

LEGISLATIVE COMMITTEE REPORT ON LEGISLATIVE MATTERS

The Legislative Committee (LC) met on Thursday, November 14, 2019. The meeting was attended by committee members Marc Gorelnik, Bob Dooley, Rich Lincoln, Virgil Moore, and Christa Svensson; Council staff Chuck Tracy, Jennifer Gilden, and Don Hansen; Council member Pete Hassemer, and Liz Cerny-Chipman.

The LC first heard a staff review of recent Federal legislation (Agenda Item I.1, Attachment 1). The Council has not received any requests for comment on legislation at this time.

The LC also discussed the Report to Congress on Section 201 of the Modernizing Recreational Fisheries Management Act, and did not have additional comments on the recommendations made in the report.

Revisions to Council Coordination Committee (CCC) Consensus Position on Forage Fish

At the recent CCC meeting in Washington, D.C., the CCC conditionally adopted a revised consensus position on forage fish. The revised statement is intended to incorporate comments addressing the recently introduced legislation in [H.R. 2236](#). The LC recommended that the Council approve the language in the statement, which is provided below:

The Councils recognize that forage fish cannot be defined with a one-size-fits-all description or criteria. Species identified as forage fish by the Councils tend to be small species with short lifespans and may have an important role in the marine ecosystem of the region. Some of these species may exhibit schooling behavior, highly variable stock sizes due to their short life spans, and sensitivity to environmental conditions. Some forage species may consume plankton, and some may be an important food source for marine mammals and seabirds. The term "forage fish" appears to imply a special importance of the species as prey, however nearly all fish species are prey to larger predators and thus all fish species provide energy transfer up the food chain.

Councils should have the authority to determine which species should be considered and managed as forage fish. Under existing Magnuson-Stevens Fishery Conservation and Management Act (MSA) provisions, some Councils already recognize the importance of forage fish to the larger ecosystem functions and those species are regulated under the Council's fishery management plans (FMPs) where appropriate. The CCC is concerned that any legislative definition of forage fish, based on broad criteria -- such as all low trophic level fish (plankton consumers) that contribute to the diets of upper trophic levels -- will not include other important types of forage (e.g., squid), unintentionally include important target fish species (e.g., sockeye salmon), and allow for various interpretations by different interested parties and thus invite litigation.

Provisions that would require Councils to specify catch limits for forage fish species to account for the diet needs of marine mammals, birds, and other marine life would greatly impact the ability of Councils to fulfill their responsibilities under the MSA. Many

predators are opportunistic feeders and shift their prey based on abundance and availability. As a result, determining the exact amount of individual prey needed each year would be an enormous undertaking, and would divert limited research monies away from other critical research such as surveys and stock assessments.

NOAA and the states do not currently have enough resources to survey target stocks, let alone prepare stocks assessments for forage species that would be needed to set scientifically based annual catch limits. In the absence of this critical information and necessary resources, catch limits would need to be restricted to account for this largely incalculable uncertainty. Prey needs for upper trophic predators are already accounted for as natural mortality removals in stock assessment models.

Councils should retain the authority to determine species requiring conservation and management through development of FMPs. Any legislation that directs the Secretary to prepare or amend fishery management plans (e.g., recent legislation to add shad and river herring as managed species) creates conflicts with current management under other existing authorities.

Future Meetings

The LC recommends waiting to see if the Council receives any Congressional requests for comment by the filing deadline for the March Council meeting *Federal Register* Notice (February 7) before scheduling an LC meeting in March.

PFMC
11/17/19