To establish an Ombudsman Office within the National Marine Fisheries Service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 2010

Ms. SHEA-PORTER (for herself, Ms. PINGREE of Maine, Mr. FRANK of Massachusetts, Mr. TIERNEY, Ms. BORDALLO, and Mr. PALLONE) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To establish an Ombudsman Office within the National Marine Fisheries Service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Marine Fisheries Service Ombudsman Act of 2010”.

SEC. 2. NATIONAL MARINE FISHERIES SERVICE OMBUDSMAN OFFICE.

(a) In General.—
(1) **ESTABLISHMENT.**—There is established an Office of the Ombudsman in the National Marine Fisheries Service.

(2) **OMBUDSMAN.**—

(A) **IN GENERAL.**—The Office 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—

(i) in the case of the first Ombudsman, within 180 days after the date of enactment of this Act; and

(ii) in the case of an individual appointed to serve as Ombudsman subsequent to the expiration of the term of a sitting Ombudsman, by not later than the date the term expires.

(B) **TERM.**—An individual appointed as Ombudsman shall serve a term of 4 years, and may be reappointed.

(C) **VACANCIES.**—In the event of a vacancy in the position of Ombudsman the Administrator shall appoint an individual as Ombudsman by not later than 120 days after the date the vacancy occurs.
(3) **Regional Ombudsmen.**—

(A) **In General.**—The Ombudsman shall maintain a regional ombudsman in each of the regions for which a Regional Fishery Management Council is established under section 302 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852).

(B) **Appointment.**—The regional ombudsmen shall be appointed by and serve at the discretion of the Ombudsman.

(C) **Acting Ombudsman.**—In the event of a vacancy in the office of the Ombudsman, the Administrator shall appoint a regional ombudsman to serve as the acting Ombudsman until an Ombudsman is appointed.

(4) **Qualifications.**—A person may not be appointed—

(A) as the Ombudsman, unless the person has—

(i) demonstrated expertise in the field of fisheries management and significant experience and knowledge of regulations that are enforced by the National Marine Fisheries Service; and
(ii) significant experience working in
or with the commercial or recreational fish-
ing industries; or
(B) as a regional ombudsman, unless the
person—
(i) satisfies the requirements in sub-
paragraph (A); and
(ii) is a resident of a State in the re-
region for which appointed.
(5) NOTIFICATION OF APPOINTMENT AND RE-
MOVAL.—The Administrator shall notify Congress
of—
(A) the intent of the Administrator to ap-
point an individual as Ombudsman, by not later
than 60 days before the effective date of the ap-
pointment;
(B) whether or not the Administrator will
reappoint an individual who is serving as Omb-
budsman, by not later than 120 days before the
expiration of the term of the individual; and
(C) the intent of the Administrator to re-
move a person from the position of Ombuds-
man, by not later than 60 days before the effec-
tive date of the such removal, including the rea-
sons for such removal.
(6) **Ensuring Independence of Ombudsman.**—

(A) **In General.**—The Ombudsman—

(i) shall report solely to and be under the general supervision of the Administrator; and

(ii) may only be removed by the Administrator for neglect of duty, misconduct, or inability to perform the duties of the office of the Ombudsman.

(B) **Maintenance of Independent Communications.**—Each office under the administrative jurisdiction of the Ombudsman shall maintain a telephone, facsimile, and other means of electronic communication access, and a post office address, that is separate from those maintained by the National Marine Fisheries Service and from all other components of the National Oceanic and Atmospheric Administration.

(C) **IG’s Authority to Conduct Investigations Not Affected.**—Nothing in this Act shall prevent or prohibit any Inspector General from initiating, carrying out, or completing any investigation.
(b) FUNCTIONS.—The Ombudsman shall—

(1) act as a neutral third party who conducts informal, impartial fact finding and investigations;

(2) identify 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) mitigate points of conflict or contention identified under paragraph (2);

(4) through each regional ombudsman—

(A) serve as a point of contact for local fishermen and businesses that are regulated by the National Marine Fisheries Service;

(B) receive complaints from persons regulated by the National Marine Fisheries Service regarding regulatory actions initiated by the Service;

(C) initiate informal, impartial fact finding and investigations;

(D) work with the Service and local fishermen and businesses to resolve such complaints; and

(E) conduct community outreach, including by assisting the National Marine Fisheries Service in the dissemination of any new regula-
tions or requirements and providing information
and guidance to the public; and
(5) maintain a public Internet site that includes
contact information for each regional office.
(c) **ANNUAL REPORT.**

(1) **IN GENERAL.**—The Ombudsman shall re-
port no later than September 30 each year to the
Administrator, the Committee on Natural Resources
Committee of the House of Representatives, and the
Committee on Commerce, Science, and Transpor-
tation of the Senate on the actions taken by each of
the regional offices over the preceding year and the
objectives of those actions.

(2) **CONTENTS.**—Each such report shall in-
clude—

(A) full and substantive analysis, in addi-
tion to statistical information;

(B) recommendations the Office of the
Ombudsman has made on improving services
and responsiveness of the National Marine
Fisheries Service;

(C) a summary of the most pervasive and
serious points of conflict or contention encoun-
tered by fishermen and businesses, including a
description of the nature thereof;
(D) an inventory of the items described in
subparagraphs (B) and (C) for which action
has been taken, and the result of such action;

(E) an inventory of the items described in
subparagraphs (B) and (C) for which action re-
 mains to be completed;

(F) recommendations to resolve points of
conflict or contention encountered by fishermen
and businesses;

(G) information the Ombudsman considers
appropriate regarding the independence and ef-
fectiveness of the Ombudsman’s office; and

(H) such other information as the Omb-
udsman considers relevant.

(3) REPORT TO BE SUBMITTED DIRECTLY.—

Each report under this subsection shall be provided
directly to the committees described in paragraph
(1) without any prior comment or amendment from
the Administrator or any from any other officer or
employee of the National Oceanic and Atmospheric
Administration, the National Marines Fisheries
Service, or the Office of Management and Budget.

(4) OTHER REPORTS.—Nothing in this sub-
section shall be construed to preclude the Ombuds-
man from issuing other reports on the activities of
the Office of the Ombudsman.