

STAFF SUMMARY OF FEDERAL LEGISLATION IN THE 111<sup>TH</sup> U.S. CONGRESS OF  
PARTICULAR INTEREST TO THE PACIFIC FISHERY MANAGEMENT COUNCIL

This summary is intended as a general overview for discussion purposes. Full text of these bills, additional summary and background information, and current status can be found by entering the bill number in the search engine at the THOMAS web site of the Library of Congress (<http://thomas.loc.gov>). Portions of this report are derived from summaries provided by the Congressional Research Service of the Library of Congress.

**H.R. 1080 - Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2009** *To strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, and for other purposes.*

Introduced February 13, 2009 by Congresswoman Bordallo, Guam. Passed the U.S. House and was referred to the U.S. Senate in September, 2009 (see **S.2871** below).

Amends specified Acts (including the Magnuson-Stevens Fishery Conservation and Management Act [MSA], the North Pacific Anadromous Stocks Act, the Pacific Salmon Treaty Act of 1985, and the North Pacific Halibut Act of 1982) related to commercial fishing and marine resources, to provide for increased cooperation, as well as increased penalties for violations of such acts and increased enforcement and inspection authorities relating to driftnet fishing, illegal, unreported, or unregulated fishing, and bycatch of a protected living marine resource.

Three “other purposes” under H.R. 1080 directly related to Council activity, H.R. 1080:

1. Corrects confusing language in the Western and Central Pacific Fisheries Commission Implementation Act (WCPFCIA) to clarify that the U.S. shall be represented by five U.S. Commissioners, “one of whom shall be a member of the Western Pacific Fishery Management Council, and one of whom shall be a member of the Pacific Fishery Management Council.”
2. Removes unintentional ethics and conflict-of-interest restrictions on U.S. representatives as currently specified in the WCPFCIA and the Pacific Whiting Act of 2006. Under the proposed amendments in H.R.1080, individuals appointed to serve the U.S. through either the Western and Central Pacific Fisheries Commission (WCPFC) or the U.S./Canada Pacific Whiting Agreement “shall not be considered Federal employees except for purposes of injury compensation and tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.”
3. Amends the Pacific Whiting Act of 2006 to specify that the U.S. shall appoint no more than two rather than six scientific experts to the joint technical committee under the U.S./Canada Pacific Whiting Agreement.
4. MSA Section 307 (1)(O) is amended to read “It is unlawful - to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish taken, possessed, transported, or sold in violation of any foreign law or regulation; or any treaty

or in contravention of any binding conservation measure adopted by an international agreement or organization to which the United States is a party'.”

**S. 2870 - International Fisheries Stewardship and Enforcement Act.** *A bill to establish uniform administrative and enforcement procedures and penalties for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act and similar statutes, and for other purposes. Would also implement the Antigua Convention and make the technical corrections listed above as items 1 – 3 under H.R.1080 for the WCPFCIA and the Pacific Whiting Act of 2006.*

Introduced December 10, 2009 by Senator Inouye, Hawaii and referred to the U.S. Senate Committee on Commerce, Science, and Transportation.

- **TITLE IV – Implementation of the Antigua Convention.** The Inter-American Tropical Tuna Commission (IATTC) adopted the Convention for the Strengthening of the [IATTC] (Antigua Convention) in June of 2003 which cannot be fully implemented without U.S. ratification and implementing Federal legislation. S.2870 would implement the Antigua Convention by amending the Tuna Conventions Act of 1950 to, among other things, strengthen enforcement, reduce bycatch, and to specify U.S. representation to the IATTC and its advisory groups. Under this bill, five U.S. Commissioners would be appointed by the President “*among individuals who are knowledgeable or experienced concerning highly migratory fish stocks in the eastern tropical Pacific Ocean, one of whom shall be an officer or employee of the Department of Commerce, one of whom shall be the chairman or a member of the Western Pacific Fishery Management Council, and one of whom shall be the chairman or a member of the Pacific Fishery Management Council. Not more than 2 Commissioners may be appointed who reside in a State other than a State whose vessels maintain a substantial fishery in the area of the Convention.*” Additionally, the IATTC General Advisory Committee would include “*the chair of the Pacific Fishery Management Council's Advisory Subpanel for Highly Migratory Fisheries.*” Members of the General Advisory Committee would receive per diem but no pay and would not have a conflict of interest as they “*shall not be considered Federal employees except for purposes of injury compensation and tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code*”. Regarding the IATTC's Scientific Advisory Committee the bill states that, “*The Secretary [of Commerce], in consultation with the Secretary of State, shall appoint a Scientific Advisory Subcommittee of not less than 5 nor more than 15 qualified scientists with balanced representation from the public and private sectors, including nongovernmental conservation organizations.*”
- **Committee on Scientific Cooperation for the Pacific Salmon Agreement.** Section 11 of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3640) is amended by inserting the following:

*“(c) SCIENTIFIC COOPERATION COMMITTEE- Members of the Committee on Scientific Cooperation who are not State or Federal employees shall receive compensation at a rate equivalent to the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, when engaged in actual performance of duties for the Commission.’.*

**S. 2871 - A bill to make technical corrections to the Western and Central Pacific Fisheries Convention Implementation Act, and for other purposes.** *Only makes the technical corrections listed above as items 1 – 3 under H.R.1080 for the WCPFCIA and the Pacific Whiting Act of 2006.*

Introduced December 10, 2009 by Senator Inouye (HI) and referred to the U.S. Senate Committee on Commerce, Science, and Transportation.

**H.R. 860 - Coral Reef Conservation Amendments Act of 2009,** *To reauthorize the Coral Reef Conservation Act of 2000, and for other purposes.*

Introduced February 4, 2009 by Congresswoman Bordallo, Guam. Referred to the Subcommittee on Insular Affairs, Oceans and Wildlife. Passed the U.S. House in September of 2009 and was referred to the U.S. Senate. Introduced in the U.S. Senate by Senator Inouye, Hawaii, as **S. 2859** on December 9, 2010 and was ordered to be reported without amendment favorably on December 17, 2009 by the Committee on Commerce, Science, and Transportation.

Amends the Coral Reef Conservation Act of 2000 to extend the award of remaining coral reef conservation program grant funds to appropriate projects, including monitoring and assessment, research, pollution reduction, education, and technical support. Authorizes actions to minimize injury to a coral reef or loss of an ecosystem function from vessel impacts, derelict fishing gear, vessel anchors and anchor chains, and unforeseen or disaster-related circumstances as a result of human activities and to stabilize, repair, or restore the reef, including vessel removal and emergency stabilization of the vessel or reef. Deems specified terms (such as "sanctuary resources" and "national marine sanctuary") to include any coral reef that is subject to the jurisdiction of the United States or (subject to state consent) any state, regardless of whether the reef is in a national marine sanctuary.

**H.R. 14 and S.173 – Ocean Acidification,** *To provide for ocean acidification research and monitoring*

Introduced January 8, 2009 in the U.S. Senate by Senator Lautenberg, Florida. Introduced in the U.S. House of Representatives January 6, 2009 by Congressman Baird, Washington. Referred to the House Committee on Science and Technology. No new Congressional action as of February 17, 2010.

Defines "ocean acidification," for this Act, as the decrease in pH of the Earth's oceans and changes in ocean chemistry caused by chemical inputs from the atmosphere, including carbon dioxide. Requires the Joint Subcommittee on Ocean Science and Technology of the National Science and Technology Council to develop a strategic plan for federal ocean acidification research and monitoring that provides for an assessment of ocean acidification impacts on marine organisms and ecosystems and the development of adaptation and mitigation strategies to conserve marine organisms and ecosystems. Directs the Secretary of Commerce to conduct research and monitoring and authorizes the Secretary to establish an ocean acidification program in the National Oceanic and Atmospheric Administration (NOAA) consistent with the strategic research plan.

**H.R. 81 – Shark Conservation Act of 2009**, *To amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.*

Introduced January 6, 2009 by Congresswoman Bordallo, Guam. Passed the U.S. House of Representatives on March 2, 2009. Referred to the U.S. Senate Committee on Commerce, Science, and Transportation on March 3, 2009. Introduced in the U.S. Senate by Senator Kerry, Massachusetts as **S.850** where it was favorably reviewed by the Committee on Commerce, Science, and Transportation. As of February 4, 2010, the bill is awaiting consideration by the full Senate.

Amends the High Seas Driftnet Fishing Moratorium Protection Act to direct the Secretary of Commerce to list a nation in the biennial report on international compliance if the nation's fishing vessels are or have been engaged in fishing activities that target or incidentally catch sharks and the nation has not adopted a shark conservation program that is comparable, taking into account different conditions, to that of the United States, including measures to prohibit removal any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea.

Amends the Magnuson-Stevens Fishery Conservation and Management Act to revise provisions prohibiting the removal of shark fins to make it a prohibited act to: (1) remove any shark fin (including the tail) at sea; (2) have a fin aboard a fishing vessel unless the fin is naturally attached to the carcass; (3) transfer a fin from one vessel to another or receive a fin unless it is naturally attached; or (4) land a fin that is not naturally attached to a carcass or land a carcass without fins naturally attached. Revises the current rebuttable presumption provision concerning shark fins on fishing vessels to create a rebuttable presumption that, if any shark fin (including the tail) is aboard a non-fishing vessel without being naturally attached, the fin was transferred from a fishing vessel in violation.

**H.R. 843 – Amendment to the Marine Mammal Act of 1972**, *To repeal the long-term goal for reducing to zero the incidental mortality and serious injury of marine mammals in commercial fishing operations, and to modify the goal of take reduction plans for reducing such takings*

Introduced February 3, 2009 in the U.S. House of Representatives by Congressman Young, Alaska. Referred to the Subcommittee on Insular Affairs, Oceans and Wildlife. No new Congressional action as of February 17, 2010.

Amends the Marine Mammal Protection Act of 1972 to repeal the long-term goal of reducing to zero the incidental mortality and serious injury of marine mammals in commercial fishing operations. Makes reduction of such incidental mortality and serious injury (but not to any specified percentage) the long-term goal. Requiring that commercial fishermen achieve a zero mortality rate goal for a species or population stock of marine mammals that is equal to or less than 10 percent of the potential biological removal of a given marine mammal species or population stock is unnecessary to achieve that Act's goal of maintaining species and stocks at their optimum sustainable population and penalizes commercial fishermen. Species and populations stocks of marine mammal that have reached historic levels are impeding the recovery of endangered species and threatened species through predation or competition in the

ecosystem. The fundamental principles of ecosystem management are defeated by giving one species a preeminent position in the ecosystem through imposition of a zero mortality rate goal. All persons that interact with marine mammals should seek to reduce and eliminate marine mammal injuries and mortalities through the use of the best equipment and techniques that are economically and technologically feasible.

**S. 532 - Commercial Fishermen Safety Act of 2009**, *A bill to amend the Internal Revenue Code of 1986 to provide a business credit against income for the purchase of fishing safety equipment. Allows commercial fishermen a business-related tax credit for up to 75% of the cost of certain fishing safety equipment. Limits the annual amount of such credit to \$1,500.*

Introduced March 5, 2009 in the U.S. Senate by Senator Collins, Maine. Referred to the Committee on Finance. No new Congressional action as of February 17, 2010.

Another tax incentive bill with fisheries interest is **H.R. 115** that amends the Internal Revenue Code to provide for tax-exempt qualified small issue bonds to finance fish processing facilities. The bill was introduced in the U.S. House in January of 2009 with no Congressional activity reported since.

**Legislation reintroduced in the 111<sup>th</sup> Congress that was the subject of Council and Legislative Committee comments in the 110th Congress**

**S.1255 and H.R. 1584 - Flexibility in Rebuilding American Fisheries Act of 2009,** *Amends the MSA to require fishery management plans, amendments, or regulations for overfished fisheries to specify a time period for ending overfishing and rebuilding the fishery that is as short as practicable (under current law, as short as possible). Modifies the exceptions to the requirement that such period not exceed ten years. Requires consideration, in evaluating progress to end overfishing and rebuild overfished stocks, of factors other than commercial and recreational fishing. Requires, when the Secretary of Commerce extends the period under specified provisions, that the maximum rebuilding time not exceed the sum of the initial ten-year period, the expected time to rebuild the stock absent any fishing mortality and under prevailing environmental conditions, and the mean generation time of the stock.*

**H.R.1584** introduced March 32, 2009, 2009 in the U.S. House of Representatives by Congressman Pallone, New Jersey. Referred to the Subcommittee on Insular Affairs, Oceans and Wildlife. No new Congressional action as of February 17, 2010.

**S.1255** introduced June 11, 2009, 2009 in the U.S. House of Representatives by Senator Schumer, New York. Referred to the Committee on Commerce, Science, and Transportation. No new Congressional action as of February 17, 2010.

**H.R. 21 - Ocean Conservation, Education, and National Strategy for the 21st Century Act,** *To establish a national policy for our oceans, to strengthen the National Oceanic and Atmospheric Administration, to establish a national and regional ocean governance structure, and for other purposes*

Introduced January 6, 2009 in the U.S. House of Representatives by Congressman Farr, California. Referred to the Subcommittee on Insular Affairs, Oceans and Wildlife. No new Congressional action as of February 17, 2010.

**H.R. 223 - Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act,** *To expand the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary, and for other purposes.*

Introduced January 6, 2009 in the U.S. House of Representatives by Congresswoman Woolsey, California. Referred to the Subcommittee on Insular Affairs, Oceans and Wildlife. No new Congressional action as of February 17, 2010.

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