

## WEST COAST DUNGENESS CRAB MANAGEMENT ACT

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SEPTEMBER 30, 2015.—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. 2168]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2168) to make the current Dungeness crab fishery management regime permanent and for other purposes, 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. 2168 is to make the current Dungeness crab fishery management regime permanent.

#### BACKGROUND AND NEED FOR LEGISLATION

H.R. 2168 continues a successful, state-led fishery conservation program at no federal expense, while providing domestic seafood supplies and the jobs associated with that industry.

The Dungeness crab is a species native to the Pacific Ocean, with habitat stretching from Alaska to Mexico. Commercial and recreational harvest of the crab supports one of the West coast's most valuable fisheries with about 99% of the crab on the U.S. market coming from domestic sources. According to the National Oceanic and Atmospheric Administration (NOAA), crab harvests off California, Oregon, and Washington have maintained a cyclical pattern for nearly 50 seasons, ranging from 8 million to 54 million pounds. The harvests peak approximately every ten years.

H.R. 2168 continues a lengthy history of state-managed crab fisheries. With the creation of regional fishery management councils pursuant to the Magnuson-Stevens Fishery Conservation and Man-

agement Act of 1976 (16 U.S.C. et seq.), the Pacific Fishery Management Council considered putting the Dungeness crab fishery under federal management. However, according to testimony submitted to the House Resources Committee from then-Deputy Assistant Administrator for Fisheries, Mr. David Evans, “Council members decided that the diverse and urgent management needs of the salmon and groundfish fisheries were more than enough for the young council to coordinate.” As a result, the States of Washington, California, and Oregon entered into a Memorandum of Understanding in 1980 to take “mutually supportive actions” to manage the fishery within their respective state waters (0–3 nautical miles from shore) as well as in the adjacent federal waters (3–200 nautical miles from shore). The three states manage the commercial and recreational fishery under this tri-state process.

The 1996 reauthorization of the Magnuson-Stevens Act recognized the three-state agreement by granting a one year authorization (Public Law 104–297). Since the initial one year interim program, the tri-state management authority has been extended three times, the most recent being a ten year extension of the management authority in 2007 (Public Law 109–479). The current authorization for the tri-state management authority expires on September 30, 2016. The Secretary of Commerce reserves the right under Public Law 105–384 to implement a federal fishery management plan, effectively allowing federal management of the crab fishery in federal waters.

In lieu of formal annual stock assessments—as would be required under a federal fishery management plan—the states conduct population tests and processes to determine season opening dates. Each of the states fund these assessments through revenue generated from the sale of Dungeness fishery permits and sales of crab retained during the testing. Additionally, the states have adopted strict size and sex requirements: only male crabs are retainable and must measure at least 6.25 inches at the shortest distance across the back of the shell. This size limit is intended to protect some sexually mature male crabs from harvest.

In light of the lengthy and successful state-led management of the crab fishery, H.R. 2168 amends Public Law 105–384 by striking the sunset provision for the tri-state Dungeness crab management regime, making the management authority permanent.

#### COMMITTEE ACTION

H.R. 2168 was introduced on April 30, 2015, by Congresswoman Jaime Herrera Beutler (R-WA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water, Power and Oceans. The Subcommittee held a hearing on July 23, 2015. On September 9, 2015, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. No amendments were offered and on September 10, 2015, the bill was ordered favorably reported to the House of Representatives by unanimous consent.

## 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. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

*H.R. 2168—West Coast Dungeness Crab Management Act*

H.R. 2168 would allow Washington, Oregon, and California to continue to manage commercial fishing for Dungeness crabs in federal waters adjacent to their states until the Pacific Fishery Management Council develops a formal fishery management plan for the area. Under current law, the states' authority to manage their Dungeness crab fisheries will expire on September 30, 2016. After that date, the National Oceanic and Atmospheric Administration (NOAA) will manage the fishery.

If the states' authority to manage the fishery expires, CBO estimates that NOAA will require appropriations totaling \$1 million a year beginning in 2017 to hire 10 to 15 new employees to carry out administrative activities related to managing the fishery. Under the bill, CBO expects that the three states would continue to manage their Dungeness crab fisheries largely at state expense. Therefore, we estimate that implementing the bill would reduce the need for discretionary appropriations (and associated spending) by \$1 million a year over the 2017–2020 period. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 2168 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local or tribal governments. Any costs incurred by states to continue regulating their fisheries would be incurred voluntarily.

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. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Congressional Budget Office estimates that

implementing the legislation would “reduce the need for discretionary appropriations (and associated spending) by \$1 million a year over the 2017–2020 period.”

3. 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 make the current Dungeness crab fishery management regime permanent.

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. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

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 MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**ACT OF NOVEMBER 13, 1998**

(Public Law 105-384)

AN ACT To approve a governing international fishery agreement between the United States and the Republic of Poland, and for other purposes.

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**TITLE II—MISCELLANEOUS FISHERIES PROVISIONS**

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**SEC. 203. AUTHORITY OF STATES OF WASHINGTON, OREGON, AND CALIFORNIA TO MANAGE DUNGENESS CRAB FISHERY.**

(a) **IN GENERAL.**—Subject to the provisions of this section and notwithstanding section 306(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1856(a)), each of the States of Washington, Oregon, and California may adopt and enforce State laws and regulations governing fishing and processing in the exclusive economic zone adjacent to that State in any Dungeness crab (Cancer magister) fishery for which there is no fishery management plan in effect under that Act.

(b) **REQUIREMENT FOR STATE MANAGEMENT.**—Any law or regulation adopted by a State under this section for a Dungeness crab fishery—

(1) except as provided in paragraph (2), shall apply equally to vessels engaged in the fishery in the exclusive economic zone and vessels engaged in the fishery in the waters of the State, and without regard to the State that issued the permit under which a vessel is operating;

(2) shall not apply to any fishing by a vessel in exercise of tribal treaty rights except as provided in *United States v. Washington*, D.C. No. CV-70-09213, United States District Court for the Western District of Washington; and

(3) shall include any provisions necessary to implement tribal treaty rights pursuant to the decision in *United States v. Washington*, D.C. No. CV-70-09213.

(c) **LIMITATION ON ENFORCEMENT OF STATE LIMITED ACCESS SYSTEMS.**—Any law of the State of Washington, Oregon, or California that establishes or implements a limited access system for a Dungeness crab fishery may not be enforced against a vessel that is otherwise legally fishing in the exclusive economic zone adjacent to that State and that is not registered under the laws of that State, except a law regulating landings.

(d) **STATE PERMIT OR TREATY RIGHT REQUIRED.**—No vessel may harvest or process Dungeness crab in the exclusive economic zone adjacent to the State of Washington, Oregon, or California, except as authorized by a permit issued by any of those States or pursuant to any tribal treaty rights to Dungeness crab pursuant to the decision in *United States v. Washington*, D.C. No. CV-70-09213.

(e) **STATE AUTHORITY OTHERWISE PRESERVED.**—Except as expressly provided in this section, nothing in this section reduces the authority of any State under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) to regulate fishing, fish processing, or landing of fish.

(f) **TERMINATION OF AUTHORITY.**—The authority of the States of Washington, Oregon, and California under this section with respect to a Dungeness crab fishery shall expire on the effective date of a fishery management plan for the fishery under the Magnuson-Stevens Fishery Conservation and Management Act.

(g) **REPEAL.**—Section 112(d) of Public Law 104-297 (16 U.S.C. 1856 note) is repealed.

(h) **DEFINITIONS.**—The definitions set forth in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802) shall apply to this section.

[(i) **SUNSET.**—This section shall have no force or effect on and after September 30, 2016.]

[(j)] (i) Not later than December 31, 2001, and every 2 years thereafter, the Pacific State Marine Fisheries Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report on the status and management of the Dungeness Crab fishery located off the coasts of the States of Washington, Oregon, and California, including—

- (1) stock status and trends throughout its range;
- (2) a description of applicable research and scientific review processes used to determine stock status and trends; and
- (3) measures implemented or planned that are designed to prevent or end overfishing in the fishery.

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