

PROPOSED ADDITIONS TO CCC WORKING PAPER: PREPARED FOR REVIEW AT CCC MAY 2018 MEETING

Existing Topics/Positions: WPFMC has a revised position on Topic 10. Topic 10 is shown below with the new wording for the WPFMC. Just as a reminder, the Regional Perspectives are left up to each individual Council. Given the CCC will be reviewing changes to the Working Paper, if other Councils also have positions they want to modify and/or add, please raise them as soon as possible.

Topic 10:

OTHER FEDERAL STATUTES

Background

Changes have been proposed to the MSA to ensure consistent fisheries management under certain federal laws. The proposals specifically address consistency with the National Marine Sanctuaries Act, Antiquities Act and actions necessary to implement recovery plans under the Endangered Species Act. Federal fishing regulations may also be promulgated under other federal laws such as the Marine Mammal Protection Act and through means under the MSA that circumvents the transparent and public Council process. Additionally, restrictions on fisheries may also be deemed necessary to implement requirements under the Endangered Species Act beyond species recovery plans, such as implementing Reasonable and Prudent Alternatives resulting from Section 7 consultation Biological Opinions.

Consensus Position

The CCC developed the following consensus position:

“The CCC believes that all federal fishery regulations should be promulgated under the Council or Secretarial process established under MSA section 302 to ensure rational management of our fishery resources throughout their range. Under the MSA, the Councils are charged with managing, conserving, and utilizing the Nation’s fishery resources as well as protecting essential fishery habitat, minimizing bycatch, and protecting listed species within the United States Exclusive Economic Zone. This is done through a transparent public process that requires decisions to be based on the best scientific information available. This time-tested approach has made U.S. fisheries management highly successful and admired throughout the world.

If changes to Council-managed fisheries (for example changes to the level, timing, method, allowable gear, or areas for harvesting management unit species) are required under other statutory authorities such as the Antiquities Act of 1906, the Endangered Species Act of 1973, the Marine Mammal Protection Act of 1972, or the National Marine Sanctuaries Act of 1972 (NMSA), such restrictions or modifications to those fisheries should be debated and developed under the existing MSA process, unless a Council cedes this responsibility to another process. In addition, all actions by the Councils are currently subject to review by the Secretary of Commerce to determine consistency with MSA and all other applicable laws. This current review ensures that Council actions – including those that could be made as a result of requirements of other statutes – will continue to be consistent with all relevant laws. Making modifications to fisheries through the MSA process would ensure a transparent, public, and science-based process. When fishery restrictions are put in place through other statutes, the fishing industry and stakeholders are often not consulted, analyses of impacts to fishery-dependent communities are not considered, and regulations are either duplicative, unenforceable, or contradictory.”

Regional Perspectives

NEW ENGLAND:

Management measures were adopted through the Antiquities Act that affect fishing in a recently adopted National Marine Monument.

SOUTH ATLANTIC:

In the past, the Council has experienced delays in amendment development when a reasonable management alternative was identified by Protected Resources staff after the public hearing process. More recently, the Council has worked closely with the NMFS and NOAA GC to identify any alternatives that should be considered early in the process. We prepare consolidated documents that meet both MSA and ESA requirements. At times the Southeast Protected Resources interpretation of potential impacts to species has been much more restrictive than other region's determinations. This has caused significant delays and additional analyses with little to no data (e.g., black sea bass pot fishery). A clear independent and transparent peer review process for Protected Resource assessments, analyses, and determinations would be extremely beneficial to the Councils, the affected fishermen, and the public.

The Council recently completed a regulatory amendment allowing harvest of black sea bass with pot gear for the 32 permitted fishermen, with a maximum number of 35 pots per permitted fisherman, a requirement to tend the pots, and a requirement to bring the pots back to shore at the end of a trip. The way ESA/MMPA was applied resulted in a delay in development, review, and implementation. This resulted in fishermen unnecessarily losing income from the 2-month delay in the start of the season.

GULF OF MEXICO:

The Council has encountered at least two potential conflicts with other statutes. With regard to the National Marine Sanctuaries Act, the Council would like to have final say on fishery regulations to ensure such regulations comply with Magnuson Act requirements. With regard to the Endangered Species Act, the Council would like to be involved in development of biological opinions and management recommendations that affect fisheries managed under the Magnuson Act to ensure such recommendations are reasonable and effective.

PACIFIC:

The Regional Fishery Management Council (RFMC) process was created by the MSA in 1976 to provide transparent, public, regional management of fisheries resources. All meetings of the Pacific Council and its advisory bodies are open to the public, and all materials used to make management decisions are publicly available and posted to our website. In addition, the Pacific Council process adheres to the provisions of the National Environmental Policy Act, the Marine Mammal Protection Act, the Endangered Species Act, the Federal Advisory Committee Act, and other applicable laws. In June 2016, the RFMC's Council Coordination Committee unanimously adopted a resolution recommending that fishery management actions in the U.S. Exclusive Economic Zone should continue to be developed, analyzed, and implemented via the RFMC process, rather than being addressed by authorities such as the Antiquities Act of 1906.

The Pacific Council's transparent system provides all stakeholders an opportunity to express their opinions, share their knowledge, and be involved in the fishery management process, thereby improving Pacific Council decision-making and natural resource management. The Pacific Council believes that informed decision-making should involve an open process where impacts to the natural and human environment are disclosed and diverse viewpoints can be considered.

WESTERN PACIFIC:

In addition to the ESA and the Antiquities Act identified in Section 5 of H.R. 200, the Council believes that it is important to recognize the MMPA as one of the statutes that can also affect existing fisheries management plans. Measures to implement the MMPA False Killer Whale Take Reduction Plan modified gear requirements and fishing areas for a fishery that is otherwise sustainably-managed under the MSA. Modification of the longline exclusion zone, originally established under the Council process, was done through MSA section 305(d) (pertaining to responsibility of the Secretary), circumventing the process established under MSA section 302. The Council believes that developing federal fishery regulations to meet requirements of other federal statutes such as MMPA and ESA under the MSA section 302 process will ensure greater consistency and transparency in fisheries management as well as full consideration of impacts to fishing communities. Therefore, the MMPA should be included in Section 5 along with the ESA and Antiquities Act.

New Topics/Positions: The following new topics are proposed for inclusion in the CCC Working Paper. Individual Councils are encouraged to provide their Regional Perspectives and the CCC will be asked to review, modify as appropriate, and approve the Consensus Statements.

Topic 16:

COOPERATIVE RESEARCH

Background

Draft legislation would require that within 1 year after enactment, and after consultation with the Councils, the Secretary of Commerce shall publish a plan for implementing and conducting the identified research. The plan shall identify and describe critical regional fishery management and research needs, possible projects that may address those needs, and estimated costs for such projects. The plan shall be revised and updated every 5 years, and update plans shall include a brief description of projects that were funded in the prior 5-year period and the research and management needs that were addressed by those projects. Proposed changes would also add: (a) the use of fishing vessels or acoustic or other marine technology, (b) expanding the use of electronic catch reporting programs and technology, and (c) improving monitoring and observer coverage through the expanded use of electronic monitoring devices.

Consensus Position

The CCC developed the following consensus position:

“While some regions already have effective cooperative research programs, the CCC believes that an explicit national plan for conducting and implementing cooperative research could benefit both science and the management. Such a plan would promote buy-in for management actions. One example of a potential cooperative research application would be development of electronic reporting programs. However, because there are differences in regional needs, such plans should not be mandatory.”

Regional Perspectives

NEW ENGLAND:

Drafting

MID-ATLANTIC:

Drafting

SOUTH ATLANTIC:

Requiring a written plan for implementing and conducting research to meet the Councils' management needs would greatly improve the South Atlantic Council's ability to manage South Atlantic fisheries. Specifying an update every 5 years with a brief description of projects that were funded in the prior 5-year period and the research and management needs that were addressed by those projects would inject accountability and improve the chances needed research would be conducted. The South Atlantic Council believes using fishing vessels or acoustic or other marine technology, expanding the use of electronic catch reporting programs and technology, and improving monitoring and observer coverage through the expanded use of electronic monitoring devices would be very helpful. The South Atlantic Council required federally-permitted snapper grouper commercial and for-hire vessels use video monitoring if selected since 2008 (Snapper Grouper Amendment 15B); however, to date, none have been selected. The South Atlantic Council has worked with partners to develop applications for charter vessel reporting and private recreational permitting/reporting application. The South Atlantic Council believes the move to electronic data collection/monitoring is necessary to meet our increasing data needs.

GULF OF MEXICO:

A plan to conduct cooperative research would be a benefit to the Councils. A cooperative research plan update every 5 years seems to be an appropriate schedule. Priority to development and expansion of electronic reporting systems is a critical need to meet current and future management demands relative to harvest monitoring systems.

CARIBBEAN:

Drafting

NORTH PACIFIC:

The North Pacific Council believes that an explicit plan for cooperative research will benefit both the industry and the management process in more effectively managing our fisheries. In the current budget climate, with reduced stock assessment surveys already being planned by NMFS, such cooperative research will be even more critical. We also note that prioritization of the expanded use of electronic monitoring (EM) is consistent with efforts already well underway in the North Pacific and identifying this priority may provide the Council with additional information for management and monitoring of the fisheries.

PACIFIC:

Drafting

WESTERN PACIFIC:

The Western Pacific Fishery Management Council develops and monitors its Five-Year Research Priorities as required by MSA§302(h) along with Cooperative Research Priorities. The Western Pacific Council submits this document annually to the NMFS Pacific Islands Fisheries Science Center for their consideration when developing their Annual Guidance Memorandum. NMFS should be required to

track their accomplishments against the council's management research needs and report back to the council. There is no process or plan in place for the council to be notified – if, when, if not- on the status of the council's 5-year research priorities. A process or plan would assure accountability and transparency on the part of both the NMFS and the Council.

Topic 17:

COOPERATIVE DATA COLLECTION

Background

Draft legislation (e.g., H.R. 200 as amended, Section 207) would require that not later than 1 year after enactment, the Secretary shall develop, in consultation with the scientific and statistical committees of the Councils and the Marine Fishery Commissions, and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives a report on facilitating greater incorporation of data, analysis, stock assessments, and surveys from State agencies and non-governmental sources into fisheries management decisions. The Secretary shall take into consideration and, to the extent feasible, implement the recommendation of the National Academy of Sciences in the report entitled “Review of the Marine Recreational Information Program (2017), including (1) prioritizing the evaluation of electronic data collection, including smartphone applications, electronic diaries for prospective data collection, and an internet website option for panel members or for the public; (2) evaluating whether the design of the MRIP program for the purposes of stock assessments and the determination of stock management reference points is compatible with the needs of in-season management of annual catch limits; and (3) if the MRIP program is incompatible with the needs of in-season management of annual catch limits, determining an alternative method for in-season management.

Consensus Position

The CCC developed the following consensus position:

“There has been some discussion of establishing guidelines to facilitate incorporation of data from non-governmental sources in fishery management decisions. There are existing legal requirements that govern data collection and quality (e.g., Data Quality Act) that dictate what NMFS is required to use for stock assessments. Data from fishermen, the states, and universities are already considered and evaluated for inclusion in stock assessments, as appropriate for the methodology and use of the data collected. These data sources are reviewed by the assessment analysts and through the peer review process that usually includes the Councils’ scientific and statistical committees. The CCC believes prescriptive requirements for use of any data source are not appropriate. The implementing guidelines for when such information should be utilized will be critical to its veracity and usefulness to assessment authors and managers.”

Regional Perspectives

NEW ENGLAND:

Drafting

MID-ATLANTIC:

Drafting

SOUTH ATLANTIC:

The South Atlantic Council is concerned that some of the proposed legislative provisions would be extremely time-consuming and burdensome for both the Scientific and Statistical Committee (SSC) and staff and appear to duplicate existing avenues of review for information from non-governmental sources. For example, the existing Southeast Data, Assessment, and Review (SEDAR) process already allows for any entity – governmental or otherwise – to submit data via working papers for review

during the data and assessment workshop components of the process. Likewise, scientific analyses and conclusions produced by non-governmental entities that have already undergone an external peer-review process (e.g., independent scientific journals) are routinely used during the SEDAR assessments. The Council's SSC has also established a process for conduct of third party (e.g., academics, private consultants) stock assessments, and regularly reviews scientific information for use in management that has been collected by academic scientists independently or in cooperation with fishermen. However, the Council believes that data used in management decisions should be collected in accordance with standards appropriate to the type of information collected and its intended use, and that are designed to minimize associated uncertainty.

GULF OF MEXICO:

Agrees with the CCC consensus statement and SAFMC analysis provided above.

CARIBBEAN:

Drafting

NORTH PACIFIC:

The North Pacific Council notes that although cooperative data collection can be very valuable to our management process and scientific understanding (e.g., the expanded Bering Sea crab surveys done by industry several years ago), the studies and results need to have adequate peer review. The concern isn't specifically with other non-government data sources per se, it is the notion that they won't be adequately peer reviewed or vetted to fulfill Best Scientific Information Available (BSIA) requirements of MSA and hold up to public and legal review. The Council had suggested that in developing the report, the Secretary also identify a process for ensuring adequate scientific peer review of the data and analysis. Basing management decisions on poorly designed studies and questionable information can be highly detrimental to the conservation of our stocks and management of the fisheries.

PACIFIC:

Drafting

WESTERN PACIFIC:

The Western Pacific Fishery Management Council is concerned that this proposed provision would impose additional unnecessary burdens on the Scientific and Statistical Committee (SSC) and staff. The SSC and staff will be forced to act as gate keepers of information received by anyone, any agency, and any organization. Peer review processes are in place. These processes include assuring that all necessary and relevant information are included in reviews of stock assessments developed for management action by the councils.

The Western Pacific Council utilizes the Western Pacific Stock Assessment Review (WPSAR) process for incorporating data into, as well as approving, stock assessments. The WPSAR process includes the Council, NMFS PIRO, and NMFS PIFSC and provides an existing avenue for reviewing and incorporating useful data into stock assessments. This process should form the basis of facilitating incorporation of additional data, when and if available.

This provision requires the development of a report that facilitates greater incorporation of data, analysis, stock assessments, and surveys from State agencies and non-governmental sources into fisheries management decision. In the Western Pacific region, data from the State and Territories are the only source of fishery dependent data used in stock assessments that feed into fisheries management. These data and survey information and assessments are all documented in the

region's Annual Stock Assessment and Fisheries Evaluation report. Requiring the development of another report of similar nature would be duplicative.

Electronic data collection will need greater support/funding since the inherent biases in this type of system (i.e., zero catch, lack of validation, etc.) will need to be accounted for. MRIP in the Western Pacific only exists for the State of Hawaii and is not useful for stock assessment, reference point, or in-season management.

Topic 18:

MIXED-USE FISHERIES LAPP MORATORIUM

Background

Draft legislation (e.g., H.R. 200 as amended, Section 206) would require that not later than 1 year after enactment, the Secretary of Commerce shall seek to enter into an agreement under which the Ocean Studies Board of the National Academies of Sciences, Engineering, and Medicine shall study the use of limited access privilege programs in mixed-use fisheries (mixed-use means a Federal fishery in which two or more of the following occur: (A) recreational fishing, (B) charter fishing, and (C) commercial fishing.). Proposed language would also establish a moratorium on the submission and approval of a limited access privilege program for a mixed-use fishery until the date that the report is submitted except if such program was part of a pending fishery management plan or plan amendment before the date of enactment of this legislation. A program under this exception shall be reviewed and revised as necessary to be consistent with the recommendations of the report. None of the proposed changes would affect limited access privilege programs approved by the Secretary of Commerce before enactment of this legislation.

Consensus Position

The CCC developed the following consensus position:

“The CCC believes that Councils should maintain the maximum flexibility possible to develop effective management tools, including limited access privilege programs. Temporary moratorium is likely to increase the administrative burden for some Councils and may reduce the Councils’ ability to implement the appropriate management program for their fisheries that could include modification of existing LAPP measures or new LAPP measures.

Limited access privilege programs are a management tool that should be available to the Councils, but the design, timing, and development should be left to individual Councils if they choose to use this tool for a specific fishery.”

Regional Perspectives

NEW ENGLAND:

Drafting

MID-ATLANTIC:

Drafting

SOUTH ATLANTIC:

The South Atlantic Council has one long-standing IFQ program in the region (wreckfish) that was established in 1992. [Note: LAPPs and IFQs are all types of catch share programs.] Since that time, the Council has considered the use of catch shares in the snapper grouper mixed-use fishery (2007-2008) and the golden crab fishery (100% commercial) (2012) but did not move forward with programs for either fishery. The topic of catch shares has lately been controversial in the South Atlantic and the Council is not currently considering additional catch share programs. The South Atlantic Council is concerned about the potential impact on existing data collection/research programs if NMFS funds have to be diverted to fund a National Academy of Sciences study of LAPP programs in mixed-use fisheries.

GULF OF MEXICO:

Agrees with the CCC consensus position stated above. The congressional mandate to implement annual catch limits has made limited access privilege programs (LAPPs) an essential management tool in certain circumstances. LAPPs have proven to be an effective tool for preventing overfishing and to improve the economic efficiency of the commercial fisheries sector. Exploratory studies in the Gulf of Mexico have also documented potential benefits for the for-hire charter and headboat components of the recreational sector. It should be noted that, like the rest of our management tools, LAPPs are not necessary in every fisheries context.

CARIBBEAN:

Drafting

NORTH PACIFIC:

The North Pacific Council notes that NAS studies incur costs to the agency (typically ~ \$1 million) that in turn, affect the Councils by reducing funding for NMFS scientific and management support. Additionally, prescribing a national moratorium on LAPPs limits the ability of Councils to use proven management tools based on regional needs and determinations, to fulfill their conservation and management responsibilities.

PACIFIC:

Drafting

WESTERN PACIFIC:

The Western Pacific Council does not currently use Limited Access Privilege Programs (LAPPs). However, the term "mixed-use fishery" needs to be better defined to ensure that should the Western Pacific Council choose to use LAPPs in the future, it isn't constricted by a term specifically written for other areas. The legislation should also ensure that should the study not be completed in one year, the moratorium would be lifted.

Topic 19:

AQUACULTURE

Background

Aquaculture is being promoted as a way to reduce the seafood import/export deficit. The Magnuson-Stevens Act (MSA) treats aquaculture as fishing based on a legal opinion by NOAA General Counsel that landings or possession of fish in the exclusive economic zone from commercial marine aquaculture production of species managed under fishery management plans constitutes “fishing” as defined in the MSFCMA [Sec. 3(16)]. Fishing includes activities and operations related to the taking, catching, or harvesting of fish.

In 1994, the South Atlantic and Gulf of Mexico Councils established a live rock aquaculture permitting system for state and federal waters off the coast of Florida under Amendment 2 to the Coral FMP. Live rock is defined as living marine organisms or an assemblage thereof attached to a hard, calcareous substrate, including dead coral or rock. Live rock is used in the marine aquarium trade. This permitting system allows deposition and harvest of material for purposes of live rock aquaculture while maximizing protection of bottom habitat, EFH, and HAPC in federal waters of the South Atlantic Council.

The Gulf of Mexico Council approved an Aquaculture FMP in January 2009. There is a lawsuit underway challenging provision of the FMP.

Consensus Position

The CCC developed the following consensus position:

“The CCC believes that the Councils’ existing authority under the Magnuson-Stevens Act allows them to develop fishery management plans to regulate aquaculture in their respective exclusive economic zone (EEZ) waters to address major topics like permitting process and duration, approval of systems and siting, species that may be cultured, and record keeping and reporting. The Gulf Council has an existing fishery management plan and other Councils have programs and/or policies addressing aquaculture in the EEZ. Individual Councils are in the process of determining whether they will develop a fishery management plan and do not feel a consultation role alone would adequately address Council concerns.”

Regional Perspectives

NEW ENGLAND:

Drafting

MID-ATLANTIC:

Drafting

SOUTH ATLANTIC:

The South Atlantic Council recognizes that there are several types of environmental risks associated with marine aquaculture. Federal, state, and local regulatory agencies should evaluate these risks as they develop and implement permitting and monitoring processes for the aquaculture industry. The Council specifically recognizes the following potential interactions between marine aquaculture and essential fish habitat (EFH):

1. *Escapement*

2. *Disease in aquaculture*
3. *Use of drugs, biologics, and other chemicals*
4. *Water quality impacts*
5. *Benthic sediment and community impacts*

The South Atlantic Council supports the establishment and enforcement of the following general requirements for marine aquaculture projects authorized under the Magnuson-Steven Fishery Conservation Act (MSA) or other federal authorities, to clarify and augment the general policies already adopted in the Habitat Plan and Comprehensive Habitat Amendment (SAFMC 1998a; SAFMC 1998b):

1. *Marine aquaculture activities in federal waters of the South Atlantic require thorough public review and effective regulation under MSA and other applicable federal statutes.*
2. *Aquaculture permits should be for at least a 10-year duration (or the maximum allowed if the applicable law or regulation sets a maximum less than 10 years) with annual reporting requirements (activity reports). Permits of 10 years or more should undergo a 5-year comprehensive operational review with the option for revocation at any time in the event there is no prolonged activity or there are documented adverse impacts that pose a substantial threat to marine resources. SAFMC Marine Aquaculture Policy June 2014*
3. *Only drugs, biologics, and other chemicals approved for aquaculture by the FDA, EPA, or USDA should be used, in compliance with applicable laws and regulations (see Appendix for current list of approvals).*
4. *Only native (populations) species should be used for aquaculture in federal waters of the South Atlantic.*
5. *Genetically modified organisms should only be used for aquaculture in federal waters of the South Atlantic, pending FDA and/or other Federal approval, following a rigorous and documented biological assessment which concludes there is no reasonable possibility for genetic exchange with natural organisms or other irreversible form of ecological impact. Further, aquaculture of genetically modified organisms should be prohibited in federal waters of the South Atlantic when there exists a reasonable opportunity for escapement and dispersal into waters of any state in which their culture and/or commerce are prohibited by state rule or policy.*
6. *Given the critical nature of proper siting, the permitting agency should require the applicant to provide all information necessary to thoroughly evaluate the suitability of potential aquaculture sites. If sufficient information is not provided in the time allotted by existing application review processes, the permitting agency should either deny the permit or hold the permit in abeyance until the required information is available.*
7. *Environmental monitoring plans for projects authorized under MSA should be developed by the applicant/permit holder and approved by NOAA Fisheries with input from the Council.*
8. *Fishery management plans for aquaculture should require permittees to have adequate funds (e.g., assurance bond) committed to ensure removal of organisms and decommissioning of facilities that are abandoned, obsolete, or storm-damaged or have had their permit revoked. The plans should also require that the amount of these funds be determined by NOAA Fisheries with input from the Council and that the funds be held in trust.*

9. When issuing permits for aquaculture in federal waters, NOAA Fisheries should specify conditions of use and outline the process to repeal permits in order to prevent negative impacts to EFH. NOAA should take the appropriate steps to modify or revoke permits using its authority if permit conditions are not being met.

GULF OF MEXICO:

The Gulf of Mexico is the only Council to have an implemented plan for aquaculture and echoes many of the sentiments expressed by the South Atlantic, above. Many of the items addressed in the Wicker Aquaculture bill are already included in the GMFMC's fishery management plan (FMP) for aquaculture and by extension are in the final rule establishing the Gulf Aquaculture Permit. There are major differences in the climate and needs of each region; thus, an overarching federal management body (as outlined in Section 4(c)) would lack the regionalized expertise necessary to fully evaluate concerns of each region. Regionalized subcommittees addressing aquaculture would be more appropriate, as should a formalized consultation process with regional management councils.

In Section 2 (b) (4) of the bill, the purpose identifies rationale regarding support for existing jobs, including "watermen, processors, and other traditional fishing industry partners" that would be consistent with incorporating aquaculture-specific language into the MSA. Additionally, it is not clearly delineated if existing management plans, such as the GMFMC's Aquaculture FMP, would supersede this bill. The bill needs to clearly identify if existing management plans for aquaculture by regional councils would cease to be how aquaculture is managed.

Section 5. Administration Section 5(a) and 5(b) of the bill have many elements that have already been addressed and codified based in the GMFMC's Aquaculture FMP. Section 5(e) does not specifically address how veterinary health will be addressed. The GMFMC agrees with the SAFMC that only drugs, biologics, and other chemicals approved for aquaculture by the FDA, EPA, or USDA should be used, in compliance with applicable laws and regulations (as has been identified in the GMFMC Aquaculture plan). Aquaculture facilities are not "closed loop" facilities, and administration of drugs, biologics, and other chemicals can have resounding effects on surrounding marine communities.

Most permitting issues addressed in the bill have already been clearly defined in the Gulf in the GMFMC's Aquaculture FMP and Gulf Aquaculture Permit. The GMFMC is especially concerned with Section 6(b)(2)(B & C) and does not support culture of non-native species. The term "naturalized" is not defined and could be interpreted to include species that are not native to a region but have invaded. Propagation of these invasive species could have major unintended consequences on the surrounding marine environment. Additionally, sterility is not a guaranteed state, and non-native stocks should never be cultured. The GMFMC recommends the culture of only native, non-genetically modified, non-transgenic species with progeny cultured from wild caught brood stock. Lastly, the GMFMC Aquaculture FMP and Gulf Aquaculture Permit strictly prohibit culture of shrimp and corals. Each regional fishery management council should determine which species should not be cultured if appropriate rationale is provided.

Permitting procedures in Section 6(c) are already addressed in the final rule establishing the Gulf Aquaculture Permit. Additionally, through the FMP, permit procedures can be modified (through a plan amendment) should the necessity arise; this bill would require an act of Congress to modify permitting procedures. In the current process, before a permit is approved, the Regional Administrator of NMFS should consult with the GMFMC on a permit, allowing for the GMFMC to

provide comments prior to approval. The process outlined in Section 6 does not require a consultation with the regional council which should be rectified.

Permit duration should not exceed 10 years, with the ability to renew in 5-year increments; a 25-year increment is much too long. Additionally, three years to remove all equipment is too lenient as aquaculture facilities can continue to have biofouling, act as vectors for invasive species and disease, and hinder fishing and marine traffic in the vicinity of the facility, among others. A facility should be completely decommissioned within one year of permit expiration.

There should be financial guarantees associated with escapement events to discourage repeat offenses and encourage best practices in the face of catastrophic weather events. It is likely that these event will occur and will require federal agency involvement to mitigate.

One tradeoff for removing aquaculture authority from the MSA would be the elimination of the need for MSY or OY measures. However, establishing an MSY for all cultured species (with the ability to increase or decrease this cap) allows managers to assess whether the practice of aquaculture in a region is having cascading effects on the surrounding environment, thus modifying this measure as appropriate. By not having such a measure on production poundage, there could be unintended consequences for wild stocks from overutilization of marine resources dedicated to aquaculture.

Section 7 indicates that there are two different types of aquaculture permits, those from Section 6, and those under the MSA. Permitting requirements may not be consistent between the two which could create confusion and inconsistencies in application. This should be addressed.

Also, all aspects of Section 8 in the bill are outlined in the Gulf Aquaculture Permit and GMFMC's Aquaculture FMP.

In Section 10 (b)(3), more explicit language is needed regarding intent. It is recommended that only the culture of native, non-genetically engineered, non-transgenic species be used for research, and that this be explicitly outlined in the bill.

CARIBBEAN:

Drafting

PACIFIC:

Drafting

WESTERN PACIFIC:

The Western Pacific Council recognizes that aquaculture is a rapidly developing industry and that aquaculture presents both potential benefits and potential negative impacts to the environment and society. The Western Pacific Council has had an aquaculture policy in place since 2007 that includes guidelines on cultured species; habitat; research, location, design, and operation; water quality; health management and disease control; indigenous people's rights and access; permitting and reporting; enforcement; protected species; and social and economic considerations. The Western Pacific Council is also working with NMFS on developing a programmatic Environmental Impact Statement (EIS) for aquaculture and in the process of amending its Fishery Ecosystem Plans to include an aquaculture management framework that includes permitting and reporting. The Western Pacific Council recognizes the push for aquaculture and is working to ensure that aquaculture is treated as a fishery in the Western Pacific and minimizes or eliminates impacts on other fisheries and the environment.