



May 29, 2009



Dr. Jane Lubchenco, Administrator
National Oceanic and Atmospheric Administration
1401 Constitution Avenue, NW, Room 5128
Washington, DC 20230



Dear Dr. Lubchenco:



Thank you again for your participation last week in our Council Coordination Committee meeting. One of our agenda items was “Legislation and Regulation Updates”. During our lengthy discussion about the National Environmental Policy Act (NEPA), we became aware of an initiative by NOAA's line office of Planning, Programming, and Integration (PPI) to rewrite Administrative Order 216-6, which prescribes NOAA's NEPA compliance procedures. The initiative apparently began last December 2008, at about the same time that NOAA Fisheries withdrew a proposed rule which would have implemented a revised NEPA compliance procedure for fisheries actions promulgated through the Council under the authority of the Magnuson-Stevens Act (MSA).



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The proposed rule was the result of a provision included in the most recent MSA reauthorization [Section 304 (i)], which mandated that NOAA Fisheries revise its NEPA compliance procedures in consultation with CEQ and the Regional Fishery Management Councils. Although we believe that additional coordination and consultation would have been more beneficial during the development of this rule, nevertheless, we worked very hard with NOAA Fisheries from start to finish. We believe that any further development of NEPA compliance procedures, such as those currently undertaken by PPI, would benefit significantly by including a meaningful consultation with the Councils.



It is our understanding that 85 percent of NOAA's NEPA activities are related to Council actions and NOAA Fisheries. It therefore seems prudent that NOAA would approach any revisions to NEPA compliance under the auspices of the Congressional mandate, rather than revise Administrative Order 216-6 through a separate and potentially confounding effort. The Councils have a standing subcommittee of three Executive Directors who have been working with NOAA Fisheries on this issue, and who stand ready to further engage in any effort to revise these procedures.

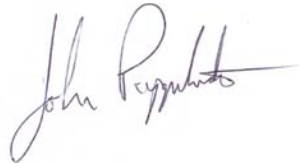


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We believe that section 304 (i) of the MSA reauthorization entitled ENVIRONMENTAL REVIEW PROCESS was intended to streamline the NEPA process and integrate it with our MSA process in consultation with the Councils and CEQ . This section also states that updated procedures promulgated in accordance with this section shall be the sole environmental impact assessment procedure for fishery management plans, amendments, regulations, or other actions taken or approved pursuant to the MSA. We are concerned about a potential conflict between the PPI initiative and the provisions in the MSA. We ask how the PPI initiative will be melded with the NEPA revision provision in the MSA.

Your positive consideration and action on this request will be greatly appreciated. We remain committed to work with NOAA regarding any revisions to the current NEPA compliance provisions. If you have any questions, please call Paul Howard, Executive Director, New England Fishery Management Council.

Sincerely,



John W. Pappalardo, Chair
New England FMC



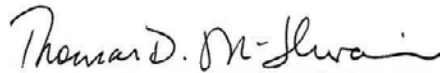
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South Atlantic FMC



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Caribbean FMC



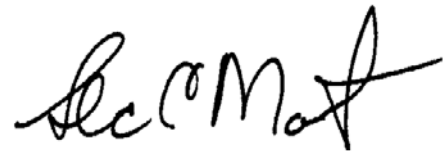
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Donald K. Hansen, Chair
Pacific FMC



Eric Olson, Chair
North Pacific FMC



Sean Martin, Chair
Western Pacific FMC

cc: Dr. James W. Balsiger
Samuel D. Rauch III
Council EDs