



# NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

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## Action Memo

File Number: REP 16-031

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Dan Hull, Chairman  
Chris Oliver, Executive Director

Executive Director's Report (including ROA, allocation policy directive, legislative update; 40<sup>th</sup> Anniversary celebration update; Halibut Management Framework update)

### Southern guests

I would like to recognize two staff members from the Gulf of Mexico Fishery Management Council - Charlotte Schiaffo and Claire Roberts - who are here to visit our Council process in action, particularly to observe our EFH related agenda items, as they are engaged in a similar process in their region. So please extend them a warm welcome and visit with them if you have the chance during the week.

### Regional Operating Agreement

Back in 2013 the Inspector General issued its report for streamlining the fisheries regulatory process, which included a recommendation for each NMFS Region to develop Regional Operating Agreements (ROAs) with the relevant Council(s) in each region. The primary purpose is to provide a clear understanding of roles, responsibilities, and obligations between the Councils and each NMFS Regional Office. We signed such a ROA in February 2014. Since that time the agency, in consultation with the Council Coordination Committee (CCC), has revised the Operational Guidelines for the MSA fishery management process (September 30, 2015). The Guidelines contain seven guiding principles, and we have been asked to revise our ROAs to better document how these seven guiding principles are applied in each regional process.

In August, myself, David Witherell, and Glenn Merrill developed a revised ROA (**attached**), which contains the same essential language relating to roles, responsibilities, timing, and process; however, we have revised it to reflect how each of the seven guiding principles are addressed within the ROA. We believe this revised ROA reflects the essential elements of our fisheries regulatory process and wish to share it with the Council for any input you may have, prior to Dan Hull and I, and Jim Balsiger, signing it.

### EBFM

In May of this year NOAA released a Policy Directive (PD) to outline its commitment to ecosystem-based fisheries management, along with a DRAFT 'roadmap' to provide a national implementation strategy for this policy. We requested additional time to review this roadmap, particularly to allow time for our Ecosystem Committee to review it, given its potentially significant implications for our management process. I submitted an initial comment letter on behalf of the Council on July 12 (**attached**), requesting additional time for comment, and outlining some general concerns with the first draft. NOAA published a revised DRAFT roadmap in August (**attached**), with a deadline for comment of October 15. Citing from my July comment letter:

*"As is recognized in both the EBFM Policy Directive and the roadmap, all of the Councils, in partnership with NOAA Fisheries, are developing and employing an ecosystem-based management approach, based upon the circumstances unique to each of our fisheries. We are concerned that the roadmap may impose, or at least imply, unnecessarily rigid obligations and expectations which will stretch the limits of our monetary and personnel resources, at the Council as well as at our Regional Office and Science Center. The roadmap*

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*appears to create a significant, additional layer of bureaucratic infrastructure within the agency, including new, high-level FTE positions, which will require substantial resources at the regional level to maintain. In reviewing the recommended actions and milestones associated with the six guiding principles, we see no less than 14 different workgroups (or workshops) and approximately 15 new FTEs to be created within NOAA Fisheries, all within the first few years following adoption of the roadmap.*

*It is unclear how the agency intends to fund these activities, and of great concern regarding the potential implications to fully subscribed Council resources. Our entire Council staff is less than 15 FTEs, and simply tracking the activities associated with the roadmap would require an additional, dedicated staff person at each Council. We fully support the further development of an ecosystem-based management approach, and we appreciate the intent of the agency with the Policy Directive and associated roadmap. However, we believe that we can continue our progress in this area without subsuming substantial existing resources in the current climate of flat budgets.”*

While the revised roadmap appears to address some of the concerns cited above (for example, reducing the number of explicit workgroups/workshops), the overarching concern remains, in my opinion. That is, the potential resource and workload implications which could actually detract from our pro-active initiatives like the Bering Sea Fisheries Ecosystem Plan (FEP). It is my hope that this roadmap will actually be complementary to such efforts, but I am wary that the large infrastructure being developed under this roadmap will require substantial efforts at the Council/Region level. Our Ecosystem Committee will be reviewing this roadmap on October 4 and providing its recommendations to the Council.

#### Allocation Policy Directive

In addition to the Magnuson-Stevens Act (MSA) mandate for 5/7 year reviews of Limited Access Privilege Programs (LAPPs), and the pending NMFS guidance on review of all catch share programs (CSPs), in early August of this year the agency issued Policy Directive 01-119, and two associated Procedural Directives (**attached**). These are titled the Fisheries Allocation Review Policy, and collectively are intended to provide guidance to the Councils on reviewing fisheries allocations (which may or may not be covered under the MSA LAPP review mandates or the pending CSP review guidance). Upon being informed by the agency in June 2015 that such a Policy Directive (PD) would be developed, the Council Coordination Committee (CCC) formed a workgroup (originally led by John Henderschedt) to provide input on the development of that PD. The CCC workgroup focused on the *when* aspect of the review issue; i.e., when and how often should the Council formally review its fisheries allocations, defined as “a direct and deliberate distribution of the opportunity to participate in a fishery among identifiable, discrete user groups or individuals”. The NMFS focused on the *how* aspect; i.e., what factors should be considered when making fisheries allocation decisions (reviews).

It is likely that many, if not most, of our fisheries management structures will fall under this PD and will be subject to some level of explicit, periodic review. However, it is also likely that some of these fisheries allocation reviews will be subsumed within recent or ongoing LAPP program reviews as required by the MSA (for example the recently completed Amendment 80 program review, the recently completed BSAI crab program review, and the pending review for the halibut/sablefish IFQ program), or the more general CSP reviews. I am assuming that allocations specified by Congress in statute would not be subject to the review requirements (i.e., CDQ program, BSAI pollock) since they are under the purview of Congress, but I am not certain of that assumption. **Attached** is a list of our fisheries allocations that could potentially fall within the purview of this PD, and their status relative to recent or ongoing MSA reviews (or other forms of review). **This list is for general reference purposes as we have not yet determined whether all of these would in fact be subject to the PD. This list was meant to provide an exhaustive list of our fisheries programs in order to help determine which ones may be subject to the allocation review PD.**

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The allocation review PD does provide the Councils considerable flexibility on determining when such reviews would occur, and allows us three years to identify the 'triggers' which would be used to determine when a review should occur. It is also important to note that when a review is 'triggered', that initiates a process to make a preliminary assessment of the program against the overall program goals and objectives - the fisheries allocation review - to determine whether a formal evaluation of alternatives (FMP or regulatory amendment) is warranted. The fisheries allocation review is NOT, in and of itself, an implicit trigger to consider new alternatives. The three-step process is illustrated in Figure 1 of the PD and can be summarized as follows:

Step 1 - A trigger is met. The three main categories of triggers are public input-based, time-based, and indicator based. Under public input triggers, the Council would still be making a decision on whether to proceed to Step 2. Under an indicator-based trigger (if indicators are sufficiently specific), or a time-based trigger, Step 2 would be a pre-ordained conclusion.

Step 2 - Fisheries Allocation Review - this review is not intended to be an in-depth analysis; however, it should be sufficient to allow comparison of program goals and objectives and whether they are being met by the current allocation. This review informs whether or not a consideration of new allocation alternatives (formal analysis) is warranted.

Step 3 - Evaluation of alternatives/options for an FMP/regulatory amendment. This occurs if the Council determines such an analysis is warranted, based on the Step 2 review. This would follow our typical Council process for FMP/regulatory amendments, wherein the Council would ultimately make a decision to potentially alter an existing allocation (or remain with status quo).

The important part of all this for the Council's near-term consideration is identification of the triggers which would initiate a fisheries allocation review. While we technically have three years to identify such triggers, it is not imperative that we wait that long to do so. Public input-based triggers could be structured in a way that is very similar to our existing, ongoing Council process of adaptive management, under which the Council could identify the need for a fisheries allocation review (Step 2) based on its ongoing processes and input from the affected industry/public. A more formal petition process could be considered, but is likely unnecessary in my opinion. A time-based trigger would be more simple and straightforward, but has a number of drawbacks, including having to do such a review when other priorities are on the Council's plate, and/or which may be an unnecessary commitment of resources. An indicator-based trigger may make the most sense intuitively, but also is likely the most complicated trigger to develop and specify.

In summary, I recommend that we schedule this issue for a more in-depth discussion at an upcoming Council meeting where our agenda allows, likely in early to mid-2017. Between now and then staff can further develop some potential trigger approaches for Council consideration, and have a more definitive assessment of which fisheries allocations will be subject to the review requirements of the PD.

Legislative Update

There has not been any movement on MSA reauthorization, but there has been movement on legislation to implement the North Pacific Fisheries Convention (NPFC), a multi-lateral RFMO in which Chairman Hull participates. In May the Senate passed S1335, the Ensuring Access to Fisheries Act, Title I of which addresses the NPFC. That bill included Commissioner status for the three west coast Councils and established a large, permanent Advisory Committee. It also provided for funding of that Advisory Committee as well as funding for advisors to two other important RFMO processes, the Bering Sea Fisheries Advisory Body (BSFAB) to the U.S./Russia ICC, and for the North Pacific Anadromous Fish Commission (NPAFC).

In early September the House passed its version of implementing legislation, HR4576 (**attached**), which contains very similar provisions as the S1335, including Commissioner status for the three west coast

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Councils, but with two major differences; (1) it does not contain any provisions for establishment of an Advisory Committee, and (2) it does not contain any provisions for funding of the BSFAB or the NPAFC advisors. The most likely next step is that the Senate could take up the House-passed version and send it forward to the President, or they could insert language from S1335 (or otherwise amend it) and send it back to the House (i.e., negotiate the final language before one or the other body sends it to the President). It is not clear whether we will be requested by either the House or the Senate to provide any additional Council input on this legislation.

For general information purposes, also **attached** is the August monthly legislative update from the Council Coordination Committee's legislative liaison Dave Whaley.

#### Halibut Management Framework document

In August staff revised and restructured the Council's Halibut Management Framework document, in order to update or remove stale information, update the status of some of the key ongoing science and research initiatives, and to reflect the direction we received from the Council at the February and April 2016 Council meetings (**attached**). We will provide a brief overview of the revised document and it will also be reviewed by the Council's Halibut Management Committee which is meeting on October 4. The Council may wish to revisit discussions on the Framework under the halibut agenda items later in this meeting.

#### Social Science Plan Team concept

In June, stemming from the SSC minutes on the BSAI crab rationalization 10-year review, the Council discussed the potential merit of establishing some type of 'social science plan team' in order to "discuss program evaluation strategies, refinements in data collection, and analytical methods". At that time I suggested that a starting point for such consideration would be for Council and NMFS/AFSC staff to develop a short discussion paper, or 'strawman', to help determine an appropriate scope and role for such a team, and to provide a platform for further Council consideration of this concept. This is still on our radar screen but we simply have not had the time and opportunity to effectively engage in these discussions prior to this October meeting.

#### Advisory Panel (AP) Handbook

Over the summer David Witherell has been working with our AP Chair and Vice-chairs to develop an 'AP Handbook', which expands on the Council's basic SOPPs to provide a more comprehensive reference manual for AP administrative and process issues, including preparation and delivery of AP minutes to the Council (**attached**). At this meeting we will review this handbook with the full AP, and they may (or may not) have recommendations for adjustments to this draft. We think it would be appropriate for the Council to provide its approval of the AP handbook, perhaps at the end of this meeting after we have any comments from the AP.

#### 40<sup>th</sup> Anniversary Celebration Event

As you are aware, we are in the midst of planning for an event to celebrate the 40<sup>th</sup> anniversary of the Magnuson-Stevens Act and the regional fishery management Council process. This black-tie event, to be held on Thursday, December 8 at the Captain Cook Hotel, will feature a seated banquet, invited speakers, door prizes, and entertainment. Please note that we have slightly adjusted our December meeting schedule to accommodate this event and to allow participation by our SSC members as well - the SSC will begin on Tuesday, December 6, the AP will begin on Wednesday, December 7, and the Council meeting will begin on Thursday, December 8. A DRAFT agenda for the event is **attached**. For planning purposes, we can provide the following information at this time:

- For development of the event's commemorative brochure, we have solicited written contributions (not to exceed one page in length!) from numerous long-time Council family participants. These are intended to capture various 'first-hand accounts' of the Council process, including any particularly funny

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or landmark moments throughout the 40-year history. **For inclusion in the brochure these must be received in our offices by October 15!!!!** Please direct them to Maria Shawback.

- Attendance is limited to 350 persons. Council, AP, SSC, and Council staff members will be allowed priority registration (cost to be covered by the Council), prior to the open registration period which will open on October 10. Any guests will be subject to the standard \$80 registration fee. Joy Stein will be the primary contact for registration, and she can process payment for any guests as well. We will also offer early boarding for other agency staff.
- Open registration will begin on October 10 at a cost of \$80 per person. We will also allow the purchase of 10-seat tables for companies/associations/etc. who wish to do so. Again, Joy Stein will be the primary contact for registration, which can be done in person or through email ([joy.stein@noaa.gov](mailto:joy.stein@noaa.gov) <<mailto:joy.stein@noaa.gov>>). She will provide the registration details and also process payment.
- Again, attendance is **limited to 350 persons**, so please do not procrastinate if you wish to attend!
- We are seeking donations for door prizes - jackets, hats, fish, shellfish, fishing trips, T shirts, or any other kind of bling or blang that folks like to get for free. We are also seeking monetary contributions specifically to provide wine for each table at the event (30 tables total) - which would go directly to the Captain Cook Hotel for that purpose. Please let us know if you wish to contribute door prizes or \$ to the event.

#### Plan Team nominations

Mr. Ben Daly (**letter and resume attached**) has been nominated by ADF&G to serve on the Council's BSAI Crab Plan Team to replace Doug Pengilly, who retired. Mr. Daly has replaced Doug Pengilly as the Westward Region shellfish/groundfish research coordinator in the Division of Commercial Fisheries.

Dr. Kristin Holsman (**letter and resume attached**) has been nominated by NMFS to serve on the Bering Sea Aleutian Islands Groundfish Plan Team to replace Dr. Kerim Aydin, who is leaving the BSAI Plan Team in October 2016.

The SSC will review the Plan Team nominations and provide recommendations to the Council during this meeting. The Council will discuss the nomination in Executive Session.

#### Marine Protected Areas Advisory Committee

The National Marine Protected Areas Center is seeking new members for the MPA Federal Advisory Committee (**attached**). Nomination deadline is October 7.

#### Recent Staff/Council activities

Some of the recent extracurricular activities of staff include: a presentation by Steve Maclean at the International Marine Conservation Congress, July 30 - August 3, St. John's Newfoundland, titled "*Corals, Canyons, and Conservation: science-based fishery management in Alaska*". Steve described our intensive, science-based process to examine the Bering Sea coral/canyons issue, which I understand provided many in the audience with a great appreciation of that process and its outcomes. Sam Cunningham and Sarah Marrinan participated in portions of the AFSC Human Dimensions Workshop in Seattle in mid-June. In early September, Sam Cunningham also coordinate and co-hosted (along with Mike Downs) a quarterly teleconference of the Social Science in Regional Fisheries Management (SSRFM) workgroup, which is an inter-Council/agency group aimed at information sharing and best practices. And, Diana Stram led the September 12 public workshop on abundance-based halibut PSC approaches (which we will review later this

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week under that agenda item). Dr. Stram also participated in the NPRB Science Panel meetings in August.

On August 30-31 we held a Council staff 'retreat' (at the mostly empty Legislative Information Offices on 4<sup>th</sup> Avenue) to discuss general administrative and operational issues, as well as foster and strengthen staff collaboration and teambuilding. As part of that 'retreat' we also received training from representatives of ToastMasters on planning and delivering effective presentations.

In late August Council Vice-Chair Bill Tweit attended the International Fisheries Observing and Monitoring Conference (IFOMC) in San Diego, CA. During that same time period Council Chair Dan Hull attended the 2<sup>nd</sup> Plenary Meeting of the North Pacific Fisheries Convention in Tokyo, Japan (which follows upon several NPFC Preparatory Conferences over the past few years). And during the week of September 19-23 Dan chaired the annual fall meeting of the North Pacific Research Board (NPRB) in Sitka, Alaska. In mid-August Council member Craig Cross attended the Aleutian Life Forum as part of a consortium with NOAA, NPRB, AOOS, USFWS, UAF, the Aleutian Pribilof Islands Association, and the Qawalangin Tribe held in Dutch Harbor, Alaska.

**Events this week**

On Wednesday evening, October 5, beginning at 6 pm, the Ocean Conservancy (along with Nuka Research and Planning) will provide a presentation on their Bering Sea/Bering Strait Shipping Risk Analysis. In addition to standard risk analysis work, they intend to include information about risks to commercial and subsistence fishing. The Ecosystem Committee is also scheduled to receive a presentation on this work.