

# Subcommittee on Water, Power and Oceans

John Fleming, Chairman

Hearing Memorandum

January 22, 2016

To: House Subcommittee on Water, Power and Oceans Members

From: Water, Power and Oceans Subcommittee Republican Staff (x58331)

Subject: Legislative Hearing on H.R. 4245 (Rep. Chellie Pingree, D-ME), a bill To exempt importation and exportation of sea urchins and sea cucumbers from licensing requirements under the Endangered Species Act of 1973.

---

## **H.R. 4245, To exempt importation and exportation of sea urchins and sea cucumbers from licensing requirements under the Endangered Species Act of 1973.**

### **Hearing Overview**

On January 26, 2016 at 2:00 p.m. in 1334 Longworth, the House Water, Power and Oceans Subcommittee will hold a legislative hearing on H.R. 4245 (Rep. Pingree, D-ME), a bipartisan bill exempting sea urchins and sea cucumbers from certain federal requirements imposed on buyers and sellers of these products by the U.S. Fish and Wildlife Service (USFWS). The Subcommittee will hear from two panels consisting of House Members and stakeholders and will include one additional bill (H.R. 3070).

### **Bill Summary**

H.R. 4245 adds sea urchins and sea cucumbers that are designated for human consumption to a list of exempted shellfish and fishery products from licensing requirements under the Endangered Species Act (ESA). Prior to a 2008 USFWS rule<sup>1</sup>, these species were exempt from import and export requirements and inspection fees.

### **Invited Witnesses (listed in alphabetical order):**

*Mr. Joe Leask*

Chairman

Maine Department of Marine Resources Sea Urchin Zone Council

Rockwood, Maine

*Mr. Atchan Tamaki*

Founder

ISF Trading, Inc.

Portland, Maine

---

<sup>1</sup> [73 FR 74615, December 9, 2008](#)

Mr. William Woody  
Assistant Director  
U.S. Fish and Wildlife Service Office of Law Enforcement  
Washington, DC

**Background:**

In Maine, green sea urchins inhabit the shallow waters off the Atlantic coast.<sup>2</sup> 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.<sup>3</sup> While there has not been a long history of harvesting sea urchins in Maine, there is evidence of sea urchin harvesting in Maine since at least the 1940’s.<sup>4</sup> However, international demand for this delicacy spiked in the late 1980s -- driven by the Japanese market -- and saw an increase in annual landings value from less than \$50,000 prior to 1987 to well over \$10 million by 1993.<sup>5</sup> The price and demand have since leveled out, and the Maine sea urchin landings in 2014 were almost 2 million pounds valued at \$5.4 million.<sup>6</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.<sup>7</sup> Approximately 86 draggers in Maine harvest the remaining 40 percent of the State’s annual landings.<sup>8</sup>

While targeting different types of sea urchins, urchin harvesting is also a significant fishery off parts of California’s coast. This fishery, with just over 200 active divers, harvested almost 13 million pounds of urchins in 2013 valued at \$9.8 million.<sup>9</sup> California divers target purple and red urchins as opposed to the green urchins in Maine, however USFWS is imposing the same ESA licensing requirements on buyers and importers and exporters of the product on both coasts.



Green sea urchins being measured off of the coast of Maine.  
Source: Kerry Lyons, Maine Department of Marine Resources

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.<sup>10</sup> According to Maine Department of Marine Resources (DMR), the sea cucumber fishery is a closed access fishery, with only ten

<sup>2</sup> [http://www.maine.gov/dmr/rm/seaurchin/green\\_sea\\_urchin\\_general\\_summary.htm](http://www.maine.gov/dmr/rm/seaurchin/green_sea_urchin_general_summary.htm)

<sup>3</sup> [Id at 2](#)

<sup>4</sup> [Maine Department of Marine Resources: Monitoring and Assessment of Maine’s Sea Urchin Resource, Margaret Hunter, Lessie White, Robert Russell, March 2015.](#)

<sup>5</sup> [Id at 4](#)

<sup>6</sup> [Maine Department of Marine Resources: 2010-2014 Commercial Maine Landings, February 25, 2015.](#)

<sup>7</sup> [Id at 4](#)

<sup>8</sup> [Id at 4](#)

<sup>9</sup> [California Department of Fish and Wildlife: 2013 California Sea Urchin Catch by Diver and Region.](#)

<sup>10</sup> <http://www.maine.gov/dmr/cukes/index.htm>

active licenses in 2012.<sup>11</sup> While this is a relatively small fishery in Maine, valued at just over \$700,000 in 2008,<sup>12</sup> the species belongs to the same group as sea urchins.

Under the authority of the ESA, the USFWS has the authority to inspect and regulate fish and fishery products that are to be imported or exported.<sup>13</sup> This authority, however, is not limited to ESA listed species or species listed under the Convention on International Trade in Endangered Species (CITES).<sup>14</sup> 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.<sup>15</sup>

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>16</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, sea cucumbers, squid, octopus and cuttlefish were also exempt from the import and export licensing and requirements of USFWS. 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>17</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.<sup>18</sup> NMFS requested that USFWS revise its definition to be consistent with NMFS’.<sup>19</sup> 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.<sup>20</sup>

---

<sup>11</sup> [Id at 10](#)

<sup>12</sup> [Id at 10](#)

<sup>13</sup> [50 CFR 14](#)

<sup>14</sup> Mr. William Woody, Assistant Director of Law Enforcement for the U.S. Fish and Wildlife Service, letter to Committee on Natural Resources Chairman Doc Hastings, December 22, 2014.

<sup>15</sup> [Id at 14](#)

<sup>16</sup> [Id at 13](#)

<sup>17</sup> [Id at 1](#)

<sup>18</sup> [Id at 1](#)

<sup>19</sup> [Id at 1](#)

<sup>20</sup> [Id at 1](#)

H.R. 4245 corrects this inconsistency between the two agencies by exempting sea urchins and sea cucumbers from USFWS inspection requirements, bringing its policies more in line with those of NMFS – the primary agency for federal fisheries management.

**Major Provisions / Analysis of H.R. 4245:**

*Section 1* exempts sea urchins and sea cucumbers from requirements under section 9(d)(1) of the Endangered Species Act and section 14.91 of title 50 of the Code of Federal Regulations.

**Cost:**

The Congressional Budget Office has not completed a cost estimate of the bill.

**Administration Position:**

While the Administration has not provided official comment on H.R. 4245, the USFWS does not believe these species should be exempt from the agency's import and export requirements.<sup>21</sup>

---

<sup>21</sup> Id at 14