

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.

MSA Reauthorization

- **HR 2023: Modernizing Recreational Fisheries Management Act of 2017**
- Introduced by Garrett Graves (R-LA) on April 6, 2017
- 13% chance of passage

This bill proposes changes to the Magnuson-Stevens Act. The changes that would affect the Pacific Council are summarized below; see Agenda Item C.3, Attachments 2 and 3 for further details:

Adds (page 81 of Attachment 3) an alternative to the 10-year rebuilding requirement requiring that the rebuilding timeframe not exceed *the sum of the time in which the affected stock of fish is expected to surpass its maximum sustainable yield biomass level in the absence of fishing mortality and the mean generation of time of the affected stock of fish.*

No annual catch limits (ACLs) (page 62-63 of Attachment 3) would be required for ecosystem component (EC) species, species with life cycle of approx. one year unless subject to overfishing; *fish where mortality is below target and stock assessment has not been performed during the preceding five years and overfishing is not occurring*; or for *sectors of fishery that adequately monitored to allow for development and enforcement of ACLs based on the National Academy of Sciences report on the Marine Recreational Information Program (MRIP).*

ACLs may be established for stock complexes, or “for each year in any continuous period that is not more than three years in duration.”

Requires (page 152) Secretary of Commerce to follow new procedures before approving exempted fishing permits (EFPs), including peer review and certain determinations. Any EFP would expire after a year.

Adds provision (page 7) that recreational and commercial fishing are fundamentally different and require different management approaches.

Allows (page 56) Councils to use alternative fishery management measures in a recreational fishery (or the recreational component of a mixed-used fishery) in developing plans, amendments, etc.

Allows (page 62-63) Councils to consider changes in an ecosystem and the economic needs of fishing communities when setting an ACL, as long as they not exceed SSC/peer review recommendations.

Defines EC species as “a stock of fish that is a non-target, incidentally harvested stock of fish in a fishery or is a non-target incidentally harvested stock of fish”... not subject to overfishing or depleted.

Requires (page 134) Secretary of Commerce to report on facilitating better incorporation of data from state and nongovernmental sources, including fishermen, universities, etc. Also requires Secretary to consider the National Academy of Sciences (NAS) report “Review of the Marine Recreational Information Program.”

Requires (page 128) Secretary of Commerce to partner with states on implementation of state registry programs and submit biennial reports on these programs and priorities for improving recreational fishing data collection. Also requires Secretary to make grants to improve state registry programs.

Requires Secretary to work with NAS to evaluate the design of MRIP and recommend changes.

Other New Bills

HR 2079: To preserve United States fishing heritage through a national program dedicated to training and assisting the next generation of commercial fishermen

- Introduced by Don Young (R-AK) on April 6, 2017
- 3% chance of passage

This bill would establish a national grant program, acting through Sea Grant, to train and educate the next generation of commercial fishermen. Specifically, the Secretary would make competitive grants to support new and established training initiatives for young fishermen, relating to seamanship, navigation, electronics, and safety; vessel and engine care, maintenance, and repair; innovative conservation fishing gear engineering and technology; sustainable fishing practices; entrepreneurship and good business practices; direct marketing, supply chain, and traceability; financial and risk management, including vessel, permit, and quota purchasing; State and Federal legal requirements for specific fisheries, including reporting, monitoring, licenses, and regulations; State and Federal fisheries policy and management; mentoring, apprenticeships, or internships; and other activities.

HR 2167: Acre In, Acre Out Act

- Introduced by Morgan Griffith (R-VA) on April 26, 2017
- 1% chance of passage

Prohibits any net increase in the total acreage of Federal land under the jurisdiction of the Bureau of Land Management, the National Park Service, the United States Fish and Wildlife Service, and the Forest Service. For any land added by these agencies, the equivalent number of acres shall be sold.

HR 2330: To make funds available for fisheries resource disaster assistance for the 2016 Yurok Tribe Klamath River Chinook salmon fishery disaster

- Introduced by Jared Huffman (D-CA) on May 3, 2017

No information available at this time.

S 935 and HR 2134: Endangered Species Management Self-Determination Act

- Introduced by Rand Paul (R-KY) and Blaine Leutkemeyer (R-MO) on April 25, 2017
- 1% chance of passage

Amends the Endangered Species Act of 1973 to permit Governors of States to regulate intrastate endangered species and intrastate threatened species.

SB-402 (California)

- Introduced by Ben Allen on February 15, 2017

This bill, which is a policy statement, seems to have been developed in response to concerns over Federal management of fisheries under the current administration. The bill declares that it is the policy of the state of California to robustly protect and enhance the significant economic, environmental, recreational, aesthetic, and educational values provided by the Pacific fisheries, and would require California Dept. of Fish and Wildlife and the California Fish and Game Commission to consider this policy when revising, adopting, or establishing policies, regulations, expenditures, or grant criteria relating to the protection and management of marine fisheries. The bill requires the department and commission, to the extent feasible, to attempt to work collaboratively with the Federal government and all fisheries stakeholders in furtherance of this policy.

The bill analysis (Agenda Item C.3, Attachment 4) states “Swordfish, as an example, are harvested outside of state waters by California boats[,] some of which use drift gill net fishing gear which has been conclusively implicated in the by-catch of sharks, rare turtles, and other species. Efforts to phase out that gear under California law have not been successful and the Pacific Fisheries Management Council has thus far not phased out drift gill net gear either.”

In a hearing on the bill, Sen. Allen stated “SB 402 codifies a definitive policy for our state agencies to maintain and exercise their current authority over California’s marine fishery resources when working with their Federal counterparts.”

Updates on Bills Presented in April

S 61 and HR 374: To remove the sunset provision of section 203 of Public Law 105-384 (regarding Dungeness crab management)

There has been no apparent progress on moving this bill forward.

HR 1430, Honest and Open New EPA Science Treatment Act of 2017 (Smith, R-FL)

This bill, which places limits on the types of data that can be used by the Environmental Protection Agency (EPA), passed the House on March 29. It is given a 16% chance of passage.

HR 1431, EPA Science Advisory Board Reform Act (Lucas, R-OK)

This bill limits who can serve on the EPA’s Science Advisory Board, which reviews the work of EPA scientists. The bill passed the House on March 30 and is given a 27% chance of passage. On May 5, several members of the Science Advisory Board were fired. Earlier this year, the White House proposed slashing funding for the Science Advisory Board by 84 percent. Such a cut would essentially cripple the work of the 47-member board of outside scholars (*Science*, May 6, 2017).

Executive Orders

“Implementing an America-First Offshore Energy Strategy” (April 28, 2017)

This Executive Order (EO) expands by millions of acres the waters considered for oil drilling through a re-write of the country’s five-year development plan. The five-year leasing plan guides where lease sales for oil and gas development can and cannot occur in federal waters offshore. The current plan (covering 2017-2022) was developed through a public process and excluded lease sales in the Atlantic, Arctic and Pacific oceans, focusing development in the Gulf of Mexico where known resources and the best spill response capabilities exist. The new EO is specifically focused on putting those “off-limits” areas back up for consideration.

The EO also revokes protections for ecologically sensitive areas. The EO instructs the Secretary of Commerce to reconsider all marine national monuments and national marine sanctuaries designated or expanded within the last decade by the Bush and Obama administrations, and prohibits the Secretary from creating any new marine sanctuaries without a full assessment of their resource extraction potential.

The EO fast-tracks seismic testing and weakens seismic safeguards for marine wildlife, and directs the National Oceanic and Atmospheric Association to reconsider its policy guidance in

protecting marine mammals from the dangerous effects of seismic airguns and explosive detonations.

Finally, the EO weakens drilling safeguards established in the wake of the British Petroleum Deepwater Horizon oil rig disaster.

Bills Discussed in April that have not Moved

- 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
- 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
- HR 200: Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act (Young)
- HR 204: Genetically Engineered Salmon Labeling Act
- HR 205: To amend the Federal Food, Drug, and Cosmetic Act to require labeling of genetically engineered fish
- HR 206: Prevention of Escapement of Genetically Altered Salmon in the United States
- HR 214: American Fisheries Advisory Committee Act
- 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
- HR 23: Gaining Responsibility on Water (GROW) Act (Valadao)
- HR 234: Maritime Lien Reform Act
- HR 310: Southwestern Oregon Watershed and Salmon Protection Act
- HR 374: To remove the sunset provision of section 203 of Public Law 105-384, and for other purposes
- HR 622: Local Enforcement for Local Lands Act
- HR 637: Stopping EPA Overreach Act (Palmer, R-AL)
- HR 861, to Terminate the Environmental Protection Agency (Gaetz, R-FL)
- HR 958, To eliminate certain programs of the Environmental Protection Agency
- S 168 and HR 1154: Commercial Vessel Incidental Discharge Act
- S 21 and HR 26: Regulations from the Executive in Need of Scrutiny (REINS) Act
- S 31 and HR 169: West Coast Ocean Protection Act
- S 33: Improved National Monument Designation Process Act
- Washington S.J.M. 8004: Requesting that certain Federal officials prevent the breaching of any dam in the Columbia River system (?)