



MAGNUSON-STEVENSONS ACT REAUTHORIZATION



STATUS



- **Administration Proposal**
 - Submitted to the Congress in Sept. 2005
- **Senate Bill (S 2012)**
 - Sen. Stevens (AK) and 12 others
 - Reported out of the Commerce Cmte in Dec. 2005
 - Passed the Senate in June 2006
- **House Bill (HR 5018)**
 - Rep. Pombo (CA) and 6 others
 - Reported out of the Resources Cmte. in May 2006
 - Manager's Amendments likely in Nov? Dec?
- **Other bills – HR 5051, HR 4940, HR 1431**



AGENCY PRIORITIES

- **Ending Overfishing and Rebuilding Fisheries**
- **Dedicated Access Privilege Programs (DAPPs) / Limited Access Privilege Programs (LAPPs)**
- **Recreational Registration and Commercial Permitting Systems**
- **Scientific Support for Management**
- **Expanded Social and Economic Information**
- **Broadened Council Representation**
- **Ecosystem Approaches to Management**
- **Improve Management Procedures**
- **Increased Enforcement Fines/Penalties**
- **Funding for Observer Programs**



House Proposal: H.R. 5018



“American Fisheries Management and Marine Life Enhancement Act”

Major Themes

- mandatory catch limits
- ending overfishing in two years
- relaxed rebuilding timeframes
- broadened Council membership
- ecosystem research
- peer review of council science
- cumulative impacts
- excess capacity report
- hurricane/disaster assistance
- vessel safety grants



Senate Proposal: S. 2012



“Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006”

Major Themes

- annual catch limits and paybacks
- limited access privileges
(IFQ, communities, and regional fishery associations)
- peer review of council science authorized
- environmental review procedures
- cumulative impacts
- fisheries conservation and management fund
- disaster relief/hurricane assistance



AGENCY PRIORITIES



Ending Overfishing and Rebuilding Fisheries

- **End overfishing within 2 years and incorporate stock life history in to rebuilding requirements**

- **S 2012**
 - **does not establish a firm date for ending overfishing**
 - **overage and payback provisions**

- **HR 5018**
 - **does not establish a firm date for ending overfishing**
 - **includes additional provisions for extending rebuilding periods**
 - **does not include overage and payback provisions**



Pombo's Manager's Amendments



Overfishing

- **Requires that overfishing be ended in two years**
- **However, does not apply to:**
 - **species with annual or shorter life spans, or**
 - **fisheries for which annual catch limits cannot be established**

Rebuilding

- **Retains 10-year rebuilding requirement**
- **Reduces number of exceptions that may justify extensions beyond 10 years**
- **Extensions beyond 10 years now limited by time required to rebuild, absent any fishing mortality, plus one mean generation**



AGENCY PRIORITIES



Dedicated Access Privilege Programs

- **Promote use of DAPPs (or LAPPs) and recover user fees to cover implementation costs**

- **S 2012**
 - **includes additional authorizations for DAPPs/LAPPs**
 - **additional referendum requirements in New England and Gulf of Mexico**
 - **does not expand fee collections above current 3% cap**

- **HR 5018**
 - **includes additional authorizations for DAPPs/LAPPs**
 - **referendum requirements for New England**
 - **does not expand fee collections significantly above current 3% cap**



AGENCY PRIORITIES

Improve Management Procedures

- **Revise/update NEPA procedures, authorize alternative procedures (frameworks), and streamline requirements for emergency actions**

- **S 2012**
 - **calls for revision/update of procedures for compliance with NEPA**
 - **facilitates emergency regulations (2nd emergency period: 186 days)**

- **HR 5018**
 - **provides that MSA actions (under specific conditions) may satisfy NEPA (EIS) requirements**
 - **authorizes “alternative procedural mechanisms” for emergency and framework actions (2nd emergency period: 186 days)**



Pombo's Manager's Amendments

Compliance with NEPA

- **Maintains requirement that MSA measures comply with NEPA**
- **Mandates that procedures be revised and updated so that regulatory assessments under environmental laws comport with timelines and procedural requirements of MSA**
- **This manager's amendment has moved H.R. 5018 much closer to the Administration's position on compliance with NEPA**



AGENCY PRIORITIES

Expanded Social and Economic Information

- **Expand the categories of social and economic information submitted to the Agency**

- **S 2012**
 - **removes exemption of “proprietary/confidential” information**
 - **refines provisions governing sharing of confidential information**

- **HR 5018**
 - **authorizes provision of funds to councils for socio-economic data collection**
 - **mandates description of cumulative social and economic impacts, and preparation of an excess capacity report**



AGENCY PRIORITIES

Broadened Council Representation

- **Better balance the constituent interests on the Councils**

- **S 2012**
 - **explicitly addresses sector membership on Gulf of Mexico Council**
 - **mandates council member training; establishment of a Council Coordinating Cmte.; and refines conflict of interest rules**

- **HR 5018**
 - **authorizes submission of candidates from non-user groups**
 - **mandates council training; establishment of Council Coordinating Cmte.; and report on disclosure, conflict of interest, and recusal matters**



AGENCY PRIORITIES



Recreational Registration and Commercial Permitting Systems

- **Establish a national saltwater angler registry and a commercial permitting system to ensure better data collection**

- **S 2012**
 - **requires establishment of a regionally based recreational registry and program to improve quality and accuracy of MRFSS data**
 - **prohibits fees for the registry (before 2011)**
 - **does not address commercial permitting system**

- **HR 5018**
 - **requires improvement in the quality and accuracy of MRFSS data and authorizes \$5 million in appropriations**
 - **prohibits fees for the registry**
 - **does not address commercial permitting system**



AGENCY PRIORITIES

Scientific Support for Management

- **Establish a National data collection system and formal peer review processes**

- **S 2012**
 - **authorizes information collection programs**
 - **authorizes Secretary and councils to develop formal peer review processes**

- **HR 5018**
 - **mandatory peer review process that is timely and transparent**
 - **mandates regional stock assessments, multi-year research priorities, and improved data sharing**
 - **authorizes Secretary and councils to require VMS**



AGENCY PRIORITIES



Ecosystem Approaches to Management

- **Adopt ecosystem approaches to management and authorization for fishery ecosystem plans**

- **S 2012**
 - focuses on bycatch reduction, restoration study, and deep-sea corals
 - mandates regional ecosystem study and development of regional pilot programs

- **HR 5018**
 - authorizes ecosystem-based fishery management plans
 - mandates regional ecosystem research and calls for definitions of “ecosystem” and “marine ecosystem”



AGENCY PRIORITIES



Increased Enforcement Fines/Penalties

- Deter future violations by increasing associated fines and penalties
- S 2012 – includes requested provisions
- HR 5018 – doesn't include provisions

Funding for Observer Programs

- Establish a Fishery Observer Fund to help provide necessary resources
- S 2012 – doesn't include provisions
- HR 5018 – includes provisions



INTERNATIONAL PROVISIONS



- **Administration bill**
 - Defines EEZ
 - Excludes foreign entities from owning DAP privileges
 - Extends jurisdiction of Caribbean Council
 - Addresses monitoring of foreign fishing in Pacific Insular areas
- **S 2012**
 - Mandates actions, including use of trade restrictions, to combat illegal, unreported, and unregulated fishing and bycatch of protected marine species
 - Provides for newly designated NOAA official to serve as Secretarial Representative for International Fisheries
 - Stipulates terms of US participation in the Western and Central Pacific Fisheries Commission
 - Implements U.S.-Canada Agreement on Pacific whiting management from 2003
- **HR 5018**
 - No international provisions



DISASTER PROVISIONS



- **Administration bill**
 - Does not address disasters
- **S 2012**
 - Includes numerous provisions, particularly Katrina-related events in the Gulf of Mexico
 - Establishes a disaster and recovery program
 - Targets aid to benefit shrimp and oyster industries
 - Modifies direct loan program (FFP), including through forgiveness of loans, to assist loan holders
 - Mandates study of hurricane effects on shrimp and oyster industries
- **HR 5018**
 - Amends MSA section 312(a) so that “fishery failure” designation applies to the entire fishery (including commercial and recreational components) and not just to the commercial sector
 - Includes assistance, transition, and recovery program for “catastrophic regional fishery disasters”



Pombo's Manager's Amendments



Miscellaneous Other Provisions

- **The Agency believes that other provisions in the manager's amendment are either unnecessary or duplicate functions that belong to the Councils and/or the Secretary, such as:**
 - **Fishery Finance Program Hurricane Assistance**
 - **Annual Species Study**
 - **Added Gulf Council to DAPP/LAPP referendum requirement**
 - **Specifies SE Alaskan entities that can acquire halibut-sablefish IFQ**
 - **Pacific Coast Groundfish LAP pilot program**
 - **EFH exemption for Florida Intracoastal Waterway**
 - **Mandatory Collaborative Strategic Planning**



MSA Reauthorization

Major Implications for Councils

- different management schedules for (ending overfishing (2 yrs?) and rebuilding (10 yrs?))
- new limited access privileges
- enhanced role of science in management
- more attention to ecosystems (habitat and bycatch)
- greater focus on recreational fisheries, fishing communities, and other shoreside interests (including processors)
- even more transparent Council processes (broader membership, more open meetings, tougher conflict of interest rules)



Special Topics for MSA Reauthorization

(1) Catch Limits/ABC/OY Issues

- All MSA proposals mandate harvest limits that are science-based and will promote conservation
- Catch limits may be quotas (TACs) or effort controls (days at sea)
- **Congress has also shown interest in catch limits that are more strictly enforced**



Catch Limits/ABC/OY Issues (cont.)



Section 104 (fishery management plan requirements) of S. 2012

- Annual catch limits: Each FMP must “establish a mechanism for specifying annual catch limits ... or annual specifications, at a level such that optimum yield is not exceeded.”
- Paybacks: “Harvests exceeding the specified annual catch limit shall be deducted in the following year, or the next action in a multiyear specification ... but the deduction shall occur not later than 3 fishing years after the close of the fishing year in which the overage occurs.”
- The above provisions will (1) be implemented in 2010 for overfished fisheries and 2011 for all other fisheries and (2) will not apply “for species that have a life cycle of approximately 1 year unless the Secretary has determined the fishery is subject to overfishing.”



Catch Limits/ABC/OY Issues (cont.)



- S. 2012 mandates two separate Council actions:
 - (1) annual catch limits and
 - (2) subsequent penalties (if necessary)
- Mandatory penalties (paybacks) will require that Councils act quickly and decisively
- The House MSA bill, H.R. 5018, has a comparable annual specification requirement but does not call for paybacks



Special Topics for MSA Reauthorization

(2) Collaborative Strategic Planning



- H.R. 5018 includes a unique provision (not found in the Senate or Administration MSA bills) on “collaborative strategic planning” (CSP)
- CSP would require NMFS and Councils to undertake long-range planning to achieve sustainable fisheries
- Major Elements in CSP:
 - (1) Secretarial guidance
 - (2) national task force in sustainable fishery capacity
 - (3) sustainable fishery vision, implementation and management plan
 - (4) regional task forces may develop plans addressing capacity levels, fleet composition, prioritized management measures and long-term costs/benefits



Collaborative Strategic Planning (cont.)



- CSP provision has been urged mainly by the United States Institute for Environmental Conflict Resolution
- National and regional task forces, and the various planning mandates would be additional responsibilities for both the Councils and the Secretary
- CSP proposal reflects major interest in fleet overcapacity and the need to develop capacity plans
- CSP would force Councils to engage in long-range planning?