

TO ENSURE FAIR TREATMENT IN LICENSING REQUIREMENTS FOR THE EXPORT OF CERTAIN ECHINODERMS

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JANUARY 10, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. BISHOP of Utah, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 2504]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2504) to ensure fair treatment in licensing requirements for the export of certain echinoderms, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 2504 is to ensure fair treatment in licensing requirements for the export of certain echinoderms.

BACKGROUND AND NEED FOR LEGISLATION

In Maine, green sea urchins inhabit the shallow waters off the Atlantic coast. Sea urchins are generally harvested for their roe, more commonly known as “uni,” which is a delicacy food item in Japan, Europe, and more recently in the U.S. Maine sea urchin landings in 2014 were almost 2 million pounds valued at \$5.4 million.<sup>1</sup> Sea urchins are typically harvested by hand by divers but can also be harvested by fishing vessels outfitted with dragging nets. In Maine, diving is the primary technique used to harvest the species, with roughly 115 divers harvesting 60 percent of the State’s landings. While targeting different types of sea urchins, harvesting is also a significant fishery off parts of California’s

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<sup>1</sup>*Maine Department of Marine Resources: 2010–2014 Commercial Maine Landings, February 25, 2015.*

coast. This fishery, with just over 200 active divers, harvested almost 13 million pounds of urchins in 2013 valued at \$9.8 million.<sup>2</sup>

The sea cucumber industry in Maine is much smaller than the sea urchin industry, mostly due to a new foreign market that developed in 1994. According to Maine Department of Marine Resources (DMR), the sea cucumber fishery is a closed access fishery, with only ten active licenses in 2012.<sup>3</sup> While this is a relatively small fishery in Maine, valued at just over \$700,000 in 2008, the species belongs to the same group as sea urchins.<sup>4</sup>

Under the authority of the Endangered Species Act of 1973 (ESA, Public Law 93–205), the United States Fish and Wildlife Service (USFWS) has the authority to inspect and regulate fish and fishery products that are to be imported or exported. This authority, however, is not limited to ESA-listed species or species listed under the Convention on International Trade in Endangered Species (CITES). According to USFWS, this broad authority allows the agency to regulate and inspect many “wildlife species used for food” that are not protected under either ESA or CITES, and allows it to charge licensing and inspection fees to importers and exporters of all fish, fish products, and wildlife.

In an effort to help preserve domestic and international trade of U.S. seafood and seafood products, USFWS established criteria to exempt shellfish and other non-living fishery products if used for consumption from these regulations. To qualify for this exemption, the species must not be listed as injurious under the Lacey Act and not listed under the ESA or CITES.<sup>5</sup> This exemption is essential to the trade of shellfish as many species, such as oysters, clams, lobster and others are often traded live and/or have a very short timeframe for safe consumption. USFWS has a current exemption list that includes many of these species.

Until 2008, other key species, such as sea urchins and sea cucumbers were also exempt from the import and export licensing and requirements. On December 8, 2008, USFWS published a final rule revising its authority to regulate the import and export of certain species to clarify requirements and update license and inspection exemptions.<sup>6</sup> USFWS received multiple comments on this proposed change to the exemption requirements from members of the fishing industry and the National Marine Fisheries Service (NMFS), which is a partnering agency with USFWS for oversight of these species. NMFS specifically commented on the proposed changes and how USFWS’ definition of “shellfish” for the sake of inspections and exemptions was not consistent with NMFS’ or that of the United Nations Food and Agriculture Organization. NMFS requested that USFWS revise its definition to be consistent with NMFS’. Industry comments echoed those of NMFS, stating that the revisions “would create a financial burden” on the industry, including importers and exporters down to divers. H.R. 2504 corrects this inconsistent view between the two agencies by exempting sea urchins and sea cucumbers from USFWS inspection requirements.

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<sup>2</sup> *California Department of Fish and Wildlife: 2013 California Sea Urchin Catch by Diver and Region.*

<sup>3</sup> <http://www.maine.gov/dmr/cukes/index.htm>

<sup>4</sup> *Id.*

<sup>5</sup> 50 CFR 14

<sup>6</sup> 73 FR 74615, December 9, 2008

During a February 2, 2016 Water, Power and Oceans Subcommittee hearing on H.R. 4245, there was bipartisan concern over the USFWS' policy on domestically harvested exports.<sup>7</sup> Further, according to USFWS, the seafood traceability rule released in 2016 by the National Oceanic and Atmospheric Administration may eliminate the need for USFWS to continue to conduct such inspections on imported seafood.<sup>8</sup>

#### COMMITTEE ACTION

H.R. 2504 was introduced on May 17, 2017, by Congresswoman Chellie Pingree (D-ME). The bill was referred to the Committee on Natural Resources and additionally referred to the Committee on Foreign Affairs. Within the Committee on Natural Resources, the bill was referred to the Subcommittee on Water, Power and Oceans. On November 7, 2017, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. No amendments were offered, and the bill was ordered favorably reported to the House of Representatives by unanimous consent on November 8, 2017.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

#### COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation and the Congressional Budget Act of 1974. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, December 1, 2017.*

Hon. ROB BISHOP,  
*Chairman, Committee on Natural Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2504, a bill to ensure fair treatment in licensing requirements for the export of certain echinoderms.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff LaFave.

Sincerely,

MARK P. HADLEY  
(For Keith Hall, Director).

<sup>7</sup> Exchange between Congressman Jared Huffman and Mr. William Woody, Assistant Director of Law Enforcement for the U.S. Fish and Wildlife Service, during the House Water, Power and Oceans Subcommittee hearing on H.R. 3070 and H.R. 4245, 114th Cong., February 2, 2016.

<sup>8</sup> Submitted testimony of Mr. William Woody, Assistant Director of Law Enforcement for the U.S. Fish and Wildlife Service, to the House Committee on Natural Resources, 114th Cong., February 2, 2016.

Enclosure.

*H.R. 2504—A bill to ensure fair treatment in licensing requirements for the export of certain echinoderms*

H.R. 2504 would exempt exporters of certain species of sea creatures from having to obtain export licenses from the United States Fish and Wildlife Service (USFWS). Under H.R. 2504, an export license would not be required to ship sea cucumbers and sea urchins to foreign markets.

Enacting the bill would reduce offsetting receipts (which are treated as reductions in direct spending) from fees that the USFWS charges for export licenses. H.R. 2504 also could reduce receipts from inspection fees because exporters of the affected products would no longer be required to clear shipments directly with the USFWS. CBO estimates that enacting the bill would reduce such fees by less than \$500,000 a year. Because the USFWS is authorized to retain and spend proceeds from those activities, any reduction in fee collections would be offset by a similar reduction in direct spending.

Because enacting the bill would affect direct spending pay-as-you-go procedures apply. However, the net effect on direct spending would be negligible. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 2504 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 2504 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to ensure fair treatment in licensing requirements for the export of certain echinoderms.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill contains 1 directed rulemaking. Section 1 of the bill requires the United States Fish and Wildlife Service to amend section 14.92 of title 50, Code of Federal Regulations.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the

most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

COMMITTEE CORRESPONDENCE

EDWARD R. ROYCE, CALIFORNIA  
CHAIRMAN

AMY PORTER  
CHIEF OF STAFF

THOMAS SHEEHY  
STAFF DIRECTOR



ELIOT L. ENGEL, NEW YORK  
RANKING DEMOCRATIC MEMBER

JASON STEINBAUM  
DEMOCRATIC STAFF DIRECTOR

One Hundred Fifteenth Congress  
U.S. House of Representatives  
Committee on Foreign Affairs  
2170 Rayburn House Office Building  
Washington, DC 20515  
[www.foreignaffairs.house.gov](http://www.foreignaffairs.house.gov)

January 3, 2018

The Honorable Rob Bishop  
Chairman  
House Committee on Natural Resources  
1324 Longworth House Office Building  
Washington, DC 20515

Dear Mr. Chairman:

Thank you for consulting with the Committee on Foreign Affairs on H.R. 2504, a bill to ensure fair treatment in licensing requirements for the export of certain echinoderms.

I agree that the Foreign Affairs Committee may be discharged from further action on this bill, subject to the understanding that this waiver does not in any way diminish or alter the jurisdiction of the Foreign Affairs Committee, or prejudice its jurisdictional prerogatives on this bill or similar legislation in the future. The Committee also reserves the right to seek an appropriate number of conferees to any House-Senate conference involving this bill, and would appreciate your support for any such request.

I ask that you place our exchange of letters into the *Congressional Record* during floor consideration of the bill. I appreciate your cooperation regarding this legislation and look forward to continuing to work with you as this measure moves through the legislative process.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Royce".

EDWARD R. ROYCE  
Chairman

cc: The Honorable Paul Ryan  
The Honorable Eliot L. Engel  
The Honorable Raul M. Grijalva  
Mr. Thomas J. Wickham, Jr., Parliamentarian

ROB BISHOP OF UTAH  
CHAIRMAN

CODY STEVART  
STAFF DIRECTOR

RAÚL GRIJALVA OF ARIZONA  
RANKING MEMBER

DAVID WATKINS  
DEMOCRATIC STAFF DIRECTOR

**U.S. House of Representatives**  
**Committee on Natural Resources**  
Washington, DC 20515

January 8, 2018

The Honorable Edward R. Royce  
Chairman  
Committee on Foreign Affairs  
2170 Rayburn HOB  
Washington, DC 20515

Dear Mr. Chairman:

H.R. 2504, To ensure fair treatment in licensing requirements for the export of certain echinoderms, was introduced on May 17, 2017. The bill was referred primarily to the Committee on Natural Resources, with an additional referral to the Committee on Foreign Affairs.

I thank you for allowing the Committee on Foreign Affairs to be discharged from further consideration of the bill so that it may be scheduled by the Majority Leader. This discharge in no way affects your jurisdiction over the subject matter of the bill, and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support having the Committee on Foreign Affairs represented on the conference committee. Finally, to memorialize our understanding, I would be pleased to include your letter and this response in the Congressional Record when the bill is considered by the House.

Thank you for your response and cooperation. I look forward to further opportunities to work with you this Congress.

Sincerely,



Rob Bishop  
Chairman  
Committee on Natural Resources

cc: The Honorable Paul D. Ryan, Speaker  
The Honorable Kevin McCarthy, Majority Leader  
The Honorable Raul Grijalva, Ranking Member, Committee on Natural Resources  
The Honorable Thomas J. Wickham, Jr., Parliamentarian

<http://naturalresources.house.gov>

