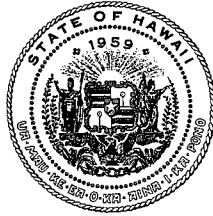
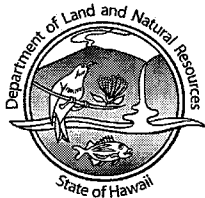


TESTIMONY
HB 3175 HD1

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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Kahoolawe Island Reserve Commission
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**TESTIMONY OF THE CHAIRPERSON
OF THE BOARD OF LAND AND NATURAL RESOURCES**

**on HOUSE BILL 3175, House Draft 1 -RELATING TO FEDERAL FISHERIES
REGULATIONS**

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

March 24, 2008

House Bill 3175, House Draft 1 proposes to amend the title of section 189-3, Hawaii Revised Statutes (HRS), to more accurately reflect the need for flexibility in reporting requirements. If enacted, this measure will provide the authority to collect data and information at a frequency that will support more timely and efficient management of commercial fisheries. The Department of Land and Natural Resources (Department) strongly supports this administrative bill and strongly recommends that the effective date be changed to "upon approval".

For federal waters in Hawaii, federal Magnuson-Stevens Act (MSA) mandates for Hawaii are implemented by the Department of Commerce via the National Oceanic and Atmospheric Administration (NOAA). Under the current authority, the federal fisheries in the EEZ must now be managed via an annual catch limit, or ACL, which is established individually for each stock or stock complex. An ACL must be set annually for each species or species complex being harvested in federal waters. 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; this information is currently collected by the State of Hawaii, although only for commercial landings, and is shared with NOAA in an effort to avoid a duplicate requirement on fishers to be licensed and to report their catches.

A case in point is provided by the Hawaiian Islands bottomfishery, which is now in an officially declared state overfishing, and is subject to an annual catch limit (ACL) as mandated by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, or MSRA (P.L. 109-479). In regard to this, the NOAA National Marine Fishery Service (NMFS) recently voiced the need for the State to collaborate in more precise monitoring of bottomfish catches. In particular, NMFS proposed to monitor fishing on this stock complex by requiring reporting by trips, rather than reports based solely on monthly catch, so as to more accurately gauge when the ACL is being approached or exceeded. Although the Department concurs with this need and wishes to cooperate with NMFS in this regard, it is constrained in its reporting options by the title of the current statute pertaining to commercial catch reporting, 189-3, HRS.

Specifically, although the overall authority language in section 189-3, HRS, is sufficient for this purpose, the section's title presently references only a "monthly catch," and therefore needs to be amended to accommodate the more precise catch reporting protocols for overfishing stocks of this type as necessitated by the MSRA.

The current year experience with attempting to track catches in relation to an ACL of 178,000 pounds illustrates this problem very clearly. For the first three months of fishing season, from October 1, 2007 to January 1, 2008, the fishery landed only 79,000 pounds of fish, or 44% of the ACL. It was confidently predicted that at such a rate, the fishery would not reach its limit prior to a previously scheduled summer closing date of May 1, 2008. However, calm weather in February and March led to a surge in landings, so that the ACL was actually reached by March 15, 2008. Because landings could only be assessed on a monthly basis, it was not possible for State and federal managers to realize that this fishery had suddenly reached and exceeded its annual limit until this limit had already been passed. Because it requires at least 3 weeks for State and federal managers to implement a fishery closure, the result has been fishing in excess of the prescribed annual limit, and a consequent continuation of overfishing on this stock complex.

In addition to being undesirable from a management standpoint, by allowing continued overfishing on a depleted stock, exceeding the ACL in this fashion is technically a violation of federal law, and can lead to federal pre-emption of State authority in this fishery. In the absence of the authority sought under House Bill 3175 House Draft 1, fishery managers will be left with no choice but to set a very low annual catch limits, and to close the fisheries pre-emptively when such limits are approached. This will in turn result in a lower available harvest for local fishermen, and consequently higher prices for Hawaiian consumers. The Department therefore believes that the authorities sought under House Bill 3175 House Draft 1 address a pressing need, and will benefit a broad spectrum of constituencies within the State.

Thank you for the opportunity to testify

**Testimony of The Nature Conservancy of Hawai'i
Supporting H.B. 3175 HD 1 Relating to Commercial Marine Fishing Reports
Senate Committee on Water & Land
Monday, March 24, 2008, 2:45PM, Room 414**

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of Hawai'i's native plants, animals, and ecosystems. The Conservancy has helped to protect nearly 200,000 acres of natural lands for native species in Hawai'i. Today, we actively manage more than 32,000 acres in 11 nature preserves on O'ahu, Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.

The Nature Conservancy of Hawaii supports H.B. 3175 HD 1 Relating to Commercial Marine Fishing Reports.

This bill allows the Department of Land and Natural Resources to collect reports and monitor bottomfish catches consistently with recent federal declarations of overfishing in the shared state-federal bottomfish fishery. With this legislation, the State will be allowed to collect data by individual trip rather than monthly and, thus, be consistent with federal data collection requirements in this fishery.

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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 HB 3175 with Recommended Amendments – Relating to Commercial Marine Fishing Reports

Good afternoon Chair Hee, Vice Chair Kokubun and Honorable Members of the Senate Committee on Water and Land. I am Roy Morioka of Honolulu, Oahu, a retiree and fisherman. Thank you for this opportunity to testify in support with suggested amendment. While I support the measure as it simply revises the title of section 189-3, HRS from “monthly catch” to “commercial marine fishing reports,” I remain concerned that with the passage of this measure it could be misinterpreted and unintentionally, increase the reporting requirement for all commercial fishermen. Therefore, I call your attention to, and concur with the WLH Committee’s Report: STAND. COM. REP. NO. 565-08 which states in part: ***“Your Committee finds that this section title change is necessary to allow DLNR to require more frequent bottomfish catch monitoring to comply with the annual catch limit mandates in recent amendments to the federal Magnuson-Stevens Act. However, your Committee finds that it is not DLNR’s intent to change reporting requirements for the other types of catches.”(emphasis added)***

Currently, the State’s requires commercial fishermen to complete their fishing reports on a per trip basis but submit their Fishing Report (catch and effort data) on a monthly basis. The need for more frequent reports may be required to compliment Federal rules such as that for the bottomfish fishery that falls under the joint jurisdiction of the state and federal fishery managers using the “annual catch limit - ACL” regimen, that basically sets an annual take quota and closes that fishery when the ACL quota is reached. To require all commercial fishermen to report their catches of non-bottomfish on a more frequent basis would unnecessarily cause increased administrative and cost requirements on both the fishermen and the state.

It is suggested that the Committee on Water and Land clarify and affirm the DLNR’s intent, by **including specific language to insure that only when a fishery management action such as annual catch limits (ACL), or total allowable catch (TAC), or individual quotas (IQF) may require more frequent reporting. Additionally, there needs to be included specifically, that this and all fishery rule changes are subject to the Chapter 91 Administrative Rules and the process contained therein. Finally, there needs to be included the Hawaiian cultural and subsistence exemptions.** I apologize that I do not have the specific language for these recommended amendments.

Thank you again for this opportunity to testify and suggest amendments to this bill.

Sincerely Yours,
Roy N. Morioka

TESTIMONY

HB 3175 HD1

(END)