

## LEGISLATIVE MATTERS

The Pacific Fishery Management Council's (Council's) Legislative Committee (Committee) is scheduled to meet Thursday, September 13 at 2 p.m. to review legislative matters of interest to the Council. Council staff has provided a summary of legislation introduced in the 112<sup>th</sup> U.S. Congress (Agenda Item G.1.a, Attachment 1) for potential review at the September Council meeting.

In a letter dated August 23, 2012 (Agenda Item G.1.a, Attachment 2), Congressman Mike Thompson (CA) and Congresswoman Jamie Herrera-Beutler (WA) requested Council comments on forthcoming legislation aimed at easing the financial burden to groundfish fisherman through refinancing of the existing loan funding the Pacific Coast Groundfish Fishery Fishing Capacity Reduction Program. The bill is anticipated to be introduced in the U.S. House of Representatives on September 10, 2012 and will be distributed as supplemental reference material when available.

Additionally, the Committee may also discuss plans for the Council-sponsored conference entitled "*Managing Our Nation's Fisheries, 3: Advancing Sustainability.*" The conference will be held in Washington, DC in May of 2013 and will focus on contemporary fishery issues as well as potential legislative and/or policy improvements toward sustainable fisheries and communities. More information can be found at: [www.managingfisheries.org](http://www.managingfisheries.org).

### **Council Action:**

#### **1. Consider the recommendations of the Legislative Committee.**

##### Reference Materials:

1. Agenda Item G.1.a, Attachment 1: September 2012 Staff Summary of Federal Legislation.
2. Agenda Item G.1.a, Attachment 2: August 23, 2012 Letter from Congressman Thompson and Congresswoman Herrera-Beutler.
3. Agenda Item G.1.a, Supplemental Attachment 3: Legislation regarding the Pacific Coast Groundfish Fishery Fishing Capacity Reduction Program.
4. Agenda Item G.1.b, Supplemental Legislative Committee Report.

##### Agenda Order:

- a. Agenda Item Overview
- b. Report of the Legislative Committee
- c. Reports and Comments of Advisory Bodies and Management Entities
- d. Public Comment
- e. **Council Action:** Consider Legislative Committee Recommendations

Mike Burner  
Dave Hanson

PFMC

08/26/12

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## STAFF SUMMARY OF FEDERAL LEGISLATION IN THE 112<sup>TH</sup> U.S. CONGRESS

This summary is intended as a general overview for discussion purposes. Full text of these bills, additional summary and background information, and current status can be found by entering the bill number in the search engine at the THOMAS web site of the Library of Congress (<http://thomas.gov>). Portions of this report are derived from summaries provided by the Congressional Research Service of the Library of Congress.

### Legislation in 112<sup>th</sup> Congress Recently Reviewed and Commented on by the Council

**S.2184 Fisheries Investment and Regulatory Relief Act of 2012** – as a means of redirecting funds collected as fishery import duties under the Saltonstall-Kennedy Act to their intended purpose, the support of sustainable fishery management. Under this bill, each Regional Fishery Management Council (RFMC) would be required to establish a fishery investment committee to: (1) develop a regional fishery investment plan identifying research, conservation, management needs, and actions to rebuild and maintain healthy fish populations and sustainable fisheries; and (2) make recommendations to the RFMCs on grant applications and projects to implement the respective plans. The grants and projects under this act would put an emphasis on public-private partnerships, and would focus funds on research and investment that support rebuilding and maintaining healthy U.S. fish populations and promotes sustainable fisheries. The bill proposes to fund such activities through a proposed allocation of Saltonstall-Kennedy Act funds that would limit to 10 percent the funds authorized to offset receipts for National Oceanic and Atmospheric Administration (NOAA) operations, research, and facilities while distributing 70 percent to the RFMCs and 20 percent to the Secretary of Commerce for projects in support of fisheries management.

Introduced March 12, 2012, by Senator Kerry, Massachusetts and referred to the U.S. Senate Committee on Commerce, Science, and Transportation. No new activity as of this writing. Reviewed by the Legislative Committee in June 2012.

**H.R. 1837 Sacramento-San Joaquin Valley Water Reliability Act** - Amends the Central Valley Project Improvement Act (CVPIA) to redefine "anadromous fish" for purposes of such Act as those native stocks of salmon and sturgeon that, as of October 30, 1992, were present in the Sacramento and San Joaquin Rivers and their tributaries and ascend those rivers and their tributaries to reproduce after maturing in San Francisco Bay or the Pacific Ocean. Excludes striped bass and American shad from such definition.

Regarding non-native species, the bill would preempt State of California restrictions on the quantity or size of take of non-native species that prey upon one or more native fish species in the Central Valley or the Delta.

Considers all requirements of the Endangered Species Act of 1973 (ESA) to be fully met for the protection and conservation of the species listed pursuant to that H.R. 1837 for the operations of the CVP and the California State Water Project (SWP) if such projects are operated in a manner

consistent with the "Principles for Agreement of the Bay-Delta Standards Between the State of California and the Federal Government" dated December 15, 1994 (Bay-Delta Accord). Preempts California requirements for the conservation of any species listed under ESA for the CVP and SWP that are more restrictive than the 1994 Bay-Delta Accord.

Prohibits the Secretary from distinguishing between naturally-spawned and hatchery-spawned or otherwise artificially propagated strains of a species in making ESA determinations.

Directs the Secretary of the Interior, upon request of the contractor, to renew any existing long-term repayment or water service contract that provides for the delivery of water from the CVP for a period of 40 years, and renew such contracts for successive 40-year periods. Requires a contract entered into or renewed pursuant to this provision to include a provision that requires the Secretary to charge only for water actually delivered.

Directs the Secretary to take actions to facilitate and expedite CVP water transfers. Prohibits the Secretary from imposing mitigation or other requirements on a proposed transfer. Authorizes the Secretary to modify CVP operations to provide reasonable water flows of suitable quality, quantity, and timing to protect all life stages of anadromous fish.

Prohibits the Secretary from requiring a payment to the CVP Restoration Fund, or environmental restoration or mitigation fees not otherwise provided by law, as a condition to providing for storage or conveyance of non-CVP water. Requires the Secretary to submit a plan for the expenditure of funds in the Restoration Fund, including a cost effectiveness analysis of each expenditure. Establishes a Restoration Fund Advisory Board. Preempts any state law that imposes more restrictive requirements or regulations on activities authorized with respect to San Joaquin River restoration.

Introduced May 11, 2011 by Representative Nunes (CA). Referred to the Subcommittee on Water and Power. Hearings held in June 2011.

On February 16, 2012, the U.S. House Subcommittee on Water and Power referred the bill to the U.S. House Committee on Natural Resources for consideration and markup where an amended bill was reported back to the full U.S. House for consideration.

On February 29, 2012, after considerable floor debate, H.R. 1837 (as amended) passed the U.S. House of Representative on a vote of 246-175.

In early March 2012, the bill was reported in the U.S. Senate where, as of this writing, it has been placed on the U.S. Senate Legislative calendar for consideration.

**H.R. 946 Endangered Salmon Predation Prevention Act** - Amends the Marine Mammal Protection Act of 1972 to authorize the Secretary of the department in which the NOAA is operating to issue one-year permits for the lethal taking of California sea lions on the waters of the Columbia River or its tributaries, if the Secretary determines that alternative measures to reduce sea lion predation on salmonid stocks listed as threatened or endangered under the ESA do not adequately protect such stocks.

Introduced March 8, 2011 by Congressman Hastings, Washington. Status: Referred to the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs on March 10.

Hearings were held on June 14, 2011, and Council comments approved at the June 2011 were submitted via letter from Executive Director, Dr. Donald McIsaac. No Congressional action since.

### Other Legislation in 112<sup>th</sup> Congress of Interest to the Council

#### **Legislation in the U.S. House of Representatives**

Many of the bills listed in this section are focused on amending the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

**H.R. 594 Coastal Jobs Creation Act**– Directs the Secretary of Commerce to implement a Coastal Jobs Creation Grant Program which shall include: (1) cooperative research to collect and compile economic and social data related to recreational and commercial fisheries management; (2) establishment and implementation of state recreational fishing registry programs; (3) training and deploying observers authorized or required under the MSA; (4) preservation or restoration of coastal resources identified for their conservation, recreational, ecological, historical, or aesthetic values; (5) redevelopment of deteriorating and underutilized working waterfronts and ports; (6) research to develop, test, and deploy innovations and improvements in coastal and ocean observation technologies; (7) cooperative research to collect data to improve, supplement, or enhance fishery and marine mammal stock assessments; and (8) other specified activities.

Amends the MSA to require the Secretary to enter into contracts with, or provide grants to, states for the purpose of establishing and implementing a registry program to meet the requirements for the exemption from registration of a regional standardized fishing vessel registration and information management system program for state licensed recreational fishermen and charter fishing vessels when the Secretary determines that information from the state program is suitable for the Secretary's use in completing marine recreational fisheries statistical surveys or evaluating the effects of proposed conservation and management measures for marine recreational fisheries.

Introduced February 9, 2011 by Representative Pallone, New Jersey, and referred to the House Committees on Natural Resources and Science, Space and Technology. Hearing held on December 1, 2011.

**H.R. 1646 - American Angler Preservation Act** - Amends the MSA to require each Scientific and Statistical Committee (SSC) of the eight Regional Councils to provide ongoing risk-neutral scientific advice. Prohibits SSCs from recommending to increase or decrease an annual catch limit by 20 percent or greater unless the recommendation has been approved in a nongovernmental peer review process. Requires fishery management plans, amendments, or regulations for overfished fisheries to specify a time period for ending overfishing and rebuilding the fishery as short as practicable (under current law, as short as possible). Modifies the exceptions to the requirement that such period not exceed 10 years. Related bills include H.R.

3061, the Flexibility and Access in Rebuilding American Fisheries Act of 2011 and S. 632 Flexibility in Rebuilding American Fisheries Act of 2011.

Introduced April 15, 2011 by Congressman Runyan, New Jersey and referred to the House Committee on Natural Resources. Hearing held on December 1, 2011.

**H.R. 2304 (S.1916) Fishery Science Improvement Act of 2011** Amends the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 to postpone from fishing year 2011 to 2014 the effective date upon which a mechanism for specifying annual catch limits and accountability measures for fisheries other than those determined by the Secretary of Commerce to be subject to overfishing must be established in fishery management plans prepared by any Regional Fishery Management Council or the Secretary, implementing regulations, or annual specifications.

Makes the catch limit mechanism, for all fisheries, inapplicable to a fishery for any stock of fish: (1) for which a peer reviewed stock survey and stock assessment have not been performed during the five-year period before enactment of this Act and for which the Secretary determines overfishing is not occurring, and (2) that is an ecosystem stock. Defines "ecosystem stock" as a stock of fish determined by the Secretary to be a nontarget stock that is not overfished or likely to become overfished.

Requires the Secretary, within 270 days after determining that a fishery is overfished, to perform a stock survey and stock assessment of each of the overfished stocks in the fishery and transmit the assessment to the appropriate Council.

Introduced June 22, 2011 by Representative Whittman, Virginia, and referred to the House Committee on Natural Resources. Hearings held December 1, 2011.

**H.R. 2610 Asset Forfeiture Fund Reform and Distribution Act of 2011** -- Amends the MSA to require the Secretary of Commerce (Secretary) or the Secretary of the Treasury, after September 30, 2011, to use each of the sums received as fines, penalties, and forfeitures of property for violations of any provisions of such Act, or of any other fishery resource law enforced by the Secretary, to make a payment to: (1) the state in which the violation occurred, (2) the state in which the vessel involved in the violation is homeported if the violation did not occur in a state, or (3) the state most directly affected by a violation neither occurring in a state nor involving a vessel. (Current law authorizes using such sums for certain civil and criminal enforcement costs.)

Directs states to use such amounts for specified research and monitoring activities.

Sets forth transitional rules authorizing the Secretary to use such amounts received before October 1, 2011, to reimburse appropriate legal fees and costs, up to \$200,000 per person, to specified persons the Secretary directed to receive a remittance of at least a portion of a fisheries enforcement penalty.

Introduced July 21, 2011 by Representative Frank, Massachusetts, and referred to the House Committee on Natural Resources. Hearings held December 1, 2011.

**H.R. 2753 Fishery Management Transparency and Accountability Act**— Amends Section 302(i)(2) of the to require RFMCs to provide on their web sites a live broadcast of each meeting of the Council, the Science and Statistical Committee, and the Council Coordination Committee and to provide three years worth of audio and/or video recordings as well as transcripts.

Introduced August 1, 2011 by Representative Jones, North Carolina, and referred to the House Committee on Natural Resources. Hearings held December 1, 2011.

**H.R. 2772 Saving Fishing Jobs Act of 2011**— This bill is not directly applicable to the Pacific Council, but contains provisions of interest to limited access privilege programs. Amends the Magnuson-Stevens Fishery Conservation and Management Act, with respect to multispecies fishing permits in the Gulf of Mexico, to remove a provision limiting the eligible signers (a group of fishermen constituting more than 50 percent of the permit holders, or holding more than 50 percent of the allocation in the fishery) of a petition to the Secretary of Commerce requesting that the relevant Regional Fishery Management Council or Councils be authorized to initiate the development of a limited access privilege program to only those participants who have substantially fished the species proposed to be included in the program.

Introduced August 1, 2011 by Representative Runyon, New Jersey, and referred to the House Committee on Natural Resources. Hearings held December 1, 2011.

**H.R. 2840 Commercial Vessel Discharges Reform Act of 2011** — Amends the Federal Water Pollution Control Act (commonly known as the Clean Water Act) to allow a person owning, operating, or chartering by demise a commercial vessel to discharge ballast water into navigable waters only if the discharge: (1) meets the ballast water performance standard, qualifies as a safety exemption, meets the requirements of an alternative method of compliance and the vessel operates exclusively within a geographically limited area or operates pursuant to a geographic restriction; and (2) is in accordance with an approved ballast water management plan. Defines "commercial vessel" to mean a watercraft or other artificial contrivance used or capable of being used as a means of transportation on water that is engaged in commercial service.

Directs the Administrator to determine, within one year, the discharges incidental to the normal operation of a covered vessel for which it is reasonable and practicable to develop best management practices to mitigate adverse impacts on the waters of the United States and to review such determination every five years. Defines a "covered vessel" to mean every description of watercraft, or other artificial contrivance used or capable of being used as a means of transportation on water, that is engaged in commercial service and that is: (1) less than 79 feet in length; or (2) a fishing vessel, regardless of length.

Introduced September 2, 2011 by Representative LoBiondo, New Jersey, and referred to the House Committee on Transportation and Infrastructure. On November 3, 2011 the bill passed out of the Committee as amended and was placed on the calendar for full U.S. House Consideration.

**H.R.6350 Transparent and Science-Based Fishery Management Act of 2012** Includes many provisions previously introduced under other bills in the 112<sup>th</sup> Congress to address MSA reauthorization including amendments to rebuilding program requirements, annual catch limit requirements, and catch share programs.

Introduced August 2, 2012 by Representative Runyon, New Jersey.

## **Legislation in the U.S. Senate**

**S.46 Coral Reef Conservation Amendments Act of 2011** – A bill to increase protective measures for the Nation’s coral reefs through amendment of the Coral Reef Conservation Act of 2000 and the development of a national coral reef ecosystem action strategy.

Introduced January 25, 2011 by Senator Inouye, Hawaii and referred to the U.S. Senate Committee on Commerce, Science, and Transportation.

On May 5, 2011, the Committee on Commerce, Science, and Transportation ordered the bill be reported to the full Senate without amendment favorably. No new activity at the time of this report.

**S.50 Commercial Seafood Consumer Protection Act** – A bill to strengthen Federal consumer product safety programs and activities with respect to commercially marketed seafood by directing the Secretary of Commerce to coordinate with the Federal Trade Commission and other appropriate Federal agencies to strengthen and coordinate those programs and activities.

Introduced January 25, 2011 by Senator Inouye, Hawaii and referred to the U.S. Senate Committee on Commerce, Science, and Transportation.

On January 26, 2012 the bill was reported without amendment by the Committee on Commerce, Science and Transportation and entered on the calendar for consideration by the full U.S. Senate.

**S. 52 (H.R. 4100) International Fisheries Stewardship and Enforcement Act** - A bill to establish uniform administrative and enforcement procedures and penalties for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act and similar statutes, and for other purposes including implement the Antigua Convention. Includes the Antigua Convention Implementing Act of 2011 that amends the Tuna Conventions Act of 1950 to revise provisions regarding: (1) the Inter-American Tropical Tuna Commission; (2) the General Advisory Committee; (3) the Scientific Advisory Subcommittee; (4) prohibited acts; and (5) enforcement.

Introduced January 25, 2011 by Senator Inouye, Hawaii and referred to the U.S. Senate Committee on Commerce, Science, and Transportation.

On May 5, 2011, the Committee on Commerce, Science, and Transportation ordered the bill be reported to the full Senate without amendment favorably.

On January 26, 2012 the bill was reported without amendment by the Committee on Commerce, Science and Transportation and entered on the calendar for consideration by the full U.S. Senate.

The Legislative Committee and the Council reviewed a similar bill in the 11<sup>th</sup> Congress (see Agenda Item K.1.b, Supplemental Legislative Committee Report, April 2010).

**S.171 West Coast Ocean Protection Act of 2011** - A bill to amend the Outer Continental Shelf Lands Act to permanently prohibit the conduct of offshore drilling on the outer Continental Shelf off the coast of California, Oregon, and Washington.

Introduced January 25, 2011 by Senator Boxer, California and cosponsored by the other five U.S. Senators from the West Coast States. The bill has been referred to the U.S. Senate Committee on Energy and Natural Resources. No new activity.

**S.229 and S.230 Pertaining to genetically-engineered fish** - Bills to amend the Federal Food, Drug, and Cosmetic Act to require labeling (S.229) or prevent the approval of (S.230) genetically-engineered fish. Similar legislation has been introduced in the U.S. House.

Introduced January 31, 2011 by Senator Begich, Alaska and referred to the U.S. Senate Committee on Health, Education, Labor, and Pensions. No new activity.

**S.238 FISH Act of 2011** - A bill to amend the MSA to require that Fishery Impact Statements (1) be prepared by an objective person (prohibits U.S. government officers, employees, or entities) selected by the Comptroller General; and (2) determine if the fishery management plan or amendment is consistent with specified national standards for fishery conservation and management, including whether the relevant measures provide for the sustained participation of fishing communities and minimize adverse economic impacts.

Introduced January 31, 2011 by Senator Brown, Massachusetts and referred to the U.S. Senate Committee on Commerce, Science, and Transportation. No new activity.

**S.632 (H.R.3061) Flexibility in Rebuilding American Fisheries Act of 2011** - Amends the MSA to require fishery management plans, amendments, or regulations for overfished fisheries to specify a time period for ending overfishing and rebuilding the fishery that is as short as practicable (under current law, as short as possible). Modifies the exceptions to the requirement that such period not exceed ten years.

Introduced March 17, 2011, by Senator Schumer, New York and referred to referred to the U.S. Senate Committee on Commerce, Science, and Transportation. Similar bills have been introduced in previous Congresses and reviewed by the Committee. No new activity.

**S.1451 (H.R.2706) Billfish Conservation Act of 2011** - Prohibits any person from offering billfish or billfish products for sale, selling them, or having custody, control, or possession of them for purposes of offering them for sale or selling them.

Treats a violation of this Act as an act prohibited by the MSA. Subjects a person to a maximum civil penalty of \$100,000 for each violation, with each day of a continuing violation constituting a separate offense. Exempts the state of Hawaii and the Pacific Insular Area, except that billfish may be sold under such exemption only in Hawaii and the Pacific Insular Area.

Defines "billfish" as any of the following: (1) blue marlin, (2) striped marlin, (3) black marlin, (4) sailfish, (5) shortbill spearfish, (6) white marlin, (7) roundscale spearfish, (8) Mediterranean spearfish, or (9) longbill spearfish. Excludes swordfish from such definition.

Introduced July 29, 2011, by Senator Vitter, Louisiana and referred to the U.S. Senate Committee on Commerce, Science, and Transportation. This bill was opposed by the majority of the Highly Migratory Species Advisory Subpanel at the June 2012 meeting.

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**Congress of the United States**  
**Washington, DC 20515**

August 23, 2012

Dan Wolford, Chairman  
Pacific Fishery Management Council  
7700 N.E. Ambassador Place, Suite 101  
Portland, Oregon 97220-1384

Dear Chairman Wolford and Council Members:

Recently, we crafted legislation that will reissue the Pacific Coast Groundfish Fishery Buyback loan and will introduce it in the U.S. House of Representatives the week of September 10, 2012. We request that the Pacific Management Fishery Council comment on the impact this bill will have on the fisheries and the fishermen in the Pacific Coast Groundfish Fishery.

As you are aware, in 2003 the Groundfish Fishing Capacity Reduction Program was instituted through the National Marine Fisheries Services. This buyback loan was to help fisherman recover after the Pacific Coast Groundfish Fishery disaster of 2000. The loan was set up with a 30 year repayment period, a 6.97 percent interest rate, and is paid back based on 5 percent of the ex-vessel value. We are aware that the conditions of the buyback loan and the current repayment structure have led to financial problems that greatly impact fishermen, especially those with small boat operations. Ultimately, our bill will:

1. Extend the loan repayment period from 30 years to 45 years;
2. Guarantee the debt obligation paid by the fisherman will not exceed 3 percent of the ex-vessel value of fish harvested, rather than the current 5 percent fee; and
3. Allow the loan to be financed at current interest rates.

We have included a copy of the draft bill for your review and consideration. Thank you for your comments, and we look forward to working together to preserve and protect the West Coast groundfish fisheries. If you have any questions, please do not hesitate to contact Lindsey Kraatz in Congressman Mike Thompson's Washington, D.C. office at [Lindsey.Kraatz@mail.house.gov](mailto:Lindsey.Kraatz@mail.house.gov) or 202-225-3311.

Sincerely,



**MIKE THOMPSON**  
Member of Congress



**JAIME HERRERA-BEUTLER**  
Member of Congress

112TH CONGRESS  
2D SESSION

# H. R. 6362

To direct the Secretary of Commerce to issue a fishing capacity reduction loan to refinance the existing loan funding the Pacific Coast Groundfish Fishery Fishing Capacity Reduction Program.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 10, 2012

Mr. THOMPSON of California (for himself, Mrs. CAPPS, Mr. DEFazio, Ms. ESHOO, Mr. FARR, Ms. HERRERA BEUTLER, Mr. LARSEN of Washington, Mr. SCHRADER, Ms. SPEIER, Ms. WOOLSEY, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To direct the Secretary of Commerce to issue a fishing capacity reduction loan to refinance the existing loan funding the Pacific Coast Groundfish Fishery Fishing Capacity Reduction Program.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Revitalizing the Econ-  
5 omy of Fisheries in the Pacific Act of 2012” or the “REFI  
6 Pacific Act of 2012”.

1 **SEC. 2. FINDINGS; PURPOSE.**

2 (a) FINDINGS.—Congress finds as follows:

3 (1) In 2000, the Secretary of Commerce de-  
4 clared the Pacific Coast Groundfish Fishery a Fed-  
5 eral fisheries disaster due to low stock abundance of  
6 groundfish and an overcapitalized fleet.

7 (2) In 2003, section 212 of the Department of  
8 Commerce and Related Agencies Appropriations Act,  
9 2003 (title II of division B of Public Law 108–7;  
10 117 Stat. 80) was enacted to require establishment  
11 of a Pacific Coast groundfish fishery buyback pro-  
12 gram to remove excess fishing capacity from the  
13 groundfish, crab, and shrimp fisheries.

14 (3) In 2003, a \$35,700,000 buyback loan was  
15 authorized by Congress, creating the Pacific Coast  
16 Groundfish Fishing capacity reduction program  
17 through the National Marine Fisheries Service Fish-  
18 eries Finance Program with a term of 30 years. The  
19 interest rate of the buyback loan was fixed at 6.97  
20 percent and is paid back based on an ex-vessel fee  
21 landing rate of 5 percent for the loan.

22 (4) The buyback program resulted in the re-  
23 moval of limited entry trawl Federal fishing permits  
24 from the fishery, representing approximately 46 per-  
25 cent of total landings at the time.

1           (5) Because of an absence of a repayment  
2 mechanism, \$4,243,730 in interest was accrued be-  
3 fore fee collection procedures were established in  
4 2005, over 18 months after the fishing capacity re-  
5 duction program was initiated.

6           (6) In 2011, the Pacific Coast groundfish fish-  
7 ery transitioned to a catch share program.

8           (7) By 2015, Pacific Coast groundfish fisher-  
9 men's expenses are expected to include fees of ap-  
10 proximately \$450 per day for observers, a 3-percent  
11 cost recovery fee as authorized by the Magnuson-  
12 Stevens Fishery Conservation and Management Act  
13 for catch share programs, and a 5-percent ex-vessel  
14 landings rate for the loan repayment, which could  
15 reach 18 percent of their total gross revenue.

16           (8) In the period covering 2006 through 2011,  
17 the annual average Pacific Coast Groundfish Fishery  
18 ex-vessel revenue was \$85,945,847, which included  
19 revenue of at-sea catcher processors, at-sea mother-  
20 ship catcher vessels, trawls, open access, and tribal  
21 fishing and all other groundfish revenue. Of that  
22 revenue, an average of \$45,000,000 was generated  
23 by the limited entry trawl fishery.

24           (9) Currently, National Oceanic and Atmos-  
25 pheric Administration Fisheries administers indus-

1 try-funded capacity reduction programs in the Ber-  
2 ing Sea-Aleutian Islands crab, Bering Sea-Aleutian  
3 Islands non-pollock groundfish, and American Fish-  
4 eries Act pollock fisheries, along with the Pacific  
5 Coast groundfish fishery. Each program has a 30-  
6 year, long-term loan repayment period based on fees  
7 for future landings in the fisheries.

8 (10) A fifth reduction buyback program was  
9 implemented in 2012 for the Alaska Purse Seine  
10 Salmon Fishery, which has a 40-year, long-term re-  
11 payment period based on fees for future landings in  
12 the fishery with an ex-vessel landing rate of 3 per-  
13 cent.

14 (11) In the past when fishery disasters have  
15 been declared, some fisheries have been issued Fed-  
16 eral disaster assistance grants to provide short-term  
17 economic assistance to fishermen leaving the indus-  
18 try, increased profitability for remaining fishermen,  
19 and conservation of fish stocks.

20 (12) In 1996 and 1997, a \$23,000,000 Federal  
21 disaster assistance grant was issued for the New  
22 England Groundfish Fishery, which was used to re-  
23 move 68 multi-species permits and scrap 58 vessels  
24 associated with those permits. No loan repayments  
25 were required for this grant.

1 (b) PURPOSE.—The purpose of the Act is to refi-  
2 nance the Pacific Coast Groundfish Fishery Fishing Ca-  
3 pacity Reduction Program to protect and conserve the Pa-  
4 cific Coast groundfish fishery, fishermen’s economic liveli-  
5 hood, and jobs of associated industries.

6 **SEC. 3. REFINANCING OF WEST COAST GROUND FISH FIS-**  
7 **ERY FISHING CAPACITY REDUCTION LOAN.**

8 (a) IN GENERAL.—The Secretary of Commerce shall,  
9 upon receipt of such assurances as the Secretary considers  
10 appropriate to protect the interests of the United States,  
11 issue a loan to refinance the existing debt obligation fund-  
12 ing the fishing capacity reduction program for the Pacific  
13 Coast Groundfish Fishery implemented under section 212  
14 of the Department of Commerce and Related Agencies Ap-  
15 propriations Act, 2003 (title II of division B of Public Law  
16 108–7; 117 Stat. 80).

17 (b) APPLICABLE LAW.—Except as otherwise provided  
18 in this section, the Secretary shall issue such loan in ac-  
19 cordance with subsections (b) through (e) of section 312  
20 of the Magnuson-Stevens Fishery Conservation and Man-  
21 agement Act (16 U.S.C. 1861a) and sections 53702 and  
22 53735 of title 46, United States Code.

23 (c) LOAN TERM.—Notwithstanding section  
24 53735(c)(4) of title 46, United States Code, a loan under  
25 this section must have a maturity that expires at the end

1 of the 45-year period beginning on the date of issuance  
2 of such loan.

3 (d) LIMITATION ON FEE AMOUNT.—Notwithstanding  
4 section 312(d)(2)(B) of the Magnuson-Stevens Fishery  
5 Conservation and Management Act (16 U.S.C.  
6 1861(d)(2)(B)), the fee established by the Secretary with  
7 respect to a loan under this section shall not exceed 3 per-  
8 cent of the ex-vessel value of all fish harvested from each  
9 fishery for which the loan is issued.

10 (e) FUNDING.—To implement this section there is  
11 authorized to be appropriated to the Secretary an amount  
12 equal to 1 percent of the amount of the loan authorized  
13 under this section.

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## LEGISLATIVE COMMITTEE REPORT ON LEGISLATIVE MATTERS

The Legislative Committee (Committee) convened at 2:00 p.m. on Thursday, September 13, 2012. In attendance were Committee members Dr. David Hanson (Chair) Mr. Dan Wolford, Ms. Dorothy Lowman, Mr. Gordy Williams, Mr. David Crabbe, and Mr. Dale Myer. Also present were Council Executive Director, Dr. Don McIsaac, and Council Member, Mr. Mark Helvey.

The Committee briefly reviewed a variety of fishery-related bills in the 112<sup>th</sup> Congress and focused the majority of the meeting on the Revitalizing the Economy of Fisheries (REFI) in the Pacific Act (H.R. 6362, Agenda Item G.1.a, Supplemental Attachment 3). In a letter dated August 23, 2012 (Agenda Item G.1.a, Attachment 2), Congressman Mike Thompson (CA) and Congresswoman Jamie Herrera-Beutler (WA) requested Council comments on H.R. 6362. The Committee approved the following recommendations for Council consideration.

### H.R.6362 Revitalizing the Economy of Fisheries (REFI) in the Pacific Act

The Committee is highly supportive of efforts to ease the financial burden to groundfish fisherman through refinancing the existing loan funding the limited entry trawl fishery buyback under the Pacific Coast Groundfish Fishery Fishing Capacity Reduction Program. The Committee notes that the limited entry trawl fishery has recently been transformed into a Trawl Individual Quota program, which is having beneficial outcomes for the resource and the fishery, but is also imposing significant added observer and cost recovery expenses on the fishermen. H.R. 6362 would assist in limiting further economic casualties in the fishery.

The Committee supports H.R. 6362 provisions that cap the debt obligation paid by fisherman at 3 percent of exvessel revenue rather than 5 percent and the extended 45-year term. The Committee notes that H.R. 6362 does not specify the detailed terms of the loan refinance, but rather refers to section 53702 and 53735 of title 46, United States Code. Pertaining to interest rates on direct loans to fisheries, section 53702(b)(2) states that “*the annual rate of interest an obligor shall pay on a direct loan obligation under this subsection is 2 percent plus the additional percent the Secretary must pay as interest to borrow from the Treasury the funds to make the loan.*” Uncertainties in the timing of H.R. 6362’s potential passage into law coupled with varying interest rates in a fluctuating economic environment make it difficult to assess the financial implications and specific terms of the proposed refinance. However, fixing the rates at the present level could eliminate the uncertainty. Never-the-less the Committee perceives that the likely outcome will reduce the economic burden to the fishermen and thus we support the bill.

### Future Meeting Plans

The Committee anticipates the need to meet at the November Council meeting as indicated on the draft September Council agenda (Agenda Item G.6.a, Attachment 2) to review and discuss the status of existing or newly-introduced Federal legislation.

The Committee adjourned at 3:00 p.m.

## **Legislative Committee Recommendations**

**It is recommended the Council:**

- 1. Direct the Council Executive Director to convey Committee comments on H.R. 6362, as appropriate, to Congressman Thompson and the Bill's cosponsors.**
- 2. Tentatively schedule a November Committee meeting.**

PFMC  
09/15/12

## RESEARCH PLANNING

The Pacific Fishery Management Council (Council) continually identifies research and data needs across its fishery management plans (FMPs) through a variety of processes, including stock assessment and fishery management cycles. As a routine matter on roughly a 5-year cycle, the Council documents priority research and data needs and communicates these needs to organizations which may be able to support additional research. At this meeting, the Council is scheduled to review and comment on an initial draft Research and Data Needs document (Agenda Item G.2.a, Attachment 1) and consider adopting a public review version of the document. The Council is tentatively scheduled to adopt a final document at its upcoming March 2013 meeting in Tacoma, Washington.

The Council last approved a Research and Data Needs document in 2008. Council Operating Procedure (COP) 12 outlines a two-meeting (June/September) Council process for updating research and data needs. It is anticipated that the June through September period in 2013 will entail a heavy workload for the Scientific and Statistical Committee due, in part, to the groundfish assessment review cycle. Therefore, revision of the Research and Data Needs document has been rescheduled to occur between September 2012 and March 2013.

Section 302(h)(7) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) states that Regional Fishery Management Councils shall:

*“develop, in conjunction with the scientific and statistical committee, multi-year research priorities for fisheries, fisheries interactions, habitats, and other areas of research that are necessary for management purposes, that shall establish priorities for 5-year periods; be updated as necessary; and be submitted to the Secretary and the regional science centers of the National Marine Fisheries Service for their consideration in developing research priorities and budgets for the region of the Council.”*

The Research and Data Needs document, when adopted in its final form by the Council at the March 2013 Council meeting, is intended to record and communicate the Council’s research and data needs through 2018 to ensure continued well-informed Council decision-making into the future and to fulfill the Council’s responsibilities under the MSA.

The Northwest and Southwest Fisheries Science Centers (FSCs) of the National Marine Fisheries Service (NMFS) also conduct strategic research planning. Their final strategic research planning documents are anticipated for completion in early September and will be provided as supplemental reference materials at the September Council meeting. Center Directors, Dr. John Stein and Dr. Cisco Werner have provided a summary review (Agenda Item G.2.b, NMFS FSC Report) and will brief the Council under this agenda item in Boise on September 16.

### **Council Action:**

**Consider the Fisheries Science Centers’ Strategic Research Plan and Approve the Council’s Five-Year Research Plan for Public Review.**

Reference Materials:

1. Agenda Item G.2.a, Attachment 1: Initial Draft, Research and Data Needs, 2013.
2. Agenda Item G.2.b, NMFS FSC Report.

Agenda Order

- a. Agenda Item Overview Mike Burner
- b. Fisheries Science Centers' Strategic Research Plan John Stein and Cisco Werner
- c. Reports and Comments of Advisory Bodies and Management Entities
- d. Public Comment
- e. **Council Action:** Consider the Fisheries Science Centers' Strategic Research Plan and Approve the Council's Five-Year Research Plan for Public Review

PFMC  
08/23/12

# **RESEARCH AND DATA NEEDS**

**2013  
INITIAL DRAFT  
DO NOT CITE**

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**SEPTEMBER 2013**



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## ACRONYMS AND DEFINITIONS

Acronym	Definition
ABC - acceptable biological catch	The ABC is a scientific calculation of the sustainable harvest level of a fishery and is used to set the upper limit of the annual total allowable catch. It is calculated by applying the estimated (or proxy) harvest rate that produces maximum sustainable yield to the estimated exploitable stock biomass (the portion of the fish population that can be harvested).
ASAP	Age-structured Assessment Program
ATCA	Atlantic Tunas Convention Act
AUV	Autonomous Underwater Vehicle
barotrauma	Physical trauma or injury to a fish due to pressure change. When a fish is rapidly brought from deep water to the surface, the drop in pressure can cause a variety of physical problems, such as severe expansion of the swim bladder and gas bubbles in the blood.
CalCOFI	California Cooperative Oceanic Fisheries Investigations
catch per unit of effort	The quantity of fish caught (in number or weight) with one standard unit of fishing effort. For example, the number of fish taken per 1,000 hooks per day, or the weight of fish, in tons, taken per hour of trawling. CPUE is often considered an index of fish biomass (or abundance). Sometimes referred to as catch rate. CPUE may be used as a measure of economic efficiency of fishing as well as an index of fish abundance.
CCS	California Current System
CDFG	California Department of Fish and Game
coastal pelagic species	Coastal pelagic species are schooling fish, not associated with the ocean bottom, that migrate in coastal waters. They usually eat plankton and are the main food source for higher level predators such as tuna, salmon, most groundfish, and humans. Examples are herring, squid, anchovy, sardine, and mackerel.
coded-wire tag	Coded-wire tags are small pieces of stainless steel wire that are injected into the snouts of juvenile salmon and steelhead. Each tag is etched with a binary code that identifies its release group.
cohort	In a stock, a group of fish born during the same time period.
Acronym	Definition

COP	Council Operating Procedures
Council	Pacific Fishery Management Council
CPFV	Commercial passenger fishing vessel (charter boat)
CPS	Coastal pelagic species. See above.
CPSAS	Coastal Pelagic Species Advisory Subpanel
CPSMT	Coastal Pelagic Species Management Team
CPUE	Catch per unit of effort.
CUFES	Continuous Underwater Fish Egg Sampler
CWT	Coded-wire tag. See above.
DEPM	Daily egg production method
EBFM	Ecosystem-Based Fishery Management
EEZ	Exclusive Economic Zone. See below.
EFH	Essential fish habitat. See below.
EIS	Environmental impact statement. See below.
El Niño Southern Oscillation	Abnormally warm ocean climate conditions, which in some years affect the eastern coast of Latin America (centered on Peru) often around Christmas time. The anomaly is accompanied by dramatic changes in species abundance and distribution, higher local rainfall and flooding, and massive deaths of fish and their predators. Many other climactic anomalies around the world are attributed to consequences of <i>El Niño</i> .
Endangered Species Act	An act of Federal law that provides for the conservation of endangered and threatened species of fish, wildlife, and plants. When preparing fishery management plans, councils are required to consult with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service to determine whether the fishing under a fishery management plan is likely to jeopardize the continued existence of an ESA-listed species or to result in harm to its critical habitat.

Acronym	Definition
Environmental impact statement	As part of the National Environmental Policy Act (NEPA) process, an EIS is an analysis of the expected impacts resulting from the implementation of a fisheries management or development plan (or some other proposed action) on the environment. EISs are required for all fishery management plans as well as significant amendments to existing plans. The purpose of an EIS is to ensure the fishery management plan gives appropriate consideration to environmental values in order to prevent harm to the environment.
ESA	Endangered Species Act. See above.
essential fish habitat	Those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity.
Exclusive Economic Zone	A zone under national jurisdiction (up to 200 nautical miles wide) declared in line with the provisions of the 1982 United Nations Convention of the Law of the Sea, within which the coastal State has the right to explore and exploit, and the responsibility to conserve and manage, the living and non-living resources.
exempted fishing permit	A permit issued by National Marine Fisheries Service that allows exemptions from some regulations in order to study the effectiveness, bycatch rate, or other aspects of an experimental fishing gear. Previously known as an “experimental fishing permit.”
Fathom	Used chiefly in measuring marine depth. A fathom equals 6 feet.
FEIS	Final Environmental Impact Statement (see EIS, NEPA).
Fm	Fathom (6 feet)
FMP	Fishery management plan. See above.
FRAM	Fishery Regulation Assessment Model. Typically used for salmon.
FWS	U.S. Fish and Wildlife Service
GIS	Geographic Information System
GLMM	Generalized Linear Mixed Model
GSI	Genetic stock identification

Acronym	Definition
Habitat areas of particular concern	Subsets of essential fish habitat (see EFH) containing particularly sensitive or vulnerable habitats that serve an important ecological function, are particularly sensitive to human-induced environmental degradation, are particularly stressed by human development activities, or comprise a rare habitat type.
HAPC	Habitat areas of particular concern. See above.
Harvest guideline(s)	A numerical harvest level that is a general objective, but not a quota. Attainment of a harvest guideline does not require a management response, but it does prompt review of the fishery.
Highly migratory species	In the Council context, highly migratory species in the Pacific Ocean include species managed under the HMS Fishery Management Plan: tunas, sharks, billfish/swordfish, and dorado or dolphinfish.
HMS	Highly migratory species. See above.
HMS FMP	Highly Migratory Species Fishery Management Plan. This is the fishery management plan (and its subsequent revisions) for the Washington, Oregon, and California Highly Migratory Species Fisheries developed by the PFMCA and approved by the Secretary of Commerce.
IATTC	Inter-American Tropical Tuna Commission
IFQ	Individual fishing quota. See below.
IMECOCAL	A program in Baja California concerning small pelagics and climate change.
Incidental catch or incidental species	Species caught when fishing for the primary purpose of catching a different species.
Incidental take	The “take” of protected species (such as listed salmon, marine mammals, sea turtles, or sea birds) during fishing. “Take” is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct.
Individual transferable (or tradable) quota	A type of quota (a part of a total allowable catch) allocated to individual fishermen or vessel owners and which can be transferred (sold, leased) to others.
ISC	International Scientific Committee
ITQ	Individual Transferable (or Tradable) Quota. See above.
KOHM	Klamath Ocean Harvest Model (for salmon)

Acronym	Definition
LIDAR	Light Detection and Ranging, an active sensor, similar to radar, that transmits laser pulses to a target and records the time it takes for the pulse to return to the sensor receiver.
Magnuson-Stevens Act	Magnuson-Stevens Fishery Conservation and Management Act. See below.
Magnuson-Stevens Fishery Conservation and Management Act	The MSFCMA, sometimes known as the “Magnuson-Stevens Act,” established the 200-mile fishery conservation zone, the regional fishery management council system, and other provisions of U.S. marine fishery law.
Marine Mammal Protection Act	The MMPA prohibits the harvest or harassment of marine mammals, although permits for incidental take of marine mammals while commercial fishing may be issued subject to regulation. (See “incidental take” for a definition of “take”.)
Maximum sustainable yield	An estimate of the largest average annual catch or yield that can be continuously taken over a long period from a stock under prevailing ecological and environmental conditions. Since MSY is a long-term average, it need not be specified annually, but may be reassessed periodically based on the best scientific information available.
MMPA	Marine Mammal Protection Act. See above.
MPA	Marine protected areas
MSA	Magnuson-Stevens Fishery Conservation and Management Act. See above.
MSFCMA	Magnuson-Stevens Fishery Conservation and Management Act. See above.
MSY	Maximum sustained yield. See above.
National Marine Fisheries Service	A division of the U.S. Department of Commerce, National Ocean and Atmospheric Administration (NOAA). NMFS is responsible for conservation and management of offshore fisheries (and inland salmon). The NMFS Regional Director is a voting member of the Council.
NGO	Nongovernmental organization
NMFS	National Marine Fisheries Service. See above.
NMFS NWFSC	National Marine Fisheries Service Northwest Fisheries Science Center
NMFS NWR	National Marine Fisheries Service Northwest Region

Acronym	Definition
NMFS SWFSC	National Marine Fisheries Service Southwest Fisheries Science Center
NMFS SWR	National Marine Fisheries Service Southwest Region
NMSA	National Marine Sanctuaries Act
NOAA	National Oceanic & Atmospheric Administration. The parent agency of National Marine Fisheries Service.
ODFW	Oregon Department of Fish and Wildlife
ONMS	Office of National Marine Sanctuaries
Optimum yield	The amount of fish that will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems. The OY is developed on the basis of the Maximum Sustained Yield from the fishery, taking into account relevant economic, social, and ecological factors. In the case of overfished fisheries, the OY provides for rebuilding to a level that is consistent with producing the Maximum Sustained Yield for the fishery.
OY	Optimum yield. See above.
Pacific States Marine Fisheries Commission	The PSMFC is a non-regulatory agency that serves Alaska, California, Idaho, Oregon and Washington. PSMFC (headquartered in Portland) provides a communication exchange between the Pacific Fishery Management Council and the North Pacific Fishery Management Council, and a mechanism for Federal funding of regional fishery projects. The PSMFC provides information in the form of data services for various fisheries.
PaCOOS	Pacific Coast Ocean Observing System
PFMC	Pacific Fishery Management Council
PNW	Pacific Northwest
PSMFC	Pacific States Marine Fisheries Commission. See above.
Quota	A specified numerical harvest objective, the attainment (or expected attainment) of which causes closure of the fishery for that species or species group.
RCA	Rockfish Conservation Area (Depends on how it is used)
RFMO	Regional Fishery Management Organization

Acronym	Definition
RMP	Resource management plan. Covers impacts to listed species from activities of state and local governments, under section 4(d) of the Endangered Species Act.
SAFE	Stock assessment and fishery evaluation. See below.
SEM	Scanning Electron Microscopy
Scientific and Statistical Committee	An advisory committee of the PFMC made up of scientists and economists. The Magnuson-Stevens Act requires that each council maintain an SSC to assist in gathering and analyzing statistical, biological, ecological, economic, social, and other scientific information that is relevant to the management of Council fisheries.
SS2	Stock Synthesis 2 – Population assessment program.
SSC	Scientific and Statistical Committee. See above.
STAR	Stock assessment review
STAR Panel	Stock Assessment Review Panel. A panel set up to review stock assessments for particular fisheries. In the past there have been STAR panels for sablefish, rockfish, squid, and other species.
Stock Assessment and Fishery Evaluation	A SAFE document is a document prepared by the Council that provides a summary of the most recent biological condition of species in the fishery management unit, and the social and economic condition of the recreational and commercial fishing industries, including the fish processing sector. It summarizes, on a periodic basis, the best available information concerning the past, present, and possible future condition of the stocks and fisheries managed in the FMP.
TIQ	Trawl Individual Quota
Vessel Monitoring System	A satellite communications system used to monitor fishing activities—for example, to ensure that vessels stay out of prohibited areas. The system is based on electronic devices (transceivers), which are installed onboard vessels. These devices automatically send data to shore-based “satellite” monitoring system.
WCGOP	West Coast Groundfish Observer Program
WCPFC	Western and Central Pacific Fisheries Commission
WDFW	Washington Department of Fish and Wildlife
WG	Working Group

## 1.0 INTRODUCTION

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) includes directives to 1) prevent overfishing, 2) rebuild depressed fish stocks to levels of abundance that produce maximum sustainable yield (MSY), 3) develop standardized reporting methodologies to assess the amount and type of bycatch, 4) adopt measures that minimize bycatch and bycatch mortality, to the extent practicable, 5) describe and identify essential fish habitat (EFH), and 6) assess the impact of human activities, including fishing impacts, on habitat. The MSA also encourages the participation of the fishing industry in fishery research. Additionally, Standard 8 mandates consideration of the effects of fishery management measures on communities. These directives require substantial data collection and research efforts to support Council management of West Coast fisheries.

Section 302(h)(7) of the MSA requires Regional Fishery Management Councils to:

*“(7) develop, in conjunction with the scientific and statistical committee, multi-year research priorities for fisheries, fisheries interactions, habitats, and other areas of research that are necessary for management purposes, that shall—*

*(A) establish priorities for 5-year periods;*

*(B) be updated as necessary; and*

*(C) be submitted to the Secretary and the regional science centers of the National Marine Fisheries Service for their consideration in developing research priorities and budgets for the region of the Council.”*

This report is intended to document and communicate the Council’s research and data needs through 2018 thereby fulfilling the Council’s responsibilities under MSA Section 302(h)(7).

## 1.1 Schedule of Document Development and Review

For this round of revisions, the Council has rescheduled and streamlined the process listed under Council Operating Procedure 12. This is, in part, in response to the anticipated heavy Council and Scientific and Statistical Committee (SSC) workload associated with the Groundfish stock assessment cycle in 2013. Council staff and the Scientific and Statistical Committee (SSC) reviewed Stock Assessment and Fishery Evaluation and other documents from recent years to develop this initial draft document. The Council and available advisory bodies are tasked with reviewing and approving a draft for public review at the September 2012 Council meeting in Boise, Idaho. The revised document is then scheduled for review and revision by the public and Council advisory bodies between September 2012 and March 2013 when the Council is tentatively scheduled to approve a final version.

## 1.2 Document Organization

This document represents a summary of research and data needed by the Council to implement its responsibilities as defined by the MSA, the Regulatory Flexibility Act, and other pertinent legislation. The document is largely organized according the Council’s four fishery management plans (FMPs) with additional sections for economic and social science components and ecosystem-based fishery management (EBFM) and marine protected area (MPA) issues.

Because each FMP or management component has a unique Council history and its own issues and data needs, each section is organized in a style best suited for its particular research and data needs. Where appropriate, these sections address continuing issues and identify important emerging issues.

The bulleted list below represents the set of general criteria used in this most recent exercise as guiding principles rather than explicitly defined rules for developing research and data needs.

- Projects address long-term fundamental needs of west coast fisheries.
- Projects improve the quality of information, models, and analytical tools used for biological assessment and management.
- Projects increase the long-run market competitiveness and economic profitability of the industry.
- Projects contribute to the understanding by decision makers of social and economic implications in meeting biological and conservation objectives.
- Projects provide data and/or information to meet the requirements of the MSA, the Regulatory Flexibility Act, and other applicable laws.

### **1.3 Communication and Coordination**

When final, this will likely be transmitted to many West Coast organizations and agencies to broadly communicate Council needs and to solicit research support. Groups to be included in the distribution include the other seven Regional Fishery Management Councils, Headquarters as well as west coast Regional Offices and Science Centers of National Marine Fisheries Service (NMFS), west coast states, the Pacific States Marine Fisheries Commission (PSMFC), tribal management agencies, the National Ocean Service's Office of National Marine Sanctuaries (ONMS), west coast National Marine Sanctuaries (NMS), nongovernmental organizations (NGOs), Sea Grant, and academic institutions.

Following completion and distribution, as time and workload allow, the Council Chair and staff may meet with representatives from NMFS west coast regions and centers, ONMS and PSMFC to develop a consensus on high priority initiatives needed to respond to Council needs that would be conveyed to NMFS.

## 2.0 ECOSYSTEM-BASED FISHERIES MANAGEMENT

### 2.1 Introduction

These suggestions are based on the presumption that EBFM would be an evolutionary process rather than a revolutionary process. We also suggest that almost any movement towards EBFM will involve more spatially explicit management, whether through use of MPAs or in recognition of fine scale stock structure and spatial process affecting recruitment. Field and Francis suggest three key elements of an ecosystem-based approach:

- Increasing use of short and long term climate and ocean status, trends, and scenarios for the California Current ecosystem in stock assessments, harvest levels and rebuilding plans.
- Consideration of trophic interactions among species, both fished and unfished, and the associated impacts of fishing on trophic dynamics and ecosystem structure and function.
- The increasing application of new management approaches, including spatial management measures to protect life history characteristics, biodiversity, active spawning grounds, and complex stock structure.

In November 2006, the SSC and the Habitat Committee held a joint session to begin the task of reviewing the science of EBFM and the application of EBFM principles in other regions, and to consider existing and potential future applications of EBFM in Council fishery management. Of note, the group agreed to a preliminary working definition of EBFM.

*“Ecosystem-based fishery management recognizes the physical, biological, economic and social interactions among the affected components of the ecosystem and attempts to manage fisheries to achieve a stipulated spectrum of societal goals, some of which may be in competition.”*

The definition was originally developed at a July 2006 panel discussion sponsored by PSMFC and was presented in an ensuing paper entitled *Ecosystem Based Fishery Management: Some Practical Suggestions*<sup>1</sup>.

Given the broad applicability of ecosystem-based management principles, many of the research priorities identified in this chapter are reiterative or closely related to FMP-specific recommendations in later chapters. To begin moving towards these objectives and explicitly incorporating habitat and climatic factors in our fishery management models, the following data and research priorities are suggested:

---

<sup>1</sup> Marasco, R.J, Goodman, D., Grimes, C.B., Lawson, P.W., Punt, A.E., Quinn II, T.J., 2007, *Canadian Journal of Fisheries and Aquatic Sciences*, Volume 64, Number 6, 29 June 2007 , pp. 928-939(12)

## 2.2 Highest priority Issues:

- Identify ecosystem-related objectives at all levels of assessment and management. This includes stock assessments, habitat analyses, and coastwide and regional ecosystem status reports.
- Identify an approach for evaluating the benefits of various management tools in relation to achieving EBFM management objectives.
- Provide a status of the ecosystem report to the Council annually that includes, but is not limited to, evaluation of current and future oceanographic condition, analysis of ecosystem responses to management measures and these conditions, updated habitat mapping or evaluation, observations of recruitment patterns across species, shifts in species distribution and community composition, and changes in trophic dynamics
- Identify key physical and biological indicators for prediction of salmon early ocean survival and groundfish recruitment, as well as other conditions that are directly applicable to management.
- In the longer term, identify how the climate might be changing on long time scales in a way that will affect fisheries (i.e., climate change).
- Identify indices of ecosystem state (on appropriate temporal and spatial scales, e.g. demarcation points might be Point Conception, Point Año Nuevo, San Francisco Bay, Point Reyes, Cape Mendocino, Cape Blanco, Columbia River, Cape Flattery):
  - upwelling, El Niño, Pacific Decadal Oscillation, Sea Surface Temperature, etc.
  - abundance of key ecosystem process indicators, such as zooplankton and forage fishes
  - larval and juvenile fish abundance
  - total annual production and surplus production
  - species diversity and other measures of ecological health and integrity. Describe rationale underlying each.
  - a measure of ocean acidification and its associated impacts on marine resources and ecosystem structure and function.
- Estimate total catch for target and non target species and their prey and predators.
- Evaluate the effect of fishing on habitat and response of habitat to spatial closures.
- Encourage development of probabilistic/stochastic ecosystem-based models that incorporate environmental variation and anthropogenic disturbances to guide harvest policies and enable risk assessment for fishing strategies.
- Provide report on trophic interactions among exploited species and model consequences of fishing at various levels on predators or prey and/or the changes in biomass that may be expected due to major shifts in climate, oceanographic parameters such as acidification, and temperature, as well as anticipated effects on productivity.

- Prioritize these issues according to immediate need and relevance to management, and develop a comprehensive plan to integrate ecosystem-based processes and information into all aspects of assessment, monitoring and evaluation.
- Estimate total population size (or collect existing time series) of higher level carnivores, including sea birds and marine mammals and estimate forage needs and foraging efficiencies (to provide an estimate of not only their food requirements, but the prey density needed for them to acquire these food resources).

### **2.3 Emerging Issues:**

- Develop an approach for interpreting the values for indicators, including the development of thresholds, where appropriate.
- Collect data on distribution and abundance for target and non-target species and their prey and predators on finer spatial scales, following a prioritization exercise that identifies target species in greatest need of finer scale assessment and non-target or target species that may function as indicators of ecosystem condition.
- Use of hydrodynamic modeling, otolith elemental analysis or genetic fingerprinting and parental analysis to determine origin of benthic juvenile groundfish and formulate hypotheses for larval dispersal and stock structure.
- Conduct comprehensive stomach analysis to determine trophic interactions among and within groundfish, CPS and salmon. This information would be essential for assessments of the California Current Large marine Ecosystem (CCLME) and represents the cross-FMP linkages that are sought under the developing EBM FMP.



## 3.0 GROUND FISH FISHERY MANAGEMENT PLAN

### 3.1 Introduction

The focus of this section is on research and data needs to support quantitative stock assessments and management of groundfish stocks in the FMP. Identification of research and data needs is a routine part of the groundfish STAR process, and the needs summarized below were developed based on recommendations made by stock assessment authors and STAR panels. An emphasis is made on 1) continuation of on-going data collection programs that support assessments of groundfish stocks, 2) improving the quality and representativeness of these data collection programs, 3) developing new survey and sampling techniques to monitor stocks that cannot be surveyed effectively using current methods, and 4) further advancing modeling techniques and methods to analyze the data.

### 3.2 Data Needs

#### 3.2.1 Fishery-Independent Data

##### *Continue to conduct annual comprehensive shelf and slope bottom trawl survey*

An annual slope survey in the U.S. Vancouver, Columbia, Eureka, Monterey, and a portion of the Conception INPFC areas was initiated by NMFS NWFSC in 1998. In 2003, the range of the slope survey was extended in depth onto the shelf and in latitude to the entire coast from the Mexican to Canadian border. The data from this survey have been used in almost every groundfish assessment on the U.S. West Coast. It is essential to continue this comprehensive annual survey, since a consistent long-term survey index informs estimates of abundance and productivity of groundfish stocks.

##### *Continue to explore additional survey methods*

Although informative for many groundfish species, the current NWFSC shelf and slope survey cannot access rocky areas, where a number of rockfish species occur. Also, trawl survey efforts are currently closed in the Cowcod Conservation Area (CCA), which is likely to include habitat for a number of rockfish (based on fishermen's knowledge and the observation of catch rates at similar habitats along the boundaries of the CCA). There is, therefore, a need to develop alternative methods to assess abundance of fish in these untrawlable areas as well as other areas not well surveyed by the current bottom trawl survey. Also, low yield and long rebuilding times of some rockfish, including yelloweye and canary rockfish, highlight a need to develop alternative methods of estimating abundance and biomass trends that have a lesser impact on resources than trawl surveys. All new survey methods should be thoroughly evaluated before being used in stock assessments. Specific recommendations regarding some of the alternative methods include:

- Continue exploring survey methods to survey untrawlable areas, including those that employ Autonomous Underwater Vehicles (AUVs), submersibles, drop cameras, acoustics, towed cameras, light detection and ranging (LIDAR), etc. In recent years, small-scale surveys have been conducted using these non-invasive methods. Studies

should be conducted to evaluate the comparative costs of these alternative survey methods for groundfish assessment.

- Maintain California Cooperative Oceanic Fisheries Investigations (CalCOFI) egg and larval production surveys. Abundance indices based on data from these surveys have been used in a number of groundfish assessments, including bocaccio, chilipepper and shortbelly rockfish. It has been recommended to expand processing of biological samples collected, and improve survey data on canary and widow rockfish. It is also important to further explore the use of genetic methods to accurately identify larval fish species in plankton samples.
- Continue exploring the use of hook-and-line or longline gear for surveying rockfish populations, since this gear is inexpensive and can be deployable on a variety of bottom types. Since 2004, the hook and line survey has been conducted by NMFS NWFSC in collaboration with the Pacific States Marine Fisheries Commission and the commercial passenger fishing vessel industry. This survey has been collecting data to generate abundance indices for several key species of shelf rockfish in the Southern California Bight, including bocaccio, the vermilion rockfish complex and greenspotted rockfish. The International Pacific Halibut Commission (IPHC) has conducted annual hook-and-line survey since 1998; this survey provides data on a number of groundfish species, including yelloweye rockfish.
- Explore tagging programs as a potentially useful source of information on trends for nearshore species, such as black rockfish. When the tagging program is smaller in scale than range of the stock assessed, quantitative prior probability distribution on tagging catchability should be developed.
- Evaluate the usefulness of current seafloor maps off the Pacific coast to better interpret survey abundance indices.
- Explore utility of genetic tags in estimation of population size.

### **3.2.2 Fisheries -Dependent Data**

#### ***Improve on fishery monitoring and data collection***

Collection of high quality fishery-dependent data continues to be one of the highest priorities for groundfish assessment and management. Fish ticket data are needed to census the landed catch, logbooks to document areas of capture, port sampling to estimate species composition of aggregated landings and biological characteristics of target and bycatch species, and observer program to document catch discarded at sea.

- Continue to monitor catch and discard in commercial fisheries at-sea. Currently there are two observer programs operated by the NMFS NWFSC on the U.S. West Coast. These programs include the At-Sea Hake Observer Program (A-SHOP), which monitors the at-sea hake processing vessels, and the West Coast Groundfish Observer Program (WCGOP), which monitors catcher vessels that deliver their catch to a shore-based processor or a mothership. The A-SHOP dates back to the 1970s, while WCGOP was

implemented in 2001. The WCGOP began with gathering data for the limited entry trawl and fixed gear fleets. Observer coverage has expanded to include the California halibut trawl fishery, the nearshore fixed gear and pink shrimp trawl fishery. Since 2011, the U.S. West Coast groundfish trawl fishery has been managed under a new groundfish catch share program. The WCGOP provides 100% at-sea observer monitoring of catch for the new, catch share based Individual Fishing Quota (IFQ) fishery, including both retained and discarded catch. The WCGOP also provides estimates of discard and total groundfish removals from commercial, recreational and research sources (including incidental catch from non-groundfish fisheries) for use in stock assessment and management. The methods used by WCGOP to estimate discard and total groundfish removals should be well documented and reviewed by the SSC to ensure that the most reliable estimates are generated.

- The limited entry trawl fishery now operates under a catch-share program that requires full observer coverage and full sorting to species. The system for monitoring the landed catch should be evaluated to determine the levels of species contamination that may be occurring.
- Further explore use of electronic monitoring system (EMS) in commercial fisheries to monitor catch, estimate discard and identify species composition of the discarded portion of the catch. Studies should be designed and conducted to test reliability of EMS in collecting the data. Also, efforts should be devoted to evaluate costs of EMS data collection and processing, compared to observers' costs.
- Continue to collect information on the size composition of the discarded portion of the commercial catch, because it is unlikely that discards have the same size composition as retained catch. In some cases, the size composition of discard can also provide information about the magnitude of recruiting year classes.
- Protocols and priorities for biological sampling (lengths and age structures) should be evaluated to ensure that sufficient data are being collected to support existing and new stock assessments. Significant gaps in the age and growth information have been identified for a number of stock assessments, including sablefish (for which age sampling from the commercial fishery has generally been sparse compared to other groundfish) and petrale sole, among others. There is a need to optimize the use of available resources (i.e., port samplers) in a way that provides maximum benefit to stock assessments.
- The accuracy and precision of recreational catch and effort estimates for minor fishing modes, such as beach and bank anglers, private access sites, and night fishing, needs to be further investigated and improved.
- Discard estimates in the recreational groundfish fishery, particularly for non-retention species, should be improved. Additional data should be collected on size composition of recreational discard.
- Estimates of discard mortality rates in recreational fisheries should be re-evaluated, particularly for nearshore species, for which the ability to survive barotrauma or hooking or trapping injuries, may vary by depth and among species. Progress has been made in

understanding short-term effects of barotrauma on some groundfish species. Additional work is needed to examine long-term physiological effects of capture and release on reproductive output of groundfish species, which could have implications for stock productivity and, therefore, management. Alternative release methods (e.g. post-capture release at depth) have been shown to be effective in reducing short-term mortality, but additional work is needed to accurately quantify the effects of real world implementation of these methods on discard mortality, for use in assessment and management.

- Recreational data (catch and biological samples) are currently available from several sources, including the state agencies and RecFIN. Total mortality estimates between these sources do not always match. A single database that holds all recreational data in a consistent format would reduce time spent by assessment scientists obtaining and processing these data, and ensure that the best available information is utilized by the assessments.
- Cooperative research programs are required under the recently reauthorized MSA and are playing an increasing role in west coast fishery science and management and could be utilized to expand data collection as fishing opportunities have decreased and research needs increased. However, it is critical to design programs and implement the necessary data evaluations and analyses to ensure that ongoing and future cooperative research work can be used in fishery management (i.e., fishery models, stock assessments, etc.) on a timely basis.

#### ***Develop a coastwide system for electronic fish ticket and fishery logbook data***

Development of an integrated system for reporting of electronic fish ticket data and logbook information on the U.S. West Coast would provide real-time and near real-time information needed to address a variety of stock assessment and inseason management needs.

Fish ticket data and logbook information, along with data from the West Coast Groundfish Observer Program (WCGOP), are used to reconcile the total catch by area, and determine bycatch rates associated with target species. Currently, logbook data can lag by as much as a year, which delays the entire process of catch reconciliation. An electronic fish ticket and logbook system would substantially increase the timeliness of landings and discard estimates produced.

Electronic data are now available for the new IFQ fishery through the NMFS Vessel Accounts Database. Currently, the IFQ fishery is the only one which is completely covered by electronic tickets. Washington and Oregon are exploring expansion of their electronic fish ticket systems to other fisheries, but the potential range of coverage or possible timing of any expansion is not yet clear.

#### ***Continue to improve historical catch time series***

Historical catch information is essential for fisheries stock assessment; without knowing the catch history it is difficult to understand how a stock responds to exploitation. Recent catch data (from 1981 on) are available from the Pacific Fisheries Information Network (PacFIN), a regional fisheries database that manages fishery-dependent information in cooperation with

National Marine Fisheries Service (NMFS) and West Coast state agencies. Catch information prior to 1981 is sparse and there is no database analogous to PacFIN to handle those data. In the recent past, historical reconstruction of catches prior to 1981 has been conducted by assessment authors for each assessment individually, and authors have often approached the problem differently, using different data sources and a variety of methods.

A coordinated effort to reconstruct West Coast groundfish historical catches has been recommended, to provide a comprehensive species specific time series for use in stock assessments to help improve the reliability of historical catches by identifying and drawing on preferred data sources, as well as applying a standardized method across all species. Such a coordinated effort should also facilitate review of stock assessments in the future.

Progress has been made in reconstructing California commercial and recreational, and Oregon commercial landings. However, historical time series of Oregon recreational and Washington commercial and recreational landings are not yet complete.

In addition to providing the best reconstructed catch histories by species, alternative catch streams should be developed to reflect differences in data quantity and quality for different time periods. Such alternative catch streams would be very useful for exploring assessment models sensitivity to uncertainty in catch history, rather than applying a simple multiplier to entire catch time-series, which is currently the case for most groundfish assessments. An evaluation of time series of historical discard is also needed, although it is recognized that historical discard data are extremely limited.

A database for historical (pre-PacFIN) time series of groundfish landings should be established. Ideally, in addition to providing the best reconstructed catch histories by species, this database would also include estimates of uncertainty in these catch time series. Also, process for updating and revising this database should be well established.

### ***Investigate impact of fishing gear on habitats***

A major effort was made to prepare a comprehensive Environmental Impact Statement (EIS) analysis for the Essential Fish Habitat (EFH) amendment to the FMP. The EIS was based on a Geographic Information System (GIS) analysis that included integration of substrate maps of the Northeast Pacific Ocean off the Pacific coast, habitat suitability maps for groundfish species and maps of fishing impacts and habitat sensitivity. The analysis discovered a complete lack of information on fishing impacts specific to Pacific coast habitats, and estimates of habitat sensitivity to fishing gear and habitat recovery were borrowed from studies in other areas.

It is, therefore, recommended to conduct studies to evaluate the effects of fishing on Pacific coast benthic habitats. These studies should be conducted on a variety of bottom habitat types and using different gear types. They should focus on both short- and long-term fishing effects on benthic communities and bio-geological processes.

### **3.2.3 Life History Data**

Life history parameters determine the productivity of a stock, and therefore affect estimates of stock status and management quantities related to spawning stock biomass. There have been a

number of data and research needs related to life history parameters identified in the most recent stock assessments, including:

- Refine the estimates of maturity and fecundity for a number of species, including sablefish, yelloweye rockfish and petrale sole. Assessment results for these species were found to be sensitive to changes in maturity and fecundity parameters, yet the available information is outdated, in addition to being variable among sources, years and regions.
- Improve quality of age data. If age data were more accurate, cohorts could be better tracked to older ages, and estimates of historical year-class strengths may be improved. Quality of age data could be improved through validation studies and exchange of age structures among labs. Also, ageing methods that could provide more precise age estimates should be explored. Studies to investigate the potential for bias in ageing methods should be conducted, as the results of these studies may have a strong effect on natural mortality estimates used in stock assessments.
- It has been shown that a number of species exhibit spatial variability in life history traits. It is therefore recommended to continue to collect data to capture habitat-related and climate-driven variability in life history traits, and explore methods to integrate this information into stock assessments.
- A number of unassessed species lack basic life history information, such as growth, length-weight relationships, maturity and fecundity. These species should be identified and studies should be designed to estimate parameters for these life history traits.
- Recent genetic research indicates that such species as vermillion and blue rockfish may each represent two morphologically similar, but genetically distinct species. Further genetic studies are needed to confirm these findings. These studies should be designed to investigate differences in spatial distribution between potentially different species, the extent of intermixing, differences in growth, maturity and longevity.
- Conduct comprehensive stomach analysis to determine trophic interactions of groundfish. This information would be essential for assessments of the California Current Large marine Ecosystem (CCLME).

### 3.3 Stock Assessment Issues

#### *Improve on methods to assess data-poor and data-moderate stocks*

A substantial progress has been made in developing and implementing methods to assess data-poor and data-moderate stocks. The Depletion-Based Stock Reduction Analysis (DB-SRA) and Depletion-Corrected Average Catch (DCAC) method have been adopted by the Council to estimate OFLs and set harvest specifications for data-poor stocks. XDB-SRA and exSSS have recently been developed to assess data-moderate stocks. Further work is recommended to refine data-poor and data-moderate methods, which includes:

- Improve inputs used by the data-poor and data-moderate methods, including natural mortality ( $M$ ), a ratio of  $B_{MSY}$  to  $B_0$ , a ratio of  $F_{MSY}$  to  $M$ , and reduction in abundance, or delta parameter (which represents stock depletion).
- Catch time series in data-poor and data-moderate methods are currently assumed to be known, and tools for incorporating catch uncertainty into these methods should be developed.
- Performance of data-poor and data-moderate stock assessments has been evaluated through comparing data-limited and data-moderate assessment results with outputs from full assessments. Simulations studies are needed to further evaluate utility of these data-poor and data-moderate methods in real applications.
- Data-moderate assessments are likely to have greater uncertainty in their results than full assessments since much fewer data are used in data-moderate assessments. Further work is needed to determine how to best describe uncertainty in data-moderate assessments.

#### *Further advance modeling approaches and data analyses*

- Current models used to assess groundfish stocks are complex, with many parameters being estimated, yet often the data used to fit these models are sparse. Also, complex models make it difficult to understand how specific data elements affect model outcomes. The benefits of adopting the complex model should be evaluated relative to simpler assumptions and models.
- In a number of recent stock assessments, Bayesian prior probability distributions for natural mortality ( $M$ ) and stock-recruitment steepness ( $h$ ) derived from meta-analyses of different species and different methods were utilized. Guidance should be provided on how to best use these (and other) priors in stock assessment models to account for uncertainty in parameter estimates and propagate this uncertainty to the assessment results.
- Continue to develop and evaluate standard methods to process biological data for assessment model input files, including those related to input sample sizes and data weighting procedures. Explore alternative error distribution assumptions used for compositional data.
- Conduct studies to help determine which selectivity assumptions (dome shape vs. asymptotic) are most appropriate for the various groundfish stocks, including lingcod and other species with age-structured assessment models.

- Further explore models that account for spatial structure of the stock, with spatial differences in life history parameters (multi-area assessments). It is also recommended to further explore models that account for migration patterns (via incorporating tagging data) as this feature is currently available within the Stock Synthesis modeling framework.
- Continue to explore methods to include environment variables in stock assessment. Previous work has illustrated methods to relate recruitment to environmental factors using Stock Synthesis, but environmental forcing applied to other population parameters has not been fully explored. When selecting environmental variables to include in an assessment model, cross-validation should be used to ensure a derived relationship between climate forcing and a parameter is robust.
- A number of stock assessments utilize international boundaries to delineate stocks even though stocks' ranges are not limited always to the area managed by the Council. These stocks include sablefish, spiny dogfish, blackgill, canary, widow, yelloweye rockfish, Pacific ocean perch, and others. It is therefore recommended to further investigate structure of transboundary stocks and evaluate implications of stocks connectivity with Canada on the north, and Mexico on the south, and in some cases, explore the possibility of joint stock assessments in future years.
- Continue to evaluate biological reference points, harvest control rules and policies used for groundfish, to ensure the best available scientific information is utilized for management decision-making. Harvest policies should be tested to determine whether they are robust to decadal-scale environmental variation and directional climate change.
- Further explore how best to account for (and report) uncertainty in stock assessments. Explore alternative approaches to evaluate scientific uncertainty associated with OFL estimates, as the method that is currently in place does not include all sources of scientific uncertainty.
- The use of recreational fishery CPUE in stock assessments has increased, particularly for assessing nearshore species for which there are no other reliable indices of abundance. Although there have been some recent advances in the analytical methods used to derive abundance indices from CPUE data, further work is needed to understand the properties of recreational CPUE data (e.g., method evaluation with simulation data or cross-validation studies). In particular, the effect of management changes and alternative fishing opportunities should be evaluated.

### ***Improve on stock assessment data and methods reporting***

- Establish a database for all the data relevant to groundfish stock assessments, with a current point of contact identified for each source. This database should be accessible online and include details about the nature and quality of the data in each source. Such a database would help stock assessors make informed decisions on which sources could be useful in their assessment as well as expedite the process of requesting the data.

- Develop a concise set of documents (and update them when needed) that describe current best practices in treating data from sources commonly used in stock assessments and in deriving assessment model inputs. These documents would include, for instance, a description of methods to calculate survey abundance indices via Generalized Linear Mixed Model (GLMM), and an approach used to develop prior probability distributions for natural mortality ( $M$ ) and stock-recruitment steepness ( $h$ ). Ideally, these documents would be reviewed by the SSC prior to the assessment cycle.
- The current best practices (item above) should be well communicated among stock assessment scientists and the SSC.



## 4.0 SALMON FISHERY MANAGEMENT PLAN

### 4.1 Introduction

In the previous Research and Data Needs report, two highest priority issues were identified separately for Research Issues and Data Issues. The issues, and the progress on them, are summarized below:

#### Research Issues:

- *Further development and application of stock identification methods such as Genetic Stock Identification (GSI) and otolith marking to augment the fishery-specific stock information supplied by the current coded-wire tag (CWT) system.* GSI, in combination with at-sea sampling by fishermen, is providing detailed information regarding migration patterns and stock contributions to ocean fisheries for Chinook salmon. There have been three years of reasonably comprehensive sampling in Washington, Oregon, and California. Development of applications to fisheries management depends on continuing coast-wide annual data collection
- *The development of habitat-based models that incorporate environmental variation and anthropogenic disturbances to evaluate harvest policies and enable risk assessment for different fishing strategies is encouraged.* There has not been much progress on this issue since the 2008 Research and Data Needs Report.

#### Data Issues:

- *Related to mark-selective fisheries and their use as a management tool, a more accurate assessment of total fishing-related mortality for natural stocks of coho and Chinook is needed. The ability of existing management models to predict and assess non-catch mortalities needs to be evaluated and the models modified, as needed.* Theoretical development of unbiased methods for estimating non-catch mortalities has occurred and been evaluated through simulations. The incorporation of these methods into the management models and evaluation of their performance are the required next steps.
- *Escapement monitoring should be maintained and expanded where appropriate and data collection should include information on age and sex composition, mark rates, CWT recovery, and include spawning ground carcass enumeration and sampling.* Sampling programs in some systems have been expanded and new escapement estimation methods developed such as genetic mark-recapture techniques.

Research issues and data issues for salmon management are discussed and prioritized in the following two sections. Other high priority needs associated with hatchery fish and their interactions with wild stocks are also identified. All research and data projects listed in this chapter are considered either “highest priority needs” or “high priority needs” according to their ability to meet the criteria listed in the introduction to this report.

## 4.2 Research Issues

### 4.2.1 Highest Priority Research Issues

Data and information issues are covered in the next section. Section 4.5 (which addresses emerging issues) contains additional information on the highest priority research and data needs.

#### 4.2.1.1 Stock Identification

*Advances in GSI, otolith marking, and other techniques may make it feasible to use a variety of stock identification technologies to assess fishery impacts and migration patterns.*

The increasing necessity for weak-stock management puts a premium on the ability to identify naturally-reproducing stocks and stocks that contribute to fisheries at low rates. In many instances, the coded-wire tag (CWT) system alone does not provide the desired level of information. The Council encourages efforts to integrate a variety of techniques to address this issue.

Substantial progress has been made on this issue in the past eight years. Through the West Coast Salmon Genetic Stock Identification (WCSGSI) Collaboration three years of fine-scale GSI data have been collected for Chinook in Washington, Oregon, and California. Based on a coast-wide microsatellite database for Chinook and, more recently, a single-nucleotide polymorphism (SNP) database for use in California, distributions and migration routes of Chinook in the commercial salmon fishery have been charted. A similar database for coho salmon is under development, but needs resources to coordinate efforts for the entire coast. Genetic techniques have improved so that samples can potentially be analyzed within 24-48 hours of arrival at the laboratory. GSI is being used on an inseason basis in Canada to manage salmon fisheries off the west coast of Vancouver Island and in the Strait of Georgia. Studies are underway to evaluate the potential usefulness of real time GSI samples in Chinook management.

#### 4.2.1.2 Habitat-based Fisheries Models

*The development of habitat-based models that incorporate environmental variation and anthropogenic disturbances to evaluate harvest policies and enable risk assessment for different fishing strategies is encouraged.*

Overfishing definitions are required to relate to the MSY exploitation rate ( $F_{MSY}$ ).  $F_{MSY}$  is related to productivity, which varies annually in the freshwater and the marine environments. Techniques for evaluating productivity, or survival, in freshwater and marine habitats are needed to set appropriate harvest targets and associated conservation guidelines such as escapement goals and overfishing determinations.

Various habitat-based models have been developed, but in general they are not being applied to harvest management. One reason for this is that most of these models are developed to identify limiting factors and evaluate potential habitat restoration measures. Application to harvest management would require refined population dynamic components to these models. There is the potential for using these types of models to evaluate recovery exploitation rates. Other possible contributions could be improved understanding of climate variability and environmental

influences on survival and stock productivity. Once satisfactory habitat-based models of population dynamics have been developed, they can be used in management strategy evaluations to simulate alternate management scenarios. This would be a valuable contribution to harvest management, but to become useful, substantial development efforts are needed.

#### **4.2.2 High Priority Research Issues**

**Alternatives to Time-Area Management.** The annual planning process for salmon centers on the crafting of intricate time-area management measures by various groups. The feasibility of using alternative approaches (e.g., pre-defined decision rules to establish upper limits on fishery impacts, individual quotas, effort limitation) to reduce risk of error, decrease reliance on preseason abundance forecasts, improve fishery stability, simplify regulations, and reduce management costs needs to be investigated. For instance, the integration of Council preseason planning processes with the abundance-based coho management frameworks under consideration by the Pacific Salmon Commission, and by the State of Washington and Western Washington Treaty Tribes, needs to be developed and evaluated.

**Continuous Catch Equations.** Because current planning models used by the Council are constructed using simple linear independent equations, interactions between stocks and fisheries within a given time step are ignored. This can result in biased estimates of impacts. Research is needed to investigate the feasibility of recasting the models from discrete to continuous forms, e.g., competing exponential risk catch equations.

**Stock Migration and Distribution.** The Council currently employs “single pool” type models (i.e., ocean fisheries operate simultaneously on the entire cohort) for evaluating alternative regulatory proposals. Under certain conditions, such models can produce results that are inconsistent with expectations of biological behavior. For example, if a fishery off Central California is closed to coho fishing for a given time period, the fish that were saved become available to fisheries off the Northwest Coast of Washington in the next time period. Research is needed to determine the feasibility of incorporating explicit migration mechanisms into planning models. In most cases it is not feasible to rely upon coded-wire tagging of natural stocks, particularly those in depressed status, to obtain direct information on patterns of distribution and exploitation. Alternative stock identification technologies should be explored as a means to collect data necessary for stock assessment purposes. Research is needed to improve our ability to estimate contributions of natural stocks in ocean fisheries and escapement. Potential research areas include 1) association studies to determine the degree to which hatchery stocks can be used to represent the distribution and migration patterns of natural stocks; 2) GSI, DNA, otolith marking, and scale studies; 3) improved statistical methods and models; and 4) basic research on stock distribution and migration patterns.

**Limiting Factors.** Research is needed to identify and quantify those factors in the freshwater habitat which limit the productivity of salmon stocks. Research should focus on 1) quantifying relationships between habitat factors and salmon production; 2) measuring the quantity and quality of these habitat factors on a periodic basis; and 3) evaluating habitat restoration projects for both short-term and long-term effects. Activities such as water diversions, dams, logging, road building, agriculture, hydroelectric projects, and development have reduced production potential by adversely affecting freshwater conditions. Habitat quality and quantity are crucial for the continued survival of wild stocks.

**Explicit Consideration of Uncertainty and Risk.** Current planning models employed by the Council are deterministic. Most aspects of salmon management, such as abundance forecasts and effort response to regulations, are not known with certainty. Given the increased emphasis on stock-specific concerns and principles of precautionary management, the Council should receive information necessary to evaluate the degree of risk associated with the regulations under consideration. Research is needed to evaluate the accuracy of existing planning models, characterize the risk to stocks and fisheries of proposed harvest regimes, and to effectively communicate information on uncertainty for use in the Council's deliberations.

**Coast-wide Models.** Currently, at least five models are employed to evaluate impacts of proposed regulatory alternatives considered by the Council. A single coast-wide Chinook model would provide analytical consistency and eliminate the need to reconcile and integrate disparate results. Additionally, research is needed to determine the feasibility of combining Chinook and coho into a single model to simplify the tasks of estimating mortalities in fisheries operated under retention restrictions (e.g., landing ratios or non-retention).

**New Forecast and Harvest Models.** Develop forecast and harvest models for numerous west coast salmon stocks including Klamath River spring Chinook, California coastal Chinook, Oregon coastal Chinook, and Central California coastal coho. This information could then be used to establish or reevaluate appropriate conservation objectives.

**Forecast Precision and Accuracy.** Investigate the precision and accuracy of existing and new abundance forecasts, including examination of forecast models incorporating environmental variables. Develop estimates of uncertainty for stock assessments and abundance and harvest models used in fishery management.

## **4.3 Data Issues**

### **4.3.1 Highest Priority Data Issues**

Research issues are covered in the previous section and Section 4.5 contains additional information on high priority research and data needs related to emerging issues.

#### **4.3.1.1 Mark-Selective Fisheries**

*A more accurate assessment of total fishing-related mortality for natural stocks of coho and Chinook is needed. The ability of existing management models to predict and assess non-catch mortalities needs to be evaluated and the models modified, if needed.*

Fishery management regimes designed to reduce impacts through selective fishing, or non-retention, depend on the accuracy of estimates of non-catch mortality. In recent years, an increasing proportion of impacts of Council fisheries on naturally-spawning stocks have been caused by non-catch mortality as regulations such as landing ratio restrictions and mark-selective retention have been employed. Research using standardized methodologies (e.g., handling, holding, reporting, post-mortem autopsies, etc.), is needed to better estimate release mortality, encounter, and drop-off rates associated with gears and techniques that are typically employed in different areas and fisheries. Special attention needs to be paid to mid-term and long-term

mortality. Fleet profile data (i.e., fishing technique and gear compositions) are needed to estimate release mortality rates for individual fisheries.

Harvest models have been modified to incorporate non-catch mortality. The current Fishery Regulation Assessment Models (FRAM) used for coho and Chinook should work well when exploitation rates are relatively low, but as selective fisheries become more intense these models will tend to underestimate total mortality of the unmarked stocks. Theoretical development of unbiased methods for estimating non-catch mortalities has been conducted, evaluated using simulations, and reviewed for Coho FRAM. The incorporation of these methods into Coho FRAM and evaluation of their performance are the required next steps. These harvest models become more sensitive to estimates of non-catch fishing mortality as the selective fisheries modeled become more intense. Uncertainty and risk need to be explicitly incorporated into these models as they are developed.

***Continue double index tagging (DIT) of all exploitation rate indicator stocks and electronic sampling for them in all fisheries.***

With the advent of mark-selective fisheries that use the adipose fin clip as a mass mark, CWT and marked groups no longer represent unmarked groups and cannot be used to estimate exploitation of natural or unmarked stocks in the presence of mark-selective fisheries. DIT releases have been implemented to address this change in the CWT program. DIT releases consist of paired tag groups, one marked, and the other unmarked. The relationship between marked and unmarked groups in a DIT pair provides a means to estimate encounters of the unmarked group in mark-selective fisheries. The tagged and unmarked fish are released to provide a representative for natural production.

Evaluation of DIT as a means to monitor and assess mark-selective fisheries remains a high priority.

#### 4.3.1.2 Escapement Monitoring

Basic escapement monitoring is essential for many aspects of salmon management including stock health assessment and forecasting accuracy. Escapement monitoring should be maintained and expanded where appropriate and data collection should include information on age and sex composition, mark rates, CWT recovery, and include spawning ground carcass enumeration and sampling. As harvest is constrained, samples size can decrease, resulting in greater uncertainty. Higher sampling rates can help compensate for this loss. Specific cases where increased escapement monitoring is particularly warranted are identified in Section 4.5 Emerging Issues.

Improvements in escapement monitoring as well as hatchery marking and tagging processes for Central Valley Chinook have recently been implemented. While these improvements are substantial, a focus on collection and analysis of age-structured river harvest and escapement data for Sacramento River fall Chinook (SRFC) should also receive highest priority. Estimation of age-structured river returns would enable cohort reconstructions and represent a large improvement to the assessment of this highly important stock.

### **4.3.2 High Priority Data Issues**

**Mass Marking.** Estimates of mark rates are essential for planning mark-selective fisheries. The accuracy of mark rates at release needs to be evaluated as well as the variability of mark-induced mortalities under operational conditions.

**Environmental Influences on Survival.** Estimates of natural survival and stock distribution in the estuary and ocean, year-to-year, age-to-age, and life-history variability, and relationships to measurable parameters of the environment (i.e., temperature, upwelling, etc.) are needed. Substantial predictive errors in forecasts based on previous year returns and apparent large-scale, multi-stock fluctuations in abundance suggest important large-scale environmental effects. Some work has been done for coho but little is known for Chinook. Included in the information need are long-term and short-term relationships between environmental conditions and fluctuations in Chinook and coho salmon survival, abundance, and maturation rates.

**Cohort Reconstruction.** Develop full cohort reconstruction for all Council-managed Chinook and coho salmon stock complexes. This would require additional escapement monitoring for some stocks, notable Rogue River Chinook stocks.

## **4.4 Interaction of Hatchery and Wild Salmon**

In addition to the above high-priority items a number of issues related to hatchery/wild salmon interactions are of ongoing interest:

**Genetics.** Determine the extent to which there may be gene flow between hatchery and wild stocks, and what the likely effect of that gene flow may be on the fitness of wild stocks. A new genetic technique that is being applied to this problem is parentage-based tagging. If all mating adults can be captured and genotyped then offspring can be linked to their specific parents. This has great power for identifying the relative success of various hatchery/wild matings, but is limited in practice to relatively small systems and systems where all returning adults can be captured.

**Freshwater Ecology.** Investigate the ecological effects (competition, predation, displacement) of hatchery fish on natural production in freshwater. All life stages from spawner to egg to smolt may be affected.

**Estuary Ecology.** Migration timing, habitat utilization patterns, competition for food or space, and predator interactions are areas of interest. Differences between hatchery and natural smolts in these areas could help address the questions of the importance of density-dependent growth and survival and potential negative effects of hatchery releases on natural stock production.

**Early Ocean Life-history.** Points of comparison between hatchery and wild stocks could include: ocean distribution, migration paths and timing, size and growth, food habits, and survival rates.

**Identification of Hatchery Fish.** The presence of hatchery fish may interfere with the accurate assessment of the status of natural stocks. This problem may be alleviated by the use of mass-

marking, otolith marking, CWTs, genetic marking, or other technologies to estimate the contribution of hatchery fish to fisheries and natural- spawning populations.

**Supplementation.** Research is needed to investigate the utility of using artificial propagation to supplement and rebuild natural stocks. Guidelines for the conduct of supplementation to preserve genetic diversity and legacy of populations are needed. Special care is needed to ensure that supplementation programs do not unintentionally jeopardize natural runs.

## 4.5 Emerging Issues

### California Central Valley Fall Chinook Assessment and Management

A sharp decline in SRFC abundance led to widespread fishery closures in 2008-2010. A NMFS scientific work group was convened in 2008 to analyze the potential causes of the decline, and a report describing their findings was released in 2009 (Lindley et al. 2009<sup>2</sup>). The report concluded that poor ocean conditions were likely the proximate cause of the poor performance of the 2004 and 2005 broods. However, in addition to the effect of poor ocean conditions, the report concluded that degradation of freshwater and estuarine habitats as well as the heavy reliance on hatchery production likely also contributed to the decline.

As a result of the SRFC decline, increased attention has been directed at better understanding the dynamics of the SRFC stock. For instance, recent changes have been made to SRFC hatchery marking and tagging practices. Currently, 25% of SRFC production releases are marked and tagged with a CWT. This represents a large improvement on earlier marking and tagging practices that had been inconsistently applied. In addition, a recently developed Central Valley Chinook escapement monitoring plan is in the process of being implemented, resulting in changes to data collection and methods used to estimate escapement. Such changes could allow for development of new models for use in assessment and management of SRFC. The research and data needs for this stock include a mixture of items related to the development new models, as well as investigations aimed at improving the current assessment.

- Estimation of age-specific river harvest and escapement. Collection and analysis of CWTs and scales collected from river fishery and escapement surveys can allow for estimation of age-specific return information. Estimates of age-specific river harvest and escapement is a priority because it is necessary for cohort reconstructions.
- Development of a cohort reconstruction model for SRFC. Cohort reconstructions would allow for estimation of ocean abundance, exploitation rates, maturation rates, and other metrics that could be used to improve management.
- Continued evaluation of the contribution of hatchery-origin SRFC to ocean harvest, river harvest, and escapement.

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<sup>2</sup> Lindley, S., C. Grimes, M. Mohr, W. Peterson, J. Stein, J. Anderson, L. Botsford, D. Bottom, C. Busack, T. Collier, J. Ferguson, J. Garza, A. Grover, D. Hankin, R. Kope, P. Lawson, A. Low, R. MacFarlane, K. Moore, P. Palmer-Zwahlen, F. Schwing, J. Smith, C. Tracy, R. Webb, B. Wells, and T. Williams (2009). What caused the Sacramento River fall Chinook collapse? NOAA Technical Memorandum NOAA-TM-NMFS-SWFSC-447, U.S. Department of Commerce.

- Evaluation of alternative forecast models for the Sacramento Index (SI). Current management of SRFC depends heavily on the SI forecast. In recent years, forecasts have been overly optimistic, and consideration of alternative forecast methodologies is warranted.

### **Genetic Stock Identification**

Several emerging issues are related to the high priority assigned to the implementation of GSI technologies in weak stock fishery management. Research tasks and products necessary for this to be successful are:

- Identification of the error structure of GSI samples taken from operating fisheries.
- Development and application of technologies to collect high-resolution at-sea genetic data and associated information (time, location, and depth of capture, ocean conditions, scales, etc.).
- Collection of stock-specific distribution patterns on a coast-wide, multi-year basis analogous to the current CWT data base, but at a higher time-and-space resolution.
- Identification of stock distribution patterns useful for fisheries management and appropriate management strategies to take advantage of these distribution patterns.
- Development of pre-season and in-season management models to implement these management strategies and integrate them with Council management.

### **Klamath and California Coastal Chinook Management**

Many research and data needs for Klamath River Fall Chinook (KRFC) have been identified through the annual salmon management cycles and the methodology reviews. While some of the research needs identified in the past have been addressed, more exist. Furthermore, other stocks in the region such as Klamath River spring Chinook and California Coastal Chinook are relatively data poor in comparison to KRFC, and many research and data needs exist for these stocks as well. Data needs and potential avenues for future research on these stocks include:

- Increased collection of basic escapement data for California Coastal Chinook. Current escapement data for populations in this Evolutionarily Significant Unit (ESU) is sparse and generally confined to small portions of the available spawning habitat. More complete escapement survey coverage is needed.
- Estimation of the concordance of KRFC and California Coastal Chinook stock distributions. Such an investigation will allow for inference regarding how the cap on the forecast KRFC age-4 ocean harvest rate serves to limit ocean fishery impacts on California Coastal Chinook.
- Increased collection and reporting of Klamath River spring Chinook escapement and river harvest data.
- Investigation of the existence of trends in KRFC age-specific maturation rates, and the effect such trends may have on abundance forecasting.

- Examination of Klamath Chinook stock proportions in areas north and south of Point Reyes. GSI data has provided evidence that the proportion of the catch in the San Francisco management area north of Point Reyes commonly has a greater Klamath contribution rate than the areas south of Point Reyes. Investigation into the magnitude and consistency of this difference in stock proportions north and south of Point Reyes may allow for consideration of Point Reyes as a management line.
- Evaluation of the onshore versus offshore distribution of KRFC relative to other Chinook stocks.

### **Ecosystem and Habitat Issues**

Long-term fluctuations in salmon abundance have proven to be difficult to predict and can create significant instability in the conservation, management, and economics of salmon and salmon fisheries. A better understanding of marine and freshwater conditions and their impacts on salmon populations is needed. Recent declines in west coast salmon populations, most notably Sacramento River fall Chinook, serve as a reminder of the volatility of salmon populations over time.

Analyses are needed to which describe the impact of environmental variability in the California Current ecosystem on seasonal to decadal time scales to the distribution and population structure of salmon. This effort is broadly relevant to other species in the Council's FMPs and is closely related to ecosystem research needs identified in Chapter 1.

- Develop tools that describe the environmental state and potential habitat utilization for near-shore anadromous fish.
- Characterize and map the ocean habitats for anadromous species using data from satellites and electronic tags.
- Characterize climate variability in the northeast Pacific and its relation to salmon production.



## 5.0 COASTAL PELAGIC SPECIES FISHERY MANAGEMENT PLAN

### 5.1 Highest Priority Research and Data Needs

- Establish a long-term index of abundance(s) for the coastal pelagic species (CPS) assemblage off the USA Pacific coast that is based on a sound and representative sampling design, which necessarily will require systematic/synoptic survey efforts, both temporally (annual) and spatially (Mexico to British Columbia) .
- Coordinate more timely exchange of fishery catch and biological port samples for age structures for both Pacific sardine and Pacific mackerel in the northern and southern end of their respective ranges. In particular, efforts must be made to develop a systematic and long-term program of data exchange with Mexico.
- Re-evaluate the harvest control rules (HCRs) for Pacific sardine and Pacific mackerel, as well as other members of the broader assemblage, including northern anchovy (two substocks) and jack mackerel. Since the establishment of the current MSY-proxy control rule in the CPS FMP more than a decade ago, modeling tools have advanced and data on CPS have been accumulated. Moreover, recent research suggests that the relationship between  $F_{MSY}$  and temperature, which is a formal part of the HCR for Pacific sardine, may no longer be meaningful for management purposes. Simulation modeling that addresses Pacific sardine and Pacific mackerel should be undertaken and potential management strategy evaluations (MSE) should consider the broader CPS assemblage as well, given biology and fishery operations are generally similar across the individual species.
- Biological research studies should be developed for individual species based on a long-term program that allows stock parameters to be evaluated in an efficient and timely manner. In this context, age/growth, maturity/longevity, diet, natural mortality, etc. projects should be conducted on a systematic basis and consider the broader assemblage over the long-term. For example, presently, the ageing error time series for Pacific mackerel used in an ongoing stock assessments is outdated, potentially biased, and would benefit from further age/growth analysis in the laboratory; such work was recently conducted for Pacific sardine. Finally, a life history studies program should be ongoing and include CPS in general.
- Federally-mandated ecosystem considerations are now critical requirements of most marine resource management frameworks and as such, dictate a broader research and stock assessment direction for CPS than currently in place. In this context, a general, more adaptive approach for conducting supportive research and formal assessments for CPS should be developed in accordance with the amount of information available, the uncertainty associated with the available data and time series, the fraction of the quota which is taken coastwide (domestic and international landings), and the (historical) frequency of formal assessments and review.

## 5.2 Continuing Issues

### 5.2.1 General CPS Research and Data Needs

- Develop a coastwide (Mexico to British Columbia, Canada) synoptic survey of sardine and Pacific mackerel biomass, i.e., coordinate a coastwide sampling effort (during a specified time period) to reduce "double-counting" caused by migration. The acoustic-trawl survey now covers the bulk of the USA west coast, but does not yet cover waters off Baja Mexico and British Columbia, Canada. Development of a coastwide survey needs to account for the distribution of the CPS at various times of the year.
- Gain more information about the status of the CPS resources in the north using egg pumps during NMFS surveys, sonar surveys, and spotter planes.
- Increase fishery sampling for age structures (Pacific sardine and Pacific mackerel) in the northern and southern end of the range. Establish a program of port sample data exchange with scientists from Mexico (Instituto Nacional de la Pesca [INP], Ensenada). There has been interest in coastwide management for the Pacific sardine fishery, which would entail a more consistent and well supported forum for discussion between the USA, Mexico, and Canada. Recent USA-Mexico bilateral meetings indicated willingness from Mexico to continue scientific data exchange and cooperation on research, and engage in discussions of coordinated management. Mexico suggested that the MEXUS-Pacifico Cooperation Program would be a good venue for starting that discussion. In November 2007, the USA hosted the 8<sup>th</sup> annual Trinational Sardine Forum which resulted in effective exchange of data and ideas on the science and economics of coastwide sardine management. The 13th annual forum is scheduled for winter 2012 in Seattle, WA.
- Evaluate the role of CPS resources in the ecosystem, the influence of climatic/oceanographic conditions on CPS, and predatory/prey relationships. Increase the use of fishery information to estimate seasonal reproductive output (e.g., fat/oil content). The Coastal Pelagic Species Management Team (CPSMT) continues to encourage research projects related to the role of CPS in the ecosystem, the influence of climatic/oceanographic conditions on CPS, and defining predator-prey relationships.
- Studies of krill concentrations and CalCOFI larval data in association with annual and intra-annual variations in environmental conditions may provide insights into predator-prey relationships, ocean productivity, and climate change (also see Section 2.3).
- More collaboration should be encouraged with the fishing industry, particularly, related to the overall data collection and analysis processes for CPS.
- Improve information on salmon and other bycatch in the CPS fishery. The NMFS Southwest Region initiated a pilot observer program for California-based commercial purse seine fishing vessels targeting CPS in July 2004 with hopes of augmenting and confirming bycatch rates derived from CDFG dockside sampling. Future needs of the CPS observer program include: standardization of data fields, development of a fishery-specific Observer Field Manual, construction of a relational database for the observer data, creation of a statistically-reliable sampling plan, and increasing sample sizes

(spatially and temporally) to ensure an adequate number of trips are ‘observed’ to produce statistics that are representative of the fishing fleets at large.

### **5.2.2 Pacific Sardine**

- Growth data for Mexico, southern California, northern California, the PNW and the offshore areas should be collected and analyzed to quantitatively evaluate differences in growth among areas. This evaluation would need to account for differences between Mexico and the USA on how birthdates are assigned, and the impact of spawning on growth.
- The timing and magnitude of spawning off California and the PNW should be examined.
- Hypothesis of a single stock off the USA west coast should be examined using existing tagging data and additional tagging experiments, trace element analysis, and microsatellite DNA markers.
- Biological surveys should include regular systematic sampling of adult sardine for: 1) reproductive parameters for the daily egg production method (DEPM); 2) population weight at age; and 3) maturity schedule. Specifically, adults collected during survey trawls must be collected and analyzed more routinely in the future than has been the case in the past.
- Information which could be used in an assessment of the PNW component of a single coastwide population or of a separate PNW stock should be obtained. Synoptic surveys of Pacific sardine on the entire USA west coast have the potential to provide such information as well as basic data.
- The Tri-national Sardine Forum and MEXUS-Pacifico (i.e. the NMFS-Instituto Nacional de Pesca Forum) should be utilized to share fishery, survey and biological information among researchers in Mexico, Canada, and the USA. The long-term benefits of this forum will be greatly enhanced if it can be formalized through international arrangements.
- Assess changes in early life history information from CalCOFI samples to evaluate the response of Pacific sardine to climate change.

### **5.2.3 Pacific Mackerel**

- A large fraction of the catch can be landed by fisheries in Mexico given the range of the species. Efforts should continue to be made to obtain total catch, length, age, and biological data on a timely basis from these fisheries for inclusion in stock assessments. Survey data (Investigaciones Mexicanas de la Corriente de California [IMECOCAL] program) should be obtained and analyses conducted to determine whether these data could be combined with the CalCOFI data to construct a coastwide index of larval abundance.

- Applicability of the acoustic-trawl survey time series as an index of abundance in stock assessments of this species should be further evaluated, i.e., the current fishery-dependent indices of abundance used in this species' assessment are necessarily problematic, and highly uncertain. This effort would include reviewing/summarizing historical information from 2006 to the present, as well as consulting with survey staff regarding appropriate spatial extent of future surveys.
- Revisit biological parameters, such as maturity-at-age, ageing error, sex ratio, sex-specific parameters, and natural mortality rates ( $M$ ), e.g., examine sex- and/or age-specific  $M$ .

#### **5.2.4 Market Squid**

- Additional work is required on reproductive biology, including the potential fecundity of newly mature females, the duration of spawning, egg output per spawning episode, the temporal patterns of spawning, and the growth of relatively large immature and adult squid. Also, further clarity regarding this species' age/growth dynamics (via laboratory statolith studies), both spatially and temporally, would benefit management efforts directed towards this important commercial resource off California.
- There should be overall greater collaboration with industry in the collection and analysis process for CPS, including market squid.

### **5.3 Emerging Issues**

Standard data processing procedures should be developed for CPS species, similar to those developed for groundfish species.

#### **5.3.1 Pacific Sardine**

The most recent full stock assessments for Pacific sardine was conducted in 2011 using the Stock Synthesis 3 (SS3) platform. Several of the recommendations below came directly from the 2007, 2009 and 2011 assessment review processes.

- The DEPM method should be extended so that constraints are placed on the extent to which the estimates of  $P_0$  vary over time.
- The data on maturity-at-age should be reviewed to assess whether there have been changes over time in maturity-at-age, specifically whether maturity may be density-dependent.
- The aerial surveys should be augmented to estimate schooling areas and distinguish schools, and the enhanced survey design should undergo rigorous review. Data (e.g. bearing and distance to schools) should be collected which could be used in line transect-type estimation methods. 'Sea-truthing' of the species identification of the aerial surveys will enhance the value of any resulting index of abundance. In addition, aerial surveys should be extended to cover the PNW. Aerial surveys are not only useful for relative abundance estimates, but for studying pelagic habitat utilization. This survey has been in

place since 2008 and it should be reviewed taking into account the recommendations of the 2007 review panel and the review of the aerial survey during the 2009 STAR Panel.

- Noting that there is potential for sardine from different stock subcomponents to recruit to adjacent stock areas, it would be desirable to account for this in the assessment model. To do so requires development of a new assessment model or modification of an existing one. Consider spatial models for Pacific sardine, which can be used to explore the implications of regional recruitment patterns and region-specific biological parameters. These models could be used to identify critical biological data gaps as well as better represent the latitudinal variation in size-at-age.
- The catch history for the Mexico and southern California fisheries should be examined to estimate the catch from the southern subpopulation. For example, temperature and/or seasonality could be used to separate catches by subpopulation. Based on the results of this analysis, biological data (length- and conditional age-at-length) can be determined by subpopulation. The analysis of subpopulation structure should ideally be conducted in conjunction with a re-evaluation of the current harvest control rule.
- Develop an index of juvenile abundance. The indices used in the assessment pertain only to spawning fish. An index of juvenile abundance will enhance the ability to identify strong and weak year-classes earlier than is the case at present.
- Consider a model which explicitly models the sex-structure of the population and the catch, and models with variable natural mortality by age, location, and year.
- Fecundity-at-age is based on weight and does not account for the total number of batches of eggs produced during a season (annual fecundity). While the spawning frequency during the peak season does not appear to be age-dependent, the length of the spawning season may be longer in older fish. This may affect the stock-recruitment relationship. Whether visual estimates of activity (presence of developed gonads) from port-collected samples can be used to estimate length-specific timing and duration of spawning across the stock's range should be explored.

### **5.3.2 Pacific Mackerel**

The most recent full stock assessments for Pacific mackerel was conducted in 2011 using the Stock Synthesis 3 (SS3) platform. The recommendations below come directly from the most recent, as well as previous assessment reviews.

- Examine the disparity between the observed recruitment dynamics (boom-bust) and the underlying spawner-recruit model (uncorrelated recruitment deviations).
- In addition to estimating ageing imprecision and bias for incorporation into assessment models, an age validation study should be conducted for Pacific mackerel. Such a study should compare age readings based on whole and/or sectioned otoliths and consider a marginal increment analysis.

- The data on catches come from several sources, which are not well documented. The catch history from 1926-27 to 2006-07 should be documented in a single report.

### **5.3.3 Market Squid**

- The use of target egg escapement levels as biological reference points for managing this resource is partly predicated on the assumption that the spawning that takes place prior to capture is not affected by the fishery and ultimately, fully contributes to future recruitment. However, it is possible that incubating eggs are disturbed by the fishing gear since the fishery takes place directly over shallow spawning beds,, resulting in unaccounted egg mortality. It is also possible that the process of capturing ripe squid by purse seine might induce eggs to be aborted, which could also affect escapement assumptions. In this context, the CalCOFI ichthyoplankton collections contain approximately 20 years of unsorted market squid specimens that span at least two major El Niños. This untapped resource might be useful in addressing questions about population response to El Niño conditions.

## 6.0 HIGHLY MIGRATORY SPECIES FISHERY MANAGEMENT PLAN

### 6.1 Background

The Council's FMP for highly migratory species (HMS) covers a broad range of species including tunas, billfishes, and sharks. The spatial extent of the Pacific Ocean used as habitat for these species extends well beyond the U.S. Exclusive Economic Zone (EEZ). The HMS FMP recognizes that stock assessment and management of these species cannot be done unilaterally – rather it must be done in conjunction with other nations that exploit these species throughout their range.

In the Pacific Ocean, HMS are managed by two regional fishery management organizations (RFMO) – Inter-American Tropical Tuna Commission (IATTC) and Western and Central Pacific Fisheries Commission (WCPFC) – that together cover the breadth of the Pacific Ocean habitat for the species included in the Council's HMS FMP (Figures 1 and 2). Stock assessments and related research are conducted under the auspices of these RFMO. U.S. scientists (whose affiliations include NMFS, academia, NGOs, and the fishing industry) participate in both RFMO processes.

A third scientific organization – International Scientific Committee (ISC) on Tuna and Tuna-like Species in the North Pacific Ocean provides scientific advice on the status of North Pacific HMS stocks that straddle the 150° W longitude boundary between the RFMOs. Examples of these stocks include North Pacific albacore, Pacific bluefin tuna, swordfish, and striped marlin. The ISC is not an RFMO in that it does not manage HMS international fisheries. Rather, it provides the stock assessments and advice that the RFMOs use to base management decisions for the straddling stocks.

Research and data needs for the Council's HMS FMP have been organized in this chapter by order of priority. These needs cover a range of HMS management issues, from stock assessments to protected species interactions, EFH, and fisheries economics.

For stock assessments, the overarching priority is to permit accurate and timely status determinations and monitoring of trends in population abundance and fishing mortality for all stocks with priority given to stocks that are most important to and most affected by Council-managed fisheries. Stock assessments rely on three main categories of data: (1) indices of abundance, (2) accounting of total fishing mortality (“fisheries statistics”), and (3) biology and life history characteristics. Thus, in addition to prioritizing stocks in terms of management need, this chapter also identifies priority data gaps for each stock. A comprehensive prioritization would consider these data gaps across the full set of stocks and evaluate which data sources should be added, enhanced, or maintained to produce some optimal level of information. In some cases, it may be desirable to collect information on a stock with relatively lower management priority if higher priority stocks are already being adequately assessed. This balancing of the need to address data poor stocks while also maintaining and improving timeliness and accuracy of assessments for stocks of highest management priority must also take into account the transboundary nature of HMS stocks—as mentioned above, NMFS cannot make status determinations or track catches for most HMS stocks without cooperation from other countries.

Stock assessment priorities will also have to factor in the new MSA requirements. All of the Council's HMS stocks are managed under international treaty agreements and, as such, are exempted from annual catch limit (ACL) and accountability measure (AM) requirements. However, all will still require an estimate of acceptable biological catch (ABC) and status determination criteria. The HMS sharks include some of the most data poor stocks in the FMP. In some cases, it may be necessary to give priority to sharks of lower management priority (e.g., thresher sharks) in order to obtain basic fisheries information (e.g., total annual catch), and meet the ACL requirements.

## **6.2 Highest Priority Issues**

Research and data needs are identified in this section for the major HMS species and HMS fisheries interactions pertinent to the Council.

### **6.2.1 North Pacific Albacore**

Fisheries Statistics: Timely submission of national fishery data to the ISC Albacore WG data manager is critical for producing timely and up-to-date stock assessments. Additional resources are needed to monitor the submission of these data, to provide adequate database management, and to adequately document the entire database system, including metadata catalogs. Electronic reporting systems increase data entry convenience for industry participants, reduce processing time and costs for data managers, and significantly improve the quality of data being collected through validation checks. Following examples set in Alaska and on the east coast, the implementation of an electronic fish ticket system on the West Coast would greatly improve the availability, timeliness and accuracy of fishery landings data. The development of a coastwide, multi-fisheries electronic logbook system would provide similar results for logbook data.

Biological Studies: Biological information is a critical building block for stock assessments and should be reviewed and updated regularly to capture changes in population parameters as they occur. Unfortunately, these updates have not been accomplished for North Pacific albacore because of limited resources for biological studies. Consequently, the stock assessment models used by the ISC Albacore WG still rely on some biological information that was developed largely in the 1950s and 1960s, although updated length-weight schedules have been applied and a recent age and growth study has provided new information.

There is a critical need to reassess the biological information and to conduct contemporary research studies to update this information. More specifically, there is a critical need to conduct and/or continue studies on:

- age and growth with the goal of updating growth rates and identifying regional differences in growth rates;
- reproductive biology with the goal of updating the maturity schedule and identifying regional differences;
- development of new indices of abundance particularly from fisheries that regularly catch recruitment age albacore (age 1), e.g. the U.S. recreational fishery;
- migration and habitat utilization, with the goal of determining migration and habitat use patterns, improving fishery catch-effort standardization and fishery selectivity/catchability estimates;

- natural mortality with the goal of estimating natural mortality rates using well-designed tagging experiments;
- influence of environmental conditions on albacore biological parameters, including recruitment, growth, migration, habitat use, and catchability of albacore; and
- albacore age and length data through port and biological sampling.

Stock Assessment and Management Studies: Demand for more frequent and more precise information on the status of the stock and the sustainability of albacore fisheries is likely to increase. With this in mind, the albacore stock assessment needs improvement in several areas:

- evaluate effects of changes to assessment model structure and assumptions, by testing the assessment model with data generated by a simulation model tuned to albacore biology;
- investigate the drivers of biomass scaling in the SS3 model used for the most recent (2011) stock assessment;
- develop simulations to assist fishery managers in selecting appropriate biological reference points for albacore;
- development and improvement of abundance indices from commercial and recreational fisheries;
- stock-recruitment relationship, with the goal of improving current assumptions of the stock-recruitment relationship;
- evaluation of the utility of formally adding tagging data into the assessment; and
- development of environmental indices that influence albacore population dynamics and evaluate effects of including these environmental indices in assessment models.

## **6.2.2 Swordfish**

Fisheries Statistics: The timeliness of data reporting, as outlined above for albacore, is equally important for swordfish.

Biological Studies: All biological studies listed above for albacore are needed for swordfish as well. In addition, age and growth data from locally caught fish should be examined, and the distribution of swordfish by season and age within the outer portions of the EEZ and high seas should be evaluated.

Stock Assessment and Management Studies: All stock assessment and management studies listed above for albacore are also needed for swordfish. In particular, there is a need for additional work on effort standardization.

Economic Studies: Explore economic viability of harpoon and longline gear as an alternative to DGN gear for swordfish. Research the best options to promote developing and testing novel gear (e.g., deep-set buoy gear or deep-set daytime longlining) to reduce protected species interactions and increase swordfish catch. Gauge the impact on global swordfish production and trade of unilateral measures to limit West Coast fishing effort.

### **6.2.3 Sharks**

Most of the tunas covered in the HMS FMP are being assessed on a regular basis, with varying degrees of completeness and sophistication. Some of the billfishes—particularly striped marlin and swordfish—are either being assessed or have assessments planned in the near future. On the other hand, stock assessments for sharks have been preliminary at best, and few and far between. This situation should not be taken to imply that sharks are unimportant. Nor should it be inferred that sharks are less vulnerable to the effects of fishing than are the tunas and billfishes. In fact, because of the key vital rates of most sharks (especially reproductive rates that are lower than those for tunas and billfishes), many HMS shark species are likely to be more vulnerable to overfishing than other HMS. The Pacific RFMOs have begun to prioritize shark stock assessments. The WCPFC, IATTC and ISC have each developed plans to assess some shark stocks over the next several years, but given the fact that many species are not targeted and fishery data are scant, there will be many challenges.

As with the other transboundary species covered by the HMS FMP, most shark species cannot be assessed or managed unilaterally by the Council. Some species are highly oceanic with ranges similar to that of tunas (e.g., blue shark and shortfin mako shark). Others are more coastal—with a substantial portion of their habitat shoreward of the U.S. EEZ—but exhibit north-south migrations with significant catches in Mexican waters (e.g., common thresher shark). The net effect is that accounting for the total catch of sharks over their entire period (several decades) and areas of exploitation is not possible. Furthermore, there is a paucity of the biological samples needed to characterize the size of animals taken from the fisheries that account for most of the catch. Active biological studies (age, growth, maturity, food habits, etc.) are ongoing (NMFS, State, non-profit, and academic researchers) and understanding of the biological characteristics for at least some shark species is probably sufficient for stock assessment purposes. However, without an accurate history of total catch, effort, and the corresponding size samples, stock assessment efforts and concomitant management by the Council will be problematic.

The following specific research priorities have been identified for the two sharks species of greatest priority to the Council with respect to their importance in U.S. West Coast commercial and recreational fisheries:

#### **Common thresher shark:**

- stock structure and boundaries of the species and relationships to other populations;
- estimate total annual stockwide catch;
- the pattern of seasonal migrations for feeding and reproduction, and where and when life stages may be vulnerable;
- improved recreational catch estimates which adaptively sample the pulse nature of fishing effort;
- improved commercial fishery monitoring in Mexican waters;
- age and growth rates, including comparisons of growth rates in other areas; and
- maturity and reproductive schedules.

#### **Shortfin mako shark:**

- distribution, abundance, and size in areas to the south and west of the West Coast EEZ;
- estimate total annual stockwide catch;
- stock structure and boundaries of the species and relationships to other populations; and
- age and growth rates (current growth estimates differ widely).

#### **6.2.4 Interactions with Protected Species and Prohibited Species**

More complete catch information and data on interactions with protected and prohibited species are needed for most HMS fisheries. There is inadequate understanding of the fisheries on some HMS stocks that are shared with Mexico (e.g., species composition of shark catches in Mexican fisheries), and inadequate data exchange with Mexico. These fisheries are likely affecting both protected species and prohibited species of fish.

More work is needed to better understand possible impacts of the HMS fisheries on protected species of sea turtles, birds, and marine mammals. For example, there is a need to investigate the post-release survivorship of protected species, such as turtles and seabirds that are caught as bycatch in the HMS fisheries. In addition, fisheries-independent research is required to better understand distribution and habitat use by turtles and to determine the linkages to ecosystem parameters (oceanographic and biological). This includes data on turtle migration seasonality and routes, genetic stock composition of populations by species, and habitat use in order to better understand turtle life histories and likely periods of interaction with fisheries. Predictive models that integrate oceanography, ecosystem parameters (e.g., prey distribution), and habitat use of turtles are needed. More work on the sizes and structures of turtle populations by species would also enable improved application of the ESA and other laws and regulations to HMS fisheries. Continued research on the abundance and distribution of marine mammals is also critical, particularly for HMS fisheries operating within the West Coast EEZ.

Some specific research priorities include:

- Research habitat use of leatherback turtles and other species of concern, including target species, to better understand the potential for reducing bycatch;
- Explore whether hotspots or temperature bands can be identified in near-real-time in order to provide information to fishermen regarding places with potentially high interaction risks;
- Explore how regulating the U.S. West Coast Pacific swordfish fishery affects international trade in swordfish and the potential unintended consequences for protected species interactions in foreign fisheries;
- Compare bycatch rates of DGN vs. shallow set longline gear for swordfish, both by mining observer data and conducting gear comparison studies in the fishery areas; and
- Develop probability-based estimates of unobserved bycatch for observer programs with less than 100 percent observer coverage.

## 6.3 High Priority Issues

### 6.3.1 Blue shark

As noted above, relatively little assessment and research activity is focused on shark species compared to the existing work being done on other HMS such as tunas. Blue shark catch was relatively high in the California CPFV fishery of the late 1980s, but has steeply declined. Blue sharks are encountered in relatively small numbers coastwide in commercial and recreational fisheries. Three specific research needs identified for blue sharks are to: 1) monitor sex and size composition of catches; 2) determine the migratory movements of juvenile and maturing fish from the EEZ to high seas; and 3) examine the Pacific-wide stock structure and interactions among populations using genetics and other techniques.

### 6.3.2 Striped Marlin

Fisheries Statistics: The timeliness of data reporting, as outlined for albacore, is equally important for striped marlin. Additionally, the official striped marlin catch statistics are considerably less well developed than those for albacore, and significant effort is needed to ensure that the total catch from all nations is well estimated.

Biological Studies: All biological studies listed above for albacore are also needed for striped marlin. In addition,

- Stock structure for striped marlin in the Pacific Ocean is more uncertain than for other HMS species and several stock structure hypotheses are credible. A synoptic, critical review of all available information (fisheries data, ichthyoplankton data, and genetic studies) is needed to either resolve the issue or at least to reduce the number of credible hypotheses; and
- Age and growth data from locally caught fish should be examined.

Stock Assessment and Management Studies: All stock assessment and management studies listed above for albacore are also needed for striped marlin. Specific to striped marlin, there is a need for additional work on effort standardization.

### 6.3.3 Pacific Bluefin Tuna

Fisheries Statistics: The timeliness of data reporting, as outlined for albacore above, is equally important for bluefin tuna. Additionally increased port sampling of commercial bluefin length frequencies is needed in the EPO, particularly of the fish destined for the pens in farming operations.

Biological Studies: All biological studies listed above for albacore are also needed for bluefin tuna. Additionally, there is a need to:

- develop seasonal and perhaps area-based weight-length relationships as the bluefin condition factor appears to vary both seasonally and regionally;

- estimate natural mortality rates since previous assessment results were highly sensitive to the assumed mortality rates; and
- estimate age-specific migration rates of bluefin tuna from the WCPO to the EPO and understand the factors that influences those rates, since this in turn strongly influences the availability of bluefin in the EPO.

Stock Assessment and Management Studies: All of stock assessment and management studies listed above for albacore are also needed for bluefin tuna. In addition:

- there is a need for improvements to standardization of abundance indices;
- development of an abundance index from spotter plane data from the EPO; and
- incorporating tagging data and environmental indices into the assessment model.

## **6.4 Other Priority Stocks and Issues**

### **6.4.1 Management Unit Species Catch Data**

Total catch data are likely inaccurate for some HMS fisheries due to an inadequate at-sea data collection programs, logbook programs, and shoreside sampling programs for west coast fisheries and unreported catch by international fisheries. Catch data needs include:

- Total catch information (including incidental and bycatch) and protected species interactions for surface hook-and-line, purse seine, and recreational fisheries, and additional at-sea sampling of drift gillnet fisheries
- Catch composition data for harpoon gear
- Size composition of bycatch in drift gillnet fisheries
- Condition (e.g., live, dead, good, poor) of discarded catch in all HMS fisheries

Additional work needs to be done to develop ways to adequately sample recreational fisheries, particularly shore-based anglers and private vessels. There is a need to develop methods for sampling private marinas and boat ramps to determine catch, and the level of bycatch and protected species interactions, as well as sample the catch for length and weight of fish caught to convert catches reported in numbers to catches by weight. Better catch and effort estimates are also needed for HMS recreational fishing tournaments, in particular those tournaments focusing on common thresher and mako sharks.

### **6.4.2 Survivability of Released Fish**

Little is known of the long-term survivorship of hooked fishes after release, the effectiveness of recreational catch-and-release methods on big game fishes (pelagic sharks, tunas, and billfishes) and of methods to reduce bycatch mortality in longline fishing. Controlled studies of the survivability of hooked and released pelagic sharks and billfishes are needed to determine the physiological responses to different fishing gears, and the effects of time on the line, handling,

methods of release, and other factors. Appropriate discard mortality rates, by species, need to be identified in order to quantify total catch (including released catch). Alternative gears and methods to increase survivability of recreationally caught fish and to minimize unwanted bycatch in fisheries should be identified.

### **6.4.3 Essential Fish Habitat**

There is very little specific information on the migratory corridors and habitat dependencies of these large mobile fish; how they are distributed by season and age throughout the Pacific and within the west coast EEZ, and how oceanographic changes in habitat affect production, recruitment, and migration. Research is needed to better define EFH and to identify specific habitat areas of particular concern (HAPCs), such as pupping grounds, key migratory routes, feeding areas, and where adults aggregate for reproduction. A particularly important need is to identify the pupping areas of thresher and mako sharks, which are presumed to be within the southern portion of the west coast EEZ, judging from the occurrence of post-partum and young pups in the areas (e.g., NMFS driftnet observer data). Areas where pregnant females congregate may be sensitive to perturbation, and the aggregated females and pups there may be vulnerable to fishing.

### **6.4.4 Stock Assessment Review**

Pacific HMS stock assessments are carried out by the RFMOs and by the ISC. The processes used to conduct the assessments and to have them critically reviewed varies considerably across the organizations and the species being assessed. In none of these cases, however, does the level of critical peer review approach that of the Council's STAR process. This may become an issue for the Council if international management regulations begin to affect U.S. coastal fisheries to a greater extent than they do at present. The Council may want to consider having some member(s) of its SSC participate in these international processes. This will provide the Council with a better perspective on the stock assessments and the ensuing international management advice.

### **6.4.5 Tropical Tuna Species and Dorado**

The commercially important tropical tuna species, namely yellowfin, bigeye, and skipjack tuna, are principally harvested in the EPO by vessels from the Central and Latin American fishing fleets. Although a small West Coast based U.S. flag purse seine fishery opportunistically harvests these tunas, the U.S. does not have a fleet active in the main EPO fishery at present. The tropical yellowfin, bigeye and skipjack tunas are no longer taken in large numbers by West Coast based commercial fisheries.

The California commercial passenger fishing vessel (CPFV) fleet is the principal U.S. West Coast fishery for dorado which are often taken in the Mexican EEZ. Dorado can be a significant portion of the total CPFV annual catch and has been the leading species in some years, followed by yellowfin tuna and albacore tuna. Specific recommendations on dorado research include:

- Determine the stock structure of dorado in the eastern Pacific, and
- Investigate the significance of floating objects and other-species associations relative to life history.

#### **6.4.6 Pelagic and Bigeye thresher sharks,**

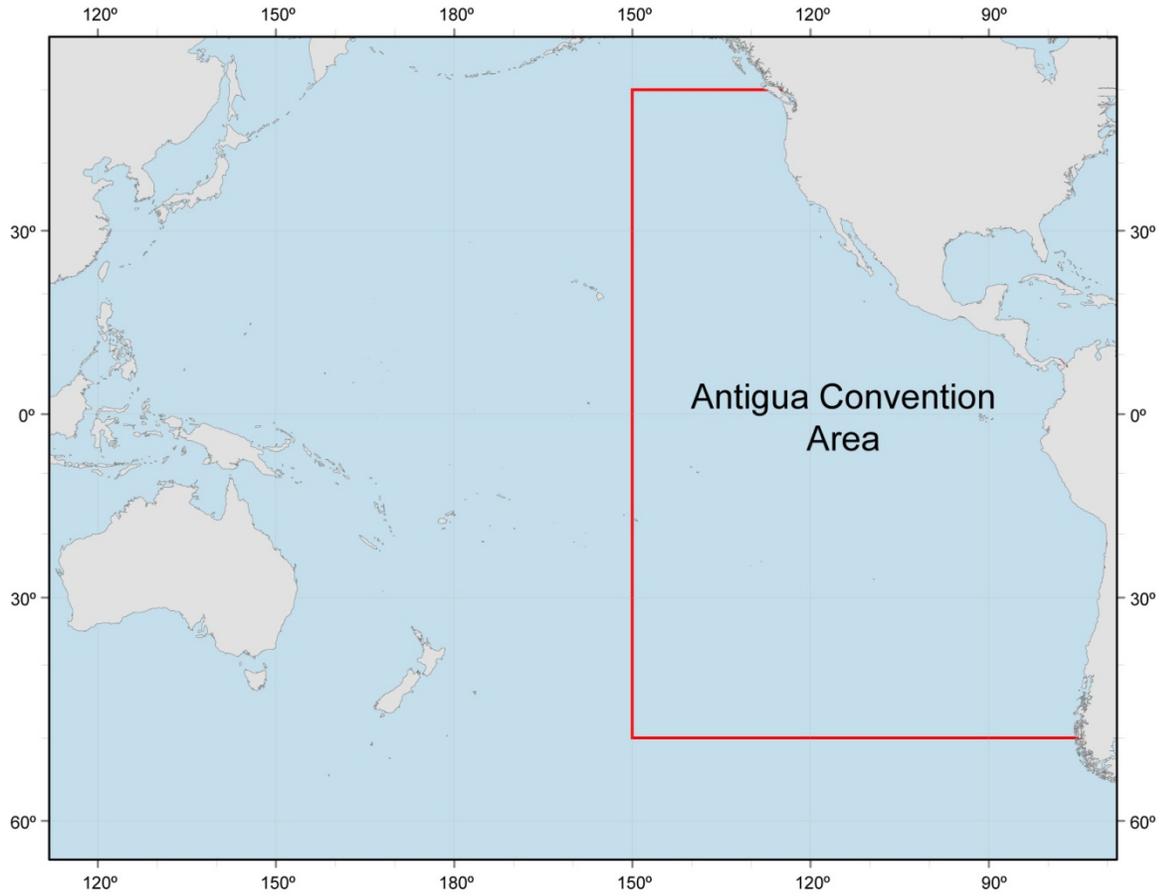
These species occur in far lower frequency than common thresher sharks in U.S. West Coast fisheries. Nevertheless, they are taken in Council-managed fisheries and studies of their life history and ecology, and temporal and spatial catch monitoring will help inform management along the West Coast and in other areas.

#### **6.4.7 Archival PacFIN Data Cleanup**

Some progress has been made to address coding issues with the gear codes for drift gillnet records in the PacFIN data base. The results of the recoding are reflected in drift gillnet landings and revenues summaries provided in Chapters 2 and 4 of this HMS SAFE Report; however, issues remain for PacFIN archived longline records.

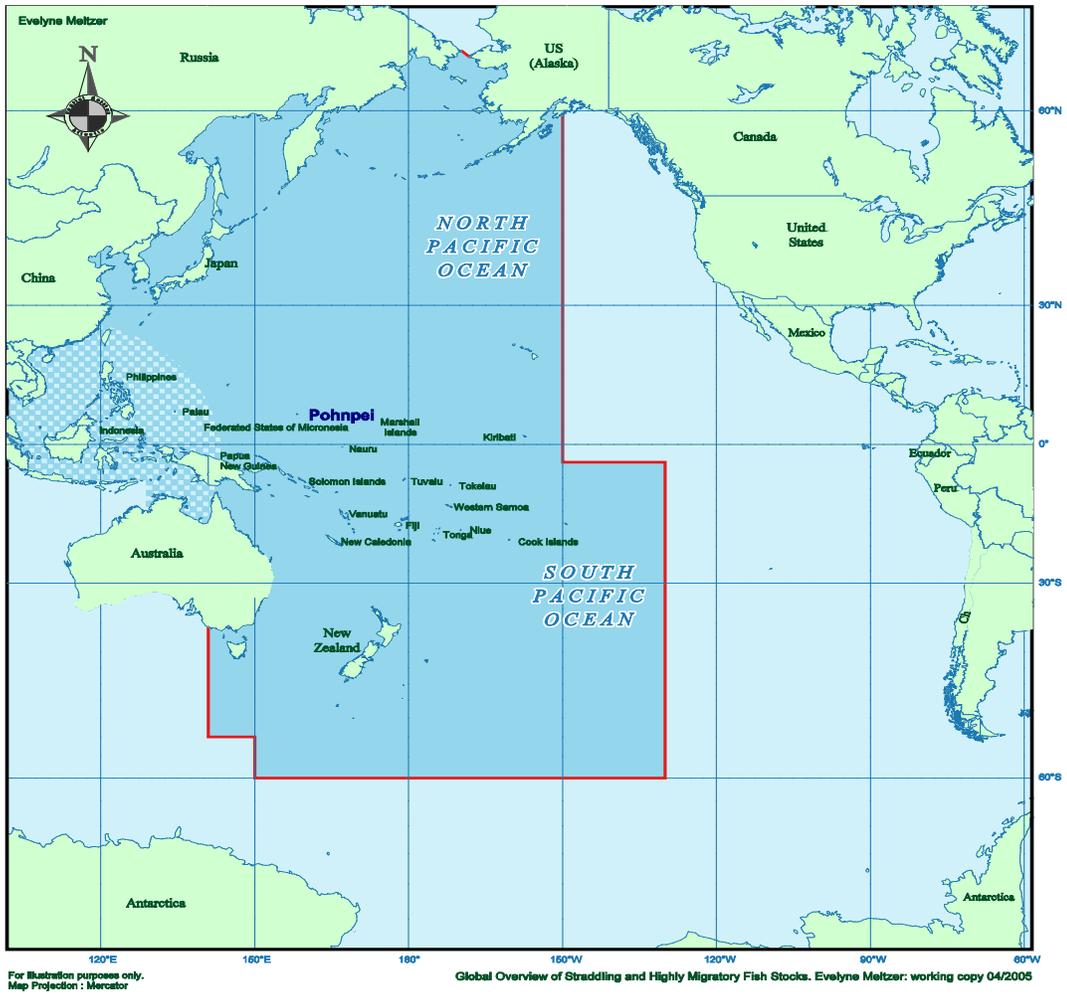
Review and subsequent revision of archival PacFIN data is needed to improve the accuracy of historical commercial landings and revenues for longline landings.

## Inter-American Tropical Tuna Commission (IATTC)



**Figure 1. Area covered by the Inter-American Tropical Tuna Commission (IATTC). The Antigua Convention refers to the recent international treaty that revised the IATTC boundaries.**

## Western and Central Pacific Fisheries Commission (WCPFC)



— RFMO Boundary  
 Boundary not defined  
★ Headquarters: Pohnpei, Federated States of Micronesia

**Figure 2. Area covered by the Western and Central Pacific Fisheries Commission (WCPFC).**



## 7.0 ECONOMICS AND SOCIAL SCIENCE COMPONENTS

### 7.1 Introduction

This section focuses on research and data needed to (1) support and expand the use of socioeconomic information in Council deliberations and regulatory analyses, (2) improve understanding of the socioeconomic, biological and ecological tradeoffs involved when applying an existing policy or considering alternative policies to achieve a given objective (e.g., capacity management, stock rebuilding), (3) improve the Council’s ability to monitor the socioeconomic status of fisheries and fishing communities, and (4) provide retrospective evaluations of past policies that could help inform future policies.

Methods of economic analysis include benefit-cost analysis and regional economic impact analysis. Benefit-cost analysis provides estimates of net economic benefits (positive and negative) to businesses and consumers directly affected by a regulatory action. Regional impact analysis focuses on employment and income impacts in industries directly affected by a regulatory action, as well as secondary (“multiplier”) effects on the suppliers of those industries and households that derive income from the affected industries. Perhaps due to data limitations, benefit-cost analysis tends to be a less common component of regulatory analysis than regional impact analysis. It is important that the data and models needed to conduct benefit-cost analysis and regional economic analysis be developed for every FMP fishery.

### 7.2 Highest Priority Issues

Highest priority items were identified on the basis of whether they have broad potential for improving the socioeconomic content of Council deliberations and analyses, or address an important management issue that would benefit from advanced modeling or analysis to facilitate understanding of its socioeconomic implications. Further discussion of these items is provided in Sections 7.3 and 7.4.

#### *Data priorities:*

- Commercial cost-earnings surveys, including the Groundfish Economic Data Collection Program
- Periodic recreational angler and charter boat (CPFV)<sup>3</sup> surveys
- Spatial data on location of catch for commercial and recreational fisheries

#### *Modeling and analysis priorities:*

- Expansion of the Council’s regional input-output model IO-PAC to cover all FMP fisheries and fishery sectors
- Recreational valuation models, particularly for salmon and groundfish

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<sup>3</sup> Charter boats are known as commercial passenger fishing vessels (CPFVs) in California.

- Models of fleet dynamics for commercial harvesters and recreational charter boats, including spatial and fishery choice behavior
- Indicators of community dependence on fisheries and community well-being and resilience that can be linked to regulations, economic conditions and other relevant factors
- Improved integration of socioeconomics into bycatch models used by the Groundfish Management Team to develop management alternatives for the Council
- Management strategy evaluation of alternative groundfish rebuilding strategies and alternative sardine harvest control rules to help clarify the socioeconomic, biological and ecological trade-offs
- Analysis of socioeconomic effects of the groundfish catch share program on fishery participants and fishing communities

### 7.3 Ongoing Issues

Ongoing issues are categorized into two types of activities: data collection/augmentation and model development/analysis. Some of the data and modeling needs identified in this section are relevant to social as well as economic issues. The Council report *Social Science in the Pacific Fishery Management Council Process* provides additional information on social science needs and can be found on the Council’s website at <http://www.pcouncil.org/resources/research-and-data-needs/>.

#### 7.3.1 Data Collection and Augmentation

Economic data needs, as described in the Council’s *West Coast Fisheries Economic Data Plan 2000-2002*, are summarized in the following table and augmented to include communities as well as specific fishery sectors. Core data needs pertain to fundamental information relevant to understanding economic behavior and estimating the economic value and impact of fisheries.

Harvesters	Processors	Charter Vessels	Recreational Fishers	Communities*
# harvesters, effort by fishery (including AK)	# companies, associated plants and buying stations	# vessels, effort by trip type	# anglers, effort by mode/trip type	Fishery-related businesses in harbor and larger community
Revenue by fishery (incl AK)	Volume of raw product by source (fishery deliveries, imports), revenue and value added	Revenue by trip type		
Variable (trip) and fixed costs	Variable and fixed costs	Variable (trip) and fixed costs	Variable (trip) and fixed costs	Expenditures by fishery-related businesses

Employment and income (crew as well as vessel owners)	Employment and income (plant labor as well as plant owners)	Employment and income (crew as well as vessel owners)		Fishery-related employment and income
Vessel characteristics (including harvest capacity)	Processor characteristics (including processing capacity), location of markets and product flows	Vessel characteristics	Angler demographics and socioeconomic characteristics	Community demographics and socioeconomic characteristics

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\* Data elements listed under this heading may require updating as improved community analysis methods become available.

Data are needed to enumerate and quantify the spatial distribution of commercial and recreational fishing trips, processors and buying stations, charter (CPFV) activity and other fishery-dependent businesses. Spatial data on fishing trips should include both landing sites and areas fished. Such data are needed to evaluate a range of spatial management issues, including, but not limited to, marine reserves.

Processor files and vessel characteristic files available from the Pacific Fisheries Information Network are probably in need of updating, or at least a thorough check for consistency and accuracy. The processor list, in particular, has typographical errors and non-standardized spelling that lead to ambiguities regarding the identity of processors. To facilitate analysis, each processor should be assigned a unique identification code that is standardized across states and that allows each processor to be linked with its associated plants and buying stations.

Currently, landings receipt data provide fairly coarse measures of fishing effort (numbers of vessels and landings). Analysts must rely on these measures or use logbooks, which are not available for most fisheries. Adding finer measures of effort, such as number of days fished or days at sea associated with each landing, would make the fish tickets more useful for economic analysis.

Inclusion of crewmember IDs on landings receipts would greatly facilitate understanding of the economic effects of regulations on crew participation, and provide routine information on this data-poor segment of the commercial fishery.

Bycatch has become a central issue in west coast fisheries management. Groundfish trawl logbooks have been an important tool for analyzing bycatch, and logbook programs have been implemented in fisheries such as that for market squid. Logbooks are a primary source of information on the spatial distribution of catch and fishing effort and should be considered for other fisheries. VMS data are being collected for commercial groundfish vessels, and should be investigated as a potential basis for analyzing spatial dynamics of fleet behavior.

Commercial fishery cost/earnings data should be collected and routinely updated to ensure that they reflect changing regulatory and market conditions. Groundfish catcher vessels, processors and catcher-processors involved in the groundfish catch share program are subject a mandatory Economic Data Collection (EDC) Program. Voluntary cost-earnings surveys are conducted on a three-year rotating basis that cover other fisheries in which groundfish vessels participate (shrimp, crab), as well as the salmon troll fishery. Results of cost/earnings surveys and associated metadata for all FMP fisheries should be made available to the Council in formats that protect confidentiality and are useful for SAFE documents and regulatory analysis.

Angler surveys are needed to estimate the economic value and regional economic impacts of recreational fisheries. Such surveys are conducted fairly routinely on the Pacific coast and have been facilitated in recent years by improved electronic coverage of recreational license holders, including addresses/phone numbers. When supplemented by intercept interviews or other means of contacting anglers who are not in the license frame, such dual frame approaches are effective for collection of representative economic data. In order to expand economic survey results from the sample to the population, estimates of aggregate fishing effort (number of participants as well as number of trips by mode and trip type) are also needed for all states.

### **7.3.2 Model Development and Analysis**

A regional input-output model (IO-PAC) developed by the NWFSC was reviewed by the SSC and has been used to analyze alternatives for the groundfish spex process. IO-PAC should be expanded to include all FMP fisheries and fishery sectors as the required fishery-specific economic data becomes available. This would allow routine use of IO-PAC whenever estimates of regional economic impacts are needed (e.g., for SAFE documents and regulatory analysis).

Models of commercial fleet dynamics (e.g., spatial behavior, fishery choices) are needed to better understand fishing behavior and anticipate the effects of regulations.

Comprehensive models of charter (CPFV) fleet dynamics are needed that reflect the multi-species nature of the fishery, economic incentives of charter operators to provide not just fish but a “fishing experience,” and adaptations of charter vessels to regulatory, market and environmental conditions. Such models could be used to determine whether charter fleet dynamics yield single-species CPUEs that can reasonably be used as an index of relative abundance for that species.

Angler participation models and net economic value estimates are needed for recreational salmon and groundfish fisheries. Recent modeling and valuation estimates are available for the Pacific Northwest.

Socioeconomic profiles of coastal communities significantly involved in west coast fisheries were compiled several years ago. Information that could enhance the utility of these profiles for management include the following:

- community-specific trends in major commercial and recreational fisheries, and factors affecting these trends,
- infrastructure availability and needs (for commercial fisheries, recreational fisheries, other marine resource-related uses),
- financial aspects of infrastructure development and maintenance, and

- indicators of community dependence on fisheries and community well-being and resilience that can be linked to changes in regulations, economic conditions and other relevant factors.

Over the past decade or so, the Council has taken a number of major actions – including Rockfish Conservation Areas (RCAs) in the late 1990s, the groundfish trawl vessel buyback in 2003, salmon fishery closures in the late 2000s, and the groundfish catch share program in 2011. Retrospective analysis of these actions is needed to determine their actual socioeconomic effects on fisheries and fishing communities, and the extent to which the Council’s goals for each action were achieved. Retrospective analysis would also help determine whether and how each measure might be effective in addressing similar issues in the future. Research is underway to evaluate the effects of some of these actions, with thorough evaluation being most likely for the catch share program (due to the mandatory EDC Program and a currently-funded project that focuses on qualitative social effects of catch shares in west coast fishing communities).

Periodic assessments of current fishery status are contained in SAFE documents produced for each FMP. Quantitative descriptions of economic status are generally limited to basic information such as landings, ex-vessel revenues and fishing effort. Cost-earnings surveys, the Groundfish EDC Program, recreational angler surveys, charter boat (CPFV) surveys, the IO-PAC model, and recreational valuation models provide the means to enhance the utility of SAFE documents. Information on profitability of commercial operations, economic value of recreational fisheries, employment and income impacts, and other community effects should be included in SAFE documents as such information becomes available. For groundfish catch share fisheries, quota share prices are good indicators of economic status for those fisheries.

Harvest projection models are used to craft regulatory alternatives for the salmon and groundfish fisheries. Due to concerns regarding weaker (e.g., overfished, ESA-listed) stocks and the constraining influence of those stocks on the harvest of healthier stocks, a major focus of such models is to identify regulatory alternatives that keep the bycatch of weak stocks at acceptable levels. Methods of linking such harvest projection models (including the Groundfish Management Team’s bycatch models) to associated socioeconomic effects should be considered and periodically re-evaluated to ensure that they reflect best available socioeconomic information.

Management strategy evaluation should be conducted to evaluate the effects of alternative groundfish rebuilding strategies and alternative sardine harvest control rules – both of which have socioeconomic as well as biological and ecological consequences.

Information is needed regarding the socioeconomic effects of alternative capacity management programs - including limited entry and catch shares - on fishery participants and fishing communities. Important non-trawl fisheries to consider are open access groundfish and coastal pelagics. Models are needed to analyze the transition from open access to limited entry or limited entry to catch shares in terms of regional economic impacts, effects on costs, earnings and harvest capacity of the fleet, and community effects.

Bycatch is an important issue for many Council-managed fisheries. Alternative approaches to managing and reducing bycatch, bycatch mortality, and effects of gear on habitat should be evaluated – with cost-effectiveness and incentive compatibility included among the evaluation criteria.

Fisheries and communities benefit not only from the size of harvest opportunities but also the stability of such opportunities and the flexibility afforded by a diversity of such opportunities.

Management approaches that enhance fishery stability and flexibility should be identified and evaluated.

## **7.4 Emerging Issues**

Growing attention is being paid to more holistic approaches to management that focus on the relationship of fisheries to habitat, bycatch, and environmental and domestic/global market conditions, and that consider non-fishery activities and values that may be enhanced by ecosystem approaches to management. As above, these needs are divided into two activities: data collection/augmentation, and model development/analysis.

### **7.4.1 Data Collection and Augmentation**

Many of the data needs previously identified in Section 7.3.1 are relevant to emerging as well as continuing issues.

To achieve some of the more holistic modeling discussed in Section 7.4, fishery data will need to be integrated with data on habitat, environment, market conditions and other human activities. Such integration will likely pose challenges in terms of data availability and lack of standardization in the measurement and temporal/spatial scale of individual data elements. Cooperative data collections that pool resources and expertise of agencies, fishermen and research entities may prove beneficial to all involved.

Spatial socioeconomic information by fishery type is needed at a scale that is also useful for ecosystem and habitat based management activities. Spatial information is useful, for example, for determining economic effects of EFH and other protected habitat areas, and for anticipating the effects of other activities (e.g., wave energy development, aquaculture projects) on both fish habitat and fisheries.

### **7.4.2 Model Development and Analysis**

A more holistic perspective is being promoted in marine resource management (e.g. ecosystem-based management). In light of this perspective, a characterization is needed of all commercial and recreational fisheries within the California Current Ecosystem, including spatial distribution and identification of behavioral linkages among complementary and substitute fishing activities. In addition, an analytical framework that accounts for dynamic and inter-regional interactions among industries and households would improve estimates of economic impacts, and comparison of costs and benefits among management alternatives. A systematic and critical evaluation of alternative economic models and analytical frameworks should be conducted, perhaps in the context of a workshop.

Computable bioeconomic models of fishing effort that are spatial and include effects of economic and environmental factors (e.g. prices, sea surface temperatures) are needed to predict effects of changes in regulatory, habitat, environmental and market constraints on participation and harvest in the ocean commercial, ocean sport, tribal and in-river sport salmon fisheries.

Models are needed to estimate and manage bycatch in non-trawl fisheries, for different species of concern including marine mammals, birds, sea turtles, and others.

Models are needed to evaluate the economic dependency of coastal communities on fishery and marine resources and the linkages between these industries and the broader regional economy. This type of analysis should be developed to the point of incorporating general equilibrium effects, and linked to participation and bioeconomic factors.

Stated preference surveys and other non-market valuation techniques could be used to estimate existence or other non-use values associated with threatened and endangered species, ecosystem protection, and stock rebuilding plans. Studies are needed that (1) evaluate the robustness of stated preference responses to the types of information provided in the valuation scenario, (2) evaluate how the “extent of the market” varies according to the nature/scope/location of the good being valued, (3) address aggregation issues that may arise when summations of valuations across multiple goods yield implausible results, and (4) consider the extent to which non-use values are applicable to fisheries as well as environmental goods.



## 8.0 MARINE PROTECTED AREAS AND ESSENTIAL FISH HABITAT

### 8.1 Background

In 1999, the Council began a two-stage process to consider marine reserves as a tool for managing groundfish. The first part was a “conceptual evaluation” and the second part was to develop alternatives for consideration. The second phase was to be started only if there was a positive result from the conceptual evaluation.

The first phase (Phase 1 Technical Analysis) ran from the spring of 1999 through September 2000. During this phase, a technical analysis<sup>4</sup> of marine reserves was prepared and an Ad-Hoc Marine Reserve Committee met to develop recommendations for the Council. Following these efforts, the Council adopted marine reserves as a tool for managing the groundfish fishery.

As part of the first phase, the technical analysis was designed to assist the Council in the conceptual evaluation of the role of marine reserves as a management tool. Four options were developed in considering the implementation of marine reserves. One option was the creation of “*heritage and research reserves*.” The analysis concluded that these “heritage and research” types of marine reserves should be viewed as a supplementary management tool.

The types of research included evaluating the impacts of fishing on marine ecosystems relative to effects caused by natural changes and improving estimates of population parameters for harvested species, thereby directly improving management of the fisheries.

The analysis also noted that these types of small reserves may play a valuable role in fisheries management by serving as “*reference or benchmark sites*” which would provide necessary controls for monitoring local trends in populations and ecosystem processes and would be particularly effective as controls for evaluating the effects of fishing activities in nearby unprotected areas. Use as a reference presumes independence, which needs to be justified

In 2004, the SSC completed a white paper entitled “Marine Reserves: Objectives, Rationales, Fishery Management Implications and Regulatory Requirements.”<sup>5</sup> This document contains additional recommendations regarding research needs associated with marine reserves and MPAs.

As MPAs and marine reserves are added to state waters and National Marine Sanctuaries, an evaluation of the likely benefits of these actions in the context of current management strategies should be required. Cumulative impacts of closures on fishing effort distribution should be examined, as well as social and economic costs and benefits.

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<sup>4</sup> Pacific Fishery Management Council. 2001. Marine reserves to supplement management of West Coast groundfish resources. Phase I Technical Analysis. Prepared by R. Parrish, J. Seger, and M. Yoklavich. 62 pp. Portland, Oregon.

<sup>5</sup> Pacific Fishery Management Council 2004. Marine Reserves: Objectives, Rationales, Fishery Management Implications and Regulatory Requirements. Pacific Fishery Management Council, Portland Oregon, 97220-1384.

Needs Related to Marine Protected Areas Identify type and scale of information needed to conduct stock assessments after establishment of marine reserves and evaluate the feasibility and cost of collecting such information.

- Information on the location and type of harvest and effort relative to a proposed marine reserve area is needed in order to begin to evaluate the degree of impact and effectiveness of the creation of marine reserves.
- Research is needed to understand the biological and socioeconomic effects of marine reserves and determine the extent to which ABCs would need to be modified when marine reserves are implemented, over the short-term and long-term.
- Information on advection of eggs and larva and pre-settlement juveniles. Particularly emphasis on differences between areas upstream and downstream of major geographical features.
- Knowledge of when in the life cycle density dependent effects occur is important in the assessment of the effects of marine reserves (as it is in assessing conventional catch management).
- Increased biological and socioeconomic monitoring of existing marine reserves and other areas of restricted fishing in order to gain information on current reserves that might be extrapolated to evaluate the creation of additional reserves on the west coast.

### **8.3 Essential Fish Habitat Issues**

The Council has developed documents that describe and map EFH for CPS, salmon, groundfish, and HMS and has suggested management measures to reduce impacts from fishing and non-fishing activities. The Council may use area closures and other measures to lessen adverse impacts on EFH. Given the Council's intention to review EFH descriptions, designations of HAPCs and fishing impacts on EFH every five years, new data and the tools to analyze those data will be needed.

- Continue development of dynamic spatially-explicit models of habitat sensitivity, fishing impact, and habitat recovery. This should include spatially explicit description of ocean habitat, and include how those may change with shifting climate.
- Specifically identify HAPCs: those rare, sensitive, and vulnerable habitats (to adverse fishing and non-fishing effects). Identify associated life stages and their distributions, especially for species and life stages with limited information. Develop appropriate protection, restoration, and enhancement measures.
- Identify any existing areas that may function as "natural" reserves and protection measures for these areas.
- Map benthic habitats within Federal and state waters on spatial scales of the fisheries and with sufficient resolution to identify and quantify fish/habitat associations, fishery effects on habitat, and the spatial structure of populations. Mapping of the rocky areas of the

continental shelf is critical for the identification of the rocky shelf and non-rocky shelf composite EFHs.

- Conduct experiments to assess the effects of various fishing gears on specific habitats, including habitat recovery rates, on the west coast and to develop methods to minimize those impacts, as appropriate. From existing and new sources, gather sufficient information on fishing activities for each gear type to prioritize gear research by gear, species, and habitat type.
- Explore and better define the relationships between habitat, especially EFH, and stock productivity. Improved understanding of the mechanisms that influence larval dispersal and recruitment is especially important.
- Evaluate the potential for incentives as a management tool to minimize adverse effects of fishing and non-fishing activities on EFH.
- Standardize methods, classification systems, and calibrate equipment and vessels to provide comparable results in research studies and enhance collaborative efforts.
- Develop methods, as necessary, and monitor effectiveness of recommended conservation measures for non-fishing effects. Develop and demonstrate methods to restore habitat function for degraded habitats.

# APPENDIX I - 2011 GROUND FISH STOCK ASSESSMENT REVIEW PANEL RECOMMENDATIONS FOR FUTURE RESEARCH AND DATA COLLECTION

## Pacific Ocean Perch

- Considering transboundary stock effects should be pursued. In particular the consequences of having spawning contributions from external stock components should be evaluated relative to the steepness estimates obtained in the present assessment (see more complete discussion of this recommendation under the *Unresolved Problems and Major Uncertainties* section, above).
- The benefits of adopting the complex model used this year should be evaluated relative to simpler assumptions and models. While the transition from the simpler old model to Stock Synthesis was shown to be similar for the historical period, the depletion estimates in the most recent years were different enough to warrant further investigation.
- Discard estimates from observer programs should be presented, reviewed (similar to the catch reconstructions), and be made available to the assessment process.
- The quality of the age and length composition data, as presented, should be reevaluated since they appear to affect model results.
- A survey that is better suited to rockfish species would be beneficial for the assessment.
- The ability to allow different “plus groups” for specific data types should be evaluated (and implemented in Stock Synthesis). For example, this would provide the ability to use the biased surface-aged data in an appropriate way.
- Historical catch reconstruction estimates should be formally reviewed prior to being used in assessments and should be coordinated so that interactions between stocks are appropriately treated. The relative reliability of the catch estimates over time could provide an axis of uncertainty in future assessments.

## Petrale sole

- Expand the stock assessment area to include Canadian waters to cover the entire biological range of petrale sole (see more complete discussion of this recommendation under the *Unresolved Problems and Major Uncertainties* section, above).
- Conduct a formal review of all historical catch reconstructions and if possible stratify by month and area. The mixing of U.S. and Canadian catches is of particular concern for the Washington fleet.
- Discard estimates from the WCGOP should be documented, presented and, reviewed (similar to catch reconstructions) outside of the STAR panel process. The reviewed WCGOP data should then be made available to the assessment process.
- Consider combining Washington and Oregon fleets in future assessments within a coastwide model.
- The petrale sole maturity and fecundity information is dated and should be updated.

- As noted by the previous STAR Panel, the current assessment platform (SS3) is structurally complex, making it difficult to understand how individual data elements are affecting outcomes.
- The Panel recommends, where possible, investigating simpler, less structured models, including statistical catch/length models, to compare and contrast results as data and assumptions are changed.
- The length binning structure in the stock assessment should be evaluated, including tail compression fitting options.
- The residual patterns in the age-conditioned, length compositions from the surveys should be investigated and the potential for including time-varying growth, selectivity changes, or other possible solutions should be examined.
- Management strategy evaluation is recommended to examine the likely performance of new flatfish control rules.

### **Spiny dogfish** (prioritized)

1. Improve age estimates and aging methods.
2. Examine the uncertainties regarding the catch data and discard mortalities. In particular bycatch estimations are very important, given that they are larger than the recorded landings over recent years
3. Research on dogfish movement. This would be informative not only in providing a better definition of the unit stock, but also aid addressing # 4 (below)
4. Linkage with fish on Canadian side of the border and exploration of a joint assessment process for this stock
5. Continuation of the commercial catch and bycatch sampling
6. Examination of catchability priors in the New Base model as well as a method for deriving future priors
7. Examination of the Beverton-Holt derivation, as it relates to dogfish, and comparison with new stock-recruitment model used in this report.

### **Widow rockfish** (not prioritized)

The Scientific and Statistical Committee Groundfish Subcommittee (SSCGS) reviewed widow rockfish assessment at the “mop-up” meeting. The SSCGS recommends devoting additional efforts to reconstructing historical landings. This recommendation also applies to most groundfish species on the U.S. West Coast (and not only widow rockfish). In addition to providing the best reconstructed catch histories by species, this effort should develop alternative catch streams that would reflect differences in data quantity and quality available for different time periods. Such (more realistic) alternative catch streams would be very useful while exploring model sensitivity to uncertainty in catch history (rather than applying a simple multiplier to the entire catch time series, which is currently the case for most groundfish assessments).

The SSCGS also recommends further exploration of historical discards, especially given that more detailed (trip limit specific) historical discard information (GMT discard rate estimates from the Pikitch study) has become available.

The SSCGS suggests revisiting the fleet structure used in the assessment, particular exploring the option of splitting bottom and midwater trawl fisheries in Washington and California, and/or evaluating the need of treating bottom and midwater Oregon trawl fisheries separately.

The assessment includes a number of “legacy” data sources (for example, Oregon bottom trawl logbook CPUE index); however, those sources lack proper documentation on the how the data were collected and analyzed. The SSCGS recommends revisiting those “legacy” sources and considering whether these data sources still contribute to the assessment. If the “legacy” data sources are still considered valuable, detailed information should be provided for each.

The assessment utilizes age data from six different sources (state agencies and NOAA Fisheries’ science centers). These data were generated by different age readers, labs, and through different methods in some cases. However, only one ageing error matrix is used in the assessment (developed based on double reads from the most recently collected otoliths). The SSCGS recommends generating additional double reads (and age error matrices) to more accurately account for ageing error associated with data from different sources.

At the review meeting, efforts were devoted to exploring different assumptions regarding fishery selectivity patterns (dome-shaped and asymptotic). The SSCGS recommends further investigation of the theoretical basis for selecting particular patterns for different fisheries and evaluation of data (biological and fishery-related) which would provide information on this issue.

### **Sablefish** (prioritized)

*General recommendations affecting more than one assessment.*

- Complete and review the Washington catch reconstruction and review the California and Oregon catch reconstructions. The accuracy and wide availability of consistent basic information is essential to the development of Pacific coast assessments. In addition to the raw data, the reliability and availability of more spatially dis-aggregated forms of the data should be investigated to determine if they could be used to develop more spatially or temporally explicit models without causing sacrifices in accuracy.
- Include in future versions of Stock Synthesis the capability to explore alternative error distribution assumptions for compositional data. Currently the multinomial distribution is the only type of error distribution available in Stock Synthesis for length or age information. It appears that this may have some impact with respect to underestimating strong year-classes. It would be helpful to be able to explore alternative error assumptions in order to analyse composition information, in particular where the effective sample size estimates (which control the variance in the composition data) may be related to perceived stock abundance.
- Develop guidelines for use of the Lorenzen model for age-dependent natural mortality. The panel investigated the use of age dependent M in both the Dover sole and sablefish

assessments. In each case one of the reasons for exploring different mortality schedules was the potential imbalance between the genders in the age- and length composition information, either in the sex ratio at older ages (Dover sole) or in the ratio of young to old fish (Sablefish). The use of the Lorenzen M model, which is based on a decline in M with age by the inverse of the growth rate, implies a link with size-based predation. However, with likely wider use of this model feature there should be development of some guidance on the appropriateness of the implementation in other stock assessments.

- Conduct new studies of maturity by length and age based on more comprehensive coastwide and depth-based sampling and using histological techniques for determining maturity stage. Given that there is uncertainty regarding the temporal stability of maturity schedules, there should be periodic monitoring to explore for changes in maturity
- Modify the Stock Synthesis code to allow changes to the plus-group age. The Panel found it very helpful to be able to modify the plus-group in the age-composition data to investigate the influence of old versus young age composition data. This feature could also be used to explore the influence of ageing errors. The current version of SS requires restructuring of the input data if the plus-group is changed.

#### *Recommendations specific to sablefish.*

- Further investigate potential inaccuracy in using maximum likelihood estimates and the normal distribution to approximate confidence limits for estimates of spawning biomass. The current assessment's measures of uncertainty in spawning biomass are based on the assumption that the errors can be adequately approximated by normal distributions. The current model for sablefish is sufficiently simple that it may be feasible to conduct a full Bayesian analysis of uncertainty. There is concern that asymmetries in the error distributions, which the normal distribution cannot account for, may be creating a biased view of stock status.
- Conduct new studies on maturity and age-reading error. A major uncertainty in the sablefish assessment relates to the maturity schedule and in age determination. Better maturity and age-at-length data could reduce uncertainty and help resolve issues of cohort size.

#### **Dover sole**

##### *General (affecting more than one assessment)*

1. Complete and review the Washington catch reconstruction and review the California and Oregon catch reconstructions. The accuracy and wide availability of consistent basic information is essential to the development of Pacific coast assessments. In addition to the raw data, the reliability and availability of more spatially dis-aggregated forms of the data should be investigated to determine if they could be used to develop more spatially explicit models without causing sacrifices in accuracy.
2. The difficulties encountered in the Dover sole assessment and some other flatfish assessments with respect to the linkage between selectivities require addressing.

Although in many instances sized based selectivity may be appropriate, when sexes separate spatially there is a requirement for models to at least be able to investigate complete independence between genders. It is important that this be implemented in an updated version of SS3.

3. The panel investigated the use of age-specific natural mortality in both assessments presented during STAR 4. In each case, one of the reasons for exploring different mortality schedules was the difficulty in fitting the imbalanced abundance at age information (as seen through residuals to fits), either in the sex ratio at older ages (Dover sole) or the ratio of young to old fish (Sablefish). The use of Lorenzen M based on a decline in natural mortality by the inverse of the growth rate implies a link with predation; however, wider use and development of some guidance on the appropriateness of the implementation in other stock assessments should be investigated.
4. Currently the only available error distribution for age information is the multinomial probability function. It appears that this may have some impact with respect to underestimating strong year-classes and it would be desirable to explore the use of alternative error assumptions in order to analyse survey information, in particular where variance estimates in catches-at-age may be less than independent on abundance.
5. There should be new studies of maturity by length and age based on more comprehensive coastwide and depth-based sampling and using histological techniques for determining maturity stage. Given that there is uncertainty regarding the temporal stability of maturity schedules, there should be periodic monitoring to explore for changes in maturity.
6. Update the STAR Terms of Reference to ensure that assessment documents include standard plots (or tables) of likelihood profiles that include likelihood components by data source and fleet. Such plots are an important diagnostic tool for displaying tensions among data sources.

#### *Specific to Dover sole*

1. Researching ageing error, particularly aging bias, is important for Dover sole given the current base models difficulty with reconciling some tensions between different data sources regarding the sex ratio at the oldest ages. In addition, the ability of the model to track cohorts accurately would be significantly disrupted if there were severe size-based bimodality in cohorts caused by vastly different times of settlement (Dover sole are thought to have a larval period of 6-18 months). Consequently, larval period should also be examined.
2. For the NWFSC combo survey, raw age and length information appeared to imply persistently different sex ratios when viewed in isolation. The concern is that there is some unrepresentative sampling occurring in the age distribution as ages are sub-sampled from length. The sampling procedure should be investigated more closely and potentially improved.
3. The conclusions of the NMFS workshop on developing priors on catchability were not available to the Panel. These should be made available and the information reconsidered

specifically with respect to Dover sole, in an attempt to reconcile the relatively low catchability estimates for the surveys, particularly the NWFSC combo survey which is thought to cover the majority of the stock distribution.

4. Having simplified the model compared to previous assessments, especially with respect to uniform growth, it is important to continue investigating if this is likely to introduce undesirable levels of bias into the assessment process as more information becomes available. Spatial information on the distribution by age/size of females, particularly in the southern part of the range, particularly across the stratification boundaries of the survey as well as between stocks, should be the primary focus of this work.

#### **Blackgill rockfish** (not prioritized)

To address uncertainty regarding the portion of blackfish population residing in Mexico, the Panel follows the suggestions of the 2005 STAR Panel to attempt to document catches in Mexican waters by both U.S. and Mexican fishers and consider the implications of blackgill being a shared stock. The Panel also suggests exploring alternative sources of information (i.e. to investigate whether there are relevant studies conducted at Universities in Mexico), that could yield information on biology, life history and exploitation of the blackgill that could be used in the next assessment.

The Panel recommends devoting additional efforts to reconstructing historical landings. This recommendation applies to most groundfish species on the U.S. West Coast (and not only blackgill rockfish). In addition to providing the best reconstructed catch histories by species, this effort should develop alternative catch streams that would reflect differences in data quantity and quality available for different time periods. Such (more realistic) alternative catch streams would be very useful while exploring model sensitivity to uncertainty in catch history (rather than applying a simple multiplier to entire catch time-series, which is currently the case for most groundfish assessments). Also, taking into account a spatial shift in fishing efforts to deeper waters would be a significant improvement to catch reconstruction of blackgill rockfish and other species landed in mixed-species categories.

Both the STAR Panel and the STAT agreed that alternative means of exploring relative or absolute abundance in the CCA is a key research priority. Submersible or other non-invasive survey methods could potentially provide additional information on habitat and abundance for this species. Also, it is important to develop alternative methods to monitor length and age compositions of fish inside CCA.

The STAT emphasized that blackgill rockfish has proven to be very difficult to age, and age estimates are highly uncertain. Improving age data quality (through validation studies, otolith exchange between labs) and greater exploration of possible differences in age and growth throughout the range of this stock using the data from otoliths that have not yet been processed is desirable. The STAR Panel agreed, but noted that careful consideration should be devoted to producing exactly the age data which would be of most direct benefit to the assessment, based on representative sampling, since expertise, time and funds are all limited.

#### **Greenspotted rockfish** (not prioritized)

To address uncertainty regarding the portion of the greenspotted rockfish population residing in Mexican waters, the Panel suggests an attempt should be made to document catches taken in Mexican waters by both U.S. and Mexican fishers, and to consider the implications of there being a single shared stock. The Panel also suggests exploring alternative sources of information (i.e. to investigate whether there are relevant studies conducted at Universities in Mexico), that could yield information on biology, life history and exploitation of greenspotted rockfish that could be used in the next assessment.

The Panel recommends devoting additional efforts to reconstructing historical landings. This recommendation applies to most groundfish species on the U.S. West Coast (and not only greenspotted rockfish). In addition to providing the best reconstructed catch histories by species, this effort should develop alternative catch streams that would reflect differences in data quantity and quality available for different time periods. Such (more realistic) alternative catch streams would be very useful while exploring model sensitivity to uncertainty in catch history (rather than applying a simple multiplier to entire catch time-series, which is currently the case for most groundfish assessments). Taking into account a spatial shift in fishing efforts to deeper waters would be a significant improvement to catch reconstruction of greenspotted rockfish and other species landed in mixed-species categories. Also, existing reconstruction efforts focus entirely on historical landings, although discard has been a significant portion of removals for many species on the U.S. west coast. The Panel recommends devoting efforts to reconstruct historical discard as well.

Both the STAR Panel and the STAT agreed that alternative means of exploring relative or absolute abundance in the CCA is a key research priority. Submersible or other non-invasive survey methods could potentially provide additional information on habitat and abundance for this species. Also, it is important to develop alternative methods to monitor length and age compositions of fish inside CCA.

The available data were limited (especially for the southern region) to reliably estimate growth, therefore, consideration of ageing available otoliths should be a priority. The Panel noted that ageing of historic samples (and future samples) would only be useful if samples were representative of the population. This needs to be examined before undertaking time-consuming and costly ageing work.

It is important to further explore stock structure and spatial variability of life history parameters of greenspotted rockfish, since currently only limited (or not species-specific) information is available. The Panel also recommends exploring alternative model structures to account for spatial pattern in species biology, including the model with one stock assumption, model with two areas (with linkage between areas), several growth assumptions and others. Given this recommendation, the Panel suggests conducting a full assessment next time the species is assessed to allow exploration of model structure (which would be impossible in the case of an update assessment).

Update on Science Planning Process at the NWFSC and the SWFSC  
Prepared for the Pacific Fishery Management Council  
23 August 2012

### **NOAA Fisheries Strategic Science Plans**

In April 2012, the NOAA Fisheries Science Board, led by Director, Scientific Programs and Chief Science Advisor, Dr. Richard Merrick, called for all Science Centers to revise or develop new science plans in 2012. A primary goal of this effort is to be responsive to agency and constituent needs. The plans are organized by research themes and foci and include infrastructure and support needs for the next three to five years. The Northwest Fisheries Science Center (NWFSC) and Southwest Fisheries Science Center (SWFSC) share responsibility in the California Current and are coordinating the relevant sections of their plans. Once completed, the plans will be presented to the Council following internal agency review.

### **Context for Plan Development**

The NWFSC and SWFSC conduct the scientific research necessary to conserve and manage living marine resources and their habitat. The Science Centers' research supports the Northwest and Southwest Regional offices; NOAA Fisheries Headquarters; the Pacific Fishery Management Council; Scientific Review Groups; state, local, and federal agencies; as well as U.S. delegations to international regional fishery management organizations and international treaties, among other partners. The Centers provide scientific information to members of a diverse fishing and ocean user community, non-governmental environmental organizations, and the general public in support of the management and mitigation of risk for commercially important and protected species of fish, marine mammals, marine turtles, and invertebrates. Science and research topics range from stock assessments and ecosystem-based assessments and management; impacts of ocean acidification and toxic compounds; decreasing environmental impacts of aquaculture, preserving seafood sustainability and safety; monitoring and predicting climate change impacts; technological innovation and development; maintaining, and where feasible expanding, premier ecosystem observations surveys and time series; and data management and dissemination.

Both Centers face the immediate challenge of increasing demand for their research and yet have limited resources. The plans focus on each Center's specific niches, unique strengths and foremost needs, and work synergistically with the other to best address agency and constituents' needs. The science plans will guide decision-making by providing transparency, a framework for implementation and direction for allocating resources to accomplish these goals.

Agenda Item G.2.b  
Supplemental FSC PowerPoint  
September 2012



**NOAA**  
**FISHERIES**

**Northwest and  
Southwest Fisheries  
Science Centers**

# NOAA Fisheries Strategic Science Plans

Briefing to the Pacific Fishery Management Council

Cisco Werner and John Stein

PFMC, Boise  
September 2012

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# NOAA Fisheries Strategic Science Plans

## WHAT (The Task):

- NOAA Fisheries Chief Scientist asked all Science Centers to revise or develop new plans
- Plans be organized by Research Themes and Foci
- Plans include infrastructure and support needs
- Plans developed for a 5-year period

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# NOAA Fisheries Strategic Science Plans

## WHY THIS IS NEEDED:

- Primary goal – To improve responsiveness to agency and constituent needs and effectively use resources to meet highest priority core mission responsibilities
- Centers' research supports NOAA Fisheries, NWRO, SWRO, PFMC, PSMFC, state and tribal co-managers, recreational fisheries, and others.
- Together the NWFSC and SWFSC conduct complementary scientific research to conserve and manage species and habitats of the California Current

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# NOAA Fisheries Strategic Science Plans

## CONTENT:

- Provides a five-year outlook of all science and research at the Centers
- Focuses on each Center's specific strengths and foremost needs, and work synergistically to best address agency and constituents' needs
- Guide decision-making by providing transparency, a framework for implementation and direction for allocating resources to accomplish goals

# SWFSC Strategic Science Plan Themes

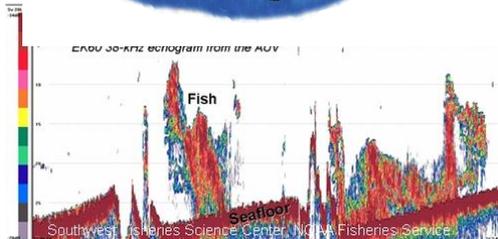
Population Assessments



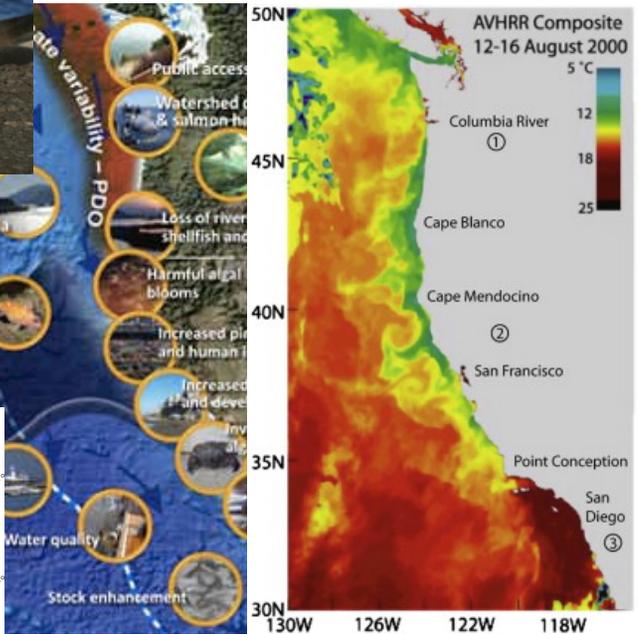
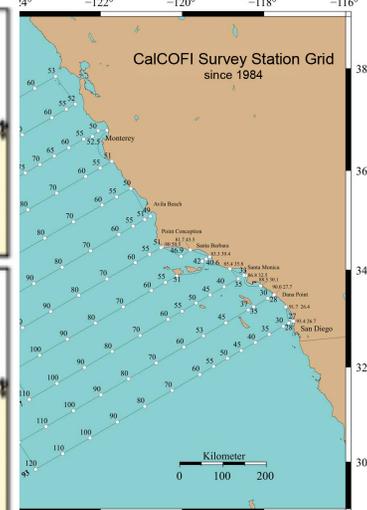
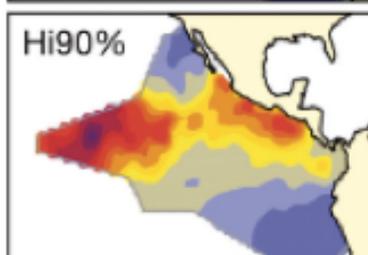
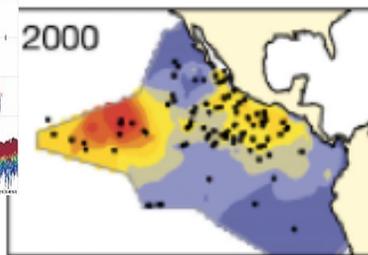
Southwest Fisheries Science Center, NOAA Fisheries Service

Southwest Fisheries Science Center, NOAA Fisheries Service

Ecosystem Analysis



Technological innovation and development



Observations, measurements and surveys

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# SWFSC Strategic Science Plan Themes

- Population assessment: Provide assessments and management advice to rebuild and sustain fisheries, fishing communities, protected species, and their ecosystems
- Ecosystem analysis: Assess and predict how environmental changes and human activities affect ecosystems and design and implement new management paradigms to manage fisheries and recover protected species
- Observations, measurements and surveys: Provide information and data to support population assessments and analyses of ecosystem variability and change
- Technological innovation and development: Improve ecosystem observations and survey methodologies through a variety of advanced technologies and sensor development

# NWFSC Strategic Science Plan Themes

Sustainable, Safe & Secure Seafood for Healthy Populations & Vibrant Communities



Recovery & Rebuilding of Marine & Coastal Species

Ecosystem Approach to Improve Management of Marine Resources



Habitats to Support Sustainable Fisheries & Recovered Populations

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# NWFSC Strategic Science Plan Themes

- Sustainable, safe and secure seafood for healthy populations and vibrant communities
- Ecosystem approach to improve management of marine resources
- Recovery and rebuilding of marine and coastal species
- Habitats to support sustainable fisheries and recovered populations

# Cross-center responsibilities and coordination of Managed Species

Managed Species	NWC	SWC	Coordination
Groundfish	✓✓	✓	Surveys, Assessments
Coastal Pelagic Species	✓	✓✓	Surveys, Assessments
Salmon	✓	✓	Geographic
Highly Migratory Species		✓	Japanese tsunami
Marine Mammals	✓	✓✓	Genetics, Toxicology

# Research areas and coordination

Examples of Research Areas	NWC	SWC	Coordination
Surveys	✓	✓	SaKe, Juvenile salmon, etc.
Assessments	✓	✓	GF (NWC) CPS (SWC)
Science to support EBM	✓	✓	Joint IEA
Aquatic Toxicology	✓		Marine Mammals
Survey Technology	✓	✓	Acoustics (SWC) Untrawlable (NWC)
Antarctica		✓	

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## Process and next steps

- Completion of all Science Centers' Plans by end of 2012
- Develop implementation process and Annual Guidance Memo from the Centers
- Annual external review of major activities coordinated across all Centers along major mandates and emerging issues
- Major revisions to Science Plans conducted every 5 years

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# Request to the Council

**Request your review of the Strategic Science Plans (SSPs) for major gaps in addressing PFMC research needs**

Recall:

- SSPs cover full range of science at the Centers
- The SSPs look forward 5 years
- The SSPs provide the framework for the Implementation Plans
- We anticipate periodic updates on research priorities and activities



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# NWFSC Strategic Science Plan – Research Foci

## SELECTED RESEARCH FOCI (PFMC relevant):

- Provide scientific support for setting annual catch limits and measure results of annual catch limit implementation
- Support effective catch share management and evaluation
- Support collaborative community-based data collection, dissemination, and analysis for fishers, fisheries management, science, marketing, seafood safety, and education
- Provide scientific support for the implementation of ecosystem-based management
- Describe the interaction between human activities, particularly harvest of marine resources, and ecosystem function
- Understand how climate influences ecosystem variability

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# NWFSC Strategic Science Plan – Research Foci (cont.)

## SELECTED RESEARCH FOCI (PFMC relevant):

- Characterize ecological interactions (e.g. predation, competition, parasitism, disease) within and among species
- Describe the relationships between human activities and species recovery, rebuilding and sustainability
- Characterize the population biology of species, and develop and improve methods for predicting the status of populations
- Evaluate the effects of artificial propagation on recovery, rebuilding and sustainability of marine and anadromous species
- Characterize relationships between habitat and ecosystem processes, climate variation, and the viability of organisms
- Develop effective and efficient habitat restoration and conservation techniques

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# SWFSC Strategic Science Plan – Research Foci

## SELECTED RESEARCH FOCI (PFMC relevant):

- Assess status and trends of focal species and stocks according to domestic mandates, international obligations, and management objectives, and support the PFMC and SWRO, and other national management bodies, inter-agency agreements, RFMOs and treaty obligations
- Define units to conserve at the demographic (stocks) and evolutionary (species and subspecies) level
- Develop next-generation assessment, bio-physical, and socio-economic models that can be used in data-poor situations, incorporate climate-productivity relationships, and ecosystem functions that result in improved management recommendations
- Provide innovative approaches to bycatch mitigation, and assess and mitigate direct and indirect threats to managed species and the ecosystems on which they depend

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# SWFSC Strategic Science Plan – Research Foci (cont.)

SELECTED RESEARCH FOCI (PFMC relevant):

- Understand climate- and species-habitat linkages and predict responses of oceanic, coast, and anadromous populations to natural and anthropogenic effects; develop habitat conservation and restoration techniques
- Conceive and develop innovative Integrated Ecosystem Assessments and Management Strategy Evaluations to further develop ecosystem-based management approaches
- Maintain and, where feasible, expand premier climate and ecosystem observing programs, time series and remotely sensed observing systems to provide high quality data for science-based policy decisions
- Develop novel molecular methods to identify species, stocks, and conservation units, and assess animal and ecosystem health

## GROUND FISH ADVISORY SUBPANEL REPORT ON RESEARCH PLANNING

The Groundfish Advisory Subpanel (GAP) listened to a presentation by the directors of the National Marine Fisheries Service's (NMFS) Northwest and Southwest Fisheries Science Centers, Dr. John Stein and Dr. Cisco Werner, about the Science Centers' strategic research plans.

In general, the GAP supports the plan and anticipates providing more input at the implementation phase of the program. We understand the GAP and Council will receive annual updates on the progression of the specific research projects.

The GAP appreciates the request for our input on the research plan. We also appreciate the new cooperative efforts by both centers to coordinate research that will eliminate redundancy and increase efficiency across both regions.

Of particular note is the recent sardine-hake survey, which took place this summer. This kind of joint effort is a model of cooperation and efficiency that provided valuable data while reducing costs. The GAP fully supports this kind of research effort.

PFMC  
09/16/12

## GROUNDFISH MANAGEMENT TEAM REPORT ON RESEARCH PLANNING

The Groundfish Management Team (GMT) had limited time to discuss the materials under this agenda item, and will likely provide additional comments in the future. However, the GMT does offer the following comments:

The GMT thanks Dr. John Stein (NWFSC) and Dr. Cisco Werner (SWFSC) for their presentation on the Science Centers' Strategic Research Plan. The GMT looks forward to the opportunity to review the research plan document when it becomes available and will provide comments at a future date.

The GMT had a brief discussion about the Council's Research and Data Needs document (Agenda Item G.2.a, Attachment 1). The GMT makes the following suggestions:

- Review the process for determining the species viability and the resulting discard mortality estimates for Pacific halibut and possibly other species in the commercial fisheries. The current mortality rates applied to the viability of released Pacific halibut is based on work conducted in Alaska in the 1970s and updating this research may provide additional insight. Additionally, exploring a method that would apply a formula consisting of variables such as tow/set time, temperature, and time on deck, etc. to determine viability, rather than the current visual estimate. This method might have the added benefit of easing some of the workload on the observers, since they would no longer have to conduct Pacific halibut viability estimates.
- Continue research on barotrauma and the use of recompression, or descending devices, for released rockfish, particularly for deeper waters (> 30 fm), over a broader suite of species, including overfished species.
- The report notes how important observer coverage is to management of the groundfish fisheries. In June, the NWFSC briefed the Council about upcoming cuts to the observer program budgets and resulting decreases in observer coverage. The GMT suggests developing a method to evaluate observer coverage levels, and how that might influence management, stock assessments, and fleet behavior.

## SCIENTIFIC AND STATISTICAL COMMITTEE REPORT ON RESEARCH PLANNING

The Scientific and Statistical Committee (SSC) reviewed the current draft of the Council Research and Data Needs document (Agenda Item G.2.a, Attachment 1) and discussed its completeness and the timeline for its adoption.

The National Marine Fisheries Service (NMFS) is in the process of formulating a Strategic Science Plan, and the SSC discussed the relationship between the NMFS Strategic Science Plan and the Council Research and Data Needs document. While they are not formally coordinated, there is considerable overlap and the SSC recommends that the NMFS Strategic Plan be reviewed when available to identify any gaps or omissions in either document.

The SSC discussed the organization of the Council document and noted that the sections on Economics and Social Science Components and Marine Protected Areas and Essential Fish Habitat are similar to the Ecosystem-Based Fishery Management section, in that they all deal with overarching issues that apply to all four of the Fishery Management Plans. The SSC recommends that those two sections be moved to the beginning of the document, with the Ecosystem section, and that the introductory text be modified to include a statement recognizing these topics as addressing overarching issues.

The SSC also recommends some specific changes to the Council document, in several different sections. In the Emerging Issues section of the Ecosystem chapter, the SSC noted that the recommended analysis of trophic interactions requires substantial additional data which is not currently available. The SSC suggests that there be two bulleted items in this section, one recommending collection of the basic trophic interaction data and another recommending its analysis and interpretation.

In the Groundfish chapter, the SSC noted that the mortality rate estimates used in the evaluation of halibut bycatch in the groundfish fisheries are outdated, and recommends that they be updated and expanded.

The SSC had more extensive recommendations for changes to the Salmon chapter that are summarized below.

Parentage-based (intergenerational genetic) tagging (PBT) is now in place for many California and all Idaho Chinook salmon hatchery programs and allows identification of both the stock and exact age of individual fish. This technique can provide data for cohort reconstruction, migration and straying studies, survival-rate comparisons, and other fine-scale data needs. PBT should be included where other identification methods such as genetic stock identification (GSI) are referenced (sections 4.1, 4.2.1.1, 4.4 genetics)

### Section 4.2.2

High Priority Research Issues: Delete the paragraph concerning Continuous Catch Equations. This concern has effectively been addressed with the development of unbiased methods for

estimating non-catch mortalities. These methods have undergone a methodology review and been approved for implementation into the coho FRAM model. Model implementation will be reviewed at the Salmon Methodology Review meeting in October.

Stock Migration and Distribution. The current paragraph should be split into two with the second paragraph entitled “Ocean Distribution of Natural Stocks.”

#### Section 4.5

Emerging Issues, Genetic Identification Methods. Add: Evaluation of whether PBT sampling and tag recovery programs can be practically and cost-effectively implemented to provide information for annual stock assessment needs.

The SSC endorses the Research Planning and Data Needs document, with the changes recommended above, and recommends that it go out for public and further advisory body review.

PFMC  
09/15/12

SALMON TECHNICAL TEAM REPORT ON  
RESEARCH PLANNING

The Scientific and Statistical Committee invited comments from the Salmon Technical Team (STT) on a previous version of the Research and Data Needs document, and this collaboration has been productive. After review of the current version of the document, Agenda Item G.2.a, Attachment 1, the STT has two general comments:

1. The need for increased data collection and model development for Sacramento River fall Chinook, California Coastal Chinook, and Klamath River spring Chinook is noted in the Emerging Issues section. While these issues may be appropriately labeled as emerging, the STT believes they warrant being recognized as having highest priority. Better management of these stocks depends critically on increased data collection and new model development.
2. Genetic Stock Identification (GSI) is placed in the Highest Priority Research Issues section. The STT recognizes the value of further development of GSI methods, but do not believe this topic is of the highest priority, given the current salmon assessment and management system. The need for increased data collection and model development for the stocks previously mentioned is of higher priority at this time.

PFMC  
09/14/12

## APPROVAL OF COUNCIL MEETING MINUTES

The draft November 2010 Council meeting minutes are provided for review and approval in Attachment 1. At the time of briefing book preparation the minutes for the June 2012 Council meeting were not completed. They will either be provided as a supplemental attachment at this meeting or at the November 2012 meeting.

The full record of each Pacific Fishery Management Council (Council) meeting is maintained at the Council office, and consists of the following:

1. The meeting notice and proposed agenda (agenda available online at <http://www.pcouncil.org/resources/archives/briefing-books/>).
2. The approved minutes (available online at <http://www.pcouncil.org/council-operations/council-meetings/past-meetings/>). The minutes summarize actual meeting proceedings, noting the time each agenda item was addressed and identifying relevant key documents. The agenda item summaries consist of a narrative on noteworthy elements of the gavel-to-gavel components of the Council meeting and summarize pertinent Council discussion for each Council Guidance, Discussion, or Action item, including detailed descriptions of rationale leading to a decision and discussion between an initial motion and the final vote.
3. Audio recordings of the testimony, presentations, and discussion occurring at the meeting. Recordings are labeled by agenda number and time to facilitate tape or CD-ROM review of a particular agenda item (available from our recorder, Mr. Craig Hess, Martin Enterprises, [martinaudio@aol.com](mailto:martinaudio@aol.com)).
4. All documents produced for consideration at the Council meeting, including (1) pre-meeting advance briefing book materials, (2) pre-meeting supplemental briefing book documents, (3) supplemental documents produced or received at the meeting, validated by a label assigned by the Council Secretariat and distributed to Council Members; (4) written public comments received at the council meeting in accordance with agenda labeling requirements; and (5) electronic material or handout materials used in presentations to Council Members during the open session (available online at <http://www.pcouncil.org/council-operations/council-meetings/past-meetings/>).
5. The Council Decision Summary Document. This document is distributed immediately after the meeting and contains very brief descriptions of Council decisions (available online at <http://www.pcouncil.org/resources/archives/council-meeting-decisions/>).
6. Draft or final decision documents finalized after the Council meeting such as Environmental Impact Statements or Environmental Assessments.
7. Pacific Council News. The Spring Edition covers March and April Council meetings; the Summer Edition covers the June Council meeting, the Fall Edition covers the September

meeting; and the Winter Edition covers the October-November Council meeting (available online at <http://www.pcouncil.org/resources/archives/newsletters/>).

**Council Action:**

- 1. Review and approve the draft November 2010 Council meeting minutes and, if available, the June 2012 Council meeting minutes.**

**Reference Materials:**

1. Agenda Item G.3.a, Attachment 1: Draft Minutes: 206<sup>th</sup> Session of the Pacific Fishery Management Council (November 2010).

**Agenda Order:**

- a. Council Member Review and Comments
- b. **Council Action:** Approve Previous Council Meeting Minutes

Dan Wolford

PFMC  
08/23/12

**DRAFT MINUTES**  
**206th Session of the**  
**Pacific Fishery Management Council**  
**November 4-9, 2010**

Hilton Orange County/Costa Mesa Hotel  
3050 Bristol Street, Costa Mesa, California 92626

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## **A. Call to Order**

### **A.1 Opening Remarks**

Mr. Mark Cedergreen, Chairman, called the 206<sup>th</sup> meeting of the Pacific Fishery Management Council to order at 10:30 a.m., Thursday, November 4, 2010. There was a closed session held from 9:30 a.m. to 10:30 a.m. to discuss litigation and personnel matters.

Mr. Frank Lockhart, National Marine Fisheries Service (NMFS), reported on recent management changes within the Northwest Region (NWR) to create a new “Salmon Management Division.” He introduced Mr. Bob Turner who has been appointed as the new Assistant Regional Administrator for the Salmon Management Division and who, as a new Council member designee for the NWR, will handle the salmon agenda items. This management change will bring salmon harvest management and hatchery management together.

### **A.2 Roll Call**

Dr. Donald McIsaac, Council Executive Director, called the roll. The following Council members were present:

Mr. Phil Anderson (Washington State Official)  
Mr. William L. “Buzz” Brizendine (At-Large)  
Mr. Mark Cedergreen, Chairman (Washington Obligatory)  
Mr. Brian Corrigan (U.S. Coast Guard, non-voting, designee)  
Mr. David Crabbe (California Obligatory)  
Dr. Dave Hanson, Parliamentarian (Pacific States Marine Fisheries Commission, non-voting designee)  
Mr. Frank Lockhart (National Marine Fisheries Service, Northwest Region, designee)  
Ms. Dorothy Lowman, Vice Chair (Oregon Obligatory)  
Mr. Jerry Mallet (State of Idaho Official, designee)  
Mr. Rod Moore (At-Large)  
Mr. Dale Myer (At-Large)  
Mr. Herb Pollard, (Idaho Obligatory)  
Mr. Tim Roth (U.S. Fish and Wildlife Service, non-voting designee)  
Mr. David Sones (Tribal Obligatory)  
Mr. Gordon Williams (State of Alaska Official, non-voting designee)  
Mr. Steve Williams (State of Oregon Official, designee)  
Mr. Dan Wolford, Vice Chair (At-Large)  
Ms. Marci Yaremko (State of California Official, designee)

The following persons also served as Council member designees during various portions of the meeting: Ms. Marija Vojkovich, State of California Official; Mr. Mark Helvey, NMFS, Southwest Region; Ms. Michele Culver, State of Washington Official; Mr. Dave Ortmann, State

of Idaho Official; Ms. Gway Kirchner, State of Oregon Official; Mr. Bob Turner, NMFS NWR; and Dr. Peter Dygert, NMFS NWR).

The following Council member was absent for the entire meeting: Mr. David Hogan (U.S. State Department, non-voting)

### **A.3 Executive Director's Report**

Dr. Don McIsaac briefly reviewed the two Informational Reports on salmon with the Council and noted some additional details with regard to the agenda and overall meeting. He noted that there needed to be a change in Agenda Item C to accommodate a Council response to some late-breaking issues. With regard to Agenda Item C.1, there are actually three matters: a Washington Department of Fish and Wildlife (WDFW) report on state enforcement efforts; a U.S. Coast Guard Report; and a request for comments from the National Oceanic and Atmospheric Administration (NOAA) Office of Law Enforcement on a penalty report and setting annual enforcement priorities. To allow the Enforcement Consultants (EC) time to develop a statement on these issues, the final action on C.1 will occur on Tuesday.

### **A.4 Agenda**

Mr. Mark Cedergreen introduced the agenda.

#### **A.4.a Council Action: Approve Agenda**

Mr. Moore moved and Mr. Williams seconded Motion 1 to approve the meeting agenda as shown in Agenda Item A.4, November Council Meeting Agenda, with the suspension of Council action on Agenda Items C.1.b through C.1.d until Tuesday.

## **B. Open Comment Period**

### **B.1 Comments on Non-Agenda Items**

#### **B.1.a Advisory Body and Management Entity Comment**

Mr. Russell Dunn, NOAA Fisheries Recreational Division, provided a PowerPoint presentation on the results of NOAA's recent Recreational Fisheries Summit with information on the recreational initiative and future plans.

#### **B.1.b Public Comment**

Mr. Aaron Longton and Ms. Sara Bates, fleet managers for California West Coast Stock Genetic Identification Project, reviewed Informational Report 1 with the Council.

Mr. Kris Kubiak and Mr. Gerry Richter, Los Osos, California, spoke about problems regarding the allocation of sablefish in the Conception management zone between the open access and limited entry fisheries in view of the increase in the open access fishery.

Mr. Anthony Chatwin, Executive Director for National Fish and Wildlife Foundation, spoke about the Fisheries Innovation Fund, which is a grant program to support public/private partnerships for sustainable fisheries in the US. They expect to award about \$2.2 million for 2011. The application deadline is November 30, 2010.

### **B.1.c Council Discussion of Comments as Appropriate**

None.

## **C. Enforcement Issues**

### **C.1 Washington Department of Fish and Wildlife (WDFW) Enforcement Report**

#### **C.1.a Agenda Item Overview**

Mr. Jim Seger provided the agenda item overview.

#### **C.1.b Report of the WDFW Enforcement Division (11/04/10; 1 p.m.)**

Deputy Chief Mike Cenci made an enforcement presentation on DVD. He also presented Agenda Item C.1.b, Supplemental WDFW Report.

#### **C.1.c. Reports and Comments of Advisory Bodies and Management Entities**

Mr. Brian Corrigan reviewed Supplemental C.1.c, Supplemental USCG Report.

Mr. Paul Ortiz, NMFS spoke about Agenda Item C.1.c, Supplemental Proposed Penalty Schedule, which streamlines how agency attorneys go about adopting penalties for cases.

Mr. Phil Anderson provided a PowerPoint presentation (Agenda Item C.1.c, Supplemental WDFW PowerPoint).

Dr. McIsaac thanked agency staff for their excellent presentations and explained that the remainder of this agenda item was suspended until Tuesday to allow time for the development of advisory body comments on the enforcement issues presented by NMFS.

(11/09/10; 8:38 a.m.)

Mr. Seger reintroduced the agenda item.

LT Jeff Samuels provided Agenda Item C.1.c, Supplemental EC Report and Agenda Item C.1.c, Supplemental EC Report 2.

Mr. Tommy Ancona presented Agenda Item C.1.c, Supplemental GAP Report.

Mr. Mike Okoniewski read Agenda Item C.1.c, Supplemental CPSAS Report.

Mr. Doug Fricke provided Agenda Item C.1.c, Supplemental HMSAS Report.

#### **C.1.d Public Comment**

Mr. Brad Pettinger, Oregon Trawl Commission, Brookings, Oregon

Mr. Peter Flournoy, International Law Offices, San Diego, California

#### **C.1.e Council Discussion**

Ms. Culver moved Motion 28 for the Council to write a letter relative to the draft NOAA policy for the assessment of civil administrative procedures which summarizes the comments received from our advisory bodies and transmit it by the deadline. Mr. Moore seconded the motion.

Mr. Wolford asked if the motion included asking for an extension to the comment deadline in the letter. Ms. Culver said we have received good comments from the advisory bodies that seem to have common themes and address the points noted in a shift in policy by NOAA from allowing a more regional approach to a national approach that narrows the range and is more prescriptive. That is probably the key point. Given the timing of our meeting, there should not be a problem of meeting the December 20 deadline for the purposes of this letter.

Mr. Steve Williams noted the last paragraph of the Enforcement Consultants (EC) report speaks to recommendations about getting together and looking at this on a regional level. That could lead to an extension.

Motion 28 carried. Mr. Lockhart abstained.

Ms. Culver moved Motion 29 to have the Council write a letter to NOAA to incorporate the comments provided in Supplemental EC Report 2 relative to the Joint Enforcement Agreement (JEA) with the states. Mr. Brizendine seconded the motion.

Ms. Culver said she cannot overstate the importance of the JEA to the Washington state enforcement program. The reduction in the JEA funding is a major impact especially in light of state budget situations and decline in resources and personnel. Mr. Steve Williams, Ms. Vojkovich, and Mr. Brian Chambers concurred with regard to their respective entities.

Mr. Lockhart asked Ms. Vicki Nomura, Special Agent in Charge (SAIC), to comment. She stated the regional funding decisions were made at the Washington, DC level by factoring the overall funding into a matrix of activities. The states and the two SAICs are trying to get more information on this so the questions can be answered.

Motion 29 carried. Mr. Lockhart abstained.

Council then went to Agenda Item H.5.e.

## **D. Ecosystem Based Management**

### **D.1 Ecosystem Science Information Session (11/04/10; 2:10 p.m.)**

#### **D.1.a Agenda Item Overview**

Mr. Mike Burner provided the agenda item overview.

#### **D.1.b North Pacific Fishery Management Council Report**

Dr. Patricia Livingston, Director of the Alaska Fishery Science Center's Resource Ecology and Fisheries Management Division and Chair of the North Pacific Fishery Management Council's (NPFMC) Scientific and Statistical Committee (SSC), provided Agenda Item D.1.b, Supplemental North Pacific PowerPoint.

Several Council members thanked Dr. Livingston for her presentation and commended the NPFMC for the work they have done. Dr. Livingston said that the NPFMC approach took many

years to develop and was modified as additional information led to better understandings of the ecological role of managed and protected species. Council questions focused on how the ecosystem is prioritized, reported, and responded to by the NPFMC. Dr. Livingston stated that a graded system (i.e., red/yellow/green) is being tested that relies on science where available, but also involves some qualitative decisions. Council application of ecosystem-based information has largely, but not solely, been used to inform precautionary approaches for federally-managed species. The coordination with the State of Alaska and work through forums like the Alaska Marine Ecosystem Forum broaden the ecosystem considerations considerably and have helped in the assessment of the cumulative effects of fishery management decisions.

#### **D.1.c Reports and Comments of Advisory Bodies and Management Entities**

None.

#### **D.1.d Public Comment**

Mr. Ben Enticknap, Oceana, Portland, OR

#### **D.1.e Council Discussion on Ecosystem Science Information Session**

Mr. Frank Lockhart thanked the Council Chair and the Executive Director for scheduling this agenda item and said that regular, short presentations like this are and will be beneficial to the Council. Mr. Lockhart also thanked Dr. Livingston for her willingness to travel to our meeting and for her excellent presentation that was informative and provided many approaches for the Council to think about.

### **E. Habitat**

#### **E.1 Current Habitat Issues**

##### **E.1.a Agenda Item Overview (11/04/10; 3:08 p.m.)**

Ms. Jennifer Gilden provided the agenda item overview.

##### **E.1.b Report of the Habitat Committee**

Mr. Joel Kawahara provided Agenda Item E.1.b, Supplemental HC Report.

##### **E.1.c Reports and Comments of Advisory Bodies and Management Entities**

None.

##### **E.1.d Public Comment**

Dr. Geoff Shester, Oceana, San Francisco, CA

##### **E.1.e Council Action: Consider Habitat Committee Recommendations**

Vice Chair Dorothy Lowman asked the Council to first consider the draft letter to the U.S. Bureau of Reclamation (BOR) outlining specific questions about California water issues.

Mr. Steve Williams and Vice Chair Wolford agreed that the letter should be specific.

Mr. Steve Williams moved, and Mr. Moore seconded Motion 2 to approve the transmittal of the letter to the Bureau of Reclamation (BOR) as shown in Agenda Item E.1.a, Attachment 1.

Mr. Anderson said that if the discussion between the BOR and Habitat Committee (HC) is going to be broader than the specific items in the letter, the BOR should be made aware of that. Ms. Gilden said she was in communication with BOR and would convey that.

Ms. Yaremko thanked the HC for developing the questions in advance. Mr. Roth also supported and thanked the HC for their work.

Motion 2 carried unanimously. [Break]

The Council reconvened at 3:56 p.m. No additional Council action was taken.

## **E.2 Deepwater Coral Information Report**

### **E.2.a Agenda Item Overview (11/04/10; 4:01 p.m.)**

Mr. Kerry Griffin provided the agenda item overview.

### **E.2.b Report on Recent Coral Research Activities**

Dr. Elizabeth Clarke provided Agenda Item E.2.b, Supplemental NOAA PowerPoint.

### **E.2.c Reports and Comments of Advisory Bodies and Management Entities**

Mr. Kawahara presented Agenda Item E.2.c, Supplemental HC Report. Mr. David Sones presented Agenda Item E.2.c, Supplemental Tribal Report.

### **E.2.d Public Comment**

Dr. Geoff Shester, Oceana, San Francisco, CA

### **E.2.e Council Discussion on Deepwater Coral Information Report**

Dr. McIsaac said this agenda item was designed as an informational report; however, the HC report included recommendations relative to input into the next two years' field design. This is an opportunity for Council input.

Mr. Anderson noted that the strategic plan looks at the period 2010-2019. Dr. Clarke said the West Coast program is only 2010-2012. However, the science centers have staff on both the Essential Fish Habitat Review Committee (EFHRC) and HC who will continue to solicit input. She noted that the HC's recommendations on priorities were helpful and the HC should be provided updates so their feedback would be helpful in the future.

Mr. Anderson clarified that the HC would be the logical advisory body to work with. He asked whether other advisory body comments could be solicited. Dr. Clarke said it would be useful to have a joint meeting at the end of FY 2011's field season, when more is known about the essential fish habitat process. The September (2011) Council meeting would be best for this.

Advisory body, tribal, and other comments could be provided then. Dr. Clarke said they will be finalizing their report for this year (FY 2011) on December 15, 2011.

Mr. Anderson reiterated that people should provide Dr. Clarke some input, independent of formal Council direction.

## **F. Salmon Management**

### **F.1 Preseason Salmon Management Schedule for 2011**

#### **F.1.a Agenda Item Overview (11/05/10; 8:06 a.m.)**

Mr. Chuck Tracy presented the agenda item overview and summarized Agenda Item F.1.a, Attachment 1.

#### **F.1.b Reports and Comments of Advisory Bodies and Management Entities**

Dr. Robert Kope presented Agenda Item F.1.b, Supplemental STT Report.

#### **F.1.c Public Comment**

None.

#### **F.1.d Council Action: Adopt a 2011 Preseason Management Schedule**

Mr. Anderson recommended the Salmon Technical Team (STT) Preseason Report I meeting occur the week of February 22, 2011. The Council concurred.

Chairman Cedergreen asked if the public hearing schedule was acceptable. The Council concurred.

### **F.2 Fishery Management Plan Amendment 16, Annual Catch Limits and Accountability Measures**

#### **F.2.a Agenda Item Overview (11/05/10; 8:29 a.m.)**

Mr. Tracy presented the agenda item overview.

Mr. Steve Williams asked if far-north migrating spring Chinook stocks could be considered exceptions to the annual catch limits (ACL) requirements for internationally managed stocks. Dr. Dygert replied the Salmon Amendment Committee (SAC) was looking into that. They have found that the Washington coastal stocks appear to have similar ocean distribution and harvest impact patterns to Washington coastal fall Chinook stocks, and so a complex including both spring and fall stocks may be appropriate; however, mid-Columbia spring stocks were less similar to other stocks covered under the Pacific Salmon Treaty.

Mr. Anderson asked if pink salmon were removed from the Fishery Management Plan (FMP), could the comanagers set harvest regulations at the state or tribal level. Ms. Cooney replied yes, although if Oregon licensed vessels were also harvesting pink salmon, there would have to be Oregon regulations as well.

## **F.2.b Reports and Comments of Advisory Bodies and Management Entities**

Mr. Tracy presented Agenda Item F.2.b, Supplemental SAC PowerPoint. Dr. Pete Lawson presented Agenda Item F.2.b, Supplemental SSC Report. Mr. Butch Smith presented Agenda Item F.2.b, Supplemental SAS Report. Mr. Dave Hillemeier, Yurok Tribe, presented Agenda Item F.2.b, Supplemental Tribal Comments.

## **F.2.c Public Comment**

None.

## **F.2.d Council Action: Review the Adopted Alternatives and Provide Further Guidance for the Public Review Draft**

Dr. Dygert moved (Motion 3) to adopt for public review Stock Classification Alternative 2 in Agenda Item F.2.a, Attachment 1, as the preliminary preferred alternative (PPA), and continue to investigate the possible application of the ACL international exception to the far-north migrating stocks and stock complex. Mr. Anderson seconded the motion.

Motion 3 carried unanimously.

Mr. Anderson recommended that the Stock Classification PPA retain pink salmon in the FMP and acknowledge the inability to make overfishing determinations. The Council concurred.

Dr. Dygert moved and Ms. Vojkovich seconded (Motion 4) to adopt for public review the Status Determination Criteria (SDC) PPA in Agenda Item F.2.a, Attachment 1, with the following revisions:

Change arithmetic mean to geometric mean for overfished and approaching overfished criteria, and add 3-year geometric mean to the rebuilt criterion.

Mr. Roth noted the verbiage in the PPA referring to arithmetic mean would also need to be revised. Dr. Dygert asked if the motion should be amended.

Dr. Hansen recommended the motion be withdrawn.

Dr. Dygert offered to withdraw Motion 4. Ms. Vojkovich concurred.

Motion 4 was withdrawn.

Dr. Dygert moved and Ms. Vojkovich seconded Motion 5 to adopt for public review Status Determination Criteria Alternative 3 in Agenda Item F.2.a, Attachment 1, as the PPA.

Motion 5 carried unanimously.

Mr. Anderson stated that there was insufficient progress in the co-manager discussions regarding Washington Coastal and Puget Sound coho reference points to take action or provide guidance;

however, those discussions were a priority for the co-managers and they should reach a conclusion before the next Council meeting. Dr. Dygert agreed.

Dr. Dygert felt no action was currently needed on actions when SDC are triggered, but the Council could provide guidance, and should be aware of the issues. Dr. McIsaac asked if the SAC recommendations were to narrow the scope of assessments associated with an overfished status determination. Mr. Tracy replied yes, at least in terms of the required elements, which would relate to areas of Council authority; however, the SAC proposal would also maintain flexibility for the Council to request assessment of additional topics depending on the specific circumstances.

Ms. Vojkovich asked if the timeline for assessments could be shortened given the focus on Council actions. Mr. Tracy replied that there was no explicit timeline recommended but many of the issues would be identified in the preseason process.

Mr. Anderson recommended assessing marine and freshwater survival in triggering an overfished determination as part of an initial assessment. Mr. Steve Williams and Mr. Wolford supported Mr. Anderson's approach. Ms. Vojkovich replied that it was appropriate for the first step of an assessment to focus on areas that Council action could address, rather than wasting time identifying issues over which the Council had no authority.

Dr. McIsaac asked if there would be a PPA on actions associated with SDC triggers that reflects Council discussion in the next draft Environmental Assessment (EA). Mr. Tracy replied yes, for the draft EA developed for final action.

Dr. Dygert recommended adding qualifying language about how *de minimis* fisheries would be implemented under the PPA since it was not a proscriptive control rule at abundance levels less than the  $S_{MSY}$ /minimum stock size threshold (MSST) midpoint.

Mr. Wolford agreed that qualitative language would be appropriate, but prescriptive language would not allow consideration of year-specific circumstances.

Dr. Dygert moved (Motion 6) to amend the PPA for *de minimis* fishing provisions to indicate an intention to develop qualitative guidance on how fisheries would be reduced as run size declines. Ms. Vojkovich seconded the motion.

Motion 6 carried unanimously.

Dr. Dygert recommended final action on Amendment 16 be no later than June 2011 to ensure implementation by the 2012 preseason process. Ms. Vojkovich recommended the Council delay final action on Amendment 16 until June 2011. The Council concurred.

### **F.3 Progress Report on Sacramento River Fall Chinook Overfishing Assessment**

#### **F.3.a Agenda Item Overview (11/05/10; 12:53 p.m.)**

Mr. Tracy presented the agenda item overview.

### **F.3.b Reports and Comments of Advisory Bodies and Management Entities**

Dr. Robert Kope presented Agenda Item F.3.b, Supplemental STT Report.

Dr. McIsaac asked if the STT intended to evaluate stock status with regard to all Amendment 16 alternatives or just the PPA. Dr. Kope replied the STT would use the PPA, but recognizes that a rebuilding plan is not required until after Amendment 16 was scheduled for adoption, and therefore the final criteria would be used at that point.

Dr. McIsaac asked if use of alternative criteria from Amendment 16, which will not be approved, would affect the Council's responsibilities at the March 2011 meeting. Ms. Cooney replied that considering alternative criteria in the STT assessment would be appropriate at the March meeting.

Mr. Butch Smith presented Agenda Item F.3.b, Supplemental SAS Report.

### **F.3.c Public Comment**

None.

### **F.3.d Council Discussion and Guidance on Progress Report on Sacramento River Fall Chinook Overfishing Assessment**

Mr. Wolford recommended the STT consider the statements from the Salmon Advisory Subpanel (SAS) and HC in their final assessment.

## **F.4 Mitchell Act Hatchery Draft Environmental Impact Statement (DEIS)**

### **F.4.a Agenda Item Overview (11/05/10; 1:30 p.m.)**

Dr. John Coon provided the agenda item overview.

### **F.4.b Reports and Comments of Advisory Bodies and Management Entities**

Dr. Coon summarized the Mitchell Act Committee Report (Agenda Item F.4.b, Supplemental MAC Report). Mr. Anderson led the Council through the draft proposed letter attached to that report, in particular, the summary of elements in the bulleted list on pages 4 and 5.

Mr. Butch Smith and Ms. Irene Martin provided Agenda Item F.4.b, Supplemental SAS Report.

The Council Chairman referenced the SSC and STT statements that were provided in the briefing book as guidance to the Mitchell Act Committee (MAC).

Mr. Bob Turner, NMFS, spoke to the need and purpose of the proposed actions in the DEIS and how the funding issue has affected the process. He also emphasized the need to recognize the adverse effects of hatchery production on wild fish.

### **F.4.c Public Comment**

Mr. Butch Smith, Ilwaco Charterboat Association, Ilwaco, WA

#### **F.4.d Council Action: Finalize Comments on the DEIS**

Mr. Steve Williams moved and Mr. Ortmann seconded Motion 7 to adopt and transmit the letter to National Marine Fisheries Service regarding the Mitchell Act DEIS as contained in Agenda Item F.4.b, Supplemental MAC Report. The motion includes submittal of comments from Council advisory bodies from both the September and November Council meetings.

Mr. Tim Roth informed the Council that the U.S. Fish and Wildlife Service (USFWS) will be providing comments as part of the Department of the Interior submission. Relative to today's discussions, USFWS believes the DEIS has a number of shortcomings and it is not clear as to what the DEIS means to future hatchery programs. Among other things, the USFWS believes a more focused discussion of the Mitchell Act (MA) is needed to better inform the first purpose of the DEIS. There needs to be a comparison of operational costs, production levels, and socioeconomic benefits of the MA program relative to other programs in the basin.

Mr. Steve Williams stated that the letter does an excellent job of addressing the issues that have come through a number of different entities. This document has brought a lot of people together (industry, management entities, public). It represents the importance of the MA and what it means to the region.

Mr. Anderson said we have the report from the Hatchery Science Review Group and others that demonstrate that hatchery fish can cause harm, can impede recovery to listed populations. We have been complaining and continue to try to get increases in funding for our hatcheries so they can get in compliance so they don't cause adverse impacts or impede recovery; that is what this is really all about.

Mr. David Sones was in support of the letter and noted the tribes will also be submitting their own comments. Mr. Gordy Williams agreed with the earlier comments supporting the letter and noted Alaska Department of Fish and Game (ADFG) will also be transmitting their own comments.

Motion 7 carried. Mr. Bob Turner (NMFS) abstained.

#### **F.5 2010 Salmon Methodology Review**

##### **F.5.a Agenda Item Overview (11/05/10; 3:01 p.m.)**

Mr. Tracy presented the agenda item overview.

##### **F.5.b Reports and Comments of Advisory Bodies and Management Entities**

Dr. Peter Lawson presented Agenda Item F.5.b, Supplemental SSC Report. Mr. Larrie LaVoy presented Agenda Item F.5.b, Supplemental MEW Report. Dr. Peter Dygert presented Agenda Item F.5.b, Supplemental TWC Report. Dr. Robert Kope presented Agenda Item F.5.b, Supplemental STT Report. Mr. Kent Martin presented Agenda Item F.5.b, Supplemental SAS Report.

### **F.5.c Public Comment**

None.

### **F.5.d Council Action: Adopt Final Methodology Changes for 2011**

Mr. Steve Williams moved (Motion 8) to approve the Oregon coastal natural coho abundance predictor forecast model as recommended by the SSC, STT, and the Model Evaluation Workgroup (MEW). Mr. Rod Moore seconded the motion.

Motion 8 carried unanimously.

Mr. Phil Anderson moved (Motion 9) to adopt the Chinook Fishery Regulation Assessment Model (FRAM) with additional coded-wire-tag groups for Columbia River summer Chinook as described in Agenda Item F.5.a, Attachment 4 for use in 2011 management, consistent with recommendations from the SSC and MEW. Dr. Dygert seconded the motion.

Motion 9 carried unanimously.

Dr. Dygert recommended continued investigation of the FRAM bias issues related to mark-selective fisheries. The Council concurred.

Mr. Anderson recommended adherence to the 30-10 guidance for evaluating 2011 mark-selective fishery alternatives, but noted that it was guidance, not a formally adopted rule. The Council concurred.

Dr. McIsaac recommended the Council provide policy guidance on alternative tule abundance-based approaches at the next scheduled report of the Tule Chinook Workgroup (TCW) in April 2011. Dr. Dygert replied it would also be appropriate to have a progress report in the March briefing materials, as NMFS needed to assess progress in the task list identified in the 2010 NMFS Guidance letter in order to provide appropriate guidance for 2011 fisheries.

## **G. Pacific Halibut Management**

### **G.1 2011 Pacific Halibut Regulations**

#### **G.1.a Agenda Item Overview (11/06/10; 8:02 a.m.)**

Mr. Tracy presented the agenda item overview.

#### **G.1.b Reports and Comments of Advisory Bodies and Management Entities**

Mr. Lockhart presented Agenda Item G.1.b, Supplemental NMFS Report. Mr. Steve Williams presented Agenda Item G.1.b, ODFW Report. Mr. John Holloway presented Agenda Item G.1.b, Supplemental GAP Report.

#### **G.1.c Public Comment**

None.

**G.1.d Council Action: Adopt Final Proposed Changes to the 2011 Pacific Halibut Catch Sharing Plan and Annual Fishery Regulations**

Mr. Steve Williams moved (Motion 10) to adopt the following proposed changes to the Pacific Halibut Catch Sharing Plan for the 2011 fishery shown in Agenda Item G.1.b, ODFW Report: Second Season Option B and Third Season Option C. Mr. Moore seconded the motion.

Motion 10 carried unanimously.

Mr. Lockhart moved (Motion 11) to adopt the proposed changes to the Pacific Halibut Catch Sharing Plan for the 2011 fishery and the codified groundfish regulations shown in Agenda Item G.1.b, Supplemental NMFS Report 2. Ms. Culver seconded the motion.

Motion 11 carried unanimously.

**H. Groundfish Management**

**H.1 Initial Consideration of Revisions to the Groundfish Biennial Management Process**

**H.1.a Agenda Item Overview (11/06/10; 8:30 a.m.)**

Ms. Kelly Ames provided the agenda item overview.

**H.1.b Reports and Comments of Advisory Bodies and Management Entities**

Mr. Martin Dorn presented Agenda Item H.1.b, Supplemental SSC Report. Mr. Rob Jones, Groundfish Management Team (GMT), gave a verbal report. He said the GMT supports improvement to the biennial process, including data feeds and the parsing out of workload. Further, the GMT supports the formation of a task force to scope improvements. Mr. Shems Judd provided Agenda Item H.1.b, Supplemental Groundfish Advisory Subpanel (GAP) Report.

**H.1.c Public Comment**

None.

**H.1.d Council Action: Review White Paper Recommendations and Direct Further Efforts**

Mr. Frank Lockhart said Council staff did a good job outlining the various concerns in the white paper (Agenda Item H.1.a, Supplemental Attachment 2). He supports actions that improve the biennial process both on the Council floor and behind the scenes. Every Council decision has workload impacts that translate to NMFS, Council staff, and the GMT. Communication and circulation of early draft documents has varied between cycles, largely as a result of competing workload. Mr. Lockhart believes that balancing workload is necessary to ensuring good communication which will ultimately result in a successful process.

Mr. Moore agrees with Mr. Lockhart about looking at both sides of the process. In his experience as both a Council and GAP member, he sees the need for discipline. In the white paper, some of the scheduling suggestions have been around for a long time but not implemented. Mr. Moore is supportive of a taskforce assigned to scope solutions; however, he also acknowledges that the

Council must take responsibility for what is happening on the Council floor with regard to workload and timing of decisions. The Council must make decisions in a timely manner so the GMT has time to complete their work.

Ms. Culver said the magnitude of the problem is unclear and she was unsure if the problems were related to the process or competing priorities and staff resources. She hopes that the discussions will include an exploration of the processes in other Councils. For example, the Regional Administrator in the North Pacific has discretion to adjust fisheries if necessary. She is interested to know what other tools are available and whether a simple plan amendment could accommodate those tools.

Ms. Marija Vojkovich said her thoughts are similar to Ms. Culver's comments. She also noted that as Council members we must control ourselves and recognize that not everything can be the highest priority. We need to be clear about the risk to the resource when thinking about the various deadlines. For example, in groundfish we rushed to implement the ACL amendment, yet in salmon there is a different timeline.

Ms. Eileen Cooney said the discussion reminds her of the Amendment 17 committee discussions and the white paper frames our experiences since that time. She said part of the problem is related to workload and the timing of decision making. She recommends that the documents prepared by the Amendment 17 committee be reviewed in order to better understand what needs to be adjusted. With regard to Ms. Culver's comments, Ms. Cooney noted that the West Coast fisheries are much more integrated than the North Pacific fisheries.

Ms. Gway Kirchner said that the 2011-2012 process was the first cycle for several GMT members and there was limited guidance. This was in contrast to the 2007-2008 process, when there was good communication from the Northwest Region and General Counsel.

Dr. McIsaac noted systematic issues like producing an Environmental Impact Statement (EIS) every two years versus every five years as is done in the North Pacific and Gulf. Further, the growing National Environmental Policy Act requirements, analysis, and agency review time cannot be accommodated in our existing process. In the past, we completed the analysis and review in two months. Under Amendment 17, we built a process that accommodated a six month period, which seemed like an enormous amount of time. It is now apparent that six months is not long enough for all the steps. The committee might also explore FMP amendments that make the process simpler while still meeting the various requirements. He thinks the committee would be instrumental in developing a schedule and solutions for the long term.

Ms. Cooney said before the committee meets, NMFS and Council staff should talk about process improvements as well as review the Amendment 17 history.

Ms. Kirchner said we should also review the tasks assigned to the various analysts. In her opinion, the GMT was asked to produce materials that should have come from the SSC or economists.

Chairman Cedergreen referenced the white paper recommendation to form a task force. Dr. McIsaac said if there is Council concurrence the task force could be created and appointments made under Agenda Item K.3.

Ms. Vojkovich said she is hesitant to form a task force, given existing workloads and the potential for increased workload as a result of the NMFS disapproval of Amendment 16-5. If the committee is formed, we should explore efficiencies like webinars and conference calls.

Mr. Lockhart said there is an intermediate solution that would include NMFS and Council staff discussions for solutions, given the existing process. Given Ms. Vojkovich's comments, he is not sure where to go. However, he feels that the first step should be discussions between Council staff and NMFS.

Ms. Culver moved and Mr. Moore seconded Motion 12 that the Council consider a task force similar to the recommended composition described on page 13 of the white paper (Agenda Item H.1.a, Supplemental Attachment 2). The timing of meetings and the product delivery would be determined at a later date or through discussions under Agenda Item K.4 at this meeting.

Ms. Culver said this was an important issue but hopes it will not be an arduous process. She supports a smaller group dedicated to scoping out ideas for Council consideration. Given the composition of the group, as Ms. Vojkovich noted, the timing and expectations should be discussed after the next agenda item. She recommends the expectations be discussed under Agenda Item K.4.

Ms. Vojkovich said based on the motion, Mr. Lockhart's suggestion for the next steps would be dropped and a task force formed. Ms. Culver said based on her motion, the task force would be formed but it would not preclude discussions between NMFS and Council staff. We can identify the specifics on Tuesday, under Agenda Item K.3. Mr. Lockhart said he is comfortable with that approach.

Motion 12 carried unanimously.

## **H.2 National Marine Fisheries Service Report on Groundfish**

### **H.2.a Regulatory Activities, Including Update on Biennial Specifications and Management Measures, Amendment 16-5, and Amendment 23 (11/06/10; 9:53 a.m.)**

Mr. Frank Lockhart spoke about the Pacific whiting treaty which is still a Congressional bill. The agency is operating under the assumption that the treaty will not be in place for 2011.

Mr. Lockhart spoke about the progress of the Pacific whiting fishery in 2010. The shoreside sector has harvested 83 percent of their quota and the fishery is slowing down. He has been informed that none of the Oregon plants intend to process whiting for the rest of the year, but Westport will process. Mr. Lockhart said he believes the mothership sector has completed their operations for the year. The catcher-processor sector is still fishing. NMFS has taken two reapportionment actions to move whiting from the treaty fishery to the non-treaty, distributed to

all three sectors. The agency believes they have the authority to reapportion but there is still a strong difference of opinion from the two tribes.

Mr. Lockhart said the goal was to implement the catch share program and the harvest specifications on January 1, 2011. However, the agency is proposing a modified schedule (Agenda Item H.2.a, Supplemental NMFS PowerPoint). Mr. Lockhart noted the April court decision relative to the Natural Resources Defense Council (NRDC) case. The court confirmed many of the approaches and suite of management measures to support the overfished species rebuilding plans. However, the court had concern for three species—darkblotched, cowcod, and yelloweye rockfish. The court overrode the Council's harvest levels and inserted their own. The court specified a yelloweye optimum yield (OY) of 14 mt. We are now operating under the court order. In June, the Council took action to reduce yelloweye impacts to stay within the 14 mt OY by eliminating research plans and exempted fishing permits (EFPs). The Council was also took final action for the 2011-2012 harvest specifications. NMFS notified the Council because the analysis and actions needed to be consistent with the court order. Mr. Lockhart said he would focus on yelloweye rockfish because it is a good example. Final Council action was an ACL of 20 mt with an annual catch target of 17 mt for yelloweye rockfish. Council and NMFS staff began working on the DEIS and in order to stay on schedule, the DEIS was submitted for public comment in August. The agency received several comments on the DEIS. Mr. Lockhart said the agency determined there is not an adequate DEIS to support the decision-making process. The agency cannot take action until there is a sufficient final EIS (FEIS); therefore the specifications will be delayed.

Mr. Lockhart reviewed the presentation and proposed schedule (Agenda Item H.2.a, Supplemental NMFS PowerPoint). NMFS will continue to work on the FEIS, with help from the GMT, Council staff, and state staff, and propose to complete it in March. The court-ordered deadline to implement compliant harvest specifications is April 29, 2011. The regulatory action is complicated but will be accomplished in part through an emergency rule. The emergency rule will address any harvest specifications that are disapproved. The proposed and final rule will include the approved harvest specifications and management measures for both 2011 and 2012.

Mr. Lockhart noted that the June Council action included Amendment 16-5, which covers the revisions to the overfished species rebuilding plans and flatfish proxies. The preliminary NMFS review of the DEIS indicates there is insufficient analysis to support the rebuilding plans; however, a final decision has not been made and cannot be made until the public comment period on the Amendment has closed (early December). Mr. Lockhart said based on the preliminary review, the agency believes it may disapprove the entire Amendment 16-5 package.

Ms. Eileen Cooney outlined the differences between a regulatory amendment and an FMP amendment. She noted that FMP amendments have statutory time frames; once the FMP amendment is submitted to the agency, there is a limited time for review and decision-making (90-95 days). There must be an FEIS available to make a decision on the amendment. Since the FEIS is not available, Amendment 16-5 will likely be disapproved.

Mr. Lockhart said if the Amendment 16-5 disapproval occurs, the amendment will be returned to the Council for further consideration for 2012, likely in the March, April, June timeframe.

Mr. Lockhart said the 2010 regulations will be in place unless modified by an emergency rule or the final rule, which is anticipated in April. The agency has identified three conservation concerns with maintaining the 2010 harvest specifications in 2011 – petrale sole, darkblotched, and sablefish where the 2011 ACL is lower than in 2010. For the first two species, we don't believe there is going to be a problem since we do not anticipate a ramped up trawl fishery early in the year. The weather at the start of the year is not ideal for fishing; further, several trawl participants have expressed interest in the crab fishery at the start of the year. Mr. Lockhart requests input on this assumption. For sablefish, Mr. Lockhart noted the problems related to inseason management which will be addressed at this meeting.

Mr. Lockhart said that the Amendment 20 implementation regulations were tied to the 2011-12 harvest specifications. Since there are issues with the 2011-12 specifications, the agency believes it needs an emergency rule to issue the QPs based on the lower of either the 2010 or anticipated 2011 harvest specifications that are the lowest. QP accounts can be topped off mid-year, should the harvest specifications increase when the final specifications rule is issued.

Relative to the sablefish harvest specifications, Mr. Lockhart said the limited entry fixed gear fishery begins in April. Therefore, we must use an emergency rule to implement the lower sablefish harvest specifications and associated tiers and QPs for the trawl fishery.

The Council continued to ask Mr. Lockhart to clarify details of the disapproval and timeline for regulatory matters.

Dr. Don McIsaac spoke about workload and the three-meeting planning process that will occur under Agenda Item K.4.

Mr. Lockhart said the agency will consider extending the comment period on the proposed rule to implement the 2011-12 harvest specifications and management measures for another 30 days. This would provide time for Council comment.

#### **H.2.b Fisheries Science Center Activities**

Dr. John Ferguson provided the Northwest Fisheries Science Center report (Agenda Item H.2.b, Supplemental NWFSC Report) and noted the availability of two other reports in the supplemental materials (Agenda Item H.2.b, Supplemental NMFS Mortality Report and Agenda Item H.2.b, Supplemental NMFS Pacific Halibut Report).

#### **H.2.c Reports and Comments of Advisory Bodies and Management Entities**

None.

#### **H.2.d Public Comment**

None.

## **H.2.e Council Action on NMFS Report on Groundfish: As Appropriate (11:21 a.m.)**

Ms. Marija Vojkovich outlined the process in California for adopting regulations and making changes, noting that the process Mr. Lockhart described will further complicate matters. Ms. Michele Culver said there were similar concerns in Washington. Both Council members were concerned about public confusion, disruption, and missed opportunities.

Ms. Culver and Mr. Lockhart discussed the associated staff workload involved with finalizing the EIS.

[Break from 11:45 a.m. until 1 p.m.]

Ms. Gway Kirchner spoke to the regulatory complexities in Oregon. She also agreed with Ms. Vojkovich and Ms. Culver with regard to public confusion.

Mr. Lockhart said NMFS could assist in public outreach regarding the complex regulatory structure in 2011.

Mr. Wolford said there appears to be a new process occurring, one in which NMFS bypasses the Council without public participation. He noted that the process was intended to include public participation. Mr. Wolford said it seems as if the partnership between the Council and NMFS is eroding.

Mr. Lockhart noted that the comment period on the proposed rule will be extended to facilitate public input. As far as the Council and NMFS partnership, he will endeavor to improve the relationship.

Ms. Culver recommended the Council schedule an agenda item in March to solicit more input on these matters. Mr. Lockhart said NMFS will consider input from the Council even if it is after the comment period.

Dr. McIsaac requested that a draft of the emergency rule for implementing the 2011 harvest specifications could be provided at the March Council meeting. Mr. Lockhart said he is most comfortable sharing the FEIS, which is the document that will support the agency action.

Mr. Wolford and Ms. Dorothy Lowman asked Mr. Lockhart to clarify the type of information that would be useful in the public comment period. Mr. Lockhart said the disapproval letter, which is anticipated in December, will better explain the areas that need further analysis.

Ms. Cooney said there are concerns regarding the rebuilding plans that will be outlined in the disapproval letter.

The Council continued discussions on the FEIS process and regulatory timelines.

### **H.3 Consideration of Inseason Adjustments - Part I**

#### **H.3.a Agenda Item Overview (11/06/10; 1:47 p.m.)**

Ms. Ames provided the agenda item overview.

#### **H.3.b Reports and Comments of Advisory Bodies and Management Entities**

Mr. Robert Jones provided Agenda Item H.3.b, Supplemental GMT Report and GMT Report 2. Mr. Jeff Samuels provided Agenda Item H.3.b, Supplemental EC Report. Mr. Tommy Ancona provided Agenda Item H.3.b, Supplemental GAP Report.

#### **H.3.c Public Comment**

Mr. Dan Waldeck, Pacific Whiting Conservation Cooperative, Portland, OR  
Mr. Brad Pettinger, Director of the Oregon Trawl Commission, Brookings, OR  
Mr. Robert Ingles, Golden Gate Fishermen's Association, Hayward, CA  
Mr. Daniel Platt, GAP Open Access Representative, Fort Bragg, CA  
Mr. Bill James, nearshore fisherman and Port San Luis Commercial Fishermen's Association, Salem, OR  
Mr. Giovanni and Tony D'Amato, limited entry fixed gear, south of Point Conception, CA  
Mr. Gerry Richter, limited entry fixed gear, Santa Barbara, CA  
Mssrs. Jack and Antonio Murachi, limited entry fixed gear, south of Point Conception, CA

#### **H.3.d Council Action: Adopt Preliminary or Final Recommendations for Adjustments to 2010 and 2011 Groundfish Fisheries (Part II on Monday if necessary)**

Vice Chairwoman Dorothy Lowman suggested the Council consider the 2010 fishery adjustments first.

Mr. Rod Moore asked Mr. Frank Lockhart to speak further about the darkblotched rockfish issue in the trawl fishery. According to the GMT analysis and projection model, no matter what action is taken in November, including closing all trawl fisheries, the model projects the OY will be exceeded. If we shut down the fishery we would put at risk the whiting catcher-processor fishery, the shoreside whiting fishery, and the non-whiting trawl fishery, causing a great deal of economic harm to communities. Mr. Moore noted that a projection above the OY is not overfishing. He asked Mr. Lockhart for guidance.

Mr. Lockhart said in general the Council has done a good job managing the fisheries to the OY, which is the goal. There are overfished stocks where the requirement is to rebuild in as short a time possible, taking into account communities and other relevant factors. In this situation, it appears that it will be highly unlikely that total impacts will be below the OY. He believes the Council can consider the impacts of their actions. Keeping catch at or as close as possible to the OY remains the goal, however, he does not believe that the Council has to shut every fishery down that catches darkblotched rockfish.

Ms. Marija Vojkovich asked about the recent court order and the management target. Mr. Lockhart said the court order basically resulted in increasing the darkblotched rockfish OY. NMFS provided guidance that we should model to a lower level, consistent with the 2010 OY,

prior to the court's decision. That was the NMFS guidance. The ideal circumstance is to maintain impacts at the lower OY, but given the GMT analysis, it is not possible. Mr. Lockhart says this is a policy decision on the part of the Council. The goal is to stay as close as possible to the OY. If a fishery closure and the impacts to communities and fishermen are unacceptable, the Council can take that into consideration.

Ms. Vojkovich said since June, when the darkblotched discussion occurred, we attempted to adjust trip limits, Rockfish Conservation Area (RCA) boundaries, and other items to accommodate the new, lower target. The Council has tried to modify the fishery inseason to manage to the lower number, but it has not worked.

Mr. Moore moved Motion 13 to adopt for the limited entry, mid-water trawl fishery the following darkblotched rockfish bycatch caps: 5.5 mt for the mothership sector, 5.5 mt for the catcher-processors sector, and 5.0 mt for the shoreside sector. For the limited entry non-whiting trawl fishery, move the seaward RCA boundary to 250 fm effective as soon as possible, and close the slope rockfish fishery as of December 1, 2010. Ms. Gway Kirchner seconded Motion 13.

Mr. Moore said the Council is in an awkward situation, relying on a model that is uncertain, but it's all that we have for projecting impacts. The analysis says that no matter what actions we take, we will still exceed the OY. The Council must balance the tremendous value of the trawl fishery against the potential, given the model uncertainty, impact to darkblotched. Mr. Moore said his motion follows the recommendations of the GMT and GAP for the non-whiting trawl fishery. Moving the RCA boundary to 250 fm will stop the impacts to darkblotched. Relative to the whiting fishery, the mothership sector has finished and they have projected darkblotched rockfish impacts of 5.5 mt. The catcher-processor fishery still has about 9,000 mt left of whiting and so far have taken slightly over 2 mt of darkblotched rockfish. Reducing the catcher-processor darkblotched rockfish cap to 5.5 mt gives them a sufficient cushion to take their whiting without going over and allows the U.S. citizens to benefit from that tremendously valuable whiting fishery. The shoreside fishery, based on the latest reports from SeaState, has 10,400 mt of whiting as of two days ago and has taken 4.19 mt of darkblotched rockfish to date. My motion would drop the shoreside cap to 5.0 mt. Mr. Moore emphasized that this is a unique situation and that under trawl rationalization, allocations would not be changed. He believes the trawl fishery will come in under the projected impacts.

Ms. Ames asked Mr. Moore to clarify relative to the non-whiting trawl part of the motion. She asked if the motion adopts Alternative 2 on page 13 of Agenda Item H.3.b, Supplemental GMT Report, which references the 250 fm RCA line and slope rockfish trip limits north of 40°10' N. latitude. Mr. Moore said yes.

Mr. Dale Myer said he reluctantly supports the motion, but we are in a box. The catcher-processors made a conscious decision to delay their fisheries until the fall because historically the bycatch rates are less. Our action sends a bad message that allocations can change at the end of the year. Mr. Myer does, however, acknowledge that Mr. Moore's motion is the best that can be done.

Ms. Vojkovich asked Mr. Moore why the motion did not request voluntary reduction of the trip limits in November as recommended by the GAP. Mr. Moore said he hopes the fleet will voluntarily reduce their catch. Mr. Moore noted that he is a processor representative and he cannot recommend collective actions by processors. He said, as an individual, he hopes that the industry will do their part to conserve the resource.

Mr. Lockhart said the model is very uncertain right now. The Council took action at the June and September meetings in response to the court order and the court and NMFS guidance, however, this result was not anticipated. He said due to the modeling concerns, it looks like we are in a difficult situation, faced with a group of fairly difficult choices. The motion strikes a balance and good effort. However, because of the court order he is going to abstain to maintain the Secretary of Commerce's flexibility in reviewing the Council's action.

Motion 13 carried. Mr. Lockhart abstained.

Mr. David Sones moved Motion 14 that for the tribal fishery, as stated in the GMT report, adopt the Makah request to increase impacts to yellowtail and widow while testing jig machines to reduce bycatch in the rockfish-directed midwater trawl. For period 6, increase the yellowtail rockfish limits to no more than 169 mt, with widow rockfish being no more than 10 percent of the total weight of yellowtail rockfish for that period. Mr. Cedergreen seconded the motion.

Mr. Sones said the request is outlined in the GMT Report.

Motion 14 carried unanimously.

Ms. Vojkovich moved Motion 15 to adopt Option 2 for sablefish south of 36° N. latitude on page 13 of the supplemental GMT report. This option closes the open access fishery on December 1, 2010 and reduces the limited entry trip limits to 1,800 lb/week. Mr. Wolford seconded the motion.

Ms. Vojkovich said the Council has been listening to the issues surrounding open access in the south; there has been a very large increase in activity in the south and we are unable to track the fishery. Most of the people have gone somewhere else for the next month. Sablefish can be released alive with some limited mortality. The limited entry fishery is the preferred fishery, and this was also supported by public comment.

Ms. Culver moved to amend the motion (Amendment 1 to Motion 15) to increase the limited entry and open access daily trip limits north of 36° N. latitude. For limited entry, increase the weekly trip limit from 1,750 lb/week to 2,000 lb/week, and for open access increase period 6 to 400 lbs per day, or one landing per week of 1,500 lbs, with a bi-monthly cumulative limit of 4,500 lbs. Ms. Gway Kirchner seconded the amendment.

Ms. Culver said this motion is supported by the GMT recommendation. Further, the GMT notes that there is no impact on the model output by increasing the limited entry fixed gear weekly limit. Increasing the trip limit increases the economic value of the fishery and provides a

potential safety benefit to the fishermen. Relative to open access, trip limit adjustments are recommended by the GMT, since the fishery is tracking behind relative to the allocation.

Amendment 1 to Motion 15 carried. Mr. Lockhart abstained.

Motion 15 carried. Mr. Lockhart abstained.

Vice Chair Lowman asked for Council guidance on the 2011 fisheries.

Ms. Vojkovich referenced item “c” from the GMT recommendations in Supplemental GMT Report 2. She asked the GMT to model sablefish trip limits south of 36° N. latitude with 55 percent to limited entry and 45 percent to open access. Ms. Vojkovich said she has reviewed historical data since 2009 and the percentages are similar, though in some years open access has harvested more. Her guidance demonstrates a preference for limited entry. The Council concurred.

For 2011 recreational fisheries, Ms. Vojkovich would like to offer some perspective. She has some discomfort with adopting an option that was different than that adopted in June. She also acknowledges that the Council actively manages fisheries several times a year to ensure that the optimum yield is not exceeded. For California, her preference is to leave the adopted season structure for 2011 and manage the allocations of yelloweye inseason. She is concerned about confusion for the public, she does not want to forecast changes in the fishery that may not happen.

Ms. Culver shares a similar perspective and they cannot predict the April decision by NMFS. She does not want to cause unnecessary panic now, therefore she is inclined to follow Ms. Vojkovich’s recommendation and make adjustments in season. Her intent is to start the 2011 fisheries with the regulations recommended by the Council for the biennial cycle and take action in April or inseason as necessary. Relative to research, the GMT referenced the proposed expansion of the International Pacific Halibut Commission (IPHC) survey and the potential WDFW survey. Ms. Culver does not want to preclude the research but would like to communicate these issues to IPHC. Modifications could be discussed, if necessary, after the April decision.

Ms. Gway Kirchner agreed with Ms. Vojkovich and Ms. Culver. The best plan is to minimize disruption and confusion, which would occur if the Council takes action now. It’s best to evaluate the situation in April. The GMT statement alluded to the Oregon Department of Fish and Wildlife (ODFW) EFP which has yelloweye impacts. Under the next agenda item, the agency will announce its decision to remove that EFP from consideration.

Ms. Ames said the 2011 management measures are clear, but asked the states to clarify the intended recreational impacts for 2011.

Ms. Kirchner said to use the final June 2010 GMT scorecard with the following adjustments: 1) set EFPs to 0.1 mt (based on the cancellation of the ODFW EFP), and 2) use 1.3 mt for research, with 1.1 mt for IPHC. This is double the historical IPHC impacts.

Ms. Culver did not disagree with Ms. Kirchner, but also requested that the GMT return with the proposed scorecard and the September scorecard under the next inseason agenda item.

Ms. Ames asked Ms. Kirchner if the guidance was to use the absolute values or the proportions. Ms. Kirchner said the absolute values contained in the scorecard.

Dr. Don McIsaac asked Ms. Ames if the GMT could provide impacts through May 1, since the management measure guidance was to adjust practices after the NMFS action. Ms. Ames said the GMT could provide insight on the amount of effort and catch that would accrue at the start of the year; however, the models do not contain a seasonal component.

Ms. Culver said we should highlight the proposed management measures for 2011 since, according to the regulations, the measures would be the same as the regulations on January 1, 2010.

Ms. Vojkovich provided the list of 2011 management measures for the California recreational fishery: set the Cowcod Conservation Area (CCA) boundary at 30 fathoms (fm), modify the list of species that can be retained in the CCAs, change the sculpin depth extension to 60 fm in the southern area, change the cabezon bag limit, change the lingcod size limit statewide, align the gear restrictions for greenling and cabezon to the lingcod seasons, and modify the lingcod season changes.

Ms. Kirchner said for Oregon recreational, include a cabezon sub-bag limit.

Ms. Culver said for Washington recreational, add the changes to the aggregate bottomfish bag limits and cabezon sub-limit, no retention of bottomfish except rockfish seaward of 30 fms in Marine Area 2, prohibition of bottomfish retention seaward of 20 fms starting in June for Marine Areas 3 and 4.

Ms. Vojkovich said to also add the lingcod file size limit for California recreational. She also believes the items for California recreational are routine inseason adjustments.

Mr. Moore asked Mr. Lockhart to clarify the discussion during Agenda Item H.2, NMFS Report where Mr. Lockhart noted the need to modify sablefish OY and the tiers. Mr. Lockhart said NMFS believes the OY has to be addressed now, but that change would occur under the Emergency Rule. The Council could recommend to NMFS that the change be made.

Mr. Moore asked the GMT to work with the NWR to develop a recommendation for the sablefish tier amounts for Council consideration.

Mr. Lockhart said NWR will review the list and ensure that the recommendations are consistent with routine inseason authority.

## **H.4 Final Review of Exempted Fishing Permits (EFPs) for 2011**

### **H.4.a Agenda Item Overview (11/06/10; 5:14 p.m.)**

Ms. Ames provided the agenda item overview.

### **H.4.b Reports and Comments of Advisory Bodies and Management Entities**

Ms. Gway Kirchner announced that the ODFW decided to remove their EFP application (Agenda Item H.4.a, Attachment 1). The application is being removed as a result of the court order, which lowered the yelloweye rockfish OY and possible funding complications. The agency has decided to put more effort into the yellowtail rockfish EFP, which could provide fishing opportunity while staying within the new, lower OY.

Mr. Robert Jones presented Agenda Item H.4.b, Supplemental GMT Report. Mr. Tommy Ancona presented Agenda Item H.4.b, Supplemental GAP Report.

### **H.4.c Public Comment**

None.

### **H.4.d Council Action: Adopt Final Recommendations for EFPs**

Mr. Rod Moore asked Mr. Frank Lockhart about the GAP and GMT recommendation to increase the Recreational Fishing Alliance (RFA) yellowtail rockfish EFP cap. Mr. Moore said raising the cap has no biological impact, but there may be allocation or process issues. Mr. Lockhart said if the Council were to recommend increasing the cap, it may be possible to include it in the emergency rule that implements the 2011 fishery QPs. Mr. Moore asked if the Council adopted the GMT recommendation for a 10 mt cap and submitted public comment on the proposed rule to implement the harvest specifications, would that be a sufficient process. Yes, said Mr. Lockhart.

Mr. Moore moved and Ms. Kirchner seconded Motion 16 to direct the Executive Director of the Council to provide a public comment on the proposed rule (75FR67810) for implementing the 2011-2012 harvest specifications and management measures to incorporate the GMT recommendation to increase the yellowtail rockfish cap and associated adjustments to the allocations (from 2 mt to 10 mt).

Mr. Moore said the Council already approved this EFP. Yellowtail rockfish is underutilized and this is a very minor adjustment that is largely procedural. The EFP will provide us with good data and a way to provide increased fishing opportunities while avoiding the overfished species.

Mr. Lockhart said due to the unique situation with the 2011-12 specifications and potential disapproval of Amendment 16-5, he will be voting no. In another circumstance, he would have simply abstained.

Motion 16 carried. Mr. Lockhart voted no.

Ms. Ames asked if the Council wished to discuss the EFP process and the issues surrounding accounting for impacts. Vice Chair Wolford said there is no discussion on that.

Mr. Moore asked Ms. Ames about the GAP recommendation for scoping two-year EFPs. Dr. McIsaac said the EFP process is outlined in the Council Operating Procedures and any modifications could be accomplished later in the week under Agenda Item K.3.

Ms. Dorothy Lowman recognized the work that went into the Morro Bay EFP progress report and in particular, on electronic monitoring.

[Council adjourned at 5:38 p.m.]

## **H.5 Implementation Update for Amendment 20 (Trawl Rationalization) and Amendment 21 (Intersector Allocation) as well as Scoping of Prioritized Trailing Amendments**

### **H.5.a Agenda Item Overview (11/08/10; 8:15 a.m.)**

Mr. Seger provided the agenda item overview.

Mr. LB Boydston provided Agenda Item H.5.a, Supplemental Attachment 2, Community Fishing Association Hearing Summaries.

### **H.5.b National Marine Fisheries Service Report on Implementation (11/08/10; 8:49 a.m.)**

Mr. Frank Lockhart provided a report on the schedule for catch share program implementation and some of the issues of concern.

### **H.5.c Reports and Comments of Advisory Bodies and Management Entities (11/08/10; 9:47 a.m.)**

Ms. Culver reviewed Agenda Item H.5.c, WDFW Report and Agenda Item H.5.c, Supplemental WDFW Report 2. Mr. Sones highlighted Agenda Item H.5.c, Supplemental Tribal Comment. Mr. Lockhart reviewed Agenda Item H.5.b, Supplemental NMFS Report: Background Documents for Council Cost Recovery Discussion. Mr. Jones presented Agenda Item H.5.c, Supplemental GMT Report. Mr. Tommy Ancona presented Agenda Item H.5.c, Supplemental GAP Report.

### **H.5.d Public Comment (11/08/10; 12:46 p.m.)**

Ms. Meghan Mackey, EcoTrust, Portland, OR  
Mr. Merrick Burden, Environmental Defense, Seattle, WA  
Mr. Joe Sullivan, Environmental Defense, Seattle, WA  
Mr. Craig Urness, Pacific Seafood Group, Clackamas, OR  
Ms. Angela Wratchford, F/V Mandy J, Eureka, CA  
Mr. Steve Arvek, Warrington/Westport, WA  
Mr. Jim Sievers, trawler, Newport, OR  
Mr. Frank Dulcich, Pacific Seafood Group, Clackamas, OR

Mr. Tom Libby, Hallmark Fisheries/Point Adams Packing Company, Astoria, OR  
Mr. David Jincks, MidWater Trawlers Cooperative, Newport, OR  
Mr. Pete Leipzig, Fishermen's Marketing Association, Fort Bragg, CA  
Mr. Don Maruska, Ecosystem Alliance, Morro Bay, CA  
Ms. Heidi Happonen, Ocean Companies, Westport, WA  
Mr. Ralph Brown, commercial fisherman, Brookings, OR  
Mr. Brent Hern, trawler, Newport, OR  
Mr. Paul Kujala, trawler, Warrenton, OR

[Break to 3:50 p.m.]

Mr. Brent Paine, United Catcher Boats, Seattle, WA  
Mr. Craig Urness, United Catcher Boats, Seattle, WA  
Mr. Mark Cooper, trawler, Newport, OR  
Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, OR  
Mr. Shems Judd, Environmental Defense Fund, West Linn, OR  
Mr. Brad Pettinger, Oregon Trawl Commission, Brookings, OR

**H.5.e Council Action on Amendments 20 and 21: [Note: Final Action taken on Tuesday, November 9]**

[11/09/10; 10:08 a.m.]

There was a discussion of whether other topics might be added to the list of trailing actions being considered here, and it was concluded that any additions would have to be made under Agenda Item K.4 (Future Council Meeting Agenda and Workload Planning).

Ms. Culver moved and Mr. Myer seconded Motion 30 to adopt the following:

- 1. Communicate to the International Pacific Halibut Commission that the Council's best estimate of the amount of halibut bycatch for the Area 2A trawl fishery in 2011 that we would recommend be subtracted from the Total Constant Exploitation Yield (TCEY) is 130,000 lbs (legal-sized, net weight).*
- 2. Request the National Marine Fisheries Service revise the trawl bycatch mortality limit (i.e., the amount of trawl halibut bycatch set aside) for 2011 to be 130,000 lbs (legal-sized, net weight) converted to account for both legal-sized and sublegal halibut, expressed in round weight, as soon as possible.*

*The proportion of legal-sized halibut from the Northwest Fisheries Science Center report for 2009 of 0.62 (which is based on weight, not numbers of fish) and the net weight to round weight conversion factor of 0.75 would be used as the basis for this conversion. This results in a trawl bycatch mortality limit of 279,570 lbs (legal and sublegal, round weight). From this, the trawl set-asides for at-sea and the area south of 40 degrees, 10 minutes N. latitude*

*would be subtracted; the remainder would be the amount of trawl individual bycatch quota (IBQ) pounds that would be distributed to limited entry trawl permit holders for 2011.*

3. *Follow up with a trailing amendment to analyze the following alternatives for specifying the amount of halibut bycatch to be deducted from the TCEY and the calculation method for conversion to IBQ QPs to be used beginning in 2012:*
  - a. *For the first four years of the trawl rationalization program, the amount to be subtracted from the TCEY would be 130,000 lbs (legal-sized, net weight), or 15% of the TCEY, whichever is less; and use the calculation described above for IBQ QPs (legal and sublegal, round weight). Beginning with the fifth year of the program, the amount to be subtracted from the TCEY would be 100,000 lbs (legal-sized, net weight), or 15% of the TCEY, whichever is less; and use the calculation described above for IBQ QPs (legal and sublegal, round weight).*
  - b. *The concept of setting a specific amount of halibut to be subtracted from the TCEY (rather than a percentage) up to a maximum, and use the calculation described above for IBQ QPs. Maximum limits to be analyzed would be 100,000 lbs and 130,000 lbs, both expressed in legal-sized, net weight.*
  - c. *In combination with a. or b., provide for adjustment of the trawl halibut bycatch mortality limit through the biennial management process.*

Mr. Moore asked about the formula (paragraph 2) and the amount to be subtracted South of 40° 10' N. latitude. Ms. Culver indicated that this motion would not change the 10 mt previously adopted by the Council. The purpose of this motion is to set a trawl halibut sector quota amount that acknowledges the reduction in the total catch exploitation yield (TCEY) for Area 2A in recent years, and provides an incentive for halibut bycatch reduction and reduction of discard mortality. It also promotes individual accountability for halibut bycatch by providing an individual mortality rate to halibut discards and provides the flexibility to adjust this amount through the biennial management process. As we have heard through public testimony and from the GAP, halibut is expected to potentially be a constraining species for the trawl IFQ program and at the same time we are trying to balance the reductions that our directed halibut fisheries have taken in recent years as a result of a declining Halibut TCEY or total allowable catch (TAC) for Area 2A. Sticking with a maximum amount for 2011 of the 130,000 pounds that had been previously considered by the Council and is consistent with the Council's previous actions and discussions would achieve a 49 percent reduction in the trawl halibut bycatch amount from what has been seen in 2009. Therefore, she believed this is consistent with the intent of the motion that the trawl fishery would take a bycatch reduction for halibut that is similar to what other fisheries have experienced in recent years in terms of reductions in their respective quotas.

In response to Ms. Vjokovich, Ms. Culver indicated the 10 mt is in legal and sublegal round pounds and would be subtracted from the amount that would otherwise be issued as individual bycatch quota (IBQ). She also explained in more detail how Option 2b would work.

Dr. McIsaac asked if the intent of the motion was for an emergency rule. Ms. Culver stated that her intent is that this be done by January 1, 2011 by whatever vehicle was needed to meet that date. Mr. Lockhart said that it was likely this would require an emergency rule and for that reason he would be voting no.

Motion 30 carried. Mr. Lockhart voted no; Mr. David Sones voted no.

Ms. Vojkovich moved and Mr. Brizendine seconded Motion 31 that the Council move forward with the process needed to replace Amendment 6 limited entry open access allocations consistent with the Council's intentions contained in Amendment 21. This motion will address the disallowed portions of Amendment 21 that dealt with allocations, and the intent of the Council was to have Amendment 21 allocations replace Amendment 6. We need to move forward on the process to make sure it is completed so there is no ambiguity.

Motion 31 carried unanimously.

Ms. Vojkovich moved and Mr. Crabbe seconded Motion 32 that whenever NMFS takes up the issue of cost recovery for the Trawl Rationalization Program, a great degree of transparency is employed. That transparency should include relevant information on the Federal and State costs of current management in as much detail as possible (e.g., sectors, observers, rulemaking, enforcement, etc) as well as expected costs and cost savings as this program comes on line. Cost recovery should explore efficiencies, technologies, new approaches, and minimal government involvement wherever appropriate.

Ms. Vojkovich recounted that NMFS has stated they need to work on cost recovery for the trawl rationalization and sablefish tier programs, but that progress has yet to be made on the latter item. She noted that the issues brought up in public comment, such as knowing how much is being spent, how much is anticipated to be spent, how costs might be minimized, and how much privatization may be employed, should be part of the consideration and the information that is shared through the Council process. She wants to make sure those kinds of things get priority in the process or approach that NMFS designs.

In response to a question from Mr. Lockhart about what was intended by the last sentence of the motion, Ms. Vojkovich said she is not looking to proscribe a report, but to ensure that some considerations be laid out and discussed during design of the cost recovery program.

Ms. Culver stated her support for the motion and moved to amend Motion 32 (amendment 1) such that the assessment of the recovery of the costs would be done on a sector-specific basis, and that the costs identified would be sector-specific. Mr. Myer seconded the motion.

Ms. Culver noted the Council's previous discussion of this issue during the Amendment 20 deliberations. Her understanding is that within the Magnuson-Stevens Act, fees can be up to 3 percent. There has been significant public input and discussion about whether or not it is fair to simply assess the same percentage across all sectors, given that the cost to manage those sectors varies greatly. And, certainly the cost to manage those sectors under the trawl rationalization program will vary greatly. The purpose of her amendment is that sectors are responsible for recovering costs specific to the costs associated with managing their particular sector. In the trailing amendment there would be an alternative in which the various sectors would pay back their respective costs.

Mr. Moore asked how generic costs that flow across all sectors might be treated. Ms. Culver wasn't sure there would be generic costs, but noted that would be described within the analysis for each sector. In response to other questions, Ms. Culver said that the sectors being referenced are the three trawl sectors of the fleet and that the shoreside fishery would be treated as one sector (not split into whiting and nonwhiting).

Amendment 1 to Motion 32 carried. Ms. Vojkovich voted no.

In response to questions, Ms. Vojkovich indicated this would be a trailing amendment, but there would be no time frame direction; she is just trying to provide some guidance at this time, not to get into the details of fee structures, etc.

Mr. Lockhart indicated that NMFS would do the cost recovery analysis and that this motion would allow alternatives of no cost recovery, cost recovery for the trawl rationalization program as a whole, and cost recovery for each individual sector. In a discussion between Mr. Moore and Mr. Lockhart, it was indicated that NMFS was looking for a statement from the Council that cost recovery should move forward as a high priority.

Ms. Culver moved Amendment 2 to Motion 32 to keep the cost recovery trailing amendment on a schedule to target implementation in 2012. Mr. Moore seconded the amendment. Amendment 2 to Motion 32 carried unanimously.

Motion 32 carried unanimously as amended.

Ms. Lowman moved Motion 33 to adopt the following:

*I move that with respect to Risk Pools we reaffirm that it is the Council intent that control limits should not constrain the formation of risk pools to help the fishermen deal with overfished species constraints, so long as the pools do not undermine the effectiveness of the accumulation limits.*

*A work group should be established that includes a limited number of industry representatives (for example 2-3), NOAA GC [General Counsel] enforcement and litigation, NMFS Enforcement, and other members with relevant expertise.*

*In assessing whether risk pool arrangements could result in a violation of the control rules, the work group should examine what would be potentially permissible and impermissible restrictions on risk pool members' operations--*

*Included but not limited to the elements to be assessed are:*

- (1) Duration of QP commitment*
- (2) Duration and terms for termination of membership*
- (3) Restrictions on time and area of fishing activity*
- (4) Gear restrictions*
- (5) Delivery terms*

*Council staff will work with the work group to bring back a preliminary list of permissible and impermissible elements of a risk pool agreement and the rationale for assigning an element as permissible or impermissible for Council consideration and direction.*

*The work group will also review the component of the control rule relating to financial institutions exemptions. Specifically the work group should examine definitions for qualifying financial institutions and identify permissible and impermissible lending practices, and provide rationale for Council consideration and direction.*

Mr. Wolford seconded the motion.

Ms. Lowman spoke to ongoing work and the need for guidance to NMFS on risk pools when NMFS reviews specific cases. Ms. Culver asked about the definition of risk pools. Ms. Lowman stated there are a number of different models for risk pools and that this motion deals with guidance on the kind of elements and contractual arrangements that might be within control rules, but not be too proscriptive because there are a variety of risk pool models that can be used. The discussions of the work group may not lead to guidelines, but could provide a greater comfort level about what is likely within the control rule.

Mr. Lockhart expressed concern about setting up an expectation about a specific set of rules that would be followed to stay within control rules. He was wondering if it might be more fruitful to those developing a risk pool to submit an outline of what they are trying to do and talk through these issues in March and April. Then the need for a task force could be reconsidered at that time. Ms. Vojkovich suggested this approach might also be a way to take care of the safe harbor issue for financial entities.

Mr. Myer expressed concern that too much was being rolled into the motion and that this may need quick action to cover the risk pool situation.

Mr. Wolford thought the critical paragraph was that the "Council staff will work with the work group." The product he is looking for is to have information brought back to the Council so we can look at various organizational structures, regardless of what they are called, to look at the

types of attributes they have or might have and then make the Council's intention more clear to NMFS regarding what the Council thinks should or should not trigger a control rule issue. This is why the assessment is looked for, and the rationale.

Mr. Steve Williams indicated that until this point it appeared that risk pools created control rule problems that needed to be addressed, but that now it appeared this might not be the case. Ms. Lowman's motion is trying to come up with a template, and without it he was concerned that in the future an interpretation could change, which would put all these things in limbo.

Ms. Culver suggested NMFS sponsor some specific workshops to provide an opportunity for people to discuss these things with them. Risk pools and co-ops are already forming based on the advice and guidance NMFS has put out. She noted that risk pools for constraining overfished species need to be addressed sooner rather than later. It seems like we would want to set up a process by which there would be review of these agreements so NMFS can make a determination of whether a control problem exists. At the same time, the Council could discuss their response in that situation and whether the response is different for risk pools or co-ops. Would NMFS be willing to have in place a process to review these agreements such that there would then be a determination of what is control and what is not?

Mr. Lockhart said they did not have time to do workshops, but offered to provide notice to everyone about an opportunity to come and talk with them about risk pools. He noted that for the risk pool issue what mattered is not only the initial starting conditions but also the on-the-ground effects. Something that is initially alright might become problematic several years down the line.

Mr. Moore expressed concern about Mr. Lockhart's last statement. Some assurance needs to be provided that what they are doing does not suddenly run afoul of antitrust or control rules. Mr. Lockhart said that the issue is difficult. From what they have heard from everyone that has come to talk to them, on its face, it sounds fine under the current regulations. But these are things that would always have to be readdressed as they receive more information.

In response to a question from Dr. McIsaac, Ms. Lowman indicated that there is no intent in this motion for a trailing amendment. There is not enough knowledge at this time as to whether a trailing amendment is needed.

Ms. Culver moved as a substitute motion (Motion 34) to move ahead with a trailing amendment to address safe harbors for risk pools that is consistent with the description that is in Agenda Item H.5.a, Attachment 1, page 7, specific to the language addressing risk pools. The scope of alternatives that would be analyzed in that amendment would be as described in Attachment 1, and would include alternatives surrounding the definition of risk pools, the required elements of a risk pool plan, whether or not there would be a mandatory review, and a control determination by NMFS. And further, alternatives for a Council response, alternatives relative to whether or not we would have a safe harbor in those situations for which the risk pool was deemed to be resulting in excessive control of QS or QP. It would also include that a formal workgroup with the appropriate staff available from the region, including GC and enforcement staff, would have scheduled meetings to talk with industry members who are interested and who are forming risk

pools relative to what types of the elements of their plan may or not be acceptable relative to control, and that those discussions occur and that feedback can be provided to the Council through the trailing amendment process in our discussions about what the Council response should be. Mr. Myer seconded the motion.

Ms. Culver spoke to the need for this trailing amendment to be on the schedule so we have that tool available to us and can react should the need arise. Additionally, she noted that for overfished species, it may be that the industry will need to have agreements that might be considered excessive control, therefore there is a need for more than just guidance on what is and is not control, but also a procedure for creating a safe harbor.

Motion 34 carried unanimously.

[Council break from 11:45 a.m. to 1 p.m.]

Mr. Crabbe moved and Ms. Vojkovich seconded Motion 35 that the staff analyze the following alternatives for determination and clarification of scenarios that would allow community fishing associations (CFAs) to hold quota shares (QS) in excess of control caps.

- (1) *Alternative 1: Status quo – community-based entities may form as long as they conform with existing accumulation limits*
- (2) *Alternative 2: CFAs may acquire QS in an amount:*
  - a. *1.5 times the accumulation limit*
  - b. *2 times the accumulation limit*
  - c. *no specific cap, rather consider the size of the CFA*

*Examine the pros and cons of specific requirements of a CFA, including but not limited to:*

- *obtaining local governmental approval*
- *meeting organizational and control requirements*
- *adopting a community sustainability plan*
- *obtaining required approval from NMFS*
- *submitting required reports to NMFS and PFMC demonstrating compliance with program goals and community development plan*

*As part of this analysis, direct staff to draw on Chapter 4 of the Final EIS, analyzing the effect of the higher accumulation limits which take into account:*

*The subject community's historical participation in and dependence upon the trawl groundfish fishery, and the potential for a CFA to promote the subject community's sustained participation in the groundfish fishery post-rationalization, i.e.:*

- *the ability to support full-time captain and crew*
- *the ability to support necessary infrastructure, such as processing capacity, port facilities, etc.*
- *the potential to lose or gain QS based on market forces alone*
- *the ability to use community-based quota to attract quota and landings*

*For each alternative, all other requirements for trawl IQ participation remain in effect.*

Mr. Crabbe reviewed the motion and noted that several times the importance of communities has been brought to the Council's attention, specifically in the Morro Bay area; also, the amount of QS available, the amount of infrastructure, and the impacts that would occur if that QS were to leave. This alternative would potentially provide opportunities for communities to anchor QS and maintain infrastructure. In situations where QS and infrastructure leave and oceanfront spaces are taken for other uses, it's hard to get it to come back. That's why we need to look at this now. Doing this down the road won't work when it comes to replacing infrastructure. The other issue that may be addressed is providing for new entrants. It is not clear that these are needed yet, but it is also not clear that they are not needed.

Ms. Culver moved to amend the motion (Amendment 1 to Motion 35) to specifically say the Council would move forward with a trailing amendment process to address CFAs and include the definition of a CFA. Mr. Myer seconded the amendment.

Ms. Culver stated that she thought it was implied in the main motion, but that it should be explicitly stated that we would be moving forward with a trailing action. There was a discussion about reviewing previous work and deliberations done on CFAs at the March 2009 Council meeting and it was agreed that could be a starting point for staff to use in looking at what to consider.

Amendment 1 to Motion 35 carried. Mr. Moore and Mr. Steve Williams voted no. Motion 35 carried as amended. Mr. Moore and Mr. Steve Williams voted no.

Ms. Culver moved and Mr. Myer seconded Motion 36 that the Council:

Move forward with a trailing amendment to address severability of the mothership catcher vessel (MSCV) endorsement and catch history to be effective in 2012, and analyze an alternative that includes the following:

- a. Allow the MSCV endorsement to be severed from the permit together with the catch history (i.e., the endorsement and catch history stay together).
- b. Allow the severed endorsement and catch history to be transferred to any limited entry trawl permit.
- c. The endorsement and catch history would be maintained separately on the permit (i.e., stacked, but not merged or combined with any other endorsement or catch history on the permit).
- d. Subdivision of the catch history would not be allowed.

Ms. Culver spoke to the motion stating that this issue had been part of the Amendment 20 packages and was analyzed as part of that EIS. She noted that there would be 37 permits receiving mothership catch history. About ten to twelve of those will receive relatively small amounts of catch history. Many of those receiving smaller allocations are participants in the shoreside trawl fishery with little interest or ability to participate in the at-sea mothership sector. This would allow them to transfer that history to others in the mothership sector and, by keeping

it as a discrete unit that would be stacked, that would allow for multiple transfers and maintain 37 discrete units that might be available to participate in multiple co-ops (if multiple co-ops form). This also prevents permanent reduction in the size of the fleet and number of co-op members. Mr. Myer spoke to the benefits obtained by the flexibility provided by maintaining the endorsements' separability.

There was a discussion between Mr. Myer, Ms. Culver and Mr. James Mize about the effect of the QS trading moratorium on transferability of the current MSCV endorsed permits and endorsements. That moratorium would not affect the transfer of MSCV endorsements, once separable, unless the Council included it as part of the policy direction.

Motion 36 carried unanimously.

Ms. Vojkovich moved and Mr. Brizendine seconded Motion 37 to have the Council move forward with developing options for year three of the trawl rationalization program distribution of adaptive management pounds within a trailing amendment scheduled to be effective by January 1, 2013. The range of options should be status quo, automatic pass-through of AMP to the fleet in year three only, and automatic pass-through of AMP to the fleet until another FMP amendment implements a different AMP distribution process.

Mr. Moore moved and Ms. Culver seconded to amend the motion (Amendment 1, to Motion 37) such that where the word "amendment" appears in the first sentence and the second sentence, that it be changed to "action." Amendment 1 to Motion 37 carried unanimously.

Mr. Lockhart stated he would support the motion but was concerned that this not result in an ongoing delay. Ms. Lowman expressed concern that the Council not preclude the development of an alternative AMP QP distribution prior to the extension periods covered in the motion.

Motion 37 as amended carried unanimously.

Ms. Culver moved and Ms. Vojkovich seconded Motion 38 that lingcod be allocated into the north and south geographic areas on January 1, 2012 and that if the catch share plan implementation is delayed for the first few days in early January, then the trawl fishery should be closed for those few days.

Mr. Moore expressed concern about the delay at the start of the year lasting longer and the potential that the trawl fishery could be closed while other fisheries are open for some extended period of time due to a delay in the regulations. Mr. Moore moved and Ms. Vojkovich seconded Amendment 1 to Motion 38 to say "the authority to close the fishery be limited to two weeks."

Amendment 1 to Motion 38 carried. Mr. Lockhart abstained from the amendment. Motion 38 carried as amended. Mr. Lockhart voted no.

With respect to the safe harbors issue for financial institutions, Ms. Vojkovich stated her intent and hope that NMFS takes into consideration those comments from advisory committees to beef up that part of the rule or determine whether that was still an issue. Mr. Lockhart said NMFS

will take into account any advisory body comments, look into the matter more, and come back to the Council with any additional items. Ms. Lowman suggested that they should also look at what kinds of loan practices would be permissible and would cause problems with the control rule, and further that they would reach out to the financial institution community in gathering that information.

Ms. Vojkovich expressed concerns about observer cost and other costs associated with the program which had come up during these discussions. Small vessels may have a hard time continuing in the fishery because of these costs. Mr. Lockhart concurred.

[Agenda item done at 2:15 p.m.]

## **H.6 Consideration of Inseason Adjustments - Part II, if Necessary**

### **H.6.a Agenda Item Overview (11/08/10; 4:26 p.m.)**

Ms. Ames provided the agenda item overview.

### **H.6.b Reports and Comments of Advisory Bodies and Management Entities**

Mr. Rob Jones presented Agenda Item H.6.b, Supplemental GMT Report, Supplemental GMT Report 2, and Supplemental GMT Report 3. Mr. Ancona presented Agenda Item H.6.b, Supplemental GAP Report.

### **H.6.c Public Comment**

Mr. Daniel Platt, STMA, Fort Bragg, CA

Mr. Gerry Richter, fixed gear fishermen, Santa Barbara, CA

Mr. Mike Hyde, American Seafoods, Seattle, WA

Mr. Dan Waldeck, Pacific Whiting Conservation Cooperative, Portland, OR

Mr. Brad Pettinger, Oregon Trawl Commission, Brookings, OR

### **H.6.d Council Action: Adopt Final Recommendations for Adjustments to 2010 and 2011 Groundfish Fisheries (11/09/10; 7:51 a.m.)**

Ms. Michele Culver, Mr. Rod Moore, and Mr. Frank Lockhart discussed the appropriate procedures for the trawl fishery, given the potential delay in the Amendment 20 regulations.

Ms. Marija Vojkovich asked Mr. Lockhart about the California recreational regulation changes outlined in the GMT report, which noted that some measures were not routine. Mr. Lockhart said the Council can make recommendations and the agency will then determine the actions that are consistent with the FMP and regulations, including the agency's authority to implement using emergency authority. The agency will also review the supporting analysis to determine its sufficiency.

Mr. Moore moved and Ms. Culver seconded Motion 26, referencing Agenda Item H.6.b, Supplemental GMT Report 2 under the GMT recommendations section on page 32, for the Council to adopt the following inseason actions:

1. *Recommend to the National Marine Fisheries Service (NMFS) that the Council be allowed flexibility to adjust the off-the-top deductions in April 2011.*
2. *Retain flexibility for adjusting the two-year trawl and non-trawl allocations for these species in 2011, as needed, with exception of petrale sole where the non-trawl allocation will remain at 35 mt.*
3. *Consider implementing the non-routine inseason action regulations recommended by the states to allow the recreational fisheries to begin 2011 as proposed in the 2011-12 draft Environmental Impact Statement (DEIS).*
4. *Implement the 2011 trawl trip limits and Rockfish Conservation Area boundaries (page 12, table 10), if the trawl rationalization program is delayed.*
5. *Request NMFS to implement the landing allowances for non-IFQ species and Pacific whiting coastwide, as described in Tables 1b (North and South) in the November 3, 2010 proposed rule (75 FR 67810).*
6. *Request NMFS lower sablefish harvest specifications and associated tier limits (Table 12 and Table 13), per the analysis in the DEIS, as part of the emergency rule package proposed by NMFS.*
7. *For the limited entry fixed gear sablefish daily trip limit fishery north of 36° N. latitude beginning January 1, 2011, implement cumulative trip limits of 2,000 lbs/week for periods 1 – 6 not to exceed 7,000 lbs/2 months for periods 1-3 and 8,000 lbs/2 months for periods 4-6.*
8. *For the open access fixed gear sablefish daily trip limit fishery north of 36° N. latitude beginning January 1, 2011, implement trip limits for periods 1-3 of 300 lbs/day or one landing per week not to exceed 950 lbs, and a cumulative bimonthly limit of 1,900 lbs/2 months. For periods 4-6 of 300 lbs/day or one landing per week not to exceed 1,200 lbs and a cumulative bimonthly limit of 2,250 lbs.*
9. *Adopt trip limits for the limited entry fixed gear south of 36° N. latitude of 2,100 lbs per week; which is option 2 on page 23.*
10. *Adopt trip limits for the open access fixed gear south of 36° N. latitude of 300 lbs per day, 1,200 lbs per week, not to exceed 2,400 lbs per two months, which is option 3 on page 24.*
11. *Request that information on longnose skate mortality from the West Coast Groundfish Observer program be provided on a timely basis to facilitate the potential need for inseason management.*
12. *Adopt the trawl and non-trawl allocations in Supplemental GMT Report 3. For yelloweye rockfish, use the trawl and non-trawl split found in Supplemental GMT Report 3, except trawl portion will be 0.3 mt.*

Mr. Moore said the motion captures Council discussions and GMT, GAP, and public recommendations.

Ms. Culver moved to amend the motion (Amendment 1), relative to the yelloweye split--use the Supplemental GMT Report 2, last page of their report (page 34). Adopt the values displayed in the far right-hand column under Council guidance as the yelloweye amounts to be in place at the beginning of 2011. Allocations would be suspended for 2011 and adjusted following the issuance of the NMFS emergency rule in 2011, as appropriate. Mr. Myer seconded the amendment.

Ms. Culver said the discussion has focused on the emergency rule action needed for overfished species with particular regard to yelloweye rockfish. We are following the yelloweye rockfish specifications from 2010 at the start of 2011; therefore we are managing to an ACL of 14 mt. The fisheries and management measures proposed for 2011 will not achieve the projected impacts described here by April 2011. However, depending on the final ACL for the year, management measures may need to be adjusted further to reduce projected impacts. She is also proposing we suspend the allocation for the balance of the year.

Amendment 1 to Motion 26 carried unanimously.

Ms. Vojkovich moved to amend the motion (Amendment 2), seconded by Mr. Wolford. With regard to item 3, include the routine management measures identified in GMT Report 2 for implementation.

Amendment 2 to Motion 26 carried unanimously.

Motion 26 as amended carried. Mr. Lockhart voted no.

Ms. Vojkovich moved (Motion 27) to ask NMFS to implement the non-routine recreational management measures recommended by the states to start January 1, 2011, as proposed in the 2011-12 EIS, as an emergency rule if the inseason actions are not allowed. Mr. Buzz Brizendine seconded the motion.

Ms. Vojkovich said there is confusion regarding the California recreational management measures and whether they are considered routine inseason actions. Some of those measures are necessary and important to have in place January 1. The consequence of not implementing those measures is increased public confusion and disruption. The analysis contained in the DEIS indicates there are very little impacts to overfished species. She is only speaking for California and why action is necessary.

Mr. Lockhart said there are complex issues here and he will be voting no since it deals with an emergency rule.

Motion 27 carried. Mr. Lockhart voted no.

The Council then went to Agenda Item C.1.c. (8:38 a.m., 11/09/10)

## **I. Coastal Pelagic Species Management**

### **I.1 National Marine Fisheries Service Report on CPS**

#### **I.1.a Regulatory Activities (11/07/10; 8 a.m.)**

Mr. Mark Helvey presented Agenda Item I.1.a, Supplemental NMFS PowerPoint. This presentation summarized a workshop on catch shares. The NOAA-sponsored workshop took place in June 2010 and included representation from commercial and recreational fishing interests, scientists, and conservation interests. The workshop was informational in nature.

### **I.1.b Fisheries Science Center Activities (8:18 a.m.)**

Dr. Gary Sakagawa presented Agenda Item I.1.b, Supplemental SWFSC PowerPoint (Sakagawa) and Dr. Russ Vetter presented Agenda Item I.1.b, Supplemental SWFSC PowerPoint (Vetter).

### **I.1.c Reports and Comments of Advisory Bodies and Management Entities**

None.

### **I.1.d Public Comment**

Mr. Mike Okoniewski, Pacific Seafood Group, Woodland, WA

### **I.3.e Council Discussion on NMFS Report on CPS**

Mr. Dave Ortmann had concerns on how the catch shares programs might develop and potential funding and allocation decisions along the way.

Mr. Helvey responded that, as was noted in the report, this was just an information sharing workshop and that was all NMFS was going to do at this point. If the participants saw this as a tool for future management, then that would be up to the participants. A lot of discussion in a theoretical sense was on allocation.

Ms. Marci Yaremko, CDFG, complimented NMFS for sponsoring the workshop. This was a useful opportunity for the players to get together and talk about the real work going on, as well as new data sources for the methodology. The Council has continued to emphasize the need for better and more data. Mr. Steve Williams concurred with these comments and hopes to continue such collaboration.

## **I.2 Pacific Sardine Stock Assessment and Coastal Pelagic Species (CPS) Management Measures for 2011**

### **I.2.a Agenda Overview (9:15 a.m)**

Mr. Griffin provided the agenda item overview. Ms. Marci Yaremko asked for clarification on the language in Agenda Item I.2.c, Supplemental CPSMT Report 2, and Agenda Item I.2.c, Supplemental CPSMT Report 1 Addendum. She wanted to know if exceeding California's state landings cap would trigger an automatic consideration of whether to move market squid from monitored to active management status, or whether the language in the CPSMT reports was meant to imply a more generic consideration by the CPSMT. The CPSMT Chairman, Mr. Greg Krutzikowsky, stated that the language was intended to mean an informal consideration by the CPSMT, but that consideration of this issue by the Council would be a different matter, and would follow the CPS FMP point of concern framework.

### **I.2.b Survey and Assessment Report**

Mr. Tom Jagielo presented Agenda Item I.2.b, Supplemental Aerial Sardine PowerPoint (Jagielo). Dr. Kevin Hill presented Agenda Item I.2.b, Supplemental NMFS SWFSC PowerPoint (Hill).

### **I.2.c Reports and Comments of Advisory Bodies and Management Entities**

Dr. Martin Dorn presented Agenda Item I.2.c, Supplemental SSC Report.

Dr. Greg Krutzikowsky presented Agenda Item I.2.c, Supplemental CPSMT Report 2. He noted that the following were available in the Council's briefing materials: Agenda Item I.2.c, CPSMT Report 1, and Agenda Item I.2.c, Supplemental CPSMT Report 1 Addendum.

Mr. Mike Okoniewski presented Agenda Item I.2.c, Supplemental CPSAS Report.

### **I.2.d Public Comment (11/07/10; 1:05 p.m.)**

Mr. Ben Enticknap, Oceana, Portland, OR

Ms. Diane Pleschner-Steele, California Wetfish Producers Association, Buellton, CA

Mr. Mike Okoniewski, Pacific Seafood Group, Woodland, WA

Mr. Ryan Kapp, sardine fisherman, Bellingham, WA

Ms. Pam Lyons Groman, National Coalition for Marine Conservation, Leesburg, VA

Dr. Doyle Hanan, fisheries consultant, La Jolla, CA

### **I.2.e Council Action: Approve the Pacific Sardine Assessment and Final 2011 Management Measures for CPS**

Ms. Yaremko moved Motion 17 to adopt the 2010 Pacific Sardine Stock Assessment for 2011 management as shown in Agenda Item I.2.b, Attachment 2. Mr. Crabbe seconded the motion.

Ms. Yaremko said it was another good effort by the Stock Assessment team (STAT). This was an update year for the assessment, which limited the analysis and review of certain items. She does have some concerns of whether or not the assessment is capturing the entire biomass off the west coast, given the expansion of sardine stocks into Canadian waters and also a corresponding lack of independent data streams. The inclusion of the aerial survey data is very good. We again clearly saw that the daily egg production model alone would probably not have captured what was going on coast-wide. She also noted that the aerial survey program has made big strides and suggests that in the future, fewer replicates would maximize fiscal and research resources. Regarding the use of point sets, she again fully supports including the aerial survey and understands why the California survey data was not used in the assessment. However, she is concerned that the use of the point sets might have strayed from its original purpose. To apply the biological data to the overflight data is making a leap, and some assumptions are made. She cannot quite understand why the data for fish that were taken in southern California point sets that were not the right size were disallowed for use in the assessment. In the end it is trivial and doesn't make much difference for the output on the biomass decision. She feels that there was a major improvement over the prior year's assessment.

Motion 17 carried unanimously.

Ms. Yaremko moved and Mr. Brizendine seconded Motion 18 to adopt the CPSMT recommendations for Pacific sardine as shown in Agenda Item I.2.c, Supplemental CPSMT Report 2. This includes an OFL of 92,727 mt and P\* (probability of overfishing) value of 0.4, equating to an ABC of 84,681 mt.

Ms. Yaremko spoke to the motion. Regarding the P\* issue, she noted that for assessed stocks we typically adopt a P\* value of 0.45. A lot of time and energy and research efforts are spent on sardine and we have been assessing the stock for decades. However, there are still fundamentals that raise some concern with the P\* value of .45 which is our standard for assessed stocks. We don't have control over conditions in Mexico or Canada in how they choose to regulate their fisheries, and we cannot assess the fisheries off their coasts. So we have to make assumptions that we are fishing somewhat on the same stock. There are some increases in the harvests of the stock from the other nations and the rate is increasing in Canada. There is poor recruitment and poor ability to estimate recruitment. However, overall, in thinking about the comments about temperature and the harvest controls we are using, the result is a harvest guideline (HG) well below the ABC value. The fishery has attained the directed fishing quotas time and time again under our management process and the allocation is fully utilized, with no difficulty finding the fish.

Motion 18 carried unanimously.

Ms. Yaremko moved and Mr. Crabbe seconded Motion 19 to adopt a Pacific Sardine ACL of 84,681 mt (equal to the ABC).

Motion 19 carried unanimously.

Ms. Yaremko moved and Mr. Brizendine seconded Motion 20 to adopt an HG for Pacific Sardine as detailed in Table 2 of Agenda Item I.2.b, Supplemental CPSMT Report 2. This includes a 50,526 mt HG, a 4,200 mt potential EFP set-aside (with any unused EFP allocation to be added to the period 3 directed fishery), 1,000 mt per period as incidental set-asides, and a 2,000 mt management uncertainty buffer in the third quarter.

Motion 20 carried unanimously.

Mr. Steve Williams moved and Mr. Moore seconded Motion 21 to adopt the following management recommendations: from Agenda Item I.2.c, Supplemental CPSMT Report 2, include all of Table 3 OFLs, ABCs, and ACLs for monitored stocks; include the addition of a 1,500 mt ACT for the northern subpopulation of northern anchovy, and a calendar year regulatory season for finfish and April 1 to March 31 of the following year for market squid.

Mr. Steve Williams said we had a thorough discussion with the CPSMT members about the increase in the northern anchovy allowable harvest (to 1,500 mt). This increase over previous years allows for a slight expansion of fisheries while keeping an appropriate cap on it. If additional biological information comes to light, that could be considered and the Council would maintain control.

Mr. Helvey asked if the ACT would be a soft cap, like an HG, that will trigger a review once the ACT is exceeded. Mr. Steve Williams said yes, if we were to exceed the ACT it would not shut down the fishery, but would trigger a review and discussion by the states to guide any needed current action, as well as the next management cycle, with input from the CPSMT and Council.

To make things clear, Ms. Culver moved Amendment 1 to Motion 21 to specify that upon achieving the 1,500 mt ACT, it would trigger consultation between WDFW and ODFW, and during that consultation, the states would discuss and reach agreement as to what state actions are needed at that time. Mr. Cedergreen seconded the amendment to Motion 21.

Ms. Culver stated that, should the ACT exceeded, the states could talk about it and could take independent management measures to slow that catch. Mr. Steve Williams agreed that if there was time to do something they could, however, he thought it most likely that it would guide the next annual management cycle.

Ms. Yaremko asked about the ACT definition and whether this is only specific to this monitored stock, and whether the Council is free to prescribe definitions of ACT for other monitored stocks. Mr. Helvey and Mr. Williams clarified that this is only for the northern subpopulation of northern anchovy stock. Mr. Griffin asked whether the amendment to the motion (on a consultation between Oregon and Washington) would be an informal situation. Ms. Culver said her thoughts were that each of the states would monitor and scheduled informal conference calls to review the fisheries as needed.

Amendment to Motion 21 carried unanimously.

Ms. Culver said she was supportive of the main motion. She spoke in favor of having an ACT for northern anchovy. In looking at the table in CPSMT Report 1, page 10, showing historical landings, she noted that the highest landings in this fishery were in 2009. She spoke about the traditional baitfish fishery landings in Washington state, mostly by small boats with small capacities. That fishery takes typically just a few hundred metric tons overall. Northern anchovy are important forage fish, and the approach in the motion takes appropriate precaution.

Mr. Cedergreen said anchovy are major forage fish in the northwest for salmon, albacore, rockfish, and small catch used for local bait. There is not a stock assessment for northern anchovy. The 1,500 mt is precautionary, but five or six times the average catch other than the spike in 2009. On the other hand, 9,750 mt is a far worse option. He is concerned that increasing the allowable catch may lead to a larger directed fishery, but reluctantly supports the motion.

Ms. Yaremko likewise supports the motion and expressed appreciation to the CPSMT for providing the history and background generating the values. On the ACT issue, she supports the discussion taking place, and is glad to see we are applying some specificity as to what actions will result from establishing an ACT.

Motion 21 as amended carried unanimously.

Mr. Tim Roth referenced the public comments and the CPSMT's endorsements of other ecological monitoring efforts. He said that the ecosystem fishery management plan (EFMP) is probably the appropriate place to pull all of this together. As we continue to scope the EFMP, we should ask the other management teams to work with the EPDT as to how their fisheries have

linkages (food-web, predator/prey, forage fish, seabirds, and marine mammals). He suggests continuing to support ecosystem dialogue.

Ms. Culver moved and Mr. Myer seconded Motion 22 that the Council encourage NMFS to continue funding comprehensive coastwide annual CPS research and encourage the Council, NMFS, and the State Department to continue working to achieve timely receipt of biological research data from Mexico. Also, that the SSC ecosystem subcommittee should provide scientific advice for CPS fisheries with regard to ecosystem structure and other information that could be used by the EPDT.

Mr. Helvey asked what the outcome of Ms. Culver's motion would be. Perhaps a letter to the Department of State? How would that recommendation be conveyed? Ms. Culver said that if a letter is needed or helpful, that would be good to know, but she would think that with this guidance, given that NMFS is here and we have a Department of State seat on the Council, she thought that it did not necessarily need to be in a form of a letter.

Mr. Helvey said that would be up to the Council, it could be helpful.

Dr. McIsaac said that with regard to a letter or other efforts, the intent of the motion could be made at CCC meetings, or at this table when the Department of State is here. He asked whether the maker of the motion meant to include only Mexico when she referred to international cooperation, or also to Canada. Ms. Culver replied that she only said Mexico.

Motion 22 carried unanimously.

Ms. Yaremko said that she felt it was very important to give appropriate review to the recent publication and the issue of the temperature component of the harvest control rule. It has significant impact on the HG, and time should be given for consideration of that paper. She asked whether a motion was needed and wasn't sure which would be the appropriate body to conduct a review (e.g., the SSC or a Stock Assessment Review (STAR) panel), but did think it was important to research the issue.

Dr. McIsaac said that can be done and fit into the SSC's agenda. If there are particular points that would be important for the Council to hear back on, that would be helpful. He noted that a general review has been done when it was published. Ms. Yaremko said she could not say specifics at this stage, for example if we need to revamp the formula or look at alternatives. However, a review in time for the next assessment might be timely. The Vice Chairs and Council concurred.

Ms. Yaremko also supported, as guidance only, the SSC request for the CPSMT to move forward with additional analysis of the squid  $F_{msy}$  proxy values for escapement (page 3 of the SSC statement).

### **I.3 Terms of Reference for Stock Assessment and Methodology Review Panels**

#### **I.3.a Agenda Overview (11/07/10; 2:57 p.m.)**

Mr. Griffin provided the agenda item overview. Two terms of reference (TOR) are to be considered. One is on the STAR process, and one on a methodology review process. There are three methodologies teed up for consideration.

#### **I.3.b Reports and Comments of Advisory Bodies and Management Entities**

Dr. Greg Krutzikowsky provided Agenda Item I.3.b, Supplemental CPSMT Report. Dr. Martin Dorn presented Agenda Item I.3.b, Supplemental SSC Report. Mr. Mike Okoniewski presented Agenda Item I.3.b, Supplemental CPSAS Report.

#### **I.3.c Public Comment**

Dr. Doyle Hanan, fisheries consultant, La Jolla, CA  
Mr. Ryan Kapp, sardine fisherman, Bellingham, WA  
Mr. Jerry Thon, NW Sardine Survey, LLC, Bellingham, WA  
Mr. Mike Okoniewski, Pacific Seafood Group, Woodland, WA

#### **I.3.d Council Action: Approve the Final Terms of Reference for Stock Assessment and Methodology Review Panels**

Mr. Moore moved and Ms. Dorothy Lowman seconded Motion 23 to adopt the Draft Terms of Reference for a Coastal Pelagic Species Stock Assessment Review Process as shown in Agenda Item I.3.a, Attachment 1; and the Draft Terms of Reference for Coastal Pelagic Species Stock Assessment Methodology Review as shown in Agenda Item I.3.a, Attachment 2. This includes the changes outlined in Agenda Item I.3.b, Supplemental SSC Report.

Motion 23 carried unanimously.

Mr. Moore moved and Ms. Dorothy Lowman seconded Motion 24 that the Council approve a methodology review of the three proposals by the SSC: 1) the use of satellite imagery during aerial photographic surveys, 2) the use of acoustic and (associated trawl) surveys for abundance estimation, and 3) calibration of aerial photographic surveys using lidar and acoustics.

Mr. Moore said these were recommended by the SSC.

Ms. Yaremko moved and Mr. Brizendine seconded Amendment 1 to Motion 24 to include a placeholder to review the trawl survey data for Pacific sardine in Canadian waters.

Dr. McIsaac said there could be a placeholder for this opportunity, but not an expectation that the SSC would look at the raw data and, in terms of that, develop a methodology.

Mr. Griffin noted that having a placeholder for review of the Canadian survey information would be logistically challenging. Mr. Moore asked if there was a deadline for submitting proposals for the methodology review and Mr. Griffin said that it was two weeks ago.

Ms. Culver said this was the opportunity for SSC review and this was the only time the Council would be taking the action to determine what stocks/survey methods were to be used by these review panels. She shares Ms. Yaremkos concern on principle, and is not entirely sure what transpired in this case. She asked how we learned about the Canadian trawl survey data. She asked if Mr. Griffin could explain to us about how this discussion would work with the SSC. Mr. Griffin explained that the process to decide which methodologies would be considered is somewhat informal, and that three methodologies to be considered to represent a very full load. Mr. Helvey said that the Canadian swept area trawl survey was presented at a research workshop earlier in the year, so members of the Southwest Fisheries Science Center became aware of it then, if they were not already.

Ms. Yaremko withdrew her amendment.

Motion 24 carried unanimously.

#### **I.4 CPS Essential Fish Habitat Five-Year Review**

##### **I.4.a Agenda Overview**

Dr. McIsaac provided the agenda item overview.

##### **I.4.b Reports and Comments of Advisory Bodies and Management Entities**

Dr. Dorn provided Agenda Item I.4.b, Supplemental SSC Report. Mr. Griffin read Agenda Item I.4.b, Supplemental HC Report. Mr. Greg Krutzikowsky provided Agenda Item I.4.b, Supplemental CPSMT Report 2. Mr. Mike Oknowiewski provided Agenda Item I.4.b, Supplemental CPSAS Report.

##### **I.4.c Public Comment**

None.

##### **I.4.d Council Action: Approve Essential Fish Habitat Review**

Mr. Steve Williams asked about the workload and bringing this all back together at the same time. Mr. Griffin said it would be a substantial workload, but no matter when, it all has to be done. There would be a benefit to synchronizing the essential fish habitat review of krill and the other CPS species.

Ms. Culver moved and Mr. Cedergreen seconded Motion 25 to adopt, for the CPS Essential Fish Habitat Five-Year Review, the recommendations of the CPSMT as described in Agenda Item I.4.b, Supplemental CPSMT Report 2.

Motion 25 carried unanimously.

## **J. Highly Migratory Species Management**

### **J.1 National Marine Fisheries Service Report on Highly Migratory Species**

#### **J.1.a Regulatory Activities (11/09/10; 2:20 p.m.)**

Mr. Mark Helvey noted that there were no regulatory updates in the briefing book. He did note a couple of issues concerning vessel monitoring system requirements that are ongoing and will require some action in the future.

#### **J.1.b Fisheries Science Center Activities**

Dr. Russ Vetter presented Agenda Item J.1.b, Supplemental SWFSC PowerPoint (Vetter).

#### **J.1.c Reports and Comments of Advisory Bodies and Management Entities**

Mr. Doug Fricke presented Agenda Item J.1.c, Supplemental HMSAS Report.

#### **J.1.d Public Comment**

Mr. Doug Fricke, Washington Trollers Assoc., Hoquiam, WA  
Mr. Chip Bissell, American Albacore Fishing Assoc., Oak View, CA

#### **J.1.e Council Discussion on NMFS Report on Highly Migratory Species**

None.

### **J.2 Changes to Biennial Management Measures Beginning April 2011**

#### **J.2.a Agenda Item Overview (11/09/10; 2:48 p.m.)**

Dr. Kit Dahl provided the agenda item overview.

#### **J.2.b Reports and Comments of Advisory Bodies and Management Entities**

Ms. Culver reviewed Agenda Item J.2.b, Supplemental WDFW Report. Dr. Stephen Stohs provided Agenda Item J.2.b, Supplemental HMSMT Report. Mr. Doug Fricke provided Agenda Item J.2.b, Supplemental HMSAS Report.

#### **J.2.c Public Comment**

Mr. Doug Fricke, WTA, Hoquiam, WA

#### **J.2.d Council Action: Adopt Final Changes to Biennial Management Measures Beginning April 2011**

Ms. Vojkovich moved and Mr. Brizendine seconded Motion 39 to adopt Alternative 2, described in Agenda Item J.2.a, Attachment 2, to modify Federal regulations on deep-set longline fishery landing and retention limits for swordfish. In speaking to her motion, Ms. Vojkovich emphasized that this regulatory change is consistent with a proposed regulatory change made by the Western Pacific Fishery Management Council for the longline fishery managed under their Pelagics Fishery Ecosystem Plan. She also noted that Attachment 2 states that the swordfish stock is not subject to overfishing or overfished, a change in protected species interactions is

unlikely, and the current vessels in the fishery are subject to 100 percent observer coverage. Mr. Helvey noted the economic benefits.

Motion 39 carried unanimously.

### **J.3 Recommendations to Regional Fishery Management Organizations**

#### **J.3.a Agenda Item Overview (11/09/10; 3:08 p.m.)**

Dr. Dahl provided the agenda item overview.

#### **J.3.b Reports and Comments of Advisory Bodies and Management Entities**

Dr. Stohs presented Agenda Item J.3.b, Supplemental HMSMT Report. Mr. Fricke presented Agenda Item J.3.b, Supplemental HMSAS Report.

#### **J.3.c Public Comment**

Mr. Peter Flournoy, International Law Offices, San Diego, CA  
Mr. Chip Bissell, American Albacore Fishing Association, Bonita, CA

#### **J.3.d Council Action: Adopt Recommendations for the U.S. Delegation to the Western and Central Pacific Fisheries Commission Seventh Regular Session**

Ms. Vojkovich asked Council staff to put together a letter to the head of the U.S. delegation to the Western and Central Pacific Fisheries Commission (WCPFC) that reflects the recommendations contained in both HMSAS and HMSMT reports. She noted that the HMSAS and HMSMT reports contained opposing recommendations with respect to striped marlin and said the Council recommendation should be consistent with that of the HMSAS, recognizing the upcoming 2011 stock assessment and uncertainties about stock structure. She gave Council staff discretion in drafting the recommendations in a way that appropriately reflected the context of west coast fisheries.

Vice Chair Wolford said the Council concurred with Ms. Vojkovich's recommendation, and a motion is unnecessary.

Dr. McIsaac discussed the third major recommendation in the HMSAS report, to send a letter to Departments of State and Commerce relative to an Administration bill for legislation related to the WCPFC and implementing the Inter-American Tropical Tuna Commission Antigua Convention. Mr. Gordy Williams also noted that the legislation affects compensation of members of the independent scientific review committee of the Pacific Salmon Commission. Mr. McIsaac recommended waiting on sending any such letter until the new Congress is in session. Mr. Moore disagreed and recommended that such communication should occur immediately so that it could be considered in the lame duck session of the current Congress, scheduled to begin on November 15.

Mr. Moore moved and Mr. Cedergreen seconded Motion 40 to direct the Council Executive Director to communicate with the Secretary of State and Secretary of Commerce urging them, on behalf of the Administration, to submit a clean bill which would correct the implementing

legislation for the U.S.-Canada Agreement on Pacific Whiting and the WCPFC, as well as implementing legislation for the Antigua Convention. Motion 40 carried unanimously.

## **K. Administrative Matters**

### **K.1 Approval of Council Meeting Minutes**

#### **K.1.a Council Member Review and Comments (11/09/10; 4:08 p.m.)**

Chair Cedergreen opened the Council review of minutes.

#### **K.1.b Council Action: Approve November 2009 Council Meeting Minutes**

Mr. Moore moved and Mr. Dave Ortmann seconded a motion (Motion 41) to adopt the November 2009 Council minutes as provided in Agenda Item K.1.a, Draft November 2009 Minutes. Motion 41 carried unanimously.

### **K.2 Fiscal Matters**

#### **K.2.a Budget Committee Report (11/09/10; 4:09 p.m.)**

Dr. John Coon read Agenda Item K.2.a, Supplemental Budget Committee Report.

#### **K.2.b Reports and Comments of Advisory Bodies and Management Entities**

None.

#### **K.2.c Public Comment**

None.

#### **K.2.d Council Action: Consider Budget Committee Recommendations**

Mr. Moore moved and Ms. Culver seconded a motion (Motion 42) to adopt the report of the Budget Committee as shown in Agenda Item K.2.a, Supplemental Budget Committee Report (including the recommendations on page 2). Motion 42 carried unanimously.

### **K.3 Membership Appointments and Council Operating Procedures (4:17 p.m.)**

#### **K.3.a Agenda Item Overview**

Dr. Coon provided the agenda item overview.

#### **K.3.b Reports and Comments of Advisory Bodies and Management Entities**

None.

#### **K.3.c Public Comment**

None.

**K.3.d Council Action: Consider Changes to Council Operations and Procedures; and Advisory Body Appointments**

Mr. Lockhart moved and Mr. Moore seconded a motion (Motion 43) to appoint Ms. Rosemary Kosaka to the NMFS Southwest Fisheries Science Center position on the GMT replacing Dr. Edward Dick. Motion 43 carried unanimously.

Ms. Culver moved and Mr. Myer seconded a motion (Motion 44) to appoint Ms. Carol Henry to the WDFW position on the HMSMT replacing Ms. Lorna Wargo. Motion 44 carried unanimously.

Mr. Lockhart moved and Mr. Brizendine seconded a motion (Motion 45) to appoint Mr. Chuck Farwell to the vacant conservation position on the Highly Migratory Species Advisory Subpanel. Motion 45 carried unanimously.

Mr. Steve Williams moved and Ms. Culver seconded a motion (Motion 46) to appoint Mr. Merrick Burden to the vacant conservation position on the Groundfish Allocation Committee. Motion 46 carried unanimously.

After conferring with Council and advisory body members, Chairman Cedergreen appointed the following persons to the Groundfish Biennial Process Improvement Committee: Mr. Frank Lockhart, Ms. Michele Culver, Mr. Rod Moore, Mr. Dan Wolford, Ms. Gway Kirchner, Dr. Martin Dorn (or SSC designee), Mr. Corey Niles, Ms. Lynn Mattes, Dr. Jason Cope, Mr. Dan Waldeck, Mr. Kevin Duffy, Ms. Sarah Williams, and Ms. Sheila Lynch. Other invited participants are Ms. Joanna Grebel, Dr. Todd Lee, Dr. Jim Hastie, Dr. Patty Burke, and Ms. Shelby Mendez.

The Council discussed the impact of the September 27, 2010 final rule issued by NMFS, which included guidance on the definition of advisory panels and affected eligibility for stipend payments as outlined in Agenda Item K.3.a, Supplemental Attachment 1. Following the actions outlined in Supplemental Attachment 1, Council Chair Cedergreen formally charged, and the Council concurred, that the following Council advisory bodies have been formed, selected, and designated as Magnuson-Stevens Act Section 202(g)(2) advisory panels (which makes them eligible for stipend payments):

- |                                                    |                              |
|----------------------------------------------------|------------------------------|
| Coastal Pelagic Species Advisory Subpanel          | Ecosystem Advisory Subpanel  |
| Groundfish Allocation Committee, nonvoting members | Groundfish Advisory Subpanel |
| Groundfish Essential Fish Habitat Review Committee | Habitat Committee            |
| Highly Migratory Species Advisory Subpanel         | Salmon Advisory Subpanel     |
| Coastal Pelagic Species STAR Panels                | Groundfish STAR Panels       |

Consistent with the charge of the Council Chairman, Mr. Wolford moved and Mr. Moore seconded Motion 47 for staff to amend the Council Operating Procedures (COP) and Statement of Organization Practices and Procedures (SOPP) to identify those advisory bodies which are formed, selected, and formally designated as MSA Section 302(g)(2) advisory panels; and further, that the amendments also identify that upon establishment of additional advisory bodies

in the future, the Council will identify those which are established as Section 302(g)(2) advisory panels in the COP. Motion 47 carried unanimously.

Mr. Wolford moved and Ms. Lowman seconded a motion (Motion 48) that the staff review the full content of the September 27, 2010 final rule on Regional Council operations and administrative matters and amend the SOPP to be consistent with the new and revised regulations.

Motion 48 carried unanimously.

#### **K.4 Future Council Meeting Agenda and Workload Planning**

##### **K.4.a Agenda Item Overview**

Dr. McIsaac provided the agenda item overview by reviewing Supplemental Attachments 3 and 4 and noting the changes from the earlier agenda planning documents. Mr. Steve Williams noted that the halibut bycatch allocation item could be moved later to September.

##### **K.4.b Reports and Comments of Advisory Bodies and Management Entities**

Mr. Doug Fricke presented Agenda Item K.4.b, Supplemental HMSAS Report.

##### **K.4.c Public Comment**

Mr. Peter Flournoy, International Law Offices, San Diego, CA

Mr. Chip Bissell, American Albacore Fishing Association, Bonita, CA

##### **K.4.d Council Discussion and Guidance on Future Council Meeting Agenda and Workload Planning**

Council members worked with the Council staff and the Executive Director to better plan and clarify agenda items for the coming year, and to address the March 2011 agenda and upcoming workload priorities.

ADJOURN

The 206<sup>th</sup> meeting of the Pacific Fishery Management Council as adjourned at 5:15 p.m.

---

Dan Wolford  
Council Chairman

---

Date

DRAFT VOTING LOG  
Pacific Fishery Management Council  
206<sup>th</sup> Meeting  
November 2010

**Motion 1:** Approve the meeting agenda as shown in Agenda Item A.4., November Council Meeting Agenda, with the suspension of Council action on Agenda Items C.1.b through C.1.d until Tuesday.

Moved by: Rod Moore

Seconded by: Steve Williams

Motion 1 carried unanimously.

**Motion 2:** Approve the transmittal of the letter to the Bureau of Reclamation as shown in Agenda Item E.1.a, Attachment 1.

Moved by: Steve Williams

Seconded by: Rod Moore

Motion 2 carried unanimously.

**Motion 3:** For Salmon FMP Amendment 16, adopt for public review Stock Classification Alternative 2 in Agenda Item F.2.a, Attachment 1, as the preliminary preferred alternative (PPA), and continue to investigate the possible application of the ACL international exception to the far-north migrating stocks and stock complex.

Moved by: Peter Dygert

Seconded by: Phil Anderson

Motion 3 carried unanimously.

**Motion 4:** For Salmon FMP Amendment 16, regarding status determination criteria for overfishing and overfished species, adopt the following PPA for public review:

Blend of 3-year Arithmetic Mean and single year;  $MSST = 0.5 * S_{msy}$

**Overfishing:** Exploitation rate  $> F_{msy}$  (single-year)

**Overfished:** 3-year Geometric Mean Spawning Escapement  $< MSST$

**Approaching Overfished:** Recent 2-year and projected Geometric Mean spawning escapement  $< MSST$

**Rebuilt:** 3-year Geometric Mean Spawning Escapement  $> S_{msy}$  (single-year)

Moved by: Peter Dygert

Seconded by: Marija Vojkovich

Motion 4 was withdrawn (per parliamentarian request); not voted on.

**Motion 5:** For Salmon FMP Amendment 16, regarding status determination criteria for overfishing and overfished species, adopt for public review Status Determination Criteria Alternative 3 in Agenda Item F.2.a, Attachment 1, as the PPA.

Moved by: Peter Dygert

Seconded by: Marija Vojkovich

Motion 5 carried unanimously.

**Motion 6:** For Salmon FMP Amendment 16, amend the PPA for *de minimis* fishing provisions to indicate an intention to develop qualitative guidance on how fisheries would be reduced as run size declines.

Moved by: Peter Dygert  
Motion 6 carried unanimously.

Seconded by: Marija Vojkovich

**Motion 7:** Adopt and transmit the letter to National Marine Fisheries Service regarding Mitchell Act DEIS as contained in Agenda Item F.4.b, Supplemental MAC Report. The motion includes submittal of comments from Council advisory bodies from both the September and November Council meetings.

Moved by: Steve Williams  
Motion 7 carried. Mr. Bob Turner abstained.

Seconded by: Dave Ortmann

**Motion 8:** Approve the Oregon coastal natural coho abundance predictor forecast model as recommended by the SSC, STT, and the MEW.

Moved by: Steve Williams  
Motion 8 carried unanimously.

Seconded by: Rod Moore

**Motion 9:** Adopt the Chinook FRAM with additional coded-wire-tag groups for Columbia River summer Chinook as described in Agenda Item F.5.a, Attachment 4 for use in 2011 management, consistent with recommendations from the SSC and MEW.

Moved by: Phil Anderson  
Motion 9 carried unanimously.

Seconded by: Peter Dygert

**Motion 10:** Adopt the following proposed changes to the Pacific Halibut Catch Sharing Plan for the 2011 fishery shown in Agenda Item G.1.b, ODFW Report: Second Season Option B and Third Season Option C.

Moved by: Steve Williams  
Motion 10 carried unanimously.

Seconded by: Rod Moore

**Motion 11:** Adopt the proposed changes to the Pacific Halibut Catch Sharing Plan for the 2011 fishery and the codified groundfish regulations shown in Agenda Item G.1.b, Supplemental NMFS Report 2.

Moved by: Frank Lockhart  
Motion 11 carried unanimously.

Seconded by: Michele Culver

**Motion 12:** Consider setting up a task force similar to the recommended composition described on page 13 of the white paper (*Agenda Item H.1.a, Supplemental Attachment 2: Initial*

*Consideration of Revisions to the Groundfish Biennial Harvest Specifications and Management Measures Process*); the timing, composition, and the product delivery would be determined at a later date or through Agenda Item K taken up at this meeting.

Moved by: Michele Culver  
Motion 12 carried unanimously.

Seconded by: Rod Moore

**Motion 13:** Adopt for the limited entry, mid-water trawl fishery the following darkblotched rockfish bycatch caps: 5.5 mt for the mothership sector, 5.5 mt for the catcher-processors sector, and 5.0 mt for the shoreside sector. For the limited entry non-whiting trawl fishery, move the seaward RCA boundary to 250 fm effective as soon as possible, and close the slope rockfish fishery as of December 1, 2010.

Moved by: Rod Moore  
Motion 13 carried. Mr. Lockhart abstained.

Seconded by: Gway Kirchner

**Motion 14:** For the tribal fishery, as stated in the GMT report, adopt the Makah request to increase impacts to yellowtail and widow while testing jig machines to reduce bycatch in the rockfish-directed midwater trawl. For period 6, increase the yellowtail rockfish limits to no more than 169 mt, with widow rockfish being no more than 10 percent of the total weight of yellowtail rockfish for that period.

Moved by: David Sones  
Motion 14 carried unanimously.

Seconded by: Mark Cedergreen

**Motion 15:** Adopt Option 2 for sablefish south of 36° N. latitude on page 13 of the supplemental GMT report. This option closes the open access fishery on December 1, 2010 and reduces the limited entry trip limits to 1,800 lb/week.

Moved by: Marija Vojkovich

Seconded by: Dan Wolford

Amndmt #1: Increase the limited entry and open access daily trip limits north of 36° N. latitude. For limited entry, increase the weekly trip limit from 1,750 lb/week to 2,000 lb/week, and for open access increase period 6 to 400 lbs per day, or one landing per week of 1,500 lbs, with a bi-monthly cumulative limit of 4,500 lbs.

Moved by: Michele Culver  
Amendment carried. Mr. Lockhart abstained.  
Motion 15 as amended carried. Mr. Lockhart abstained.

Seconded by: Gway Kirchner

**Motion 16:** Direct the Council Executive Director to provide a public comment on the proposed rule (75 FR67810) for the 2011-12 harvest specifications and management measures to incorporate the recommendation of the GMT on the RFA EFP to increase the “off the top” EFP deduction for yellowtail rockfish from 2 mt to 10 mt.

Moved by: Rod Moore  
Motion 16 carried. Mr. Frank Lockhart and Mr. Jerry Mallet voted no.

Seconded by: Gway Kirchner

**Motion 17:** Adopt the 2010 Pacific Sardine Stock Assessment for 2011 management as shown in Agenda Item I.2.b Attachment 2.

Moved by: Marci Yaremko  
Motion 17 carried unanimously.

Seconded by: David Crabbe

**Motion 18:** For Pacific Sardine, adopt the CPSMT recommendations as described in Agenda Item I.2.c, Supplemental CPSMT Report 2, including: OFL= 92,727 mt and P-star value of 0.4, equating to an ABC of 84,681 mt.

Moved by: Marci Yaremko  
Motion 18 carried unanimously.

Seconded by: Buzz Brizendine

**Motion 19:** Adopt for Pacific Sardine an ACL of 84,681 mt (equal to or less than ABC).

Moved by: Marci Yaremko  
Motion 19 carried unanimously.

Seconded by: David Crabbe

**Motion 20:** For Pacific Sardine, adopt an HG as detailed in Table 2 of Agenda Item I.2.b, Supplemental CPSMT Report 2 (50,526 mt HG, 4,200 mt potential EFP set-aside [any unused EFP allocation to be added to the period 3 directed fishery], 1,000 mt per period incidental set-asides, and a 2,000 mt management uncertainty buffer in the third quarter.

Moved by: Marci Yaremko  
Motion 20 carried unanimously.

Seconded by: Buzz Brizendine

**Motion 21:** Utilizing Agenda Item I.2.c, Supplemental CPSMT Report 2, for monitored stocks, adopt the recommendations (all of Table 3 OFLs, ABCs, and ACLs for monitored stocks), including 1,500 mt ACT for the northern anchovy subpopulation. The motion also includes seasons for finfish of the calendar year; and for market squid: April 1 to March 31 of the following year.

Moved by: Steve Williams

Seconded by: Rod Moore

**Amndmt #1:** Specify that the 1,500 mt ACT upon achieving it, it would trigger consultation between the WDFW and ODFW, and during that consultation, the states would discuss and reach agreement as to what state actions are needed at that time.

Moved by: Michele Culver  
Amendment carried unanimously.  
Motion 21 as amended carried unanimously.

Seconded by: Mark Cedergreen

**Motion 22:** Direct the Council to encourage NMFS to continue funding comprehensive coastwide annual CPS research; encourage the Council, NMFS, and the State Department to continue working to achieve timely receipt of biological research data from Mexico. Also, the SSC ecosystem subcommittee should provide scientific advice for CPS fisheries regarding ecosystem structure – information that could be used by the EFPDT; and the CPSMT give the Council’s previous guidance on this issue.

Moved by: Michele Culver  
Motion 22 carried unanimously.

Seconded by: Dale Myer

**Motion 23:** Adopt the Draft Terms of Reference for a Coastal Pelagic Species Stock Assessment Review Process as shown in Agenda Item I.3.a, Attachment 1 and the Draft Terms of Reference for Coastal Pelagic Species Stock Assessment Methodology Review as shown in Agenda Item I.3.a, Attachment 2, along with the changes outlined in Agenda Item I.3.b, Supplemental SSC Report.

Moved by: Rod Moore  
Motion 23 carried unanimously.

Seconded by: Dorothy Lowman

**Motion 24:** For methodology reviews, adopt the 3 proposals as proposed by the SSC, as shown in Agenda Item I.3.b, Supplemental SSC Report: 1) the use of satellite imagery during aerial photographic surveys, 2) the use of acoustic and (associated trawl) surveys for abundance estimation, and 3) calibration of aerial photographic surveys using lidar and acoustics.

Moved by: Rod Moore

Seconded by: Dorothy Lowman

Amndmt #1: Include a placeholder for the trawl survey data for Pacific sardine in Canadian waters.

Moved by: Marci Yaremko  
Amendment was withdrawn.  
Motion 24 carried unanimously.

Seconded by: Buzz Brizendine

**Motion 25:** Adopt, for the CPS Essential Fish Habitat Five-Year Review, the recommendations of the CPSMT as described in Agenda Item I.4.b, Supplemental CPSMT Report 2.

Moved by: Michele Culver  
Motion 25 carried unanimously.

Seconded by: Mark Cedergreen

Motion 26: Referencing Agenda Item H.6.b, Supplemental GMT Report 2 under the GMT recommendations section on page 32, adopt the following inseason actions:

- 1. Recommend to the National Marine Fisheries Service (NMFS) that the Council be allowed flexibility to adjust the off-the-top deductions in April 2011.*
- 2. Retain flexibility for adjusting the two-year trawl and non-trawl allocations for these species in 2011, as needed, with exception of petrale sole where the non-trawl allocation will remain at 35 mt.*

3. *Consider implementing the non-routine inseason action regulations recommended by the states to allow the recreational fisheries to begin 2011 as proposed in the 2011-12 draft Environmental Impact Statement (DEIS).*
4. *Implement the 2011 trawl trip limits and Rockfish Conservation Area boundaries (page 12, table 10), if the trawl rationalization program is delayed.*
5. *Request NMFS to implement the landing allowances for non-IFQ species and Pacific whiting coastwide, as described in Tables 1b (North and South) in the November 3, 2010 proposed rule (75 FR 67810).*
6. *Request NMFS lower sablefish harvest specifications and associated tier limits (Table 12 and Table 13), per the analysis in the DEIS, as part of the emergency rule package proposed by NMFS.*
7. *For the limited entry fixed gear sablefish daily trip limit fishery north of 36° N. latitude beginning January 1, 2011, implement cumulative trip limits of 2,000 lbs/week for periods 1 – 6 not to exceed 7,000 lbs/2 months for periods 1-3 and 8,000 lbs/2 months for periods 4-6.*
8. *For the open access fixed gear sablefish daily trip limit fishery north of 36° N. latitude beginning January 1, 2011, implement trip limits for periods 1-3 of 300 lbs/day or one landing per week not to exceed 950 lbs, and a cumulative bimonthly limit of 1,900 lbs/2 months. For periods 4-6 of 300 lbs/day or one landing per week not to exceed 1,200 lbs and a cumulative bimonthly limit of 2,250 lbs.*
9. *Adopt trip limits for the limited entry fixed gear south of 36° N. latitude of 2,100 lbs per week; which is option 2 on page 23.*
10. *Adopt trip limits for the open access fixed gear south of 36° N. latitude of 300 lbs per day, 1,200 lbs per week, not to exceed 2,400 lbs per two months, which is option 3 on page 24.*
11. *Request that information on longnose skate mortality from the West Coast Groundfish Observer program be provided on a timely basis to facilitate the potential need for inseason management.*
12. *Adopt the trawl and non-trawl allocations in Supplemental GMT Report 3. For yelloweye rockfish, use the trawl and non-trawl split found in Supplemental GMT Report 3, except trawl portion will be 0.3 mt.*

Moved by: Rod Moore

Seconded by: Ms. Culver

Amndmt #1: Relative to the yelloweye split--use the Supplemental GMT Report 2, last page of their report (page 34). Adopt the values displayed in the far right-hand column under Council guidance as the yelloweye amounts to be in place at the beginning of 2011. Allocations would be suspended for 2011 and adjusted following the issuance of the NMFS emergency rule in 2011, as appropriate.

Moved by: Michele Culver

Seconded by: Dale Myer

Amendment 1 to Motion 26 carried unanimously.

Amndmt #2: With regard to item 3, include the routine management measures identified in GMT Report 2 for implementation.



*amount of trawl individual bycatch quota (IBQ) pounds that would be distributed to limited entry trawl permit holders for 2011.*

3. *Follow up with a trailing amendment to analyze the following alternatives for specifying the amount of halibut bycatch to be deducted from the TCEY and the calculation method for conversion to IBQ quota pounds to be used beginning in 2012:*
  - a. *For the first four years of the trawl rationalization program, the amount to be subtracted from the TCEY would be 130,000 lbs (legal-sized, net weight), or 15% of the TCEY, whichever is less; and use the calculation described above for IBQ quota pounds (legal and sublegal, round weight). Beginning with the fifth year of the program, the amount to be subtracted from the TCEY would be 100,000 lbs (legal-sized, net weight), or 15% of the TCEY, whichever is less; and use the calculation described above for IBQ quota pounds (legal and sublegal, round weight).*
  - b. *The concept of setting a specific amount of halibut to be subtracted from the TCEY (rather than a percentage) up to a maximum, and use the calculation described above for IBQ quota pounds. Maximum limits to be analyzed would be 100,000 lbs and 130,000 lbs, both expressed in legal-sized, net weight.*
  - c. *In combination with a. or b., provide for adjustment of the trawl halibut bycatch mortality limit through the biennial management process.*

Moved by: Michele Culver

Seconded by: Dale Myer

Motion 30 carried. Mr. Lockhart and Mr. Sones voted no.

**Motion 31:** Have the Council move forward with the process needed to replace Amendment 6 LE/OA allocations consistent with the Council's intentions contained in Amendment 21. This issue needs to be the highest priority for completion.

Moved by: Marija Vojkovich

Seconded by: Buzz Brizendine

Motion 31 carried unanimously.

**Motion 32:** Adopt that whenever NMFS takes up the issue of cost recovery for the Trawl Rationalization Program, a great degree of transparency is employed. That transparency should include relevant information on the Federal and State costs of current management in as much detail as possible (i.e. sectors, observers, rulemaking, enforcement, etc) as well as expected costs and cost savings as this program comes on line. Cost recovery should explore efficiencies, technologies, new approaches, and minimal government involvement wherever appropriate.

Moved by: Marija Vojkovich

Seconded by: David Crabbe

**Amdnt #1:** Amend the motion so that the assessment of the recovery of the costs would be done on a sector-specific basis, and that the costs identified would be sector-specific.



**Motion 34:** Adopt safe harbors for risk pools as shown in Agenda Item H.5.a, Attachment, page 7, specific to the language addressing risk pools, the scope of alternatives would be as described in Attachment 1, and include alternatives surrounding the definition of risk pools, required elements, mandatory review or not, or control determination by NMFS. Council response alternatives relative to whether we would have a safe harbor or risk pool would be deemed excessive in QS or QP. The “workgroup” have the appropriate staff including GC and enforcement to speak with industry forming risk pools relative to what types of their plan may or not be acceptable relative to their control; discussion and feedback provided to the Council in trailing amendments as to what the response should be.

Moved by: Michele Culver  
Motion 34 carried unanimously.

Seconded by: Dale Myer

**Motion 35:** Have staff analyze the following alternatives for determination and clarification of scenarios that would allow CFAs to hold quota shares in excess of control caps.

- (1) *Alternative 1: Status quo – community-based entities may form as long as they conform with existing accumulation limits*
- (2) *Alternative 2: CFAs may acquire quota share in an amount:*
  - a. *1.5 times the accumulation limit*
  - b. *2 times the accumulation limit*
  - c. *no specific cap, rather consider the size of the CFA*

*Examine the pros and cons of specific requirements of a CFA, including but not limited to:*

- *obtaining local governmental approval*
- *meeting organizational and control requirements*
- *adopting a community sustainability plan*
- *obtaining required approval from NMFS*
- *submitting required reports to NMFS and PFMC demonstrating compliance with program goals and community development plan*

*As part of this analysis, direct staff to draw on Chapter 4 of the Final EIS, analyzing the effect of the higher accumulation limits which take into account:*

*The subject community’s historical participation in and dependence upon the trawl groundfish fishery, and the potential for a CFA to promote the subject community’s sustained participation in the groundfish fishery post-rationalization, i.e.:*

- *the ability to support full-time captain and crew*
- *the ability to support necessary infrastructure, such as processing capacity, port facilities, etc.*
- *the potential to lose or gain quota share based on market forces alone*
- *the ability to use community-based quota to attract quota and landings*

*For each alternative, all other requirements for trawl IQ participation remain in effect.*

Moved by: David Crabbe

Seconded by: Marija Vojkovich

Amndmt #1: Specifically say the Council would move forward with a trailing amendment process to address CFAs and include the definition of a CFA.

Moved by: Michele Culver

Seconded by: Dale Myer

Amendment 1 to Motion 35 carried. Mr. Moore and Mr. Steve Williams voted no. Motion 35 carried as amended. Mr. Moore and Mr. Steve Williams voted no.

**Motion 36:** Adopt the following:

Move forward with a trailing amendment to address severability of the mothership catcher vessel (MSCV) endorsement and catch history to be effective in 2012, and analyze an alternative that includes the following:

- a. Allow the MSCV endorsement to be severed from the permit together with the catch history (i.e., the endorsement and catch history stay together)
- b. Allow the severed endorsement and catch history to be transferred to any limited entry trawl permit
- c. The endorsement and catch history would be maintained separately on the permit (i.e., stacked, but not merged or combined with any other endorsement or catch history on the permit)
- d. Subdivision of the catch history would not be allowed.

Moved by: Michele Culver

Seconded by: Dale Myer

Motion 36 carried unanimously.

**Motion 37:** Have the Council move forward with developing options for year three of the trawl rationalization program distribution of adaptive management pounds (AMP) within a trailing amendment scheduled to be effective by January 1, 2013. The range of options should be status quo; automatic pass through of AMP to the fleet in year three only; automatic pass through of AMP to the fleet until another FMP amendment implements a different AMP distribution process.

Moved by: Marija Vojkovich

Seconded by: Buzz Brizendine

Amndt: Where the word "amendment" appears, that it be changed to "action."

Moved by: Rod Moore

Seconded by: Michele Culver

Amendment to Motion 37 carried unanimously.

Motion 37 carried as amended unanimously.

**Motion 38:** Adopt that lingcod be allocated into the north and south geographic areas on January 1, 2012, and if the catch share plan implementation is delayed for the first few days, then the trawl fishery should be closed in January for those few days.

Moved by: Michele Culver

Seconded by: Marija Vojkovich



Motion 44 carried unanimously.

**Motion 45:** Appoint Mr. Chuck Farwell to the vacant conservation position on the Highly Migratory Species Advisory Subpanel.

Moved by: Frank Lockhart  
Motion 45 carried unanimously.

Seconded by: Buzz Brizendine

**Motion 46:** Appoint Mr. Merrick Burden to the vacant conservation position on the Groundfish Allocation Committee.

Moved by: Steve Williams  
Motion 46 carried unanimously.

Seconded by: Michele Culver

**Motion 47:** For Council operations and stipend program, adopt the motions as shown on K.3.a, Supplemental Attachment 1. Chairman Cedergreen formally charged the teams for MSA funds, and the Council concurred, consistent with the charge of the Council Chairman, to conform the COP/SOP.

Moved by: Dan Wolford  
Motion 47 carried unanimously.

Seconded by: Rod Moore

**Motion 48:** Direct staff review the full content of the September 27, 2010 final rule on Regional Council operations and administrative matters and amend the SOPP to be consistent with the new and revised regulations.

Moved by: Dan Wolford  
Motion 48 carried unanimously.

Seconded by: Dorothy Lowman

## FISCAL MATTERS

The Council's Budget Committee will meet on Thursday, September 13, 2012, at 3:30 PM to consider budget issues as outlined in the Budget Committee Agenda.

The Budget Committee's report is scheduled for Council review and approval on Tuesday, September 18, 2012.

### **Council Action:**

**Consider the report and recommendations of the Budget Committee.**

### **Reference Materials:**

1. Agenda Item G.4.b, Supplemental Budget Committee Report.

### **Agenda Order:**

- a. Agenda Item Overview
- b. Report of the Budget Committee
- c. Reports and Comments of Advisory Bodies and Management Entities
- d. Public Comment
- e. **Council Action:** Consider Budget Committee Recommendations

John Coon  
Dave Ortmann

PFMC  
08/10/12

## BUDGET COMMITTEE REPORT

The Budget Committee (BC) met on Thursday, September 13, 2012 and received the Executive Director's Budget Report. The report covered: (1) a review of the calendar year (CY) 2011 audit report; (2) an update on the current funding and CY 2012 operating budget status through August 31, 2012; and (3) expectations for future funding. The BC attendance was as follows:

**Members Present:** Mr. Dave Ortmann, Chairman; Dr. Dave Hanson, Mr. Mark Helvey, Mr. Frank Lockhart, Ms. Dorothy Lowman, Mr. Dale Myer, Ms. Michele Culver, and Mr. Dan Wolford

**Absent:** none

**Non-members Present:** Ms. Patricia Crouse, Mr. Donald Hansen, Dr. Donald McIsaac, Mr. Herb Pollard, Mr. Pete Hassemer, Mr. Steve Williams, Mr. Cal Groen, Mr. Chuck Tracy

### **CY 2011 Audit Report**

Dr. McIsaac provided a brief overview of the audit report for CY 2011. The auditor's findings for the Council's financial statements were an unqualified approval with no reportable conditions or material weaknesses.

### **CY 2012 Operating Budget and Status of Expenditures**

Overall expenditure of the CY 2012 operating budget is proceeding within normal expectations for the first eight months of the year. Staff will closely monitor expenditures to anticipate any future need for spending adjustments.

### **Additional CY 2012 Funding**

Dr. McIsaac updated the BC on new funding received by the Council since the June BC meeting. He reported that \$50,000 from the Northwest Region had been received for the CY 2012 activities, as anticipated at the time of the BC report at the June Council meeting. He also noted receipt of \$110,000 from NMFS Headquarters to support our Council's facilitation of the national fishery management conference in May of 2013 in the Washington DC area (Managing Our Nations Fisheries 3).

### **Preliminary Expectations for Future Funding**

Dr. McIsaac reported that given the election year and the current status of Congressional action, there is significant uncertainty about the Council funding level for 2013 and beyond, and uncertainty about when we will actually know the funding level. While there is various speculation about future budgets, funding fiscal year 2013 under a continuing resolution could delay certainty about any cuts until well into 2013. Council staff will provide budget alternatives for 2013 at the November BC meeting that take into account various possibilities about decreases in funding.

## **Budget Committee Recommendation**

The BC had no recommendations, but did commend Council staff for another unqualified positive result in the annual audit process.

PFMC  
09/18/12

## MEMBERSHIP APPOINTMENTS AND COUNCIL OPERATING PROCEDURES

During this agenda item, the Council has the opportunity to consider issues with regard to changes in the Council Membership Roster, including Council Members, advisory body membership, and also any relevant changes in Council Operating Procedures (COP) or the Council's Statement of Organization, Practices, and Procedures (SOPP).

In addition, following this meeting, Council staff will initiate solicitation of nominees to public and industry advisory body seats for the new 2013-2015 term. In that regard this is also an opportunity to initiate consideration of any related changes in advisory bodies, their procedures, and composition.

One follow-up issue from the June Council meeting for consideration here is an operational one with regard to any further comments on the proposed rule governing confidentiality of information.

### Council Members and Designees

The Secretary of Commerce reappointed all five Council members whose terms expired on August 10, 2012 to new three-year appointments. Those members are Mr. Buzz Brizendine, Mr. David Crabbe, Ms. Dorothy Lowman, Mr. Dale Myer, and Mr. David Sones.

### Standing Council Member Committee Appointments

No new resignations, nominations, or other changes were identified by the Briefing Book deadline.

### Appointments to Other Forums

No new resignations, nominations, or other changes were identified by the Briefing Book deadline. At the June meeting, the Council Chairman appointed Ms. Dorothy Lowman to be the Council's representative on the Council Coordinating Committee Video and Electronic Monitoring Subcommittee and Ms. Michele Culver (with Ms. Gway Kirchner as alternate) to represent the Council on the Regional Planning Body for the West Coast Region.

### Current Council Advisory Body Appointments

#### *Scientific and Statistical Committee (SSC)*

No new resignations, nominations, or other changes were identified by the Briefing Book deadline.

## *Management and Technical Teams*

### **Coastal Pelagic Species Management Team (CPSMT)**

The California Department of Fish and Game (CDFG) has nominated Ms. Chelsea Protasio to replace Ms. Brianna Brady in a CDFG position on the CPSMT (Attachment 1). During Closed Session, the SSC Chairman will provide that body's recommendations regarding the nomination.

### **Groundfish Management Team (GMT)**

The CDFG has nominated Mr. Robert Leos to replace Ms. Joanna Grebel in a CDFG position on the GMT (Attachment 2). During Closed Session, the SSC Chairman will provide that body's recommendations regarding the nomination.

## *Advisory Subpanels*

### **Groundfish Advisory Subpanel (GAP)**

The tribal fisher position on the GAP remains vacant. This seat has been vacant a long time and is generally difficult to fill. The Council should consider what the function and purpose of this seat is and solicit input from the tribes concerning their desire for a position on the GAP before soliciting nominees for the next term.

## *Enforcement Consultants (EC)*

No new resignations, nominations, or other changes were identified by the Briefing Book deadline.

## *Groundfish Allocation Committee (GAC)*

No new resignations, nominations, or other changes were identified by the Briefing Book deadline.

## *Habitat Committee (HC)*

The Northwest or Columbia River tribal government seat on the HC remains vacant.

## *Groundfish Essential Fish Habitat Review Committee (EFHRC)*

No new resignations, nominations, or other changes were identified by the Briefing Book deadline.

## *Ad Hoc Council Committees*

Ad hoc committees are created and terminated by a vote of the Council. Committee members are appointed by the Council chairman based on advice from Council members.

At its June meeting, the Council established the South of Humbug Pacific Halibut Policy Committee and appointed the following members: Ms. Michele Culver, Mr. Steve Williams, Ms. Marci Yaremko, Ms. Sarah Williams (later changed to Mr. Kevin Duffy), and Mr. Gregg

Williams. This ad hoc committee was formed to develop policy alternatives based on information developed by the ad hoc South of Humbug Pacific Halibut Workgroup which will be considered at the September 2013 Council meeting.

## Changes to Council Operations and Procedures

### *Proposed COP 23 for CPS Exempted Fishing Permit Consideration*

At the April 2012 meeting, the Council asked that a clear and efficient process for reviewing and approving exempted fishing permits be developed for coastal pelagic species management. Council staff has developed a proposed COP for advisory body and public review to be finalized at the November Council meeting (Agenda Item G.5.a, Attachment 1).

### *Final Proposed Rule Governing Confidentiality of Information*

At the June 2012 meeting (under Open Comment), the Council considered a proposed rule for revisions to existing regulations governing confidentiality of information submitted under the Magnuson-Stevens Act. At that time, the Council reviewed comments of the GMT and directed staff to respond to the proposed rule (Agenda Item G.5.a, Attachment 2) by forwarding the GMT comments (Agenda Item G.5.a, Attachment 3) with a cover letter, unless an extension to the deadline made further consideration possible at the September meeting. An extension of the comment deadline from August 21 to **October 21** has allowed for further consideration of the issues raised by this proposed rule under Agenda Item G.5. Council staff will forward final comments as directed by the Council to meet the October 21 deadline following this meeting.

When the proposed rule is issued, the Council solicitor and Council should review and update COP 13 on confidentiality to make it consistent with the rule.

### *Advisory Body Composition and Solicitation for 2013-2015 Term*

The three-year terms of all advisory subpanel members, seven at-large members of the Scientific and Statistical Committee, and four non-agency members and the California tribal member of the Habitat Committee expire on December 31, 2012. Beginning with this meeting and finalizing at the November meeting, the Council should consider the composition of each advisory body and recommend any needed revisions to the COPs. Agenda Item G.5.a, Attachment 4 displays the current advisory body compositions and membership. Following this meeting, staff will solicit nominations for the 2013-2015 term from which the Council will make appointments at the November 2012 meeting. The respective advisors may have comments on their member composition and, if so, will report these to the Council at the September and/or November meetings. Some preliminary thoughts and suggestions for changes are provided below.

- The Midwater Trawlers Cooperative has proposed the Council add an additional seat to the Groundfish Advisory Subpanel (GAP) that would represent midwater trawl whiting fishermen who deliver both shoreside and to motherships (Agenda Item G.5.c, Public Comment). This would bring the GAP membership to 21.
- In public comment at the March 2012 meeting, Mr. E.B. Duggan requested that in view of no longer having a Klamath Fishery Management Council that a seat be added on the SAS for a Klamath River inside recreational representative.

- Council staff suggests consideration of changing the subpanel designations of “tribal fisher” to “tribal representative.” It has proven to be extremely difficult to find tribal fishers to fill the GAP and Salmon Advisory Subpanel (SAS) positions. It may be that most of the issues discussed or questions raised in these subpanels have minimal interest or concern by tribal fishermen. The issues pertinent to the GAP and SAS discussions may more often revolve around technical or tribal policy issues more applicable to a tribal technical/governmental representative.
- With Council and Federal budgets likely to decrease in the near future and state budgets already at reduced levels, consideration should be given to ensuring advisory body compositions are adequate while also being as efficient as possible.

**Council Action:**

**Consider the following appointment, membership, and operational issues:**

- 1. The nomination of Ms. Chelsea Protasio to a CDFG Position on the CPSMT.**
- 2. The nomination of Mr. Robert Leos to a CDFG position on the GMT.**
- 3. The tribal fisher vacancy on the GAP and tribal governmental position on the HC. (Staff recommends that any consideration of these vacancies be as part of the new 2013-2015 advisory body term.)**
- 4. Proposed Draft COP 23 regarding the EFP process for CPS management.**
- 5. Comments on the proposed rule governing confidentiality of information.**
- 6. Advisory body composition and solicitation for the 2013-2015 term.**

**Reference Materials:**

1. Closed Session A.1.a, Attachment 1: Nomination of Ms. Chelsea Protasio to a CDFG position on the GMT.
2. Closed Session A.1.a, Attachment 2: Nomination of Mr. Robert Leos to a CDFG position on the GMT.
3. Agenda Item G.5.a, Attachment 1: Draft COP Protocol for Consideration of Exempted Fishing Permits for Coastal Pelagic Species Fisheries.
4. Agenda Item G.5.a, Attachment 2: Federal Register Notice regarding Proposed Rule for Confidentiality Regulations.
5. Agenda Item G.5.a, Attachment 3: Agenda Item B.1, Supplemental Open Comment 3, June 2012 (Confidentiality comments by the GMT).
6. Agenda Item G.5.a, Attachment 4: Advisory Body Composition.
7. Agenda Item G.5.c, Public Comment: Letter from Midwater Trawlers Cooperative.

**Agenda Order:**

- a. Agenda Item Overview Chuck Tracy
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. **Council Action:** Consider Changes to Council Operations and Procedures, and Appointments to Advisory Bodies Including Changes for the 2013-2015 Term

PFMC  
08/27/12

## **DRAFT COUNCIL OPERATING PROCEDURE**

### **Protocol for Consideration of Exempted Fishing Permits for Coastal Pelagic Species Fisheries**

Approved by Council:

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#### **DEFINITION**

An exempted fishing permit (EFP) is a one-year Federal permit, issued by the National Marine Fisheries Service, which authorizes a party to engage in an activity that is otherwise prohibited by the Magnuson-Stevens Fishery Conservation and Management Act or other fishery regulations, for the purpose of collecting limited experimental data. EFPs can be issued to Federal or state agencies, marine fish commissions, or other entities, including individuals. An EFP applicant need not be the owner or operator of the vessel(s) for which the EFP is requested. The NMFS Regional Administrator may require any level of industry-funded observer coverage for these permits.

#### **PURPOSE**

The specific objectives of the proposed exempted fishing activity may vary. The Pacific Fishery Management Council's (Council) fishery management plan (FMP) for coastal pelagic species (CPS) allows for EFPs, consistent with Federal regulations at 50 CFR§600.475. EFPs can be used to explore ways to improve stock surveys and assessments, encourage innovation and efficiency in the fisheries, or to evaluate current and proposed management measures.

#### **GENERAL PROCESS**

The Council process for considering and recommending CPS EFP proposals is an annual one that is synchronized with the decision-making process for establishing annual harvest specifications and management measures. The Council's EFP process begins at the November meeting, well in advance of EFP research that is likely to occur during the summer field season.

Any EFP proposals recommended for further consideration are typically given final consideration at the April meeting. The applicants should then submit the EFP application to the NMFS Southwest Region. Council staff will transmit the Council's recommendation directly to the NMFS Southwest Region. The Council may task the Scientific and Statistical Committee (SSC) or other advisors to do a more thorough review of refined EFP proposals that are recommended in November, prior to the April Council meeting. The CPS EFP proposal timeline is provided below. In all cases, EFP materials must be submitted prior to the briefing book deadline for the relevant Council meeting:

### **November Council meeting:**

- Proponents of new EFP proposals (those that include new EFP research activities or research activities that are substantially different from previously-conducted EFP research) submit a preliminary proposal, consistent with Section A below, to the extent possible.
- Proponents of recurring EFP proposals (those that are substantially similar to previously-conducted EFP research) submit a letter of intent, with a copy of the final EFP proposal from the previous year. The letter of intent should specify the general timing, the amount of fish that will be requested, survey protocols, and purpose of the EFP research, along with any anticipated changes from the previous years' research.
- Council advisory bodies and the public may comment on proposals or letters of intent.

### **March Council meeting:**

- New EFP proposals are considered by the Council and adopted for public review. Proponents submit a full proposal consistent with Section A below, and should be prepared to describe the proposal to the SSC, CPSMT, CPSAS, and the full Council.
- Council advisory bodies and the public may comment on proposals.

### **April Council meeting:**

- Proponents of both new and recurring EFP research submit final versions of their proposals.
- The SSC, CPSMT, and CPSAS review the proposal(s) and submit a report to the Council.
- Council, Advisory Bodies, and the public may comment on proposals.
- The Council reviews the proposal(s) and takes final action regarding support for the EFP proposal.

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## **A. Proposal Contents**

1. EFP proposals must contain sufficient information for the Council to determine:
  - a. There is adequate justification for an exemption to the regulations.
  - b. The potential impacts of the exempted activity have been adequately identified.
  - c. The exempted activity would be expected to provide information useful to management and use of CPS fishery resources.
2. Applicants must submit a completed application in writing that includes, but is not limited to, the following information:
  - a. Date of application.
  - b. Applicant's names, mailing addresses, and telephone numbers.
  - c. A statement of the purpose and goals of the experiment for which an EFP is needed, including a general description of the arrangements for the disposition of all species harvested under the EFP.

- d. Valid justification explaining why issuance of an EFP is warranted.
  - e. A statement of whether the proposed experimental fishing has broader significance than the applicant's individual goals.
  - f. A statement whether the applicant intend to continue the EFP activities for more than one year. NMFS issues EFPs for only one year at a time. However, if an EFP proposal has a multi-year focus, this information should be included in the proposal.
  - g. Number of vessels and processors covered under the EFP, as well as vessel names, skipper names, and vessel ID numbers and permit numbers.
  - h. A description of the species to be harvested under the EFP and the amount(s) of such harvest necessary to conduct the experiment; this description should include harvest estimates of impacts to non-target species.
  - i. A reasonable justification for the amount of EFP fish to be harvested. For statistical purposes, this could include a power analysis or other means to estimate a reasonable amount or number of fish. Any other justification that supports the amount of fish proposed for EFP activities should also be included.
  - j. A description of a mechanism, such as at-sea or dockside fishery monitoring, to ensure that the harvest or impact limits for targeted and incidental species are not exceeded; and are accurately accounted for and reported.
  - k. A description of the proposed data collection methods, including procedures to ensure and evaluate data quality during the experiment; and data analysis methodology and timeline of stages through completion.
  - l. A description of how vessels will be chosen to participate in the EFP.
  - m. For each vessel covered by the EFP, the approximate time(s) and place(s) fishing will take place, and the type, size, and amount of gear to be used.
  - n. The signature of the applicant.
3. The CPSMT, CPSAS, SSC, and/or Council may request additional information necessary for their consideration.

## **B. Review and Approval**

1. Review of any proposals will include consideration the following questions:
  - a. Is the application complete?
  - b. Is the EFP proposal consistent with the goals and objectives of the CPS FMP?
  - c. Can catch of target and impacts to non-target species be adequately monitored and reported in a timely manner?
  - d. Does the EFP account for fishery mortalities, by species?
  - e. Can the impact estimates of overfished and/or protected species be accommodated?
  - f. Is the EFP proposal compatible with the Federal observer program effort?

- g. What infrastructure is in place to monitor, process data, and administer the EFP?
- h. How will achievement of the EFP objectives be measured?
- i. What are the benefits to the fisheries management process?
- j. If the EFP proposes to integrate the data into management, what is the appropriate process?
- k. What is the funding source for catch monitoring?
- l. Has there been coordination with appropriate state, tribal, and Federal enforcement, management, and science staff?
- m. Are there any outstanding enforcement issues related to the proposed exempted regulation?

### C. Report Contents

- 1. A final written report on the results of the EFP and the data collected must be presented in a timely manner, following completion of the EFP research activities.
  - a. If the data collected under an EFP is intended to be used for stock assessment purposes, it must be submitted to the Stock Assessment Team in accordance with the Council's Terms of Reference for stock assessments. (Typically, this requires submitting the information at least four weeks in advance of the meeting at which the assessment will be reviewed.)

The final report should include:

- a. A summary of the work completed.
- b. An analysis of the data collected.
- c. A description of any changes to protocols, field activities, or other changes to the EFP research.
- d. Conclusions and/or recommendations.

Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1-800-378-3160). The Commission will not send a copy of this *Notice* pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), because this *Notice* does not have an impact on any rules of particular applicability.

*Subject:* Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, published at 77 FR 19480, March 30, 2012, and published pursuant to 47 CFR 1.429(e). See 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)).

*Number of Petitions Filed:* 3.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary, Office of the Secretary, Office of Managing Director.*

[FR Doc. 2012-12613 Filed 5-22-12; 8:45 am]

BILLING CODE 6712-01-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 600

[Docket No. 070719377-2189-01]

RIN 0648-AV81

#### Confidentiality of Information; Magnuson-Stevens Fishery Conservation and Management Reauthorization Act

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

**ACTION:** Proposed rule.

**SUMMARY:** The National Marine Fisheries Service (NMFS) proposes revisions to existing regulations governing the confidentiality of information submitted in compliance with any requirement or regulation under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act or MSA). The purposes of these revisions are to make both substantive and non-substantive changes necessary to comply with the MSA as amended by the 2006 Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) and the 1996 Sustainable Fisheries Act (SFA). In addition, revisions are necessary to address some significant issues that concern NMFS' application of the MSA

confidentiality provision to requests for information.

**DATES:** Written comments on the proposed rule must be received on or before June 22, 2012.

**ADDRESSES:** You may submit comments on this document, identified by FDMS Docket Number NOAA-NMFS-2012-0030, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal [www.regulations.gov](http://www.regulations.gov). To submit comments via the e-Rulemaking Portal, first click the "submit a comment" icon, then enter NOAA-NMFS-2012-0030 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the "Submit a Comment" icon on the right of that line.

- *Mail:* Submit written comments to Karl Moline, NMFS, Fisheries Statistics Division F/ST1, Room 12441, 1315 East West Highway, Silver Spring, MD 20910.

- *Fax:* (301) 713-1875; Attn: Karl Moline.

*Instructions:* Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will 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). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Karl Moline at 301-427-8225.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Magnuson-Stevens Act authorizes the Secretary of Commerce (Secretary) to regulate domestic fisheries within the 200-mile U.S. Exclusive Economic Zone (EEZ). 16 U.S.C. 1811. Conservation and management of fish stocks is accomplished through Fishery Management Plans (FMPs). Eight regional fishery management councils (Councils) prepare FMPs and

amendments to those plans for fisheries within their jurisdiction. Id. 1853. The Secretary has exclusive authority to prepare and amend FMPs for highly migratory species in the Atlantic Ocean. Id. 1852(a)(3), 1854(g).

Information collection is an important part of the fishery management process. Conservation and management measures in FMPs and in their implementing regulations must be based on the best scientific information available (see National Standard 2, 16 U.S.C. 1851(a)(2)). Under section 303(a)(5) of the Magnuson-Stevens Act, any Fishery Management Plan a Council or the Secretary prepares must specify the pertinent information to be submitted to the Secretary with respect to commercial, recreational, or charter fishing, and fish processing in the fishery. Id. 1853(a)(5). In addition, section 303(b)(8) provides that an FMP may require that one or more observers be carried onboard a vessel for the purpose of collecting data necessary for the conservation and management of the fishery. Id. 1853(b)(8).

The Magnuson-Stevens Act sets forth information confidentiality requirements at section 402(b), 16 U.S.C. 1881a(b). Under the Act as amended, the Secretary must maintain the confidentiality of any information that is submitted in compliance with the Act and any observer information. The MSA includes exceptions to these confidentiality requirements. Some exceptions allow for the sharing of confidential information with specified entities provided that these parties treat the information as confidential, while others allow for the release of information without restrictions. In addition, the MSA authorizes the Secretary to disclose information that is subject to the Act's confidentiality requirements in "any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information." Id. 1881a(b)(3).

Section 402(b)(3) of the Act provides that the "Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act \* \* \*". Id. 1881a(b)(3). Accordingly, NMFS has promulgated confidentiality regulations, which are set forth at 50 CFR part 600, subpart E. Certain terms used in these regulations are defined under 50 CFR part 600, subpart A. NMFS last revised the regulations under subpart E in February 1998 (63 FR 7075). The revisions were non-substantive.

NMFS now proposes substantive and non-substantive revisions to its regulations at 50 CFR part 600 subpart A, subpart B, and subpart E in order to implement confidentiality requirements amendments, which were included in the 1996 SFA and the 2006 MSRA. NMFS proposes additional revisions to address some significant issues that have arisen in the day-to-day application of the MSA confidentiality provisions to information requests. These proposed revisions seek to balance the mandate to protect confidential information with exceptions that authorize disclosure of information to advance fishery conservation and management, scientific research, enforcement, and transparency in fishery management actions.

The proposed rule is informed by other statutes that NMFS administers, including the Marine Mammal Protection Act (MMPA), the Endangered Species Act (ESA), and the Freedom of Information Act (FOIA). Development of this proposed rule required NMFS to interpret several statutory provisions, including provisions for release of information in aggregate or summary form, a limited access program exception, and provisions regarding observer information. Accordingly, NMFS highlights these elements of the proposed rule in the discussion below and seeks public comment on options and alternatives for these and other aspects of the proposed rule.

Below, NMFS provides information on three types of proposed changes. NMFS begins with proposed changes that concern the expanded scope of the confidentiality requirements. Next, NMFS presents changes that concern exceptions allowing for the disclosure of confidential information. Lastly, NMFS presents changes necessary to improve the clarity of the regulations.

## II. Proposed Changes Addressing the Expanded Scope of the MSA Confidentiality Requirements

Because statutory amendments have broadened the scope of the MSA's confidentiality requirements, NMFS proposes corresponding regulatory changes. At the MSA's enactment, its confidentiality requirements applied to "[a]ny statistics submitted to the Secretary" in compliance with an FMP. Public Law 94-265, Title III, 303(d) (1976). Congress broadened the confidentiality requirements through the 1996 SFA, Public Law 104-297 (1996), in two respects. First, the 1996 SFA substituted the word "information" for "statistics." Id. 203. As a result, the statute's confidentiality requirements

protected "any information submitted to the Secretary" in compliance with an FMP. The 1996 SFA also expanded the confidentiality requirements to apply not just to information submitted in compliance with an FMP, but to information submitted in compliance with "any requirement or regulation" under the Act. Id. Accordingly, NMFS' proposed rule would update the confidentiality regulations under 50 CFR part 600 to reflect the changes to the law made in 1996.

In addition, this proposed rule would implement further broadening of the confidentiality requirements made by the 2006 MSRA, Public Law 109-479 (2007). Prior to the 2006 MSRA, the confidentiality requirements applied only to information submitted to the Secretary in compliance with any requirement or regulation under the Magnuson-Stevens Act. The 2006 MSRA amended the confidentiality requirements at section 402(b) of the Magnuson-Stevens Act, 16 U.S.C. 1881a(b), to include information submitted to a State fishery management agency or a Marine Fisheries Commission in compliance with a requirement or regulation under the Act. Public Law 109-479, Title II 203. The 2006 MSRA also amended the confidentiality requirements to apply to any observer information, which is now defined under section 3(32) of the Magnuson-Stevens Act. 16 U.S.C. 1802(3)(32).

Specifically, NMFS proposes making the following changes to its regulations in order to implement these amendments to the scope of the MSA confidentiality requirement:

1. Replacing the term "statistics" with "information" in 50 CFR 600.130 and in all regulations under 50 CFR subpart E;
2. Outlining procedures to preserve the confidentiality of all information submitted to the Secretary, a State fishery management agency, or a Marine Fisheries Commission by any person in compliance with the requirements of the Magnuson-Stevens Act. (§ 600.410(b));
3. Deleting the definition of "confidential statistics" and adding a definition for "confidential information" (§ 600.10); and
4. Adding a definition for observer employer/observer provider (§ 600.10). Fisheries observer programs are predominantly contractors hired through private observer employer/observer provider companies. These companies provide qualified persons to perform observer duties on vessels engaged in fishing for species managed under the MSA. NMFS proposes the definition to ensure that observer employer/observer provider companies

properly handle information that is required to be maintained as confidential under the MSA.

## III. Proposed Changes Concerning Exceptions to the Confidentiality Requirement

The MSA's confidentiality requirements are also subject to a number of exceptions that apply if certain conditions are satisfied. Some exceptions allow NMFS to share confidential information with other entities provided that the recipients will maintain it as confidential, while other exceptions allow for the disclosure of confidential information even if the confidentiality will not be maintained by the recipients. In addition, a provision of the MSA authorizes the Secretary to aggregate or summarize information that is subject to the Act's confidentiality requirements into a non-confidential form "which does not directly or indirectly disclose the identity or business of any person who submits such information." 16 U.S.C. 1881a(b)(3). Non-confidential aggregate or summary form information may be released to the public.

NMFS proposes regulatory changes to address significant issues that concern application of exceptions to the confidentiality requirements and the aggregation and summarization provision. NMFS presents these changes in the following order: First, substantive changes addressing disclosure of confidential information without requiring the recipient to keep it confidential; next, substantive changes addressing disclosure of aggregated or summarized confidential information; and finally, non-substantive changes regarding the sharing of confidential information with other entities provided that it remains confidential.

### A. Proposed Changes Concerning Exceptions to Confidentiality Requirements, Where Disclosed Information May Not Remain Confidential

The following changes would implement exceptions that authorize the disclosure of confidential information without further restrictions on its disclosure. Public comments on these provisions, numbered 1-4 below, are especially important, because they propose disclosures where NMFS does not require the recipients to maintain confidentiality.

1. Exception for release of information required to be submitted for a determination under a limited access program: While MSA section 402(b) generally provides for confidentiality of information, section 402(b)(1)(G)

provides an exception for information that is “required to be submitted to the Secretary for any determination under a limited access program.” Id. 1881a(b)(1)(G). The scope of this exception depends on how the terms “limited access program” and “determination” are defined, and because the statute offers no definitions, NMFS now proposes definitions for these terms. NMFS’ interpretation of this exception is important for fisheries managed under limited access programs, because disclosure of information could advance the transparency of the decision-making process and provide those seeking privileges, and privilege holders, with information that may be necessary for an appeal of a determination under a limited access program. However, because MSA section 402(b) generally requires confidentiality, NMFS must consider carefully the breadth of its interpretation of the exception under 402(b)(1)(G). NMFS seeks public comment on the below proposed approaches to “limited access program,” “determination,” and the information to be covered under the exception, and alternative approaches that NMFS might consider.

#### Proposed Definition for “Limited Access Program”

As explained above, the MSA does not define “limited access program” as that term appears in section 402(b), and the interpretations of the term could range across a wide spectrum. At one end of the spectrum, NMFS could broadly interpret “limited access program” under section 402(b) as meaning “limited access system,” which is defined at MSA section 3(27). If NMFS takes this approach, the definition would allow very broad disclosure, applicable to any fishery in which participation is limited to “those satisfying certain eligibility criteria or requirements contained in a fishery management plan or associated regulation.” See 16 U.S.C. 1802(27) (defining limited access system); see also *id.* 1853(b)(6) (setting forth requirements for establishing limited access system). At the other end of the spectrum, NMFS could more narrowly interpret “limited access program” as only MSA section 303A limited access privilege programs (LAPPs). 16 U.S.C. 1853a. See also *id.* 1802(26) (defining “limited access privilege”).

While NMFS encourages comments on the full range of interpretations available for the term, at this time NMFS does not propose to interpret “limited access program” as meaning either a “limited access system” or a

“limited access privilege program.” Taking into account these terms, different potential interpretations of section 402(b)(1)(G), and prior and ongoing work in developing LAPP and LAPP-like programs, NMFS proposes a moderately broad interpretation, defining the term “limited access program” to mean a program that allocates privileges, such as a portion of the total allowable catch (TAC), an amount of fishing effort, or a specific fishing area to a person as defined by the MSA. Information required to be submitted for a determination for such programs could be disclosed.

This interpretation of limited access program would include specific types of programs defined under the MSA, such as section 303A LAPPs and Individual Fishing Quotas (MSA 3(23)). It would also include other management programs not specifically mentioned in the Act, such as programs that allocate a TAC, or a portion of a TAC, to a sector or a cooperative, and programs that grant an exclusive privilege to fish in a geographically designated fishing ground. The Act does not preclude the development of other management programs that are similar to LAPPs but fall outside the section 303A requirements and provisions; the definition of “limited access program” could apply to them as well, allowing disclosure of information submitted for determinations under such programs.

#### Proposed Definition for “Determination”

It is also possible to interpret “determination” under MSA 402(b)(1)(G) in many different ways. On the one hand, “determination” could mean any decision that NMFS makes for a fishery managed under a limited access program. Alternatively, it could mean those determinations that are more specific to limited access programs, like NMFS’ allocation and monitoring of fishing privileges. Privileges allocated and monitored under limited access programs include limited access privileges, individual fishing quotas, a sector’s annual catch entitlement, and other exclusive allocative measures such as a grant of an exclusive privilege to fish in a geographically designated fishing ground.

NMFS proposes the latter approach: defining “determination” to mean a grant, denial, or revocation of privileges; approval or denial of a transfer of privileges; or other similar NMFS regulatory determination applicable to a person. “Person” is already defined under MSA section 3(36), and a determination that generally concerns a

fishery, such as a stock assessment, would not be considered a “determination under a limited access program.” This approach seeks to enhance the transparency of NMFS’ administration of limited access programs and enable parties to have information necessary for appealing determinations.

It is important to note that the statutory exception in MSA 402(b)(1)(G) applies regardless of whether NMFS actually has made a determination. Therefore, NMFS’ proposed rule would allow for release of information required to be submitted for a determination, even if NMFS has not made one. Information could be disclosed under the exception if there are sufficient facts suggesting that NMFS will use the information to make a determination, such as where participants in a limited access program submit information to NMFS for it to determine whether the participants have fished within their allocated privileges. The information would be immediately releasable even if NMFS has not made its determination.

Similarly, prior landing information would be releasable if a Council had submitted an FMP or plan amendment for a limited access program for Secretarial approval and NMFS issued a notice in the **Federal Register** stating that it will use prior landings data for initial allocation determinations under a proposed limited access program. However, the exception would not be applicable where a Council is merely considering developing a limited access program. In that case, there would be insufficient facts to support a conclusion that information was submitted to NMFS for it to make a determination under a limited access program.

NMFS believes that the proposed rule approach will enhance accuracy in limited access program implementation. For example, by making catch histories available before making initial allocation determinations, fishermen can verify the accuracy of the information.

#### Additional Issues Regarding the Scope of Information Releasable Under the Limited Access Program Exception to the Confidentiality Requirements

NMFS has considered several issues related to the scope of information to be covered under the limited access program exception to the confidentiality requirements. Specifically, NMFS has considered tailoring information releases to the relevant determination, maintaining medical and other information as confidential, releasing limited access program information

submitted prior to the MSRA, and releasing information that was initially submitted for non-limited access program reasons. NMFS solicits public comment on its proposed approaches to these four issues, as described below, and also on other potential approaches for addressing the scope of information to be covered under the exception.

NMFS proposes that information releases be tailored for release at the level of the relevant limited access program determination. Thus, information submitted by a specific vessel for a determination about that vessel would be released at the vessel level. However, information submitted by a sector for a determination related to all vessels that operate in the respective sector would be released at the sector level. For example, the Georges Bank Cod Hook Sector is required to submit information on the vessel catch or effort history, and NMFS uses this information to determine whether the Sector is complying with its approved Sector Operations Plan. In this instance, information would be released at the sector level. There may, however, be instances where NMFS uses a sector's data to make determinations about each vessel within the sector. In such cases, information would be released at the vessel level.

NMFS has considered that medical and other personal information may be used for certain determinations under limited access programs and therefore would be within the scope of the confidentiality exception contemplated by subparagraph 402(b)(1)(G). For example, shareholders under the North Pacific Sablefish and Halibut Individual Transferable Quota (ITQ) program must submit such information to support an application for a medical transfer under the regulations. In such cases, NMFS would consider whether Exemption Six of the Freedom of Information Act applies to the information. 5 U.S.C. 552(b)(6). Exemption Six authorizes the withholding of information about individuals in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." *Id.* There may be other instances where NMFS applies applicable FOIA Exemptions to information that is otherwise releasable under subparagraph 402(b)(1)(G).

NMFS is considering the treatment of information previously maintained as confidential. Prior to the enactment of the MSRA, a number of fisheries were managed under limited access programs. NMFS required information to be submitted for determinations under these programs. Accordingly,

development of these confidentiality regulations requires consideration of whether the confidentiality exception in MSA section 402(b)(1)(G) applies to information submitted prior to the passage of the MSRA.

Congress did not expressly say whether MSA 402(b)(1)(G) applies to information submitted prior to enactment of the 2006 MSRA. NMFS believes there are two approaches to this issue. NMFS could apply the exception to all limited access program information submitted to NMFS, regardless of when the information was submitted. Under this approach, NMFS could release information pursuant to this exception even if the information had been submitted prior to enactment of the MSRA. This approach reflects an application of current law, in that the limited access program exception would be applied to NMFS' post-MSRA handling of information. Alternatively, NMFS could apply the exception only to information which has been required to be submitted at a point after enactment of the MSRA. This approach recognizes that when people submitted information pre-MSRA, they may have had a different understanding of what information NMFS could release than that which the current law permits.

NMFS is inclined to apply the exception for limited access program information without regard to when a person submitted information to the agency. Applying the current law in a manner favoring disclosure would enhance transparency as to the historical distribution of resources under limited access programs and allow prospective purchasers of fishing permits to have greater access to permit catch histories. Although NMFS is disinclined to adopt an approach that would apply the exception for limited access information based on the timing of the submission of the information, the agency is interested in public comment on this approach and other potential approaches. NMFS also specifically seeks comment on how the preferred approach or others would affect business or other interests, including comments on expectations of, or reliance on, confidentiality protections.

In addition, NMFS notes that non-limited access program fisheries may, through appropriate Council or Secretarial action, transition to limited access programs. In these situations, information submitted under a non-limited access program fishery may later be relevant for determinations regarding privileges under a newly established limited access program. For the same reasons discussed above, and to

promote efficiency and reduce reporting requirements on the regulated industry, NMFS proposes that information previously submitted under non-limited access program fisheries that it uses or intends to use for determinations under newly established limited access programs be treated as within the scope of the confidentiality exception under subparagraph 402(b)(1)(G). NMFS seeks public comment on this proposed approach and other approaches to this issue.

2. Exception for release of information required under court order: Magnuson-Stevens Act section 402(b)(1)(D) provides an exception for the release of confidential information when required by court order. 16 U.S.C. 1881a(b)(1)(D). Information disclosed under this exception may become part of a public record. To clarify when this section applies, NMFS proposes definitions for "court" and "order" which make clear that the exception applies only to orders issued by a federal court (§ 600.425(d)). In developing these definitions, NMFS considered whether an order from a state court was within the scope of MSA section 402(b)(1)(D). Unless expressly waived by Congress, sovereign immunity precludes state court jurisdiction over a federal agency. In NMFS' view, Congress has not waived sovereign immunity through MSA section 402(b)(1)(D). Therefore, under this proposed rule, NMFS would not honor state court orders as a basis for disclosure of confidential information. State court orders would be handled under 15 CFR part 15, subpart A, which sets forth the policies and procedures of the Department of Commerce regarding the production or disclosure of information contained in Department of Commerce documents for use in legal proceedings pursuant to a request, order, or subpoena.

3. Exception for release of information to aid law enforcement activity: This proposed rule would add text to address sections 402(b)(1)(A) and (C) of the Magnuson-Stevens Act, which provide that confidential information may be released to federal and state enforcement personnel responsible for fishery management plan enforcement. (§ 600.425(e)). The proposed rule would allow enforcement personnel to release confidential information during the enforcement of marine natural resources laws. In such cases, previously confidential information may become part of a public record.

4. Exception for release of information pursuant to written authorization: Section 402(b)(1)(F) of the Magnuson-Stevens Act allows for the release of confidential information "when the

Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act.” 16 U.S.C. 1881a(b)(1)(F). Through this rulemaking, NMFS proposes procedures to ensure that the written authorization exception is utilized only by the person who submitted the information. To that end, NMFS proposes that a person who requests disclosure of information under this exception prove their identity by a statement consistent with 28 U.S.C. 1746, which permits statements to be made under the penalty of perjury as a substitute for notarization.

Generally, the holder of the permit for a vessel, or the permit holder’s designee, will be considered the person who submitted information in compliance with the requirements of the MSA. In cases where requirements to provide information are not tied to a permit, the person who is required to submit the information and is identified in the information as the submitter may execute the written authorization for that information. In most cases, the identity of the submitter of information will be the person who signed the document provided to NMFS. For example, the regulation that implements the MSA financial interest disclosure provision requires that persons nominated for appointment to a regional fishery management council file a signed financial interest form. 16 U.S.C. 1852(j). As the person who is required to submit and sign the financial interest form, a Secretarial nominee would be considered the submitter of the form and, as such, would be able to authorize its disclosure. NMFS intends to develop and make available a model “authorization to release confidential information” form.

In the context of the observer information provisions of MSA section 402(b), the written authorization exception is subject to different interpretations. The exception applies when the “person submitting” information requests release of such information. MSA section 402(b)(2) provides for disclosure of observer information under the written authorization exception but does not identify who the “person submitting” that information is. Accordingly, to apply the written authorization exception to observer information, the submitter of observer information must be identified.

A further complication is that observer programs collect and create different types of observer information

for fishery conservation and management. The primary category of observer information is information that is used for scientific and management purposes. Among other things, the Magnuson-Stevens Act requires that fishery management plans specify pertinent data on fishing and fish processing to be submitted to the Secretary, including but not limited to the type and quantity of fishing gear used, catch in numbers of fish or weight thereof, areas in which fishing was engaged in, and economic information. 16 U.S.C. 1853(a)(5). The Act also requires establishment of standardized bycatch reporting methodology. *Id.* 1853(a)(11). To obtain this and other information, FMPs may require that vessels subject to the plan carry one or more observers. *Id.* 1853(b)(8).

In addition, NMFS’ regional observer programs have established administrative procedures through which observers create information for program operation and management. Information created through these administrative procedures is used to review observer performance, evaluate the observer’s data and collection methodology, and to assess any reports of non-compliance with fishery regulations. More generally, observer programs use this information to evaluate the overall effectiveness of the observer program. Program administrative procedures generally require observers to maintain an official logbook (also referred to as field notes, a journal or diary) that includes technical information related to collection and sampling methodologies and notes that concern their work while deployed on a vessel. Following completion of a fishing trip, observers use their logbooks and their general recollection of the fishing trip to answer post-trip debriefing questions during a debriefing process. Debriefings are generally conducted by NMFS personnel at NMFS facilities, although some observer programs may have debriefings conducted at observer provider offices by observer provider supervisory personnel. NMFS, or the observer provider as appropriate, compiles the observer’s responses into a post-trip debriefing report. Observer providers that are tasked with administration of observer debriefings are required to provide debriefing reports to NMFS.

NMFS is interested in public comment on different options for applying the written authorization exception to observer information. As discussed above, it is unclear what observer information is submitted and who acts as the “person submitting”

observer information. One approach would be to treat the permit holder as the person who submits both types of observer information. That is, the permit holder would be the person who submits observer information collected for scientific and management purposes and observer information created for administration of the observer program. A second option would be to treat the observer, or the observer’s employer, as the person who submits both types of observer information. A third option would be to treat the permit holder as the submitter of observer information collected for scientific and management purposes but not as the submitter of observer information that is created for program administration (e.g. field notes, journals, or diaries). Under this option, there would be no submitter of observer information that is created for program administration. Rather, this information would be treated as internal program information and not subject to the written authorization exception.

In light of the ambiguity in the statute, and recognizing the different purposes for the two types of observer information, NMFS is proposing to apply the third approach and is disinclined to adopt the other two options. However, NMFS will consider the other two options following public comment.

Under NMFS’ proposed approach, permit holders would be considered the submitters of information collected for scientific and management purposes and would therefore be allowed to authorize release of that information. On the other hand, there would be no “submitter” of observer information created for administration of the observer program and it would be treated as internal program information. As such, this information would not be subject to disclosure to the permit holder under the written authorization exception or under FOIA. In withholding debriefing reports, NMFS would apply FOIA Exemption Three, which, as explained above, authorizes the withholding of information that is prohibited from disclosure under another Federal statute. Here, MSA section 402(b)(2) requires the withholding of observer information.

NMFS believes that this approach is consistent with the definition of “submit.” Observers submit information collected for scientific and management purposes to the respective observer programs but do so on behalf of the permit holder that is required to carry an observer. Observer information compiled for administration of the observer program, including information set forth in observer

logbooks, journals, or diaries and the information in observer debriefing reports, is not “submitted” information. Rather, this information is created through program administrative procedures and should be treated as internal program information.

In addition, NMFS believes that the third approach is consistent with the purpose of the written authorization exception, which is to provide permit holders and other submitters of information with access to information that concerns their business and that was obtained by NMFS through a person’s compliance with a requirement or regulation under the Magnuson-Stevens Act.

*B. Proposed Changes Requiring the Protection of Business Information in Releases Allowed by Aggregation and Summarization Exception*

NMFS proposes regulatory definitions to ensure protection for business information. The MSA at section 402(b)(3) provides that “the Secretary may release or make public any information submitted in compliance with any requirement or regulation under the Magnuson-Stevens Act in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information.” 16 U.S.C. 1881a(b)(3). Under this provision, the Secretary, acting through NMFS, may aggregate and summarize information that is subject to the Act’s confidentiality requirements into a non-confidential form. The application of the provision’s language directly corresponds to the level of protection afforded to information that is subject to the MSA confidentiality requirements. Current agency regulations include a definition of “aggregate or summary form” that allows for the public release of information subject to the confidentiality requirements if the information is “structured in such a way that the identity of the submitter cannot be determined either from the present release of the data or in combination with other releases.” § 600.10. The regulations also state that the Assistant Administrator for Fisheries will not release information “that would identify the submitter, except as required by law.” *Id.* § 600.425(a). As a result, information may be disclosed in any aggregate or summary form that does not disclose the identity of a submitter. These regulations focus on protection of submitters’ identity, but this approach does not provide any specific protection for submitters’ “business” information.

*Application of Protection Beyond Identity to Financial and Operational Information*

NMFS reviewed the legal and policy basis for this approach as part of its development of revised regulations for implementation of the 2006 MSRA and the 1996 SFA. It appears that NMFS has historically interpreted the two different elements of MSA 402(b)(3)—“identity of any person” and “business of any person”—to mean submitters’ identifying information, including that which would identify them personally and that which would identify their businesses. NMFS has reassessed the application of MSA section 402(b)(3) and, based on this reassessment, believes that Congress intended the MSA confidentiality provision to protect a broader scope of information than that which would identify submitters. Therefore, NMFS proposes to revise the regulatory definition of “aggregate or summary form” to protect against the disclosure of the “business of any person” and proposes to add a specific definition for “business of any person” that would provide broader protection for information submitted in compliance with the MSA and any observer information.

The statutory language “business of any person” is ambiguous, and NMFS acknowledges that it could be subject to different interpretations. As explained above, NMFS has historically interpreted this language to mean only the identity or name of a person’s business such as “ABC Fishing Company.” NMFS believes that a broader interpretation is more consistent with congressional intent and legal rules for interpretation of statutes. Therefore, NMFS proposes to clarify “business of any person” by defining it at § 600.10 as meaning financial and operational information. Financial information would include information in cash flow documents and income statements, and information that contributes to the preparation of balance sheets. Operational information would include fishing locations, time of fishing, type and quantity of gear used, catch by species in numbers or weight thereof, number of hauls, number of employees, estimated processing capacity of, and the actual processing capacity utilized, by U.S. fish processors. By providing these definitions, NMFS limits releases to an aggregate or summary form which does not disclose the specified financial and operational information of a person.

When responding to FOIA requests for MSA confidential information, NMFS takes into consideration FOIA

Exemption Three, 5 U.S.C. 552(b)(3), and other relevant FOIA exemptions. FOIA Exemption Three applies to information that is exempted from disclosure by another statute. NMFS interprets MSA section 402(b) to exempt from disclosure information that would directly or indirectly disclose the identity or business of any person. As explained above, this proposed rule would require NMFS to consider both factors—not just identity—when applying the aggregate or summary form provisions of the regulations. While this could result in more information being withheld, NMFS believes that detailed and useful information will continue to be disclosed under the aggregate or summary form provisions. NMFS intends to develop, and make available for public comment, aggregation guidelines based on the definition for aggregate or summary form and other elements of the final MSA confidentiality rule. NMFS’ preferred option is to adopt an approach that requires protection of submitters’ business information. Accordingly, the agency is disinclined to continue to allow for the disclosure of aggregated or summarized information that protects only submitters’ identifying information. However, NMFS seeks specific public comment on the proposed definitional changes and other potential options to aggregation and summarization of information subject to the confidentiality requirements.

*Exclusion of Observer Information From Definition of Protected Business Information*

In developing this proposed rule, NMFS considered whether its definition for “business of any person” should include observer information that concerns interactions with protected species. As discussed above, NMFS may release MSA confidential information in “aggregate or summary form,” which would “not directly or indirectly disclose the identity or business of any person.” By excluding observer information that concerns interactions with protected species from the definition of “business of any person,” observer information could be released publicly in aggregate or summary form as long as it would not directly or indirectly result in disclosure of the identity of the vessel involved in the interaction. Thus, in most cases, NMFS would be able to disclose specific details of interactions with protected species.

Release of observer information that concerns interactions with protected species would advance implementation of statutory mandates under the MMPA

and the ESA. For example, this information is critical for deliberations by Take Reduction Teams (TRT) that are convened under section 118(f)(6)(A) of the MMPA. 16 U.S.C. 1387(f)(6)(A)(i). TRTs established under the MMPA must meet in public and develop plans to reduce incidental mortality and serious injury of marine mammals in the course of commercial fishing operations. See *Id.* at 1387(f)(6)(D) (public meetings) and 1387(f) (development of take reduction plans). Specific details about interactions with marine mammals that occurred during commercial fishing operations are critical to developing a plan. *Id.* 1387(f). This information is often available only through observer records. Without detailed observer information on interactions with protected species, TRTs may be unable to develop targeted plans to reduce bycatch of protected species.

Detailed information on interactions with protected species may also facilitate implementation of the ESA. NMFS may need to present detailed information about commercial fisheries interactions with species listed under the ESA in a biological opinion. See § 402.14(g)(8) (requirements for biological opinions). Furthermore, both the MMPA and the ESA require that NMFS use the best available scientific information when making determinations. 16 U.S.C. 1386(a) (MMPA stock assessments) and 16 U.S.C. 1536(c)(1) (ESA biological assessments).

For these reasons, NMFS proposes that the definition of “business of any person” exclude the following observer information on protected species interactions: species of each marine mammal or ESA-listed species incidentally killed or injured; the date, time, and geographic location of the take; and information regarding gear used in the take that would not constitute a trade secret under FOIA, 5 U.S.C. 552(b)(4). While excluding observer information that concerns interactions with protected species from the definition of “business of any person” would advance MSA, ESA, and MMPA mandates, NMFS recognizes that it would also result in the public disclosure of specific information collected by observers during fishing operations. For example, the location of an interaction with a protected species would, in some cases, identify where a vessel fished.

Because observer information that concerns interactions with protected species could also be viewed as a vessel’s operational information, NMFS seeks public comments on this proposed approach and other potential

approaches to this issue. Although NMFS is disinclined to define “business of any person” to include observer information that concerns interactions with protected species, the agency will consider viable approaches other than its proposed interpretation.

#### *C. Proposed Changes Allowing Disclosure of Confidential Information Where Limitations Apply To Further Disclosure*

NMFS proposes the following changes concerning confidentiality requirement exceptions that allow for information to be shared with other entities, provided that specified precautions protect the information.

1. Adding procedures that authorize the sharing of observer information between observer employer/observer providers for observer training or to validate the accuracy of the observer information collected. (§ 600.410(c)(4)).

2. Adding procedures that authorize the disclosure of confidential information in support of homeland and national security activities. (§ 600.415(c)(3)).

3. Adding procedures that authorize the disclosure of confidential information to State employees responsible for fisheries management. (§ 600.415(d)).

4. Adding procedures that authorize the disclosure of confidential information to State employees responsible for FMP enforcement pursuant to a Joint Enforcement Agreement with the Secretary. (§ 600.415(e)).

5. Adding procedures that authorize the disclosure of confidential information to Marine Fisheries Commission employees. (§ 600.415(f)).

6. Revising procedures under which confidential information can be disclosed to Council members for use by the Council for conservation and management purposes. (§ 600.415(g)(2)). Under MSA section 402(b)(3), the Secretary may approve a Council’s use of confidential information for conservation and management purposes. 16 U.S.C. 1881a(b)(3). NMFS’ current confidentiality regulations implement this authority under § 600.415(d)(2). That regulation authorizes the Assistant Administrator, NOAA Fisheries (AA), to grant a Council access to confidential information upon written request by the Council Executive Director. In determining whether to grant access, the AA must consider, among other things, the “possibility that the suppliers of the data would be placed at a competitive disadvantage by public disclosure of the data at Council meetings or hearings.”

*Id.* During development of this proposed action, a question was raised regarding whether this text allows public disclosure of information that was released to a Council under this procedure. As MSA section 402(b)(3) provides for disclosure of information for use by a Council, NMFS proposes to clarify and revise § 600.415(d)(2)(ii) by removing the “public disclosure” text.

7. Adding procedures to authorize release of confidential information to a Council’s scientific and statistical committee (SSC). (§ 600.415(g)(3)). Under the Magnuson-Stevens Act as amended by the 2006 MSRA, Councils must establish, maintain, and appoint the members of an SSC. 16 U.S.C. 1852(g)(1)(A). Members appointed by Councils to SSCs shall be Federal or State employees, academicians, or independent experts. *Id.* 1852(g)(1)(C). The role of the SSC is, among other things, to assist the Council in the development, collection, evaluation and peer review of statistical, biological, economic, social, and other scientific information as is relevant to the Council’s development and amendment of any FMP. *Id.* 1852(g)(1)(A). Furthermore, the SSC is required to provide its Council ongoing scientific advice for fishery management decisions, including, among other things, recommendations for acceptable biological catch and preventing overfishing and reports on stock status and health, bycatch, and social and economic impacts of management measures. *Id.* 1852(g)(1)(B). To carry out these responsibilities, SSC members may need to evaluate confidential information. NMFS may release confidential information to Federal and State employees appointed to a Council’s SSC as provided under Magnuson-Stevens Act section 402(b)(1)(A) and (B). However, the existing confidentiality regulations do not address release of confidential information to academicians or independent experts appointed to an SSC. Because all members of a Council’s SSC may need to evaluate confidential information, NMFS proposes to add procedures through which a Council can request, through its Executive Director, that members of the Council’s SSC that are not Federal or State employees be granted access to confidential information.

NMFS proposes to add this procedure pursuant to Magnuson-Stevens Act section 402(b)(3), which authorizes the Secretary to approve the release and use of confidential information by a Council for fishery conservation and management. Given the statutory role that a Council’s SSC has in development

and amendment of any FMP, NMFS believes that establishing a process for releasing confidential information to an SSC is consistent with the statutory authorization that allows a Council to use confidential information for fishery conservation and management. NMFS recognizes the concern that members of a SSC, who are not Federal or State employees, may gain personal or competitive advantage through access to confidential information. To address this concern, the proposed procedures would require the AA to approve any request from a Council Executive Director that confidential information be released to the Council for use by SSC members who are not Federal or State employees. In making a decision regarding such a request, the AA must consider whether those SSC members might gain personal or competitive advantage from access to the information.

8. Adding procedures that authorize the release of observer information when the information is necessary for proceedings to adjudicate observer certifications. (§ 600.425(b)).

#### IV. Proposed Changes Clarifying NMFS' Confidentiality Regulations

NMFS proposes the following non-substantive changes intended to improve the clarity and accuracy of the regulations.

1. Removing the existing language at § 600.410(a)(2) that states "After receipt, the Assistant Administrator will remove all identifying particulars from the statistics if doing so is consistent with the needs of NMFS and good scientific practice."

Through experience, NMFS has found that maintaining identifying information is necessary for programmatic needs, including FMP monitoring, quota share allocations, capacity modeling, and limited access program development. Accordingly, NMFS would no longer require the removal of identifiers from confidential information when NMFS uses the information to complete programmatic actions. However, NMFS would preserve the confidentiality of identifying information unless an exception allows for release.

2. The authorization to disclose information under section 402(b)(1)(B), as amended by the MSRA and codified in the United States Code, appears to have a typographical error. Prior to the MSRA, section 402(b)(1)(B) authorized the release of confidential information to "State or Marine Fisheries Commission employees pursuant to an agreement with the Secretary that prevents the public disclosure of the identity or business of any person."

Section 402(b)(1)(B) as amended by the MSRA provides that confidential information may be disclosed "to State or Marine Fisheries Commission employees as necessary to further the Department's mission, subject to a confidentiality agreement that prohibits public disclosure of the identity of business of any person." NMFS believes that this was a typographical error, and that Congress intended the text to say "identity or business," consistent with how that phrase appears in section 402(b)(3). As such, this proposed rule uses the phrase "identity or business" with regard to the section 402(b)(1)(B) text.

#### V. Classification

The NOAA Fisheries Assistant Administrator has determined that this proposed rule is consistent with the Magnuson-Stevens Act and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

This action does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, as follows:

Under section 402(b)(3) of the MSA, the Secretary of Commerce is required to prescribe by regulation procedures necessary to maintain the confidentiality of information submitted in compliance with the Act. These regulations are set forth at 50 CFR part 600, subparts B and E. Certain terms used in these regulations are defined under 50 CFR part 600, subpart A. This proposed action would revise 50 CFR part 600, subparts, A, B and E to conform with requirements of the Magnuson-Stevens Act as amended by the 2006 Magnuson-Stevens Fishery Conservation and Management Reauthorization Act and the 1996 Sustainable Fisheries Act. Specifically, this proposed action requires the confidentiality of information collected by NMFS observers, revises exceptions that authorize the disclosure of confidential information, and adds three new disclosure exceptions. In addition, this action includes proposed revisions to implement the 1996 Sustainable Fisheries Act and to update the regulations to reflect NMFS' policy on the release of MSA confidential

information in an aggregate or summary form.

This proposed action applies only to agency policies and procedures for the handling of information required to be maintained as confidential under MSA section 402(b). Adoption of the proposed revisions would not have a significant economic impact on a substantial number of small entities. The proposed revisions would apply to private companies that provide observer staffing support to NMFS and to industry sponsored observer programs. Nine private companies currently provide observers on a seasonal or ongoing basis to support the collection of information in 42 fisheries. The proposed regulations require observer providers to take steps to maintain the confidentiality of information. To satisfy this requirement, observer providers must have a secure area for the storage of confidential information. Compliance costs would include purchase of a lockable filing cabinet and enhanced managerial supervision. These costs would be minimal and all observer providers that currently contract with NMFS already have appropriate measures in place. Accordingly, no initial regulatory flexibility analysis is required and none has been prepared.

#### Lists of Subjects in 50 CFR Part 600

Confidential business information, Fisheries, Information.

Dated: May 17, 2012.

**Alan D. Risenhoover,**

*Acting Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 600 is proposed to be amended as follows:

#### PART 600—[AMENDED]

1. The authority citation for part 600 continues to read as follows:

**Authority:** 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

2. In § 600.10,
  - a. Remove definitions of "Confidential statistics" and "Data, statistics, and information";
  - b. Revise the definition of "Aggregate or summary form" and;
  - c. Add new definitions for "Business of any person", "Confidential information", and "Observer employer/observer provider" in alphabetical order, to read as follows:

#### § 600.10 Definitions.

\* \* \* \* \*

*Aggregate or summary form* means information structured in such a way

that the identity or business of any person that submitted the information cannot be directly or indirectly determined either from the present release of the information or in combination with other releases.

\* \* \* \* \*

*Business of any person means:*

(1) Financial information such as cash flow documents, income statements, or information that contributes to the preparation of balance sheets; or

(2) Operational information such as fishing locations, time of fishing, type and quantity of gear used, catch by species in numbers or weight thereof, number of hauls, number of employees, estimated processing capacity of, and the actual processing capacity utilized, by U.S. fish processors.

(3) Business of any person does not include the following observer information related to interactions with species protected under the Marine Mammal Protection Act and the Endangered Species Act: the date, time, and location of interactions, the type of species, and the gear involved provided that information regarding gear would not constitute a trade secret under the Freedom of Information Act, 5 U.S.C. 552(b)(4).

\* \* \* \* \*

*Confidential information* includes any observer information as defined under 16 U.S.C. 1802(32) or any information submitted to the Secretary, a State fishery management agency, or a Marine Fisheries Commission by any person in compliance with any requirement or regulation under the Magnuson-Stevens Act.

\* \* \* \* \*

*Observer employer/observer provider* means any person that provides observers to fishing vessels, shoreside processors, or stationary floating processors under a requirement of the Magnuson-Stevens Act.

\* \* \* \* \*

#### § 600.130 [Amended]

3. In § 600.130 the word “statistics” is removed and the word “information” is added in place, wherever it occurs.

4. Subpart E to part 600 is revised to read as follows:

#### Subpart E—Confidentiality of Information

Sec.

600.405 Types of information covered.

600.410 Collection and maintenance of information.

600.415 Access to information.

600.420 Control system.

600.425 Release of confidential information.

600.430 Release of information in aggregate or summary form.

#### Subpart E—Confidentiality of Information

##### § 600.405 Types of information covered.

NOAA is authorized under the Magnuson-Stevens Act and other statutes to collect and maintain information. This part applies to confidential information as defined at § 600.10.

##### § 600.410 Collection and maintenance of information.

(a) *General.* (1) Any information required to be submitted to the Secretary, a State fishery management agency, or a Marine Fisheries Commission in compliance with any requirement or regulation under the Magnuson-Stevens Act shall be provided to the Assistant Administrator.

(2) Appropriate safeguards set forth in NOAA Administrative Order 216–100 and other NOAA/NMFS internal procedures apply to the collection, maintenance, and disclosure of any confidential information.

(b) *Collection agreements with States or Marine Fisheries Commissions.* (1) The Assistant Administrator may enter into an agreement with a State or a Marine Fisheries Commission authorizing the State or a Marine Fisheries Commission to collect confidential information on behalf of the Secretary.

(2) To enter into a cooperative collection agreement with a State or a Marine Fisheries Commission, NMFS must determine that:

(i) The State has confidentiality protection authority comparable to the Magnuson-Stevens Act and that the State will exercise this authority to prohibit public disclosure of the identity or business of any person.

(ii) The Marine Fisheries Commission has enacted policies and procedures comparable to the Magnuson-Stevens Act and that the Commission will exercise such policies and procedures to prohibit public disclosure of the identity or business of any person.

(c) *Collection services by observer employer/observer provider.* Before issuing a permit, letting a contract or grant, or providing certification to an organization that provides observer services, the Assistant Administrator shall determine that the observer employer/observer provider has:

(1) Enacted policies and procedures to protect confidential information from public disclosure;

(2) Entered into an agreement with the Assistant Administrator that prohibits public disclosure of confidential information and identifies the criminal and civil penalties for unauthorized use

or disclosure of confidential information provided under 18 U.S.C. 1905 and 16 U.S.C. 1858; and

(3) Required each observer to sign an agreement with NOAA/NMFS that prohibits public disclosure of confidential information and identifies the criminal and civil penalties for unauthorized use or disclosure of confidential information provided under 18 U.S.C. 1905 and 16 U.S.C. 1858.

(4) Observer employers/observer providers that fulfill the requirements of this subsection may share observer information among observers and between observers and observer employers/observer providers as necessary for the following:

(i) Training and preparation of observers for deployments on specific vessels; or

(ii) Validating the accuracy of the observer information collected.

##### § 600.415 Access to information.

(a) *General.* NMFS will determine whether a person may have access to confidential information under this section only when in receipt of a written request that provides the following information:

(1) The specific types of information requested;

(2) An explanation of why the information is necessary to fulfill a requirement of the Magnuson-Stevens Act;

(3) The duration of time that access will be required: Continuous, infrequent, or one-time; and

(4) An explanation of why aggregated or summarized information available under § 600.430 would not be sufficient.

(b) NOAA enforcement employees are presumed to qualify for access to confidential information without submission of a written request.

(c) *Federal employees.* Confidential information under this section will only be accessible by the following:

(1) Federal employees who are responsible for FMP development, monitoring, or enforcement. This includes persons that need access to confidential information to perform functions authorized under a federal contract, cooperative agreement, or grant awarded by NOAA/NMFS.

(2) NMFS employees and contractors that perform research that requires access to confidential information.

(3) Federal employees for purposes of supporting homeland and national security activities at the request of another federal agency only if:

(i) Providing the information supports homeland security or national security purposes including the Coast Guard's

homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2)); and

(ii) The requesting agency has entered into a written agreement with the Assistant Administrator. The agreement shall contain a finding by the Assistant Administrator that the requesting agency has confidentiality policies and procedures to protect the information from public disclosure.

(d) *State fishery management employees.* Confidential information may be made accessible to a State employee responsible for fisheries management only by written request and only if the employee has a need for confidential information to further the Department of Commerce's mission, and the State has entered into a written agreement between the Assistant Administrator and the head of the State's agency that manages marine and/or anadromous fisheries. The agreement shall contain a finding by the Assistant Administrator that the State has confidentiality protection authority comparable to the Magnuson-Stevens Act and that the State will exercise this authority to prohibit public disclosure of the identity or business of any person.

(e) *State enforcement personnel.* Confidential information will be accessible by State employees responsible for enforcing FMPs, provided that the State for which the employee works has entered into a Joint Enforcement Agreement and the agreement is in effect.

(f) *Marine Fisheries Commission employees.* Confidential information may be made accessible to Marine Fisheries Commission employees only upon written request of the Commission and only if the request demonstrates a need for confidential information to further the Department of Commerce's mission, and the executive director of the Marine Fisheries Commission has entered into a written agreement with the Assistant Administrator. The agreement shall contain a finding by the Assistant Administrator that the Marine Fisheries Commission has enacted policies and procedures comparable to the Magnuson-Stevens Act and that the Commission will exercise such policies and procedures to prohibit public disclosure of the identity or business of any person.

(g) *Councils.* A Council, through its Executive Director, may request that access to confidential information be granted to:

(1) Council employees who are responsible for FMP development and monitoring.

(2) Council members for use by the Council for conservation and management purposes. Such a request must be approved by the Assistant Administrator. In making a decision about a request, the Assistant Administrator will consider the information described in paragraph (a) of this section and the possibility that Council members might gain personal or competitive advantage from access to the information.

(3) Council scientific and statistical committee members, who are not federal or State employees, if necessary for the Council's evaluation of statistical, biological, or economic information relevant to such Council's development and amendment of any FMP. Such a request must be approved by the Assistant Administrator. In making a decision about a request, the Assistant Administrator will consider the information described in paragraph (a) of this section and the possibility that Council members might gain personal or competitive advantage from access to the information.

(4) A contractor of the Council for use in such analysis or studies necessary for conservation and management purposes, with approval of the Assistant Administrator and execution of an agreement with NMFS as described in NOAA Administrative Order 216-100 or other NOAA/NMFS internal procedures.

(h) *Vessel Monitoring System Information.* Nothing in these regulations contravenes section 311(i) of the Magnuson-Stevens Act which requires NMFS to make vessel monitoring system information directly available to the following:

(1) Enforcement employees of a State which has entered into a Joint Enforcement Agreement and the agreement is in effect.

(2) State management agencies involved in, or affected by, management of a fishery if the State has entered into an agreement with NMFS that prohibits public disclosure of the information.

(i) *Prohibitions.* Persons having access to confidential information under this section may be subject to criminal and civil penalties for unauthorized use or disclosure of confidential information. See 18 U.S.C. 1905, 16 U.S.C. 1857-1858, and NOAA/NMFS internal procedures.

#### **§ 600.420 Control system.**

(a) NMFS must maintain a control system to protect any information submitted in compliance with any requirement or regulation under the Magnuson-Stevens Act. The control system must:

(1) Identify those persons who have access to confidential information;

(2) Contain procedures to limit access to confidential information to authorized users; and

(3) Provide handling and physical storage protocols for safeguarding of the information.

(b) Require persons authorized to access confidential information to certify that they:

(1) Are aware that they will be handling confidential information, and

(2) Have reviewed and are familiar with the procedures for handling confidential information.

#### **§ 600.425 Release of confidential information.**

(a) NMFS will not disclose to the public any confidential information except when:

(1) Authorized by an FMP or regulations under the authority of the North Pacific Council to allow disclosure of observer information to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification.

(2) Observer information is necessary in proceedings to adjudicate observer certifications.

(b) Information is required to be submitted to the Secretary for any determination under a limited access program. This exception applies to confidential information that NMFS has used, or intends to use, for a regulatory determination under a limited access program. For the purposes of this exception:

(1) *Limited Access Program* means a program that allocates privileges, such as a portion of the total allowable catch, an amount of fishing effort, or a specific fishing area, to a person.

(2) *Determination* means a grant, denial, or revocation of privileges; approval or denial of a transfer of privileges; or other similar regulatory determinations by NMFS applicable to a person.

(c) Required to comply with a federal court order. For purposes of this exception:

(1) *Court* means an institution of the judicial branch of the U.S. Federal government consisting of one or more judges who seek to adjudicate disputes and administer justice. Entities not in the judicial branch of the Federal government are not courts for purposes of this section.

(2) *Court order* means any legal process which satisfies all of the following conditions:

(i) It is issued under the authority of a Federal court;

(ii) A judge or magistrate judge of that court signs it; and

(iii) It commands NMFS to disclose confidential information as defined under § 600.10.

(d) Necessary for enforcement of the Magnuson-Stevens Act, or any other statute administered by NOAA; or when necessary for enforcement of any State living marine resource laws, if that State has a Joint Enforcement Agreement that is in effect.

(e) The Secretary has obtained written authorization from the person submitting such information to release it to persons for reasons not otherwise provided for in Magnuson-Stevens Act subsection 402(b) and such release does not violate other requirements of the Act. NMFS will apply this exception as follows:

(1) When a permit-holder is required to submit information in compliance with requirements of the Act, the permit-holder or designee may execute the written authorization for release of that information. Otherwise, the person who is required to submit the

information and is identified in that information as the submitter may execute the written authorization for that information.

(2) For observer information, a permit-holder may execute a written authorization for release of observed catch, bycatch, incidental take data, economic data, recorded biological sample data, and other information collected for scientific and management purposes by an observer while carried aboard the permit-holder's vessel.

(3) A permit-holder or designee or other person described under paragraph (f)(1) of this section must provide a written statement authorizing the release of the information and specifying the person(s) to whom the information should be released.

(4) A permit-holder or designee or other person described under paragraph (f)(1) of this section must prove identity by a statement of identity consistent with 28 U.S.C. 1746, which permits statements to be made under penalty of perjury as a substitute for notarization.

The statement of identity must be in the following form:

(i) If executed outside the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)".

(ii) If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)".

(5) The Secretary must determine that a release under paragraph (f) of this section does not violate other requirements of the Magnuson-Stevens Act and other applicable laws.

**§ 600.430 Release of information in aggregate or summary form.**

The Secretary may disclose in any aggregate or summary form information that is required to be maintained as confidential under these regulations.

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**BILLING CODE 3510-22-P**

Agenda Item B.1  
Supplemental Open Comment 3  
June 2012

GROUND FISH MANAGEMENT TEAM REPORT ON THE FEDERAL REGISTER NOTICE  
REGARDING PROPOSED REVISIONS TO CONFIDENTIALITY OF INFORMATION

First, the Groundfish Management Team (GMT) would like to thank the Fort Bragg/Central Coast risk pool for submitting their report (Agenda Item B.1 Open Comment 1).

Second, the GMT is writing to address the proposed rule included as Agenda Item B.1, Supplemental Open Comment 2. We suggest that the Council submit a comment letter on the proposed rule. In general, we are encouraged by the proposed rule and have long been wishing for increased access to data collected under the Groundfish Fishery Management Plan (Groundfish FMP). The comment deadline has been extended to August 21, 2012 (Federal Register Notice, June 13, 2012).

Data confidentiality has been a major factor in the work of this advisory body. The analyses we are able to produce for the Council are often limited by who can see the data. The situation has improved recently with broader access to observer data among National Marine Fisheries Service (NMFS) members of the GMT, yet state and tribal professionals on the GMT still cannot view or analyze confidential data. In the past, we have had to make requests of the West Coast Groundfish Observer Program (WCGOP) for analyses that could have been produced by members of the team or Council staff. WCGOP has been responsive to such requests but does have to fit them within their broader workload and priorities.

In addition, we recently learned that the Oregon Department of Fish and Wildlife (ODFW) entered into a recent memorandum of agreement (MOA) with NMFS on confidential data sharing. NMFS has also made initial contact with Washington Department of Fish and Wildlife (WDFW) and the California Department of Fish and Game (CDFG). We are encouraged by and grateful for these developments. However, it is unclear whether this access is allowed for state fishery management purposes only, or can be used by state agencies employees who are members of technical advisory bodies, such as the GMT, for Federal fishery management purposes.

Other information to which access is currently limited based on confidentiality include the observer and logbook information from the at-sea sectors, some of the data collected as part of the IFQ and co-op fisheries, and vessel monitoring system (VMS) information (which is being used to analyze management questions in other parts of the world).

We offer the following specific comments on the proposed rule for the Council's consideration.

- Better access to confidential information by non-NMFS members of the GMT would improve the quality and quantity of analysis we provide to the Council.
- The review of our models, within the team and by the Scientific and Statistical Committee (SSC), can be limited because of confidentiality;
- Section 600.415(d) of the proposed rule applies to data access for state fishery management employees. We would suggest that when state employees are serving on Council advisory bodies, they be added to section 600.415(g)(3)'s list of who the

Council's Executive Director can make a request for data access "to further the Department of Commerce's mission.". The proposed 600.415(g)(3)(1) already includes "Council employees who are responsible for FMP development and monitoring."

- Section 600.415(g)(3) of the proposed rule mentions non-state and Federal members of the science and statistical committee having potential access to confidential data subject to approval. The proposed rule does not mention other advisory bodies or tribal fishery management professionals specifically; both play an important role at this Council. We would suggest that this section be broadened to include more advisory bodies than just the SSC. Much of the analytical work at this Council is performed by technical advisory bodies like the GMT with the SSC playing primarily a review role. As such the GMT would recommend including members of the GMT, Salmon Technical Team (STT), Highly Migratory Species Management Team (HMSMT), and Coastal Pelagic Species Management Team (CPSMT) in the Executive Director's list of those who can request confidential data.
- There may be situations where stakeholder advisory bodies like the Groundfish Advisory Panel (GAP) could help the Council by seeing some confidential information. However, the GMT notes that the standard for the GAP and other stakeholder groups should be different than the standard for analytical advisory bodies. The standard for disclosure to stakeholder groups could be the same as that for disclosure to Council members given at section 600.415(a)(g)(2) of the proposed rule.
- The regulations might benefit from more detail on the process for making requests, the timing with which they'll be considered, and the criteria on which the requests will be evaluated. Good professional relationships like those we enjoy now can make such formal guidelines unnecessary. Yet holders of data may not wish to share information or may not make sharing a priority with others for reasons other than data confidentiality.
- The proposed rule has some guidelines in section 600.415(a) for what must be provided in making a request, including an explanation of "why the information is necessary to fulfill a requirement of the [MSA]" and an explanation of why non-confidential information would "not be sufficient." We think the Executive Director is well suited to make such determinations within the specific circumstances of each FMP. We would suggest that proposed rule state that requests submitted by the Executive Director be presumed to fulfill these criteria.
- There is a distinction between access to confidential data and disclosure of that data. Even if state employees are granted access to data, they could only summarize and disclose the inferences made from that data in a way that protects confidentiality. The proposed regulations handle this by allowing public disclosure of data in "aggregate or summary" form, which they would define as "information structured in such a way that the identity or business of any person that submitted the information cannot be directly or indirectly determined either from the present release of the information or in combination with other releases." We would suggest that additional guidance on this standard would be helpful. This standard would leave some leeway to the person with authority to decide where a particular disclosure revealed confidential information or not based on the specific circumstances. Guidelines would help in making those decisions. As it is now,

we tend to default to a bright-line rule that may not make sense or serve their intended purpose in some circumstances. We typically employ the “rule of three” on this coast. The rule implies that information from three entities does not indirectly or directly reveal their identity or business. Few seem to know the origin of that rule or its rationale.

- If NMFS convenes working groups or undertakes similar efforts to explore disclosure standards, we would recommend that state and tribal employees and employees of the Pacific States Marine Fisheries Commission (PSMFC) be asked to participate. The MSA confidentiality rules now apply to some data collected by the states (we are unclear on exactly which state data are now considered protected by Federal confidentiality), and the states have experience and their own rules on disclosure. The west coast has a tradition of state and federal collaboration on such issues through PacFIN and the Pacific Coast Fisheries Data Committee (PCFDC).
- The proposed rule’s “identity or business” language is key to determining whether information is confidential. That language comes from the MSA but the MSA does not define what Congress meant by those terms. Regulatory definitions exist now yet the proposed rule would make changes to the definition of “business of any person.” These changes would broaden the meaning of that term and thus the type of information considered to be confidential. The proposed definition, given at section 600.10, divides “business” to include “financial information” and “operational information.” The latter definition strikes some of us as being quite broad:

Operational information such as fishing locations, time of fishing, type and quantity of gear used, catch by species in numbers or weight thereof, number of hauls, number of employees, estimated processing capacity of, and the actual processing capacity utilized, by U.S. fish processors.

This definition could make information like Vessel Y “uses midwater gear” or Company X buys “whiting” confidential. A narrower definition would seem more reasonable. The definition could be narrowed by clarifying that the disclosure would reveal operational information that isn’t commonly known or that is unique or amounts to some competitive advantage that the business has developed and that others have not. The proposed rule takes a similar approach for disclosure to Council members (section 600.415(a)(g)(2)). Broadening the definition could affect what and how information is presented to the Council. At the same time, most analyses can be aggregated for disclosure without losing their analytical import. We typically run into issues with ports that only have one fish buyer. Concerns and analyses of fishing communities could be affected.

- Lastly, we are uncertain about what the proposed definitions of “limited access system” and “determination” in section 600.425(1) might mean for the data that is publically available now on Federal groundfish permits and quota holdings. NMFS recognizes that these “could range across a wide spectrum.” The Council may wish to discuss and seek clarification on this issue and what changes it may or may not bring to what is disclosable under the IFQ, co-op, and sablefish tier fisheries.

## ADVISORY BODY COMPOSITION

### SUBPANEL COMPOSITION

1. Subpanels shall consist of not more than 20 members (unless additional members are deemed necessary by the Council), each concerned with carrying out the objectives and duties of the subpanel.
2. The Council may establish or abolish subpanels as it deems necessary to perform the Council's duties as specified under the Magnuson-Stevens Act and other applicable law.

### REPRESENTATION ON SUBPANELS <sup>1/</sup>

Subpanel and Total Number of Members	Affiliation or Representation
Coastal Pelagic (10)	3 California Commercial Fisheries 1 Oregon Commercial Fisheries 1 Washington Commercial Fisheries 3 Processors (California, Washington, or Oregon) 1 California Charter/Sport Fisheries 1 Conservation Group
Groundfish (20)	3 Fixed Gear Fisheries (at-large) 1 Washington Trawl Fisheries 1 Oregon Trawl Fisheries 1 California Trawl Fisheries 1 Open Access Fisheries north of Cape Mendocino 1 Open Access Fisheries south of Cape Mendocino 2 Processors (at-large) 1 At-Sea Processor 1 Washington Charter Boat Operator 1 Oregon Charter Boat Operator 1 California north of Pt. Conception Charter Boat Operator 1 California south of Pt. Conception Charter Boat Operator 3 Sport Fisheries (at-large) 1 Tribal Fisheries (individual must be active in tribal fishery) 1 Conservation Group

REPRESENTATION ON SUBPANELS <sup>1/</sup>

Subpanel and Total Number of Members	Affiliation or Representation
Highly Migratory Species (13)	<ul style="list-style-type: none"> <li>1 Commercial Troll Fisheries</li> <li>1 Commercial Purse Seine Fisheries</li> <li>1 Commercial Gillnet Fisheries</li> <li>3 Commercial At-Large</li> <li>1 Processor north of Cape Mendocino</li> <li>1 Processor south of Cape Mendocino</li> <li>1 Northern Charter Boat Operator</li> <li>1 Southern Charter Boat Operator</li> <li>1 Private Sport Fisheries</li> <li>1 Conservation Group</li> <li>1 Public At-Large</li> </ul>
Salmon (15)	<ul style="list-style-type: none"> <li>1 Washington Troll Fisheries</li> <li>1 Oregon Troll Fisheries</li> <li>1 California Troll Fisheries</li> <li>1 Gillnet Fisheries</li> <li>1 Processor</li> <li>1 Washington Charter Boat Operator</li> <li>1 Oregon Charter Boat Operator</li> <li>1 California Charter Boat Operator</li> <li>1 Washington Sport Fisheries</li> <li>1 Oregon Sport Fisheries</li> <li>1 Idaho Sport Fisheries</li> <li>1 California Sport Fisheries</li> <li>1 Tribal Fisheries (Washington Coast, individual must be active in tribal fishery)</li> <li>1 Tribal Representative (California - alternates between tribes)</li> <li>1 Conservation Group</li> </ul>

1/ These subpanels have been established under the authority of Section 302(g)(2) of the Magnuson-Stevens Act.

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# ADVISORY BODIES

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# GROUNDFISH ADVISORY SUBPANEL

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## Groundfish Advisory Subpanel (continued)

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## SSC COMPOSITION

Committee members shall be appointed for each category listed below (17 members). The Council shall strive to include on the committee three social scientists, of which at least two shall have economic sciences expertise. More generally, the Council shall strive to ensure that SSC membership reflects the range of expertise needed for all Council FMPs.

### **[Agency and Tribal Members with indefinite terms]**

1. State fishery management agencies (4)
  - Washington Department of Fish and Wildlife
  - Oregon Department of Fish and Wildlife
  - California Department of Fish and Game
  - Idaho Department of Fish and Game
2. National Marine Fisheries Service (5)
  - Alaska Fisheries Science Center (1)
  - Northwest Fisheries Science Center (2)
  - Southwest Fisheries Science Center (2)
3. West Coast Indian tribal agency with fishery management responsibility (1)

### **[Members with defined 3-year terms]**

4. At-large positions (7)

# SCIENTIFIC AND STATISTICAL COMMITTEE <sup>3-year Terms (7)</sup>

 BOTSFORD, DR. LOUIS At-Large	Dept. of Wildlife, Fish, and Conservation Biology University of California One Shields Avenue Davis, CA 95616	Telephone: 530-752-6169 Fax: 530-752-4154 Email: lwbotsford@ucdavis.edu
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## Scientific and Statistical Committee *(continued)*



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### SSC Subcommittee Assignments

Salmon	Groundfish	CPS	HMS	Economic	Ecosystem- Based Management
<b>Robert Conrad</b>	<b>Vlada Gertseva</b>	<b>André Punt</b>	<b>Ray Conser</b>	<b>Cindy Thomson</b>	<b>Selina Heppell</b>
Loo Botsford	Loo Botsford	Ray Conser	Robert Conrad	Vlada Gertseva	Loo Botsford
Carlos Garza	Ray Conser	Carlos Garza	Selina Heppell	Todd Lee	Ray Conser
Owen Hamel	Martin Dorn	Owen Hamel	André Punt	André Punt	Martin Dorn
Meisha Key	Owen Hamel	Selina Heppell		David Sampson	Vlada Gertseva
Pete Lawson	André Punt	Meisha Key			Pete Lawson
Charlie Petrosky	David Sampson				Todd Lee
	Tien-Shui Tsou				André Punt
					Cindy Thomson

**Bold** denotes Subcommittee Chairperson

## HABITAT COMMITTEE COMPOSITION

The HC shall consist of 15 members as specified from each entity or category below. The representatives selected for the HC should have experience in habitat issues and/or expertise in strategic planning.

### **[Public, Industry, and Klamath Tribal Members with 3-year terms]**

- Two members representing the fishing industry - one commercial and one sport.
- One member representing a conservation group.
- One member at-large.
- One Klamath tribal representative which by agreement alternates between the Yurok and Hoopa Valley Tribes every three years.

### **[Agency and Tribal Members with indefinite terms]**

- One member from NMFS Northwest or Southwest Fisheries Science Center.
- One member from National Marine Fisheries Service (NMFS) Northwest or Southwest Region.
- One member from U.S. Fish and Wildlife Service (USFWS).
- One member from Pacific States Marine Fisheries Commission (PSMFC).
- Four members from among the four state fishery agencies (Washington, Idaho, Oregon, and California).
- One Northwest or Columbia River tribal representative.
- One member from National Marine Sanctuaries (NMS).

# HABITAT COMMITTEE

\* 3-year Terms

VACANCIES: One Northwest or Columbia River Tribal Position.

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## Habitat Committee *(continued)*

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SCIENTIFIC AND STATISTICAL COMMITTEE REPORT ON MEMBERSHIP  
APPOINTMENTS AND COUNCIL OPERATING PROCEDURES

The Scientific and Statistical Committee (SSC) strongly encourages the Council to retain the seven at-large seats on the SSC. Because of the large workload related to groundfish and coastal pelagic species management, it is important that the SSC continue to have a large contingent of members with expertise in those areas. The SSC will also have a continued need for economists and ecosystem scientists/quantitative ecologists; currently there are two at-large members with primary expertise in economics and two at-large members with primary expertise in ecology. The SSC discussed the potential future need for additional ecologists, but does not consider that to be an immediate need.

PFMC  
09/14/12



## MIDWATER TRAWLERS COOPERATIVE

P.O. Box 2352  
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PHONE: 541-265-9317 FAX: 541-265-4557  
bluefox@q.com

RECEIVED

AUG 13 2012

PFMC

Mr. Dan Wolford, Chair  
Pacific Fishery Management Council  
7700 NE Ambassador Place, Suite 101  
Portland, Oregon 97220-1384

RE: Midwater Trawl Whiting Representation on the Groundfish Advisory Panel

Dear Chair Wolford,

The Midwater Trawlers Cooperative is writing to formally request an additional seat on the Groundfish Advisory Panel specifically to represent midwater trawl whiting fishermen.

As you know, management of the Pacific whiting fishery takes up a large portion of the Council's time. An extremely valuable fishery to the west coast, it is also one of the most highly regulated and scrutinized fisheries as well. **Shoreside and mothership ex-vessel values have made up anywhere from 14% to 31% of the total value of all Groundfish landings (all gears) over the last decade – equating, on average, to one quarter of all the revenue generated from the Groundfish fishery.**

### Annual Groundfish Ex-Vessel Revenue

Year	Total Ex-Vessel Groundfish Value	Total Shoreside & Mothership Whiting Ex-Vessel Value	Shoreside and Mothership Whiting Ex-vessel Value percentage of Total Groundfish Value
2011	\$121,496,600	\$36,875,700	30%
2010	\$85,048,200	\$17,630,100	21%
2009	\$73,840,000	\$10,184,000	14%
2008	\$113,342,400	\$34,009,800	30%
2007	\$77,620,600	\$21,772,800	28%
2006	\$79,247,700	\$24,314,300	31%
2005	\$71,657,100	\$19,910,700	28%
2004	\$60,877,700	\$11,613,600	19%
2003	\$58,396,600	\$11,634,700	20%
2002	\$51,638,900	\$9,670,500	19%
2001	\$58,823,000	\$8,399,100	14%
Total	\$851,988,800	\$206,015,300	24%

Source: PacFIN data tables R022 (2001-2011) and R020W (2001-2011)

David Jincks, President

P.O. Box 2352\* Newport, OR 97365 \* Phone: (541) 265-9317 \* Email: bluefox@q.com

Even before the recent attention to the whiting fishery via the reconsideration of initial allocation of whiting shares issue, the whiting fishery has historically garnered much attention through the Council process. We expect this spotlight to continue even under the newly implemented ITQ program. And while the Council process allows and encourages stakeholder participation, we believe that this important fishery deserves a seat and a voice at the table on the Groundfish Advisory Panel. We understand that the Council is facing budgetary challenges but we also believe that whiting fishermen deserve a dedicated seat at the table just as the other sectors and fisheries receive.

The Groundfish Advisory Panel currently has three trawl seats – one for each west coast state. These seats have primarily been associated with non-whiting traditional Groundfish trawl fishermen and the seats rarely turn over as there are no term limits for advisory panel members. The non-whiting Groundfish trawl sector is also important to the west coast. Traditional non-whiting Groundfish trawl fishermen use different gear and many times have completely different issues to contend with than whiting fishermen. Therefore our recommendation is to add an additional seat to the GAP that represents midwater trawl whiting fishermen who deliver both shoreside and to motherships. It is important to recognize that their input is valuable to the process.

GAP membership is currently at twenty members with one vacancy for the tribal seat at the time this letter was written. The Council Operating Procedures for Advisory Bodies allow for up to twenty members unless “additional members are deemed necessary by the Council”. It is our understanding that at the September PFMC meeting the Council will announce that all the GAP seats are up for re-appointment with a call for nominations and reappointment and new appointment of GAP members to take place in November.

We believe this is the perfect time to decide to round out the membership of the GAP by including an additional seat to represent whiting fishermen and request that you “deem it necessary” to increase the GAP membership to 21 and seek nominations of a qualified representative for whiting fishermen.

I would be happy to answer any additional questions that you have and we plan to also speak to this issue at the September PFMC meeting under the Open Comment period. We think you will agree that the whiting fishery is an extremely important and valuable Groundfish fishery and that the fishermen who participate in this fishery deserve a seat at the table.

Thank you for your consideration.

Sincerely,



David Jincks, President  
Midwater Trawlers Cooperative

## FUTURE COUNCIL MEETING AGENDA AND WORKLOAD PLANNING

This agenda item is intended to refine planning for future Council meetings and workload, especially in regard to the details of the proposed agenda for the November 2012 Council Meeting. The following two attachments are intended to help the Council in the overall agenda planning process (updated supplemental attachments will be provided as needed to reflect the latest information at the time of the agenda item):

1. An abbreviated display of potential agenda items for the next full year (Attachment 1).
2. A proposed November 2012 Council meeting Agenda (Attachment 2).

The Executive Director will assist the Council in reviewing the proposed agenda materials and discuss any other matters relevant to Council meeting agendas and workload. After considering supplemental material provided at the Council meeting, and any reports and comments from advisory bodies and public, the Council will provide guidance for future agenda development, a final proposed November Council meeting agenda, and workload priorities for Council staff and advisory bodies.

### **Council Tasks:**

- 1. Review pertinent reference materials and provide guidance on potential agenda topics for future Council meetings for the Year-at-a-Glance Summary.**
- 2. Provide guidance on a proposed agenda for the November Council meeting.**
- 3. Identify priorities for advisory body considerations at the next Council meeting as well as any needed direction on workload and workshop planning and priorities.**

### **Reference Materials:**

1. Agenda Item G.6.a, Attachment 1: Pacific Council Workload Planning: Preliminary Year-at-a-Glance Summary.
2. Agenda Item G.6.a, Attachment 2: Preliminary Proposed Council Meeting Agenda, November 1-7, 2012 in Costa Mesa, California.

### **Agenda Order:**

- a. Agenda Item Overview
  - b. Reports and Comments of Advisory Bodies and Management Entities
  - c. Public Comment
  - d. Council Discussion and Guidance on Future Meeting Agenda and Workload Planning
- Don McIsaac

PFMC  
08/23/12

## Pacific Council Workload Planning: Preliminary Year-at-a-Glance Summary

(Parenthetical numbers mean multiple items per topic; shaded Items may be rescheduled re workload priorities; deletions= struck-out; border=new)

	<u>November 2-7, 2012</u> (Costa Mesa)	<u>March 6-11, 2013</u> (Tacoma)	<u>April 6-11, 2013</u> (Portland)	★ ★	<u>June 20-25, 2013</u> (Garden Grove)	<u>September 11-17, 2013</u> (Boise)	
<b>CPS</b>	NMFS Rpt EFP Notice of Intent for 2013 Sardine Asmnt & Mgmt Meas. Including Tribal Allocation		EFPs: Final Recom. Inseason Rev of Mackerel Fishery if Needed	May 5-11: Hosting Annual CCC Meeting and Managing Our Nations Fisheries 3 National Conference, Washington, DC	NMFS Rpt  Mackerel HG & Mgmt Meas.		
<b>Groundfish</b>	NMFS Report Inseason Mgmt  Prog. Rpt on Barotrauma Credit Adopt PPA for A-24: New Spx & Mgmt Measure Process Status of Rationalized Fishery Trawl Trailing Actions: Electr. Monitoring; Prelim Alts Widow QS Reallocation, and Scope PIE 3; Gear Wrkshp Rpt	NMFS Report Inseason Mgmt  Further Progr. on Barotrauma Adopt FPA for A-24: New Spx & Mgmt Measure Process  Trawl Trailing Actions: PPA for PIE 3, Widow QS, & Gear Electr. Monitoring Feasibility Rpt	NMFS Report Inseason Mgmt Pacific Whiting Update  Adopt Prelim Spx & Mgmt Meas Process for Fisheries beginning in 2015 Trawl Trailing Actions: FPA for PIE 3  EFH Rev, Analysis, & RFP Rel.		NMFS Report Inseason Mgmt Approve Stock Assessments  Adopt Final Spx & Mgmt Meas Process for Fisheries beginning in 2015 Trawl Trailing Actions: FPA for Widow QS Reallocation & Gear	NMFS Report Inseason Mgmt Approve Stock Assessments #2 Plan Science Improvements Initial Actions for Setting 2015- 2016 Fisheries & Beyond  Trawl Trailing Actions: Clean-up & Emerging  Phase 2 EFH Report	
<b>HMS</b>	NMFS Report  Input to Intern'l RFMO	NMFS Report NMFS Swordfish Rpt on Alt. Gear Impacts, Changes to Consv. Area, & Turtle Hardcaps	Internat'l RFMO Matters Including Albacore & IATTC		NMFS Report	NMFS Report	
<b>Salmon</b>	NMFS Rpt 2012 Method Rev.--Final FPA: A-17--Minor Updates (if Nec 2013 Preseas'n Mgmt Schd	NMFS Rpt Approve Rev, Forecasts, & ACLs Approve Rebuilding Plan Alts.  2013 Season Setting (5)	NMFS Rpt 2013 Method Rev.--Identify Topics  2013 Season Setting (3) Adopt FPA for EFH (A18)			NMFS Report Method Rev: Adopt Priorities	
<b>Other</b>	Routine Admin (8) + New Term Habitat Issues Federal Enforcement Priorities Pac Halibut: Final CSP Changes IEA Impl. Wrkshop Report  Adopt Preliminary Fishery Ecosystem Pln for Pub Rev CA Current Ecosystem Rpt Ocean Observ. Initiative Report NS 10 (Safety) Proposed Rule Lenfest Forage Fish Report*	Routine Admin (6) Habitat Issues Annual CG Enforcement Rpt Pac Halibut: Prelim Incidntl Regs Pac Halibut: IPHC MTG 5-Yr Research Plan Final Adopt Final Fishery Ecosystem Plan	Routine Admin (6) Habitat Issues  Pac Halibut: Final Incidntl Regs  CMSP Update		Routine Admin (8) Habitat Issues  Unmanaged Forage Fish Protection	Routine Admin (8) Habitat Issues Tri-State Enforcement Rpt Pac Halibut: PPA CSP Changes Pac. Halibut Bycatch Estimate	
<b>Apx. Floor Time</b>	<b>5.1 days</b>	<b>5.4 days</b>	<b>4 days</b>		★ ★	<b>4 days</b>	<b>4 days</b>

\*Adv Body/Evening Presentation

**PROPOSED COUNCIL MEETING AGENDA, NOVEMBER 1-7, 2012 IN COSTA MESA, CALIFORNIA**

Thursday November 1	Friday November 2	Saturday November 3	Sunday November 4	Monday November 5	Tuesday November 6	Wednesday November 7
<p>Note: Habitat Cmte held prior to Council meeting week.</p>	<p><b>A. CALL TO ORDER 10 AM</b> 1-4. Opening &amp; Approve Agenda (30 min)</p> <hr/> <p><b>B. OPEN COMMENT PERIOD</b> 1. Comments on Non-Agenda Items (45 min)</p> <hr/> <p><b>SALMON</b> 1. NMFS Report (1 hr) 2. Preseason Salmon Management Schedule for 2013 (15 min) 3. 2012 Salmon Methodology Review: Adopt Final Changes for 2013 (1 hr) 4. Amendment 17: FPA (if Necessary) (1 hr)</p> <hr/> <p><b>PACIFIC HALIBUT</b> 1. 2013 Regulations: Adopt Final Changes for 2013 CSP &amp; Annual Regs. (1 hr)</p>	<p><b>ADMINISTRATIVE</b> 1. Legislative Matters (30 min)</p> <hr/> <p><b>HABITAT</b> 1. Current Issues (45 min)</p> <hr/> <p><b>COASTAL PELAGIC SPECIES</b> 1. NMFS Report (1 hr) 2. Pacific Sardine Stock Assessment &amp; 2013 CPS Management Measures; Adopt Final (3 hr) 3. EFPs for 2013: Notice of Intent for 2013 EFPs (1 hr)</p> <hr/> <p><b>CLOSED SESSION</b> (1 hr 30 min)</p>	<p><b>HIGHLY MIGRATORY SPECIES</b> 1. NMFS Report (1 hr) 2. International Mgmt: Council Recommendations (2 hr)</p> <hr/> <p><b>GROUNDFISH</b> 1. NMFS Report (1 hr) 2. Amendment 24 (New Management Process): Adopt PPA (3 hr)</p> <hr/> <p><b>ENFORCEMENT</b> 1. Current Enforcement Issues: Federal Fishery Enforcement Priorities (1 hr)</p>	<p><b>GROUNDFISH</b> 3. Status Report on Rationalized Fishery (1 hr) 4. Trawl Rationalization Trailing Actions: Electronic Monitoring, Preliminary Alternatives for Widow Reallocation, Scope PIE 3, and Gear Workshop Report (5 hr) 5. Progress Report on Barotrauma Credit: Guidance (2 hr)</p>	<p><b>GROUNDFISH</b> 6. Consider Inseason Adjustments (2 hr)</p> <hr/> <p><b>ECOSYSTEM BASED MANAGEMENT</b> 1. Fishery Ecosystem Plan (FEP): Adopt Preliminary FEP for Public Review (2 hr 30 min) 2. Integrated Ecosystem Assessment Implementation Report (1 hr 30 min) 3. California Current Ecosystem Report: Info (1 hr)</p> <hr/> <p><b>ADMINISTRATIVE</b> 2. Ocean Observation Initiative Progress Report (1 hr)</p>	<p><b>ADMINISTRATIVE</b> 3. Proposed Rule for National Standard 10 (Safety): Comments (1 hr) 4. Approve Council Minutes (15 min) 5. Fiscal Matters (15 min) 6. Membership Appointments and COPs (45 min) 7. Future Meeting Agenda and Workload Planning (45 min)</p>
		5 hr 30 min	7 hr 45 min	8 hr	8 hr	8 hr
<p>8 am CPSAS 8 am CPSMT 8 am SSC 11 am Secretariat 2 pm Leg Cmte 3 pm GAP 3:30 pm Budget Cmte</p>	<p>7 am Secretariat 8 am Chrs Brfg 8 am CPSAS &amp; CPSMT 8 am GAP &amp; GMT 8 am HMSMT 8 am SSC 1 pm EC 6 pm Chair's Banquet</p>	<p>7 am WA/OR/CA 7 am Secretariat 8 am GAP &amp; GMT 8 am HMSAS &amp; HMSMT 8:30 am SSC Eco SubCmte As Needed EC 7 pm Lenfest Forage Fish Presentation</p>	<p>7 am WA/OR/CA 7 am Secretariat 8 am EAS &amp; EPDT 8 am GAP &amp; GMT As Needed EC</p>	<p>7 am WA/OR/CA 7 am Secretariat 8 am EAS &amp; EPDT 8 am GAP &amp; GMT As Needed EC</p>	<p>7 am WA/OR/CA 7 am Secretariat As Needed EC</p>	<p>7 am WA/OR/CA 7 am Secretariat As Needed EC</p>

8/27/2012 11:16 AM

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Agenda Item G.6.a  
Attachment 2  
September 2012

## Pacific Council Workload Planning: Preliminary Year-at-a-Glance Summary

(Parenthetical numbers mean multiple items per topic; shaded items may be rescheduled re workload priorities; deletions= struck-out; border=new)

	<b>November 2-7, 2012</b> (Costa Mesa)	<b>March 6-11, 2013</b> (Tacoma)	<b>April 6-11, 2013</b> (Portland)	★ ★	<b>June 20-25, 2013</b> (Garden Grove)	<b>September 11-17, 2013</b> (Boise)	
<b>CPS</b>	NMFS Rpt EFP Notice of Intent for 2013 Sardine Asmnt & Mgmt Meas. Including Tribal Allocation		Sardine Hrvst Paramtrs Wrkshp EFPs: Final Recom. Inseason Rev of Mackerel Fishery if Needed	May 5-11: Hosting Annual CCC Meeting and Managing Our Nations Fisheries 3 National Conference, Washington, DC	NMFS Rpt  Mackerel HG & Mgmt Meas.		
<b>Groundfish</b>	NMFS Report Inseason Mgmt  Prog. Rpt on Barotrauma Credit Adopt PPA for A-24: New Spx & Mgmt Measure Process Status of Rationalized Fishery Trawl Trailing Actions: Electr. Monitoring; Prelim Alts Widow QS Reallocation, Lender Issue, Whiting Season Date Final Scope PIE 3; Gear Wrkshp Rpt Data Moderate Prog Rpt	NMFS Report Inseason Mgmt  Further Progr. on Barotrauma Adopt FPA for A-24: New Spx & Mgmt Measure Process  Electr. Monitoring Feasibility Rpt	NMFS Report Inseason Mgmt Pacific Whiting Update <b>Seabird Protection Regs</b> Adopt Prelim Spx & Mgmt Meas Process for Fisheries beginning in 2015 Trawl Trailing Actions: FPA for PIE 3 <b>Data Moderate SDC TOR</b> EFH Rev, Analysis, & RFP Rel.		NMFS Report Inseason Mgmt Approve Stock Assessments <b>Finalize Stock Complex Issues</b> Adopt Final Spx & Mgmt Meas Process for Fisheries beginning in 2015 Trawl Trailing Actions: FPA for Widow QS Reallocation & Gear	NMFS Report Inseason Mgmt Approve Stock Assessments # Plan Science Improvements Initial Actions for Setting 2015- 2016 Fisheries & Beyond Trawl Trailing Actions: Clean-u & Emerging Trawl Trailing Actions: Scope PIE 3; Gear Wrkshp Rpt & Widow QS Phase 2 EFH Report (Nov)	
<b>HMS</b>	NMFS Report  Input to International RFMO Including WPPFC8, US-Canada Albacore Treaty	NMFS Report NMFS Swordfish Rpt on Alt. Gear Impacts, Changes to Consv. Area, & Turtle Hardcaps <b>US-Canada Albacore Update</b>	Internat'l RFMO Matters Including Northern Committee albacore decision rules & IATTC		NMFS Report	NMFS Report	
<b>Salmon</b>	NMFS Rpt 2012 Method Rev.--Final  2013 Preseas'n Mgmt Schd	NMFS Rpt Approve Rev, Forecasts, & ACLs Approve Rebuilding Plan Alts.  2013 Season Setting (5)	NMFS Rpt 2013 Method Rev.--Identify Topics  2013 Season Setting (3) Adopt FPA for EFH (A18)			NMFS Report Method Rev: Adopt Priorities	
<b>Other</b>	Routine Admin (10) + New Term <b>NS 10 (Safety) Proposed Rule</b> Federal Enforcement Priorities Pac Halibut: Final CSP Changes Habitat Issues  Adopt Preliminary Fishery Ecosystem Pln for Pub Rev CA Current Ecosystem Rpt IEA Impl. Wrkshp Report Lenfest Forage Fish Report*	Routine Admin (6) Habitat Issues Annual CG Enforcement Rpt Pac Halibut: Prelim Incidntl Regs Pac Halibut: IPHC MTG 5-Yr Research Plan Final Adopt Final Fishery Ecosystem Plan Ocean Obs Initiative Prog Rpt	Routine Admin (6) Habitat Issues  Pac Halibut: Final Incidntl Regs <b>S of Humbug Policy Cmte Rpt</b> Ocean Observ. Initiative Report CMSP Update		Routine Admin (8) Habitat Issues  Unmanaged Forage Fish Protection	Routine Admin (8) Habitat Issues Tri-State Enforcement Rpt Pac Halibut: PPA CSP Change Pac. Halibut Bycatch Estimate	
<b>Apx. Floor Time</b>	<b>4.7 days</b>	<b>5 days</b>	<b>5 days</b>		★ ★	<b>3 days</b>	<b>4 days</b>

Agenda Item G.6.a  
Supplemental Attachment 3  
September 2012

**PROPOSED COUNCIL MEETING AGENDA, NOVEMBER 2-7, 2012 IN COSTA MESA, CALIFORNIA**

Friday November 2	Saturday November 3	Sunday November 4	Monday November 5	Tuesday November 6	Wednesday November 7
<p>Note: Habitat Cmte held prior to Council meeting week.</p>	<p><b>A. CALL TO ORDER 8 AM</b> 1-4. Opening &amp; Approve Agenda (45 min)</p> <hr/> <p><b>B. OPEN COMMENT PERIOD</b> 1. Comments on Non-Agenda Items (45 min)</p> <hr/> <p align="center"><b>SALMON</b></p> <p>1. NMFS Report (1 hr) 2. Preseason Salmon Management Schedule for 2013 (15 min) 3. 2012 Salmon Methodology Review: Adopt Final Changes for 2013 (1.5 hr) 4. Amendment 17: FPA (if Necessary) (1 hr)</p> <hr/> <p align="center"><b>HABITAT</b></p> <p>1. Current Issues (45 min)</p> <hr/> <p align="center"><b>PACIFIC HALIBUT</b></p> <p>1. 2013 Regulations: Adopt Final Changes for 2013 CSP &amp; Annual Regs. (1 hr)</p> <hr/> <p><b>CLOSED SESSION (1 hr 30 min)</b></p>	<p align="center"><b>ADMINISTRATIVE</b></p> <p>1. Legislative Matters (30 min) 2. Approve Council Minutes (15 min) 3. Proposed Rule for National Standard 10 (Safety)- Comments (1 hr)</p> <hr/> <p align="center"><b>ENFORCEMENT</b></p> <p>1. Current Enforcement Issues: Federal Fishery Enforcement Priorities (1 hr)</p> <hr/> <p align="center"><b>COASTAL PELAGIC SPECIES</b></p> <p>1. NMFS Report (1 hr) 2. Pacific Sardine Stock Assessment &amp; 2013 CPS Management Measures; Adopt Final (3 hr) 3. EFPs for 2013: Notice of Intent for 2013 EFPs (1 hr)</p> <hr/> <p align="center"><b>GROUNDFISH</b></p> <p>1. NMFS Report (1 hr)</p>	<p align="center"><b>HIGHLY MIGRATORY SPECIES</b></p> <p>1. <del>NMFS Report (1 hr)</del> 2. International Mgmt: Council Recommendations, including U.S.-Canada Albacore Treaty and WCPFC8 (2 hr)</p> <hr/> <p align="center"><b>GROUNDFISH</b></p> <p>2. Amendment 24 (New Management Process): Adopt PPA (4 hr) 3. Progress Report on Barotrauma Credit: Guidance (2 hr) 4. Status Report on Rationalized Fishery (1 hr) (Inseason)</p>	<p align="center"><b>GROUNDFISH</b></p> <p>5. Consider Inseason Adjustments (2 hr)</p> <hr/> <p align="center"><b>ECOSYSTEM BASED MANAGEMENT</b></p> <p>1. Fishery Ecosystem Plan (FEP): Adopt Preliminary FEP for Public Review (2 hr 30 min) 2. Integrated Ecosystem Assessment Implementation Report (1 hr 30 min) 3. California Current Ecosystem Report: Info (1 hr)</p> <p align="center"><b>GROUNDFISH</b></p> <p>6. Trawl Rationalization Trailing Actions: <u>Chafing Gear, Carry-over</u>, Electronic Monitoring, Preliminary Alternatives for Widow Reallocation, <u>Lender Issue Final Action, Whiting Season Date Final Action, Scope PIE 3, and Gear Workshop Report</u> (1 hr) [Continue Wednesday]</p>	<p align="center"><b>GROUNDFISH</b></p> <p>6. Continue- Trawl Rationalization Trailing Actions: <u>Chafing Gear, Carry-over</u>, Electronic Monitoring, Preliminary Alternatives for Widow Reallocation, <u>Lender Issue Final Action, Whiting Season Date Final Action, Scope PIE 3, and Gear Workshop Report</u> (4 hr)</p> <hr/> <p align="center"><b>ADMINISTRATIVE</b></p> <p>4. Fiscal Matters (15 min) 5. <del>Ocean Observation Initiative Progress Report (1 hr)</del> 6. Membership Appointments and COPs (45 min) 7. Future Meeting Agenda and Workload Planning (45 min)</p>
	7 hr 30 min	7 hr 45 min	8 hr	8 hr	5 hr 45 min
<p>8 am HC 8 am CPSAS 8 am CPSMT 8 am SSC 8 am Hake Cryovr 11 am Secretariat 2 pm LC 3:30 pm BC 4:30 pm Chrs Brfg</p>	<p>7 am Secretariat 8 am CPSAS &amp; CPSMT 8 am GAP &amp; GMT 8 am HMSMT 8 am SSC 4:30 pm EC 6 pm Chair's Banquet</p>	<p>7 am WA/OR/CA 7 am Secretariat 8 am GAP &amp; GMT 8 am HMSAS &amp; HMSMT 8 am EAS &amp; EPDT 8:30 am SSC Eco SubCmte As Needed EC 7 pm Lenfest Forage Fish Presentation</p>	<p>7 am WA/OR/CA 7 am Secretariat 8 am EAS &amp; EPDT 8 am GAP &amp; GMT As Needed EC</p>	<p>7 am WA/OR/CA 7 am Secretariat 8 am GAP &amp; GMT As Needed EC</p>	<p>7 am WA/OR/CA 7 am Secretariat As Needed EC</p>

GROUND FISH MANAGEMENT TEAM REPORT ON  
FUTURE COUNCIL MEETING AGENDA AND WORKLOAD PLANNING

The Groundfish Management Team (GMT) reviewed the year-at-a-glance and preliminary proposed agenda for November and would like to make the following requests to the Council:

- For the next Council meeting, we would prefer to start at 8:00 am on Friday, November 2. This would give us almost two full work days before we anticipate needing to turn in our first statement.
- We would also request an hour of time with the SSC on that Friday for the purposes of planning out the future discussions on rebuilding that we spoke to in [Agenda Item H.3.b, Supplemental GMT Report 2](#).
- During the NMFS Report, Dr. Michelle McClure spoke to the Northwest Fisheries Science Center's desire to complete the stock complex analysis by the end of this year.<sup>1</sup> For GMT input into this analysis, we request approval to spend around 3-4 hours of time at the GMT meeting, October 2-4, to spend on scoping the alternatives and criteria to use in the analysis. We estimate we'll have 15-18 total hours for discussion and writing at that meeting. The main focus at that meeting will be for producing the GMT Report on barotrauma progress for the November Briefing Book.
- On the year-at-a-glance for stock complex evaluation, we would suggest that the NWFSC and GMT present the initial analysis to the SSC for review in March, with a briefing to the Council in April, and then preliminary action in June. This would allow for early input from the SSC and the Council and then integration with the start of the next management cycle.

PFMC  
09/17/12

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<sup>1</sup> [http://www.pcouncil.org/wp-content/uploads/H1c\\_SUP\\_NWFSC\\_POWERPOINT\\_SEP2012BB.pdf](http://www.pcouncil.org/wp-content/uploads/H1c_SUP_NWFSC_POWERPOINT_SEP2012BB.pdf)

September 3, 2012

Agenda Item G.6.c  
Supplemental Public Comment  
September 2012

Mr. Dan Wolford, Chairman  
Pacific Fishery Management Council  
7700 NE Ambassador Place, #101  
Portland, OR 97220

**RE: Completion of Council assigned tasks under June 2012 forage motion**

Dear Chairman Wolford and Council Members,

On behalf of the Pew Environment Group, we write to express our appreciation for the Council's efforts to protect unmanaged forage species, especially the strong statement of intent to preclude new directed fisheries in the absence of robust scientific impact assessments. We also write to request that the Pacific Fishery Management Council (Council) ensure that its staff and advisory bodies adhere to the consensus timeline agreed upon during the workload planning discussion.

While we preferred a more direct approach to achieve FMP-level protections, we are pleased the Council voted to officially adopt a management objective of prohibiting new fisheries on currently unmanaged forage species until it has the opportunity to assess the science behind the fishery and any potential impacts on existing fisheries.<sup>1</sup> Our expectation is that it is now a question of when and how, not if, these unmanaged forage stocks receive the protections they merit. Establishing this objective shows the forethought necessary to ensure that we maintain healthy oceans and sustainable fisheries for years to come; this is responsible fisheries management.

**The Motion**

We'd like to share our perspective on the various components of the motion that passed in June, the tasks and task sequencing it describes, and the questions it specifies should be answered before the Council initiates Fishery Management Plan (FMP)-level protections for these ecologically and economically critical species. The motion lays out a tiered approach to protecting unmanaged forage species that would establish an initial layer of protection by updating the List of Authorized Fisheries and Gear (List) to remove the existing broad catch-all categories that essentially pre-approve any possible new fishery. This process is intended to follow completion of the Fishery Ecosystem Plan (FEP), currently scheduled for March 2013.

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<sup>1</sup> PFMC. June 2012. Supplemental REVISED Final Council Action. Agenda Item G.1.d

The motion goes on to request an analysis of whether an updated List would be effective in meeting the Council's objective of preventing the development of new forage fisheries. This analysis must explore and address significant uncertainties and flaws inherent in the List approach because the Council's decision on whether or not an FMP amendment process will be initiated is dependent, according to the motion, on this analysis.

Further FMP-level protections - in addition to any protections afforded by a revised List - are needed. In fact, ample evidence has already been presented on the flaws of the List approach<sup>2</sup> and we believe a finding that it is not sufficient can and should be made as quickly as possible. As we've stated in the past, even if the List were successfully revised to eliminate the current catch-all authorizations and thus exclude new forage fisheries, those new fisheries would still be able to proceed after notification and a 90-day waiting period unless the Council is able to convince the National Marine Fisheries Service to take emergency regulatory action. Furthermore, any such emergency action would be legally limited to only a six-month duration before the Council would have to initiate FMP-level action anyway. The uncertainty that emergency action would be taken to prevent a new fishery, and the temporary nature of any such emergency action, effectively render as suspect any conclusion that the List approach is sufficient.

Furthermore, during the Council's June discussion regarding unmanaged forage species and the management options available to prevent the development of new forage fisheries<sup>3</sup> we detected a great deal of uncertainty regarding the process for developing a new fishery, and what exactly the Council and the National Marine Fisheries Service can or can't do under a new revised List. Therefore, according to the June motion, upon completion of the FEP and after deliberation on the effectiveness of the List approach, the Council must initiate an FMP amendment process. This is the only way to truly accomplish the Council's objective.

## **The Timeline**

Based on our conversations with Council staff and with members of the Ecosystem Plan Development Team we understand that the FEP development process remains on schedule for final adoption in March 2013. We remain hopeful that the FEP and requisite analyses will be completed in time for the Council to initiate the FMP amendment process in June of 2013. We are excited about this and look forward to continuing to participate in the FEP development process.

However, we are concerned that the Council may be forced to delay initiation of FMP-level protections if questions remain on whether or not a revised List approach could actually prohibit new fisheries from developing. Due to the particular wording of the motion, the aforementioned analysis from Item C of the June motion on the effectiveness of the List

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<sup>2</sup> For example see public comment from Pew Environment Group, Oceana and Earthjustice under June Agenda Item G.1.c.

<sup>3</sup> PFMC. June 2012. Ecosystem Plan Development Team Report on Authorities to Protect Unfished Species from Future Directed Fisheries. Agenda Item G.1.b.

approach becomes the critical piece. In order for the Council to stay on track and craft regulations that implement its new forage protection objectives, this analysis must be complete by June 2013, an ambitious timeline if it does not begin until after final FEP adoption in March 2013. If this work cannot be initiated sooner, the Council should take steps to ensure it can be completed between March and June.

For the above reason, we request that the Council task the Ecosystem Plan Development Team and other relevant advisory bodies with completion of a robust analysis of the effectiveness of the List approach, and whether it can actually prevent new fisheries from developing, in time for the June 2013 meeting. In order to initiate an FMP amendment process at such time, the Council must not only have adopted a finalized FEP but must also decide that a revised List alone is not enough. Therefore, it is crucial that the aforementioned analysis be completed expeditiously.

### **Conclusion**

The Council took a major step in June toward ensuring healthy oceans and sustainable fisheries by recognizing the importance of forage species to the marine ecosystem and establishing a plan of action to ensure that they are managed responsibly. However, even the best laid plans may fall by the wayside if not executed properly and in a timely fashion. We are confident that the Council's staff and advisory bodies have the expertise necessary to complete the tasks assigned under the June 2012 forage motion, and we look forward to engaging on all of them to provide real and permanent protections for unmanaged forage species.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to be "Julia", written in a cursive style.

Pacific Fish Conservation Campaign  
Pew Environment Group