

Minutes
CCC Legislative Workgroup Meeting
March 23, 2020

Members Present: David Witherell (chair), Tom Nies (Vice Chair), Carlos Farchette, Josh DeMello, Jessica McCawley, Marc Gorelnik, Carrie Simmons, Ryan Rindone, Mary Sabo, John Carmichael, and Dave Whaley.

Updates: The Workgroup reviewed the changes made at the CCC meeting in November 2019.

Legislative Report: Dave Whaley reported on the status of MSA reauthorization and other bills. With the outbreak of the Covid-19 pandemic, all meetings of the House Resources Committee have been suspended, and the Senate Commerce Committee has only met to review the nomination of Neil Jacobs for NOAA administrator. Dave noted that Congressman Huffman has held seven roundtable discussions on MSA, and there are 3 more left (New England – which was postponed, Caribbean, and Alaska). While they rest may not be held any time soon, you can submit comments through the Congressman’s website. The only reauthorization bill reintroduced this session was Congressman Young’s bill H.R. 3697, but there are no talks of markup, so this bill is essentially dead for now. The Sullivan staff draft reauthorization bill has had no further action and will not be introduced this year.

CCC Legislative Working Paper: Dave Witherell reviewed the proposed revisions to the working paper draft dated February 24 that addressed the revisions recommended by the workgroup and CCC. These revisions included a stand-alone Executive Summary, reformatting of the issues into 3 major topic categories, updates to the Council comment letters section, and inclusion of a new issue (Timing for FMP Revisions). A draft consensus statement was also presented for the Workgroup to consider.

The Workgroup was satisfied with the draft revisions. Dave Whaley noted that the Executive Summary was helpful for legislative staff and others. It was also noted that additional revisions are needed to address language in the background section that refers to outdated legislation. Additionally, the regional perspectives may need to be updated. Workgroup members will provide revisions to Dave and Tom for inclusion in the document before it gets posted prior to the next CCC meeting.

The Workgroup recommended that, from now on, working paper include a date when consensus statements were approved and regional perspectives included or modified. Inclusion of a date alerts the reader as to the freshness and history of the perspectives and statements. It was also suggested that hyperlinks could be added to direct a reader to the specific meeting minutes.

Consensus statement for “Timing for FMP Revisions”:

The Workgroup discussed a proposed consensus statement for the new issue “Timing for FMP Revisions.” Overall, workgroup members agreed with the draft consensus statement and appreciated that it didn’t discuss the number of years required so as to avoid inviting some unwanted legislative guidance. It was noted that, except for the first sentence, the draft consensus statement did not explain the time required by NMFS to review and implement regulatory changes. The Committee agreed to have Dave and Tom draft a sentence or two to add to the consensus statement, which would then be reviewed and approved by workgroup members through email.

Proposed Language (as revised) “Legislated mandates for completing an FMP or regulatory amendment can place unrealistic demands on the Council and NMFS. Regulations are developed by the councils using a scientifically based, deliberative, and transparent process. It takes time to prepare adequate and

informative scientific analyses, and receive important feedback from the public on potential impacts of alternatives, for effective decision-making by the councils. After the Council makes a decision and formally provides its recommendations, NOAA Fisheries reviews the submission, prepares proposed regulations if necessary and initiates a rulemaking process pursuant to MSA, NEPA, APA, and other legal requirements. In some cases, there are statutory requirements that limit how rapidly an action can be completed. For example, some statutes specify the minimum time that must be provided for public comments. Rushing to meet an amendment deadline without having adequate time for scientific and public input can result in less than optimal decisions, which in the end may result in a lengthier rulemaking process and provoke unnecessary and time-consuming litigation.”