

107TH CONGRESS  
2D SESSION

# H. R. 4749

To reauthorize the Magnuson-Stevens Fishery Conservation and Management Act, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2002

Mr. GILCHREST introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To reauthorize the Magnuson-Stevens Fishery Conservation and Management Act, 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 “Magnuson-Stevens Act  
5 Amendments of 2002”.

6 **SEC. 2. AMENDMENT OF MAGNUSON-STEVEN'S FISHERY**  
7 **CONSERVATION AND MANAGEMENT ACT.**

8 Except as otherwise expressly provided, whenever in  
9 this Act an amendment or repeal is expressed in terms  
10 of an amendment to, or repeal of, a section or other provi-

1 sion, the reference shall be considered to be made to a  
2 section or other provision of Magnuson-Stevens Fishery  
3 Conservation and Management Act (16 U.S.C. 1801 et  
4 seq.).

5 **SEC. 3. REPORT ON OVER CAPITALIZATION.**

6 (a) IN GENERAL.—The Secretary shall, within 12  
7 months after the date of the enactment of this Act, submit  
8 to the Congress a report—

9 (1) identifying and describing the 20 fisheries  
10 in United States waters with the most severe exam-  
11 ples of excess harvesting capacity in the fisheries,  
12 based on value of each fishery and the amount of ex-  
13 cess harvesting capacity as determined by the Sec-  
14 retary;

15 (2) recommending measures for reducing such  
16 excess harvesting capacity, including the retirement  
17 of any latent fishing permits that could contribute to  
18 further excess harvesting capacity in those fisheries;  
19 and

20 (3) potential sources of funding for such meas-  
21 ures.

22 (b) BASIS FOR RECOMMENDATIONS.—The Secretary  
23 shall base the recommendations made with respect to a  
24 fishery on—

1           (1) the most cost effective means of achieving  
2 voluntary reduction in capacity for the fishery using  
3 the potential for industry financing; and

4           (2) including measures to prevent the capacity  
5 that is being removed from the fishery from moving  
6 to other fisheries in the United States, in the waters  
7 of a foreign nation, or in the high seas.

8 **SEC. 4. BUYOUT PROVISIONS.**

9           (a) DISCRETION OF SECRETARY TO CONDUCT FISH-  
10 ING CAPACITY REDUCTION PROGRAM.—Section 312(b)  
11 (16 U.S.C. 1861a(b)) is amended—

12           (1) in paragraph (1) by striking “, at the re-  
13 quest of the appropriate Council for fisheries under  
14 the authority of such Council, or the Governor of a  
15 State for fisheries under State authority,”;

16           (2) in paragraph (1), by inserting “that is man-  
17 aged under a limited access system authorized by  
18 section 303(b)(6),” after “in a fishery”; and

19           (3) by redesignating paragraph (4) as para-  
20 graph (5), and by inserting after paragraph (3) the  
21 following:

22           “(4) The Council, or the Governor of a State, having  
23 authority over a fishery may request the Secretary to con-  
24 duct a fishing capacity reduction program in the fishery  
25 under this subsection.”.

1 (b) REQUIREMENT TO SURRENDER ALL PERMITS.—  
2 Section 312(b)(2) (16 U.S.C. 1861a(b)(2)) is amended to  
3 read as follows:

4 “(2)(A) The objective of the program shall be to ob-  
5 tain the maximum sustained reduction in fishing capacity  
6 at the least cost and in a minimum period of time.

7 “(B) To achieve that objective, the Secretary is au-  
8 thorized to pay an amount to the owner of a fishing vessel,  
9 if—

10 “(i) such vessel is scrapped, or through the Sec-  
11 retary of the department in which the Coast Guard  
12 is operating, subjected to title restrictions that per-  
13 manently prohibit and effectively prevent its use in  
14 fishing;

15 “(ii) all permits authorizing the participation of  
16 the vessel in any fishery under the jurisdiction of the  
17 United States are surrendered for permanent revoca-  
18 tion; and

19 “(iii) the owner of the vessel and such permits  
20 relinquishes any claim associated with the vessel and  
21 such permits that could qualify such owner for any  
22 present or future limited access system permit in the  
23 fishery for which the program is established.”.

24 (c) ENSURING VESSELS DO NOT ENTER FOREIGN  
25 OR HIGH SEAS FISHERIES.—Section 312(b) (16 U.S.C.

1 1861a(b)) is further amended by adding at the end the  
2 following:

3 “(5) The Secretary may not make a payment under  
4 paragraph (2) with respect to a vessel that will not be  
5 scrapped, unless the Secretary certifies that the vessel will  
6 not be used for any fishing, including fishing in the waters  
7 of a foreign nation and fishing on the high seas.”.

8 **SEC. 5. DATA COLLECTION.**

9 (a) COLLECTION OF RECREATIONAL CATCH DATA.—  
10 Section 402 (16 U.S.C. 1881a) is amended by adding at  
11 the end the following:

12 “(f) COLLECTION OF RECREATIONAL CATCH  
13 DATA.—(1) The Secretary shall develop and implement a  
14 program for the sharing of recreational catch data for all  
15 federally managed fisheries through the use of information  
16 gathered from State-licensed recreational fishermen.

17 “(2) The Secretary shall conduct the program in con-  
18 sultation with the principle State officials having marine  
19 fishery management responsibility and expertise.

20 “(3) The Secretary shall report to the Congress with-  
21 in three years after the effective date of this subsection,  
22 on—

23 “(A) the progress made in developing such a  
24 program; and

1           “(B) whether the program has resulted in sig-  
2           nificantly better data collection for the recreational  
3           fishing sector.”.

4           (b) REPORT.—Not later than 6 months after the date  
5           of the enactment of this Act, the Secretary of Commerce  
6           shall submit to the Congress a report describing the fol-  
7           lowing:

8                   (1) Economic data from United States proc-  
9                   essors that is necessary to conduct fishing commu-  
10                  nity and economic analysis determinations required  
11                  under chapter 6 of title 5, United States Code, pop-  
12                  ularly known as the Regulatory Flexibility Act.

13                   (2) The reasons why such information is not  
14                  available through other sources such as tax returns,  
15                  the Bureau of Labor Statistics, and State labor de-  
16                  partments.

17                   (3) The steps the Secretary would take under  
18                  section 402 of the Magnuson-Stevens Fishery Con-  
19                  servation and Management Act (16 U.S.C. 1881a)  
20                  to ensure the confidentiality of such information (es-  
21                  pecially proprietary information), if the information  
22                  were obtained by the Secretary.

23 **SEC. 6. ECOSYSTEM-BASED MANAGEMENT.**

24           (a) POLICY.—Section 2(c) (16 U.S.C. 1851(c)) by  
25           striking “and” after the semicolon at the end of paragraph

1 (6), by striking the period at the end of paragraph (7)  
2 and inserting “; and”, and by adding at the end the fol-  
3 lowing:

4           “(8) to support and encourage efforts to under-  
5 stand the interactions of species in the marine envi-  
6 ronment and the development of ecosystem-based  
7 approaches to fisheries conservation and manage-  
8 ment that will lead to better stewardship and sus-  
9 tainability of the Nation’s coastal fishery resources  
10 and fishing communities.”.

11       (b) AUTHORIZATION OF RESEARCH.—Section 404(c)  
12 (16 U.S.C. 1881c(e)) is amended by adding at the end  
13 the following:

14           “(5) The interaction of species in the marine  
15 environment, and the development of ecosystem-  
16 based approaches to fishery conservation and man-  
17 agement that will lead to better stewardship and  
18 sustainability of coastal fishery resources.”.

19       (c) DEFINITIONS AND CRITERIA FOR MANAGEMENT  
20 PLANS.—

21           (1) IN GENERAL.—The Secretary shall, in con-  
22 junction with the Councils—

23                   (A) create a definition for “ecosystem” and  
24                   for “marine ecosystem”; and

1 (B) establish criteria for the development  
2 of ecosystem-based management plans by each  
3 regional fishery management council based on  
4 the recommendations of the Ecosystems Prin-  
5 ciples Advisory Panel.

6 (2) REPORT.—The Secretary shall report to the  
7 Congress within 2 years after the date of the enact-  
8 ment of this Act on the criteria, including an identi-  
9 fication and description of those criteria for which  
10 sufficient data is not available.

11 (d) IDENTIFICATION OF MARINE ECOSYSTEMS; RE-  
12 SEARCH PLAN.—

13 (1) IN GENERAL.—Within one year after the  
14 date of the submission of the report under sub-  
15 section (c)(2) to the Congress, the Secretary, in con-  
16 junction with the regional science centers and the re-  
17 gional fishery management councils, shall—

18 (A) identify specific marine ecosystems  
19 within each region; and

20 (B) also develop and begin to implement  
21 regional research plans to meet the information  
22 deficit identified in the report.

23 (2) RESEARCH PLANS.—The research plans  
24 shall suggest reasonable timelines and cost estimates  
25 for the collection of the required information.

1           (3) REPORTS.—The Secretary shall report to  
2           the Congress annually on the progress of the re-  
3           gional research plans.

4           (e) ECOSYSTEM-BASED FISHERY MANAGEMENT  
5 PLAN PILOT PROGRAM.—

6           (1) IN GENERAL.—Upon the completion of de-  
7           velopment of regional research plans under sub-  
8           section (d)(1), the Secretary of Commerce shall es-  
9           tablish and begin implementing a pilot program for  
10          the management of one fishery on the east coast of  
11          the United States and one fishery on the west coast  
12          of the United States under an ecosystem-based fish-  
13          ery management plan under the Magnuson-Stevens  
14          Fishery Conservation and Management Act.

15          (2) CONSULTATION.—The Secretary shall de-  
16          velop and implement ecosystem-based fishery man-  
17          agement plans under this subsection in consultation  
18          with the appropriate Regional Fishery Management  
19          Councils.

20          (f) DISCRETIONARY PROVISION IN FISHERY MAN-  
21          AGEMENT PLANS.—Section 303(b)(12) (16 U.S.C.  
22          1853(b)(12)) is amended by inserting before the period  
23          the following: “or for the health or stability of the marine  
24          ecosystem”.

1 **SEC. 7. OBSERVERS.**

2 (a) IN GENERAL.—Not later than one year after the  
3 date of the enactment of this Act, the Secretary shall re-  
4 port to the Congress on the needs for a national observer  
5 program.

6 (b) RECOMMENDATIONS.—The report shall make rec-  
7 ommendations on observation options, including electronic  
8 data collection technologies and on-board observers.

9 (c) The Secretary, in the report, shall include the fol-  
10 lowing:

11 (1) A determination of whether the data collec-  
12 tion needs are for management or enforcement pur-  
13 poses.

14 (2) A statement of the level of observer cov-  
15 erage necessary in various types of fisheries to pro-  
16 vide statistically reliable information.

17 (3) Cost estimates for various levels of observer  
18 coverage.

19 (4) Options for the funding of observer cov-  
20 erage.

21 (5) The types of vessels and fisheries for which  
22 observer coverage cannot be required due to safety  
23 concerns.

24 (6) Recommendations for the use of the data  
25 gathered by the observing systems.

1           (7) Recommendations for the confidentiality of  
2           proprietary information collected through the pro-  
3           gram.

4 **SEC. 8. OVERFISHING.**

5           (a) CLARIFICATION OF DEFINITION.—Section 3(29)  
6 (16 U.S.C. 1802(29)) is amended to read as follows:

7           “(29)(A) The term ‘overfished’ means, with re-  
8           spect to a stock of fish, that the stock is of a size  
9           that is below the natural range of fluctuation associ-  
10          ated with the production of maximum sustainable  
11          yield.

12          “(B) The term ‘overfishing’ means a rate or  
13          level of fishing mortality that jeopardizes the capac-  
14          ity of a fishery to produce the maximum sustainable  
15          yield on a continuing basis.”.

16          (b) DISTINGUISHING IN REPORTS.—Section  
17 304(e)(1) (16 U.S.C. 1854(e)(1)) is amended by inserting  
18 after paragraph (1) the following: “The report shall distin-  
19 guish between fisheries that are overfished (or approach-  
20 ing that condition) as a result of fishing and fisheries that  
21 are overfished (or approaching that condition) as a result  
22 of factors other than fishing. The report shall state, for  
23 each fishery identified as overfished or approaching that  
24 condition, whether the fishery is the target of directed  
25 fishing.”.

1 **SEC. 9. BYCATCH.**

2 (a) DEFINITION.—Section 3(2) (16 U.S.C. 1802(2))  
3 is amended in the first sentence by inserting “and  
4 seabirds” after “regulatory discards”.

5 (b) REPORTING METHODOLOGY.—Section  
6 303(a)(11) is amended—

7 (1) by striking “establish a standardized” and  
8 inserting “within one year after the date of the en-  
9 actment of the Magnuson-Stevens Act Amendments  
10 of 2002, establish and begin implementing a stand-  
11 ardized”; and

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

13 “except that if such a methodology cannot be estab-  
14 lished or implemented within such one-year period,  
15 the Council or the Secretary shall publish a report  
16 explaining the reasons why, and the Secretary shall  
17 take appropriate action to address those reasons;”.

18 (c) CHARITABLE DONATION OF BYCATCH.—Section  
19 303(b) (16 U.S.C. 1853(b)) is amended by striking “and”  
20 after the semicolon at the end of paragraph (11), by strik-  
21 ing the period at the end of paragraph (12) and inserting  
22 “; and”, and by adding at the end the following:

23 “(13) allow the retention and donation for char-  
24 itable purposes of all dead bycatch that cannot oth-  
25 erwise be avoided under terms that ensure, through  
26 the use of onboard fishery observers or other means,

1 that such retention and donation do not allow the  
2 evasion of vessel trip limits, total allowable catch lev-  
3 els, or other conservation and management meas-  
4 ures.”.

5 (d) BYCATCH REDUCTION GEAR DEVELOPMENT.—

6 (1) IN GENERAL.—Title IV (1 U.S.C. 1881 et  
7 seq.) is amended by adding at the end the following:

8 **“SEC. 408. GEAR DEVELOPMENT.**

9 “(a) IDENTIFICATION OF FISHERIES WITH SIGNIFI-  
10 CANT BYCATCH PROBLEMS.—(1) The Secretary, in con-  
11 junction with the Councils, shall identify and publish in  
12 the Federal Register a list of fisheries with significant by-  
13 catch problems, as determined under criteria developed by  
14 the Secretary.

15 “(2) The list shall contain, for each fishery identified,  
16 information on—

17 “(A) the number of participants in the fishery;

18 “(B) the types of gears used in the fishery;

19 “(C) the bycatch species;

20 “(D) the amount of bycatch, and the percent-  
21 age of total catch that is bycatch; and

22 “(E) any other relevant information.

23 “(3) The Secretary shall solicit comments on each list  
24 published under this subsection.

1       “(b) IDENTIFICATION OF FISHERIES WITH MOST  
2 URGENT BYCATCH PROBLEMS.—The Secretary shall—

3           “(1) identify those fisheries included in a list  
4       under paragraph (1) that have the most urgent by-  
5       catch problems, based on comments received regard-  
6       ing the list; and

7           “(2) work in conjunction with the Councils and  
8       fishing industry participants to develop new fishing  
9       gear, or modifications to existing fishing gear, that  
10      will help minimize bycatch to the extent practicable.

11      “(c) GRANT AUTHORITY.—The Secretary shall, sub-  
12     ject to the availability of appropriations, make grants for  
13     the development of fishing gear and modifications to exist-  
14     ing fishing gear that will help—

15           “(1) minimize bycatch; and

16           “(2) minimize adverse fishing gear impacts on  
17     habitat areas of particular concern.

18      “(d) REPORT.—The Secretary shall report to the  
19     Congress annually on—

20           “(1) the amount expended to implement this  
21     section in the preceding year;

22           “(2) developments in gear technology achieved  
23     under this section;

24           “(3) the reductions in bycatch associated with  
25     implementation of this section; and

1 “(4) any other relevant information.

2 “(e) AUTHORIZATION OF APPROPRIATIONS.—To  
3 carry out this section there is authorized to be appro-  
4 priated to the Secretary \$10,000,000 for each of fiscal  
5 years 2003 through 2007.”.

6 (2) CLERICAL AMENDMENT.—The table of con-  
7 tents in the first section is amended by add at the  
8 end of the items relating to title IV the following:

“Sec. 408. Gear development.”.

9 **SEC. 10. FISH HABITAT RESEARCH AND PROTECTION.**

10 (a) PRIORITY RESEARCH.—Section 404 (16 U.S.C.  
11 1881c) is amended by adding at the end the following:

12 “(e) PRIORITY FOR RESEARCH REGARDING OVER-  
13 FISHED FISHERIES.—In carrying out or funding fisheries  
14 research under this and other laws regarding essential fish  
15 habitat, the Secretary shall give priority to research to  
16 identify such habitat for fisheries that are overfished or  
17 approaching an overfished condition.”.

18 (b) REQUIRED PROVISION IN FISHERY MANAGE-  
19 MENT PLANS.—Section 303(a)(7) (16 U.S.C. 1853(a)(7))  
20 is amended to read as follows:

21 “(7)(A) describe and identify essential fish  
22 habitat for the fishery based on the guidelines estab-  
23 lished by the Secretary under section 305(b)(1)(A);

24 “(B) minimize to the extent practicable adverse  
25 effects on such habitat caused by fishing for those

1 fisheries identified by the Council as having available  
2 information on the growth, reproduction, or survival  
3 rates within habitats or production rates by habitat,  
4 or for those fisheries that the Council determines the  
5 specific fishing activity effects on the essential fish  
6 habitat jeopardize the ability of the fishery to  
7 produce maximum sustained yield on a continuing  
8 basis;

9 “(C) minimize to the extent practicable adverse  
10 effects on habitat areas of particular concern caused  
11 by fishing; and

12 “(D) identify other actions to encourage the  
13 conservation and enhancement of such habitat;”.

14 (c) DISCRETIONARY PROVISION IN FISHERY MAN-  
15 AGEMENT PLANS.—Section 303(b) (16 U.S.C. 1853(b))  
16 is amended by striking “and” after the semicolon at the  
17 end of paragraph (11), by striking the period at the end  
18 of paragraph (12) and inserting a semicolon, and by add-  
19 ing at the end the following:

20 “(13) minimize to the extent practicable ad-  
21 verse effects caused by fishing, on essential fish  
22 habitat described and identified under section  
23 303(a)(7)(A); and”.

1 (d) HABITAT AREA OF PARTICULAR CONCERN.—  
2 Section 3 (16 U.S.C. 1802) is amended by adding at the  
3 end the following:

4 “(46) The term ‘habitat area of particular con-  
5 cern’ means any discrete habitat area that is essen-  
6 tial fish habitat and that—

7 “(A) provides important ecological func-  
8 tions;

9 “(B) is sensitive to human-induced envi-  
10 ronmental degradation; or

11 “(C) is a rare habitat type.”.

12 **SEC. 11. DEMONSTRATION PROGRAM FOR OYSTER SANC-**  
13 **TUARIES AND RESERVES.**

14 (a) IN GENERAL.—The Secretary of Commerce,  
15 through the National Oceanic and Atmospheric Adminis-  
16 tration Chesapeake Bay Office, shall develop a program  
17 for the design, construction, and placement of oyster sanc-  
18 tuaries or reserves consistent with the agreement known  
19 as the Chesapeake 2000 Agreement. The program shall  
20 be developed in conjunction with the Corps of Engineers,  
21 the Coast Guard, the Environmental Protection Agency,  
22 the State of Maryland, the Commonwealth of Virginia, the  
23 Oyster Recovery Partnership, the Chesapeake Bay Foun-  
24 dation, the Oyster Heritage Foundation, local commercial  
25 and recreational fishing organizations, the Port of Balti-

1 more, the University of Maryland, the Virginia Institute  
2 of Marine Sciences, and other users of the waters of the  
3 Chesapeake Bay, as appropriate.

4 (b) ARTIFICIAL STRUCTURES OR REEFS.—The pro-  
5 gram shall include the design, construction, and placement  
6 of artificial structures or reefs to act as beds for oyster  
7 production. The placement of these structures and reefs  
8 should be designed to maximize the production of oysters  
9 while minimizing conflicts with existing uses such as fish-  
10 ing or navigation. The structures and reefs shall be placed  
11 in areas which will not be hazards to navigation. The Sec-  
12 retary shall work with interested parties to ensure that  
13 all sites are adequately marked on navigation charts as  
14 appropriate.

15 (c) RESEARCH PLAN.—The Secretary shall develop  
16 a research plan for the placement of artificial structures  
17 and reefs under the program, including measurable goals  
18 and a monitoring program to determine the effectiveness  
19 of the structures and reefs in recovering native oyster pop-  
20 ulations.

21 (d) NO FISHING REGULATIONS.—The Secretary shall  
22 recommend State regulations prohibiting fishing in the  
23 waters surrounding artificial structures or reefs placed  
24 under this section as necessary to ensure the reproduction  
25 of oysters on the structures and reefs. The restrictions

1 may be seasonal in nature, and shall not apply in any area  
2 that is located more than 100 meters from such a struc-  
3 ture or reef.

4 (e) RESTORATION OF NATIVE OYSTERS.—The pro-  
5 gram shall use only native oyster species.

6 (f) REPORT.—The Secretary of Commerce shall sub-  
7 mit to the Congress annual reports on the program under  
8 this section.

9 (g) AUTHORIZATION OF APPROPRIATIONS.—

10 (1) IN GENERAL.—To carry out this section  
11 there is authorized to be appropriated to the Sec-  
12 retary \$5,000,000 for each of fiscal years 2004  
13 through 2009.

14 (2) LIMITATION.—Not more than 5 percent of  
15 amounts appropriated under this section may be  
16 available for administrative expenses.

17 **SEC. 12. INDIVIDUAL QUOTA LIMITED ACCESS PROGRAMS.**

18 (a) AUTHORITY TO ESTABLISH INDIVIDUAL QUOTA  
19 SYSTEMS.—Section 303(b)(6) (16 U.S.C. 1853(b)(6)) is  
20 amended to read as follows:

21 “(6) establish a limited access system for the  
22 fishery in order to achieve optimum yields, if—

23 “(A) in developing such system, the Coun-  
24 cils and the Secretary take into account—

25 “(i) the need to promote conservation,

1 “(ii) present participation in the fish-  
2 ery,

3 “(iii) historical fishing practices in,  
4 and dependence on, the fishery,

5 “(iv) the economics of the fishery,

6 “(v) the capability of fishing vessels  
7 used in the fishery to engage in other fish-  
8 eries,

9 “(vi) the cultural and social frame-  
10 work relevant to the fishery and fishing  
11 communities, and

12 “(vii) any other relevant consider-  
13 ations; and

14 “(B) in the case of such a system that pro-  
15 vides for the allocation and issuance of indi-  
16 vidual quotas (as that term is defined in sub-  
17 section (d)), the system complies with sub-  
18 section (d).”.

19 (b) REQUIREMENTS.—Section 303(d) (16 U.S.C.  
20 1853(d)) is amended—

21 (1) by redesignating paragraphs (2), (3), (4),  
22 and (5) in order as paragraphs (11), (12), (13), and  
23 (14);

24 (2) in paragraph (12)(B), as so redesignated,  
25 by inserting “, including as a result of a violation of

1 this Act or any regulation prescribed under this  
2 Act” before the semicolon;

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

4 “(15) As used in this subsection:

5 “(A) The term ‘individual quota system’ means  
6 a system that limits access to a fishery in order to  
7 achieve optimum yields, through the allocation and  
8 issuance of individual quotas.

9 “(B) The term ‘individual quota’ means a grant  
10 of permission to harvest or process a quantity of fish  
11 in a fishery, during each fishing season for which  
12 the permission is granted, equal to a stated percent-  
13 age of the total allowable catch for the fishery.”; and

14 (4) by striking so much as precedes paragraph  
15 (11), as so designated, and inserting the following:

16 “(d) SPECIAL PROVISIONS FOR INDIVIDUAL QUOTA  
17 SYSTEMS.—(1) A fishery management plan for a fishery  
18 that is managed under a limited access system authorized  
19 by subsection (b)(6) may establish an individual quota sys-  
20 tem for the fishery in accordance with this subsection.

21 “(2) A fishery management plan that establishes an  
22 individual quota system for a fishery—

23 “(A) shall provide for administration of the sys-  
24 tem by the Secretary in accordance with the terms  
25 of the plan;

1           “(B) shall include provisions that establish pro-  
2           cedures and requirements for each Council having  
3           authority over the fishery, for—

4                   “(i) reviewing and revising the terms of  
5                   the plan that establish the system; and

6                   “(ii) renewing, reallocating, and reissuing  
7                   individual quotas if determined appropriate by  
8                   each Council;

9           “(C) shall include provisions to—

10                   “(i) provide for fair and equitable alloca-  
11                   tion of individual quotas under the system, and  
12                   minimize negative social and economic impacts  
13                   of the system on fishing communities;

14                   “(ii) ensure adequate enforcement of the  
15                   system, including the use of observers where  
16                   appropriate; and

17                   “(iii) provide for monitoring the temporary  
18                   or permanent transfer of individual quotas  
19                   under the system;

20           “(D) shall include provisions that prevent any  
21           person from acquiring an excessive share of indi-  
22           vidual quotas issued for a fishery; and

23           “(E) shall include measurable conservation  
24           goals.

1       “(3) An individual quota issued under an individual  
2 quota system established by a fishery management plan  
3 may be received, held, or transferred in accordance with  
4 regulations prescribed by the Secretary under this Act.

5       “(4)(A) Except as otherwise provided in this para-  
6 graph, any fishery management plan that establishes an  
7 individual quota system for a fishery may authorize indi-  
8 vidual quotas to be held by or issued under the system  
9 to fishing vessel owners, fishermen, crew members, fishing  
10 communities, other persons as specified by the Council,  
11 and United States fish processors.

12       “(B) An individual who is not a citizen of the United  
13 States may not hold an individual quota issued under a  
14 fishery management plan.

15       “(C) A Federal agency or official may not hold, ad-  
16 minister, or reallocate an individual quota issued under  
17 a fishery management plan, other than the Secretary and  
18 the Council having authority over the fishery for which  
19 the individual quota is issued.

20       “(D)(i) A fishing community may not hold individual  
21 quotas under an individual quota system established under  
22 this subsection for a fishery that authorize harvest of more  
23 than the lesser of—

24               “(I) 1 percent of the total authorized harvest in  
25       the fishery; or

1           “(II) a percentage of such total authorized har-  
2 vest established by the Council having jurisdiction  
3 over the fishery.

4           “(ii) This subparagraph does not apply to a commu-  
5 nity that is eligible to participate in the western Alaska  
6 community development program or the western Pacific  
7 community development program, under section 305(i).

8           “(5) Any fishery management plan that establishes  
9 an individual quota system for a fishery may include provi-  
10 sions that—

11           “(A) allocate individual quotas under the sys-  
12 tem among categories of vessels; and

13           “(B) provide a portion of the annual harvest in  
14 the fishery for entry-level fishermen, small vessel  
15 owners, or crew members who do not hold or qualify  
16 for individual quotas.

17           “(6) An individual quota system established for a  
18 fishery may be limited or terminated at any time by the  
19 Secretary or through a fishery management plan or  
20 amendment developed by the Council having authority  
21 over the fishery for which it is established, if necessary  
22 for the conservation and management of the fishery.

23           “(7)(A) A fishery management plan that establishes  
24 an individual quota system for a fishery—

1           “(i) must include measurable conservation  
2 goals; and

3           “(ii) to monitor achievement of such goals, may  
4 require greater observer coverage or electronic data  
5 collection technology on any vessel fishing under an  
6 individual quota issued under the system.

7           “(B) Not later than 5 years after the date of the es-  
8 tablishment of an individual quota system for a fishery  
9 under this section by a Council or the Secretary, and every  
10 5 years thereafter, the Council or Secretary, respectively,  
11 shall review the effectiveness of the system in achieving  
12 the conservation goals required under this paragraph.

13           “(8)(A) The Secretary or a Council—

14           “(i) may not develop a proposal to establish an  
15 individual quota system for a fishery, unless develop-  
16 ment of the proposal has been approved by a ref-  
17 erendum conducted in accordance with this para-  
18 graph; and

19           “(ii) may not issue a proposed fishery manage-  
20 ment plan or amendment to such a plan to establish  
21 such a system unless the proposed plan or amend-  
22 ment, respectively, has been approved by a ref-  
23 erendum conducted in accordance with this para-  
24 graph.

1           “(B) The Secretary, at the request of a Council, shall  
2 conduct the referenda required by subparagraph (A). Each  
3 referendum with respect to a fishery shall be decided by  
4 a 60-percent majority of the votes cast by persons who  
5 are determined by the Council, based on guidelines devel-  
6 oped by the Secretary, to be eligible to vote in the ref-  
7 erendum.

8           “(C) The Secretary shall develop guidelines to deter-  
9 mine procedures and voting eligibility requirements for  
10 referenda and to conduct such referenda in a fair and eq-  
11 uitable manner.

12           “(9) Any individual quota system established under  
13 section 303(b)(6) after the date of enactment of the Mag-  
14 nuson-Stevens Act Amendments of 2002, and any indi-  
15 vidual quota issued under such a system, shall not apply  
16 after the end of the 10-year period beginning on the date  
17 the system is established, or after the end of any 10-year  
18 period thereafter, unless the Council has reviewed and  
19 taken affirmative action to continue the system before the  
20 end of each such 10-year period.”.

21           (c) FEES.—Section 304(d) is amended—

22                   (1) in paragraph (2)(A) by striking “any” and  
23                   all that follows through “(ii)” and inserting “any”;  
24                   and

25                   (2) by adding at the end the following:

1       “(3)(A) Notwithstanding paragraph (1), the Sec-  
2 retary shall collect from a person that holds or transfers  
3 an individual quota issued under a limited access system  
4 established under section 303(b)(6) fees established by the  
5 Secretary in accordance with this section and section  
6 9701(b) of title 31, United States Code.

7       “(B) The fees required to be established and collected  
8 by the Secretary under this paragraph are the following:

9           “(i) With respect to any initial allocation under  
10 a limited access system established after the date of  
11 the enactment of the Magnuson-Stevens Act Amend-  
12 ments of 2002, an initial allocation fee in an  
13 amount, determined by the Secretary, equal to 1  
14 percent of the ex-vessel value of fish authorized in  
15 one year under an individual quota, that shall be col-  
16 lected from the person to whom the individual quota  
17 is first issued.

18           “(ii) An annual fee in an amount, determined  
19 by the Secretary, not to exceed 3 percent of the ex-  
20 vessel value of fish authorized each year under an  
21 individual quota share, that shall be collected from  
22 the holder of the individual quota share.

23           “(iii) A transfer fee in an amount, determined  
24 by the Secretary, equal to 1 percent of the ex-vessel  
25 value of fish authorized each year under an indi-

1       vidual quota share, that shall be collected from a  
2       person who permanently transfers the individual  
3       quota share to another person.

4       “(C) In determining the amount of a fee under this  
5       paragraph, the Secretary shall ensure that the amount is  
6       commensurate with the cost of managing the fishery with  
7       respect to which the fee is collected, including reasonable  
8       costs for salaries, data analysis, and other costs directly  
9       related to fishery management and enforcement.

10       “(D) The Secretary, in consultation with the Coun-  
11       cils, shall promulgate regulations prescribing the method  
12       of determining under this paragraph the ex-vessel value  
13       of fish authorized under an individual quota share, the  
14       amount of fees, and the method of collecting fees.

15       “(E) Fees collected under this paragraph from hold-  
16       ers of individual quotas in a fishery shall be an offsetting  
17       collection and shall be available to the Secretary only for  
18       the purposes of administering and implementing this Act  
19       with respect to that fishery.”.

20       (d) APPROVAL OF FISHERY MANAGEMENT PLANS  
21       ESTABLISHING INDIVIDUAL QUOTA SYSTEMS.—Section  
22       304 (16 U.S.C. 1854) is amended by adding at the end  
23       the following:

24       “(i) ACTION ON LIMITED ACCESS SYSTEMS.—(1) In  
25       addition to the other requirements of this Act, after the

1 date of the enactment of the Magnuson-Stevens Act  
2 Amendments of 2002 the Secretary may not approve a  
3 fishery management plan that establishes a limited access  
4 system that provides for the allocation of individual quotas  
5 (in this subsection referred to as an ‘individual quota sys-  
6 tem’) unless the plan complies with section 303(d).

7 “(2) The Secretary shall issue regulations that estab-  
8 lish requirements for establishing an individual quota sys-  
9 tem. The regulations shall—

10 “(A) specify factors that shall be considered by  
11 a Council in determining whether a fishery should be  
12 managed under an individual quota system;

13 “(B) ensure that any individual quota system is  
14 consistent with the requirements of sections 303(a)  
15 and 303(d), and require the collection of fees in ac-  
16 cordance with subsection (d)(3) of this section;

17 “(C) provide for appropriate penalties for viola-  
18 tions of individual quotas systems, including the sus-  
19 pension or revocation of individual quotas for such  
20 violations;

21 “(D) include recommendations for potential  
22 management options related to individual quotas, in-  
23 cluding the authorization of individual quotas that  
24 may not be transferred by the holder, and the use  
25 of leases or auctions by the Federal Government in

1 the establishment or allocation of individual quotas;  
2 and

3 “(E) establish a central lien registry system for  
4 the identification, perfection, and determination of  
5 lien priorities, and nonjudicial foreclosure of encum-  
6 brances, on individual quotas.”.

7 (e) RESTRICTION ON NEW INDIVIDUAL QUOTA SYS-  
8 TEMS PENDING REGULATIONS.—

9 (1) RESTRICTION.—The Secretary of Commerce  
10 may not approve any covered quota system plan, and  
11 no covered quota system plan shall take effect,  
12 under title III of the Magnuson-Stevens Fishery  
13 Conservation and Management Act, before the effec-  
14 tive date of regulations issued by the Secretary  
15 under section 304(i) of that Act, as added by sub-  
16 section (d) of this section.

17 (2) COVERED QUOTA SYSTEM PLAN DE-  
18 FINED.—In this subsection, the term “covered quota  
19 system plan” means a fishery management plan or  
20 amendment to a fishery management plan, that—

21 (A) proposes establishment of an individual  
22 quota system (as that term is used in section  
23 303(d) of the Magnuson-Stevens Fishery Con-  
24 servation and Management Act, as amended by  
25 this section); and

1 (B) is not approved by the Secretary be-  
2 fore May 1, 2002.

3 (f) EXISTING QUOTA PLANS.—Nothing in this Act  
4 or the amendments made by this Act shall be construed  
5 to require a reallocation of individual fishing quotas under  
6 any individual fishing quota program approved by the Sec-  
7 retary of Commerce before May 1, 2002.

8 **SEC. 13. COOPERATIVE EDUCATION AND RESEARCH.**

9 (a) DISCRETIONARY PROVISIONS IN FISHERY MAN-  
10 AGEMENT PLANS.—Section 303(b) (16 U.S.C. 1853(b))  
11 is further amended by striking “and” after the semicolon  
12 at the end of paragraph (11), by striking the period at  
13 the end of paragraph (12) and inserting a semicolon, and  
14 by adding at the end the following:

15 “(14) include provisions to create a cooperative  
16 research component including the use of commercial  
17 or charter vessels for the gathering of data on stock  
18 abundance, composition, distribution, or other rel-  
19 evant information important for the implementation  
20 of the plan.”.

21 (b) BLACK SEA BASS.—Section 404 (16 U.S.C.  
22 1881c) is amended by adding at the end the following:

23 “(f) BLACK SEA BASS COOPERATIVE RESEARCH  
24 PROGRAM.—The Secretary, through the New England  
25 Fisheries Science Center, shall develop and implement a

1 cooperative stock assessment program, using vessels from  
2 the commercial black sea bass fishing industry if appro-  
3 priate and available. This cooperative program shall in-  
4 clude research on the range of the stock, a determination  
5 as to whether there is more than one stock, and a black  
6 sea bass genetic study to determine whether there is more  
7 than one stock of such species requiring different manage-  
8 ment regimes.”.

9 **SEC. 14. REPORT ON HIGHLY MIGRATORY SPECIES.**

10 Section 102 (16 U.S.C. 1812) is amended—

11 (1) by inserting “(a) IN GENERAL.—” before  
12 “The United States”; and

13 (2) by adding at the end the following:

14 “(b) ANNUAL REPORT.—The Secretary shall, within  
15 one year after the date of the enactment of this subsection  
16 and annually thereafter, report to the Congress on—

17 “(1) any nation that is fishing for Atlantic  
18 highly migratory species and is not in compliance  
19 with the fishery conservation and management provi-  
20 sions or any rebuilding recommendations or provi-  
21 sions enacted by the international body charged with  
22 developing such measures; and

23 “(2) any recommendations for addressing those  
24 nations identified under paragraph (1) and actions

1 the United States might take to ensure such compli-  
2 ance by such nations.”.

3 **SEC. 15. PROHIBITED ACTS.**

4 Section 307 (16 U.S.C. 1857) is amended by striking  
5 “and” after the semicolon at the end of paragraph (4),  
6 by striking the period at the end of paragraph (5) and  
7 inserting “; and”, and by adding at the end the following:  
8 “(6) to sell or purchase any fish caught in rec-  
9 reational fishing.”.

10 **SEC. 16. MEMBERSHIP OF FISHERY MANAGEMENT COUN-**  
11 **CILS.**

12 (a) **NEW ENGLAND COUNCIL.**—Section 302(a)(1)(A)  
13 (16 U.S.C. 1852(a)(1)(A)) is amended by—

14 (1) inserting “New York,” after “Massachu-  
15 setts,”; and

16 (2) striking “18” and inserting “19”.

17 (b) **ADDITIONAL MEMBER OF EACH COUNCIL.**—Sec-  
18 tion 302 (16 U.S.C. 1852) is further amended as follows:

19 (1) In subsection (a)(1)(A)—

20 (A) by striking “19” and inserting “20”;

21 (B) by striking “12” and inserting “13”;

22 and

23 (C) by inserting before the period the fol-  
24 lowing: “and including one appointed by the

1 Secretary in accordance with subsection  
2 (b)(6)”.

3 (2) In subsection (a)(1)(B)—

4 (A) by striking “21” and inserting “22”;

5 (B) by striking “13” and inserting “14”;

6 and

7 (C) by inserting before the period the fol-  
8 lowing: “and including one appointed by the  
9 Secretary in accordance with subsection  
10 (b)(6)”.

11 (3) In subsection (a)(1)(C)—

12 (A) by striking “13” and inserting “14”;

13 (B) by striking “8” and inserting “9”; and

14 (C) by inserting before the period the fol-  
15 lowing: “and including one appointed by the  
16 Secretary in accordance with subsection  
17 (b)(6)”.

18 (4) In subsection (a)(1)(D)—

19 (A) by striking “7” and inserting “8”;

20 (B) by striking “4” and inserting “5”; and

21 (C) by inserting before the period the fol-  
22 lowing: “and including one appointed by the  
23 Secretary in accordance with subsection  
24 (b)(6)”.

25 (5) In subsection (a)(1)(E)—

1 (A) by striking “17” and inserting “18”;

2 (B) by striking “11” and inserting “12”;

3 and

4 (C) by inserting before the period the fol-  
5 lowing: “and including one appointed by the  
6 Secretary in accordance with subsection  
7 (b)(6)”.

8 (6) In subsection (a)(1)(F)—

9 (A) by striking “14” and inserting “15”;

10 (B) by striking “8” and inserting “9”;

11 (C) by inserting “by the Secretary” after  
12 “including one appointed”; and

13 (D) by inserting before the period the fol-  
14 lowing: “and one appointed by the Secretary in  
15 accordance with subsection (b)(6)”.

16 (7) In subsection (a)(1)(G)—

17 (A) by striking “11” and inserting “12”;

18 (B) by striking “7” and inserting “8”; and

19 (C) by inserting before the period the fol-  
20 lowing: “and including one appointed by the  
21 Secretary in accordance with subsection  
22 (b)(6)”.

23 (8) In subsection (a)(1)(H)—

24 (A) by striking “13” and inserting “14”;

25 (B) by striking “8” and inserting “9”; and

1 (C) by inserting before the period the fol-  
2 lowing: “and including one appointed by the  
3 Secretary in accordance with subsection  
4 (b)(6)”.

5 (9) In subsection (b)—

6 (A) by redesignating paragraph (6) as  
7 paragraph (7);

8 (B) in paragraph (7), as so redesignated,  
9 by striking “paragraphs (2) or (5)” and insert-  
10 ing “paragraph (2), (5), or (6)”; and

11 (C) by inserting after paragraph (5) the  
12 following:

13 “(6) The member of each Council who is required to  
14 be appointed in accordance with this paragraph—

15 “(A) shall not be an individual who is directly  
16 employed by, or receives a majority of his or her  
17 livelihood from, the commercial, charter, or rec-  
18 reational fishing community; and

19 “(B) shall be appointed without regard to sub-  
20 sections (B) and (C) of paragraph (2).”.

21 **SEC. 17. MISCELLANEOUS AMENDMENTS TO PURPOSES**  
22 **AND POLICY.**

23 Section 2 (16 U.S.C. 1801) is amended—

24 (1) in subsection (b)(6) by inserting “eco-  
25 logically sound” after “to encourage the”; and



1 (11), by striking the period at the end of paragraph (12)  
2 and inserting a semicolon, and by adding at the end the  
3 following:

4           “(13) designate closed areas, seasonal closures,  
5           time closures, gear restrictions, or other methods for  
6           limiting impacts on habitat, limiting bycatch impacts  
7           of gear, or limiting fishing impact on spawning con-  
8           gregations in specific geographic areas.”.

9 **SEC. 22. COOPERATIVE MARINE EDUCATION AND RE-**  
10 **SEARCH PROGRAM.**

11           (a) PROGRAM.—The Secretary of Commerce may  
12 enter into cooperative agreements with universities and in-  
13 stitutions of higher learning in order to conduct research  
14 in areas that support conservation and management of liv-  
15 ing marine resources.

16           (b) INCLUDED RESEARCH.—Research conducted  
17 under the program may include biological research  
18 concerning—

19                 (1) the abundance and life history parameters  
20                 of stocks of fish;

21                 (2) the interdependence of fisheries or stocks of  
22                 fish and other ecosystem components; and

23                 (3) the linkages between fish habitat and fish  
24                 production and abundance.

1 **SEC. 23. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 4 (16 U.S.C. 1893) is amended to read as  
3 follows:

4 **“SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

5 “There are authorized to be appropriated to the Sec-  
6 retary for the purposes of carrying out the provisions of  
7 this Act, not to exceed the following sums:

8 “(1) \$200,500,000 for fiscal year 2003;

9 “(2) \$214,000,000 for fiscal year 2004;

10 “(3) \$222,000,000 for fiscal year 2005;

11 “(4) \$230,000,000 for fiscal year 2006; and

12 “(5) \$238,000,000 for fiscal year 2007.”.

○