

**Meeting Report**  
**CCC Legislative Work Group Conference Call**  
**August 18, 2021**

**Members Present:** Tom Nies (Chair), Carrie Simmons (Vice Chair), John Gourley, Kitty Simonds, Carlos Farchette, Jessica McCawley, Bob Dooley, Ryan Rindone, Mary Sabo, John Carmichael, Joshua DeMello, Dave Whaley, David Witherell

**Key Takeaways:** The work group discussion focused on two bills, H.R. 4690 (MSA Reauthorization) and H.R. 3764 (Ocean Based Climate Solutions, or OBCS). Members agreed to draft consensus statements on H.R. 4690 that will be reviewed by the CCC in October. The NPFMC is expecting to develop a letter on H.R. 3764 that the group will use to develop statements on that bill. The letter will be shared with the other Councils.

**Legislative Overview:** Dave Whaley provided an update on legislative activities.

- Two MSA reauthorization bills have been filed in the House of Representatives. H.R. 59 (Congressman Young) is virtually the same bill as filed last session; the CCC has reviewed this extensively in the past. H.R. 4690 (Congressman Huffman) is based on a draft prepared last winter and discussed at seven listening sessions. It is possible there will be a hearing on the Huffman Bill this fall; it is not clear if the Councils will be asked to testify. An MSA reauthorization bill has not been filed in the Senate.
- There are several bills circulating that are not comprehensive. An aquaculture bill has not been reintroduced yet. A forage fish bill (S. 1484) was introduced in the Senate but not the House.
- H.R. 3674 (OBCS) was referred to seven different committees, including House Ways and Means. This will slow its progress, but it has been reported out of the Natural Resources Committee. Given the mandates in the bill for Secretarial action, this triggers a report requirement with an analysis by the Congressional Budget Office on what the bill will cost.
- There is little or no interest in the Senate Commerce Committee for working on MSA issues this year.

**H.R. 4690:** Dave Whaley provided the work group with a summary of H.R. 4690 topics that are either not addressed by the consensus statements in the current CCC MSA working paper, or existing statements may need to be updated to address this bill. These were bundled based primarily on the bill's structure, and the work group ranked the importance of each. In addition, a few over-arching issues raised by the bill were identified and included in the ranking. The group went through the list, agreed on which items might need a CCC consensus statement, and members agreed to prepare draft statements for review. These statements will be provided to Tom by September 1; copies should be sent to Dave Witherell. Members will collaborate on editing the statements. The draft statements that will be prepared will address the following issues.

- Complications in adapting fisheries to climate change caused by competition for the ocean: offshore wind, aquaculture, 30X30, MPAs, etc. (Tom Nies)
- EFH/HAPC: expanded EFH consultation requirements, FMP requirements for EFH (no practicability standard), requirements for HAPCs. (Joshua DeMello/John Gourley)
- Council accountability: Staff subject to Federal regulations, Council/Committee/AP members subject ethics, sexual harassment, and assault provisions; required training; prohibition on lobbying Executive Branch and legislators. (John Carmichael/Jessica McCawley)
- Shifting of authority/responsibility from Councils to the Secretary: review of geographic authority, Secretarial development of FMP to end overfishing, approval of new gear, etc. (Mary Sabo)
- Authority over shifting stocks: required review of Council jurisdiction, Council FMP designation. (John Carmichael, Mary Sabo, Tom Nies)
- Reducing bycatch: remove practicability standard, FMP requirements on bycatch, standardized national bycatch reporting program. (Dave Witherell)
- Council procedure: roll call votes, remote participation and voting, webcast/live audio/video broadcast, archive of Council and SSC meetings. (Since some of these issues are already addressed in the working paper, Mary Sabo agreed to draft revisions that would address the roll call vote issue.)
- Concern over agency ability to manage increased EFH consultation responsibilities in the bill. (Joshua and John will incorporate a comment on this in the statement on EFH/HAPC issues)

While the following issues in the bill are not currently addressed in a CCC consensus statement, the work group decided not to draft statements for them for the October 2021 meeting. Individual Councils may want to update their statements on specific issues.

- Council membership: new seats, changes in term limits for some seats, WPFMC geographic representation, requirement for a non-interested seat, etc. (individual Council may want to update their comments on specific issues).
- Emergency operating plans: contingency plan for when monitoring and assessments are impractical.
- Disaster relief: new definitions, specific provisions for determining revenue loss, requirements for a request, numerous program details. (The Council role in disaster relief declarations is region-specific, with some Councils not involved at all and others important participants. Individual Councils may want to update their specific issues statements).
- Electronic technologies: Councils required to consider ET in FMPs, required reports, AP (Advisory Panel) for ET development.
- Working waterfront grants: WW task force, grant program details, preservation fund.
- S-K Reform: Regional advisory committees established, process for identifying and funding program.
- Subsistence fishing definition

**H.R. 3674/OBCS:** Dave Witherell gave an overview of the provisions of the OBCS. This is a wide-ranging bill with numerous topics that are of interest to the Councils. In brief, some of the key elements are:

- Title I-Blue Carbon- Requires a national map of blue carbon ecosystems and assessment of the vulnerability of blue carbon ecosystems to climate impacts, including human stressors; requires an assessment of the greatest anthropogenic threats to blue carbon ecosystems; creates a new interagency working group to identify priority blue carbon ecosystems for protection; requires NOAA Administrator to designate coastal carbon areas of significance and describe measures to ensure protection of coastal carbon areas of significance. No immediate impact but potential for future actions that may occur outside of Council authorities.
- Title II-Offshore Energy-expand offshore energy; prohibit oil and gas leasing
- Title III-Climate ready fisheries
  - Adapt fisheries management to anticipated impacts of climate change, \$7M authorized to implement
  - Federal agencies must *avoid* adverse impacts to EFH, and if not possible, minimize or mitigate impacts. No activity can be authorized that would have an impact on HAPC. New criteria are established for HAPC. Councils would be required to comment on EFH consultation to SOC and Federal/State agencies if it affects EFH. Proposals may create litigation vulnerability.
  - Provisions on trade agreements would require certification on progress on 30X30 to an independent body, commitment to annual assessments, etc.
- Some other titles (insular affairs, CZM, etc)
- Title VII: SOC must publish a list of marine mammal stocks likely to be affected by climate change and develop a plan to recover stocks. Effectively could take away fisheries management authority to manage fisheries that interact with marine mammals.
- Title VIII: plan for MPAs (Marine Protected Area) beyond national jurisdiction; designation process for successful Marine Sanctuary nominations
- Title XIV: marine protected areas inventory; require AIS (Automatic Identification System) on vessels over 49 feet in length

The group discussed many of the topics in this bill. Many of the insular and international topics are of concern to the WPFMC and CFMC. Several members also expressed concern with the National Marine Sanctuary, MPA, and EFH topics. The marine mammal provisions could impact fisheries management in those regions with marine mammal and fishery interactions. Concern was expressed about the AIS requirement because AIS is not a fully secure system, and the data can be accessed, cloned, or otherwise misrepresented. Dave Witherell mentioned that the NPFMC expects to be drafting a letter on this bill in response to a potential Congressional request. Dave Whaley offered to assist. The group agreed to provide Dave(s) a list of issues that were of concern to them, and the WPFMC offered to help Dave with the topics of concern listed

in the beginning of this paragraph. While the NPFMC letter will focus on issues of concern to that Council, when the follow-on call is scheduled, the working group may be able to use the NPFMC letter as a starting point for CCC consensus statements.