

GROUND FISH MANAGEMENT TEAM REPORT ON LEGISLATIVE MATTERS

The Groundfish Management Team (GMT) received a briefing from Ms. Jennifer Gilden and reviewed the available briefing materials under Agenda Item B.4. The Legislative Committee's (LC) report was not available at the time, yet Ms. Gilden was able to summarize the LC main recommendations to us. We also reviewed the Scientific and Statistical Committee's (SSC's) statement (Agenda Item B.4.c, Supplemental SSC Report) on priorities for Magnuson Stevens Act (MSA) reauthorization and generally agree with their recommendations, although we did not have time to discuss them all in detail. Discussions about the MSA and its implementation involve aspects of law, science, and policy with the divisions between them often difficult to see. As a technical advisory body, our comments are intended to address views on how interpretations of the MSA have affected analysis and process under the groundfish fishery management plan (FMP). We do not intend to make value judgments about what the Council's or nation's policies should be. With that perspective in mind, we offer the following items for the Council's consideration:

- The integration of MSA and National Environmental Policy Act (NEPA) that Congress mandated in the last reauthorization of the statute still has not been implemented. And there currently appear to be some redundancies that remain between Council processes under MSA and NEPA. In short, NEPA and the MSA could likely be better integrated—in terms of process and environmental analysis—without reducing the quality of either. In addition, there are strong connections between the environmental questions NEPA raises and the analytical methods being advanced under ecosystem based fisheries management, as we have been raising under the Council's consideration of Amendment 24 and ecosystem related agenda items (Agenda Item H.1.c, Supplemental GMT Report). Recognizing those connections and better integrating NEPA with MSA-focused analysis could be a way for Congress to support continued progress toward ecosystem based fisheries management and align staff and scientific resources with the highest conservation needs. The perception of many seems to be the opposite--i.e. that proposed changes to NEPA are necessarily motivated by a desire to pay less attention to environmental impacts and conservation.
- We also think that Congress could learn from our west coast examples of rebuilding. Congress added the rebuilding provisions to the law in 1996 with certain policy goals in mind. Feedback from the Council's experience could help Congress' deliberations on whether those goals are being met. The results we have seen could be counter to expectations. For instance, with petrale sole the rebuilding projections showed the most long-term yield was expected by rebuilding using the standard F_{msy} harvest rate, which was the slowest rebuilding alternative considered by the Council. This was counter to expectations and the widely held assumption that rebuilding "as short as possible" produces the most yield and economic benefit overall. In short, we believe Congress could change the law with a standard that more directly focuses on balancing the trade-

off between short term economic consequences and long term yield and other impacts to the fishery and ecosystem without imposing overly formulaic constraints on the Councils.

- Carryover in the Individual Fishing Quota (IFQ) program is another area where questions about interpretations of the MSA have arisen. Consideration of carryover has been focused on the risk that issuing carryover might lead to an annual catch limit (ACL) overage despite everyone agreeing that such an overage would not raise a biological concern. More generally, this interpretation is one where we have questioned the emphasis of annual catch over the expected outcome over a multi-year period.
- Finally, we see also benefit in clarification of what data can be released to the public under the confidentiality standards of the MSA. Whether one wishes for more disclosure of fisheries data or not, the standards governing what can be disclosed are somewhat vague. We're referring mainly to the "identity or business" provision we spoke to in June 2012 ([Agenda Item B.1, Supplemental Open Comment 3](#)) in the context of the proposed rule the National Marine Fisheries Service (NMFS) issued interpreting that phrase and other matters of data confidentiality. We typically use the "rule of 3" to protect the identity and business of fishery participants but the origins of this rule are unclear and some of us suspect that it is sometimes employed in an overly-protective manner. The main trade-off to overly-protective confidentiality, of course, is the information available to the Council and the public for decision-making.

PFMC
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