

Marine Policy: A Year in Review

Brad Gilman
and

Rick Marks

Robertson, Monagle & Eastaugh

PSMFC 2014

PSMFC Annual Meeting 2014

- FY15 Appropriations
- 2014 Mid-Terms
- Magnuson-Stevens Act
- National Ocean Policy
- Marine Sanctuaries & Monuments
- Climate Change
- Protected Species
- ESA Activities
- Catch Shares
- NPDES Update
- Aquatic Invasive Species
- Tribal Issues
- PSMFC "Grab Bag"
- *Rick's Summer Reading tip...*
- *"And you heard it here..."*

FY15 APPROPRIATIONS OUTLOOK

PSMFC Funding Lines	FY 2014 Omnibus	FY 2015 Budget Request	FY 2015 House CJS	FY 2015 Senate CJS
Councils/Commissions	32,000,000	32,738,000	32,000,000	32,738,000
Expand Stock Assessments	69,000,000	72,245,000	72,000,000	72,000,000
IJFA	2,500,000	2,502,000	2,500,000	2,502,000
Surveys & Monitoring	24,000,000	24,404,000	24,000,000	24,200,000
Fish Information Networks	22,000,000	22,056,000	22,000,000	22,000,000
Salmon Mgmt	30,200,000	27,302,000	30,000,000	30,200,000
Pacific Coastal Salmon RF	65,000,000	50,000,000	65,000,000	65,000,000

2014 Mid-Term Elections

Competitive Senate Races

Republicans looking to claim their first Senate majority in eight years will need to pick up three Democratic-held seats in addition to the three in Montana, South Dakota and West Virginia where they already have an edge. The most likely targets are toss-up races in Arkansas and Louisiana, and contested seats in Alaska, Iowa, New Hampshire and North Carolina. (from Roll Call, 8/14)

Magnuson-Stevens Act (MSA)

- RFMC CCC publishes final reauthorization recommendations (7/14)
- NOAA NSG1 PR expected late 2014/early 2015
- Data Confidentiality FR pending (77 FR 30486)
- NOAA rescinds "NEPA Consistency" PR (79 FR 40703; 7/14)
- NOAA creating a "National Prioritization of Fish Stock Assessments" (started 2/14)
- NOAA Regional Science Center peer reviews continue; (<http://www.st.nmfs.noaa.gov/science-program-review/index>)

MSA Activities: House

- Natural Resources Full Committee Reauthorization Hearing on “Discussion Draft”; (2/14; ROMEA’s Rick Marks testifies, Draft becomes H.R. 4742)
- Full Committee Mark-up of H.R. 4742 “Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act” (5/14)
- **OUTLOOK**: Passage by full House possible this year...

MSA Activities: Senate

- Senate Commerce Subcommittee (Sens. Begich/Rubio) introduce "Discussion Draft"; viewed as controversial (4/14); includes Dungeness Crab sunset provision
- Staff revises "Staff Working Draft" for comment (7/14); 2nd draft drops EBM, forage fish, and bycatch provisions; far less controversial
- **OUTLOOK:** Staff will review comments & introduce a formal bill this year; committee mark-up possible; passage this year *unlikely*; we start from here in 2015...***Chairman Doc Hastings (WA-R-4th) retiring 2014

National Ocean Policy Update

- Defeated: Senate 2015 WRDA provision creating a “National Endowment for the Oceans” funding NOP
- Approved: House FY15 WRDA & Interior appropriations provisions prohibiting use of federal funds to implement NOP
- Substantial funding from NGOs supports NOP Regional Planning Body (RPB) Process; RPBs continue to develop to varying degrees
- NE & MID RPB’s to finalize regional plans by 2016
- Pac NW & GOMEX slower; WA developing CMSP; Pac NW Tribal RPB webinar (7/14); regional efforts continue depending on \$\$\$

Marine Sanctuaries & Monuments

- NOAA/NOS amends NMSA regulations adding new site public petition process (79 FR 33851; 6/14)
- NOAA creates Sanctuary "Business Advisory Council" (1/14)
- NOAA issues Marine Monument Grant Program (3/14)
- H.R. 4942 provision specifies MSA as the controlling statute in cases of conflict (i.e. MSA v. NMSA)
- Administration executive authority expands CA Coastal Nat'l Monument to include Point Arera-Storrietta Public Lands (4/14)
- Administration executive authority to create the world's largest marine monument (780,000 km) in the Pacific Remote Islands (6/14)
- H.R.1459/H.R.4742/H.R.4988/H.R.5389/S.2608 contain elements to limit Administrative executive authority; require Congressional approval

Climate Change #1

- U.S. State Department convenes international conference *Oceans Under Threat: Charting a Sustainable Future*"; Washington, D.C., June 16-18, 2014
- Participants announce \$1.8B in partnerships to protect more than 3 million km of ocean; Leonardo DeCaprio pledges \$7M to help ban "*bottom trolling*"
- Other focus areas: marine protected areas, sustainable fisheries, reducing marine pollution, preventing and monitoring ocean acidification, building capacity, supporting coastal communities, and ocean mapping

Climate Change #2

- White House creates a National Climate Change Task Force (11/13) incl. CA/WA Governors & leaders of 5 West Coast/Alaska communities
- NOAA study suggests corals can adapt to moderate climate change (10/13)
- NOAA study suggests large fraction of West Coast pteropod population negatively affected by acidification (5/14)
- CA launches 10 North Coast Marine Protected Area Monitoring Grants (12/13)

Protected Species #1

- CA Sea Lion: (H.R. 1308; Rep. Doc Hastings) “Endangered Salmon & Fisheries Predation Prevention Act”) passes full Committee (1/14); NOAA wins HSUS court challenge (10/13), State removal permits remain effective to 5/2016
- NOAA holds pod cast on status of So. Res. Killer Whales (1/14); 10-yr status report (6/14), no recovery/no solutions; NGO petitions NOAA to increase Critical Habitat from Cape Flattery, WA to Point Reyes, CA out to 47 miles (4/14), decision pending...
- NOAA extends comment period to delist Central North Pacific Humpback Whale DPS to 8/27 (79 FR 40054)
- NGOs sue NOAA to expand Right Whale Critical Habitat and reduce vessel speeds (impacts only East Coast, for now...)

Protected Species #2

- Final Rule: SSL ***Eastern DPS*** delisted (79 FR 66140; 11/13)
- SSL ***Western DPS***: NOAA revises BiOp, certain fisheries no longer causing jeopardy (4/14)
- Migratory gray whale numbers increasing: NOAA survey results in 2010=38 animals; 2012=182; 2013=364
- NOAA testing drones for wildlife surveys (7/14)
- NGOs sue Feds to ban seafood imports from countries that do not protect marine mammals to U.S. MMPA standards (7/14)

SHARK #1

- Shark stocks managed by NOAA for legal harvest; practice of “finning” illegal since 2000; Shark Conservation Act 2010 adds protection
- CA/WA/OR/MD/DE/NY/MA/IL/HI adopt laws banning all fin possession which are inconsistent with federal law (NOAA allows for sharks to be landed legally w/fins attached to the carcass)
- NOAA issues PR declaring State laws prohibiting fin possession are not preempted by federal law (2/14)

SHARK #2

- CA DFW status report on NE population of great white shark concludes not Threatened or Endangered (4/14); final decision pending...(NOAA previously rejected 2 NGO listing petitions)
- NOAA accepts petition to ESA list 9 shark species; status determinations ongoing (78 FR 69376)
- Hilton Hotels bows to public pressure, bans shark fin soup from all its restaurants (4/14)

ESA #1

- House ESA Working Group to seek improvements (ESA last reauthorized 1988)
- Working Group Report “Findings and Recommendations” (2/14; See <http://esaworkinggroup.hastings.house.gov>)
- July 2014, House passes (H.R.4315; 4316; 4317 & 4318 as H.R. 4315 – “*21st Century Endangered Species Transparency Act*”) to improve transparency, use of best available scientific information, and curtail the expenses of litigation (no similar Senate activity expected this Congress)
- Reform bills were vigorously opposed by numerous national environmental groups

ESA #2

- USFWS proposes to amend policy on landowner credits for protecting at-risk wildlife. Comments due 9/22/14;
(www.fws.gov/endangered/improving_ESA/prelisting-conservation.html)
- Pending FR: USFWS/NOAA amends Sec.7 regulations for incidental take statements and use of surrogates to estimate takes (78 FR 54437)
- FR: USFWS/NOAA change policy re: what is a “significant portion of the range” (7/14); Agencies promptly sued by CBD in the 9th Circuit; decision pending...

ESA #3

- NOAA issues Critical Habitat (CH) designation for loggerheads; no CH in Pacific (6/14)
- NGOs sue NOAA; agency closes Pacific Loggerhead Conservation Area to drift swordfish gillnet fishing (7/13)
- ESA Petition to list captive killer whale "*Lolita*" approved by NOAA (1/14)
- NOAA reviewing ESA petition to list 3 hagfish and 3 sea snakes (78 FR 66675)

Catch Share Update #1

- NOAA Report: Design/Use of Fishing Communities and Regional Fishery Associations in IFQ's (1/14)
- Review of NOAA Catch Share Programs (5/14; Rept. No. OIG-14-019-1)
- H.R.2646/S.1275: "Revitalizing the Economy of Fisheries in the Pacific Act" or "REFI Act" to refinance 2003 West Coast Groundfish buyback loans; awaiting action...
- GOMEX Sector Separation-Allocation-Litigation-State Jurisdictional issues complicate IFQ mgmt

Catch Share Update #2

- 24-Member House letter supporting zero FY15 funding for new IFQs in NE/MID/SA/GOMEX
- FY15: Amendment to FY15 House CJS to prohibit development of new catch share programs in these regions fails on close vote

EPA NPDES Vessel Discharge Permit Update

- EPA issues FINAL “VGP” requirements for commercial vessels (incl. commercial fishing/charter boats) ≥ 79 ft for incidental/ballast discharges; effective 12/19/14
- Final “sVGP” permit regulations for all remaining vessels < 79 ft expected fall 2014; also effective 12/19/14
- House moves USCG bill to include permanent fix; Senate Commerce Committee moves companion legislation (S.2094) amid open opposition from CA & WA
- Several States/Administration oppose fix (RE: ballast provisions/state jurisdiction; Admin also opposes incidental discharge fix); negotiations ongoing...

Aquatic Invasive Species

- H.R.1823/S.2530 to add Quagga Mussels to the Lacey Act; S.2530 contains important Lacey Act exemption)
- OR/WA AIS Rapid Response Working Group meeting (12/13)
- Congress passes WRDA 2015 w/out strong AIS authorizing provisions (5/14)
- H.R. 3994 (Rep. Bishop, R-UT-1) protects federal lands from AIS (2/14); hearing (7/14)
- FY15 Senate Interior: USFWS AIS +\$5M over FY14; no mention of zebra/quagga
- FY15 House Interior: USFWS \$3M + NPS \$2M for zebra/quagga with strong report language

Tribal Issues of Interest

- DOI issues \$10M grant program supporting climate change preparedness (7/14)
- Sen. Tester (MT-D) replaces Sen. Cantwell as chair of Senate Indian Affairs Committee
- Washington, DC NFL franchise loses trademark but could retain team name; litigation ongoing...
- Quinault (WA) receive \$1.5M Commerce grant to upgrade Queets fisheries facility
- CA creates official state holiday on June 24th; *Native American Day*
- Mr. Billy Frank Jr. of the Nisqually Nation Walks On May 5th
- Mr. Chester Nez, our last Navajo Code Talker Walks On June 4th

PSMFC "Grab Bag" #1

- EPA issues "Direct Final Rule" permitting wage garnishment to collect fines (79 FR 37644); triggers House Resolution action opposing the rule (7/14)
- Wild Fish Conservancy opposing activities at WA State Leavenworth & Tokul Creek Hatcheries
- House/Senate USCG reform underway; "out-of-water" survival craft issue in flux...
- Administration EO on IUU Fishing/Seafood Fraud (6/14); Nat'l task force & round of August public meetings & 30-day comment period, all after legislation stalls;
(http://www.nmfs.noaa.gov/ia/iuu/iuu_overview.html)
- NOAA approves fishery disaster for Frazier River Sockeye Fishery (1/14)
- NOAA awards \$21M to AK Chinook Salmon fishery disaster (3/13)

PSMFC "Grab Bag" #2

- Principle Power plans to install five 6-MW direct-drive wind turbines 18 mi off Coos Bay, OR
- NOAA publishes "Priorities and Annual Guidance for 2014" (12/13)
- "MSC Americas director resigns amidst Alaska salmon certification debacle" – from Undercurrentnews (11/13)
- EPA gets split decision from Supreme Court on power plant emissions (6/14); Public meetings continue on the EPA's controversial rule (7/14)
- NOAA NOS report declaring ocean aquaculture "can be environmentally sustainable" (1/14)
- OR Chub proposed to be ESA delisted (2/14)
- S.2482 introduced to implement North Pacific High Seas Fisheries Convention (6/14); controversial; version #2 expected this fall

PSMFC "Grab Bag" #3

- NOAA seeks input on National Saltwater Recreational Fisheries Policy (7/14)
- NOAA seeks to expand regional "Habitat Focus Areas" under the *Habitat Blueprint Initiative*
- Sen. Murkowski (R-AK) proposes label for GE products (i.e. salmon)
- US GSA rescinds policy limiting federal seafood purchases to 3rd party certified products (11/13)
- Electronic Monitoring (EM) National Workshop Report (1/14)
- New EM Website (<http://www.eminformation.com>)
- NOAA releases "*Methodology to Assess the Vulnerability of Fish Stocks in a Changing Climate*" (3/14)
- Administration pushing Congress to fast track new Asia-Pacific Trade Agreement ("TSPEP" or the "P4")

Rick's Summer Reading Tip...

For folks interested in participation of youth in your State outdoor programs and society's slow drift into "nature-deficit disorder", check out...

Last Child in the Woods by Richard Louv
(2008, Algonquin Books of Chapel Hill,
updated and expanded edition)

AND YOU HEARD IT HERE...

- “Sperm whale waste stimulates carbon removal from the environment”: *Proceedings of the Royal Society B* (2/14)
- Researchers propose “Cap & Trade” for whale harvest: *Ecological Applications* (1/14)
- USAID Biodiversity Policy: “A threat is a proximate human activity or process that explicitly causes degradation or loss of biodiversity” (7/14)
- Pacific starfish wasting disease causing arm loss: *Assoc. Press, San Francisco* (1/14)
- “Omega-3 fish oil might protect individuals from alcohol-related health conditions”: *Seafoodnews.com* (7/14);
- “Whale Meat Beer from Icelandic Brewery Stirs Up Controversy, Outrages Conservationists” : *Huff Post Green* (7/14)