implement the industry fee system to repay the loan under section 312(d)(2) of the MSA.

Program Objectives

This program would be the first application of the MSA federal loan program to reduce fishing capacity in a state-water fishery. Among other things, the program will permanently revoke or deactivate a substantial number of permits, reduce the number of vessels operating, promote economic efficiency and provide improved flexibility in the conservation and management of the Southeast Alaska salmon resource.

Summary of Program Rules:

Initial Notice

The SRA will send a notice to all permit holders describing the proposed consolidation plan, including eligibility requirements, conditions for offers to relinquish permits, the industry fee system and any other implementation aspects necessary to meet program objectives.

Final Consolidation Plan and Invitation

Within 60 days from the date of initial notice and after opportunity for public comment and consultation with NMFS, ADF&G and the Alaska Commercial Fisheries Entry Commission (CFEC), the SRA will adopt a final consolidation plan and extend to all permit holders an invitation to relinquish their permit.

Eligibility

An individual who, according to CFEC records, is the holder of a permit or permits at the time he offers to relinquish a permit.

Financing

The program shall be financed by a consolidation fund consisting of amounts

- (1) provided by the loan amount authorized for this program;
- (2) appropriated for the purpose of this program; or
- (3) provided from public grants or other private sources.

The consolidation fund shall be for the exclusive purpose of fleet consolidation consistent with program objectives and shall remain available, without limitation, until expended.

Loan Terms and Repayment

The principal loan amount shall not exceed \$TBD million. The loan shall have a term of 40 years at a (TBD%) interest rate.

Consistent with section 312(d) of the Magnuson-Stevens Act, the NMFS shall conduct a referendum to establish a fee system for the repayment of the loan obligation. The fee shall not exceed 3 percent of the ex-vessel value of all salmon harvested in the fishery.

Offer Price

The SRA will accept offers to relinquish permits for the fixed sum of (\$TBD.) The SRA may modify the offer price at any time after the close of an offer period.

Offer Period and Conditions

The offer period will be open for a period of thirty days after the date of the invitation. Offers may not be submitted before or after the offer period. Offers delivered to the SRA must be original offers with original signatures. No offer may be made on any form other than the one provided by the SRA. An individual may offer to relinquish no more than two permits.

Each offer form will be accompanied by the Relinquishment Contract, as well as detailed questions and answers about completing the offer form and explanation of the contract.

The SRA may establish subsequent offer periods and modify the terms and conditions for acceptance of offers.

Offer Submission and Effect

Delivering a completed offer form and accompanying Relinquishment Contract to the SRA constitutes an offer submission. Each offer submitted to SRA constitutes the permit holder's binding offer to SRA in accordance with the terms and conditions of the Relinquishment Contract. No permit holder should initiate delivery of an offer unless he fully intends to make an offer to the SRA.

Relinquishment Contract

The contract shall require the permit holder to offer to relinquish his permit and comply with all provisions of the contract. The permit holder must expressly acknowledge that SRA acceptance of the offer creates a binding contract, absent an unsuccessful referendum excusing performance by both the permit holder and SRA. Upon completion of a successful referendum and acceptance of the offer, the permit holder shall immediately become ready to surrender and relinquish the permit or comply with such other terms and conditions to deactivate or restrict usage of the permit. The contract shall be governed by the laws of the State of Alaska. Because specific performance is not an available remedy for a party breaching the contract, liquidated damages in an amount not to exceed \$20,000 shall be the exclusive remedy.

Ranking of Offers

The ranking of offers will be based upon a random drawing of all individuals who offer to relinquish a permit and will continue until the number of offers would cause the total cost of payments to exceed the consolidation fund. In the event the number of offers would exceed the consolidation fund, then offers will be ranked according to the number of years the permit holder participated in the fishery for the years 1994—2003.

Acceptance of Offers

The SRA shall accept an offer within ten days from the close of an offer period and will promptly send notice of acceptance to the permit holder. Acceptance of an offer by the SRA will create a binding contract between the SRA and the permit holder whose offer is accepted, the performance of which shall be subject only to the successful approval of the loan repayment fee under the referendum.

After Close of Offer Period:

- I. After the offer period closes, the SRA shall:
 - (a) Accept or reject offers;
 - (b) Instruct NMFS regarding conduct of a referendum; and
 - (c) If a conducted referendum is successful:
 - (1) Advise permit holders of the referendum results;
 - (2) Identify each permit who submitted an accepted offer;
 - (3) Request NMFS to tender payments to accepted offers as certified by the SRA; and
 - (4) Consult with CFEC to ensure the revocation permits and compliance with such other terms and conditions as provided under the Relinquishment Contract.
- II. If the referendum is unsuccessful, the SRA shall:
 - (a) Cease further program activity, or
 - (b) Amend or modify the consolidation plan and issue a new offer invitation.

Referendum

If SRA requests, NMFS will conduct a referendum whose sole purpose is to determine whether voters who cast ballots will authorize the fee to repay the loan. NMFS shall mail to each eligible permit holder a referendum ballot and information including:

- (1) The qualifying voter's permit number;
- (2) Procedure and eligibility requirements for the referendum; and

(3) Description of the program, the estimated capacity/ permit reduction and the amount and duration and other terms and conditions of the fee system proposed by such plan.

Each permit holder may cast only one vote for each permit that individual holds. The fee will have been approved if the referendum votes cast in favor of the fee constitute two thirds of the permit holders voting.

Payments

If the referendum is successful, the NMFS upon SRA certification shall disburse the loan in the form of payments to permit holders whose offers to relinquish a permit have been accepted. The SRA shall disburse all other reduction payments.

Future Ownership, Transferability and Participation

The program requires no change in current Alaska State law and does not limit or restrict individuals who relinquish a permit under the program from future ownership of permits or participation in the fishery.

Administrative Costs

The SRA may allocate up to 1.5% of the consolidation fund for costs of program administration.

Definitions

The terms defined below have the following meanings for purposes of this program:

"consolidation fund" means all monies from loan proceeds, appropriations, public grants or other private sources made available to finance the cost of the program.

"fishery" means the commercial taking of salmon with purse seine gear within the Southeast administrative area as defined under 5 ACC 33.100;

"permit" means a valid entry permit or a valid interim-use permit issued by the Alaska Commercial Fisheries Entry Commission (CFEC) to operate in the fishery;

"participated" means an individual who landed salmon under an eligible entry permit; and

"permit holder" means an individual who has been issued a permit by the CFEC.

Subject: Southeast Seine Buyback
From: Rob Zuanich <rpz@psvoa.com>
Date: Mon, 05 Jun 2006 07:49:33 -0700
To: 'Michael A Sturtevant' <Michael.A.Sturtevant@noaa.gov>
CC: tmccabe@mccabe-law.com

Michael:

We are planning a trip to D.C. on June 20th and 21st. Would you be available to meet during that time period? Also, is there a possibility that Gary Risener could attend to discuss the timeline for determining the actual loan amount? Thanks and look forward to hearing from you.

Rob Zuanich

Subject: Re: Southeast Seine Buyback
From: Michael A Sturtevant <Michael.A.Sturtevant@noaa.gov>
Date: Mon, 05 Jun 2006 11:19:26 -0400
To: Rob Zuanich <rpz@psvoa.com>
CC: tmccabe@mccabe-law.com
BCC: Gary Reisner <Gary.Reisner@noaa.gov>

Hey Rob,

Unfortunately I will be out of the office for that entire week. I will be back the following week if you can postpone your trip. If not, I will check with Gary on his availability. All the best. Mike

Rob Zuanich wrote:

Michael:

We are planning a trip to D.C. on June 20th and 21st. Would you be available to meet during that time period? Also, is there a possibility that Gary Risener could attend to discuss the timeline for determining the actual loan amount? Thanks and look forward to hearing from you.

Rob Zuanich

<p>Michael A. Sturtevant <michael.a.sturtevant@noaa.gov> Financial Services Division National Marine Fisheries Service National Oceanic and Atmospheric Administration</p>

RE: Southeast Seine Buyback

Subject: RE: Southeast Seine Buyback
From: Rob Zuanich <rpz@pevoa.com>
Date: Mon, 05 Jun 2006 08:35:49 -0700
To: 'Michael A Sturtevant' <Michael.A.Sturtevant@noaa.gov>

Thanks Mike. We'll get back to you shortly.

From: Michael A Sturtevant [mailto:Michael.A.Sturtevant@noaa.gov]
Sent: Monday, June 05, 2006 8:19 AM
To: Rob Zuanich
Cc: tmccabe@mccabe-law.com
Subject: Re: Southeast Seine Buyback

Hey Rob,

Unfortunately I will be out of the office for that entire week. I will be back the following week if you can postpone your trip. If not, I will check with Gary on his availability. All the best, Mike

Rob Zuanich wrote:

Michael:

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Rob Zuanich

Subject: SE Alaska Purse Seine Buyback

From: Michael A Sturtevant <Michael.A.Sturtevant@noaa.gov>

Date: Thu, 29 Jun 2006 11:48:03 -0400

To: tmccabe@mccabe-law.com, rpz@psvoa.com

NOTE: Our server crashed earlier so I'm not sure if this went out. Please disregard if it is repetitive.

Rob & Trevor,

It was good to meet with you again the other day. I wish you success at making some legislative progress. In the event that you are successful, I believe a trip to Alaska would be beneficial.

You mentioned that the salmon season winds down by the end of August so with that in mind, would the week of August 7 be a good time? If this happens, I would journey to Juneau first to meet with some NMFS regional personnel. I would like to visit a processing plant and see a working vessel. Perhaps you could arrange a site visit with one your willing members in either Sitka, Ketchikan, or Petersburg (whatever works for you guys).

I appreciate your help and look forward to continuing working with you to make this buyback a reality. All the best. Mike

Subject: RE: SE Alaska Purse Seine Buyback
From: Rob Zuanich <rpz@psvoa.com>
Date: Thu, 29 Jun 2006 08:55:43 -0700
To: 'Michael A Sturtevant' <Michael.A.Sturtevant@noaa.gov>, tmccabe@mccabe-law.com

Mike:

The week of the 7th works very well with my schedule and coincides with the peak of the SE fishery. It will be no problem touring a processing facility and I'm certain we can get you aboard a purse seine vessel to observe the actual harvesting end of the business.

-----Original Message-----

From: Michael A Sturtevant [mailto:Michael.A.Sturtevant@noaa.gov]
Sent: Thursday, June 29, 2006 7:37 AM
To: tmccabe@mccabe-law.com; rpz@psvoa.com
Subject: SE Alaska Purse Seine Buyback

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Subject: Re: SE Alaska Purse Seine Buyback
From: Michael A Sturtevant <Michael.A.Sturtevant@noaa.gov>
Date: Fri, 30 Jun 2006 09:34:47 -0400
To: Rob Zuanich <rpz@psvoa.com>
CC: tmccabe@mccabe-law.com

Sounds great Rob. As you know, there is a significant amount of red tape when dealing with the government so I will need to make my travel arrangements well ahead of time.

I was planning on flying to Juneau on 8/7 then heading back to Seattle on 8/10. I am very interesting in observing a harvesting vessel as well as visiting a processing facility. Either 8/8 or 8/9 would work well with my schedule. I understand that Sitka is a short plane ride from Juneau so I could fly out early in the morning and return that evening. Or I could fly over the night before and stay in Sitka. I appreciate your efforts to accommodate me so please plan whatever works best for you and the fishermen. If Ketchikan or Petersburg would fit better that would be fine as well. Looking forward to making the trip.

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Michael A. Sturtevant <michael.a.sturtevant@noaa.gov>
Financial Services Division
National Marine Fisheries Service
National Oceanic and Atmospheric Administration

Subject: RE: SE Alaska Purse Seine Buyback
From: Rob Zuanich <rpz@psvoa.com>
Date: Wed, 05 Jul 2006 11:08:11 -0700
To: 'Michael A Sturtevant' <Michael.A.Sturtevant@noaa.gov>
CC: tmccabe@mccabe-law.com

The week of the 7th works. Let me know where you will be staying and if you need a ride from the airport. Give me a few days to determine what would be the best port to combine both the harvesting and processing activities.

Rob

-----Original Message-----

From: Michael A Sturtevant [mailto:Michael.A.Sturtevant@noaa.gov]
Sent: Friday, June 30, 2006 5:35 AM
To: Rob Zuanich
Cc: tmccabe@mccabe-law.com
Subject: Re: SE Alaska Purse Seine Buyback

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Subject: Re: SE Alaska Purse Seine Buyback
From: Michael A Sturtevant <Michael.A.Sturtevant@noaa.gov>
Date: Wed, 05 Jul 2006 14:43:28 -0400
To: Rob Zuanich <rpz@psvoa.com>
CC: tmccabe@mccabe-law.com

Thanks Rob. I appreciate your assistance and will wait to hear back from you before preparing my travel authorization. I'm not yet sure where I'll be staying so please feel free to offer any recommendations.

Mike

Rob Zuanich wrote:

The week of the 7th works. Let me know where you will be staying and if you need a ride from the airport. Give me a few days to determine what would be the best port to combine both the harvesting and processing activities.

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Sent: Friday, June 30, 2006 5:35 AM
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Subject: Re: SE Alaska Purse Seine Buyback

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Michael A. Sturtevant <michael.a.sturtevant@noaa.gov>
Financial Services Division
National Marine Fisheries Service
National Oceanic and Atmospheric Administration

Subject: RE: SE Alaska Purse Seine Buyback
From: Rob Zuanich <rpz@psvoa.com>
Date: Sun, 09 Jul 2006 16:53:36 -0700
To: 'Michael A Sturtevant' <Michael.A.Sturtevant@noaa.gov>
CC: tmccabe@mccabe-law.com

Given your dates and time parameters, I would suggest the following:

Depart Juneau to Petersburg on Tuesday the 8th at 4:39 p.m. (Alaska Flight 64) and return to Juneau on Wednesday the 9th at 11:50 a.m. (Alaska Flight 65). This is not a lot of time, but only one flight a day in and out of Petersburg--but a great fishing town.

We will tour the Icicle Seafood plant on either the 8th or 9th depending on the availability of the Icicle plane to do a fly over of the fleet fishing. We do not have time to go out for the day on a seiner, which could turn into a night and a following day. Hopefully we can fly the fleet on the 8th and have the following morning to tour the plant.

Regarding hotels, I would recommend the Westmark Baranof, Goldbelt or Breakwater Inn.

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From: Michael A Sturtevant [mailto:Michael.A.Sturtevant@noaa.gov]
Sent: Wednesday, July 05, 2006 10:43 AM
To: Rob Zuanich
CC: tmccabe@mccabe-law.com
Subject: Re: SE Alaska Purse Seine Buyback

Thanks Rob. I appreciate your assistance and will wait to hear back from you before preparing my travel authorization. I'm not yet sure where I'll be staying so please feel free to offer any recommendations.

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Rob Zuanich wrote:

The week of the 7th works. Let me know where you will be staying and if you need a ride from the airport. Give me a few days to determine what would be the best port to combine both the harvesting and processing activities.

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I appreciate your help and look forward to continuing working with you to make this buyback a reality. All the best. Mike

Subject: Re: SE Alaska Purse Seine Buyback
From: Michael A Sturtevant <Michael.A.Sturtevant@noaa.gov>
Date: Mon, 10 Jul 2006 10:30:21 -0400
To: Rob Zuanich <rpz@psvoa.com>
CC: tmccabe@mccabe-law.com

Sounds good. I will begin making the necessary arrangements. Is there a place to stay in Petersburg that you can recommend as well? Looking forward to the trip and learning more about the fishery firsthand.

Rob Zuanich wrote:

Given your dates and time parameters, I would suggest the following:

Depart Juneau to Petersburg on Tuesday the 8th at 4:39 p.m. (Alaska Flight 64) and return to Juneau on Wednesday the 9th at 11:50 a.m. (Alaska Flight 65). This is not a lot of time, but only one flight a day in and out of Petersburg--but a great fishing town.

We will tour the Icicle Seafood plant on either the 8th or 9th depending on the availability of the Icicle plane to do a fly over of the fleet fishing. We do not have time to go out for the day on a seiner, which could turn into a night and a following day. Hopefully we can fly the fleet on the 8th and have the following morning to tour the plant.

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RE: SE Alaska Furse Seine Buyback

Subject: RE: SE Alaska Furse Seine Buyback
From: Rob Zuanich <rpz@sevoa.com>
Date: Mon, 10 Jul 2006 09:27:07 -0700
To: 'Michael A Sturtevant' <Michael.A.Sturtevant@noaa.gov>

The Scandia House or Tides Inn

-----Original Message-----

From: Michael A Sturtevant [mailto:Michael.A.Sturtevant@noaa.gov]
Sent: Monday, July 10, 2006 6:30 AM
To: Rob Zuanich
Cc: tmccabe@mccabe-law.com
Subject: Re: SE Alaska Furse Seine Buyback

Sounds good. I will begin making the necessary arrangements. Is there a place to stay in Petersburg that you can recommend as well? Looking forward to the trip and learning more about the fishery firsthand.

Rob Zuanich wrote:

Given your dates and time parameters, I would suggest the following:

Depart Juneau to Petersburg on Tuesday the 8th at 4:39 p.m. (Alaska Flight 64) and return to Juneau on Wednesday the 9th at 11:50 a.m. (Alaska Flight 65). This is not a lot of time, but only one flight a day in and out of Petersburg--but a great fishing town.

We will tour the Icicle Seafood plant on either the 8th or 9th depending on the availability of the Icicle plane to do a fly over of the fleet fishing. We do not have time to go out for the day on a seiner, which could turn into a night and a following day. Hopefully we can fly the fleet on the 8th and have the following morning to tour the plant.

Regarding hotels, I would recommend the Westmark Baranof, Goldbelt or Breakwater Inn.

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From: Michael A Sturtevant [mailto:Michael.A.Sturtevant@noaa.gov]
Sent: Wednesday, July 05, 2006 10:43 AM
To: Rob Zuanich
Cc: tmccabe@mccabe-law.com
Subject: Re: SE Alaska Furse Seine Buyback

Thanks Rob. I appreciate your assistance and will wait to hear back from you before preparing my travel authorization. I'm not yet sure where I'll be staying so please feel free to offer any recommendations.

Mike

Rob Zuanich wrote:

The week of the 7th works. Let me know where you will be staying and if you need a ride from the airport. Give me a few days to determine what would be the best port to combine both the harvesting and processing activities.

Rx: SE Alaska Purse Seine Buyback

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I could fly out early in the morning and return that evening. Or I could fly over the night before and stay in Sitka. I appreciate your efforts to accommodate me so please plan whatever works best for you and the fishermen. If Ketchikan or Petersburg would fit better that would be fine as well. Looking forward to making the trip.

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The week of the 7th works very well with my schedule and coincides with the peak of the SE fishery. It will be no problem touring a processing facility and I'm certain we can get you aboard a purse seine vessel to observe the actual harvesting end of the business.

-----Original Message-----

From: Michael A Sturtevant [mailto:Michael.A.Sturtevant@noaa.gov]
Sent: Thursday, June 29, 2006 7:37 AM
To: tmccabe@tmccabe-law.com; rs@nevos.com
Subject: SE Alaska Purse Seine Buyback

Rob & Trevor,

It was good to meet with you again the other day. I wish you success at

making some legislative progress. In the event that you are successful,

I believe a trip to Alaska would be beneficial.

You mentioned that the salmon season winds down by the end of August so with that in mind, would the week of August 7 be a good time? If this

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I appreciate your help and look forward to continuing working with

Re: SE Alaska Purse Seine Buyback

you
| | to make this buyback a reality. All the best. Mike.

Michael A. Sturtevant <michael.a.sturtevant@noaa.gov>
Financial Services Division
National Marine Fisheries Service
National Oceanic and Atmospheric Administration

Re: SE Alaska Furse Seine Buyback

Subject: Re: SE Alaska Furse Seine Buyback
From: Michael A Sturtevant <Michael.A.Sturtevant@noaa.gov>
Date: Fri, 28 Jul 2006 10:49:44 -0400
To: Rob Zuanich <rz@psvoa.com>

Hey Rob,

I wanted to touch base and provide some details for my visit to SE Alaska the week after next.

I'll be arriving in Juneau on 8/7 and plan on meeting with some NMFS regional folks on Tuesday morning (8/8) before flying over to Petersburg on Alaska Air Flight 64 at 4:39 pm. I made reservations at the Scandia House and will fly back to Juneau at 11:50 am on 8/9.

I'm looking forward to the trip, just wish I had more time. Your plans below sound great. Please let me know when and where to meet up and any other suggestions you may have. Thanks for your help. Mike

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The Scandia House or Tides Inn

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Re: SE Alaska Purse Seine Buyback

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activities.

Rob

-----Original Message-----

From: Michael A Sturtevant [mailto:Michael.A.Sturtevant@noaa.gov]
Sent: Friday, June 30, 2006 5:35 AM

To: Rob Suanich

Cc: tmccabe@tmccabe-law.com

Subject: Re: SE Alaska Purse Seine Buyback

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Re: SE Alaska Furse Seine Buyback

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From: Michael A Sturtevant [mailto:Michael.A.Sturtevant@noaa.gov]

Sent: Thursday, June 29, 2006 7:37 AM

To: tmccabe@mccabe-law.com; rpz@psvoa.com

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Michael A. Sturtevant <michael.a.sturtevant@noaa.gov>
Financial Services Division
National Marine Fisheries Service
National Oceanic and Atmospheric Administration

RE: SE Alaska Purse Seine Buyback

Subject: RE: SE Alaska Purse Seine Buyback
From: Rob Zuanich <rz@sevoa.com>
Date: Fri, 28 Jul 2006 12:05:56 -0700
To: Michael A Sturtevant <Michael.A.Sturtevant@noaa.gov>

Looks good. I will also try for a room at the Scandia House.

Perhaps we can meet for lunch on the 8th and then go over any program related business before flying to Petersburg. How about meeting at my office at noon? I'm located in a blue building "Alaska Fishermen's Building" across the street from the City museum and State Office Building.

-----Original Message-----

From: Michael A Sturtevant [<mailto:Michael.A.Sturtevant@noaa.gov>]
Sent: Friday, July 28, 2006 6:50 AM
To: Rob Zuanich
Subject: Re: SE Alaska Purse Seine Buyback

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RE: SE Alaska Furse Seine Buyback

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RE: SE Alaska Purse Seine Buyback

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[mailto:Michael.A.Sturtevant@noaa.gov]

Sent: Thursday, June 29, 2006 7:37 AM

To: tmocabe@mocabe-law.com; EPS@psvog.com

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I appreciate your help and look forward to continuing working

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RE: SE Alaska Pure Seals Buyback

||| to make this buyback a reality. All the best. Mike

Subject: Safe return
From: Rob Zuanich <rpz@psvoa.com>
Date: Mon, 14 Aug 2006 09:45:48 -0700
To: 'Michael A Sturtevant' <Michael.A.Sturtevant@noaa.gov>
CC: tmccabe@mccabe-law.com

I trust you arrived safely back on the East Coast and enjoyed your time in Alaska. How did you meeting with ADF&G go? I advised Trevor of the variation between the Senate and House language. I will let you know as soon as we hear anything.

Rob

~~theast salmon~~

Subject: Southeast salmon

From: Rob Zuanich <rpz@psvoa.com>

Date: Fri, 05 Jan 2007 12:41:55 -0800

To: 'Michael A Sturtevant' <Michael.A.Sturtevant@noaa.gov>, MeredithWals@noaa.gov

CC: 'Trevor McCabe' <tmccabe@mccabe-law.com>

Dear Mike and Meredith:

I know Mike has been out of the office and according to his voicemail will return on Monday. I'm hoping we might teleconference next week to discuss those items raised during our December 15th call:

1. Can the \$500,000 FY 06 appropriation be utilized for the Federal Credit Reform Act requirements relative to the "up to \$25 million loan".
- 2.. I am now trying to plod through proposed rule implementing the program. Did the summary I previously provided, although limited, have any major deficiencies?

Thanks and trust you had a great Holiday season.

Rob

Subject: Re: Southeast salmon

From: Michael A Sturtevant <Michael.A.Sturtevant@noaa.gov>

Date: Tue, 09 Jan 2007 14:50:36 -0500

To: Rob Zuanich <rpz@psvoa.com>

CC: 'Trevor McCabe' <tmccabe@mccabe-law.com>, Leo Erwin <leo.erwin@noaa.gov>

Hi Rob,

I just called your office and understand you are in Alaska boarding a plane so will send this message instead.

We received a definitive answer today regarding the loan subsidy cost. The original \$500,000 appropriated in Public Law 108-447 from the "Pacific Coastal Salmon Recovery" fund was one-year money and is no longer available. Before we can move forward with program development a loan subsidy must be appropriated. I won't be available tomorrow but perhaps we can talk more on Thursday. I have a conference call scheduled at 4 EST Thursday but am otherwise open.

Mike

Rob Zuanich wrote:

Dear Mike and Meredith:

I know Mike has been out of the office and according to his voicemail will return on Monday. I'm hoping we might teleconference next week to discuss those items raised during our December 15th call:

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Thanks and trust you had a great Holiday season.

Rob

Subject: SE AK Seine Legal Arguments

From: Trevor McCabe <tmccabe@mccabe-law.com>

Date: Wed, 07 Feb 2007 10:40:43 -0900

To: 'Peter D Jones' <Peter.D.Jones@noaa.gov>

CC: Rob Zuanich <rpz@psvoa.com>, Michael A Sturtevant <Michael.A.Sturtevant@noaa.gov>

Pete,

Below are some of the factors that the Southeast Seiners Association believes should be taken into consideration to allow the Southeast seine capacity reduction program to move forward immediately. It has been over two years since Congress and the President enacted the SE Seine capacity reduction program through section 209 of P.L. 106-447, which became law on December 8, 2004. Here are some relevant points:

(1) P.L. 106-447 (Section 209 - SE AK Seine Capacity Reduction Program): Section 209 of P.L. 106-447 specifically satisfied the Federal Credit Reform Act (2 U.S.C. 661 et seq.) by appropriating \$500,000 in FY05 Pacific Coastal Salmon Recovery funds for the "cost of the loan" that was authorized by section 209 in the Southeast Alaska salmon seine fishery. As enacted, section 209 not only allowed, but actually required the SE seine program to occur after FY06. While FY05 ended on September 30, 2005, section 209 stipulated that repayment of the loan could not begin until after January 1, 2006. Congress did not intend for the \$500K in loan cost funds to disappear after September 30, 2005. Congress specifically intended for the loan cost that was provided in FY05 to be used and the loan disbursed during 2006 or later.

(2) 2 U.S.C. 661 (Federal Credit Reform Act): Section 661(d)(2) of the FCRA seems to say that the \$500,000 appropriation should have been paid into the credit program account of the Government—and not in limbo or one-year money. When the loan is established, the \$500,000 would be paid into the financing account and recorded (hopefully in fiscal year 2007), subject to a successful referendum. The SE Seine fleet should not be penalized or again delayed if the \$500,000 was not paid into the credit program account. After all, NMFS acknowledges that Congress transferred the \$500,000 from the PCSRF to the program — and these funds should have been transferred to the credit program account. Congress satisfied the requirement of section 661(b) of the FCRA in FY 05 and should not have to again appropriate for the same purpose.

The FCRA specifically contemplates a gap in the fiscal years between when the appropriation is made for a loan, and when when the loan is actually used/dispursed. For purposes of budget accounting, the FCRA specifies that the authority for new direct loan obligations "shall constitute new budget authority...in the year in which definite authority becomes available" (2 U.S.C. 661c(d)(1)) (presumably the fiscal year in which the appropriation was made), and that "the outlays resulting from new budget authority for the cost of direct loans...shall be...recorded in the fiscal year in which the direct loan...is disbursed" (2 U.S.C. 661c(d)(2)). Under the FCRA, the authority for the loan and the disbursement of the loan are expected to occur in different fiscal years, similar to what is happening with the SE AK seine capacity reduction program.

(3) P.L. 106-479 (2007 AK Seine Program Amendment): Congress and the President validated their intent with the respect to the \$500K appropriated in FY05 through amendments that were just enacted on January 12, 2007 (P.L. 106-479). Under section 121 of P.L. 106-479, Congress and the President amended section 209 of P.L. 106-447 to REQUIRE the Secretary to finance the SE Seine capacity reduction program rather than leave the program as discretionary. Congress made a number of other changes to section 209, but did not change the appropriation of \$500K for the loan subsidy cost, obviously assuming that it was still valid.

(4) P.L. 106-553 (Pacific Coastal Salmon Recovery): Section 623 of P.L. 106-553 amended the Pacific Coastal Salmon Recovery program (section 623 of the FY00 CJS Approps bill; P.L. 106-113, sec.

1000(a)(1))) to specify that amounts "appropriated pursuant to this subparagraph shall be made available as direct payments." The \$500K that was appropriated by Congress and the President for the SE AK seine loan subsidy cost came from FY05 Pacific Coastal Salmon Recovery funds, and was therefore presumably subject to this "direct payment" language. We're not sure whether this has any direct bearing, but the "direct payments" requirement appears to have been intended to help streamline the delivery of Pacific salmon funds.

In summary, there are a variety of reasons why we believe that both the loan authority and loan subsidy cost funds remain available. On a more general level, the SE AK Seine Association and fleet are very frustrated. Congress enacted their program in December of 2004. The fleet has been jumping through hoops ever since, and keep being told by NMFS that they need one more thing from Congress. Congress has already enacted three separate measures in three separate fiscal years trying to move this program forward. Hopefully there is some way to avoid having to go to Congress a fourth time (and the SE AK seine fleet losing at least another year in the process).

We would be grateful for further review by the agency of this matter,

thanks,

Rob Zuanich - 208-283-7733

Trevor McCabe - 907-277-2677

Subject: RE: SE AK Seine Legal Arguments
From: Trevor McCabe <tmccabe@mccabe-law.com>
Date: Tue, 27 Mar 2007 16:38:27 -0800
To: 'Trevor McCabe' <tmccabe@mccabe-law.com>, 'Peter D Jones' <Peter.D.Jones@noaa.gov>, 'Michael A Sturtevant' <Michael.A.Sturtevant@noaa.gov>
CC: Rob Zuanich <rpz@psvoa.com>

Mike (cc: Pete):

Thanks for the time last week in WADC. Given the agency's position on the SE seine language, we are shifting gears back to Congress – again. If possible, it would be very helpful to have the agency's position in writing, and even better if it included the agency's preferred or suggested fix. If the "until expended" approach will work, that is probably the most simple, but we don't want to chase after that without knowing for sure it will satisfy the agency and allow the program to move forward.

Thanks again for the meeting and for your continued attention to this project!
Trevor

From: Trevor McCabe [mailto:tmccabe@mccabe-law.com]
Sent: Wednesday, February 07, 2007 10:41 AM
To: 'Peter D Jones'
Cc: Rob Zuanich; Michael A Sturtevant
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Subject: Phone meeting request

From: Trevor McCabe <tmccabe@mccabe-law.com>

Date: Wed, 14 Feb 2007 15:16:54 -0900

To: Michael A Sturtevant <Michael.A.Sturtevant@noaa.gov>

CC: 'Rob Zuanich' <rpz@psvoa.com>

Mike,

We were wondering if you would have some time later this week for a brief phone call to check in on the SE seine capacity reduction program, and NOAA's legal review of the appropriation. Any chance you gave time on Friday (Feb. 16) at 2:00 pm WADC time?

thanks,

Trevor

907-277-2677

Phone meeting request

Subject: Re: Phone meeting request
From: Michael A Sturtevant <Michael.A.Sturtevant@noaa.gov>
Date: Thu, 15 Feb 2007 12:54:51 -0500
To: Trevor McCabe <tmccabe@mccabe-law.com>
CC: 'Rob Zuanich' <rpz@psvoa.com>

Hi Trevor,

I am available tomorrow but our attorney has not yet received word from the appropriations lawyers. I think it best to wait until next week when we can hopefully provide more information but you can reach me tomorrow if you wish.

Mike

Trevor McCabe wrote:

Mike,

We were wondering if you would have some time later this week for a brief phone call to check in on the SE seine capacity reduction program, and NOAA's legal review of the appropriation. Any chance you gave time on Friday (Feb. 16) at 2:00 pm WADC time?

thanks,

Trevor

907-277-2677

Phone meeting request

Subject: RE: Phone meeting request
From: Trevor McCabe <tmccabe@mccabe-law.com>
Date: Thu, 15 Feb 2007 10:46:31 -0900
To: 'Michael A Sturtevant' <Michael.A.Sturtevant@noaa.gov>
CC: 'Rob Zuanich' <rpz@psvoa.com>

Mike,
Thanks -- that sounds like a better plan. If we don't hear from you first, we'll try you back towards the end of next week. Have a good weekend,

Trevor

From: Michael A Sturtevant [mailto:Michael.A.Sturtevant@noaa.gov]
Sent: Thursday, February 15, 2007 8:55 AM
To: Trevor McCabe
Cc: 'Rob Zuanich'
Subject: Re: Phone meeting request

Hi Trevor,

I am available tomorrow but our attorney has not yet received word from the appropriations lawyers. I think it best to wait until next week when we can hopefully provide more information but you can reach me tomorrow if you wish.

Mike

Trevor McCabe wrote:

Mike,
We were wondering if you would have some time later this week for a brief phone call to check in on the SE seine capacity reduction program, and NOAA's legal review of the appropriation. Any chance you gave time on Friday (Feb. 16) at 2:00 pm WADC time?

thanks,
Trevor
907-277-2677

Checking in

Subject: Checking in

From: Trevor McCabe <tmccabe@mccabe-law.com>

Date: Fri, 23 Feb 2007 08:54:15 -0900

To: 'Michael A Sturtevant' <Michael.A.Sturtevant@noaa.gov>

CC: 'Rob Zuanich' <rpz@psvoa.com>

Mike,

Just checking in to see if the agency's legal/accounting folks have completed their analysis of the SE AK seine capacity reduction program appropriation.

Thanks and hope all's well,
Trevor 907-277-2677 or
Rob 208-399-0427

Checking in

Subject: Re: Checking in
From: Michael A Sturtevant <Michael.A.Sturtevant@noaa.gov>
Date: Fri, 23 Feb 2007 16:09:06 -0500
To: Trevor McCabe <tmccabe@mccabe-law.com>
CC: 'Rob Zuanich' <rpz@psvoa.com>

Hi Trevor,

I checked with GC but they have not yet completed their research. I will keep pressing for an answer.

Mike

Trevor McCabe wrote:

Mike,

Just checking in to see if the agency's legal/accounting folks have completed their analysis of the SE AK seine capacity reduction program appropriation.

Thanks and hope all's well,
Trevor 907-277-2677 or
Rob 208-398-0427

eting next week

Subject: Meeting next week
From: Trevor McCabe <tmccabe@mccabe-law.com>
Date: Wed, 14 Mar 2007 15:53:37 -0800
To: 'Michael A Sturtevant' <Michael.A.Sturtevant@noaa.gov>
CC: Rob Zuanich <rpz@psvoa.com>

Mike,

I'm travelling to WA DC next Thurs (Mar 22) and Fri (Mar 23), and was wondering if you would have time for a meeting on either of those days. Mainly just to touch base; also to see if any progress on the legal review of the loan authority. If you can make some time, I'm pretty flexible on either day. Rob Zuanich may be with me as well, but he is still checking travel plans.

thanks and hope all's well,
Trevor
(907) 277-2677
(907) 227-6915 cell

~~Meeting next week~~

Subject: Re: Meeting next week
From: Michael A Sturtevant <Michael.A.Sturtevant@noaa.gov>
Date: Thu, 15 Mar 2007 13:52:05 -0400
To: Trevor McCabe <tmccabe@mccabe-law.com>
CC: Rob Zuanich <rpz@psvoa.com>

Hi Trevor,

I am available anytime next Thursday but will be out of the office on Friday. Please let me know what time works best for you. I had informally from GC that the Pacific Coast Salmon Recovery Fund can not be used for subsidy cost, as I had anticipated. Hopefully a formal response will be available by next week.

Mike

Trevor McCabe wrote:

Mike,

I'm travelling to WA DC next Thurs (Mar 22) and Fri (Mar 23), and was wondering if you would have time for a meeting on either of those days. Mainly just to touch base; also to see if any progress on the legal review of the loan authority. If you can make some time, I'm pretty flexible on either day. Rob Zuanich may be with me as well, but he is still checking travel plans.

thanks and hope all's well,

Trevor

(907) 277-2677

(907) 227-6915 cell

Michael A. Sturtevant <michael.a.sturtevant@noaa.gov>
Fishing Capacity Reduction Program Team Leader
Financial Services Division
National Marine Fisheries Service

Meeting next week

Subject: RE: Meeting next week
From: Trevor McCabe <tmccabe@mccabe-law.com>
Date: Thu, 15 Mar 2007 16:08:16 -0800
To: 'Michael A Sturtevant' <Michael.A.Sturtevant@noaa.gov>
CC: 'Rob Zuanich' <rpz@psvoa.com>

Mike,
Thanks -- Next Thursday (Mar 22) sounds great. Would 9:00 am work for you?

Trevor

From: Michael A Sturtevant [mailto:Michael.A.Sturtevant@noaa.gov]
Sent: Thursday, March 15, 2007 9:52 AM
To: Trevor McCabe
Cc: Rob Zuanich
Subject: Re: Meeting next week

Hi Trevor,

I am available anytime next Thursday but will be out of the office on Friday. Please let me know what time works best for you. I had informally from GC that the Pacific Coast Salmon Recovery Fund can not be used for subsidy cost, as I had anticipated. Hopefully a formal response will be available by next week.

Mike

Trevor McCabe wrote:

Mike,
I'm travelling to WA DC next Thurs (Mar 22) and Fri (Mar 23), and was wondering if you would have time for a meeting on either of those days. Mainly just to touch base; also to see if any progress on the legal review of the loan authority. If you can make some time, I'm pretty flexible on either day. Rob Zuanich may be with me as well, but he is still checking travel plans.

thanks and hope all's well,
Trevor
(907) 277-2677
(907) 227-8915 cell

Subject: Southeast Capacity Reduction
From: Rob Zuanich <rpz@pavoa.com>
Date: Sat, 21 Apr 2007 16:08:42 -0700
To: 'Michael A Sturtevant' <Michael.A.Sturtevant@noaa.gov>
CC: 'Trevor McCabe' <tmccabe@mccabe-law.com>, AKWAPSC@aol.com

Mike:

We are slowly reconciling the fact this program will not go forward without a new appropriation for the loan subsidy cost. When that happens, we hope to quickly move forward.

Can you provide me with an electronic copy (preferably in Word format) of the final rules, including the reduction Contract, for the BSAI non-pollock reduction program published in the Federal Register, September 29, 2006? We are now ready to draft our plan in a similar format with an eye toward having a final product when NMFS is ready to issue rules. We will also be drafting the reduction contract in consultation with the Alaska Commercial Fisheries Entry Commission, which will ultimately retire the permits. Thanks.

Rob

Subject: Re: Southeast Capacity Reduction
From: Michael A Sturtevant <Michael.A.Sturtevant@noaa.gov>
Date: Mon, 23 Apr 2007 09:56:36 -0400
To: Rob Zuanich <rpz@psvoa.com>
CC: 'Trevor McCabe' <tmccabe@mccabe-law.com>, AKWAPSC@aol.com

Hi Rob,

Unfortunately that is indeed the case. Attached is the final rule for the BSAI non-pollock groundfish longline catcher processor buyback which includes the reduction contract. I don't have the contract in a word document file. Hope it helps.

Mike

Rob Zuanich wrote:

Mike:

We are slowly reconciling the fact this program will not go forward without a new appropriation for the loan subsidy cost. When that happens, we hope to quickly move forward.

Can you provide me with an electronic copy (preferably in Word format) of the final rules, including the reduction Contract, for the BSAI non-pollock reduction program published in the Federal Register, September 29, 2006? We are now ready to draft our plan in a similar format with an eye toward having a final product when NMFS is ready to issue rules. We will also be drafting the reduction contract in consultation with the Alaska Commercial Fisheries Entry Commission, which will ultimately retire the permits. Thanks.

Rob

Michael A. Sturtevant <Michael.a.sturtevant@noaa.gov>
Fishing Capacity Reduction Program Team Leader
Financial Services Division
National Marine Fisheries Service

Final Rule.pdf	Content-Type: application/pdf Content-Encoding: base64
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Federal Register

Friday,
September 29, 2006

Part IV

Department of Commerce

**National Oceanic and Atmospheric
Administration**

50 CFR Part 600

**Fishing Capacity Reduction Program for
the Longline Catcher Processor Subsector
of the Bering Sea and Aleutian Islands
Non-pollock Groundfish Fishery; Final
Rule**

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 060731287-4248-02; LD, 061706P]

RIN 0648-AU42

Fishing Capacity Reduction Program for the Longline Catcher Processor Subsector of the Bering Sea and Aleutian Islands Non-pollock Groundfish Fishery

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule implementing the Bering Sea and Aleutian Islands (BSAI) Catcher Processor Capacity Reduction Program (Reduction Program) for the longline catcher processor subsector of the BSAI non-pollock groundfish fishery (Reduction Fishery), in compliance with the FY 2006 Appropriations Act. This program is voluntary and permit holders of the Reduction Fishery (Subsector Members) are eligible to participate. Subsector Members must sign and abide by the Capacity Reduction Agreement (Reduction Agreement) and, if their offers are selected, a Fishing Capacity Reduction Contract (Reduction Contract) with the U.S. Government. These key components of the Capacity Reduction Plan (Reduction Plan) were prepared by the Freezer Longline Conservation Cooperative (FLCC) and are implemented by the final regulations. The aggregate of all Reduction Agreements and those Reduction Contracts signed by Subsector Members whose offers were accepted by 3/4 votes of the Subsector Members, will together with the FLCC's supporting documents and rationale that these offers represent the expenditure of the least money for the greatest capacity reduction, constitute the Reduction Plan to be submitted to the Secretary of Commerce for approval. Subsector Members participating in the Reduction Program will receive up to \$36 million in exchange for relinquishing valid non-interim Federal License Limitation Program BSAI groundfish licenses endorsed for catcher processor fishing activity, Catcher/Processor (C/P), Pacific cod, and hook and line gear, as well as any present or future claims of eligibility for any fishing privileges based on such permit

(the Groundfish Reduction Permit) and additionally, any future fishing privilege of the vessel named on the permit. Individual fishing quotas (IFQ) quota shares would be excluded from relinquishment. Following submission of the Reduction Plan and approval by the Secretary, NMFS will conduct an industry referendum to determine the industry's willingness to repay a fishing capacity reduction loan to effect the Reduction Plan. A 3/4 majority vote in favor would bind all parties and complete the reduction process. NMFS will issue a 30-year loan to be repaid by those harvesters remaining in the Reduction Fishery. The intent of this final rule is to permanently reduce harvesting capacity in the Reduction Fishery. This should result in increased harvesting productivity for post-reduction Subsector Members and help with conservation and management of the Reduction Fishery.

DATES: This rule is effective October 30, 2006.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for this action may be obtained from the mailing address listed here or by calling Michael A. Sturtevant (see FOR FURTHER INFORMATION CONTACT).

Send comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule to Michael A. Sturtevant at the address specified above and also to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer) or e-mail to David_Rosker@ob.sop.gov, or fax to (202) 395-7825.

FOR FURTHER INFORMATION CONTACT: Michael A. Sturtevant at 301-713-2390, fax 301-713-1306, or michael.a.sturtevant@noaa.gov.

SUPPLEMENTARY INFORMATION: Electronic Access. This Federal Register document is also accessible via the Internet at <http://www.access.gpo.gov/nr-docs/aces/aces140.html>.

Statutory and Regulatory Background

NMFS published the proposed rule for this action in the Federal Register on August 11, 2006 (71 FR 46364) with a public comment period through September 11, 2006. NMFS received comments from three commenters and the comments and responses are discussed under the succeeding ~~Comments and Responses section of this~~ preamble.

The portions of the preamble to the proposed rule explaining the Reduction Program, Approval of the Reduction Plan, the Referenda, and the Contract are crucial to understanding this final regulatory action and are repeated here. For additional information on underlying authority in the Magnuson-Stevens Fishery Conservation and Management Act, management of BSAI fisheries, and NMFS' framework and specific fishing capacity reduction regulations, persons can consult the preamble to the proposed rule.

The measures contained in this final rule to establish the Reduction Program are authorized by Title II, Section 219 of the FY 2006 Appropriations Act (Act) (Public Law 106-447; 2004 enacted H.R. 4818, December 8, 2004), and in particular by Section 219(e) of the Act. Also, Public Law 106-199 provided the initial \$500,000 subsidy cost to fund a \$50 million loan and Public Law 106-447 provided an additional \$250,000 subsidy cost to fund \$26 million more (in addition to providing for the buyback program itself). While the Act authorizes the establishment of fishing capacity reduction programs for catcher processor subsectors within the Alaska groundfish fisheries (i.e., the longline catcher processor subsector, the American Fisheries Act (AFA) trawl catcher processor subsector, the non-AFA trawl catcher processor subsector, and the pot catcher processor subsector) based on capacity reduction plans and contracts developed by industry and approved by NMFS, this final rule only addresses the longline catcher processor subsector of the Reduction Fishery. The remaining subsectors may later develop capacity reduction plans and contracts for the other three catcher processor subsectors.

The FLCC on behalf of the Reduction Fishery drafted the Reduction Agreement which NMFS seeks to incorporate into its existing fishing capacity reduction regulations by this final rule. The Reduction Agreement, the Reduction Contract, and application of certain other existing Federal law and regulations referred to above are the basis for the Reduction Plan. The aggregate of all Reduction Agreements and Reduction Contracts signed by Subsector Members whose offers to participate in this buyback are ranked highest by the FLCC will constitute the Reduction Plan and will be submitted to NMFS for approval.

The Reduction Agreement and the Reduction Contract are the two key components of the Reduction Plan and this final rule. Substantive provisions of the Reduction Agreement would be codified at 50 CFR 600.1106 along with

a requirement for all members of the Reduction Fishery submitting offers to participate in the Reduction Program to execute the Reduction Contract (i.e., the requirement for an Offeror to execute a Reduction Contract will be codified and the Reduction Contract appended). Wherever the term Offeror is used in this preamble and regulation, it also includes any co-Offerors.

The Act authorized not more than \$36 million in loans (reduction loan) to fund the Reduction Program. NMFS' authority to make this loan resides in sections 1111 and 1112 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1279f and 1279g) (MMA) (title XI).

Reduction Program—Overview

Participation in the Reduction Program would be open to any member of the Longline Subsector. Each Subsector Member will receive a notice of the FLCC Reduction Agreement and Reduction Contract and enrollment documents by certified mail. The FLCC Reduction Program is essentially divided into four phases: (1) Enrollment; (2) offer selection; (3) plan submission; and (4) implementation, after approval by referendum. Only LLP licenses and other assets (including fishing history) voluntarily submitted for removal from the Reduction Fishery shall be subject to reduction. Because there exist what are commonly referred to as "latent licenses" within the Reduction Fishery which the FLCC membership desires to remove, latent LLP licenses need not be associated with a vessel for inclusion as assets to be reduced under the Reduction Program. Fees for repayment of the loan which funds the Reduction Program will be collected from the Subsector Members who continue operations in the Reduction Fishery after implementation of the Reduction Program set forth in § 600.1106.

Reduction Program—The Capacity Reduction Agreement

Basic Agreement

On April 12, 2006, the FLCC submitted a Reduction Agreement, Reduction Contract, and Executive Summary for a Reduction Plan for the Reduction Fishery to NMFS. The Reduction Plan's express objective is to permanently reduce harvesting capacity in the Reduction Fishery by removal of Groundfish Reduction Permits, Reduction Fishing Privileges, and the Reduction Fishing Interests that are specified in the Reduction Contract (which is appended to § 600.1106). The FLCC will implement the process of qualifying and enrolling Subsector

Members and selecting offers from Subsector Members to remove fishing capacity by means of this buyback. Once the FLCC has completed the selection process, the highest ranking offers, the rationale for acceptance, the Reduction Agreements, the Reduction Contracts (from Subsector Members whose offers were selected), and any other supporting documents will be submitted as the Reduction Plan, by the FLCC to NMFS for approval, on behalf of the Secretary of Commerce, in compliance with Section 219(e) of the Act.

Those Subsector Members submitting approved offers would give up all Federal fishery licenses, fishery permits, and area and species endorsements issued for any vessel named on the Groundfish Reduction Permit, as well as any present or future claims of eligibility for any fishery privilege based upon such permit. The Subsector Members would also have to relinquish Reduction Fishing History consisting of: (1) The Reduction Privilege Vessel's full and complete documented harvest of groundfish; (2) for any documented harvest of the Reduction Privilege Vessel, any right or privilege to make any claim related to any fishery privilege that might qualify for any future fishing license (see Section 8.b. of the Contract for additional details); (3) any documented harvest on any other vessel (Reduction Fishing Vessel) that gave rise to the Groundfish Reduction Permit; and (4) all fishing history associated with the latent LLP license identified on the Selected Offer and any fishing history associated with the fishing vessel that gave rise to the latent LLP license that remains in the Offeror's possession as of August 11, 2006 (i.e., date of publication of the proposed rule in the Federal Register).

Regarding the vessel named on the Groundfish Reduction Permit (the Reduction Privilege Vessel), the Offeror will accept the imposition of Federal vessel documentation restrictions that have the effect of permanently revoking the Reduction Privilege Vessel's legal ability to fish anywhere in the world as well as its legal ability to operate under foreign registry or control—including the Reduction Privilege Vessel's fisheries trade endorsement under the Commercial Fishing Industry Vessel Anti-Ratfishing Act (46 U.S.C. 12106); eligibility for the approval required under section 9(c)(2) of the Shipping Act, 1916 (46 U.S.C. App. 606(c)(2)), for the placement of a vessel under foreign flag or registry, as well as its operation under the authority of a foreign country; and the privilege otherwise to ever fish again anywhere in the world (the Reduction Fishing Privilege).

The Reduction Fishing Interest that would be removed would not include any: Right, title and/or interest to harvest, process or otherwise utilize individual fishing quota ("IFQ") quota share in the halibut, sablefish and crab fisheries pursuant to 50 CFR parts 679 and 680.

Reduction Agreement Terms and Definitions

Capitalized terms used in the Reduction Agreement are defined in Schedule A to the Reduction Agreement; other terms are defined within the text of the Reduction Agreement. Those Reduction Agreement terms that are essential to understanding the regulatory provisions are set forth in § 600.1106(b) and include "Application Form", "Capacity Reduction Agreement or Reduction Agreement", "Closing Vote", "Current Offeror", "Fishing Capacity Reduction Contract or Reduction Contract", "FLCC Counsel", "LLP License", "Offer(s)", "Rejected Offer", and "Website". Other terms important to understanding these regulations and the Reduction Contract, including "Reduction Privilege Vessel", are also set forth in § 600.1106(b).

Reduction Agreement: Major Sections

There are three major sections of the Reduction Agreement: Qualification and Enrollment of Subsector Members; Selection of Offers to Remove Fishing Capacity by the Reduction Plan; and Submission of Reduction Plan. NMFS codifies these provisions as Federal regulations in 50 CFR 600.1106.

Qualification and Enrollment. Subsector Members may enroll in the Reduction Program at any time prior to closing the selection of offers to reduce capacity. Enrollment is accomplished by executing a Reduction Agreement and submitting specified supporting documents evidencing an applicant's status as a Subsector Member. Each of the supporting documents will be reviewed by Tagart Consulting who will serve as the Auditor for the Reduction Program. The Auditor will review all documents for strict compliance with the regulatory provisions of § 600.1106. Each Reduction Agreement becomes effective 10 days after written notice is sent by the Auditor to each holder of a LLP license endorsed for BS or AJ catcher processor activity, C/P, Pacific cod and hook and line gear, informing that more than 70 percent of Subsector Members have submitted complete applications certified by the Auditor as complying with § 600.1106. For more specific information on qualification and enrollment of Subsector Members, see § 600.1106(c) of this final rule.

Selection of Offers to Remove Fishing Capacity by the Reduction Plan. Once more than 70 percent of the Subsector Members have effective Reduction Agreements, the offer selection process begins. An offer is a binding offer to relinquish to the United States Government the assets identified in the offer in consideration of a dollar amount certain set by the Offeror, and may not be withdrawn once entered, unless it is rejected during the selection process.

Essentially, during the offer process, Subsector Members will alternate on a weekly basis between Submission Periods (see § 600.1106(d)(3)(ii)) and Ranking Periods (see § 600.1106(d)(5)(ii)). During any Submission Period, a Subsector Member may offer, for inclusion in the Reduction Program, its LLP license(s) and withdrawal of the vessel(s) designated on the LLP license(s) from all fisheries. During the Ranking Period, nonoffering Subsector Members may rank the offers submitted during the prior Submission Period. At the end of each Ranking Period, the Auditor will tabulate and post on a website the results of ranking the offers up to a total offer price of \$36 million. Those offers ranked within the \$36 million are Selected Offers and those that are not ranked within the \$36 million are Rejected Offers with the Rejected Offers being voided and no longer binding on the offering member(s).

Once the offer rankings are posted, a new Submission Period begins with the process repeated until at least ¼ of the Nonoffering Subsector Members call for a closing vote. If ¾ of the Nonoffering Members accept the Selected Offers proposed in the closing vote, the selection process to remove capacity by the Reduction Plan terminates. If not, the selection process resumes with a new Submission Period. For more specific information on ranking and selection of offers to remove capacity, see § 600.1106(d).

Plan Submission, Including Repayment. After the Selection Process is complete, the FLCC will develop the Reduction Plan in compliance with the Act, the MSA, and other applicable laws and regulations for submission to NMFS for approval on behalf of the Secretary of Commerce. The Reduction Plan will include the LLP licenses and other fishing interests selected by the offer process as the assets to be purchased in the Reduction Program, and provide for repayment over a 30-year term. The Reduction Plan must also include the FLCC's supporting documents and rationale for recognizing that these offers represent the expenditure of the least money for the greatest capacity

reduction. Acceptance of the Offers are at the sole discretion of NMFS on behalf of the Secretary of Commerce. Further, the FLCC will give notice of the Reduction Plan to the North Pacific Fishery Management Council as required by the Act.

Repayment of the loan will begin by collection of annual fees collected from the Subsector Members operating in the Reduction Fishery after implementation of the Reduction Program. The amount of such fee will be calculated on an annual basis as: the principal and interest payment amount necessary to amortize the loan over a 30-year term, divided by the Reduction Fishery portion of the BSAI Pacific cod initial total allowable catch (ITAC) allocation in metric tons (converted to pounds), provided that the fees should not exceed 5 percent of the average ex-vessel production value of the Reduction Fishery. In the event that the total principal and interest due exceeds 5 percent of the ex-vessel Pacific cod revenues, a penny per pound round weight fee will be calculated based on the latest available revenue records and NMFS conversion factors for pollock, arrowtooth flounder, Greenland turbot, skate, yellowfin sole and rock sole. For more specific information on submission of the Reduction Plan, including fees to repay the Reduction Loan, see § 600.1106(e).

The Reduction Program—Other Matters Relating to the Reduction Agreement and Reduction Plan

Review/Disputes

The Reduction Agreement (but not these final regulations) provides for an expedited process to review any decision by the Auditor and for settlement of disputes utilizing an expedited review process by pre-selected legal counsel and, if necessary, binding arbitration. Also, all Offerors must comply with FLCC bylaws. By motion unanimously accepted by the members of the FLCC on February 21, 2006, the members of the FLCC approved the FLCC's development of a capacity reduction program in compliance with the Act (the Motion).

Decisions of the Auditor and the FLCC

Under § 600.1106(f), the Offerors are subject to the terms and conditions set forth in the Reduction Agreement to settle any disputes regarding the decisions of the Auditor or the FLCC. That section also explains the scope of the Auditor's examination.

Other Provisions of the Reduction Agreement

Regulatory provisions mirroring the Reduction Agreement's provisions for Enforcement/Specific Performance, Miscellaneous, Amendment, and Warranties are specified at §§ 600.1106(g), (h), (i), and (j), respectively.

Approval of the Reduction Plan

The criteria for NMFS, on behalf of the Secretary, to approve any Reduction Plan are specified at § 600.1106(k). Among other things, the Assistant Administrator of NMFS must find that the Reduction Plan is consistent with the Act and the MSA, and that it will result in the maximum sustained reduction in fishing capacity at the least cost and in the minimum amount of time.

The FLCC has not yet submitted the Reduction Plan to NMFS for approval and cannot do so until after this final rule is published. If the FLCC submitted the Reduction Plan before the publication of this final rule, it may be necessary for the FLCC to revise and re-submit the Reduction Plan to conform with the provisions of the final rule.

The Referenda

NMFS will conduct an industry referendum to determine the industry's willingness to repay a fishing capacity reduction loan to purchase the licenses, fishing rights, etc. identified in the Reduction Plan subsequent to the publication of this final rule. A successful referendum by 2/3 of the members of the Reduction Fishery would bind all parties and complete the reduction process.

The current Fishing Capacity Reduction Framework regulatory provisions of § 600.1010 stipulate procedural and other requirements for NMFS to conduct referenda on fishing capacity reduction programs. Section 600.1106(l) makes those framework referenda requirements applicable to the Reduction Program for the Longline Subsector. After approval of the Reduction Program via a referendum, the Reduction Program will be implemented.

The Contract

An appendix to this § 600.1106 sets forth the Contract component of the Reduction Program for the Longline Subsector. The appendix, or Contract, will also be codified along with the regulatory text of § 600.1106.

Comments and Responses

The public comment period on the subject proposed rule (71 FR 46364)

closed at midnight on September 11, 2006. A total of three commenters submitted comments (two via e-mail and one faxed comments to NMFS). Two comments were from individuals. One was a brief comment supporting the reduction of longlines and the rule. The other was a brief comment opposing the rule because it is voluntary and instead supports a mandatory reduction in fish catch. The third commenter was the legal counsel, Bauer Moynihan & Johnson LLP, who represents the Freezer Longline Conservation Cooperative (FLOC) in any review or arbitration under the Capacity Reduction Agreement. The comments by the FLOC's counsel raised three concerns: (1) The need to make clear that Reduction Contracts were not required to enroll in the Reduction Program and were only required of Selected Offerors; (2) that only fishing history connected to the license and/or vessels identified on a Selected Offer should be relinquished; and (3) that the description of the Reduction Plan was incomplete in the preamble's discussion of the Reduction Program. All comments are elaborated on below and NMFS responses are provided.

Comment 1: The commenter expressed support for reducing longline fishing stating their belief that the fewer longlines there are, the better it would be for the ocean and all marine life living in it.

Response: The rule is designed to reduce the number of permitted longline catcher processor vessels fishing in the BSAI non-pollock groundfish fishery, and will not necessarily reduce the number of longline sets. The commenter gave no specific rationale for their suggestion that the number of longlines be reduced. The purpose and need for this action is to reduce excess capacity in one of the major non-pollock groundfish sectors and help achieve the conservation and economic objectives of the fishery management plan. There is no known scientific basis for reducing the number of longlines as suggested by the commenter.

Comment 2: The commenter is opposed to the reduction program in this fishery being voluntary and instead encourages that the program be made mandatory. The commenter supports a mandatory program to reduce the catch in the BSAI area to preserve fish for future generations.

Response: The reduction program is required to be a voluntary program by statute (Title II, Section 219 of the FY 2006 Appropriations Act; Public Law 108-447). The rule is designed to reduce the number of licensed fishing vessels not the amount of catch. Each year the

North Pacific Fishery Management Council and NMFS consider the best scientific information for the BSAI groundfish fishery, including any new stock assessment information, fishing mortality, natural mortality, and other pertinent scientific information in setting harvest quotas for the coming fishing year. Currently, no stocks of fish in the BSAI groundfish fishery are overfished or subject to overfishing. NMFS is confident that sound management currently practiced on these stocks will adequately preserve these stocks.

Comment 3: The commenter pointed out that the Summary (at 71 FR 48364) and § 600.1106(c)(2) (at 71 FR 48366) of the proposed rule incorrectly indicates that each Subsector Member wanting to enroll with the FLOC to participate in the Reduction Program must execute and deliver a Reduction Contract as part of their application. The commenter states that the Reduction Agreement (designed by industry) is the mechanism whereby persons establish their eligibility to enroll and that only those Subsector Members whose offers are selected must execute a Reduction Contract. The commenter asks that the language regarding the requirements for enrollment as a Subsector Member be revised to delete the requirement that a Reduction Contract be executed as a condition to enrollment.

Response: NMFS agrees that to participate in the process by enrolling with the FLOC in the Reduction Program, Subsector Members only need to sign a Reduction Agreement. While all members of the BSAI groundfish longline subsector are Subsector Members and all may vote on offers to relinquish permits in the buyback, only Subsector Members who have enrolled with the FLOC in the Reduction Program may submit offers. NMFS also agrees with the commenter that only those Subsector Members whose offers are selected must execute a Reduction Contract. Any Selected Offer by a participating Subsector Member must be submitted with a signed Reduction Contract. NMFS has modified the Summary and § 600.1106(c)(2) of the rule to clarify that a Reduction Contract is only required for those Subsector Members submitting Selected Offers.

Comment 4: The commenter is opposed to the Contract's Section 8.c. (actually Section 8.d.) requirement in the Appendix to § 600.1106 (at 71 FR 48373) that all fishing history associated with any latent license that remains in the Offeror's possession as of August 11, 2006, must be relinquished by any Offeror. The commenter states that this requirement is inconsistent with the

Reduction Agreement and the intent of the FLOC, and that only fishing history connected to the license and/or vessels identified on a Selected Offer should be relinquished.

Response: NMFS agrees that only fishing history associated with any latent permit that is identified on the Selected Offer (and subsequently on the Reduction Contract) should be relinquished rather than all fishing history associated with any latent license that was in the Offeror's possession on August 11, 2006. In the proposed rule, NMFS was attempting to collect all fishing history associated with latent permits held by the Offeror; however, NMFS recognizes the inconsistency with the Reduction Agreement and supports the intent of the FLOC to provide flexibility to Subsector Members, who hold more than one LLP license, in relinquishing their licenses. NMFS has modified the Section 8.d. requirement in the Contract contained in the Appendix to § 600.1106 so that it is limited to relinquishing all fishing history associated with the latent LLP license identified on the Selected Offer, including any fishing history associated with the fishing vessel that gave rise to the latent LLP license that remained in the Offeror's possession as of August 11, 2006.

Comment 5: The commenter indicated that the description of the Reduction Plan was incomplete in the preamble's discussion of the Reduction Program at 71 FR 48368. The commenter stated that the Reduction Agreements and Reduction Contracts, while elements of the Reduction Plan, do not by themselves constitute the Reduction Plan and referred to § 600.1106(e) (at 71 FR 48373) of the proposed rule which identified other elements of the Reduction Plan.

Response: NMFS has modified the description of the Reduction Plan in the preamble's discussion of the Reduction Program to include mention of the FLOC's supporting documents and rationale that these offers represent the expenditure of the least money for the greatest capacity reduction, together with the Reduction Agreements and Reduction Contracts, as constituting the Reduction Plan. This is now consistent with the Summary and § 600.1106(e).

Classification

The Assistant Administrator for Fisheries, NMFS, determined that this final rule is consistent with Title II, Section 219 of the FY 2006 Appropriations Act, Public Law 108-447, and with the Magnuson-Stevens

Fishery Conservation and Management Act, codified at 16 U.S.C. 1601 et seq.

In compliance with the National Environmental Policy Act, NMFS prepared an environmental assessment for this final rule. The assessment discusses the impact of this final rule on the natural and human environment and integrates a Regulatory Impact Review (RIR) and a Final Regulatory Flexibility Analysis (FRFA). NMFS will send the assessment, the review and analysis to anyone who requests a copy (see ADDRESSES).

NMFS prepared a FRFA, as required by section 603 of the Regulatory Flexibility Act (RFA), to describe the economic impacts this final rule would have on small entities. NMFS intends the analysis to aid us in considering regulatory alternatives that could minimize the economic impact on affected small entities. The final rule does not duplicate or conflict with other Federal regulations.

Summary of FRFA

The Small Business Administration (SBA) has defined small entities as all fish harvesting businesses that are independently owned and operated, not dominant in its field of operation, and with annual receipts of \$4 million or less. In addition, processors with 500 or fewer employees for related industries involved in canned or cured fish and seafood, or preparing fresh fish and seafood, are also considered small entities. Small entities within the scope of this final rule include individual U.S. vessels and dealers. There are no disproportionate impacts between large and small entities.

Description of the Number of Small Entities

The FRFA uses the most recent year of data available to conduct the analysis (2003). The vessels that might be considered large entities were either affiliated under owners of multiple vessels or were catcher processors. However, little is known about the ownership structure of the vessels in the fleet, so it is possible that the FRFA overestimates the number of small entities. In the Reduction Fishery, 24 of the 39 vessels meet the threshold for small entities. The remaining 13 vessels are not considered small entities for purposes of the RFA. There are 5 additional fishermen with permits but no vessels in the Longline Subsector who would benefit if they later purchase vessels and participate in the post-Reduction Fishery because there will be less competition for the harvest. Also, they would benefit if they chose to be bought out; and there would be no

impact to them if they did not buy a vessel and were not selected for the buyback. Implementation of the buyback program would not change the overall reporting structure and record keeping requirements of the vessels in the BSAI Pacific cod fisheries. However, this program would impose collection of information requirements totaling 16 hours 10 minutes.

Most firms operating in the Reduction Fishery have annual gross revenues of less than \$4 million. The FRFA analysis estimates that 24 of the 39 active longline catcher processor vessels (i.e., 39 vessels constitute the Longline Subsector) that participated in 2003 are considered small entities. The ownership characteristics of vessels operating in the Reduction Fishery are not available and therefore it is not possible to determine with certainty, if they are independently owned and operated, or affiliated in one way or another with a larger parent company. Furthermore, because analysts cannot quantify the exact number of small entities that may be directly regulated by this action, a definitive finding of non-significance for this final action under the RFA is not possible. However, because the final rule will not result in changes to allocation percentages and participation is voluntary, net effects are expected to be minimal relative to the status quo.

The final rule's impact will be positive for both those whose offers NMFS accepts and for post-reduction catcher processors whose landing fees repay the reduction loan because the Offerors and catcher processors would have voluntarily assumed the impact:

1. Offerors would have volunteered to make offers at dollar amounts of their own choice. Presumably, no Offeror would volunteer to make an offer with an amount that is inconsistent with the Offeror's interest; and
2. Reduction loan repayment landing fees would be authorized, and NMFS could complete the Reduction Program, only if at least two-thirds of Subsector Members voting in a post-offer referendum voted in favor of the Reduction Plan. Presumably, Subsector Members who are not Selected Offerors would not vote in favor of the Reduction Plan unless they concluded that the Reduction Program's prospective capacity reduction was sufficient to enable them to increase their post-reduction revenues enough to justify the fee.

Those participants remaining in the fishery after the buyback will incur additional fees of up to 5 percent of the ex-vessel production value of post-reduction landings. However, the

additional costs could be mitigated by increased harvest opportunities by post-reduction fishermen.

This final rule would affect neither authorized BSAI Pacific cod ITAC and other non-pollock groundfish harvest levels nor harvesting practices.

NMFS rejected the no action alternative considered in the EA because NMFS would not be in compliance with the mandate of Section 219 of the Act to establish a buyback program. In addition, the longline catcher processor subsector of the non-pollock groundfish fishery would remain overcapitalized. Although too many vessels compete to catch the current subsector total allowable catch (TAC) allocation, fishermen remain in the fishery because they have no other means to recover their significant capital investment. Overcapitalization reduces the potential net value that could be derived from the non-pollock groundfish resource, by dissipating rents, driving variable operating costs up, and imposing economic externalities. At the same time, excess capacity and effort diminish the effectiveness of current management measures (e.g. landing limits and seasons, bycatch reduction measures). Overcapitalization has diminished the economic viability of members of the fleet and increased the economic and social burden on fishery dependent communities.

NMFS determined that this final rule is not significant for purposes of Executive Order 12866 based on the RIR/FRFA.

This final rule contains information collection requirements subject to the Paperwork Reduction Act (PRA). The Office of Management and Budget (OMB) previously approved this information collection under OMB Control Number 0648-0376 with requirements for 876 respondents with a total response time of 38,863 hours.

NMFS estimates that the public reporting burden for this information collection would average 4 hours for making an offer (which includes executing the Reduction Agreement and Reduction Contract) and 4 hours for voting in a referendum. Persons affected by this final rule will also be subject to other collection-of-information requirements referred to in the final rule and also approved under OMB Control Number 0648-0376. These requirements and their associated response times are: completing and filing a fish ticket (10 minutes), submitting monthly fish buyer reports (2 hours), submitting annual fish buyer reports (4 hours), and fish buyer/fish seller reports when a person fails

either to pay or to collect the loan repayment fee (2 hours).

These response estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. Public comment is sought regarding: whether this 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. Interested persons may send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to both NMFS and OMB (see addresses).

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

This action should not result in any adverse effects on endangered species or marine mammals.

List of Subjects in 50 CFR Part 600

Fisheries, Fishing capacity reduction, Fishing permits, Fishing vessels, Intergovernmental relations, Loan programs—business, Reporting and recordkeeping requirements.

Dated: September 21, 2006.

Jean Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For the reasons set out in the preamble, NMFS amends 50 CFR part 600, subpart M, as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

Subpart M—Specific Fishery or Program Fishing Capacity Reduction Regulations

■ 1. The authority citation for 50 CFR part 600, subpart M, is revised to read as follows:

Authority: 5 U.S.C. 561, 16 U.S.C. 1801 et seq., 18 U.S.C. 1861a(b) through (e), 46 App. U.S.C. 1279f and 1279g, section 144(d) of Division E of Pub. L. 102-584, section 2201 of Pub. L. 107-20, and section 206 of Pub.

L. 107-117, Pub. L. 107-206, Pub. L. 108-7, Pub. L. 108-199, and Pub. L. 108-447.

■ 2. Section 600.1106 is added to subpart M to read as follows:

§ 600.1106 Longline catcher processor subsector of the Bering Sea and Aleutian Islands (BSAI) non-pollock groundfish fishery program.

(a) *Purpose.* This section implements the capacity reduction program that Title II, Section 219(e) of Public Law 108-447 enacted for the longline catcher processor subsector of the Bering Sea and Aleutian Islands (BSAI) non-pollock groundfish fishery.

(b) *Definitions.* Unless otherwise defined in this section, the terms defined in § 600.1000 of subpart L of this part expressly apply to this section. The following terms have the following meanings for the purpose of this section:

Act means Title II, Section 219 of Public Law 108-447.

AI means the Aleutian Islands.

Application Form means the form published on the FLCC's website that sets forth whether the qualifying LLP Licensee is a Latent Licensee and identifies the individual(s) authorized to execute and deliver Offers and Offer Ranking Ballots on behalf of the Subsector Member.

Auditor means Jack V. Tagart, Ph.D., d.b.a. Tagart Consulting.

Authorized Party means the individuals authorized by Subsector Members on the application form to execute and submit Offers, Rankings, protests and other documents and/or notices on behalf of Subsector Member.

Ballot means the form found on the auditor's website used to cast a vote in favor of, or in opposition to, the currently Selected Offers.

BS means the Bering Sea.

BSAI means the Bering Sea and the Aleutian Islands.

BSAI Pacific Cod ITAC means the Total Allowable Catch for Pacific cod after the subtraction of the 7.5 percent Community Development Program reserve.

Capacity Reduction Agreement or Reduction Agreement means an agreement entered into by the Subsector Members and the FLCC under which the FLCC is permitted to develop and submit a Capacity Reduction Plan to the Secretary.

Certificate of Documentation (COD) means a document issued by the U.S. Coast Guard's National Documentation Center that registers the vessel with the United States Government.

Closing Vote means a vote held pursuant to paragraph (d)(7) of this section, after two-thirds (2/3) or more of the Nonoffering Subsector Members

submit Ranking Forms electing to accept the Selected Offers and close the Selection Process, and there are no unresolved Protests or Arbitrations.

Current Offer means an Offer submitted by a Subsector Member to the Auditor during any Submission Period and, with regard to such Offer, Offeror has not become a Rejected Offeror. The term "Current Offer" includes Selected Offers.

Current Offeror means an Offering Subsector Member that has submitted an Offer to the Auditor during any Submission Period and, with regard to such Offer, Offeror has not become a Rejected Offeror. The term "Current Offeror" includes Selected Offerors.

Database means the online LLP License database maintained by NMFS as downloaded by the Auditor pursuant to paragraph (c)(1) of this section.

Effective Date means the date the Capacity Reduction Agreement becomes effective pursuant to section 4.6 of the Capacity Reduction Agreement.

Fishing Capacity Reduction Contract or Reduction Contract means the contract that any Current Offeror must sign and agree to abide by if NMFS accepts the offer by signing the Reduction Contract.

FLCC Counsel means Bauer Moynihan & Johnson LLP or other counsel representing the FLCC in any review or arbitration under the Capacity Reduction Agreement.

Latent Licensee means an LLP Licensee on which a vessel was not designated at the time an Offer is submitted.

LLP Licensee means a Federal License Limitation Program groundfish license issued pursuant to § 679.4(k) of this chapter or successor regulation that is noninterim and transferable, or that is interim and subsequently becomes noninterim and transferable, and that is endorsed for BS or AI catcher processor fishing activity, C/P, Pacific cod and hook and line gear.

Longline Subsector means the longline catcher processor subsector of the BSAI non-pollock groundfish fishery as defined in the Act.

Longline Subsector ITAC means the longline catcher processor subsector remainder of the Total Allowable Catch after the subtraction of the 7.5 percent Community Development Program reserve.

Nonoffering Subsector Member shall have the meaning ascribed thereto in paragraph (d)(5)(i) of this section.

Offer Content means all information included in Offers submitted to the Auditor pursuant to paragraph (d)(2)(ii) of this section.

Offer Form means the form found on the Auditor's website used to make an offer.

Offer(s) means a binding offer(s) from a Subsector Member to sell its LLP, right to participate in the fisheries, the fishing history associated with such LLP, and any vessel set forth on the Offer Form submitted by Offeror pursuant to the terms of this Capacity Reduction Agreement.

Opening Date means the first Monday following the Effective Date set forth in paragraph (c)(3) of this section.

Person includes any natural person(s) and any corporation, partnership, limited partnership, limited liability company, association or any other entity whatsoever, organized under the laws of the United States or of a state.

Prequalification Offer shall have the meaning ascribed thereto in paragraph (d)(2)(iii) of this section.

Ranking Form means the form posted by the Auditor pursuant to paragraph (d)(5)(ii) of this section.

Ranking Period shall have the meaning ascribed thereto in paragraph (d)(5)(ii) of this section.

Reduction Fishery means the BSAI non-pollock groundfish fishery.

Reduction Fishing Interests shall have the meaning ascribed thereto in the Fishing Capacity Reduction Contract.

Reduction Plan means a business plan prepared by the Subsector Members in accordance with Section 1 of the Capacity Reduction Agreement and forwarded to the Secretary for approval.

Reduction Privilege Vessel means the vessel listed on the Offeror's License Limitation Program license.

Rejected Offer means an Offer that has been through one or more Rankings and is not a Selected Offer following the latest Ranking Period, with respect to which the Offering Subsector Member's obligations have terminated pursuant to paragraphs (d)(2)(i) and (d)(6)(v) of this section.

Rejected Offeror means a Subsector Member that has submitted an Offer which has been ranked and was not posted as a Selected Offer pursuant to paragraph (d)(6)(ii) of this section.

Restricted Access Management (RAM) means the Restricted Access Management Program in the Alaska Region, NMFS, located in Juneau, Alaska.

Secretary means the Secretary of Commerce or a designee.

Selected Offer shall have the meaning ascribed thereto in paragraph (d)(6)(iv) of this section.

Selected Offeror means a Subsector Member that has submitted an Offer which has been ranked and is posted as a Selected Offer pursuant to paragraph (d)(6)(ii) of this section.

Selection Process means the process set forth in paragraph (d) of this section for selecting the fishing capacity to be removed by the Reduction Plan.

Submission Period(s) or Submitting Period(s) shall have the meaning ascribed thereto in paragraph (d)(3)(ii) of this section.

Subsector Member(s) means a member(s) of the Longline Subsector.

Web site means the Internet Web site developed and maintained on behalf of the FLOC for implementation of the Selection Process described herein with a URL address of <http://www.freezerlonglinecoop.org>.

(c) Qualification and enrollment of subsector members—

(1) Distribution. A copy of the Reduction Agreement, Application Form, and Reduction Contract shall be mailed to each holder of record of an LLP License endorsed for BS or AI catcher processor activity, C/P, Pacific cod and hook and line gear, as the Auditor determines from the Database downloaded by the Auditor as of January 30, 2006, regardless of whether the LLP License is indicated in the Database as noninterim and transferable or otherwise.

(2) Application. Any person, regardless of whether having received the mailing described in paragraph (c)(1) of this section, may as a Subsector Member apply to enroll with the FLOC to participate in the Reduction Program, by submitting all of the following documents:

(i) Fully executed Reduction Agreement;

(ii) Photocopy of the LLP License(s) evidencing Subsector Member's qualification as a member of the Longline Subsector;

(iii) Unless applying as the holder of a Latent License, a photocopy of Federal Fisheries Permit for the vessel(s) designated on the LLP License(s) on the date the Reduction Agreement is signed by the Subsector Member;

(iv) Unless applying as the holder of a Latent License, a photocopy of the Certificate of Documentation (COD) for the vessel(s) designated on the LLP License(s) on the date the Reduction Agreement is signed by the Subsector Member; and

(v) An executed Application Form which sets forth whether the qualifying LLP License is a Latent License and identifies the individual(s) authorized to execute and deliver Offers and Offer Ranking Ballots on behalf of the Subsector Member.

(3) Examination by Auditor—(i) In general. Each application must be submitted to the Auditor who will examine applications for completeness

and inconsistencies, whether on the face of the documents or with the Database. Any application which is incomplete or which contains inconsistencies shall be invalid. The Auditor shall notify by e-mail or mail an applicant of the basis for the Auditor's finding an application invalid. An applicant may resubmit a revised application. If the application meets all requirements, the Auditor may accept the application as valid and enroll the applicant.

(ii) Interim LLP Licenses. If an LLP License is interim and/or nontransferable, the applicant's enrollment shall be accepted as a Subsector Member and may fully participate in the Selection Process. However, any posting of an Offer submitted with respect to such LLP License shall note the status of such LLP License until that Subsector Member submits to the Auditor a letter from the RAM confirming that it is within the Subsector Member's control to cause the qualifying LLP License to be issued as noninterim and transferable upon withdrawal of all applicable appeals.

(4) Enrollment period. Applications that meet all requirements will be accepted until the Selection Process is completed.

(5) Effective date. The Effective Date of any Reduction Agreement shall be ten (10) calendar days after written notice is sent by the Auditor to each holder of record of an LLP License endorsed for BS or AI catcher processor activity, C/P, Pacific cod and hook and line gear (as determined by the Auditor from the Auditor's examination of the Database) advising that the number of Subsector Members that have delivered to the Auditor a complete Application, including a fully executed Reduction Agreement, exceeds seventy percent (70 percent) of the members of the Longline Subsector (as determined by the Auditor from the Auditor's examination of the Database).

(6) Notice. All notices related to the effective date of the Reduction Agreement shall be sent by the Auditor via registered mail.

(7) Withdrawal. A Subsector Member, unless such Subsector Member is a Current Offeror or Selected Offeror, may terminate the Reduction Agreement at any time with respect to that Subsector Member by giving ten (10) calendar days written notice to the Auditor preferably via e-mail. Withdrawal of a Subsector Member shall not affect the validity of the Reduction Agreement with respect to any other Subsector Members. Once effective, the Reduction Agreement shall continue in full force and effect regardless of whether subsequent withdrawals reduce the number of

Subsector Members below that level required to effectuate the Reduction Agreement. Attempted withdrawal by a Current Offeror or Selected Offeror shall be invalid, and such Offer shall remain a binding, irrevocable Offer, unaffected by the attempted withdrawal.

(d) *Selection of fishing capacity to be removed by Reduction Plan.* The fishing capacity removed by the Reduction Plan will be the Reduction Fishing Interests voluntarily offered through the Reduction Plan by offering Subsector Members and as selected by the Nonoffering Subsector Members, up to an aggregate amount of thirty six million dollars (\$36,000,000) as set forth in this paragraph (d).

(1) *Overview.* The Selection Process will begin upon the Effective Date of the Reduction Agreement. The Selection Process will alternate on a weekly basis between:

(i) *Submitting Periods,* during which individual Subsector Members may submit Offers of fishing capacity they wish to include in the Reduction Plan; and

(ii) *Ranking Periods,* during which Nonoffering Subsector Members will rank the submitted Offers.

(2) *Offers—(i) Binding agreement.* An Offer from a Subsector Member shall be a binding, irrevocable offer from a Subsector Member to relinquish to NMFS the Reduction Fishing Interests for the price set forth on the Offer contingent on such Offer being a Selected Offer at the closing of the Selection Process. Once submitted, an Offer may not be revoked or withdrawn while that Offer is a Current Offer or Selected Offer. An Offer that is submitted by a Subsector Member, but is not a Selected Offer during the subsequent Ranking Period, shall be deemed to be terminated and the Subsector Member shall have no further obligation with respect to performance of that Offer.

(ii) *Offer content.* All Offers submitted to the Auditor shall include the following information: LLP License number; LLP License number(s) of any linked crab LLP Licenses; license MLOA (MLOA—maximum length overall of a vessel is defined at § 679.2 of this chapter); the license area, gear and species endorsements; a summary of the Pacific cod catch history for the calendar years 1998–2004; and the offered price. The Offer shall also state whether a vessel is currently designated on the LLP License and as such will be withdrawn from all fisheries if the Offer is selected for reduction in the Reduction Plan. If so, the Offer shall identify such vessel by name, official number, and current owner. In addition,

the Offer shall provide a summary of the Pacific cod catch history for the calendar years 1998–2004 of the vessel to be retired from the fisheries. All summary catch histories included in Offers shall be calculated utilizing both the weekly production report and best blend methodology and shall separately state for each methodology the Pacific cod catch in metric tons and as a percentage of the overall catch for the longline catcher processor subsector on an annual basis for each of the required years. If the vessel stated to be withdrawn from the fisheries is not owned by the LLP License owner of record, the Offer shall be countersigned by the owner of record of the vessel. An Offer offering a Latent License shall state on the Offer Form that the offered LLP License is a Latent License. The Offer Form shall also include a comment section for any additional information that Offerors wish to provide to the Subsector Members concerning the Offer.

(iii) *Prequalification of Offers.* A Subsector Member may submit a Prequalification Offer to the Auditor at any time prior to the Opening Date. A Prequalification Offer shall contain all elements of an Offer, except that a price need not be provided. The Auditor shall notify the Subsector Member submitting a Prequalification Offer as to any deficiencies as soon as practicable. All details of a Prequalification Offer shall be kept confidential by the Auditor.

(3) *Submitting an Offer—(i) Offer submission.* Commencing on the first Tuesday following the Opening Date and during all Submission Periods until the Selection Process is closed, any Subsector Member may submit an Offer. All Offers are to be on the applicable form provided on the FLCC website, executed by an Authorized Party and submitted to the Auditor by facsimile. Any Subsector Member may submit an Offer during any Submission Period, even if that Subsector Member has not submitted an Offer in any previous Submission Period. If a Subsector Member holds more than one LLP License, such Subsector Member may, but is not required to, submit an Offer for each LLP License held during a Submission Period.

(ii) *Submission Periods.* The initial Submission Period shall commence at 9 a.m. (Pacific time) on the Tuesday following the Opening Date and end at 5 p.m. (Pacific time) on the Friday of that week. Subsequent Submission Periods shall commence at 9 a.m. (Pacific time) on the first Tuesday following the preceding Ranking Period and end at 5 p.m. (Pacific time) on the Friday of that week. All times set forth

in the Reduction Agreement and used in the Offer process shall be the time kept in the Pacific time zone as calculated by the National Institute of Standards and Technology.

(iii) *Validity of Offer.* The Auditor shall examine each Offer for consistency with the Database and information contained in the enrollment documents. If there is an inconsistency in the information contained in the Offer, any of the elements required of an Offer pursuant to paragraph (d)(2)(ii) of this section are missing, or the Auditor does not receive the original Offer Form before the Offers are to be posted pursuant to paragraph (d)(4) of this section, the Auditor shall notify the offering Subsector Member by e-mail or mail that the Offer is nonconforming as soon as practicable after discovering the basis of invalidity. The Subsector Member may submit a revised, conforming Offer prior to the close of that Submission Period or, in any subsequent Submission Period. Only one Offer may be submitted with respect to an LLP License during a Submission Period. In the event a Subsector Member submits more than one Offer with respect to an LLP License during a Submission Period, the first conforming Offer received by the Auditor shall be binding and irrevocable and any subsequent Offers shall be deemed invalid.

(iv) *Warranty.* By submitting an Offer, the Offering Subsector Member, warrants and represents that the Offering Subsector Member has read and understands the terms of the Reduction Agreement, the Offer, and the Reduction Contract and has had the opportunity to seek independent legal counsel regarding such documents and/or agreements and the consequences of submitting an Offer.

(4) *Posting Offers—(i) Current offers.* For each Offer received during a Submission Period, the Auditor shall post on the Website no later than 5 p.m. (Pacific time) on the following Tuesday all of the details of such Offer as set forth on the Offer Form. In addition, the Auditor shall post, as available to Auditor, a summary by year of up to ten (10) years catch history during the period 1998–2004 in total round weight equivalents and percentage of Longline Subsector ITAC harvested for any vessel that is included in the Offer. Subsector Member (or vessel owner, if other than the Subsector Member) expressly authorizes Auditor to release the catch history summary information previously prepared for that Subsector Member or vessel owner by the Auditor as part of the analysis of FLCC's membership's

catch history previously conducted by the Auditor on behalf of the FLOC.

(ii) *Posting order.* Offers shall be posted on the Website by the Auditor in alphabetical order of the Offering Subsector Member's name.

(iii) *Questions as to Offer.* The Auditor shall respond to no questions from Subsector Member regarding Offers except to confirm that the posting accurately reflects the details of the Offer. If an Offering Subsector Member notices an error in an Offer posting on the Website, such Subsector Member shall notify the Auditor as soon as practicable. The Auditor shall review such notices, the posting and the original Offer. If an error was made in posting the Auditor shall correct the posting as soon as practicable and notify the Subsector Members via e-mail or mail of the correction. In the event such an error is not discovered prior to Ranking, an Offering Subsector Member shall be bound to the terms of the submitted Offer, not the terms of the posted Offer.

(iv) *Archive.* The Auditor shall maintain on the Website an archive of prior Offers posted, which shall be available for review by all Subsector Members.

(5) *Ranking—(i) Eligibility.* Each Subsector Member that has not submitted an Offer during the preceding Submission Period, or whose vessel is not included as a withdrawing vessel in an Offer during the preceding Submission Period (i.e., a Nonoffering Subsector Member), may submit to the Auditor a Ranking Form during a Ranking Period. With respect to Ranking, a Subsector Member that holds more than one LLP License may participate in the Ranking process for each LLP License not included in an Offer.

(ii) *Ranking Period.* The initial Ranking Period shall commence immediately after the Offers from the preceding Submission Period have been posted and end at 5 p.m. (Pacific time) on the Friday of that week. Subsequent Ranking Periods shall commence immediately after the Offers from the preceding Submission Period have been posted and end at 5 p.m. (Pacific time) on the Friday of that week.

(iii) *Ranking Form.* Prior to each Ranking Period, the Auditor will post a Ranking Form on the Website in "pdf" file format. Each eligible Subsector Member wishing to rank the current Offers shall rank the Offers on the Ranking Form numerically in the Subsector Member's preferred order of purchase. The Offer that Subsector Member would most like to have accepted should be ranked number one (1), and subsequent Offers ranked

sequentially until the Offer that the Subsector Member would least like to see accepted is ranked with the highest numerical score. A Subsector Member wishing to call for a Closing Vote shall, in lieu of ranking the Current Offers, mark the Ranking Form to accept the Selected Offers selected during the prior Ranking Period and close the Selection Process. To be valid, the Ranking Form must rank each Current Offer listed on the Ranking Form or, if applicable, be marked to call for a Closing Vote. Ranking Forms shall be submitted by sending a completed Ranking Form, signed by an Authorized Party, to the Auditor by facsimile or mail prior to the end of the Ranking Period. A Subsector Member is not required to rank the Offers during a Ranking Period or call for a Closing Vote.

(iv) *Validity of Subsector Member Ranking.* The Auditor shall examine each Ranking Form for completeness, whether the form either ranks the Offers or calls for a Closing Vote (but not both), and authorized signature. Any incomplete or otherwise noncompliant Ranking Form(s) shall be invalid, and shall not be included in the Rankings of the Current Offers. The Auditor shall notify the Subsector Member of the reason for declaring any Ranking Form invalid as soon as practicable. A Subsector Member may cure the submission of an invalid Ranking Form by submitting a complying Ranking Form if accomplished before the end of the applicable Ranking Period.

(6) *Ranking results—(i) Compiling the rankings.* Unless two-thirds (2/3) of the Nonoffering Subsector Members have called for a Closing Vote, the Auditor shall compile the results of the Ranking Forms by assigning one point for each position on a Ranking Form. That is, the Offer ranked number one (1) on a Ranking Form shall be awarded one (1) point, the Offer ranked two (2) shall receive two (2) points, and continuing on in this manner until all Offers have been assigned points correlating to its ranking on each valid Ranking Form. The Offer with the least number of total points assigned shall be the highest ranked Offer, and the Offer with the greatest total points assigned shall be the lowest ranked Offer.

(ii) *Posting rankings.* The Auditor shall post the results of the compilation of the Ranking Forms on the Website in alphabetical order based on the Offering Subsector Member's name no later than 5 p.m. (Pacific time) on the Monday following the Ranking Period. The Auditor shall post the highest consecutive ranking Offers that total thirty six million dollars (\$36,000,000) or less. Those Offering Subsector

Members whose Offers are posted shall be deemed Selected Offerors and their Offers shall be deemed Selected Offers. Those Offering Subsector Members whose Offers are not posted shall be deemed Rejected Offerors.

(iii) *Selected Offer Information or confidentiality.* The Auditor shall post the name of the Offering Subsector Member, the amount of the Offer, and a summary of the total number of Ranking Forms received and the number of such forms on which the Members called for a Closing Vote. Other than the foregoing, the Auditor shall not post any details of the compilation of the Ranking Forms.

(iv) *Selected Offerors.* Selected Offerors may not withdraw their Offers unless in subsequent rankings their Offers no longer are within the highest ranking Offers and they become Rejected Offerors. A Selected Offeror may, however, modify a Selected Offer solely to the extent such modification consists of a reduction in the Offer price. A Selected Offeror may submit a modified Offer to the Auditor during the next Offering Period as set forth in paragraph (d)(3) of this section. Unless a Selected Offeror becomes a Rejected Offeror in a subsequent Ranking, a Selected Offeror shall be bound by the terms of the lowest Selected Offer submitted as if such modified Offer had been the original Selected Offer. In the event a Selected Offeror submits a modified Offer and such Offer is not ranked because sufficient votes are received to call for a Closing Vote, the previously Selected Offer shall remain the Selected Offer.

(v) *Rejected Offerors.* The Offer of a Rejected Offeror is terminated and the Rejected Offeror is no longer bound by the terms of its Offer. A Rejected Offeror may, at its sole discretion, resubmit the same Offer, submit a revised Offer, or elect not to submit an Offer during any subsequent Submission Period until the Selection Process is closed.

(vi) *Ties.* In the event there is a tie with respect to Offers which results in the tied Offers exceeding thirty-six million dollars (\$36,000,000), the tied Offers and all Offers ranked lower than the tied Offers shall be deemed to be rejected and the Rejected Offerors may, at their option, submit an Offer in a subsequent Submission Period.

(vii) *Archive.* Auditor shall maintain on the Website an archive of prior Offer Rankings as posted over the course of the Selection Process, which shall be available for Subsector Member review.

(7) *Closing.* The Selection Process will close when two-thirds (2/3) or more of the Nonoffering Subsector Members of the Longline Subsector, as determined by the Auditor, affirmatively vote to

accept the Selected Offerors selected during the prior Ranking Period as part of the Reduction Plan to be submitted to the Secretary.

(i) *Call for Vote.* A Closing Vote will be held when: at least two-thirds (2/3) of the Nonoffering Subsector Members submit Ranking Forms electing to accept the Selected Offerors and close the Selection Process in lieu of Ranking the current Offers; and there are no unresolved Protests or Arbitrations. The Auditor shall notify all Subsector Members by e-mail or mail and posting a notice on the Website as soon as practicable that a Closing Vote is to be held. Such notice shall state the starting and ending dates and times of the voting period, which shall be not less than three (3) nor more than seven (7) calendar days from the date of such notice. A voting period shall commence at 9 a.m. (Pacific time) on Monday and end at 5 p.m. on the Friday of that week.

(ii) *Voting.* No less than three (3) calendar days prior to the voting period, the Auditor will post a Closing Ballot on the Website in "pdf" file format. Each eligible Nonoffering Subsector Member wishing to vote shall print out the Closing Ballot, and, with respect to each of the currently Selected Offers on the Closing Ballot, vote either in favor of or opposed to accepting that Selected Offer and submit a completed and signed Closing Ballot to the Auditor preferably by facsimile prior to the end of the Voting Period.

(iii) *Ballot verification.* The Auditor shall examine each submitted Closing Ballot for completeness and authorized signature. Any incomplete Closing Ballot shall be void, and shall not be included in the voting results. The Auditor shall not notify the Subsector Member of an invalid Closing Ballot.

(iv) *Voting results.* The Auditor shall post the results of the Vote as soon as practicable after voting closes. Each Offer on the Closing Ballot that receives votes approving acceptance of such Offer from two-thirds (2/3) or more of the total number of Nonoffering Subsector Members shall be a Selected Offeror and shall be the basis for the Reduction Plan submitted to NMFS. Any Offer on the Closing Ballot that does not receive such two-thirds (2/3) approval shall be rejected and shall not be included among the Offers included among the Reduction Plan submitted to NMFS.

(v) *Notification to NMFS.* Upon closing of the Selection Process, FLCC shall notify NMFS in writing of the identities of the Selected Offerors and provide to NMFS a completed and fully executed original Reduction Agreement from each of the Selected Offerors and a certified copy of the fully executed

Reduction Agreement and Reduction Contract.

(a) *Submission of Reduction Plan, including repayment.* Upon completion of the offering process, the FLCC on behalf of the Subsector Members shall submit to NMFS the Reduction Plan which shall include the provisions set forth in this paragraph (a).

(1) *Capacity reduction.* The Reduction Plan shall identify as the proposed capacity reduction, without auction process, the LLP Licenses as well as the vessels and the catch histories related to the LLP Licenses, linked crab LLP Licenses, and any other fishing rights or other interests associated with the LLP Licenses and vessels included in the Selected Offers. The aggregate of all Reduction Agreements and Reduction Contracts signed by Subsector Members whose offers to participate in this buyback were accepted by votes of the Subsector Members, will together with the FLCC's supporting documents and rationale for recognizing that these offers represent the expenditure of the least money for the greatest capacity reduction, constitute the Reduction Plan to be submitted to NMFS for approval on behalf of the Secretary of Commerce.

(2) *Loan repayment—(i) Term.* As authorized by Section 219(B)(2) of the Act, the capacity reduction loan (the "Reduction Loan") shall be amortized over a thirty (30) year term. The Reduction Loan's original principal amount may not exceed thirty-six million dollars (\$36,000,000), but may be less if the reduction cost is less. Subsector Members acknowledge that in the event payments made under the Reduction Plan are insufficient to repay the actual loan, the term of repayment shall be extended by NMFS until the loan is paid in full.

(ii) *Interest.* The Reduction Loan's interest rate will be the U.S. Treasury's cost of borrowing equivalent maturity funds plus 2 percent. NMFS will determine the Reduction Loan's initial interest rate when NMFS borrows from the U.S. Treasury the funds with which to disburse reduction payments. The initial interest rate will change to a final interest rate at the end of the Federal fiscal year in which NMFS borrows the funds from the U.S. Treasury. The final interest rate will be 2 percent plus a weighted average, throughout that fiscal year, of the U.S. Treasury's cost of borrowing equivalent maturity funds. The final interest rate will be fixed, and will not vary over the remainder of the reduction loan's 30-year term. The Reduction loan will be subject to a level debt amortization. There is no prepayment penalty.

(iii) *Fees.* The Reduction Loan shall be repaid by fees collected from the Longline Subsector. The fee amount will be based upon: The principal and interest due over the next twelve months divided by the product of the Hook & Line, Catcher Processor (Longline Subsector; sometimes referred to as the "HALCP Subsector") portion of the BSAI Pacific cod ITAC (in metric tons) set by the North Pacific Fishery Management Council (NPFMC) in December of each year multiplied by 2,208 (i.e., the number of pounds in a metric ton). In the event that the Longline Subsector portion for the ensuing year is not available, the Longline Subsector portion forecast from the preceding year will be used to calculate the fee.

(A) The fee will be expressed in cents per pound rounded up to the next one-tenth of a cent. For example: if the principal and interest due equal \$2,900,000 and the Longline Subsector portion equals 100,000 metric tons, then the fee per round weight pound of Pacific cod will equal 1.4 cents per pound. $(2,900,000 / (100,000 \times 2,208) = .01318)$. The fee will be assessed and collected on Pacific cod to the extent possible and if not, will be assessed and collected as provided for in this paragraph (a).

(B) Fees must be assessed and collected on Pacific cod used for bait or discarded. Although the fee could be up to 5 percent of the ex-vessel production value of all post-reduction Longline Subsector landings, the fee will be less than 5 percent if NMFS projects that a lesser rate can amortize the fishery's reduction loan over the reduction loan's 30-year term. In the event that the total principal and interest due exceeds 5 percent of the ex-vessel Pacific cod revenues, a penny per pound round weight fee will be calculated based on the latest available revenue records and NMFS conversion factors for pollock, arrowtooth flounder, Greenland turbot, skate, yellowfin sole and rock sole.

(C) The additional fee will be limited to the amount necessary to amortize the remaining twelve months principal and interest in addition to the 5 percent fee assessed against Pacific cod. The additional fee will be a minimum of one cent per pound. In the event that collections exceed the total principal and interest needed to amortize the payment due, the principal balance of the loan will be reduced. To verify that the fees collected do not exceed 5 percent of the fishery revenues, the annual total of principal and interest due will be compared to the latest available annual Longline Subsector revenues to ensure it is equal to or less

than 5 percent of the total ex-vessel production revenues. In the event that any of the components necessary to calculate the next year's fee are not available, or for any other reason NMFS believes the calculation must be postponed, the fee will remain at the previous year's amount until such a time that new calculations are made and communicated to the post reduction fishery participants.

(D) It is possible that the fishery may not open during some years and no Longline Subsector portion of the ITAC is granted. Consequently, the fishery will not produce fee revenue with which to service the reduction loan during those years. However, interest will continue to accrue on the principal balance. When this happens, if the fee rate is not already at the maximum 5 percent, NMFS will increase the fisheries' fee rate to the maximum 5 percent of the revenues for Pacific cod and the species mentioned in paragraph (e)(2)(iii)(B), apply all subsequent fee revenue first to the payment of accrued interest, and continue the maximum fee rates until all principal and interest payments become current. Once all principal and interest payments are current, NMFS will make a determination about adjusting the fee rate.

(iv) *Reduction loan.* NMFS has promulgated framework regulations generally applicable to all fishing capacity reduction programs (§ 600.1000 et seq.). The reduction loan shall be subject to the provisions of § 600.1012, except that: the borrower's obligation to repay the reduction loan shall be discharged by the owner of the Longline Subsector license regardless of which vessel catches fish under this license and regardless of who processes the fish in the reduction fishery in accordance with § 600.1013. Longline Subsector license owners in the reduction fishery shall be obligated to collect the fee in accordance with § 600.1013.

(v) *Collection.* The LLP License holder of the vessel harvesting in the post-capacity reduction plan Longline Subsector shall be responsible for self-collecting the repayment fees owed by that LLP License holder. Fees shall be submitted to NMFS monthly and shall be due no later than fifteen (15) calendar days following the end of each calendar month.

(vi) *Record keeping and Reporting.* The holder of the LLP License on which a vessel harvesting in the post-capacity reduction plan Longline Subsector is designated shall be responsible for compliance with the applicable record-keeping and reporting requirements.

(3) *Agreement with Secretary.* Each Selected Offshore, and vessel owner if not the Subsector Member, that has submitted a Selected Offer shall complete and deliver to the FLCC for inclusion in the Reduction Plan submitted to NMFS, designed for the Secretary, a completed and fully executed Reduction Contract. Any and all LLP License(s) and/or vessels set forth on a Selected Offer shall be included as Reduction Fishing Interests in such Reduction Contract.

(f) *Decisions of the Auditor and the FLCC.* Time is of the essence in developing and implementing a Reduction Plan and, accordingly, the Offshore shall be limited to, and bound by, the decisions of the Auditor and the FLCC.

(1) The Auditor's examination of submitted applications, Offers, Prequalification Offers and Rankings shall be solely ministerial in nature. That is, the Auditor will verify whether the documents submitted by Subsector Members are, on their face, consistent with each other and the Database, in compliance with the requirements set forth in the Reduction Agreement, and, signed by an Authorized Party. The Auditor may presume the validity of all signatures on documents submitted. The Auditor shall not make substantive decisions as to compliance (e.g., whether an interim LLP License satisfies the requirements of the Act, or whether a discrepancy in the name appearing on LLP Licenses and other documents is material).

(2) [Reserved]

(g) *Enforcement/specific performance.* The parties to the Reduction Agreement have agreed that the opportunity to develop and submit a capacity reduction program for the Longline Subsector under the terms of the Act is both unique and finite and that failure of a Selected Offshore, and vessel owner, if not a Subsector Member, to perform the obligations provided by the Reduction Agreement will result in irreparable damage to the FLCC, the Subsector Members and other Selected Offshores. Accordingly, the parties to the Reduction Agreement expressly acknowledge that money damages are an inadequate means of redress and agree that upon the failure of the Selected Offshore, and vessel owner if not a Subsector Member, to fulfill its obligations under the Reduction Agreement that specific performance of those obligations may be obtained by suit in equity brought by the FLCC in any court of competent jurisdiction without obligation to arbitrate such action.

(h) *Miscellaneous—(1) Time/Holidays.* All times related to the Selection Process shall be the time kept in the Pacific time zone as calculated by the National Institute of Standards and Technology. In the event that any date occurring within the Selection Process is a Federal holiday, the date shall roll over to the next occurring business day.

(2) *Termination.* The Reduction Agreement shall automatically terminate if no vote of acceptance is completed by December 31, 2007. The Reduction Agreement may be terminated at any time prior to approval of the Reduction Plan by NMFS, on behalf of the Secretary, by written notice from 50 percent of Subsector Members.

(3) *Choice of law/venue.* The Reduction Agreement shall be construed and enforced in accordance with the laws of the State of Washington without regard to its choice of law provisions. The parties submit to the exclusive personal jurisdiction of the United States District Court located in Seattle, Washington, with respect to any litigation arising out of or relating to the Reduction Agreement or out of the performance of services hereunder.

(4) *Incorporation.* All executed counterparts of the Reduction Agreement, Application Forms and Offers constitute the agreement between the parties with respect to the subject matter of the Reduction Agreement and are incorporated into the Reduction Agreement as if fully written.

(5) *Counterparts.* The Reduction Agreement may be executed in multiple counterparts and will be effective as to signatories on the Effective Date. The Reduction Agreement may be executed in duplicate originals, each of which shall be deemed to be an original instrument. All such counterparts and duplicate originals together shall constitute the same agreement, whether or not all parties execute each counterpart.

(i) The facsimile signature of any party to the Reduction Agreement shall constitute the duly authorized, irrevocable execution and delivery of the Reduction Agreement as fully as if the Reduction Agreement contained the original ink signatures of the party or parties supplying a facsimile signature.

(ii) [Reserved]

(j) *Amendment.* Subsector Member acknowledges that the Reduction Agreement, the Reduction Contract, and the Reduction Plan may be subject to amendment to conform to the requirements for approval of the Reduction Plan by NMFS on behalf of the Secretary. The Auditor shall distribute to each Subsector Member in electronic format the amended form of

the Reduction Agreement, the Reduction Contract, and the Reduction Plan, which amended documents in the form distributed by the Auditor and identified by the Auditor by date and version, the version of each such document then in effect at the time of any dispute arising or action taken shall be deemed binding upon the parties with respect to such dispute and/or action.

(j) *Warranties.* Subsector Member must expressly warrant and represent in the Reduction Agreement that:

(1) Subsector Member has had an opportunity to consult with Subsector Member's attorney or other advisors of Subsector Member with respect to the Reduction Agreement, the Reduction Contract, and the Act and the ramifications of the ratification of the Reduction Plan contemplated therein;

(2) Subsector Member has full understanding and appreciation of the ramifications of executing and delivering the Reduction Agreement and, free from coercion of any kind by the FLCC or any of its members, officers, agents and/or employees, executes and delivers the Reduction Agreement as the free and voluntary act of Subsector Member;

(3) The execution and delivery of the Reduction Agreement, does not and will not conflict with any provisions of the governing documents of Subsector Member;

(4) The person executing the Reduction Agreement has been duly authorized by Subsector Member to execute and deliver the Reduction Agreement and to undertake and perform the actions contemplated herein; and

(5) Subsector Member has taken all actions necessary for the Reduction Agreement to constitute the valid and binding obligation of Subsector Member, enforceable in accordance with its terms.

(k) *Approval of the Reduction Plan.* Acceptance of the Offers are at the sole discretion of NMFS on behalf of the Secretary of Commerce. To be approved by NMFS, on behalf of the Secretary, any Reduction Plan developed and submitted in accordance with this section and Subpart M to this part must be found by the Assistant Administrator of NMFS, to:

(1) Be consistent with the requirements of Section 219(e) of the FY 2006 Appropriations Act (Public Law 108-447);

(2) Be consistent with the requirements of Section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861(a)) except for the

requirement that a Council or Governor of a State request such a program (as set out in section 312(b)(1)) and for the requirements of section 312(b)(4);

(3) Contain provisions for a fee system that provides for full and timely repayment of the capacity reduction loan by the Longline Subsector and that it provide for the assessment of such fees;

(4) Not require a bidding or auction process;

(5) Result in the maximum sustained reduction in fishing capacity at the least cost and in the minimum amount of time; and

(6) Permit vessels in the Longline Subsector to be upgraded to achieve efficiencies in fishing operations provided that such upgrades do not result in the vessel exceeding the applicable length, tonnage, or horsepower limitations set out in Federal law or regulation.

(l) *Reference.* The provisions of § 600.1010 (including §§ 600.1004(a), 600.1008, 600.1009, 600.1013, 600.1014, and 600.1017(a)(5), (6) and (7)) shall apply to the Reduction Plan of this section to the extent that they do not conflict with this section or with subpart M of this part.

Appendix to § 600.1108—Fishing Capacity Reduction Contract Bering Sea and Aleutian Islands Longline Catcher Processor Subsector

Fishing Capacity Reduction Contract Bering Sea and Aleutian Islands Longline Catcher Processor Subsector

This agreement, (the "Reduction Contract") is entered into by and between the party or parties named in section 46 of this contract entitled, "Fishing Capacity Reduction Offer Submission Form and Reduction Fishing Interests Identification," as the qualifying Offeror and as the co-Offeror (if there is a co-Offeror) (collectively the "Offeror") and the United States of America, acting by and through the Secretary of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Financial Services Division ("NMFS"). The Reduction Contract is effective when NMFS signs the Reduction Contract and, thereby, accepts the Offeror's offer, subject to the condition subsequent of NMFS' formal notification of a successful referendum.

Witnesseth

Whereas, Section 219, Title II, Division B of the Consolidated Appropriations Act, 2006, as enacted on December 8, 2004, (the "Act") authorizes a fishing capacity reduction program implementing capacity reduction plans submitted to NMFS by catcher processor subsectors of the Bering Sea and Aleutian Islands ("BSAI") non-pollock groundfish fishery as set forth in the Act;

Whereas, the longline catcher processor subsector (the "Longline Subsector") is

among the catcher processor subsectors eligible to submit to NMFS a capacity reduction plan under the terms of the Act;

Whereas, the Freeseer Longline Conservation Cooperative (the "FLCC") has developed and is submitting to NMFS concurrently with this Reduction Contract a capacity reduction plan for the Longline Subsector (the "Reduction Plan");

Whereas, the selection process will be pursuant to the fishing capacity Reduction Contract and the Reduction Plan;

Whereas, the term "Reduction Fishery" is defined by the Reduction Plan as the longline catcher processor subsector of the BSAI non-pollock groundfish fishery;

Whereas, the Reduction Plan's express objective is to permanently reduce harvesting capacity in the Reduction Fishery; Whereas, NMFS implements the Reduction Plan pursuant to Section 219 of the Act as well as the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801(a)-(e)) (as excepted by the Act, including *inter alia*, any requirement that the Reduction Plan include a bidding or auction process) and other applicable law;

Whereas, NMFS has promulgated framework regulations generally applicable to all fishing capacity reduction programs, portions of which are applicable to the Reduction Plan, (50 CFR 600.1000 et seq.);

Whereas, NMFS can implement the Reduction Plan only after giving notice to all members of the Longline Subsector of the Reduction Plan pursuant to Section 219(3)(b) of the Act and approval of the Reduction Plan by referendum of the Longline Subsector; and

Whereas, this Reduction Contract is submitted by Offeror and the FLCC as an integral element of the Reduction Plan and is expressly subject to the terms and conditions set forth herein, the framework regulations, the final rule (as used in this contract "final rule" means the final rule promulgated by NMFS which sets forth the regulations implementing the Reduction Plan for the Longline Subsector) and applicable law.

Now therefore, for good and valuable consideration and the promises and covenants hereinafter set forth the receipt and sufficiency of which the parties to the Reduction Contract hereby acknowledge, and intending to be legally bound hereby, the parties hereto agree as follows:

1. *Incorporation of Recitals.* The foregoing recitals are true and correct and are expressly incorporated herein by this reference.

2. *Further Incorporation.* The Act, framework regulations, final rule and any other rule promulgated pursuant to the Act are expressly incorporated herein by this reference. In the event of conflicting language, the framework regulations, the final rule and any other rule promulgated pursuant to the Act, take precedence over the Reduction Contract.

3. *Contract Form.* By completing and submitting the Reduction Contract to NMFS the Offeror hereby irrevocably offers to relinquish its Reduction Fishing Interests. If NMFS discovers any deficiencies in the Offeror's submission to NMFS, NMFS may, at its sole discretion, contact the Offeror in an attempt to correct such offer deficiency.

"Reduction Fishing Interests" means all of Offeror(s) rights, title and interest to the Groundfish Reduction Permit, Reduction Permit(s), Reduction Fishing Privilege and Reduction Fishing History as defined in this Reduction Contract.

4. *Groundfish Reduction Permit.* Offeror expressly acknowledges that it hereby offers to permanently surrender, relinquish, and have NMFS permanently revoke the valid non-interim Federal License Limitation Program groundfish license issued pursuant to 50 CFR 679.4(k) (or successor regulation) endorsed for Bering Sea or Aleutian Islands catcher processor fishing activity, C/P, Pacific cod, and hook and line gear identified in section 46 of this contract as well as any present or future claims of eligibility for any fishery privilege based upon such permit, including any Latest License and any offered and accepted interim permit that Offeror causes to become a non-interim permit, (the "Groundfish Reduction Permit").

5. *Reduction Permit(s).* Offeror hereby acknowledges that it offers to permanently surrender, relinquish, and have NMFS permanently revoke any and all Federal fishery licenses, fishery permits, and area and species endorsements issued for any vessel named on the Groundfish Reduction Permit as well as any present or future claims of eligibility for any fishery privilege based upon such permit, including any Latest License, (the "Reduction Permit(s)").

6. *Reduction Privilege Vessel.* The Reduction Privilege Vessel is the vessel listed on the Offeror's License Limitation Program license.

7. *Reduction Fishing Privilege.* If a vessel is specified in section 46 of this contract (the "Reduction Privilege Vessel"); Offeror hereby acknowledges that Offeror offers to relinquish and surrender the Reduction Privilege Vessel's fishing privilege and consents to the imposition of Federal vessel documentation restrictions that have the effect of permanently revoking the Reduction Privilege Vessel's legal ability to fish anywhere in the world as well as its legal ability to operate under foreign registry or control—including the Reduction Privilege Vessel's fisheries trade endorsement under the Commercial Fishing Industry Vessel Anti-Relicensing Act (48 U.S.C. 12106); eligibility for the approval required under section 9(c)(2) of the Shipping Act, 1916 (46 U.S.C. App. 806(c)(2)), for the placement of a vessel under foreign flag or registry, as well as its operation under the authority of a foreign country; and the privilege otherwise to ever fish again anywhere in the world (the "Reduction Fishing Privilege"). Offeror agrees to instruct the United States Coast Guard's Vessel Documentation Center to remove the fishery endorsement from the Reduction Privilege Vessel. If the Reduction Privilege Vessel is not a federally documented vessel, the Offeror offers to promptly scrap the vessel and allow NMFS whatever access to the scrapping NMFS deems reasonably necessary to document and confirm the scrapping.

8. *Reduction Fishing History.* Offeror surrenders, relinquishes, and consents to NMFS' permanent revocation of the following Reduction Fishing History (the "Reduction Fishing History"):

a. The Reduction Privilege Vessel's full and complete documented harvest of groundfish;

b. For any documented harvest of the Reduction Privilege Vessel whatsoever, including that specified in section 8 of this contract, any right or privilege to make any claim in any way related to any fishery privilege derived in whole or in part from any such other and documented harvest which could ever qualify any party for any future limited access system fishing license, permit, and other harvest authorization of any kind; including without limitation crab LLP license linked to License Limitation Program ("LLP") licenses, state fishing rights appurtenant to Reduction Fishing Vessels, and all fishing history associated therewith, but without prejudice to any party who before submission of this offer may have for value independently acquired the fishing history involving any such documented harvest;

c. Any documented harvest on any other vessel (Reduction Fishing Vessel) that gave rise to the Groundfish Reduction Permit; and

d. All fishing history associated with the latest LLP license identified on the Selected Offer and any fishing history associated with the fishing vessel that gave rise to the latest LLP license that remains in the Offeror's possession as of August 11, 2006 (i.e., date of publication of the proposed rule in the Federal Register).

9. *Halibut, Sablefish and Crab IFQs Excluded.* Notwithstanding any other provision of this Reduction Contract, no right, title and/or interest to harvest, process or otherwise utilize individual fishing quota ("IFQ") quota share in the halibut, sablefish and crab fisheries pursuant to 50 CFR parts 679 and 680, nor crab LLP license history to the extent necessary for the issuance of crab IFQ pursuant to 50 CFR part 680 as in effect as of the date of this Contract, shall be included among Offeror's Reduction Fishing Interests.

10. *Representations and Warranties.* Offeror represents and warrants that, as of the date of submission of this Reduction Contract, Offeror is:

a. The holder of record, according to NMFS' official fishing license records, at the time of offer, of the Groundfish Reduction Permit and the Reduction Permit(s).

b. The Reduction Privilege Vessel's owner of record, according to the National Vessel Documentation Center's official vessel documentation records, at the time of offer, and that the Reduction Privilege Vessel is neither lost nor destroyed at the time of offer.

c. In retention of and fully and legally entitled to offer and dispose of harvest, full and complete rights to the Reduction Privilege Vessel's full and complete Reduction Fishing History necessary to fully and completely comply with the requirements of section 8 of this contract.

11. *Offer Amount.* NMFS' payment to Offeror in the exact amount of the amount set forth by Offeror in section 46 of this contract is full and complete consideration for the Offeror's offer.

12. *Additional Offer Elements.* Offeror shall include with its offer an exact photocopy of the Reduction Privilege Vessel's official vessel documentation or

registration (i.e., the certificate of documentation the U.S. Coast Guard's National Vessel Documentation Center issued for federally documented vessels or the registration a State issues for State registered vessels) and an exact photocopy of the Groundfish Reduction Permit and all Reduction Permit(s). The Offeror shall also include with the offer all other information required in this Reduction Contract and otherwise comply with Reduction Contract requirements.

13. *Use of Official Fishing License or Permit Databases.* Offeror expressly acknowledges that NMFS shall use the appropriate official governmental fishing license or permit database to:

Determine the Offeror's address of record; verify the Offeror's qualification to offer; determine the holder of record of the Groundfish Reduction Permit and Reduction Permit(s); and verify the Offeror's inclusion in the offer of all permits and licenses required to be offered in the Offer.

14. *Use of National Vessel Documentation Center Database.* Offeror expressly acknowledges that NMFS shall use the records of the National Vessel Documentation Center to determine the owner of record for a federally documented Reduction Privilege Vessel and the appropriate State records to determine the owner of record of a non-federally documented Reduction Privilege Vessel.

15. *Offeror to Ensure Accurate Records.* Offeror shall, to the best of its ability, ensure that the records of the database relevant to sections 13 and 14 of this contract are true, accurate, and complete.

16. *Submissions are Irrevocable.* The parties hereto expressly acknowledge as the essence hereof that the Offeror voluntarily submits to NMFS this firm and irrevocable offer. The Offeror expressly acknowledges that it hereby waives any privilege or right to withdraw, change, modify, alter, rescind, or cancel any portion of the Reduction Contract and that the receipt date and time which NMFS marks on the Reduction Contract constitutes the date and time of the offer's submission.

17. *Offer Rejection.* NMFS shall reject an offer that NMFS deems is in any way unresponsive or not in conformance with the Reduction Contract, and the applicable law or regulations unless the Offeror corrects the defect and NMFS, in its sole discretion, accepts the correction.

18. *Notarized Offeror Signature(s) Required.* NMFS shall deem as non-responsive and reject an offer whose Offer Submission Form does not contain the notarized signatures of all persons required to sign the form on behalf of the Offeror.

19. *Offer Rejections Constitute Final Agency Action.* NMFS' offer rejections are conclusive and constitute final agency action as of the rejection date.

20. *Effect of Offer Submission.* Submitting an irrevocable offer conforming to the requirements stated herein entitles the Offeror to have NMFS accept the offer if NMFS, in its sole discretion, deems that the offer is fully responsive and complies with the Act; the final rule and any other rule promulgated pursuant to the Act.

21. *Officer Retains Use.* After submitting an offer, the Officer shall continue to hold, own, or retain unimpaired every aspect of any and all LLP License(s) and or vessels set forth on an Offer included as Reduction Fishing Interests, until such time as: NMFS notifies the Officer that the Reduction Plan is not in compliance with the Act or other applicable law and will not be approved by NMFS; notifies the Officer that the referendum was unsuccessful; NMFS tenders the reduction payment and the Officer complies with its obligations under the Reduction Contract; or NMFS otherwise excuses the Officer's performance.

22. *Acceptance by Referendum.* NMFS shall formally notify the Officer in writing whether the referendum is successful, which written notice shall inform Officer that the condition subsequent has been satisfied. Therefore, Officer expressly acknowledges that all parties must perform under the Reduction Contract and the Reduction Contract is enforceable against, and binding on, the Reduction Contract parties in accordance with the terms and conditions herein.

23. *Reduction Contract Subject to Federal Law.* The Reduction Contract is subject to Federal law.

24. *Notice to Creditors.* Upon NMFS' offer acceptance notice to the Officer, Officer agrees to notify all parties with secured interests in the Reduction Fishing Interests that the Officer has entered into the Reduction Contract.

25. *Referendum.* Officer acknowledges that the outcome of the referendum of the Reduction Plan is an occurrence over which NMFS has no control.

26. *Unsuccessful Referendum Excuses Performance.* An unsuccessful referendum excuses all parties hereto from every obligation to perform under the Reduction Contract. In such event, NMFS need not tender reduction payment and the Officer need not surrender and relinquish or allow the revocation or restriction of any element of the Reduction Fishing Interest specified in the Reduction Contract. An unsuccessful referendum shall cause the Reduction Contract to have no further force or effect.

27. *Officer Responsibilities upon Successful Referendum.* Upon NMFS' formal notification to the Officer that the referendum was successful and that NMFS had accepted the Reduction Contract, Officer shall immediately become ready to surrender and relinquish and allow the revocation or restriction of (as NMFS deems appropriate) the Reduction Fishing Interests.

28. *Written Payment Instructions.* After a successful referendum, NMFS shall tender reduction payment by requesting the Officer to provide to NMFS, and the Officer shall subsequently so provide, written payment instructions for NMFS' disbursement of the reduction payment to the Officer or to the Officer's order.

29. *Request for Written Payment Instructions Constitutes Tender.* NMFS' request to the Officer for written payment instructions constitutes reduction payment tender, as specified in 50 CFR 608.1011.

30. *Officer Responsibilities upon Tender.* Upon NMFS' reduction payment tender to

the Officer, the Officer shall immediately surrender and relinquish and allow the revocation or restriction of (as NMFS deems appropriate) the Reduction Fishing Interests. The Officer must then return the original of its Groundfish Reduction Permit and Reduction Permit(s) to NMFS. Concurrently with NMFS' reduction payment tender, the Officer shall forever cease all fishing for any species with the Reduction Privilege Vessel and immediately retrieve all fishing gear, irrespective of ownership, previously deployed from the Reduction Privilege Vessel. Officer agrees to authorize the United States Coast Guard to cancel the fishery endorsement in the Reduction Privilege Vessel.

31. *Reduction Privilege Vessel Lacking Federal Documentation.* Upon NMFS' reduction payment tender to the Officer, the Officer shall immediately scrap any vessel which the Officer specified as a Reduction Privilege Vessel and which is documented solely under state law or otherwise lacks documentation under Federal law. The Officer shall scrap such vessel at the Officer's expense. The Officer shall allow NMFS, its agents, or its appointees reasonable opportunity to observe and confirm such scrapping. The Officer shall conclude such scrapping within a reasonable time.

32. *Future Harvest Privilege and Reduction Fishing History Extinguished.* Upon NMFS' reduction payment tender to the Officer, the Officer shall surrender and relinquish and consent to the revocation, restriction, withdrawal, invalidation, or extinguishment by other means (as NMFS deems appropriate), of any claim in any way related to any fishing privilege derived, in whole or in part, from the use or leadership of the Groundfish Reduction Permit(s) and the Reduction Permit(s), from the use or ownership of the Reduction Privilege Vessel (subject to and in accordance with the provisions of section 8 of this contract), and from any documented harvest fishing history arising under or associated with the same which could ever qualify the Officer for any future limited access fishing license, fishing permit, and other harvest authorization of any kind.

33. *Post Tender Use of Federally Documented Reduction Privilege Vessel.* After NMFS' reduction payment tender to the Officer, the Officer may continue to use a federally documented Reduction Privilege Vessel for any lawful purpose except "fishing" as defined under the Magnuson-Stevens Act and may transfer—subject to all restrictions in the Reduction Contract, other applicable regulations, and the applicable law—the vessel to a new owner. The Officer or any subsequent owner shall only operate the Reduction Privilege Vessel under the United States flag and shall not operate such vessel under the authority of a foreign country. In the event the Officer fails to abide by such restrictions, the Officer expressly acknowledges and hereby agrees to allow NMFS to pursue any and all remedies available to it, including, but not limited to, recovering the reduction payment and scrapping the Reduction Privilege Vessel and scrapping it at the Officer's expense.

34. *NMFS' Actions upon Tender.* Contemporaneously with NMFS' reduction payment tender to the Officer, and without regard to the Officer's refusal or failure to perform any of its Reduction Contract duties and obligations, NMFS shall: Permanently revoke the Officer's Groundfish Reduction Permit and Reduction Permit(s); notify the National Vessel Documentation Center to permanently revoke the Reduction Privilege Vessel's fishery trade endorsement; notify the U.S. Maritime Administration to make the Reduction Privilege Vessel permanently ineligible for the approval of requests to place the vessel under foreign registry or operate the vessel under a foreign country's authority; record in the appropriate NMFS records that the Reduction Fishing History represented by any documented harvest fishing history accrued on, under, or as a result of the operation of the Reduction Privilege Vessel and/or Reduction Fishing Vessel (subject to and in accordance with the provisions of section 8 of this contract), the Groundfish Reduction Permit, and the Reduction Permit(s) which could ever qualify the Officer for any future limited access fishing license, fishing permit, or other harvesting privilege of any kind shall never again be available to anyone for any fisheries purpose; and implement any other restrictions the applicable law or regulations impose.

35. *Material Disputes to be Identified.* Members of the public shall, up until NMFS receives the Officer's written payment instructions, be able to advise NMFS in writing of any material dispute with regard to any aspect of any accepted Reduction Contract. Such a material dispute shall neither relieve the Officer of any Reduction Contract duties or obligations nor affect NMFS' right to enforce performance of the Reduction Contract terms and conditions.

36. *Reduction Payment Disbursement.* Once NMFS receives the Officer's written payment instructions and certification of compliance with the Reduction Contract, NMFS shall as soon as practicable disburse the reduction payment to the Officer. Reduction payment disbursement shall be in strict accordance with the Officer's written payment instructions. Unless the Officer's written payment instructions direct NMFS to the contrary, NMFS shall disburse the whole of the reduction payment to the Officer. If the qualifying Officer offers with a co-Officer, both the qualifying Officer and the co-Officer must approve and sign the written payment instructions.

37. *Reduction Payment Withheld for Scrapping or for Other Reasons.* In the event that a Reduction Privilege Vessel which is not under Federal documentation must be scrapped, NMFS shall withhold from reduction payment disbursement an amount sufficient to scrap such vessel. NMFS shall withhold such sum until the vessel is completely scrapped before disbursing any amount withheld. NMFS may confirm, if NMFS so chooses, that the vessel has been scrapped before disbursing any amount withheld. If NMFS has reason to believe the Officer has failed to comply with any of the Reduction Contract terms and conditions, NMFS shall also withhold reduction

payment disbursement until such time as the Offeror performs in accordance with the Reduction Contract terms and conditions.

38. *Offeror Assistance with Restriction.* The Offeror shall, upon NMFS' request, furnish such additional documents, undertakings, assurances, or take such other actions as may be reasonably required to enable NMFS' revocation, restriction, invalidation, withdrawal, or extinguishment by other means (as NMFS deems appropriate) of all components of the Reduction Contract's Reduction Fishing Interest in accordance with the requirements of the Reduction Contract terms and conditions, applicable regulations and the applicable law.

39. *Recordation of Restrictions.* Upon the Reduction Fishing Privilege's revocation, the Offeror shall do everything reasonably necessary to ensure that such revocation is recorded on the Reduction Privilege Vessel's Federal documentation (which the National Vessel Documentation Center maintains in accordance with Federal maritime law and regulations) in such manner as is acceptable to NMFS and as shall prevent the Reduction Privilege Vessel, regardless of its subsequent ownership, from ever again being eligible for a fishery trade endorsement or ever again fishing. The term "fishing" includes the full range of activities defined in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

40. *Reduction Element Omission.* In the event NMFS accepts the offer and the Offeror has failed, for any reason, to specify in the Reduction Contract any Groundfish Reduction Permit, non-Groundfish Reduction Permit(s), Reduction Privilege Vessel, Reduction Fishing Vessel, Reduction Fishing History, or any other element of the Reduction Fishing Interest which the Offeror should under Reduction Contract, applicable regulations and the applicable law have specified in Reduction Contract, such omitted element shall nevertheless be deemed to be included in the Reduction Contract and to be subject to the Reduction Contract's terms and conditions; and all Reduction Contract terms and conditions which should have applied to such omitted element had it not been omitted shall apply as if such element had not been omitted. Upon the Offeror discovering any such omission, the Offeror shall immediately and fully advise NMFS of such omission. Upon either NMFS or the Offeror discovering any such omission, the Offeror shall act in accordance with the Reduction Contract, applicable regulations and the applicable law.

41. *Remedy for Breach.* Because money damages are not a sufficient remedy for the Offeror breaching any one or more of the Reduction Contract terms and conditions, the Offeror explicitly agrees to and hereby

authorizes specific performance of the Reduction Contract, in addition to any money damages, as a remedy for such breach. In the event of such breach, NMFS shall take any reasonable action, including requiring and enforcing specific performance of the Reduction Contract, NMFS deems necessary to carry out the Reduction Contract, applicable regulations and the applicable law.

42. *Waiver of Data Confidentiality.* The Offeror consents to the public release of any information provided in connection with the Reduction Contract or pursuant to Reduction Plan requirements, including any information provided in the Reduction Contract or by any other means associated with, or necessary for evaluation of, the Offeror's Reduction Contract if NMFS finds that the release of such information is necessary to achieve the Reduction Plan's authorized purpose. The Offeror hereby explicitly waives any claim of confidentiality otherwise afforded to catch, or harvest data and fishing histories otherwise protected from release under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 (b)) or any other law. In the event of such information release, the Offeror hereby forever fully and unconditionally releases and holds harmless the United States and its officers, agents, employees, representatives, of and from any and all claims, demands, debts, damages, duties, causes of action, actions and suits whatsoever, in law or equity, on account of any act, failure to act or event arising from, out of, or in any way related to, the release of any information associated with the Reduction Program.

43. *Oral Agreement Invalid.* The Reduction Contract, any addendums to section 46 of this contract, and enclosures of photocopies of licenses and permits required under section 46 of this contract, contain the final terms and conditions of the agreement between the Offeror and NMFS and represent the entire and exclusive agreement between them. NMFS and the Offeror forever waive all right to sue, or otherwise counterclaim against each other, based on any claim of past, present, or future oral agreement between them.

44. *Severable Provisions.* The Reduction Contract provisions are severable; and, in the event that any portion of the Reduction Contract is held to be void, invalid, non-binding, or otherwise unenforceable, the remaining portion thereof shall remain fully valid, binding, and enforceable against the Offeror and NMFS.

45. *Disputes.* Any and all disputes involving the Reduction Contract, and any other Reduction Plan aspect affecting them shall in all respects be governed by the

Federal laws of the United States; and the Offeror and all other parties claiming under the Offeror irrevocably submit themselves to the jurisdiction of the Federal courts of the United States and/or to any other Federal administrative body which the applicable law authorizes to adjudicate such disputes.

46. *Fishing Capacity Reduction Offer Submission Form and Reduction Fishing Interests Identification.*

a. *Completion and Submission.* The Offeror must fully, faithfully, and accurately complete this section 46 of this contract and thereafter submit the full and complete Reduction Contract to NMFS in accordance with the Reduction Contract. If completing this section requires inserting more information than the places provided for the insertion of such information allows, the Offeror should attach an addendum to the Reduction Contract that includes and identifies the additional information, states that the addendum is a part of the Reduction Fishing Interests Identification portion of the Reduction Contract, states (as a means of identifying the Reduction Contract to which the addendum relates) the NMFS license number designated on the Reduction Contract's Groundfish Reduction Permit, and is signed by all persons who signed the Reduction Contract as the Offeror.

b. *Offeror Information.*

(1) *Offeror name(s).* Insert in the table provided under this section 46.b(1) of this contract the name(s) of the qualifying Offeror and of the co-Offeror (if there is a co-Offeror), and check the appropriate box for each name listed.

Each name the Offeror inserts must be the full and exact legal name of record of each person, partnership, corporation or other business entity identified on the offer. If any Reduction Fishing Interest element is co-owned by more than one person, partnership, corporation or other business entity, the Offeror must insert each co-owner's name.

In each case, the Offeror is the holder of record, at the time of Offeror's execution of this Reduction Contract, of the Groundfish Reduction Permit and the Reduction Permit(s). A co-Offeror is not allowed for either the Groundfish Reduction Permit or the Reduction Permit(s). If the Offeror is also the owner of record, at the time of offering, of the Reduction Privilege Vessel, the qualifying Offeror is the sole Offeror. If, however, the owner of record, at the time of execution of this Reduction Contract, of the Reduction Privilege Vessel is not exactly the same as the Offeror, then the owner of record is the co-Offeror; and the Offeror and the co-Offeror jointly offer together as the Offeror.

OFFEROR NAME(S) If Offeror or co-Offeror consists of more than one owner, use one row of this column to name each co-Offeror. If not, use only one row for Offeror and one row for any co-Offeror	Check appropriate box for each name listed in the adjacent column	
	Offeror	Co-Offeror (if any)
(1)		
(2)		
(3)		

OFFEROR NAME(S) If Offeror or co-Offeror consists of more than one owner, use one row of this column to name each co-Offeror. If not, use only one row for Offeror and one row for any co-Offeror	Check appropriate box for each name listed in the adjacent column	
	Offeror	Co-Offeror (if any)
(4)		
(5)		

(2) Offeror address(es) of record. Insert in the table provided under this section 46.b(2) of this contract the Offeror's and the co-Offeror's (if there is a co-Offeror) full and exact address(es) of record, and check the appropriate box for each address listed.

OFFEROR ADDRESS(S) If Offeror or co-Offeror consists of more than one owner, use one row of this column for address of each co-owner. If not, use only one row for Offeror and one row for any co-Offeror. Always use the same row order as is Offeror Name(s) table in section 46.b(1), i.e., address (1) is for name (1), address (2) is for name (2), address (3) is for name (3), etc.	Check appropriate box for each address listed in the adjacent column	
	Offeror	Co-Offeror (if any)
(1)		
(2)		
(3)		
(4)		
(5)		

(3) Offeror business telephone number(s). Insert in the table provided under this section 46.b(3) the Offeror's and the co-Offeror's (if there is a co-Offeror) full and exact business telephone number(s), and check the appropriate box for each number listed.

OFFEROR BUSINESS TELEPHONE NUMBER(S) If Offeror or co-Offeror consists of more than one owner, use one row of this column for the telephone number of each co-owner. If not, use only one row for Offeror and one row for any co-Offeror. Always use the same row order as is Offeror Name(s) table in section 46.b(1), i.e., telephone number (1) is for name (1), telephone number (2) is for name (2), telephone number (3) is for name (3), etc.	Check appropriate box for each telephone number listed in the adjacent column	
	Offeror	Co-Offeror (if any)
(1)		
(2)		
(3)		
(4)		
(5)		

(4) Offeror electronic mail address(es) (if available). Insert in the table printed under this section 46.b(4) the Offeror's and the co-Offeror's (if there is a co-Offeror) full and exact electronic mail (e-mail) address(es), and check the appropriate box for each address.

OFFEROR E-MAIL ADDRESS(S) If Offeror or co-Offeror consists of more than one owner, use one row of this column for the e-mail address of each co-owner. If not, use only one row for Offeror and one row for any co-Offeror. Always use the same row order as is Offeror Name in section 46.b(1) of this contract, i.e., e-mail (1) is for name (1), e-mail (2) is for name (2), e-mail (3) is for name (3), etc.	Check appropriate box for each e-mail address listed in the adjacent column	
	Offeror	Co-Offeror (if any)
(1)		
(2)		
(3)		
(4)		
(5)		

c. *LLP license number for Groundfish Reduction Permit.* Insert in the place this section 46.c provides the full and exact license number which NMFS designated on the LLP license which the Offeror specifies as the Groundfish Reduction Permit. Attach with the Reduction Contract an exact photocopy of such license.

LLP LICENSE NUMBER(S) AND FISHERY(S) OF OF LLP LICENSE(S) SPECIFIED AS GROUND FISH REDUCTION PERMIT(S)	
License number(s)	Fishery(s)
(1)	
(2)	
(3)	
(4)	
(5)	

d. *License number(s) for Reduction Permit(s).* Insert in the place this section 46.d provides the fishery(s) involved in, and the full and exact license number(s) with NMFS designated on the license(s) which the Offeror specifies in the Reduction Contract as the Reduction Permit(s). Enclose with the Reduction Contract an exact photocopy of each such license.

LLP LICENSE NUMBER(S) AND FISHERY OF LICENSE(S) SPECIFIED AS REDUCTION PERMITS	
License number(s)	Fishery(s)
(1)	
(2)	
(3)	
(4)	
(5)	

e. *Reduction Fishing History.* For all Reduction Fishing History insert in the place provided in the table under this section 46.e the chronological and other information with each column heading therein requires. The information required does not include any actual landing date. Any Offeror whose Groundfish Reduction Permit whose issuance NMFS based on the fishing history of a lost or destroyed vessel plus a replacement vessel must insert information for both vessels and meet the requirements of the framework regulations, final rule and any other regulations promulgated pursuant to the Act. Any Offeror whose Groundfish Reduction Permit whose issuance NMFS in any part based on acquisition of fishing history from another party must insert information regarding such catch history.

NAME(S) AND OFFICIAL NUMBER OF REDUCTION PRIVILEGE VESSEL AND NAME(S) AND OFFICIAL NUMBER(S) OF ANY VESSEL FROM WHICH FISHING HISTORY WAS ACQUIRED	FOR EACH REDUCTION PRIVILEGE VESSEL IN 1ST COLUMN PROVIDE FROM TO DATE OF EACH FISHING HISTORY OF OFFEROR POSSESSES	FOR EACH FISHING HISTORY IN 2ND COLUMN	
		License No. of each Groundfish Reduction Permit and Reduction Permit(s) associated with each vessel involved	If Reduction Privilege Vessel acquired fishing history from another party, provide name of party, manner in which acquired, and date acquired
(1)			
(2)			
(3)			
(4)			
(5)			

f. *Reduction Privilege Vessel.* Insert the full and exact name and official number which the National Vessel Documentation Center designated for the Reduction Privilege Vessel

which the Offeror or the co-Offeror (if there is a co-Offeror) specifies in the Reduction Contract, and check the box appropriate for the vessel's ownership of record.

Enclose with the Reduction Contract an exact photocopy of such vessel's official certificate of documentation.

REDUCTION PRIVILEGE VESSEL		Check appropriate ownership box below	
Official name	Official No.	Offeror	Co-Offeror (if any)

g. *Offer Amount.* Insert in the place this section 46.g provides the Offeror's full and exact offer amount, both in words and in numbers.

OFFER AMOUNT (U.S. DOLLARS)	
In words	In numbers

NMFS for the permanent surrender and relinquishment and revocation, restriction, withdrawal, invalidation, or extinguishment by other means (as NMFS deems appropriate) of the Groundfish Reduction Permit, any Reduction Permit(s), the Reduction Fishing History—all as identified in the Reduction Contract or as required under applicable regulations, or the applicable law.

The Offeror expressly acknowledges that NMFS' acceptance of the Offeror's offer hereunder and NMFS' tender, following a successful referendum, of a reduction payment in the same amount specified in section 46.g of this contract (less any sum

withheld for scrapping any Reduction Privilege Vessel lacking Federal documentation or for any other purpose) to the Offeror shall, among other things, render the Reduction Privilege Vessel permanently ineligible or any fishing worldwide, including, but not limited to, fishing on the high seas or in the jurisdiction of any foreign country while operating under United States flag, and shall impose or create other legal and contractual restrictions, impediments, limitations, obligations, or other provisions which restrict, revoke, withdraw, invalidate, or extinguish by other means (as NMFS deems appropriate) the complete Reduction Fishing Interest and any other fishery

h. *Reduction Contract Signature.* In compliance with the Reduction Contract, applicable regulations and the applicable law, the Offeror submits the Reduction Contract as the Offeror's irrevocable offer to

privileges or claims associated with the Groundfish Reduction Permit, any Reduction Permit(s), the Reduction Privilege Vessel, and the Reduction Fishing History—all as more fully set forth in the Reduction Contract, applicable regulations, and the applicable law.

By completing and signing the Reduction Contract, the Offeror expressly acknowledges that the Offeror has fully and completely read the entire Reduction Contract. The Offeror expressly states, declares, affirms, attests, warrants, and represents to NMFS that the Offeror is fully able to enter into the Reduction Contract and that the Offeror legally holds, owns, or retains, and is fully able under the Reduction Contract provisions to offer and dispose of, the full Reduction Fishing Interest which the Reduction Contract specifies and the applicable regulations, and the applicable law requires that any person or entity completing the Reduction Contract and/or signing the Reduction Contract on behalf of another person or entity, expressly attests, warrants, and represents to NMFS that such completing and/or signing person or entity has the express and written permission or

other grant of authority to bind such other person or entity to the Reduction Contract's terms and conditions. The Offeror expressly attests, warrants, and represents to NMFS that every co-owner of the Offeror necessary to constitute the Offeror's full and complete execution of the Reduction Contract has signed the Reduction Contract. The Offeror expressly attests, warrants, and represents to NMFS that the Offeror: Fully understands the consequences of submitting the completed Reduction Contract of which it is a party to NMFS; pledges to abide by the terms and conditions of the Reduction Contract; and is aware of, understands, and consents to, any and all remedies available to NMFS for the Offeror's breach of the Reduction Contract or submission of an offer which fails to conform with the Reduction Contract, final rule, applicable regulations and the applicable law. The Offeror expressly attests, warrants, and represents to NMFS that all information which the Offeror inserted in the Reduction Contract is true, accurate, complete, and fully in accordance with the Reduction Contract, final rule, other applicable regulations and the applicable law.

In witness whereof, the Offeror has, in the place provided below, executed the Reduction Contract either as an Offeror offering alone or as an Offeror and co-Offeror (if there is a co-Offeror) jointly offering together, in accordance with the requirements specified above, and on the date written below. The Reduction Contract is effective as of the date NMFS accepts the Offeror's offer by signing the Reduction Contract.

The Offeror and co-Offeror (if there is a co-Offeror) must each sign the Reduction Contract exactly as instructed herein. Each co-owner (if there is a co-owner) of each Offeror and co-Offeror (if there is a co-Offeror) must also sign the Reduction Contract exactly as instructed herein. A notary public must, for each person or entity signing on behalf of the Offeror, complete and sign the acknowledgment and certification provision associated with each such person or entity's signature.

I, Offeror and co-Offeror's (if there is a co-Offeror) signature(s) and notary's acknowledgment(s) and certification(s).

OFFEROR'S SIGNATURE AND NOTARY'S ACKNOWLEDGMENT AND CERTIFICATION

If Offeror or co-Offeror consists of more than one owner, use one row of column 1 for each co-owner's signature. If not, use only one row for Offeror and one row for co-Offeror (if any). Always use same Offeror row order as in Offeror Name in the table under section 48.b(1) of this contract (i.e., signature (1) is for name (1), signature (2) is for name (2) signature (3) is for name (3), etc.)

<p>OFFEROR SIGNATURE (1) Sign. (2) Print: the following: (a) signer's name, (b) signer's title (if signing for corporation or other business entity), and (c) signing date</p>	<p>Check appropriate column for each signature in 1st column</p>		<p>NOTARY SIGNATURE (1) Sign. (2) Print: the following: (a) name, (b) signing date, (3) date commission expires, and (4) State and county. Each notary signature attests to the following: "I certify that I know or have satisfactory evidence that the person who signed in the 1st column of this same row is the person who appeared before me and: (1) acknowledged his/her signature; (2) on oath, stated that he/she was authorized to sign; and (3) acknowledged that he/she did so freely and voluntarily."</p>
	Qualifying Offeror	Co-Offeror (if any)	
	(1)		
	(2)		
(3)			

U. S. of America's signature.
United States of America, Acting by and through the Secretary of Commerce, National Oceanic and Atmospheric Administration,

National Marine Fisheries Service, Financial Services Division.
Date: _____
By: _____
Leo C. Erwin, Chief,

Financial Services Division, National Marine Fisheries Service.
[FR Doc. 06-8354 Filed 9-28-06; 11:08 am]
BILLING CODE 3010-01-P

Subject: SE Seine in Senate CJS bill

From: Trevor McCabe <tmccabe@mccabe-law.com>

Date: Mon, 09 Jul 2007 11:19:01 -0800

To: Rob Zuanich <rpz@psvoa.com>, 'Peter D Jones' <Peter.D.Jones@noaa.gov>, 'Michael A Sturtevant' <Michael.A.Sturtevant@noaa.gov>

CC: Bob Thorstensen <AKWAPSC@aol.com>

Mike and Pete:

Attached is the SE seine capacity reduction language that was just included in the FY08 CJS appropriations bill (S.1745) and report (S.Rep. 110-124) that were approved by the Senate Appropriations Committee on June 29, 2007.

The bill language starts on line 19 of S.1745 (attached) and says: "Provided further, That of the funds provided under this heading, \$250,000 is made available until expended subject to procedures set forth in section 209 of Public Law 108-447"

The report language appears towards the end of page 32 of S.Rep. 110-124 (attached) and says, "Within the funds provided for NOAA, \$250,000 within NMFS shall be available until expended subject to procedures set forth in section 209 of Public Law 108-44." (The reference in the report to Public Law 108-44 is a typo - it should have mirrored the bill language which correctly refers to P.L. 108-447).

There's obviously still a ways to go before the FY08 CJS bill and this SE seine measure become law, but it appears we're making headway on the last of the technical glitches to allow the program to move forward. Rob and I were hoping to talk with you guys sometime soon about what else we can be doing in advance of this addition/correction to section 209.

Thanks,
Trevor

Law Office of Trevor McCabe
1343 G Street, Suite 104
Anchorage, Alaska 99501
(907) 277-2677 Phone
(907) 277-2606 Fax

FY08 Senate CJS SE Seine Report Lang.pdf	Content-Type: application/pdf Content-Encoding: base64
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FY08 CJS Senate SE Seine Bill Lang.pdf	Content-Type: application/pdf Content-Encoding: base64
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for this national program, no less than \$1,500,000 shall be used for Alaska.

National Height Modernization.—The Committee recognizes the need for a comprehensive, prioritized approach to funding height modernization projects throughout the nation and therefore provides \$10,000,000. The Committee directs NOAA to submit a list of priorities of those states to undergo further geodetic height modernization no later than 30 days after enactment of this act, and a prioritized list for fiscal year 2009 no later than April 1, 2008.

Regional Geospatial Modeling Grants.—The Committee provides \$12,000,000 and directs the Coastal Service Center, working with the National Coastal Data Development Center and coastal state programs, to establish a competitive program for researchers and resource managers to create useful and comprehensive models or geographic information systems using existing geodetic, coastal remote sensing data, terrestrial gravity measurements or other physical datasets. Ideally, these products will assist with regional storm surge and flood modeling, disaster response preparedness, drought assessment or digital, web based Elevation Project for the Northern Gulf States to use as a model for other regional activities.

Coastal Services Center.—The Committee encourages NOAA to invest in a Resilient Coastal Communities effort by tying smart land use and building practices to the actuarial rating systems, so that owners and small businesses are incentivized to build smarter and stronger with assurances that if they do they will realize lower insurance rates. The Committee also encourages the Coastal Services Center to work closely with the National Institute of Standards and Technology on its "Disaster Resilient Communities" initiative that the Committee has recommended funding.

CZM Grants.—The Committee provides \$74,000,000 for the CZM grants program, of which not less than 10 percent shall be available for the costs of administering this grant program.

NOAA NATIONAL MARINE FISHERIES SERVICE

The Committee recommendation provides \$768,136,000 for the National Marine Fisheries Service (NMFS). NMFS programs provide for the management and conservation of the Nation's living marine resources and their environment, including fish stocks, marine mammals, and endangered species. Using science-based conservation, management, and restoration activities, these resources can benefit the Nation on a sustained basis. NMFS seeks to build sustainable fisheries, recover protected species, and sustain healthy coastal ecosystems and the communities that depend on them. Within the funds provided for NOAA, \$260,000 within NMFS shall be available until expended subject to procedures set forth in section 209 of Public Law 108-44.

Committee recommendations are displayed in the following table:

NATIONAL MARINE FISHERIES SERVICE OPERATIONS, RESEARCH, AND FACILITIES

(In thousands of dollars)

	Committee recommendation
Protected Resources Research and Management Programs	14,268

1 pursuant to cooperative agreements; and relocation of fa-
2 cilities, \$3,036,888,000, to remain available until Sep-
3 tember 30, 2008, except for funds provided for cooperative
4 enforcement, which shall remain available until September
5 30, 2009: *Provided*, That fees and donations received by
6 the National Ocean Service for the management of na-
7 tional marine sanctuaries may be retained and used for
8 the salaries and expenses associated with those activities,
9 notwithstanding 31 U.S.C. 3302: *Provided further*, That
10 in addition, \$3,000,000 shall be derived by transfer from
11 the fund entitled "Coastal Zone Management" and in ad-
12 dition \$77,000,000 shall be derived by transfer from the
13 fund entitled "Promote and Develop Fishery Products and
14 Research Pertaining to American Fisheries": *Provided*
15 *further*, That of the \$3,121,888,000 provided for in direct
16 obligations under this heading \$3,036,888,000 is appro-
17 priated from the general fund, \$80,000,000 is provided
18 by transfer, and \$5,000,000 is derived from recoveries of
19 prior year obligations: *Provided further*, That of the funds
20 provided under this heading, \$250,000 is made available
21 until expended subject to procedures set forth in section
22 209 of Public Law 108-447: *Provided further*, That no
23 general administrative charge shall be applied against an
24 assigned activity included in this Act or the report accom-
25 panying this Act: *Provided further*, That the total amount