

COUNCIL STAFF ACTIVITIES AND COMMENTS CONCERNING IMPLEMENTATION OF THE DEEP SEA CORAL RESEARCH AND TECHNOLOGY PROGRAM

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) as amended in 2007, directs the U.S. Secretary of Commerce, in consultation with Regional Fishery Management Councils, and in coordination with other Federal agencies and educational institutions, to establish a Deep-Sea Coral Research and Technology Program (DSCRTP). The MSA also authorizes Councils to designate zones to protect deep sea corals and sponges from damage caused by fishing gear under fishery management plan discretionary provisions.

Council Staff recently attended a workshop on research priorities for West Coast corals, in Portland, Oregon. The 2010 Federal budget contains dollars for corals research, and the DSCRTP considers West Coast corals research a high priority. The workshop served to help prioritize research activities for the next three years. This research (\$800,000 in FY10) will provide improved understanding of the distribution, density, abundance, and biology of corals and sponges; and ultimately will help to inform management decisions in West Coast waters.

On a related matter, Council Staff was asked in late 2009 to provide comments on a draft Report to Congress on the DSCRTP. The timing and duration of the comment period precluded a full review by the Council or by the Habitat Committee. Therefore, Council Staff provided general comments expressing the Council's interest in the topic and a request to be kept apprised of developments. The following was sent as an email to Mr. Tom Hourigan (NMFS Office of Habitat Conservation), who is coordinating the Report.

Dear Mr. Hourigan:

Thank you for the opportunity to review the draft Report to Congress on Implementation of the Deep Sea Coral Research and Technology Program. The timing and short duration of the comment period preclude the Pacific Fishery Management Council (Council) or its Habitat Committee from providing detailed comments. The best way to ensure our ability to provide substantive comments in the future is to establish the review period around one of our scheduled Council meetings (March, April, June, September, and November—see our website at <http://www.pcouncil.org/events/future.html> for specific dates) so that the document is available at least two weeks prior, and the comment deadline falls a week or two after the meeting. That way, our Habitat Committee can review, discuss, and respond meaningfully. Nevertheless, the Council is very interested in working with NOAA on this topic, and we offer these general comments, based on a quick review by Council Staff:

- The draft document states on page 16 that a West Coast regional research priorities workshop is scheduled for January, 2010. Please provide us with an update and details of that workshop if possible. We would like to participate, but it will be a challenge on short notice.

- The draft document notes on page 15 that the Coral Program will “convene a regional coordination meeting and identify a regional planning team.” Is that a different meeting than the one referenced above? If this regional planning team is to include non NOAA partners, please keep us informed of the progress and makeup of that team. We would be interested in participating.
- The draft document states that essential fish habitat (EFH) is slated to be reviewed by the Council in 2010 (page 35) and 2011 (page 43). A more accurate statement would be to say that “the Council is scheduled to review groundfish EFH in 2011.”
- Is the Deep Sea Coral and Sponge Research and Management Strategic Plan available? The link on the Coral Program’s website appears to be broken.

We look forward to working closely with the NOAA Coral Program during 2010 and beyond, to set research priorities and to help implement the Deep-Sea Coral Research and Technology Program. Please feel free to contact me with any questions or concerns.

Sincerely,

John Coon, Ph.D.
Deputy Director

PFMC
02/17/10

RECEIVED

FEB 22 2010

PFMC



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

Donald O. McIsaac, Ph.D.
Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, OR 97220

FEB 12 2010

Re: Request for Extension of Public Comment Period: RIN 0648-AX06

Dear Dr. McIsaac:

Thank you for your letter regarding NOAA's National Marine Fisheries Service's (NMFS) proposed rule to revise leatherback sea turtle critical habitat. I appreciate the Council's interest in this issue. Per your request, we will be filing a 45 day extension of the public comment period. We will send you a copy of the *Federal Register* notice when it publishes. In addition, we are preparing a briefing for the Council to be presented at the April 2010 meeting in Portland, Oregon.

NMFS will be hosting two public hearings in California during February on the proposed revision to leatherback sea turtle critical habitat. The first will be on Wednesday, February 17, 2010, at the U.S. Fish and Wildlife Service Office, in Carlsbad. The second will be on Thursday, February 18, 2010, at the San Jose Marriott, in San Jose. I invite you and other fishery managers or constituents to participate these meetings. See attached *Federal Register* notice for additional details.

I understand that the proposed critical habitat revision is of great interest to you and the Council due to possible impacts on commercial fisheries. NMFS considered commercial fisheries in the analysis done to support the proposed rule. All supporting documents can be found online at <http://www.nmfs.noaa.gov/pr/species/turtles/leatherback.htm#documents>. Please note that NMFS, in the proposed rule, is specifically asking for comments on fisheries and whether this should be considered an activity that may affect critical habitat. I look forward to the Council's comments on this.

If I can be of further assistance, please contact me, at 301-713-2322, ext. 101.

Sincerely,

A handwritten signature in black ink that reads "David Cottingham".

David Cottingham, Chief
Marine Mammal and Sea Turtle
Conservation Division

Enclosure



implementation in its network will be completed.

(3) Incumbent LECs may recover their carrier-specific costs directly related to providing long-term number portability by establishing in tariffs filed with the Commission certain number portability charges. See 47 CFR 52.33. Incumbent LECs are required to include many details in their cost support that are unique to the number portability proceeding pursuant to the *Cost Classification Order*. For instance, incumbent LECs must demonstrate that any incremental overhead costs claimed in their cost support are actually new cost incremental to and resulting from the provision of long-term number portability. See the *Cost Classification Order*.

(4) Incumbent LECs are required to maintain records that detail both the nature and specific amount of these carrier-specific costs that are directly related to number portability, and those carrier-specific costs that are not directly related to number portability. The information collected and required by the Commission will be used to comply with Section 251 of the Telecommunications Act of 1996.

Federal Communications Commission.

Sharon E. Gillett,

Chief, Wireline Competition Bureau.

[FR Doc. 2010-2045 Filed 1-29-10; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 10-109; MB Docket No. 10-19; RM-11589]

Television Broadcasting Services; Oklahoma City, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by Griffin Licensing, L.L.C. ("Griffin"), the licensee of KWTW-DT, channel 9, Oklahoma City, Oklahoma. Griffin requests the substitution of channel 39 for channel 9 at Oklahoma City.

DATES: Comments must be filed on or before February 16, 2010, and reply comments on or before February 26, 2010.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should

serve counsel for petitioner as follows: David A. O'Conner, Esq., Wilkinson Barker Knauer, LLP, 2300 N Street, NW., Suite 700, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT:

Adrienne Y. Denysyk,
adrienne.denysyk@fcc.gov, Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 10-19, adopted January 20, 2010, and released January 21, 2010. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (<http://fjallfoss.fcc.gov/ecfs/>). This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-478-3160 or via the company's Web site at <http://www.BCPIWEB.com>. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts (other than *ex parte* presentations exempt under 47 CFR 1.1204(a)) are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1208 for rules governing restricted proceedings.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622(i) [Amended]

2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Oklahoma, is amended by adding channel 39 and removing channel 9 at Oklahoma City.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. 2010-2050 Filed 1-29-10; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

RIN 0648-AX06

Endangered and Threatened Species; Public Hearing Notification

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings.

SUMMARY: NMFS will hold two public hearings in Carlsbad, CA, and San Jose, CA, in February 2010 to answer questions and receive public comments on the proposed rule to revise the critical habitat designation for the endangered leatherback sea turtle, which was published in the **Federal Register** on January 5, 2010.

DATES: See **SUPPLEMENTARY INFORMATION** for specific dates, times and locations of the public hearings. Comments and information regarding this proposed rule must be received by March 8, 2010.

ADDRESSES: Written comments on the proposed rule may be submitted, identified by RIN 0648-AX06, and addressed to: David Cottingham, Chief, Marine Mammal and Sea Turtle Conservation Division, by any of the following methods:

- Electronic Submissions: Submit all electronic comments via the Federal eRulemaking Portal: <http://www.regulations.gov>;

- Facsimile (fax): 301-713-4060, Attn: David Cottingham;
- Mail: Chief, Marine Mammal and Sea Turtle Conservation Division, NMFS, Office of Protected Resources, 1315 East West Highway, Silver Spring, MD, 20910.

Instructions: No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. NMFS may elect not to post comments that contain obscene or threatening content. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only. The proposed rule and supporting documents, including the biological report, economic report, IRFA analysis, and 4(b)(2) report, are also available electronically at <http://www.nmfs.noaa.gov/pr/species/turtles/leatherback.htm#documents>.

FOR FURTHER INFORMATION CONTACT: Sara McNulty, NMFS, Office of Protected Resources, 301-713-2322; Elizabeth Petras, NMFS Southwest Region, 562-980-3238; Steve Stone, NMFS Northwest Region, 503-231-2317.

SUPPLEMENTARY INFORMATION: The dates, times and locations of the hearings are as follows:

1. Wednesday, February 17, 2010, 3:00 p.m. to 5:00 p.m., Carlsbad, CA: U.S. Fish and Wildlife Service Carlsbad Office, 6010 Hidden Valley Road, Carlsbad, CA 92011; Conference Room 1.
2. Thursday, February 18, 2010, 3:00 p.m. to 5:00 p.m., San Jose, CA: San Jose Marriott, 301 South Market Street, San Jose, CA 95113; Blossom Hill Salons I and II.

Special Accommodations

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Sara McNulty, NMFS, Office of Protected Resources, 301-713-2322, at least five business days prior to the hearing date.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: January 26, 2010.

Helen Golde,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010-2004 Filed 1-29-10; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0910051338-0034-01]

RIN 0648-AY29

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 44

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comment.

SUMMARY: NMFS proposes regulations to implement measures in Framework Adjustment 44 (FW 44) to the Northeast Multispecies Fishery Management Plan (FMP), and specifications for the FMP for fishing years (FY) 2010-2012. FW 44 measures and specifications, if approved, would be implemented in conjunction with approved measures in Amendment 16 to the FMP, as well as with approved sector operations plans authorized under the FMP. Specifically, FW 44 would modify the Gulf of Maine (GOM) cod and pollock trip limits proposed in Amendment 16; provide the Regional Administrator (RA) authority to implement inseason trip limits and/or differential day-at-sea (DAS) counting for any groundfish stock in order to prevent catch from exceeding the Annual Catch Limit (ACL); and specify Overfishing Levels (OFLs), Acceptable Biological Catch levels (ABCs), and ACLs for all 20 groundfish stocks in the FMP for fishing years 2010 through 2012, as well as the Total Allowable Catches (TACs) for transboundary Georges Bank (GB) stocks. NMFS also proposes in this rule, pursuant to current Regional Administrative authority under the FMP, to allocate zero trips to the Closed Area II Yellowtail Flounder Special Access Program (SAP); limit the Eastern U.S./Canada Haddock SAP to the use of Category A DAS for common pool vessels; delay the opening of the Eastern U.S./Canada Management Area for trawl vessels; and implement a GB yellowtail flounder trip limit of 2,500 lb (1,125 kg).

Finally, this rule would make technical corrections to proposed Amendment 16 regulations.

DATES: Comments must be received by March 1, 2010.

ADDRESSES: You may submit comments, identified by 0648-AY29, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-rulemaking portal: <http://www.regulations.gov>.

- *Mail:* Paper, disk, or CD-ROM comments should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930-2276. Mark the outside of the envelope: "Comments on FW 44 Proposed Rule."

- *Fax:* (978) 281-9135, Attn: Tom Warren

Instructions: No comments will be posted for public viewing until after the comment period has closed. All comments received are part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter "N/A" in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA), which is contained in the Classification section of this proposed rule. Copies of the Environmental Assessment (EA) prepared for this rule may be found at the following internet address: <http://www.nero.noaa.gov/nero/regs/frdoc/10/10MultiFW44EA.pdf>.

FOR FURTHER INFORMATION CONTACT: Thomas Warren, Fishery Policy Analyst, (978) 281-9347, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION: Pursuant to the biennial adjustment process of the FMP, the New England Fishery Management Council (Council) developed Amendment 16 to implement a wide range of revisions to management measures based on the results of the most recent stock assessment (Groundfish Assessment Review Meeting; GARM III; August 2008). A notice of availability for Amendment 16, including the Final Environmental Impact Statement, as submitted by the Council for review by



Pacific Fishery Management Council

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David W. Ortmann, Chairman | Donald O. McIsaac, Executive Director

March 10, 2010

Mr. William Michaels
National Marine Fisheries Service, NOAA
Office of Science and Technology F/ST4
1315 East-West Highway
Silver Spring, MD 20910

Re: Pacific Fishery Management Council Comments on National Marine Fisheries Service Proposed Revisions to the Guidance for National Standard 2 of the Magnuson-Stevens Fishery Conservation and Management Act

Dear Mr. Michaels:

The Pacific Fishery Management Council (Pacific Council) appreciates the opportunity to provide comments to the National Marine Fisheries Service (NMFS) on the proposed revisions to guidance for National Standard 2 (NS2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), including ways to revise guidelines on criteria for best scientific information available (BSIA) and review processes to ensure its application to fishery management.

At its March 2010 meeting, the Pacific Council reviewed the proposed rule and considered comments of its Scientific and Statistical Committee (SSC). The Pacific Council is generally supportive of the revisions and believes that existing west coast fishery management is in keeping with the proposed NS2 guidelines. The Pacific Council has a strong track record of following SSC advice on the use of BSIA and fishing level recommendations. The Pacific Council and the SSC have relied heavily on the effective peer review inherent in our Stock Assessment Review (STAR) process and would prefer to continue this process into the future.

The Pacific Council's STAR process and its SSC emphasize the importance of good science, peer review, and evaluation of uncertainty in assessment and management. Terms of Reference (TOR) for the STAR process are updated frequently and reflect the proposed guidelines, provide a rigorous review of the science in support of Pacific Council decision-making, eliminate potential conflicts of interest in the review process, and ensure the use of BSIA. However, the Pacific Council has some concern that ambiguous language in the provision could unintentionally constrain our procedures for review and evaluation of scientific information. Specifically, the recommended restrictions on SSC re-evaluation of peer-review reports appear to be counter to our current framework for assessment review. The proposed guidelines state that "*the SSC should not repeat the peer review process by conducting a subsequent detailed technical review*" (page 65726, third column). Our existing STAR process is hierarchical; our TOR specifies SSC leadership and participation in STAR Panels, and when necessary, STAR Panel work is re-evaluated in a subsequent panel and/or SSC meeting. Consequently, the Pacific Council and its

SSC recommend maintaining this flexibility to address situations that would benefit from additional analysis. This procedure is complementary, not duplicative, of the STAR Panel process, and assures broad identification of BSIA. The Pacific Council recommends deletion or clarification of the referenced language in the proposed rule that may restrict additional SSC evaluation.

Additionally, the Pacific Council discussed the language in the first column of page 65726 of the proposed NS2 guidelines which state that “*existing peer review processes [including our STAR process] may qualify as 302(g)(1)(E) review processes, but the Secretary, in conjunction with the relevant Councils, has not yet made that determination. If such a determination is made, the Secretary will announce the decision in the Federal Register.*” The Pacific Council is confident that the STAR process would be reviewed favorably and would ultimately qualify as effective peer review. The Pacific Council is requesting additional guidance from NMFS on the procedures and schedule envisioned for qualifying the STAR process.

The Pacific Council appreciates the opportunity to comment on the development of these important guidelines. This letter represents the Pacific Council’s formal comments on these proposed revisions to NS2 guidelines on the use of BSIA for the conservation and management of marine living resources. The materials and reports considered by the Pacific Council in March as well as the TORs for our STAR processes are available on the Pacific Council’s website for your review in support of our recommendations. The Pacific Council looks forward to further coordination with and support from NMFS as NS2 guidelines are revised and incorporated into west coast fishery management.

If you or your staff have 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:kam

- c: Council Members
 - Dr. Steve Murawski, Director of Science Programs and Chief Science Advisor
 - Mr. Barry Thom, NMFS, Acting Northwest Regional Administrator
 - Mr. Rod McInnis, NMFS, Southwest Regional Administrator
 - Dr. Usha Varanasi, Science Director, West Coast Fisheries Science Centers
 - Ms. Eileen Cooney
 - Dr. John Coon