AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

113TH CONGRESS
1ST SESSION

S. 246

To prevent the escapement of genetically altered salmon in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 7, 2013

Mr. BEGICH (for himself and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

---

A BILL

To prevent the escapement of genetically altered salmon in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Prevention of Escapement of Genetically Altered Salmon in the United States Act''.

SEC. 2. PROHIBITION ON SALE OF GENETICALLY ALTERED SALMON.

(a) PROHIBITION.—It shall be unlawful for a person—

(1) to ship, transport, offer for sale, sell, or purchase a covered fish, or a product containing covered fish, in interstate or foreign commerce;

(2) to have custody, control, or possession of, with the intent to ship, transport, offer for sale, sell, or purchase a covered fish, or a product containing covered fish, in interstate or foreign commerce;

(3) to release a covered fish into a natural environment; or

(4) to have custody, control, or possession of a covered fish with the intent to release it into a natural environment.

(b) EXCEPTION.—Subsection (a) shall not apply to a fish, fish part, or product—

(1) under confined use, or intended for confined use, for scientific research;

(2) collected for the purpose of enforcing this Act; or

(3) if the Under Secretary of Commerce for Oceans and Atmosphere, in consultation with the Director of the U.S. Fish and Wildlife Service and any other Federal, State, or tribal entity the Under Secretary considers appropriate, reviews any application requesting an action by a department or agency of the Federal government to permit an act prohib-

ited under subsection (a), including any environmental assessment prepared as part of that application, and—

(A) prepares a finding of no significant impact in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(B) finds the application to be consistent with an environmental impact statement prepared by the Under Secretary in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) that includes—

(i) an environmental risk analysis that assesses the potential direct and indirect impacts from escapement of covered fish on wild and cultured fish stocks and environments that may be exposed to such covered fish;

(ii) a failure mode and effects analysis that quantitatively assesses the best- and worst-case probabilities of failure of each applicable confinement technique;

(iii) an assessment of the costs of control or eradication of escaped covered fish; and

(iv) an assessment of the potential economic damage in terms of loss of production or sales to relevant wild and cultured fish stocks and environments from the escapement of covered fish.

(c) ENVIRONMENTAL IMPACT CONSIDERATIONS.—

(1) NOTICE.—Each agency, department, or other unit of the Federal government shall promptly notify the Under Secretary of Commerce for Oceans and Atmosphere when an action involving covered fish, or a product containing covered fish is first identified.

(2) ENSURING COMPLIANCE.—The Under Secretary of Commerce for Oceans and Atmosphere, in cooperation with each Federal, State, or tribal entity that the Under Secretary considers appropriate, may monitor any mitigation measures proposed under subsection (b)(3) to ensure implementation and compliance therewith.

(3) PROVISIONS AS COMPLEMENTARY.—The provisions of this Act are in addition to, and shall not affect the operation of, other Federal, State, or

local laws regulating a covered fish, or a product containing covered fish.

(d) RULES AND REGULATIONS.—The Secretary shall prescribe such rules and regulations as the Secretary considers necessary to carry out the provisions of this Act.

SEC. 3. ENFORCEMENT AND PENALTIES.

(a) ENFORCEMENT.—The Secretary of Commerce may enforce section 2 in the same manner, by the same means, and with the same jurisdiction, powers, and duties provided under sections 308, 309, 310, and 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858, 1859, 1860, and 1861).

(b) PENALTIES.—A person who violates section 2 shall be subject to the penalties, and entitled to the privileges and immunities, under sections 308, 309, 310, and 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858, 1859, 1860, and 1861).

SEC. 4. REPORT ON RISKS TO WILD FISH STOCKS.

Not later than 180 days after the date of enactment of this Act, the Under Secretary of Commerce for Oceans and Atmosphere shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives the report under section 1007 of the Food

and Drug Administration Amendments Act of 2007 (21 U.S.C. 2106).

SEC. 5. DEFINITIONS.

In this Act:

(1) CONFINED USE.—The term ''confined use'' means any operation, undertaken within a secured, land-based facility, that involves a covered fish controlled by specific measures that effectively prevent the covered fish from having contact with and impact on the external environment, including biological and physical confinement measures.

(2) COVERED FISH.—The term ''covered fish'' means a salmon or other anadromous or marine fish, live or dead, including the gametes, fertilized eggs, offspring, and descendants thereof, that is modified or produced through the application of recombinant deoxyribonucleic acid (DNA) technologies, using DNA from an organism's own genome or that of another species, which overcome natural physiological reproductive barriers and which are not techniques used in traditional breeding and selection.

(3) FINDING OF NO SIGNIFICANT IMPACT.—The term ''finding of no significant impact'' has the

meaning given the term in section 1508.13 of title 40, Code of Federal Regulations.

(4) PRODUCT.—The term ''product'' means an item manufactured or produced for sale or use as food.

○