



New England Fishery Management Council

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Magnuson-Stevens Act Committee Meeting June 2, 2006 Holiday Inn, Mansfield, MA

Meeting Summary

The Magnuson-Stevens Act (MSA) Committee, chaired by Frank Blount, met on June 2, 2006 at the Holiday Inn, in Mansfield, MA. Other Council members serving on the committee and in attendance were Tom Hill, Eric Smith and John Nelson. Staff member Patricia Fiorelli was present along with audience members Ron Smolowitz of Coonamessett Farm, Council member Phil Ruhle, former Council member Jim O'Malley, Nancy Buermeyer of the Raben Group and Frank Gable of the University of Rhode Island.

Meeting Agenda

The Committee met to review H. R. 5018, a reauthorization bill introduced in the House in March by Congressmen Richard Pombo, Barney Frank and Don Young and amended on May 17. The focus of the meeting was to comment specifically on the contents of this bill. Remarks were developed for provisions on which the committee had comments. With some exceptions it did not comment where there was agreement and/or no recommended change.

Following the Council meeting, a formal letter will be prepared by the staff for members of Congress fully describing the NEFMC's positions and rationale, based on the comments in this document and any modifications or additions approved at the June 2006 Council meeting.

Comments on Provisions of H. R. 5018

Science-Based Improvements to Management – Pages 4-5. Concerning adopting total allowable catch limits, the MSA Committee recommends consideration be given to omitting lines 18-21 on page 4 and lines 8-11 on page 5 (beginning with the phrase “which shall not exceed...”). The NEFMC believes the Councils, and not the SSCs, are in the best position and vested with the authority to review scientific advice (which at times may be conflicting) and weigh that information against social and economic concerns as well as any other extenuating circumstances that may affect decision-making. In keeping with past positions, the committee believes *consideration* of the SSC's recommendations is the appropriate pathway to determining total allowable catch limits of other annual harvest effort control limits.

Compensation for Service on SSCs and Advisory Panels - Page 6, Line 21. The MSA Committee questions the need to compensate for service on SSCs and advisory panels, but acknowledges that in certain geographic areas some Councils may find it necessary. If included,

this provision should be discretionary. As with the Senate bill, our members continue to believe this language highlights the need for adequate funding for both the Secretary and Councils.

Scientific and Statistical Committees – Page 7, lines 1-4. Because of the composition of the New England Council’s SSC as well as the Council meeting structure, the MSA Committee does not believe that the requirement to hold SSC meetings in conjunction with its Council meetings is a practical undertaking.

Recreational Data Collection – Page 13, Line 1-3. Concerning 1) the development of comments on the prohibition on fees for recreational fishermen for the purposes of data collection and/or 2) the recommendation to require permits for party and charter boats versus individual anglers for the purposes of data collection (discussed by the committee but not in H. R. 5018), the committee was unable to come to consensus and respectfully refers this issue to the Council for its consideration.

Council Training Program - Page 14, Line 7. Regarding Council training, the committee generally supports the development of a training program but not only for newly appointed Council members, and not as a condition of membership or voting. Instead, it suggests the training course be available to (in addition to the other groups mentioned) “new and existing Council, committee, or advisory panel members as well as Council and state agency staff, as resources allow.”

Council Operations and Authorities - Page 19, Lines 15-23. The MSA Committee suggests that the Governors already have the authority to submit names from the various groups and sectors that are listed and recommends that this section be deleted as it is unnecessary.

Framework Authority – Pages 25-26. Given the Act as written does not expressly address this mechanism for making more expeditious changes to fishery management plans, the MSA Committee fully supports inclusion of this language.

Regional Ecosystem Research – Pages 29–31. In keeping with past positions on ecosystems-based management, the MSA recommends that the Council support this section of H.R. 5018.

Limited Access Privilege Programs (Eligibility) – Page 35, Lines 3-8. The text of the bill refers to residents of “the management area of the relevant Council”. The MSA Committee believes this could be synonymous with the term “management unit” described in fishery management plans --- the geographic region which a species inhabits and from which it is harvested. The committee notes that the management unit can be very different from the management area of the Council. If the latter phrase is used in this context, it could preclude fishermen who reside in various ports within the range of the resource in question, but in another Council’s “management area”, from participating in a limited access privilege program. The same would be true of the reference on page on page 37, lines 11-12.

Limited Access Privilege Programs (Eligibility) – Page 35, Lines 9-20. The MSA notes that an overall objective in a number of New England fisheries is to reduce participants in the fishery. In New England, fishing communities are grappling with this issue as they consider industry-funded vessel buyouts and other scenarios. If this provision is retained in the bill, it could have the effect of increasing participation in a fishery, possibly exacerbating an already serious

problem to which there are few effective solutions without causing economic hardship and social dislocation.

Marine Protected Area Authority – Page 24, Line 10. The MSA Committee recommends that the language in the bill might be strengthened by eliminating the word “all” in Line 10.

Limited Access Privilege Programs, New England Referendum. – Page 43, Lines 4-18. As a result of a formal vote at its January/February 2006 meeting, the New England Council agreed: that a uniform standard for all Councils should apply with respect to conducting referenda to approve or implement fishery management plans that create individual fishing quota programs. H.R. 5018 requires approval of more than two-thirds of those voting in the referendum. Consistent with its previous position on this issue, the NEFMC commented that the fishery management plan process allows for broad public participation and promotes industry dialog during consideration of any management action. This is sure to occur on a subject that has historically generated a high level of interest and industry reaction in New England.

LAPP - Auction and Other Programs – Page 46, Lines 9-13. The MSA Committee recommends that if a royalty program is instituted, revenues that are deposited in the Limited Access System Administrative Fund should be made available to fund related management initiatives.

Limited Access Privilege (LAPP) Defined – Page 51, Lines 16-20. In the definition of Limited Access Privilege, the MSA committee recommends adding the phrase directly allocated so that the sentence reads “to harvest a directly allocated quantity of fish...”. The committee agreed that it is important to clarify that limited access privileges do not apply to a quantity of fish that has been indirectly allocated through input controls.

Observer Program Funding Mechanism, P. 57. Line 5-6. So that a range of funding mechanisms may be used, the MSA Committee recommends inserting the language “In addition to Federal appropriations”, following (1) In General- The Secretary may establish a funding mechanism to cover the cost of an observer program.

Fishery Observer Fund: P. 58, Line 8. The committee commented that this Fund should also be available without appropriations (see lines 13-14; “The Fund shall be available subject to the availability of appropriations,...”).

Compliance with the National Environmental Policy Act – Pages 60-61. The MSA Committee endorsed the efforts of members of the House to include this provision which allows the Secretary to review fishery management plans for consistency with NEPA if s/he determines that sections 303 and 304 of the Act are consistent with certain provisions of NEPA.

Duration of Measures to Rebuild Diminished Fisheries - Pages 63-64. The committee recommends supporting the language in paragraphs I-IV in its entirety.

New Prohibited Acts - Page 64, Line 12 (6). The prohibition to sell or purchase any fish caught in recreational fishing could apply to the recreational giant bluefin tuna fishery --- in which vessels are federally permitted to sell their catch. Because of this potentially negative outcome,

the MSA Committee recommends instead that this language be omitted and reconciled in individual fishery management plans on a fishery-by-fishery basis and not in the MSA.

Overcapitalization - Page 70, lines 17-20, and concerning the Basis for Recommendations, the Council recommends inserting the language “including, but not limited to” in paragraph (A) so that the phrase might read “the most cost effective means of achieving voluntary reduction in capacity for the fishery, including, but not limited to the potential for industry funding. The intent of the committee is to provide for additional sources of funding should they become available.

Consideration of Economic Impacts - p. 72 lines 4-7. The MSA Committee recommends adding language to apply to paragraphs (1) through (3) *taking into consideration the “best available” information on the economic impact of harvest restrictions...* to avoid overly burdensome FMP requirements that do not reflect the actual circumstances in the fishery because neither current nor comprehensive information has not been collected or is otherwise available.

Other Issues Identified by the MSA Committee

Section 315, Page 61. Initially this section contained a reference to the MSA relative to authority to manage fish in National Marine Sanctuaries. The NEFMC supports the language drafted by the Council Chairs., which has now been omitted in the course of amending H.R. 5018. It states “fishery management authority in NMS, for all species of fish as defined in the current MSA shall be under the jurisdiction of the Regional Councils and the Secretarial approval process as described in the current MSA”. The MSA Committee requests that the consideration be given to once again including such a provision.

Increased Funding

A remaining Council concern, and one also expressed by the Council Chairs last spring, relates to a number of the provisions all of the reauthorization bills:

To adequately address previous as well as any new mandates associated with MSA reauthorization, the Councils must have the funds to support Council activities. This has been a chronic problem for a number of years in the New England region during a period in which the workload has increased exponentially. Management initiatives have been postponed and the quality and timeliness of work products has been affected and counterbalanced only by staff diligence. The Council respectfully requests that Congress address this very pressing issue and provide sufficient funding for mandated activities and any new initiatives that are being contemplated.