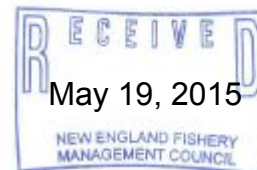




## Pacific Fishery Management

7700 NE Ambassador Place, Suite 101, Portland,  
 Phone 503-820-2280 | Toll free 866-806-7204 | Fax 503-820-2299 | www.pfmc.gov  
 Dorothy M. Lowman, Chair | Donald O. McIsaac, Executive Director



May 18, 2015

Dr. Wes Patrick  
 National Marine Fisheries Service  
 Acting Branch Chief - Fisheries Policy  
 1315 East West Highway  
 Silver Spring MD 20910

Dear Dr. Patrick:

The Pacific Fishery Management Council (Pacific Council) met April 10-16, 2015 in Rohnert Park, California, and reviewed proposed rule to revise the general section of the National Standard guidelines, and the guidelines for National Standard 1, 3, and 7. This letter formally transmits the Council's comments on that proposed rule.

First, let me thank you for coming out to Rohnert Park and briefing our advisory bodies and the Council on the proposed rule. We also appreciate having the comment period encompass a Council meeting and having the proposed rule available in time for our advance briefing materials, which provided time for review and development of comments in advance of your briefing. Most of the proposed changes appear to provide additional flexibility in management to allow for creative solutions as long as the rationale, sufficient record, and justification are given for the chosen course of action. Based on the Council discussion and statements from its Groundfish Management Team and Enforcement Consultants (enclosed), the Council offers the following specific observations and comments:

### ***Calculating $T_{max}$***

The proposed new National Standard 1 (NS1) Guidelines contain two new options for how to calculate  $T_{max}$  when a stock is declared overfished, and a new rebuilding plan is being developed. Currently, the only method is  $T_{max} = T_{min} + \text{one mean generation time}$ . The two new options are  $T_{max} = 2 * T_{min}$  and  $T_{max} = \text{time to rebuild to } B_{msy} \text{ when fished at 75 percent of maximum fishing mortality threshold (MFMT; i.e. approximation of } F_{msy})$ . However, the ratio of  $T_{max}$  to productivity (i.e., intrinsic rate of growth coefficient) is very similar under all three options. While allowing alternate means of calculating  $T_{max}$  may provide some flexibility, it may also mean more options for analysis, and therefore increase resources and workload needed in the rebuilding analyses. The Council supports including the new options for calculating  $T_{max}$  in the NS1 Guidelines.

### ***Surplus Carryover***

The proposed guidelines contain new guidance regarding carryover, which would allow raising the acceptable biological catch (ABC) in year 2 if the entire annual catch limit (ACL) is not caught

in year 1. This guidance may promote development of long-term solutions for surplus carryover, particularly for species where the  $ACL=ABC$ . The Council supports the proposed additional guidance for authorizing surplus carryover in the NS1 Guidelines.

### ***Rebuilding Progress***

Some of the new guidance is very similar to what we already use (e.g., comparing catch to the ACL). However, the focus on maintaining  $F < F_{rebuild}$  is new and may reduce the number of revisions to rebuilding plans necessary in the future. The Council supports the proposed additional guidance for monitoring rebuilding progress in the NS1 Guidelines.

### ***Overfishing Determinations***

The proposed guidelines would allow for multi-year overfishing determinations. The most recent year of catch above the overfishing level (OFL) may not meet the definition of “overfishing,” as it may not jeopardize the stock to produce maximum sustainable yield (MSY) over the long term. Use of the geometric mean of the last three years compared to OFL to determine whether overfishing is occurring would be most useful for species where catch is quite variable and circumstances exist where catch may occasionally exceed the OFL despite management controls. However, this flexibility, appropriately, does not allow for choosing which method (e.g., one-year or three-year comparison) to apply in order to prevent a determination of overfishing. Some additional analyses could be done in the future to identify stocks where the use of a three-year average may be appropriate. The Council supports the proposed addition of using a multi-year determination of overfishing in the NS1 Guidelines.

### ***Discontinuing Rebuilding Plans***

There is a proposed new provision for discontinuing rebuilding plans for stocks later determined to never have been overfished (but not yet above  $B_{MSY}$ ). Discontinuing rebuilding plans while the stock status is still in the precautionary zone may allow more or less catch compared to a rebuilding plan, depending on the myriad of situational policy considerations before a particular Council. The Council supports the proposed addition of criteria for determining when rebuilding plans may be discontinued in the NS1 Guidelines.

### ***Phase-In ABC Control Rules***

The proposed new guidance for phase-in of ABC Control Rules allows for slower implementation of either increases or decreases as long as other criteria are met to ensure that overfishing is not occurring. In addition to the 3-year limit, National Marine Fisheries Service (NMFS) may also want to consider criteria based on life history. The Council supports the proposed addition of allowing a multi-year phase-in approach for implementing changes in control rules in the NS1 Guidelines.

### ***“Depleted”***

The proposed NS1 guidelines also add a new term: “depleted.” This term, used to describe a stock that is overfished, is proposed for: 1) when available information does not indicate that fishing is the primary cause of the stock status falling below the overfished threshold, or 2) when available information indicates that curtailing fishing pressure has not resulted in improvements to stock status. The proposed guidelines indicate the use of this term would be appropriate to be used if the

stock has not experienced overfishing at any point during a period of two generation times. However, for long-lived species, estimating  $F$  and  $F_{MSY}$  back two generation times could be problematic, and the term “depleted” may be rendered useless. While the term “depleted” likely provides little benefit for management of stocks where habitat needs, or when factors other than fishing, are driving stock dynamics are not known, management of other stocks (e.g., salmon) would benefit from the distinction this term provides. The Council approves of including the term depleted in the NS1 Guidelines, but recommends replacing the criterion of no overfishing in two generation times with a requirement to assess the effects of any past overfishing on the status of the stock.

### ***FMP Review and Updates***

The proposed new guidance states that all fishery management plans (FMPs) should be reassessed regularly to ensure that fishery objectives reflect the needs of the fishery. The proposed guidelines have no definition of the term “regularly,” and as such the Council requests the guidelines provide clarity, including the flexibility for Councils to adopt a process to identify appropriate criteria for reassessment on an as-needed basis, in addition to or as opposed to, a numerical period. Review of fishery objectives, particularly if allocation objectives are included in FMPs, could be a long process with low likelihood of achieving agreement on any assessment of whether the needs of “the fishery” are being met, let alone any revisions to the objectives. Because of the impact such processes could have on other workload priorities, Councils should have the flexibility to determine which fishery objectives are in need of reassessment, when, and how often reassessment should occur. For example, many objectives (including allocation) may be routinely reassessed during the annual or biennial specification and management measure process; however, some allocation objectives are the result of many years of negotiations, intended to be in place for the long term, and not appropriate for a mandated periodic review.

Thus, the Council recommends not defining the term “regularly,” with the implicit understanding that this be left to the individual Councils to determine on a need and resource availability basis.

### ***National Standard 7***

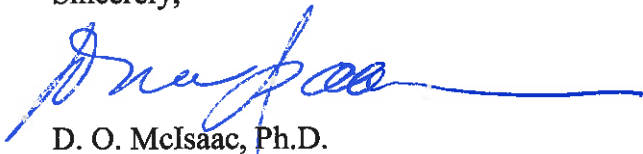
The Council also requests NMFS consider adding language to the NS7 Guidelines to note the value of actively engaging with enforcement agencies to solicit feedback when considering an action’s impacts under NS7. Enforcement agencies, such as state enforcement and the U.S. Coast Guard, expend significant at-sea and shoreside resources to enforce regulations resulting from various management measures adopted by Councils and enacted by NMFS. Adding this concept to the guidelines acknowledges that enforcement agencies are well-positioned to provide valuable information relative to operating costs associated with enforcement, as well as the costs of industry compliance with these regulations, and to offer considerations regarding potential management strategies to minimize those costs.

The Council appreciates that the proposed revisions to the guidelines have addressed some Council priorities identified as needed revisions to the Magnuson-Stevens Act; however, the NS guidelines do not have the force of law, and there are some priorities that cannot be addressed in the guidelines (see enclosure). Therefore, the Council supports, where appropriate, legislative solutions to some of those issues.

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Thank you for your consideration of these comments and recommendations. Should your staff have any questions on this matter, please contact Mr. Chuck Tracy at the Council office.

Sincerely,



D. O. McIsaac, Ph.D.  
Executive Director

CAT:kma

Enclosures:

Agenda Item F.2.b, Supplemental GMT Report, April 2015

Agenda Item F.2.b, Supplemental EC Report, April 2015

Agenda Item C.3.b, Supplemental FINAL Legislative Committee Report, June 2014

c: Pacific Council Members  
RFMC Executive Directors  
Pacific Council Staff Officers  
Dr. Alan Risenhoover

## GROUND FISH MANAGEMENT TEAM REPORT ON COMMENTS ON PROPOSED CHANGES TO NATIONAL STANDARD GUIDELINES 1, 3, & 7

The Groundfish Management Team (GMT) received a presentation from Dr. Wes Patrick of the National Marine Fisheries Service (NMFS) on the proposed change to National Standards (NS) 1, 3, and 7 Guidelines. We note that most of the proposed changes appear beneficial for providing additional flexibility in management. A recurring message throughout the presentation was that the intent of this flexibility was to allow for creative solutions as long as the rationale, sufficient record, and justification are given for the chosen course of action. For some of the specific new provisions, the GMT offers the following comments to the Council. Bolded statements indicate recommended comments to forward to NMFS and Dr. Patrick.

### ***Ecosystem Component Species***

Relative to “in the fishery” and “ecosystem component (EC) species,” would be replaced with the 10 proposed factors to consider when determining if “conservation and management” is needed. These proposed factors are not functionally different from how the Council considers whether to actively manage stocks now. The 10 factors are similar in scope and meaning, with additions to point out other relevant considerations.

### ***Calculating $T_{max}$***

The proposed new NS1 guidelines contain two new options for how to calculate  $T_{max}$  when a stock is declared overfished, and a new rebuilding plan is being developed. Currently, the only method is  $T_{max} = T_{min} + \text{mean generation time}$ . The two new options are  $T_{max} = 2 * T_{min}$  and  $T_{max} = \text{time to rebuild to } B_{msy} \text{ when fished at 75 percent of maximum fishing mortality threshold (MFMT; i.e. approximation of } F_{msy})$ . However, the ratio of  $T_{max}$  to productivity (i.e. intrinsic rate of growth coefficient) is very similar under all three options. The GMT notes that while allowing alternate means of calculating  $T_{max}$  may provide some flexibility, it may also mean more options for analysis, and therefore resources and workload, in the rebuilding analyses. The Council may choose to explore that for future biennial cycles.

### ***Surplus Carryover***

The proposed NS1 guidelines contain new guidance regarding carryover. In very plain terms, it would allow the Council to consider raising the acceptable biological catch (ABC) in year 2 (by a level deemed appropriate by the Scientific and Statistical Committee, SSC) if the entire annual catch limit (ACL) is not caught in year 1. It is possible that this guidance would promote the Council’s desire to develop a long-term solution for surplus carryover, particularly for species where the  $ACL=ABC$ .

For example, formulas may be developed and endorsed by the SSC. Then, for species where the  $ACL=ABC$  but catch was less than the ACL in year 1, a calculation would be made based on the established formula(s), and the amount by which to raise the ABC in year 2 could be presented to and endorsed by the SSC. It may be possible to set up ways to implement the ABC increases either through routine inseason action or automatic action by NMFS.

**The GMT appreciates the thought put into this proposed guideline and the flexibility it allows.** The Council may want to include this proposed concept as an option when developing improvements to the surplus carryover process. Various other options could be considered for species where attainment is very low (e.g. setting the  $ACL < ABC$  for English sole to allow carryover of some amount) or for species with very high attainment (e.g. for petrale sole it may not make sense to lower the ACL for the sole purpose to allow surplus carryover).

### ***Rebuilding Progress***

There is also new guidance for determining adequate rebuilding progress. Some of the considerations are very similar to those we already use (e.g. comparing catch to the ACL). **However, we note that the focus on maintaining  $F < F_{rebuild}$  is new and may reduce the number of revisions to rebuilding plans necessary in the future.** Currently in our groundfish fishery management plan (FMP), adequate progress toward rebuilding is judged against the probability of achieving  $T_{target}$  (i.e. probability of less than 50 percent requires revision). The new guidelines suggest that rebuilding plans should focus on  $F$  rates rather than  $T_{target}$ ,  $T_{max}$ , etc.

The GMT is currently working with Chantel Wetzel on a rebuilding management strategy evaluation (MSE) to explore the most robust methods for determining progress toward rebuilding. It is our understanding that Chantel is now exploring varying  $F$ s as part of that MSE, which compares what we are doing now to other possible methods (including focusing rebuilding on keeping  $F < F_{rebuild}$ ). This analysis should provide the basis for Council decision-making on the best method for determining progress toward rebuilding.

### ***Overfishing Determinations***

The guidelines also would allow for multi-year overfishing determinations. The most recent one year of catch above the overfishing level (OFL) may meet the definition of “overfishing,” as it may not jeopardize the stock to produce maximum sustainable yield (MSY) over the long term. Therefore, the Council could consider using the geometric mean of the last three years compared to OFL to determine whether overfishing is occurring. **This approach would be most useful for species where catch is quite variable and circumstances exist where catch may occasionally exceed the OFL despite management controls.** However, this flexibility does not allow for choosing which method (e.g. one-year or three-year comparison) to apply in order to prevent a determination of overfishing. Some additional analyses could be done in the future to identify stocks where the use of a three-year average may be appropriate.

### ***Discontinuing Rebuilding Plans***

There is also a new provision for discontinuing rebuilding plans for stocks later determined to never have been overfished (but not yet above  $B_{MSY}$ ). **The GMT notes that discontinuing rebuilding plans while the stock status is still in the precautionary zone would likely mean managing to the 40-10 adjustment (i.e., the default harvest control rule in the FMP for stocks in the precautionary zone).** Harvest specifications set using the 40-10 adjustment may allow more or less catch compared to the rebuilding plan, depending on the level of depletion and the biology of the stock.

### ***Phase-In ABC Control Rules***

The new guidance for phase-in of ABC Control Rules allows for slower implementation of either increases or decreases as long as other criteria are met to ensure that overfishing is not occurring. This is similar in philosophy to what we did for yelloweye rockfish in the “ramp-down” in 2007-

2008. **It is our understanding that NMFS is seeking feedback on the 3-year limit on such phase-ins, and why it does or does not make sense (i.e. would something based on life history make more sense).**

### ***“Depleted”***

The proposed NS1 guidelines also add a new term; “depleted.” It is the GMT’s interpretation that this term, used to describe a stock that is overfished, would be appropriate to use: 1) when available information does not indicate that fishing is the primary cause of the stock status falling below the overfished threshold, or 2) when available information indicates that curtailing fishing pressure has not resulted in improvements to stock status. The proposed guidelines indicate the use of this term would be appropriate to be used if the stock has not experienced overfishing at any point during a period of two generation times. **For long-lived species, estimating F and F<sub>MSY</sub> back two generation times could be problematic, and the term “depleted” may be rendered useless.** Additionally, the term “depleted” likely provides very little benefit for groundfish management as we usually do not know habitat needs or what other factors are driving stock dynamics other than fishing (i.e. other than changes to fishing pressure, we do not have tools to control mortality).

### ***Indicator Stocks in Complexes***

Proposed NS1 revisions would allow for use of data-rich stocks as indicators within complexes. The GMT notes that there are no “pure” groundfish complexes where all stocks are of similar biology, population dynamics, vulnerability to the fishery, etc. Additional analyses would be needed to understand how we might incorporate this concept into any of our existing complexes, but this could be considered as we continue restructuring complexes to be more in line with NS1. Dr. Patrick indicated that there is currently an MSE underway for managing stock complexes and further pointed out that there may be ways to use closely related stocks as indicators, even if they are not within a complex.

### ***FMP Review and Updates***

The new guidance says that all FMPs should be reassessed regularly to ensure that fishery objectives reflect the needs of the fishery. The GMT suggests that this can be incorporated as part of the regular biennial process with little additional workload.

The revisions to NS guidelines are not intended to require changes to FMPs. The GMT notes that it may be prudent, at an appropriate time, to update a variety of sections of the groundfish FMP to improve consistency with the new guidelines once they are finalized. There is language in the groundfish FMP that directly stems from NS guideline language that is proposed to be revised. For example, sections 4.2 and 4.4.4 of the groundfish FMP use terms and descriptions regarding ecosystem component species that are proposed to be deleted or superseded with more flexible guidelines. It is the GMT’s understanding that, given that the intent of the proposed changes as stated by NMFS, antiquated language in the FMP maintains the same spirit as the proposed NS guidelines, and would not necessarily limit the Council’s actions, as long as those actions are well-justified and explained.

PFMC  
04/13/15

ENFORCEMENT CONSULTANTS REPORT ON  
PREPARE COMMENTS ON PROPOSED CHANGES TO THE  
NATIONAL STANDARD GUIDELINES 1, 3, AND 7

The Enforcement Consultants (EC) have reviewed Agenda Item F.2, Comments on Proposed Changes to National Standard Guidelines (NS) 1, 3, and 7 and have the following comments, specifically pertaining to NS-7.

As discussed in Agenda Item F.2, Attachment 1, the Magnuson-Stevens Fishery Conservation and Management Act states, *Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.* The EC requests NMFS consider adding language to the guidelines to note the value of actively engaging with enforcement agencies to solicit feedback when considering an action's impacts under NS7. As the Council recognizes, enforcement agencies, such as state enforcement and the U.S. Coast Guard, expend significant at-sea and shoreside resources to enforce regulations resulting from various management measures adopted by the Pacific Council and enacted by NMFS. The EC believes adding this concept to the guidelines acknowledges that enforcement agencies are well positioned to provide valuable information relative to operating costs associated with enforcement, as well as the costs of industry compliance with these regulations, and to offer considerations regarding potential management strategies to minimize those costs.

**Recommendation:** The EC recommends the Council consider inclusion of the above in any comments prepared in advance of the June 23-25 Council Coordination Committee meeting.

NOAA representatives to the EC abstained from commenting on this EC report.

PFMC  
04/12/15



**LEGISLATIVE COMMITTEE REPORT ON MAGNUSON-STEVENSON ACT  
REAUTHORIZATION PRIORITIES AND OTHER LEGISLATIVE MATTERS**

The Legislative Committee (LC) met via webinar on Wednesday, June 11,<sup>1</sup> and in person on Thursday, June 19.<sup>2</sup> During the webinar, the LC discussed H.R. 4742 (Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act), the House Magnuson-Stevens Act (MSA) reauthorization bill, and the Senate's discussion draft of an MSA reauthorization bill. At that time, the LC tasked Council staff with drafting a report with points to be made in a joint letter to House and Senate principals. This draft was circulated at the onset of this Council meeting to assist other advisory bodies in preparing their statements to the Council. During the June 19 meeting, the LC considered the draft report on MSA reauthorization before discussing other Federal legislation.

The LC recommends the following points and recommendations to the Council.

**Council Letter on MSA Reauthorization Issues**

The LC recommends the Council task the Executive Director with sending a letter to Representative Doc Hastings and Senator Mark Begich with recommendations on MSA reauthorization. While the comment period for the Senate Staff Discussion Draft closed June 2, 2014, and there are elements in the Senate Staff Discussion Draft that are not included in HR 4742, it is felt the principals in both houses of Congress should be aware of the Council perspective on these matters as the legislative process on MSA reauthorization progresses.

**HR 4742**

1. With regard to the section describing consistency under federal laws<sup>3</sup>, the LC recommends the Council express support for the language mandating that the MSA control when there is any conflict with the National Marine Sanctuaries Act or the Antiquities Act. Regarding language about the intersection between the MSA and the Endangered Species Act (ESA), the LC noted it is unclear whether the bill intends to have the Councils select the appropriate incidental catch rate for ESA-listed fish (such as some salmon stocks) caught under MSA authority, or whether current ESA processes

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<sup>1</sup> The webinar was attended by committee members Dr. David Hanson, Mr. David Crabbe, Ms. Dorothy Lowman, and Mr. Dan Wolford; Council Executive Director Dr. Donald McIsaac, and Pacific Council staff Ms. Jennifer Gilden. Several other people attended: Susan Chambers (GAP), Miako Ushio (NOAA), Jamie Goen (NOAA), Jessi Doerpinghaus (WDFW), Peter Flournoy (International Law Offices of San Diego), Theresa Labriola (Wild Oceans), Tara Brock (Pew Charitable Trusts), Marci Yaremko (CDFW), Jennifer Quan (WDFW), Gway Kirchner (ODFW), Michele Culver (WDFW), John Cross (Pew Charitable Trusts), Yvonne deReynier (NMFS), Rod Moore (WSPA), Steve Bodnar (Coos Bay Trawlers Assoc.), Corey Niles (WDFW), and Troy Buell (ODFW).

<sup>2</sup> The June 19 meeting was attended by Dr. David Hanson, Mr. David Crabbe, Ms. Dorothy Lowman, Mr. Dan Wolford, Mr. Buzz Brizendine, and Mr. Dale Myer; Council Executive Director Dr. Donald McIsaac; Pacific Council staff Ms. Jennifer Gilden; and Mr. Rod Moore, Mr. Corey Niles, and Ms. Jessi Doerpinghaus.

<sup>3</sup> Sec. 5 in MSA as revised by HR 4742; page 15 of annotated copy (Agenda Item C.3.a, Attachment 3)

would determine the incidental take rate, , and Councils would then adopt conforming regulations; Council staff has yet to be able to determine Congressional intent. The Council previously adopted a position on this matter advocates for an open and transparent process for the selection of ESA-related fishery impact rates with Council involvement, such as occurred in the case of Lower Columbia River Tule Fall Chinook. The LC recommends the Council support the section on Fishery Impact Statements as a solution to the current problems associated with National Environmental Policy Act implementation.<sup>4</sup>

2. While the LC does not recommend the Council object to overarching standards for the implementation of electronic monitoring programs, it believes there should be some exemption for programs that already exist or that are nearly ready to be implemented.<sup>5</sup>
3. The LC recommends that rebuilding time adjustments or exemptions include the category of instances when a rebuilding plan would otherwise be required, but is not either because fishing is not the cause of the stock's depletion, and/or because fishing restrictions cannot correct the depleted condition.<sup>6</sup>
4. The LC supports the change in HR 4742 (as compared to the earlier discussion draft) that allows use of electronic monitoring for enforcement purposes.<sup>7</sup>
5. The LC supports the use of the asset forfeiture fund for use in the areas in which the fines were collected.<sup>8</sup>
6. The LC reaffirms its support for the REFI Act (HR 2646), which has been incorporated into HR 4742, and encourages Congress to pass this legislation expeditiously, either as part of MSA reauthorization or separately.
7. The LC supports the newly-added language that allows the use of data for marine spatial planning in order to ensure access to fishing grounds and for national security purposes.<sup>9</sup>
8. The LC believes the newly-added language that requires the Secretary to publish the estimated cost of recovery from a fishery resource disaster with 30 days of the disaster determination is impractical.<sup>10</sup>
9. State jurisdiction over Dungeness crab should be extended, as done in the Senate discussion draft.<sup>11</sup>

### **Senate Discussion Draft**

1. The Senate discussion draft includes requirements for a great deal of new science and reporting that would require more staff and funding, and could decrease flexibility of individual Councils. For example, under Section 404(e), the draft would require stock assessments for every stock of fish that has not already been assessed, subject to appropriations; and under Section 303(a)(14), would require annual catch limits (ACLs) for forage fish fisheries to take into account "the feeding requirements of dependent fish

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<sup>4</sup> Sec. 303(d) in MSA as revised (page 65 of annotated copy)

<sup>5</sup> MSA as revised (page 152 of annotated copy)

<sup>6</sup> MSA Sec. 304(e)(4)(ii) as revised (page 81 of annotated copy)

<sup>7</sup> MSA as revised (page 152-153 of annotated copy)

<sup>8</sup> MSA Sec. 404(3) as revised (page 135 of annotated copy)

<sup>9</sup> Sec. 402(b)(5) as revised and amended by Del. Bordallo (page 132).

<sup>10</sup> Sec. 312(a)(1)(B) as revised and amended by Rep. Runyan (page 112)

<sup>11</sup> Sec. 306(i), page 101.

throughout [their] range.” A substantial amount of new science would be required for both of these provisions, given that the Pacific Council manages 119 stocks of fish.

2. The definition of “subsistence fisheries” needs to be made more specific. As it currently stands, it could apply to recreational fishers who bring fish home for consumption.<sup>12</sup>
3. The section on fishery ecosystem plans should be reconsidered. As currently written, the high standards included in that section could have a chilling effect on the development of Fishery Ecosystem Plans.<sup>13</sup>
4. The LC feels the wording to streamline the National Environmental Policy Act/MSA process is insufficient, and instead supports the solution in HR 4742.<sup>14</sup>
5. The electronic monitoring section in the discussion draft contains an excessive amount of detail regarding requirements and timelines, and should be made more flexible.<sup>15</sup>

The LC recommends the Council highlight support for the Senate illegal, unreported, and unregulated definition (including the importance of unreported catches), which contains elements critical to achieving a level playing field for U.S. fisheries in the international arena.

### **Other issues**

The LC recognizes that proposed legislation addresses several Council priorities, but notes that there are several issues important to the Pacific Council that remain unaddressed by both the House and Senate and would like to see them incorporated into a bill reauthorizing the MSA. Relevant topics include not requiring revision of rebuilding plans when there are minor changes in stock status (the “noise vs. signal” issue), better allowing Councils to consider the needs of fishing communities in developing rebuilding plans, exploring flexibility for fishery impacts on data-poor species when the precautionary approach becomes a bottleneck for healthy mixed-stock fisheries, and several issues related to highly migratory species fisheries. The LC recommends the Council continue to draw attention to these concerns.

Highly migratory species issues include designating one Commissioner seat on Inter-American Tropical Tuna Commission for the Pacific Council; expanding state enforcement authority to all vessels that fish directly offshore of the territorial sea within the state-given boundaries; enhancing enforcement capabilities for international fisheries, including at-sea and in-port monitoring and enforcement, and providing assistance to developing countries in their enforcement capacity; changing “vessels” to “vessel” in the IUU certification section; and providing flexibility in observer requirements.

It would be useful to clarify in Section 302(i)(A)(3) that Council discussion of international negotiations, such as proposals and counter proposals in the recent the US-Canada Albacore Treaty negotiations, are clearly an eligible topic for discussion during closed sessions of Council meetings. It would also be useful to 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 the SSC finds that such a carryover will have negligible biological impacts, as well as clarifying current MSA language about the SSC recommending true biological overfishing limits (OFLs), and not policy decision-dependent annual catch limits related to social, economic, or risk factors.

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<sup>12</sup> Sec. 3(42A), page 13.

<sup>13</sup> Sec. 303B, page 74-76.

<sup>14</sup> Refers to Sec. 304(i) of the MSA; page 157 of annotated MSA; see also page 84

<sup>15</sup> Page 158-159 of annotated MSA.

### **Other Federal Legislation**

The LC discussed S. 2094, the Vessel Incidental Discharge Act. While the Council has not been asked to comment on S. 2094, the LC is in unanimous support of Section 7(a), which provides for the current exemption for commercial fishing vessels (including recreational charterboats) to be made permanent. The LC recommends the Council support making this exemption permanent by any legislative vehicle possible, in the event the Council is asked for comment after the June Council meeting.

The LC also discussed S. 2198 and H.R. 4039, which both deal with drought relief issues in California and southern Oregon. The LC is very concerned that these bills, and several companion bills, are dangerous to healthy salmon production. The LC endorses the points made in opposition to these bills as expressed in the letter from the Golden Gate Salmon Association (Agenda Item C.3, Attachment 9). The LC recommends the Council authorize the expression of opposition to drought relief bills that are deleterious to salmon populations, in the event that the Council is asked for comment after the June Council meeting.

The Council is on record for supporting the Revitalizing the Economy of Fisheries in the Pacific Act (S. 1275). The LC notes that similar refinancing relief has been proposed in an MSA reauthorization bill and a Coast Guard authorization bill. The LC recommends the Council endorse support for the refinancing provisions in S. 1275, if the Council is asked to comment on other related bills after the June Council meeting.

The LC also discussed the Senate Resolution honoring Billy Frank, Jr. and his many contributions to contemporary salmon recovery and management. The LC would like to draw the Council's attention to this resolution, which is included in full in Agenda Item C.3.a, Attachment 5, to acknowledge his contributions in the Pacific Council arena and elsewhere.

Finally, the LC discussed recent reports in the media about the President's intent to take new actions to protect and preserve the ocean. This includes a large marine protected area in the South Pacific, and efforts to combat illegal fishing, address seafood fraud, and prevent illegally caught fish from entering the marketplace. It is expected that there will be an open comment period that will be a precursor to an Executive Order, and, if so, the LC can add this matter to a future agenda.

### **Future Meeting Planning**

The LC recommends meeting at the onset of the September Council meeting in Spokane, and via webinar in advance if there are significant legislative developments over the course of the summer.

PFMC  
06/25/14