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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. FALCOMA, 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.

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 "Ocean Habitat Protec-
5 tion Act".

1 (1) \$8,000,000 for providing gear transition as-
2 sistance under section 4(a);

3 (2) such sums as may be necessary for—

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

5 and

6 (B) providing economic assistance under

7 section 4(c); and

8 (3) \$100,000,000 for carrying out section 5.

○

1 (4) Scientists now recognize deep-sea corals to
2 be as diverse as, and more widely distributed than,
3 shallow, reef-forming tropical corals.

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

8 (6) Deep-sea coral habitats are subject to grow-
9 ing human pressures, particularly as a result of the
10 rapid spread of deep-sea trawl fisheries into new re-
11 gions and new grounds, aided by the explosive devel-
12 opment of navigational, fish-finding, and other tech-
13 nologies.

14 (7) The exceptional diversity, uniqueness, and
15 vulnerability of deep-sea corals necessitates that
16 their mapping and conservation be given a high pri-
17 ority.

18 (8) Bottom trawling reduces habitat complexity
19 and biological diversity by leveling geologic bedforms
20 and by killing, removing, crushing, burying, and ex-
21 posing benthic organisms, including deep-sea corals
22 and sponges, to predators and scavengers, thereby
23 significantly reducing their value for economically
24 and ecologically important fishes and other marine
25 life. The resultant reduction in biodiversity is detri-

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

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

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

13 (A) constitute valuable and renewable nat-
14 ural resources;

15 (B) are an essential component of marine
16 biodiversity;

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

19 (D) support the economies of coastal com-
20 munities; and

21 (E) provide recreational opportunities.

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

1 (12) Numerous scientific studies show that bot-
2 tom trawling is especially damaging to three-dimen-
3 sional, structurally complex habitats such as corals,
4 boulder fields, sponge beds, and gravel bottoms. Ac-
5 cording to a National Research Council report,
6 “there is enough information currently available to
7 support efforts to improve the management of the
8 effects of these fishing gears on seafloor habitats.”
9 (National Research Council Report 2002, page 66).

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

15 **SEC. 3. PROHIBITION ON USE OF LARGE FOOTROPE DE-**
16 **VICES ON BOTTOM TRAWL GEAR.**

17 (a) **POLICY AND PURPOSE.—**

18 (1) **POLICY.—**It is the policy of the United
19 States that essential fish habitat, including com-
20 plexly structured bottom habitats, be protected from
21 damage in order to protect the species that benefit
22 from the habitat.

23 (2) **PURPOSE.—**The purpose of this section is
24 to restrict access of bottom trawls to complexly
25 structured seafloor habitats, composed of geologic

1 mental to many commercially and recreationally im-
2 portant species and to the industries and people that
3 depend on them.

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

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

14 (11) The expansion in the use of bottom trawls
15 from soft bottom areas to three-dimensional, struc-
16 turally complex habitats over the past 25 years has
17 had and continues to have significant, adverse ef-
18 fects on the diversity and habitat complexity of these
19 areas, particularly on deep-sea corals and sponges
20 which, due to their fragility, slow growth, and lon-
21 gevity, may take decades to centuries to recover
22 from a single pass of a trawl. With repeated trawl-
23 ing in the same area, the damage may be irrevers-
24 ible.

1 exclusive economic zone from the prohibition under
2 paragraph (1) if—

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

5 “(i) substantial evidence that—

6 “(I) the area is comprised pre-
7 dominately of sand and mud bottom;
8 and

9 “(II) the use of rollers, bobbins,
10 or other rotating devices in excess of
11 8 inches in diameter that are affixed
12 to the footrope of bottom trawl nets
13 used for fishing in the area is nec-
14 essary to prevent a significant in-
15 crease from rates of bycatch of non-
16 target managed species as of the date
17 of the enactment of this subsection, or
18 to provide significant other benefits;

19 “(ii) the specific geographic bound-
20 aries of the area; and

21 “(iii) a credible and effective vessel
22 monitoring plan that would require a vessel
23 monitoring system on board all vessels en-
24 gaged in bottom trawl fishing in the area;
25 and

1 and biogenic structures, that are found scattered
2 throughout the Federal exclusive economic zone.

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

6 (1) by inserting “(a) IN GENERAL.—” before
7 “It is unlawful—”; and

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

9 “(b) BOTTOM TRAWL FISHING.—

10 “(1) PROHIBITION.—It is unlawful for any per-
11 son to use a bottom trawl with rollers, bobbins, tires,
12 rockhoppers, or any other devices that are affixed to
13 the footrope (also known as the sweep) and that are
14 in excess of 8 inches in diameter, for fishing that is
15 subject to the jurisdiction of the United States, in-
16 cluding fishing by a vessel of the United States be-
17 yond the equivalent of the exclusive economic zone
18 of all countries.

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

23 “(3) EXEMPTED FISHING AREAS.—(A) The
24 Secretary may exempt fishing in an area of the ex-

1 “(A) the captain, master, or individual in
2 charge of the vessel has declared to the Sec-
3 retary in the manner prescribed by the Sec-
4 retary in regulations, prior to the trip, his or
5 her intention to use the gear in an area of mud
6 or sand bottom covered by an exemption under
7 section 307(b)(3); and

8 “(B) the vessel has on board a functioning
9 vessel monitoring system required by regula-
10 tions issued by the Secretary under section
11 307(b)(3)(B)(ii).”.

12 **SEC. 4. ASSISTANCE.**

13 (a) **GEAR TRANSITION ASSISTANCE.**—The Secretary
14 of Commerce may provide to a person that is the owner
15 of a qualified fishing vessel under subsection (d), on a one-
16 time basis, financial assistance in an amount not to exceed
17 \$4,000 per qualified fishing vessel owned by the person,
18 to pay for any of the following:

19 (1) The depreciated cost of rockhoppers, rollers,
20 tires, bobbins, or other similar devices in excess of
21 8 inches in diameter that are part of the fishing
22 gear of the vessel on the date of the enactment of
23 this Act and that are disposed of in a manner that
24 is approved by the Secretary.

1 “(B) the Secretary—

2 “(i) determines that the evidence and
3 plan are satisfactory; and

4 “(ii) issues regulations that implement
5 the vessel monitoring plan.”.

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

12 (4) REBUTTABLE PRESUMPTION.—Section
13 310(e) of the Magnuson-Stevens Fishery Conserva-
14 tion and Management Act (16 U.S.C. 1860(e)) is
15 amended by adding at the end the following:

16 “(4) For purposes of this Act, it shall be a re-
17 buttable presumption that any vessel that is shore-
18 ward of the outer boundary of the exclusive eco-
19 nomic zone, or beyond the equivalent zone of all
20 countries, and that has on board gear comprised of
21 a trawl net with rollers, bobbins, tires, rockhoppers,
22 or any other devices attached to the footrope of the
23 trawl net that are in excess of 8 inches in diameter,
24 is engaged in fishing using such gear, unless—

1 ulations, to cease fishing in bottom trawl
2 fisheries; and

3 (ii) does not continue fishing in other
4 fisheries; and

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

10 (2) INCLUDED ASSISTANCE.—Economic assist-
11 ance under this subsection may include—

12 (A) income assistance—

13 (i) for a period of not to exceed 2-
14 years; and

15 (ii) in an amount not to exceed the
16 amount of income earned by the vessel
17 owner or crew member, as applicable, in
18 the taxable year preceding the date of the
19 application for assistance that is attrib-
20 utable to the fishing vessel or employment
21 on the qualified fishing vessel, as reported
22 to the Internal Revenue Service; and

23 (B) funds for training for nonfishery em-
24 ployment that the Secretary determines reason-
25 able, for a period of not to exceed 2 years.

1 (2) The cost of converting trawl nets that are
2 part of the fishing gear of the vessel on the date of
3 the enactment of this Act to footrope gear that is 8
4 inches or less in diameter.

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

11 (1) ceases to engage in trawling; and

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

16 (c) ECONOMIC ASSISTANCE.—

17 (1) VESSEL OWNERS AND CREWS.—The Sec-
18 retary of Commerce shall, based on such factors as
19 the Secretary considers to be relevant, provide eco-
20 nomic assistance to—

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

23 (i) applies within 6 months after the
24 date of the enactment of this Act, in the
25 manner prescribed by the Secretary in reg-

1 diverse bottom habitats of the exclusive economic
2 zone of the United States; and

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

5 (b) COOPERATION OF OTHER AGENCIES AND COUN-
6 CILS.—The head of each Federal agency and each Re-
7 gional Fishery Management Council shall cooperate with
8 the Secretary to provide relevant information for purposes
9 of this section.

10 (c) USE OF INFORMATION BY COUNCILS.—Each Re-
11 gional Fishery Management Council shall use the informa-
12 tion made available by the Secretary under subsection (a)
13 as appropriate to make determinations otherwise required
14 by law regarding seafloor habitats that should be protected
15 from bottom trawling, other types of fishing gear, and
16 other types of human impacts.

17 (d) REPORTS.—The Secretary shall report to the
18 Congress on the progress made in carrying out the pro-
19 gram under subsection (a), by not later than 1 year after
20 the date of the enactment of this Act and annually there-
21 after.

22 **SEC. 6. APPROPRIATIONS.**

23 There are authorized to be appropriated to the Sec-
24 retary of Commerce—

1 (3) REPORT.—The Secretary of Commerce
2 shall, by not later than 12 months after the date of
3 the enactment of this Act, submit a report to the
4 Congress estimating the costs of implementing this
5 subsection.

6 (d) QUALIFIED FISHING VESSELS.—A vessel shall be
7 a qualified fishing vessel for purposes of this section if
8 it is a vessel of the United States authorized to be used
9 for trawl fishing by a permit under the Magnuson-Stevens
10 Fishery Conservation and Management Act (16 U.S.C.
11 1801 et seq.) that is in effect on date of enactment of
12 this Act.

13 (e) PROHIBITION ON ISSUANCE OF TRAWL PER-
14 MIT.—The Secretary of Commerce shall not issue any per-
15 mit that authorizes trawl fishing by an individual who re-
16 ceives economic assistance under this section.

17 **SEC. 5. SCIENTIFIC INFORMATION ON SEAFLOOR HABITAT.**

18 (a) IN GENERAL.—Not later than 1 year after the
19 date of the enactment of this Act, the Secretary of Com-
20 merce, in consultation with the United States Geological
21 Survey, shall—

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