

108TH CONGRESS  
1ST SESSION

# S. 482

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

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 2003

Ms. COLLINS introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To reauthorize and amend 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 “Fisheries Science and  
5 Management Improvement Act of 2003”.

6 **SEC. 2. AMENDMENT OF MAGNUSON-STEVENS 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 the Magnuson-Stevens Fish-  
 3 ery Conservation and Management Act (16 U.S.C. 1801  
 4 et seq.).

5 **SEC. 3. ENSURING USE OF BEST SCIENTIFIC INFORMATION**  
 6 **AVAILABLE.**

7 (a) DEFINITION OF BEST SCIENTIFIC INFORMATION  
 8 AVAILABLE.—Section 3 (16 U.S.C. 1802) is amended by  
 9 adding at the end the following:

10 “(47) The term ‘best scientific information  
 11 available’, with respect to fishery conservation and  
 12 management and stocks of fish, means information  
 13 that—

14 “(A) is directly related to the specific issue  
 15 under consideration;

16 “(B) is based on a statistically valid sam-  
 17 ple such that any conclusions drawn are reason-  
 18 ably supported and not speculative;

19 “(C) has been independently peer-reviewed;

20 “(D) has been collected within a period  
 21 that is reasonably related to the specific issue  
 22 under consideration;

23 “(E) is consistent with information that is  
 24 available from other reliable sources; and

1           “(F) may include, but not consist solely of,  
2           anecdotal information collected from the har-  
3           vesting and processing of fish.”.

4           (b) PROHIBITION ON USE OF OTHER INFORMATION  
5 IN FISHERY MANAGEMENT DECISIONS.—Section  
6 301(a)(2) (16 U.S.C. 1851(a)(2)) is amended by inserting  
7 “only” after “shall be based upon”.

8 **SEC. 4. PEER REVIEW OF STOCK ASSESSMENTS.**

9           (a) STOCK ASSESSMENT DEFINED.—Section 3 (16  
10 U.S.C. 1802), as amended by section 3(a), is further  
11 amended by adding at the end the following:

12           “(48) The term ‘stock assessment’ means a re-  
13           port that contains an assessment of the health of a  
14           stock of fish, including estimates for such stock of—

15           “(A) the population;

16           “(B) the population that is of spawning  
17           size;

18           “(C) the rate of mortality; and

19           “(D) the rate of recruitment.”.

20           (b) SCIENTIFIC REVIEW COMMITTEES.—Section  
21 302(g) (16 U.S.C. 1852(g)) is amended by adding at the  
22 end the following:

23           “(6)(A) Each Council may establish one or  
24           more scientific review committees to conduct peer re-

1 views of all stock assessments prepared for fisheries  
2 under the Council’s jurisdiction.

3 “(B) A committee established under this para-  
4 graph by a Council shall consist of at least one  
5 member from each of the committees established  
6 under paragraphs (1) and (3) by the Council, at  
7 least one member who is not affiliated with the au-  
8 thors of the stock assessments under review, and  
9 such other members as the Council considers appro-  
10 priate, excluding the authors of the stock assessment  
11 reviewed by the committee.”.

12 (c) REQUIREMENT TO CONDUCT REVIEWS.—Section  
13 404 (16 U.S.C. 1881(c)) is amended by adding at the end  
14 the following:

15 “(e) INDEPENDENT PEER REVIEW.—The Secretary  
16 shall conduct an independent and confidential peer review  
17 of any stock assessment conducted under this section be-  
18 fore the assessment is used to further the purposes, policy,  
19 and provisions of this Act. The review shall consider the  
20 peer review of the stock assessment conducted by a sci-  
21 entific review committee established under section  
22 302(g)(6).”.

23 **SEC. 5. OBSERVERS.**

24 (a) FISHERY MANAGEMENT PLAN REQUIREMENT.—  
25 Section 303(a) (16 U.S.C. 1853(a)) is amended—

1           (1) by striking “and” at the end of paragraph  
2           (13);

3           (2) by striking the period at the end of para-  
4           graph (14) and inserting “; and”; and

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

6           “(15) to the extent that observers are deployed  
7           on a fishing vessel that is a vessel of the United  
8           States or to a United States fish processor under  
9           the provisions of the fishery management plan or  
10          regulations implementing the fishery management  
11          plan, comply with the goals and objectives required  
12          under subsection (e).”.

13          (b) REQUIREMENTS FOR UNITED STATES OBSERVER  
14          PROGRAMS.—Section 303 (16 U.S.C. 1853) is amended  
15          by adding at the end the following:

16          “(e) REQUIREMENTS FOR UNITED STATES OB-  
17          SERVER PROGRAMS.—(1) Before establishing under this  
18          Act a program that, with respect to a fishery, utilizes ob-  
19          servers deployed on a fishing vessel that is a vessel of the  
20          United States or observers deployed to a United States  
21          fish processor, the Council with jurisdiction over the fish-  
22          ery, shall establish—

23                  “(A) a set of goals and objectives and an imple-  
24          mentation schedule for the program; and

1           “(B) a statistically reliable method for achiev-  
2           ing such goals and objectives.

3           “(2) In the case of a highly migratory species fishery,  
4 the Secretary, instead of a Council, shall take actions re-  
5 quired of the Council under paragraph (1).

6           “(3) The goals and objectives required under para-  
7 graph (1) shall ensure that—

8           “(A) the various harvesting and processing sec-  
9           tors in the fishery are treated equitably;

10           “(B) the costs of the program are appropriately  
11 shared by all beneficiaries, including participants in  
12 other fisheries; and

13           “(C) a fishing vessel or fish processor to which  
14 an observer is deployed is not, as a result of that de-  
15 ployment, put at a disadvantage with respect to  
16 other vessels or processors in that fishery or in other  
17 fisheries.”.

18 **SEC. 6. ESSENTIAL FISH HABITAT.**

19           (a) HABITAT AREAS OF PARTICULAR CONCERN DE-  
20 FINED.—Section 3 (16 U.S.C. 1802), as amended by sec-  
21 tion 4(a), is further amended—

22           (1) in paragraph (10), by striking “waters” and  
23 all that follows and inserting “marine waters and  
24 discrete, unique, benthic structures that—

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

3           “(B) have been determined under regula-  
4 tions issued by the Secretary to be crucial to  
5 spawning, breeding, and the continued produc-  
6 tion of a specific stock of fish.”; and

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

8           “(49) The term ‘habitat area of particular con-  
9 cern’ means any area that—

10           “(A) is a discrete, vulnerable subunit of es-  
11 sential fish habitat that is required for a stock  
12 to sustain itself; and

13           “(B) is designated in a fishery manage-  
14 ment plan under the national criteria issued by  
15 the Secretary under section 305(b)(1)(E).”.

16       (b) SPECIFICATION OF NATIONAL CRITERIA.—Sec-  
17 tion 305(b)(1) (16 U.S.C. 1855(b)(1)) is amended by add-  
18 ing at the end the following:

19           “(E)(i) Not later than 1 year after the date of the  
20 enactment of the Fisheries Science and Management Im-  
21 provement Act of 2003, the Secretary shall issue national  
22 criteria for designating a habitat as a habitat area of par-  
23 ticular concern.

24           “(ii) The national criteria shall, at a minimum, in-  
25 clude a requirement that the designation of a habitat as

1 a habitat area of particular concern be based on informa-  
2 tion regarding habitat-specific density of a fish stock, and  
3 growth, reproduction, and survival rates of that stock  
4 within the designated area.”.

5 (c) DESCRIPTION IN FISHERY MANAGEMENT  
6 PLANS.—Section 303(a)(7) (16 U.S.C. 1853(a)(7)) is  
7 amended to read as follows:

8 “(7)(A) describe and identify habitat areas of  
9 particular concern for the fishery based on the  
10 guidelines established by the Secretary under section  
11 305(b)(1)(A);

12 “(B) minimize to the extent practicable adverse  
13 effects on habitat areas of particular concern caused  
14 by fishing that prevent a stock of fish from sus-  
15 taining itself on a continuing basis; and

16 “(C) identify other actions to encourage the  
17 conservation and enhancement of such habitat  
18 areas.”.

19 (d) GUIDELINES, RECOMMENDATIONS, AND INFOR-  
20 MATION OF SECRETARY.—Section 305(b) (16 U.S.C.  
21 1855(b)) is amended—

22 (1) in paragraph (1)—

23 (A) in subparagraph (A)—

1 (i) by striking “shall, within 6 months  
2 of the date of enactment of the Sustainable  
3 Fisheries Act,” and inserting “shall”; and

4 (ii) by striking “essential fish habitat”  
5 each place it appears and inserting “habi-  
6 tat areas of particular concern”;

7 (B) in subparagraph (B)—

8 (i) by striking “essential fish habitat”  
9 and inserting “habitat areas of particular  
10 concern”; and

11 (ii) by striking “the habitat” both  
12 places it appears and inserting “such habi-  
13 tat areas”; and

14 (C) in subparagraphs (C) and (D), by  
15 striking “essential fish habitat” each place it  
16 appears and inserting “habitat areas of par-  
17 ticular concern”;

18 (2) in paragraph (2), by striking “essential fish  
19 habitat” and inserting “habitat areas of particular  
20 concern”;

21 (3) in paragraph (3), by striking “essential fish  
22 habitat” each place it appears and inserting “habitat  
23 areas of particular concern”; and

24 (4) in paragraph (4)—

25 (A) in subparagraph (A)—

1 (i) by striking “essential fish habitat”  
2 and inserting “habitat areas of particular  
3 concern”; and

4 (ii) by inserting “areas” after “such  
5 habitat”; and

6 (B) in subparagraph (B) by inserting  
7 “areas” after “such habitat”.

8 **SEC. 7. DETERMINING AND REBUILDING OVERFISHED**  
9 **FISHERIES.**

10 (a) DEFINITIONS.—Section 3 (16 U.S.C. 1802), as  
11 amended by section 6(a), is further amended—

12 (1) by striking paragraph (29) and inserting  
13 the following:

14 “(29)(A) The term ‘overfished’ refers to a stock  
15 of fish that, as a result of fishing, is at a population  
16 level beneath that necessary to produce 50 percent  
17 of the maximum sustainable yield.

18 “(B) The term ‘overfishing’ means a rate or  
19 level of harvest by commercial and recreational fish-  
20 ing that results in a reduction in the population level  
21 of the fish stock beneath that necessary to produce  
22 50 percent of the maximum sustainable yield.”; and

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

24 “(50) The term ‘carrying capacity’ means the  
25 maximum population level of a stock of fish that the

1 current state of the environment will support and  
2 which changes as the state of the environment  
3 changes.

4 “(51) The term ‘maximum sustainable yield’  
5 means the long-term average maximum amount of  
6 surplus production that can be removed on an an-  
7 nual basis by both commercial and recreational fish-  
8 ermen that could be continuously taken from a stock  
9 of fish under the existing carry capacity, and which  
10 is adjusted as the carrying capacity changes.

11 “(52) The term ‘surplus production’, with re-  
12 spect to a stock of fish, means any quantity of fish  
13 that is removed from the stock of fish which, when  
14 added to the quantity of fish foreseeably lost from  
15 this stock due to natural mortality, exceeds the  
16 quantity of fish the stock of fish is capable of repro-  
17 ducing through growth and reproduction.”.

18 (b) DETERMINATION AND REBUILDING PROCESS.—

19 Section 304(e) (16 U.S.C. 1854(e)) is amended—

20 (1) in paragraph (1)—

21 (A) by striking “(1)” and inserting  
22 “(1)(A)”;

23 (B) by striking “fisheries” each place it  
24 appears and inserting “stocks of fish”;

1 (C) by striking the last sentence and in-  
2 serting the following: “A stock of fish shall be  
3 classified as approaching a condition of being  
4 overfished if, based on the best scientific infor-  
5 mation available and other appropriate factors,  
6 the Secretary estimates that the stock of fish  
7 will become overfished within two years.”; and

8 (D) by adding at the end the following:

9 “(B) If the Secretary determines that insufficient in-  
10 formation is available on which to conclude that a stock  
11 of fish is approaching a condition of being overfished, the  
12 Secretary shall immediately notify the appropriate Council  
13 and within one year after such notification implement a  
14 cooperative research program designed to provide the in-  
15 formation needed to determine whether or not the stock  
16 of fish is approaching a condition of being overfished.”;

17 (2) by striking paragraph (2) and inserting the  
18 following:

19 “(2) If the Secretary determines at any time that a  
20 stock of fish is overfished, the Secretary shall immediately  
21 notify the appropriate Council and request that action be  
22 taken to end overfishing and to implement conservation  
23 and management measures to rebuild the stock of fish.  
24 In the case of a multispecies fishery, such conservation  
25 and management measures shall not require that fishing

1 be reduced for those stocks of fish that are not overfished.  
2 The Secretary shall publish each notification under this  
3 paragraph in the Federal Register.”;

4 (3) in paragraph (3)—

5 (A) by striking “Within one year of” and  
6 inserting “Within three years after”; and

7 (B) in subparagraph (A), by striking “to  
8 end overfishing” and inserting “to address over-  
9 fishing”;

10 (4) in paragraph (4)—

11 (A) by striking “For a fishery that is over-  
12 fished”, and inserting “For a fishery that has  
13 an overfished stock of fish,”; and

14 (B) by striking subparagraph (A) and in-  
15 sserting:

16 “(A) specify a period for addressing over-  
17 fishing and rebuilding the overfished stock or  
18 stocks in the fishery that is as brief as prac-  
19 ticable, taking into account the status, biology,  
20 and carrying capacity of any overfished stocks,  
21 the best scientific information available, the cu-  
22 mulative social and economic impacts, rec-  
23 ommendations by international organizations in  
24 which the United States participates, and the

1 interaction of the overfished stock or stocks  
2 within the marine ecosystem;”;

3 (5) in paragraph (5)—

4 (A) by striking “within the one-year pe-  
5 riod” and inserting “within the three-year pe-  
6 riod”;

7 (B) by striking “that a fishery is over-  
8 fished” and inserting “that one or more stocks  
9 of fish in a fishery are overfished”; and

10 (C) by striking “regulations to stop over-  
11 fishing” and inserting “regulations to address  
12 overfishing”;

13 (6) in the second sentence of paragraph (6), by  
14 striking “to stop overfishing of a fishery” and in-  
15 serting “to address overfishing of a stock or stocks  
16 of fish in a fishery effectively”; and

17 (7) in paragraph (7)—

18 (A) in the first sentence, by inserting “and  
19 the best scientific information available related  
20 to the fishery management plan, plan amend-  
21 ment, or regulations” before “at routine inter-  
22 vals”;

23 (B) in the second sentence, by striking  
24 “ending overfishing” and inserting “effectively

1 addressing overfishing, sufficient data collec-  
2 tion,”;

3 (C) by striking “or” at the end of subpara-  
4 graph (A);

5 (D) by striking the period at the end of  
6 subparagraph (B) and inserting “; or”; and

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

8 “(C) design and implement a cooperative re-  
9 search program to collect the best scientific informa-  
10 tion available for such fish stocks.”.

11 **SEC. 8. OPTIMUM YIELD CAP.**

12 Section 3(28)(B) (16 U.S.C. 1802(28)(B)) is amend-  
13 ed by striking “reduced” and inserting “modified”.

14 **SEC. 9. NATIONAL STANDARD REGARDING CUMULATIVE**  
15 **IMPACTS.**

16 Section 301(a)(8) (16 U.S.C. 1851(a)(8)) is amended  
17 to read as follows:

18 “(8) Conservation and management measures  
19 shall, consistent with the conservation requirements  
20 of this Act (including the prevention of overfishing  
21 and rebuilding of overfished stocks), take into ac-  
22 count the importance of fishery resources to fishing  
23 communities, and the cumulative economic and so-  
24 cial impact of fishery conservation and management  
25 measures on such communities, in order to—

1           “(A) provide for the sustained participa-  
2           tion of such communities; and

3           “(B) minimize, to the extent practicable,  
4           adverse economic impacts on such commu-  
5           nities.”.

6 **SEC. 10. FINDINGS, PURPOSE, AND POLICY REGARDING**  
7           **FISH AS FOOD.**

8           (a) FINDINGS.—Section 2(a) (16 U.S.C. 1801(a)) is  
9           amended by adding at the end the following:

10           “(11) Fish comprise an important natural re-  
11           newable resource of food, and fisheries have per-  
12           formed a traditional and essential role in providing  
13           high-quality, protein-laden food for human use.

14           “(12) Fish comprise an important source of es-  
15           sential nutrients, particularly Omega-3 fatty acids,  
16           and medical scientists agree that some of the world’s  
17           most serious diseases can be prevented by increased  
18           consumption of fish.”.

19           (b) PURPOSE.—Section 2(b) (16 U.S.C. 1801(b)) is  
20           amended—

21           (1) by striking “and” at the end of paragraph  
22           (6);

23           (2) by striking the period at the end of para-  
24           graph (7) and inserting “; and”; and

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

1           “(8) to promote conservation and management  
2 of fishery resources that will enhance food supply,  
3 income, and economic growth of the United States.”.

4           (c) POLICY.—Section 2(c) (16 U.S.C. 1801(c)) is  
5 amended—

6           (1) by striking “and” at the end of paragraph  
7 (6);

8           (2) by striking the period at the end of para-  
9 graph (7) and inserting “; and”; and

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

11           “(8) to ensure that conservation and manage-  
12 ment measures contribute to the food supply, econ-  
13 omy, and health of the United States.”.

14 **SEC. 11. COMPLIANCE WITH NATIONAL ENVIRONMENTAL**  
15 **POLICY ACT OF 1969.**

16           (a) IN GENERAL.—Title III is amended by adding  
17 at the end the following:

18 **“SEC. 315. COMPLIANCE WITH NATIONAL ENVIRONMENTAL**  
19 **POLICY ACT OF 1969.**

20           “Any fishery management plan, amendment to such  
21 a plan, or regulation implementing such a plan that is pre-  
22 pared in accordance with sections 303 and 304 of this Act  
23 is deemed to have been prepared in compliance with the  
24 requirements of section 102(2)(C) of the National Envi-  
25 ronmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).”.

1 **SEC. 12. TECHNICAL CORRECTION AND CLINICAL AMEND-**  
2 **MENTS.**

3 (a) DEFINITION.—Section 3 (16 U.S.C. 1802) is  
4 amended by redesignating the paragraph (33) (relating to  
5 waters of a foreign nation) that follows paragraph (45)  
6 as paragraph (46).

7 (b) TABLE OF CONTENTS.—The table of contents in  
8 the first section is amended—

9 (1) by striking the following items:

“Sec. 312. Effective date of certain provisions.

“Sec. 313. North Pacific fisheries research plan.

“Sec. 314. Northwest Atlantic Oceans Fisheries Reinvestment Program.”;

10 and

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

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

○