

## STAFF SUMMARY OF FEDERAL LEGISLATION IN THE 113<sup>TH</sup> U.S. CONGRESS

A summary of Federal legislation introduced in the 113<sup>th</sup> Congress is provided below, along with a summary of one relevant state measure. This summary is intended as a general overview for discussion purposes. Full text of these bills, with background information and current status, can be found at the Library of Congress website (<http://thomas.gov>) or at <http://govtrack.us>. These summaries are primarily from the Congress.gov website, further summarized by Council staff.

### BILLS IN THE 112<sup>TH</sup> CONGRESS

Last August, the Council was requested by Congressman Mike Thompson (CA) and Congresswoman Jamie Herrera-Beutler (WA) to comment on H.R. 6362, the Fisheries Investment and Regulatory Relief Act of 2012. The Council sent a letter on October 1, 2012. However, the bill died with the end of the 112<sup>th</sup> Congress.

S.1451 (H.R.2706), the Billfish Conservation Act of 2011, which prohibits any person from offering billfish or billfish products for sale, selling them, or having custody, control, or possession of them for purposes of offering them for sale or selling them. The Highly Migratory Species Advisory Panel discussed this bill in June 2012, and most members were opposed to it. The bill passed and was signed into law on October 5, 2012.

### NEW BILLS IN THE 113<sup>TH</sup> CONGRESS

#### HOUSE BILLS

##### *HR 69: Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2013*

To strengthen enforcement mechanisms to stop illegal, unreported, and unregulated (IUU) fishing, to amend the Tuna Conventions Act of 1950 to implement the Antigua Convention, and for other purposes. This bill was a re-introduction of H.R. 4100 (112th). It is related to S 269, the International Fisheries Stewardship and Enforcement Act (Jay Rockefeller, WV).

- **Introduced by** Madeleine Bordallo (Guam) on February 12, 2013; has 13 cosponsors.
- **Status:** Referred to the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs.

Details:

- If enacted, it would enhance the enforcement authority of the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Coast Guard to regulate illegal fishing. The bill also increases capacity for inspection, identification, and monitoring of illegal foreign vessels, amends several international agreements to incorporate civil and criminal penalties, and broadens data sharing authority with foreign governments in order to identify and penalize nations that do not comply with fisheries management regulations.

- Amends the High Seas Driftnet Fishing Moratorium Protection Act to direct the Secretary of Commerce to enforce that Act and the Pacific Salmon Treaty Act, the Dolphin Protection Consumer Information Act, the Tuna Conventions Act, the North Pacific Anadromous Stocks Act, and several other Acts. It amends several of these Acts as well as the High Seas Driftnet Fisheries Enforcement Act, High Seas Fishing Compliance Act of 1995, Northern Pacific Halibut Act of 1982, and Magnuson-Stevens Fishery Conservation and Management Act to revise violations, penalties, permit requirements, port privileges, IUU fishing sanctions, and other enforcement authority.
- Authorizes additional enforcement measures and authorizes the Secretary to disclose certain information to state, federal, or international agencies/States to ensure compliance with international fishery agreements.
- The Act authorizes the publication of a list of vessels engaged in IUU fishing, and taking action against listed vessels.
- The Act requires identification and listing of nations that violate conservation and management measures required under an international fishery management agreement to which the United States is a party, or fail to effectively address or regulate IUU fishing.
- The Act authorizes international cooperation and assistance, including grants, to help other nations achieve sustainable fisheries.
- Repeals the Eastern Pacific Tuna Licensing Act of 1984.

*HR 71: Coral Reef Conservation Act Reauthorization and Enhancement Amendments of 2013*

To reauthorize the Coral Reef Conservation Act of 2000, and for other purposes. This bill was a re-introduction of H.R. 738 (112th).

- **Introduced by** Madeleine Bordallo (Guam) on January 3, 2013; has 10 cosponsors.
- **Status:** Referred to the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs.

Details:

- Amends the Coral Reef Conservation Act of 2000 to extend the award of remaining coral reef conservation program grant funds to appropriate projects.
- Authorizes actions to minimize injury to a coral reef or loss of an ecosystem function resulting from human activities; and stabilize, repair, or restore the reef.
- Deems specified terms (such as “sanctuary resources” and “national marine sanctuary”) to include any coral reef that is subject to the jurisdiction of the United States or (subject to state consent) any state, regardless of whether the reef is in a national marine sanctuary.
- Makes the destruction, loss, or injury of a coral reef not unlawful in certain circumstances, including if it was from permitted usage of fishing gear; caused by an authorized activity; subject to exception, the necessary result of marine scientific research; caused by a federal agency in certain circumstances; or unavoidable.
- Modifies the Act’s purposes, the goals and objectives of the national coral reef action strategy, and the Act’s authorized activities.
- Allows the Coral Reef Conservation Fund to be used to address emergency response actions.

- Authorizes NOAA to make community-based planning grants for increased protection of high priority coral reefs, maintain an inventory of all coral reef vessel groundings, identify all coral reefs with a high incidence of vessel impacts, and identify measures to reduce such impacts.
- Directs the Secretary of Commerce to submit an international coral reef ecosystem strategy to Congress and authorizes the Secretary to establish an international coral reef ecosystem partnership program.
- Establishes the U.S. Coral Reef Task Force to coordinate federal actions.
- Authorizes the Secretary of the Interior, subject to appropriations, to provide financial assistance for coral reef conservation.

*HR 584: To amend the Federal Food, Drug, and Cosmetic Act to require labeling of genetically engineered fish*

This bill is a re-introduction of H.R. 520 (112<sup>th</sup>) and is a companion bill to S. 248 (Mark Begich, Alaska).

- **Introduced by** Don Young (Alaska) on February 6, 2013; has 21 cosponsors.
- **Status:** Referred to the House Committee on Energy and Commerce: Health.

Details:

- Amends the Federal Food, Drug, and Cosmetic Act to deem a food to be misbranded if it contains genetically-engineered fish unless the food bears a label stating that it contains genetically-engineered fish.

*HR 753: (Untitled; prohibits finfish aquaculture in the EEZ)*

Prohibits the Secretary of the Interior and the Secretary of Commerce from issuing any permit or in any other way authorizing commercial finfish aquaculture operations in the U.S. Exclusive Economic Zone (EEZ), except in accordance with law enacted after enactment of this Act. This bill is a re-introduction of H.R. 574 (112<sup>th</sup>).

- **Introduced by** Don Young (Alaska) on February 15, 2013; no cosponsors.
- **Status:** Referred to the House Natural Resources: Fisheries, Wildlife, Oceans and Insular Affairs.

No additional details provided.

*HR 799: Fisheries Disaster Relief and Research Investment Act*

To provide exclusive funding to support fisheries and the communities that rely upon them, to clear unnecessary regulatory burdens and streamline Federal fisheries management, and for other purposes.

- **Introduced by** John Tierney (Massachusetts) on February 15, 2013; has 6 cosponsors.
- **Status:** Referred to the House Natural Resources Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs.

Details:

- Under this Act, each Council would establish a fishery investment committee, comprised of not more than 13 individuals who are knowledgeable about fishery resources, which would “develop a regional fishery investment plan..., review grant applications and projects to implement its regional fishery investment plan; and make recommendations, based on its findings, to the Council on grant applications and projects to implement its regional fishery investment plan.” Members would be nominated by the Councils.
- Outlines the makeup of the fishery investment committees (one representative each of the commercial fishing, private angling, for-profit charter, and marine conservation communities; one from each state government in the region and relevant interstate commissions; tribes; and research institutions.)
- Each fishery investment committee would develop a regional fishery investment plan “that identifies critical research, conservation, and management needs and corresponding actions to facilitate rebuilding and maintaining healthy fish populations and sustainable fisheries over a 5-year period,” consistent with the research and data needs document, and “include areas of investment that are critical for rebuilding and maintaining healthy U.S. fish populations and promoting sustainable fisheries,” including stock assessments and surveys, improvements to data collection, monitoring, recreational fishing data collection, analyzing social and economic impacts of fishery management, and providing financial assistance to fishermen and fishing communities through fishing capacity reduction, buybacks, investment in permit banks, community fishing associations, etc; developing methods to improve the quality and value of landed fish; research and development of conservation engineering technologies in commercial and recreational fisheries; and habitat restoration and protection.
- The regional fishery investment plans would be revised at least once every five years, and submitted to the Secretary for review.
- The Act would establish a Regional Fishery Investment Grant Program – an annual competitive grant program to provide for projects included in the regional fishery investment plans. These grants would be eligible to state, federal, regional, or private entities. Awards would only be made to projects that implement regional fishery investment plans and that were recommended for funding by their respective Council.
- Amends the Saltonstall-Kennedy Act.
  - Seventy percent of monies available at the beginning of each fiscal year would be allocated to the eight Council regions, with one half of the funds allocated equally among the Council regions and one half allocated proportionally based on economic impacts of commercial and recreational landings.
  - Twenty percent of Saltonstall-Kennedy monies would be available to the Secretary for projects addressing fisheries needs and problems, with up to one-fifth allocated by the Secretary among the interstate fisheries commissions; up to one-fifth for seafood promotion and sustainable certification efforts; up to one-fifth allocated to improve fisheries management through research, monitoring, evaluation, etc.; up to one-fifth allocated to addressing fisheries disasters, shoreside infrastructure, and access needs; and up to one-fifth allocated to other

special needs, including management of highly migratory species and international fisheries.

- The remaining ten percent of the funds would go to NOAA's Operations, Research, and Facilities account.

*HR 1012: Safety And Fraud Enforcement for Seafood Act*

To strengthen Federal consumer protection and product traceability with respect to commercially marketed seafood, and for other purposes. This bill is a re-introduction of H.R. 6200 (112th).

- **Introduced by** Ed Markey (Massachusetts) on March 6, 2013; has 5 cosponsors.
- **Status:** Referred to the House Committees on Agriculture, Energy and Commerce, Natural Resources, and House Ways and Means Committee.

Details:

- Would establish a memorandum of understanding between Secretary of Commerce and the Secretary of Health and Human Services to improve interagency cooperation on seafood safety and seafood fraud prevention.
- Creates a website listing foreign seafood exporters and any of their violations to seafood safety.
- Directs the Secretary of Commerce to maintain and update a "Guide to Acceptable Market Names for Seafood Sold in Interstate Commerce," as a list of standardized names for identifying seafood at various distribution stages. The list will be posted on the web along with any consumer advisories.
- Would require seafood imported into the US to be labeled with the acceptable market and scientific name; the harvest method, including gear type; catch date; weight; previous treatment (freezing, chemical treatment, country of processing); whether fish was wild caught or farm raised; location of fish farm; cultivation method. This information could be made available upon request rather than appearing on a label.
- Enables states to bring civil actions against seafood violators.
- Would require the Secretary of Commerce and of Health and Human Services to provide a report to Congress every two years on seafood violations, the health and financial impacts of violations, and related issues.

*HR 1147: To provide limitations on maritime liens on fishing permits, and for other purposes.*

Companion bill to S. 542 (Lisa Murkowski, Alaska). Similar to HR 1210 (112<sup>th</sup> Congress).

- **Introduced by** Don Young (Alaska) on March 6, 2013; has 5 cosponsors.
- **Status:** Referred to the House Committees on Agriculture, Energy and Commerce, Natural Resources, and House Ways and Means Committee.

No additional details provided for this version; however, HR 1210 (112th) would bar specified federal shipping laws related to maritime liability from: (1) establishing maritime liens on state

or Federal fishing permits (authorizing a person or use of a vessel to engage in fishing), and (2) authorizing civil actions to enforce maritime liens on such permits. It would specify that a “fishing permit” is governed solely by the state or federal law under which it was issued and is not included in the whole or as an appurtenance or intangible of a vessel.

## SENATE BILLS

### *S 45: West Coast Ocean Protection Act of 2013*

A bill to amend the Outer Continental Shelf Lands Act to permanently prohibit the conduct of offshore drilling on the outer Continental Shelf off the coast of California, Oregon, and Washington. This bill is a re-introduction of S. 171 (112th).

- **Introduced by** Barbara Boxer (California) on February 22, 2013; has five cosponsors.
- **Status:** Read twice and referred to the Committee on Energy and Natural Resources.

Details:

- Amends the Outer Continental Shelf Lands Act to prohibit the Secretary of the Interior from issuing a lease for the exploration, development, or production of oil or natural gas in any area of the outer Continental Shelf off the coast of California, Oregon, or Washington.

### *S 246: Prevention of Escapement of Genetically Altered Salmon in the United States Act*

A bill to prevent the escapement of genetically altered salmon in the United States, and for other purposes. This bill is a re-introduction of S. 1717 (112<sup>th</sup>).

- **Introduced by** Mark Begich (Alaska) on February 7, 2013; has one cosponsor.
- **Status:** Read twice and referred to the Committee on Commerce, Science, and Transportation.

Details:

- Prohibits a person from: (1) shipping, transporting, offering for sale, selling, or purchasing a genetically modified salmon or other marine fish, or a food product containing such fish, in interstate or foreign commerce; (2) having custody, control, or possession of, with the intent to ship, transport, offer for sale, sell, or purchase such fish or food products, in interstate or foreign commerce; (3) releasing such fish into a natural environment; or (4) having custody, control, or possession of such fish with the intent to release it into a natural environment.
- Exempts from such prohibitions fish, fish parts, or products confined for scientific research or collected to enforce this Act; other exemptions exist.
- Directs each federal agency to promptly notify the Under Secretary when an action involving such covered fish or food products is first identified.

- Authorizes the Secretary of Commerce to enforce penalties for violations of this Act under the MSA.

S 248: (Untitled)

A bill to amend the Federal Food, Drug, and Cosmetic Act to require labeling of genetically engineered fish.

- **Introduced by** Mark Begich (Alaska) on February 7, 2013; has one cosponsor.
- **Status:** Referred to the Committee on Senate Health, Education, Labor, and Pensions.

Details:

- Amends the Federal Food, Drug, and Cosmetic Act to deem a food to be misbranded if it contains genetically-engineered fish unless the food bears a label stating that fact.

S 267: Pirate Fishing Elimination Act

A bill to prevent, deter, and eliminate illegal, unreported and unregulated fishing through port State measures.

- **Introduced by** Jay Rockefeller (West Virginia) on February 11, 2013; nine cosponsors.
- **Status:** Read twice and referred to the Committee on Commerce, Science, and Transportation.

Details:

- Implements the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, done at the Food and Agriculture Organization of the United Nations in Rome, Italy, on November 22, 2009.
- Authorizes the Secretary of Commerce to identify ports of entry for foreign fishing vessels.
- Requires fishing vessels to submit certain information to the Coast Guard before arriving in such a port.
- Requires the Secretary to deny entry to vessels listed as, engaged in, or supporting IUU fishing; or that the Secretary has reasonable grounds to believe has violated this Act (exceptions for vessels in distress, etc.)
- Sets forth standards for denying or permitting port services to vessels authorized to enter a port, and prioritizing vessel inspections.
- Vessels must comply with inspections; may not submit false information; may not import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish or fish product taken in violation of any foreign law or treaty, or any conservation and management measures; may not falsify records or identifications of fish; etc.
- Permits authorized officers to make appropriate arrests and issue citations.

- Sets forth forfeiture procedures and administrative, civil, and criminal penalties.
- Directs the Secretary to provide assistance, including grants, to assist developing nations and international organizations in meeting their obligations under the Agreement.

*S 269: International Fisheries Stewardship and Enforcement Act*

A bill to establish uniform administrative and enforcement authorities for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act and similar statutes, and for other purposes.

- **Introduced by** Jay Rockefeller (West Virginia) on February 11, 2013; ten cosponsors.
- **Status:** Read twice and referred to the Committee on Commerce, Science, and Transportation.

Details:

- Directs the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating to enforce specified laws concerning fisheries and fish products, as applicable to specified provisions of this Act.
- Sets forth penalties under the MSA and provides additional authority for searches, inspections, shipment detentions, arrests, and subpoenas.
- Amends the High Seas Driftnet Fishing Moratorium Protection Act to direct the Secretary to identify nations or entities that are engaged or have been engaged during the preceding three years in illegal, unreported, or unregulated fishing, or that have violated related conservation and management measures.
- Prohibits certain activities under specified fishing and marine Acts, including: (1) refusing, resisting, or interfering with searches, investigations, inspections, or observers; (2) importing, exporting, transporting, selling, or purchasing fish or fish products in violation of a treaty or any binding conservation measure to which the United States is a party; or (3) falsifying records, accounts, labels, or product identification.
- Authorizes the Secretary to: (1) identify vessels and vessel owners engaged in illegal, unreported, or unregulated fishing; and (2) take appropriate action against such vessels and vessel owners in accordance with U.S. and international law.
- Directs the Secretary to establish an interagency International Fisheries Enforcement Task Force, through NMFS, to investigate IUU fishing activity and trafficking.
- Authorizes the Secretary to establish an international cooperation and assistance program to provide assistance for international capacity building efforts.
- Authorizes information disclosure to the U.N. Food and Agriculture Organization, international fishery management organizations, or arrangements made under an international fishery agreement, if those organizations or arrangements have unauthorized information disclosure safeguards.

*S 520: (Untitled)*

A bill to strengthen Federal consumer protection and product traceability with respect to commercially marketed seafood, and for other purposes.

- **Introduced by** Mark Begich (Alaska) on March 11, 2013; has one cosponsor.
- **Status:** Referred to the Committee on Senate Commerce, Science, and Transportation.

No further details available at this time.

S 518: H2O Visa for Seafood Processing Act

A bill to authorize the issuance of H2O nonimmigrant visas for aliens temporarily performing labor in the seafood processing industry.

- **Introduced by** Mark Begich (Alaska) on March 11, 2013; no cosponsors.
- **Status:** Referred to the State Judiciary Committee.

Other bills that are not directly relevant to the Council, but that may be of interest:

1. HR 322: Hunting, Fishing, and Recreational Shooting Protection Act. A bill to amend the Toxic Substances Control Act (TSCA) to clarify the jurisdiction of the Environmental Protection Agency with respect to certain sporting good articles, and to exempt those articles from a definition under that Act. Seeks to exclude lead shot and fishing sinkers from applicability under the TSCA. (Jeff Miller, Florida).
- HR 764 – Coastal State Climate Change Planning Act. To amend the Coastal Zone Management Act of 1972 to require the Secretary of Commerce to establish a coastal climate change adaptation planning and response program, and for other purposes. This bill was a re-introduction of H.R. 1905 (111th). (Lois Capps, California).
  - HR 843 – San Francisco Bay Restoration Act. A bill to amend the Federal Water Pollution Control Act to establish a grant program to support the restoration of San Francisco Bay. (Jackie Speier, CA). Companion bill to S. 224 (Dianne Feinstein and Barbara Boxer, California).
  - HR 996 – Invasive Fish and Wildlife Prevention Act. A bill to establish an improved regulatory process for injurious wildlife to prevent the introduction and establishment in the United States of nonnative wildlife and wild animal pathogens and parasites that are likely to cause harm. (Louise Slaughter, New York).
  - S. 96 – Rigs to Reef Habitat Protection Act. A bill to authorize the use of certain offshore oil and gas platforms in the Gulf of Mexico for artificial reefs, and for other purposes. (David Vitter, Louisiana)
  - S. 221 – Saving Fishing Jobs Act. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to permit eligible fishermen to approve certain limited access privilege programs, and for other purposes. (Kelly Ayotte, New Hampshire). This bill is not directly applicable to the Pacific Council, but contains provisions of interest to limited access privilege programs. It is similar to HR 2772, the Saving Fishing Jobs Act (112<sup>th</sup> Congress), introduced by Representative Runyon, New

Jersey, and referred to the House Committee on Natural Resources. Hearings were held December 1, 2011.

- S. 332 – Climate Protection Act of 2013. To address climate disruptions, reduce carbon pollution, enhance the use of clean energy, and promote resilience in the infrastructure of the United States, and for other purposes. (Bernie Sanders, Vermont)

## **STATE BILLS**

In early February, Oregon State Representative Paul Holvey (District 8, Eugene) invited Council staff to a meeting to discuss his bill, HB 2530, which would prohibit importation, farming, incubation, cultivation, and release of live GMO salmon into the state. It would also prevent farming, cultivation, or incubation of live Atlantic salmon that may come in contact with native fish and spread disease, with some exceptions (including the use of Atlantic salmon by ODFW). Council staff attended the meeting by conference call and informed the Representative about the Council process, but the Council was not formally requested to provide comments on the bill.

PFMC  
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