

108TH CONGRESS  
1ST SESSION

# S. 1106

To establish National Standards for Fishing Quota Systems.

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IN THE SENATE OF THE UNITED STATES

MAY 22, 2003

Ms. SNOWE (for herself and Mr. KERRY) 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 establish National Standards for Fishing Quota Systems.

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 “Fishing Quota Act of  
5       2003”.

6       **SEC. 2. FISHING QUOTA SYSTEMS.**

7       (a) IN GENERAL.—Section 303 of the Magnuson-Ste-  
8       vens Fishery Conservation and Management Act (16  
9       U.S.C. 1853) is amended—

10       (1) by striking subsection (b)(6) and inserting  
11       the following:

1           “(6) establish a limited access system for the  
2 fishery in order to achieve optimum yield if, in devel-  
3 oping such system, the Council and the Secretary  
4 take into account—

5           “(A) the conservation requirements of this  
6 Act with respect to the fishery;

7           “(B) present participation in the fishery;

8           “(C) historical fishing practices in, and de-  
9 pendence on, the fishery;

10          “(D) the economics of the fishery;

11          “(E) the capability of fishing vessels used  
12 in the fishery to engage in other fisheries;

13          “(F) the cultural and social framework rel-  
14 evant to the fishery and any affected fishing  
15 communities;

16          “(G) the fair and equitable distribution of  
17 a public resource; and

18          “(H) any other relevant considerations.”;

19          (2) by striking subsection (d) and inserting the  
20 following:

21          “(d) FISHING QUOTA SYSTEMS.—

22                 “(1) ESTABLISHMENT.—Any fishery manage-  
23 ment plan or amendment that is prepared by any  
24 Council, or by the Secretary, with respect to any

1 fishery, may establish a fishing quota system con-  
2 sistent with the provisions of subsection (b)(6).

3 “(2) IN GENERAL.—The Councils and Secretary  
4 shall ensure that any such fishing quota system sub-  
5 mitted and approved after September 30, 2002,  
6 complies with the requirements of this Act and—

7 “(A) shall prevent any person from acquir-  
8 ing an excessive share of the fishing quotas  
9 issued, as appropriate for the fishery, and es-  
10 tablish any other limits or measures necessary  
11 to prevent inequitable concentration of quota  
12 share;

13 “(B) shall provide for the fair and equi-  
14 table initial allocation of quota share and in  
15 such allocation—

16 “(i) shall take into account present  
17 and historic participation in the fishery;

18 “(ii) shall consider allocating a por-  
19 tion of the annual harvest to entry-level  
20 fishermen, small vessel owners, skippers,  
21 crew members, and fishing communities;  
22 and

23 “(iii) may allocate shares among cat-  
24 egories of vessels or gear types;

1           “(C) shall contain provisions for the reg-  
2 ular review and evaluation of the system, in-  
3 cluding timetables and criteria for evaluating  
4 performance, and actions to be taken for failure  
5 to meet the criteria;

6           “(D) shall contain criteria that would gov-  
7 ern limitation, revocation, renewal, reallocation,  
8 or reissuance of fishing quota, including:

9                   “(i) reallocation or reissuance of  
10 quota revoked pursuant to section 308 of  
11 this Act;

12                   “(ii) revocation and reissuance of fish-  
13 ing quota if the owner of the quota cease  
14 to substantially participate in the fishery;  
15 and

16                   “(iii) exceptions to revocation or limi-  
17 tation in cases of death, disablement,  
18 undue hardship, or in any case in which  
19 fishing is prohibited by the Secretary;

20           “(E) shall provide a process for appeals of  
21 decisions on—

22                   “(i) eligibility of a person to receive or  
23 bid for an allocation of quota shares; and

24                   “(ii) limitations, restrictions and rev-  
25 ocations of quota held by a person;

1           “(F) shall promote management measures  
2 to improve the conservation and management of  
3 the fishery, including reduction of bycatch;

4           “(G) shall provide for effective enforce-  
5 ment, monitoring, management of such system,  
6 including adequate data collection and use of  
7 observers at least at a level of coverage that  
8 should yield statistically significant results;

9           “(H) may provide for the sale, lease or  
10 transfer of quota shares and limitations thereto;

11           “(I) shall provide a mechanism, such as  
12 fees as authorized by section 304(d)(2), includ-  
13 ing fees payable on quota transfers to recover  
14 costs related to administering and implementing  
15 the program, including enforcement, manage-  
16 ment and data collection (including adequate  
17 observer coverage), if the assessment of such  
18 fees is proportional to the amount of quota held  
19 and fished by each quota holder and if such  
20 fees are used only for that fishing quota sys-  
21 tem;

22           “(J) shall consider the use of community  
23 or area-based approaches and strategies in de-  
24 veloping fishing quota systems and consider  
25 other management measures, including meas-

1           ures to facilitate formation of fishery coopera-  
 2           tive arrangements, taking into account prox-  
 3           imity to and dependence on the resource, con-  
 4           tribution of fishing to the social and economic  
 5           status of the community, and historic participa-  
 6           tion in the fishery; and

7                   “(K) shall include procedures and require-  
 8                   ments necessary to carry out subparagraphs  
 9                   (A) through (J).

10           “(3) NO CREATION OF RIGHT, TITLE, OR IN-  
 11           TEREST.—A fishing quota or other limited access  
 12           system authorization—

13                   “(A) shall be considered a permit for the  
 14                   purposes of sections 307, 308, and 309;

15                   “(B) may be revoked or limited at any  
 16                   time in accordance with this Act, including for  
 17                   failure to comply with the terms of the plan or  
 18                   if the system is found to have jeopardized the  
 19                   sustainability of the stock or the safety of fish-  
 20                   ermen;

21                   “(C) shall not confer any right of com-  
 22                   pensation to the holder of such fishing quota or  
 23                   other such limited access system authorization  
 24                   if it is revoked or limited;

1           “(D) shall not create, or be construed to  
2           create, any right, title, or interest in or to any  
3           fish before the fish is harvested; and

4           “(E) shall be considered a grant of permis-  
5           sion to the holder of the fishing quota to engage  
6           in activities permitted by the fishing quota sys-  
7           tem.

8           “(4) ELIGIBILITY.—Persons eligible to hold  
9           fishing quota shares are persons who are United  
10          States citizens, or who are United States nationals  
11          or permanent resident aliens qualified by Federal  
12          law to participate in the fishery.

13          “(5) DURATION.—Any fishing quota system es-  
14          tablished under this section after the date of enact-  
15          ment of the Fishing Quota Act of 2003 shall expire  
16          at the end of a 10-year period beginning on the date  
17          the system is established, or at the end of successive  
18          10 year periods thereafter, unless extended by a  
19          fishery management plan amendment in accordance  
20          with this Act, for successive periods not to exceed 10  
21          years.

22          “(6) REFERENDUM PROCUDURES.—

23                 “(A) Except as provided in subparagraph  
24                 (C) for the Gulf of Mexico commercial red  
25                 snapper fishery, a Council may not submit, and

1 the Secretary not approve or implement a fish-  
2 ery management plan or amendment that cre-  
3 ates a fishing quota system, including a secre-  
4 tarial plan, unless such a system, as ultimately  
5 developed, has been approved by more than  
6 two-thirds of those voting in a referendum  
7 among eligible permit holders. If a fishing  
8 quota system fails to be approved by the req-  
9 uisite number of those voting, it may be revised  
10 and submitted for approval in a subsequent ref-  
11 erendum.

12 “(B) The Secretary shall conduct the ref-  
13 erendum referred to in this paragraph, includ-  
14 ing notifying all persons eligible to participate  
15 in the referendum and making available to  
16 them information concerning the schedule, pro-  
17 cedures and eligibility requirements for the ref-  
18 erendum process and the proposed fishing  
19 quota system. The Secretary shall within one  
20 year of enactment of the Fishing Quota Act of  
21 2003 publish guidelines and procedures to de-  
22 termine procedures and voting eligibility re-  
23 quirements for referenda and to conduct such  
24 referenda in a fair and equitable manner.



1           “(C) The provisions of section 407(c) shall  
2           apply in lieu of this paragraph for any fishing  
3           quota system for the Gulf of Mexico commercial  
4           red snapper fishery.

5           “(D) Chapter 35 of title 44, United States  
6           Code, (commonly known as the “Paperwork Re-  
7           duction Act”) does not apply to the referenda  
8           conducted under this paragraph.

9           “(7)(A) No provision of law shall be construed  
10          to limit the authority of a Council to submit, or the  
11          Secretary to approve, the termination or limitation,  
12          without compensation to holders of any limited ac-  
13          cess system permits, of a fishery management plan,  
14          plan amendment, or regulation that provides for a  
15          limited access system, including an fishing quota  
16          system.

17          “(B) This subsection shall not apply to, or be  
18          construed to prohibit a Council from submitting, or  
19          the Secretary from approving and implementing,  
20          amendments to the North Pacific halibut and sable-  
21          fish, South Atlantic wreckfish, or Mid-Atlantic surf  
22          clam and ocean (including mahogany) quahog indi-  
23          vidual fishing quota programs.

24          “(8)(A) A Council may submit, and the Sec-  
25          retary may approve and implement, a program

1       which reserves up to 25 percent of any fees collected  
2       from a fishery under section 304(d)(2) to be used,  
3       pursuant to section 1104A(a)(7) of the Merchant  
4       Marine Act, 1936 (46 U.S.C. App. 1274(a)(7)), to  
5       issue obligations that aid in financing the—

6               “(i) purchase of fishing quotas in that fish-  
7               ery by fishermen who fish from small vessels;  
8               and

9               “(ii) first-time purchase of fishing quotas  
10              in that fishery by entry level fishermen.

11             “(B) A Council making a submission under  
12             subparagraph (A) shall recommend criteria, con-  
13             sistent with the provisions of this Act, that a fisher-  
14             man must meet to qualify for guarantees under  
15             clauses (i) and (ii) of subparagraph (A) and the por-  
16             tion of funds to be allocated for guarantees under  
17             each clause.”.

18       (b) INDEPENDENT REVIEW.—Section 303 of the  
19       Magnuson-Stevens Fishery Conservation and Manage-  
20       ment Act (16 U.S.C. 1853) is further amended by adding  
21       at the end the following:

22             “(e)(1) Within 5 years after the date of enactment  
23             of the Fishing Quota Act of 2003, and every 5 years there-  
24             after, the National Research Council shall provide an inde-

1 pendent review of the effectiveness of fishing quota sys-  
2 tems conducted in Federal fisheries.

3       “(2) The review shall be conducted by an independent  
4 panel of individuals who have knowledge and experience  
5 in fisheries conservation and management, in the imple-  
6 mentation of fishing quota systems, or in the social or eco-  
7 nomic characteristics of fisheries. The National Research  
8 Council shall ensure that members of the panel are quali-  
9 fied for appointment, are not active quota share holders,  
10 and provide fair representation to interests affected by  
11 such programs.

12       “(3) The independent review of fishing quota systems  
13 shall include—

14           “(A) a determination of how fishing quota sys-  
15 tems affect fisheries management and contribute to  
16 improved management, conservation (including by-  
17 catch reduction) and safety in the fishery;

18           “(B) formal input in the form of testimony  
19 from quota holders relative to the effectiveness of  
20 the fishing quota system;

21           “(C) an evaluation of the social, economic and  
22 biological consequences of the quota system, includ-  
23 ing the economic effects of the system on fishing  
24 communities;

1           “(D) an evaluation of the costs of imple-  
2           menting, monitoring and enforcing the systems and  
3           the methods used to establish or allocate individual  
4           quota shares; and

5           “(E) recommendations to the Councils and the  
6           Secretary to ensure that quota systems meet the re-  
7           quirements of this Act and the goals of the plans,  
8           and recommendations to the Secretary for any  
9           changes to regulations issued under section 304(i).

10          “(4) The Secretary shall submit the report to the  
11         Congress and any appropriate Councils within 60 days  
12         after the review is completed.”.

13          (c) ACTION ON LIMITED ACCESS SYSTEMS.—Section  
14         304 of the Magnuson-Stevens Fishery Conservation and  
15         Management Act (16 U.S.C. 1854) is amended by adding  
16         at the end the following:

17          “(i) ACTION ON LIMITED ACCESS SYSTEMS.—Within  
18         1 year after the date of enactment of the Fishing Quota  
19         Act of 2003, the Secretary shall issue regulations which  
20         establish requirements for establishing a fishing quota sys-  
21         tem. Nothing in this paragraph prohibits a Council or the  
22         Secretary from initiating development of a fishing quota  
23         system consistent with the provisions of this Act pending  
24         publication of the final regulations.”.

1 (d) DEFINITIONS.—Section 3 of the Magnuson-Ste-  
 2 vens Fishery Management and Conservation Act (16  
 3 U.S.C. 1802) is amended by—

4 (1) adding at the end the following:

5 “(46) The term ‘United States Citizen’ means  
 6 an individual who is a citizen of the United States  
 7 or a corporation, partnership, association, or other  
 8 entity that qualifies to document a fishing vessel as  
 9 a vessel of the United States under chapter 121 of  
 10 title 46, United States Code.”; and

11 (2) striking “ ‘individual fishing quota’ ” in  
 12 paragraph (21) and inserting “ ‘fishing quota sys-  
 13 tem’ ”.

14 (e) CONFORMING AMENDMENTS.—

15 (1) The following provisions of that Act are  
 16 amended by striking “individual fishing quota” and  
 17 inserting “fishing quota”:

18 (A) Section 304(c)(3) (16  
 19 U.S.C.1854(e)(3)).

20 (B) Section 304(d)(2)(A)(i) (16  
 21 U.S.C.1854(d)(2)(A)(i)).

22 (C) Section 402(b)(1)(D) (16 U.S.C.  
 23 1881a(b)(1)(D)).

1 (D) Section 407(a)(1)(D), (c)(1), and  
2 (e)(2)(B) (16 U.S.C. 1883(a)(1)(D), (c)(1), and  
3 (e)(2)(B)).

4 (2) Section 305(h)(1) (16 U.S.C. 1855(h)(1)) is  
5 amended by striking “individual”.

6 **SEC. 3. GULF OF MEXICO FISHING QUOTA SYSTEMS.**

7 Section 407(c) of the Magnuson-Stevens Fishery  
8 Conservation and Management Act (16 U.S.C. 1883) is  
9 amended by adding at the end the following:

10 “(3) The initial referendum described in para-  
11 graph (1) shall be used to determine support for  
12 whether the sale, transfer, or lease of quota shares  
13 shall be allowed.”.

○