

108TH CONGRESS  
1ST SESSION

# H. R. 3645

To amend the Magnuson-Stevens Fishery Conservation and Management Act to clarify the definition of “essential fish habitat”, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 21, 2003

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To amend the Magnuson-Stevens Fishery Conservation and Management Act to clarify the definition of “essential fish habitat”, 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. ESSENTIAL FISH HABITAT.**

4 (a) DEFINITION.—Section 3(10) of the Magnuson-  
5 Stevens Fishery Conservation and Management Act (16  
6 U.S.C. 1802(10)) is amended to read as follows:

7 “(10) The term ‘essential fish habitat’ means  
8 those marine waters and discrete, unique benthic  
9 structures that—

1           “(A) exist within the exclusive economic  
2           zone only in discrete areas; and

3           “(B) have been determined to be crucial to  
4           spawning, breeding, and the continued produc-  
5           tion of a specific stock of fish.”.

6           (b) **MINIMIZATION OF ADVERSE IMPACTS ON ESSEN-**  
7 **TIAL FISH HABITAT.**—Section 303 of such Act (16 U.S.C.  
8 1853) is amended—

9           (1) in subsection (a)(7) by striking “, mini-  
10          mize” and all that follows through “fishing,”; and

11          (2) in subsection (b)(4) by inserting before the  
12          semicolon the following: “, and including measures  
13          to minimize to the extent practicable adverse effects  
14          on essential fish habitat described and identified in  
15          the plan that are caused by fishing”.

16 **SEC. 2. DURATION OF MEASURES TO REBUILD OVER-**  
17 **FISHED FISHERIES.**

18          Section 304(e)(4)(A)(ii) of the Magnuson-Stevens  
19          Fishery Conservation and Management Act (16 U.S.C.  
20          1854(e)(4)(A)(ii)) is amended to read as follows:

21                       “(ii) not exceed 10 years, except in  
22                       cases where—

23                               “(I) the biology of the stock of  
24                               fish, other environmental conditions,  
25                               or management measures under an

1 international agreement in which the  
2 United States participates dictate oth-  
3 erwise;

4 “(II) the Secretary determines  
5 that such 10-year period should be ex-  
6 tended because the cause of the fish-  
7 ery decline is outside the jurisdiction  
8 of the Council or the rebuilding pro-  
9 gram cannot be effective only by lim-  
10 iting fishing activities; or

11 “(III) the Secretary determines  
12 that such 10-year period should be ex-  
13 tended for one or more overfished  
14 components of a multi-species fish-  
15 ery.”.

16 **SEC. 3. COMPLIANCE WITH NATIONAL ENVIRONMENTAL**  
17 **POLICY ACT OF 1969.**

18 (a) IN GENERAL.—Title III of the Magnuson-Stevens  
19 Fishery Conservation and Management Act (16 U.S.C.  
20 1851 et seq.) is amended by adding at the end the fol-  
21 lowing:

22 **“SEC. 315. COMPLIANCE WITH NATIONAL ENVIRONMENTAL**  
23 **POLICY ACT OF 1969.**

24 “Any fishery management plan, amendment to such  
25 a plan, or regulation implementing such a plan that is pre-

1 pared in accordance with applicable provisions of sections  
2 303 and 304 of this Act is deemed to have been prepared  
3 in compliance with the requirements of section 102(2)(C)  
4 of the National Environmental Policy Act of 1969 (42  
5 U.S.C. 4332(2)(C)).”.

6 (b) CLERICAL AMENDMENT.—The table of contents  
7 in the first section of that Act is amended—

8 (1) by striking the first item relating to section  
9 312 and inserting the following:

“312. Transition to sustainable fisheries.”;

10 and

11 (2) by striking the item following the item re-  
12 lating to section 314 and inserting the following:

“315. Compliance with National Environmental Policy Act of 1969.”.

13 **SEC. 4. BERING SEA AND ALEUTIAN ISLAND CRAB RATION-**  
14 **ALIZATION PROGRAM ADJUSTMENT.**

15 As of the effective date of any Act implementing the  
16 Bering Sea and Aleutian Islands Crab Rationalization  
17 Program approved by the North Pacific Fishery Manage-  
18 ment Council, that Program is amended to require that—

19 (1) Blue Dutch, LLC, shall receive “Class A”  
20 crab processing quota shares equal to 1.5 percent of  
21 the total allowable catch for each of the following  
22 fisheries: the Bristol Bay red king crab fishery, the  
23 Bering Sea *C. opilio* crab fishery, the Bering Sea *C.*  
24 *bairdi* crab fishery, the St. Matthew blue king crab

1 fishery, and the Pribilof blue and red king crab fish-  
2 ery; and

3 (2) the Program implementing regulations shall  
4 include proportionate reductions of “Class A” crab  
5 processing quota shares for other holders of such  
6 shares so that the total of all “Class A” crab proc-  
7 essing quota shares for the fisheries referred to in  
8 paragraph (1), including the amount specified in  
9 paragraph (1), equals 90 percent of the total allow-  
10 able catch.

11 **SEC. 5. ALASKA COMMUNITY DEVELOPMENT QUOTA PRO-**  
12 **GRAM.**

13 (a) **ELIGIBILITY.**—All communities currently ap-  
14 proved for participation in the western Alaska community  
15 development quota program, either listed in table 7 to part  
16 679 of title 50, Code of Federal Regulations, or approved  
17 by the National Marine Fisheries Service on April 19,  
18 1999, are deemed to have met the eligibility criteria for  
19 participation in the program, under criteria set forth in  
20 section 305(i)(1)(B) of the Magnuson-Stevens Fishery  
21 Conservation and Management Act (16 U.S.C.  
22 1855(i)(1)(B)). Additional communities meeting this cri-  
23 teria may be approved for eligibility in the future.

24 (b) **ALLOCATION.**—Section 206(a) of title II of divi-  
25 sion C of Public Law 105–277 (112 Stat. 2681–621) is

1 amended by striking “1999, 10” and inserting “2004,  
2 12”.

3 **SEC. 6. REPORT REGARDING TREATMENT OF INTER-**  
4 **NATIONAL FISHERY COMMISSION PEN-**  
5 **SIONERS.**

6 The President shall—

7 (1) determine the number of United States citi-  
8 zens who—

9 (A) served as employees of the Inter-  
10 national Pacific Salmon Fisheries Commission  
11 or the International North Pacific Fisheries  
12 Commission; and

13 (B) worked in Canada in the course of em-  
14 ployment with that commission;

15 (2) calculate for each such employee the dif-  
16 ference between—

17 (A) the value, in United States currency,  
18 of the annuity payments made and to be made  
19 (determined by an actuarial valuation) by or on  
20 behalf of each such commission to the em-  
21 ployee; and

22 (B) the value, in Canadian currency, of  
23 such annuity payments; and

24 (3) by not later than September 1, 2004, sub-  
25 mit to the Committee on Resources of the House of

1       Representatives and the Committee on Commerce,  
2       Science and Transportation of the Senate a report  
3       on the determinations and calculations made under  
4       paragraphs (1) and (2).

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