



State of Washington  
**DEPARTMENT OF FISH AND WILDLIFE**

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May 24, 2004

The Honorable Gary Locke  
Office of the Governor  
Post Office Box 40002  
Olympia, Washington 98504-0002

Subject: Final Comments on the U.S. Ocean Policy Commission Preliminary Report

Dear Governor Locke:

The Washington Department of Fish and Wildlife (Department) commends the United States Commission on Ocean Policy (USCOP) for its work in assembling a comprehensive review of information associated with ocean issues that face the nation. The complex and multi-faceted form of ocean governance, both from a national as well as an international perspective, highlights the need for a coordinated approach to achieve national goals and objectives. The recommendations serve as a well thought out road map to meet the challenges that lie ahead. We commend the USCOP for recognizing the importance of having a strong regional role in the formation and implementation of national ocean policies.

The Department represents the state of Washington on both the North Pacific and the Pacific Fishery Management Councils. We strongly support the regional council fishery management system, but are equally supportive of efforts to improve them. The Department has concerns with several recommendations affecting regional management councils that we address below. We support carefully created regional ocean councils to facilitate federal, state, tribal, local government, and public decision making to achieve an ecosystem management regime. The recommendations should be strengthened relative to the initial creation of the regional ocean councils to avoid undesirable overlaps with the regional fishery management council system.

From our perspective, the greatest immediate need is the need to provide state, tribal, and federal agencies the resources to improve the science base relative to ocean bottom habitats and marine fish resources and their productivity. In the last decade, the Pacific Fishery Management Council (PFMC) has strictly followed the advice provided by its Scientific and Statistical Committee (SSC). Unfortunately, in many cases, the SSC has been forced to base its recommendations on stock assessments that are based on incomplete data and information that is not robust in terms of providing information that can be used to quantify changes in recruitment resulting from changes in ocean environmental conditions. The result has been that the PFMC has been making management decisions while looking in the rear view mirror instead of out the front windshield.

An improved structure of decision-making that is founded on high-quality science, strong regional participation, and public education will enable federal and state managers to make well-informed decisions that will make it possible to achieve the goal of healthy and sustainable ocean ecosystems. The federal structure must be designed to meet the challenges associated with issues and species that cross international boundaries including salmon, highly migratory, coastal pelagics, and groundfish.

The four Washington coastal treaty tribes' usual and accustomed fishing grounds and stations include the majority of the Washington coastline. Over time, tribal fisheries have expanded and now target fisheries on groundfish, salmon, and halibut. Tribal governments manage their respective fisheries and promulgate regulations that control their fisheries. Tribal staffs have expertise in science, enforcement, and management. The report needs to acknowledge the role of the tribes in achieving the national goals and objectives.

The following are the Department's comments on specific recommendations contained in the report:

1.     **Recommendation 4-1, Creation of the National Ocean Council**  
We agree that improvement is needed in federal leadership relative to ocean policy issues. However, the creation of new governmental organizations should be limited to where the existing structure is inadequate to achieve the objective. The National Oceanic and Atmospheric Administration (NOAA) is currently the lead agency for national ocean issues, including science and management. Given the scarcity of new federal dollars, priority should be given to the goal of obtaining high-quality science for existing decision-makers rather than the costs associated with creating more layers of government.
  
2.     **Recommendation 4-9, Review of Ocean-Related Councils**  
National Marine Fisheries Service (NMFS) should remain the federal entity responsible for the oversight of the regional fishery management councils (RFMC). The administrative regions of NMFS and the Science Centers are appropriately defined geographically to provide the type of regional support to the RFMC that is supported in other parts of the report.
  
3.     **Recommendations 4-10 and 4-11, Regional Ocean Councils**  
The Department supports the concept of regional ocean councils (ROC) and their important linkage to a national ocean policy initiative. Care must be given to avoid overlaps relative to their authority, if any, and their responsibility with existing bodies, such as the RFMCs and entities established under the National Marine Sanctuary Act.

The Department recommends including a greater degree of specificity to the structure of the ROCs than what is provided in the report. The governors and the

regional administrators of NMFS should have a specific role in forming and designating the initial membership. The geographic boundaries should initially be aligned with the NMFS administrative regions, not the RFMC boundaries. ROCs would also have the benefit of NMFS regional science centers.

**4. Recommendation 6-3, Marine Protected Areas**

The Department supports the development of national goals and guidelines for the effective design of marine protected areas. The process and authority should reside within NOAA and there must be enough flexibility in the national goals to accommodate regional differences.

**5. Recommendations 8-2, 8-3 and 8-7, 8-9, 8-11, 8-12, Office of Education**

We acknowledge and support the need to create and fund a public education strategy to increase the public's knowledge of the importance and linkages between the ocean and the quality of life in the United States. In addition, we support the need to expose students to marine science and non-science majors and to facilitate career decisions that will result in a qualified workforce to meet the challenges of managing ocean related issues in the future.

**6. Recommendation 17-1, Ballast Water Management**

Ballast water infestation of invasive species and pollution poses significant threats to the health of inland marine areas of Washington, including Puget Sound, coastal estuaries, and the Columbia River. We strongly support a national program for ballast water management that is scientifically based, effective, enforceable, and is coordinated with the applicable federal and state agencies. To be effective, the United States Coast Guard must place a higher priority on monitoring and enforcing current laws pertaining to ballast water discharge.

**7. Recommendations 19-1, 19-3, 19-4, Science and Statistical Committees**

As demonstrated in the North Pacific and Pacific Fishery Management Councils, strong reliance on scientific and statistical committees (SSC) findings and advice results in sound fishery management decisions. We support providing compensation for all SSC members because we believe it will help in attracting additional qualified candidates. As an alternative to amending the Magnuson/Stevens Fishery Conservation and Management Act, the composition of the SSCs could be specified by NMFS within the National Standard Guidelines. The composition specified for council SSCs should ensure that a broad range of expertise is represented and that it includes independent scientists from state, tribal (where appropriate), and academic institutions, in addition to scientists from federal agencies. To avoid a conflict of interest of SSC members, scientists from the private sector should not be allowed to be a member of an SSC if they are financially affiliated with any stakeholder group affected by actions of the council or SSC.

SSCs should play a lead role in determining acceptable biological catch (ABC). Regional management councils should have the authority to adopt policies that require ABCs to be set at a precautionary level if the scientific knowledge relative to the abundance of the particular species is minimal or unknown. In addition, SSCs should be provided the flexibility to bring forward to the RFMC a range of ABCs bracketed by uncertainty and accompanied by a risk analysis.

A process that includes an independent peer review of stock assessments and other scientific documents used to base management decisions on should be completed before the documents are reviewed by the SSC. The PFMC has developed such a process relative to stock assessments that includes a stock assessment team whose work products are, subsequently, reviewed by an independent stock assessment review team before being sent to the SSC. Flexibility must be preserved to develop regional processes that address the need for independent review of science documents and conclusions.

**8. Recommendations 19-5, 19-6, Timely Submittal of Fishery Management Plans**

The North Pacific and Pacific Councils have specific protocols for developing, reviewing, and adopting management plans and provisions within each of their fishery management plans. These procedures are designed to incorporate the best scientific and peer reviewed information into a decision making process that provides for public review and comment that is, subsequently, submitted to NMFS in time to meet the federal rule making process. If a RFMC fails to carry out its function, the Secretary of Commerce has the authority to intercede to ensure that conservation and management objectives are not compromised. We are unclear relative to the necessity of these two recommendations.

**9. Recommendation 19-8, Saltwater Recreational Fishing Licenses**

Collection of recreational catch data is a critical component to managing the fishery, particularly as inseason management becomes more important to managing recreational fisheries to stay within certain allocations. We support a requirement that recreational fishers be licensed, provided that state licenses would satisfy the requirement. In addition, we propose adding recreational shellfish licenses to the formula used to distribute funds to the states associated with Wallop-Breaux funding.

**10. Recommendation 19-10, National Standard Guidelines Application**

We oppose this recommendation. Interstate management plans should not be required to adhere to the National Standard Guidelines. The national guidelines were not developed to be applicable to interstate management plans and are not

necessarily applicable or compatible to such plans or future plans. For example, if implemented, National Standard 4 appears to prohibit states from using their limited entry programs in federal waters through a management plan interstate agreement to address overcapitalization issues. In addition, development of maximum sustained yield values or proxies and determination of ABCs for species such as pink shrimp or Dungeness crab is an unnecessary burden to place on the states.

- 11. Recommendations 19-12 and 19-13, Regional Council Representation**  
While we agree the goal of creating councils comprised of individuals that are knowledgeable, fair, and reflective of a broad range of interests, we do not believe that requiring the governors to nominate six (6), instead of three (3), candidates will accomplish this goal. Washington State has taken great care in sending well-qualified candidates for consideration to the Secretary of Commerce. The nominees the Governor has submitted have included candidates from commercial, recreational, and academic backgrounds. We do not agree that requiring the governors to submit two nominees each from the commercial fishing industry, the recreational fishing sector, and the general public will result in more balanced RFMCs.
- 12. Recommendation 19-14, Training for Council Members**  
We would support this recommendation, provided that NMFS makes the training available in a timely manner. As an alternative, however, we recommend allowing the newly appointed member to participate and vote within the first six months of their appointment without having to complete the specified training. After six months has elapsed from the date of their appointment, they must have completed the training in order to vote.
- 13. Recommendation 19-15, Dedicated Access Privileges**  
We support affirming that fishery managers are authorized to institute dedicated access privilege systems, such as the individual quota programs adopted by the NPFMC. It is an important fishery management tool that should be available to the regional councils for potential use. Numerous science and policy bodies have concluded that ending the race for fish results in enhanced conservation and provides a greater level of economic stability, profitability, and fisheries that are significantly safer for the participants.
- 14. Recommendation 19-16, Fisheries Finance Program**  
We support this recommendation. Most of the nation's fisheries are overcapitalized. The Fisheries Finance Program and the Capital Construction Fund should be terminated and replaced with programs designed to permanently reduce harvest capacity.

- 15. Recommendation 19-17, Joint Enforcement Agreements**  
The Department has entered into several joint enforcement agreements with NMFS. These agreements have resulted in more effective enforcement of both federal and state fisheries laws through the efficient and coordinated use of federal and state enforcement resources. Greater use of joint enforcement agreements will enhance the enforcement capability of state and federal authorities.
- 16. Recommendation 19-18, Strategic Plan for Fisheries Enforcement**  
Considering the importance of state/federal partnerships in enforcement of federal fisheries laws, we recommend that states be included in the development of strategic enforcement plans between the NMFS and the U.S. Coast Guard. It makes little sense to develop a federal strategic enforcement plan absent state participation, and then look to the states to enter into joint enforcement agreements with the federal agencies.
- 17. Recommendation 19-19, Vessel Monitoring Systems**  
Vessel monitoring systems are a powerful fishery management and enforcement tool and we support their use. Decisions relative to their application should be left to the regional management councils, depending on the management strategy in use and the usefulness of Vessel Monitoring Systems (VMS) in attainment of the management objective.
- 18. Recommendation 19-22, Regional Bycatch Reduction Plans**  
Observers are an essential part of managing fisheries and we support their use to quantify bycatch of all animals and plant life that are essential to the ocean ecosystem. Bycatch reduction can be achieved through the use of strategies that test fishing gear configurations and types using tools such as experimental fishing permits. NMFS should be encouraged to form partnerships with states and the fishing industry to explore development of bycatch friendly fishing practices and develop rewards for fishers who fish with less bycatch.
- 19. Recommendation 19-24, International Fisheries Management**  
The state of Washington has a long-standing relationship with Canada relative to fishery management because of the large number of transboundary stocks. These include salmon, groundfish, coastal pelagic, forage fish, and highly migratory species that migrate through federal and state waters. We have been active participants in development and implementation of three international treaties with Canada governing salmon, albacore tuna, and Pacific whiting. Additional international commitments must be focused on cooperative management approaches for groundfish stocks such as canary and yelloweye rockfish.

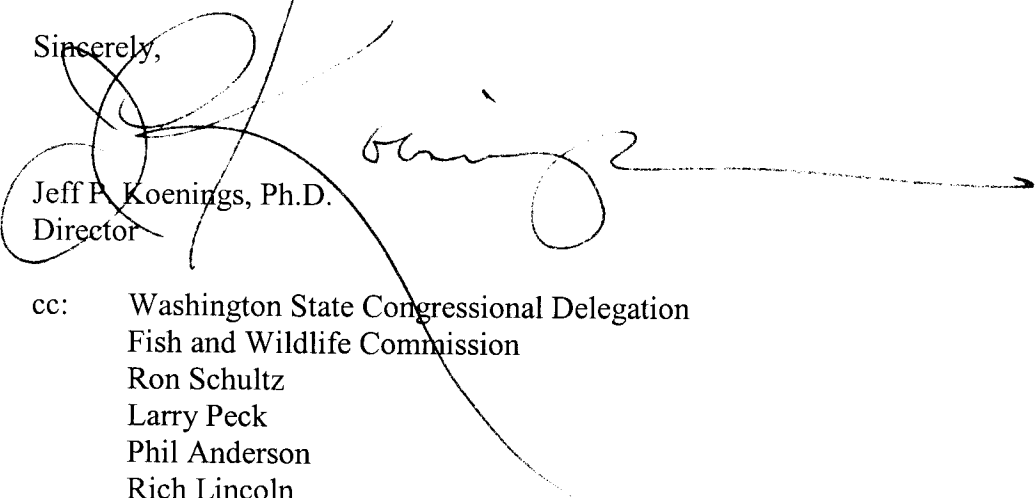
- 20. Recommendations 21-1 and 21-2, Coral Reef Protection**  
Coral ecosystems are well known to be among the most important habitat systems for marine life productivity. Mapping, research, and monitoring of these important systems will greatly improve our ability to preserve and protect coral systems. We support both of these recommendations.
- 21. Recommendation 22-3, Marine Aquaculture Research**  
Funding support for marine aquaculture development and research must include funding for an economic assessment of the consequences on the existing fishing industry as a result of large numbers of aquaculture fish entering the market place. In addition, genetic pollution, disease control, and environmental pollution must also be carefully evaluated.
- 22. Recommendation 25-1, Coastal and Ocean Research Budget**  
We support a greater investment in research, with an emphasis on regional information collection programs. National Marine Fisheries Service Science Centers should be given the lead responsibility for coordinating and implementing the research, including development of cooperative research projects with state agencies and institutions.
- 23. Recommendation 30-1, Ocean Policy Trust Fund**  
We strongly support the establishment of an Ocean Policy Trust Fund in the U.S. Treasury as the depository for unallocated federal revenues derived from private activities in federal waters. Distribution of these funds to coastal states will greatly enhance our ability to partner with the federal government in research projects and meeting our management objectives.
- 24. Marine Toxins**  
An apparent omission in the report concerns the issue of marine toxins. Harmful algal blooms have increased in frequency and intensity within the last decade, causing disruption or closure of economically important commercial, recreational, and tribal fisheries. In Washington State, there have been closures of our large coastal razor clam fisheries and partial closures of our commercial Dungeness crab fisheries; fisheries that annually generate up to \$12 and \$60 million dollars in revenue, respectively. We believe a strategy must be developed to effectively deal with the human and marine mammal health issues associated with these events.

The initiative taken by Congress to enact the Oceans Act of 2000, and the subsequent review by the U.S. Commission on Ocean Policy of the current state of the nation's oceans and its recommendations, represents a unique opportunity for the country to focus efforts on making much needed changes in the nation's ocean policy and commitments to the health of the ocean ecosystem. The Washington State Department of Fish and Wildlife encourages you to respond

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in a positive manner to the Commission's report and take advantage of this opportunity to change the nation's course toward managing the oceans in a manner that will provide immediate and future benefits for the state of Washington.

Sincerely,

  
Jeff P. Koenings, Ph.D.  
Director

cc: Washington State Congressional Delegation  
Fish and Wildlife Commission  
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