

LEGISLATIVE COMMITTEE REPORT

The Legislative Committee (LC) met March 6, 2006. The LC briefly reviewed their December 2005 report (Agenda Item B.3.a, Attachment 1) and a subsequent staff working draft of S. 2012, the *Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005* (Agenda item B.3.a, Attachment 2) but focused on solicited input on proposed amendments to the American Fisheries Act (AFA).

Magnuson-Stevens Fishery Conservation and Management Act (MSA) Reauthorization

The LC noted that some Council recommendations regarding omissions highlighted in the December 1, 2005 LC Report were not addressed in the December 13 staff working draft of S.2012. Notably, the current draft of S. 2012 does not address Council requests for clarification on fishery management authority in national marine sanctuaries or removal of the ten-year rebuilding time frame for overfished species.

The LC discussed the Tribal Obligatory seat on the Council, acknowledged the vital role tribal representation has played in an effective Council process, and noted that the tribal seat functions in a similar capacity as the official Washington, Oregon, and California state representatives. The LC recommends that, like the State government seats, the Tribal Obligatory seat should not be limited by term limits.

The LC recommends Council staff draft a letter to be sent to key Congressional members and contacts in the U.S. Senate and U.S House of Representatives who have previously requested Council input regarding remaining omissions in S.2012 and recommended changes to MSA Section 302(b)(3) (16 U.S.C. 1852(b)(3)) to remove term limits for the Council Tribal Obligatory seat.

The LC understands that a U.S. House of Representatives bill on MSA reauthorization is due out in the foreseeable future. The LC requests Council staff track the release of this bill. The LC anticipates holding preliminary discussions regarding such a bill at the April Council meeting. This may not be possible due to the lack of a bill not being introduced and/or the logistical constraints of the April Council meeting. The LC requests scheduling a full day LC meeting in late-April or another appropriate time if the bill is introduced prior to the June Council meeting, for a more thorough review.

American Fisheries Act Amendment

Ms. Margaret Spring, staff member of the U.S. Senate Committee on Commerce, Science, and Transportation, recently requested Council input regarding draft AFA amendatory language to modify vessel restrictions under AFA. Congress is interested in Council input on potential amendment of the AFA.

The LC heard public testimony confirming that owners of a large catcher/processor vessel with no history in the West Coast groundfish fishery is acquiring the permits required to enter the catcher/processor sector of the West Coast whiting fishery. The LC understands this action could be disruptive to West Coast fishery management, including not only the whiting fleet, but also possible ramifications to other commercial and recreational fisheries if bycatch of overfished species increases.

When Congress passed the American Fisheries Act in 1998, Congress directed the Council to develop conservation and management measures to protect west coast groundfish fisheries from potential harm caused by the AFA. This concern was to be addressed under Amendment 15 to the groundfish Fishery Management Plan, but because of competing workload and no imminent threat, the Council tabled action on Amendment 15.

To address this new potential threat to West Coast fisheries, the LC recommends the Council review and approve the attached draft letter to be sent to the U.S. Senate Committee on Commerce, Science and Transportation recommending that the AFA amendatory language include provisions to prohibit all AFA qualified vessels (original or replacement vessels) without West Coast landing history prior to a Council adopted control date of June 29, 2000 from participating in the West Coast Pacific whiting fishery.

Other Legislative Matters

It was reported to the LC that U.S. Representative Richard Pombo (R-CA) has introduced a bill to change the provisions governing withdrawals from Capital Construction Funds. The LC requests that Council staff track this bill and plan for LC discussion on the matter in April.

LC Recommendations:

- 1. Direct Council staff to draft a letter to key Congressional delegates and contacts in the U.S. Senate and U.S House of Representatives regarding remaining omissions in S.2012 and recommended changes to MSA Section 302(b)(3) (16 U.S.C. 1852(b)(3)) to remove the term limits for the Council Tribal Obligatory seat.**
- 2. Approve the attached draft letter to the U.S. Senate Committee on Commerce, Science, and Transportation regarding potential amendment of the American Fisheries Act.**
- 3. Direct Council staff to track legislation regarding MSA reauthorization and the Capitol Construction Fund.**
- 4. Direct Council staff to begin plans for an April 26, 2005 meeting of the LC at the Council office in Portland, Oregon.**

PFMC
03/09/06

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March XX, 2006

DRAFT

Ms. Margaret Spring

Address Block

Re: Pacific Fishery Management Council recommendations on potential amendment of the American Fisheries Act.

Dear Ms. Spring:

The Pacific Fishery Management Council (Council) appreciates being given the opportunity to comment on legislative proposals regarding modifications of the American Fisheries Act (AFA). The Council Executive Director provided some initial comments to Senate staff on February 2, 2006 in order to meet the presumed deadline on conference committee action on the Coast Guard authorization bill. Because of the timing, however, these comments were made without the full Council having the opportunity to review them. Please take the content of this letter as a supplementation of the prior comments provided on the behalf of the Council.

On March 6, 2006, the Council's Legislative Committee undertook a formal review of proposed AFA amendments and how they might affect fisheries under the Council's jurisdiction. The Committee's primary focus was on the effect of new entry into the Pacific whiting fishery by AFA vessels. After public comment and Committee discussion, the Committee recommended to the Council that our initial comments be amended to request that all AFA qualified vessels (original or replacement) - not just catcher/processor vessels - without West Coast landing history prior to June 29, 2000 be prohibited from participating in the Pacific whiting fishery. This would conform with the statutory obligations of the Council to prevent increasing capacity as a result of enactment of the AFA and would be consistent with the control date adopted by the Council in 2000. The Committee's recommendation was adopted by the Council on March ____ by a vote of -----.

Currently, it appears that the owners of a large catcher/processor vessel with no history in the West Coast groundfish fishery is acquiring the permits required to enter the catcher/processor sector of the West Coast whiting fishery. If this were to occur, it could be very disruptive to the existing whiting cooperative that has so responsibly fished cleanly with regard to the incidental catch of depleted rockfish species and salmon; these boats may abandon the cooperative and once again participate in a derby-style race for fish if a new entrant does not join the cooperative. This in turn would almost inevitably lead to higher bycatch of the depleted rockfish that have stringent quotas (canary, widow, and darkblotched rockfish) and salmon, which would consequently shut other fisheries down, including shore based whiting, non-whiting groundfish,

and even recreational fisheries. This is a potential catastrophic scenario that has generated great concern on the West Coast given the razor-thin margins of incidental take of depleted species in the various groundfish fisheries and the recent Ninth Circuit Court decision on minimizing those incidental takes.

Please let me know if you have any questions regarding the Council's actions on this matter or if there are other issues on which you desire Council comment.

Sincerely,

DRAFT

D. O. McIsaac, Ph.D.

Executive Director