

## STAFF SUMMARY OF FEDERAL LEGISLATION IN THE 111<sup>TH</sup> U.S. CONGRESS

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.gov>). Portions of this report are derived from summaries provided by the Congressional Research Service of the Library of Congress.

### Status of Recently Reviewed Legislation

The following three bills were reviewed by the Legislative Committee (Committee) at their April 2010 meeting and their comments were adopted by the Pacific Fishery Management Council (Council) (see Agenda Item K.1.c, Supplemental Legislative Committee Report, April 2010 on the Council's Briefing Book archive web page).

**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 including implement the Antigua Convention.

Introduced December 10, 2009 by Senator Inouye, Hawaii and referred to the U.S. Senate Committee on Commerce, Science, and Transportation. On March 24, 2010, the bill was ordered to be reported to the U.S. Senate without amendment favorably where it is pending.

In addition to establishing uniform administrative and enforcement procedures and penalties, this bill would amend existing legislation by implementing the technical corrections regarding U.S. representation to the Western and Central Pacific Fisheries Commission (WCPFC) and the appropriate criteria specified under the U.S./Canada agreement on Pacific Whiting and, implement the Antigua Convention.

In April, the Council and the Committee noted that the technical corrections on implementation of the WCPFC and the U.S./Canada agreement on Pacific Whiting under Title III are non-controversial, overdue, and the sole purpose of related legislation (S.2871, see below). Also, implementation of the Antigua Convention took place in August 2010 and, although the U.S. is signatory to this agreement, legislation similar to that under Title IV is needed to invoke the required instruments of U.S. ratification for full U.S. participation. The Committee and the Council agreed that S.2870 addresses too broad a range of issues and recommended that Title III and Title IV under S.2870 be removed and treated expeditiously under separate legislation.

**S. 2871** – This bill would make the same technical corrections regarding U.S. representation to the WCPFC and the U.S./Canada agreement on Pacific Whiting as those specified under Title III of S.2870, but as a stand-alone bill. The Committee and the Council remain supportive of these corrections and the Council Executive Director conveyed this support in a May 12, 2010 letter to Senator Maria Cantwell as requested.

S. 2871 was introduced December 10, 2009 by Senator Inouye, Hawaii and referred to the U.S. Senate Committee on Commerce, Science, and Transportation. On March 24, 2010, the bill was ordered to be reported to the U.S. Senate without amendment favorably where it is pending.

**H.R. 4363 - National Sustainable Offshore Aquaculture Act of 2009.** A bill to establish a regulatory system and research program for sustainable offshore aquaculture in the United States exclusive economic zone, and for other purposes.

Introduced December 16, 2009 by Congresswoman Capps, California and referred to the U.S. House Subcommittee on Insular Affairs, Oceans and Wildlife on January 4, 2010.

The Council and Committee comments on this bill in April 2010 focused on guidelines for placement and permitting of aquaculture operations, restrictions on the types of fish stocks that could be reared or used as feed, and ensuring that the coastal States would have to “opt-in” to offshore aquaculture activities off their coastlines prior to the permitting of any proposed aquaculture activities.

There has not been a recent Congressional request for Council input on legislative matters, including input on H.R. 4363. Therefore, the April 2010 Committee comments were approved by Council to provide recommendations that could be submitted in response to future Congressional inquiries at the discretion of the Council or the Council’s Executive Director.

#### Recently Introduced Legislation for Committee Review in September

#### **H.R.5180 - the National Marine Fisheries Service Ombudsman Act of 2010**

H.R. 5180, was introduced on April 29, 2010 by Congresswoman Carol Shea-Porter of New Hampshire to establish an Office of the Ombudsman in the National Marine Fisheries Service which shall be under the direction of the Ombudsman of the National Marine Fisheries Service, who shall be appointed by the Administrator of the National Oceanic and Atmospheric Administration (NOAA). Specifically, H.R. 5180:

- Requires the Ombudsman to maintain a regional Ombudsman for each of the Regional Fishery Management Councils.
- Requires the Ombudsman to report solely to, and be under the general supervision of, the Administrator and allows the removal of the Ombudsman only by the Administrator for neglect of duty, misconduct, or inability to perform the duties of the office of the Ombudsman.
- Sets forth the duties of the Ombudsman, including: (1) to act as a neutral third party who conducts informal, impartial fact finding and investigations; (2) to identify points of conflict or contention (and to mitigate such points of conflict or contention) between the fishing industry and the National Marine Fisheries Service with respect to the implementation and enforcement of regulations; (3) through each regional ombudsman, to serve as a point of contact for local fishermen and businesses that are regulated by the National Marine Fisheries Service; and (4) to maintain a public Internet site that includes contact information for each regional office.

## **H.R.4914 and S.3528 - the Coastal Jobs Creation Act of 2010**

Introduced on March 23, 2010 in the U.S. House of Representatives by Congressman Frank Pallone of New Jersey and in the U.S. Senate by Senator Olympia Snowe of Maine.

Directs the Secretary of Commerce to implement a Coastal Jobs Creation Grant Program which shall include: (1) cooperative research to collect and compile economic and social data related to recreational and commercial fisheries management; (2) establishment and implementation of state recreational fishing registry programs; (3) training and deploying observers authorized or required under the Magnuson-Stevens Fishery Conservation and Management Act; (4) preservation or restoration of coastal resources identified for their conservation, recreational, ecological, historic, or aesthetic values; (5) redevelopment of deteriorating and underutilized working waterfronts and ports; (6) research to develop, test, and deploy innovations and improvements in coastal and ocean observation technologies; (7) cooperative research to collect data to improve, supplement, or enhance fishery and marine mammal stock assessments; and (8) other specified activities.

Amends the Magnuson-Stevens Fishery Conservation and Management Act to require the Secretary of Commerce to enter into contracts with, or provide grants to, states for the purpose of establishing and implementing a registry program to meet the requirements for the exemption from registration of a regional standardized fishing vessel registration and information management system program for state licensed recreational fishermen and charter fishing vessels when the Secretary determines that information from the state program is suitable for the Secretary's use in completing marine recreational fisheries statistical surveys or evaluating the effects of proposed conservation and management measures for marine recreational fisheries.

The U.S. House Subcommittee on Insular Affairs, Oceans, and Wildlife held a hearing on H.R. 5180 and H.R.4914 on July 27, 2010. Written testimony submitted at the hearing by the NOAA, Assistant Administrator for Fisheries, Mr. Eric Schwaab and others is included in the September briefing materials as Agenda Item G.2.a, Attachment 5).

## **H.R.3534, the Consolidated Land, Energy, and Aquatic Resources Act of 2010, Title VI – Coordination and Planning**

Introduced on September 8th, 2009 in the U.S. House of Representatives by Congressman Nick Rahall of West Virginia. H.R.3534 passed the U.S. House on July 31, 2010 and was introduced in the U.S. Senate for consideration on August 3, 2010.

H.R.3534 is a large bill intended to “provide greater efficiencies, transparency, returns, and accountability in the administration of Federal mineral and energy resources by consolidating administration of various Federal energy minerals management and leasing programs into one entity to be known as the Office of Federal Energy and Minerals Leasing of the Department of the Interior.” Title VI of the bill aims to improve coordination and regional planning effort between Federal agencies with authorities for ocean, coastal, and Great Lakes management, in part, through Regional Coordination Councils (RCC). Each regional fishery management council would have one seat on their respective RCC as would the executive director of the appropriate interstate marine fisheries commission. Title VI implements concepts similar to those put

forward under previous bills and aims to create greater reliance on multiobjective , science- and ecosystem-based, spatially explicit management approaches.

### **S.3594, the Fishery Conservation Transition Act**

Introduced on July 15th, 2010 in the U.S. Senate by Senator Bill Nelson of Florida and was referred to the Committee on Commerce, Science, and Transportation.

S.3594 would amend the Magnuson-Stevens Fishery Conservation and Management Act to mitigate the economic impact of the transition to sustainable fisheries on fishing communities. The bill would require the Secretary to review FMPs that contain fisheries with a complete prohibition on the retention of stocks subject to overfishing for an entire fishing season and determine whether the prohibition is sufficient to prevent or end overfishing for the stocks. If the Secretary determines that the prohibition contained in such a fishery management plan is not sufficient to prevent or end overfishing for the stocks to which it applies, the Secretary may authorize retention of fish that are not undergoing overfishing within that fishery, notwithstanding that discard mortality of stocks for which retention is prohibited may be inconsistent with provisions on ending or preventing overfishing.

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