

**Western  
Pacific  
Regional  
Fishery  
Management  
Council**

April 4, 2011

Attention: William Chappell  
NOAA  
1315 East-West Highway  
Room 13142  
Silver Spring, MD 20910

Re: Comments on the Reduction in Regulatory Burden – Retrospective Review under E.O.  
13563 Request for Information

The Western Pacific Fishery Management Council is submitting the following letter about the request for information pertaining to the retrospective review under E.O. 13563 (76 FR 13549). Several items have been identified that should be addressed to increase effectiveness and reduce burden associated with agency regulations.

First, there is a lack of cohesion between the National Environmental Policy Act (NEPA) and the Magnuson-Stevens Fishery Management and Conservation Act (MSA) with respect to the duplicative nature of the two laws and the timelines for public review. This has been the subject of exhaustive conversation for several years and was identified in the reauthorization of the MSA as an issue. An example of the duplicative nature of the laws is the requirement for impact statements pertaining to socio-economic impacts, fishery impacts, and biophysical impacts. A second example is that the MSA has a minimum comment period for regulations of 15 days, while NEPA requires at least 45 days. This is problematic. Steps should be taken to make the promulgation of regulations under all Acts the same or introduce exceptions.

Second, there are many agencies implementing fishery regulations for Fishery Management Plan (FMP) managed resources that are under the purview of the regional Fishery Management Councils. All NOAA regulations pertaining to fisheries should be promulgated (or re-promulgated) under the authority of the MSA instead of, for example, promulgation under the National Marine Sanctuaries Act or regulations promulgated by U.S. Fish and Wildlife Service (FWS).

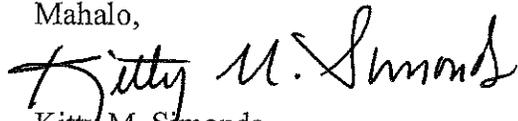
In conjunction with the previous comment, it should be made clear that all regulations pertaining to fisheries apply equally across all agencies. Unless otherwise exempted, all agency employees are subject to the same regulations the public is subject to. This was an issue in the Northwestern Hawaiian Islands where the U.S. FWS did not follow the bottomfish data collection and permitting requirements when fishing at Midway Atoll.

Third, the review process for fishery management plans and their amendments is lengthy, sometimes resulting in regulations taking more than two years to implement. The review process is inefficient and unwieldy, and therefore should be streamlined.

Lastly, in response to the question about how NOAA can better encourage public participate and an open exchange of views when engaging in rulemaking, the Council encourages NOAA to provide press releases when proposed and final rules are published. The public is not constantly scouring the Federal Register for notices, thus is not readily aware of regulatory changes – the Council has been the responsible party for making information publicly available with respect to fishery management regulations, which is the responsibility of NOAA.

Thank you for providing the opportunity to provide input in the development of the NOAA's preliminary plan for reviewing existing significant regulations in response to E.O. 13563.

Mahalo,

A handwritten signature in black ink that reads "Kitty M. Simonds". The signature is written in a cursive style with a large initial "K".

Kitty M. Simonds  
Executive Director