H. R. 1690

To protect diverse and structurally complex areas of the seafloor in the United States exclusive economic zone by establishing a maximum diameter size limit on rockhopper, roller, and all other groundgear used on bottom trawls, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 9, 2003

Mr. Hefley (for himself, Mr. Pascrell, Mr. Udall of Colorado, Mr. Greenwood, Mr. Engel, Mr. Honda, Mr. Moran of Virginia, Mr. Faleomavaega, Mrs. Davis of California, Mr. Pallone, Mr. Castle, and Mr. Holt) introduced the following bill; which was referred to the Committee on Resources

A BILL

To protect diverse and structurally complex areas of the seafloor in the United States exclusive economic zone by establishing a maximum diameter size limit on rockhopper, roller, and all other groundgear used on bottom trawls, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ocean Habitat Protec-tion Act”.

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(1) $8,000,000 for providing gear transition assistance under section 4(a);

(2) such sums as may be necessary for—

(A) making payments under section 4(b);

and

(B) providing economic assistance under section 4(e); and

(3) $100,000,000 for carrying out section 5.
(4) Scientists now recognize deep-sea corals to be as diverse as, and more widely distributed than, shallow, reef-forming tropical corals.

(5) Deep-sea corals typically exhibit slow growth, extreme longevity, and highly patchy distribution, predominating along continental margins, sea mounts, and ridges.

(6) Deep-sea coral habitats are subject to growing human pressures, particularly as a result of the rapid spread of deep-sea trawl fisheries into new regions and new grounds, aided by the explosive development of navigational, fish-finding, and other technologies.

(7) The exceptional diversity, uniqueness, and vulnerability of deep-sea corals necessitates that their mapping and conservation be given a high priority.

(8) Bottom trawling reduces habitat complexity and biological diversity by leveling geologic bedforms and by killing, removing, crushing, burying, and exposing benthic organisms, including deep-sea corals and sponges, to predators and scavengers, thereby significantly reducing their value for economically and ecologically important fishes and other marine life. The resultant reduction in biodiversity is detri-
SEC. 2. FINDINGS.

The Congress finds the following:

(1) Complex seafloor habitats created by geologic structures and structure-forming organisms are essential to the maintenance of marine biodiversity and to numerous fish species, including commercially and recreationally targeted species, which rely on them for spawning, food, and shelter from predation.

(2) The diverse fish and other marine species that are associated with three-dimensional, structurally complex seafloor habitats within the exclusive economic zone of the United States—

(A) constitute valuable and renewable natural resources;

(B) are an essential component of marine biodiversity;

(C) contribute to the food supply, economy, and health of the United States;

(D) support the economies of coastal communities; and

(E) provide recreational opportunities.

(3) Living organisms, such as deep-sea corals and sponges, which create complex habitat, have not been adequately studied for their potential benefit to society or for their ecological importance to fish species and other forms of marine life.

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(12) Numerous scientific studies show that bottom trawling is especially damaging to three-dimensional, structurally complex habitats such as corals, boulder fields, sponge beds, and gravel bottoms. According to a National Research Council report, "there is enough information currently available to support efforts to improve the management of the effects of these fishing gears on seafloor habitats." (National Research Council Report 2002, page 66).

(13) Prohibiting the use of large rockhopper, roller, and other groundgear is a practical, precautionary, and enforceable measure to protect structurally complex, benthic marine habitats from the damaging effects of bottom trawling.

SEC. 3. PROHIBITION ON USE OF LARGE FOOTROPE DEVICES ON BOTTOM TRAWL GEAR.

(a) Policy and Purpose.—

(1) Policy.—It is the policy of the United States that essential fish habitat, including complexly structured bottom habitats, be protected from damage in order to protect the species that benefit from the habitat.

(2) Purpose.—The purpose of this section is to restrict access of bottom trawls to complexly structured seafloor habitats, composed of geologic
mental to many commercially and recreationally im-
portant species and to the industries and people that
depend on them.

(9) In the past, the practice of bottom trawling
was conducted mainly on soft bottom areas, and was
rarely used in three-dimensional, structurally com-
plex habitats.

(10) Technological modifications to bottom
trawls, including the creation of large rockhopper
and roller gear and chafing gear, facilitate the use
of bottom trawls in rocky and other complex marine
habitats that were once refuges for fishes and other
marine life.

(11) The expansion in the use of bottom trawls
from soft bottom areas to three-dimensional, struc-
turally complex habitats over the past 25 years has
had and continues to have significant, adverse ef-
facts on the diversity and habitat complexity of these
areas, particularly on deep-sea corals and sponges
which, due to their fragility, slow growth, and lon-
gevity, may take decades to centuries to recover
from a single pass of a trawl. With repeated trawling
in the same area, the damage may be irrevers-
ible.
clusive economic zone from the prohibition under paragraph (1) if—

“(A) the Council having jurisdiction over the area submits to the Secretary—

“(i) substantial evidence that—

“(I) the area is comprised predominately of sand and mud bottom; and

“(II) the use of rollers, bobbins, or other rotating devices in excess of 8 inches in diameter that are affixed to the footrope of bottom trawl nets used for fishing in the area is necessary to prevent a significant increase from rates of bycatch of non-target managed species as of the date of the enactment of this subsection, or to provide significant other benefits;

“(ii) the specific geographic boundaries of the area; and

“(iii) a credible and effective vessel monitoring plan that would require a vessel monitoring system on board all vessels engaged in bottom trawl fishing in the area; and
and biogenic structures, that are found scattered throughout the Federal exclusive economic zone.

(b) PROHIBITION.—Section 307 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) by inserting "(a) IN GENERAL.—" before "It is unlawful—"; and

(2) by adding at the end the following:

"(b) BOTTOM TRAWL FISHING.—"

"(1) PROHIBITION.—It is unlawful for any person to use a bottom trawl with rollers, bobbins, tires, rockhoppers, or any other devices that are affixed to the footrope (also known as the sweep) and that are in excess of 8 inches in diameter, for fishing that is subject to the jurisdiction of the United States, including fishing by a vessel of the United States beyond the equivalent of the exclusive economic zone of all countries.

"(2) EXEMPTION OF FISHING IN CERTAIN AREAS.—Paragraph (1) shall not apply to fishing in an area that is exempted by the Secretary under paragraph (3).

"(3) EXEMPTED FISHING AREAS.—(A) The Secretary may exempt fishing in an area of the ex-
(A) the captain, master, or individual in charge of the vessel has declared to the Secretary in the manner prescribed by the Secretary in regulations, prior to the trip, his or her intention to use the gear in an area of mud or sand bottom covered by an exemption under section 307(b)(3); and

(B) the vessel has on board a functioning vessel monitoring system required by regulations issued by the Secretary under section 307(b)(3)(B)(ii).”.

SEC. 4. ASSISTANCE.

(a) GEAR TRANSITION ASSISTANCE.—The Secretary of Commerce may provide to a person that is the owner of a qualified fishing vessel under subsection (d), on a one-time basis, financial assistance in an amount not to exceed $4,000 per qualified fishing vessel owned by the person, to pay for any of the following:

(1) The depreciated cost of rockhoppers, rollers, tires, bobbins, or other similar devices in excess of 8 inches in diameter that are part of the fishing gear of the vessel on the date of the enactment of this Act and that are disposed of in a manner that is approved by the Secretary.
“(B) the Secretary—

“(i) determines that the evidence and

plan are satisfactory; and

“(ii) issues regulations that implement

the vessel monitoring plan.”.

(3) EFFECTIVE DATE.—Section 307(b)(1) of
the Magnuson-Stevens Fishery Conservation and
Management Act, as amended by this subsection,
shall take effect upon the expiration of the 1-year
period beginning on the date of the enactment of
this Act, and shall apply to fishing after that period.

(4) REBUTTABLE PRESCRIPTION.—Section
310(e) of the Magnuson-Stevens Fishery Conserva-
tion and Management Act (16 U.S.C. 1860(e)) is
amended by adding at the end the following:

“(4) For purposes of this Act, it shall be a re-
buttable presumption that any vessel that is shore-
ward of the outer boundary of the exclusive eco-
nomic zone, or beyond the equivalent zone of all
countries, and that has on board gear comprised of
a trawl net with rollers, bobbins, tires, rockhoppers,
or any other devices attached to the footrope of the
trawl net that are in excess of 8 inches in diameter,
is engaged in fishing using such gear, unless—
ulations, to cease fishing in bottom trawl fisheries; and
(ii) does not continue fishing in other fisheries; and

(B) any individual who is a member of the crew of a qualified fishing vessel the owner of which applies within 6 months after the date of the enactment of this Act to cease fishing in bottom trawl fisheries.

(2) INCLUDED ASSISTANCE.—Economic assistance under this subsection may include—

(A) income assistance—
(i) for a period of not to exceed 2 years; and
(ii) in an amount not to exceed the amount of income earned by the vessel owner or crew member, as applicable, in the taxable year preceding the date of the application for assistance that is attributable to the fishing vessel or employment on the qualified fishing vessel, as reported to the Internal Revenue Service; and

(B) funds for training for nonfishery employment that the Secretary determines reasonable, for a period of not to exceed 2 years.
(2) The cost of converting trawl nets that are part of the fishing gear of the vessel on the date of the enactment of this Act to footrope gear that is 8 inches or less in diameter.

(b) PAYMENT FOR PROMPT CONVERSION.—The Secretary of Commerce may provide to a person that is the owner of a qualified fishing vessel under subsection (d) a one-time payment of $10,000, if the person, by not later than 6 months after the date of the enactment of this Act—

(1) ceases to engage in trawling; and

(2) commits to not engage in fishing other than fishing exclusively with fixed gear comprised solely of any combination of fishpots, fishtraps, or hook-and-line gear.

(c) ECONOMIC ASSISTANCE.—

(1) VESSEL OWNERS AND CREWS.—The Secretary of Commerce shall, based on such factors as the Secretary considers to be relevant, provide economic assistance to—

(A) the owner of a qualified fishing vessel who—

(i) applies within 6 months after the date of the enactment of this Act, in the manner prescribed by the Secretary in reg-
diverse bottom habitats of the exclusive economic zone of the United States; and

(2) complete such program within 10 years after the date of the enactment of this Act.

(b) COOPERATION OF OTHER AGENCIES AND COUNCILS.—The head of each Federal agency and each Regional Fishery Management Council shall cooperate with the Secretary to provide relevant information for purposes of this section.

(c) USE OF INFORMATION BY COUNCILS.—Each Regional Fishery Management Council shall use the information made available by the Secretary under subsection (a) as appropriate to make determinations otherwise required by law regarding seafloor habitats that should be protected from bottom trawling, other types of fishing gear, and other types of human impacts.

(d) REPORTS.—The Secretary shall report to the Congress on the progress made in carrying out the program under subsection (a), by not later than 1 year after the date of the enactment of this Act and annually thereafter.

SEC. 6. APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Commerce—
(3) REPORT.—The Secretary of Commerce shall, by not later than 12 months after the date of the enactment of this Act, submit a report to the Congress estimating the costs of implementing this subsection.

(d) QUALIFIED FISHING VESSELS.—A vessel shall be a qualified fishing vessel for purposes of this section if it is a vessel of the United States authorized to be used for trawl fishing by a permit under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) that is in effect on date of enactment of this Act.

(e) PROHIBITION ON ISSUANCE OF TRAWL PERMIT.—The Secretary of Commerce shall not issue any permit that authorizes trawl fishing by an individual who receives economic assistance under this section.

SEC. 5. SCIENTIFIC INFORMATION ON SEAFLOOR HABITAT.

(a) In General.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the United States Geological Survey, shall—

(1) undertake a program to collect, and make available to Regional Fishery Management Councils, information and maps on the existence, location, composition, condition, and protected status of the