

**DRAFT LEGISLATIVE COMMITTEE REPORT ON MAGNUSON-STEVENSON ACT
REAUTHORIZATION PRIORITIES AND OTHER LEGISLATIVE MATTERS**

NOTE: This is a very preliminary draft of Legislative Committee discussions on Thursday, June 19, provided at this time for the purpose of promoting discussion by other Council advisory bodies. The LC report is expected to be finalized by Tuesday, June 24.

The Legislative Committee (LC) met via webinar on Wednesday, June 11, and in person on Thursday, June 19. The webinar was attended by committee members Dr. David Hanson, Mr. David Crabbe, Ms. Dorothy Lowman, and Mr. Dan Wolford; Council Executive Director Dr. Donald McIsaac, and Pacific Council staff Ms. Jennifer Gilden. Several other people attended.¹ During the webinar the LC discussed H.R. 4742 (Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act), the House (Magnuson-Stevens Act) MSA reauthorization bill; and the Senate's discussion draft of an MSA reauthorization bill. The LC tasked the Council staff with drafting a preliminary LC statement that included points to be made in a joint letter to House and Senate principals, for review at the LC meeting June 19 in conjunction with the Council meeting in Garden Grove, California.

The meeting on June 19 was attended by Dr. David Hanson, Mr. David Crabbe, Ms. Dorothy Lowman, Mr. Dan Wolford, Mr. Buzz Brizendine, and Mr. Dale Myer; Council Executive Director Dr. Donald McIsaac; Pacific Council staff Ms. Jennifer Gilden; and Mr. Rod Moore, Mr. Corey Niles, Ms. Jessi Doerpinghaus. The LC recommends the Council make the following points and recommendations in the aforementioned letter.

HR 4742

1. Implications of language regarding intersection between the MSA and the Endangered Species Act needs to be clarified *and discussed further by the LC.*²
2. The LC recommends the Council support the section on Fishery Impact Statements as a solution to the current problems associated with National Environmental Policy Act (NEPA) implementation.³
3. While the LC does not recommend the Council object to overarching standards for the implementation of electronic monitoring programs, it believes there should be some exemption for programs that already exist or that are nearly ready to be implemented.⁴

¹ Susan Chambers (GAP), Miako Ushio (NOAA), Jamie Goen (NOAA), Jessi Doerpinghaus (WDFW), Peter Flournoy (International Law Offices of San Diego), Theresa Labriola (Wild Oceans), Tara Brock (Pew Charitable Trusts), Marci Yaremko (CDFW), Jennifer Quan (WDFW), Gway Kirchner (ODFW), Michele Culver (WDFW), John Cross (Pew Charitable Trusts), Yvonne deReynier (NMFS), Rod Moore (WSPA), Steve Bodnar (Coos Bay Trawlers Asso.), Corey Niles (NOAA), Troy Buell (ODFW), Bob King (Senate staff)

² Sec. 5 in MSA as revised by HR 4742; page 15 of annotated copy (Agenda Item C.3.a, Attachment 3)

³ Sec. 303(d) in MSA as revised (page 65 of annotated copy)

⁴ MSA as revised (page 152 of annotated copy)

4. The LC recommends that rebuilding times be clarified for those instances when a stock is exempted from a given rebuilding time because fishing isn't the cause of the stock's depletion, and/or fishing restrictions cannot correct the depleted condition.⁵
5. The LC supports the change in HR 4742 (as compared to the earlier discussion draft) that allows use of electronic monitoring for enforcement purposes.⁶
6. The LC supports the use of the asset forfeiture fund for us in the areas in which the fines were collected.⁷
7. The LC reaffirms its support for the REFI Act (HR 2646) and encourages Congress to pass this legislation expeditiously, whether or not it is part of the MSA reauthorization process.
8. The LC supports the amendment by Del. Madeleine Bordallo which allows the use of data for marine spatial planning in order to ensure access to fishing grounds and for national security purposes.⁸
9. The LC believes the cost recovery amendment by Rep. Paul Runyan, requiring the Secretary to publish the estimated cost of recovery from a fishery resource disaster with 30 days of the disaster determination, is impractical.⁹
10. State jurisdiction over Dungeness crab should be extended, as done in the Senate discussion draft.¹⁰

Senate Discussion Draft

1. The Senate discussion draft includes requirements for a great deal of new science and reporting that would require more staff and funding, and could decrease flexibility of individual Councils. For example...
2. The definition of "subsistence fisheries" needs to be made more specific; as it currently stands it may apply to recreational fishers who bring fish home for consumption.¹¹
3. The section on fishery ecosystem plans should be reconsidered. As currently written, the high standards included in that section could have a chilling effect on the development of Fishery Ecosystem Plans.¹²
4. The LC supports wording to streamline the NEPA/MSA process.¹³
5. The electronic monitoring section in the discussion draft contains an excessive amount of detail regarding requirements and timelines, and should be made more flexible.¹⁴

⁵ MSA Sec. 304(e)(4)(ii) as revised (page 81 of annotated copy)

⁶ MSA as revised (page 152-153 of annotated copy)

⁷ MSA Sec. 404(3) as revised (page 135 of annotated copy)

⁸ Sec. 402(b)(5) as revised and amended by Del. Bordallo (page 132).

⁹ Sec. 312(a)(1)(B) as revised and amended by Rep. Runyan (page 112)

¹⁰ Sec. 306(i), page 101.

¹¹ Sec. 3(42A), page 13.

¹² Sec. 303B, page 74-76.

¹³ Refers to Sec. 304(i) of the MSA; page 157 of annotated MSA; see also page 84

¹⁴ Page 158-159 of annotated MSA.

Other issues

1. It would be useful to clarify that Council discussion of international negotiations, such as those recently on the US-Canada Albacore Treaty, are eligible for discussion during closed sessions of Council meetings.
2. The LC recommends the Council highlight support for the Senate illegal, unreported, and unregulated (IUU) definition, including the importance of unreported catches, and why.¹⁵
3. Support for the Antigua Convention (reword).

Other Council priorities

These priorities are from previous Council and LC discussions, but were not discussed during the webinar. They are included for the purpose of further LC consideration:

- Expanding state enforcement authority to all vessels that fish directly offshore of the territorial sea within the state-given boundaries.
- Revising rebuilding plans should not be required consequent to minor changes in stock status (noise).
- Providing clarity to better allow Councils to consider the needs of fishing communities in developing rebuilding plans, above a “disaster” level.
- Exploring more flexibility for fishery impacts on data-poor species when the current precautionary approach becomes the bottleneck for healthy mixed-stock fisheries.
- Designating one Commissioner seat on Inter-American Tropical Tuna Commission for the Council.
- Providing flexibility in observer requirements.
- Enhancing enforcement capabilities for international fisheries, including at-sea and in-port monitoring and enforcement, and providing assistance to developing countries in their enforcement capacity.
- Amending MSA to change “vessels” to “vessel” in the IUU certification section.

Council Letter on the House Discussion Draft

The LC recommends the Council task the Executive Director with sending a letter to Representative Doc Hastings and Senator Mark Begich with recommendations on MSA reauthorization. While the comment period for the Senate Staff Discussion Draft closed June 2, 2014, and there are elements in the Senate Staff Discussion Draft that are not included in HR 4742, it is felt the principals in both houses of Congress should be aware of the Council perspective on these important matters as the legislative process on MSA reauthorization progresses.

¹⁵ Sec. 609(e), page 42-43 of annotated MSA.

Other Federal Legislation

The LC discussed S. 2094, the Vessel Incidental Discharge Act. While the Council has not been asked to comment on S. 2094, the LC is in unanimous support of Section 7(a), which provides for the current exemption for commercial fishing vessels (including recreational charter boats) to be made permanent. The LC recommends the Council endorse support for making this exemption permanent by any legislative vehicle possible, in the event that the Council is asked for comment after the June Council meeting.

The LC also discussed S. 2198 and H.R. 4039, which both deal with drought relief issues in California and southern Oregon. The LC is very concerned that these bills, and several associated companion bills, are dangerous to healthy salmon production. The LC endorses the points made in opposition to these bills as expressed in the letter from the Golden Gate Salmon Association (Agenda Item C.3.a, Attachment 9). The LC recommends the Council authorize the expression of opposition to drought relief bills that are deleterious to salmon populations, in the event that the Council is asked for comment after the June Council meeting.

The Council is on record for supporting the Revitalizing the Economy of Fisheries in the Pacific Act (S. 1275). The LC notes that similar refinancing relief has been proposed in an MSA reauthorization bill and a Coast Guard authorization bill. The LC recommends the Council endorse support for the refinancing provisions in S. 1275, if the Council is asked to comment on other related bills after the June Council meeting.

The LC also discussed the Senate Resolution honoring Billy Frank, Jr. and his many contributions to contemporary salmon recovery and management. The LC would like to draw the Council's attention to this resolution, which is included in full in Agenda Item C.3.a, Attachment 5, to acknowledge his contributions in the Pacific Council arena and elsewhere.

The Council also discussed recent reports in the media about the President's intent to take new actions to protect and preserve the ocean. This includes a large marine protected area in the South Pacific, and efforts to combat illegal fishing, address seafood fraud, and prevent illegally caught fish from entering the marketplace. It is expected that there will be an open comment period that will be a precursor to an executive order.

Future Meeting Planning

The LC plans to meet again in September.

PFMC
06/19/14