

STAFF SUMMARY OF FEDERAL LEGISLATION IN THE 113TH U.S. CONGRESS

A summary of Federal legislation introduced in the 113th Congress is provided below. 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 GovTrack.us website, further summarized by Council staff.

Most Relevant Bills

HR 2646 and S. 1275: Revitalizing the Economy of Fisheries in the Pacific (REFI) Act (NEW)

- **HR 2646 was introduced** by Jaime Herrera Beutler (D-Washington) on July 10, 2013; has 14 cosponsors.
- **Status:** Referred to the House Natural Resources: Fisheries, Wildlife, Oceans and Insular Affairs Subcommittee.
- **Predecessors:** This is similar to HR 6362, introduced in the 112th Congress.
- **S. 1275 was introduced** by Maria Cantwell (D-Washington) on July 10, 2013; has 6 cosponsors.
- **Status:** Referred to the Senate Commerce, Science & Transportation Committee.

Under both of these bills, which are essentially the same, the Secretary of Commerce would issue a loan to refinance the existing debt obligation funding the fishing capacity reduction program for the West Coast groundfish fishery implemented under section 212 of the Department of Commerce and Related Agencies Appropriations Act, 2003.

In August 2012, the Council received a request from Reps. Herrera Beutler and Mike Thompson to comment on a version of the REFI Act introduced in the 112th Congress. The Council replied to the Congressional request in October 2012 (<http://tinyurl.com/k9pqjpc>). The Council supported the bill and made the following comments:

The Pacific Council supports H.R. 6362 provisions that cap the debt obligation paid by fisherman at 3 percent of exvessel revenue rather than 5 percent and that extend the term of the loan to 45 years. The Pacific Council notes that H.R. 6362 does not specify the detailed terms of the loan refinance, but rather refers to sections 53702 and 53735 of title 46, United States Code. Pertaining to interest rates on direct loans to fisheries, section 53702(b)(2) states that “*the annual rate of interest an obligor shall pay on a direct loan obligation under this subsection is 2 percent plus the additional percent the Secretary must pay as interest to borrow from the Treasury the funds to make the loan.*”

Uncertainties in the timing of H.R. 6362’s potential passage into law coupled with varying interest rates in a fluctuating economic environment make it difficult to assess the financial implications and specific terms of the proposed refinance. However, fixing the rates at present levels or lower could eliminate the uncertainty. Nevertheless, the

Pacific Council perceives that the likely outcome will reduce the economic burden to the fishermen and thus supports the bill.

The interest rate in this year's bills is 2 percent lower than the rate in last year's version. Under these bills, the interest rate is "the percent the Secretary must pay as interest to borrow from the Treasury the funds to make the loan," rather than 2 percent plus the Secretary's interest, as it was in last year's bill.

The bills also include provisions for recalculating the buyback fee (the payback amount that boats must pay when they make a landing), which is capped at 3 percent of the exvessel value of the harvest from each fishery where the loan is issued.

Also, the current versions of the bill make clear that there are sub-accounts that can be paid off at different times, as is currently the case; and clarifies that the loan term will be automatically extended past 45 years if it hasn't been paid off.

HR 3063: Healthy Fisheries through Better Science Act (NEW)

- **Introduced by** Robert Wittman (R-Virginia) on August 2, 2013; no cosponsors.
- **Status:** Referred to the House Natural Resources Committee.

HR 3063 would amend the Magnuson-Stevens Fishery Conservation and Management Act to require the Secretary of Commerce to develop a plan to conduct stock assessments for all stocks of fish for which a fishery management plan is in effect under that Act, and for other purposes.

Under the Act, after a plan is developed by the Secretary of Commerce (within one year after enactment), stocks that have already been assessed would have their assessments updated every five years; initial assessments for stocks that have not been assessed would be scheduled within three years—or at other intervals justified by the Secretary and subject to funding. For those new assessments, analyses would be identified in order to improve the accuracy of future stock assessments. Stock assessments would not be required if the Secretary determined that they were not necessary.

In addition, the Act calls for the amending the Magnuson-Stevens Act Section 2(a)(8) in order to call for the incorporation of information from governmental and nongovernmental sources, including State and Federal agency staff, fishermen, fishing communities, universities, research institutions, and other appropriate entities. It notes, "As appropriate, such information should be considered the best scientific information available and form the basis of conservation and management measures as required by this Act."

Section 404 would be amended to require the Secretary, in consultation with Councils' science and statistical committees (SSCs), to develop guidelines within one year to facilitate greater incorporation of data from the sources listed above. The guidelines would include types of data and analysis, especially concerning recreational fishing, that could be used as the best scientific information available; provide guidance on collecting this data; and establish a registry of persons providing such data. The Councils would use all data and analyses meeting the requirements of these guidelines as the best scientific information available in their management decisions, unless otherwise determined by their SSCs; explain in the *Federal Register* notice

announcing the management decision how the data was used; and provide an explanation if the data wasn't used.

The Act also requires the Secretary, in consultation with the Councils, to submit a report to Congress, within one year after enactment of the Act, for each FMP fishery, that would identify the goals of the programs governing monitoring and enforcement of fishing; identify ways to accomplish those goals (including observers, electronic monitoring, and VMS); certify which methods were most cost-effective; and explain why these most cost-effective methods were not required, if applicable.

Finally, Section 304(d) of the MSA would be amended to require an analysis of the costs recovered, and costs not recovered, by the fee.

HR 69: Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2013, and S 269: International Fisheries Stewardship and Enforcement Act (Ongoing)

- **HR 69 was introduced by** Madeleine Bordallo (D-Guam) on February 12, 2013; has 16 cosponsors. Two cosponsors have been added since the June Council meeting.
- **Status:** Referred to the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs.
- **Companions/Predecessors:** This bill was a re-introduction of H.R. 4100 (112th).

- **S 269 was introduced by** Jay Rockefeller (D-West Virginia) on February 11, 2013; 11 cosponsors. One cosponsor was added to this bill since the June Council meeting.
- **Status:** Reported to the Senate. A hearing was held on this bill on July 30, 2013. A substitute bill was passed by the Senate Commerce, Science, and Transportation Committee. A document comparing the two versions is appended to this report.

Both of these bills strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, amend the Tuna Conventions Act of 1950 to implement the Antigua Convention (the revised IATTC Convention), and make other changes. However, they address the Antigua Convention in different ways, and **S. 269** would add a member of the Pacific Fishery Management Council to the IATTC Commission.

Antigua Convention

The U.S. was instrumental in negotiating the Antigua Convention over 10 years ago, but has not yet ratified the Convention because no implementing legislation has been passed. The implementing legislation for the original IATTC treaty is called the Tuna Conventions Act of 1950 (16 U.S.C. 951). Title IV of **S. 269** amends the Act to bring it up to date with the revised Convention.

The Highly Migratory Species Advisory Subpanel reviewed both bills and observed that the drafters of **S. 269** kept existing language which benefits U.S. commercial fishermen; they felt that this original language, which does not contravene the revised Convention, should be retained. That section states that in making regulations the Secretary of Commerce shall:

in no event . . . [make those regulations effective] . . . prior to an agreed date for the application by *all countries* whose vessels engage in fishing for the species covered by the Convention in the regulatory area on a meaningful scale, in terms of effect upon the success of the conservation program, of effective measures for the implementation of the Commission's recommendations applicable to all vessels and persons subject to their respective jurisdictions. The Secretary *shall suspend* the application of any such regulations when, after consultation with the Secretary of State and the United States Commissioners, he determines that foreign fishing operations in the regulatory area are such as to constitute a serious threat to the achievement of the objectives of the Commission's recommendations. (Emphasis added.)

The language in Section 405 of Title IV of **S. 269** correctly amends Section 6 of the Tuna Conventions Act, by inserting subsections (a) and (b) and leaving Section 6(c) of the Tuna Conventions Act intact.

However, the companion bill in the House, **H.R. 69**, takes a different approach. In Title II, Section 206 of that bill the language replaces the entire Section 6 of the Tuna Conventions Act by inserting the same language in subsections (a) and (b) that are in **S. 269**, but deletes subsection (c). Eventually, these bills will have to be rectified in a Conference Committee. The HMSAS believes it is extremely important that the language of subsection (c) be retained, as it ensures that the U.S. fleet fishing for highly migratory species is not disadvantaged in the face of competition from foreign fleets fishing for the same species.

IATTC Commission and General Advisory Committee

Under **S. 269**, the U.S. would be represented on the IATTC by five Commissioners, appointed by the President. These commissioners would include the chair or a member of the Pacific Council; one of the Western Pacific Council; and a representative of the Department of Commerce. In addition, both bills call for the chair of the Pacific Fishery Management Council's Advisory Subpanel for Highly Migratory Fisheries and the chair of the Western Pacific Fishery Management Council's Advisory Committee to be members of the General Advisory Committee.

As noted above, a substitute bill **S. 269** was reported by the Senate Commerce, Science, and Transportation Committee. The substitute adds conforming amendments to the Marine Mammal Protection Act; adds additional enforcement language regarding the Northern Pacific Halibut Act; provides details regarding the conduct of the IATTC's Science Advisory Subcommittee; deletes the exemption of the IATTC's General Advisory Committee from the Federal Advisory Committee Act (FACA); and makes other changes.

Other Ongoing House Bills

These bills were described in more detail in the summary of legislation provided at the June 2013 Council meeting (<http://tinyurl.com/mh9mc4z>). Bills with status changes since the June Council meeting are listed first.

HR 1012: Safety And Fraud Enforcement for Seafood Act

- **Introduced by** Ed Markey (D-Massachusetts) on March 6, 2013; has 25 cosponsors.
- **Status:** Referred to the House Committees on Agriculture, Energy and Commerce, Natural Resources, and House Ways and Means Committee.
- Three **cosponsors** have been added since the June Council meeting.
- **Companions/Predecessors:** This bill is a re-introduction of H.R. 6200 (112th) and a companion bill to S. 520 (Mark Begich).

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

Most relevant to Council activities, the bill 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; and cultivation method. This information could be made available upon request rather than appearing on a label.

HR 1667: Prevention of Escapement of Genetically Altered Salmon in the United States Act

- **Introduced by** Don Young (R-Alaska) on April 23, 2013; has nine cosponsors.
- **Status:** Referred to the House Natural Resources Committee.
- Three **cosponsors** have been added since the June Council meeting.
- **Companions/Predecessors:** This bill is a companion bill to S 246 (Mark Begich, D-Alaska).

To prevent the escapement of genetically-altered salmon in the United States, and for other purposes. Prohibits a person from shipping, selling, or purchasing a genetically-modified salmon, or a food product containing such fish, in interstate commerce; engaging in net-pen aquaculture of such fish; releasing such fish into a natural environment; or having custody, control, or possession of such fish with the intent to release it into a natural environment. Exempts fish, parts, or products used for scientific research or enforcement.

House Bills That Have Not Changed Since June (or Before)

- *HR 71: Coral Reef Conservation Act Reauthorization and Enhancement Amendments of 2013.* (Madeline Bordallo, D-Guam)
- *HR 584: To amend the Federal Food, Drug, and Cosmetic Act to require labeling of genetically engineered fish.* (Don Young, R-Alaska)
- *HR 753: Untitled; prohibits finfish aquaculture in the EEZ.* (Don Young, R-Alaska)
- *HR 799: Fisheries Disaster Relief and Research Investment Act.* (John Tierney, D-Massachusetts)
- *HR 1147: To provide limitations on maritime liens on fishing permits, and for other purposes.* (Don Young, R-Alaska)
- *HR 1308: Endangered Salmon and Fisheries Predation Prevention Act.* (Doc Hastings, R-Washington)

- *HR 1788: Cormorant Management and Natural Resources Protection Act.* (Michelle Bachmann, R-Minnesota)
- *HR 1927: More Water and Security for Californians Act.* (Jim Costa, D-California)

Other Ongoing Senate Bills

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S 267: Pirate Fishing Elimination Act

- **Introduced by** Jay Rockefeller (D-West Virginia) on February 11, 2013; ten cosponsors.
- **Status:** A hearing was held on this bill on July 30, when it was reported favorably by the Senate Commerce, Science, and Transportation Committee.
- One **cosponsor** was added to this bill since the June Council meeting.

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

S 520: Safety and Fraud Enforcement for Seafood Act

- **Introduced by** Mark Begich (D-Alaska) on March 11, 2013; has three cosponsors.
- **Status:** Referred to the Committee on Senate Commerce, Science, and Transportation.
- One **cosponsor** was added to this bill since the June Council meeting.
- **Companions/Predecessors:** This is a companion bill to HR 1012; see description of that bill for details.

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

S 839: Coral Reef Conservation Amendments Act of 2013.

- **Introduced by** Bill Nelson (D-Florida) on April 25, 2013; has three cosponsors.
- **Status:** A hearing was held on this bill on July 30, when it was reported favorably by the Senate Commerce, Science, and Transportation Committee.

A bill to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes.

This Act amends the Coral Reef Conservation Act of 2000 to transfer certain authority from the NOAA Administrator to the Secretary of Commerce. Directs the Secretary to submit to Congress a national coral reef ecosystem action strategy, revised as necessary, to include discussions of coastal uses and management, including land-based sources of pollution; climate change; and other matters. Authorizes funds for monitoring and assessment, research, pollution reduction, education, and technical support.

The bill defines “coral” as species of the phylum *Cnidaria*, which are found among the deep sea corals off the West Coast.

Senate Bills That Have Not Changed Since June (or Before)

- *S 45: West Coast Ocean Protection Act of 2013.* (Barbara Boxer, D-California)
- *S 246: Prevention of Escapement of Genetically Altered Salmon in the United States Act.* (Mark Begich, D-Alaska)
- *S 248: (Untitled).* A bill to amend the Federal Food, Drug, and Cosmetic Act to require labeling of genetically engineered fish. (Mark Begich, D-Alaska)
- *S 518: H2O Visa for Seafood Processing Act.* (Mark Begich, D-Alaska)
- *S 601: Water Resources Development Act of 2013.* (Barbara Boxer, D-California)
- *S 646: National Endowment for the Oceans Act.* (Sheldon Whitehouse, D-RI)

Less Relevant Bills

Several other bills that are not directly relevant to Council activities, but may be of interest, are listed below.

The following bills were introduced after the June Council meeting:

- *HR 2044: To prohibit the use, production, sale, importation, or exportation of any pesticide containing atrazine.* Atrazine is the most widely used herbicide in the United States, and has been shown to have adverse effects on fish and aquatic wildlife. (Keith Ellison, D-Minnesota). A reintroduction of HR 4318 (112th Congress).
- *HR 2162: Environmental Compliance Cost Transparency Act of 2013.* To provide for transparency and reporting related to direct and indirect costs incurred by the Bonneville Power Administration, the Western Area Power Administration, the Southwestern Power Administration, and the Southeastern Power Administration related to compliance with any Federal environmental laws impacting the conservation of fish and wildlife, and for other purposes. (Paul Gosar, R-Arizona)
- *HR 2261: National Mitigation Fisheries Coordination Act.* To ensure that the U.S. Fish and Wildlife Service (USFWS) be compensated for the costs of operating certain hatcheries. (Rick Crawford, R-Arkansas)
- *HR 2588: FORESTS Act of 2013 (Fulfilling Our Responsibility for Efficient and Sustainable Timber Supply);* to reauthorize and expand authorities used by the Forest Service and the Bureau of Land Management for hazardous fuels reduction, forest health, forest restoration, and watershed restoration, and for other purposes. (Sean Duffy, R-Wisconsin)
- *HR 2705: Stanislaus River Native Anadromous Fish Improvement Act.* To develop a pilot program to remove non-native predator fishes from the Stanislaus River to protect the native anadromous fishery resources affected by the operation of the New Melones Unit of the East Side Division of the Central Valley Project, and for other purposes. (Jeff Denham, R-California)

- *HR 2735: Protecting Lands Against Narcotics Trafficking Act of 2013.* To protect the environment from the effects of illegal marijuana plantations. (Jared Huffman, D-California)
- *HR 2842:* To create competition in the Department of Agriculture's canned tuna purchasing program to strengthen the Department's buying power, increase the availability of canned tuna to school lunch, child nutrition, and other Federal nutrition programs. Would require that Federal nutrition program use domestically-caught and canned tuna. (Linda Sanchez, D-California).
- *S. 1202: Safeguarding America's Future and Environment Act.* To establish an integrated Federal program to respond to ongoing and expected impacts of extreme weather and climate change by protecting, restoring, and conserving the natural resources of the United States, and to maximize government efficiency and reduce costs, in cooperation with State, local, and tribal governments and other entities. (Sheldon Whitehouse, D-Rhode Island)
- *S 1254: Harmful Algal Bloom and Hypoxia Research and Control Amendments Act of 2013.* To amend the Harmful Algal Bloom and Hypoxia Research and Control Amendments Act of 1998, and for other purposes. (Bill Nelson, D-Florida). A hearing was held on this bill on July 30, when it was reported favorably by the Senate Commerce, Science, and Transportation Committee.
- *S 1335: Sportsmen's Act.* To protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes. (Lisa Murkowski, R- Alaska)
- *S 1359: Clean Cruise Ship Act of 2013.* To amend the Federal Water Pollution Control Act to establish national standards for discharges from cruise vessels. (Dick Durbin, D-Illinois)

There has been no major activity on the following bills since the June Council meeting:

- *HR 322: Hunting, Fishing, and Recreational Shooting Protection Act.* (Seeks to exclude fishing sinkers from the Toxic Substances and Chemicals Act). (Jeff Miller, R-Florida)
- *HR 764: Coastal State Climate Change Planning Act.* (Lois Capps, D-California)
- *HR 843: San Francisco Bay Restoration Act.* (Jackie Speier, D-California)
- *HR 996: Invasive Fish and Wildlife Prevention Act.* (Louise Slaughter, D-New York)
- *HR 1699: Genetically Engineered Food Right-to-Know Act.* (Peter DeFazio, D-Oregon)
- *S. 96: Rigs to Reef Habitat Protection Act.* Applies only to Gulf of Mexico. (David Vitter, R-Louisiana)
- *S. 221: Saving Fishing Jobs Act.* Permits eligible fishermen to approve certain limited access privilege programs, and for other purposes. Does not apply to the Pacific Council region. (Kelly Ayotte, R-New Hampshire)
- *S. 332: Climate Protection Act of 2013.* (Bernie Sanders, D-Vermont)
- *S. 713: Rhode Island Fishermen's Fairness Act.* Adds Rhode Island to the Mid-Atlantic Fishery Management Council. (Jack Reed, D-Rhode Island)
- *S. 747: No title.* A bill to grant exclusive fishery management authority over the red snapper fish in the Gulf of Mexico to Alabama, Florida, Louisiana, Mississippi, and Texas. (David Vitter, R-Louisiana)