

Council Training Syllabus
To Meet the Training Requirements (Section 302(k)) of the
MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT
Public Law 94-265
As amended by the Magnuson-Stevens Fishery Conservation and Management
Reauthorization Act (P.L. 109-479)

An annual national Training and Orientation program will be held for all newly appointed Council members during each fall (after appointments are made) and will be available to existing Council members, staff from the regional offices, and regional science centers of NMFS, as well as to Council committee and advisory panel members as resources will allow. Additional training sessions on topics of regional focus (i.e. fishing gears and vessels used in a region) or specific only to certain regions (i.e. tribal treaty rights and native customs of Western Pacific indigenous communities) are being prepared for presentation directly in the regions and may be facilitated by a local Sea Grant program where possible.

Particular course topics that are identified in Section 302 (k)(1) of the Magnuson-Stevens Fishery Conservation and Management Act, Public Law 94-265 have the section number listed next to the session title.

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Syllabus for Fall 2007 Training and Orientation Program

DAY 1

Goals and Purposes of Council Orientation

- General overview of the orientation program

NOAA Organizational Structure, Contacts (*Section 302 (k)(1)(H)*) and the Council Environment

- Organization of the Office of Sustainable Fisheries
- NOAA General Counsel
- NOAA Offices, Department of Commerce, Office of Management and Budget
- Introduction to the Council Environment and responsibilities

Magnuson-Stevens Act (*Section 302 (k)(1)(E)*)

- Fishery Management mission and key concepts
- Background and history of MSA (1976 FCMA, 1996 SFA, 2006 Reauthorization)
- Structure of MSA
 - Councils
 - Council Functions
 - Procedural Issues
 - Fishery Management Plans (FMPs) and National Standards
 - Achieve OY/prevent overfishing (NS1)
 - Other National Standards
 - NS2: Best available scientific information
 - NS3: Manage stocks as a unit
 - NS4: Allocations fair and equitable, promote conservation, and prevent excessive shares
 - NS5: Consider efficiency in utilization; not have economic allocation as sole purpose

- NS6: Allow for variations and contingencies
- NS7: Minimize costs, avoid duplication
- NS8: Consider fishing communities to provide for their sustained participation and to minimize adverse economic impacts
- NS9: Minimize bycatch and bycatch mortality (to extent practicable)
- NS10: Promote safety of human life at sea
- Lessons from Case Law
- Special Provisions of MSA
 - Secretarial FMPs/amendments
 - Ending Overfishing
 - Highly Migratory Species (HMS)
 - Essential Fish Habitat (*presented later*)
 - Emergency Actions
 - Other
- New requirements in the 2006 Reauthorization (*...to be added*)

Legal and Regulatory Requirements (*Section 302 (k)(1)(F)*)

- Laws and Executive Orders affecting fishery management
 - Regulatory Flexibility Act (RFA)
 - Endangered Species Act (ESA)
 - Marine Mammal Protection Act (MMPA)
 - Paper Reduction Act (PRA)
 - Coastal Zone Management Act (CZMA)
 - National Marine Sanctuary Act (NMSA)
 - Data Quality Act (DQA)
 - Administrative Procedures Act (APA)
 - National Environmental Protection Act (NEPA)
 - EOs 12866 (RIR), 13272
 - EO 13132
- Managing multiple mandates (or Integration of conflicting statutes)
- Reason, Rationale, and Physical Record
- Litigation

National Environmental Policy Act of 1969 (NEPA) (*Section 302 (k)(1)(F)*)

- National Environmental Policy
- NEPA implementation requirements
 - Council on Environmental Quality (CEQ) regulations for procedural provisions
 - NOAA Administrative Order 216-6, Environmental Review Procedures For Implementing NEPA
- Definition of a 'Federal Action'
 - Categorical exclusion
 - Environmental Assessment (EA)
 - Environmental Impact Statement (EIS)
- CEQ Significant Impact Criteria
- Key concepts from CEQ's Implementation Regulations for required analyses
- Environmental 'Red Flags' for fisheries actions
- Role of the Environmental Protection Agency (EPA)
- Contacts for fisheries NEPA coordinators

Ecosystem Approaches to Management (*Section 302 (k)(1)(H)*)

- Why there is more focus on ecosystems
- Managing ecosystem parts vs. ecosystem relationships, processes, and tradeoffs
- Definition of ecosystem approach to management (EAM)
- Elements of regional ecosystem governance
- Components supporting EAM

- Objectives of an Ecosystem Approach to Fisheries (EAF)
- Science support for EAM
 - Regional examples
 - Types of scale of various data components and assessments
- How Councils currently address and implement EAF - regional examples
- Trend to more ecosystem issues in fisheries management
 - Fisheries Ecosystem Pilot Projects (from FY04 funding)
 - Development of ecosystem guidelines
 - Ecosystem Goal: FY09-13 Program Plan

Essential Fish Habitat *(Section 302 (k)(1)(E))*

- Language in 1996 MSA reauthorization
- Definition of EFH and HAPC
- Regulation and its criteria
- Council responsibilities
 - Identify and Describe EFH (and HAPCs)
 - Minimize Adverse Effects of Fishing on EFH
 - Consultations
- Status of EFH amendments
- 5 year review

Fish Harvesting and Fishery Management Techniques *(Section 302 (k)(1)(B) and (I))*

- Historical improvements in fishing efficiency and fish harvesting techniques
- Overview of types of fishing gear and fishing vessels
- Managing fisheries effort or efficiency
 - Amount/type of gear or fishing vessels
 - Area, seasonal or temporal restrictions
 - Size, strength, capacity or number of fishing vessels
 - Permits, licenses, or quotas
 - Marine protected or managed areas (MMAs or MPAs)
 - Other Limited Access Programs (LAPPs) *(more on this topic, Day 2)*
- Monitoring and surveillance (enforcement, VMS) *(more on this topic, Day 2)*

Development of Fishery Management Plans (FMPs) *(Section 302 (k)(1)(G))* and the Council Procedures *(Section 302 (k)(1)(B))*

- Process Overview
- FMP Components (mandatory and discretionary)
- Added Complexities
 - Multiple Mandates
 - Multiple Parties
- Secretarial Review and approval criteria
- Public input
- Planning a Timeline
 - Statutory and Regulatory Timelines (different trigger dates)
 - Logical Interactions
 - Clearance Requirements

DAY 2

Fishery Science and Basic Stock Assessment Methods *(Section 302 (k)(1)(A))*

- Mandate, long term, and short term goals (OY, catch levels)
- Foundations for fisheries management
 - Definition of a stock assessment
 - Definition of a stock and stock issues
- Stock assessment process and methods

- Fishery data needs (*Section 302 (k)(1)(B)*)
 - Catch and effort data
 - Fishery observers
 - Abundance indexes
 - Advanced technologies
- Methods and models
- Limitations of stock assessment
- Setting OY, ABC and rebuilding rates
 - Management Strategy Evaluation (MSE)
 - Harvest Control Rule
 - Forecasts
 - Rebuilding
- Stock assessment – ecosystem connection

Annual Catch Limits and Accountability Measures (*Section 302 (k)(1)(B)*)

- Review of new MSA requirements
- Review of Agency's interpretation
- Status of new rulemaking

Endangered Species Act (ESA) (*Section 302 (k)(1)(F)*)

- Purposes and policy
 - Listing
 - Critical habitat
 - Recovery plans
- Listed species under NMFS' jurisdiction
- Overview of Consultation process - Section 7
 - Informal Consultation – Optional
 - Formal Consultation - Unavoidable adverse effects & thresholds
 - Sec.7(a)(1): Promote the purpose of the ESA
 - Sec.7(a)(2): Do not cause jeopardy Section
 - Sec.7(b)(4): Incidental Take Statement
 - Initiation Package - required written request for consultation
 - Duration of Consultation
- Fishery Management Plans and Section 7(a)(2)
 - Timing and structure of Consultation
 - Deconstruct and describe the action
 - Analyze the exposure and assess probable responses
 - Incidental Take Statements & Conservation Recommendations
 - Reinitiating a Consultation

Marine Mammal Protection Act (MMPA) (*Section 302 (k)(1)(F)*)

- Historical perspective to MMPA
 - Prohibits “take” of marine mammals, with limited exceptions
 - Incidental take
 - Direct take
 - Protects all marine mammals
 - Uses highly protective standard optimum sustainable population
- Fishing and the MMPA - Section 118
 - Stock Assessment Reports (SARs; Section 117)
 - Commercial fishery classifications (i.e., List of Fisheries)
 - Registration
 - Injury/mortality reports
 - Observers
 - Take Reduction Teams (TRTs)
 - Take Reduction Plans (TRPs)

- Short-term (6 months) goal: Potential Biological Removal (PRB)
- Long-term (5 years) goal: Zero Mortality Rate Goal (ZMRG)
- Accounting for economics of the fishery, existing technology, existing state/regional FMPs
- Future Initiatives in the MMPA Reauthorization

Fishery Economics (Section 302 (k)(1)(C))

- Legal Mandates for economic analysis
 - MSA Section 303 (a)(9): Fishery Impact Statement
 - E.O. 12866 (October 4, 1993): Regulatory Planning and Review
 - E.O. 13272 (August 13, 2002): Proper Consideration of Small Entities in Agency Rulemaking
 - Regulatory Flexibility Act (RFA), 1980 (prepare an IRFA)
 - Small Business Regulatory Enforcement Fairness Act (SBREFA), 1996
- Framework for Economic Analyses
 - Preliminary economic evaluation
 - Formal Regulatory Impact Review (RIR)
 - Description of the management objectives
 - Description of the fishery
 - Statement of the problem
 - Description of selected alternatives
 - Analysis of expected economic effects on fishery participants and fishing communities
- Process requirements for each legal mandate
- Analytical requirements for each management action

Enforcement (Section 302 (k)(1)(E) and (H))

- Fisheries Enforcement Components
 - NOAA Fisheries Office for Law Enforcement (OLE)
 - Overview
 - Jurisdiction (geographically)
 - Primary laws – 37 statutes
 - NOAA, General Counsel for Enforcement Litigation
 - USCG Law Enforcement
- NOAA (OLE) Mission/Responsibility
 - Investigations and patrols
 - Community Oriented Policing and Problem Solving (COPPS)
 - Technology and VMS
 - Partnerships
 - Regional Fisheries Training Centers
- USCG Mission/Responsibility
- Enforceability of Regulations

Social Science (Section 302 (k)(1)(C))

- Definitions, Social Impact Assessments (SIA)
- Legal authorities
 - NEPA [40 CFR 1508.14] “human environment”
 - MSA [MSA 303(a)(9)] “fishery impact statement”
 - MSA [MSA 301(a)(8)] “sustaining fishing communities” –NS8
 - MSA [MSA 303(b)(6)] “limited access programs”
- Conducting social analyses
 - Identifying issues
 - Categorizing social factors
 - Standards and criteria
 - Baseline community profiles of fishery participants, communities and fishery-dependent service industries

- Analyzing social factors:
 - Descriptive statistics
 - Inferential analyses
 - Multivariate analyses
 - Longitudinal analyses
- Monitoring social change
- Improving fishery SIAs

Limited Access Privilege Programs (Section 302 (k)(1)(B))

- Definitions
- Context – Open Access to Limited Access Privileges
- Design of LAP programs
 - Nature of the harvest privilege
 - Initial Allocation, Transferability
 - Excessive share
 - Referenda
- Management of LAP programs
 - Enforcement
 - Monitoring and Data collection
 - Cost recovery

Day 3

Conflict of Interest and Disclosure Provision for all Council members (Section 302 (k)(1)(E))

- Conflict of Interest statutes for Public Members of Councils
 - Reporting requirements on Statement of Financial Interests (NOAA Form 88-195)
 - What constitutes a 'financial interest'
 - Special exceptions
 - Lobbying restrictions
 - Limits on activities after leaving Council service
- Conflict of Interest of federal officials on Council
 - Same restrictions as other government duties
 - No special exceptions

Rules of Conduct and other Legal Requirements (Section 302 (k)(1)(E))

- State officials on Councils
 - State and Council rules
- Council staff
 - Federal and Council rules
 - Limits on activities after leaving Council service

International Fisheries Issues Impacting Councils (Section 302 (k)(1)(H))

(Additional updates forthcoming)

- International Affairs Office (F/IA) structure & responsibilities
 - Challenges are contemporary to domestic fisheries
 - Review of top international priorities
- Mandated work
 - MSA
 - Marine Mammal Protection Act
 - Endangered Species Act
 - Implementing legislation for treaties and agreements (e.g. Pacific Salmon Treaty Act, Atlantic Tuna Convention Act, International Dolphin Conservation Program Act, others)
 - Bilateral agreements with other governments (Japan, Russia and others)
- Issues impacting Councils and their role
 - Regional Fishery Management Organizations

- Other International Bodies and Arrangements
- Pacific Islands Area Fishery Agreements (PIAFA) – permits DWFN fishing agreements

Tribal Treaty Rights and Native Customs Access and Other Rights of Western Pacific Indigenous Communities (Section 302 (k)(1)(D))

- Principles of Federal Indian Law and Native rights policy
 - Presidential documents
 - DOC's American Indian and Alaska Native Policy
- Federal Trust responsibilities
- Regions
 - North Pacific/Alaska
 - Pacific
 - Voting member on Pacific Council
 - Western Pacific
 - Western Pacific Community Development Program
 - Western Pacific Demonstration Projects

Working the Complete FMP Process (Section 302 (k)(1)(G))

- Need for planning and balancing mandates, timelines and parties
- Regulatory streamlining
- Draft Operational Guidelines
 - A Philosophical Document
 - Suggested Approach for cooperation
 - Uses quality-based model
 - 16 Steps in 4 phases
 - Importance of frontloading
 - Regional Operating Agreements (ROAs)
 - Next steps
 - Limitations

Regional Orientation and Training

In consultation with the National Sea Grant Program and the Councils, NMFS will, where possible, design regional training sessions on topics relevant and/or of interest to particular regions and fishery management councils. For example, regional training will be more appropriate to provide new Council members with specific information regarding their *local* harvesting techniques, vessel types, fishing gear, recreational and commercial fishery information, and fishing community issues, rather than try to cover all the regional differences at a national training session.

Assistance in the development and delivery of regional trainings has been requested Sea Grant. It is anticipated that regional Sea Grant programs will be interested in providing topical materials (print, video, etc.) as well as individuals with specific expertise to present the sessions.

Additionally, several other topics that will be presented at the national level are ideal for more in-depth trainings or workshops to be given at the regional level. These include providing detailed information regarding international fisheries activities that are the responsibility of a particular Council and tribal treaty rights and native customs.