



Pacific Fishery Management Council

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April 17, 2007

Mr. Mark Millikin
National Marine Fisheries Service, NOAA
1315 East-West Highway
Silver Spring, MD 20910

Re: Pacific Fishery Management Council Comments on Environmental Review Procedures and National Marine Fisheries Service's Notice of Intent to Prepare an Environmental Impact Statement Analyzing Alternatives for Guidance on Annual Catch Limits, Accountability Measures, and Other Overfishing Provisions of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

Dear Mr. Millikin:

The Pacific Fishery Management Council (Pacific Council) appreciates the opportunity to provide comments to the National Marine Fisheries Service (NMFS) on the proposed range of alternatives for guidance on annual catch limits (ACL) and accountability measures (AM) designed to end overfishing. The Pacific Council remains committed to preventing overfishing and protecting and rebuilding depleted stocks and strongly supports timely and effective implementation of the *Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006* (MSRA).

At the March 2007 meeting, the Pacific Council reviewed all of the new provisions in the reauthorized Magnuson-Stevens Fishery Conservation and Management Act (MSA) and prioritized efforts to help implement any new requirements by the legislatively-mandated implementation schedules. At its April 2007 meeting, the Pacific Council focused attention on three new provisions: 1) guidance on annual catch limits and accountability measures designed to end overfishing, 2) consideration of proposals for a new environmental review process for fishery management actions; and 3) implementation of Western Central Pacific Fisheries Commission provisions. The first two issues were the subject of a NMFS sponsored public scoping session and this letter and the enclosed materials are intended to be included as the Pacific Council's scoping comments on these two important matters. The Pacific Council appreciated the efforts of Dr. Rick Methot and Ms. Marian Macpherson and their help in hosting the session and in presenting the scoping issues and responding to questions by the Pacific Council and the public.

ANNUAL CATCH LIMITS AND ACCOUNTABILITY MEASURES

The Pacific Council currently prevents overfishing by implementing science-based precautionary approaches to both the preseason setting of harvest levels and active fishery monitoring and inseason management mechanisms for many key species within our four fishery management

plans (FMPs). The Pacific Council believes its good record of avoiding overfishing events while rebuilding and protecting critical stocks speaks to the strength of the Pacific Council's current management mechanisms. Therefore, the Pacific Council recommends that the range of alternative performance standards and guidance on annual catch limits and accountability measures analyzed in the draft Environmental Impact Statement include an alternative under which the Pacific Council's current system can operate efficiently and effectively to meet the differing management capabilities and needs of our diverse fisheries. At this early stage of development, the Pacific Council has identified Alternative 2 as presented by Dr. Methot as the alternative that may best meet the requirements of the MSRA while maintaining the necessary flexibility for regional and species-specific implementation.

Prior to the passage of the MSRA, the Pacific Council was actively engaged in revision of National Standard 1 guidelines to help make them an understandable, applicable, and efficient set of requirements for ending overfishing practices and rebuilding depleted stocks while assuring measurable success through regional management flexibility in their implementation. As illustrated in this letter and the enclosed statements from the Pacific Council advisory bodies, a set of very specific performance standards and guidelines will not likely work when strictly applied to the wide range of federally managed fisheries and stocks. This "one size fits all strategy" could be problematic under several of the Pacific Council's FMPs as summarized below and detailed in the enclosed documents.

SALMON FISHERY MANAGEMENT PLAN

The Pacific Council's Salmon Technical Team (STT) documented several potential issues with developing ACLs and AMs for salmon. Many salmon stocks managed under the Pacific Council's salmon FMP have spawning escapement objectives rather than catch limits. To achieve conservation objectives the Pacific Council and NMFS manage salmon fisheries through the use of both catch limits or quotas as well as effort limiting measures such as season structure and daily or weekly landing limits. The application and definition of annual catch limits should remain broad enough to include the use of effort controls in addition to catch limits. Because salmon stock origin cannot be determined visually, the impacts of a given fishery, whether limited by catch or effort levels, cannot currently be known inseason. Measuring salmon spawning escapement is a more direct measure of management success and stock-specific sustainability.

Klamath River fall Chinook (KRFC) management is an excellent example of how fishery effort controls and measured spawning escapement provide both catch limitations and accountability measures. Recent KRFC escapements have fallen below conservation objectives for the stock. The Pacific Council has responded with review and revision of fishery modeling methods and precautionary fishery opportunities to quickly end overfishing and meet spawning escapement objectives. The Pacific Council recommends this type of mechanism, with its measurable objectives and subsequent management accountability, should be analyzed as a potential mechanism under the proposed guidelines.

Additionally, due to their migratory nature, many stocks in the FMP experience fishery mortality in ocean and freshwater fisheries outside the Pacific Council's jurisdiction. The Pacific Council

considers these other sources of mortality when establishing annual management measures, but the Pacific Council is not accountable for those fisheries.

Many salmon stocks are exempted from the Pacific Council's FMP because they are of hatchery origin, they are impacted very little in Pacific Council managed fisheries, or they are listed under the Endangered Species Act. The Pacific Council recommends that these exemptions continue under any new ACL and AM provisions, particularly for salmon stocks with catch and accountability measures established by international fishery agreements such as the Pacific Salmon Treaty. Finally, coho and pink salmon stocks are only vulnerable to Pacific Council fisheries for one year of their life cycles and Chinook salmon are predominantly vulnerable during one year. Therefore, salmon life cycles do not lend themselves to catch accountability restrictions the following year and should be considered for exemption.

GROUND FISH FISHERY MANAGEMENT PLAN

The Pacific Council's FMP for groundfish management perhaps best fits the proposed model for ACLs and AMs. Under this FMP, the Pacific Council establishes numeric optimum yield (OY) and allowable biological catch (ABC) harvest limits with varying degrees of precautionary approaches as warranted by a stock's status. OYs for species determined to be overfished are very conservative and set to achieve a science-based rebuilding schedule. The harvest control rule for species in a precautionary status (assessed between 25% and 40% of virgin biomass) scales down allowable harvest until the stock reaches optimal sustainable levels. For healthy groundfish stocks, OY is often set at the ABC or overfishing level.

The Pacific Council and NMFS closely monitor groundfish fishery mortality through the active monitoring of inseason landings and expanded observer coverage. Due in part to an intensive inseason management process, overfishing has occurred very rarely since the 1996 reauthorization of MSA. In one instance in 2005, overfishing was occurring on petrale sole, a condition that was remedied with dramatic fishery closures as soon as the problem was identified and inseason regulatory changes could be implemented. Ultimately, the ABC was only exceeded by 0.14 percent or 4 metric tons. As an additional AM, future fishery modeling of petrale sole impacts was refined to deter any reoccurrence.

Of the over 90 groundfish species managed under the FMP, ABC values have been established for only about 25. The remaining species are primarily incidentally landed and usually are not listed separately on fish landing receipts. Information from fishery independent surveys are often lacking for these stocks, because of their low abundance or they are not vulnerable to survey sampling gear. Until sufficient at-sea observer program data are available or surveys of other fish habitats are conducted, it is unlikely that there will be sufficient data to upgrade the assessment capabilities or to evaluate the overfishing potential of these stocks. Therefore, the Pacific Council manages many of these data-poor species as stock complexes and applies precautionary management approaches when setting OYs for the complex. The Pacific Council recommends this approach continue under the new guidelines until such a time as more information on these species becomes available.

The Pacific Council is currently working to rationalize the West Coast groundfish trawl fishery and establish long term fixed species allocations for each sector of the fishery. In the enclosed draft white paper "Managing Yield in a Groundfish Management Regime of Individual Fishing

Quotas, Intersector Allocations, and Stringent Rebuilding Requirements,” Pacific Council staff proposes the setting of multi-year OYs, with carryover provisions under which annual catch underages or overages could be adjusted in subsequent years of a multi-year management period. This management tool has many potential advantages in the management of a limited access privilege program. The Pacific Council strongly recommends that the provisions proposed in the staff white paper and supported by the Groundfish Management Team be included in the analysis for alternative guidelines on ACLs and AMs.

HIGHLY MIGRATORY SPECIES FISHERY MANAGEMENT PLAN

The Pacific Council’s FMP for highly migratory species includes two categories, actively managed species and monitored species. All of the actively managed species have a trans-boundary distribution and are the subject of international fishing agreements through Regional Fishery Management Organizations (RFMOs). For most of the species in the HMS FMP numerical harvest limits (harvest guidelines or quotas) have not been established. Furthermore, Pacific RFMOs have by and large not established catch quotas. Like some salmon stocks, catch by domestic fisheries managed under the HMS FMP generally comprises a small portion of the total catch. The Pacific Council recommends that the analysis of alternative guidelines include clear criteria and procedures for determining if international RFMO ACL and AM provisions are adequate for exemption under the MSA. Restricting domestic fisheries to near zero annual catch limits to address overfishing concerns would have almost no impact in ending overfishing on the stock as a whole but could severely disadvantage local fisherman. Additionally, the Western Pacific Fishery Management Council also manages HMS fisheries. Development of ACLs would need to be coordinated with that Council.

The monitored species category of the HMS FMP consists of over 40 species that are usually caught incidentally and are included in the FMP, in part, to track the effectiveness of bycatch reduction strategies. Establishing ACLs and AMs for these relatively data-poor species will be problematic and are of questionable value given how rarely some of the species are encountered and that many of them are non-target species.

COASTAL PELAGIC SPECIES FISHERY MANAGEMENT PLAN

The Pacific Council’s FMP for coastal pelagic species (CPS) contains actively managed species, and monitored species and was recently amended to include all species of krill as prohibited harvest species. The FMPs harvest control rules for actively managed species (Pacific mackerel and Pacific sardine) removes a fixed portion of the assessed biomass of these species from harvest consideration to minimize the potential for overfishing and to help ensure a sustainable spawning biomass. Therefore, the definition of an overfished stock is explicit in the harvest control rules as harvestable biomass automatically declines as the stock approaches an overfished state.

Per the CPS FMP, the Council must take action to prevent overfishing if exploitation rates are projected to exceed overfishing levels within two years. Under the CPS FMP, the Council can and does set a harvest guidelines or catch limits below the overfishing level. Often this precautionary approach is intended to prevent overfishing by reserving a portion of the harvestable biomass as an incidental landing allowance for CPS fisheries targeting other species.

Like the HMS FMP, the CPS FMP also contains monitored species. Monitored species are either exploited at very low levels or are under State jurisdiction, or both. It is presumed that market squid, a monitored species, would be exempt from ACL and AM provisions due to its short life cycle. Much like monitored species in the HMS FMP and data-poor stocks in the groundfish FMP, assessing ACLs and AMs for monitored stocks could be problematic.

SCIENTIFIC AND STATISTICAL COMMITTEE

The Pacific Council and its Scientific and Statistical Committee (SSC) have developed an active and effective relationship that provides detailed and independent review of the best available science within the Pacific Council process. The Pacific Council and its SSC have raised several questions regarding the SSC's role in establishing annual catch limits under the reauthorized MSA. These concerns are well documented in the enclosed SSC statements. Additionally, like other Pacific Council advisory bodies, the SSC has expressed many of concerns about determining catch accounting control rules for data-poor species or for salmon stocks which are generally managed for escapement.

REVISED ENVIRONMENTAL REVIEW PROCEDURES

The Pacific Council is supportive of integrating applicable environmental analytical procedures of the National Environmental Policy Act (NEPA) with the procedures for preparation or amendment of FMPs under the MSA with the goal of aligning timelines more closely with FMP processes and reducing paperwork while providing clear and concise analyses for decision makers and maintaining effective public involvement. The Pacific Council reviewed the Council Coordination Committee's (CCC) enclosed February 28, 2007 proposed revised procedure and endorsed this document for use as general initial guidance to NMFS on the matter. The Pacific Council Chairman and Executive Director will provide additional comments and recommendations at the May 2007 CCC meeting in New Orleans, Louisiana. The Pacific Council will continue to work with NMFS and the CCC throughout the development, review, and adoption of revised environmental review procedures.

CONCLUSIONS

The Pacific Council appreciates the opportunity to comment on the development of these important guidelines. Please consider the comments of this letter as well as the written and oral record from the April 2007 Council meeting and NMFS scoping session as initial Pacific Council recommendations for the development and analysis of alternative guidelines for implementation of ACLs and AMs. The Pacific Council looks forward to further coordination with NMFS as National Standard 1 guidelines and ACL and AM alternatives are further developed and analyzed.

If you or your staff has any questions regarding this letter, please contact me or Mr. Mike Burner, the lead Staff Officer on this matter at 503-820-2280.

Sincerely,

D. O. McIsaac, Ph.D
Executive Director

MDB:rdd

Enclosures:

1. Relevant Briefing Book Materials, Advisory Body Statements, and full meeting recordings from the April 2007 Council Meeting.

c: (without enclosures)

Council Members

Regional Fishery Management Council Executive Directors

Mr. Samuel D. Rauch, Deputy Assistant Administrator for Regulatory Programs

Mr. Alan Risenhoover, Deputy Director, Office of Sustainable Fisheries

Mr. Adam Issenberg, Deputy Assistant General Counsel for Sustainable Fisheries

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