

DRAFT Minutes
Legislative Committee Meeting
1-5 pm, October 2, 2024

Members Present: Angel Drobnica (chair), Bill Tweit, Steve Williams, Jon Kurland, Rachel Baker, Nicole Kimball, and Chris Oliver.

Public present in the room: Council Staff: David Witherell, Diana Evans, Taylor Holman, Alaina Plauche, and Sarah Marrinan. Agency Staff: Alicia Miller (AKRO), and Molly Watson (NOAA GC). Others present in person: Stephanie Madsen, Anne Vanderhoeven, Chris Woodley, and Rebecca Skinner. Others present remotely: Ernie Weiss, Linda Kozak, Jeffery Groenke, Harry Tashjian, Rachel Sapin, Loretta Brown, and Becca Robbins-Gisclair.

Due to lack of administrative support, oral testimony was not taken. The public was informed that they could testify directly to the Council under the B-reports or E-1 Staff Tasking.

Chairman Drobnica opened the meeting with a review/approval of the agenda.

Terms of Reference

The Committee reviewed a draft TOR and made several revisions based on guidance from Molly Watson (NOAA GC). She emphasized that any comments developed in response to a documented request for comments from a member of Congress (or their staff) must be technical or factual in nature as it relates to the performance of the Council's functions under its grant. The Committee discussed the timing constraints of responding to a request for comments or testimony at a Congressional hearing, and noted that it is necessary for the Legislative Committee to meet prior to a formal request.

The Committee approved the draft TOR with changes, noting that the Committee can recommend further modifications to the TOR at a future meeting, if necessary. A revised TOR will be posted to the Council eAgenda under Item E-1 for public comment and formal approval by the Council at the October meeting.

Congressional Update

Dave Whaley, the legislative consultant for the CCC, provided a briefing on the legislative process. Because this Congressional session is coming to an end, with only about 20 working days left, it is highly unlikely that any of this legislation would be moved forward. Dave did highlight that some of the big, must-pass bills, such as the Coast Guard Bill, could include some add-ons, but typically those are pieces of legislation that have already been passed by the House or Senate. Dave also alerted the Committee that Representative Debbie Dingell (MI) recently introduced a new bill on forage fish, but the text of the bill was not yet available.

All draft legislation will need to be re-introduced in 2025. The fishery bills being reviewed by the Legislative Committee could be re-introduced, potentially with changes. Technical and factual

comments, particularly emphasizing how this Council manages relative to issues to be modified by legislation, can be very helpful to Congress should they reach out for comments.

Review of Legislation

Dave Witherell provided a presentation on his initial comment on recent draft legislation, including the following:

- Supporting Healthy Interstate Fisheries in Transition Act (S. 3672)
- Fisheries Data Modernization and Accuracy Act of 2024 (H.R.8705)
- Domestic Seafood Production Act (H.R. 9226)
- Fisheries Improvement and Seafood Health Act of 2024 (H.R. 8788)
- Bycatch Reduction and Mitigation Act (H.R. 8508)
- Bottom Trawl Clarity Act of 2024 (H.R. 8507)
- Sustaining America’s Fisheries for the Future Act of 2024 (H.R. 8862)

In addition to the text of these bills and the initial comments from the Executive Director, the Committee also had access to Dave Whaley’s section by section summary and notes on the four bills introduced by Mary Peltola (AK): HR 9229, HR 8788, HR 8508, and HR 8507.

Committee Recommendations

Committee members reviewed the Executive Director’s initial comments and provided suggestions for additional technical and factual information. Note that some editorial suggestions are not included in the bullet summary below.

These represent initial draft comments only. Any official comments from the Council will be submitted only in response to a documented request from a member of Congress or their staff for technical or factual feedback as it relates to the performance of the Council’s functions under its grant. The compilation of these initial draft comments here should not be construed as an attempt from the Council to directly or indirectly provide support for or against Federal or State legislation and should not be construed as an attempt from the Council to directly or indirectly urge others to provide support for or against Federal or State legislation.

Supporting Healthy Interstate Fisheries in Transition Act (S. 3672)

- Add information on how the NPFMC manages sablefish.
- Note coordination with PFMC and that Pacific region stock assessments for some species (e.g., sablefish) is a good idea.
- Note that existing NMFS procedural directive provides more consistent approaches for management of cross boundary stocks.
- The definition of “new” fishing gear is unclear; regulations on gear are often tweaked (e.g., changes to escape panels on pots, trawl gear adjustments, marking requirements) but is this considered “new” gear?

Fisheries Data Modernization and Accuracy Act of 2024 (H.R.8705)

- Note that the standard error on Alaska recreational catch estimation is likely small, and Federal standards could make these catch estimates less precise, for example if the Federal standards require some specific survey methodology that introduces more sources of error.
- The section on fishery independent surveys is unclear and could potentially have large impacts.
- The Council notes that cooperative research can be very useful. However, “favorable peer review” can be a lengthy process for incorporating information into critical management decisions. For example, our experience with AI golden king crab industry funded surveys is that it can take years to review and incorporate this survey information into stock assessments.
- Replace “enhance” with “supplement” in the comment on how these surveys would be used along with NOAA fishery independent surveys.

Domestic Seafood Production Act (H.R. 9226)

- Need to look at existing programs and new entry procedures to ensure consistency. In some cases, there are processor linkages with community protections.
- Many of our communities with existing processors would not qualify as eligible communities.
- Delete last paragraph of comments regarding stated intent of the legislation.

Fisheries Improvement and Seafood Health Act of 2024 (H.R. 8788)

- Relative to establishment of a new fisheries and ecological resilience program, we should describe ongoing and existing programs (e.g., CEFI).
- There is a risk that this new initiative would take away resources from existing programs for developing resilient fisheries by reprioritizing resources and effort, including other important NMFS programs.
- Requiring FMPs to account for effects of changing ecological and environmental conditions would become the highest priority for the Council and NMFS, as FMPs would be out of compliance until amended, which would consume time and resources.

Bycatch Reduction and Mitigation Act (H.R. 8508)

- While the bill requires NFWF to consult with NMFS, there is limited authority for NFWF to comply with NMFS recommendations.
- The funding for gears, or by region, may not match priorities or needs as guided by agency and council priorities.
- There is unlikely to be enough funds to consider all regions and objectives.

Bottom Trawl Clarity Act of 2024 (H.R. 8507)

- There are many questions relative to interpreting this legislation.
- It is unclear what is the purpose of defining substantial bottom contact and listing the fishing gears that meet this definition.
- There is a disconnect between the definitions and the actions required.
- Based on the Council's experience and continuing changes in the ecosystems, fixed area closures may not be an effective tool relative to the distribution of fish and corals/sponges, unless there is unique geography that supports high densities of corals (e.g., seamounts).
- The provision of this bill would require a substantial workload, with tight deadlines that would require prioritizing this over all other conservation and management actions.
- Comments should expand the discussion of Savings Areas and what they do.
- Provide more context for how we currently conserve corals and sponges.
- There will need to be additional guidance regarding corals and sponge densities, as they are widely distributed at greatly varying densities throughout the EEZ off Alaska.
- Add information about the catch and economics, and community relationships of the trawl fisheries.
- The bill doesn't amend MSA, thus rulemaking under this bill may not be consistent with MSA, which could create significant confusion relative to Council recommendations and NMFS implementation.
- Explain importance of National Standards (including best scientific information available) and MSA procedures and tradeoffs of factors.
- Suggest that agency staff provide technical drafting assistance; this is a complex conservation and management issue, which will raise numerous questions and would be problematic for the Council and agency to implement as currently drafted.

Sustaining America's Fisheries for the Future Act of 2024 (H.R. 8862)

Section 102

- Given fish distributional changes because of climate change, it may be challenging to describe the current range and distribution of, and the fishing patterns on, each stock of fish in the FMPs. The FMPs would need to be continually updated with new information.
- Describe our current management approach, ongoing and completed projects, and progress made.
- Note that adding this information to FMPs may be superfluous in the North Pacific (maybe not elsewhere).

Section 103

- Note that in addition to new council member training on climate change and EBFM, the Council Member Ongoing Development workshops (that are jointly hosted by NMFS and the Councils) provide training on these topics to existing council members.

Section 104

- Highlight CEFI and other developments in understanding climate and ecosystems.

Section 106

- As mentioned for another bill (Supporting Healthy Interstate Fisheries in Transition Act (S. 3672)), it is important to clarify what is meant by a "new" gear type or fishery. For example, if a sector starts retaining a previously discarded species, is that a new fishery?

- Note that fishermen and management must be flexible, nimble, and adaptive in the face of climate change. We heard this loud and clear from stakeholders and scientists at the Council's recent climate change workshop.

Section 204

- Do the requirements for community participation in LAPP programs apply to only new programs in development, or to existing LAPP programs as well?
- Is a community sustainability plan required during the development of a program or after it is approved?
- There are complexity constraints for community participation in LAPPs that is not resolved through this legislation.

Section 302

- Note that Tribal representation on the Council could be beneficial to management planning, such as, but not limited to, inclusion of LKTKS to inform the Council's management recommendations.

Section 304

- Highlight situations when the Council does a roll call.

Section 305

- Note that there is additional value of including subsistence, EBFM, and climate science expertise in council decision-making.
- Delete comment on consideration of members with no financial interest by State Governors.

Section 402

- A federal advisory panel on EM may not be helpful to our region. EM needs to be regionally developed given the different fisheries and management needs across the country.

Section 403

- Note that NMFS has already implemented a stock assessment prioritization process for Alaska stocks, so this language seems superfluous.
- A mandatory report may affect NMFS resource availability to do more priority actions.

Section 505

- Note that National Standard guidelines already require FMPs to define overfishing and overfished criteria.
- Provide details on overfishing/overfished criteria established in the North Pacific.
- Note that our SSC members have been raising concerns about workload, and there are challenges with recruiting and retaining SSC members. Detail what we are doing about it.

Section 507

- Delete incorrect phrase about existing EFH regulations requiring action to conserve and enhance EFH.

Section 508

- Note that even though forage fish in the North Pacific are considered ecosystem component species and fisheries on forage species are prohibited, the council reviews forage fish stock assessments every two years to ensure continued monitoring of these stocks.

NPFMC Legislative Committee
DRAFT Terms of Reference and Standard Operating Procedures
October 2, 2024

Establishment and Statement of Purpose: The North Pacific Fishery Management Council shall establish and maintain a Legislative Committee to 1) review relevant Federal legislation, and 2) provide advice to the Executive Director and Council Chair on development of comments in preparation of potential response to documented congressional requests (i.e., from a member of Congress or their staff) for technical or factual presentations (including comment letters and testimony at Congressional hearings) on legislation as it relates to the performance of the Council's functions under its grant. Given timing constraints, it is necessary for the Legislative Committee to meet prior to a formal request from Congress.

Comments must be specific and must be related to the Council's ability to fulfill the objectives and activities specified in its NOAA Grant, including the Council's ability to meet its conservation and management goals under the MSA or on technical aspects of the legislation. Councils are prohibited from making recommendations intended to provide support for or against specific legislation, including any direct or indirect attempts to influence the introduction, enactment, or modification of Federal and State legislation (50 C.F.R. § 600.227). Any comments from the Council will be submitted only in response to a documented request from a member of Congress or their staff for technical or factual feedback.

Membership: Committee members will be appointed by the Council Chair from members of the Council. Typically, this would include members of the Executive Committee and other Council members as deemed appropriate by the Council Chair. The Committee shall also seek advice from NOAA GC as needed.

Operations:

Chair: The Committee Chair will be the Council Chair, or their designee.

Rules of order: In general, rules of order will be informal. Committee advice will be reached by consensus, whenever possible. Committee reports will reflect the recommendations of the Committee.

Agenda: A draft agenda will be prepared in advance of each meeting by Council staff in consultation with the Committee Chair.

Meeting record and distribution: A report of each committee meeting will be prepared by the Executive Director or other Council staff as appropriate. The Committee Chair will maintain final approval of the committee report. The final report will be posted to a Council meeting agenda or made otherwise available on the Council website.

Public comment: Written public comment shall be allowed and can be submitted to the committee meeting agenda prior to the meeting, or through other means as necessary. Opportunity for oral public comment during the committee meeting may be provided at the discretion of the Committee Chair based on time available, availability of administrative support, and other factors. Public commenters should be alerted that the Council's role with respect to commenting on legislation is limited and that the purpose of public comment is not to invite discussion on the merits of legislation that goes beyond the scope of the factual and technical presentations that the Council may make.