

NMFS Report on Authority for Rulemaking and Recommended Packaging Related to Items Addressed by the Council under the EFH Agenda Item in April, 2015

During the Groundfish Essential Fish Habitat (EFH) amendment scoping process, including Rockfish Conservation Areas (RCAs) and Area Adjustments, the Council identified sixteen issues to be moved forward. The Council requested that, for all issues to be advanced, NMFS identify the appropriate authority for rulemaking, confirm or suggest alternative rulemaking or packaging for expediency purposes, and provide a report to the Council at the June, 2015 meeting.

This report responds to items twelve through sixteen from the Decision Summary Document of the Pacific Fishery Management Council April, 2015 meeting for Agenda Item E.5, which identified the scope of issues to be moved forward and the development of alternatives to be considered in the future. Items one through eleven are addressed under separate cover in Agenda Item D.6.

12. Allow Year-round Midwater Non-Whiting Fishery: Consider this issue through the 2017-2018 biennial specifications and management process.

NMFS is currently working on an Endangered Species Act salmon re-consultation process for the groundfish fishery, and anticipates completion of this effort by January, 2016. It is too early to predict what types of management actions may be required for the groundfish fishery as a result of this action. Given the timing of decisions relative to the harvest specification and management measures for 2017-2018 (spexs), and the fact that this year-round fishery would have to consider potential impacts on protected and prohibited species, NMFS feels that this presents challenges, is outside the scope of what was analyzed in the previous spexs cycle, and will complicate the environmental analysis associated with the spexs. NMFS suggests that this concept of a year round mid-water non-whiting fishery be considered first through the Exempted Fishing Permit (EFP) process to determine feasibility, interest, and potential impacts, within the overall spexs process, but not as a regulatory amendment through the spexs. The Council is scheduled to adopt preliminary EFPs in November 2015, with final action scheduled for June 2016.

13. Remove Small Footrope Restrictions Shoreward of the RCA: Consider this issue through the appropriate biennial specifications and management process with a focus on retaining small footrope requirement shoreward of a depth contour delineated by coordinates (e.g., the 100-fathom line), and remove any references to the RCA.

For this matter, NMFS suggests keeping this issue within EFH/RCA process being considered by the Council. The small footrope requirement is linked to consideration of EFH as well as RCAs. The small footrope requirement is linked to Amendment 19 as a mandatory EFH protection measure. Another important consideration for keeping the small footrope changes or updates within EFH is timing. We would not want regulations that modify or remove RCAs to be implemented prior to amending the regulatory language that reference RCAs (e.g., regulations that require small footrope gears shoreward of the RCA). NMFS believes it is most efficient to address both actions (modifications to RCAs and references to RCAs) concurrently.

14. Close the 60-Mile Bank to Reduce Cowcod Bycatch: Do not include this within the scope of issues to be advanced.

Given the importance of this issue to the fishing industry, NMFS proposes that this matter be addressed through the spexs process for 2017-2018. Since cowcod are currently in an overfished status and subject to rebuilding requirements, NMFS feels this matter should not be delayed.

15. Fishing in More than One Individual Fishing Quota (IFQ) Area: Do not include this within the scope of issues to be advanced.

Given that this was identified as a relatively low priority by the Groundfish Advisory Panel and the Council at the April, 2015 Council meeting, NMFS concurs with this guidance. This matter has been listed under the heading "Unscheduled Projects" under Agenda Item F.5, Attachment 3 Groundfish Workload Priorities.

16. Eliminate the Selective Flatfish Trawl Requirement Shoreward of the RCA: Consider this issue through either the Gear Regulations Package or the 2017-2018 biennial specifications and management process.

NMFS feels that this issue is best addressed through the gear regulation changes package that will be addressed by the Council, beginning in September, 2015. Informational Report 1 on groundfish gear changes includes this item within the draft range of alternatives.