

MANAGING OUR NATION’S FISHERIES 3 (MONF3) CONFERENCE FOLLOW-UPS AND UNRELATED LEGISLATIVE MATTERS

The Legislative Committee (LC) will meet Wednesday, September 11 to conduct two items of business: to identify and prioritize issues to consider in amending the Magnuson-Stevens Act, and to review legislative matters of interest to the Council.

Managing Our Nation’s Fisheries 3 Conference Follow-up

At the Managing Our Nation’s Fisheries 3 (MONF3) conference, attendees developed 128 “findings” regarding advancements to fisheries management. A finding is a legislative, regulatory, or policy change, or an idea for improvement identified by session participants as a priority for advancing fishery management and sustainability. The findings were not intended to reflect or imply consensus among the panelists.

At the Council Coordination Committee (CCC) meeting immediately following MONF3, the CCC discussed ways to move ahead with the 128 conference findings. The CCC asked Pacific Council staff to assign the findings into categories of (1) changes of a statutory nature, particularly associated with reauthorization of the Magnuson-Stevens Act (MSA); (2) changes of a regulatory nature, including (a) revision of National Standard Guidelines and (b) revisions to other regulations; and (3) changes that require a policy change without regulatory or statutory changes. This categorization of the findings has been completed and is attached as Agenda Item H.1.a, Attachment 1.

The CCC also established a CCC Magnuson-Stevens Act (MSA) Subcommittee, comprised of one representative to be designated from each Council, to develop recommendations on MONF3 findings for consideration by the full CCC during a webinar to be held on October 23-24. Regional Councils are expected to provide input to the Subcommittee. The Council’s task today is to identify which findings are most important to the Pacific Council.

Agenda Item H.1.a, Attachment 2 contains suggestions regarding topics for consideration by the Legislative Committee. These suggestions are based on what the Council staff perceives to be Council priorities for revision of the MSA, as discussed in Council meetings since 2007; for example, revising rebuilding time requirements.

Current Legislation

Council staff has provided a summary of legislation introduced in the 113th U.S. Congress (Agenda Item H.1.a, Attachment 3) for potential review at the September Council meeting. Four bills in particular deserve attention.

- **HR 2646/S. 1275: the Revitalizing the Economy of Fisheries (REFI) in the Pacific Act**, essentially a resubmittal of a bill that the Council commented on during the last Congressional session (Agenda Item H.1.a, Attachment 4).
- **HR 3063: Healthy Fisheries through Better Science Act**, a potential MSA reauthorization act aimed at improving the collection of scientific information used in fisheries management.

- **S 269: International Fisheries Stewardship and Enforcement Act; and H.R. 69: Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2013.** Both of these bills strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, amend the Tuna Conventions Act of 1950 to implement the Antigua Convention (the revised IATTC Convention), and make other changes. However, they address the Antigua Convention in different ways; and **S. 269** would add a member of the Pacific Fishery Management Council to the IATTC Commission (Agenda Item H.1.a, Attachment 5; **available electronically only**).

Council Action:

- 1. Identify legislative priorities with regard to MSA Reauthorization.**
- 2. Consider Legislative Committee recommendations.**

Reference Materials:

1. Agenda Item H.1.a, Attachment 1: Matrix of Findings from the Managing Our Nations Fisheries 3 Conference.
2. Agenda Item H.1.a, Attachment 2: Preliminary Staff Compilation of Possible Magnuson-Stevens Act Reauthorization Priorities for Consideration by the Pacific Council.
3. Agenda Item H.1.a, Attachment 3: September 2013 Staff Summary of Federal Legislation.
4. Agenda Item H.1.a, Attachment 4: Comparison of 2012 and 2013 version of REFI Act.
5. Agenda Item H.1.a, Attachment 5: S 269 Original with notations (**electronic only**)
6. Agenda Item H.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:** Identify Priorities for Consideration in Amending the Magnuson-Stevens Act, and Consider Legislative Committee Recommendations

Jennifer Gilden
Dave Hanson

PFMC
08/22/13

MATRIX OF FINDINGS FROM MANAGING OUR NATIONS FISHERIES 3

Potential Implementation Routes for Conference Findings				
	Legislative/ Statutory	Regulatory/ NS Guidelines	Policy/Best Practices	Comments
Session 1 – Improving Fishery Management Essentials, Topic 1 - Annual Catch Limit Science and Implementation Issues, Including Managing “Data-Limited” Stocks				
Consider multi-year minimum stock size thresholds and Annual Catch Limit (ACL) framework: <ul style="list-style-type: none"> Phase in ACL changes Constrain large inter-annual changes in ACLs Do not base overfished determination on single year estimate 		X		NS 1 Guideline revision
Allow and provide guidance for using the mixed stock exemption		X		NS1 Guideline revision
Use management strategy evaluation to evaluate the performance of harvest control rules		X		NS 1 Guideline revision
Provide better guidance on setting ACLs for transboundary stocks where no international treaty exists and only US removals are known		X		NS1 Guideline revision
Eliminate hard quotas managed in-season for recreational stocks. Adjust pre-season input controls (e.g., bag limits, seasons) to stay within ACL (based on numbers of fish, not poundage)		X	X	Focus on recreational fisheries
Manage with long-term mortality rates for more stability (e.g. eliminate wide fluctuations in catch limits)		X	X	Focus on recreational fisheries
Prioritize assessment of target stocks over non-target stocks			X	
Set minimum data quality standards for stock assessment		X	X	NS 2 Guidelines revision

Potential Implementation Routes for Conference Findings				
	Legislative/ Statutory	Regulatory/ NS Guidelines	Policy/Best Practices	Comments
Do not require ACLs for data-poor stocks	X	X		MSA Section 302(h)(6), NS 1 Guidelines
Improve data-poor assessment methods			X	
Consider default buffer (e.g., 75 percent maximum fishing mortality threshold)		X	X	NS 1 Guidelines
More than one indicator species in a complex leads to better estimate of stock status		X	X	NS 1 Guidelines
Session 1, Topic 2 Rebuilding Program Requirements and Timelines				
Revise rebuilding time requirements: <ul style="list-style-type: none"> Always set T_{MAX} equal to T_{MIN} plus one mean generation Set exploitation rates less than F_{MSY} and rebuilding will occur naturally over time 	X			MSA Section 304
Refine and include the mixed stock exception in MSA; harvest of one species at its optimal level may result in overfishing another stock, only if strict criteria are met	X			Several MSA Sections
Stocks later determined to have never been overfished should no longer be subject to rebuilding requirements	X			MSA Section 304
Establish a standardized process for reviewing rebuilding progress: <ul style="list-style-type: none"> Maintain an existing rebuilding plan when minor changes occur in estimated T_{TARGET} 	X			MSA Section 304
Address social and economic issues (e.g., “possible” to “practicable”)	X			MSA Section 304(e)(4)(A)(i)
Extend annual species exemption to short-lived species	X			Similar to the ACL exemption, MSA Section 302(h)(6)
Allow a transboundary exemption when a significant proportion of the stock is outside U.S. jurisdiction	X			MSA Section 304

Potential Implementation Routes for Conference Findings				
	Legislative/ Statutory	Regulatory/ NS Guidelines	Policy/Best Practices	Comments
Increase the frequency and quality of stock assessments and rebuilding analyses and incorporate ecosystem dynamics; recognize limitations of science			X	
Don't chase noise: Assessments and projections will always be uncertain; develop smoothing strategies to provide stability			X	
Utilize management strategy evaluation tools to evaluate stock rebuilding approaches			X	
Develop harvest control rules that incorporate rebuilding provisions; early investments increase the probability of success		X		
Session 1, Topic 3 - International Fisheries Management: Leveling the Playing Field				
Help developing countries build fishery management and enforcement capacity			X	May require Federal legislation
Support immediate adoption of appropriate target and limit reference points by RFMOs			X	
E-NGOs should continue to leverage compliance with RFMO conservation measures (e.g. through supply chains)			X	
Increase support for at-sea and in port monitoring and enforcement	X		X	
Broaden trade sanctions domestically and within RFMOs to address non-compliance	X			
Implement stricter imported seafood labeling requirements in the US market	X			MSA revision as well as new legislation
Ratify Port State Measures Agreement	X			
Amend MSA to change "vessels" to "vessel" in the IUU certification section	X			HSDFMSA Section 609(c)

Potential Implementation Routes for Conference Findings				
	Legislative/ Statutory	Regulatory/ NS Guidelines	Policy/Best Practices	Comments
Promote measures to reduce overcapacity: <ul style="list-style-type: none"> • Fishery rationalization (e.g., catch shares) • Restrict national subsidies for fuel and vessel construction • Limit vessel numbers by RFMO member states 			X X X	
Consider a national sustainable seafood certification program	X			
RFMOs should consider transfer effects when developing conservation and management measures			X	
RFMOs should adopt measures that reward compliance (e.g. quota allocations)			X	
Improve communication among US delegations across tuna RFMOs (e.g. WCPFC, IATTC, ICCAT)			X	
Maximize participation of fishermen and other stakeholders in US RFMO delegations			X	
Session 2 – Advancing Ecosystem-Based Management, Overarching Findings				
Evaluate ecosystem productivity change			X	Prioritize for IEA effort
Evaluate effectiveness and utility of closed/fixed areas			X	
Engage across disciplines and increase coordination between NMFS, Councils, Science Centers, stakeholders, other governmental agencies			X	
Increase reliance on industry while shifting councils' role in evaluating effectiveness			X	
Consider broad range of ecosystem services			X	Prioritize for IEA effort
Build capacity throughout the fishery management system to use new tools to advance ecosystem-based decision-making		X	X	
Establish ecosystem SSC at the council level.			X	MSA Section 302(g)

Potential Implementation Routes for Conference Findings				
	Legislative/ Statutory	Regulatory/ NS Guidelines	Policy/Best Practices	Comments
Invest in ecosystem-based management (i.e., advancing scientific models, training staff) and identify and remove impediments to the transition from single species to ecosystem based management			X	
Session 2, Topic 1 – Assessing Ecosystem Effects and Integrating to Climate Change				
Address the root causes of climate change as MSA is a limited tool and addresses mainly symptoms			X	
Increase coordination between and across jurisdictions to address changing species distribution and ecosystem change (regional councils, states, and international)			X	
Flexibility to respond to spatial, allocative and distributional effects of climate change			X	
Address rebuilding requirements when environmental conditions may be a predominate factor in a stock's decline	X	X		MSA Section 304(e)
Utilize a precautionary approach for developing/emerging fisheries	X	X	X	MSA Section 305(a) and Federal regulations at 50 CFR 600.725(v)
Assess barriers to adaptation (fishing communities and fish stocks)			X	
Recognize and manage in response to ecosystem productivity change		X	X	NS Guidelines re: ecological considerations in setting optimum yield
Develop a comprehensive national plan and tools which facilitate development of regional management strategies		X		
Incorporate environmental trigger mechanism to initiate management action/measure		X	X	NS 1 guidelines revision

Potential Implementation Routes for Conference Findings				
	Legislative/ Statutory	Regulatory/ NS Guidelines	Policy/Best Practices	Comments
Evaluate effectiveness and utility of closed/fixed areas			X	
Modify reference points as climate changes (precautionary vs. recalibrating MSY)		X		NS 1 guidelines revision
ESA: Base listings on actual trends rather than projected trends of climate change	X			Would not require modification of ESA but speaks to agency determination of status.
Assess the efficacy of the National Ocean Policy as a vehicle to address climate change			X	
Integrate IEAs and all component models into management process		X	X	
Derive less data and resource intensive tools for use in management process			X	
Develop ecosystem models, tools and assessments at a regional level that: <ul style="list-style-type: none"> • Synthesize existing data from non-fishing sources and incorporate socio-economic as well as ecosystem parameters • Respond to changing parameters • Predict future ecosystem states • Provide short-and long-term guidance • Account for cumulative impacts of climate change 			X	
Develop decision support tools that allow councils to develop responses to a wide range of uncertainty (such as MSE)			X	

Potential Implementation Routes for Conference Findings				
	Legislative/ Statutory	Regulatory/ NS Guidelines	Policy/Best Practices	Comments
Session 2, Topic 2 Forage Fish Management				
No changes to MSA are necessary to sustainably manage forage fish			X	
Establish a new national standard to ensure adequate forage base	X	X		MSA Section 301
Require explicit consideration of the impact of forage fish to the ecosystem and fishing communities to inform OY and ACL decisions	X	X		MSA Section 303, NS 1 guidelines revision
Prohibit new forage fisheries until scientific and management evaluation are conducted	X			MSA Section 305(a) and Federal regulations at 50 CFR 600.725(v)
Define forage at the regional council level			X	
Use threshold harvest control rules to adopt ecologically-based reference points		X	X	
Implement real time data collection to inform adaptive management			X	
Require scientists to provide managers with an index of key forage species abundance		X	X	
Establish an ecosystem SSC at the council level	X		X	MSA Section 302(g)
Invest in ecosystem-based fisheries management			X	
Improve inter-jurisdictional collaboration and coordination on forage fish management.			X	
Use meta-analysis/global studies and rules of thumb as a starting point in discussions for forage fish management or as a guide in data poor situations			X	

Potential Implementation Routes for Conference Findings				
	Legislative/ Statutory	Regulatory/ NS Guidelines	Policy/Best Practices	Comments
Advance tools and develop methodologies to: <ul style="list-style-type: none"> • evaluate tradeoffs between uses of forage • account for the needs of predators when doing stock assessments and ACLs; • estimate the varying and complex economic value of forage fish; • measure localized depletion; and • evaluate effects of climate change on forage 		X	X X X X	NS1 guidelines revision/emphasis
Session 2, Topic 3 - Integrating Habitat Considerations: Opportunities and Impediments				
Consider a national standard for habitat: “Minimize adverse impacts on essential fish habitat to the extent practicable”	X	X		MSA Section 301
Build partnerships to achieve landscape and ecosystem level habitat improvements			X	
Improve understanding of relationships between habitat and productivity to support identification and evaluation of tradeoffs			X	
Resolve status of artificial substrates with regard to EFH designation		X		Potential for MSA 305(b) revision
Establish a timeline for improving the scientific basis for designation of EFH for key species and habitats	X	X	X	Statutory or regulatory response would add impetus.
Maintain and strengthen the EFH designation process by developing objectives and metrics for successful habitat protection		X		Potential for MSA 305(b) revision
Define “essential” habitat more broadly	X	X		MSA Sections 3 and 305(b)
Shift interpretation of EFH from single-species to multispecies and ecosystem focus		X		

Potential Implementation Routes for Conference Findings				
	Legislative/ Statutory	Regulatory/ NS Guidelines	Policy/Best Practices	Comments
Set measurable conservation objectives and utilize a “common currency” to evaluate adverse and cumulative impacts		X		
Identify priority habitats that benefit fisheries, focus habitat research			X	
Provide guidance on “minimize to the extent practicable adverse impacts...caused by fishing” and consider relationship to OY	X	X		
Strengthen EFH consultation process and ensure compliance with and effectiveness of existing laws and recommendations	X	X		MSA Section 305(b)
Develop a long-term, standardized process for monitoring and evaluating habitat to establish a baseline, assess long term impacts, and support rapid response to non-fishing habitat impacts		X		
Provide tools other than spatial closures for addressing adverse impacts from fishing			X	
Session 3 – Providing Fishing Community Stability, Topic 1 Recreational and Subsistence Fishery Connections				
Idea to be replicated/expanded: Scientists can learn much more from fishing community via greater use of cooperative research. This promotes buy-in, empowers fishermen, and can be more cost-effective	X		X	MSA Section 318
Fishermen want to be involved with data analysis as well –provides legitimacy to the process and helps build trust			X	SEDAR and STAR Panel process examples
Councils and NMFS need new creative communication strategies & investments to reach, engage, and support underrepresented fishermen's participation in process			X	

Potential Implementation Routes for Conference Findings				
	Legislative/ Statutory	Regulatory/ NS Guidelines	Policy/Best Practices	Comments
Goals specific to each sector and stakeholder group need identification, early in the process, to customize development of a suite of fishery management strategies			X	
Allocations are not ‘permanent’ -need to be more proactive in routine review and modification as needed. Decisions should be left to the regions, and creative solutions may result from constructive dialog between sectors		X		
Recreational and subsistence considerations need higher priority in fishery management policy choices, and in other policy arenas that affect fisheries (e.g., alt. energy)		X	X	NS 8 guidelines
Define subsistence fishing in the MSA, and expand recognition of tribes and indigenous people engaged in subsistence fishing	X	X		MSA Section 3 and others
Qualitative information vs. quantitative –need more thought/guidance on how to utilize both in fishery management decisions		X		NS 2 guideline revisions
Need better data -Target ledger-type submissions and other data collections as condition of access/use of a public trust resource	X	X		MSA Title IV

Potential Implementation Routes for Conference Findings				
	Legislative/ Statutory	Regulatory/ NS Guidelines	Policy/Best Practices	Comments
Session 3, Topic 2 Integrating Community Protection, Jobs Emphasis, and Domestic Seafood Quality Assurance				
Create, modify and promote financial tools and training to support small and community-based borrowers (e.g., NOAA Fisheries Finance Program, CA Fisheries Fund)		X		
Resolve institutional impediments to fisheries commerce (e.g., Establish central registry to facilitate lending; Improve aquaculture permitting process)	X	X		National aquaculture legislation
Link ecosystem-based management scales to fisheries management and governance (e.g. Revise National Standard 3 (Management Unit))		X		MSA Section 301
Link fishery participation to stewardship obligation	X	X		
Need policy statement on devolving governance			X	
Preserving the past is not always the best path forward	X	X	X	Broad application
Diversify Council management actions to accommodate differences between small & large-scale operators (e.g., mobility of fleet, business models, supply needs)	X	X		
Anchor quota in communities (Utilize ecosystem-based management, Community Fishing Associations)	X	X		NS 8 Guidelines
Devolve more responsibilities and accountability to communities and industry, engage in science via cooperative research			X	
Elevate and promote best practices; become a learning organization (e.g.)			X	

Potential Implementation Routes for Conference Findings				
	Legislative/ Statutory	Regulatory/ NS Guidelines	Policy/Best Practices	Comments
Modify Council process to improve participation of small-scale and community sectors	X			MSA Section 302 (h), State examples, Fisheries Improvement Projects, National Fish & Wildlife Foundation funded projects
Cooperative research results needs to be more fully incorporated into management			X	Potential MSA Section 318 revision
Recognize certification of U.S. fisheries that meet the 10 MSA national standards	X			MSA Section 301
Need end-end streamlined regulatory process for aquaculture	X	X		National aquaculture legislation
Wild harvest and aquaculture, more similar than different, both needed to meet supply needs, attain economic objectives			X	
Session 3, Topic 3 - Assessment and Integration of Social and Economic Tradeoffs				
MSA needs to incentivize response to challenges, population growth, climate change, globalization, and budget cuts	X			
MSA needs to complement other ocean users and relevant statutes that affect fisheries management, such as ESA, Clean Water Act	X			
Give full consideration to impacts from other uses/users for marine resources (non-fisheries)			X	
MSA should explicitly promote use of adaptive management approaches, particularly for data-poor species where the precautionary approach limits information on stock performance under higher catch rates	X	X		NS 1 Guidelines revision, MSA Section 303

Potential Implementation Routes for Conference Findings				
	Legislative/ Statutory	Regulatory/ NS Guidelines	Policy/Best Practices	Comments
Need to define, ID sideboards & metrics of elements of OY; redefine OY/MSY relationship to no longer be one-direction, and social, economic and non-economic values could allow OY to be above MSY	X	X		NS 1 Guidelines revision
Expand socioeconomic analysis requirements to include economic value and non-market value quantification	X	X		NS 8 guidelines
Trade-off analysis requires giving higher priority than other disciplines for acquiring additional capacity in social scientists including anthropologists, sociologists, and economists at Councils, regional offices and/or externally			X	MSA Section 302
Facilitate cooperation and partnerships with states, local governments, and other agencies			X	
Improve engagement with competing sectors in scoping process			X	
Develop mitigation plans to reduce impacts on communities due to management actions		X		
Reform MSA confidentiality provisions, access to data from public trust resource users while protecting sensitive information	X			MSA Section 302 and Section 402(b)
MSA mandate for Councils to consider review of recreational and commercial allocations every {x} years after scoping allocations based on a set of objective guidelines	X			MSA Section 302
NOAA standardized methods on reviewing allocations		X		
Improve NOAA support for allocation reviews (contracted analysts/economists)			X	

PRELIMINARY STAFF COMPILATION OF
POSSIBLE MAGNUSON-STEVENS ACT REAUTHORIZATION PRIORITIES
FOR CONSIDERATION BY THE PACIFIC COUNCIL

Topic for MSA Reauthorization	Relevant MSA Section	PFMC Priority
MONF3 Session 1 – Improving Fishery Management Essentials: Annual Catch Limit Science and Implementation Issues, Including Managing “Data-Limited” Stocks; Rebuilding Program Requirements and Timelines; International Fisheries Management: Leveling the Playing Field		
Revise rebuilding time requirements: Always set T_{MAX} equal to T_{MIN} plus one mean generation	MSA Section 304	
Stocks later determined never overfished should not be held to rebuilding provisions	MSA Section 304	
Include a transboundary stock rebuilding exception	MSA Section 304	
Include a viable mixed stock exception		
Clarify Congressional intent regarding needs of fishing communities	MSA Section 304(e)	
Extend annual species exemption to short-lived species	MSA Section 303(a)	
Include a carryover exception to allow ACLs to be exceeded in order to carry over surplus and deficit harvest from one year to the next, provided there is a finding from the SSC that such a carryover provision will have negligible biological impacts	MSA Section 303(a)	
Explicitly promote use of adaptive management approaches, particularly for data-poor species where the precautionary approach limits information on stock performance under higher catch rates	MSA Section 303	
Broaden trade sanctions domestically to address non-compliance with RFMO measures	MSA Section 205	
Consider a national sustainable seafood certification program for U.S. fisheries that meet the 10 MSA national standards	MSA Section 321 (new)	
Implement stricter imported seafood labeling requirements in the US market	MSA Section 322 (new)	

Topic for MSA Reauthorization	Relevant MSA Section	PFMC Priority
MONF3 Session 2 – Advancing Ecosystem-Based Management, Overarching Findings Assessing Ecosystem Effects and Integrating to Climate Change; Forage Fish Management; Integrating Habitat Considerations: Opportunities and Impediments		
Address rebuilding requirements when environmental conditions may be a predominant factor in a stock's decline	MSA Section 304(e)	
Link ecosystem-based management scales to fisheries management and governance (e.g., Revise National Standard 3 (Management Unit))	MSA Section 301	
Consider a national standard for habitat: "Minimize adverse impacts on essential fish habitat to the extent practicable"	MSA Section 301	
Establish a new national standard to ensure adequate forage base	MSA Section 301	
Require explicit consideration of the impact of forage fish to the ecosystem and fishing communities to inform OY and ACL decisions	MSA Section 303	
Prohibit new forage fisheries until scientific and management evaluations are conducted	MSA Section 305(a)	
Strengthen EFH consultation process and ensure compliance with, and effectiveness of, existing laws and recommendations	MSA Section 305(b)	

Topic for MSA Reauthorization	Relevant MSA Section	PFMC Priority
MONF3 Session 3 - Providing Fishing Community Stability: Recreational and Subsistence Fishery Connections; Integrating Community Protection, Jobs Emphasis, and Domestic Seafood Quality Assurance; Assessment and Integration of Social and Economic Tradeoffs		
Modify Council process to improve participation of small-scale and community sectors, e.g., State Fisheries Improvement Projects, National Fish & Wildlife Foundation-funded projects	MSA Section 302 (h)	
Expand cooperative research between fishing community and scientists. This promotes buy-in, empowers fishermen, and can be more cost-effective	MSA Section 318	
<p>Notwithstanding confidentiality protections of Section 402(b)(1)-(3): in the public interest the following may be publicly reported even if it results in the release of information on a single harvesting or processing company</p> <ul style="list-style-type: none"> • total volume (weight) catch/discards/landings of a species or stock caught in a particular fishery • total volume (weight) catch/discards/landings of a species or stock caught by a particular sector • total volume (weight) of a species or stock landed at a particular port • economic impact estimates for a community based on landings of a species or stock at a particular port • total volume (weight) catch/discards/landings of a species or stock caught within any area 100 square nautical miles or larger 	MSA Section 402(b)	
Define subsistence fishing in the MSA, and expand recognition of tribes and indigenous people engaged in subsistence fishing	MSA Section 3	

Topic for MSA Reauthorization	Relevant MSA Section	PFMC Priority
Other		
Make a distinction between “overfishing” (a measure of fishing rate) and “overfished” (a measure of abundance)	MSA Section 3	
Replace the term “overfished” with “depleted” to account for non-fishing causes of stock size below MMST	MSA Section 3	
Amend MSA to change “vessels” to “vessel” in the IUU certification section	MSA Section 609(c)	
Replace the term “practicable” with “practical” and “possible” where appropriate	Throughout MSA	

PFMC
08/21/13

STAFF SUMMARY OF FEDERAL LEGISLATION IN THE 113TH U.S. CONGRESS

A summary of Federal legislation introduced in the 113th Congress is provided below. This summary is intended as a general overview for discussion purposes. Full text of these bills, with background information and current status, can be found at the Library of Congress website (<http://thomas.gov>) or at <http://govtrack.us>. These summaries are primarily from the GovTrack.us website, further summarized by Council staff.

Most Relevant Bills

HR 2646 and S. 1275: Revitalizing the Economy of Fisheries in the Pacific (REFI) Act (NEW)

- **HR 2646 was introduced** by Jaime Herrera Beutler (D-Washington) on July 10, 2013; has 14 cosponsors.
- **Status:** Referred to the House Natural Resources: Fisheries, Wildlife, Oceans and Insular Affairs Subcommittee.
- **Predecessors:** This is similar to HR 6362, introduced in the 112th Congress.
- **S. 1275 was introduced** by Maria Cantwell (D-Washington) on July 10, 2013; has 6 cosponsors.
- **Status:** Referred to the Senate Commerce, Science & Transportation Committee.

Under both of these bills, which are essentially the same, the Secretary of Commerce would issue a loan to refinance the existing debt obligation funding the fishing capacity reduction program for the West Coast groundfish fishery implemented under section 212 of the Department of Commerce and Related Agencies Appropriations Act, 2003.

In August 2012, the Council received a request from Reps. Herrera Beutler and Mike Thompson to comment on a version of the REFI Act introduced in the 112th Congress. The Council replied to the Congressional request in October 2012 (<http://tinyurl.com/k9pqjpc>). The Council supported the bill and made the following comments:

The Pacific Council supports H.R. 6362 provisions that cap the debt obligation paid by fisherman at 3 percent of exvessel revenue rather than 5 percent and that extend the term of the loan to 45 years. The Pacific Council notes that H.R. 6362 does not specify the detailed terms of the loan refinance, but rather refers to sections 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 present levels or lower could eliminate the uncertainty. Nevertheless, the

Pacific Council perceives that the likely outcome will reduce the economic burden to the fishermen and thus supports the bill.

The interest rate in this year's bills is 2 percent lower than the rate in last year's version. Under these bills, the interest rate is "the percent the Secretary must pay as interest to borrow from the Treasury the funds to make the loan," rather than 2 percent plus the Secretary's interest, as it was in last year's bill.

The bills also include provisions for recalculating the buyback fee (the payback amount that boats must pay when they make a landing), which is capped at 3 percent of the exvessel value of the harvest from each fishery where the loan is issued.

Also, the current versions of the bill make clear that there are sub-accounts that can be paid off at different times, as is currently the case; and clarifies that the loan term will be automatically extended past 45 years if it hasn't been paid off.

HR 3063: Healthy Fisheries through Better Science Act (NEW)

- **Introduced by** Robert Wittman (R-Virginia) on August 2, 2013; no cosponsors.
- **Status:** Referred to the House Natural Resources Committee.

HR 3063 would amend the Magnuson-Stevens Fishery Conservation and Management Act to require the Secretary of Commerce to develop a plan to conduct stock assessments for all stocks of fish for which a fishery management plan is in effect under that Act, and for other purposes.

Under the Act, after a plan is developed by the Secretary of Commerce (within one year after enactment), stocks that have already been assessed would have their assessments updated every five years; initial assessments for stocks that have not been assessed would be scheduled within three years—or at other intervals justified by the Secretary and subject to funding. For those new assessments, analyses would be identified in order to improve the accuracy of future stock assessments. Stock assessments would not be required if the Secretary determined that they were not necessary.

In addition, the Act calls for the amending the Magnuson-Stevens Act Section 2(a)(8) in order to call for the incorporation of information from governmental and nongovernmental sources, including State and Federal agency staff, fishermen, fishing communities, universities, research institutions, and other appropriate entities. It notes, "As appropriate, such information should be considered the best scientific information available and form the basis of conservation and management measures as required by this Act."

Section 404 would be amended to require the Secretary, in consultation with Councils' science and statistical committees (SSCs), to develop guidelines within one year to facilitate greater incorporation of data from the sources listed above. The guidelines would include types of data and analysis, especially concerning recreational fishing, that could be used as the best scientific information available; provide guidance on collecting this data; and establish a registry of persons providing such data. The Councils would use all data and analyses meeting the requirements of these guidelines as the best scientific information available in their management decisions, unless otherwise determined by their SSCs; explain in the *Federal Register* notice

announcing the management decision how the data was used; and provide an explanation if the data wasn't used.

The Act also requires the Secretary, in consultation with the Councils, to submit a report to Congress, within one year after enactment of the Act, for each FMP fishery, that would identify the goals of the programs governing monitoring and enforcement of fishing; identify ways to accomplish those goals (including observers, electronic monitoring, and VMS); certify which methods were most cost-effective; and explain why these most cost-effective methods were not required, if applicable.

Finally, Section 304(d) of the MSA would be amended to require an analysis of the costs recovered, and costs not recovered, by the fee.

HR 69: Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2013, and S 269: International Fisheries Stewardship and Enforcement Act (Ongoing)

- **HR 69 was introduced by** Madeleine Bordallo (D-Guam) on February 12, 2013; has 16 cosponsors. Two cosponsors have been added since the June Council meeting.
- **Status:** Referred to the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs.
- **Companions/Predecessors:** This bill was a re-introduction of H.R. 4100 (112th).
- **S 269 was introduced by** Jay Rockefeller (D-West Virginia) on February 11, 2013; 11 cosponsors. One cosponsor was added to this bill since the June Council meeting.
- **Status:** Reported to the Senate. A hearing was held on this bill on July 30, 2013. A substitute bill was passed by the Senate Commerce, Science, and Transportation Committee. A document comparing the two versions is appended to this report.

Both of these bills strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, amend the Tuna Conventions Act of 1950 to implement the Antigua Convention (the revised IATTC Convention), and make other changes. However, they address the Antigua Convention in different ways, and **S. 269** would add a member of the Pacific Fishery Management Council to the IATTC Commission.

Antigua Convention

The U.S. was instrumental in negotiating the Antigua Convention over 10 years ago, but has not yet ratified the Convention because no implementing legislation has been passed. The implementing legislation for the original IATTC treaty is called the Tuna Conventions Act of 1950 (16 U.S.C. 951). Title IV of **S. 269** amends the Act to bring it up to date with the revised Convention.

The Highly Migratory Species Advisory Subpanel reviewed both bills and observed that the drafters of **S. 269** kept existing language which benefits U.S. commercial fishermen; they felt that this original language, which does not contravene the revised Convention, should be retained. That section states that in making regulations the Secretary of Commerce shall:

in no event . . . [make those regulations effective] . . . prior to an agreed date for the application by *all countries* whose vessels engage in fishing for the species covered by the Convention in the regulatory area on a meaningful scale, in terms of effect upon the success of the conservation program, of effective measures for the implementation of the Commission's recommendations applicable to all vessels and persons subject to their respective jurisdictions. The Secretary *shall suspend* the application of any such regulations when, after consultation with the Secretary of State and the United States Commissioners, he determines that foreign fishing operations in the regulatory area are such as to constitute a serious threat to the achievement of the objectives of the Commission's recommendations. (Emphasis added.)

The language in Section 405 of Title IV of **S. 269** correctly amends Section 6 of the Tuna Conventions Act, by inserting subsections (a) and (b) and leaving Section 6(c) of the Tuna Conventions Act intact.

However, the companion bill in the House, **H.R. 69**, takes a different approach. In Title II, Section 206 of that bill the language replaces the entire Section 6 of the Tuna Conventions Act by inserting the same language in subsections (a) and (b) that are in **S. 269**, but deletes subsection (c). Eventually, these bills will have to be rectified in a Conference Committee. The HMSAS believes it is extremely important that the language of subsection (c) be retained, as it ensures that the U.S. fleet fishing for highly migratory species is not disadvantaged in the face of competition from foreign fleets fishing for the same species.

IATTC Commission and General Advisory Committee

Under **S. 269**, the U.S. would be represented on the IATTC by five Commissioners, appointed by the President. These commissioners would include the chair or a member of the Pacific Council; one of the Western Pacific Council; and a representative of the Department of Commerce. In addition, both bills call for the chair of the Pacific Fishery Management Council's Advisory Subpanel for Highly Migratory Fisheries and the chair of the Western Pacific Fishery Management Council's Advisory Committee to be members of the General Advisory Committee.

As noted above, a substitute bill **S. 269** was reported by the Senate Commerce, Science, and Transportation Committee. The substitute adds conforming amendments to the Marine Mammal Protection Act; adds additional enforcement language regarding the Northern Pacific Halibut Act; provides details regarding the conduct of the IATTC's Science Advisory Subcommittee; deletes the exemption of the IATTC's General Advisory Committee from the Federal Advisory Committee Act (FACA); and makes other changes.

Other Ongoing House Bills

These bills were described in more detail in the summary of legislation provided at the June 2013 Council meeting (<http://tinyurl.com/mh9mc4z>). Bills with status changes since the June Council meeting are listed first.

HR 1012: Safety And Fraud Enforcement for Seafood Act

- **Introduced by** Ed Markey (D-Massachusetts) on March 6, 2013; has 25 cosponsors.
- **Status:** Referred to the House Committees on Agriculture, Energy and Commerce, Natural Resources, and House Ways and Means Committee.
- Three **cosponsors** have been added since the June Council meeting.
- **Companions/Predecessors:** This bill is a re-introduction of H.R. 6200 (112th) and a companion bill to S. 520 (Mark Begich).

To strengthen Federal consumer protection and product traceability with respect to commercially-marketed seafood, and for other purposes.

Most relevant to Council activities, the bill would require seafood imported into the US to be labeled with the acceptable market and scientific name; the harvest method, including gear type; catch date; weight; previous treatment (freezing, chemical treatment, country of processing); whether fish was wild-caught or farm-raised; location of fish farm; and cultivation method. This information could be made available upon request rather than appearing on a label.

HR 1667: Prevention of Escapement of Genetically Altered Salmon in the United States Act

- **Introduced by** Don Young (R-Alaska) on April 23, 2013; has nine cosponsors.
- **Status:** Referred to the House Natural Resources Committee.
- Three **cosponsors** have been added since the June Council meeting.
- **Companions/Predecessors:** This bill is a companion bill to S 246 (Mark Begich, D-Alaska).

To prevent the escapement of genetically-altered salmon in the United States, and for other purposes. Prohibits a person from shipping, selling, or purchasing a genetically-modified salmon, or a food product containing such fish, in interstate commerce; engaging in net-pen aquaculture of such fish; releasing such fish into a natural environment; or having custody, control, or possession of such fish with the intent to release it into a natural environment. Exempts fish, parts, or products used for scientific research or enforcement.

House Bills That Have Not Changed Since June (or Before)

- *HR 71: Coral Reef Conservation Act Reauthorization and Enhancement Amendments of 2013.* (Madeline Bordallo, D-Guam)
- *HR 584: To amend the Federal Food, Drug, and Cosmetic Act to require labeling of genetically engineered fish.* (Don Young, R-Alaska)
- *HR 753: Untitled; prohibits finfish aquaculture in the EEZ.* (Don Young, R-Alaska)
- *HR 799: Fisheries Disaster Relief and Research Investment Act.* (John Tierney, D-Massachusetts)
- *HR 1147: To provide limitations on maritime liens on fishing permits, and for other purposes.* (Don Young, R-Alaska)
- *HR 1308: Endangered Salmon and Fisheries Predation Prevention Act.* (Doc Hastings, R-Washington)

- *HR 1788: Cormorant Management and Natural Resources Protection Act.* (Michelle Bachmann, R-Minnesota)
- *HR 1927: More Water and Security for Californians Act.* (Jim Costa, D-California)

Other Ongoing Senate Bills

These bills were described in more detail in the summary of legislation provided at the June 2013 Council meeting (<http://tinyurl.com/mh9mc4z>). Bills with status changes since the June Council meeting are listed first.

S 267: Pirate Fishing Elimination Act

- **Introduced by** Jay Rockefeller (D-West Virginia) on February 11, 2013; ten cosponsors.
- **Status:** A hearing was held on this bill on July 30, when it was reported favorably by the Senate Commerce, Science, and Transportation Committee.
- One **cosponsor** was added to this bill since the June Council meeting.

A bill to prevent, deter, and eliminate illegal, unreported, and unregulated fishing through port State measures.

S 520: Safety and Fraud Enforcement for Seafood Act

- **Introduced by** Mark Begich (D-Alaska) on March 11, 2013; has three cosponsors.
- **Status:** Referred to the Committee on Senate Commerce, Science, and Transportation.
- One **cosponsor** was added to this bill since the June Council meeting.
- **Companions/Predecessors:** This is a companion bill to HR 1012; see description of that bill for details.

A bill to strengthen Federal consumer protection and product traceability with respect to commercially-marketed seafood, and for other purposes.

S 839: Coral Reef Conservation Amendments Act of 2013.

- **Introduced by** Bill Nelson (D-Florida) on April 25, 2013; has three cosponsors.
- **Status:** A hearing was held on this bill on July 30, when it was reported favorably by the Senate Commerce, Science, and Transportation Committee.

A bill to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes.

This Act amends the Coral Reef Conservation Act of 2000 to transfer certain authority from the NOAA Administrator to the Secretary of Commerce. Directs the Secretary to submit to Congress a national coral reef ecosystem action strategy, revised as necessary, to include discussions of coastal uses and management, including land-based sources of pollution; climate change; and other matters. Authorizes funds for monitoring and assessment, research, pollution reduction, education, and technical support.

The bill defines “coral” as species of the phylum *Cnidaria*, which are found among the deep sea corals off the West Coast.

Senate Bills That Have Not Changed Since June (or Before)

- *S 45: West Coast Ocean Protection Act of 2013.* (Barbara Boxer, D-California)
- *S 246: Prevention of Escapement of Genetically Altered Salmon in the United States Act.* (Mark Begich, D-Alaska)
- *S 248: (Untitled).* A bill to amend the Federal Food, Drug, and Cosmetic Act to require labeling of genetically engineered fish. (Mark Begich, D-Alaska)
- *S 518: H2O Visa for Seafood Processing Act.* (Mark Begich, D-Alaska)
- *S 601: Water Resources Development Act of 2013.* (Barbara Boxer, D-California)
- *S 646: National Endowment for the Oceans Act.* (Sheldon Whitehouse, D-RI)

Less Relevant Bills

Several other bills that are not directly relevant to Council activities, but may be of interest, are listed below.

The following bills were introduced after the June Council meeting:

- *HR 2044: To prohibit the use, production, sale, importation, or exportation of any pesticide containing atrazine.* Atrazine is the most widely used herbicide in the United States, and has been shown to have adverse effects on fish and aquatic wildlife. (Keith Ellison, D-Minnesota). A reintroduction of HR 4318 (112th Congress).
- *HR 2162: Environmental Compliance Cost Transparency Act of 2013.* To provide for transparency and reporting related to direct and indirect costs incurred by the Bonneville Power Administration, the Western Area Power Administration, the Southwestern Power Administration, and the Southeastern Power Administration related to compliance with any Federal environmental laws impacting the conservation of fish and wildlife, and for other purposes. (Paul Gosar, R-Arizona)
- *HR 2261: National Mitigation Fisheries Coordination Act.* To ensure that the U.S. Fish and Wildlife Service (USFWS) be compensated for the costs of operating certain hatcheries. (Rick Crawford, R-Arkansas)
- *HR 2588: FORESTS Act of 2013 (Fulfilling Our Responsibility for Efficient and Sustainable Timber Supply);* to reauthorize and expand authorities used by the Forest Service and the Bureau of Land Management for hazardous fuels reduction, forest health, forest restoration, and watershed restoration, and for other purposes. (Sean Duffy, R-Wisconsin)
- *HR 2705: Stanislaus River Native Anadromous Fish Improvement Act.* To develop a pilot program to remove non-native predator fishes from the Stanislaus River to protect the native anadromous fishery resources affected by the operation of the New Melones Unit of the East Side Division of the Central Valley Project, and for other purposes. (Jeff Denham, R-California)

- *HR 2735: Protecting Lands Against Narcotics Trafficking Act of 2013.* To protect the environment from the effects of illegal marijuana plantations. (Jared Huffman, D-California)
- *HR 2842:* To create competition in the Department of Agriculture's canned tuna purchasing program to strengthen the Department's buying power, increase the availability of canned tuna to school lunch, child nutrition, and other Federal nutrition programs. Would require that Federal nutrition program use domestically-caught and canned tuna. (Linda Sanchez, D-California).
- *S. 1202: Safeguarding America's Future and Environment Act.* To establish an integrated Federal program to respond to ongoing and expected impacts of extreme weather and climate change by protecting, restoring, and conserving the natural resources of the United States, and to maximize government efficiency and reduce costs, in cooperation with State, local, and tribal governments and other entities. (Sheldon Whitehouse, D-Rhode Island)
- *S 1254: Harmful Algal Bloom and Hypoxia Research and Control Amendments Act of 2013.* To amend the Harmful Algal Bloom and Hypoxia Research and Control Amendments Act of 1998, and for other purposes. (Bill Nelson, D-Florida). A hearing was held on this bill on July 30, when it was reported favorably by the Senate Commerce, Science, and Transportation Committee.
- *S 1335: Sportsmen's Act.* To protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes. (Lisa Murkowski, R- Alaska)
- *S 1359: Clean Cruise Ship Act of 2013.* To amend the Federal Water Pollution Control Act to establish national standards for discharges from cruise vessels. (Dick Durbin, D-Illinois)

There has been no major activity on the following bills since the June Council meeting:

- *HR 322: Hunting, Fishing, and Recreational Shooting Protection Act.* (Seeks to exclude fishing sinkers from the Toxic Substances and Chemicals Act). (Jeff Miller, R-Florida)
- *HR 764: Coastal State Climate Change Planning Act.* (Lois Capps, D-California)
- *HR 843: San Francisco Bay Restoration Act.* (Jackie Speier, D-California)
- *HR 996: Invasive Fish and Wildlife Prevention Act.* (Louise Slaughter, D-New York)
- *HR 1699: Genetically Engineered Food Right-to-Know Act.* (Peter DeFazio, D-Oregon)
- *S. 96: Rigs to Reef Habitat Protection Act.* Applies only to Gulf of Mexico. (David Vitter, R-Louisiana)
- *S. 221: Saving Fishing Jobs Act.* Permits eligible fishermen to approve certain limited access privilege programs, and for other purposes. Does not apply to the Pacific Council region. (Kelly Ayotte, R-New Hampshire)
- *S. 332: Climate Protection Act of 2013.* (Bernie Sanders, D-Vermont)
- *S. 713: Rhode Island Fishermen's Fairness Act.* Adds Rhode Island to the Mid-Atlantic Fishery Management Council. (Jack Reed, D-Rhode Island)
- *S. 747: No title.* A bill to grant exclusive fishery management authority over the red snapper fish in the Gulf of Mexico to Alabama, Florida, Louisiana, Mississippi, and Texas. (David Vitter, R-Louisiana)

HR ~~6362~~2646 IH

~~112th~~113th CONGRESS

~~2d~~1st Session

H. R. ~~6362~~2646

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~~groundfish fishing capacity reduction program.

IN THE HOUSE OF REPRESENTATIVES

~~September~~July 10, ~~2012~~2013

Ms. HERRERA BEUTLER (for herself, Mr. HUFFMAN, 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. Mr. YOUNG of Alaska, and Mr. REICHERT)~~) introduced the following bill; which was referred to the Committee on Natural Resources

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~~groundfish fishing capacity reduction program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘Revitalizing the Economy of Fisheries in the Pacific ~~Act of 2012~~Act’ or the ‘REFI Pacific ~~Act of 2012~~Act’.

SEC. 2. FINDINGS; PURPOSE.

(a) Findings- Congress ~~finds as follows~~makes the following findings:

(1) In 2000, the Secretary of Commerce declared the ~~Pacific West Coast Groundfish Fishery~~groundfish fishery a Federal fisheries economic disaster due to low stock abundance ~~of groundfish and~~, an overcapitalized fleet, and historically overfished stocks.

(2) ~~In 2003, section~~Section 212 of the Department of Commerce and Related Agencies Appropriations Act, 2003 (title II of division B of Public Law 108-7; 117 Stat. 80) was enacted to ~~require establishment of~~establish a Pacific Coast groundfish ~~fishery~~fishing

capacity reduction program, also known as a buyback program, to remove excess fishing capacity ~~from the groundfish, crab, and shrimp fisheries.~~

(3) In 2003, ~~a Congress authorized the \$35,700,000 buyback loan was authorized by Congress,~~ creating the Pacific Coast ~~Groundfish Fishing~~ groundfish fishing capacity reduction program through the National Marine Fisheries Service ~~Fisheries Finance Program~~ fisheries finance program with a term of 30 years. The interest rate of the buyback loan was fixed at 6.97 percent and is paid back based on an ex-vessel fee landing rate ~~of not to exceed~~ 5 percent for the loan.

(4) The ~~buyback~~ groundfish fishing capacity reduction program resulted in the removal of limited entry trawl Federal fishing permits from the fishery, representing approximately 46 percent of total landings at the time.

(5) Because of an absence of a repayment mechanism, \$4,243,730 in interest ~~was~~ accrued before fee collection procedures were established in 2005, over 18 months after the groundfish fishing capacity reduction program was initiated.

(6) In 2011, the ~~Pacific~~ West Coast groundfish fishery transitioned to ~~an individual fishing quota fishery, which is a type of~~ catch share program.

(7) By 2015, ~~Pacific~~ West Coast groundfish fishermen's expenses are expected to include fees of approximately \$450 per day for observers, a 3-percent cost recovery fee as authorized by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801) for catch share programs, and a 5-percent ex-vessel landings rate for the loan repayment, which could reach 18 percent of their total gross revenue.

(8) In 2012, ~~the period covering 2006 through 2011, the annual average Pacific~~ West Coast Groundfish Fishery ex-vessel revenue was \$85,945,847, which included revenue of at-sea catcher processors, at-sea mothership catcher vessels, trawls, open access, and tribal fishing and all other groundfish revenue. ~~Of that revenue, an average of \$45,000,000 was generated by the~~ limited entry trawl fishery:

~~(9) Currently, National Oceanic and Atmospheric Administration Fisheries administers industry-funded capacity reduction programs in the Bering Sea Aleutian Islands crab, Bering Sea Aleutian Islands non-pollock groundfish, and American Fisheries Act pollock fisheries, along with the Pacific Coast groundfish fishery. Each program has a 30-year, long-term loan repayment period based on fees for future landings in the fisheries.~~

~~(10) A fifth reduction buyback program was implemented in 2012 for the Alaska Purse Seine Salmon Fishery, which has a 40-year, long-term repayment period based on fees for future landings in the fishery with an ex-vessel landing rate of 3 percent.~~

~~(11) In the past when fishery disasters have been declared, some fisheries have been issued Federal disaster assistance grants generated \$63,000,000, an increase from an average of \$45,000,000 during the years 2006 to provide short-term economic assistance 2011. This revenue is expected to fishermen leaving the industry, increased profitability for remaining fishermen, and conservation of fish stocks.~~

~~(12) In 1996 and 1997, a \$23,000,000 Federal disaster assistance grant was issued for the New England Groundfish Fishery, which was used to remove 68 multi-species permits and scrap 58 vessels associated with those permits. No loan repayments were required for this grant to increase post-rationalization.~~

(b) Purpose- The purpose of ~~the~~this Act is to refinance the Pacific Coast ~~Groundfish Fishery Fishing Capacity Reduction Program~~groundfish fishery fishing capacity reduction program to protect and conserve the ~~PacificWest~~Pacific Coast groundfish fishery, ~~fishermen's economic livelihood, and jobs of associated industries~~the coastal economies in California, Oregon, and Washington that rely on it.

SEC. 3. REFINANCING OF ~~WESTPACIFIC~~PACIFIC COAST GROUND FISH FISHERY FISHING CAPACITY REDUCTION LOAN.

(a) In General- The Secretary of Commerce ~~shall~~, upon receipt of such assurances as the Secretary considers appropriate to protect the interests of the United States, shall issue a loan to refinance the existing debt obligation funding the fishing capacity reduction program for the ~~PacificWest~~Pacific Coast ~~Groundfish Fishery~~groundfish fishery implemented under section 212 of the Department of Commerce and Related Agencies Appropriations Act, 2003 (title II of division B of Public Law 108-7; 117 Stat. 80).

(b) Applicable Law- Except as otherwise provided in this section, the Secretary shall issue ~~such~~the loan under this section in accordance with subsections (b) through (e) of section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a) and sections 53702 and 53735 of title 46, United States Code.

(c) Loan Term- ~~Notwithstanding section 53735(c)(4) of title 46, United States Code, a loan under this section must have a maturity that expires at the end of the 45-year period beginning on the date of issuance of such loan.~~

(1) IN GENERAL- Notwithstanding section 53735(c)(4) of title 46, United States Code, a loan under this section shall have a maturity that expires at the end of the 45-year period beginning on the date of issuance of the loan.

(2) EXTENSION- Notwithstanding paragraph (1) and if there is an outstanding balance on the loan after the period described in paragraph (1), a loan under this section shall have a maturity of 45 years or until the loan is repaid in full.

(d) Limitation on Fee Amount- Notwithstanding section 312(d)(2)(B) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. ~~1861~~1861a(d)(2)(B)), the fee established by the Secretary with respect to a loan under this section shall not exceed 3 percent of the ex-vessel value of ~~all fish harvested~~the harvest from each fishery for ~~which~~where the loan is issued.

(e) ~~Funding~~ To implement this ~~Interest Rate-~~

(1) IN GENERAL- Notwithstanding section ~~there~~53702(b)(2) of title 46, United States Code, the annual rate of interest an obligor shall pay on a direct loan obligation under this

section is the percent the Secretary must pay as interest to borrow from the Treasury the funds to make the loan.

(2) SUBLOANS- Each subloan under the loan authorized by this section--

(A) shall receive the interest rate described in paragraph (1); and

(B) may be paid off at any time notwithstanding subsection (c)(1).

(f) Ex-Vessel Landing Fee-

(1) CALCULATIONS AND ACCURACY- The Secretary shall set the ex-vessel landing fee to be collected for payment of the loan under this section--

(A) as low as possible, based on recent landings value in the fishery, to meet the requirements of loan repayment;

(B) upon issuance of the loan in accordance with paragraph (2); and

(C) on a regular interval not to exceed every 5 years beginning on the date of issuance of the loan.

(2) DEADLINE FOR INITIAL EX-VESSEL LANDINGS FEE CALCULATION- Not later than 60 days after the date of issuance of the loan under this section, the Secretary shall recalculate the ex-vessel landing fee based on the most recent value of the fishery.

(g) Authorization- There is authorized to be appropriated to the Secretary of Commerce to carry out this section an amount equal to 1 percent of the amount of the loan authorized under this section: for purposes of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

Staff comparison between original and substitute S. 269. New text highlighted in yellow; old text struck out.

S 269 IS

113th CONGRESS

1st Session

S. 269

To establish uniform administrative and enforcement authorities for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act and similar statutes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

February 11, 2013

Mr. ROCKEFELLER (for himself, Mr. BEGICH, Ms. MURKOWSKI, Mr. SCHATZ, MS. CANTWELL, Mr. WHITEHOUSE, Mr. WYDEN, MS. HIRONO, Mr. MERKLEY, and Mr. NELSON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To establish uniform administrative and enforcement authorities for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act and similar statutes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title- This Act may be cited as the ‘International Fisheries Stewardship and Enforcement Act’.

(b) Table of Contents- The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ADMINISTRATION AND ENFORCEMENT OF CERTAIN FISHERY AND RELATED STATUTES

Sec. 101. Authority of the Secretary of Commerce to enforce statutes.

Sec. 102. Conforming, minor, and technical amendments.

Sec. 103. Illegal, unreported, or unregulated fishing.

Sec. 104. Liability.

TITLE II—LAW ENFORCEMENT AND INTERNATIONAL OPERATIONS

Sec. 201. International fisheries enforcement.

Sec. 202. International cooperation and assistance.

TITLE III—MISCELLANEOUS AMENDMENTS

Sec. 301. Atlantic Tunas Convention Act of 1975.

Sec. 302. Data sharing.

Sec. 303. Permits under the High Seas Fishing Compliance Act of 1995.

Sec. 304. Committee on scientific cooperation for Pacific salmon agreement.

TITLE IV—IMPLEMENTATION OF THE ANTIGUA CONVENTION

Sec. 401. Short title; references to the Tuna Conventions Act of 1950.

Sec. 402. Definitions.

Sec. 403. Commissioners; number, appointment, and qualifications.

Sec. 404. General advisory committee and scientific advisory subcommittee.

Sec. 405. Rulemaking.

Sec. 406. Prohibited acts.

Sec. 407. Enforcement.

Sec. 408. Reduction of bycatch.

Sec. 409. Repeal of Eastern Pacific Tuna Licensing Act of 1984.

Sec. 410. Conforming amendments to the Marine Mammal Protection Act of 1972.

TITLE I—ADMINISTRATION AND ENFORCEMENT OF CERTAIN FISHERY AND RELATED STATUTES

SEC. 101. AUTHORITY OF THE SECRETARY OF COMMERCE TO ENFORCE STATUTES.

(a) In General-

(1) ENFORCEMENT- The Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating shall enforce the Acts to which this section applies in accordance with the provisions of this section.

(2) NONDEPARTMENTAL RESOURCES- The Secretary of Commerce may, by agreement, on a reimbursable basis or otherwise, utilize the personnel services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in carrying out this section.

(3) APPLICATION- This section applies to—

(A) the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826d et seq.);

(B) the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631 et seq.);

(C) the Dolphin Protection Consumer Information Act (16 U.S.C. 1385);

(D) the Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.);

(E) the North Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5001 et seq.);

(F) the South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.);

(G) the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2431 et seq.);

(H) the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.);

(I) the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.);

(J) the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.);

(K) the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773 et seq.);

(L) the Antigua Convention Implementing Act of 2013; and

(M) any other Act in pari materia, so designated by the Secretary after notice and an opportunity for a hearing.

(b) Administration and Enforcement- The Secretary of Commerce shall prevent any person from violating any Act to which this section applies in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though sections 308 through 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858 through 1861) were incorporated into and made a part of each such Act. Except as provided in subsection (c), any person that violates any Act to which this section applies shall be subject to the penalties, and entitled to the privileges and immunities, provided in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) in the same manner and by the

same means as though sections 308 through 311 of that Act (16 U.S.C. 1858 through 1861) were incorporated into and made a part of each such Act.

(c) Special Rules-

(1) IN GENERAL- Notwithstanding the incorporation by reference of certain sections of the Magnuson-Stevens Fishery Conservation and Management Act under subsection (b), if there is a conflict between a provision of this subsection and the corresponding provision of any section of the Magnuson-Stevens Fishery Conservation and Management Act so incorporated, the provision of this subsection shall apply.

(2) ADDITIONAL ENFORCEMENT AUTHORITY- In addition to the powers of officers authorized pursuant to subsection (b), any officer who is authorized by the Secretary, or the head of any Federal or State agency that has entered into an agreement with the Secretary under subsection (a) to enforce the provisions of any Act to which this section applies may, with the same jurisdiction, powers, and duties as though section 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861) were incorporated into and made a part of each such Act—

(A) search or inspect any facility or conveyance used or employed in, or which reasonably appears to be used or employed in, the storage, processing, transport, or trade of fish or fish products;

(B) inspect records pertaining to the storage, processing, transport, or trade of fish or fish products;

(C) detain, for a period of up to 14 days, any shipment of fish or fish product imported into, landed on, introduced into, exported from, or transported within the jurisdiction of the United States, or, if such fish or fish product is deemed to be perishable, sell and retain the proceeds therefrom for a period of up to 14 days;

(D) carry firearms and make an arrest, in accordance with any guidelines which may be issued by the Attorney General, for any offense under the laws of the United States committed in the person's presence, or for the commission of any felony under the laws of the United States, if the person has reasonable grounds to believe that the person to be arrested has committed or is committing a felony;

(E) search and seize, in accordance with any guidelines which may be issued by the Attorney General; and

(F) execute and serve any subpoena, arrest warrant, search warrant issued in accordance with rule 41 of the Federal Rules of Criminal Procedure, or other warrant or civil or criminal process issued by any officer or court of competent jurisdiction.

(3) NORTHERN PACIFIC HALIBUT ACT OF 1982.—Notwithstanding the provisions of subsection (b)—

(A) any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited under section 7 of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773e) shall be liable to the United States for a civil penalty under section 8 of that Act (16 U.S.C. 773f);

(B) any act prohibited under subparagraphs (B), (C), (D), or (F) of section 7(1) or section 7(2) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773e) is punishable under section 9 of that Act (16 U.S.C. 773g); and

(C) the Secretary, in cooperation with such other agencies as may be appropriate, may conduct or cause to be conducted investigations in accordance with section 11(d) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773i(d)) as are deemed necessary to carry out the purposes of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773 et seq.).

(3) INFORMATION COLLECTION, MAINTENANCE AND USE-

(A) IN GENERAL- The Secretary of Commerce and the head of each department and agency providing personnel for the task force under section 201, to the maximum extent permissible under law, shall share all applicable information, intelligence, and data, related to the harvest, transportation, or trade of fish and fish product for the purposes under section 201(a)(2).

(B) COORDINATION OF DATA- The Secretary of Commerce, through the task force under section 201, shall coordinate the collection, storage, analysis, and dissemination of all applicable information, intelligence, and data related to the harvest, transportation, or trade of fish and fish product collected or maintained by a member agency of the task force.

(C) CONFIDENTIALITY- The Secretary of Commerce, through the task force under section 201, shall ensure the protection and confidentiality required by law for information, intelligence, and data related to the harvest, transportation, or trade of fish and fish product obtained by the task force.

(D) DATA STANDARDIZATION- The Secretary of Commerce and the head of each department and agency providing personnel for the task force, to the maximum extent practicable, shall develop data standardization for fisheries related data for each member agency of the task force under section 201 and with international fisheries enforcement databases as appropriate.

(E) ASSISTANCE FROM INTELLIGENCE COMMUNITY- Upon request of the Secretary of Commerce, elements of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) shall collect information related to illegal, unreported, or unregulated fishing activity outside the United States about individuals who are not United States persons (as defined in section 105A(c)(2) of such Act (50 U.S.C. 403-5a(c)(2))). Such elements of the intelligence community shall collect and share such information with the Secretary through the task force under section

201 of this Act for law enforcement purposes in order to detect and investigate illegal, unreported, or unregulated fishing activities and to carry out the provisions of this Act. All collection and sharing of information shall be in accordance with the National Security Act of 1947 (50 U.S.C. 401 et seq.).

(F) INFORMATION SHARING-

(i) IN GENERAL- Subject to clause (ii), the Secretary of Commerce, through the task force under section 201, shall have authority to share fisheries-related data with—

(I) other Federal or State government agencies;

(II) foreign governments;

(III) the Food and Agriculture Organization formed at Quebec, Canada, on October 16, 1945; or

(IV) the secretariat or equivalent of an international fisheries management organization or arrangement made pursuant to an international fishery agreement.

(ii) LIMITATIONS- An entity listed under clause (i) may receive data under this subparagraph if—

(I) the entity has policies and procedures to safeguard such data from unintended or unauthorized disclosure; and

(II) the exchange of information is necessary—

(aa) to ensure compliance with any law (including regulations) enforced or administered by the Secretary of Commerce;

(bb) to administer or enforce treaties to which the United States is a party;

(cc) to administer or enforce binding conservation measures adopted by any international organization or arrangement to which the United States is a party;

(dd) to assist in investigative, judicial, or administrative enforcement proceedings in the United States; or

(ee) to assist in any fisheries or living marine resource related law enforcement action undertaken by a law enforcement agency of a foreign government, or in relation to a legal proceeding undertaken by a foreign government.

(d) District Court Jurisdiction- The several district courts of the United States shall have jurisdiction over any actions arising under this section. For the purpose of this section, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation

first occurred, but also in any other district as authorized by law. Any offenses not committed in any district are subject to the venue provisions of section 3238 of title 18, United States Code.

(e) Prohibited Acts- For purposes of this section and each Act to which this section applies, it is unlawful for any person—

(1) to violate any provision of this section or any Act to which this section applies or any regulation promulgated thereunder;

(2) to refuse to permit any authorized enforcement officer to board, search, or inspect a vessel, conveyance, or shoreside facility that is subject to the person's control for purposes of conducting any search, investigation, or inspection in connection with the enforcement of this section or any Act to which this section applies or any regulation promulgated thereunder;

(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, investigation, or inspection described in paragraph (2);

(4) to resist a lawful arrest for any act prohibited by this section or any Act to which this section applies;

(5) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section or any Act to which this section applies;

(6) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this section or any Act to which this section applies, or any data collector employed by or under contract to the National Marine Fisheries Service to carry out responsibilities under this section or any Act to which this section applies;

(7) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish or fish product taken, possessed, transported, or sold in violation of any treaty or binding conservation measure adopted pursuant to an international agreement or organization to which the United States is a party; or

(8) to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.

(f) Regulations- The Secretary of Commerce may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out this section or any Act to which this section applies.

SEC. 102. CONFORMING, MINOR, AND TECHNICAL AMENDMENTS.

(a) High Seas Driftnet Fishing Moratorium Protection Act-

(1) Section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g) is amended—

(A) by inserting ‘(a) Detecting, Monitoring, and Preventing Violations-’ before ‘The President’; and

(B) by adding at the end the following:

‘(b) Enforcement- This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.’

(2) Section 607(2) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826h(2)) is amended by inserting “not later than June 1” after “2006, and”.

(3) Section 607(2) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826h(2)) is amended by striking ‘whose vessels’ and inserting ‘that’.

(4) Section 609(a) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(a)) is amended to read as follows:

‘(a) Identification-

‘(1) IN GENERAL- The Secretary shall identify, and list in the report under section 607, a nation if that nation is engaged, or has been engaged at any time during the preceding 3 years, in illegal, unreported, or unregulated fishing and—

‘(A) such fishing undermines the effectiveness of measures required under the relevant international fishery management organization;

‘(B) the relevant international fishery management organization has failed to implement effective measures to end the illegal, unreported, or unregulated fishing activity by vessels of that nation, or the nation is not a party to, or does not maintain cooperating status with, such organization; or

‘(C) there is no international fishery management organization with a mandate to regulate the fishing activity in question.

‘(2) OTHER IDENTIFYING ACTIVITIES- The Secretary shall also identify, and list in the report under section 607, a nation if—

‘(A) it is violating, or has violated at any time during the preceding 3 years, conservation and management measures required under an international fishery management agreement to which the United States is a party and the violations undermine the effectiveness of such measures, taking into account the factors described in paragraph (1); or

‘(B) it is failing, or has failed at any time during the preceding 3 years, to effectively address or regulate illegal, unreported, or unregulated fishing.

‘(3) TREATMENT OF CERTAIN ENTITIES AS IF THEY WERE NATIONS- Where the provisions of this Act apply to the act, or failure to act, of a nation, they shall also be applicable, as appropriate, to any other entity that is competent to enter into an international fishery management agreement.’.

(5 [sic]) Section 609(d)(1) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d)(1)) is amended by striking ‘of its fishing vessels’ each place it appears.

(6) Section 609(d)(2) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d)(2)) is amended—

(A) by striking ‘procedure for certification,’ and inserting ‘procedure,’;

(B) by striking ‘basis of fish’ and inserting ‘basis, for allowing importation of fish’; and

(C) by striking ‘harvesting nation not certified under paragraph (1)’ and inserting ‘nation issued a negative certification under paragraph (1)’.

(D) in subparagraph (A), by striking “under an international fishery management agreement to which the United States is a party; or” and inserting “; and”.

(7) Section 610(a)(1) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k(a)(1)) is amended—

(A) by striking ‘calendar year’ and inserting ‘3 years’; and

(B) by striking ‘practices;’ and inserting ‘practices—’.

(8) Section 610(c)(5) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k(c)(5)) is amended by striking “or fish or fish products not caught by the vessels engaged in illegal, unreported, or unregulated fishing”.

(b) Dolphin Protection Consumer Information Act- Section 901 of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385) is amended—

(1) by adding at the end of subsection (d) the following:

‘(4) It is a violation of section 101 of the International Fisheries Stewardship and Enforcement Act for any person to assault, resist, oppose, impede, intimidate, or interfere with an authorized officer in the conduct of any search, investigation or inspection under this Act.’ and

(2) by amending subsection (e) to read as follows:

‘(e) Enforcement- This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.’.

(c) North Pacific Anadromous Stocks Act of 1992-

(1) UNLAWFUL ACTIVITIES- Section 810 of the North Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5009) is amended—

(A) by striking ‘purchases’ in paragraph (5) and inserting ‘purposes’;

(B) by striking ‘search or inspection’ in paragraph (5) and inserting ‘search, investigation, or inspection’; and

(C) by striking ‘search or inspection’ in paragraph (6) and inserting ‘search, investigation, or inspection’.

(2) ADMINISTRATION AND ENFORCEMENT- Section 811 of the North Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5010) is amended to read as follows:

‘SEC. 811. ADMINISTRATION AND ENFORCEMENT.

‘This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.’.

(d) Pacific Salmon Treaty Act of 1985-

(1) Section 8 of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3637) is amended—

(A) in subsection (a)—

(i) by striking ‘search or inspection’ in paragraph (2) and inserting ‘search, investigation, or inspection’; and

(ii) by striking ‘search or inspection’ in paragraph (3) and inserting ‘search, investigation, or inspection’; and

(B) by striking subsections (b) through (f) and inserting the following:

‘(b) Administration and Enforcement- This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.’.

(2) Section 16(d)(2)(A) of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3645(d)(2)(A)) is amended by striking ‘and’ between ‘2002,’ and ‘2003’.

(e) South Pacific Tuna Act of 1988-

(1) PROHIBITED ACTS- Section 5(a) of the South Pacific Tuna Act of 1988 (16 U.S.C. 973c(a)) is amended—

(A) by striking ‘a search or inspection’ in paragraph (8) and inserting ‘any search, investigation, or inspection’; and

(B) by striking ‘a search or inspection’ in paragraph (10)(A) and inserting ‘any search, investigation, or inspection’.

(2) ADMINISTRATION AND ENFORCEMENT- The South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.) is amended by striking sections 7 and 8 (16 U.S.C. 973e and 973f) and inserting the following:

‘SEC. 7. ADMINISTRATION AND ENFORCEMENT.

‘This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.’.

(f) Antarctic Marine Living Resources Convention Act of 1984-

(1) UNLAWFUL ACTIVITIES- Section 306 of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2435) is amended—

(A) in paragraph (3), by striking ‘which he knows, or reasonably should have known, was’;

(B) in paragraph (4), by striking ‘search or inspection’ and inserting ‘search, investigation, or inspection’; and

(C) in paragraph (5), by striking ‘search or inspection’ and inserting ‘search, investigation, or inspection’.

(2) REGULATIONS- Section 307 of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2436) is amended by inserting after ‘title.’ the following:

‘Notwithstanding the provisions of subsections (b), (c), and (d) of section 553 of title 5, United States Code, the Secretary of Commerce may publish in the Federal Register a final rule to implement conservation measures, described in section 305(a) of this Act, that are in effect for 12 months or less, adopted by the Commission, and not objected to by the United States within the time period allotted under Article IX of the Convention. ~~Upon publication in the Federal Register, such conservation measures shall be in force with respect to the United States.~~’.

(3) PENALTIES AND ENFORCEMENT- The Antarctic Marine Living Resources Convention Act (16 U.S.C. 2431 et seq.) is amended—

(A) by striking sections 308 and 309 (16 U.S.C. 2437 and 2438); and

(B) in section 310 (16 U.S.C. 2439)—

(i) by striking subsections (b), (c), and (d);

(ii) by redesignating subsection (e) as subsection (c); and

(iii) by inserting after subsection (a) the following:

‘(b) Administration and Enforcement- This title shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.’.

(g) Atlantic Tunas Convention Act of 1975-

(1) VIOLATIONS- Section 7 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971e) is amended—

(A) by striking subsections (e) and (f); and

(B) by redesignating subsection (g) as subsection (e).

(2) ENFORCEMENT- Section 8 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971f) is amended—

(A) by striking subsections (a) and (c);

(B) by striking ‘(b) International Enforcement- ’ in subsection (b) and inserting ‘This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.’; and

(C) by striking ‘shall have the authority to carry out the enforcement activities specified in section 8(a) of this Act’ each place it appears and inserting ‘shall enforce this Act’.

(h) Northwest Atlantic Fisheries Convention Act of 1995- Section 207 of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5606) is amended—

(1) in the section heading, by striking ‘and penalties.’ and inserting ‘and enforcement.’;

(2) in subsection (a)—

(A) by striking ‘search or inspection’ in paragraph (2) and inserting ‘search, investigation, or inspection’; and

(B) by striking ‘search or inspection’ in paragraph (3) and inserting ‘search, investigation, or inspection’; and

(3) by striking subsections (b) through (f) and inserting the following:

‘(b) Administration and Enforcement- This title shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.’.

(i) Western and Central Pacific Fisheries Convention Implementation Act-

(1) ADMINISTRATION AND ENFORCEMENT- Section 506(c) of the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6905(c)) is amended to read as follows:

‘(c) Administration and Enforcement- This title shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.’.

(2) PROHIBITED ACTS- Section 507(a)(2) of the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6906(a)(2)) is amended by striking ‘suspension, on’ and inserting ‘suspension of’.

(j) Northern Pacific Halibut Act of 1982-

(1) PROHIBITED ACTS- Section 7 of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773e) is amended—

(A) by redesignating paragraphs (1) through (6) of subsection (a), as subparagraphs (A) through (F), respectively;

(B) by redesignating subsections (a) and (b) as paragraphs (1) and (2), respectively;

(C) in paragraph (1)(B), as redesignated, by striking ‘search or inspection’ and inserting ‘search, investigation, or inspection’; and

(D) in paragraph (1)(C), as redesignated, by striking ‘search or inspection described in paragraph (2)’ and inserting ‘search, investigation, or inspection described in subparagraph (B)’.

(2) ADMINISTRATION AND ENFORCEMENT- The Northern Pacific Halibut Act of 1982 (16 U.S.C. 773 et seq.) is amended—

(A) in section 8 (16 U.S.C. 773f)—

(i) by striking the subsection designation and heading preceding the text of subsection (a); and

(ii) by striking subsections (b) through (e);

(B) in section 9(a) (16 U.S.C. 773g(a)), by striking “section 7(a)(2), (3), (4), or (6); or section 7(b)” and inserting “section 7(1)(B), (C), (D), or (F) or section 7(2)”;

(C) by striking section 10 (16 U.S.C. 773h); and

(D) in section 11 (16 U.S.C. 773i)—

(i) by striking subsections (b) through (d) of section 11 (16 U.S.C. 773i) and inserting the following:

(A) by striking sections 3, 9, and 10 (16 U.S.C. 773f, 773g, and 773h); and

~~(B) by striking subsections (b) through (f) of section 11 (16 U.S.C. 773i) and inserting the following:~~

‘(b) Administration and Enforcement- This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act;’ **and**

(ii) by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

(k) NATIONAL SEA GRANT COLLEGE PROGRAM REAUTHORIZATION ACT OF 1988.—Section 10 of the National Sea Grant College Program Reauthorization Act of 1988 (15 U.S.C. 1541) is amended by striking “the United States Coast Guard” it [sic] place it appears and inserting “another Federal agency”.

SEC. 103. ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.

(a) Amendment of the High Seas Driftnet Fishing Moratorium Protection Act-

(1) Section 608 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i), as amended by section 302(a) of this Act, is further amended by adding at the end the following:

‘(c) Vessels and Vessel Owners Engaged in Illegal, Unreported, or Unregulated Fishing- The Secretary may—

‘(1) develop, maintain, and make public a list of vessels and vessel owners **that are engaged, or have been engaged at any point during the preceding 2 years,** in illegal, unreported, or unregulated fishing, including vessels or vessel owners identified by an international fishery management organization or arrangement made pursuant to an international fishery agreement, whether or not the United States is a party to such organization or arrangement;

‘(2) take appropriate action against listed vessels and vessel owners, including action against fish, fish parts, or fish products from such vessels, in accordance with applicable United States law and consistent with applicable international law, including principles, rights, and obligations established in applicable international fishery management and trade agreements; and

‘(3) provide notification to the public of vessels and vessel owners identified by international fishery management organizations or arrangements made pursuant to an international fishery agreement as having been engaged in illegal, unreported, or unregulated fishing, as well as any measures adopted by such organizations or arrangements to address illegal, unreported, or unregulated fishing.

‘(d) Restrictions on Port Access or Use- Action taken by the Secretary under subsection (c)(2) that includes measures to restrict use of or access to ports or port services shall apply to all ports of the United States and its territories.

‘(e) Regulations- The Secretary may promulgate regulations to implement subsections (c) and (d).’.

(2) Section 609 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j) is amended—

(A) in subsection (d)(3)(A)(i), by striking ‘that has not been certified by the Secretary under this subsection, or’; and

(B) in subsection (e)(2), by striking “Within 3 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006” and inserting “Not later than 180 days after the date of enactment of the International Fisheries Stewardship and Enforcement Act”; and

(B) in subsection (e)(3)—

(i) by striking ‘and’ at the end of subparagraph (B);

(ii) by striking ‘agreement.’ and inserting ‘agreement; and’; and

(iii) by adding at the end the following:

‘(D) to the extent possible—

‘(i) fishing activities conducted in waters under the jurisdiction of a nation without permission of that nation; and

‘(ii) fishing activities conducted in contravention of a nation’s laws (including regulations), including fishing activity that has not been reported or that has been misreported to the relevant national authority of a nation in contravention of that nation’s laws (including regulations).’.

(3) Section 610(c)(5) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k(c)(5)) is amended by striking ‘that has not been certified by the Secretary under this subsection, or’.

(b) Amendment of the High Seas Driftnet Fisheries Enforcement Act-

(1) Section 101 of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a) is amended—

(A) in subsection (a), by striking paragraph (2) and inserting the following:

‘(2) DENIAL OF PORT PRIVILEGES- The Secretary of the Treasury shall, in accordance with recognized principles of international law—

‘(A) withhold or revoke the clearance required by section 60105 of title 46, United States Code, for—

‘(i) any large-scale driftnet fishing vessel that is documented under the law of the United States or of a nation included on a list published under paragraph (1); or

‘(ii) any fishing vessel of a nation that receives a negative certification under section 609(d) or 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d) or 1826k(c)); and

‘(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States, except for the purpose of inspecting the vessel, conducting an investigation, or taking other appropriate enforcement action.’; and

(B) in subsection (b)—

(i) by striking ‘or illegal, unreported, or unregulated fishing’ each place it appears in paragraphs (1) and (2);

(ii) by striking paragraph (3)(A) and inserting the following:

‘(A) PROHIBITION- The President shall direct the Secretary of the Treasury to prohibit the importation into the United States of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from a nation—

‘(i) upon receipt of notification of the identification of the nation under paragraph (1)(A);

‘(ii) if the consultations with the government of the nation under paragraph (2) are not satisfactorily concluded within ninety days; or

‘(iii) upon receipt of notification of a negative certification under section 609(d)(1) or 610(c)(1) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d)(1) and 1826k(c)(1)).’;

(iii) by inserting ‘or after issuing a negative certification under section 609(d)(1) or 610(c)(1) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d)(1) and 1826k(c)(1)),’ after ‘paragraph (1),’ in paragraph (4)(A); and

(iv) by striking paragraph (4)(A)(i) and inserting the following:

‘(i) any prohibition established under paragraph (3) is insufficient to cause that nation—

‘(I) to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation;

‘(II) to address illegal, unreported, or unregulated fishing activities for which a nation has been identified under section 609 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j); or

‘(III) to address bycatch of a protected living marine resource for which a nation has been identified under section 610 of such Act (16 U.S.C. 1826k); or’.

(2) Section 102 of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826b) is amended by striking ‘such nation has terminated large-scale driftnet fishing or illegal, unreported, or unregulated fishing by its nationals and vessels beyond the exclusive economic zone of any nation.’ and inserting ‘such nation—

‘(1) has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any nation;

‘(2) has addressed illegal, unreported, or unregulated fishing activities for which a nation has been identified under section 609 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j); or

‘(3) has addressed bycatch of a protected living marine resource or shark catch on the high seas for which a nation has been identified under section 610 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k).’.

SEC. 104. LIABILITY.

Any claims arising from the actions of any officer, authorized by the Secretary of Commerce or the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this Act or any Act to which this Act applies, taken pursuant to any scheme for at-sea boarding and inspection authorized under any international agreement to which the United States is a party may be pursued under chapter 171 of title 28, United States Code, or such other legal authority as may be pertinent.

TITLE II—LAW ENFORCEMENT AND INTERNATIONAL OPERATIONS

SEC. 201. INTERNATIONAL FISHERIES ENFORCEMENT.

(a) Establishment of International Fisheries Enforcement Task Force-

(1) IN GENERAL- Not later than 12 months after the date of enactment of this Act, the Secretary of Commerce shall establish, through the National Marine Fisheries Service’s international enforcement program, an interagency International Fisheries Enforcement Task Force.

(2) PURPOSES- The purposes of the task force shall be—

(A) to detect and investigate illegal, unreported, or unregulated fishing activity and trafficking in the resulting fish or fish product; and

(B) to enforce the provisions of this Act or any Act to which section 101 applies.

(3) MEMBERSHIP- The task force shall include permanent representation from—

(A) the National Marine Fisheries Service’s international enforcement program;

(B) the U.S. Coast Guard;

(C) U.S. Customs and Border Protection;

(D) the U.S. Food and Drug Administration; and

(E) such other Federal agencies as the Secretary considers appropriate and necessary to carry out the purposes under paragraph (2).

(b) Task Force Organization-

(1) STAFFING AND OTHER RESOURCES- The Secretary of Commerce and the head of each department and agency identified under subsection (a)(3) shall—

(A) by agreement, on a reimbursable basis or otherwise, provide permanent representation to the task force;

(B) by agreement, on a reimbursable basis or otherwise, share personnel, services, equipment (including aircraft and vessels), and facilities with the task force for the purposes under subsection (a)(2); and

(C) to the extent possible, and consistent with other applicable law, extend the authorities provided under their enabling legislation to the other departments and agencies participating in the task force.

(2) BUDGET- The Secretary of Commerce and the head of each department and agency providing personnel for the task force, at their discretion, may develop interagency plans and budgets and engage in interagency financing for such purposes.

(3) 5-year STRATEGIC PLAN- Not later than 180 days after the date on which the task force is established under subsection (a), the Secretary of Commerce shall develop a 5-year strategic plan for guiding interagency and intergovernmental international fisheries enforcement efforts to carry out the provisions of this Act. The Secretary shall update the plan periodically as necessary, but at least once every 5 years.

(4) COOPERATIVE ACTIVITIES- The Secretary, in coordination with the head of each department and agency providing personnel for the task force—

(A) may conduct one or more joint operations for the purposes under subsection (a)(2);

(B) shall, to the maximum extent permissible under law, create and participate in committees or other working groups with other Federal, State, or local governments, and with the governments of other nations for the purposes under subsection (a)(2);

(C) may enter into agreements with other Federal, State, or local governments, and with the governments of other nations, on a reimbursable basis or otherwise, for the purposes under subsection (a)(2).

(c) Powers of Authorized Officers- Notwithstanding any other provision of law, while operating under an agreement with the Secretary of Commerce entered into under section 101, or while conducting a joint operation under subsection (b)(4) of this section, each authorized officer shall have the powers and authority provided in section 101.

SEC. 202. INTERNATIONAL COOPERATION AND ASSISTANCE.

(a) International Cooperation and Assistance- The Secretary of Commerce may provide international cooperation and assistance for international capacity building efforts.

(b) Authorized Activities- In carrying out this section, the Secretary may—

(1) provide technical expertise to other nations to assist them in addressing illegal, unreported, or unregulated fishing activities;

(2) provide technical expertise to other nations to assist them in reducing the loss and environmental impacts of derelict fishing gears, reducing the bycatch of living marine resources, and promoting international marine resource conservation;

(3) provide technical expertise, and training, in cooperation with the International Fisheries Enforcement Task Force under section 201 of this Act, to other nations to aid them in building capacity for enhanced fisheries management, fisheries monitoring, catch and trade tracking activities, enforcement, and international marine resource conservation;

(4) establish partnerships with other Federal agencies, as appropriate, to ensure that fisheries development assistance to other nations is directed toward efforts that promote sustainable fisheries; and

(5) conduct outreach and education efforts in order to promote public and private sector awareness of international fisheries sustainability issues, including the need to combat illegal, unreported, or unregulated fishing activity and to promote international marine resource conservation.

(6) use, with their consent, with reimbursement and subject to the limits of available appropriations, the land, services, equipment, personnel, and facilities of any department, agency, or instrumentality of the United States, or of any State, local government, Indian tribal government, Territory, or possession, or of any political subdivision thereof, or of any foreign government or international organization, for purposes related to carrying out the responsibilities of any statute administered by the National Oceanic and Atmospheric Administration; and

(7) accept and expend funds from other Federal agencies or foreign governments to carry out the purposes of this section.

(c) Guidelines- The Secretary may establish guidelines as necessary to implement this section.

TITLE III—MISCELLANEOUS AMENDMENTS

SEC. 301. ATLANTIC TUNAS CONVENTION ACT OF 1975.

Section 6 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(2)) is amended—

(1) by inserting ‘(A)’ after ‘(2)’;

(2) by striking ‘(A) submission’ and inserting ‘the presentation’;

~~(3) by striking ‘arguments, and (B) oral presentation at a public hearing. Such’ and inserting ‘written or oral statements at a public hearing. After consideration of such presentations, the’; and~~

(4) by adding at the end thereof the following:

‘(B) The Secretary may issue final regulations to implement Commission recommendations referred to in paragraph (1) of this subsection concerning trade restrictive measures against nations or fishing entities without regard to the requirements of subparagraph (A) of this paragraph and subsections (b) and (c) of section 553 of title 5, United States Code.’.

SEC. 302. DATA SHARING.

(a) High Seas Driftnet Fishing Moratorium Protection Act- Section 608 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i) is amended—

(1) by inserting ‘(a) In General- ’ before ‘The Secretary,’;

(2) by striking ‘organizations’ the first place it appears and inserting, ‘organizations, or arrangements made pursuant to an international fishery agreement (as defined in section 3(24) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(24))),’;

(3) by striking ‘and’ after the semicolon in paragraph (3);

(4) by striking ‘territories.’ in paragraph (4) and inserting ‘territories; and’; and

(5) by adding at the end thereof the following:

‘(5) urging other nations, through the regional fishery management organizations of which the United States is a member, bilaterally and otherwise to seek and foster the sharing of accurate, relevant, and timely information—

‘(A) to improve the scientific understanding of marine ecosystems;

‘(B) to improve fisheries management decisions;

‘(C) to promote the conservation of protected living marine resources;

‘(D) to combat illegal, unreported, and unregulated fishing; and

‘(E) to improve compliance with conservation and management measures in international waters.

‘(b) Information Sharing- In carrying out this section, the Secretary may disclose, as necessary and appropriate, information to the Food and Agriculture Organization formed at Quebec, Canada, on October 16, 1945, international fishery management organizations, or arrangements made pursuant to an international fishery agreement, if such organizations or

arrangements have policies and procedures to safeguard such information from unintended or unauthorized disclosure.’.

(b) Conforming Amendment- Section 402(b)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a(b)(1)) is amended—

(1) by striking ‘or’ after the semicolon in subparagraph (G);

(2) by redesignating subparagraph (H) as subparagraph (J); and

(3) by inserting after subparagraph (G) the following:

‘(H) to the Food and Agriculture Organization formed at Quebec, Canada, on October 16, 1945, international fishery management organizations, or arrangements made pursuant to an international fishery agreement as provided under section 608(b) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i(b));

‘(I) to any other Federal or State government agency, foreign government, the Food and Agriculture Organization formed at Quebec, Canada, on October 16, 1945, or the secretariat or equivalent of an international fisheries management organization or arrangement made pursuant to an international fishery agreement, as provided under section 101(c)(9) of the International Fisheries Stewardship and Enforcement Act; or’.

SEC. 303. PERMITS UNDER THE HIGH SEAS FISHING COMPLIANCE ACT OF 1995.

Section 104(f) of the High Seas Fishing Compliance Act (16 U.S.C. 5503(f)) is amended to read as follows:

‘(f) Validity- A permit issued under this section is void if—

‘(1) 1 or more permits or authorizations required for a vessel to fish, in addition to a permit issued under this section, expire, are revoked, or are suspended; or

‘(2) the vessel is no longer eligible for United States documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.’.

SEC. 304. COMMITTEE ON SCIENTIFIC COOPERATION FOR PACIFIC SALMON AGREEMENT.

Section 11 of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3640) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(2) by inserting after subsection (b) the following:

‘(c) Compensation of Committee on Scientific Cooperation Members- Members of the Committee on Scientific Cooperation who are not State or Federal employees shall receive compensation at a rate equivalent to the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, when engaged in actual performance of duties for the Commission.’; and

(3) by striking ‘71’ in subsection (e), as redesignated, and inserting ‘171’.

TITLE IV—IMPLEMENTATION OF THE ANTIGUA CONVENTION

SEC. 401. SHORT TITLE; REFERENCES TO THE TUNA CONVENTIONS ACT OF 1950.

(a) Short Title- This title may be cited as the ‘Antigua Convention Implementing Act of 2013’.

(b) References to the Tuna Conventions Act of 1950- Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Tuna Conventions Act of 1950 **as amended** (16 U.S.C. 951 et seq.).

SEC. 402. DEFINITIONS.

Section 2 (16 U.S.C. 951) is amended to read as follows:

‘SEC. 2. DEFINITIONS.

‘In this Act:

‘(1) ANTIGUA CONVENTION- The term ‘Antigua Convention’ means the Convention for the Strengthening of the Inter-American Tropical Tuna Commission Established by the 1949 Convention Between the United States of America and the Republic of Costa Rica, signed at Washington, November 14, 2003.

‘(2) COMMISSION- The term ‘Commission’ means the Inter-American Tropical Tuna Commission provided for by the Convention.

‘(3) CONVENTION- The term ‘Convention’ means—

‘(A) the Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington, May 31, 1949, by the United States of America and the Republic of Costa Rica;

‘(B) the Antigua Convention, upon its entry into force for the United States, and any amendments thereto that are in force for the United States; or

‘(C) both subparagraphs (A) and (B), as the context requires.

‘(4) IMPORT- The term ‘import’ means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

‘(5) PERSON- The term ‘person’ means an individual, partnership, corporation, or association subject to the jurisdiction of the United States.

‘(6) UNITED STATES- The term ‘United States’ includes all areas under the sovereignty of the United States.

‘(7) UNITED STATES COMMISSIONERS- The term ‘United States Commissioners’ means the **individuals appointed under section 3(a)** ~~members of the Commission.~~

‘(8) UNITED STATES SECTION- The term ‘United States Section’ means the United States Commissioners to the Commission and a designee of the Secretary of State.’.

SEC. 403. COMMISSIONERS; NUMBER, APPOINTMENT, AND QUALIFICATIONS.

Section 3 (16 U.S.C. 952) is amended to read as follows:

‘SEC. 3. COMMISSIONERS.

‘(a) Commissioners- The United States shall be represented on the Commission by 5 United States Commissioners. The President shall appoint individuals to serve on the Commission at the pleasure of the President. In making the appointments, the President shall select Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks in the eastern tropical Pacific Ocean, 1 of which shall be an officer or employee of the Department of Commerce, 1 of which shall be the chairman or a member of the Western Pacific Fishery Management Council, and 1 of which shall be the chairman or a member of the Pacific Fishery Management Council. Not more than 2 Commissioners may be appointed who reside in a State other than a State whose vessels maintain a substantial fishery in the area of the Convention.

‘(b) Alternate United States Commissioners- The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise, at any meeting of the Commission or of the General Advisory Committee or Scientific Advisory Subcommittee established pursuant to section 4(b), all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.

‘(c) Administrative Matters-

‘(1) EMPLOYMENT STATUS- Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

‘(2) COMPENSATION- The United States Commissioners or Alternate United States Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as such United States Commissioners or Alternate United States Commissioners.

‘(3) TRAVEL EXPENSES-

‘(A) The Secretary of State shall pay the necessary travel expenses of United States Commissioners and Alternate United States Commissioners to meetings of the Commission and other meetings the Secretary deems necessary to fulfill their duties, in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

‘(B) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.’.

SEC. 404. GENERAL ADVISORY COMMITTEE AND SCIENTIFIC ADVISORY SUBCOMMITTEE.

Section 4 (16 U.S.C. 953) is amended—

(1) by striking subsection (a) and inserting the following:

‘(a) General Advisory Committee-

‘(1) APPOINTMENTS; PUBLIC PARTICIPATION-

‘(A) APPOINTMENTS- The Secretary, in consultation with the Secretary of State, shall appoint a General Advisory Committee which shall consist of not more than 25 individuals who shall be representative of the various groups concerned with the fisheries covered by the Convention, including nongovernmental conservation organizations, providing to the maximum extent practicable an equitable balance among such groups. Members of the General Advisory Committee will be eligible to participate as members of the U.S. delegation to the Commission and its working groups to the extent the Commission rules and space for delegations allow.

‘(B) ADDITIONAL MEMBERS- The chair of the Pacific Fishery Management Council’s Advisory Subpanel for Highly Migratory Fisheries and the chair of the Western Pacific Fishery Management Council’s Advisory Committee shall be members of the General Advisory Committee by virtue of their positions in those Councils.

‘(C) TERMS- Each member of the General Advisory Committee appointed under subparagraph (A) shall serve for a term of 3 years and shall be eligible for reappointment.

‘(D) NON-EXECUTIVE MEETINGS OF THE UNITED STATES SECTION- The General Advisory Committee shall be invited to attend all non-executive meetings of the United States Section and at such meetings shall be given opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission.

‘(E) PUBLIC PARTICIPATION- The General Advisory Committee shall determine its organization, and prescribe its practices and procedures for carrying out its

functions under this chapter, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The General Advisory Committee shall publish and make available to the public a statement of its organization, practices and procedures. Meetings of the General Advisory Committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in timely fashion. ~~The General Advisory Committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).~~

‘(2) INFORMATION SHARING- The Secretary and the Secretary of State shall furnish the General Advisory Committee with relevant information concerning fisheries and international fishery agreements.

‘(3) ADMINISTRATIVE MATTERS-

‘(A) IN GENERAL- The Secretary shall provide to the General Advisory Committee in a timely manner such administrative and technical support services as are necessary for its effective functioning.

‘(B) COMPENSATION- An individual appointed to serve as a member of the General Advisory Committee—

‘(i) shall serve without pay, but while away from home or regular place of business to attend meetings of the General Advisory Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as a person employed intermittently in the Government service is allowed expenses under section 5703 of title 5, United States Code; and

‘(ii) shall not be considered a Federal employee except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.’; and

(2) by striking so much of subsection (b) as precedes paragraph (2) and inserting the following:

‘(b) Scientific Advisory Subcommittee-

‘(c) In General- The Secretary, in consultation with the Secretary of State, shall appoint a Scientific Advisory Subcommittee of not less than 5 nor more than 15 qualified scientists with balanced representation from the public and private sectors, including nongovernmental conservation organizations.’.

(A) PUBLIC PARTICIPATION.—The Scientific Advisory Subcommittee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The Scientific Advisory Subcommittee shall publish and make available to the public a statement of its organization, practices, and procedures. Meetings of the Scientific Advisory Subcommittee, except when in executive

session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.

(B) INFORMATION SHARING.—The Secretary and the Secretary of State shall furnish the Scientific Advisory Subcommittee with relevant information concerning fisheries and international fishery agreements.

(C) ADMINISTRATIVE MATTERS.—

(i) IN GENERAL.—The Secretary shall provide to the Scientific Advisory Subcommittee in a timely manner such administrative and technical support services as are necessary for its effective functioning.

(ii) COMPENSATION.—An individual appointed to serve as a member of the Scientific Advisory Subcommittee—

(I) shall serve without pay, but while away from home or regular place of business to attend meetings of the Scientific Advisory Subcommittee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as a person employed intermittently in the Government service is allowed expenses under section 5703 of title 5, United States Code; and

(II) shall not be considered a Federal employee, except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 18, United States Code.;

(3) in subsection (b)(2), by amending the heading to read as follows:

(2) FUNCTIONS AND ASSISTANCE.—’; and

(4) in subsection (b)(3), by striking “General Advisory Subcommittee” and inserting “General Advisory Committee”.

SEC. 405. RULEMAKING.

Section 6 (16 U.S.C. 955) is amended—

(1) by striking the section heading and inserting the following:

‘SEC. 6. RULEMAKING.’;

and

(2) by striking subsections (a) and (b) and inserting the following:

‘(a) Regulations- The Secretary, in consultation with the Secretary of State and, with respect to enforcement measures, the Secretary of the Department in which the Coast Guard is operating, may promulgate such regulations as may be necessary to carry out the United States international obligations under the Convention and this Act, including recommendations and decisions adopted by the Commission. In cases where the Secretary has discretion in the implementation of one or more measures adopted by the Commission

that would govern fisheries under the authority of a Regional Fishery Management Council, the Secretary may, to the extent practicable within the implementation schedule of the Convention and any recommendations and decisions adopted by the Commission, promulgate such regulations in accordance with the procedures established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

‘(b) Jurisdiction- The Secretary may promulgate regulations applicable to all vessels and persons subject to the jurisdiction of the United States, including United States flag vessels wherever they may be operating, on such date as the Secretary shall prescribe.’ **And**

(3) in subsection (c)—

(A) by striking the subsection heading and inserting “(c) ADDITIONAL AUTHORITY.”;

(B) by striking “Regulations required to carry out” and all that follows through “respective jurisdictions.”;

(C) by striking “application of any such regulations” and inserting “application of regulations promulgated to carry out the recommendations of the Commission”;

(D) by striking “he” and inserting “the Secretary of the Interior”; and

(E) by striking “The regulations thus promulgated” and all that follows through the end of subsection (c).

SEC. 406. PROHIBITED ACTS.

Section 8 (16 U.S.C. 957) is amended to read as follows:

‘SEC. 8. PROHIBITED ACTS.

‘It is unlawful for any person—

‘(1) to violate any provision of this chapter or any regulation or permit issued pursuant to this Act;

‘(2) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, of an applicable permit issued pursuant to this Act;

‘(3) to refuse to permit any officer authorized to enforce the provisions of this Act (as provided for in section 10) to board a fishing vessel subject to such person’s control for the purposes of conducting any search, investigation or inspection in connection with the enforcement of this Act or any regulation, permit, or the Convention;

‘(4) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any such authorized officer in the conduct of any search, investigations or inspection in connection with the enforcement of this Act or any regulation, permit, or the Convention;

‘(5) to resist a lawful arrest for any act prohibited by this Act;

‘(6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or agreement referred to in paragraph (1) or (2);

‘(7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section;

‘(8) to knowingly and willfully submit to the Secretary false information regarding any matter that the Secretary is considering in the course of carrying out this Act;

‘(9) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under **the Convention**, ~~this Act~~, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this Act;

‘(10) to engage in fishing in violation of any regulation adopted pursuant to section 6 of this Act;

‘(11) to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations;

‘(12) to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this Act to be made, kept, or furnished;

‘(13) to fail to stop a vessel upon being hailed and instructed to stop by a duly authorized official of the United States; or

‘(14) to import, ~~in violation of any regulation adopted pursuant to section 6 of this Act,~~ **any fish in any form in violation of any regulation adopted pursuant to Section 6 of this Act.** ~~of those species subject to regulation pursuant to a recommendation, resolution, or decision of the Commission, or any tuna in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of section 6 of this Act, unless such person provides such proof as the Secretary of Commerce may require that a fish described in this paragraph offered for entry into the United States is not ineligible for such entry under the terms of section 6 of this Act.’.~~

SEC. 407. ENFORCEMENT.

Section 10 (16 U.S.C. 959) is amended to read as follows:

‘SEC. 10. ENFORCEMENT.

‘This Act shall be enforced under section 101 of the International Fisheries Stewardship and Enforcement Act.’.

SEC. 408. REDUCTION OF BYCATCH.

Section 15 (16 U.S.C. 962) is amended by striking ‘vessel’ and inserting ‘vessels’.

SEC. 409. REPEAL OF EASTERN PACIFIC TUNA LICENSING ACT OF 1984.

The Eastern Pacific Tuna Licensing Act of 1984 (16 U.S.C. 972 et seq.) is repealed.

SEC. 410. CONFORMING AMENDMENTS TO THE MARINE MAMMAL PROTECTION ACT OF 1972.

The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended—

(1) in section 101(a)(2)(B)(i)(II) (16 U.S.C. 1371(a)(2)(B)(i)(II)) by striking “article V, paragraph 3 of the Convention establishing the Inter-American Tropical Tuna Commission” and inserting “Article XXX of the Convention for the Strengthening of the Inter-American Tropical Tuna Commission (also known as the Antigua Convention)”;

(2) in section 108(a)(2) (16 U.S.C. 1378(a)(2))—

(A) by inserting “and” after the semicolon at the end of subparagraph (B);

(B) by striking subparagraph (C); and

(C) by redesignating subparagraph (D) as subparagraph (C); and

(3) in section 307(a)(1) (16 U.S.C. 1417(a)(1)) by striking “Article V, paragraph 3 of the Convention establishing the Inter-American Tropical Tuna Commission” and inserting “Article XXX of the Convention for the Strengthening of the Inter-American Tropical Tuna Commission (also known as the Antigua Convention)”.

LEGISLATIVE COMMITTEE REPORT ON MANAGING OUR NATION'S FISHERIES 3
FOLLOWUPS AND UNRELATED LEGISLATIVE MATTERS

The Legislative Committee (LC) met on Wednesday, September 11. The meeting was attended by committee members Dr. David Hanson, Mr. David Crabbe, Ms. Dorothy Lowman, Mr. Dale Myer, Mr. Gordy Williams, and Mr. Dan Wolford; Council Executive Director Dr. Donald McIsaac, and Council staff Mr. Chuck Tracy, Ms. Jennifer Gilden, and Mr. Don Hansen. Several other people attended the meeting, including Heather Munro Mann, Brent Paine, Brad Pettinger, and Steve Joner, who testified.

The Committee first took up matters not associated with Magnuson-Stevens Act (MSA) reauthorization, focusing on two bills that deal with the buyback loan for the West Coast trawl fishery (H.R. 2646 and S. 1275: Revitalizing the Economy of Fisheries in the Pacific (REFI) Act) and two bill associated with international highly migratory species matters (H.R. 69 and S. 269).

Buyback Loan Bills

H.R. 2646 was introduced by Jaime Herrera-Beutler (WA) and S. 1275 was introduced by Maria Cantwell (WA). The two bills are essentially the same, and are similar to a REFI Act introduced in the 112th Congress and reviewed at that time by the Council (Council comments at that time are available at <http://tinyurl.com/k9pqjpc>). The bills are further described in Agenda Item H.1.a., Attachment 3, Staff Summary of Federal Legislation.

The LC heard public comment from the Oregon Trawl Commission, Midwater Trawl Commission, and United Catcher Boats stating that there appears to be strong bipartisan support for this bill. In the event that the Council receives a request for comment on this bill, the LC makes the following points for Council consideration:

- The Council has previously commented on a similar bill and continues to support efforts to refinance the buyback loan, given the high costs that currently burden the trawl fleet and other fishing fleets (monitoring, observers, fuel, etc.). Refinancing the loan would help participants remain in the fishery.
- A referendum on the lowering of the interest rate for the buyback loan seems unnecessary, given that it is unlikely that many voting on the referendum would voluntarily choose to pay more interest. However, if NMFS determines that a referendum is necessary, then it appropriate for the Oregon Trawl Commission to administer the referendum.
- There is time pressure to pass the bill, given that interest rates are currently rising.
- The trawl catch share program has increased the sustainability of the fleet.

International HMS Fisheries Bills

The LC discussed H.R. 69, the Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2013, introduced by Madeline Bordallo (D-Guam), and S. 269: International Fisheries Stewardship and Enforcement Act, introduced by Jay Rockefeller (D-West Virginia). Both of these bills strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, amend the Tuna Conventions Act of 1950 to implement the Antigua Convention (the revised IATTC Convention), and make other changes. However, they address the Antigua Convention in different ways; and S. 269 would add a member of the Pacific Fishery Management Council to the IATTC Commission.

The LC recommends the Council support the comments of the Highly Migratory Species Advisory Subpanel on these bills, as well as supporting the designation of a Commissioner seat on the IATTC Commission for a PFMC representative.

Magnuson-Stevens Act Reauthorization

Executive Director Donald McIsaac gave an overview of the status of the 128 findings developed at the Managing Our Nation's Fisheries 3 (MONF3) Conference and the process for MSA reauthorization after the September 2013 Council meeting. The LC reviewed the staff compilation of possible priority items as described in Agenda Item H.1.a, Attachment 2.

It is still very early in the process of Magnuson-Stevens Act reauthorization, although Congressional hearings have started, including a House Natural Resources Subcommittee hearing on September 11, 2013. Given that, at this stage the Council need only focus on general topic areas that are of high priority to the Pacific Council. Further analysis will take place before the Council develops specific positions. As these positions are developed in the future, it is expected there will be several opportunities scheduled for the public and Council advisory bodies to provide advice on refined positions.

The Council Coordination Committee meeting, scheduled for October 23-24, 2013, will discuss priority topics that come forward from each of the eight Regional Councils. At that time, the Pacific Council will be expected to present their initial priorities.

The LC prioritized the initial staff compilation of possible priorities as “keep,” “keep; further analysis needed” and “drop.” These recommendations are shown below and are organized by the three categories from the MONF3 conference, and an “other” category for MSA-related matters that did not come up at the conference.

Due to time constraints, the LC was unable to fully address matters in this “other” category. The last page of this report presents a few other topics the Council may wish to consider as priority matters to be addressed by MSA reauthorization.

Deleted text from Agenda Item H.1.a, Attachment 2 is shown as strike-out; new text is underlined.

	Topic for MSA Reauthorization	Relevant MSA Section	Legislative Committee Priority Rating
MONF3 Session 1 – Improving Fishery Management Essentials: Annual Catch Limit Science and Implementation Issues, Including Managing “Data-Limited” Stocks; Rebuilding Program Requirements and Timelines; International Fisheries Management: Leveling the Playing Field			
1	Revise rebuilding time requirements: Always set T_{MAX} equal to T_{MIN} plus one mean generation <ul style="list-style-type: none"> • <u>Fix the ten-year rebuilding requirement dilemma</u> • <u>“Don’t chase noise” in rebuilding plans</u> • <u>Address “rebuilding as soon as possible” problems</u> 	MSA Section 304	Keep; further analysis needed
2	Stocks later determined never overfished should not be held to rebuilding provisions	MSA Section 304	Keep
3	Include a transboundary stock rebuilding exception	MSA Section 304	Keep; further analysis needed
4	Include a viable mixed stock exception		Keep; further analysis needed
5	Clarify Congressional intent <u>criteria</u> regarding needs of fishing communities	MSA Section 304(e)	Keep
6	Extend annual species exemption to short-lived species	MSA Section 303(a)	Keep; further analysis needed
7	Include a carryover exception to allow ACLs to be exceeded in order to carry over surplus and deficit harvest from one year to the next, provided there is a finding from the SSC that such a carryover provision will have negligible biological impacts	MSA Section 303(a)	Keep
8	Explicitly promote use of adaptive management approaches, particularly <u>Explore more flexibility</u> for data-poor species where the precautionary approach limits information on stock performance under higher catch rates	MSA Section 303	Keep
9	Broaden <u>authority</u> trade sanctions domestically to address non-compliance with RFMO measures	MSA Section 205	Keep
10	Consider a national sustainable seafood certification program for U.S. fisheries that meet the 10 MSA national standards	MSA Section 321 (new)	Drop
11	Implement stricter imported seafood labeling requirements in the US market	MSA Section 322 (new)	Keep; further analysis needed
MONF3 Session 2 – Advancing Ecosystem-Based Management, Overarching Findings Assessing Ecosystem Effects and Integrating to Climate Change; Forage Fish Management;			

	Topic for MSA Reauthorization	Relevant MSA Section	Legislative Committee Priority Rating
Integrating Habitat Considerations: Opportunities and Impediments			
12	Address rebuilding requirements when environmental conditions may be a predominant factor in a stock's decline	MSA Section 304(e)	Keep
13	Link ecosystem-based management scales to fisheries management and governance (e.g., Revise National Standard 3 (Management Unit))	MSA Section 301	Drop
14	Consider a national standard for habitat: "Minimize adverse impacts on essential fish habitat to the extent practicable"	MSA Section 301	Keep; further analysis needed
15	Establish a new national standard to ensure adequate forage base	MSA Section 301	Drop
16	Require explicit consideration of the impact of forage fish to the ecosystem and fishing communities to inform OY and ACL decisions	MSA Section 303	Keep; further analysis needed
17	Prohibit new forage fisheries until scientific and management evaluations are conducted; <u>improve the List of Fisheries process</u>	MSA Section 305(a)	Keep
18	Strengthen EFH consultation process and ensure compliance with, and effectiveness of, existing laws and recommendations	MSA Section 305(b)	Keep; further analysis needed
MONF3 Session 3 - Providing Fishing Community Stability: Recreational and Subsistence Fishery Connections; Integrating Community Protection, Jobs Emphasis, and Domestic Seafood Quality Assurance; Assessment and Integration of Social and Economic Tradeoffs			
19	Modify Council process to improve participation of small-scale and community sectors, e.g., State Fisheries Improvement Projects, National Fish & Wildlife Foundation-funded projects	MSA Section 302 (h)	Keep; further analysis needed
20	Expand cooperative research between fishing community and scientists. This promotes buy-in, empowers fishermen, and can be more cost-effective	MSA Section 318	Keep
21	Explore options to improve access to currently confidential harvest or processing information <u>for purposes of enhanced socioeconomic analysis</u> Notwithstanding confidentiality protections of Section 402(b)(1) (3): in the public interest the following may be publicly reported even if it results in the release of information on a single harvesting or processing company ● total volume (weight) catch/discard/landings of	MSA Section 402(b)	Keep

	Topic for MSA Reauthorization	Relevant MSA Section	Legislative Committee Priority Rating
	<ul style="list-style-type: none"> a species or stock caught in a particular fishery total volume (weight) catch/discards/landings of a species or stock caught by a particular sector total volume (weight) of a species or stock landed at a particular port economic impact estimates for a community based on landings of a species or stock at a particular port total volume (weight) catch/discards/landings of a species or stock caught within any area 100 square nautical miles or larger 		
22	Define subsistence fishing in the MSA, and expand recognition of tribes and indigenous people engaged in subsistence fishing	MSA Section 3	Keep; further analysis needed
Other			
23	Make a distinction between “overfishing” (a measure of fishing rate) and “overfished” (a measure of abundance)	MSA Section 3	Keep
24	Replace the term “overfished” with “depleted” to account for non-fishing causes of stock size below MMST	MSA Section 3	Keep
25	Amend MSA to change “vessels” to “vessel” in the IUU certification section	MSA Section 409(c)	Keep
26	Replace the term “ practicable ” “possible” with “practicable” and “possible” where appropriate	Throughout MSA	Keep; further analysis needed
27	Designate one Commissioner seat on IATTC Commission for PFMC		[Added by LC]

Additional MSA Reauthorization Matters

The LC took a tribal comment from Mr. Joner on behalf of the Makah Tribe regarding term limits and the designation process for the tribal seat on the Pacific Council (MSA 302(b)(5)). Specifically, the request was to eliminate the term limit and the requirement for three candidate names at each appointment. Under this proposal, the Secretary of Commerce would still approve appointments, and the three year term would stand. The LC recommends soliciting public and additional tribal comment on this issue at the November 2013 Council meeting and further Council consideration of this recommendation at that time.

Other Business

The LC plans to meet again in November.

ADDITIONAL MAGNUSON-STEVENS ACT REAUTHORIZATION PRIORITIES FOR
CONSIDERATION BY THE PACIFIC COUNCIL, NOT DISCUSSED IN THE
LEGISLATIVE COMMITTEE

Topic for Magnuson-Stevens Fishery Conservation and Management Act (MSA) Reauthorization	Relevant MSA Section	PFMC Priority
Address “noise vs. signal” in rebuilding plan implementation. Assessments and projections will always be uncertain; develop smoothing strategies to provide stability.	MSA Section 304, National Standard 2 Guidelines	
Better align and streamline the National Environmental Policy Act (NEPA) and MSA	MSA Section 304(i)	
Provide flexibility in requirements for observers	MSA Title IV – Fishery Monitoring and Research	
Rebuilding flexibility; address current application of a disaster standard in achieving social and economic balance during rebuilding.	MSA Section 304 (e)(4)(A)(i)	

ECOSYSTEM ADVISORY SUBPANEL REPORT ON MANAGING OUR NATION'S
FISHERIES 3 CONFERENCE FOLLOW-UPS AND
UNRELATED LEGISLATIVE MATTERS

The Ecosystem Advisory Subpanel (EAS) reviewed the Preliminary Staff Compilation of Possible Magnuson-Stevens Act (MSA) Reauthorization Priorities (Agenda Item H.1.a, Attachment 2). The EAS restricted its discussion to items and issues that have been previously discussed by the EAS. Additionally, the EAS took into consideration the Pacific Fishery Management Council's guidance on various ecosystem-based policies developed through its fishery ecosystem plan (FEP) and Initiative 1. The EAS recommends that the following items be included as Council priorities for MSA reauthorization:

- Link ecosystem - based management scales to fisheries management and governance (e.g., Revise National Standard 3 (Management Unit).
- Establish a new national standard to ensure adequate forage base.
- Require explicit consideration of the impact of forage fish to the ecosystem and fishing communities to inform optimum yield and annual catch limit decisions.
- Prohibit new forage fisheries until scientific and management evaluations are conducted.
- Expand cooperative research between fishing community and scientists.

The establishment of these national priorities would help provide guidance and support for this Council's implementation of ecosystem-based management.

PFMC
09/14/13

GROUND FISH ADVISORY SUBPANEL REPORT ON
MANAGING OUR NATION'S FISHERIES 3 CONFERENCE FOLLOW-UPS AND
UNRELATED LEGISLATIVE MATTERS

The Groundfish Advisory Subpanel (GAP) received a presentation from Ms. Jennifer Gilden on reports from the Managing Our Nation's Fisheries conference (MONF3), held in Washington, D.C., in May, and other legislative issues.

MONF3/Magnuson-Stevens Act reauthorization priorities

Regarding the MONF3 conference, the GAP references Attachment H.1.a, Attachment 2, "Preliminary Staff Compilation of Possible Magnuson-Stevens Act Reauthorization Priorities for Consideration by the Pacific Council." We modified that table to list the Legislative Committee's (LC) draft priorities (Note: the committee may have changed these priorities after the GAP received Ms. Gilden's report) and the GAP's suggested priorities, for easy reference. The GAP used the Legislative Committee's draft priority list of "high," "low," and "further analysis" for our prioritization. We realize the LC has since changed their recommendations to "keep," "drop" and "further analysis."

Two items on that report require further explanation:

1. The GAP suggests revising the Magnuson-Stevens Fishery Conservation and Management Act. (MSA) Section 304 to take out all references to times for rebuilding in Section 304. It is clear Councils have obligations to rebuild any stocks considered overfished, period. The GAP agrees with the Scientific and Statistical Committee (SSC) report that rebuilding time requirements should depend solely on the biology of the stock.
26. The GAP is somewhat confused about this recommendation as it goes far beyond what has been suggested to address the 9th Circuit Court decision on rebuilding. Under MONF3 Session 1, there should be a recommendation to modify Section 304 of the MSA by changing "as short as possible" to "as short as practicable." We further suggest this section of Attachment 2 should be eliminated because as worded would initiate more problems and is entirely inaccurate. Instead, the language from H.1.a, Attachment 1, "Matrix of Findings from MONF3" should be substituted. It reads: "Address social and economic issues (e.g., 'possible' to 'practicable'); MSA Section 304(e)(4)(A)(i)."

The GAP notes Rep. Peter DeFazio, D-Ore., mentioned the practicality of this change (based on witness testimony) during a House Natural Resources Committee hearing on Magnuson-Stevens Act reauthorization earlier this week. If the suggestion in item No. 1 is not adopted, this would be another option to make the rebuilding timeframes more flexible and ease the effects of overfished species on fishing communities.

The GAP also understands the LC, in its draft comments, prioritized the Council requesting a seat on the Inter-American Tropical Tuna Commission. At this time, the GAP has no comment, as this is not a groundfish-related issue.

Legislative Issues

Buyback Loan Refinance Legislation

The GAP encourages the Council to provide feedback on S. 1275 and H.R. 2646 – the Revitalizing the Economy of Fisheries in the Pacific Act (or “REFI Pacific Act”) bills that have been introduced in both chambers of Congress. The bills are essentially identical and refinance the buyback loan that has been in place since 2003. The bills extend the length of the loan (to 45 years from implementation of the new loan), reduce the interest rate to Treasury plus zero (current loan is just under 7 percent; current treasury rate is 3.85 percent) and reduce the cap on annual landings fee to 3 percent (currently at 5 percent of annual ex-vessel price).

All of these changes will benefit the trawl fleet as well as the other sub loans (i.e., Oregon and Washington Dungeness crab, California and Washington shrimp) by making the loan payments more affordable. The loan has been upside down since inception, in part due to an 18-month lag in promulgating the payment regulations that caused more than \$4 million in additional interest to be tagged onto the loan at the onset. The groundfish fleet still owes more than it originally borrowed, despite making payments of upwards of \$20 million on the loan.

The GAP encourages the Council to support the legislation and include the following points in any correspondence that is sent to Congress:

- The Pacific Council supports the refinancing of the current buyback loan;
- Costs associated with participating in the catch share fishery continue to increase and are threatening the competitiveness and profitability of many trawl fishing businesses;
- Taking advantage of lower interest rates and refinancing the loan will make the payments more affordable to trawl and other taxed fishery participants, which will help ensure a successful catch share fishery that is sustainable for fisheries and the fishing industry; and
- Requiring a referendum to refinance the loan is not required by law; this seems to be a waste of resources and will likely cause a delay in implementation, which would unnecessarily exacerbate the problem.

Revise observer coverage training requirements in Magnuson-Stevens Act reauthorization

The GAP requests the Council support revision of observer training requirements. Presently, high observer costs and the inability to even get observers in some cases threaten the long-term viability of the trawl fishery and processors and communities that rely on it. One of the factors driving high observer costs is the relatively small observer pool, which is driven in part by the observer training requirements and the interpretation of those requirements by the West Coast Groundfish Observer Program.

GROUND FISH ADVISORY SUBPANEL RECOMMENDATIONS OF
POSSIBLE MAGNUSON-STEVEN'S ACT REAUTHORIZATION PRIORITIES
FOR CONSIDERATION BY THE PACIFIC COUNCIL

	Topic for MSA Reauthorization	Legislative Committee Priority (draft)	GAP Priority
	MONF3 Session 1 – Improving Fishery Management Essentials: Annual Catch Limit Science and Implementation Issues, Including Managing “Data-Limited” Stocks; Rebuilding Program Requirements and Timelines; International Fisheries Management: Leveling the Playing Field		
1	Revise rebuilding time requirements: Always set T_{MAX} equal to T_{MIN} plus one mean generation	Further analysis	*See GAP report
2	Stocks later determined never overfished should not be held to rebuilding provisions	KEEP	HIGH
3	Include a transboundary stock rebuilding exception	Further analysis	HIGH
4	Include a viable mixed stock exception	Further analysis	HIGH
5	Clarify Congressional intent ^{criteria} regarding needs of fishing communities	Further analysis	Further analysis
6	Extend annual species exemption to short-lived species	Further analysis	Further analysis
7	Include a carryover exception to allow ACLs to be exceeded in order to carry over surplus and deficit harvest from one year to the next, provided there is a finding from the SSC that such a carryover provision will have negligible biological impacts	KEEP	HIGH
8	Explicitly promote use of adaptive management approaches, particularly for data-poor species where the precautionary approach limits information on stock performance under higher catch rates	KEEP	Further analysis
9	Broaden trade sanctions domestically ^{ability} to address non-compliance with RFMO measures	KEEP	Further analysis
10	Consider a national sustainable seafood certification program for U.S. fisheries that meet the 10 MSA national standards	DROP	LOW
11	Implement stricter imported seafood labeling requirements in the US market	Further analysis	Further analysis

Topic for MSA Reauthorization		Legislative Committee Priority (draft)	GAP Priority
MONF3 Session 2 – Advancing Ecosystem-Based Management, Overarching Findings Assessing Ecosystem Effects and Integrating to Climate Change; Forage Fish Management; Integrating Habitat Considerations: Opportunities and Impediments			
12	Address rebuilding requirements when environmental conditions may be a predominant factor in a stock's decline	KEEP	HIGH
13	Link ecosystem-based management scales to fisheries management and governance (e.g., Revise National Standard 3 (Management Unit))	DROP	LOW
14	Consider a national standard for habitat: "Minimize adverse impacts on essential fish habitat to the extent practicable"	Further analysis	LOW
15	Establish a new national standard to ensure adequate forage base	DROP	LOW
16	Require explicit consideration of the impact of forage fish to the ecosystem and fishing communities to inform OY and ACL decisions	Further analysis	LOW
17	Prohibit new forage -fisheries until scientific and management evaluations are conducted	KEEP	LOW
18	Strengthen EFH consultation process and ensure compliance with, and effectiveness of, existing laws and recommendations	Further analysis	LOW

Topic for MSA Reauthorization	Legislative Committee Priority (draft)	GAP Priority
MONF3 Session 3 - Providing Fishing Community Stability: Recreational and Subsistence Fishery Connections; Integrating Community Protection, Jobs Emphasis, and Domestic Seafood Quality Assurance; Assessment and Integration of Social and Economic Tradeoffs		
19 Modify Council process to improve participation of small-scale and community sectors, e.g., State Fisheries Improvement Projects, National Fish & Wildlife Foundation-funded projects	Further analysis	Further analysis
20 Expand cooperative research between fishing community and scientists. This promotes buy-in, empowers fishermen, and can be more cost-effective	KEEP	HIGH
21 Notwithstanding confidentiality protections of Section 402(b)(1)-(3): in the public interest the following may be publicly reported even if it results in the release of information on a single harvesting or processing company <ul style="list-style-type: none"> ● total volume (weight) catch/discards/landings of a species or stock caught in a particular fishery ● total volume (weight) catch/discards/landings of a species or stock caught by a particular sector ● total volume (weight) of a species or stock landed at a particular port ● economic impact estimates for a community based on landings of a species or stock at a particular port ● total volume (weight) catch/discards/landings of a species or stock caught within any area 100 square nautical miles or larger 	KEEP	LOW
22 Define subsistence fishing in the MSA, and expand recognition of tribes and indigenous people engaged in subsistence fishing	Further analysis	Further analysis

Topic for MSA Reauthorization		Legislative Committee Priority (draft)	GAP Priority
Other			
23	Make a distinction between “overfishing” (a measure of fishing rate) and “overfished” (a measure of abundance)	KEEP	HIGH
24	Replace the term “overfished” with “depleted” to account for non-fishing causes of stock size below MMST	KEEP	HIGH
25	Amend MSA to change “vessels” to “vessel” in the IUU certification section	KEEP	HIGH
26	Replace the term “practicable” with “practical” and “possible” where appropriate	Further analysis	HIGH *See GAP report

GROUNDFISH MANAGEMENT TEAM REPORT ON MANAGING OUR NATION'S
FISHERIES 3 CONFERENCE FOLLOW UPS AND
UNRELATED LEGISLATIVE MATTERS

The Groundfish Management Team (GMT) received a presentation from Ms. Jennifer Gilden on the information coming from the Managing Our Nation's Fisheries 3 Conference and the subsequent Legislative Committee (LC) deliberations. We appreciate the efforts of Council staff to refine the list of findings as well as the summary presented by Ms. Gilden.

We did not have time for a thorough review of all the findings or possible Magnuson-Stevens Act (MSA) priorities. However, it seems to the GMT that a lot of the findings deemed pertinent for the Pacific Coast and the recommendations coming out of the LC are about increasing flexibility in fisheries management across all Fishery Management Plans (FMP). It may be difficult for many to determine why flexibility is desirable and how much flexibility would be reasonable. It is through the lens of conservation goals that the GMT recommends looking at potential changes to the MSA, regulations, or National Standard (NS) Guidelines and any subsequent analysis of possible MSA reauthorization priorities that the LC or Council may want. Using rebuilding flexibility as an example, the analysis would be best grounded in the long-term conservation objectives that rebuilding is meant to achieve. The analyses we are contemplating under Agenda Item G.7 Initial Actions for Setting 2015-2016 Groundfish Fisheries are envisioned to do this very thing.

For example, changing "overfished" to "depleted" will have little effect with just that change in the law. It is more important how that change is translated in NS1 guidelines (i.e., what you do in response to the designation) that matters. The Council likely would want to ensure that species that are below the minimum stock size threshold only require a rebuilding plan if they are "in the fishery" and reductions to harvest are likely to rebuild the stock to target levels in a reasonable time.

HABITAT COMMITTEE REPORT ON MANAGING OUR NATION'S FISHERIES 3 CONFERENCE FOLLOW-UPS AND UNRELATED LEGISLATIVE MATTERS

Managing Our Nation's Fisheries Findings

The Habitat Committee (HC) continued to consider habitat/ecosystem related findings from the Managing Our Nation's Fisheries 3 (MONF) Conference. At this May 2013 conference, 128 findings were produced. Since this meeting, Council staff have organized these findings into a matrix (H.1.a, Attachment 1) by the following categories: legislative/statutory, regulatory/national standards, and policy/best practices.

Rather than "Establish ecosystem Scientific and Statistical Committee (SSC) at the Council level," the HC recommends the Council forward to the Council Coordination Committee, the finding "Ensure inclusion of ecosystem scientists on the SSC to facilitate scientific consideration of ecosystem issues as they arise."

HC members considered more in depth the MONF Session 2 legislative/statutory findings that addressed broad ecosystem-based management considerations (H.1.a, Attachment 2). The HC recommends the Council prioritize the MONF session two findings and provide additional specifications as follows:

Medium Ppriority

- "Address rebuilding requirements when environmental conditions may be a predominant factor in a stock's decline"
- "Link ecosystem-based management scales to fisheries management and governance (e.g., Revise National Standard 3 (Management Unit))." The HC understands this to mean allowing regional management when strong science and local factors dictate that this is the best method available, for example to avoid local depletion of stocks and habitat impacts, and to enhance local stewardship.

High Priority

- "Consider a national standard for habitat: Minimize adverse impacts on essential fish habitat (EFH) to the extent practicable"
- Combine "Establish a new national standard to ensure adequate forage base" AND "Require explicit consideration of the impact of forage fish to the ecosystem and fishing communities to inform optimum yield and annual catch limit decisions" to form a comprehensive forage base finding. This would be an integral part of an ecosystem-based management approach.
- "Prohibit new forage fisheries until scientific and management evaluations are conducted"
- Amend the final finding to read as follows "Strengthen EFH consultation process TO (not and) ensure compliance with, and effectiveness of, existing laws and recommendations." The HC recommends that during EFH consultation, NMFS make note of other complementary legal provisions that apply, in order to strengthen compliance. We recognize this change does not require an act of Congress, but recommend that it be included among the best practices listed in the matrix.

SALMON ADVISORY SUBPANEL REPORT ON MANAGING OUR NATION'S
FISHERIES 3 CONFERENCE FOLLOW-UPS AND
UNRELATED LEGISLATIVE MATTERS

The Salmon Advisory Subpanel (SAS) commends the Council for its work on the conference and the important work of reauthorizing the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The SAS agrees with many of the suggested improvements to MSA rebuilding provisions. Specifically, the SAS supports replacing the MSA term “overfished” with something like “depleted” because fishing impacts are not always the most substantial cause or the sole factor responsible for a stock’s status.

PFMC
09/11/13

SCIENTIFIC AND STATISTICAL COMMITTEE REPORT ON MANAGING OUR NATION'S FISHERIES 3 (MONF3) CONFERENCE FOLLOW-UPS

The Scientific and Statistical Committee (SSC) discussed the findings of Managing Our Nation's Fisheries 3 (MONF3). The discussion focused largely on issues identified by Pacific Council staff as Council priorities (Attachment 2). SSC comments regarding the scientific merit of some of these issues are as follows:

MONF3 Session 1

- Revise rebuilding time requirements: The SSC agrees that this change to determining maximum rebuilding time will reduce the impact of uncertainty in projections and also make rebuilding time requirements depend solely on the biology of the stock.
- Do not hold stocks mistakenly designated as overfished to rebuilding provisions: The SSC supports this recommendation. A high degree of confidence that a stock was never overfished should be required, so as to avoid having to subsequently re-declare a stock as overfished.
- Transboundary stock rebuilding exception: This is a reasonable provision that should be accompanied by a clear definition of what constitutes a "transboundary stock."
- Clarify Congressional intent regarding needs of fishing communities: It is not clear what type of clarification is needed from Congress. If clarification is needed regarding what constitutes needs of fishing communities, such details may be better addressed via guidelines rather than by legislative fiat. Such guidelines could encourage national consistency regarding how community needs are considered in rebuilding decisions, as well as provide some regional flexibility in how those needs are defined.
- Extend annual species exemption to short-lived species: This is a reasonable provision that should be accompanied by a clear definition of what constitutes a "short-lived species."
- Carryover exception: A carryover exception of this type would increase management flexibility and provide additional harvest opportunity at little biological cost.
- Use of adaptive management for data-poor species: "Adaptive management" is an operationally nebulous term. A clear definition of adaptive management and how it would be applied in this particular context is required for this provision to be considered for inclusion in the Act.

MONF3 Session 2

- Address rebuilding requirements when environmental conditions may be predominant factor in stock's decline: Distinguishing the effects of environmental versus other factors on a stock's decline can be difficult.
- Link ecosystem-based management (EBM) scales to fisheries management and governance: The implementation of this would require definition of EBM scale that is currently unavailable and would require substantial research to operationalize.
- Establish national standard for adequate forage base: Determining what constitutes an "adequate forage base" would require considerable resources and time for data collection, modeling, and regulatory implementation. Any incorporation of forage base considerations in the Act should be incremental.

- Consider impact of forage fish to ecosystem and fishing communities: Considering impacts of forage fish would require considerable time and scientific and regulatory resources. The Council is already examining some of these issues for Pacific Sardine. Forage fish impacts (like adequate forage base) should be considered in the Act in terms of incremental progress toward achievable objectives.

MONF3 Session 3

- Expand cooperative research: There are many cooperative research programs on the West Coast; the SSC sees the benefits of such research. However, given that cooperative research is already mandated in Section 318 of the Act, it is not clear why expanding the program would require a change to the Act. It is important that cooperative research not be mandated in a way that compromises existing comprehensive, standardized data collections that are being used for assessment and management.
- Expand public reporting of some currently confidential data: Public reporting would enable analysis by a wider community of scientists

MONF4 Session 4

- Replace term “overfished” with “depleted”: “Depleted” is a more accurate and comprehensive term than “overfished,” as not all incidents of depletion are due to overharvest.

PFMC
09/14/13

APPROVAL OF COUNCIL MEETING MINUTES

The draft April 2013 Pacific Fishery Management Council (Council) meeting minutes are provided for Council review and approval in Agenda Item H.2.a, Supplemental Attachment 1.

The full record of each 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).
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; in some years, a Fall Edition covers the September meeting; and the Winter Edition covers the September and November Council meetings (available online at <http://www.pcouncil.org/resources/archives/newsletters/>).

Council Action:

- 1. Review and approve the draft April 2013 Council meeting minutes.**

Reference Materials:

1. Agenda Item H.2.a, Supplemental Attachment 1: Draft Minutes: 218th Session of the Pacific Fishery Management Council (April 2013).

Agenda Order:

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

Dorothy Lowman

PFMC
08/23/13

DRAFT MINUTES
218th Session of the
Pacific Fishery Management Council
April 6-11, 2013
Sheraton Portland Airport Hotel
8235 NE Airport Way, Portland, OR 97220

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A. Call to Order (4/6/2013; 8:05 a.m.)

A.1 Opening Remarks

Mr. Dan Wolford, Chairman, called the 218th meeting of the Pacific Fishery Management Council (Council) to order at 8:05 a.m. on Saturday, April 6, 2013. Mr. Dave Bedford introduced himself to the Council as the Alaska State Official Designee. Mr. Steve Williams welcomed everyone to Oregon on behalf of Mr. Roy Elicker, Oregon Department of Fish and Wildlife (ODFW) Director. There will be a closed session held after the regular business concludes tomorrow afternoon to discuss litigation and personnel matters.

A.2 Roll Call

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

Mr. Phil Anderson (Washington State Official)
Mr. Dave Bedford (Alaska State Official, non-voting designee)
Mr. William L. “Buzz” Brizendine (At-Large)
Mr. Brian Corrigan U.S. Coast Guard (USCG), non-voting designee)
Mr. David Crabbe (California Obligatory)
Mr. Jeff Feldner (At-Large)
Mr. Rich Lincoln (Washington Obligatory)
Mr. Frank Lockhart (National Marine Fisheries Service (NMFS), Northwest Region, designee)
Ms. Dorothy Lowman, Vice Chair (Oregon Obligatory)
Mr. Dale Myer (At-Large)
Mr. David Ortmann (Idaho State Official, designee)
Mr. Herb Pollard (Idaho Obligatory)
Mr. Tim Roth (U.S. Fish and Wildlife Service (USFWS), non-voting designee)
Mr. David Sones (Tribal Obligatory)
Mr. Steve Williams (Oregon State Official, designee)
Mr. Dan Wolford, Chairman (At-Large)
Ms. Marci Yaremko (California State Official, designee)

During the week the following people were present in their designated seats for portions of the meeting:

Mr. Chuck Bonham (California State Official); Ms. Michele Culver (Washington State Official, designee); Mr. Kevin Duffy (NMFS, Northwest Region, designee); Ms. Joanna Grebel (California State Official, designee); Dr. Dave Hanson, Parliamentarian (Pacific States Marine Fisheries Commission, non-voting designee); Mr. Mark Helvey (NMFS, Southwest Region, designee); Ms. Gway Kirchner (Oregon State Official, designee); and Mr. Bob Turner (NMFS, Northwest Region, designee).

Mr. Dave Hogan (U.S. State Department, non-voting, designee) was absent from the meeting.

A.3 Executive Director's Report

Dr. McIsaac thanked the Council staff for all the work leading up to this April meeting, including the March Council meeting and preparation for the national conference in May. He thanked Council members for their attention to following procedures for making clear and visible motions which have made the Council and staff work much more efficient, as well as assisting the public in following the Council action. Regarding the 2013 budget, he noted that the Regional Council line item remained at status quo with 2012, however, it is still subject to the reduction imposed by the budget sequester and a rescission due to Hurricane Sandy. The final amount will be determined by NMFS from a combination of the Regional Council line item and some other separate funding sources. We anticipate having that information for a June Budget Committee meeting which will consider any necessary changes to the provisional 2013 budget approved by the Council last November. It is too early for any substantive information on the 2014 budget.

A.4 Agenda

A.4.a Council Action: Approve Agenda

Mr. Myer moved and Mr. Ortmann seconded Motion 1 for the Council to approve the Agenda as shown in Agenda Item A.4, Proposed Council Meeting Agenda, April 2013. Motion 1 Carried unanimously.

B. Administrative Matters

B.1 Formalization of Council Decisions at the March Council Meeting (4/6/2013; 8:15 a.m.)

B.1.a Agenda Item Overview

Dr. McIsaac provided the Agenda Item Overview and referenced:

- Agenda Item B.1.a, Attachment 1: Draft Voting Log, Pacific Fishery Management Council, 217th Meeting, March 2013.
- Agenda Item B.1.a, Attachment 2: Decision Summary Document, Pacific Fishery Management Council, March 7-11, 2013.

B.1.b Reports and Comments of Advisory Bodies and Management Entities

None.

B.1.c Public Comment

None.

B.1.d Council Action: Approve Actions taken at the March 2013 Council Meeting

Ms. Lowman moved and Mr. Anderson seconded Motion 2 to formally confirm the Council decisions made as preliminary selections at the March 2013 Council meeting, as contained in Agenda item B.1.a, Attachment 1 and Agenda Item B.1.a, Attachment 2.

Ms. Lowman noted that Attachment 1 lists the motions made by the Council in March and Attachment 2 speaks to those Council directions not included in motions. Together they represent an accurate record of the Council's actions at the March meeting.

Motion 2 carried (Mr. Lockhart abstained).

B.2 Expansion of the Gulf of Farallones and Cordell Bank National Marine Sanctuaries (4/6/2013; 9:09 a.m.)

B.2.a Agenda Item Overview

Mr. Kerry Griffin provided the Agenda Item Overview and noted Agenda Item B.2.a, Attachment 1: *Federal Register* Notice regarding plans for expansion of National Marine Sanctuaries.

B.2.b Report of the National Marine Sanctuaries

Ms. Maria Brown (Sanctuary Superintendent, Gulf of Farallones National Marine Sanctuary) and Mr. Dan Howard (Sanctuary Superintendent, Cordell Bank National Marine Sanctuary) presented Agenda Item B.2.b, Supplemental NMS Report (PowerPoint).

B.2.c Reports and Comments of Advisory Bodies and Management Entities

Mr. Joel Kawahara presented Agenda Item B.2.c, Supplemental HC Report.

Mr. John Holloway presented Agenda Item B.2.c, Supplemental GAP Report.

B.2.d Public Comment

Mr. John Holloway read the statement of Ms. Kathy Fosmark, Alliance for Community of Sustainable Fisheries, Monterey, California, into the record.

Mr. David Bitts, Pacific Coast Federation of Fishermen's Associations, San Francisco, California; provided a written statement, Agenda Item B.2.d, Public Comment.

Agenda Item B.2.d, Public Comment; comments in response to the Federal Register Notice on the Expansion of California National Marine Sanctuaries.

Agenda Item B.2.c, Supplemental Public Comment 2; letters in support of the Boundary Expansion of Cordell Bank and Gulf of the Farallones National Marine Sanctuaries.

B.2.e Council Discussion: Discussion and Provide Feedback to National Marine Sanctuaries

Ms. Johanna Grebel noted that her state has a special interest in the California sanctuary areas as they include state waters. She asked for the following items to be addressed in the Draft Environmental Impact Statement (DEIS). First, there needs to be a discussion of impacts in the expansion area on the sport and commercial harvest of urchins and abalones, kelp harvest, and the various recreational and commercial fisheries. While the sanctuaries don't regulate fisheries, there are indirect effects for both commercial and sport fisheries, and there should be a pointed discussion of the impacts of no-fishing zones and for things that may or may not be allowed. California does have an interest in impacts on aquaculture, especially that for Pacific oysters and manila clams. The document would benefit from a clear consideration of the impacts regarding invasive versus introduced species. There could be a discussion on the economic impacts if expansion of aquaculture is not allowed, specifically regarding shellfish farming jobs and the

future of shellfish farming. There are also some larger policy issues regarding national shellfish initiatives that need to be evaluated in the DEIS and the consistency with other regulations and policies, particularly with EO 13112, and also regarding the state's own Marine Protected Area process.

Mr. Steve Williams noted the need, at some point, to have an in-depth discussion of the potential impacts of unintended consequences on fisheries from sanctuary actions targeted on non-fishing issues. It is important to have good relations and communications with the sanctuaries to avoid actions which do not seem related to fisheries, but on closer examination prove to have such unintended consequences.

Mr. Crabbe and Mr. Anderson agreed with Mr. Williams' comments and also the public comment from Mr. Bitts concerning the importance of maintaining the trust of the fishermen and fishing communities. In particular, that the sanctuaries' regulations would not creep toward regulations that inadvertently or by design limit fishing activities.

Ms. Lowman agreed with the comments about regulation creep and noted that concern was expressed by the advisory bodies as well. She assumed these comments will be put into a letter by Council staff to formally convey these ideas.

Mr. Wolford concurred with the previous comments. He noted that both sanctuaries concerned with this expansion have been working well with the Council, but the worry is that the superintendents do change over time. The clarification on the sanctuaries' ability to limit fishing activities and all of the comments expressed in this agenda item would be picked up by the staff.

Mr. Ortmann noted that looking beyond our concern for unintended consequences, the sanctuaries offer the possibility of greatly assisting and expanding our habitat and ecosystem knowledge and management capabilities.

Mr. Wolford confirmed that staff will incorporate the comments and recommendations presented in this agenda item in a letter to the sanctuaries.

B.3 Ocean Observation Initiative (OOI) Report (4/6/2013; 10:53 a.m.)

B.3.a Agenda Item Overview

Mr. Kerry Griffin provided the Agenda Item Overview.

B.3.b OOI Presentation

Mr. Ed Dever and Cecile Durand presented Agenda Item B.3.b, Supplemental OOI PowerPoint.

B.3.c Reports and Comments of Advisory Bodies and Management Entities

None.

B.3.d Public Comment

None.

B.3.e Council Discussion

Mr. Anderson suggested it would be useful to have the Ocean Observation program staff come back in the future to interpret the data and describe how it could be utilized in the future.

Mr. Roth noted the long-term data set that could be developed and how we might take advantage of the data for the Fishery Ecosystem Plan.

Ms. Yaremko requested that they could bring a California collaborator to present that part of the data.

B.4 Legislative Matters (4/11/2013; 8:02 a.m.)

B.4.a Agenda Item Overview

Ms. Jennifer Gilden presented the Agenda Item Overview and referenced the following attachments:

- Agenda item B.4.a, Attachment 1: April 2013 Staff Summary of Federal Legislation.
- Agenda Item B.4.a, Attachment 2: Staff Summary of MSA Reauthorization Hearing.
- Agenda Item B.4.a, Attachment 3: Council letter on HR 6362, the Revitalizing the Economy of Fisheries (REFI) in the Pacific Act of 2012.

B.4.b Report of the Legislative Committee

Ms. Jennifer Gilden read Agenda Item B.4.b, Supplemental Legislative Committee Report into the record.

B.4.c Reports and Comments of Advisory Bodies and Management Entities

Mr. Mike Okoniewski presented Agenda Item B.4.c, Supplemental CPSAS Report.

Mrs. Susan Chambers presented Agenda Item B.4.c, Supplemental GAP Report.

Mr. Tim Roth presented Agenda Item B.4.c, Supplemental HC Report.

Ms. Kelly Ames presented Agenda Item B.4.c, Supplemental GMT Report.

Dr. Selina Heppell presented Agenda Item B.4.c, Supplemental SSC Report.

B.4.d Public Comment

Mr. Rod Moore, West Coast Seafood Processors Association, Portland, Oregon; spoke concerning testimony on the Magnuson-Stevens Act (MSA) reauthorization and S. 520 (mislabeling of seafood).

B.4.e Council Action: Consider Legislative Committee Recommendations

Mr. Wolford referenced the Legislative Committee (LC) discussion concerning preparation for the Managing our Nation's Fisheries 3 (MONF3) Conference. He noted that the conference was not just focused on legislative reauthorization of the MSA, but also with broader questions for non-legislative changes that need to be addressed for general fisheries management (e.g., National Standard 1).

Ms. Lowman expanded on Mr. Wolford's remarks, noting that the National Standards in the law, in many cases, are broad, while their interpretation through NMFS guidelines can be very

specific. Those guidelines are under review. Hopefully, MONF3 may help provide input for beneficial changes to the guidelines which then may or may not require changes in the MSA by Congress.

Ms. Yaremko noted that it would be hard to prioritize the top three recommendations for reauthorizing the MSA. She was glad the advisory bodies had an opportunity to consider this and it should be useful for the representatives and starts a good list for us. She had reservations about forwarding some recommendations, especially with regard to those of the SSC which are exclusively policy recommendations and are not appropriate in the reauthorization priority. In particular, she was concerned with the discussion on data confidentiality in both the SSC and GMT reports. There should also be some recognition of the states' rules for confidentiality since our management relies on state data programs. She also did not think it appropriate at the Federal level to include the recommendations concerning compensation of fishermen for research.

Ms. Culver moved and Mr. Lincoln seconded Motion 29 to include consideration of the following comments on the reauthorization of the MSA, National Standards, and Regulations at the MONF 3 [the actual text for each bullet referred to in the motion has been added]:

- Agenda Item B.4.c, Supplemental SSC Report – Bullets numbered 2, 5, and 8:
 - The rule that defines the maximum time for overfished stocks to rebuild, T_{MAX} , is discontinuous at 10 years. It should be replaced by a rule that is not discontinuous, such as “ T_{MAX} is the larger of 10 years or the sum of T_{MIN} and one mean generation time.”
 - “Overfished” and “overfishing” are currently defined as the same in the Act. The definitions of these terms should be changed to reflect actual practice when applying status determination criteria. “Overfished” is related to population size relative to the Minimum Stock Size Threshold (MSST) and “overfishing” is related to exploitation rates relative to the Maximum Fishing Mortality Threshold.
 - The term “overfished” gives the impression that a stock is below the MSST because of excessive fishing. This is often not the case, so the term “overfished” should be replaced by one such as “depleted.”
- Agenda Item B.4.c, Supplemental GMT Report, all of the items on the first page and the first bulleted item on page 2, but not the last bullet:
 - The integration of MSA and National Environmental Policy Act (NEPA) that Congress mandated in the last reauthorization of the statute still has not been implemented. And there currently appear to be some redundancies that remain between Council processes under MSA and NEPA. In short, NEPA and the MSA could likely be better-integrated—in terms of process and environmental analysis—without reducing the quality of either. In addition, there are strong connections between the environmental questions NEPA raises and the analytical methods being advanced under ecosystem-based fisheries management, as we have been raising under the Council's consideration of Amendment 24 and ecosystem related agenda items (Agenda Item H.1.c, Supplemental GMT Report). Recognizing those connections and better integrating NEPA with MSA-focused analysis could be a way for Congress to support continued progress toward ecosystem based fisheries management and align staff and scientific resources with the highest conservation needs. The perception of many seems to be the

- opposite--i.e. which proposed changes to NEPA are necessarily motivated by a desire to pay less attention of environmental impacts and conservation.
- We also think that Congress could learn from our west coast examples of rebuilding. Congress added the rebuilding provisions to the law in 1996 with certain policy goals in mind. Feedback from the Council's experience could help Congress' deliberations on whether those goals are being met. The results we have seen could be counter to expectations. For instance, with petrale sole the rebuilding projections showed the most long-term yield was expected by rebuilding using the standard F_{MSY} harvest rate, which was the slowest rebuilding alternative considered by the Council. This was counter to expectations and the widely held assumption that rebuilding "as short as possible" produces the most yield and economic benefit overall. In short, we believe Congress could change the law with a standard that more directly focuses on balancing the trade-off between short term economic consequences and long term yield and other impacts to the fishery and ecosystem without imposing overly formulaic constraints on the Councils.
 - Carryover in the Individual Fishing Quota (IFQ) program is another area where questions about interpretations of the MSA have arisen. Consideration of carryover has been focused on the risk that issuing carryover might lead to an annual catch limit (ACL) overage despite everyone agreeing that such an overage would not raise a biological concern. More generally, this interpretation is one where we have questioned the emphasis of annual catch over the expected outcome over a multi-year period.
- Agenda Item B.4.c, Supplemental GAP Report, on Page 1, the 1st, 2nd, and 5th bullet, and the last bullet on Page 2:
 - Flexible Annual Catch Limits (ACL) management. The Groundfish Advisory Subpanel (GAP) is concerned that current ACL management is too stringent to accomplish the intent of optimum yield (OY) management. There is too much precaution in deciding the ACL specification. ACLs should be managed to better meet the goal of OY attainment, the socioeconomic objectives of the MSA, and to minimize fishery instability. The concept of long term averaging or multi-year ACLs will better enable implementation of the carry-over provisions in the fishery management plan (FMP). This conceptual change will have no biological consequence to our long-lived groundfish stocks.
 - Eliminate the 10-year rebuilding rule and provide more consideration of community needs for stocks that must be rebuilt in a longer time period. The 10-year rule, where stock rebuilding must occur within 10 years if possible, leads to an awkward and discontinuous policy that disrupts fisheries for little conservation gain. For example, if a stock can rebuild in 9.9 years but at a cost of closing all fisheries, this becomes a mandate even if the economic disruption is greatly lessened with an 11-year rebuilding plan. This is illogical and potentially disastrous for fishing-dependent communities.
 - Streamline the National Environmental Policy Act (NEPA) and MSA processes. While the 2006 reauthorization of the MSA seemingly made streamlining the NEPA and MSA processes a mandate, NMFS has not addressed this. We still have an inefficient process where there are two administrative tracks to satisfy NEPA and MSA process mandates. This unnecessarily delays implementation of

regulations and ties up NMFS and Council resources that could be used to make progress on other important initiatives. Specifically, it makes sense to use the regional fishery management council process, which is designed to engage the public before decisions are made, as a substitute to the notice and comment rulemaking required in the NEPA process. This would not compromise the quality of analysis required by NEPA. Council decisions are widely noticed to the public to solicit maximum input before decisions are made.

- Maintain the positive aspects of the MSA. The GAP believes there are many mandates and aspects of the MSA that should not be changed. Decisions on allocation and on how to rationalize fisheries should continue to be made at the regional level and not be subject to top-down mandates. Catch share programs and formal allocations provide stability in fisheries management. National initiatives to sunset catch share programs or formal allocations are bad ideas. The aspects of the MSA establishing regional control in decision-making work very well and allow tailoring of fisheries management according to regional needs. Changing this aspect of the MSA will compromise the positive foundation of the MSA and will lead to disastrous consequences.
- Agenda Item B.4.c, Supplemental CPSAS Report, include the full report:
 - Members of the Coastal Pelagic Species Advisory Subpanel (CPSAS) discussed priorities for consideration in Magnuson Act (MSA) reauthorization discussions. Any changes to existing MSA mandates should be accompanied by full analysis of what appropriate funding levels need to be to carry out the intention of such mandates. These should include but not be limited to adequate research funding, for NOAA Fisheries-sponsored as well as cooperative research. In addition, regional fishery management council operations must be funded at appropriate levels to achieve the directives and objectives of the re-authorized MSA. We also emphasize the need to develop more collaborative research opportunities and collaborative management.
- Agenda Item B.4.c, Supplemental HC Report: approve both bullets, but in the second bullet replace “needs” with “should be”
 - Develop a new term, other than “overfishing,” for when a run is depressed for reasons not related to fishing; and for the “overfishing” reports required when a stock is “overfished” for three years in a row.
 - The Habitat Committee (HC) agrees with National Oceanic and Atmospheric Administration Assistant Administrator Sam Rauch, in his comments to the House Committee on Natural Resources, that ecosystem, habitat, and climate change ~~needs~~ should be incorporated into stock assessments and management decisions.

Ms. Culver stated that her motion is intended to focus on the items that can be fixed or addressed through reauthorization of the MSA versus those which may be handled through the flexibility granted in the MSA and is expressed in Council policy and interpretation. There needs to be a balance that allows for flexibility within the MSA and National Standards rather than being too prescriptive that recognizes the necessary variations in governing all eight Regional Fishery Management Councils. There are a few items not included from the SSC recommendations that might merit consideration. However, given the limited time to develop and consider them, it would be very difficult to consider and include them today.

Ms. Yaremko asked why the SSC ecosystem bullet and the first bullet in the GAP recommendations, related to ACLs, were not included on the list.

Ms. Culver responded that the definition of ecosystem component is broad and gives us flexibility that allows us to decide how we want to treat those through the FMPs. In addition, the SSC has made no recommendation for how the definition should be changed. Without seeing that, she is hesitant to include the recommendation. Regarding the GAP recommendation on ACLs, she acknowledged that the terms “annual” and “limit” leave little flexibility and have limited our ability to access some of our healthier stocks. We have commented on this in the past and she thinks the staff should have a clear understanding and intent of that and should be able to flesh that out a little more if needed.

Ms. Lowman asked why recommendations of the LC were not included.

Ms. Culver stated that, except for the forage fish List of Fisheries issue, most of the LC recommendations were included in the other advisory body reports. She is not against including it and thought that could be considered in further discussion.

Dr. McIsaac asked if bullet 4 (differentiating between signal and noise) of the GAP recommendations was omitted, and if it was, what the rationale was.

Ms. Culver responded that bullet 4 of the GAP recommendations was not included in her motion. She noted it was also in the LC report. She believes this is one where the devil is in the details. She is not sure what a mandate or policy would look like and is afraid it might actually decrease our flexibility.

Dr. McIsaac stated that we are a long ways from final reauthorization and he views these recommendations as identifying starting points that would be further developed and explored with more opportunity for discussion over the next year or so.

Ms. Culver replied that she is not sure if the recommendation is necessary as an MSA fix or is part of our Terms of Reference process in which she presumes the entities are doing their best to differentiate between noise and signal. This can be a difficult task given the uncertainty of some assessments. Setting a mandated procedure in the MSA may not line up with the inexact science of our data and a more flexible Council policy to deal with it.

Dr. McIsaac noted that Dr. Punt will be giving a paper at MONF3 reflecting the SSC’s concern that the tiniest bit of noise in the data requires the Council to come back with FMP adjustments. Dr. McIsaac noted that this discontinuity of control rules addressed in bullet 4 of the GAP was also bullet 1 of the SSC.

Ms. Culver responded that she thought establishing continuous control rules across the minimum stock-size threshold is available to us now, and for groundfish it is something we could explore through our FMP and isn’t something that is prohibited.

Mr. Steve Williams asked for clarification regarding the purpose for identifying the reauthorization issues at this time. He presumed that this will not be the last time for this and wasn't sure if there was a need to carefully sift the recommendations at this time.

Dr. McIsaac laid out what he believes the process will look like based on the last reauthorization. At the beginning, issues and points of concern were identified. The Regional Councils then considered taking a position on those. The Administration drafted a bill, the Congress drafted a bill; over the course of more than 12 months these came back to the councils and solutions were debated. Ultimately, as reauthorization appeared imminent, the Council was able to look at the solutions and take a very specific position. At this point in the process the task is identifying issues and some obligation for describing them in general terms, but in terms of an exact solution, it is too early.

In response to Mr. Steve Williams, Ms. Culver stated that the purpose of her motion was to give guidance for the MONF3 conference in three weeks. She wanted to be sure she understood and was comfortable with any of the recommendations forwarded to the conference by the Council. At a later date, or throughout the two-year process, the Council could offer further comments on the recommendations.

Ms. Yaremko stated that with regard to the GAP recommendations on ACL management, she would ask the salmon advisors to consider this before moving forward. Also, she believes more clarity on the ecosystem component species is needed across the FMP's. In the long run, that could be a time saver for us.

Mr. Lincoln suggested that being clear on which of these issues need Congressional action and which simply need better discussions and understanding in their implementation between the Council and NMFS is very important. He would guess that many fall under the latter category and that we need to be careful about what we ask Congress to solve.

Mr. Williams moved and Mr. Feldner seconded Amendment 1 to Motion 29 to add to the list for consideration, bullet 3 on page 1 of the GAP Report. [Clarify rebuilding policy—There is an unwritten NMFS policy that once a rebuilding plan is adopted, it must be maintained until the biomass target is reached, even in the case when a new assessment representing the best available science indicates the stock was never overfished, or the stock is in the precautionary zone and subject to the harvest control rules in the FMP (e.g., the 40-10 rule). Changes in rebuilding rules could also clarify this policy.]

Mr. Williams stated he believes it is important at this point to add this item for discussion. It is discussed in the GAP report and referenced in the LC report. He noted the situation with widow rockfish where after declaring they were in trouble, the best science determined that they had never been in trouble. Some changes might help the Council deal with these situations in a more timely fashion. He sees no harm in adding this issue at this time.

Mr. Helvey noted that there is some confusion in this discussion over what is required by the statute (MSA) and by the guidelines which are about policy. This particular rebuilding problem results from the guidelines (which may not need to be solved by reauthorization). We need to distinguish between what is in the statute and everything else.

Ms. Culver agreed with Mr. Helvey and Mr. Lincoln. She thought the rebuilding issue falls under policy and is not something that we would want to have the MSA itself describe what we must do. She supports having a discussion in the future to clarify which issues belong at the NOAA policy level and which require Congressional action.

Ms. Lowman noted that the first sentence of Motion 29 includes consideration of issues for the MSA, National Standards, and regulations.

Ms. Culver stated that the motion identifies issues to be considered in the reauthorization of the MSA to be considered at the MONF3 conference. She was focusing on the ones relative to the MSA and not the guidelines.

Several Council members spoke to being more inclusive than exclusive of issues at this point, and to look toward further consideration and removal of issues that might just involve NMFS policy or regulations at a later time.

Mr. Wolford asked for clarification of the intent of the motion.

Ms. Culver confirmed that the intent of her motion was to focus on those items associated with reauthorization of the MSA as this was a legislative agenda item. MONF3 might consider the issues more broadly and include necessary changes to guidelines and policy.

Mr. Myer said he believes our purpose is to provide a broad list for MONF3 to consider. He supports the amendment.

Mr. Ortmann spoke in opposition to the amendment. He believes we need to keep the list simple and targeted on Congress and reauthorization.

Amendment 1 carried. Mr. Lincoln, Mr. Ortmann, and Ms. Culver voted no.

Ms. Yaremko moved and Mr. Brizendine seconded to amend Motion 29 (Amendment 2) by adding, to the list of issues, the seventh bullet in Agenda Item B.4.d, Supplemental SSC Report—"The term "Ecosystem Component" should be defined more clearly."

Ms. Yaremko said that not having a clear definition of "ecosystem component" has been a continuing problem that we have not been able to resolve in our management specifications process and in bringing all of our plans into alignment with the National Standards.

Mr. Crabbe stated he would support the amendment, even though it is broader than just reauthorization of the MSA.

Mr. Helvey noted that the preamble to this motion did include topics in addition to reauthorization, and wondered why we would not include all of the advisory body comments.

Ms. Culver spoke in opposition to the amendment. She did not think this short sentence provided enough information to guide any discussion of this issue since the remedy might be different for each FMP.

Ms. Yaremko stated that including this issue would at least signal to MONF3 participants that this is a problem and provide time to consider all the possible remedies and ramifications.

Mr. Wolford commented that the lack of specificity in this issue concerned him as he was not sure we might not get something we didn't want.

Amendment 2 carried. Mr. Ortmann, Ms. Lowman, Mr. Lincoln, Mr. Myer, and Ms. Culver voted no.

Mr. Lincoln moved and Mr. Ortmann seconded Amendment 3 to Motion 29 by striking out "National Standards, and regulations" from the original motion.

Mr. Lincoln stated that he viewed the primary purpose of the motion to provide a list for discussion of reauthorization at MONF3 and believes the amendment clarifies that purpose.

Ms. Culver expressed appreciation for the amendment as she believes it captures her original intent.

Amendment 3 carried unanimously. Motion 29, as amended, carried unanimously.

For the benefit of those who will be attending MONF3, Mr. Wolford asked for some guidance from Council members on what might be the highest priority issues on the list that was just approved.

Mr. Williams stated that the last bullet in the GAP Report (streamlining the NEPA and MSA processes) should be one of the top priorities for consideration.

Ms. Yaremko identified the List of Fisheries issue as a priority. It is cited in the Legislative Committee Report under the header of "Forage Fish." However, the issue really applies to all fisheries.

Ms. Yaremko moved and Mr. Crabbe seconded Motion 30 to adopt Agenda Item B.4.b, Supplemental Legislative Committee Report, and strike "Forage Fish" from the header and replace it with "List of Fisheries."

Ms. Culver responded in support of the motion. However, while the Legislative Committee commended Mr. Bob Dooley on his comments before the House Natural Resources Committee in their hearings on the MSA last month, she had concerns with his comments, especially those about finding the management thresholds confusing, contradictory, and needlessly inefficient. Considering those and other comments he made, she was not sure just what he supports with regard to National Standard 1, and his comments may not support the Council's views.

Mr. Lincoln asked for clarification about whether this should be an acceptance rather than an adoption of the Legislative Report and agreement with everything that may be in it.

Dr. Hanson stated that we usually “accept” the report, and as such, is not necessarily endorsing everything that is said in it.

Mr. Lincoln moved and Ms. Culver seconded Amendment 1 to Motion 30 to strike “adopt” and replace it with “accept.”

Amendment 1 carried unanimously. Motion 30, as amended, carried unanimously.

B.5 Approval of Council Meeting Minutes (4/11/2013; 12:49 p.m.)

B.5.a Council Action: Approve Previous Council Meeting Minutes

Mr. Ortmann moved and Mr. Pollard seconded Motion 33 to approve as final minutes, Agenda Item B.5.a, Attachment 1: Draft Minutes: 216th Session of the Pacific Fishery Management Council (November 2012).

Motion 33 carried unanimously.

B.6 Membership Appointments and Council Operating Procedures (4/11/2013; 12:50 p.m.)

B.6.a Agenda Item Overview

Mr. Chuck Tracy presented the Agenda Item Overview.

B.6.b Reports and Comments of Advisory Bodies and Management Entities

None.

B.6.c Public Comment

None.

B.6.d Council Action: Consider Changes to Council Operating Procedures and Appointments to Advisory Bodies

Mr. Wolford confirmed selection of new advisory body chairs and vice chairs as follows: Dr. Bob Emmett as Chair and Ms. Lorna Wargo as Vice Chair of the CPSMT; Mr. Joel Kawahara and Ms. Fran Recht as Co-Chairs of the HC; and Mr. Crabbe as Vice Chair of the LC.

Mr. Helvey moved and Mr. Sones seconded Motion 34 to appoint 1) Dr. Tim Sippel to one of the NMFS Southwest Fisheries Science Center seats on the Highly Migratory Species Management Team (HMSMT), replacing Dr. Suzanne Kohin and 2) Dr. Ian Taylor to the NMFS Northwest Fisheries Science Center seat on the Groundfish Management Team (GMT), replacing Dr. Jason Kope.

Motion 34 carried unanimously.

B.7 Future Council Meeting Agenda and Workload Planning (4/11/2013; 12:55 p.m.)

B.7.a Agenda Item Overview

Dr. Don McIsaac presented the Agenda Item Overview and reviewed the following exhibits.

- Agenda Item B.7.a, Supplemental Attachment 3: Pacific Council Workload Planning: Year-at-a-Glance Summary.
- Agenda Item B.7.a, Supplemental Attachment 4: Proposed Council Meeting Agenda, June 20-25, 2013 in Garden Grove, California.

B.7.b Reports and Comments of Advisory Bodies and Management Entities

Ms. Kelly Ames read Agenda Item B.7.b, Supplemental GMT Report into the record.

Ms. Susan Chambers and Mr. John Holloway presented Agenda Item B.7.b, Supplemental GAP Report.

Mr. Mike Burner read Agenda Item b.7.b, Supplemental SAS Report.

B.7.c Public Comment

Mr. Steve Marx, PEW Charitable Trusts, Portland, Oregon.

Mr. Whit Sheard, Oceana, Portland, Oregon.

Mr. John Holloway, Recreational Fishing Alliance-Oregon, Portland, Oregon.

Agenda Item B.7.c, Supplemental Public Comment.

B.7.d Council Discussion and Guidance on Future Meeting Agenda and Workload Planning

Mr. Myer spoke to the request by the GAP to consider the quota pounds transfer deadline in the Program Improvement and Enhancement (PIE) II Rule at the June meeting. He and others were concerned about the workload and notice that may be involved. After some discussion and clarification by Mr. Seger, it appeared that the workload would not be great and notice in the June agenda would be sufficient. If a change were to be made in what is now the recommended deadline, it would need to be in June.

In response to a request by Mr. Helvey regarding the winter-run update, Dr. McIsaac indicated that he would mark it “tentative” for September.

Ms. Culver did not see Amendment 24 or the Tier 1 Environmental Impact Statement (EIS) coming back in the year-at-a-glance display and wondered if that was correct.

Dr. McIsaac responded that those discussions would occur under the specifications and management measures for 2015-2016 and beyond in groundfish agenda item 8 in the June Council meeting display and also in September and November as well.

Based on that response, Ms. Culver presumed that we would not be looking at a draft EIS in June, but more the specification issues and process, including Council Operating Procedure (COP) 9. Dr. McIsaac agreed and indicated it would be more an annotated outline and assessment of doing the Tier 1 and biennial specifications in synchrony.

Ms. Culver assumed that a revised Amendment 24 Workgroup would meet between now and June to develop the briefing book items. Dr. McIsaac noted, however, that in March when we came up with a workload assessment, the Council decided that the workgroup would not be convened and that the staff would work up the documents for the advisory bodies and Council to review in June.

Ms. Culver suggested that perhaps the Amendment 24 Workgroup could be convened at the June Council meeting to review the staff outline and provide input to the Council. Dr. McIsaac reviewed the Council motion from March. He concluded that the intent of the Council action was not to have the workgroup meet until presumed necessary after the design is worked on by the Council staff. In addition, the Council chose not to select all the members of the workgroup.

Ms. Culver suggested that after the Council reviews the advisory body input in June, they could decide when or if to convene the Amendment 24 Workgroup and appoint members as needed. Dr. McIsaac agreed.

In line with the action the Council took this week, Ms. Culver stated her understanding that the June agenda would include updating the List of Fisheries, but that the unmanaged forage fish protection initiative would be on the September agenda. After further discussion, the Council agreed and clarified that both would be under the ecosystem agenda.

Mr. Williams expressed his support for the Salmon Advisory Subpanel (SAS) recommendation regarding the cormorant management plan agenda item in September. He also lent his support to removing the shading from the midwater sport fishery agenda item in June. He and Mr. Wolford noted that the midwater recreational fishery item would have to be an action item if the fishery were to occur in 2014.

Ms. Culver suggested that the midwater recreational fishery issue should not be considered for implementation prior to the 2015-2016 fisheries. She thought that the Council had reached a consensus to keep the 2013-2014 groundfish management in line with status quo to reduce workload.

Mr. Williams agreed with Ms. Culver's characterization of limiting new management measures as the Council went through the specifications process. However, he was very concerned that this potential management change would disappear if we do not move it ahead for 2014, and we would lose all the work that has been done. In addition, the Northwest Region (NWR) made a very strong commitment to move this forward.

Ms. Ames pointed out that, under Amendment 24, there was a stipulation for limiting new management measures in the biennial process to those which would keep catch within the ACL or address other conservation concerns. The Council has not discussed whether or not the midwater recreational fishery meets this criteria, but it is likely that it does not and would not fit into implementation in the 2015-2016 measures.

Ms. Culver indicated her main concern was still the number and breadth of groundfish items on the June agenda and the Groundfish Management Team (GMT) workload. She suggested the

methodology review (including barotrauma) could be moved to September while still meeting the necessary timeline.

Ms. Ames noted that the state implementation plans for barotrauma considerations could be moved to a later time, but the Scientific and Statistical Committee (SSC) review of the GMT projection models that would be used in the biennial analysis needs to occur in June prior to the initiation of the analysis for the 2015-2016 specification process.

Mr. Wolford asked why the Council needed to be involved in the review of all the GMT modeling.

Ms. Ames replied that the SSC has reviewed a significant number of models and wanted to make sure the Council had a chance to consider the changes.

Mr. Lincoln and Mr. Roth noted the methodology review agenda item was about setting a process. If specific items needed to be reviewed, it would seem that would be part of the specifications agenda item.

Mr. Roth commented regarding his support for the cormorant issue in September. The U.S. Army Corps of Engineers has indicated they expect to issue the draft EIS in August and would follow with a 30 day comment period. This aligns with the SAS developing a draft letter for the Council in September.

Regarding the proposed June agenda (Supplemental Attachment 4), Ms. Culver summarized her understanding of the results of the agenda discussion. She stated that the shaded items on Thursday and Friday would remain on the agenda and suggested the midwater item be increased to 2 hours. On Saturday, the trawl trailing actions should be broadened to include revisiting PIE II for the date changes highlighted in the GAP statement, and a prioritization of trailing actions in general for September and beyond. Keep the seabird protection regulation item. Remove the methodology review process discussion and put the barotrauma discussion in September. On Sunday, the specifications and management process is going to include SSC comments on the GMT models for the 2015-2016 specifications, a check-in outline for Amendment 24 and the Tier 1 EIS, and a decision by the Council about whether we need a workgroup or other help for Amendment 24. On Monday, updating the List of Fisheries is moved under Ecosystem-Based Management and increased to 2 hours; and unmanaged forage fish protection is delayed to September. On Tuesday, keep the shaded CPS items and, under membership appointments, consider appointment of Amendment 24 Workgroup members if necessary.

Dr. McIsaac felt Ms. Culver's summary pretty well agreed with his own. However, with regard to trawl rationalization, he noted that September has been the time for the annual call for priorities and scoping. The action in June could just be a preview. Ms. Culver agreed.

[Council concluded this agenda item at 2:18 p.m. and adjourned the meeting]

Council Informational Session (4/6/2013; 8:50 a.m.)

This informal briefing was provided by staff to help with understanding various issues and objectives associated with the approval of the new Fishery Ecosystem Plan in Agenda Item H.1.

It is not part of the official Council meeting record. Mr. Mike Burner provided an overview of the session and Ms. Yvonne deReynier made a PowerPoint presentation entitled “Ecosystem Plan Development Team Draft Fishery Ecosystem Plan.”

[Council concluded the informational briefing at 9:09 a.m.]

C. Open Comment Period (4/6/2013; 8:20 a.m.)

C.1 Comments on Non-Agenda Items

C.1.a Reports and Comments of Advisory Bodies and Management Entities

Mr. Anderson spoke to the intended plan by NMFS to merge the NW and SW Regions. He was concerned that in such a process the assistant regional administrator position and Salmon Management Division within the NWR might be lost. Given the level of complexity, responsibilities, and workload that the NWR deals with (he listed several different issues), he believes loss of the Salmon Management Division and Assistant Administrator, along with any other reductions in capability to stay on top of salmon management, could be very devastating. He would like to have the Council send a letter to NMFS expressing that concern and to reiterate the need to maintain the salmon management capabilities.

Mr. Lockhart stated that it would be timely to the decisions to have Council input, and it could be beneficial. In response to a question, he noted that the appropriations language only concerned consolidation of the regions and not the science centers. The decisions are up to headquarters and, as far as he knows, no decisions have been finalized.

C.1.b Public Comment

The following exhibits were provided in the briefing book.

- [Agenda Item C.1, Open Comment 1](#): Announcement for the Briefing and Screening of “Ocean Frontiers” Hosted by Green Fire Productions, Sunday April 7.
- [Agenda Item C.1, Supplemental Open Comment 2](#): Letter from Ocean Pacific Seafood Regarding the “Drift Net Swordfish Turtle Problem.”
- [Agenda Item C.1, Supplemental Open Comment 3](#): Fisheries Rebuilding Report by the Natural Resources Defense Council.
- [Agenda Item C.1, Supplemental Open Comment 4](#): Letter from Bill James on Behalf of Port San Luis Commercial Fishermen’s Association Regarding Requests for the Next Groundfish Spec Cycle 2015-2016.

C.1.c Council Discussion

Dr. McIsaac, Mr. Steve Williams, Mr. Sones, and Mr. Anderson elaborated on the importance of maintaining the NWR salmon management capabilities and not losing the Salmon Management Division.

Noting the Council’s support on this matter, Mr. Wolford, without objection, directed Dr. McIsaac to draft a letter to NMFS expressing the Council’s concern with the pending reorganization and to reiterate the need to maintain their salmon management capabilities.

D. Groundfish Management

D.1 National Marine Fisheries Service Report (4/6/2013; 1:01 p.m.)

D.1.a Agenda Item Overview

Ms. Kelly Ames presented the Agenda Item Overview.

D.1.b Regulatory Activities

Mr. Frank Lockhart presented the following exhibits:

- Agenda Item D.1.b, Attachment 1: *Federal Register* Notices Published since the last Council Meeting.
- Agenda Item D.1.b, Supplemental Attachment 2: March 28, 2013 *Federal Register* Notice: Final Rule Reconsideration of Allocation of Whiting for the Pacific Coast Groundfish Trawl Rationalization Program.
- Agenda Item D.1.b, Supplemental Attachment 3: Pacific Dawn LLC Filing, March 29, 2013.

Mr. Lockhart reviewed several current issues including 1) reregistration of shore-based first receiver site licenses by April 15; 2) completing the process for topping off accounts for various species in the IFQ fishery by May 15; 3) issuing final whiting allocations by May 15, depending on completion of the international whiting process; 4) providing halibut quotas by the end of next week; 5) completing the decision on surplus carryover amounts by May 15; 6) finishing processing of the cost recovery rule by early fall; 7) implementing the PIE II rule for 2014 which includes quota share trading for whiting; and 8) a final rule on chafing gear that will be effective this summer—not by May 15.

D.1.c Fisheries Science Center Activities

Dr. Michelle McClure presented Agenda Item D.1.c, Supplemental NMFS Science Center PowerPoint. Her overview included information on the economic data collection report, four ongoing bycatch reduction research projects (e.g., a rockfish excluder for the whiting fishery, experiments with cod end mesh size, and other work with halibut exclusion), and updates on the bottom trawl survey and other recent studies.

D.1.d Reports and Comments of Advisory Bodies and Management Entities

None.

D.1.e Public Comment

Mr. Kevin Dunn, Fisherman, Warrenton, Oregon: expressed concern about the problems caused by the late release of the halibut quota.

D.1.f Council Discussion

Mr. Williams asked if the Council could be given notice of information and decisions regarding changes in data collection programs resulting from implementation of the Federal sequester.

Mr. Lockhart responded that the decisions had to be made quickly. However, he will take this concern back to NMFS leadership. It may be possible to provide details of the actions at the CCC meeting and June Council meeting.

D.2 Status of the Rationalized Fishery (4/7/2013; 8:04 a.m.)

D.2.a Agenda Item Overview

Mr. Jim Seger noted this was an informational agenda item and presented the Agenda Item Overview.

D.2.b Annual Report for the At-Sea Co-Op

Mr. Dave Fraser presented the Annual Report for the At-Sea Co-Op found in:

- Agenda Item D.2.b, Attachment 1: Whiting Mothership Cooperative: An Amendment 20 Mothership Catcher Vessel Cooperative Report on the 2012 Pacific Whiting Fishery.
- Agenda Item D.2.b, Attachment 2: Pacific Whiting Conservation Cooperative Amendment 20 Catcher/Processor Cooperative Final Annual Report 2012.

D.2.c Reports and Comments of Advisory Bodies and Management Entities

Dr. Sean Matson presented Agenda Item D.2.c, Supplemental NMFS Report: Annual Catch Report for the West Coast Groundfish, Shorebased IFQ Program in 2012.

Dayna Matthews presented Agenda Item D.2.c, NMFS Office of Law Enforcement Report: TRAT Compliance Summary, 2012.

Mr. Tommy Ancona presented Agenda Item D.2.c, Supplemental GAP Report.

D.2.d Public Comment

Agenda Item D.2.d, Public Comment: Fort Bragg – Central Coast Risk Pool Annual Summary Report 2012.

D.2.e Council Discussion

In response to questions about the status of the various trawl rationalization trailing actions, Mr. Seger pointed out that the Council website contained a listing of the status of the actions and the information was subsequently provided as Agenda Item D.2.a, Supplemental Attachment 1: PFMC Webpage – Trawl Rationalization (Amendment 20) and Intersector Allocation (Amendment 21) Trailing Actions.

D.3 Stock Complexes Assemblages (4/7/2013; 9:16 a.m.)

D.3.a Agenda Item Overview

Mr. John DeVore presented the Agenda Item Overview and introduced Agenda Item D.3.a, Attachment 1: Initial proposal (Proposed Action, Alternatives and Considerations) for Restructuring Groundfish Stock Complexes.

Mr. John DeVore and Dr. Jason Cope presented Agenda Item D.3.a, Supplemental Agenda Item Overview PowerPoint.

D.3.b Reports and Comments of Advisory Bodies and Management Entities (4/7/2013; 11:00 a.m.)

Dr. Owen Hamel presented Agenda Item D.3.b, Supplemental SSC Report (the final report was revised slightly to reflect his oral presentation).

Mr. Dan Erickson presented Agenda item D.3.b, Supplemental GMT Report.

Mr. Tommy Ancona presented Agenda Item D.3.b, Supplemental GAP Report.

D.3.c Public Comment (4/7/2013; 1:02 p.m.)

Mr. Seth Atkinson, Natural Resources Defense Council, San Francisco, California.

Mr. Dan Platt, Fisherman, Fort Bragg, California.

Mr. Gerry Richter, Fisherman, California.

Mr. Bill James, nearshore fisherman, Salem, Oregon.

D.3.d Council Action: Adopt a Range of Alternatives and if Possible, Preliminary Preferred Alternatives, for Stock Complexes Assemblages (4/7/2013; 1:15 p.m.)

Ms. Grebel stated that this issue is complex and the initial analysis doesn't have any catch specifics to determine the species that are problematic. Deciding on this issue will have implications on Amendment 24, which she believes is very important to obtaining a better season-setting process. She also had concerns that the specifications process could be thrown off with trying to deal with both the stock assessments and stock complexes. She didn't want one process to delay or further complicate matters. She cited several examples of problems that could be created if the decisions on modeling are delayed as we restructure all these complexes (e.g., new trawl/nontrawl allocations, revised trip limits in the tables or adding entirely new trip limits, new IFQs, loss of data quality as the stocks are more compartmentalized, and conflicts with the nearshore FMP). She recommended taking a narrower focus that looked only at the species or complexes that are not being addressed by stock assessments, such as other fish and elasmobranchs. She wants adequate information in June from which we can actually make an informed decision. The other complexes could be phased in at a later time.

Mr. Myer shared a lot of the same concerns as Ms. Grebel. He noted the need for a socio-economic analysis as recommended by the GAP to help prevent creating new problems like had occurred for the whiting fishery which, by fishing deeper, impacted more overfished species. He noted the potential for several meetings of the Groundfish Allocation Committees and other workload and cost problems.

Ms. Culver agreed with the previous speakers and stated that we need to recognize the issues here are going to take considerable time and effort. We need to prioritize those for the current specifications cycle and approach the whole list with deliberation. We do want to be compliant with National Standard 1, but we need to move forward thoughtfully, using the best data.

Ms. Culver moved and Mr. Lincoln seconded Motion 7 that the Council moves forward with:

- The consideration of restructuring of the stock complex assemblages and to provide additional analysis in June to consider a preliminary preferred alternative at that time.
 - In June, see the bar graphs for OFL component contribution compared to recent levels of removals.
 - Include options for how to manage species that are removed from complexes.

- In addition, approve the GMT recommendations of items 1-4 on page 6 of Agenda Item D.3.b, Supplemental GMT Report, which retains the range of alternatives found in Agenda Item D.3.a, Attachment 1.
- Task the Council Staff to evaluate a June/September and June/September/November process.
- Prioritize the other fish and slope rockfish complexes as a top priority, and other stock complexes as a lower priority.
- Include anticipated costs compared with status quo. Group alternatives of high priority together in the cost analysis.
- Include incorporating concepts in the GMT statement pages 3 and 4 (Agenda Item D.3.b, Supplemental GMT Report); background goals, and purpose and need.
- Request the SSC discuss priorities for improvements in data quality; relative to sampling data.
- Add the GAP Alternative for nearshore rockfish.
- Explore the use of West Coast Groundfish Observer Program and the NMFS trawl survey to evaluate catch ratios.

Ms. Culver stated she believes we do need to move forward with restructuring, and what has been provided in Attachment 1 is a great start. Prior to selecting a preliminary preferred alternative, she would like to see a discussion at the June meeting of a tradeoff for having the final action in September versus November from a process and completeness perspective. She thinks the GMT recommendations are sound and would hesitate to remove any alternatives. If we move forward for slope rockfish, for example, in June we could decide whether or not to keep shortraker in. She appreciates the GMT taking a step back to consider why we are doing this. Does it help us for management? She believes we need more background (along this line) added to Attachment 1. She would like the SSC to discuss priorities for sampling (as the budget for that is static or diminishing) to get a better sense of the priorities associated with the catch accounting, species composition, collection of biological samples, and assessed or non-assessed stocks. This would be helpful to prioritize our limited sampling staff. She believes there could be some benefit to looking at other data sources relative to structuring the complexes to guide as to which stocks would fit better together, that co-occur, and at what proportions.

In response to a question from Ms. Grebel, Ms. Culver stated that her motion recommends retaining the current range of alternatives (item 1 from the GMT report), but is not intended to limit further alternatives that might be analyzed for June.

Mr. Lockhart supported the effort and noted the bottom line is finding the best way to protect the stocks while allowing as much fishing opportunity as possible.

In clarification, Ms. Culver responded that she was not proposing to get rid of any alternatives at this point. All of the alternatives would be analyzed for June. This would assist in focusing the GMT and GAP, giving them a sense of our priorities, and confirming that we are not going to address everything, but rather prioritize what to move forward with in June. In response to Mr. Wolford, she also confirmed that the highest priority for June would be the other fish and slope rockfish complexes. Further consideration would be on the issue of final action in September rather than November.

Motion 7 carried unanimously.

D.4 Implementation of the 2013 Pacific Whiting Fishery under the U.S. – Canada Pacific Whiting Agreement (4/7/2013; 1:53 p.m.)

D.4.a Agenda Item Overview

Mr. John DeVore presented the Agenda Item Overview and introduced Agenda Item D.4.a, Attachment 1: Executive Summary of Status of the Pacific hake (Whiting) stock in U.S. and Canadian Waters in 2013 (Full version Available on the Briefing Book Website and CD only).

D.4.b Joint Management Committee Report

Mr. Anderson and Mr. Lockhart presented Agenda Item D.4.b, JMC Report: March 19, 2013 Letter from the Joint Management Committee detailing their recommendations on the 2013 total allowable catch of Pacific Whiting.

D.4.c Reports and Comments of Advisory Bodies and Management Entities.

Mr. Dan Erickson presented Agenda Item D.4.c, Supplemental GMT Report.

Mr. Tommy Ancona presented Agenda Item D.4.c, Supplemental GAP Report.

Agenda Item D.4.c, Supplemental NMFS Report.

D.4.d Public Comment (4/7/2013; 2:45 p.m.)

Mr. Dan Waldeck, Pacific Whiting Conservation Cooperative, Portland, Oregon.

D.4.e Council Action: Consider any Necessary Action for Implementation of the 2013 Pacific Whiting Fishery

Ms. Kirchner moved and Mr. Feldner seconded Motion 8 to adopt the recommendations as shown in Agenda Item D.4.c, Supplemental GMT Report for Pacific whiting set-asides of 2,500 mt to accommodate Pacific whiting mortality in research and pink shrimp fisheries.

Ms. Kirchner stated that she believes the GMT gave us their best estimate of what the whiting mortality would be in the research and pink shrimp fisheries. She noted that we do have increased whiting availability, but also that the shrimp fishery greatly reduced their bycatch with a change in the grid space on their bycatch reduction devices (reduction from 1.25 inches to 0.75 inches).

Motion 8 carried unanimously.

D.5 Consider Barotrauma Device Mortality Rates (4/8/2013; 8:05 a.m.)

D.5.a Agenda Item Overview

Mr. John DeVore provided the Agenda Item Overview.

D.5.b Reports and Comments of Advisory Bodies and Management Entities

Mr. John Budrick presented Agenda Item D.5.b, GMT Report: Groundfish Management Team Report on Proposed Discard Mortality for Cowcod, Canary Rockfish, and Yelloweye Rockfish Released Using Descending Devices in the Recreational Fishery (PowerPoint).

Dr. Selina Heppell presented Agenda Item D.5.b, REVISED Supplemental SSC Report.
Ms. Heather Reed and Ms. Lynn Mattes presented Agenda Item D.5.b, Supplemental GMT Report 2.
Mr. Tommy Ancona presented Agenda Item D.5.b, Supplemental GAP Report.
Ms. Michele Culver presented Agenda Item D.5.b, Supplemental WDFW Report.
Ms. Gway Kirchner presented Agenda Item D.5.b, Supplemental ODFW Report.
Ms. Joanna Grebel presented Agenda Item D.5.b, Supplemental CDFW Report.

D.5.c Public Comment (4/8/2013; 9:21 a.m.)

Mr. Ken Franke, Sportfishing Association of California, San Diego, California presented Agenda Item D.5.c, Supplemental Public Comment PowerPoint.
Mr. John Holloway, Recreational Fishing Alliance, Portland, Oregon.
Mr. Jim Martin, Pure Fishing, Oregon.
Mr. Jeff Richards, Coastside Fishing Club, San Carlos, California.
Mr. Bob Ingles, Golden Gate Fisherman's Association, Hayward, California.
Mr. Louis Zimm, San Diego, California.
Mr. Mark Cedergreen, Westport Charter Boat Association, Westport, Washington.
Mr. Tom Marking, McKinleyville, California.

D.5.d Council Action: Discussion and Guidance on Application of Bycatch Mortality Rates Associated with Barotrauma Reduction Devices in Groundfish Fisheries

Ms. Grebel emphasized that while we've heard a lot about "giving credits," it is really about using the best available data rather than using higher mortality rates than are actually occurring.

Mr. Lockhart acknowledged all the good work that has been done with the use of the descending devices and the evidence that shows the mortality is less than the present estimates. However, he still has a problem with exactly how to credit that reduction for future use. He would like more discussion at the GMT and SSC level on the implementation. He would also like further refinement on the confidence level of the work.

Mr. Wolford noted that, in addition to the field studies that form the basis of the GMT report, there is a slew of laboratory work that establishes the theoretical basis of this work. That work includes confirming the fish can see when they are returned, and that they can feed and reproduce. The lab work has also shown that the success rates are dependent on the species. We need to focus on a few constraining species and confirm the mortality rates for those. There is also the issue of how often the information should be updated. Finally, we need to change the behavior on the water and that is where the benefit is critical—to be accepted in the fishing community.

Ms. Culver moved and Mr. Lincoln seconded Motion 10 that the Council approve the revised discard mortality rates for cowcod, canary, and yelloweye rockfish as shown in Agenda Item D.5.b, Supplemental GMT Report, Table 7 on Page 14 with the 90 percent confidence interval as shown in that table; except for the depth bin for "greater than 50 fathoms," change to "50-100 fathoms" and include an additional depth bin of greater than 100 fathoms and assign a mortality rate of 100 percent.

Ms. Culver stated that she agreed with the comments expressed by other Council members as well as the advisory bodies and the states in support of moving forward with these changes. For the last several years, especially with the advent of the non-retention fisheries back in about 2000, the momentum has been building among the recreational fisherman to increase release survivability. The common comment we hear expressed in the recreational fishery is concern over the associated wastage resulting from the mandatory release. This falls in line with the MSA requirement to reduce bycatch and bycatch mortality. However, putting this in perspective, our actions are only applying to a small amount of discarded fish, just three species—cowcod, canary, and yelloweye rockfish. Also, it only applies to the release of fish with descending devices, which currently is not 100 percent. Ms. Culver recommended the SSC review the states' implementation plans and the calculation of the confidence intervals for these different alternatives. The action today does not preclude us from updating this information in the future as new information becomes available. This is a good first step and, given the amount of fish involved here, even if we are a bit off on the percentage, it shouldn't affect the status of the stock and does represent the best available science as we have it in front of us today.

Mr. Pollard supported the motion, but noted that the information in the tables is for 100 percent use of descending devices. It will be important to include consideration of the actual compliance level of the fishermen when assigning a mortality credit.

Ms. Culver agreed and stated her motion does not assume 100 percent compliance. The rates would only apply to those using descending devices. The three states are in the process of determining that percentage.

Mr. Wolford moved and Mr. Brizendine seconded Amendment 1 to Motion 10 to strike the following wording in the motion: "Except for the depth bin for greater than 50 fathoms, change to 50-100 fathoms and include an additional depth bin of greater than 100 fathoms and assign a mortality rate of 100 percent."

Mr. Wolford stated that there is a large body of science on barotrauma and part of it identifies where the fish suffer the real physiological damage. It is generally agreed that the physiological damage occurs as the fish come through the upper two atmospheres. There is no theoretical basis to assume 100 percent mortality at greater depths. He believes the GMT is right to assume a somewhat higher, but far less than 100 percent mortality, below 50 fathoms. He noted that there has been data from Hawaii for depths of 400 fathoms where the fish do survive.

Ms. Culver said she appreciates Mr. Wolford's comments. However, her understanding was that, in the studies examined by the GMT, there were 4 cowcod and 26 proxy species that were caught between 50 and 100 fathoms that were used to assign the 45 percent. We did not have any fish in those studies examined by the GMT from depths greater than 100 fathoms. Her proposal uses the science that the GMT has available and is precautionary for depths greater than 100 fathoms. In the future, as we are able to review new or additional data, those rates can be corrected and revised. Given the information reviewed thus far, she is not comfortable with using the same rates below 100 fathoms and does not support the amendment.

Mr. Lockhart stated that given the data reviewed, he believes the original motion appropriately adds the additional depth bin with 100 percent mortality below 100 fathoms.

Mr. Wolford agreed that we should operate under the best available science and, at present, there isn't any science that suggests 100 percent mortality is the right number. There is a good body of science that suggests the most damage is done in the last two atmospheres and suggests that the mortality rate at the higher depths is not too much different from that above 50 fathoms. Therefore, he believes the best available science does not support a 100 percent mortality rate at depths greater than 100 fathoms.

Mr. Lincoln stated his appreciation for Mr. Wolford's knowledge on this topic. However, he believes it is important to be cognizant of the GMT's careful selection of information and studies used to make their recommendations, and the SSC's review of that data. He does not believe it appropriate to substitute his judgment for that of the GMT and SSC. He does not support the amendment.

Ms. Kirchner stated that she believes it is important to have information in hand from which to make a decision rather than basing the decision on suggestions of what the rates might be. It's a relatively easy process to change the rates when new information is in hand. She is not comfortable with the amendment.

Mr. Wolford stated that the amendment does rely on the GMT statement for the mortality rate at greater than 50 fathoms. He is not substituting his judgment for that of the GMT and SSC. To use another number is substituting the Council's judgment for that of the GMT. Ms. Grebel agreed and noted that new data could come in at any time to change the mortality rates.

Mr. Lockhart stated that he understood the argument for sticking with the GMT recommendation, but also noted that there is a lot of management expertise within the Council and it is not inappropriate to be more precautionary when there is uncertainty in the mortality rate estimates.

Amendment 1 failed (Ms. Kirchner, Mr. Myer, Ms. Culver, Mr. Feldner, Mr. Sones, Mr. Ortmann, Mr. Lincoln, and Mr. Lockhart voted no).

Mr. Wolford moved and Mr. Crabbe seconded Amendment 2 to Motion 10 to replace 90 percent in the 50 fathom depth bin with a 75 percent confidence interval.

Mr. Wolford stated that the way the numbers were derived came as a series of choices where each time the more conservative approach was taken to get to the final point estimate. Given that, to go to a 90 percent confidence level is a pretty big step. What's driving him to be comfortable with a lower confidence interval is in the table in the presentation by Mr. Budrick. He showed that the impacts we are likely to have (from the Oregon studies) are only a few percent less, and that the implications for doing this aren't that big. The likelihood for adversely affecting the rebuilding rate is very low. Based on that, he is comfortable with the lower interval. He believes we would not affect the status of the fishery to do this, and the benefit for motivating the fishing public can be significantly enhanced by going to this confidence interval.

Mr. Lockhart stated it is important to recognize that this is a first step on where we are going for descending device mortality and it is a judgment call. He is more confident with the higher confidence interval.

Ms. Culver agreed with Mr. Lockhart and noted this is in line with the GMT recommendations to be more precautionary at this point.

Mr. Wolford had a different understanding of the GMT recommendation.

In clarifying the GMT statement, Ms. Lynn Mattes stated that the GMT left the choice of confidence intervals up to the Council's discretion.

Amendment 2 failed (Mr. Ortmann, Mr. Lockhart, Ms. Culver, Ms. Kirchner, Mr. Lincoln, Mr. Feldner, Mr. Myer, and Mr. Sones voted no).

Mr. Lockhart asked staff what the effect of the motion would be on inseason management for this biennium and its use in stock assessments.

Mr. DeVore stated that before implementing a change in mortality rates in recreational fisheries, we would probably need an evaluation of the implementation plans by the appropriate bodies. Once that was completed, we could go back retroactively to make adjustments.

Ms. Culver responded that she would expect the SSC would review the state implementation plans and bring any concerns to the Council's attention for potential revision. Washington would apply the revisions retrospectively when they have data on the compliance rates and other critical estimates.

Ms. Kirchner replied that ODFW has been collecting the necessary information for nearly a year now and are prepared to implement the new rates when they are adopted.

Ms. Grebel stated that California's implementation would be similar to that of Washington—applied retrospectively.

Motion 10 carried unanimously.

D.6 Groundfish Essential Fish Habitat Synthesis Report and Request for Proposals (4/8/2013; 11:26 a.m.)

D.6.a Agenda Item Overview

Mr. Kerry Griffin provided the Agenda Item Overview and introduced Agenda Item D.6.a, Attachment 1: Request for Proposals (RFP) to Modify Essential Fish Habitat for Pacific Coast Groundfish.

D.6.b NMFS Synthesis Report

Drs. Michelle McClure, Waldo Wakefield and Ole Sheldon provided the NMFS Synthesis Report in PowerPoint (Agenda Item D.6.b, Supplemental NMFS PowerPoint). This presentation contained information from:

- Agenda Item D.6.b, NFMS Synthesis Report: Groundfish Essential Fish Habitat Synthesis Report.
- Agenda Item D.6.b, Supplemental NMFS Report: User Guide and Conclusions: Groundfish Essential Fish Habitat Synthesis Report.
- Agenda Item D.6.b, Supplemental NMFS Synthesis Report 2: APPENDICES to NMFS Groundfish EFH Synthesis Report.

D.6.c Reports and Comments of Advisory Bodies and Management Entities (4/8/2013; 1:16 p.m.)

Dr. Selina Heppell presented Agenda Item D.6.c, Supplemental SSC Report.

Mr. Brad Pettinger presented Agenda Item D.6.c, Supplemental EFHRC Report.

Mr. Joel Kawahara presented Agenda Item D.6.c, Supplemental HC Report.

Mr. Rob Jones presented Agenda Item D.6.c, Supplemental GMT Report.

Mr. Tommy Ancona presented Agenda Item D.6.c, Supplemental GAP Report.

D.6.d Public Comment

Mr. Craig Helms, Ocean Conservancy, Santa Barbara, California.

Dr. Geoff Shester and Mr. Mike Levine, Oceana, Monterey, California; presented Agenda Item D.6.b, Supplemental Public Comment (Oceana PowerPoint).

Mr. Seth Atkinson, Natural Resources Defense Council, San Francisco, California.

Agenda Item D.6.d, Public Comment 1.

Agenda Item D.6.d, Public Comment 2.

Agenda Item D.6.d, Supplemental Public Comment 3.

D.6.e Council Action: Discussion and Guidance on Groundfish EFH Review Synthesis Report and Initiate Phase 2 of the Review by Approving the Request for Proposals to Modify Groundfish EFH

Ms. Culver expressed appreciation for the work the Northwest Fisheries Science Center (NWFSC) has done on the Synthesis Report and considers it ready for Council approval. Regarding the revised request for proposals (RFP), she expressed concern over how we would handle some of the information and evaluations requested by the Essential Fish Habitat Review Committee (EFHRC) that would require confidential information. Ms. Culver noted that in the 2006 effort, the states used confidential logbook information to ascertain the impact of the proposals on the fishing activities. The reports they provided then protected confidentiality. They could possibly do the same again, but would need to know the questions well in advance and would not be able to provide it by September. She wondered if NMFS had thought about that evaluation piece of this effort.

Mr. Lockhart thought something similar to the 2006 effort could be used here, but not by September. Perhaps the EFHRC would do their review and exclude any items that use confidential data. Then, after the proposals are received, we could work with the states to come up with a process to deliver it to the EFHRC. The EFHRC could report back on that incremental piece of information at the November meeting.

Mr. Wolford asked if the previous analyses using the confidential data had been a big effort.

Ms. Culver responded that it was a moderate level of effort, depending on the number of proposals. Ms. Kirchner noted that they have one staff person to do the Geographic Information System work, and it could be a substantial work load. She couldn't commit to a November deadline. Ms. Grebel also could not commit to the November timing for California.

Mr. Griffin agreed that this was a difficult proposition and might require work to the extent possible by the states and observer program to provide important pieces by November, but would need to continue beyond November as well. The decision in November would just be whether or not to accept the proposal for further analysis.

Ms. Culver stated that they were supportive of EFH and proposals coming forward through the Council process. However, their preference is to do them within the department, and perhaps we could partner with NMFS staff in terms of efficiency. She liked Mr. Griffin's suggestion. If our action in November would just be to decide whether or not to accept the proposal, based on level of completeness relative to the RFP application, the effects on the communities and fisheries would be covered under the subsequent NEPA process. The EFHRC could focus its review for November on that determination.

In response to a question from Mr. Wolford, Mr. Griffin confirmed that the EFHRC might also develop its own proposal, or help coordinate an amalgam of proposals. The Council task in November would not be to select a winning proposal, but to generate information, ideas, and changes that could be implemented pending further consideration and analysis.

Dr. McIsaac noted that, regarding the Synthesis Report, the SSC has not completed its review of the appendices. The Council could still adopt it with the consideration of the SSC completing its review.

Mr. Lockhart moved and Mr. Pollard seconded Motion 11 to direct the NWFSC to finish the Synthesis Report, taking into account the recommendations by the EFHRC in paragraph 1a, b, and c (Page 1 of Agenda Item D.6.c, Supplemental EFHRC Report) and that they consider any advice received from the SSC after their review of the Appendix; and that this Synthesis Report and any future SSC comments be made available on the Council's website.

Mr. Lockhart stated he believes the work of the NWFSC and EFHRC has identified a large volume of new information that is available to us and, most importantly, to the people working on proposals. This effort meets the requirements for the five-year EFH review. We are in a good position to develop proposals and move forward.

Motion 11 carried unanimously.

Mr. Lockhart moved and Mr. Lincoln seconded Motion 12 that the Council adopt the RFP in Agenda Item D.6.a, Attachment 1 (Request for Proposals to Modify Pacific Coast Groundfish EHF, which reflects changes made at the September 2012 Council Meeting); and release the RFP, initiating Phase II of the five-year review process.

Ms. Culver stated that, as it now stands, the EFHRC would not be able to evaluate the effects of proposals on fishing or loss of revenue and suggested that we might need to amend the motion. Mr. Griffin noted that there was language in the RFP that did not require a proposal be disqualified if it did not answer all of the EFHRC's requested information. The Council concurred that no amendment was required.

Motion 12 carried unanimously.

Mr. Lockhart moved and Mr. Lincoln seconded Motion 13 that the Council request the completed Synthesis Report, and any other information, should be made publically available and the RFP issued by May 1, and that all proposals are submitted to the Council by July 31.

Motion 13 carried unanimously.

D.7 Trawl Rationalization Trailing Actions – Electronic Monitoring Regulatory Process (4/9/2013; 1:00 p.m.)

D.7.a Agenda Item Overview

Mr. Jim Seger presented the Agenda Item Overview and Introduced:

- Agenda Item D.7.a, Attachment 1: Terms of Reference for the Pacific Council Workshop on Electronic Monitoring for Vessels participating in the Groundfish Trawl Catch Shares Program.
- Agenda Item D.7.a, Attachment 2: Trawl Rationalization Goals and Objectives and Provisions for Tracking and Monitoring.

D.7.b Electronic Monitoring Workshop Report

Mr. Jim Seger presented Agenda Item D.7.b, EM Workshop Report: Trawl Catch Share Program Electronic Monitoring Workshop Report.

Dr. Michelle McClure provided more information from the NWFSC regarding the Biological Opinion.

D.7.c Pacific States Marine Fisheries Commission Report

Mr. Dave Colpo and Mr. Randy Fisher presented Agenda Item D.7.c, PSMFC Report 1: Electronic Monitoring Program: Review of the 2012 Season and Agenda Item D.7.c, PSMFC Report 2: Electronic Monitoring Program: Plan for the 2013 Season.

D.7.d Reports and Comments of Advisory Bodies and Management Entities

Dr. Selina Heppell presented Agenda Item D.7.d, Supplemental SSC Report.

Mr. Dan Erickson presented Agenda Item D.7.d, Supplemental GMT Report.

Mr. Tommy Ancona presented Agenda Item D.7.d, Supplemental GAP Report.

Mr. Dayna Matthews presented Agenda Item D.7.d, Supplemental EC report.

Mr. Frank Lockhart, NMFS; presented oral comments concerning the process for considering electronic monitoring and considerations for under what conditions we would be comfortable with electronic monitoring versus observers.

Ms. Michele Culver, Washington Department of Fish and Wildlife (WDFW); presented oral information regarding the WDFW perspective on electronic monitoring and the importance of accountability in the fishery and workload issues.

Ms. Joanna Grebel, California Department of Fish and Wildlife (CDFW); presented oral information regarding the CDFW perspective on electronic monitoring.

D.7.e Public Comment

Agenda Item D.7.e, Supplemental Public Comment.

Mr. Brent Paine and Mr. Bob Dooley, United Catcher Boats, Seattle, Washington.

Mr. Seth Atkinson, Natural Resources Defense Council, San Francisco, California.

Mr. Pete Leipzig, Fisherman's Marketing Association, McKinleyville, California.

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

Mr. Steve Bodnar, Coos Bay Trawlers Association, Coos Bay, Oregon.

Mr. Kevin Dunn, Fisherman, Astoria, Oregon.

D.7.f Council Action: Discussion and Guidance on Electronic Monitoring Issues (4/9/2013; 4:14 p.m.)

Ms. Lowman moved and Ms. Kirchner seconded Motion 19 that the Council:

1. Confirm that the primary focus of integration of electronic monitoring (EM) into trawl catch share monitoring is to address compliance monitoring needs.
2. Adopt the regulatory objectives contained in the Agenda Item D.7.b EM Workshop report as modified by the recommendations in the Agenda Item D7.d Supplemental GAP Report.
3. Direct the Council staff to work with Federal and state agencies to develop a white paper that would identify monitoring performance standards and other requirements that EM proposals would have to meet.
4. Develop an initial scoping package that would include the strawman proposals contained in the EM Workshop reports as initial EM alternatives (splitting pot and longline as recommended in the Supplemental GAP Report), as well as an option of electronic monitoring participation agreements, the information resulting from the information requests in the report as available, and an initial list of the issues and tradeoffs that will need to be addressed.

Ms. Lowman stated that our monitoring program needs to be a combination of observers as necessary to meet our stock assessment and other science needs, as well as trying to provide for alternative tools to meet some of the compliance monitoring needs. She thinks we have made a good start with the regulatory objectives that came out of the workshop, as modified by the GAP. She expects this would be refined or added to through a scoping process. There is work to do to understand our standards and monitoring requirements that any proposal would have to address. That is the purpose of the whitepaper in the motion which would come back to the Council for further refinement. The initial scoping package would be developed to include the strawmen that are contained in the workshop reports. The pot and longline fisheries are different enough that it will be helpful to split them into two. We discussed some different ways to have participation

agreements, but the step in item 3 will also provide an opportunity for some other creative ways that might come out of the scoping process. We have a beginning on the list of information requests to include in the scoping. Whatever information is available needs to be part of that scoping package.

Ms. Culver asked who would develop the scoping package—the Council staff with the state and Federal agencies, or just through the normal Council process with the whole Council involved?

Ms. Lowman responded that it would be the Council staff with assistance from the Federal and state agencies, and sent out for people to consider and provide comments.

Ms. Culver moved and Mr. Lincoln seconded Amendment 1 to Motion 19 to delay the development of the initial scoping package until item 3 is completed; and, as part of the scoping package, the strawman proposals could be considered, but there might be things that come out of the whitepaper that we might want to have as a different starting point, rather than those proposals.

Mr. Lockhart presumed the motion meant that scoping activity could continue, but it should be informed by item 3 and not completed until the whitepaper is completed.

Ms. Culver agreed, but noted that we may want to tweak those a bit or have different proposals, depending on what we come up with in the whitepaper. In response to additional questions, Ms. Culver attempted to further clarify her motion. She believes the whitepaper, with our performance standards and some sideboards of what the Council might do, needs to go forward before further scoping and public input. She stated that the scoping session should be delayed until after June. She was not speaking to whether or not the whitepaper is completed for June.

Amendment 1 carried unanimously.

Mr. Lockhart spoke to the meaning of “compliance monitoring needs” in item 1 of the motion. He noted that could be very broadly defined and wondered if there was a need to narrow it down to help guide drafting of the whitepaper.

Ms. Lowman stated that “compliance monitoring needs” are what we need in order to be sure that we have catch accounting, that we can enforce the regulations we create.

Mr. Lockhart spoke to the last part of item 3 regarding standards that EM proposals would have to meet. This seems to be setting up a process in which overall compliance monitoring is the goal, then having monitoring performance standards developed, and then an EM proposal process would be created. Who develops the proposals?

Ms. Lowman suggested that perhaps alternatives could be substituted for proposals.

Regarding item 3, Ms. Grebel wondered how Ms. Lowman saw that playing out with regard to which staff takes the lead, meetings, edits, etc.

Ms. Lowman responded that her thinking was the Council staff would take the lead. They would work informally through email and calls with different groups, but there would not be a workgroup.

Mr. Myer moved and Ms. Culver seconded Amendment 2 to Motion 19 to strike the word “needs” and insert “to achieve individual accountability of catch and bycatch.”

Mr. Myer stated that after the discussion about what compliance monitoring meant, he looked at the trawl rationalization goals and objectives in Attachment 2. The words in the motion come directly from that attachment. Any further clarity would hopefully come out of the whitepaper.

Amendment 2 carried unanimously. Motion 19, as amended, carried unanimously.

Ms. Lowman moved and Ms. Kirchner seconded Motion 20 that the Council:

1. Forward the recommendations from the EM Workshop found on page vi of the Workshop report.
2. Request NMFS and Pacific States Marine Fisheries Commission (PSMFC) work together to determine what should be included in “total catch” for catch accounting purposes and provide this information to the Council as well to assure that consistent definitions are used during the 2013 study.

Ms. Lowman stated that there were some good suggestions from the workshop and it is worth forwarding those. However, as noted by GMT, GAP, and the SSC, we do need to determine what we mean by “total catch” so that it is consistent.

Ms. Culver had concerns about item 2 and thought it should be resolved through the whitepaper.

Ms. Kirchner agreed, but noted that the PSMFC study would be starting soon, prior to the completion of the whitepaper. She did not see this directive as defining what total catch is from here forward through all our processes. Rather, it is direction for the study so that we can compare observer data and EM data that comes from the study.

Dr. Hanson was also uncomfortable with item 2. PSMFC is not a regulatory agency and does not have a role in setting regulations. However, PSMFC can provide expertise on technical matters such as various camera angles and can clarify what can and cannot be seen.

Ms. Lowman said the intent of this is to be consistent with what the observers are doing and accounting as catch is the same as what is counted as catch on the camera. She was open to an amendment for clarity if that would help.

Ms. Culver stated she would be more comfortable if the PSMFC study would be consistent with NMFS’ definition of total catch in the observer program to make comparisons possible.

Ms. Culver moved and Ms. Grebel seconded Amendment 1 to Motion 20 to change item 2 by striking the original language and replacing it with “*PSMFC conform to the NMFS definition of “total catch” for catch accounting purposes in this study.*”

Mr. Lockhart thought it should be clear that this was just for the 2013 study.

Dr. Hanson moved and Mr. Pollard seconded a substitute Amendment (Amendment 2 to Motion 20) that item 2 be changed to read: "Request PSMFC conforms to NMFS definition of "total catch" for catch accounting for purposes of this study to the maximum extent practicable."

Dr. Hanson said he was a little sensitive when the Council directs the states or the Commission to do something. He prefers to use request. PSMFC fully intends to comply.

Ms. Kirchner asked if NMFS does have a definition of catch.

Dr. McClure responded that she is not aware of what the definition is. However, the observer program is exemplary in its defining of protocols and she will check on it and get back to Council staff.

Amendment 2 (Substitute for Amendment 1) passed (Ms. Culver, Mr. Myer, and Mr. Lincoln voted no). Motion 20, as amended, carried unanimously.

Ms. Lowman moved and Ms. Kirchner seconded Motion 21 that the Council:

1. Move forward the process and schedule shown on page vii of the Workshop report recognizing that attainment of the schedule will be dependent on budget and workload considerations with the following changes: have the performance standards whitepaper at the June 2013 meeting; move full scoping to September 2013. Scoping to begin in the summer of 2014; this would push the other items described in the table to the selection of a FPA to November 2015.
2. Request that NMFS NW Region evaluate the implications on staff workload and ability to address other important trailing action needs should an out of cycle "EFP" avenue be explored to begin to allow testing EM usage without an observer prior to completion of the full regulatory package.
3. Explore the relative budget implications and other costs/benefits relative to having a workgroup be appointed with the characteristics described in recommendations of the GAP and the Enforcement Consultants (EC), or to have a subgroup of the GAP be tasked with the responsibilities that would be assigned to the workgroup.

Ms. Lowman stated that regarding the first item, she was aware of the desire to move forward as rapidly as possible. Regarding the second bullet, we heard interest that if the field studies are promising, we might explore using an out of cycle EFP to allow testing prior to completion of the full program. This would depend on the workload created for NMFS and would not want to slow down other important parts of the trailing actions. Regarding item 3, while she is aware of budget issues, she believes it is important to have the right expertise available to ensure timely progress. She wants to make sure that a small part of the GAP could provide the needed expertise.

Ms. Grebel expressed concern with the Council staff's ability to meet the June 2013 deadline for the whitepaper, given the national fisheries conference in Washington, DC, which will be facilitated by the staff in May.

Dr. McIsaac agreed with that concern and asked that the Council discuss the issue further under Agenda Item B.7.

Mr. Crabbe said he believes all the flexibility you need is already available in the motion ("dependent on budget and workload considerations"). It is just sending the message that we would like to move forward as soon as possible.

Ms. Culver stated that the first motion took care of moving forward with the industry as quickly as possible. She believes the performance standards will take longer to develop than the time between now and the June meeting. Also, the process to approve the standards will likely take more than one meeting. She suggests a two-meeting process using the September and November Council meetings. Once we have those performance standards defined and hold discussions with some industry members and stake holders, we could hear from them whether they still support EM as one of their highest priorities, now that they know what performance standards have to be met and how much it might cost, and whether they will be able to see the benefits of cost reduction that they are anticipating. It would be good to get that feedback before we say yes, for sure, we want to go forward with scoping and developing alternatives and following the rest of the process outlined here. I would see the September-November schedule for the whitepaper on the performance standards and move the scoping session on EM to begin either in June or September of 2014.

Ms. Culver moved and Mr. Lockhart seconded Amendment 1 to Motion 21: regarding item 1, strike out *"have the performance standards whitepaper at the June 2013 meeting; move full scoping to Sept 2013"*; replace with *"whitepaper on performance standards considered in draft at the Sept 2013 meeting; finalized at the November 2013 meeting. Scoping to begin in the summer of 2014; this would push the other items described in the table to the selection of a FPA to November 2015."*

Ms. Culver said we've heard the message clearly that this is important for industry and represents a priority for them. However, there are other priority trailing issues waiting to be processed as well. This week we've heard from the GAP on other new priority issues which include the widow quota share allocation and the removal of the Rockfish Conservation Area (RCA) boundaries. She was not sure just where industry would rank the EM program. At the March Council meeting, we had considerable discussion about looking ahead at the 2015-2016 specification cycle and completion of the Amendment 24 Tier 1 EIS. I also think that we need to have some information from field studies or EFPs that help us set priorities about the development of EM alternatives, and for which sectors or which portions of the fishery. We're really not going to have the results of those studies or EFPs until this later time frame. While I think it's good to allow NMFS to allow EFPs to potentially continue as they're developing the full regulatory package, I want some information up front. I believe we're actually getting a request from the industry that they want an exemption to observer coverage. They want an EFP for the entire industry right now to be exempt from observer coverage and to have the flexibility to take either an observer or a camera. I think that before the Council decides we want that to

happen, we need to have some data, some science, some insurance that we're going to be able to achieve this individual accountability of catch and bycatch. Even with my proposed revised schedule, it is still ambitious because there are a lot of issues and nuances that we will need to consider in building this package.

[Council adjourned for the evening at 5:18 p.m. and reconvened on 4/10/2013 at 8:08 a.m.]

Responding to a question of clarification by Mr. Crabbe, Ms. Culver stated that she was trying to put together a realistic schedule that would not give the public a higher expectation of how fast this might be done. However, the motion does not preclude moving faster if that turns out to be possible. She has heard that funds may be available for the Council to hire someone to work on this, which might speed things up.

Mr. Lockhart noted that the normal rulemaking process for developing these kind of equipment-based rules could take two years after the Council decision. Also, no decisions have been made yet on a new person to work on this. However, a request is being worked on and he was unsure of when it would be acted on.

In further discussion concerning the timetable, Mr. Seger indicated that he thought the staff could have a fairly substantial preliminary draft of the whitepaper for the Council to review in June. Other questions were explored with regard to various ways and timing for moving the program forward. Mr. Crabbe thought the amendment gave the message that the Council was not going to move forward as quickly as possible and opposed the amendment. Ms. Lowman also spoke in opposition to the amendment, particularly with regard to scoping not beginning until the summer of 2014.

Mr. Myer moved and Ms. Culver seconded to amend Amendment 1 (Amendment 1a to Motion 21) by striking the last sentence in Amendment 1, which reads as follows: *"Scoping to begin in the summer of 2014; this would push the other items described in the table to the selection of a FPA to November 2015."*

Mr. Myer stated that it seems like the problem with the amendment is just the part about what's going to happen after the November meeting, how we move forward, and that we are not going to move fast enough.

Ms. Culver said the real purpose of the amendment was to make sure we had sufficient time to develop the performance standards, which is captured in the first sentence. In November we can have the discussion of where we go from there. She supports the amendment.

Mr. Lockhart clarified that he did not think approval of the whitepaper had to be more than a one-meeting process, which could occur in September. Further discussion clarified that the result of the motion and amendments would be to have scoping start in September. The whitepaper would be well-developed at that point, but whether or not it was actually adopted would not prevent starting the scoping in September.

Amendment 1a carried unanimously.

Council discussion further clarified that the Council would not have to have the final performance standards before scoping could begin.

Ms. Culver stated that as we set the Council agenda for June and September, we can talk about if we are ready for scoping. Ms. Lowman agreed, but said she also thought we talked about having a check-in in June to see how the whitepaper is progressing and to answer any pertinent questions. We can discuss that further under agenda planning.

Amendment 1 to Motion 21, as amended by Amendment 1a, carried unanimously.

Mr. Lockhart asked for clarity on what people envision could be happening on the water with the observer program in 2014-2015 in regard to item 2 in the motion.

Ms. Lowman replied that the observer program would still be in place as it currently exists with the possible exception of some small test programs, if they could be developed under an out-of-cycle EFP. That EFP would be reviewed by the Council.

Motion 21, as amended, carried unanimously.

Some Council members provided comments on some of their thoughts or concerns about how the program might work out in the long-run, including whether or not it would result in cost savings.

D.8 Consideration of Inseason Adjustments (4/10/2013; 9:24 a.m.)

D.8.a Agenda Item Overview

Ms. Kelly Ames provided the Agenda Item Overview.

D.8.b Reports and Comments of Advisory Bodies and Management Entities

Ms. Michele Culver presented Agenda Item D.8.b, Supplemental WDFW Report.

Mr. Frank Lockhart advised the Council that NMFS will not be implementing the inseason action requested at the April Council meeting to change the trawl RCA in Period 2.

Mr. Dan Erickson presented Agenda Item D.8.b, Supplemental GMT Report.

Mr. Tommy Ancona presented Agenda Item D.8.b, Supplemental GAP Report – as amended to indicate the proposed change in the RCA would provide approximately \$814,000 in increased landing revenue.

D.8.c Public Comment

Mr. Rod Moore, Westcoast Seafood Processors Association, Portland, Oregon.

Mr. Jeff Lackey, F/V Miss Sue, Newport, Oregon.

D.8.d Council Action: Adopt Recommendations for Adjustments to 2013 Groundfish Fisheries

Ms. Culver moved and Mr. Lincoln seconded Motion 22 that the Council adopt the inseason adjustments contained in the WDFW recommendations (Agenda Item D.8.b, Supplemental

WDFW Report, April 2013) which are to adopt Federal regulations that conform with Washington recreational fisheries, specifically:

Between the U.S./Canada border and 48°10' N. latitude (Cape Alava) (Washington Marine Area 4):

1. Adopt a minimum size limit of 18 inches for cabezon and reduce the daily bag limit from two per angler per day to one per angler per day.
2. Reduce the minimum size limit for lingcod from 24 inches to 22 inches.

Ms. Culver stated that the Washington Fish and Wildlife Commission recently took the action proposed in this motion which will go into effect on May 1. By this motion, she is asking NMFS to adopt consistent regulations and to also have the same effective date.

Motion 22 carried unanimously.

Mr. Myer moved and Ms. Kirchner seconded Motion 23 that the Council adopt the GAP recommendation shown in Agenda Item D.8.b, Supplemental GAP Report, April 2013, on page 2. Those recommendations are to make changes to the trawl RCA boundaries north of 40°10' N. lat. to 48°10' N. lat. through the remainder of 2014 beginning in period 6 of 2013. Specifically:

Period	Shoreward	Seaward
2013: Period 6	100 fathoms	150 fathoms
2014: Periods 1-6	100 fathoms	150 fathoms

Mr. Myer stated that his motion was essentially the same motion that was passed at the last Council meeting. It will allow NMFS to move the action through its formal rulemaking procedures with adequate time for public comment and the increased landing revenues are still a significant amount of money for the fleet.

Motion 23 carried unanimously.

E. Salmon Management

E.1 Tentative Adoption of 2013 Ocean Salmon Management Measures for Analysis (4/6/2013; 1:54 p.m.)

E.1.a Agenda Item Overview

Mr. Mike Burner presented the Agenda Item Overview and introduced the following reference materials:

- *Preseason Report II: Proposed Alternatives and Environmental Assessment – Part 2 for 2013 Ocean Salmon Fishery Regulations* (mailed prior to the hearings and available at meetings).
- Agenda Item E.1.a, Attachment 1: Emergency Changes to the Salmon FMP.

- Agenda Item E.1.a, Attachment 2: FR 97-22094: Policy Guidelines for the Use of Emergency Rules.

E.1.b Update on Estimated Impacts of March 2013 Alternatives

Dr. Robert Kope reviewed some updates to the stock impact estimates in Preseason Report II based on recent modeling.

E.1.c Summary of Public Hearings

Mr. Rich Lincoln presented Agenda Item E.1.c, Supplemental Public Hearing Report 1 (Westport).

Mr. Jeff Feldner presented Agenda Item E.1.c, Supplemental Public Hearing Report 2 (Coos Bay).

Mr. David Crabbe presented Agenda Item E.1.c, Supplemental Public Hearing Report 3 (Eureka).

E.1.d Recommendations of the U.S. Section of the Pacific Salmon Commission

Mr. David Bedford updated the Council regarding actions of the U.S. Section of the Pacific Salmon Commission. He stated that the only new information since the March briefing was that the Chinook Technical Committee delivered the abundance indices that will apply to the 2013 season. Dr. Kope has already provided you with the impacts of these changes in his report.

E.1.e Recommendations of the North of Cape Falcon Forum

Mr. Phil Anderson reported that significant progress has been made in the North of Falcon Forum, but some issues remain. He is cautiously optimistic that they will come up with a package that will complement the Council's work by the end of the week. Mr. Steve Williams agreed that they were near concurrence in a plan when they left the last meeting and there is primarily some shaping of the fisheries yet to do.

E.1.f Reports and Comments of Advisory Bodies and Management Entities

Mr. David Sones introduced the tribal spokespersons.

Mr. Mike Orcutt presented Agenda Item E.1.f, Supplemental Hoopa Valley Tribe Report.

Mr. Dave Hillemeier presented Agenda Item E.1.f, Supplemental Yurok Tribal Comments.

Mr. Stuart Ellis, Mr. Herb Jackson, Mr. Wilbur Slockish Jr., Mr. Bruce Jim, and Mr. Chris Williams presented Agenda Item E.1.f, Supplemental CRITFC Tribal Report and the Snake River Fall Chinook PowerPoint.

Mr. Phil Anderson presented information regarding actions in the North of Falcon Forum. He noted that conservation of mid-Hood Canal Chinook (a small stock of about 250 fish) is one of the management objectives adopted by the Council. As of the last impact modeling we were at a 12.3 percent exploitation rate, and we need to get to 12.0 percent. It will be necessary to close a lot of fisheries to reduce the exploitation rate to 12.0 percent, so we are looking at several possibilities, including making some subarea management changes to deal with it. Mr. Anderson also noted other instances where a reduction and equitable sharing of impacts is being worked on, including Thompson Coho, lower Columbia River Tule, and the Chehalis Chinook stock where a Gray's

Harbor Control Zone will be used to limit fisheries when the fish are returning into the river.

Mr. Steve Williams concurred in the need to iron out the complex problems with our partners north of Falcon. To the south he identified comments about caution with the Klamath stock. He expressed his appreciation for the good cooperation among parties working on these contentious issues.

Ms. Yaremko echoed Mr. Williams comments and expressed appreciation for how well the advisory body representatives are working together to resolve any issues.

Mr. Tim Roth complimented the parties for the process this year, especially North of Falcon, considering the number of parties that are working together in managing the fisheries.

Lt. David Anderson presented Agenda Item E.1.f, Supplemental EC Report.

Mr. Butch Smith presented Agenda Item E.1.f, Supplemental SAS Report: Proposed Salmon Management Measures for Tentative Adoption (April 6, 2013). Mr. Jim Olson, Mr. Paul Heikkila, and Mr. Aaron Newman presented the commercial options; Mr. Steve Watrous, Mr. Mike Sorenson, Mr. Richard Heap, and Mr. Marc Gorelnik presented the recreational options.

E.1.g Public Comment

No comment at the meeting. The briefing book contained the following comments.

Agenda Item E.1.g, Public Comment, Letter from Mr. Steve Godin.

Agenda Item E.1.g, Supplemental Public Comment 2.

Agenda Item E.1.g, Supplemental Public Comment 3.

Agenda Item E.1.g, Supplemental Public Comment 4, Email to PFMC from Coastside Fishing Club dated March 21, 2013.

E.1.h Council Action: Adopt Tentative 2013 Ocean Salmon Management Measures for Analysis (4/6/2013; 3:47 p.m.)

Referencing Agenda Item E.1.h, Supplemental Tribal Statement, Mr. Sones moved and Mr. Pollard seconded Motion 3: Adopt for the tentative Treaty Indian ocean troll fishery management and for analysis by the Salmon Technical Team, a Chinook quota of 52,500 and a coho quota of 47,500; the fisheries to consist of a May/June Chinook-only fishery and a July/August/September all species fishery. The Chinook will be split 26,250 in May/June and 26,250 in July-September. Any Chinook remaining from the May/June fishery may be transferred on an impact-neutral basis to the July-September fishery.

Mr. Sones noted that there were still concerns with some of the Chinook and coho numbers which involve inside fisheries, but the coastal tribes are comfortable to move this forward at this time.

Motion 3 carried unanimously.

Mr. Anderson moved and Mr. Lincoln seconded Motion 4 to adopt for STT collation and analysis, the tentative non-Indian commercial and recreational fisheries North of Cape Falcon as presented in Agenda Item E.1.f, Supplemental SAS Report, with the following modifications on Page 7, U.S./Canada border to Queets River: replace May 10-12 with May 11-12; May 17-19 with May 18-19; and June 15-28 with June 22-28.

Mr. Anderson explained that the reason for the change in the season dates was to ensure that the fishery would stay within its 8,000 Chinook quota and not require quota from any other season.

Motion 4 carried unanimously.

Mr. Steve Williams moved and Mr. Feldner seconded Motion 5 to adopt tentative commercial and recreational alternatives for Cape Falcon to the OR/CA border as contained in Agenda Item E.1.f, Supplemental SAS Report, including the appropriate requirements, definitions, restrictions, or exceptions.

Mr. Williams said that they have pared down the options, and this motion will give us the opportunity to see what amount of work remains to achieve the appropriate level of caution.

Motion 5 carried unanimously.

Mr. Williams offered guidance to the STT to model the impacts for Option 1 as found in the footnote on page 10 in Table 7 of Preseason Report 2. Further, he asked for confirmation that work was ongoing regarding the effort to consider alternatives for part d under C.5 in the recreational measures, which concerns determination of significant impacts in inseason transfers. Mr. Turner confirmed that they were still working on how best to include and word this consideration, and it would most likely not be as a regulation.

Ms. Yaremko moved and Mr. Crabbe seconded Motion 6 to adopt tentative commercial and recreational alternatives for the area from the OR/CA border to the U.S./Mexico border as presented in Agenda Item E.1.f, Supplemental SAS Report.

Motion 6 carried unanimously.

Dr. Kope pointed out that the recreational seasons in the San Francisco and Monterey areas in June and July contain five-day openings and two-day closures. He noted that the STT had expressed a concern for these short duration closures that are under time/area management rather than quota management. These short closures may not dampen the effort in proportion to the number of days closed per month, and the modeling likely underestimates the catch.

E.2 Clarify Council Direction on 2013 Management Measures (4/7/2013; 2:50 p.m.)

E.2.a Agenda Item Overview

Mr. Mike Burner presented the Agenda Item Overview.

E.2.b Reports and Comments of Advisory Bodies and Management Entities

Dr. Robert Kope presented Agenda Item E.2.b, Supplemental STT Report: Preliminary Analysis of Tentative 2013 Ocean Salmon Fishery Management Measures.

Mr. Bob Turner presented information relating to Agenda Item E.2.b, Supplemental NMFS Report: Draft Letter regarding the language as shown in Preseason Report II, Table 2, Section c.5.d, Alternative III.

Mr. Butch Smith provided SAS comments regarding the Draft Letter.

E.2.c Public Comment

None.

E.2.d Council Guidance and Direction

[All changes recommended below are in reference to the tentatively-adopted management measures in Agenda Item E.2.b, Supplemental STT Report.]

Mr. Anderson provided information regarding the work occurring in the North of Falcon process and recommended two changes to the management alternatives:

1. On page 1 – change the overall non-Indian total allowable catch (TAC) to 89,000 coho marked with a healed adipose fin clip (marked).
2. On page 7 (to help meet the conservation objective for mid-Hood Canal Chinook) – maintain the current overall non-Indian 88,000 TAC, split 50/50 per sport and commercial fisheries, but add harvest guidelines for the area north of the Queets River. The commercial troll Chinook quota north of the Queets River will be managed using an overall harvest guideline of 14,800 fish. The May/June timeframe will be managed under a harvest guideline of 8,000 fish with the balance used in the later summer timeframe. Any fish remaining in the quota from the May/June fishery would be available to add to the later fishery quota. This approach should result in the same reduction of impacts to mid-Hood Canal Chinook as if we had reduced the quota to 75,000 while resulting in higher commercial and recreational quotas. The salmon framework management plan allows for subarea quotas to protect weak stocks.

Mr. Sones stated the tribes have proposed no changes at this time.

Mr. Williams stated he had only one change for the alternatives which concerns the Lower Columbia natural (LCN) coho and addresses some issues of inside and outside fisheries. He recommended that on page 8, under Cape Falcon to OR/CA border, the language would read “July 1 through earlier of July 31 or a landed catch of 10,500 marked coho.”

Ms. Yaremko provided the following guidance to help reduce the impact rates for the commercial and recreational seasons on the age-4 Klamath and Sacramento River runs and to better align the commercial seasons:

1. Page 3 -
 - a. Horse Mt. to Point Arena (Fort Bragg): change May 14-31 to May 22-31; June 1-8 and 23-30 to June 1-8 and 21-30.
 - b. Pt. Arena to Pigeon Point (San Francisco): change Jun 1-8 and 23-30 to June 1-8 and 21-30.
 - c. Pigeon Point to U.S./Mexico Border (Monterey): change Jun 1-10 and 21-30 to June 1-8 and 21-30.
2. Page 9 - Pigeon Point to U.S./Mexico Border (Monterey): remove the 20 inch size limit after July 31.

Mr. Turner recommended accepting the language under Alternative III on page 10 for describing actions under C.5.d regarding inseason changes in mark-selective fisheries.

E.3 Salmon Amendment 18 – Essential Fish Habitat Revisions (4/8/2013; 2:51 p.m.)

E.3.a Agenda Item Overview

Mr. Kerry Griffin provided the Agenda Item Overview.

E.3.b Reports and Comments of Advisory Bodies and Management Entities

Mr. John Stadler presented Agenda Item E.3.b, NMFS Report: EFH and ESA Section 10 (j) issues; and Agenda Item E.3.b, Supplemental NMFS Report 2: Additional Alternatives for Consideration.

Mr. Joel Kawahara presented Agenda Item E.3.b, Supplemental HC Report.

E.3.c Public Comment

Mr. Paul Alexander, Commercial Troller, Salem, Oregon.

E.3.d Council Action: Further Consideration of Alternatives for Revision of Salmon EFH in Amendment 18

Mr. Griffin clarified that the action before the Council today was to adopt a revised suite of alternatives for review and development of a draft EA. The final preferred alternative would then likely be adopted in September from among the alternatives adopted here.

Mr. Turner moved and Mr. Anderson seconded Motion 14 to adopt the amended suite of alternatives contained in Agenda Item E.3.b, Supplemental NMFS Report 2, including changes as reflected from the September 2012 Council Meeting, and including new alternatives 2A, 2B, and 6E.

Mr. Turner stated that NMFS periodically has a request or an initiative to re-establish a population in an area where it has been extirpated. Typically it is controversial within the community, and one way to reduce the controversy is to re-establish the population without listing it by using the 10j process. The reason for including alternatives 2A, 2B, and 6E is to be consistent with the ESA policy directive by not adding EFH to that area where the experimental population is being established while still allowing recognition of the Council's long-term objective to reconsider the EFH every five years.

Motion 14 carried unanimously.

Ms. Lowman and Mr. Griffin concurred that any action on the future timeline for completing the EFH review process would be handled under the Council meeting planning agenda item.

E.4 Final Action on 2013 Management Measures (4/10/2013; 1:43 p.m.)

E.4.a Agenda Item Overview

Mr. Mike Burner presented the Agenda Item Overview.

E.4.b Reports and Comments of Advisory Bodies and Management Entities

Dr. Robert Kope presented Agenda Item E.4.b, Supplemental STT Report: STT Analysis of Tentative Ocean Salmon Fishery Management Measures.

Mr. Wilbur Slockish, Jr., with Mr. Bruce Jim and Mr. Herb Jackson presented Agenda Item E.4.b, Supplemental CRITFC Tribal Report.

Mr. David Sones presented Agenda Item E.4.b, Supplemental Tribal Report 2.

Mr. Bob Turner presented Agenda Item E.4.b, Supplemental NMFS Report.

E.4.c Public Comment

Mr. Joel Kawahara, Salmon Troller, Quilcene, Washington.

E.4.d Council Action: Adopt Final Management Measures for 2013 Ocean Salmon Fisheries

Mr. Sones moved and Mr. Pollard seconded Motion 25 that the following management structure be adopted by the Council for the 2013 Treaty Indian ocean salmon troll fisheries: The Treaty Indian ocean troll fishery would have a quota of:

- 52,500 Chinook
- 47,500 coho.

The overall Chinook quota would be divided into a 26,250-Chinook sub-quota for the May 1 through June 30 Chinook only fishery and a 26,250-Chinook sub-quota for the all species fishery in the time period of July 1 through September 15. The Treaty troll fishery would close upon the projected attainment of either of the Chinook or coho quota. Any Chinook remaining from the May/June Chinook only fishery may be transferred on an impact neutral basis to the July-September all species fishery. Other applicable regulations are shown in Table 3 of Agenda Item E.4.b, Supplemental STT Report: Analysis of Tentative 2013 Ocean Salmon Fishery Management Measures, April 10, 2013.

Mr. Sones said he believes this motion, which came after much hard work, reflects fair numbers for each of our parties.

Motion 25 carried unanimously.

Mr. Anderson pointed out that on page 12 there were three N/A's referenced by Dr. Kope. The first one was for Skokomish Chinook with a ceiling exploitation rate of 50 percent. Currently we are at a 50.7 percent rate and, as he indicated to Mr. Turner, the co-managers are committed to work to finalize that number below that target. For Puyallup Chinook, we have now achieved the ceiling of 50 percent. For Nisqually Chinook, we are at 55.9 percent rate and have met our conservation objective for that stock. On page 15, Dr. Kope referenced the interior Fraser coho. We have now made the necessary changes to achieve the 10.0 percent conservation goal. Finally, relative to Hood Canal coho, we are now within our conservation objective of 45.0 percent.

Mr. Anderson spoke to the issue raised by Mr. Turner in his letter regarding the exploitation rate on lower Columbia River tules. The analysis is not complete and more work still needs to be done. However, as Mr. Williams and I have discussed, if we take the preseason exploitation rate estimate and look at the component that is in the ocean fisheries, we have been a minimum of a

half-of-a-percent and up to two percent below what we expected. This is because the quotas haven't been attained in the ocean and we can be certain we will be under. In looking for a means to achieve a precautionary approach, we have built in a little buffer to guard against a post season analysis that indicates we have actually been over. He and Mr. Williams have discussed not rolling unused portions of that exploitation rate from the ocean to the in-river fishery. When the ocean season is done, if there is a residual portion of the quota remaining, we would not transfer that to the in-river fishery unless the remaining quota is over two percent.

Mr. Anderson moved and Mr. Williams seconded Motion 26 to adopt the season structures, size limits, quotas and other management measures for the commercial and recreational non-Indian fisheries North of Cape Falcon for submission to the U.S. Secretary of Commerce as shown in Agenda Item E.4.b, Supplemental STT Report, dated April 10, 2013, including the commercial and recreational requirements, definitions, restrictions, or exceptions. With the following modifications:

- Recreational fishery in the Neah Bay/La Push sub region (Page 7) –from the US/Can border to Queets River, change “May 11-12” to “May 10-11”; and change “May 18-19” to “May 17-18.”

Mr. Anderson expressed appreciation for all people involved in the hard work of completing this product.

Mr. Turner moved and Mr. Anderson seconded Amendment 1 to Motion 26 for Agenda Item E.4.b, Supplemental STT Report, April 10, 2013, Table 2, Section C.5.d, second sentence to read: *“To remain consistent with preseason projected impacts of the fishery, any inseason action shall consider, if significant, the differences between observed and preseason forecasted mark rates.”*

Mr. Turner noted that following the Council meeting, his draft letter clarifying “significance” with regard to inseason changes (C.5.d) will be finalized and submitted to the Council.

Amendment 1 carried unanimously. Motion 26, as amended, carried unanimously.

Mr. Williams thanked advisory body members and others for their hard work and cooperative efforts to complete this task. He noted his discussions with Mr. Anderson concerning a buffer for Columbia River tules and Mr. Turner's statements about inseason management and staying within the guidelines to maintain the fishery. He also referred to the importance of cooperation with the Columbia River treaty tribes.

Mr. Williams moved and Mr. Feldner seconded Motion 27 for the Council to adopt the management measures and quotas for the commercial and recreational non-Indian salmon fisheries from Cape Falcon south to the Oregon/California border as shown in Agenda Item E.4.b, Supplemental STT Report: “Analysis of Tentative 2013 Ocean Salmon Fishery Management Measures,” dated April 10, 2013, including the commercial and recreational requirements, definitions, restrictions, or exceptions.

Mr. Williams stated that the management measures proposed for his area met all of the FMP conservation objectives and ESA requirements. The fisheries will provide substantial economic benefits to the recreational and commercial fisheries and the communities they support.

Mr. Turner and others noted that the proposed regulations south of Cape Falcon should also include the amended language for section C.5.d provided in the adoption of proposed regulations north of Cape Falcon.

Mr. Turner moved and Mr. Pollard seconded Amendment 1 to Motion 27 for Agenda Item E.4.b, Supplemental STT Report, April 10, 2013, Table 2, Section C.5.d, second sentence, to read: *“To remain consistent with preseason projected impacts of the fishery, any inseason action shall consider, if significant, the differences between observed and preseason forecasted mark rates.”*

Amendment 1 carried unanimously. Motion 27, as amended, carried unanimously.

Ms. Yaremko moved and Mr. Crabbe seconded Motion 28 to adopt the season structures, size limits, quotas, and other management measures for the commercial and recreational non-Indian fisheries from the OR/CA border to the US/Mexico border for submission to the U.S. Secretary of Commerce as shown in Agenda Item E.4.b, Supplemental STT Report, dated April 10, 2013, including the commercial and recreational requirements, definitions, restrictions, or exceptions, with the following modifications:

- For the commercial fishery in the OR/CA Border to Humboldt South Jetty (California Klamath management zone) Area on page 2, modify the dates of July 1 through earlier of July 31 to July 15 through earlier of July 31.
- Include the following changes in Agenda Item E.4.b, Supplemental STT Report, April 10, 2013, Table 2, Section C.5.d., second sentence to read: To remain consistent with preseason projected impacts of the fishery, any inseason action shall consider, if significant, the differences between observed and preseason forecasted mark rates.

Ms. Yaremko echoed the earlier remarks on the excellent collaboration and communication among the managers, advisors, and the public, especially with regard to sharing Klamath impacts and the need for a precautionary approach to our fall fisheries. She noted that this is also the first time since 1986 that there will be commercial opportunity in the Klamath management zone during the summer months. These are small fisheries and CDFW will be elevating the sampling and enforcement for tracking to ensure that conservation goals are not exceeded. She noted additional opportunity in the Fort Bragg area and in some other areas. With regard to the recreational fisheries, our advisors did work on a suite of seasons to provide significant opportunity in all areas while protecting the winter run.

Motion 28 carried unanimously.

E.5 Methodology Review Process and Preliminary Topic Selection for 2013 (4/10/2013; 3:01 p.m.)

E.5.a Agenda Item Overview

Mr. Mike Burner presented the Agenda Item Overview.

E.5.b Reports and Comments of Advisory Bodies and Management Entities

Mr. Larry LaVoy presented Agenda Item E.5.b, Supplemental MEW Report.
Dr. Robert Kope presented Agenda Item E.5.b, Supplemental STT Report.
Mr. Pete Lawson presented Agenda Item E.5.b, REVISED Supplemental SSC Report.
Mr. Richard Heap presented Agenda Item E.5.b, Supplemental SAS Report.
Mr. David Sones presented Agenda Item E.5.b, Supplemental Tribal Report.

E.5.c Public Comment

None.

E.5.d Council Guidance on Potential Methodologies to Review in 2013

Mr. Williams stated that they would be ready with the necessary information to move ahead with the review for the three topics which involve ODFW (Yaquina River marine survival rate index, lower Columbia River coho matrix control rules, and conservation objectives for southern Oregon coastal Chinook.

Mr. Anderson recommended that in the future the SSC, Model Evaluation Workgroup (MEW), and STT get together and provide one report on methodology review rather than three separate ones to go through and see where the differences are. Also, he needed a clear understanding of which topics listed in April can reasonably be expected to be included as final topics in September for full SSC review in October. He asked Mr. Lavoy if the MEW would be able to handle the items which they were identified for in the SSC report.

Mr. Lavoy said the items on the SSC list were a rewording of the items on the MEW list. He expected the MEW would make progress on all of the items, but would not likely complete preparation on the Chinook Fishery Regulation Assessment Model base period. They should make good progress on the bias in coho mark rates, develop ideas on incorporating recent year data and a new look at the legal/sublegal encounter rate data, and certainly have something on the visual studio manual for September. We would know at the September meeting which items were ready for a progress report, but not a potential change in the model for 2014.

Mr. Anderson stated that for the two items which have a primary WDFW role, we can commit to making progress on that between now and September. However, they may not be ready for SSC review. He thinks they can commit to working with Oregon to have the LCN coho control rule ready for the SSC October review meeting. He recommended that the MEW prioritize the ones they can make progress on and not spread their effort over all of the issues.

Ms. Yaremko asked if NMFS would have staff to do both the forecast methodology task for Sacramento fall Chinook and the task to reevaluate the harvest control rules for winter run.

Mr. Tuner responded that they could commit to the second task, but would need to check further in regard to the first.

Ms. Yaremko commented on the structure of workshops with regard to the winter run and California Coastal Chinook.

Ms. Lowman summarized the guidance to the MEW as focusing on fewer projects to allow completion of the most important ones, rather than spreading themselves too thin by trying to cover all of the topics.

Ms. Yarenko added that we send a request for NMFS to revisit the Sacramento winter run control rule as noted in the SAS report.

Mr. Wolford suggested adding a timeframe to the request of providing a report by the September Council meeting.

E.6 Council Guidance on Columbia Basin Situation Assessment (4/10/2013; 4:01 p.m.)

E.6.a Agenda Item Overview

Mr. Mike Burner presented the Agenda Item Overview and Agenda Item E.6.a, Attachment 1: December 11, 2012 letter from Mr. Barry A. Thom regarding the Columbia Basin Assessment.

E.6.b Reports and Comments of Advisory Bodies and Management Entities

Mr. Barry Thom provided information regarding the Columbia Basin Assessment.

Ms. Irene Martin presented Agenda Item E.6.b, Supplemental SAS Report.

Agenda Item E.6.b, Supplemental HC Report.

E.6.c Public Comment

None.

E.6.d Council Guidance and Discussion

Mr. Williams suggested that as the Executive Director prepare for his interview concerning the Columbia Basin Assessment, he take into consideration the SAS and HC Reports. In particular, there is good information in the SAS report, especially for the predation issues.

Mr. Roth stated that the two committees who have submitted responses provide good information to draw on. He also noted that the Columbia River Treaty renegotiation may play an important role in the long-term management of flow and spill.

Mr. Anderson stated that when you get the results of the assessment, it is most important what you do with it. Coordinating actions toward a common goal are extremely important. If the assessment will help guide that common effort, then the assessment could be beneficial.

Mr. Williams commented on the issue of adequate funding and prioritization of projects that will be a challenge to make any results useful.

Dr. McIsaac stated he will do his best toward forwarding the input of the Council to the assessment.

F. Habitat

F.1 Current Habitat Issues (4/7/2013; 3:41 p.m.)

F.1.a Agenda Item Overview

Ms. Jennifer Gilden presented the Agenda Item Overview and introduced Agenda Item F.1.a, Attachment 1: Council Letter to the Department of the Interior (Klamath River).

F.1.b Report of the Habitat Committee

Mr. Joel Kawahara presented Agenda Item F.1.b, Supplemental HC Report.

F.1.c Reports and Comments of Advisory Bodies and Management Entities

Ms. Irene Martin and Mr. Dave Hillemeier presented Agenda Item F.1.c, Supplemental SAS Report and Agenda Item F.1.c, Supplemental SAS Report 2.

Mr. Hillemeier presented tribal comments from the Yurok Tribe for the supplemental flows for the Klamath River.

Mr. George Kautsky presented tribal comments from the Hoopa Tribe for the supplemental flows for the Klamath River.

F.1.d Public Comments

None.

F.1.e Council Action: Consider Habitat Committee Recommendations

Ms. Yaremko moved and Mr. Brizendine seconded Motion 9 to adopt the letter in Agenda Item F.1.a Attachment 1: Council Letter to the Department of the Interior; and direct Council staff to adjust the language to a more “positive tone.”

Ms. Yaremko stated that the letter sends an important message to the Bureau of Reclamation (BOR) to release water to prevent a fish kill. In it, she would like to formally recognize the actions the BOR took last year to provide flows at a crucial time to prevent a fish kill. We have heard from the HC and others that the flow forecast for the coming year is considerably less optimistic than in 2012, and this letter could be more important than last year. As noted by the HC, the forecast return for Klamath would be the second largest on record and near the record high of 2012. In addition, the age-4 year class could be even greater than the previous year. She also supported the need to recommend a permanent and comprehensive flow plan and thanked the HC and others for their thorough and in-depth discussion of these issues.

Mr. Williams clarified that Ms. Yaremko’s motion would include the correction in the HC Report (39,000 acre-feet versus 48,000 acre-feet) and expressed his support for the letter.

Mr. Roth expressed his support for the letter and agreed on the positive tone suggested by Ms. Yaremko and in maintaining cooperation with the BOR.

Motion 9 carried unanimously.

Mr. Williams spoke in support of the opportunity and recommendation by the HC to draft a Council letter to the Northwest Power Planning Council recommending potential amendments to their fish and wildlife program for consideration at the June Council meeting. He noted that there is a great deal of sensitivity around the issues involved in such a letter, but thought it was worth considering.

Mr. Ortmann recognized the sensitivity with regards to the spill issues that Mr. Williams was alluding to and believes that a letter could be drafted that would be acceptable to most parties.

Mr. Roth noted that the amendment process for the fish and wildlife program would only just be beginning by the July deadline. The process would go on for some time and require coordination with future Council meetings. He supported having the HC attempt to draft an initial letter for the June Briefing Book. Mr. Anderson requested that if a letter is drafted, that it be available at least two weeks in advance of the meeting so he could be sure to coordinate with his Power Council members.

Ms. Lowman concluded it was Council consensus to have the HC draft the letter for June and asked if there was further guidance for the HC.

Mr. Ortmann asked that the draft not go beyond the information concerning spill levels (i.e., not include ocean research and ecosystem matters) and appreciates the sensitivity to have an advance review of the letter.

Mr. Williams responded with concern that there were other issues that would be appropriate beyond the flow issues and would like to have a broader view of the draft.

Mr. Lincoln noted that while Mr. Ortmann requested limiting the letter and avoiding marine research, he thought the Council should be able to include other issues raised by the advisory bodies. Mr. Ortmann did not disagree.

[Council concluded this agenda item at 4:36 p.m. and went into Closed Executive Session to complete the day.]

Closed Executive Session

This session is closed to all except Council members, their designees, and other designated by the Council Chair to discuss litigation and personnel matters.

G. Pacific Halibut Management

G.1 Final Incidental Catch Recommendations for Salmon Troll and Fixed Gear Sablefish Fisheries (4/8/2013; 3:22 p.m.)

G.1.a Agenda Item Overview

Ms. Kelly Ames provided the Agenda Item Overview.

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

Mr. Tommy Ancona presented Agenda Item G.1.b, Supplemental GAP Report.
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Mr. Paul Heikkila, Mr. Jim Olson and Mr. Aaron Newman presented Agenda Item G.1.b, Supplemental SAS Report.

G.1.c Public Comment

Mr. Joel Kawahara, Salmon Troller, Quilcene, Washington.

Agenda Item G.1.c, Public Comment.

Agenda Item G.1.c, Supplemental Public Comment 2.

G.1.d Council Action: Adopt Final Incidental Catch Recommendations for 2013 and April 2014

Mr. Williams moved and Mr. Anderson seconded Motion 15 to adopt the recommendations of the SAS contained in Agenda Item G.1.b, Supplemental SAS Report dated April 2013, as the final incidental halibut landing restriction recommendations for the 2013 commercial salmon troll fisheries.

Mr. Williams stated that last year, with what would now be the status quo landing limit, we exceeded our allowable catch. This slightly more conservative approach in the motion for 2013 should keep us within our allocation and also, possibly, tends to spread that catch out north to south. Given the discussion this week and unanimous support of the SAS and states, there appears to be good reason for supporting this decision.

Mr. Anderson spoke in support of the motion, but noted it was a difficult negotiation. If you stand in the Washington trollers' shoes, the landing limit from 1999 through 2011 was 35 fish and now under this motion it is 15 fish—a big drop. He expressed appreciation for the willingness of the Washington trollers to look at this change. He noted we will have some landing restrictions north of the Queets River on the Chinook allocation that will have a negative effect on the incidental catch of halibut and the change from one halibut per three, instead of four Chinook, will help with that. He is also mindful that we are adding a month of retention to the south of Falcon area (April 2014) which is another reason for a lower landing limit.

Pertaining to the Washington Trollers Association recommendation for an allocation of 1,500 lbs for the incidental fishery in April 2014, Ms. Yaremko asked when would it be the appropriate time to make that determination.

Ms. Ames responded that it would be appropriate now.

Mr. Anderson stated his understanding that the action today would apply to the period of May 1, 2013-April 2014. If, during the International Pacific Halibut Commission determination in January, the quota went down significantly, then in March 2014 we could entertain changing our decision today relative to April 2014 regulations, but, absent a significant change in the quota, this decision would carry us through April 2014.

In response to a question from Ms. Yaremko, the Council had a discussion to further clarify its halibut management.

Mr. Anderson moved and Mr. Feldner seconded an amendment to Motion 15 to strike “2013” and insert “beginning May 1, 2013 through April 30, 2014.”

Amendment 1 carried unanimously. Motion 15, as amended, carried unanimously.

Mr. Anderson moved and Mr. Williams seconded Motion 16 to adopt Option 1 in Agenda Item G.1, Situation Summary, as final recommendations for 2013 landing limits for halibut harvest in the fixed gear primary sablefish fishery north of Pt. Chehalis. It reads: Beginning May 1, restrict incidental halibut possession and landings to 75 lbs (dressed weight) of halibut for every 1,000 lbs (dressed weight) of sablefish landed and up to two additional halibut may be possessed or landed in excess of the 75 lbs per 1,000 lb ratio per landing.

Mr. Anderson stated that this year they have an allocation of 21,410 pounds, which is very similar to last year when they only landed 4,400 pounds. There were some licensing problems last year which should be resolved, and this motion represents only a modest increase of incidental harvest limitations. We will be monitoring the incidental halibut harvest and if there is a need for a closure, we are prepared to notify NMFS and to enact state regulations to that effect.

Motion 16 carried unanimously.

Mr. Anderson moved and Mr. Williams seconded Motion 17 that the Council adopt April 1, 2014 to be the season start date for the incidental retention of halibut in the primary sablefish fishery north of Pt. Chehalis.

Mr. Anderson stated that there are sablefish fisheries that occur in the month of April and based on the conservative ratios set in the previous motion, it should allow incidental retention during the sablefish fishery north of Pt. Chehalis.

Motion 17 carried unanimously.

H. Ecosystem Based Management

H.1 Final Fishery Ecosystem Plan (4/9/2013; 8:05 a.m.)

H.1.a Agenda Item Overview

Mr. Mike Burner Presented the Agenda Item Overview and introduced:

- Agenda Item H.1.a, Attachment 1: Public Review Draft Pacific Coast Fishery Ecosystem Plan for the U.S. Portion of the California Current Large Marine Ecosystem.
- Agenda Item H.1.a, Attachment 2: Public Review Draft Ecosystem Initiatives Appendix to the Pacific Coast Ecosystem Plan.

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

Mr. Kurt Hughes presented Agenda Item H.1.b, Supplemental HMSMT Report.

Ms. Lorna Wargo presented Agenda Item H.1.b, CPSMT Report.

Dr. Selina Heppell presented Agenda Item H.1.b, Supplemental SSC Report.

Mr. Paul Dye presented Agenda Item H.1.b, Supplemental EAS Report.

Mr. Corey Niles presented Agenda Item H.1.b, Supplemental GMT Report.

Mr. Joel Kawahara presented Agenda Item H.1.b, Habitat Committee Report.

Ms. Yvonne deReynier answered questions concerning proposed edits to the language in the Advisory Body reports.

H.1.c Public Comment (4/9/2013; 8:52 a.m.)

Mr. Steve Marx, PEW Charitable Trusts, Portland Oregon.
Ms. Andrea Treece, Earthjustice, San Francisco, California.
Mr. Tom Calvanese, Port Orford, Oregon.
Mr. Lyf Gildersleeve, Flying Fish Company, Portland, Oregon.
Mr. Greg Helms, Ocean Conservancy, Santa Barbara, California.
Mr. Jay Withcott, textbook author, Portland, Oregon—read Agenda Item H.1.c, Supplemental Public Comment 5.
Mr. Dave Lacey, South Coast Tours, Gold Beach, Oregon.
Ms. Anna Weinstein, National Audubon Society, Emeryville, California.
Mr. Paul Engelmeyer, Audubon Society of Portland, Yachats, Oregon.
Mr. Seth Atkinson, Natural Resources Defense Council, San Francisco, California.
Ms. Diane Pleschner-Steele, California Wetfish Producers Association, Bullard, California.
Ms. Tara Gallagher, Portland, Oregon—presented Agenda Item H.1.c, Supplemental Public Comment 6: Letter from Prof. Scott Baker.
Mr. Norman Ritchie, Association of Northwest Steelheaders, Portland, Oregon.
Ms. Pamela Gromen, Wild Oceans, Leesburg, Virginia.
Mr. Mike Okoniewski, Pacific Seafood Group, Portland, Oregon.
Mr. Ben Enticknap, Oceana, Portland, Oregon.
Mr. Mark Sherwood, Native Fish Society, Oregon City, Oregon—presented Agenda Item H.1.c, Supplemental Public Comment 3: Letter from Native Fish Society.
Mr. Kevin Scribner, Kooskooskie Fish, Portland, Oregon.
Agenda Item H.1.c, Public Comment.
Agenda Item H.1.c, Supplemental Public Comment 2.
Agenda Item H.1.c, Supplemental Public comment 4: Letter from Mid-Coast Watershed Council.

H.1.d Council Action: Adopt Final Pacific Coast Fishery Ecosystem Plan (4/9/2013; 10:56 a.m.)

Mr. Roth made some opening comments concerning his agency's and the HC's strong support for the Fishery Ecosystem Plan. This plan will help us maintain a healthy ecosystem well into the future.

Ms. Culver moved and Ms. Kirchner seconded Motion 18, as provided in Agenda Item H.1.d, Supplemental WDFW Motion, which directs the Council to:

1. Adopt the final Pacific Coast Fishery Ecosystem Plan, including the process described in Section 1.3, except that the Council would consider Ecosystem matters during its March meeting and provide flexibility to the Ecosystem Plan Development Team to consider and incorporate edits to the Plan as suggested by the Ecosystem Advisory Subpanel (pages 3-5), HMS Management Team, and CPS Management Team for chapters 3, 4 and 6 (pages 1-2).

2. Adopt the final Ecosystem Initiatives Appendix, and periodically revisit the Ecosystem Initiatives to revise, add to, or prioritize the list of initiatives in odd years, beginning with 2015.
3. Review and consider the List of Fisheries separately from the ecosystem Initiatives.
4. Move forward with Initiative 1, and form an ad hoc committee comprised of one representative from each of the following entities: NMFS Northwest Region; NMFS Southwest Region; coastal treaty tribes; states of California, Oregon, Washington, and Idaho. Representatives for this ad hoc committee could be forwarded to the Council Chair for appointment consideration.
5. Working from the flow chart on Figure A.1 on page A-8 and Table A.2 on page A-10 of the Ecosystem Initiatives Appendix, the charge of the ad hoc committee would be to use this preliminary summary of select lower trophic level species in the CCE as an initial starting point to address the first four questions, and the following:
 - a. Build on the assessment, started by the Ecosystem Plan Development Team (EPDT), of the likelihood of fisheries developing to harvest those unmanaged species on the preliminary list—for example, consider whether these species are harvested elsewhere or whether markets exist for them; and
 - b. Brainstorm on whether there are general gear restrictions or prohibitions that could be used to restrict harvest of these unmanaged species; and
 - c. Develop recommendations for a proposed Council process for moving forward with Initiative 1 and identify next steps
 - d. Ad hoc committee would report back to the Council later this year with a more definitive timeline to be discussed under future Council agenda planning and workload (Agenda Item B.7)
6. As the Council moves forward with development and consideration of Amendment 24 to the Groundfish FMP, request the SSC Ecosystem Subcommittee consider how we might build upon this effort to move forward on Initiative 9 as another Council priority.

Ms. Culver commended the EPDT, Ecosystem Advisory Subpanel (EAS), other advisory bodies, and public who reviewed the Fishery Ecosystem Plan (FEP) and worked to make this an informative, useful, and quality product for the Council. She looks forward to the annual report and the integrated ecosystem assessment and believes we have a great starting point for a living document for all the FMPs. She noted that the List of Fisheries is a good first step (currently scheduled in June) and that the states need to work on that with NMFS. She stated that Initiative 1 is important and rises to the top of the priorities, but also sees all nine initiatives as useful. She expressed concern about the Council workload and the need to look realistically at how to accomplish Initiative 1 and the other priorities. That is why she proposed an ad-hoc committee be formed to consider the workload and priorities for the initiatives. She believes Initiative 9 will be very important for groundfish management and Amendment 24.

Mr. Lockhart asked why the ad hoc committee did not include any scientific staff.

Ms. Culver responded that her decision was based on the limited Council budget and keeping the core group small. They could build on the considerable work done by the EPDT. However, that is not to preclude NMFS from providing additional persons with scientific expertise if they would wish to attend the meetings.

Mr. Lockhart asked if the intention of the motion would be to dissolve the EPDT?

Ms. Culver responded that was her intention, as she thought that was the course of action followed with most of our FMPs. The Council would need to have a discussion regarding what advisory bodies we need in the future and consider the budget implications.

Mr. Burner noted that the Council's June motion from last year assigned some work for the EPDT to report on later this year. He presumed that the Council would still want the EPDT to complete those reports, at least for the June meeting. He also noted it would likely be difficult to assemble the ad hoc committee prior to the next Council meeting and suggested that it might be most expeditious to form the ad hoc group no earlier than the June Council meeting.

Ms. Culver responded that the intent of item 4 in her motion would be for the agencies to forward the names of proposed committee members to the Council Chair and he could confirm the appointments without the need to do it at a Council meeting. The intent of item 5d is that the Council would discuss and determine, under agenda planning (B.7), the best time for the ad hoc committee to begin work and report to the Council.

Dr. McIsaac stated that he did not think the ad hoc committee could commence work prior to the June meeting, given the limited time to the June briefing book deadline, staff workload, and the national conference we are hosting in May.

Ms. Culver responded to some clarifying questions on the motion by Mr. Bonham. She stated that she made specific reference to Section 1.3 so that everyone was aware they were adopting the schedule put forth by Ms. deReynier with the annual review at the March meeting. Regarding the plan reviews, the annual review in March would be for the FEP while the review in odd years would be for the initiatives appendix.

With regard to the List of Fisheries that would be brought up in June, Mr. Wolford wondered if that would include the issue about saury and if the list would be permissive or prohibitive under item 3.

Ms. Culver responded that the motion was not intended to prescribe or limit discussion in June regarding the List of Fisheries. Agenda Item B.7 would be the time to determine the actual agenda.

In summarizing, Dr. McIsaac noted the previous evolution of plan development teams to management teams and stated that he presumed the motion would not dissolve the EPDT or EAS, that the EPDT would make its reports to the Council in June, and finality on the budget issues and ad hoc committee could be discussed under B.7.

Mr. Bonham expressed support for the action, but also concern about the workload that this new plan will create and recommended the Council focus on the ability to achieve great things, but in a strategic way.

Mr. Lincoln noted the comments in the public testimony for developing specific indicators for long-term forage fish assessment and he wondered if that could simply be handled by science center input.

Mr. Lockhart responded that he would pass on those comments to the science centers and report back at a future council meeting.

Motion 18 carried unanimously.

Coastal Pelagic Species Management

I.1 Sardine Harvest Parameters Workshop Report (4/10/2013; 10:01 a.m.)

I.1.a Agenda Item Overview

Mr. Kerry Griffin provided the Agenda Item Overview and outlined Agenda Item I.1.a, Attachment 1: Terms of Reference.

I.1.b Report overview and Description

Dr. Andre Punt presented:

- Agenda Item I.1.b, Attachment 1: Report of the Pacific Sardine Harvest Parameters Workshop, February 2013.
- Agenda Item I.1.b, Attachment 2: Initial Analyses Related to Evaluating Parameter Value Choices for Pacific Sardine.
- Agenda Item I.1.b, Attachment 3: Table 4.2.5-1 from CPS FMP Control Rule Options.
- Agenda Item I.1.b, Supplemental Attachment 4: Initial Analysis Related to Evaluating Parameter Value Choices for Pacific Sardine Additional Sensitivity Analyses.

I.1.c Reports and Comments of Advisory Bodies and Management Entities

Dr. Selina Heppell presented Agenda Item I.1.c, Supplemental SSC Report.

Ms. Lorna Wargo presented Agenda Item I.1.c, Supplemental CPSMT Report.

Mr. Mike Okoniewski presented Agenda Item I.1.c, Supplemental CPSAS Report.

I.1.d Public Comment

Mr. Mike Okoniewski, Pacific Seafood Group, Portland Oregon.

Mr. Steve Marx, PEW Charitable Trusts, Portland, Oregon.

Ms. Diane Pleschner-Steele, California Wetfish Producers Association, Bullard, California.

Mr. Geoff Shester, Oceana, San Francisco, California.

Agenda Item I.1.d, Supplemental Public Comment letter from Ryan Kapp.

Agenda Item I.1.d, Supplemental Public Comment 2 Comments by Richard Parrish.

**I.1.e Council Action: Consider Changes to Sardine Harvest Control Rule Parameters
(4/10/2013; 1:20 p.m.)**

Mr. Crabbe moved and Mr. Brizendine seconded Motion 24 that the Council adopt recommendations for further model runs and additional analyses as practicable, including those listed in the Agenda Item I.1.c, Supplemental CPSMT Report, and the additional recommended analyses in the Supplemental CPSAS Report I.1.c with a priority regarding the Temperature-Recruitment Index, with the goal of providing a report in June.

Mr. Crabbe stated that there has been a lot of good work done, but there is still a ways to go. His motion is intended to capture the outcomes of the workshop and the questions from the advisory bodies that will bring back the additional needed information, focused on the Temperature Recruitment Index. In June we can evaluate where we are with the new data.

Mr. Williams wondered if Mr. Crabbe would expand on what he meant by “additional analyses as practicable.”

Mr. Crabbe stated that for the two advisory bodies that commented, there was a broad list of requests and recommendations. Dr. Punt indicated that most of them were doable. He would leave it up to Dr. Punt as to what was doable in a short period of time and to omit those which were not, while making sure to focus on the Temperature Recruitment Index. Dr. Punt and his student would deliver the report to the Council.

Dr. McIsaac noted from the CPSMT report that the Management Strategy Evaluation isn’t listed as a task for immediate assignment. Would there be further information on the modeling progress in the fall or would that be in limbo for an undefined time?

Mr. Crabbe responded that he would expect further information in the fall and intends to solicit additional guidance on those other issues after this motion is voted on.

Motion 24 carried unanimously.

Mr. Crabbe provided some additional proposed guidance on screen for the Council to consider as follows:

- Regarding the Distribution parameter, there is no new information that warrants a change from the current value of 87 percent. Suggest that the CPSMT continues to monitor research and any new information that may be worth investigating in the future.
- Regarding the Management Strategy Evaluation, the Workshop and advisory bodies agreed that the ecosystem models currently available are not sufficiently developed to base a management strategy evaluation on.
- Endorse the SSC’s recommendation to use a sardine biomass estimate representing the start of the fishing season for setting harvest specifications.

Mr. Williams asked if information (e.g., sea surface temperatures) was brought back to the Council in June, could it be used in preparations for the 2014 harvest season.

Mr. Griffin said that there was uncertainty as to what the analysis and report from the workshop would provide, but there was discussion over whether or not the Temperature Recruitment Index could be ready before the 2014 fishing season. His answer was “maybe.” We would need to hear the report in June and discuss it with General Counsel and NMFS SWR to determine the process at that time. In June we would have a better idea whether that would be doable.

Ms. Culver expressed uncertainty about how the third item (endorse SSC’s recommendation regarding the biomass estimate at the start of the season) comes into play, given we will discuss changing the starting date of the season on tomorrow’s agenda. She recommended not providing that guidance today and wait until after the discussion tomorrow. Mr. Crabbe agreed and the Council concurred on removing that as guidance.

Mr. Williams stated that he would like to use the information to guide the season as soon as possible, depending on the results in June.

Regarding the close correlation of sea surface temperature to sardine recruitment, Ms. Culver thought it would be helpful if the SSC were to look at the results of the additional model runs that look at Scripps, using a three-year average, as well as looking at CalCOFI data, and the three-year average versus an annual number. The purpose would be to get some sense of how much better one is than the other.

Ms. Yaremko expressed appreciation for having scientists from previous analyses working on this effort and Dr .Punt’s offer to put it in a user friendly format. She is encouraged by the comments of the CPSAS on issues that can’t be tackled on this go-around, such as the distribution term and the question of two stocks, which will likely be picked up on the next effort. She liked the flexibility of this motion and looks forward to hearing more in June.

Mr. Helvey noted that there may be further issues to resolve in using this new information that can be discussed in June.

I.2 Shifting Sardine Harvest Start Date (4/11/2013; 11:15 a.m.)

I.2.a Agenda Item Overview

Mr. Kerry Griffin presented the Agenda Item Overview.

I.2.b Reports and Comments of Advisory Bodies and Management Entities

Ms. Lorna Wargo and Mr. Mike Okoniewski answered questions regarding Agenda Item I.2.b, CPSMT/CPSAS Report.

Ms. Lorna Wargo presented Agenda Item I.2.b, Supplemental CPSMT Report.

Mr. Mike Okoniewski presented Agenda Item I.2.b, Supplemental CPSAS Report.

Dr. Selina Heppell presented Agenda Item I.2.b, Supplemental SSC Report.

I.2.c Public Comment

Mr. Whit Sheard, Oceana, Portland, Oregon.

Ms. Diane Pleschner-Steele, California Wetfish Producers Association, Bullard, California.

I.2.d Council Action: Consider Initiating Process to Shift the Start of the Sardine Fishery

Mr. Williams moved and Ms. Culver seconded Motion 32 for the Council to initiate the process to shift the start of the sardine fishery from January 1 to July 1, as recommended by the CPSMT (Agenda Item I.2.b, Supplemental CPSMT Report), the CPSAS (Agenda Item I.2.b, Supplemental CPSAS Report), and the SSC (Agenda Item I.2.b, Supplemental SSC Report) with final action in June 2013. Direct the CPSMT to report at the June 2013 Council meeting with a proposed implementation process and schedule, and identify remaining considerations or issues.

Mr. Williams stated, regarding the process, that we have nearly full concurrence in support of this change. The biggest thing in support of this change is the potential improvement in science issues that we have addressed. Under the current start date, there were problems in getting the data analyzed for the NW Aerial Sardine Survey and the NOAA acoustic trawl to use for the stock assessment. Moving the start to July will alleviate this problem. There may be other efficiencies that come up as this moves forward, such as combining the mackerel and sardine Stock Assessment Review Panels.

Mr. Helvey asked, if we move this forward will this fit under the March Council meeting?

Dr. McIsaac replied yes, it shouldn't be a constraint. It would mean the stock assessment would have to be done sometime in January or December. He presumed all of these considerations could be presented for your decision in June.

Ms. Yaremko noted that moving the start date will provide the added benefit of being able to use the full stock assessment for the 2014-2015 season. This makes her feel good about the change. One downside which makes her have some hesitation pertains to that period of January 1-June 30 of 2014 and using the update that includes only catch data. While the team and CPSAS contemplated this, we will be using an update assessment that will use even less data than we are used to. She would ask that the team, subpanel, or Stock Assessment Team identify additional concerns with management during this six month period that they be presented in the June meeting report. Also, regarding timing, in the table they are looking at April and it may be necessary to look at March instead. The team should fully vet that issue.

Motion 32 carried unanimously.

Regarding the recommendation to use a sardine biomass estimate representing the start of the fishing season for setting harvest specifications as discussed yesterday, Mr. Crabbe provided the following guidance: The Council endorses the recommendation to use a sardine biomass estimate representing the start of the fishing season for setting harvest specifications. The Council concurred that this was additional guidance under Agenda Item I.1.

J. Enforcement Issues

J.1. Regulations for Vessel Monitoring Systems (VMS) Declarations (4/11/2013; 10:26 a.m.)

J.1.a Agenda Item Overview

Mr. Jim Seger provided the Agenda Item Overview and introduced:

- Agenda Item J.1.a, Attachment 1: Vessel Monitoring Program: Revisions of the Enhanced Mobile Transmitter Unit (E-MTU) Reimbursement Program.
- Agenda Item J.1.a, Attachment 2: Vessel Monitoring System (VMS) Situation and Possible Solutions.
- Agenda Item J.1.a, Attachment 3: NMFS HMS Report for the March 2013 Council Meeting – Excerpt.

Mr. Dayna Mathews provided clarifying remarks regarding Attachment 3.

J.1.b Reports and Comments of Advisory Bodies and Management Entities

Mr. Mark Helvey provided information regarding the Tuna Vessels VMS regulations.

Mr. Dayna Matthews presented Agenda Item J.1.b, Supplemental EC Report.

Ms. Susan Chambers presented Agenda Item J.1.b, Supplemental GAP and SAS Report.

J.1.c Public Comment

None.

J.1.d Council Action: Consider Policy Process for Advancing VMS Declaration Regulations and Select Alternatives, as Appropriate

Mr. Williams moved and Ms. Culver seconded Motion 31 that the Council accepts the recommendations contained in the Supplemental EC report.

Mr. Seger stated that based on the proposed action, the staff would flesh out the EC option for the groundfish FMP for final Council action. Mr. Williams agreed.

Ms. Culver moved and Ms. Lowman seconded Amendment 1 to Motion 31 to ask that the EC also explore and discuss whether additional declarations for other fisheries need to be added to the list and bring their recommendations to the June Council meeting.

Amendment 1 to Motion 31 carried unanimously.

Motion 31, as amended, carried unanimously.

In response to a question by Mr. Helvey, there was concurrence that the VMS HMS discussion would be appropriate under B.7 and for placement on the June agenda.

ADJOURN

The Council adjourned on April 11 at 2:18 p.m.

Dorothy Lowman
Council Chair

Date

DRAFT VOTING LOG
Pacific Fishery Management Council
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Motion 1: Approve the Agenda as shown in Agenda Item A.4, Proposed Council Meeting Agenda, April 2013.

Moved by: Dale Myer Seconded by: Dave Ortmann
Motion 1 carried unanimously.

Motion 2: Formally confirm the Council decisions made as preliminary selections at the March 2013 Council meeting as contained in Agenda item B.1.a, Attachment 1 and Agenda Item B.1.a, Attachment 2.

Moved by: Dorothy Lowman Seconded by: Phil Anderson
Motion 2 carried, Frank Lockhart abstained.

Motion 3: Adopt for the tentative Treaty Indian ocean troll fishery management and for analysis by the Salmon Technical Team, a Chinook quota of 52,500 and a coho quota of 47,500; the fisheries to consist of a May/June Chinook-only fishery and a July/August/September all species fishery. The Chinook will be split 26,250 in May/June and 26,250 in July-September. Any Chinook remaining from the May/June fishery may be transferred on an impact-neutral basis to the July-September fishery.

Moved by: David Sones Seconded by: Herb Pollard
Motion 3 carried unanimously.

Motion 4: Adopt for STT collation and analysis, the tentative non-Indian commercial and recreational fisheries North of Cape Falcon as presented in Agenda Item E.1.f, Supplemental SAS Report, with the following modifications on Page 7, U.S.-Canada border to Queets River: replace May 10-12 with May 11-12; May 17-19 with May 18-19; and June 15-28 with June 22-28.

Moved by: Phil Anderson Seconded by: Rich Lincoln
Motion 4 carried unanimously.

Motion 5: Adopt the tentative commercial and recreational alternatives for Cape Falcon to the OR/CA border contained in Agenda Item E.1.f, Supplemental SAS Report, including the appropriate requirements, definitions, restrictions, or exceptions.

Moved by: Steve Williams Seconded by: Jeff Feldner
Motion 5 carried unanimously.

Motion 6: Adopt tentative commercial and recreational alternatives for the area from the OR/CA border to the U.S./Mexico border as presented in Agenda Item E.1.f, Supplemental SAS Report.

Moved by: Marci Yaremko Seconded by: David Crabbe
Motion 6 carried unanimously.

Motion 7: Council moves forward with:

- the consideration of restructuring of the stock complex assemblages and to provide additional analysis in June to consider of a preliminary preferred alternative at that time
 - In June, see the bar graphs for OFL component contribution compared to recent levels of removals
 - Include options for how to manage species that are removed from complexes
- In addition approve the GMT recommendations of items 1-4 on page 6 of Agenda Item D.3.b, Supplemental GMT report which retains the range of alternatives found in Agenda Item D.3.a, Attachment 1.
- Task the Council Staff to evaluate a June/September and June/September/November process.
- Prioritize the other Fish and Slope rockfish complexes as a top priority, and other stock complexes as a lower priority
- Include anticipated costs compared with status quo. Group alternatives of high priority together in cost analysis.
- Include incorporating concepts in GMT statement pages 3 & 4 (Agenda Item D.3.b, Supplemental GMT Report); background goals and purpose & need.
- Request the SSC discuss priorities for improvements in data quality; relative to sampling data
- Add the GAP Alternative for Nearshore rockfish.
- Explore the use of WCGOP and NMFS Trawl survey to evaluate catch ratios.

Moved by: Michele Culver Seconded by: Rich Lincoln
Motion 7 carried unanimously.

Motion 8: Adopt the recommendations for set-asides of 2,500 mt to accommodate for Pacific whiting mortality in research and pink shrimp fisheries; as shown in Agenda Item D.4.c, Supplemental GMT Report.

Moved by: Gway Kirchner Seconded by: Jeff Feldner
Motion 8 carried unanimously.

Motion 9: Adopt the letter in Agenda Item F.1.a Attachment 1: Council Letter to the Department of the Interior; and direct Council staff to adjust the language to a more “positive tone.”

Moved by: Marci Yaremko
Motion 9 carried unanimously.

Seconded by: Buzz Brizendine

Motion 10: Approve the revised discard mortality rates for cowcod, canary, and yelloweye rockfish as shown in Agenda Item D.5.b, Supplemental GMT Report, Table 7 on Page 14 with the 90 percent confidence interval as shown in that table; except for the depth bin for “greater than 50 fathoms,” change to “50-100 fathoms” and include an additional depth bin of greater than 100 fathoms and assign a mortality rate of 100 percent.

Moved by: Michele Culver

Seconded by: Rich Lincoln

Amndmnt 1: Strike the following wording in the motion: “Except for the depth bin for greater than 50 fathoms, change to 50-100 fathoms and include an additional depth bin of greater than 100 fathoms and assign a mortality rate of 100 percent.”

Moved By: Dan Wolford

Seconded by: Buzz Brizendine

Amendment 1 failed (Ms. Kirchner, Mr. Myer, Ms. Culver, Mr. Feldner, Mr. Sones, Mr. Ortmann, Mr. Lincoln, and Mr. Lockhart voted no).

Amndmnt 2: Replace 90 percent in the 50 fathom depth bin with a 75 percent confidence interval.

Moved By: Dan Wolford

Seconded by: David Crabbe

Amendment 2 failed (Mr. Ortmann, Mr. Lockhart, Ms. Culver, Ms. Kirchner, Mr. Lincoln, Mr. Feldner, Mr. Myer, and Mr. Sones voted no).

Motion 10 carried unanimously.

Motion 11: Council to direct NMFS NWFSC to finish the Synthesis Report, taking into account the recommendation by the EFHRC in paragraph 1a, b, and c (Page 1 of Agenda Item D.6.c, Supplemental EFHRC Report) and consider any advice received from the SSC after their review of the Appendix. This Synthesis Report and future SSC comments will be made available on the Council’s website.

Moved by: Frank Lockhart

Seconded by: Herb Pollard

Motion 11 carried unanimously.

Motion 12: Adopt the RFP in Agenda Item D.6.a, Attachment 1 (Request for Proposals to Modify Pacific Coast Groundfish EHF reflecting changes made at the 9/2012 PFMC Meeting 9/25/2012); and release the RFP initiating Phase II of the five-year review process.

Moved by: Frank Lockhart

Seconded by: Rich Lincoln

Motion 12 carried unanimously.

Motion 13: Council request that the completed Synthesis Report, and any other information, should be made publically available and the RFP issued by May 1, and that all proposals are submitted to the Council by July 31.

Moved by: Frank Lockhart Seconded by: Rich Lincoln
Motion 13 carried unanimously.

Motion 14: Adopt the amended suite of alternatives contained in Agenda Item E.3.b, Supplemental NMFS Report 2, including changes as reflected from the September 2012 Council Meeting, and including new alternatives 2A, 2B, and 6E.

Moved by: Bob Turner Seconded by: Phil Anderson
Motion 14 carried unanimously.

Motion 15: Adopt the recommendations of the SAS contained in Agenda Item G.1.b, Supplemental SAS Report dated April 2013, as the final incidental halibut landing restriction recommendations for the 2013 commercial salmon troll fisheries.

Moved by: Steve Williams Seconded by: Phil Anderson

Amndmnt 1: Strike “2013” and insert “beginning May 1, 2013 through April 30, 2014.”

Moved By: Phil Anderson Seconded by: Jeff Feldner
Amendment 1 carried unanimously. Motion 15, as amended, carried unanimously.

Motion 16: Adopt Option 1 in Agenda Item G.1, Situation Summary, as final recommendations for 2013 landing limits on halibut harvest in the fixed gear primary sablefish fishery north of Pt. Chehalis which reads: Beginning May 1, restrict incidental halibut possession and landings to 75 lbs (dressed weight) of halibut for every 1,000 lbs (dressed weight) of sablefish landed and up to two additional halibut may be possessed or landed in excess of the 75 lbs per 1,000 lb ratio per landing.

Moved by: Phil Anderson Seconded by: Steve Williams
Motion 16 carried unanimously.

Motion 17: Adopts April 1, 2014 to be the season start date for the incidental retention of halibut in the primary sablefish fishery north of Pt. Chehalis.

Moved by: Phil Anderson Seconded by: Steve Williams
Motion 17 carried unanimously.

Motion 18: Council to:
1. Adopt the final Pacific Coast Fishery Ecosystem Plan, including the process described in Section 1.3, except that the Council would consider Ecosystem matters during its March meeting and provide flexibility to the Ecosystem Plan

Development Team to consider and incorporate edits to the Plan as suggested by the Ecosystem Advisory Subpanel (pages 3-5), HMS Management Team, and CPS Management Team for chapters 3, 4, and 6 (pages 1-2).

2. Adopt the final Ecosystem Initiatives Appendix, and periodically revisit the Ecosystem Initiatives to revise, add to, or prioritize the list of initiatives in odd years, beginning with 2015.
3. Review and consider the List of Fisheries separately from the ecosystem Initiatives.
4. Move forward with Initiative 1, and form an ad hoc committee comprised of one representative from each of the following entities: NMFS Northwest Region; NMFS Southwest Region; coastal treaty tribes; states of California, Oregon, Washington, and Idaho. Representatives for this ad hoc committee could be forwarded to the Council Chair for appointment consideration.
5. Working from the flow chart on Figure A.1 on page A-8 and Table A.2 on page A-10 of the Ecosystem Initiatives Appendix, the charge of the ad hoc committee would be to use this preliminary summary of select lower trophic level species in the CCE as an initial starting point to address the first four questions, and the following:
 - a. Build on the assessment, started by the EPDT, of the likelihood of fisheries developing to harvest those unmanaged species on the preliminary list—for example, consider whether these species are harvested elsewhere or whether markets exist for them; and
 - b. Brainstorm on whether there are general gear restrictions or prohibitions that could be used to restrict harvest of these unmanaged species; and
 - c. Develop recommendations for a proposed Council process for moving forward with Initiative 1 and identify next steps
 - d. Ad hoc committee would report back to the Council later this year with a more definitive timeline to be discussed under future Council agenda planning and workload (Agenda Item B.7)
6. As the Council moves forward with development and consideration of Amendment 24 to the Groundfish FMP, request the SSC Ecosystem Subcommittee consider how we might build upon this effort to move forward on Initiative 9 as another Council priority.

Moved by: Michele Culver
Motion 18 carried unanimously.

Seconded by: Gway Kirchner

Motion 19: Council to:

1. Confirm that the primary focus of integration of EM into trawl catch share monitoring is to address compliance monitoring needs.

2. Adopt the regulatory objectives contained in the Agenda Item D.7.b EM Workshop report as modified by the recommendations in the Agenda Item D.7.d Supplemental GAP Report.

3. Direct the Council staff to work with federal and state agencies to develop a white paper that would identify monitoring performance standards and other requirements that EM proposals would have to meet.

4. Develop an initial scoping package that would include the strawman proposals contained in the EM Workshop reports as initial EM alternatives (splitting pot and longline as recommended in the Supplemental GAP Report), as well as an option of electronic monitoring participation agreements, the information resulting from the information requests in the report as available, and an initial list of the issues and tradeoffs that will need to be addressed.

Moved by: Dorothy Lowman Seconded by: Gway Kirchner

Amndmnt 1: Delay the development of the initial scoping package until item 3 is completed; and, as part of the scoping package, the strawman proposals could be considered, but there might be things that come out of the whitepaper that could be different than those proposals.

Moved By: Michele Culver Seconded by: Rich Lincoln
Amendment 1 carried unanimously.

Amndmnt 2: Strike the word “needs” and insert “to achieve individual accountably of catch and bycatch.”

Moved By: Dale Myer Seconded by: Michele Culver
Amendment 2 carried unanimously. Motion 19, as amended, carried unanimously.

Motion 20: Council to:

1. Forward the recommendations from the EM Workshop found on page vi of the Workshop report.
2. Request NMFS and PSMFC work together to determine what should be included in “total catch” for catch accounting purposes and provide this information to the Council as well to assure that consistent definitions are used during the 2013 study.

Moved by: Dorothy Lowman Seconded by: Gway Kirchner

Amndmnt 1: Change item 2 by striking the original language and replace it with “PSMFC conform to the NFMS definition of “total catch” for catch accounting purposes in this study.”

Moved By: Michele Culver
Amendment 1 was not voted on.

Seconded by: Joanna Grebel

Amndmnt 2: As a substitute to Amendment 1: for item two: *“Request PSMFC conform to NMFS definition of “total catch” for catch accounting for purposes of this study to the maximum extent practicable.”*

Moved By: Dave Hanson
Amendment 2 carried (Ms. Culver, Mr. Myer, and Mr. Lincoln voted no).
Motion 20, as amended, carried unanimously.

Seconded by: Herb Pollard

Motion 21: Council:

1. Move forward the process and schedule shown on page vii of the Workshop Report, recognizing that attainment of the schedule will be dependent on budget and workload considerations with the following changes: have the performance standards WP at the June 2013 meeting; move full scoping to September 2013. Scoping to begin in the summer of 2014; this would push the other items described in the table to the selection of a FPA to November 2015.

2. Request that NMFS NW Region evaluate the implications on staff workload and ability to address other important trailing action needs should an out of cycle “EFP” avenue be explored to begin to allow testing EM usage without an observer prior to completion of the full regulatory package.

3. Explore the relative budget implications and other costs/benefits relative to having a workgroup be appointed with the characteristics described in recommendations of the GAP and the EC, or to have a subgroup of the GAP be tasked with the responsibilities that would be assigned to the workgroup.

Moved by: Dorothy Lowman

Seconded by: Gway Kirchner

Amndmnt 1: Under item 1, strike out *“have the performance standards WP at the June 2013 meeting; move full scoping to Sept 2013.”* Replace with *“whitepaper on performance standards considered in draft at the Sept 2013 meeting; finalized at November 2013 meeting. Scoping to begin in the summer of 2014; this would push the other items described in the table to the selection of a FPA to November 2015.”*

Moved By: Michele Culver

Seconded by: Frank Lockhart

Amdmnt 1a: To strike *“Scoping to begin in the summer of 2014; this would push the other items described in the table to the selection of a FPA to Nov 2015.”*

Moved By: Dale Myer
Amendment 1a carried unanimously. Amendment 1, as amended, carried unanimously. Motion 21, as amended, carried unanimously.

Seconded by: Michele Culver

Motion 22: Adopt the inseason adjustments in the recommendations of WDFW (Agenda Item D.8.b, Supplemental WDFW Report, April 2013). Those recommendations are to adopt Federal regulations that conform with Washington recreational fisheries, specifically:

Between the U.S./Canada border and 48°10' N. lat. (Cape Alava) (Washington Marine Area 4):

1. Adopt a minimum size of 18 inches for cabezon and reduce the daily bag limit from two per angler per day to one per angler per day.
2. Reduce the minimum size limit for lingcod from 24 inches to 22 inches.

Moved By: Michele Culver

Seconded by: Rich Lincoln

Motion 22 carried unanimously.

Motion 23: Adopt the GAP recommendation shown in Agenda Item D.8.b, Supplemental GAP Report, April 2013, page 2. Those recommendations are to make changes to the trawl RCA boundaries north of 40°10' N. lat. to 48°10' N. lat. through the remainder of 2014 beginning in Period 6 of 2013. Specifically:

Period	Shoreward	Seaward
2013: Period 6	100 fathoms	150 fathoms
2014: Periods 1-6	100 fathoms	150 fathoms

Moved By: Dale Myer

Seconded by: Gway Kirchner

Motion 23 carried unanimously.

Motion 24: Adopt recommendations for further model runs and additional analyses as practicable, including those listed in the Supplemental CPSMT Report I.1.c, and the additional recommended analyses in the Supplemental CPSAS Report I.1.c with a priority regarding the Temperature-Recruitment Index, with the goal of providing a report in June.

Moved by: David Crabbe

Seconded by: Buzz Brizendine

Motion 24 carried unanimously.

Motion 25: Adopt the following 2013 management structure for the Treaty Indian ocean salmon troll fisheries: The Treaty Indian ocean troll fishery would have a quota of:

- 52,500 Chinook
- 47,500 coho.

The overall chinook quota would be divided into a 26,250-Chinook sub-quota for the May 1 through June 30 Chinook only fishery and a 26,250-Chinook sub-quota

for the all species fishery in the time period of July 1 through September 15. The Treaty troll fishery would close upon the projected attainment of either of the Chinook or coho quota. Any Chinook remaining from the May/June Chinook only fishery may be transferred on an impact neutral basis to the July-September all species fishery. Other applicable regulations are shown in Table 3 of Agenda Item E.4.b, Supplemental STT Report: Analysis of Tentative 2013 Ocean Salmon Fishery Management Measures. April 10, 2013.

Moved by: David Sones Seconded by: Herb Pollard
Motion 25 carried unanimously.

Motion 26: Adopt the season structures, size limits, quotas and other management measures for the commercial and recreational non-Indian fisheries North of Cape Falcon for submission to the U.S. Secretary of Commerce as shown in Agenda Item E.4.b, Supplemental STT Report, dated April 10, 2013, including the commercial and recreational requirements, definitions, restrictions, or exceptions. With the following modifications:

- Recreational fishery in the Neah Bay/La Push sub region – (Page 7) from the US/Can border to Queets River change “May 11-12” to “May 10-11”; and change “May 18-19” to “May 17-18.”

Moved by: Phil Anderson Seconded by: Steve Williams

Amndmnt 1: Add the following language: In Agenda Item E.4.b, Supplemental STT Report, April 10, 2013, Table 2, Section C.5.d., second sentence to read: *“To remain consistent with preseason projected impacts of the fishery, any inseason action shall consider, if significant, the differences between observed and preseason forecasted mark rates.”*

Moved By: Bob Turner Seconded by: Phil Anderson
Amendment 1 carried unanimously. Motion 26, as amended, carried unanimously.

Motion 27: Adopt the management measures and quotas for the commercial and recreational non-Indian salmon fisheries from Cape Falcon south to the Oregon/California border as shown in Agenda Item E.4.b, Supplemental STT Report: “Analysis of Tentative 2013 Ocean Salmon Fishery Management Measures,” dated April 10, 2013, including the commercial and recreational requirements, definitions, restrictions, or exceptions.

Moved by: Steve Williams Seconded by: Jeff Feldner

Amndmnt 1: Agenda Item E.4.b, Supplemental STT Report, April 10, 2013, Table 2, Section C.5.d, second sentence, to read: *“To remain consistent with preseason projected impacts of the fishery, any inseason action shall consider, if significant, the differences between observed and preseason forecasted mark rates.”*

Moved By: Bob Turner Seconded by: Herb Pollard
Amendment 1 carried unanimously. Motion 27, as amended, carried unanimously

Motion 28: Adopt the season structures, size limits, quotas, and other management measures for the commercial and recreational non-Indian fisheries from the OR/CA border to the US/Mexico border for submission to the U.S. Secretary of Commerce as shown in Agenda Item E.4.b, Supplemental STT Report, dated April 10, 2013, including the commercial and recreational requirements, definitions, restrictions, or exceptions, with the following modifications:

- For the commercial fishery in the OR/CA Border to Humboldt South Jetty (California KMZ) Area on page 2, modify the dates of July 1 through earlier of July 31 to July 15 through earlier of July 31.
- Include the following changes in Agenda Item E.4.b, Supplemental STT Report, April 10, 2013, Table 2, Section C.5.d., second sentence to read: To remain consistent with preseason projected impacts of the fishery, any inseason action shall consider, if significant, the differences between observed and preseason forecasted mark rates.

Moved by: Marci Yaremko Seconded by: David Crabbe
Motion 28 carried unanimously.

Motion 29: Include consideration of the following comments on the reauthorization of the Magnuson Stevens Act, National Standards, and Regulations at the Managing our Nations Fisheries Conference 3 [the actual text for each bullet referred to in the motion has been added for ease of understanding]:

- Agenda Item B.4.c, Supplemental SSC Report – Bullets numbered 2, 5 and 8:
 - § The rule that defines the maximum time for overfished stocks to rebuild, T_{MAX} , is discontinuous at 10 years. It should be replaced by a rule that is not discontinuous, such as “ T_{MAX} is the larger of 10 years or the sum of T_{MIN} and one mean generation time.”
 - § “Overfished” and “overfishing” are currently defined as the same in the Act. The definitions of these terms should be changed to reflect actual practice when applying status determination criteria. “Overfished” is related to population size relative to the Minimum Stock Size Threshold (MSST) and “overfishing” is related to exploitation rates relative to the Maximum Fishing Mortality Threshold.
 - § The term “overfished” gives the impression that a stock is below the MSST because of excessive fishing. This is often not the case, so the term “overfished” should be replaced by one such as “depleted.”
- Agenda Item B.4.c, Supplemental GMT Report, All of the items on the first page and the first item on page 2 without the last bullet:
 - § The integration of MSA and National Environmental Policy Act (NEPA) that Congress mandated in the last reauthorization of the statute still has not been implemented. And there currently appear to be some redundancies that remain between Council processes under MSA and NEPA. In short, NEPA and the MSA could likely be better-integrated—in

terms of process and environmental analysis—without reducing the quality of either. In addition, there are strong connections between the environmental questions NEPA raises and the analytical methods being advanced under ecosystem based fisheries management, as we have been raising under the Council’s consideration of Amendment 24 and ecosystem related agenda items (Agenda Item H.1.c, Supplemental GMT Report). Recognizing those connections and better integrating NEPA with MSA-focused analysis could be a way for Congress to support continued progress toward ecosystem based fisheries management and align staff and scientific resources with the highest conservation needs. The perception of many seems to be the opposite--i.e. that proposed changes to NEPA are necessarily motivated by a desire to pay less attention of environmental impacts and conservation.

§ We also think that Congress could learn from our west coast examples of rebuilding. Congress added the rebuilding provisions to the law in 1996 with certain policy goals in mind. Feedback from the Council’s experience could help Congress’ deliberations on whether those goals are being met. The results we have seen could be counter to expectations. For instance, with petrale sole the rebuilding projections showed the most long-term yield was expected by rebuilding using the standard F_{MSY} harvest rate, which was the slowest rebuilding alternative considered by the Council. This was counter to expectations and the widely held assumption that rebuilding “as short as possible” produces the most yield and economic benefit overall. In short, we believe Congress could change the law with a standard that more directly focuses on balancing the trade- off between short term economic consequences and long term yield and other impacts to the fishery and ecosystem without imposing overly formulaic constraints on the Councils.

§ Carryover in the Individual Fishing Quota (IFQ) program is another area where questions about interpretations of the MSA have arisen. Consideration of carryover has been focused on the risk that issuing carryover might lead to an annual catch limit (ACL) overage despite everyone agreeing that such an overage would not raise a biological concern. More generally, this interpretation is one where we have questioned the emphasis of annual catch over the expected outcome over a multi-year period.

· Agenda Item B.4.c, Supplemental GAP Report, on Page 1, the 1, 2, & 5 bullet, and the last bullet on Page 2:

§ Flexible Annual Catch Limits (ACL) management. The GAP is concerned that current ACL management is too stringent to accomplish the intent of optimum yield (OY) management. There is too much precaution in deciding the ACL specification. ACLs should be managed to better meet the goal of OY attainment, the socioeconomic objectives of the MSA, and to minimize fishery instability. The concept of long term averaging or multi-year ACLs will better enable implementation of the carry-over provisions in the fishery management plan (FMP). This conceptual change will have no biological consequence to our long-lived groundfish stocks.

- § Eliminate the 10-year rebuilding rule and provide more consideration of community needs for stocks that must be rebuilt in a longer time period. The 10-year rule, where stock rebuilding must occur within 10 years if possible, leads to an awkward and discontinuous policy that disrupts fisheries for little conservation gain. For example, if a stock can rebuild in 9.9 years but at a cost of closing all fisheries, this becomes a mandate even if the economic disruption is greatly lessened with an 11-year rebuilding plan. This is illogical and potentially disastrous for fishing-dependent communities.
- § Streamline the National Environmental Policy Act (NEPA) and MSA processes. While the 2006 reauthorization of the MSA seemingly made streamlining the NEPA and MSA processes a mandate, NMFS has not addressed this. We still have an inefficient process where there are two administrative tracks to satisfy NEPA and MSA process mandates. This unnecessarily delays implementation of regulations and ties up NMFS and Council resources that could be used to make progress on other important initiatives. Specifically, it makes sense to use the regional fishery management council process, which is designed to engage the public before decisions are made, as a substitute to the notice and comment rulemaking required in the NEPA process. This would not compromise the quality of analysis required by NEPA. Council decisions are widely noticed to the public to solicit maximum input before decisions are made.
- § Maintain the positive aspects of the MSA. The GAP believes there are many mandates and aspects of the MSA that should not be changed. Decisions on allocation and on how to rationalize fisheries should continue to be made at the regional level and not be subject to top-down mandates. Catch share programs and formal allocations provide stability in fisheries management. National initiatives to sunset catch share programs or formal allocations are bad ideas. The aspects of the MSA establishing regional control in decision-making work very well and allow tailoring of fisheries management according to regional needs. Changing this aspect of the MSA will compromise the positive foundation of the MSA and will lead to disastrous consequences.
- Agenda Item B.4.c, Supplemental CPSAS Report:
 - § Members of the Coastal Pelagic Species Advisory Subpanel (CPSAS) discussed priorities for consideration in Magnuson Act (MSA) reauthorization discussions. Any changes to existing MSA mandates should be accompanied by full analysis of what appropriate funding levels need to be to carry out the intention of such mandates. These should include but not be limited to adequate research funding, for NOAA Fisheries-sponsored as well as cooperative research. In addition, regional fishery management council operations must be funded at appropriate levels to achieve the directives and objectives of the re-authorized MSA. We also emphasize the need to develop more collaborative research opportunities and collaborative management.
- Agenda Item B.4.c, Supplemental HC Report: approve both, but in the second bullet replace “needs” with “should be”

- § Develop a new term, other than “overfishing,” for when a run is depressed for reasons not related to fishing; and for the “overfishing” reports required when a stock is “overfished” for three years in a row.
- § The HC agrees with National Oceanic and Atmospheric Administration Assistant Administrator Sam Rauch, in his comments to the House Committee on Natural Resources, that ecosystem, habitat, and climate change ~~needs~~ should be incorporated into stock assessments and management decisions.]

Moved by: Michele Culver Seconded by: Rich Lincoln

Amndmnt 1: Add bullet 3 from the GAP Report to the list as shown on Page 1: Clarify rebuilding policy. There is an unwritten NMFS policy that once a rebuilding plan is adopted, it must be maintained until the biomass target is reached, even in the case when a new assessment representing the best available science indicates the stock was never overfished, or the stock is in the precautionary zone and subject to the harvest control rules in the FMP (e.g., the 40-10 rule). Changes in rebuilding rules could also clarify this policy.

Moved By: Steve Williams Seconded by: Jeff Feldner
Amendment 1 carried (Ms. Culver, Mr. Lincoln and Mr. Ortmann voted no).

Amndmnt 2: Add to the list of recommendations, the seventh bullet in Agenda Item B.4.d, Supplemental SSC report: The term “Ecosystem Component” should be defined more clearly.

Moved By: Marci Yaremko Seconded by: Buzz Brizendine
Amendment 2 carried (Mr. Ortmann, Ms. Lowman, Mr. Lincoln, Mr. Myer, and Ms. Culver voted no).

Amndmnt 3: to strike “*NS, and regs.*” from the original motion.

Moved By: Rich Lincoln Seconded by: Dave Ortmann
Amendment 3 carried unanimously. Motion 29, as amended, carried unanimously.

Motion 30: Adopt Agenda Item B.4.b, Supplemental Legislative Committee Report, and strike “*Forage Fish*” from the header and replace with “*List of Fisheries.*”

Moved by: Ms. Yaremko Seconded by: David Crabbe

Amndmnt 1: strike “*Adopt*” and replace with “*accept.*”

Moved By: Rich Lincoln Seconded by: Michele Culver
Amendment 1 carried unanimously. Motion 30, as amended, carried unanimously.

Motion 31: Council accepts the recommendations contained in Agenda Item J.1.b, Supplemental EC Report.

Moved by: Steve Williams Seconded by: Michele Culver

Amndmnt 1: The EC also explore and discuss whether additional declarations for other fisheries need to be added to the list and bring their recommendations at the June Council meeting.

Moved By: Michele Culver Seconded by: Dorothy Lowman
Amendment 1 carried unanimously. Motion 31, as amended, carried unanimously.

Motion 32: Council to initiate the process to shift the start of the sardine fishery from January 1 to July 1 as recommended by the CPSMT (Agenda Item I.2.b, Supplemental CPSMT Report); the CPSAS (Agenda Item I.2.b, Supplemental CPSAS Report); and the SSC (Agenda Item I.2.b, Supplemental SSC Report) with final action in June 2013. Direct the CPSMT to report at the June 2013 Council meeting with a proposed implementation process and schedule, and identify remaining considerations or issues.

Moved by: Steve Williams Seconded by: Michele Culver
Motion 32 carried unanimously.

Motion 33: Approve as final, Agenda Item B.5.a, Attachment 1: Draft Minutes 216th Session of the Pacific Fishery Management Council (November 2012).

Moved by: Dave Ortmann Seconded by: Herb Pollard

Motion 33 carried unanimously.

Motion 34: Appoint Dr. Tim Sippel to National Marine Fisheries Service Southwest Fisheries Science Center Seat on the Highly Migratory Species Management Team, replacing Dr. Suzanne Kohin, and to appoint Dr. Ian Taylor to the National Marine Fisheries Service Northwest Fisheries Science Center Seat on the Groundfish Management Team replacing Dr. Jason Kope.

Moved by Mark Helvey Seconded by: David Sones
Motion 34 carried unanimously.

FISCAL MATTERS

The Council's Budget Committee will meet on Wednesday, September 11, 2013, at 12:00 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 Monday, September 16.

Council Action:

Consider the report and recommendations of the Budget Committee.

Reference Materials:

1. Agenda Item H.3.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

Chuck Tracy
Dave Ortmann

PFMC
08/20/13

BUDGET COMMITTEE REPORT

The Budget Committee (BC) met on Wednesday, September 11, 2013 and received the Executive Director's Budget Report. The report covered: (1) a review of the calendar year (CY) 2012 audit report; (2) an update on the current funding and CY 2013 operating budget status through August 31, 2013; and (3) expectations for future funding. The BC attendance was as follows:

Members Present: Mr. Dave Ortmann, Chairman; Dr. Dave Hanson, Ms. Dorothy Lowman, Mr. Dale Myer, and Mr. Dan Wolford

Absent: Ms. Michele Culver, Mr. Mark Helvey, Mr. Frank Lockhart,

Non-members Present: Mr. Kevin Duffy, Ms. Marci Yaremko, Ms. Patricia Crouse, Dr. Donald McIsaac, Mr. Herb Pollard, Mr. Pete Hassemer, Mr. Chuck Tracy

CY 2012 Audit Report

Dr. McIsaac provided a brief overview of the audit report for CY 2012. The auditor's findings after review of the Council's financial statements were an unmodified approval with no reportable conditions or material weaknesses, which is the most favorable finding the auditors can report.

Additional CY 2013 Funding

Dr. McIsaac updated the BC on new funding received by the Council since the June BC meeting. He reported that the remainder of the anticipated line-item base funding had been received from NMFS and incorporated into the operating budget. He noted receipt of an additional \$50,000 from NMFS Headquarters to support review of the sablefish permit stacking program. He also noted that \$165,000 would be provided by NMFS Headquarters to support trawl rationalization trailing actions in 2014.

CY 2013 Operating Budget and Status of Expenditures

Overall expenditure of the CY 2013 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.

Preliminary Expectations for Future Funding

Dr. McIsaac reported that there is significant uncertainty about the RFMC funding level for 2014 and beyond, and uncertainty about when we will actually know the funding level. While it is likely that future budgets will be decreasing, it is too early for any meaningful speculation about 2014 funding for regional councils. Dr. McIsaac did note that 2013 funding was about 10 percent below the 2012 funding level. Council staff will provide budget alternatives for 2014 at the November BC meeting, taking into account various funding scenarios.

Budget Committee Recommendation

The BC had no recommendations, but did commend Council staff for the unqualified positive results of the annual audit.

PFMC

09/16/13

MEMBERSHIP APPOINTMENTS AND COUNCIL OPERATING PROCEDURES

During this agenda item, the Council has the opportunity to consider Administrative appointment issues with regard to changes in the Council Membership Roster, including Council Members and advisory body membership, as well as changes to Council Operating Procedures (COPs).

Council Members and Designees

Effective June 28, 2013, RADM Richard Gromlich has replaced RADM Keith Taylor, and will be the Coast Guard's new Council member. The two designees for RADM Gromlich are LCDR Gregg Casad and Mr. Brian Corrigan (Closed Session A.1.a, Attachment 5).

Council Member Appointments to Other Forums

The Council appointment to the Joint Management Committee for Pacific Whiting expires October 31, 2013. Mr. Phil Anderson is the current Council representative and is eligible for another two-year appointment. The Council should consider submitting a recommendation for the next appointment cycle to NMFS (Closed Session A.1.a, Attachment 18).

The Council should consider the status of the Western and Central Pacific Fisheries Commission seat currently held by Ms. Vojkovich. The seat is a presidential appointment, and until Ms. Vojkovich resigns or loses the appointment, she is eligible to fill the seat; however, given that Ms. Vojkovich is no longer a Council member designee, the Council may want to consider recommending a replacement.

Council Member Standing Committee Appointments

There are other seats on Council committees filled by Ms. Vojkovich that the Council may want to consider replacing, including the Groundfish Allocation Committee and the ad-hoc Cost Recovery Committee.

Council Advisory Body Appointments

Advisory Subpanels

No new resignations, nominations, or other changes were identified by the Briefing Book deadline.

Enforcement Consultants (EC)

Mr. Michael Carion, has nominated Captain Robert Puccinelli to fill the vacancy left by Assistant Chief Bob Farrell in the California Department of Fish and Wildlife seat on the EC (Closed Session A.1.a, Attachment 1).

Commander D.K. Bateman, has nominated Lieutenant Cody Dunagan to replace Lieutenant Comander Brad Soule in the U.S. Coast Guard seat on the EC (Closed Session A.1.a, Attachment 6).

Habitat Committee (HC)

Mr. Phil Anderson has nominated Ms. Jennifer Quan to replace Mr. Dave Price in the Washington Department of Fish and Wildlife seat on the HC (Closed Session A.1.a, Attachment 2).

The Northwest/Columbia River Tribal seat remains vacant.

Scientific and Statistical Committee (SSC)

Dr. Andrew Cooper has nominated himself for the vacant at-large seat, formerly held by Dr. Selina Heppell (Closed Session A.1.a, Attachment 3).

Ms. Diane Pleschner-Steele, California Wetfish Producers Association, has nominated Dr. Brian Wells for the vacant at-large seat, formerly held by Dr. Selina Heppell (Closed Session A.1.a, Attachment 4).

Dr. Ramon Conser has nominated himself for the vacant at-large seat, formerly held by Dr. Selina Heppell (Closed Session A.1.a, Attachment 11).

The NMFS Southwest Fisheries Science Center seat formerly occupied by Dr. Ramon Conser remains vacant.

Salmon Technical Team (STT)

Mr. Keith Lutz has announced his retirement from the Northwest Indian Fisheries Commission and subsequent resignation from the STT effective September 1, 2013.

Groundfish Endangered Species Work Group (ESWG)

Nominations have been submitted for the following seats on the ESWG:

NMFS Protected Resources Division: Ms. Alison Agness (Closed Session A.1.a, Attachment 7)

NMFS Sustainable Fisheries Division: Mr. Steve Copps (Closed Session A.1.a, Attachment 8)

USFWS: Ms. Laura Todd (Closed Session A.1.a, Attachment 9)

WDFW: Mr. Corey Niles (Closed Session A.1.a, Attachment 10)

Washington Coast Tribal: Mr. Jonathan Scordino (Closed Session A.1.a, Attachment 12)

Fish Taxa Expert: Dr. Richard Gustafson (Closed Session A.1.a, Attachment 13)

West Coast Groundfish Observer Program: Dr. Jason Jannot (Closed Session A.1.a, Attachment 14)

Sea Turtle Taxa Expert: Dr. Rhema Bjorkland (Closed Session A.1.a, Attachment 15)

Marine Mammal Taxa Expert: Dr. Brad Hanson (Closed Session A.1.a, Attachment 16)

Seabird Taxa Expert: Dr. Thomas Good (Closed Session A.1.a, Attachment 17)

ODFW: No nominations as of the Briefing Book Deadline

CDFW: No nominations as of the Briefing Book Deadline

Changes to Council Operating Procedures

COP 9 should be updated to reflect the groundfish management cycle changes discussed under Agenda Item G.7 (see [Agenda Item G.7.a, Attachment 3](#)).

Council Action:

Consider the following appointment and membership issues:

- 1. Appointment for the next two-year term on the Joint Management Committee for Pacific Whiting.**
- 2. The status of seats currently held by Ms. Vojkovich.**
- 3. The nomination of Cpt. Robert Puccinelli to the CDFW seat on the EC.**
- 4. The nomination of LT. Cody Dunagan to the USCG seat on the EC.**
- 5. The nomination of Ms. Jennifer Quan to the WDFW seat on the HC.**
- 6. The nominations of Dr. Andrew Cooper, Dr. Brian Wells, and Dr. Ray Conser to the at-large seat on the SSC.**
- 7. The nominations to fill seats on the ESWG.**

Consider the following COP issues:

- 8. COP 9 modifications to the groundfish management cycle.**

Reference Materials:

1. Closed Session A.1.a, Attachment 1: Nomination of Cpt. Robert Puccinelli to the CDFW seat on the EC.
2. Closed Session A.1.a, Attachment 2: Nomination of Ms. Jennifer Quan to the WDFW seat on the HC.
3. Closed Session A.1.a, Attachment 3: Nomination of Dr. Andrew Cooper to the vacant at-large seat on the SSC.
4. Closed Session A.1.a, Attachment 4: Nomination of Dr. Brian Wells to the vacant at-large seat on the SSC.
5. Closed Session A.1.a, Attachment 5: Letter from CMDR Bateman updating official USCG Council member and designees.
6. Closed Session A.1.a, Attachment 6: Letter from CMDR Bateman nominating LT Dunagan to the USCG seat on the EC.

7. Closed Session A.1.a, Attachment 7: Nomination of Ms. Alison Agness to the Protected Resources Seat on the ESWG.
8. Closed Session A.1.a, Attachment 8: Nomination of Mr. Steve Copps to the Protected Resources Seat on the ESWG.
9. Closed Session A.1.a, Attachment 9: Nomination of Ms. Laura Todd to the USFWS Seat on the ESWG.
10. Closed Session A.1.a, Attachment 10: Nomination of Mr. Corey Niles to the WDFW Seat on the ESWG.
11. Closed Session A.1.a, Attachment 11: Nomination of Dr. Ramon Conser to the vacant at-large seat on the SSC.
12. Closed Session A.1.a, Attachment 12: Nomination of Mr. Jonathan Scordino to the Washington Coast Tribal Seat on the ESWG.
13. Closed Session A.1.a, Attachment 13: Nomination of Dr. Richard Gustafson to the Fish Taxa Seat on the ESWG.
14. Closed Session A.1.a, Attachment 14: Nomination of Dr. Jason Jannot to the Observer Program Seat on the ESWG.
15. Closed Session A.1.a, Attachment 15: Nomination of Dr. Rhema Bjorkland to the Sea Turtle Taxa Seat on the ESWG.
16. Closed Session A.1.a, Attachment 16: Nomination of Dr. Brad Hanson to the Marine Mammal Taxa Seat on the ESWG.
17. Closed Session A.1.a, Attachment 17: Nomination of Dr. Thomas Good to the Seabird Taxa Seat on the ESWG.
18. Closed Session A.1.a, Attachment 18: Letter from NMFS regarding the Council appointment to the Joint Management Committee for Pacific Whiting.
19. [Agenda Item G.7.a, Attachment 3: Proposed Revisions to COP 9.](#)

Agenda Order:

- a. Agenda Item Overview
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. **Council Action:** Appoint Individuals to Advisory Bodies, and Consider Changes to Council Operating Procedures

Chuck Tracy

PFGC

08/22/13

FUTURE COUNCIL MEETING AGENDA AND WORKLOAD PLANNING

This agenda item is intended to refine general planning for future Council meetings, especially in regard to finalizing the proposed agenda for the November 2013 Council Meeting. The following primary attachments are intended to help the Council in this process:

1. An abbreviated display of potential agenda items for the next full year (Attachment 1).
2. A preliminary proposed November 2013 Council meeting Agenda (Attachment 2).

The November 2013 agenda as displayed in Attachment 1 has 6.5 days worth of agenda topics. The shaded topics account for one full day, so by eliminating/postponing these topics, or other comparable topics, the November Council meeting could achieve the desired objective of no more than 5.5 days of Council session. These shaded topics are included in attachment 2 as candidate topics.

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 proposed November Council meeting agenda, and workload priorities for Council staff and advisory bodies.

Council Action:

- 1. Review pertinent information and provide guidance on potential agenda topics for future Council meetings.**
- 2. Provide final guidance on a proposed agenda for the September Council meeting.**
- 3. Identify priorities for advisory body considerations at the next Council meeting.**

Reference Materials:

1. Agenda Item H.5.a, Attachment 1: Pacific Council Workload Planning: Preliminary Year-at-a-Glance Summary.
2. Agenda Item H.5.a, Attachment 2: Preliminary Proposed Council Meeting Agenda, November 1-6, 2013 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
08/19/13

Pacific Council Workload Planning: Preliminary Year-at-a-Glance Summary					
(Parenthetical numbers mean multiple items per topic; shaded items may be rescheduled pending workload priorities; deletions= strikeout ; underline= <u>new</u>)					
	<u>November 1-6, 2013</u> (Costa Mesa)	<u>March 8-13, 2014</u> (Sacramento)	<u>April 5-10, 2014</u> (Vancouver)	<u>June 20-25, 2014</u> (Garden Grove)	<u>September 12-17, 2014</u> (Spokane)
CPS	NMFS Rpt Sardine Mgmt Meas. EFP Notice of Intent for 2014 Establish MSY for N. Anchovy Method Rev.--Identify Topics Sardine Harvest Parameter Consideration	EFPs: Final Recommendations	Sardine Asmnt & Mgmt Meas.	NMFS Rpt Sardine Methodology Review P. Mackerel Biennial Spex	
Groundfish	NMFS Report Inseason Mgmt Stock Assessment Clean-up & Rebuilding Analyses Stock Cmplx FPA Further Actions for Setting Fisheries in 15-16 & Beyond Sablefish Catch Share Prog. Rev. Initial Outline Preliminary EFP Approval Seabird Avoidnce Regs Final Trawl Trailing Actions PIE 3; AMP; Trawl Flex Regs Mid-Water Sport Fishery Alts Elec Monitoring: Adopt ROA EFH Phase 2 Report and Options for Further Consideration	NMFS Report Inseason Mgmt Meth Rev Process Discussion Biennial Spex & Mgmt Measures Document Review <u>Sablefish Catch Share Prog. Rev.</u> <u>Finalize Outline and Issues</u> <i>Info Report: Rationalized Fishery Report to Congress</i> Trawl Trailing Actions Mid-Water Sport Fishery Final Barotrauma Mortality Rates Initiate EFH Amendment As Necessary	NMFS Report Inseason Mgmt Pac Whiting Spx & Meas. Adopt Final Biennial Spex & PPA Mgmt Measures (2) Sablefish Catch Share Prog. Rev. Adopt Report for Pub. Review Trawl Trailing Actions Elec Monitoring Check-in	NMFS Report Inseason Mgmt Refine Stk Assmnt Pln & TORs Final EFP Approval Adopt FPA Mgmt Measures for 15-16 & Beyond <u>Sablefish Catch Share Prog. Rev.</u> <u>Adopt Final Report</u> Trawl Trailing Actions: Elec Monitoring: Adopt PPA	NMFS Report Inseason Mgmt Adopt Final Stk Assmnt Plan Including Data Mod. Species Sablefish Catch Share Prog. Adopt Range of Alternatives Trawl Trailing Actions: Elec Monitoring: Adopt FPA <u>EFH Amendment: ROA</u> <u>As Necessary</u>
HMS	NMFS Report Update on International Issues Comm Tuna VMS Regs FPA	NMFS Report US-Canada Albacore Update Update on International Issues DGN Monitoring, Mgmt & Alt Gear Rpt		NMFS Report US-Canada Albacore Update Update on International Issues Preliminary EFP Approval Scope Routine Mgmt Measure Changes, SDC, & Ref. Pts.	
Salmon	NMFS Rpt 2013 Method Rev.--Final 2014 Preseason Mgmt Schd Routine Admin (11) Habitat Issues Federal Enforcement Priorities	NMFS Rpt Approve Review, Forecasts, SDC, and ACLs Approve Rebuilding Plans (if necessary) 2014 Season Setting (4)	2014 Method Rev.--Identify Topics Calif Coastal Chinook Update 2014 Season Setting (3)		Method Rev: Adopt Priorities
Other	P. Halibut: Final CSP Changes Ocean Obs Initiative Prog Rpt IEA Updates	Regional Operating Agreement P. Halibut: Prelim Incidntl Regs P. Halibut: IPHC MTG CA Current Ecosystem Rpt Int Ecosystem Assessment Rpt	P. Halibut: Final Incidental Regs Ocean Observation Initiative Rpt Unmanaged Forage Fish Protection initiative	CMSP Update	P. Halibut: CSP Change Alts P. Halibut Bycatch Estimate Unmanaged Forage Fish Protection initiative
Apx. Floor Time	6.5 days	5.7 days	5.3 days	4.3 days	3.7 days

Agenda Item H.5.a
 Attachment 1
 September 2013

PRELIMINARY PROPOSED PACIFIC COUNCIL MEETING AGENDA, NOVEMBER 1-6, 2013 IN COSTA MESA, CA

Acronyms	Fri, Nov 1	Sat, Nov 2	Sun, Nov 3	Mon, Nov 4	Tue, Nov 5	Wed, Nov 6
BC: Budget Committee CCC: Council Coordination Committee COP: Council Operating Procedures CPS: Coastal Pelagic Species CPSAS: CPS Advisory Subpanel CPSMT: CPS Management Team CSP: Catch Sharing Plan EC: Enforcement Consultants ED: Executive Director EFH: Essential Fish Habitat EFHRC: (Groundfish) EFH Review Committee EFP: Exempted Fishing Permit F/PPA: Final/Preliminary Preferred Alternative(s) GAP: Groundfish Advisory Subpanel GMT: Groundfish Management Team HC: Habitat Committee HMS: Highly Migratory Species IEA: Integrated Ecosystem Assessment LC: Legislative Committee MONF-3: Managing Our Nations Fisheries 3 MSY: Maximum Sustainable Yield SSC: Scientific and Statistical Committee VMS: Vessel Monitoring System	A. CALL TO ORDER 8 AM 1-4. Opening Remarks, Roll Call, ED Report, Approve Agenda (30 min) <hr/> B. OPEN COMMENT 1. Comments on Non-Agenda Items (45 min) <hr/> C. SALMON 1. NMFS Report (1 hr) 2. Methodology Review: Adopt Final Changes for 2014 (1 hr 30 min) 3. Preseason Salmon Management Schedule for 2014 (15 min) <hr/> D. PACIFIC HALIBUT 2. Adopt Changes to 2014 for CSP and Annual Regs (1 hr) <hr/> E. HABITAT 1. Current Habitat Issues (1 hr) <hr/> CLOSED EXECUTIVE SESSION Discuss Litigation & Admin. Appointment Issues (1 hr)	F. COASTAL PELAGIC SPECIES 1. Methodology Review Process & Preliminary Topic Selection for 2014 (1 hr) 2. EFPs for 2014: Notice of Intent (1 hr) 3. Sardine Harvest Parameter Consideration (3 hr) <hr/> G. GROUNDFISH 1. Sablefish Permit Stacking Program Review (3 hr)	F. COASTAL PELAGIC SPECIES 4. Establish MSY for Northern Anchovy (1 hr) 5. Adopt Sardine Mgmt. Measures (1 hr 30 min) <hr/> H. ADMINISTRATIVE 1. Approve Council Minutes (15 min) 2. MONF-3/CCC Follow-ups and Other Legislative Matters (45 min) <hr/> G. GROUNDFISH 7. Trawl Rationalization Trailing Actions Scoping, Process, and Prioritization (3 hr 30 min) 4. Consideration of Inseason Adjustments (1 hr)	G. GROUNDFISH 2. Stock Assessments from Mop-up Panel and Rebuilding Analyses for Overfished Species (2 hr) 3. Preliminary EFP Approval (1 hr) 6. Further Actions for Setting Fisheries in 2015-2016 & Beyond (5 hr)	G. GROUNDFISH 5. Consider Stock Complex (2 hr 30 min) 8. Electronic Monitoring: Adopt ROA (3 hr 30 min) 9. Seabird Avoidance Regs Final Action (1 hr) 10. Review and Approve Proposals to Modify EFH-(1 hr)	G. GROUNDFISH 10. Review and Approve Proposals to Modify EFH (2 hr) <hr/> H. ADMINISTRATIVE 3. Fiscal Matters (15 min) 4. Membership Appointments & COPs (15 min) 5. Future Council Meeting Agenda & Workload Planning (45 min) <hr/> CANDIDATE TOPICS F. CPS NMFS Report (1 hr) G. GF NMFS Report (1 hr) I. HMS NMFS Report (1 hr) HMS International. Issue Update (2 hr) HMS VMS Regs (1 hr) J. Fed. Enforcement Priorities (1 hr) K. IEA Update (1 hr) Ocean Observation Initiative Prog Rpt (1 hr)
Thu, Oct 31	7 hr	8 hr	8 hr	8 hr	8 hr	3.25 hr
8 am SSC 8 am GAP & GMT 8 am CPSAS & CPSMT 8:30 am HC 1 pm BC 2 pm LC 4 pm Chair's Briefing 5 pm EC	7 am State Delegations 8 am SSC 8 am GAP & GMT 8 am CPSAS & CPSMT 6 pm Chair's Banquet As Necessary EC	7 am State Delegations 8 am SSC 8 am GAP & GMT 8 am CPSAS & CPSMT As Necessary EC	7 am State Delegations 8 am GAP & GMT As Necessary EC	7 am State Delegations 8 am GAP & GMT 8 am EFHRC?	7 am State Delegations 8 am GAP & GMT As Necessary EC	7 am State Delegations As Necessary EC

Agenda Item H.5.a
 Attachment 2
 September 2013

Pacific Council Workload Planning: Preliminary Year-at-a-Glance Summary						
(Parenthetical numbers mean multiple items per topic; shaded items may be rescheduled pending workload priorities; deletions= strikeout ; underline=new)						9/17/13 8:54
	<u>November 1-6, 2013</u> (Costa Mesa)	<u>March 8-13, 2014</u> (Sacramento)	<u>April 5-10, 2014</u> (Vancouver)	<u>June 20-25, 2014</u> (Garden Grove)	<u>September 12-17, 2014</u> (Spokane)	<u>Acronyms</u>
CPS	NMFS Rpt Sardine Mgmt Meas. EFP Notice of Intent for 2014 Establish MSY for N. Anchovy Method Rev.--Identify Topics Sardine Harvest Parameter Review	EFPs: Final Recommendations	Sardine Asmnt & Mgmt Meas.	NMFS Rpt Sardine Methodology Review Pacific Mackerel Biennial Spex		ACL: Annual Catch Limits AMP: Adaptive Management Program BO: Biological Opinion CPS: Coastal Pelagic Species CSP: Catch Sharing Plan DGN: Drift Gillnet EFH: Essential Fish Habitat EFP: Exempted Fishing Permit FPA: Final Preferred Alternative GF: Groundfish HMS: Highly Migratory Species IEA: Integrated Ecosystem Assessment IPHC: International Pacific Halibut Commission MSC: Marine Stewardshi Council MONF-3: Managing Our Nations Fisheries 3 MSY: Maximum Sustainable Yield PIE: Program Improvements and Enhancements PPA: Preliminary Preferred Alternative ROA: Range of Alternatives SDC: Status Determination Criteria TOR: Terms of Reference VMS: Vessel Monitoring System
Groundfish	NMFS Report Inseason Mgmt Stock Assessment Clean-up & Rebuilding Analyses Stock Cmplx FPA Fisheries in 15-16 & Beyond Biennial Spex PPA, COP 9, etc Mgmt Measures ROA Preliminary EFP Approval Sablefish Catch Share Prog. Rev. <u>Initiate Phase 1</u> Seabird Avoidnce Regs Final Trawl Trailing Actions PIE 3; AMP; Trawl Flex Regs Mid-Water Sport Fishery Alts Elec Monitoring: Adopt ROA EFH Phase 2 Report and Options for Further Consideration <u>GF Trawl MSC Cert. Action Plan</u>	NMFS Report Inseason Mgmt Meth Rev Process Discussion Fisheries in 15-16 & Beyond Biennial Spex & Mgmt Measures Document Review Sablefish Catch Share Prog. Rev. <u>Finalize Outline and Issues</u> <u>Info Report: Rationalized Fishery</u> <u>Report to Congress</u> Trawl Trailing Actions <u>AMP, Pass-through</u> <u>Mid-Water Sport Fishry FPROA</u> Barotrauma Mortality Rates Initiate EFH Amendment As Necessary	NMFS Report Inseason Mgmt Pac Whiting Spex & Meas. Fisheries in 15-16 & Beyond Biennial Spex Adopt FPA Mgmt Measures PPA Sablefish Catch Share Prog. Rev. <u>Adopt Report for Pub. Review</u> <u>Continue Phase 1</u> Trawl Trailing Actions <u>Mid-Water Sport Fishery FPA</u> Elec Monitoring Check-in	NMFS Report Inseason Mgmt Refine Stk Assmnt Pln & TORs Fisheries in 15-16 & Beyond Final EFP Approval Mgmt Measures Adop FPA Sablefish Catch Share Prog. Rev. Adopt Final Report <u>Conclude Phase 1</u> Trawl Trailing Actions: Elec Monitoring: Adopt PPA	NMFS Report Inseason Mgmt Adopt Final Stk Assmnt Plan Including Data Mod. Species Sablefish Catch Share Prog. <u>Adopt Range of Alternatives</u> <u>Initiate Phase 2</u> Trawl Trailing Actions: Elec Monitoring: Adopt FPA <u>EFH Amendment: ROA</u> <u>As Necessary</u>	
HMS	NMFS Report <u>Update on International Issues</u> Comm Tuna VMS Regs FPA	NMFS Report US-Canada Albacore Update Update on International Issues DGN Monitoring, Mgmt & Alt Gear Rpt		NMFS Report US-Canada Albacore Update Update on International Issues Preliminary EFP Approval Scope Routine Mgmt Measure Changes, SDC, & Ref. Pts.	Routine Mgmt Measures ROA	
Salmon	NMFS Rpt 2013 Method Rev.--Final	NMFS Rpt Approve Review, Forecasts, SDC, and ACLs <u>Winter Chinook BO Comments</u> Approve Rebuilding Plans (if necessary) 2014 Season Setting (4)	2014 Method Rev.--Identify Topics Calif Coastal Chinook Update <u>Cormorant Mgmt Plan Comments</u> 2014 Season Setting (3)		Method Rev: Adopt Priorities	
Other	Routine Admin (11) Habitat Issues <u>Federal Enforcement Priorities</u> <u>Regional Operating Agreement</u> P. Halibut: Final CSP Changes <u>USACE Port Dredging Request</u> Ocean Obs Initiative Prog Rpt IEA Updates	Routine Admin (9) Habitat Issues Regional Operating Agreement P. Halibut: Prelim Incidntl Regs P. Halibut: IPHC Meeting CA Current Ecosystem Rpt Int Ecosystem Assessment Rpt	Routine Admin (10) Habitat Issues Annual USCG Fishery Enf. Rpt P. Halibut: Final Incidental Regs Ocean Observation Initiative Rpt Unmanaged Forage Fish Protection initiative	Routine Admin (11) Habitat Issues <u>NMFS Enforcement Report</u> CMSP Update	Routine Admin (11) Habitat Issues Tri-State Enforcement Rpt P. Halibut: CSP Change Alts P. Halibut Bycatch Estimate Unmanaged Forage Fish Protection initiative	
Apx. Floor Time	6.7 days	5.5 days	5.1 days	4.8 days	4.0 days	

Agenda Item H.5.a
Supplemental Attachment 3
September 2013

PRELIMINARY PROPOSED PACIFIC COUNCIL MEETING AGENDA, NOVEMBER 1-6, 2013 IN COSTA MESA, CA

Acronyms	Fri, Nov 1	Sat, Nov 2	Sun, Nov 3	Mon, Nov 4	Tue, Nov 5	Wed, Nov 6
BC: Budget Committee CCC: Council Coordination Committee COP: Council Operating Procedures CPS: Coastal Pelagic Species CPSAS/MT: CPS Advisory Subpanel/Management Team CSP: Catch Sharing Plan EC: Enforcement Consultants ED: Executive Director EFH: Essential Fish Habitat EFP: Exempted Fishing Permit GAP/MT: Groundfish Advisory Subpanel / Management Team GF: Groundfish HC: Habitat Committee HMS: Highly Migratory Species IEA: Integrated Ecosystem Assessment LC: Legislative Committee MONF-3: Managing Our Nations Fisheries 3 MSC: Marine Stewardship Council MSY: Maximum Sustainable Yield PPA: Preliminary Preferred Alternative ROA: Range of Alternatives	A. CALL TO ORDER 8 AM 1-4. Opening Remarks, Roll Call, ED Report, Approve Agenda (30 min) <hr/> B. OPEN COMMENT 1. Comments on Non-Agenda Items (45 min) <hr/> C. SALMON 1. NMFS Report (1 hr) 2. Methodology Review: Adopt Final Changes for 2014 (12 30 min) 3. Preseason Salmon Management Schedule for 2014 (15 min) <hr/> D. ADMINISTRATIVE 1. Regional Operation Agreement Approval (1 hr) <hr/> E. HABITAT 1. Current Habitat Issues (1 hr) <hr/> CLOSED EXECUTIVE SESSION Discuss Litigation & Admin. Appointment Issues (1 hr)	F. COASTAL PELAGIC SPECIES 1. Methodology Review Process & Prelim Topic Selection for 2014 (1 hr) 2. EFPs for 2014: Notice of Intent (1 hr) 3. Adopt Sardine Mgmt. Measures (1 hr 30 min) <hr/> G. PACIFIC HALIBUT 1. Adopt Changes to 2014 for CSP and Annual Regs (21 4 hr) <hr/> H. GROUND FISH 1. Seabird Avoidance Regs Final Action (1 hr) 2. Preliminary EFP Approval (1 hr)	F. COASTAL PELAGIC SPECIES 4. Establish MSY for Northern Anchovy (1 hr) 5. Sardine Harvest Parameter Review Consideration (3 hr) <hr/> D. ADMINISTRATIVE 2. MONF-3/CCC Follow-ups and Other Legislative Matters (2 45 min) <hr/> H. GROUND FISH 3. Sablefish Permit Stacking Program Review Phase 1 (23 hr) 2. Trawl Rationalization Trailing Actions Scoping, Process, and Prioritization (3 hr 30 min)	H. GROUND FISH 4. Consider Stock Complex Restructuring (2 hr 30 min) 5. Stock Assessments from Mop-up Panel and Rebuilding Analyses for Overfished Species (21 30 min) 6. Further Actions for Setting Fisheries in 2015-2016 & Beyond: COP 9, Adopt Spex PPA, etc. except Mgmt Measures (24 30 min) {Continue Tue} <hr/> CANDIDATE TOPICS D. USACE Port Dredging Request (30 min) F. NMFS Report (1 hr) H. GF NMFS Report (1 hr) GF MSC Certification Action Plan (1 hr) I. HMS NMFS Report (1 hr) HMS International Issue Update (2 hr) J. IEA Update (1 hr 30 min) Ocean Observation Initiative Rpt (1 hr)	H. GROUND FISH 7. EFH Phase 2 Report and Consider Proposals to Modify EFH-(3 hr) 8. Electronic Monitoring: Adopt ROA (34 30 min) 9. Consideration of Inseason Adjustments (1 hr) <hr/> D. ADMINISTRATIVE 3. Approve Council Minutes (15 min) 4. Fiscal Matters (15 min) 5. Membership Appointments & COPs (30 15 min) 6. Future Council Meeting Agenda & Workload Planning (45 min) <hr/> Delays earlier in the week may result in agenda items being carried over to this day; plan your departure accordingly.	H. GROUND FISH 610. Continue Further Actions for Setting Fisheries in 2015-2016 & Beyond: Adopt Mgmt Measures ROA (24 30 min) <hr/> D. ADMINISTRATIVE 3. Approve Council Minutes (15 min) 4. Fiscal Matters (15 min) 5. Membership Appointments & COPs (30 15 min) 6. Future Council Meeting Agenda & Workload Planning (45 min) <hr/> Delays earlier in the week may result in agenda items being carried over to this day; plan your departure accordingly.
Wed, Oct 30						
8 am GF Tier I EIS Ecosystem Workshop 1 pm SSC GF SubCom						
Thu, Oct 31	8 hr	8 hr	8 hr	8 hr	8 hr	5.75 hr
7 am State Delegations 8 am SSC 8 am GAP & GMT 8 am CPSAS & CPSMT 8:30 am HC 2 pm 9 am LC 1 pm BC 4 pm Chair's Briefing 5 pm EC	7 am State Delegations 8 am SSC 8 am GAP & GMT 8 am CPSAS & CPSMT 11 am GAP 4 pm EC 6 pm Chair's Banquet	7 am State Delegations 8 am SSC 8 am GAP & GMT 8 am CPSAS & CPSMT As Necessary EC	7 am State Delegations 8 am GAP & GMT As Necessary EC	7 am State Delegations 8 am GAP & GMT 8 am EFHRC? As Necessary EC	7 am State Delegations 8 am GAP & GMT As Necessary EC	7 am State Delegations 9/17/13 9:03 AM

ECOSYSTEM ADVISORY SUBPANEL REPORT ON FUTURE COUNCIL MEETING
AGENDA AND WORKLOAD PLANNING

It would be helpful to the Ecosystem Advisory Subpanel (EAS) to understand the process for producing the annual state of the ecosystem report, how indicators will be selected, and how the EAS can assist the Pacific Fishery Management Council in reviewing and assessing the report.

PFMC
09/15/13

GROUND FISH MANAGEMENT TEAM REPORT ON FUTURE COUNCIL MEETING AGENDA AND WORKLOAD PLANNING

The Groundfish Management Team (GMT) has reviewed the Preliminary Proposed Meeting Agenda for November and the Year-at-a-glance schedules. In Table 1, the GMT attempted to identify and prioritize which ten groundfish agenda items, and non-groundfish items, we plan to focus our efforts on. As it is the Council who assigns the GMT tasks, we ask the Council to provide guidance if they wish the Team to focus our efforts elsewhere. If there are specific agenda items the Council does not believe the GMT needs to comment on, it would be helpful to have those identified so we know where not to spend our time and efforts.

The GMT is scheduled to meet for a work session the week of September 30 through October 4. Tasks that have been preliminarily identified for this meeting are:

- List of management measures—
 - Determine the workload or amount of analysis required for the list of management measures that is forwarded by the Council for inclusion in the 2015-2016 biennial harvest specifications and management measures process; and
 - Provide information on prioritization.
- Stock complexes—any additional analysis required for the final preferred alternative for the stock complex reorganization.
- Management strategy evaluation of rebuilding plans—develop a list of proposed species and scenarios for examination under this process, with the possible assistance of Dr. Andre Punt
- Socioeconomic items—work with Mr. Ed Waters on the data inputs that the team provides for his Landings Distribution Model (LDM).

The GMT continues their work to update the depth dependent mortality rates for canary and yelloweye rockfish when descending devices are used. We request time with the SSC in March 2014 to support Council action at that time (per the current Year at a Glance Schedule).

The GMT requests travel authorization to arrive October 29, 2013 to participate in the discussion regarding integrating ecosystem information into the groundfish Tier One document that is scheduled for October 30, 2013 in Costa Mesa, California.

Table 1. GMT November agenda item workload (based on the Preliminary Proposed Pacific Fishery Management Council Meeting Agenda in the September advance briefing book materials)

	Groundfish Agenda Items	Council Floor	GMT Statement	GMT Priority[#]
1	Sablefish permit stacking program review	Sat	Maybe	
2	Trawl rationalization trailing actions scoping, process, and prioritization	Sun	Maybe	
3	Consideration of inseason adjustments	Sun	Yes	*
4	Stock assessments from Mop-up Panel and rebuilding analysis for overfished species	Mon	Yes	*
5	Preliminary EFP approval	Mon	Yes	*
6	Further actions for setting fisheries in 2015-2016 & beyond	Mon	Yes	*
7	Consider stock complex	Tues	Yes	*
8	Electronic monitoring: Adopt Range of Alts.	Tues	Likely	*
9	Seabird Avoidance Regs, Final action	Tues	Maybe	
10	Review and approve proposals to modify EFH	Tues/ Wed	Likely	
	Non-Groundfish Agenda Items			
	MONF-3 and other legislative matters	Sun	maybe	
	Pacific halibut--adopt public review options for catch sharing plan changes	Fri	no	
	Administrative	Wed	maybe	
Total Potential Statements by the GMT			9-12	

The Council has final say in priority of Agenda Items. This is what the GMT thinks are the higher priority agenda items, provided here to help inform the Council decision.

GROUND FISH ADVISORY SUBPANEL REPORT ON
FUTURE COUNCIL MEETING AGENDA AND WORKLOAD PLANNING

The Groundfish Advisory Subpanel (GAP) considered the future workload planning proposed agendas and calendars and offers the following suggestion:

Mid-water sport fishery exempted fishing permit (EFP): This EFP has been considered at various times for the past six years and request it remain on the Council's schedule in November for alternatives with a final decision in March 2014. The GAP believes it should move forward.

PFMC
09/16/13

Regional Operating Agreements

Action: Each Region-Council develops a draft Regional Operating Agreement for Council review and signature.

IG Report

In January 2013, the Department of Commerce, Office of Inspector General (OIG), issued a final report (OIG-13-011-A) addressing opportunities for NMFS to continue streamlining the rulemaking process for fisheries management and improving the transparency and consistency in fisheries management, and included a recommendation that NMFS finalize regional operating agreements (ROAs) between NMFS regional offices and Councils.

The report identified that implementing ROAs, as identified by the 2005 draft Operational Guidelines, could help improve fishery management processes. The OIG cited the primary purpose of the ROA to provide a clear understanding of roles, responsibilities, and obligations between Councils and NMFS regional offices. The report recognized that each Region-Council pair had developed systems to assign and track tasks and responsibilities that were documented in different formats, but identified that documenting processes and expectations of those individual coordination systems should give NOAA a better opportunity to identify necessary tasks and ensure they are appropriately assigned and completed.

Action Plan

The Action Plan developed in response to the OIG's report committed to develop and approve ROAs that identify the roles and responsibilities of the Region and Council, communication protocols, and process for working together during the development of fishery management plans, amendments, and regulations, including discussion of how roles, responsibilities, and milestones will be set and communicated for specific actions.

The intent of the Action Plan response was to allow each Region-Council pair to continue using the existing systems and protocols that they had developed to coordinate their work, but to document those existing mechanisms to ensure that the various roles and responsibilities, communication protocols, and processes for working together were clearly understood and communicated. Where appropriate, the documentation should also explain how these systems operate in context of the open, public Council process.

Deadlines

The Action Plan committed NMFS to working with each Council to prepare draft ROAs for Council review and signature by December 31, 2013.

October 1, 2013: Regional Administrators provide an update to Emily Menashes and Alan Risenhoover on the status of ROAs, including current draft or final ROAs.

December 2, 2013: Regional Administrators submit final drafts or final ROAs to Emily Menashes and Alan Risenhoover. Final draft documents should be substantively complete, although signatures may be pending final review and approval by the Councils. If not yet signed, indicate when final signature is expected.

DRAFT

Operating Agreement

Among the

Pacific Fishery Management Council;

NOAA¹ Fisheries Service West Coast Regional Office;

NOAA Fisheries Service Northwest Fisheries Science Center;

NOAA Fisheries Service Southwest Fisheries Science Center;

NOAA Fisheries Service Office of Law Enforcement, Northwest; and

NOAA Fisheries Service Office of Law Enforcement, Southwest

September 2013

¹ "NOAA" is the National Oceanic and Atmospheric Administration. "NOAA Fisheries Service" and the "National Marine Fisheries Service (NMFS)" are **synonymous** names for the same agency. NMFS is the term used in this document.

Acronyms and Abbreviations

COP	Council Operating Procedure
Council	Pacific Fishery Management Council
ESA	Endangered Species Act
FMP	Fishery Management Plan
MSA	Magnuson-Stevens Fishery Conservation and Management Act
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service (also known as NOAA Fisheries)
NOAA	National Oceanic and Atmospheric Administration
NWFSC	NMFS' Northwest Fisheries Science Center
OLE	NMFS' Office of Law Enforcement
PSMFC	Pacific States Marine Fisheries Commission
SSC	Scientific and Statistical Committee
SWFSC	NMFS' Southwest Fisheries Science Center
Teams	Plan, Technical, and Management Teams and Workgroups
WCRO	NMFS' West Coast Regional Office

Overview

This Operating Agreement (Agreement) confirms the mutual interests of, and describes the working relationship among, the following entities:

- NMFS' Northwest Fisheries Science Center (NWFSC),
- NMFS' Office of Law Enforcement, Northwest and Southwest Divisions (OLE),
- NMFS' Southwest Fisheries Science Center (SWFSC),
- NMFS' West Coast Regional Office (WCRO),
- NOAA's Office of General Counsel,² Northwest and Southwest Sections, and
- Pacific Fishery Management Council (Council).

The primary objective of this Agreement is to facilitate the development and implementation of FMPs and associated actions under the MSA. Other important purposes include: ensuring compliance with other applicable laws and regulations; simplifying regulations where possible; helping the affected public better understand how and why fishery management actions are developed; helping the affected public understand how to become involved in the process; and maintaining effective collaboration among staff from the Council, NOAA General Counsel, NWFSC, OLE, SWFSC, and WCRO.

The preparation, review, approval, and implementation of fishery management actions and the implementing rules and regulations under the MSA comprise a complex process in which the Regional Fishery Management Councils and NMFS, acting on behalf of the Secretary of Commerce (Secretary), have distinct, yet sometimes overlapping, roles. In addition to the MSA, a variety of other applicable laws and Executive Orders have analytical and procedural requirements with which NMFS must comply, including the National Environmental Policy Act, the Endangered Species Act, the Marine Mammal Protection Act, the Regulatory Flexibility Act, the Paperwork Reduction Act, the Information Quality Act, and the Administrative Procedure Act. To support the mutual objectives of the Council, NOAA

² Represents NMFS but is actually a part of NOAA.

General Counsel, NWFSC, OLE, SWFSC, and WCRO, this Agreement specifies responsibilities of each entity.

Roles and Responsibilities

Council

This section is to describe the role and responsibility obligations of the Council that are relevant to this agreement. In it will include such areas as statements of general fishery management obligation, operational practices leading to and at Council meetings, establishing and maintaining functioning advisory bodies that provide expert advice to the Council, existing communication protocols and inter-staff work planning and implementation relationship mechanisms with the other parties to this Agreement, and responsibilities associated with documenting an administrative record of the Council process.

NMFS

NMFS reviews the Council's fishery management recommendations for consistency with all statutory and regulatory requirements and Executive Orders. NMFS approves, disapproves, or partially approves the Council's recommendations. If a measure is disapproved, NMFS is responsible for providing the rationale and justification for the disapproval. If measures are approved, NMFS is responsible for implementing, administering, and enforcing the management programs. NMFS staff also participates in the development of Council actions through Plan, Technical, and Management Teams and Workgroups, and other informal collaboration, such as Project Teams.

NMFS Headquarters

NMFS Headquarters is responsible for:

- Deciding whether to concur with the Regional Administrator's decision regarding approval/disapproval/partial approval of Council-recommended actions;
- Deciding whether to approve final rule implementing regulations;
- Determining that an appropriate NEPA document has been completed for the action; and
- Resolving with NOAA General Counsel any issues elevated to Headquarters, including issues related to determinations of legal sufficiency.

WCRO

The WCRO/NMFS process is the focus for public comment on NEPA documents, approval/disapproval of decisions, and rulemaking. WCRO will assist the Council in the development of fishery management actions, by:

- Providing staff representation on appropriate Teams to advise on technical, policy, administrative, and legal requirements and issues.
- Identifying a lead staff person in the Sustainable Fisheries Division to assist with coordinating other WCRO/NMFS divisions as needed, including Habitat, Protected Resources, NEPA, OLE, and NOAA General Counsel staff.
- Identifying and responding to staff resource needs, requirements, and/or limitations associated with the development, review, approval, and/or implementation of an action.

- Coordinating any necessary interactions between the Council and NMFS Headquarters and the various offices within NMFS Headquarters (e.g., Office of Sustainable Fisheries, Office of Science and Technology, and the NOAA NEPA Coordinator).
- Coordinating the review of Council actions and documentation within NWFSC, OLE, SWFSC, WCRO, and NOAA General Counsel.
- Providing advice, guidance, and information on fishery management policy issues and requirements, as requested, including considerations of administrative costs and complexity, potential approvability issues, enforceability concerns, timing of the development and implementation of an action, particularly with regard to the Secretarial review phase, and regulatory simplification (i.e., how to keep measures and regulations as simple and clear as possible).
- Writing proposed and final rules to implement approved measures, with the accompanying regulatory language, consistent with the Council's action and intent.
- Ensuring that all applicable laws and executive orders are addressed (e.g., Paperwork Reduction Act, Information Quality Act).
- Identifying the type of NEPA analysis expected to be undertaken (i.e., Categorical Exclusion, Environmental Assessment, and Environmental Impact Statement)
- Conducting Essential Fish Habitat consultations.
- Conducting consultations under the Endangered Species Act.
- Conducting regulatory economic analyses (e.g., Regulatory Flexibility Act).
- Responding to public comments received during rulemaking.
- Implementing and administering approved programs and program changes; working closely with OLE and NOAA General Counsel to enforce regulations and defend approved Council actions in litigation.
- Monitoring, projecting, and documenting fishing activity and catches, and taking appropriate in-season and/or post-season actions relative to annual catch limits and seasonal catch quotas.
- Developing and implementing emergency actions, interim actions, and Secretarial FMPs/amendments to respond to new information or management/statutory requirements.

NWFSC and SWFSC

The NWFSC and SWFSC will provide staff and assistance to the Council during the development of fishery management actions, including representation on Teams and committees as needed. The NWFSC and SWFSC staff also review Council-developed documents supporting fishery management actions; provide advice, data, and modeling (e.g., cost-earnings model) to support economic analyses; and promote the use of the best available scientific information.

NWFSC and SWFSC staff on the Teams also collaborate with the Council staff to provide the necessary materials and/or analyses for meetings of the Council's SSC. NWFSC and SWFSC staff attend and/or make presentations to the SSC or Council, as appropriate and/or requested.

NOAA General Counsel, Northwest and Southwest Sections

NOAA General Counsel advises the Council and NMFS throughout the process of developing documentation and making and reviewing decisions, and provides legal advice to the WCRO Regional Administrator confirming legal sufficiency of documentation and processes. NOAA General Counsel provides legal support to the Council, the SSC, and other advisory panels of the Council, in coordination with NMFS. It is expected that a representative from NOAA General Counsel will be involved, as necessary, so that legal issues are addressed early in the process of developing potential actions. If challenged legally, NOAA General Counsel is responsible for assisting the Department of Justice in defending agency decisions.

OLE, Northwest and Southwest Divisions

OLE staff will provide enforcement-related advice, as required, to the Council and its Teams and other entities, as appropriate. OLE staff may be assigned to these teams. If an OLE staff person is not on a Team, it will be the responsibility of the lead WCRO Sustainable Fisheries Division staff person to coordinate OLE input on Council actions. OLE will ensure that any potential enforcement-related issues that may be associated with an action are identified as early as possible and addressed to the extent practicable.

Life of Agreement

This Agreement will become effective when signed by all parties, and will remain in effect unless and until it is terminated by one or more parties, or it is superseded by another agreement. Any party may terminate this Agreement by providing 90 days written notice to the remaining parties. This Agreement may be expanded to include other aspects of the development and implementation of management actions and may be amended at any time upon written agreement among all parties. A review shall be performed every 5 years by the signatories to ensure that the Agreement is meeting its stated objectives.

Statement of Commitment

By signing below, I agree, on behalf of the organization I represent, to fulfill the roles and responsibilities outlined herein, and to support the efforts of the other parties.

Pacific Fishery Management Council:

Executive Director

Date

NOAA Fisheries Service West Coast Regional Office:

Regional Administrator

Date

NOAA Fisheries Service Northwest Fisheries Science Center:

Science and Research Director

Date

NOAA Fisheries Service Southwest Fisheries Science Center:

Science and Research Director

Date

NOAA General Council, Northwest Section:

Section Chief

Date

NOAA General Council, Southwest Section:

Section Chief

Date

NOAA Fisheries Service Office of Law Enforcement, Northwest Division:

Special Agent in Charge

Date

NOAA Fisheries Service Office of Law Enforcement, Southwest Division:

Special Agent in Charge

Date