

LEGISLATIVE COMMITTEE REPORT ON LEGISLATIVE MATTERS

The Legislative Committee (LC) met on Wednesday, April 10, 2019. The meeting was attended by committee members Rich Lincoln, Herb Pollard, Christa Svensson, and Marc Gorelnik; Council staff Chuck Tracy, and Jennifer Gilden; and Corey Ridings (Ocean Conservancy).

The LC reviewed recent Federal legislation in the 116th U.S. Congress (Agenda Item D.3, Attachment 1) including S. 906/H.R. 1979: A Bill To Improve the Management of Driftnet Fishing, introduced by Diane Feinstein and Ted Lieu (D-CA) on April 1. This bill would extend current California state regulations regarding driftnets to all Federal waters within five years. It has been reported by committee.

The LC also briefly discussed the proposed Forage Fish Conservation Act (H.R. 2236), which was introduced by Debbie Dingell (D-MI) the same day as the LC meeting. Among other things, the bill amends the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to require Scientific and Statistical Committees to provide scientific advice on maintaining a sufficient abundance of forage fish populations; adds forage fish populations and distribution as a research priority under the MSA; and calls for Councils to develop lists of unmanaged forage fish species and prohibit development of new fisheries (as the Pacific Council has done). Research subsequent to the LC meeting found that the bill also requires Councils, when setting annual catch limits (ACLs) for forage fish fisheries, to reduce such ACLs by the dietary needs of fish species and other marine wildlife that rely on forage fish as a significant part of their diet. The LC plans to closely follow both the driftnet and forage bills as (and if) they move forward.

The Council does not have a standing request for comments on these bills or any others in the current congressional session; therefore the LC has no recommendations for Council consideration on current legislation at this time.

Representative Huffman Visit

Representative Jared Huffman (D-CA) will be visiting the Council on April 15. Rep. Huffman verbally requested that the Council comment on its priorities regarding reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) during this visit. The Council commented extensively on Huffman's 2017 discussion draft on MSA reauthorization in a letter to Congressman Schrader on February 2, 2018, and has commented extensively and publicly on its MSA priorities in the past in response to Congressional requests. The LC developed for Council consideration the following priority topics to discuss with Rep. Huffman, which have been identified in previous requests for comments on legislation:

- **MSA is Working Well:** In general, the Pacific Council believes that the MSA has worked well to ensure a transparent, public, science-based management process that ensures sustainable harvests while preventing overfishing and rebuilding depleted stocks. The Pacific Council believes large-scale changes to the MSA are not warranted, and any changes made should be carefully considered. Legislation should be focused on intended outcomes, rather than prescriptive management or scientific parameters, and should allow

for flexibility in achieving intended objectives while being specific enough to avoid lengthy, complex implementing regulations or “guidelines.”

- **Tribal Issues:** The Council noted in its February 2, 2018 letter that tribal appointees should be given the same consideration as other government agency seats in terms of the appointment process. The sovereign governmental authority of tribes should be reflected in the MSA as it is for state governments. Similarly, the standing of treaty tribes as sovereign co-managers should be reflected in the structure and guidelines of the tribal seat on the Pacific Council. The tribal representative for treaty tribes along the West Coast should not be subject to term limits nor should a minimum number of nominees be required prior to Secretarial consideration. These restrictions are counter to the principles of tribal sovereignty and self-determination. Subsistence fishing is an important activity conducted by tribes and that needs to be understood (tribes may engage in and authorize commercial fisheries in addition to ceremonial and subsistence fisheries).
- **Overfished vs. Depleted:** The Council is on record favoring language that clarifies the difference between “overfished” stocks and “depleted” stocks. Stocks that fall below their minimum stock size threshold must currently be classified as overfished, although there are often reasons for the depletion other than fishing. The Pacific Council and the other seven regional Councils support an alternative term for describing fisheries that are depleted as a result of non-fishing factors, unknown reasons, or due to a combination of fishing and other factors.
- **Rebuilding Time:** The Council is on record favoring a change of the arbitrary 10-year rebuilding requirement to a timeframe reflecting life history (time to rebuild absent fishing), plus one mean generation time of the stock in question.
- **Groundfish Loan Refinancing:** Refinancing of the groundfish buyback loan was signed into law in the 114th Congress, yet the loan has yet to be refinanced. The fleet has already paid back more than the original loan amount, and has been forced to pay a high interest rate for many years while the rest of the nation has been able to refinance its debt during the recent years of low interest rates. This refinancing would be a welcome relief to the groundfish fleet and help restore profitability to this important fishery.

In addition to the above comments on legislation, the Council also expressed an interest in exploring the following issue:

- **Monitoring:** The Council has developed an electronic monitoring program for its groundfish fisheries to provide a lower cost option to comply with the 100 percent monitoring requirement of the catch share program. The program requires fishermen to pay for a third-party reviewer to verify compliance. The Council is interested in whether it is possible to create a fund to make a single third-party reviewer available to the industry as a more economical and efficient alternative to participants individually contracting with reviewers. The MSA contains provisions under Section 313(d) that allowed the establishment of a North Pacific Fishery Management Council to establish an industry-funded Fishery Observer Fund whereby fees are collected from fishery participants to pay for the implementation of fishery monitoring and observer programs. Such a provision for

the Pacific Council may allow the Council to develop a similar program to address the third party review issue.

Next Meeting

The LC proposed tentatively scheduling a meeting at the June Council meeting.

PFMC
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