



# NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

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## Action Memo

File Number: REP 15-120

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Agenda Date 4/6/2015

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Dan Hull, Chairman  
Chris Oliver, Executive Director

SUBJECT:

Executive Director's Report (including status report on joint Council/IPHC meeting issues; legislative update)

Legislative Update

MSA - In early March Congressman Don Young introduced HR1335, titled "*Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act*". This MSA reauthorization bill (**attached**) was referred to the House Committee on Resources Committee and I understand will be subject to consideration and mark-up in the near future. This bill is largely an amended version of HR4742 which was introduced last year by Congressman Doc Hastings. Our comments on the original Hastings bill, from April 2014, are **attached** for your reference, and we have been asked for our input on HR1335. A comment letter on HR1335 from the PFMC is also **attached** for your reference. Because we commented extensively on the original Hastings bill, my draft comments attempt to focus on the areas of change between HR4742 and HR1335, or to additions (**attached**).

At our CCC meeting we were informed that the Senate subcommittee, formerly chaired by Senator Begich, will likely use the Rubio bill as its starting point - that bill focused on Gulf of Mexico/South Atlantic red snapper issues, but also contained some of the provisions from Senator Begich's bill.

NPFC - In late February I also received from Congressional staff (Senator Sullivan's office) a draft, revised bill to implement the North Pacific Fisheries Convention, which I understand will likely be introduced in the Senate subcommittee by Senator Sullivan at some point in the near future. While this bill has not been formally introduced, I have been working directly with Senate staff, at their request, to assess whether this revised version adequately addresses the significant concerns we had with the original draft from last July (comment letter from July 2014 **attached**). In fact the revised version addresses nearly every concern we raised in our July comment letter, including the implementation of Commission actions in domestic waters and the inclusion of Council representatives as Commissioners (from the NPFMC, PFMC, and WPFMC).

The two areas of concern still existing in this version of the bill are the section calling for development of MOUs, *for fisheries in the convention area*, between the three relevant Councils and the Secretaries of Commerce and State regarding (1) participation in US delegations to international fishery organization in the Pacific Ocean; (2) providing formal recommendations regarding necessary measures for domestic and foreign fishing vessels; (3) coordinating US positions generally; and, (4) recommending domestic fishing regulations that are consistent with actions of international fishing organizations. Because we have existing MOUs for other RFMOs (ICC and WCPFC for example), and because it is unclear what is intended with item (4), I have recommended deletion of that section, which would not preclude development of additional MOUs where

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necessary and appropriate. Finally, section 5 still refers to promulgation of domestic fishery regulations which mirror convention regulations, but clarifies that this applies only to *straddling stocks*, and only to *a person or fishing vessel that is engaged....in fisheries covered by the convention*". With these clarifications I believe our primary concerns are addressed in this version of the bill. Once this bill is formally introduced we will have additional opportunity for comment.

Other - Related to legislative issues, I wanted to bring to your attention three letters/petitions we have recently received from communities seeking to be included as new eligible communities in the western Alaska CDQ program, or seeking Council support to amend the MSA to allow for their inclusion. My response letter(s) essentially state that eligible CDQ communities are now listed in statute and it is up to Congress, not the Council, to amend that list.

#### Council Coordination Committee

In late February the Council Coordination Committee (CCC) held its interim meeting with NMFS leadership in Washington, D.C., which was attended by Chairman Hull, Vice-chairman Henderschedt, David Witherell, and myself. Among items for discussion was pending MSA reauthorization and associated issues, including reports from a number of CCC working groups.

John Henderschedt was a leading member of the Allocation Workgroup, which is working in tandem with a NOAA workgroup to develop guidance for how and when Councils would initiate review of existing fisheries allocations, and what factors should be considered in any allocation decisions. In essence, the NMFS draft guidance would focus on factors to consider when making (or reviewing) an allocation, while the CCC Workgroup guidance is focused on triggers to be used to determine whether and when to review existing allocation decisions (noting, importantly, that the CCC Workgroup product is focused on the decision of whether or not the development and analysis of alternative allocations is warranted, and is not, in and of itself, and implicit trigger to consider alternative allocations). We discussed and provided input on the draft documents in February, and another draft will be developed by the Workgroup (led now by Michelle Duval from the SAFMC) for full CCC consideration at our June annual meeting, being hosted by the Gulf of Mexico Council. A relevant sidebar to this discussion exists in the proposed revisions to the NS1 guidelines, wherein it is asserted that Councils must periodically revisit and "reassess the objectives of the fishery on a regular basis", coupled with wording in the preamble to the proposed rule which suggests that such reassessment could include allocations of catch among sectors.

Other CCC Workgroups include the Habitat Workgroup (which meets when necessary, as national level issues arise - David Witherell is member of that Workgroup) and the NEPA Workgroup (for which I have volunteered to re-engage). The NEPA Workgroup developed a 'white paper' over the past year which was adopted by the Hastings bill (4742), which would have incorporated key NEPA provisions directly into the MSA as part of an expanded Section 303 (fishery impact statement), and thereby satisfy NEPA intent directly within the MSA. However, as noted above, the revised bill (HR1335) deleted paragraph 7 of that new section (where it stated satisfaction of NEPA requirements), which effectively moots the entire intent and effect of that new section. While I still have concerns with the overall approach recommended by the CCC (and which was adopted in HR4742), it is clear that the deletion of paragraph 7 in HR1335 moots the revised approach to NEPA reconciliation, and we can simply comment to that effect (we are better off with status quo NEPA application than with additional, redundant MSA requirements and NEPA requirements). The CCC NEPA Workgroup will

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meet again to discuss this issue, and develop additional CCC comments, prior to our June CCC meeting.

The CCC also discussed establishment of a larger MSA reauthorization workgroup, which I understand from our current lead Council (GMFMC) may be activated in the next few weeks. Chairman Hull, and possibly myself, would likely serve on that CCC Workgroup. Chairman Hull and I have also discussed the possibility of establishing a North Pacific Council legislative committee, similar to the PFMC's legislative committee, to help develop Council positions on evolving legislation, particularly as we are going through the current MSA reauthorization process.

#### NPFMC/IPHC Joint Meeting Status Report

Following our February joint meeting with the IPHC, I committed to providing a status report at this meeting on issues discussed at that joint meeting. Recall that the meeting summary contained 18 items for further consideration, some of them the subject of ongoing research/analysis, and some of them requiring additional resources. With input from NMFS staff and Dr. Leaman from the IPHC, we compiled the attached **Status Report on NPFMC/IPHC meeting issues for further consideration**. With regard to the DMR issue specifically, I would note that the NOAA Fisheries Office of Science and Technology is coordinating a national workshop later this month to improve estimates of discard and release mortality, and staff identified halibut (in both directed and bycatch fisheries) as a priority species with regard to DMR estimation. Dr. Bruce Leaman is on the steering committee for this initiative, and Mr. Scott Meyer (ADFG) will also be attending.

#### Plan Team Nominations

Ms. Sarah Webster from Alaska Pacific University (APU) has submitted a nomination for the Scallop Plan Team. Ms. Webster has worked with former Scallop Plan Team member Dr. Brad Harris (now on our SSC), and currently manages the fisheries, aquatic sciences, and Technology Lab at APU. I believe this would be a welcome addition, particularly in light of recent attrition on our Scallop Plan Team. Her resume is attached and will be reviewed by the SSC at this meeting.

The Alaska Fisheries Science Center (Center) has nominated Dr. Cindy Tribuzio to replace Dr. Mike Sigler on the BSAI Groundfish Plan Team. Cindy is a research fishery biologist at the Auke Bay Laboratories and is the lead SAFE author for shark and other rockfish complexes in the GOA and shark stock complex in the BSAI. Her resume is attached and will be reviewed by the SSC at this meeting.

#### New 'meeting minutes' approach

Based on internal discussions, as well as discussions with other Councils at our February CCC meeting, we are proposing a new and simplified approach to Council meeting minutes. Given that we now have searchable audio transcripts, the traditional approach to summarizing meetings seems to have very limited utility, particularly given that our post-meeting Council newsletters provide a more useful, and more user-friendly, summary of actions at each Council meeting. Henceforth Council 'minutes' would consist of (1) the action memo which summarizes the action and information before the Council; (2) all motions made, and amendments to motions, and the voting tallies for each; (3) a time log associated with each agenda item and each motion (and associated vote) to assist the public with tracking back to the searchable audio transcript; and, (4) a copy of the post-meeting newsletter which summarizes Council actions. This approach would also

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negate the need for formal 'approval of minutes' by the Council.

#### NOAA Fisheries Charter Regs flyer

I want to highlight a series of community meetings being held by NOAA Fisheries Office of Law Enforcement over the next few months (see **attachment**), which are to provide information, and answer questions, regarding halibut charter fishing regulations. Between late April and early June these meetings will be held in Seward, Anchorage, Kenai, Valdez, and Homer.

#### MPA Framework

The final, updated Framework for the National System of Marine Protected Areas of the USA was just recently released, and includes a Federal Register notice with responses to comments received on the draft. You will recall that the Council has declined to nominate likely eligible areas under our jurisdiction, primarily due to the lack of clarity on the 'avoid harm' provisions contained in the Framework. This updated version does little, in my opinion, to add clarity to the 'avoid harm' provisions, but does state that "*it creates no new authorities....and that 'avoiding harm' would be accomplished through existing authorities (including MSA) ....and that the MPA Center may provide technical assistance or facilitation to any agencies seeking to avoid harm to national system MPAs*" (see pages 19-20). There is no additional comment being solicited on the updated Framework, so this is an informational item at this time.

#### Bycatch Reduction Engineering RFP

**Attached** is a recent announcement from NOAA Fisheries for a Bycatch Reduction Engineering Program RFP to solicit proposals for innovative bycatch solutions. Approximately \$2.5 million is available to fishermen, academics, and other interested groups for projects that offer practical engineering and technological solutions to reduce bycatch. Pre-proposals are due by April 16 with full proposals due by May 28, 2015.

#### Sobeck response on emergency rule request

For your information, **attached** is a recent letter from NOAA Fisheries Assistant Administrator Eileen Sobeck, responding to Commissioner Cotton and other Council members' December 2014 request for emergency rulemaking to reduce halibut PSC in the BSAI. Based on IPHC action earlier this year with regard to the Area 4CDE catch limits, the letter indicates that an emergency rule is not warranted.

#### Recent Council member/staff activities

Just to keep you informed regarding various staff activities outside the normal day to day work, committees, etc., staff has attended/participated in the following since our February Council meeting:

Jim Armstrong - Lowell Wakefield Symposium Steering Committee, organizing May 12-15 "Tools and Strategies for Assessment and Management of Data-limited Stocks".

David Witherell - Lowell Wakefield Steering Committee; National SSC meeting; and, North Pacific Research Board SSC March 30 - April 2.

Sam Cunningham - Southwest Alaska Municipal Conference (SWAMC) annual meeting.

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Steve Maclean - AKR/AFSC protected species science review March 16-19.

Diana Stram - has been skiing in Chile....actually it is still hot there, but winter is just around the corner, and she began her four month Fulbright Scholarship in Chile with the Undersecretariat of Fisheries and the University of Concepcion about three weeks ago, but is doing a cameo appearance here in Anchorage this week for our BSAI salmon bycatch agenda item.

Also, I want to highlight the recent publication of revised North Pacific Groundfish Species Profiles which we hope to be a useful reference document. Kudos to David, Maria, and the rest of the staff who worked to compile these updated species profiles.

Events this week

Wednesday evening, April 8, beginning at around 6 pm we will have a reception, open to all, in the Chart Room to recognize Gail Bendixen's looming retirement. Gail will be on board until the end of June, but she is unable to attend the June meeting in Sitka, so this is our shot at her! If you have a good Gail story, or just want to say a few words, please come and join the fun.

Update on turbot allocations

I have been informed that the Freezer Longline Coalition and the Groundfish Forum have reached an agreement with regard to turbot harvest in the BSAI. Representatives from those groups are here to provide a brief report to the Council.