

107TH CONGRESS  
1ST SESSION

# H. R. 2376

To expedite relief provided under the Magnuson-Stevens Fishery Conservation and Management Act for the commercial fishery failure in the Pacific Coast Groundfish Fishery, to improve fishery management and enforcement in that fishery, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2001

Mrs. CAPPS (for herself, Ms. HOOLEY of Oregon, Mr. DEFAZIO, Mr. THOMPSON of California, Mr. FARR of California, and Mr. WU) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committees on Ways and Means, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To expedite relief provided under the Magnuson-Stevens Fishery Conservation and Management Act for the commercial fishery failure in the Pacific Coast Groundfish Fishery, to improve fishery management and enforcement in that fishery, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Pacific Coast Ground-  
5 fish Fishery Preservation Act”.

1 **SEC. 2. PILOT PROJECT FOR CHARITABLE DONATION OF**  
2 **BYCATCH.**

3 (a) IN GENERAL.—The Secretary of Commerce shall  
4 initiate a pilot project under which fishermen in a com-  
5 mercial fishery covered by the West Coast groundfish fish-  
6 ery are permitted to donate bycatch, or regulatory dis-  
7 cards, of fish to charitable organizations rather than dis-  
8 card them. The pilot project shall incorporate a means,  
9 through the requirement of on-vessel observers or other  
10 safeguards, of ensuring that the opportunity to donate  
11 such fish does not encourage or permit the evasion of per-  
12 vessel trip limits, total allowable catch limits, or other fish-  
13 ery management plan measures.

14 (b) REPORTS.—

15 (1) INITIATION.—The Secretary shall notify the  
16 Congress, within 90 days after the date of enact-  
17 ment of this Act and before the pilot project is im-  
18 plemented, of—

19 (A) the fishing season in which the pilot  
20 project will be conducted; and

21 (B) the period during which the pilot  
22 project will be conducted.

23 (2) FOLLOW-UP.—Within 90 days after the  
24 pilot project terminates the Secretary shall submit to  
25 the Congress a report containing findings with re-  
26 spect to the pilot project and the Secretary's anal-



1           (1) has been developed in consultation with af-  
2           fected parties whose participation in the plan is re-  
3           quired for its successful implementation;

4           (2) will obtain the maximum sustained reduc-  
5           tion in fishing capacity at the least cost through the  
6           use of a reverse auction process in which vessels and  
7           permits are purchased;

8           (3) will not expand the size or scope of the com-  
9           mercial fishery failure in that fishery or into other  
10          fisheries or other geographic regions;

11          (4) except as otherwise specifically provided in  
12          this section, meets the requirements of that section;  
13          and

14          (5) incorporates the components described in  
15          subsection (c) of this section.

16          (b) EXPEDITED ADOPTION OF PLAN.—In carrying  
17          out subsection (a), the Secretary—

18               (1) shall publish notice in the Federal Register  
19               within 30 days after the date of enactment of this  
20               Act of implementation of the fishing capacity reduc-  
21               tion plan;

22               (2) provide for public comment for a period of  
23               60 days after publication; and

1           (3) adopt final regulations to implement the  
2 plan within 45 days after the close of the public  
3 comment period under paragraph (2).

4           (c) PLAN COMPONENTS.—The fishery capacity re-  
5 duction plan shall—

6           (1) provide for a significant reduction in the  
7 fishing capacity in the Pacific Coast groundfish fish-  
8 eries;

9           (2) permanently revoke all State and Federal  
10 fishery licenses, fishery permits, area and species en-  
11 dorsements, and any other fishery privileges for  
12 West Coast groundfish, Pacific pink shrimp, Dunge-  
13 ness crab, and Pacific salmon (troll permits only)  
14 issued to a vessel or vessels (or to persons on the  
15 basis of their operation or ownership of that vessel  
16 or vessels) for which a Pacific Coast groundfish fish-  
17 eries reduction permit is issued under section  
18 600.1011(b) of title 50, Code of Federal Regula-  
19 tions;

20           (3) ensure that the Secretary of Transportation  
21 is notified of each vessel for which a reduction per-  
22 mit is surrendered and revoked under the program,  
23 with a request that such Secretary permanently re-  
24 voke the fishery endorsement of each such vessel and

1 refuse permission to transfer any such vessel to a  
2 foreign flag under subsection (f) of this section;

3 (4) ensure that vessels removed from the Pa-  
4 cific Coast groundfish fisheries under the program  
5 are made permanently ineligible to participate in any  
6 fishery worldwide, and that the owners of such ves-  
7 sels contractually agree that such vessels will operate  
8 only under the United States flag or be scrapped as  
9 a reduction vessel pursuant to section 600.1011(c)  
10 of title 50, Code of Federal Regulations;

11 (5) ensure that vessels removed from the Pa-  
12 cific Coast groundfish fisheries, the owners of such  
13 vessels, and the holders of fishery permits for such  
14 vessels forever relinquish any claim associated with  
15 such vessel, permits, and any catch history associ-  
16 ated with such vessel or permits that could qualify  
17 such vessel, vessel owner, or permit holder for any  
18 present or future limited access system fishing per-  
19 mits in the United States fisheries based on such  
20 vessel, permits, or catch history; and

21 (6) notwithstanding section 1111(b) of the Mer-  
22 chant Marine Act, 1936 (46 U.S.C. App.  
23 1279f(b)(4)), establish a repayment period for the  
24 reduction loan of not less than 30 years.

1 (d) FUNDING FOR BUYBACK OF VESSELS AND PER-  
2 MITS.—

3 (1) IN GENERAL.—There shall be available to  
4 the Secretary to complete the purchase of vessels  
5 and permits under the fishery capacity reduction  
6 plan the sum of \$50,000,000, of which—

7 (A) \$25,000,000 shall be from amounts  
8 appropriated to the Secretary for this purpose  
9 (the appropriation of which is hereby authorized  
10 for fiscal year 2002, with any amounts not ex-  
11 pended in fiscal year 2002 to remain available  
12 until expended); and

13 (B) \$25,000,000 shall be from an industry  
14 fee system established under subsection (e).

15 (2) ADVANCE OF INDUSTRY FEE PORTION.—  
16 The industry fee portion under paragraph (1)(B) for  
17 fiscal year 2002 and thereafter shall be financed by  
18 a reduction loan under sections 1111 and 1112 of  
19 title XI of the Merchant Marine Act, 1936 (46  
20 U.S.C. App. 1279f and 1279g).

21 (e) INDUSTRY FEES.—

22 (1) IN GENERAL.—As part of the fishery capac-  
23 ity reduction plan, the Secretary shall establish an  
24 industry fee system under section 312(d) of the  
25 Magnuson-Stevens Fishery Conservation and Man-

1       agement Act (16 U.S.C. 1861a(d)) to generate rev-  
2       enue to repay the loan provided under subsection  
3       (d)(2).

4               (2) ALLOCATION OF FEES.—The Secretary  
5       shall allocate the fees payable under the industry fee  
6       system among—

7               (A) holders of Pacific Coast groundfish  
8       permits,

9               (B) holders of Washington, Oregon, and  
10       California pink shrimp fishing permits,

11              (C) holders of Washington, Oregon, and  
12       California salmon trolling permits, and

13              (D) holders of Washington, Oregon, and  
14       California Dungeness crab fishing permits,

15       so that the percentage of the revenue generated by  
16       the fee system from holders of each kind of permit  
17       will correspond to the percentage of the total  
18       amount paid under buyback program for that kind  
19       of permit.

20       (f) DUTIES OF SECRETARY OF TRANSPORTATION.—

21              (1) REVOCATION OF ENDORSEMENT.—The Sec-  
22       retary of Transportation shall, upon notification and  
23       request by the Secretary, for each vessel identified in  
24       such notification and request—

1 (A) permanently revoke any fishery en-  
2 dorsement issued to such vessel under section  
3 12108 of title 46, United States Code; and

4 (B) refuse to grant the approval required  
5 under section 9(c)(2) of the Shipping Act, 1916  
6 (46 U.S.C. App. 808(c)(2)) for the placement  
7 of such vessel under foreign registry or the op-  
8 eration of such vessel under the authority of a  
9 foreign country.

10 (2) REGULATIONS.—The Secretary shall, after  
11 notice and opportunity for public comment, adopt  
12 final regulations not later than 6 months after the  
13 date of enactment of this Act, to prohibit any vessel  
14 for which a reduction permit is surrendered and re-  
15 voked under the fishing capacity reduction program  
16 required by this section from engaging in fishing ac-  
17 tivities on the high seas or under the jurisdiction of  
18 any foreign country while operating under the  
19 United States flag.

20 (g) REGULATORY FLEXIBILITY.—Any requirements  
21 of chapter 35 of title 44, United States Code, chapter 6  
22 of title 5, United States Code, or any Executive order that  
23 would, in the opinion of the Secretary, prevent the Sec-  
24 retary from meeting the deadlines set forth in this section  
25 shall not apply to the fishing capacity reduction program

1 or the promulgation of regulations to implement such pro-  
2 gram required by this section.

3 **SEC. 5. COLLECTION OF INDUSTRY FEES.**

4 (a) IN GENERAL.—The Secretary shall enter into an  
5 agreement with the States of California, Oregon, and  
6 Washington to collect program fees paid under the system  
7 established under section 4(e).

8 (b) WITHHOLDING FEE FROM PURCHASE PRICE.—  
9 The fee for each vessel required to pay a program fee  
10 under that system shall be deducted by the first ex-vessel  
11 fish purchaser from the proceeds otherwise payable to the  
12 seller and forwarded to the appropriate State at the same  
13 time and in the same manner as other fees or taxes are  
14 forwarded to that State.

15 (c) STATE TO COLLECT AND FORWARD FEES.—  
16 Upon receipt of program fees forwarded by fish purchasers  
17 under subsection (b), the State shall forward the fees to  
18 the Secretary in the manner provided for in the agreement  
19 established under subsection (a).

20 (d) FISH-PROCESSING VESSELS TREATED AS PUR-  
21 CHASERS.—A vessel which—

22 (1) both harvests and processes fish; or

23 (2) receives fish from a harvesting vessel and  
24 processes that fish on board,

1 shall be considered to be the first ex-vessel fish purchaser  
2 with respect to the fish processed on the vessel and shall  
3 forward the appropriate fees to the appropriate State at  
4 the same time and in the same manner as other fees or  
5 taxes are forwarded to that State.

6 **SEC. 6. AMENDMENT OF THE MERCHANT MARINE ACT, 1936,**  
7 **TO EXPAND PURPOSES OF CAPITAL CON-**  
8 **STRUCTION FUND.**

9 (a) IN GENERAL.—Section 607(a) of the Merchant  
10 Marine Act, 1936 (46 U.S.C. App. 1177(a)) is amended  
11 by striking “of this section.” and inserting “of this sec-  
12 tion. Any agreement entered into under this section may  
13 be modified for the purpose of encouraging the sustain-  
14 ability of the fisheries of the United States by making the  
15 termination and withdrawal of a capital construction fund  
16 a qualified withdrawal if done in exchange for the retire-  
17 ment of the related commercial fishing vessels and related  
18 commercial fishing permits.”.

19 (b) NEW QUALIFIED WITHDRAWALS.—

20 (1) AMENDMENTS TO MERCHANT MARINE ACT,  
21 1936.—Section 607(f)(1) of the Merchant Marine  
22 Act, 1936 (46 U.S.C. App. 1177(f)(1)) is  
23 amended—

24 (A) by striking “for:” and inserting  
25 “for—”;

1 (B) by striking “vessel,” in subparagraph  
2 (A) and inserting “vessel;”;

3 (C) by striking “vessel, or” in subpara-  
4 graph (B) and inserting “vessel;”;

5 (D) by striking “vessel.” in subparagraph  
6 (C) and inserting “vessel;”;

7 (E) by inserting after subparagraph (C)  
8 the following:

9 “(D) the payment of an industry fee au-  
10 thorized by the fishing capacity reduction pro-  
11 gram under section 312(b) of the Magnuson-  
12 Stevens Fishery Conservation and Management  
13 Act (16 U.S.C. 1861a(b));

14 “(E) in the case of any such person or  
15 shareholder for whose benefit such fund was es-  
16 tablished or any shareholder of such person, a  
17 rollover contribution (within the meaning of  
18 section 408(d)(3) of the Internal Revenue Code  
19 of 1986) to such person’s or shareholder’s indi-  
20 vidual retirement plan (as defined in section  
21 7701(a)(37) of such Code); or

22 “(F) the payment to a person or corpora-  
23 tion terminating a capital construction fund for  
24 whose benefit the fund was established and re-

1 tiring related commercial fishing vessels and  
2 permits.”; and

3 (F) by adding at the end the following:

4 “(3) The Secretary by regulation shall establish pro-  
5 cedures to ensure that any person making a qualified with-  
6 drawal authorized under paragraph (1)(F) retires the re-  
7 lated commercial use of fishing vessels and commercial  
8 fishery permits.”.

9 (2) AMENDMENTS TO INTERNAL REVENUE  
10 CODE OF 1986.—Section 7518(e)(1) of the Internal  
11 Revenue Code of 1986 (relating to purposes of quali-  
12 fied withdrawals) is amended—

13 (A) by striking “for:” and inserting  
14 “for—”;

15 (B) by striking “vessel, or” in subpara-  
16 graph (B) and inserting “vessel;”;

17 (C) by striking “vessel.” in subparagraph  
18 (C) and inserting “vessel;”;

19 (D) by inserting after subparagraph (C)  
20 the following:

21 “(D) the payment of an industry fee au-  
22 thorized by the fishing capacity reduction pro-  
23 gram under section 312 of the Magnuson-Ste-  
24 vens Fishery Conservation and Management  
25 Act (16 U.S.C. 1861a);

1           “(E) in the case of any person or share-  
2 holder for whose benefit such fund was estab-  
3 lished or any shareholder of such person, a roll-  
4 over contribution (within the meaning of section  
5 408(d)(3)) to such person’s or shareholder’s in-  
6 dividual retirement plan (as defined in section  
7 7701(a)(37)); or

8           “(F) the payment to a person terminating  
9 a capital construction fund for whose benefit  
10 the fund was established and retiring related  
11 commercial fishing vessels and permits.”; and

12           (E) by adding at the end the following:

13           “(3) REGULATIONS.—The Secretary by regula-  
14 tion shall establish procedures to ensure that any  
15 person making a qualified withdrawal authorized by  
16 subparagraph (F) retires the related commercial use  
17 of fishing vessels and commercial fishery permits.”.

18           (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to withdrawals made after the date  
20 of enactment of this Act.

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