UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
MARINE FISHERIES ADVISORY COMMITTEE
Silver Spring, MD 20910

June 2, 2016

MEMORANDUM FOR: Eileen Sobeck
Assistant Administrator for Fisheries

FROM: Julie Morris
Chair, Marine Fisheries Advisory Committee

SUBJECT: Marine Fisheries Advisory Committee Findings and Recommendations from the April and June 2016 Meetings

This memo transmits the findings and recommendations of the Marine Fisheries Advisory Committee and its subcommittees from the April and June 2016 meetings in Portland, Oregon and by teleconference, respectively. We also appreciate this opportunity to acknowledge the series of educational presentations that were made to MAFAC at the April meeting in support of the Committee's ongoing work related to coastal and climate resiliency.

These findings and recommendations represent the decisions made on the following topics:

- Establishment of a new Columbia River Partnership Task Force
- Hatchery Genetics Management Plans
- Partnership Acknowledgement in Support of Recovery of Protected Resources
- Draft National Bycatch Reduction Strategy

MAFAC and its subcommittees and task forces will continue to invest a significant amount of time and work during FY 2016 on their ongoing projects including:

- Continued support of the NOAA Fisheries Climate Science Strategy and the development of regional implementation action plans.
- Continued work that addresses the four tasks of the Coastal Resilience Working Group (aquaculture benefits, social and economic impacts on fishing communities, improved communications strategies, and management approaches).
- Development of a work plan for the Strategic Planning, Budget, and Program Management Subcommittee to advance a concise, high-level report that emphasizes mission-import topics to share during the transition efforts of the next Administration.

Thank you for the opportunity to meet and discuss these important topics and for your full consideration of our recommendations.

FINDINGS & RECOMMENDATIONS

- **Establishment of a new Columbia River Partnership Task Force**

  MAFAC approved the establishment of the Columbia Basin Partnership Task Force and adopted a draft Terms of Reference for this task force. MAFAC had extensive

discussion on the topic with Barry Thom, Deputy Administrator for the West Coast Region. MAFAC agreed that it could support Agency efforts to develop conservation and harvest goals for Columbia River Basin salmon and steelhead at the species, stock, major population group, and population levels with the support of a Task Force comprised of regional experts and stakeholders.

The goal of this effort is to enhance engagement and understanding by providing a concise, common definition of success, consistent means to measure progress, and improved public support for work across the Columbia River Basin. It may provide a model for similar efforts in other regions around the country, and particularly on contentious management issues.

It is the intent that this Task Force be established for two years, with a possibility of extending that term if deemed necessary by MAFAC and NOAA Fisheries, and it will report through the Ecosystems Approach Subcommittee.

- **Hatchery Genetics Management Plan Recommendations**

  MAFAC supports the proper use of hatchery reared salmon and steel head species in California, Oregon, and Washington. Throughout the region, multiple stocks of wild chinook, coho, sockeye, and steelhead are threatened or endangered and come under the protection of the Endangered Species Act.
  Hatchery reared salmonids supply many benefits to sport, commercial and tribal fisheries. Hatcheries are also beneficial for use in supplementing wild runs where severely depleted, contributing to recovery.

  There are also risks to wild populations that must be managed to ensure that hatchery stocks do not hinder recovery of listed populations.

  To obtain a permit to operate a hatchery, an owner must develop a Hatchery Genetics Management Plan (HGMP) and have it approved by NMFS via a consultation process. In recent years, there have been a plethora of lawsuits attempting to close hatcheries, most questioning the science used in permitting a hatchery.

  While using wild fish eggs and milt to maintain genetic diversity in hatchery stocks is desirable for proper management, it constitutes a “taking” under ESA and requires a biological opinion from the National Marine Fisheries Service (NMFS) in order to legally operate.

  The best defense against these lawsuits is to ensure that the biological opinions and resulting permits are driven by the best available science.

  MAFAC commends NMFS for their rigorous science driven process, their efforts to comply with both the required ESA and NEPA processes and their adaptability in adding staff and building efficiencies to meet the demand for these plans. Notable are the efficiency improvements that include batching HGMPs for multiple hatcheries in one watershed, and using templates to facilitate effective HGMP applications.

Growing capacity and bringing hatcheries in compliance with defensible HGMPs is essential.

- **Recommendation for Partnership Acknowledgement in Support of Recovery of Protected Resources**

  The Protected Resources Subcommittee met to discuss its continuing work and conversation with the Office of Protected Resources on how MAFAC can best contribute to the priority species work. One overarching issue that dominated their conversation is how the Agency cultivates and publicly acknowledges existing partners. Members noted current inconsistencies in partner acknowledgements in print materials and on various national and regional Agency web sites.

  Many times only certain partners are listed rather than all partners, and there are inconsistencies in how terms are used (e.g. "partners and industry" versus "partners" alone).

  MAFAC recommends that public acknowledgements be complete and consistent across all platforms. All partners should be publicly thanked, particularly since this can significantly help non-governmental organizations justify their own fundraising activities in support of NOAA-mission work.

- **Recommendation on the Draft National Bycatch Reduction Strategy**

  MAFAC discussed the draft National Bycatch Reduction Strategy and created a detailed outline of the topics that it wished to address during the April meeting. MAFAC Members continued to develop draft comments through May, and discussed and debated a final set of comments at a formerly noticed meeting on June 1, 2016. The final, detailed comments are written as a separate memorandum and are attached (Attachment A).

Cc: Dr. Kathryn D. Sullivan, Under Secretary for Oceans and Atmosphere
Barry Thom, Deputy Administrator, West Coast Region, NOAA Fisheries
Office of Sustainable Fisheries, nmfs.bycatch@noaa.gov

Attachment

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June 2, 2016

MEMORANDUM FOR: Eileen Sobeck
Assistant Administrator for Fisheries

FROM: Julie Morris Julie Morris
Chair, Marine Fisheries Advisory Committee

SUBJECT: Marine Fisheries Advisory Committee Comments on the Draft National Bycatch Reduction Strategy

The Marine Fisheries Advisory Committee (MAFAC) is submitting comments on the Draft National Bycatch Reduction Strategy. MAFAC is charged with making recommendations to NOAA and the Secretary of Commerce on the department's living marine resource responsibilities.

At our meeting in April 2016, the discussion of the Draft National Bycatch Reduction Strategy precipitated an intense discussion. Each member of MAFAC has experienced the friction between bycatch and harvest. Some members have had harvest constrained and other members noted bycatch species harmed. MAFAC's comments on the draft strategy are drawn from this broad range of experiences.

Our memorandum includes three sections: general comments; specific wording changes for several of the draft objectives; and short topical comments on improving bycatch data, balancing allowable harvest with bycatch reduction, encouraging innovation, clarifying definitions, reviewing closed areas periodically, and utilizing bycatch.

General Comments

In general, the proposed national bycatch reduction strategy objectives are well-stated and logically connected to the three key laws that govern bycatch - the Magnuson Stevens Act (MSA), the Endangered Species Act (ESA), and the Marine Mammal Protection Act (MMPA). The strategy does a good job of incorporating the different approaches to bycatch required by each of these laws.

The draft strategy could be strengthened by adding a summary of the progress already made in reducing bycatch. Two or more specific stories highlighting innovative strategies and successful partnerships would enrich the context for the draft strategy.

Ideally, the draft bycatch strategy should be consistent with the recently adopted standardized bycatch methodology guidance, and a discussion of this consistency or inconsistency would be helpful.

Balance and flexibility are important when reducing bycatch in fisheries. Bycatch reduction can be important for conservation, and in some cases may be significantly important for rebuilding plans for some stocks. Yet, bycatch limits can limit directed harvest of target species affecting fishermen, processors, and fishing communities.

Annual Catch Limits (ACLs) should be the backstop standard for the allowable amount of bycatch. There are instances on the Pacific Coast in which individual fishing quotas (IFQ) fisheries have been restricted from harvesting the ACL of the target fish even when the bycatch ACL is below the allowable level. Gathering data and analyzing these cases would be helpful.

Our final general comment is that the draft strategy should emphasize that the national strategy is intended to help with setting priorities for science, grants, and the work of Federal fisheries managers and scientists and is not a mandate for new or different regulations.

MAFAC supports the international provisions of the draft National Bycatch Reduction Strategy.

Suggested wording changes for three objectives (wording changes underlined)

- Strengthen monitoring and data collection programs through cost-effective use of new and existing tools (e.g., observers, logbooks, study fleets, and electronic technologies) to collect bycatch data that inform agency, private sector, and NGO bycatch strategies ~~priorities~~.
- Improve management measures and regulations so that they are designed to reduce bycatch, while strengthening understanding of the economic and social factors contributing to bycatch and the effectiveness of bycatch reduction measures. (Best Management Practices)
- Improve ~~communication~~ review and coordination within NOAA fisheries and increase partner and stakeholder awareness, understanding, and engagement through open, two-way communication.

Short Topical Comments

Bycatch data need to be improved in many fisheries, including, but not limited to: mortality estimates, data quality, and timeliness of data. Improved bycatch estimates will yield better stock assessment models and may improve effectiveness of management measures.

Periodic Review of closed areas for bycatch reduction is very important. Bycatch hot spots can shift with time and reviews will illuminate these shifts. For spatial management of bycatch to be most effective, closed areas should adjust to current hot spots. Previously closed areas can reopen to harvest when the likelihood of bycatch declines.

Balance and Flexibility are needed in searching for the right balance between reduced bycatch and allowable harvest. The National Standards in the MSA call for a balance between economic goals and "practicable" levels of bycatch reduction. Determining what level of bycatch reduction is practicable in a specific fishery can be difficult and contentious. The Strategy would be strengthened if the Agency made an effort to enunciate some of the factors that should be considered in the context of practicability.

At the outset, the draft strategy should acknowledge that it is impossible to fish without bycatch, and that there are very real economic impacts when bycatch limits also limit the ability to harvest target species. Some assert that MSA bycatch minimization was never intended to limit optimum yield while others assert that maximum sustainable yield is reduced to optimum yield by relevant economic, social, and ecological factors, including bycatch levels. The use of best

science and stock assessments should always be utilized as the primary reference point for guidance in this process.

Bycatch reduction strategies that close directed fisheries when the allowable bycatch has been harvested could lead to a race for the fish in non-rationalized fisheries, i.e. trying to harvest as much as possible of the target fish before the bycatch limit closes the fishery. Rationalized programs with applicable and effective tools (i.e. allowing individual or cooperative harvest timing and geographical fishing choices) such as fishery cooperation through Co-ops and well-designed IFQ programs, can keep bycatch levels low enough to allow the full harvest of the allowable catch of the target stocks. Guidelines and policy to reduce bycatch should be done collaboratively with Government and Industry, while adhering to the premise that one size does not fit all. Different regions, FMPs, and gear groups will have different requirements. However, if this factor is taken into account prior to inception of bycatch reduction guidelines and policies, the net result will be fisheries that achieve optimum harvest of target stocks while minimizing bycatch.

Innovation in bycatch reduction is broadly supported by MAFAC. Geography, timing, and technology can each be harnessed to reduce bycatch. Fishermen are natural innovators and great reductions in bycatch are possible in collaboration with both recreational and commercial anglers. It is important to foster a culture of continuous improvement and investigate how to mitigate risk to fishery participants. Government and non-government funding can encourage bycatch reduction innovation. Beyond funding, research permits to field-test innovations and research set-asides of a portion of the allowable harvest/bycatch can be provided in support of innovation. Even when a field test indicates a promising technique to reduce bycatch, it is often difficult to scale up a new technique across a fishery. Sometimes the innovative technique is costly or less effective than projected. At other times, communication falls short, and fishermen are not informed that the proposed technique has been field-tested in collaboration with industry for practicality as well as effectiveness.

A number of proven innovations can be encouraged and incentivized across fisheries. These examples were identified by MAFAC members:

- Cooperatives communicating across the fleet about areas to avoid.
- Rolling hot spots.
- Risk pools.
- Codes of conduct.
- Cooperative agreements to leave problematic areas.
- Catch shares for regulatory discards.
- Abundance based bycatch caps.
- Collaborative management.
- Potential biological removal (PBR) for mammals.

Including *definitions* of the various categories of bycatch would be helpful, along with the recognition that different strategies are needed for different types of bycatch. For example, there are economic discards, regulatory discards, bycatch of protected resources, managed bycatch, and unmanaged bycatch.

Utilization needs to be carefully defined in the context of different bycatch situations. Will utilized bycatch no longer be considered bycatch?

Bycatch reduction is a different goal than utilization of bycatch. There can be a moral hazard in utilizing bycatch if utilization encourages increased bycatch instead of reduced bycatch. Utilization should not be a loophole to avoid complying with bycatch reduction and minimization requirements.

There are fisheries in which allowable bycatch is wasted, thrown overboard, when it could be utilized. Utilization must be carefully considered, case by case, depending on the region and the fishery. The challenge will be to reduce waste without creating either loopholes or incentives to increase bycatch levels

Thank you for your thoughtful review of these comments from MAFAC. We would appreciate receiving a report on the final National Bycatch Reduction Strategy when it is completed.