

## CQ GREEN SHEETS FISHERIES

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### Senate Moves Long-Awaited Magnuson Compromise

By Leslie Ann Duncan, CQ Staff

The Senate on Thursday passed a long-awaited update of the Magnuson-Stevens fisheries law, attaching it to a bill aimed at halting illegal fishing on the high seas ([HR 5946](#)) and sending the package to the House for final approval.

The bill, which would reauthorize the Magnuson Fishery Conservation and Management Act through 2013, is the result of intense negotiations over the past week between the Senate Commerce and House Resources committees.

It would require regional fishery management councils to set catch limits and end overfishing in less than five years.

“This historic legislation creates a cap-and-trade system that will provide an economic lifeline to fishermen and ensure a secure supply of fresh, local seafood for all Americans,” said David Festa, oceans program director for the conservation group Environmental Defense.

As approved Thursday, the measure also would reauthorize numerous other fisheries conservation and management statutes.

The package includes the original House-passed text of a bill (HR 5946) that would authorize activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements.

The House is expected to approve the measure and send it to the president before adjourning.

### Overfishing and Rebuilding

The bill isn't quite as stringent as an earlier Senate-passed bill, but it would require new efforts to shut down overfishing.

Under the measure, eight regional councils that govern federal fisheries, relying on advice from their Science and Statistical committees, would have to devise a way to specify annual catch limits that will prevent overfishing.

The limits must be set by 2010 for fisheries that currently are subject to overfishing, and by 2011 for all other fisheries.

The original Senate bill ([S 2012](#) - S Rept 109-229) would have required the councils to set annual catch limits on overfished fisheries by the same deadlines. Thereafter, if too many fish were caught in a fishery in a given year, the the councils would have had to reduce the quota for that fishery by the corresponding amount.

Outgoing House Resources Chairman Richard W. Pombo, R-Calif., moved a controversial Magnuson reauthorization through his committee in May ([HR 5018](#) - H Rept 109-567) that had different language regarding fishing quotas. (He never reached agreement with moderates in his own party on a version that could pass the full House.)

Pombo's bill would have dealt with overfishing by directing the regional councils to set an annual “total allowable catch.” If that limit were surpassed, the councils would have been allowed to use management tools, such as limiting the number of days fishermen could be at sea, prohibiting or restricting certain gear, or limiting the poundage each boat could land, to reduce the following year's catch.

The compromise the Senate passed contains no specific hammer, but does include new deadlines. For any fishery undergoing mandated rebuilding (a plan to increase the fish population), the compromise would give the councils two years (plus a 30-month delay in implementation) to stop overfishing. The Pombo bill would have extended the 10-year timeframe for rebuilding overfished stocks in certain cases, such as when a stock was part of a multispecies fishery or an international agreement, or when the cause of overfishing was outside a council's jurisdiction.

The compromise bill also would require the Commerce secretary to work with the secretary of State to end overfishing in fisheries governed by international agreements.

The Commerce Department, through the National Oceanic and Atmospheric Administration ([NOAA](#)), enforces the fisheries law.

#### Quota Programs

The bill would establish national guidelines for Limited Access Privilege Programs (LAPPs), including Individual Fishing Quotas, and expand those programs to allow fishing communities or regional fishery associations to participate.

The quotas would have to be reviewed at least every 10 years.

While quota shares could not be treated as a property right, the bill would allow them to be transferred.

The councils could revoke quotas for cause, or limit or modify the quota conditions as needed.

Fishermen could petition to start a LAPP; such a program would have to be approved by referenda in New England (the bill requires a majority vote for approval) and the Gulf of Mexico (with a two-thirds vote).

#### Other Provisions

The bill includes a provision similar to Senate-passed language that would require NOAA, in consultation with the Council on Environmental Quality and the regional councils, to develop new environmental review procedures specific to fishery management. The procedures would mesh the schedules detailed in the National Environmental Policy Act for review, analysis and public participation with the timelines appropriate for fishery management decisions.

The compromise also would set new training and conflict-of-interest disclosure requirements for council members and members of the Science and Statistical committees, and would authorize a peer review process for scientific information used by each council.

The bill would require that fishery management plans include a description of the cumulative conservation, economic and social impacts of conservation and management measures.

The bill would allow the councils, under certain criteria, to close areas to protect deep sea corals from fishing gear.

The bill also would:

- authorize a Western Pacific and Northern Pacific regional marine education and training program to foster understanding of native knowledge relevant to the stewardship of living marine resources.
- direct NOAA to review whether fishing for groundfish (such as flounder) species in the waters of New England states is consistent with federal management plans.
- change buyout programs to ensure those permits and vessels are permanently removed from all U.S. fisheries and cannot be transferred to foreign fisheries or high seas fisheries. That includes forbidding payments to the boat owner until the government is assured the vessel cannot be used for fishing in the future.
- allow charter fishermen to receive the same assistance as commercial fishermen.
- require the department to complete a recovery plan for the Klamath River coho salmon and make those hurt by the 2006 shutdown of the Klamath fishery, tribes, fishermen, and businesses , eligible for disaster assistance.

- provide disaster assistance for individuals and businesses adversely affected by the hurricanes in the Gulf of Mexico.
- mandate a program to develop technologies and gear modifications, and provide incentives to reduce [bycatch](#) (the unintentional capture of non-target species during legal fishing).
- direct the department to establish a community-based fishery and coastal habitat restoration program.
- make it illegal to use food to attract sharks off Hawaii except for fishing.
- allow an extension of the deadline for the summer flounder rebuilding plan.
- reduce ,from \$50 million to no more than \$25 million , the authorized level for the Southeast Alaska Salmon Seine fishery industry-funded buyback program.
- allow modifications to the Bering Sea/Aleutian Islands crab fishery plan's northern region.

The bill would require various efforts to improve data collection as well as numerous studies and research on such issues as:

- possible improvements to habitat restoration techniques.
- regional ecosystem research.
- deep sea corals.
- the impact of Turtle Excluder Devices on shrimping.
- the hurricane effects on commercial and recreational fishery habitats in the Gulf of Mexico.
- the abundance, distribution and role of herring as a forage fish in the Northwest Atlantic.
- the effect of recent New England groundfish plan amendments on fishermen and other parties.
- coordination between the Mid-Atlantic and New England councils.

#### Other Fisheries Laws

HR 5946 as passed by the Senate also includes implementing language for the Western and Central Pacific Fisheries [Convention](#) and the Agreement Between the U.S. and Canada on Pacific Hake/Whiting (both provisions were included in the original version of HR 5946).

The bill also would reauthorize several other fisheries conservation and management statutes: the Atlantic Striped Bass Conservation Act, the Yukon River Salmon Act, the Shark Finning Prohibition Act, the Pacific Salmon Treaty Act, the Interjurisdictional Fisheries Act, the [Anadromous Fish Conservation Act](#), the Northwest Atlantic Fisheries Conservation Act, and the Atlantic Tunas Convention Act.

In addition to directing the Commerce Department to set up an international fisheries monitoring program to address illegal, unreported and unregulated fishing on the high seas, the bill would allow for other programs to monitor harvest, bycatch and compliance in Pacific Insular Area fisheries.

The bill would authorize an Atlantic Billfish Cooperative Research Program, and recommend that the U.S. commissioners to the Atlantic Tunas Convention seek to include ecosystem considerations in management decisions.

The bill would authorize a National Academy of Sciences study on the acidification of the oceans, include language authorizing an expanded tsunami warning program ([HR 1674](#) passed the House Dec. 6), and implement the U.S.-Russian agreement on the Alaska-Chukotka polar bear population.

([CQ Green Sheets](#), Dec. 8.)