

STAFF SUMMARY OF EXECUTIVE ACTIONS AND
FEDERAL LEGISLATION IN THE 115TH U.S. CONGRESS

A summary of recent Federal legislation is attached. 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>.

The topics below are organized generally in order of priority to the Council. If the bill's status is not noted, the bill has been introduced but has not been subject to any committee action.

Comment Requests

HR 200: Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act

- Introduced by Don Young (R-Alaska) on January 3, 2017.

On March 6, the Council received a request from Rep. Jaime Herrera-Beutler's office for comment on HR 200 (C.2, Attachment 2). The bill, which reauthorizes the Magnuson-Stevens Fishery Conservation and Management Act (MSA), is similar to HR 1335 in the previous Congress, which was analyzed in detail by Council staff in 2015. The Council sent a requested letter to Congressman Young on HR 1335 on March 25, 2015 (C.2, Attachment 3). See C.2, Attachment 4 for a summary of proposed changes to annual catch limits (ACL) included in HR 200. For a table comparing HR 1335 with previously stated Council positions see <http://tinyurl.com/jnlan4b>. For MSA text marked up with HR 1335 changes, see <http://tinyurl.com/js3p5al>.

The Council Coordination Committee (CCC) has drafted a general letter in response to HR 200 but has not yet been asked to comment (C.2, Attachment 5).

The main difference between HR 200 and HR 1335 is in the section on ACLs and their relationship to international fishery efforts. HR 200 dictates that ACLs must take into account fishing for a species outside the Exclusive Economic Zone (EEZ), and the life history characteristics of the species that are not subject to jurisdiction of the Council. If fisheries by another country for transboundary stocks outside the U.S. EEZ hinder U.S. conservation efforts, and if there is no informal transboundary agreement in effect, then no ACL is required. But if an ACL is developed, it must take into account fishing outside of the EEZ.

HR 200 also does not include HR 1335's section (10) on data collection and data confidentiality.

When HR 1335 was introduced in 2015, there was concern among fishermen, scientists, and managers that it would weaken the management system.

Other Legislation

Crab Management

HR 374: To remove the sunset provision of section 203 of Public Law 105-384, and for other purposes

- Introduced by Jaime Herrera-Beutler (R-WA) on January 19, 2017
- Status: Passed House on 2/2/17

The Council sent a requested letter to Senator Maria Cantwell on this bill on December 20, 2016 (Agenda Item C.2, Attachment 6). There has been no movement on this bill since it passed the House in early February.

Salmon and Water

HR 23: Gaining Responsibility on Water (GROW) Act

- Introduced by David Valadao (R-CA) on January 3, 2017

This 125-page bill aims to:

- Restore water deliveries that have been cut off by environmental lawsuits.
- Reaffirm that if the State Water Project (SWP) and Central Valley Project (CVP) are operated consistent with the Bay-Delta Accord, they are in compliance with the requirements of the Endangered Species Act.
- Update the Central Valley Project Improvement Act (CVPIA) to ensure water resources are reliable, predictable, and available to fulfill contract supplies.
- Allow removal of nonnative predatory fish in the Sacramento and San Joaquin Rivers, their tributaries, and the Sacramento-San Joaquin Rivers Delta.
- Allow artificially-spawned Delta smelt and Chinook salmon to be counted when determining fish populations.
- Replace and “satisfy the requirements of” the San Joaquin River Restoration Settlement with a warm water fishery program.
- Require Reclamation to complete five feasibility studies for storage projects in California by certain time lines.
- Prohibit a Wild and Scenic River designation from hindering the completion of the proposed Temperance Flat storage facility.
- Preserve water rights seniority and to protect the joint operation of the CVP and SWP.
- Require the Secretary of Interior, in consultation with the Secretary of Commerce, and the Secretary of the Natural Resources of the State of California, to publish an annual report to provide details regarding instream flow releases from the CVP and SWP.

- Express Congressional disapproval and opposition to the violation of private property rights by the California State Water Resources Control Board.
- Create a “one-stop-shop” permitting process under the Bureau of Reclamation to expedite construction of nonfederal surface storage facilities.
- Allow the Secretary of the Interior to accept and spend funds contributed by a nonfederal public entity to expedite the evaluation of a permit relating to the qualifying project.
- Encourage the construction of nonfederal dams.
- Require future Reclamation feasibility studies to be completed within three years after the date of initiation and have a maximum Federal cost of \$3 million.
- Allow water users to pre-pay their repayment contracts.
- Create a surface water storage enhancement program by directing the Secretary to use some of the receipts from early repayment to be used for the construction of new surface water storage.
- Allow modification of Reclamation dams for safety purposes.
- Prohibit the Departments of the Interior and Agriculture from conditioning or withholding issuance, renewal, amendments or extension of any land use permit on the limitation or encumbrance of any water right to the United States.
- Prohibit requiring water users to apply for or acquire a water right in the name of the United States under state law as a condition or such a permit, and prohibits the Federal government from asserting jurisdiction over groundwater withdrawals or impacts on groundwater resources.

H.J. Res 60: Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the final rule of the United States Fish and Wildlife Service relating to the use of compensatory mitigation as recommended or required under the Endangered Species Act of 1973

- Introduced by Dan Newhouse (R-WA) on February 2, 2017

This resolution intends to dissolve U.S. Fish and Wildlife Service (USFWS) Endangered Species Act Compensatory Mitigation Policy, which was developed to address the negative impacts of development activities to at-risk species and their habitats on USFWS lands. It clarifies existing procedures, establishes new mitigation programs, and incorporates landscape-scale management plans to increase the capacity of the landscape to support the recovery and growth of those species’ populations. H.J. Res. 60 currently sits in the House Committee on Natural Resources.

HR 310: Southwestern Oregon Watershed and Salmon Protection Act

- Introduced by Peter DeFazio (D-OR) on January 5, 2017

This bill essentially prohibits mining, mineral leasing and geothermal leasing in parts of Curry County and Josephine County, Oregon in order to protect salmonids in the area. The bill designates a 44.5-mile segment of the Chetco River as either a wild, scenic, or recreational river under the Wild and Scenic Rivers Act.

HR 204: Genetically Engineered Salmon Labeling Act

- Introduced by Don Young (R-AK) on January 13, 2017

Resubmittal of a previous bill. Authorizes an independent scientific review of the possible effects of genetically engineered salmon on wild salmon stocks and of the Food and Drug Administration's approval of genetically engineered salmon for human consumption. States that the acceptable market name of any salmon that is genetically engineered shall include the words "Genetically Engineered" or GE prior to the existing acceptable market name.

HR 205: To amend the Federal Food, Drug, and Cosmetic Act to require labeling of genetically engineered fish

- Introduced by Don Young (R-AK) on January 13, 2017

Resubmittal of a previous bill. Requires labeling of genetically engineered fish.

HR 206: Prevention of Escapement of Genetically Altered Salmon in the United States

- Introduced by Don Young (R-AK) on January 13, 2017

Resubmittal of a previous bill. Prohibits 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 enforcement.

H.R. 875: To facilitate and streamline the Bureau of Reclamation process for creating or expanding water storage, rural water supply, and water recycling projects under Reclamation law

- Introduced by Dan Newhouse (R-WA) on February 6, 2017

Expedites projects for water storage by speeding up the Bureau of Reclamation's environmental planning and study process for new water projects such as dams and reservoirs. The bill would apply the same streamlined water project development process used by the U.S. Army Corps of Engineers under the Water Resources Reform Development Act of 2014. It would require future Reclamation feasibility studies to be completed with three years after the date of initiation and have a maximum Federal cost of \$3 million.

Washington S.J.M. 8004: Requesting that certain federal officials prevent the breaching of any dam in the Columbia River system

- Introduced by Tim Sheldon et al. on January 19, 2017
- Passed the Washington State House. Now in Senate Committee.

Requests that certain Federal officials prevent the breaching of any dam in the Columbia river system.

National Monuments

S 33: Improved National Monument Designation Process Act

- Introduced by Lisa Murkowski (R-AK) on January 5, 2017

This bill requires congressional approval of national monuments and restrictions on the use of national monuments, to establish requirements for the declaration of marine national monuments.

On March 7, House Committee on Natural Resources Chairman Rob Bishop and Rep. Aumua Amata Coleman Radewagen sent a letter (<http://tinyurl.com/gp93xvr>) to President Trump requesting removal of all marine monument fishing prohibitions and reinstatement of fisheries management under Federal law. The letters states that “Access to several of the nation's key fisheries is in jeopardy—through the establishment and expansion of marine national monuments. ... The commercial fishing prohibitions of marine national monuments impact shore-side businesses and local economies of the U.S.” and continues, “Using the Antiquities Act to close U.S. waters to domestic fisheries is a clear example of federal overreach and regulatory duplication and obstructs well managed, sustainable U.S. fishing industries in favor of their foreign counterparts. You alone can act quickly to reverse this travesty, improve our national security, and support the U.S. fishing industry that contributes to the U.S. economy while providing healthy, well-managed fish for America’s tables.”

Vessel Operations

S 168 and HR 1154: Commercial Vessel Incidental Discharge Act

- Introduced by Roger Wicker (R-MS) and Duncan Hunter (R-CA) on January 17 and Feb. 16, 2017, respectively

This is the resubmittal of a bill to provide for the establishment of uniform standards governing discharges incidental to the normal operation of a vessel. A previous Vessel Incidental Discharge Act was incorporated into the Howard Coble Coast Guard and Maritime Transportation Act of 2014, and is currently in effect until December 18, 2017.

This bill applies to commercial vessels over 79 feet in length. It does not apply to fishing vessels, including fish processing vessels and fish tender vessels; nor does it apply to recreational vessels (as defined in section 2101(25) of title 46 U.S.C.).

Notably, 10 state Attorneys General have called on U.S. Senate leaders to reject the bill, saying it would dramatically weaken states' authority to protect waterways against pollution from commercial shipping vessels. These include the Attorneys General from Washington, Oregon, and California. In a letter to Senate Majority Leader Mitch McConnell and Senate Minority Leader Chuck Schumer, they state that "This legislation, currently under consideration in the U.S. Senate, resurrects previous attempts to dismantle federal and state water pollution control laws that protect our vital waterways from the scourge of invasive species discharged by commercial shipping vessels.¹" The Attorneys General also stated that it would weaken the Clean Water Act and make it more difficult to prevent aquatic invasive species such as zebra and quagga mussels, which can harm ecosystems and associated commercial and recreational fisheries.

HR 234: Maritime Lien Reform Act

- Introduced by Don Young (R-AK) on January 13, 2017

This is the fourth resubmittal of a bill limiting liens on fishing permits.

General Regulations and Science

S 21 and HR 26: Regulations from the Executive in Need of Scrutiny (REINS) Act

- Introduced by Rand Paul (R-KY) and Doug Collins (R-GA) on January 3, 2017
- HR 26 passed the House on January 5

Although this bill is not directly related to fisheries, it would have a major impact on fisheries management. Essentially, the REINS Act aims at reconfiguring the administrative state by requiring that any regulation passed by an administrative agency would only take effect if agreed upon by both houses of Congress and by the President. This removes Congress' ability to delegate and gives it the Executive branch. This would have a fundamental, long-lasting impact on governance in the United States. It is likely that this bill would be filibustered by Democrats in the Senate if the filibuster remains in place.

HR 622: Local Enforcement for Local Lands Act

- Introduced by Jason Chaffetz (R-UT) on January 24, 2017

¹ Law360, <https://www.law360.com/articles/892589/10-state-ags-urge-senate-to-reject-vessel-discharge-bill>

This bill would terminate the law enforcement functions of the Forest Service and the Bureau of Land Management and to provide block grants to States for the enforcement of Federal law on Federal land under the jurisdiction of these agencies.

HR 214: American Fisheries Advisory Committee Act

- Introduced by Don Young (R-AK) on January 13, 2017

Resubmittal of a previous bill. Establishes the American Fisheries Advisory Committee to assist in the awarding of fisheries research and development grants.

Environmental Protection Agency

Several bills proposed to weaken the Environmental Protection Agency or eliminate it altogether. These include:

- **HR 637: Stopping EPA Overreach Act (Palmer, R-AL)**. Prevents the EPA from regulating carbon dioxide, water vapor, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride.
- **HR 861, to Terminate the Environmental Protection Agency (Gaetz, R-FL)**. Self-explanatory. According to analysis, this bill has a low chance of passage; it is more likely that the EPA will be weakened through funding cuts.
- **HR 958, To eliminate certain programs of the Environmental Protection Agency (Johnson, R-TX)**. This bill would prevent the EPA from regulating greenhouse gases, and would terminate the Greenhouse Gas Reporting Program, the Global Methane Initiative, the Climate Resilience Fund, the Climate Resilience Evaluation Awareness Tool, the Green Infrastructure Program, the Climate Ready Water Utilities Initiative, and terminate climate research by the EPA. It also eliminates the Clean Diesel Program, Environmental Justice programs, and EPA regional offices.

Other Bills

S 31 and HR 169: West Coast Ocean Protection Act

- Introduced by Diane Feinstein (D-CA) and Jared Huffman (D-CA) on January 4, 2017

This bill amends 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.

HR 223: To prohibit the Secretary of the Interior and the Secretary of Commerce from authorizing commercial finfish aquaculture operations in the Exclusive Economic Zone except in accordance with a law authorizing such action.

- Introduced by Don Young (R-AK) on January 13, 2017

Self-explanatory.

PFMC
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