

Summary of selected new provisions in the Magnuson-Stevens Fishery Conservation and Management Act (MSA) as Amended in January 2006 with an emphasis on matters associated with Pacific Fishery Management Council Activities.

Topic	Provision	MSA Section	Effective Date	Status of Implementation
Establishing Annual Catch Limits	The Council shall establish annual catch limits for each managed fishery that may not exceed the fishing level recommendations of its SSC.	302(h)(6) Page 68	Immediately upon final NMFS guidance.	Council Scoping Comments submitted. DEIS anticipated by November Council mtg.
Scientific and Statistical Committee (SSC) Function	Councils shall maintain an SSC to assist in the development, collection, evaluation, and peer review of statistical, biological, economic, social, and other scientific information relevant to development and amendment of any FMP. The SSC shall provide recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices.	302(g) Page 66	Immediate	Draft Revised Council Operating Procedure for the SSC considered at the September 2007 Council meeting.
Environmental Review Process	The Secretary shall, in consultation with the Councils revise agency procedures to integrate applicable environmental analytical procedures with procedures for preparation or amendment of FMPs to provide clear and concise analyses for decision makers, reduce paperwork, and maintain time frames for effective public involvement.	304(i) Page 95	Initial concepts presented at April Council meeting, proposed revised procedures in six months and final procedures in one year.	Delayed. No new procedures available for September 2007 Council review.
Rebuilding Provisions	For stocks designated as overfished, Councils shall end overfishing <u>immediately</u> and implement rebuilding plans within two years (formerly one year). If not accomplished by the Council the Secretary shall submit a plan within nine months.	304(e) Page 92	Within 30 days	Currently effective. NMFS to develop implementing regulations.

Agenda Item B.3.a
 Attachment 1
 September 2007

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Individual Quota Programs	Adds a new term intended to replace the term Individual Quota - Limited Access Privilege (LAP) defined as “ <i>a Federal permit, issued as part of a limited access system under section 303A to harvest a quantity of fish expressed by a unit or units representing a portion of the total allowable catch of the fishery that may be received or held for exclusive use by a person; and(B) includes an individual fishing quota; but(C) does not include community development quotas as described in section 305(i).</i> ”	Sec.3 Definitions (26) Page 9	NA	NMFS currently soliciting comments on the interpretation and applications of this section. Comments are due by September 30, 2007.
Limited Access Privilege Programs	Establishes national guidelines for LAP Programs which include IQ programs and allows allocation of harvest privileges to fisheries currently under a limited access system, fishing communities or regional fishery associations. Does not establish a separate processor quotas but processors could be eligible to hold LAPs per Council allocation process.	Sec. 303A Page 79;	Proposal and analysis due to Congress on rationalization of groundfish trawl and Pacific whiting fisheries by January 2009.	Council on track for Congressional submission. Final Alternatives due for adoption in Nov. '07. Council preferred alternative selection scheduled for June 2008
Required FMP Provisions	An FMP prepared by the Council or the Secretary shall “ <i>establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.</i> ”	303(a)(15) Page 76	FMP amendments and regulations in place by fishing year 2010 for fisheries experiencing overfishing and 2011 for all others.	Council Scoping Comments submitted. DEIS anticipated by November Council mtg
Ecosystem-Based Fishery Management	A number of the Fishery Management Councils have demonstrated significant progress in integrating ecosystem considerations in fisheries management using the existing authorities provided under this Act	Sec. 2 (11)- Findings, Purposes, and Policy	NA	Council working on funding of Ecosystem FMP initiation.

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Regional Ecosystem Research	The Secretary with the Councils shall complete a study on the state of the science for advancing the concepts and integration of ecosystem considerations in regional fishery management.	406(f) Page 158	Report within 180 days (July 2007)	Delayed, NMFS scheduling a workshop for Nov. 2007.
Stipends for the SSC or Advisory Bodies	<i>“The Secretary shall, subject to the availability of appropriations, pay a stipend to members of the SSC or advisory panels who are not employed by the Federal Govt. or a State marine fisheries agency.”</i>	302(g)(1) (F) Page 66	TBD, no funds identified to date.	Council staff reported number of work days to NMFS in February '07. Subject to available funds.
Council Member Training Program	Requires training course for members appointed after January 2007 and acknowledges training received in the last two years.	302(k) Page 73	Revised training Course developed within six months	Done, New Council member training sched. for week of Oct. 22, 2007
Tribal representative alternate	<i>“The tribal representative appointed under subparagraph (A) may designate as an alternate, during the period of the representative’s term, an individual knowledgeable concerning tribal rights, tribal law, and the fishery resources of the geographical area concerned.”</i>	302(b)(5)(D) Page 63	Immediate	Currently effective.
Council Coordination Committee (CCC)	Establishes the CCC made up of Chairs, Vice-Chairs and Executive Directors of the eight Regional Councils and exempts CCC meetings from requirements of the Federal Advisory Committee Act.	302(l) Page 73	Immediate	Currently effective
Joint Enforcement Agreements and Data Sharing	A State management agency or officer authorized by agreement with the Secretary may <i>“access, directly or indirectly, for enforcement purposes any data or information required to be provided under this title or regulations under this title, including data from vessel monitoring systems, satellite-based maritime distress and safety systems, or any similar system, subject to the confidentiality provisions of section 402”</i>	311(b)(1) (A)(vi) Page 124	As soon as practicable but no later than 21 months.	On track for implementation by Oct. 12, 2009.

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Recovery Plan for Klamath River Coho	The Secretary shall complete a recovery plan for Klamath River coho and report on activities to achieve coho recovery, restore habitat, and improve other Klamath River anadromous stocks, including chinook.	MSRA Appendix (uncodified text) Page 132	Recovery Plan developed in six months with first report in two years and annually thereafter.	Draft reviewed by Council in April '07. Final published in July 2007. Available on NMFS website.
Disclosure of Financial Interest and Recusal	Broadens financial disclosure requirements for to include advocacy or lobbying organizations for which a Council member is an officer, director, trustee, partner of employee of, requires. Includes new disclosure provisions for SSCs. Requires Secretary to report to Congress on activities to meet disclosure and recusal requirements and to report any conflict of interest problems with respect to Council and SSCs.	302(j) Pages 70	Immediate requirement. Report to Congress due January 1, 2008 and annually thereafter.	NMFS to develop format for annual report. Draft Revised Pacific Council Operating Procedure for the SSC includes proposed language and forms for consideration at Sept. Council meeting.
Availability of Financial Disclosure on Council Web Site	The financial interest disclosures shall be kept on file by the Council and made available on the Internet and for public inspection at the Council offices during reasonable hours. Internet publication not required for SSC disclosures.	302(5)(j)(5)(B) Page 71	Immediate	On Pacific Council web site by September 30, 2007.
Bycatch Reduction Engineering program	<i>“The Secretary, in cooperation with the Councils and other affected interests, and based upon the best scientific information available, shall establish a bycatch reduction program, including grants, to develop technological devices and other conservation engineering changes designed to minimize bycatch, seabird interactions, bycatch mortality, and post-release mortality in Federally managed fisheries.”</i>	Sec. 316 Page 144	Within one year.	On track, NMFS scheduling workshops. Council has not commented.

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Exempted Fishing Permits and Cooperative Research and Management Program	Establishes regional cooperative research programs and prioritizes funding for projects which improve stock assessment science, assess and reduce bycatch and post-release mortality, assess and protect habitat, and collect economic and social data.	Sec. 318 Page 145.	Regulations to create a expedited, uniform, and regionally-based process for experimental fishing permits in 180 days (July 2007).	Delayed, Council staff provided comments via conference call. Proposed rule anticipated for Council review in Nov. 2007.
Deep Sea Coral Protection	An FMP may designate zones to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals, after considering long-term sustainable uses of fishery resources in such areas; and with respect to any closure of an area under this Act that prohibits all fishing, ensure that such closure is based on the best scientific information available; includes criteria to assess the conservation benefit of the closed area; establishes a timetable for review of the closed area's performance; and is based on an assessment of the benefits and impacts of the closure, including the benefits and impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation;	303(b)(2)(B) Page 76 and 408 Page 161	Immediate for protective measures, MSA Section 408 requires the Secretary in consultation with the Council and in coordination with other federal agencies and education institutions, to establish a program for deep sea coral research and monitoring with a report due to Congress in one year and biennially thereafter.	Report on track for January 2008.
Illegal, Unregulated, and Unreported Fishing (IUUF).	The Secretary shall define IUUF, promote improved monitoring, compliance, and surveillance of high seas fisheries, provide a biennial report on the status of stocks and nations whose vessels are engaged in IUUF, and include IUUF as justification for sanctions such as prohibition of imports of fish from nations engaged in IUUF.	Section 403 of the MSRA and MSA Section 206 Page 38	Definition of IUUF in six months and biennial reporting requirements.	Definition of IUUF published in the Federal Register on April 12, 2007. Reporting on track.

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Appointment of U.S. Commissioners	Specifies 5 U.S. seats on the Commission for the Conservation and Management of Highly Migratory Fish Stocks of the Western and Central Pacific Ocean - including an employee of the Dept. of Commerce, the chair or member of the Western Pacific Fishery Management Council and <u>the chair or member of the PFMC.</u>	NA Title V of the MSRA	Immediate	Council has nominated Ms. Marija Vojkovich nominated to serve as PFMC representative. Presidential appointment pending.
Memorandum of Understanding (MOU)	For highly migratory species in the Pacific, the Secretary shall develop a memorandum of understanding with the Western Pacific, Pacific, and North Pacific Fishery Management Councils, that clarifies the role of the relevant Councils with respect to coordination and participation in U.S. delegations to international fishery organizations, providing formal recommendations regarding necessary measures for both domestic and foreign vessels, and recommending domestic fishing regulations that are consistent with the actions of the international fishery organization, for approval and implementation under MSA.	NA Title V of the MSRA	Immediate	Development of MOU on track. Direct negotiations scheduled for the week after the September 2007 Council meeting.

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International Overfishing	For a fishery that the Secretary determines is overfished due to excessive international fishing pressure for which there are no measures to end overfishing under an international agreement the Secretary shall immediately take appropriate action at the international level to end the overfishing; and within 1 year the appropriate Council, or Secretary, shall develop recommendations for domestic regulations to address the relative impact of fishing vessels of the US on the stock and, if developed by a Council, the Council shall submit such recommendations to the Secretary; and develop and submit recommendations international actions that end overfishing and rebuild the affected stocks, taking into account the relative impact of vessels of other nations and vessels of the United States.	304(i) Page 96	Immediate	Currently effective.
Promotion of Stock Management-Rebuilding	<i>“If a relevant international fisheries organization does not have a process for developing a formal plan to rebuild a depleted stock, an overfished stock, or a stock that is approaching a condition of being overfished, the provisions of this Act in this regard shall be communicated to and promoted by the United States in the international or regional fisheries organization.”</i>	Sec. 102(c) Page 13	Immediate	Currently effective.
Implementation of the U.S.-Canada Pacific Whiting Treaty	Specifies U.S. Representation on various management and scientific committees and establishes rulemaking and enforcement requirements for the international management of Pacific whiting.	Title VI of the MSRA	Immediate	NMFS considering U.S representation. Mr. Phil Anderson nominated to serve in PFMC rep. Commissioner seat. Treaty ratification delayed in Canadian federal process.