

LEGISLATIVE COMMITTEE REPORT ON MANAGING OUR NATION'S FISHERIES 3
FOLLOWUPS AND UNRELATED LEGISLATIVE MATTERS

The Legislative Committee (LC) met on Wednesday, September 11. The meeting was attended by committee members Dr. David Hanson, Mr. David Crabbe, Ms. Dorothy Lowman, Mr. Dale Myer, Mr. Gordy Williams, and Mr. Dan Wolford; Council Executive Director Dr. Donald McIsaac, and Council staff Mr. Chuck Tracy, Ms. Jennifer Gilden, and Mr. Don Hansen. Several other people attended the meeting, including Heather Munro Mann, Brent Paine, Brad Pettinger, and Steve Joner, who testified.

The Committee first took up matters not associated with Magnuson-Stevens Act (MSA) reauthorization, focusing on two bills that deal with the buyback loan for the West Coast trawl fishery (H.R. 2646 and S. 1275: Revitalizing the Economy of Fisheries in the Pacific (REFI) Act) and two bill associated with international highly migratory species matters (H.R. 69 and S. 269).

Buyback Loan Bills

H.R. 2646 was introduced by Jaime Herrera-Beutler (WA) and S. 1275 was introduced by Maria Cantwell (WA). The two bills are essentially the same, and are similar to a REFI Act introduced in the 112th Congress and reviewed at that time by the Council (Council comments at that time are available at <http://tinyurl.com/k9pqjpc>). The bills are further described in Agenda Item H.1.a., Attachment 3, Staff Summary of Federal Legislation.

The LC heard public comment from the Oregon Trawl Commission, Midwater Trawl Commission, and United Catcher Boats stating that there appears to be strong bipartisan support for this bill. In the event that the Council receives a request for comment on this bill, the LC makes the following points for Council consideration:

- The Council has previously commented on a similar bill and continues to support efforts to refinance the buyback loan, given the high costs that currently burden the trawl fleet and other fishing fleets (monitoring, observers, fuel, etc.). Refinancing the loan would help participants remain in the fishery.
- A referendum on the lowering of the interest rate for the buyback loan seems unnecessary, given that it is unlikely that many voting on the referendum would voluntarily choose to pay more interest. However, if NMFS determines that a referendum is necessary, then it appropriate for the Oregon Trawl Commission to administer the referendum.
- There is time pressure to pass the bill, given that interest rates are currently rising.
- The trawl catch share program has increased the sustainability of the fleet.

International HMS Fisheries Bills

The LC discussed H.R. 69, the Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2013, introduced by Madeline Bordallo (D-Guam), and S. 269: International Fisheries Stewardship and Enforcement Act, introduced by Jay Rockefeller (D-West Virginia). Both of these bills strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, amend the Tuna Conventions Act of 1950 to implement the Antigua Convention (the revised IATTC Convention), and make other changes. However, they address the Antigua Convention in different ways; and S. 269 would add a member of the Pacific Fishery Management Council to the IATTC Commission.

The LC recommends the Council support the comments of the Highly Migratory Species Advisory Subpanel on these bills, as well as supporting the designation of a Commissioner seat on the IATTC Commission for a PFMC representative.

Magnuson-Stevens Act Reauthorization

Executive Director Donald McIsaac gave an overview of the status of the 128 findings developed at the Managing Our Nation's Fisheries 3 (MONF3) Conference and the process for MSA reauthorization after the September 2013 Council meeting. The LC reviewed the staff compilation of possible priority items as described in Agenda Item H.1.a, Attachment 2.

It is still very early in the process of Magnuson-Stevens Act reauthorization, although Congressional hearings have started, including a House Natural Resources Subcommittee hearing on September 11, 2013. Given that, at this stage the Council need only focus on general topic areas that are of high priority to the Pacific Council. Further analysis will take place before the Council develops specific positions. As these positions are developed in the future, it is expected there will be several opportunities scheduled for the public and Council advisory bodies to provide advice on refined positions.

The Council Coordination Committee meeting, scheduled for October 23-24, 2013, will discuss priority topics that come forward from each of the eight Regional Councils. At that time, the Pacific Council will be expected to present their initial priorities.

The LC prioritized the initial staff compilation of possible priorities as “keep,” “keep; further analysis needed” and “drop.” These recommendations are shown below and are organized by the three categories from the MONF3 conference, and an “other” category for MSA-related matters that did not come up at the conference.

Due to time constraints, the LC was unable to fully address matters in this “other” category. The last page of this report presents a few other topics the Council may wish to consider as priority matters to be addressed by MSA reauthorization.

Deleted text from Agenda Item H.1.a, Attachment 2 is shown as strike-out; new text is underlined.

	Topic for MSA Reauthorization	Relevant MSA Section	Legislative Committee Priority Rating
MONF3 Session 1 – Improving Fishery Management Essentials: Annual Catch Limit Science and Implementation Issues, Including Managing “Data-Limited” Stocks; Rebuilding Program Requirements and Timelines; International Fisheries Management: Leveling the Playing Field			
1	Revise rebuilding time requirements: Always set T_{MAX} equal to T_{MIN} plus one mean generation <ul style="list-style-type: none"> • <u>Fix the ten-year rebuilding requirement dilemma</u> • <u>“Don’t chase noise” in rebuilding plans</u> • <u>Address “rebuilding as soon as possible” problems</u> 	MSA Section 304	Keep; further analysis needed
2	Stocks later determined never overfished should not be held to rebuilding provisions	MSA Section 304	Keep
3	Include a transboundary stock rebuilding exception	MSA Section 304	Keep; further analysis needed
4	Include a viable mixed stock exception		Keep; further analysis needed
5	Clarify Congressional intent <u>criteria</u> regarding needs of fishing communities	MSA Section 304(e)	Keep
6	Extend annual species exemption to short-lived species	MSA Section 303(a)	Keep; further analysis needed
7	Include a carryover exception to allow ACLs to be exceeded in order to carry over surplus and deficit harvest from one year to the next, provided there is a finding from the SSC that such a carryover provision will have negligible biological impacts	MSA Section 303(a)	Keep
8	Explicitly promote use of adaptive management approaches, particularly <u>Explore more flexibility</u> for data-poor species where the precautionary approach limits information on stock performance under higher catch rates	MSA Section 303	Keep
9	Broaden <u>authority</u> trade sanctions domestically to address non-compliance with RFMO measures	MSA Section 205	Keep
10	Consider a national sustainable seafood certification program for U.S. fisheries that meet the 10 MSA national standards	MSA Section 321 (new)	Drop
11	Implement stricter imported seafood labeling requirements in the US market	MSA Section 322 (new)	Keep; further analysis needed
MONF3 Session 2 – Advancing Ecosystem-Based Management, Overarching Findings Assessing Ecosystem Effects and Integrating to Climate Change; Forage Fish Management;			

	Topic for MSA Reauthorization	Relevant MSA Section	Legislative Committee Priority Rating
Integrating Habitat Considerations: Opportunities and Impediments			
12	Address rebuilding requirements when environmental conditions may be a predominant factor in a stock's decline	MSA Section 304(e)	Keep
13	Link ecosystem-based management scales to fisheries management and governance (e.g., Revise National Standard 3 (Management Unit))	MSA Section 301	Drop
14	Consider a national standard for habitat: "Minimize adverse impacts on essential fish habitat to the extent practicable"	MSA Section 301	Keep; further analysis needed
15	Establish a new national standard to ensure adequate forage base	MSA Section 301	Drop
16	Require explicit consideration of the impact of forage fish to the ecosystem and fishing communities to inform OY and ACL decisions	MSA Section 303	Keep; further analysis needed
17	Prohibit new forage fisheries until scientific and management evaluations are conducted; <u>improve the List of Fisheries process</u>	MSA Section 305(a)	Keep
18	Strengthen EFH consultation process and ensure compliance with, and effectiveness of, existing laws and recommendations	MSA Section 305(b)	Keep; further analysis needed
MONF3 Session 3 - Providing Fishing Community Stability: Recreational and Subsistence Fishery Connections; Integrating Community Protection, Jobs Emphasis, and Domestic Seafood Quality Assurance; Assessment and Integration of Social and Economic Tradeoffs			
19	Modify Council process to improve participation of small-scale and community sectors, e.g., State Fisheries Improvement Projects, National Fish & Wildlife Foundation-funded projects	MSA Section 302 (h)	Keep; further analysis needed
20	Expand cooperative research between fishing community and scientists. This promotes buy in, empowers fishermen, and can be more cost effective	MSA Section 318	Keep
21	Explore options to improve access to currently confidential harvest or processing information <u>for purposes of enhanced socioeconomic analysis</u> Notwithstanding confidentiality protections of Section 402(b)(1) (3): in the public interest the following may be publicly reported even if it results in the release of information on a single harvesting or processing company ● total volume (weight) catch/discards/landings of	MSA Section 402(b)	Keep

	Topic for MSA Reauthorization	Relevant MSA Section	Legislative Committee Priority Rating
	<ul style="list-style-type: none"> ● a species or stock caught in a particular fishery ● total volume (weight) catch/discards/landings of a species or stock caught by a particular sector ● total volume (weight) of a species or stock landed at a particular port ● economic impact estimates for a community based on landings of a species or stock at a particular port ● total volume (weight) catch/discards/landings of a species or stock caught within any area 100 square nautical miles or larger 		
22	Define subsistence fishing in the MSA, and expand recognition of tribes and indigenous people engaged in subsistence fishing	MSA Section 3	Keep; further analysis needed
Other			
23	Make a distinction between “overfishing” (a measure of fishing rate) and “overfished” (a measure of abundance)	MSA Section 3	Keep
24	Replace the term “overfished” with “depleted” to account for non-fishing causes of stock size below MMST	MSA Section 3	Keep
25	Amend MSA to change “vessels” to “vessel” in the IUU certification section	MSA Section 409(c)	Keep
26	Replace the term “practicable” “possible” with “practicable” and “possible” where appropriate	Throughout MSA	Keep; further analysis needed
27	Designate one Commissioner seat on IATTC Commission for PFMC		[Added by LC]

Additional MSA Reauthorization Matters

The LC took a tribal comment from Mr. Joner on behalf of the Makah Tribe regarding term limits and the designation process for the tribal seat on the Pacific Council (MSA 302(b)(5)). Specifically, the request was to eliminate the term limit and the requirement for three candidate names at each appointment. Under this proposal, the Secretary of Commerce would still approve appointments, and the three year term would stand. The LC recommends soliciting public and additional tribal comment on this issue at the November 2013 Council meeting and further Council consideration of this recommendation at that time.

Other Business

The LC plans to meet again in November.

ADDITIONAL MAGNUSON-STEVENS ACT REAUTHORIZATION PRIORITIES FOR
CONSIDERATION BY THE PACIFIC COUNCIL, NOT DISCUSSED IN THE
LEGISLATIVE COMMITTEE

Topic for Magnuson-Stevens Fishery Conservation and Management Act (MSA) Reauthorization	Relevant MSA Section	PFMC Priority
Address “noise vs. signal” in rebuilding plan implementation. Assessments and projections will always be uncertain; develop smoothing strategies to provide stability.	MSA Section 304, National Standard 2 Guidelines	
Better align and streamline the National Environmental Policy Act (NEPA) and MSA	MSA Section 304(i)	
Provide flexibility in requirements for observers	MSA Title IV – Fishery Monitoring and Research	
Rebuilding flexibility; address current application of a disaster standard in achieving social and economic balance during rebuilding.	MSA Section 304 (e)(4)(A)(i)	