

111TH CONGRESS
2D SESSION

H. R. 5180

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Marine Fish-
5 eries Service Ombudsman Act of 2010”.

6 **SEC. 2. NATIONAL MARINE FISHERIES SERVICE OMBUDS-**
7 **MAN OFFICE.**

8 (a) IN GENERAL.—

1 (1) ESTABLISHMENT.—There is established an
2 Office of the Ombudsman in the National Marine
3 Fisheries Service.

4 (2) OMBUDSMAN.—

5 (A) IN GENERAL.—The Office shall be
6 under the direction of the Ombudsman of the
7 National Marine Fisheries Service, who shall be
8 appointed by the Administrator of the National
9 Oceanic and Atmospheric Administration—

10 (i) in the case of the first Ombuds-
11 man, within 180 days after the date of en-
12 actment of this Act; and

13 (ii) in the case of an individual ap-
14 pointed to serve as Ombudsman subse-
15 quent to the expiration of the term of a
16 sitting Ombudsman, by not later than the
17 date the term expires.

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

21 (C) VACANCIES.—In the event of a va-
22 cancy in the position of Ombudsman the Ad-
23 ministrator shall appoint an individual as Om-
24 budsman by not later than 120 days after the
25 date the vacancy occurs.

1 (3) REGIONAL OMBUDSMEN.—

2 (A) IN GENERAL.—The Ombudsman shall
3 maintain a regional ombudsman in each of the
4 regions for which a Regional Fishery Manage-
5 ment Council is established under section 302
6 of the Magnuson-Stevens Fishery Conservation
7 and Management Act (16 U.S.C. 1852).

8 (B) APPOINTMENT.—The regional om-
9 budsmen shall be appointed by and serve at the
10 discretion of the Ombudsman.

11 (C) ACTING OMBUDSMAN.—In the event of
12 a vacancy in the office of the Ombudsman, the
13 Administrator shall appoint a regional ombuds-
14 man to serve as the acting Ombudsman until
15 an Ombudsman is appointed.

16 (4) QUALIFICATIONS.—A person may not be
17 appointed—

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

20 (i) demonstrated expertise in the field
21 of fisheries management and significant
22 experience and knowledge of regulations
23 that are enforced by the National Marine
24 Fisheries Service; and

1 (ii) significant experience working in
2 or with the commercial or recreational fish-
3 ing industries; or

4 (B) as a regional ombudsman, unless the
5 person—

6 (i) satisfies the requirements in sub-
7 paragraph (A); and

8 (ii) is a resident of a State in the re-
9 gion for which appointed.

10 (5) NOTIFICATION OF APPOINTMENT AND RE-
11 MOVAL.—The Administrator shall notify Congress
12 of—

13 (A) the intent of the Administrator to ap-
14 point an individual as Ombudsman, by not later
15 than 60 days before the effective date of the ap-
16 pointment;

17 (B) whether or not the Administrator will
18 reappoint an individual who is serving as Om-
19 budsman, by not later than 120 days before the
20 expiration of the term of the individual; and

21 (C) the intent of the Administrator to re-
22 move a person from the position of Ombuds-
23 man, by not later than 60 days before the effec-
24 tive date of the such removal, including the rea-
25 sons for such removal.

1 (6) ENSURING INDEPENDENCE OF OMBUDS-
2 MAN.—

3 (A) IN GENERAL.—The Ombudsman—

4 (i) shall report solely to and be under
5 the general supervision of the Adminis-
6 trator; and

7 (ii) may only be removed by the Ad-
8 ministrator for neglect of duty, mis-
9 conduct, or inability to perform the duties
10 of the office of the Ombudsman.

11 (B) MAINTENANCE OF INDEPENDENT
12 COMMUNICATIONS.—Each office under the ad-
13 ministrative jurisdiction of the Ombudsman
14 shall maintain a telephone, facsimile, and other
15 means of electronic communication access, and
16 a post office address, that is separate from
17 those maintained by the National Marine Fish-
18 eries Service and from all other components of
19 the National Oceanic and Atmospheric Admin-
20 istration.

21 (C) IG'S AUTHORITY TO CONDUCT INVES-
22 TIGATIONS NOT AFFECTED.—Nothing in this
23 Act shall prevent or prohibit any Inspector Gen-
24 eral from initiating, carrying out, or completing
25 any investigation.

1 (b) FUNCTIONS.—The Ombudsman shall—

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

4 (2) identify points of conflict or contention be-
5 tween the fishing industry and the National Marine
6 Fisheries Service with respect to the implementation
7 and enforcement of regulations;

8 (3) mitigate points of conflict or contention
9 identified under paragraph (2);

10 (4) through each regional ombudsman—

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

14 (B) receive complaints from persons regu-
15 lated by the National Marine Fisheries Service
16 regarding regulatory actions initiated by the
17 Service;

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

20 (D) work with the Service and local fisher-
21 men and businesses to resolve such complaints;
22 and

23 (E) conduct community outreach, including
24 by assisting the National Marine Fisheries
25 Service in the dissemination of any new regula-

1 tions or requirements and providing information
2 and guidance to the public; and

3 (5) maintain a public Internet site that includes
4 contact information for each regional office.

5 (c) ANNUAL REPORT.—

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

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

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

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

22 (C) a summary of the most pervasive and
23 serious points of conflict or contention encoun-
24 tered by fishermen and businesses, including a
25 description of the nature thereof;

1 (D) an inventory of the items described in
2 subparagraphs (B) and (C) for which action
3 has been taken, and the result of such action;

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

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

10 (G) information the Ombudsman considers
11 appropriate regarding the independence and ef-
12 fectiveness of the Ombudsman's office; and

13 (H) such other information as the Om-
14 budsman considers relevant.

15 (3) REPORT TO BE SUBMITTED DIRECTLY.—

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

23 (4) OTHER REPORTS.—Nothing in this sub-
24 section shall be construed to preclude the Ombuds-

- 1 man from issuing other reports on the activities of
- 2 the Office of the Ombudsman.

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