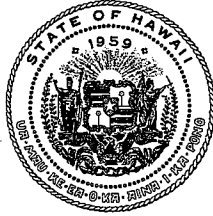
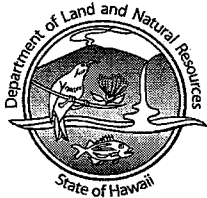


TESTIMONY

HB 3174 HD1

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**TESTIMONY OF THE CHAIRPERSON
OF THE BOARD OF LAND AND NATURAL RESOURCES**

**on HOUSE BILL 3174, House Draft 1 -RELATING TO FEDERAL FISHERIES
REGULATIONS**

**BEFORE THE SENATE COMMITTEE ON
WATER AND LAND**

March 24, 2008

House Bill 3174, House Draft 1 would require the Department of Land and Natural Resources (Department) to adopt, amend, or repeal administrative rules to be equivalent to and consistent with federal fisheries regulations for stocks in declared states of overfishing, and where the fisheries span State and federal marine waters. Such authority would facilitate management and enforcement of shared jurisdiction for stocks that occur in both State and federal waters, and reduces possible inconsistencies with federal law, thereby facilitating compliance. The Department supports this Administration bill but strongly recommends the following amendment:

Corrections to the bill's SECTION 1(a) should read as follows:

"§187A- Consistency of state and federal fisheries regulations. (a) The department may adopt, amend, or repeal administrative rules to be equivalent to or consistent with federal fisheries regulations. ***

This revision is needed to provide the Department with the option of drafting administrative rules that are equivalent or consistent with federal fisheries regulations at its discretion. The Department wishes to make clear that the State's fishery resources, while they may be shared in some instances, remain under its jurisdiction. As such, the State's determination of policy for its own resources should not be obligatorily subject to federal determinations. Other minor wording changes in this sentence clarify the intent of the measure.

In December 2006, the U. S. Congress passed a reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act, or MSA (P.L. 94-265). This legislation, the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, or MSRA (P.L. 109-479), represents a major change in the way that fisheries in federal waters are managed. Federal waters in Hawaii are those outside of three nautical miles from the shoreline, and constitute the Exclusive Economic Zone, or EEZ.

MSRA mandates in the Western Pacific region, including Hawaii, are implemented by NOAA's Western Pacific Fishery Management Council (WESPAC). Prior to the reauthorization of the MSA, WESPAC and other regional fishery management councils had possessed broad leeway in regard to strategies that might be used to manage federal fisheries in the EEZ, which could include approaches such as closed seasons, area closures, limited entry, and caps on total catch. Under the MSRA, by contrast, fisheries in the EEZ must now to be managed via an annual catch limit, or ACL, which is established individually for each stock or stock complex. An ACL must be recommended annually by the WESPAC Scientific and Statistical Committee for each federal management unit species (MUS) or complex of such, based on data provided by the Pacific Islands Regional Office (PIRO) of the NOAA National Marine Fisheries Service (NMFS); this ACL must then be formally approved by a vote of the Council itself. Once this ACL is reached in a given year, the corresponding fishery will close for the remainder of the year. To determine whether an ACL has been reached or exceeded for a given species, detailed catch reporting is required, with trip reports (ie., a report filed by each fisherman after each fishing trip) being the preferred option. Such data is collected by the State of Hawaii via its Commerical Marine License system.

Under the MSRA, WESPAC must begin setting and monitoring ACLs for MUS stocks in federal waters by no later than 2011. In the case of stocks that are in a declared state of overfishing, the ACLs must be in place by 2010. Three Hawaiian stocks are currently in declared states of overfishing and fall within the latter, accelerated time frame: yellowfin tuna, bigeye tuna, and the Main Hawaiian Islands bottomfish complex. Copies of letters from the National Marine Fisheries Service Regional Administrator and the Assistant Administrator for Fisheries in Washington, DC are attached (Exhibits A and B). Both emphasize the need to develop complementary State and federal regulations for such overfishing stocks.

The Department currently does not have explicit authority to adopt rules that would complement newly mandated federal management measures, such as total allowable catch (annual maximum harvested amounts), individual quotas (annual maximum harvested amounts issued to an individual fisher), and non-commercial registration and reporting. The Department finds that it needs such authority to adopt rules for waters under its jurisdiction so that, in effect, the fishing public has the same set of rules to follow whether they are in State or federal marine waters. This will also significantly simplify enforcement.

The Department also finds that it would need the ability to adjust state management measures such as fishing seasons, total fishing quotas, or individual fishing quotas under relatively short time constraints, in accordance with annual determinations made by the federal fisheries agencies. With the passage of this bill, state fishing rules promulgated in accordance with this authority would give the Board of Land and Natural Resources the flexibility to make such annual or periodic adjustments; for example, to close a fishery in short order when an annual harvest limit is reached, or to readjust such a harvest limit up or down on an annual basis in response to a revised stock assessment. Current rulemaking procedures as provided for under Chapter 91 do not permit such actions to be conducted with sufficient timeliness, making it likely, if not inevitable, that the State will drift out of compliance with federal law. This can have serious consequences under the MSRA.

The section 306 (b) of the MSRA clearly indicates that should the State not take action to manage its fisheries in a manner that is consistent with and supportive of federal fishery management plans, then the Secretary of Commerce is authorized to take over management of

the fishery in question (16 U.S. Code 1856, section 306, 97-453, 98-623). To quote this section: "If the Secretary finds...any State has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of such fishery management plan, the Secretary shall promptly notify such State and the appropriate Council of such finding and of his intention to regulate the applicable fishery within the boundaries of such State (other than its internal waters), pursuant to such fishery management plan and the regulations promulgated to implement such plan." Both the State and the local federal authorities wish to avoid any situation that would necessitate such actions, and the statutory change proposed in HB 3174 HD 1 would accomplish this.

Without the statutory authority proposed in House Bill 3174 House Draft 1, state and federal laws managing shared jurisdiction fisheries will become inconsistent, confusing, and difficult to enforce. Such inconsistency will be detrimental to the sustainable management of such fisheries, and could in turn trigger imposition of federal management for overfishing stocks occurring in State waters. In light of these considerations, the Department has immediate need for this authority in relation to the management of the main Hawaiian Islands bottomfish complex, bigeye tuna, and yellowfin tuna, all of which are currently in declared states of overfishing, and all of which must be subject to annual harvest limits by 2010 under the provisions of the MSRA.

If granted the authority proposed in House Bill 3174 House Draft 1, the Department will promulgate new administrative rules to be consistent to federal laws, and by complying with the administrative rules procedures act, will afford the fishing public an opportunity to comment on such proposals as well as time to adjust to any new changes. The resulting rules are likely to be phased in over time.

In summary, this bill would enhance the Department's efforts to regulate shared jurisdiction fisheries by permitting the creation of a seamless network of rules applying equally to both state and federal marine waters. This enhancement will in turn avoid confusion for the fishing public and promote ease of enforcement by state and federal agencies. Because the authority we seek is limited to overfishing stocks, and may be utilized at the Department's discretion, we believe that it is sufficiently constrained, while at the same time preserving the State's full range of options in terms of management for shared jurisdiction stocks. If this bill is not enacted, there is a possibility that the federal fisheries agency may view the State's actions as incompatible, and is authorized to preempt the State's jurisdiction in order to sustain depleted fish stocks.

Thank you for the opportunity to testify.



03100
UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910
THE DIRECTOR

APR - 5 2007

Mr. Peter Young
Chair, Board of Land and Natural Resources
State of Hawaii
1151 Punchbowl Street, Room 100
Honolulu, Hawaii 96813

Dear Mr. ^{Peter} Young:

I am writing to follow-up on our meeting last week to reiterate my request that the State of Hawaii assist NOAA's National Marine Fisheries Service (NMFS) to implement interim regulations to end overfishing of bottomfish in the Hawaiian archipelago, particularly the main Hawaiian Islands. Specifically, all State and federal waters need to be closed to the harvest by commercial and recreational fishers of seven bottomfish species including onaga, ehū, gindai, opakapaka, kalekale, lehi and hapuupuu (deep-7 bottomfish species) from May 1 through September 30 of this year. The State closure would complement a closure of all federal waters to the harvest of deep-7 bottomfish species recommended by the Western Pacific Fishery Management Council (Council) to be implemented by NMFS.

These joint closures are necessary to begin immediately to address a serious overfishing problem for these stocks within the Hawaiian archipelago, and in particular, the main Hawaiian Islands, while we work cooperatively to implement a longer term management regime.

In 2005, NMFS, on behalf of the Secretary of Commerce, determined that overfishing was occurring on the deep-7 bottomfish stock complex in the Hawaiian Archipelago, with the primary problem being excess fishing effort in the main Hawaiian Islands. At that time, NMFS estimated that a reduction in fishing mortality of at least 15% was needed to end the overfishing, as required by the Magnuson-Stevens Fisheries Conservation and Management Act. In response, the Council adopted a recommendation to prohibit fishing for the deep-7 bottomfish species in federal waters around Penguin Bank and Middle Bank in the main Hawaiian Islands. Concurrently, the State of Hawaii continued to move forward with revising its existing Bottomfish Restricted Fishing Areas.

However, before any of these measures could take effect, NOAA's Pacific Islands Fisheries Science Center's revised bottomfish stock assessment indicated that a 24% reduction in fishing mortality is now required to end overfishing. Additionally, a new Science Center analysis indicated that the potential effectiveness of the proposed closures was less than previously thought.





HB 3174, HD 1, RELATING TO FEDERAL FISHERIES REGULATIONS
Senate Committee on Water and Land

March 24, 2008

2:45 p.m.

Room: 414

The Office of Hawaiian Affairs (OHA) **SUPPORTS** H.B. 3174, H.D. 1, which would require the Department of Land and Natural Resources (DLNR) to adopt, amend, or repeal administrative rules to be consistent with federal fishery regulations. OHA appreciates that this bill was amended to include language that both protects Native Hawaiian traditional and customary rights and practices and ensures that the DLNR will adopt rules under this bill in compliance with Chapter 91, Hawaii Revised Statutes, which allows for community input via public hearings.

OHA understands the intent of this bill, and appreciates the need for consistency and efficiency, and we agree that it would be unfortunate for the federal government to usurp State regulatory rights, as they well might do if this bill does not become enacted.

OHA thereby urges the Committee to PASS H.B. 3174, H.D. 1. Thank you for the opportunity to testify and for respecting our concerns.

testimony

From: HBPA@aol.com
Sent: Saturday, March 22, 2008 10:34 AM
To: testimony
Subject: HB 3174 HD1 Testimony

HBPA

Hawaii Boaters Political Action Association

282 Aikahi Place, Kailua, Hawaii 96734

Senator Clayton Hee, Chair
Senator Russell Kokubun, Vice-Chair
Senate Committee on Water and Land (WLT)

William E. Mossman
Hawaii Boaters Political Action Association

Testimony@capitol.hawaii.gov

WLT Hearing 3/24/08

Time - 2:45 pm, Room 414

Testimony in Opposition to HB 3174 HD1 (Recommending Amendment)

Dear Chair Hee, Vice-Chair Kokubun and members of the Committee,

The recently signed Magnuson - Stevens Fishery Conservation and Management Reauthorization Act of 2006 (MSRA) has a direct and profound effect on Hawaii fishermen (both commercial and recreational) who catch "Ahi" and certain "Bottomfish" in both the Federal Exclusive Economic Zone (3 to 200 miles offshore) and the Hawaii State waters (0 to 3 miles offshore). Because it has been determined that these fish are "overfished" in Hawaii (and elsewhere), an area specific Annual Catch Limit (ACL) for Hawaii is being developed and will be implemented for both commercial and recreational fishers combined, by 2010. ACLs are calculated prior to each fishing year and fishing for these fishes will be terminated if and when their ACLs are reached during the year.

In addition, the MRSA recognizes the need to improve the collection and credibility of Recreational fishery management survey data, and directs that recreational fishermen will be required to register in a Federal Recreational Fishers Registry by January 1, 2009. This requirement presents perhaps the greatest challenge to developing consistency between State and Federal rules for the fair and effective management of the shared fisheries in Hawaii. I have attached a letter to Laura Thielen Director DLNR to encourage State collaboration with the Feds to resolve what appears to be the more pervasive problem confronting Recreational fishermen in the Federal effort to tackle the overfishing situation in Hawaii. Fortunately, as the letter points out, the problem can be fairly resolved for most of the Hawaii recreational fishermen and the Federal agencies seeking a means to acquire improved recreational fishery management data. However, there has been no response to the letter.

Although we fully support its basic intent, we oppose HB 3174 HD1 because the proposed subsection (b) presumptuously establishes (by statute) the authority for DLNR to “enact the requirements for other mechanisms to prevent overfishing . . .” without complying with Chpt. 91 (especially the public participation requirements). Many believe that this is a “sleeper” clause designed to circumvent Chpt. 91. The lack of timely public notification and the opportunity for public participation in DLNR fishery decisions continues to be a very sensitive issue with many fishermen and their associates.

We would support this Bill if subsection (b) is changed to read. The Board may declare a fishing season, a total fishing quota, or individual fishing quotas to maintain consistency with Federal rules whenever Federal fisheries regulations adjust seasons or catch quotas that affect Hawaii fishers..

Thank you.

Sincerely,

William E. Mossman

HBPAA

Hawaii Boaters Political Action Association

282 Aikahi Place, Kailua, Hawaii 96734

Ms Laura Thielen,
Chairperson
BLNR

2/8/08

Dear Madam Chairperson,

It appears that 2008 is going to be a year of change for recreational fishing in Hawaii, and the first change issue we face is a Congressional mandate to establish a Recreational Fisher Registry by January 1, 2009. The recently signed **Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA)** gave special attention to the need to improve the collection of recreational fishery management data, especially by the **MRFSS (Marine Recreational Fishing Statistical Survey)**. Unlike commercial fishermen who are required to submit “catch reports” on all fish caught, the Hawaii recreational sector fisheries management data is completely dependent on statistical survey methods involving telephone and intercept sampling surveys conducted by Federal and State (DLNR-DAR) employees. During the development of the current MSRA, great concern was expressed at the National level over the quality of the recreational data being collected and the efficiency of the collection process. In order to help correct these deficiencies, the MSRA included a new Section 401 (g) (1) FEDERAL PROGRAM that specifies: **“The Secretary shall establish and implement a regionally based registry program for recreational fishermen in each of the 8 fishery management regions. The program, which shall not require a fee before January 1, 2011, shall provide for – (A) the registration (including identification and contact information) of individuals who engage in recreational fishing – in the Exclusive Economic Zone; for anadromous species; or for Continental Shelf fishery resources beyond the Exclusive Economic Zone, and (B) if appropriate, the registration (including the ownership, operator, and identification of the vessel) of vessels used in such fishing”.**

PURPOSE: The paramount objective of the MSRA requirement is to “build complete up-to-date telephone/address directories of marine recreational fishery participants that can be utilized for efficient, cost-effective surveys of recreational fishing effort and, ultimately, catch.” (Bill Hogarth, Ass’t, Administrator for Fisheries, NOAA) The prescribed “recreational fisher registry” would provide the MRFSS (Marine Recreational Fisheries Statistical Survey) with a telephone number data base that would contain only the numbers of all the actual fishers in the region which their telephone survey personnel would use to conduct their random sampling. This would increase the quality of data gathered and greatly increase the efficiency of data collection by eliminating the current use of the non-discriminatory “public” phone listings in which only about 10% are fisherpersons.

CLARIFICATION: It is understood that fishing in the EEZ requires the use of a boat. Therefore, the Hawaii Recreational Fisher Registry should provide for the registration of the name of the owner or principle operator (if other than the owner) of each boat engaged in recreational fishing in the Hawaii EEZ (and Hawaii State waters), the boat name and registration number, and other contact and identification information for the boat owner/operator and boat. (Note: This information is available in the existing State Vessel Registration program.) Because this is a boat based registry and that more than one fisherman could be fishing aboard each boat, it is important that there be only one contact person per boat listed in the registry to preclude duplications of information during telephone surveys. (The Federal Large Pelagic Species (LPS) Surveys already use this method successfully.) The names and contact information of other fishers aboard a boat would not be entered into the Registry because the “unit of effort” being surveyed is the “boat trip” rather than the “individual trip” as would be the case for Shore-based fishers.

It doesn’t take much study to realize that without a mandatory requirement like the State Vessel Registry, getting all of our recreational fishers to voluntarily signup for the Recreational Fisher Registry is a difficult if not impossible task. This dilemma sets the stage for the creation of a mandatory Federal **Recreational Saltwater Fishing License (RSFL)** that would provide the individual fisher information needed to create the Recreational Fishers Registry required by the MSRA if the information needed was not otherwise available. The likely result of this situation would be: **1.** The boat-based fishers would need to obtain a Federal RSFL to fish in the Federal EEZ area of jurisdiction (3 to 200 miles offshore), **2.** The boat-based fisher would also need a State RSFL to fish in the State waters area of jurisdiction (0 to 3 miles offshore), OR, **3.** if the Federal authorities were to force their authority over our State waters, State RSFLs would be moot. (Note: The registration and licensing of Shore-based fishers would require a separate special program and is not addressed herein.) An additional factor of significant importance is that, by charging the public a fee for fishing, the RSFL program, as well as the Federal Recreational Fishers Registry, would violate the **Hawaii State Constitution, Article 11, Section 6** “**All fisheries in the sea waters of the State not included in any fish pond, artificial enclosure or state-licensed mariculture operation shall be free to the public . .**” This position is also reflected in *HRS 187A-21, Public Fishing Grounds*. “*Except as otherwise provided by law, all fishing grounds appertaining to any government land, or otherwise belonging to the government, except ponds, shall be and are forever granted to the people, for the free and equal use by all persons; provided that for the protection of these fishing grounds, the department may manage and regulate the taking of aquatic life.*” Also the issue of implications for “Federalism” under Executive Order 13132 may apply if the action proposed has a substantial direct effect on State or local governments and impose substantial direct cost of compliance on them. Another possible problem could arise regarding “Native Hawaiian Gathering Rights”.

Fortunately, the framers of the MSRA had the foresight to add the following paragraph to the MSRA section previously quoted: “**(2) STATE PROGRAMS, -- The Secretary shall exempt from registration under the program recreational fishermen and charter fishing vessels licensed, permitted, or registered under the laws of a State if the Secretary determines that information**

from the State program is suitable for the Secretary's use or is used to assist in completing marine recreational fisheries statistical surveys, or evaluating the effects of proposed conservation and management measures for marine recreational fisheries."

A careful study of the content of our State Vessel Registration Program reveals that it contains all of the Minimum Data Elements required for the Recreational Fishers Registry by the MSRA. If DLNR would agree to share this information with NOAA Fisheries (NMFS), a "Hawaii" Recreational Fishers Registry could be formed that precisely meets the MSRA requirements, in that it would, indeed, be **"used to assist in completing marine recreational fisheries statistical surveys, or evaluating the effects of proposed conservation and management measures for marine recreational fisheries"** in Hawaii. The "Hawaii" Recreational Fisher Registry information could then be provided to NMFS to satisfy the MSRA requirement, without the Fee requirement. This could be accomplished without increasing the Vessel Registration Fee (or any other fee), and would exempt Hawaii from the adverse effects of the Federal registry program with its additional fee (starting in 2011), eliminate the necessity of creating a Recreational Saltwater Fishing License (RSFL) for Hawaii (and its additional license fees), and thereby also avoid the Federal rules / regulations that inevitably accompany such licenses and over which Hawaii would have little control. The only impact this "exemption" would leave on the Hawaii boat-based fishers would be that those who are on the Registry would occasionally receive telephone calls from the MRFSS telephone survey personnel regarding their fishing effort.

Further justification for sharing certain State Vessel Registration data with the Federal NOAA Fisheries (NMFS) lies in the fact that the vessel registration system exists because it is a mandate of the Congressional Aquatic Resources Trust Fund which provides Hawaii (DLNR) with more than \$4 million annually in conformance with its primary and intended purpose of supporting the State fishery research and management programs. The State DLNR and Federal MSRA (as administered by NMFS) have common goals and should work together to develop the most comprehensive and cost effective recreational fisheries management program to benefit the public and the natural resources (fisheries) of Hawaii. Ironically, there are two (companion) Bills included in the "Governor's package" submitted for the current legislative session (SB 3096 and HB 3174) entitled "Relating to Federal Fisheries Regulations". The Description posted is: *"Clarify that the DLNR may adopt, amend, or repeal administrative rules to be consistent with federal fishery regulations to improve management and enforcement in a state and federal marine water fishery that has been determined to be in decline."* These Bills are designed to promote just the type of action we are proposing by establishing a Hawaii Recreational Fishers Registry by sharing the State Vessel Registry information with the Federal NMFS. Obviously the Governor supports the purpose of these Bills and the Federal and State cooperation it entails.

In your November 2007 reply to a WesPacRFMC (a Federal agency) letter refusing their request to have a meeting regarding access to certain State Vessel Registration information, you state that, **"DBOR is unable to release data within its vessel registry for use in the Marine Recreational Information Program. The information contained within the registry can only be used for registry purposes and only statistical information can be shared with other agencies."** This is puzzling because, DBOR Administrative Rule, 13-241-23 states that, **"In accordance with any request duly made by an authorized official or agency of the United States, any information relating to numbered vessels compiled or otherwise available to the department pursuant to this chapter shall be transmitted to the official or agency of the United States."** Also, if maintaining "confidentiality" is an issue in sharing State Vessel Registry information (as has been mentioned), I would like to point out that "confidentiality" rules exercised by NOAA Fisheries agencies are at least as stringent as those used by DLNR, and, I'm sure it is safe to say, that there are many ways to maintain "confidentiality" in situations such as this.

I am very concerned that if DLNR doesn't share the state vessel registration information that is needed to secure the exemption offered in the MSRA, the Federal Recreational Fishers Registry and its enabling RSFL requirement are a done deal, -- and all the rest of the National "one-size-fits-all" rules (that seldom fit in Hawaii), will come with it. The implication appears to be a major incursion of "Federalism"(under Executive Order 13132) into State waters. Such extreme measures are unwarranted and unwanted; and can be avoided if the provisions of MSRA (Section 401 (g) (2) STATE PROGRAMS) to exempt Hawaii from the mandatory Federal Recreational Fishers Registry program are implemented to the degree necessary to allow Hawaii to establish a boat-based (EEZ fishing) registry as described herein, and a shore-based Recreational Fisher Registry to follow. This would achieve the objectives of the MSRA requirements with minimal impact on Hawaii fishers and on the State as a whole. The "exemption" would also provide the recreational fishers of Hawaii and the State Administration more opportunities to influence any future "controls" being considered that may unnecessarily restrict recreational fishing in Hawaii.

We would greatly appreciate your reconsideration your position on meeting with NOAA Fisheries authorities to examine the possibilities of sharing certain State Vessel Registration data to qualify Hawaii for the State Exemption offered in the MSRA. Thank you.

Sincerely,

William E. Mossman
Tel.-2542267

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THE SENATE
THE TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008

COMMITTEE ON WATER AND LAND

Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice Chair

NOTICE OF HEARING

DATE: Monday, March 24, 2008
TIME: 2:45 p.m.
PLACE: Conference Room 414
State Capitol
415 South Beretania Street

In Support of HB3174 HD1 Relating to Federal Fishing Regulations

Good afternoon Chair Hee, Vice-chair Kokubun and Honorable members of the Committee on Water and Land. I am Roy Morioka of Waialae-Iki, Oahu, a retiree and fisherman. Thank you for this opportunity to testify in support of this measure that seeks to have state fishing regulations compliment federal fishing regulations in a state and federal marine fishery.

The HD1 version provides consistency in state and federal rules, thus eliminating confusion to fishermen, administrative challenges and unnecessary enforcement burdens upon DOCARE and Federal officers when attempting to determine where the fishing occurred and what regulations prevail.

As an example, the Main Hawaiian Island bottom fish fishery is currently experiencing overfishing (a condition where there is more effort (more lines and hooks) than the fish stock can be harvested sustainably.) The federal regulations have provided a total allowable catch (TAC) to limit how many bottomfish can be harvested, and instituted a closed season to also limit effort. The state currently manages these fisheries through bottomfish restricted fishing areas (BRFA) that closes defined areas of the ocean to bottomfishing in both state and federal waters (3-200 nmi) and recreational bag limits. This leads to inconsistency between the federal and state regulations presenting the challenge of which regulation prevails in federal waters?

It is therefore recommended that in such situations where a fishery exists in both state and federal waters (joint jurisdiction), a consistent set of regulations be implemented to insure improved compliance because the same regulations apply in state and federal waters, and improved enforcement as there are no lines on the ocean to specifically identify where a fish was caught when caught in adjoining waters. Further, the state holds a voting seat on the Western Pacific Regional Fishery Management Council and actively participates in the promulgation of the federal regulations so its concerns are addressed at that level.

Thank you again for your consideration and this opportunity to testify on this bill.

Sincerely Yours,
Roy N. Morioka

TESTIMONY

HB 3174 HD1

(END)