

## LEGISLATIVE COMMITTEE REPORT ON LEGISLATIVE MATTERS

The Legislative Committee (LC) met on Friday, April 5. The meeting was attended by committee members Mr. David Crabbe, Ms. Dorothy Lowman, Mr. Dale Myer, and Mr. Dan Wolford. Council staff officer Jennifer Gilden, Council Executive Director Dr. Don McIsaac, Council member Gway Kirchner, former Council Chairman Don Hansen, and former Council member Rod Moore also attended.

The Committee briefly reviewed fishery-related bills in the 113th Congress (see Agenda Item B.4.a, Attachment 1) and discussed priorities for discussions at the Managing Our Nation's Fisheries 3 (MONF3) Conference surrounding the reauthorization of the Magnuson-Stevens Act (MSA).

### **Current Legislation**

Of the current legislation, the LC was primarily concerned with HR 1012: Safety and Fraud Enforcement for Seafood Act (introduced by Ed Markey, MA, and companion bill to S. 520, introduced by Mark Begich, AK). This law, which is driven by concerns about mislabeling of seafood, aims to strengthen Federal consumer protection and product traceability with respect to commercially marketed seafood. It would require seafood imported into the US "or otherwise distributed or offered for sale in interstate commerce" to be labeled with the acceptable market and scientific name; the harvest method, including gear type; catch date; weight; previous treatment (freezing, chemical treatment, country of processing); whether fish was wild caught or farm raised; location of fish farm; and cultivation method. This information could be made available upon request rather than appearing on a label.

The LC heard concerns from the West Coast Seafood Processors Association that the bill as written would be nearly impossible to implement, particularly the individual fish labeling requirement for products like shrimp, whiting, and crab. The LC plans to continue to track the bill.

### **Magnuson Act Reauthorization Priorities**

As noted in the agenda item summary, the LC discussed Council priorities for MSA reauthorization, which will be discussed at the Managing Our Nation's Fisheries 3 conference. The eight Regional Fishery Management Councils have been asked by Congressional representatives for their input on priorities to be considered in reauthorizing the MSA. Further, each Council has been asked to identify priorities for discussion at MONF3. The LC recommended the following candidate priorities for Council consideration. The LC did not attempt to prioritize the items on the list.

### **Forage fish**

- MSA Section 600.747 rules for the List of Fisheries have been in place since 1979. Essentially, anyone intending to use a new gear or enter a new fishery must notify the relevant Council and the Secretary 90 days in advance of the new activity. If the Council finds that the new activity will not compromise conservation and management efforts, it must recommend that the list of fisheries be amended to include the new gear. If the Council finds that the new fishery will compromise conservation and management efforts, then it must recommend to the Regional Administrator that the list of fisheries not be amended, and must give reasons for the disapproval. National Marine Fisheries Service (NMFS) considers the recommendation and decides whether to publish a proposed rule, unless NMFS considers that the new activity should be disallowed, in which case NMFS would publish emergency or interim regulations to restrict use of the gear or participation in the fishery. The LC recommends updating and streamlining these rules to be a more direct, efficient, and effective, and consistent with Council goals and objectives.

### **Rebuilding Flexibility**

- Need increased flexibility in rebuilding plans.
  - Need a better way to differentiate between “noise” and “signal” when new stock assessments are adopted, and to not require a significant management response from “noise” changes.
  - Need better definition in taking the needs of fishing communities into account, such that effects on fishing communities do not need to reach the level of disaster before they can balance greater conservation.
  - In order to address flexibility in rebuilding time frames, change section 304 to read “practical” instead of “possible.”
  - Need a way to better respond when an improved assessment for a rebuilding species is received; for example if an assessment shows that a species was never actually overfished.

### **Clarify the Use of Best Available Science**

- Need additional flexibility to address scientific uncertainty. Need to improve methods to determine ACLs in low data situations, and properly discriminate between poor, good, or medium-quality science; the best available science is not always good enough to set harvest limits.

### **New Environmental Review Process**

- There is a need to more closely align National Environmental Policy Act and MSA requirements and streamline the process, as required in Section 304(i). This is an unfulfilled requirement in the current law. Examples of problems in the Pacific Council process include difficulty in completing biennial groundfish specifications in a timely manner, and the chafing gear regulation clarification.

### **FUNDING**

- Currently, the fines from any illegal, unregulated, and unreported vessel caught operating in the Western Pacific region are provided to a fund that can be drawn on by the Western Pacific Council. Such a system should be pursued for the Pacific Council area.
- Councils need to be better funded.

### **Refine ACL Requirements**

- Need to consider ways for dealing with layers of precaution which sell achieving the optimum yield short, such as averaging annual catch limits (ACLs) over time.
- Limit changes to ACLs to within 10-15 percent in order to smooth scientific uncertainty (for stocks that show highly variable scientific estimates for the same year, such as bocaccio)

### **Preserve Positive Aspects of Current Management**

- The Pacific Council's Scientific and Statistical Committee process, catch shares, and ground-up public involvement process are working well.
- There needs to be an awareness that many changes proposed in legislation are meant to address other Councils' issues but could end up undermining our successes.

### **LC Commends Bob Dooley**

Bob Dooley of Half Moon Bay, president of United Catcher Boats, testified before the House Natural Resources Committee in their hearings on the MSA last month. In voicing his opinion of the Magnuson-Stevens Act, and outlining several ways in which the law can be improved, he made several positive references to the Pacific Council process and the west coast groundfish trawl rationalization program. His descriptions of the Council process were accurate, and positively advanced the understanding of the members of the House Natural Resources Subcommittee. The LC commends Mr. Dooley for his effective and thoughtful testimony.

### **LC Business**

Mr. David Crabbe was elected as vice-chair of the LC. The LC proposes to meet again at the June Council meeting.

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