

April 2017



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**Pacific Fishery Management Council**

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Dorothy M. Lowman, Chair | Donald O. McIsaac, Executive Director

March 25, 2015

The Honorable Don Young  
House of Representatives  
2314 Rayburn House Office Building  
Washington, DC 20515

Dear Mr. Young:

Thank you for your interest in the Pacific Fishery Management Council's (Pacific Council) comments and perspectives on your Magnuson-Stevens Act (MSA) reauthorization bill, HR 1335, "To amend the Magnuson-Stevens Fishery Conservation and Management Act to provide flexibility for fishery managers and stability for fishermen, and for other purposes."

At its March 2015 meeting, the Pacific Council and its Legislative Committee reviewed the bill, which is nearly identical to HR 4742, introduced in the last Congress and the subject of previous Pacific Council comments.<sup>1</sup> As such, in this letter we are commenting only on one difference between HR 1335 and HR 4742.

We are concerned that HR 1335 removes language that states that actions taken in accordance with Sec. 7(d)(6) regarding fishery impact statements shall constitute fulfillment of the National Environmental Policy Act (NEPA). This deletion essentially moots the proposed inclusion of NEPA principles and procedures into the MSA as a solution to streamlining the MSA and NEPA processes and avoiding duplication. We strongly recommend that this language be reinstated.

The language in HR 4742 mirrored the approach outlined in the draft white paper being discussed by the Council Coordination Committee, which recommended integrating the policy objectives and key requirements of NEPA directly into the MSA. This recommendation proposes that the MSA be amended by adding a section to the end of Section 303, Contents of Fishery Management Plans. This new section would incorporate the key parts of NEPA verbatim into the MSA, including the requirement to prepare "a detailed statement" on "the environmental impact of the proposed action." The proposed new requirements in the current draft white paper describing this proposal are extensive.<sup>2</sup> It is important to emphasize that the objective of these changes is not to "get out of" complying with the intent of NEPA or in any way abdicate full compliance with NEPA. Rather, the purpose is to incorporate all the important aspects of NEPA directly into the

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<sup>1</sup> At [http://www.pcouncil.org/wp-content/uploads/11a\\_Att5\\_HastingsBegich\\_Ltr\\_SEPT2014BB.pdf](http://www.pcouncil.org/wp-content/uploads/11a_Att5_HastingsBegich_Ltr_SEPT2014BB.pdf)

<sup>2</sup> [http://www.nmfs.noaa.gov/sfa/management/councils/ccc/2015/Feb/nh\\_msa\\_reconciling\\_statutory\\_inconsistency.pdf](http://www.nmfs.noaa.gov/sfa/management/councils/ccc/2015/Feb/nh_msa_reconciling_statutory_inconsistency.pdf)

MSA. This change would enable a substantially more efficient fishery management process, while ensuring that the objectives of NEPA are fully met.

In addition, the Pacific Council would like to reiterate its priorities regarding MSA reauthorization. The Pacific Council reviewed the priorities in March 2015 and added one new priority (No. 22) providing explicitly for discussion of international fishery agreement negotiations in closed sessions of a Council meeting. The priorities are listed in Attachment 1.

Thank you again for the opportunity to comment. Should you or your staff have any questions, please don't hesitate to contact us at any time.

Sincerely,



D. O. McIsaac, Ph.D.  
Executive Director

Enclosure

JDG:kma

Cc: The Honorable Rob Bishop  
Council Members  
Pacific Council Advisory Body Members  
Regional Fishery Management Council Executive Directors

## **Attachment 1: Council Priorities for Reauthorization of the Magnuson-Stevens Act**

### **Rebuilding**

1. Provide clarity to better allow Councils to take into account the needs of fishing communities in developing rebuilding plans, without needing to demonstrate “disaster” level impacts before modifying the most stringent conservation alternative.
2. Revision of rebuilding plans should not be required consequent to minor changes in stock status (executing an extensive revision process due to “statistical noise”).
3. Address the discontinuity associated with the ten-year rebuilding requirement.
4. Address rebuilding requirements when environmental conditions may be a predominant factor in a stock’s decline.
5. Stocks later determined never depleted (overfished) should not be held to rebuilding provisions.
6. Address social and economic issues such as ‘possible’ to ‘practicable’ in MSA section 304(e)(4)(A)(i).

### **Data-Poor Species**

7. Explore more flexibility for fishery impacts on data-poor species when the current precautionary approach becomes the bottleneck for healthy mixed-stock fisheries.

### **NEPA**

8. Better align and streamline the National Environmental Policy Act (NEPA) & MSA section 304(i).

### **Observers**

9. Provide flexibility in requirements and qualifications for NMFS-certified observers to ensure that a sufficient pool of observers is available.

### **Carryover**

10. Specify that a carryover exception 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.

### **State Authority**

11. Extend state management authority for the Dungeness crab fishery off the West coast.
12. Expand state enforcement authority to all non-tribal vessels that fish directly offshore of the territorial sea within the state given boundaries.

### **Overfished, Depleted, Depletion**

13. Replace the term “overfished” with “depleted” to account for non-fishing causes of stock size below minimum stock size threshold.
14. Make a distinction between “overfishing” (a measure of fishing rate) and “overfished” (a measure of abundance).

### Highly Migratory Species

15. Designate one Commissioner seat on IATTC Commission for the Pacific Council.
16. Enhance enforcement capabilities for international fisheries, including at-sea and in-port monitoring and enforcement, and provide assistance to developing countries in their enforcement capacity.
17. Change “vessels” to “vessel” in the IUU certification section.

### Confidential Information

18. Improve access to currently confidential harvest or processing information for purposes of enhanced socioeconomic analysis.

### Mixed Stock Exception

19. Include a viable mixed-stock exception.

### Habitat

20. Add a national standard for habitat to minimize adverse impacts on essential fish habitat to the extent practicable.

### Seafood Labeling

21. Implement stricter imported seafood labeling requirements in the US market.

### International Negotiations

22. Clarify in Section 302(i)(A)(3) that Council discussion of international negotiations, such as proposals and counter proposals in the recent the US-Canada Albacore Treaty negotiations, are clearly an eligible topic for discussion during closed sessions of Council meetings. (NEW)