

Conclusion

Despite the efforts of the President, the Congress and the public to strengthen federal law to end overfishing and strengthen environmental review, the regional fishery management councils may stymie implementation due to continued short-sighted decision-making.

The councils are largely dominated by fishing interests with financial conflicts of interest and some have a demonstrated pattern of failing to put conservation first, as exemplified in past unwillingness to set conservative catch levels to protect red snapper populations or to enact legally-mandated measures to protect essential fish habitat.

While some of the councils have indicated a willingness to be part of efforts to build on the President's legacy, others have demonstrated opposition to the new law. Most notably, a council recently set a catch level well above the scientifically-recommended level, directly countering the new law's directive to set catch levels no higher than that deemed safe by a council's scientific advisors.

In his final months in office, President Bush must take decisive action to preserve the significant and far-reaching benefits that can result from proper implementation of the strengthened fishery law.

First, the Administration should ensure that this conservation achievement is not undermined by weak regulations allowing the fisheries councils to jeopardize the long-term health of our oceans. The National Marine Fisheries Service is currently preparing two key rulemakings implementing the revised law. The Fisheries Service should write strong, clear rules requiring the regional councils to base catch limits on the best available science with an uncertainty buffer to prevent overfishing, hold the regional councils accountable for allowing overfishing, and move toward ecosystem-based fishery management by establishing more conservative management of prey fish populations, which form the base of ocean food chains.

Second, in its revision of the environmental review procedures for fisheries activities, the Fisheries Service should maintain compliance with the National Environmental Policy Act to require thorough environmental impact analyses which consider less-harmful alternatives that will enable fishery managers and the public to evaluate options to protect ocean ecosystems. The revised procedures should also maintain strong public participation protocols to require fishery managers to notify the public of proposed actions, offer formal public comment opportunities and respond to those comments. Lastly, the rule should incorporate procedures to evaluate the wider ecosystem impacts of fishing decisions on non-target species, important habitats or the prey of other species.

Strong rules such as these can strengthen the President's ocean legacy by providing strong guidance to regional councils to chart a new course toward long-term sustainability of America's precious oceans.

¹ Pew Oceans Commission, 2003. America's Living Oceans: Charting a Course for Sea Change. Inside front cover.
² Original research using current financial disclosure forms and 2006 Report to Congress on Apportionment of Membership on the Regional Fishery Management Councils.
³ J. Eagle, S. Newkirk, and B. H. Thompson, Jr., 2003. Taking Stock of the Regional Fishery Management Councils. P. 25, Figure 3, Island Press, 2003.
⁴ Original research using current financial disclosure forms.
⁵ J. Eagle et al., op cit., and T.A. Okey, 2003. "Membership of the eight Regional Fishery Management Councils in the United States: are special interests over-represented?" Marine Policy, 27:193-206.

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Conflicted Councils: How the Nation's Regional Fishery Management Councils Threaten President Bush's Commitment to Strengthen Fisheries Management

America's vast ocean realm spans nearly 4.5 million square miles, an area 23 percent larger than the land area of the United States¹ A rich tapestry of marine life inhabits these waters from the swift bluefin tuna in Atlantic waters to centuries-old deep sea corals in the depths of Alaskan waters. And though our oceans are immense, recent scientific evidence shows they are highly vulnerable and threatened by habitat destruction, pollution and overfishing.

The good news is that during his two terms, President Bush has taken significant and far reaching actions to end overfishing, safeguard ecologically significant areas of the ocean and protect iconic fish species. Now, during the final months of his Administration, the President has the opportunity to build on his legacy of ocean conservation that will benefit generations of Americans to come.

The bad news is that some of the very managers of these precious marine resources threaten that legacy.

One of President Bush's signature achievements was signing the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act. That legislation strengthened the nation's premier ocean fish conservation law to end overfishing and preserve comprehensive environmental review of fishing activities. To strengthen the role of science in fisheries management, the new law requires managers to establish science-based catch limits that end overfishing by 2011. Likewise, the new law calls for the preservation of environmental review to safeguard marine resources over the long-term. The National Marine Fisheries Service is currently preparing regulations to implement the new law.

However, some of the eight regional fishery management councils may block this signature achievement. For example, in early 2007 some of the councils floated a proposal to eliminate existing environmental review procedures and replace them with an abbreviated version that would significantly weaken environmental review and public participation in fisheries management. The councils, charged with recommending fishing regulations to protect marine fish populations, are largely composed of individuals representing commercial and recreational fishing interests. Currently, more than 80 percent of the appointed members of the regional councils represent fishing interests.² Predictably, many of the councils, led by these individuals with financial interests in managed fisheries, have made decisions

"And that's why we're working to end overfishing. Overfishing is harmful. It's harmful to our country, and it's harmful to the world."

– President George W. Bush, June 15, 2006.

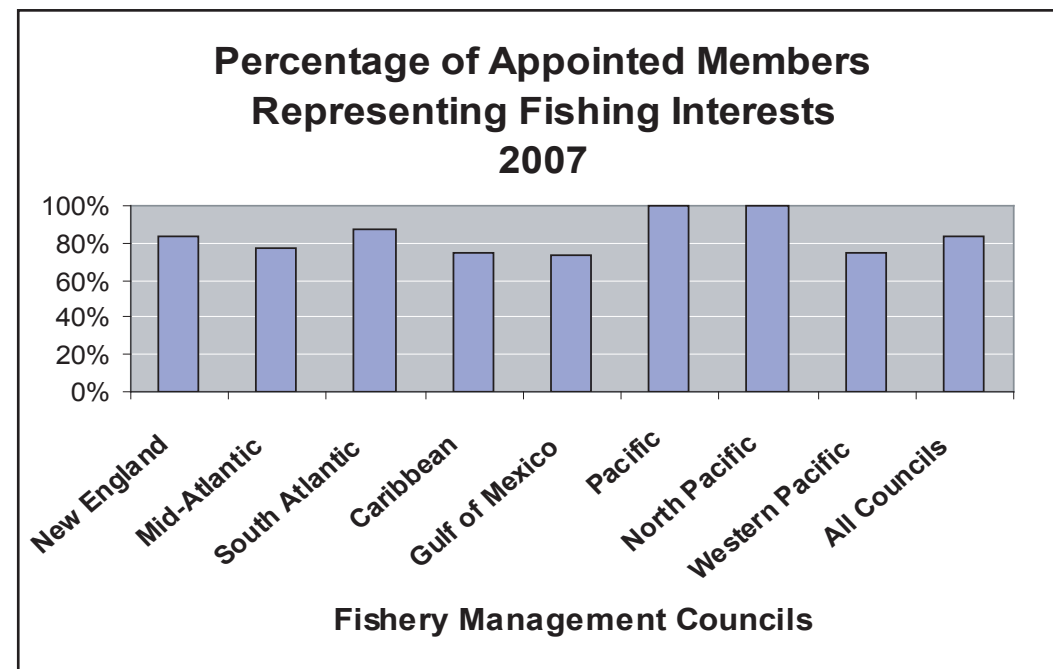
based on short-term economic interests rather than long-term sustainability. One result is that the councils have failed to adequately protect marine fish populations, allowing overfishing on nearly one-fifth of assessed fish stocks in U.S. waters.

The President, the Congress and the public have all done their part to protect ocean fish. Now, it is time for the regional fishery management councils to do their part to create a legacy of ending overfishing and safeguarding our oceans for long-term health.

Council Conflicts of Interest

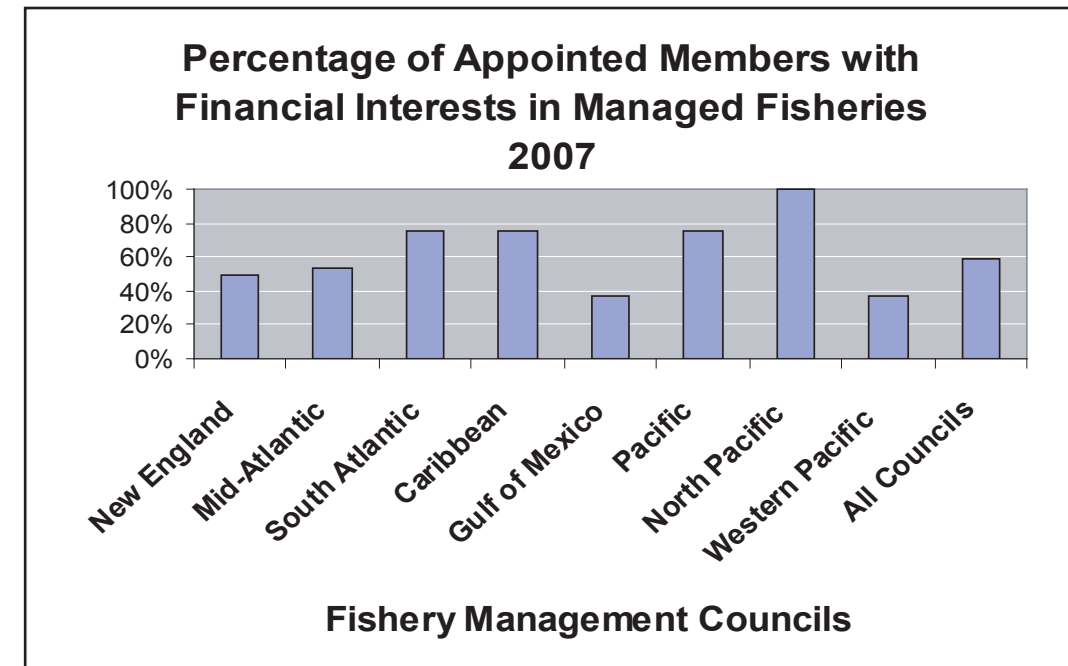
The regional fishery management councils were created by Congress in 1976 as part of the original Fishery Conservation and Management Act. The councils are composed of individuals appointed by the Secretary of Commerce and representatives of the relevant states in a particular region. The federal government has one voting seat on each council. Appointed members hold a majority on all eight councils.

From 1985 to 2002, 80 percent of appointed members to the regional councils have represented commercial and recreational fishing interests.³ Analysis of government reports reveals a similar pattern since 2002, with fully 85 percent of appointed members representing fishing interests. In some councils, like the Pacific, which regulates fishing off California, Oregon and Washington, all of the current appointed members represent fishing interests.



FULLY 85 PERCENT OF CURRENT APPOINTED MEMBERS REPRESENT FISHING INTERESTS

According to financial disclosure forms that appointed council members are required to complete, nearly 60 percent of current appointed council members have financial interests in the fisheries they manage.⁴ These financial interests range from individuals owning a small commercial or recreational fishing business to serving as presidents of multi-million dollar commercial fishing businesses to heading trade associations.



NEARLY 60 PERCENT OF CURRENT APPOINTED MEMBERS HAVE FINANCIAL INTERESTS IN MANAGED FISHERIES.

Two separate studies found that the dominance of fishing interests and financial conflicts of interest resulted in councils setting lax fishery limits, thereby undermining conservation.⁵ A classic example is in the Gulf of Mexico where a council dominated by commercial and recreational fishing interests consistently set catch levels for red snapper well above the scientifically recommended level, resulting in overfishing and driving the population of red snapper to perilously low levels.

A second example of conflicts of interest leading to mismanagement is the failure to protect fish habitat. Despite a 1996 law requiring councils to identify and protect marine fish habitat, regional councils either failed to do so or performed inadequate environmental review of fishing impacts on fish habitat like deep sea corals. Only after conservation groups successfully sued did councils undertake thorough environmental review and protect some fish habitat.

These patterns have been repeated in most councils across the country, forming a picture of councils unwilling to implement conservation requirements designed to prevent overfishing, restore the health of severely depleted species and protect fish habitat.