

another 10 years, just as we do. So what happens to the rest of that money? It does not go into the Medicare trust fund. Instead, it goes to pay for tax breaks for the very wealthy.

Mr. Speaker, those are the fact. We need to make an adjustment. An adjustment costs about \$90 billion. The Democrats are willing to make that \$90 billion adjustment. Why do we need to rest of the money? It does not go to the Medicare trust fund; it goes to the very wealthy.

#### THE COST OF SAVING MEDICARE

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, the basic lack of reality of what the Republicans are saying was addressed by my colleague a moment ago. The trustees tell us that \$90 billion is what is necessary to fix the Medicare trust fund for long-term solvency. The Republicans take \$270 billion, and they claim this is offered to save Medicare. If they were really honest about this, they would say, OK, we will reduce our tax cut from \$245 to \$155 billion and take that \$90 billion and give it to the Medicare trust fund.

But they are not honest about it. When the gentleman from New York [Mr. RANGEL] offered that amendment in the Committee on Ways and Means, he was ruled out of order. We have already been told it will be ruled out of order if we were to offer it on the House floor tomorrow, because the Republicans are afraid to confront the reality and to let us show the American people what they really are talking about. They want the entire money for a tax cut for the rich and they do not dare say let us cut the tax cut and give \$90 billion to Medicare.

□ 1030

#### MEDICARE ONLY NEEDS A \$90 BILLION CUT

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, as the House gets ready to vote on the Medicare proposals coming from the Republicans and the Committee on Ways and Means, it has become crystal clear what exactly is taking place now. It has become very clear you do not need to cut \$270 billion from Medicare to preserve it to the year 2006. We now see that that can be done for somewhere in the range of \$90 billion.

So what is it that is happening to the other \$170 billion that the Republicans are taking out of Medicare? What has become clear is this is the means by which they can provide the tax cut, the predominant benefits of which go to the wealthiest people in this country,

and still balance the budget. They cannot afford a tax cut. This country cannot afford a tax cut. We can only make room for that tax cut if we take an additional \$170 billion out of Medicare. That is unconscionable and it is wrong and it should be rejected.

#### PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING 5-MINUTES RULE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule: The Committee on Commerce, the Committee on Economic and Educational Opportunities, the Committee on Government Reform and Oversight, the Committee on International Relations, the Committee on the Judiciary, the Committee on National Security, the Committee on Resources, the Committee on Science, the Committee on Transportation and Infrastructure, the Committee on Veterans' Affairs, and the Permanent Select Committee on Intelligence.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. BUNNING). Is there objection to the request of the gentleman from Maryland?

There was no objection.

#### FISHERY CONSERVATION AND MANAGEMENT AMENDMENTS OF 1995

The SPEAKER pro tempore (Mr. HAYWORTH). Pursuant to the order of the House of Monday, September 18, 1995, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 39.

□ 1033

#### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 39) to amend the Magnuson Fishery Conservation and Management Act to improve fisheries management with Mr. BUNNING (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Monday, September 18, 1995, all time for general debate had expired.

The committee amendment in the nature of a substitute printed in the bill shall be considered under the 5-minute rule by sections and pursuant to the order of the House of Monday, September 18, 1995, each section shall be considered read.

The Clerk will designate section 1.

The text of section 1 is as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Fishery Conservation and Management Amendments of 1995".*

Mr. YOUNG of Alaska. Mr. Chairman, I ask unanimous consent that the remainder of the amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

#### SEC. 2. AMENDMENT OF THE MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT.

*Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).*

#### SEC. 3. FINDINGS, PURPOSES, AND POLICY.

(a) FINDINGS.—Section 2(a) (16 U.S.C. 1801(a)) is amended—

(1) in paragraph (2)—

(A) by striking "and (B)" and inserting "(B)"; and

(B) by inserting before the period at the end the following: "; and (C) losses of essential fishery habitat can diminish the ability of stocks of fish to survive";

(2) in paragraph (6) by inserting after "to insure conservation," the following: "to provide long-term conservation of essential fishery habitat,"; and

(3) by adding at the end the following:

"(9) Continuing loss of essential fishery habitat poses a long-term threat to the viability of commercial and recreational fisheries of the United States. To conserve and manage the fishery resources of the United States, increased attention must be given to the protection of this habitat.".

(b) PURPOSES.—Section 2(b) (16 U.S.C. 1801(b)) is amended—

(1) by striking "and" after the semicolon at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting a semicolon; and

(3) by adding at the end the following:

"(7) to promote the conservation of essential fishery habitat in the review of projects that affect essential fishery habitat; and

"(8) to ensure that conservation and management decisions with respect to the Nation's fishery resources are made in a fair and equitable manner.".

(c) POLICY.—Section 2(c)(3) (16 U.S.C. 1801(c)(3)) is amended by inserting after "practical measures that" the following: "minimize bycatch and".

#### SEC. 4. DEFINITIONS.

(a) EXECUTION OF PRIOR AMENDMENTS TO DEFINITIONS.—Notwithstanding section 308 of the Act entitled "An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary", approved March 9, 1992 (Public Law 102-251; 106 Stat. 66), section 301(b) of that Act (adding a definition of the term "special areas") shall take effect on the date of the enactment of this Act.

(b) NEW AMENDMENTS.—Section 3 (16 U.S.C. 1802) is amended—

(1) in paragraph (4)—

(A) by striking "COLEENTERATA" from the heading of the list of corals and inserting "CNIDARIA"; and

(B) in the list appearing under the heading "CRUSTACEA", by striking "Deep-sea Red Crab—Geryon quinque-dens" and inserting "Deep-sea Red Crab—Chaceon quinque-dens";

(2) in paragraph (16) by striking "of one and one-half miles" and inserting "of two and one-half kilometers";

(3) in paragraph (17) by striking "Pacific Marine Fisheries Commission" and inserting "Pacific States Marine Fisheries Commission";

(4) by amending paragraph (21) to read as follows:

"(21) The term 'optimum', with respect to yield from a fishery, means the amount of fish—  
 "(A) which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities; and

"(B)(i) which, subject to clause (ii), is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social, or ecological factor; or

"(ii) which, in the case of a fishery which has been classified by the Secretary as overfished, is prescribed as such on the basis of the maximum sustainable yield as reduced to allow for the rebuilding of the fishery to a level consistent with producing maximum sustainable yield on a continuing basis.";

(5) in paragraph (31) (as redesignated by the amendments made effective by subsection (a) of this section) by striking "for which a fishery management plan prepared under title III or a preliminary fishery management plan prepared under section 201(h) has been implemented" and inserting "regulated under this Act"; and

(6) by adding at the end the following:

"(34) The term 'bycatch' means fish which are harvested by a fishing vessel, but which are not sold or kept for personal use, including economic discards and regulatory discards.

"(35) The term 'economic discards' means fish which are the target of a fishery, but which are not retained by the fishing vessel which harvested them because they are of an undesirable size, sex, or quality, or for other economic reasons.

"(36) The term 'regulatory discards' means fish caught in a fishery which fishermen are required by regulation to discard whenever caught, or are required by regulation to retain but not sell.

"(37) The term 'essential fishery habitat' means those waters necessary to fish for spawning, breeding, or growth to maturity.

"(38) The term 'overfishing' means a level or rate of fishing mortality that jeopardizes the ability of a stock of fish to produce maximum sustainable yield on a continuing basis.

"(39) The term 'rebuilding program' means those conservation and management measures necessary to restore the ability of a stock of fish to produce maximum sustainable yield on a continuing basis.

"(40) The term 'total allowable catch' means the total amount of fish in a fishery that may be harvested in a fishing season, as established in accordance with a fishery management plan for the fishery."

#### SEC. 5. FOREIGN FISHING.

(a) TRANSHIPMENT PERMITS.—

(1) AUTHORITY TO OPERATE UNDER TRANSHIPMENT PERMITS.—Section 201(a)(1) (16 U.S.C. 1821(a)(1)) is amended to read as follows:

"(1) is authorized under subsection (b) or (c) or under a permit issued under section 204(d);"

(2) AUTHORITY TO ISSUE TRANSHIPMENT PERMITS.—Section 204 (16 U.S.C. 1824) is amended by adding at the end the following:

"(d) TRANSHIPMENT PERMITS.—

"(1) AUTHORITY TO ISSUE PERMITS.—The Secretary may issue a transshipment permit under this subsection which authorizes a vessel other than a vessel of the United States to engage in fishing consisting solely of transporting fish products at sea from a point within the bound-

aries of any State or the exclusive economic zone to a point outside the United States to any person who—

"(A) submits an application which is approved by the Secretary under paragraph (3); and

"(B) pays a fee imposed under paragraph (7).

"(2) TRANSMITTAL.—Upon receipt of an application for a permit under this subsection, the Secretary shall promptly transmit copies of the application to the Secretary of the department in which the Coast Guard is operating, any appropriate Council, and any interested State.

"(3) APPROVAL OF APPLICATION.—The Secretary may approve an application for a permit under this section if the Secretary determines that—

"(A) the transportation of fish products to be conducted under the permit, as described in the application, will be in the interest of the United States and will meet the applicable requirements of this Act;

"(B) the applicant will comply with the requirements described in section 201(c)(2) with respect to activities authorized by any permit issued pursuant to the application;

"(C) the applicant has established any bonds or financial assurances that may be required by the Secretary; and

"(D) no owner or operator of a vessel of the United States which has adequate capacity to perform the transportation for which the application is submitted has indicated to the Secretary an interest in performing the transportation at fair and reasonable rates.

"(4) WHOLE OR PARTIAL APPROVAL.—The Secretary may approve all or any portion of an application under paragraph (3).

"(5) FAILURE TO APPROVE APPLICATION.—If the Secretary does not approve any portion of an application submitted under paragraph (1), the Secretary shall promptly inform the applicant and specify the reasons therefor.

"(6) CONDITIONS AND RESTRICTIONS.—The Secretary shall establish and include in each permit under this subsection conditions and restrictions which shall be complied with by the owner and operator of the vessel for which the permit is issued. The conditions and restrictions shall include the requirements, regulations, and restrictions set forth in subsection (b)(7).

"(7) FEES.—The Secretary shall collect a fee for each permit issued under this subsection, in an amount adequate to recover the costs incurred by the United States in issuing the permit."

(b) FOREIGN FISHING FOR ATLANTIC MACKEREL AND ATLANTIC HERRING.—

(1) RESTRICTION ON ALLOCATIONS.—Section 201(e)(1)(A) (16 U.S.C. 1821(e)(1)(A)) is amended by adding at the end the following new sentence: "No allocation may be made for a fishery that is not subject to a fishery management plan prepared under section 303."

(2) COUNCIL RECOMMENDATION REQUIRED TO APPROVE APPLICATION.—Section 204(b)(6) (16 U.S.C. 1824(b)(6)) is amended—

(A) in subparagraph (A) by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)"; and

(B) by adding at the end the following new subparagraph:

"(C)(i) The Secretary may not approve an application which proposes harvest of Atlantic mackerel or Atlantic herring by one or more foreign fishing vessels unless the appropriate Council has recommended that the Secretary approve the portion of the application making that proposal and the Secretary includes the appropriate conditions and restrictions recommended by the Council.

"(ii) For purposes of this subparagraph, the term 'appropriate Council' means the Mid-Atlantic Fishery Management Council with respect to Atlantic mackerel and the New England Fishery Management Council with respect to Atlantic herring."

(c) PERIOD FOR CONGRESSIONAL REVIEW OF GOVERNING INTERNATIONAL FISHERY AGREE-

MENTS.—Section 203 (16 U.S.C. 1823) is amended—

(1) in subsection (a) by striking "60 calendar days of continuous session of the Congress" and inserting "120 calendar days (excluding any days in a period for which the Congress is adjourned sine die)";

(2) by striking subsection (c); and

(3) by redesignating subsection (d) as subsection (c).

(d) TECHNICAL CORRECTION.—

(1) CORRECTION.—Section 201(e)(1)(E)(iv) (16 U.S.C. 1821(e)(1)(E)(iv)) is amended by inserting "or special areas" after "the exclusive economic zone".

(2) APPLICATION.—The amendment made by paragraph (1) shall take effect on the date it would take effect if it were enacted by section 301(d)(2) of the Act entitled "An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary", approved March 9, 1992 (Public Law 102-251; 106 Stat. 63).

#### SEC. 6. LARGE-SCALE DRIFT NET FISHING.

Section 206(e) (16 U.S.C. 1826(e)) is amended to read as follows:

"(e) REPORT.—Not later than March 17th of each year, the Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a list of those nations whose nationals or vessels conduct, and of those nations that authorize their nationals to conduct, large-scale drift net fishing beyond the exclusive economic zone of any nation in a manner that diminishes the effectiveness of, or is inconsistent with, any international agreement governing large-scale drift net fishing to which the United States is a party or otherwise subscribes."

#### SEC. 7. NATIONAL STANDARD FOR FISHERY CONSERVATION AND MANAGEMENT TO MINIMIZE BYCATCH.

Section 301(a) (16 U.S.C. 1851(a)) is amended by adding at the end the following:

"(8) Conservation and management measures shall, to the maximum extent practicable, minimize bycatch."

#### SEC. 8. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) MEMBERSHIP OF NORTH CAROLINA ON MID-ATLANTIC FISHERY MANAGEMENT COUNCIL.—Section 302(a)(2) (16 U.S.C. 1852(a)(2)) is amended—

(1) by striking "and Virginia" and inserting "Virginia, and North Carolina";

(2) by striking "19" and inserting "21"; and

(3) by striking "12" and inserting "13".

(b) VOTING MEMBERS, GENERALLY.—Section 302(b) (16 U.S.C. 1852(b)) is amended—

(1) in paragraph (2)(B) in the first sentence by inserting before the period the following: "; and of other individuals selected for their fisheries expertise as demonstrated by their academic training, marine conservation advocacy, consumer advocacy, or other affiliation with nonuser groups"; and

(2) by adding at the end the following new paragraph:

"(6) The Secretary shall remove any member of a Council required to be appointed by the Secretary in accordance with subsection (b)(2) if the member violates section 307(1)(C)."

(c) COMPENSATION.—

(1) AMENDMENT.—Section 302(d) (16 U.S.C. 1852(d)) is amended in the first sentence—

(A) by striking "each Council," and inserting "each Council who are required to be appointed by the Secretary and"; and

(B) by striking "shall, until January 1, 1992," and all that follows through "GS-16" and inserting the following: "shall receive compensation at a daily rate equivalent to the lowest rate of pay payable for GS-15,".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(B) shall take effect on January 1, 1996.

(d) TRANSACTION OF BUSINESS.—Section 302(e) (16 U.S.C. 1852(e)) is amended by adding at the end the following:

“(5) At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council. The official minutes required under subsection (j)(2)(E) and other appropriate records of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote.”

(e) COMMUNICATIONS WITH FEDERAL AGENCIES REGARDING ESSENTIAL AND OTHER FISHERY HABITAT.—Section 302(i) (16 U.S.C. 1852(i)) is amended—

(1) in paragraph (1), by striking “and” after the semicolon at the end of subparagraph (A) and striking the period at the end of subparagraph (B) and inserting “; and”;

(2) by adding at the end of paragraph (1) the following:

“(C) shall notify the Secretary regarding, and may comment on and make recommendations to any State or Federal agency concerning, any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, may have a detrimental effect on the essential fishery habitat of a fishery under the authority of the Council.”; and

(3) by amending paragraph (2) to read as follows:

“(2) Within 15 days after receiving a comment or recommendation under paragraph (1) from a Council regarding the effects of an activity on essential fishery habitat, a Federal agency shall provide to the Council a detailed response in writing. The response shall include a description of measures being considered by the agency for avoiding, mitigating, or offsetting the impact of the activity on such habitat. In the case of a response that is inconsistent with the recommendations of the Council, the Federal agency shall explain its reasons for not following the recommendations.”

(h) PROCEDURAL MATTERS.—Section 302(j) (2) (16 U.S.C. 1852(j)(2)) is amended—

(1) by striking “guidelines” in the matter preceding subparagraph (A) and inserting “shall”;

(2) in subparagraph (C), by inserting after “fishery” the following: “sufficiently in advance of the meeting to allow meaningful public participation in the meeting.”;

(3) by adding at the end of subparagraph (D) the following: “The written statement or oral testimony shall include a brief description of the background and interests of the person on the subject of the written statement or oral testimony.”;

(4) by amending subparagraph (E) to read as follows:

“(E) Detailed minutes of each meeting of the Council shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the Council. The Chairman shall certify the accuracy of the minutes of each meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction.”; and

(5) by adding at the end the following:

“(G) A Council member may add an item to the agenda of a meeting of a Council or of a committee or advisory panel of a Council by presenting to the Chairman of the Council, committee, or panel, at least 21 days before the date of the meeting, a written description of the item signed by 2 or more voting members of the Council.”

(i) DISCLOSURE OF FINANCIAL INTEREST AND RECUSAL.—Section 302(k) (16 U.S.C. 1852(k)) is amended—

(1) in the heading by inserting “AND RECUSAL” before the period;

(2) in paragraph (1)—

(A) in subparagraph (A) by inserting “or” after the semicolon at the end;

(B) in subparagraph (B) by striking “; or” at the end and inserting a period; and

(C) by striking subparagraph (C);

(3) in paragraph (3)(B) by striking “or (C)”;

(4) in paragraph (5)—

(A) in subparagraph (A) by striking “and” at the end;

(B) in subparagraph (B) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(C) be kept on file by the Secretary for use in reviewing Council actions and made available by the Secretary for public inspection at reasonable hours.”;

(5) in paragraph (6) by striking “or (C)”;

(6) in paragraph (7) by striking “or (C)”;

(7) by adding at the end the following:

“(8) The Secretary, in consultation with the Councils, and by not later than 1 year after the date of the enactment of the Fishery Conservation and Management Amendments of 1995, shall establish rules which prohibit an affected individual from voting on a matter in which the individual or any other person described in paragraph (2) with respect to the individual has an interest that would be significantly affected. The rules may include provisions which take into account the differences in fisheries.

“(9) A voting member of a Council shall recuse himself or herself from voting if—

“(A) voting by the member would violate the rules established under paragraph (8); or

“(B) the General Counsel of the National Oceanic and Atmospheric Administration (or a designee of the General Counsel under paragraph (10)(C)(ii)) determines under paragraph (10) that voting by the member would violate the rules established under paragraph (8).

“(10)(A) Before any vote held by a Council on any matter, a voting member of the Council may, at a meeting of the Council, request the General Counsel of the National Oceanic and Atmospheric Administration (or a designee of the General Counsel under subparagraph (C)(ii)) to determine whether voting on the matter by the member, or by any other member of the Council, would violate the rules established under paragraph (8).

“(B) Upon a request under subparagraph (A) regarding voting on a matter by a member—

“(i) the General Counsel of the National Oceanic and Atmospheric Administration (or a designee of the General Counsel under subparagraph (C)(ii)) shall determine and state whether the voting would violate the rules established under paragraph (8), at the meeting at which the request is made; and

“(ii) no vote on the matter may be held by the Council before the determination and statement are made.

“(C) The General Counsel of the National Oceanic and Atmospheric Administration shall—

“(i) attend each meeting of a Council; or

“(ii) designate an individual to attend each meeting of a Council for purposes of this paragraph.

“(11) For the purposes of this subsection, the term ‘an interest that would be significantly affected’ means a personal financial interest which would be augmented by voting on the matter and which would only be shared by a minority of other persons within the same industry sector or gear group whose activity would be directly affected by a Council’s action.”

(j) CONFORMING AMENDMENT.—Section 302(k)(1)(A) (16 U.S.C. 1852(k)(1)(A)) is amended to read as follows:

“(A) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2) or is designated by the Governor of a State under subsection (b)(1)(A) and is not an employee of the State; or”

## SEC. 9. CONTENTS OF FISHERY MANAGEMENT PLANS.

(a) REQUIRED PROVISIONS.—

(1) NEW REQUIREMENTS.—Section 303(a) (16 U.S.C. 1853(a)) is amended—

(A) in paragraph (5) by striking “and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors,” and inserting the following: “the amount and species of bycatch taken on board a fishing vessel based on a standardized reporting methodology established by the Council for that fishery, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors.”;

(B) by amending paragraph (7) to read as follows:

“(7) include a description of essential fishery habitat for a fishery based on the guidelines established by the Secretary under section 304(h)(1);”;

(C) in paragraph (8) by striking “and” after the semicolon at the end;

(D) in paragraph (9) by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

“(10) include a measurable and objective determination of what constitutes overfishing in that fishery, and a rebuilding program in the case of a plan for any fishery which the Council or the Secretary has determined is overfished;

“(11) include conservation and management measures necessary to minimize bycatch to the maximum extent practicable;

“(12) to the extent practicable, minimize mortality caused by economic discards and regulatory discards in the fishery;

“(13) take into account the safety of human life at sea; and

“(14) in the case of any plan which under subsection (b)(8) requires that observers be carried on board vessels—

“(A) be fair and equitable to all fishing vessels and fish processing vessels, that are vessels of the United States and participate in fisheries covered by the plan;

“(B) be consistent with other applicable laws;

“(C) take into consideration the operating requirements of the fishery and the safety of observers and fishermen; and

“(D) establish a system of fees to pay the costs of the observer program.”

(2) AMENDMENT OF PLANS.—Not later than 18 months after the date of enactment of this Act, each Regional Fishery Management Council established under the Magnuson Fishery Conservation and Management Act shall submit to the Secretary of Commerce an amendment to each fishery management plan in effect under that Act to comply with the amendments made by paragraph (1).

(3) FISH WEIGHING.—By January 1, 1997, the North Pacific Fishery Management Council shall require all fish processors that process fish species under the management of the Council to weigh those fish to ensure an accurate measurement of the total harvest of each species.

(b) AMENDMENTS RELATING TO DISCRETIONARY PROVISIONS, GENERALLY.—Section 303(b) (16 U.S.C. 1853(b)) is amended—

(1) in paragraph (8) in the matter preceding the first semicolon, by striking “require that observers” and inserting “require that one or more observers”;

(2) in paragraph (9) by striking “and” after the semicolon;

(3) by redesignating paragraph (10) as paragraph (15); and

(4) by inserting after paragraph (9) the following:

“(10) assess and specify the effect which conservation and management measures of the plan will have on stocks of fish in the ecosystem of the fishery which are not part of the fishery;

“(11) include incentives and harvest preferences within fishing gear groups to promote the avoidance of bycatch;

“(12) specify gear types allowed to be used in the fishery and establish a process for evaluating new gear technology that is proposed to be used in the fishery;

“(13) reserve a portion of the allowable biological catch of the fishery for use for scientific research purposes;

"(14) establish conservation and management measures necessary to minimize, to the extent practicable, adverse impacts on essential fishery habitat described in the plan under subsection (a)(7) caused by fishing; and".

(c) REQUIREMENT TO SUBMIT FISHERY IMPACT STATEMENTS TO AFFECTED STATES AND THE CONGRESS.—Section 303 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853), as amended by section 16(b), is further amended by adding at the end the following new subsection:

"(h) SUBMISSION OF FISHERY IMPACT STATEMENTS TO INTERESTED STATES AND THE CONGRESS.—Not later than the date a fishery management plan prepared by a Council or the Secretary takes effect under section 304, the Council or the Secretary, respectively, shall submit the fishery impact statement required in the plan under subsection (a)(9) to—

"(1) the Governor of each State that might be affected by the plan, who may use information in the statement to assist persons in applying for loans and grants for economic relief; and

"(2) the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate."

#### SEC. 10. AMENDMENTS RELATING TO MISCELLANEOUS DUTIES OF SECRETARY.

(a) SAFETY AT SEA.—Section 304(a)(2)(C) (16 U.S.C. 1854(a)(2)(C)) is amended by striking "to fishery access" and all that follows through the period and inserting "with respect to the provisions of sections 303(a)(6) and (13)."

(b) HIGHLY MIGRATORY SPECIES.—Section 304(f) (16 U.S.C. 1854(f)) is amended—

(1) by striking the subsection heading and inserting the following: "FISHERIES UNDER AUTHORITY OF MORE THAN ONE COUNCIL.—";

(2) in paragraph (3)(C)(ii) by inserting before the semicolon the following: "and the plan development team established under paragraph (4)";

(3) in paragraph (3)(E), strike "allocation or quota" each place it appears and insert "allocation, quota, or fishing mortality level";

(4) in paragraph (3)(F)(ii) by inserting "and the plan development team established under paragraph (4)" before the semicolon;

(5) by adding at the end the following:

"(4)(A) The Secretary shall establish a plan development team for each highly migratory species fishery over which the Secretary has authority under paragraph (3)(A), to advise the Secretary on and participate in the development of each fishery management plan or amendment to a plan for the fishery under this subsection.

"(B) The plan development team shall—

"(i) consist of not less than 7 individuals who are knowledgeable about the fishery for which the plan or amendment is developed, selected from members of advisory committees and species working groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species and from other interested persons;

"(ii) be balanced in its representation of commercial, recreational, and other interests; and

"(iii) participate in all aspects of the development of the plan or amendment.

"(C) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any plan development team established under this paragraph."; and

(6) in paragraph (3)(D) by striking clauses (ii) and (iii) and inserting the following:

"(ii) be fair and equitable in allocating fishing privileges among United States fishermen and not have economic allocation as the sole purpose;

"(iii) promote international conservation;

"(iv) minimize the establishment of regulations that require the discarding of Atlantic highly migratory species which cannot be returned to the sea alive; and

"(v) promote the implementation of scientific research programs that include to the extent

practicable, the tag, and release of Atlantic highly migratory species."

(c) LIMITED ACCESS.—Section 304(c)(3) (16 U.S.C. 1854(c)(3)) is amended by inserting "or advisory committee appointed under laws implementing relevant international fishery agreements to which the United States is a party" before the period at the end.

(d) INCIDENTAL HARVEST RESEARCH.—Section 304(g) (16 U.S.C. 1854(g)) is amended—

(1) in paragraph (1) by striking "3-year";

(2) by striking paragraph (4) and inserting the following:

"(4) No later than 12 months after the enactment of the Fishery Conservation and Management Amendments of 1995, the Secretary shall, in cooperation with affected interests and based upon the best scientific information available, complete a program to—

"(A) develop technological devices and other changes in fishing operations to minimize the incidental mortality of nontargeted fishery resources in the course of shrimp trawl activity to the extent practicable from the level of mortality at the date of enactment of the Fishery Conservation and Management Amendments of 1990;

"(B) evaluate the ecological impacts and the benefits and costs of such devices and changes in fishing operations; and

"(C) assess whether it is practicable to utilize those nontargeted fishery resources which are not avoidable.";

(3) in paragraph (6)(B) by striking "April 1, 1994" and inserting "the submission under paragraph (5) of the detailed report on the program described in paragraph (4)"; and

(4) by adding at the end the following new paragraph:

"(7) Any measure implemented under this Act to reduce the incidental mortality of nontargeted fishery resources in the course of shrimp trawl fishing shall apply to such fishing throughout the range of the nontargeted fishery resource concerned."

(e) ESSENTIAL FISHERY HABITAT; OVERFISHING.—Section 304 (16 U.S.C. 1854) is further amended by adding at the end the following:

"(h) ACTIONS BY THE SECRETARY ON ESSENTIAL FISHERY HABITAT.—(1) Within one year after the date of enactment of the Fishery Conservation and Management Amendments of 1995, the Secretary shall—

"(A) establish guidelines to assist the Councils in the description of essential fishery habitat in fishery management plans; and

"(B) establish a schedule for the amendment of fishery management plans to describe essential fish habitats.

"(2) The Secretary, in cooperation with the Secretary of the Interior, shall identify the essential fishery habitat for each fishery for which a fishery management plan is in effect. The identification shall be based on the description of essential fishery habitat contained in the plan.

"(3) Each Federal agency shall consult with the Secretary with respect to any action proposed to be authorized, funded, or carried out by such agency that the head of the agency has reason to believe, or the Secretary believes, may result in the destruction or adverse modification of any essential fishery habitat identified by the Secretary under paragraph (2). If the Secretary finds that the proposed action would result in destruction or adverse modifications of such essential fishery habitat, the Secretary shall comment on and make recommendations to the agency concerning that action.

"(4) Within 15 days after receiving recommendations from the Secretary under paragraph (3) with respect to a proposed action, the head of a Federal agency shall provide a detailed, written response to the Secretary which describes the measures proposed by the agency to avoid, mitigate, or offset the adverse impact of the proposed action on the essential fishery habitat. In the case of a response that is incon-

sistent with the recommendation of the Secretary, the agency shall explain its reasons for not following the recommendations.

"(5) The Secretary shall review programs administered by the Department of Commerce to ensure that any relevant programs further the conservation and enhancement of essential fishery habitat identified by the Secretary under paragraph (2). The Secretary shall coordinate with and provide information to other Federal agencies to further the conservation and enhancement of essential fishery habitat identified by the Secretary under paragraph (2).

"(6) Nothing in this subsection shall have the effect of amending or repealing any other law or regulation or modifying any other responsibility of a Federal agency with respect to fisheries habitat.

(i) ACTION BY THE SECRETARY ON OVERFISHING.—(1) In addition to the authority granted to the Secretary under subsection (c), if the Secretary finds at any time that overfishing is occurring or has occurred in any fishery, the Secretary shall immediately notify the appropriate Council and request that action be taken to end overfishing in the fishery and to establish a rebuilding program for the fishery. The Secretary shall publish each notice under this paragraph in the Federal Register.

"(2) If the Council does not submit to the Secretary before the end of the 1-year period beginning on the date of notification under paragraph (1) a fishery management plan, or an amendment to the appropriate existing fishery management plan, which is intended to address overfishing in the fishery and to establish any necessary rebuilding program, then the Secretary shall within 9 months after the end of that period prepare under subsection (c) a fishery management plan, or an amendment to an existing management plan, to end overfishing in the fishery and to establish any necessary rebuilding program.

"(3) If the Secretary finds that overfishing is occurring in any fishery for which a fishery management plan prepared by the Secretary is in effect, the Secretary shall—

"(A) within 1 year act under subsection (c) to amend the plan to end overfishing in the fishery and to establish any necessary rebuilding program; and

"(B) in the case of a highly migratory species fishery, pursue international rebuilding programs.

"(4) Any rebuilding program under this subsection shall specify the time period within which the fishery is expected to be rebuilt. The time period shall be as short as possible, taking into account the biology and natural variability of the stock of fish, other environmental factors or conditions which would affect the rebuilding program, and the needs of the fishing industry. The time period may not exceed 10 years, except in cases where the biology of the stock of fish or other environmental factors dictates otherwise.

"(5) If the Secretary finds that the action of any Federal agency has caused or contributed to the decline of a fishery below maximum sustainable yield, the Secretary shall notify the agency of the Secretary's finding and recommend steps that can be taken by the agency to reverse that decline.

"(6)(A) The Secretary shall review the progress of any rebuilding program required under this subsection beginning in the third year in which the plan is in effect, and annually thereafter.

"(B) If the Secretary finds as a result of the review that the rebuilding program is not meeting its specified goals due to reasons related to the reproductive capacity, productivity, life span, or natural variability of the fish species concerned or other environmental conditions or factors beyond the control of the rebuilding program, the Secretary shall—

"(i) reassess the goals of the program;

"(ii) determine, based on the best available scientific information, whether revision to the program is needed; and

“(iii) if the Secretary determines under clause (ii) that such revisions are needed, direct the Council that established the program to make revisions to the program, or in the case of a program established by the Secretary, make such revisions.

“(C) If the Secretary finds as a result of the review that the rebuilding program is not meeting its specified goals for reasons other than those described in subparagraph (B), the Secretary shall direct the Council that established the program to make revisions to the program, or in the case of a program established by the Secretary, make such revisions.

“(7)(A) The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council's geographic area of authority and identify those fisheries that are approaching a condition of being overfished.

“(B) For each fishery that is subject to a fishery management plan, the status of the fishery shall be determined for purposes of subparagraph (A) in accordance with the determination of what constitutes overfishing in the fishery included in the plan under section 303(a)(10).

“(C) The Secretary shall identify a fishery under subparagraph (A) as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary determines that the fishery is likely to become overfished within 2 years.

“(D) For any fishery that the Secretary identifies under subparagraph (A) as approaching the condition of being overfished, the report shall—

“(i) estimate the time frame within which the fishery will reach that condition; and

“(ii) make specific recommendations to the appropriate Council regarding actions that should be taken to prevent that condition from being reached.”.

(f) ACTION ON CERTAIN IMPLEMENTING REGULATIONS PROPOSED BY COUNCILS.—Section 304 (16 U.S.C. 1854) is further amended by adding at the end the following:

“(j) ACTION ON COVERED IMPLEMENTING REGULATIONS PROPOSED BY A COUNCIL.—(1) After the receipt date of a covered implementing regulation submitted by a Council, the Secretary shall—

“(A) immediately commence a review of the covered implementing regulation to determine whether it is consistent with the fishery management plan it would implement, the national standards, the other provisions of this Act, and any other applicable law; and

“(B) immediately publish the covered implementing regulation in the Federal Register and provide a period of not less than 15 days and not more than 45 days for the submission of comments by the public.

“(2) Not later than 75 days after the receipt date of a covered implementing regulation submitted by a Council, the Secretary shall—

“(A) publish a final regulation on the subject matter of the covered implementing regulation; or

“(B) decline to publish a final regulation.

The Secretary shall provide to the Council in writing an explanation of the reasons for the Secretary's action.

“(3) For the purposes of this subsection, the term—

“(A) ‘receipt date’ means the 5th day after the day on which a Council submits to the Secretary a covered implementing regulation that the Council characterizes as a final covered implementing regulation; and

“(B) ‘covered implementing regulation’—

“(i) means a proposed amendment to existing regulations implementing a fishery management plan in effect under this Act, which does not have the effect of amending the plan; and

“(ii) does not include any proposed regulation submitted with a plan or amendment to a plan under section 303(c).”.

(g) PACIFIC REGION STOCK ASSESSMENT.—Section 304 (16 U.S.C. 1854) is further amended by adding at the end the following:

“(k) PACIFIC REGION STOCK ASSESSMENT.—(1) Not later than 120 days after the date of enactment of the Fishery Conservation and Management Amendments of 1995, the Secretary shall, in consultation with the Pacific Fishery Management Council and the States of California, Oregon, and Washington, establish a Pacific Region Scientific Review Group (in this subsection referred to as the ‘Group’) consisting of representatives of the National Marine Fisheries Service, each of the States of California, Oregon, and Washington, universities located in those States, commercial and recreational fishermen and shore-based processors located in those States, and environmental organizations. Individuals appointed to serve on the Group shall be selected from among individuals who are knowledgeable or experienced in the harvesting, processing, biology, or ecology of the fish stocks of fish that are managed under the Pacific Fisheries Management Council Pacific Coast Groundfish Plan (in this subsection referred to as the ‘covered Pacific stocks’).

“(2) Not later than 180 days after the date of establishment of the Group, the Group shall transmit to the Secretary a research plan of at least 3 years duration to assess the status of the covered Pacific stocks, including the abundance, location, and species, age, and gender composition of those stocks. The plan shall provide for the use of private vessels to conduct stock surveys.

“(3) Immediately upon receiving the plan transmitted under paragraph (2), the Secretary shall take action necessary to carry out the plan, including, subject to the availability of appropriations, chartering private vessels, arranging for the deployment of scientists on those vessels (including the payment of increased insurance costs to vessel owners), and obtaining the assistance of shore-based fish processors.

“(4) The Secretary may offset the cost of carrying out the plan by entering into agreements with vessel owners or shore-based fish processors to provide vessel owners or shore-based fish processors with a portion of the total allowable catch reserved for research purposes under section 303(b).”.

#### SEC. 11. EMERGENCY ACTIONS.

Section 305(c) (16 U.S.C. 1855(c)) is amended—

(1) in paragraph (2)(A), by inserting “under section 302(b)(1)(A) and (C)” after “voting members”;

(2) by amending paragraph (3)(B) to read as follows:

“(B) shall remain in effect for not more than 180 days after the date of such publication, except that any such regulation may, by agreement of the Secretary and the Council and after notice and an opportunity for submission of comments by the public, be effective for 1 additional period of not more than 180 days; and”; and

(3) by adding at the end the following:

“(4) The Secretary may promulgate emergency regulations under this subsection to protect the public health. Notwithstanding paragraph (3), regulations promulgated under this paragraph shall remain in effect until withdrawn by the Secretary. The Secretary shall promptly withdraw regulations under this paragraph when the circumstances requiring the regulations no longer exist. The Secretary shall provide an opportunity for submission of comments by the public after regulations are promulgated under this paragraph.

“(5) An emergency regulation promulgated under this subsection that closes an area to fishing shall not remain in effect for an additional period under paragraph (3)(B) unless before the beginning of the additional period the Council having jurisdiction over the area, in conjunction with the Secretary, publishes a report on the status of the fishery in the area that in-

cludes an analysis of the costs and benefits of the closure.”.

#### SEC. 12. STATE JURISDICTION.

(a) REPORTS.—Section 306(c)(1) (16 U.S.C. 1856(c)(1)) is amended—

(1) by striking “and” at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting “; and”; and

(3) by adding at the end the following:

“(C) the owner or operator of the vessel submits to the appropriate Council and the Secretary, in a manner prescribed by the Secretary, periodic reports on the tonnage of fish received from vessels of the United States and the locations from which such fish were harvested.”.

(b) STATE AUTHORITY.—Section 306(b) (16 U.S.C. 1856(b)) is amended by adding at the end the following:

“(3) For any fishery occurring off the coasts of Alaska for which there is no Federal fishery management plan approved and implemented pursuant to this Act, or pursuant to delegation to a State in a fishery management plan, a State may enforce its laws or regulations pertaining to the taking of fish in the exclusive economic zone off that State or the landing of fish caught in the exclusive economic zone providing there is a legitimate State interest in the conservation and management of that fishery, until a Federal fishery management plan is implemented. Fisheries currently managed pursuant to a Federal fishery management plan shall not be removed from Federal management and placed under State authority without the unanimous consent (except for the Regional Director of the National Marine Fisheries Service) of the Council which developed the fishery management plan.”.

#### SEC. 13. PROHIBITED ACTS.

(a) PROHIBITION ON DAMAGING GEAR.—Section 307(1)(K) (16 U.S.C. 1857(1)(K)) is amended by striking “to knowingly steal, or without authorization, to” and inserting “to steal, or to negligently”.

(b) FAILURE TO DISCLOSE FINANCIAL INFORMATION.—Section 307(1) (16 U.S.C. 1857(1)) is amended—

(1) by striking “or” at the end of subparagraph (M);

(2) by striking the period at the end of subparagraph (N) and inserting “; or”; and

(3) by adding at the end the following:

“(O) to knowingly and willfully fail to disclose or falsely disclose any financial interest as required under section 302(k) or to knowingly violate any rule established under section 302(k)(8).”.

(c) PROHIBITED FISHING.—

(1) IN GENERAL.—Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is amended to read as follows:

“(B) in fishing, except recreational fishing permitted under section 201(j), within the exclusive economic zone or within the special areas, or for any anadromous species or Continental Shelf fishery resources beyond such zone or areas, or in fishing consisting of transporting fish products from a point within the boundaries of any State or the exclusive economic zone or the special areas, unless such fishing is authorized under, and conducted in accordance with, a valid and applicable permit issued under section 204, except that this subparagraph shall not apply to fishing within the special areas before the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States; or”.

(2) CONFORMING AMENDMENT.—Section 301(h)(2)(A) of the Act entitled “An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary”, approved March 9, 1992 (Public Law 102-251; 106 Stat. 64), is repealed.

#### SEC. 14. HAROLD SPARCK BERING SEA COMMUNITY DEVELOPMENT QUOTA PROGRAM.

Section 313 (16 U.S.C. 1862) is amended by adding at the end the following new subsection:

“(f) **BERING SEA COMMUNITY DEVELOPMENT QUOTA PROGRAM.**—(1) The North Pacific Fishery Management Council and the Secretary shall establish a western Alaska community development quota program under which a percentage of the total allowable catch of any Bering Sea fishery is allocated to western Alaska communities that participate in the program.

“(2) To be eligible to participate in the western Alaska community development quota program under paragraph (1), a community must—

“(A) be located within 50 nautical miles from the baseline from which the breadth of the territorial sea is measured along the Bering Sea coast from the Bering Strait to the western most of the Aleutian Islands, or on an island within the Bering Sea;

“(B) not be located on the Gulf of Alaska coast of the north Pacific Ocean;

“(C) meet criteria developed by the Governor of Alaska, approved by the Secretary, and published in the Federal Register;

“(D) be certified by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act to be a Native village;

“(E) consist of residents who conduct more than one-half of their current commercial or subsistence fishing effort in the waters of the Bering Sea and Aleutian Islands management area; and

“(F) not have previously developed harvesting or processing capability sufficient to support substantial participation in the groundfish fisheries in the Bering Sea, unless the community can show that the benefits from an approved Community Development Plan would be the only way for the community to realize a return from previous investments.”.

#### SEC. 15. OBSERVERS.

Title III (16 U.S.C. 1851 et seq.) is amended by adding at the end the following:

##### “SEC. 315. RIGHTS OF OBSERVERS.

“(a) **CIVIL ACTION.**—An observer on a vessel (or the observer's personal representative) under the requirements of this Act or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) that is ill, disabled, injured, or killed from service as an observer on that vessel may not bring a civil action under any law of the United States for that illness, disability for that illness, disability, injury, or death against the vessel or vessel owner, except that a civil action may be brought against the vessel owner for the owner's willful misconduct.

“(b) **EXCEPTION.**—Subsection (a) does not apply if the observer is engaged by the owner, master, or individual in charge of a vessel to perform any duties in service to the vessel.”.

#### SEC. 16. INDIVIDUAL QUOTA LIMITED ACCESS PROGRAMS.

(a) **AUTHORITY TO ESTABLISH INDIVIDUAL QUOTA SYSTEMS.**—Section 303(b)(6) (16 U.S.C. 1853(b)(6)) is amended to read as follows:

“(6) establish a limited access system for the fishery in order to achieve optimum yields, if—

“(A) in developing such system, the Councils and the Secretary take into account—

“(i) the need to promote conservation;

“(ii) present participation in the fishery,

“(iii) historical fishing practices in, and dependence on, the fishery,

“(iv) the economics of the fishery,

“(v) the capability of fishing vessels used in the fishery to engage in other fisheries,

“(vi) the cultural and social framework relevant to the fishery and local coastal communities, and

“(vii) any other relevant considerations; and

“(B) in the case of such a system that provides for the allocation and issuance of individual quotas (as that term is defined in subsection (g)), the plan complies with subsection (g).”.

(b) **REQUIREMENTS.**—Section 303 is further amended by adding at the end the following new subsection:

“(g) **SPECIAL PROVISIONS FOR INDIVIDUAL QUOTA SYSTEMS.**—(1) A fishery management

plan which establishes an individual quota system for a fishery—

“(A) shall provide for administration of the system by the Secretary in accordance with the terms of the plan;

“(B) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested;

“(C) shall include provisions which establish procedures and requirements for each Council having authority over the fishery, for—

“(i) reviewing and revising the terms of the plan that establish the system; and

“(ii) renewing, reallocating, and reissuing individual quotas if determined appropriate by each Council;

“(D) shall include provisions to—

“(i) provide for fair and equitable allocation of individual quotas under the system, and minimize negative social and economic impacts of the system on local coastal communities;

“(ii) ensure adequate enforcement of the system, including the use of observers where appropriate; and

“(iii) provide for monitoring the temporary or permanent transfer of individual quotas under the system; and

“(E) include provisions that prevent any person from acquiring an excessive share of individual quotas issued for a fishery.

“(2) An individual quota issued under an individual quota system established by a fishery management plan—

“(A) shall be considered a grant, to the holder of the individual quota, of permission to engage in activities permitted by the individual quota;

“(B) may be revoked or limited at any time by the Secretary or the Council having authority over the fishery for which it is issued, if necessary for the conservation and management of the fishery (including as a result of a violation of this Act or any regulation prescribed under this Act);

“(C) if revoked or limited by the Secretary or a Council, shall not confer any right of compensation to the holder of the individual quota;

“(D) may be received, held, or transferred in accordance with regulations prescribed by the Secretary under this Act;

“(E) shall, except in the case of an individual quota allocated under an individual quota system established before the date of enactment of the Fishery Conservation and Management Amendments of 1995, expire not later than 7 years after the date it is issued, in accordance with the terms of the fishery management plan; and

“(F) upon expiration under subparagraph (E), may be renewed, reallocated, or reissued if determined appropriate by each Council having authority over the fishery.

“(3)(A) Except as provided in subparagraphs (B) and (C), any fishery management plan that establishes an individual quota system for a fishery may authorize individual quotas to be held by or issued under the system to fishing vessel owners, fishermen, crew members, other persons as specified by the Council, and United States fish processors.

“(B) An individual who is not a citizen of the United States may not hold an individual quota issued under a fishery management plan.

“(C) A Federal agency or official may not hold, administer, or reallocate an individual quota issued under a fishery management plan, other than the Secretary and the Council having authority over the fishery for which the individual quota is issued.

“(4) Any fishery management plan that establishes an individual quota system for a fishery may include provisions that—

“(A) allocate individual quotas under the system among categories of vessels; and

“(B) provide a portion of the annual harvest in the fishery for entry-level fishermen, small vessel owners, or crewmembers who do not hold or qualify for individual quotas.

“(5) An individual quota system established for a fishery may be limited or terminated at

any time by the Secretary or through a fishery management plan or amendment developed by the Council having authority over the fishery for which it is established, if necessary for the conservation and management of the fishery.

“(6) As used in this subsection:

“(A) The term ‘individual quota system’ means a system that limits access to a fishery in order to achieve optimum yields, through the allocation and issuance of individual quotas.

“(B) The term ‘individual quota’ means a grant of permission to harvest or process a quantity of fish in a fishery, during each fishing season for which the permission is granted, equal to a stated percentage of the total allowable catch for the fishery.”.

(c) **FEES.**—Section 304(d) is amended—

(1) by inserting “(1)” before “The Secretary shall”; and

(2) by adding at the end the following new paragraph:

“(2)(A) Notwithstanding paragraph (1), the Secretary shall collect from a person that holds or transfers an individual quota issued under a limited access system established under section 303(b)(6) fees established by the Secretary in accordance with this section and section 9701(b) of title 31, United States Code.

“(B) The fees required to be established and collected by the Secretary under this paragraph are the following:

“(i) An initial allocation fee in an amount, determined by the Secretary, equal to 1 percent of the value of fish authorized to be harvested in one year under an individual quota, which shall be collected from the person to whom the individual quota is first issued.

“(ii) An annual fee in an amount, determined by the Secretary, not to exceed 4 percent of the value of fish authorized to be harvested each year under an individual quota share, which shall be collected from the holder of the individual quota share.

“(iii) A transfer fee in an amount, determined by the Secretary, equal to 1 percent of the value of fish authorized to be harvested each year under an individual quota share, which shall be collected from a person who permanently transfers the individual quota share to another person.

“(C) In determining the amount of a fee under this paragraph, the Secretary shall ensure that the amount is commensurate with the cost of managing the fishery with respect to which the fee is collected, including reasonable costs for salaries, data analysis, and other costs directly related to fishery management and enforcement.

“(D) The Secretary, in consultation with the Councils, shall promulgate regulations prescribing the method of determining under this paragraph the value of fish authorized to be taken under an individual quota share, the amount of fees, and the method of collecting fees.

“(E) Fees collected under this paragraph from holders of individual quotas in a fishery shall be an offsetting collection and shall be available to the Secretary only for the purposes of administering and implementing this Act with respect to that fishery.

“(F) The Secretary may not assess or collect any fee under this paragraph with respect to an individual quota system established before the date of enactment of the Fishery Conservation and Management Amendments of 1995, during the 5-year period beginning on that date of enactment.”.

(d) **APPROVAL OF FISHERY MANAGEMENT PLANS ESTABLISHING INDIVIDUAL QUOTA SYSTEMS.**—Section 304 (16 U.S.C. 1854) is further amended by adding after subsection (k) (as added by section 10 of this Act) the following new subsection:

“(l) **ACTION ON LIMITED ACCESS SYSTEMS.**—(1) In addition to the other requirements of this Act, the Secretary may not approve a fishery management plan that establishes a limited access system that provides for the allocation of individual quotas (in this subsection referred to



as an 'individual quota system') unless the plan complies with section 303(g).

"(2) Within 1 year after receipt of recommendations from the review panel established under paragraph (3), the Secretary shall issue regulations which establish requirements for establishing an individual quota system. The regulations shall be developed in accordance with the recommendations. The regulations shall—

"(A) specify factors that shall be considered by a Council in determining whether a fishery should be managed under an individual quota system;

"(B) ensure that any individual quota system is consistent with the requirements of sections 303(b) and 303(g), and require the collection of fees in accordance with subsection (d)(2);

"(C) provide for appropriate penalties for violations of individual quotas systems, including the revocation of individual quotas for such violations;

"(D) include recommendations for potential management options related to individual quotas, including the authorization of individual quotas that may not be transferred by the holder, and the use of leases or auctions by the Federal Government in the establishment or allocation of individual quotas; and

"(E) establish a central lien registry system for the identification, perfection, and determination of lien priorities, and nonjudicial foreclosure of encumbrances, on individual quotas.

"(3)(A) Not later than 6 months after the date of the enactment of the Fishery Conservation and Management Amendments of 1995, the Secretary shall establish a review panel to evaluate fishery management plans in effect under this Act that establish a system for limiting access to a fishery, including individual quota systems, and other limited access systems, with particular attention to—

"(i) the success of the systems in conserving and managing fisheries;

"(ii) the costs of implementing and enforcing the systems;

"(iii) the economic effects of the systems on local communities; and

"(iv) the use of limited access systems under which individual quotas may not be transferred by the holder, and the use of leases or auctions in the establishment or allocation of individual quota shares.

"(B) The review panel shall consist of—

"(i) the Secretary or a designee of the Secretary;

"(ii) a representative of each Council, selected by the Council;

"(iii) 3 representatives of the commercial fishing and processing industry; and

"(iv) one at large representative who is selected by reason of occupational or other experience, scientific expertise, or training, and who is knowledgeable regarding the conservation and management or the commercial or recreational harvest of fishery resources.

"(C) Based on the evaluation required under subparagraph (A), the review panel shall, by September 30, 1997, submit recommendations—

"(i) to the Councils and the Secretary with respect to the revision of individual quota systems that were established under this Act prior to June 1, 1995; and

"(ii) to the Secretary for the development of the regulations required under paragraph (2)."

(e) RESTRICTION ON NEW INDIVIDUAL QUOTA SYSTEMS PENDING REGULATIONS.—

(1) RESTRICTION.—The Secretary of Commerce may not approve any covered quota system plan, and no covered quota system plan shall take effect, under title III of the Magnuson Fishery Conservation and Management Act before the effective date of regulations issued by the Secretary under section 304(l) of that Act, as added by subsection (d).

(2) COVERED QUOTA SYSTEM PLAN DEFINED.—In this subsection, the term "covered quota system plan" means a fishery management plan or amendment to a fishery management plan, that—

(A) proposes establishment of an individual quota system (as that term is used in section 303 of the Magnuson Fishery Conservation and Management Act, as amended by subsection (a) of this section); and

(B) is submitted to the Secretary after May 1, 1995.

#### SEC. 17. FISHING CAPACITY REDUCTION PROGRAMS.

(a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.) is further amended by adding after section 315 (as added by section 15 of this Act) the following new section:

#### "SEC. 316. FISHING CAPACITY REDUCTION PROGRAMS.

"(a) AUTHORITY TO CONDUCT PROGRAM.—The Secretary, with the concurrence of the Council having authority over a fishery, may conduct a voluntary fishing capacity reduction program for a fishery in accordance with this section, if—

"(1) the Secretary—

"(A) determines that the program is necessary for rebuilding, preventing overfishing, or generally improving conservation and management of the fishery; or

"(B) is requested to do so by the Council with authority over the fishery; and

"(2) there is in effect under section 304 a fishery management plan that—

"(A) limits access to the fishery through a Federal fishing permit required by a limited access system established under section 303(b)(6); and

"(B) prevents the replacement of fishing capacity eliminated by the program through—

"(i) a moratorium on the issuance of new Federal fishing permits for the duration of the repayment period; and

"(ii) restrictions on fishing vessel capacity upgrading.

"(b) PROGRAM REQUIREMENTS.—Under a fishing capacity reduction program conducted under this section for a fishery, the Secretary shall—

"(1) seek to permanently reduce the maximum effective fishing capacity at the least cost and in the shortest period of time through the removal of vessels and permits from the fishery;

"(2) make payments to—

"(A) scrap or otherwise render permanently unusable for fishing in the United States, vessels that operate in the fishery; and

"(B) acquire the Federal fishing permits that authorize participation in the fishery;

"(3) provide for the funding of those payments by persons that participate in the fishery, by establishing and imposing fees on holders of Federal fishing permits under this Act that authorize that participation;

"(4) establish criteria for determining the types of vessels and permits which are eligible to participate in the program, that—

"(A) assess vessel impact on the fishery;

"(B) minimize program costs; and

"(C) take into consideration—

"(i) previous fishing capacity reduction programs; and

"(ii) the characteristics of the fishery;

"(5) establish procedures for determining the amount of payments under paragraph (1); and

"(6) identify sources of funding for the program in addition to the amounts referred to in subsection (f)(2)(A), (B), (C), and (D).

"(c) PAYMENTS.—

"(1) IN GENERAL.—As part of a fishing capacity reduction program under this section, and subject to paragraph (2) the Secretary shall make payments under subsection (b)(2).

"(2) ESTABLISHMENT OF FEE REQUIRED.—The Secretary may not make any payment under paragraph (1) for a fishery unless there is in effect for the fishery a fee under subsection (d).

"(3) LIMITATION ON TOTAL AMOUNT OF PAYMENTS FOR FISHERY.—The total amount of payments under paragraph (1) for a fishery may not exceed the total amount the Secretary projects

will be deposited into the Fund from fees that apply to the fishery under subsection (d).

"(d) FEES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary, with the concurrence of a majority of the voting members of a Council having authority over a fishery for which a fishing capacity reduction program is conducted under this section, may establish an annual fee on holders of Federal fishing permits authorizing participation in the fishery.

"(2) AMOUNT OF FEE.—The amount of a fee established under this subsection for a fishery described in paragraph (1)—

"(A) shall be adequate to ensure that the total amount collected in the form of the fee will not be less than the amount the Secretary determines is necessary for payments under subsection (b)(2) to reduce fishing capacity in the fishery to a level that will ensure the long-term health of the fishery;

"(B) shall be based on—

"(i) the value of the fishery;

"(ii) the projected number of participants in the fishery;

"(iii) the projected catch in the fishery; and

"(iv) the direct costs of implementing a fishing capacity reduction program under this section for the fishery; and

"(C) may not exceed, for any permit holder, 5 percent of the value of fish harvested under the permit each year.

"(3) EFFECTIVE PERIOD.—A fee under this subsection may not be in effect for more than 15 years.

"(4) USE OF AMOUNTS RECEIVED.—Amounts received by the United States as fees under this subsection—

"(A) shall be deposited into the Fund; and

"(B) may not be used to pay any administrative overhead or other costs not directly incurred in implementing this section with respect to the fishery.

"(e) ADVISORY PANELS.—

"(1) IN GENERAL.—The Secretary shall establish for each fishery for which a fishing capacity reduction program is conducted under this section an advisory panel to advise the Secretary regarding that program.

"(2) MEMBERSHIP.—Each advisory panel under this subsection shall consist of individuals appointed by the Secretary and shall include representatives of—

"(A) the Department of Commerce,

"(B) Councils having authority over fisheries for which the panel is established,

"(C) appropriate sectors of the fishing industry affected by fishing capacity reduction programs under this sections, and

"(D) appropriate States affected by such programs.

"(f) FISHERIES CONSERVATION AND RESTORATION FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury of the United States a separate account which shall be known as the Fisheries Conservation and Restoration Fund (in this section referred to as the 'Fund').

"(2) DEPOSITS INTO THE FUND.—There shall be deposited into the Fund—

"(A) amounts appropriated under clause (iv) of section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)(1)(A)), popularly known as the Saltonstall-Kennedy Act;

"(B) amounts paid to the United States Government as fees established under subsection (d);

"(C) any other amounts appropriated for fisheries disaster that the Secretary determines should be used for fishing capacity reduction programs under this section; and

"(D) any other amounts appropriated for making payments under subsection (b)(2).

"(3) AVAILABILITY.—

"(A) IN GENERAL.—Amounts in the Fund shall be available to the Secretary without fiscal year limitation for making payments under subsection (b)(2).

“(B) MANAGEMENT OF UNNEEDED BALANCE.—Amounts in the Fund that are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

“(g) EXPIRATION OF ACQUIRED PERMITS.—Permits acquired by the Secretary under subsection (b)(2)(B)—

“(1) shall not be effective after the date of that acquisition; and

“(2) may not be reissued or replaced.”.

(b) USE OF AMOUNTS TRANSFERRED UNDER SALTONSTALL-KENNEDY ACT.—Section 2(b)(1) of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)(1)), popularly known as the Saltonstall-Kennedy Act, is amended in subparagraph (A) by striking “and” after the semicolon at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “; and”, and by adding at the end the following new clause:

“(iv) to fund fishing capacity reduction programs under section 316 of the Magnuson Fishery Conservation and Management Act, by depositing a portion of amounts transferred into the Fisheries Conservation and Restoration Fund established by that section; and”.

#### SEC. 18. CONSIDERATION OF ABILITY TO PAY PENALTIES.

Section 308(a) (16 U.S.C. 1858(a)) is amended—

(1) in the last sentence by striking “ability to pay.”; and

(2) by adding at the end the following new sentence: “In assessing such penalty, the Secretary may also consider facts relating to the ability of the violator to pay that are established by the violator in a timely manner.”.

#### SEC. 19. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Title IV (90 Stat. 359-361) is amended to read as follows:

##### “TITLE IV—MISCELLANEOUS PROVISIONS

##### “SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to the Secretary, for carrying out this Act, the following:

“(1) \$114,000,000 for fiscal year 1996.

“(2) \$118,000,000 for fiscal year 1997.

“(3) \$122,000,000 for fiscal year 1998.

“(4) \$126,000,000 for fiscal year 1999.

“(5) \$130,000,000 for fiscal year 2000.”.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended by striking the items relating to title IV (including the items relating to the sections in that title) and inserting the following:

##### “TITLE IV—MISCELLANEOUS PROVISIONS

“Sec. 401. Authorization of appropriations.”.

#### SEC. 20. TECHNICAL CORRECTIONS.

(a) CORRECTION.—Section 304 of the Act entitled “An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary”, approved March 9, 1992 (Public Law 102-251; 106 Stat. 65), is repealed.

(b) CONFORMING AMENDMENT.—Section 3(15) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(15)) is amended to read as follows:

“(15) The term ‘waters under the jurisdiction of the United States’ means—

“(A) the territorial sea of the United States;

“(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line co-terminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

“(C) the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the

breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured, except that this subparagraph shall not apply before the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.”.

#### SEC. 21. CLERICAL AMENDMENTS.

The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) is amended by striking “Committee on Merchant Marine and Fisheries” each place it appears and inserting “Committee on Resources”.

#### SEC. 22. PROVISIONS RELATING TO GULF OF MEXICO.

(a) FISHERY ASSESSMENTS.—Section 304(e) (16 U.S.C. 1854(e)) is amended by adding at the end the following new paragraph:

“(5) The Secretary shall develop and implement a systematic program for the assessment and annual reporting to the public of the status of fisheries in the Gulf of Mexico subject to management under this Act. Such program shall—

“(A) provide for the use of peer-review panels consisting of independent and external experts;

“(B) not exclude peer-reviewers merely because they represent entities that may have an interest or potential interest in the outcome, if that interest is fully disclosed to the Secretary;

“(C) provide opportunity to become part of a peer-review panel at a minimum by soliciting nominations through the Federal Register; and

“(D) ensure that all comment and opinions of such peer-review panels are made available to the public.”.

(b) FISHERY MONITORING.—Section 304 (16 U.S.C. 1854) is further amended by adding at the end the following new subsection:

“(m) FISHERY MONITORING.—(1) The Secretary shall develop a plan for the Gulf of Mexico region to collect, assess, and report statistics concerning the fisheries in each such region.

“(2) The plan under this subsection shall—

“(A) provide fishery managers and the public with timely and accurate information concerning harvests and fishing effort;

“(B) minimize paperwork and regulatory burdens on fishermen and fish buyers;

“(C) minimize costs to Federal and State agencies;

“(D) avoid duplication and inconsistencies in the collection, assessment, and reporting of fishery statistics; and

“(E) ensure the confidentiality of information.

“(3) The Secretary shall ensure that fishermen, fish buyers, and other individuals potentially impacted by the plan required under this subsection are actively involved in all stages of the development of such plan and that appropriate fishery management agencies are consulted.

“(4) No later than 9 months after the date of enactment of the Fishery Conservation and Management Amendments of 1995, the Secretary shall publish notice of a proposed plan required under this subsection and provide the public with a reasonable opportunity to comment on such proposed plan. The Secretary shall consider such comments before submitting the plan under paragraph (5).

“(5) No later than one year after the date of enactment of the Fishery Conservation and Management Amendments of 1995, the Secretary shall submit a final plan under this subsection to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.”.

(c) GULF OF MEXICO RED SNAPPER STOCK MANAGEMENT STUDY.—

(1) IN GENERAL.—The Secretary of Commerce shall have an independent analysis conducted that will evaluate—

(A) the methods, data, and models used to assess the status of Gulf of Mexico red snapper stock assessments;

(B) the effectiveness of the fishery management plan in effect under the Magnuson Fishery Conservation and Management Act that applies to Gulf of Mexico red snapper, in terms of the appropriateness of the management goal and time frame given the available biological data; and

(C) regulations in effect under that Act that apply to Gulf of Mexico red snapper, in the terms of the effectiveness of fairly controlling fishing mortality.

(2) STUDY REQUIREMENTS.—The study shall—

(A) assess all alternatives that could provide a more balanced and practical approach to managing the red snapper fishery in the Gulf of Mexico;

(B) involve commercial and recreational fishermen from the Gulf of Mexico in the collection of data and information and in the development of an accurate assessment plan; and

(C) be completed and reported to the Congress and the Gulf of Mexico Fishery Management Council within 1 year after the date of the enactment of this Act.

(3) USE OF REPORT.—It is expected for the report on the study under this subsection to be used as the foundation for any future management of red snapper in the Gulf of Mexico by the Gulf of Mexico Fishery Management Council or the National Marine Fisheries Service (or both). It is also expected that the Council will suspend the implementation of any individual fishing quota plan for red snapper in the Gulf of Mexico until the study is completed and until the Secretary of Commerce has completed standards or guidelines.

(4) LIMITED IMMUNITY.—Individuals providing credible information to receive the most accurate assessments shall not be subject to any catch reporting violations.

#### SEC. 23. STUDY OF CONTRIBUTION OF BYCATCH TO CHARITABLE ORGANIZATIONS.

(a) STUDY.—The Secretary of Commerce shall conduct a study of the contribution of bycatch to charitable organizations by commercial fishermen. The study shall include determination of—

(1) the amount of bycatch that is contributed each year to charitable organizations by commercial fishermen;

(2) the economic benefits to commercial fishermen from those contributions; and

(3) the impact on fisheries of the availability of those benefits.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Commerce shall submit to the Congress a report containing determinations made in the study under subsection (a).

(c) BYCATCH DEFINED.—In this section the term “bycatch” has the meaning given that term in section 3(34) of the Magnuson Fishery Conservation and Management Act, as amended by section 4 of this Act.

The CHAIRMAN pro tempore. Are there any amendments to the Committee amendment in the nature of a substitute?

AMENDMENTS OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer several amendments.

The Clerk read as follows:

Amendments offered by Mr. YOUNG of Alaska:

Page 33, line 3, strike “environmental factors” and insert “environmental conditions or factors beyond the control of the rebuilding program”.

Page 50, line 10, strike “yields” and insert “yield”.

Page 58, line 24, strike “paragraph (1)” and insert “subsection (c)”.

Page 59, line 7, insert a comma after “paragraph (2)”.

Page 22, line 17, insert “and” after the semicolon.



Page 22, beginning at line 20, strike the semicolon and all that follows through "program" at line 22.

Page 23, line 21, strike "(15)" and insert "(16)".

Page 24, line 17, strike "and" and all that follows through the end of the line.

Page 24, after line 17, insert the following new paragraph:

"(15) in the case of any plan which under subsection (b)(8) requires that observers be carried on board vessels, establish a system of fees, not to exceed the actual costs of the observer program, to pay the costs of the program; and".

Page 23, line 8, after "processors" insert "and fish processing vessels (as that term is defined in chapter 21 of title 46, United States Code)".

Page 49, beginning at line 7, strike "other persons as specified by the Council."

Page 37, line 17, strike "shore-based" and insert "United States fish".

Page 38, line 10, strike "plan, including," and insert "plan and report such actions to the Committee on Resources of the House of Representatives. The Secretary shall implement the plan."

Page 38, line 11, after "appropriations," insert "by".

Page 38, line 14, strike "shore-based" and insert "United States".

Page 38, lines 18 and 19, strike "shore-based" each place it appears and insert "United States".

Page 38, beginning at line 19, strike "total allowable catch" and insert "allowable biological catch".

Page 47, line 16, after "appropriate" insert "at a level of coverage that should yield statistically significant results, except that on a fish processing vessel at sea observers, shall be required as necessary to ensure monitoring of fishing activities 24 hours each day".

Page 41, strike lines 12 through 15 and insert the following:

(a) PROHIBITION ON REMOVING, DAMAGING, TAMPERING WITH, OR MOVING FISHING GEAR AND FISH.—

(1) PROHIBITION.—Section 307(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)) is amended—

(A) by redesignating subparagraphs (L), (M), and (N) in order as subparagraphs (M), (N), and (O); and

(B) by striking subparagraph (K) and inserting the following:

"(K) to steal or to knowingly and without authorization to remove, damage, or tamper with—

"(i) fishing gear owned by another person, which is located in the exclusive economic zone or special areas; or

"(ii) fish contained in such fishing gear; "(L) to negligently damage, remove, or move, or to attempt to do any of the foregoing with respect to—

"(i) fishing gear that is owned by another person and located in the exclusive economic zone; or

"(ii) fish contained in such fishing gear;".

(2) CONFORMING AMENDMENTS.—Section 309(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859) is amended—

(A) in paragraph (1) by striking "or (L)" and inserting "(K), or (M)"; and

(B) in subsection (b) by striking "section 307(1)(L)" and inserting "section 307(1)(M)".

Page 41, line 19, strike "(M)" and insert "(N) (as redesignated by subsection (a)(1)(A) of this section)".

Page 41, line 21, strike "(N)" and insert "(O) (as redesignated by subsection (a)(1)(A) of this section)".

Page 41, line 23, strike "(O)" and insert "(P)".

Page 13, line 25, strike "307(1)(O)" and insert "307(1)(P)".

Page 65, after the quoted material following line 8, insert the following new subsection:

(c) AUTHORIZATION OF APPROPRIATIONS FOR NOAA MARINE FISHERY PROGRAMS.—The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended—

(1) in section 2(a)—

(A) by striking "and" after "1992" and inserting a comma; and

(B) by inserting before the period at the end the following: ", \$47,000,000 for fiscal year 1996, \$48,645,000 for fiscal year 1997, \$50,347,575 for fiscal year 1998, \$52,109,740 for fiscal year 1999, and \$53,933,580 for fiscal year 2000";

(2) in section 3(a)—

(A) by striking "and" after "1992" and inserting a comma; and

(B) by inserting before the period at the end the following: ", \$27,400,000 for fiscal year 1996, \$28,359,000 for fiscal year 1997, \$29,351,565 for fiscal year 1998, \$30,378,869 for fiscal year 1999, and \$31,442,129 for fiscal year 2000";

(3) in section 4(a)—

(A) by striking "and" after "1992" and inserting a comma; and

(B) by inserting before the period at the end the following: ", \$17,300,000 for fiscal year 1996, \$17,905,500 for fiscal year 1997, \$18,532,192 for fiscal year 1998, \$19,180,818 for fiscal year 1999, and \$19,852,146 for fiscal year 2000"; and

(4) in section 2(e)—

(A) by striking "1992 and 1993" and inserting "1996 and 1997";

(B) by striking "establish" and inserting "operate";

(C) by striking "306" and inserting "307"; and

(D) by striking "1991" and inserting "1992".

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, this en bloc amendment has been developed on a bipartisan basis and has the support of the minority leaders of the Resources Committee.

During the Resources Committee markup of this bill, several Members wanted to offer amendments but withdrew them to allow time for compromises to be drafted. This en bloc amendment includes these compromises and makes technical amendments to the bill as reported.

This amendment contains technical fixes which include a clarification in the weighing provision of the bill and correction of the placement of language addressing observer coverage.

The amendment also contains language agreed upon by myself and other Members including: corrections to the Pacific Region Stock Assessment section; additions to the use of observers in ITQ systems; and changes to the Prohibited Acts section of the bill.

I appreciate all the hard work by Members and their staffs in reaching agreement on the language in the en

bloc amendment. I support this amendment and would urge my colleagues to also support it.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Alaska [Mr. YOUNG].

The amendments were agreed to.

The CHAIRMAN pro tempore. Are there further amendments?

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: Page 69, after line 8, insert the following new subsection:

(c) RESOURCE ASSESSMENT.—Section 304 (16 U.S.C. 1854) is further amended by adding at the end the following new subsection:

"(n) RESOURCE ASSESSMENTS.—(1) Notwithstanding any other provision of this Act, the Secretary shall, wherever practicable, subject to the availability of appropriations, and when the arrangement will yield statistically reliable results, rely on the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States. The Secretary shall determine whether this arrangement will yield statistically reliable results.

"(2) The Secretary, in consultation with the appropriate Council and the fishing industry—

"(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage; and

"(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide the compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable biological catch of the surveyed fishery that is reserved for research purposes under section 303(b).

"(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation through the use of the authority provided in this subsection."

Page 69, line 9, strike "(c)" and insert "(d)".

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, during the full committee markup of this bill, we added a provision which will allow the Councils to set aside a portion of the allowable biological catch to be used for research purposes. This is clearly a discretionary provision and not mandatory.

For the Pacific region, we have also allowed the Secretary to contract with private vessels to conduct research and stock assessment work using the portion of the harvest set aside for research purposes. The vessels would then be able to sell the catch to offset the cost of doing the research.

My amendment takes this one step further. It allows the Secretary to contract with private vessels to perform research functions, now carried out by the National Oceanic and Atmospheric Administration [NOAA], in areas other than just the Pacific region.

It will provide more up-to-date research and stock assessment data by contracting vessels to do the work on a yearly basis. At this time, stock assessment work is done approximately every 3 years by NOAA research vessels.

Currently, the National Marine Fisheries Service uses this exact arrangement in the Gulf of Alaska. Survey work is presently being done for black cod stocks and the survey vessels lands their catch to offset the cost of doing the research. For some reason, the National Marine Fisheries Service feels that it does not have the authority to allow this type of arrangement to take place in other areas.

I believe this amendment will give us better stock assessment data, will provide fisheries managers with more up-to-date information, will allow private vessels to bid on doing the research work and will allow the catch to be landed to offset the cost of doing the research, thereby reducing the cost to the Federal Government of doing the research.

This language includes several suggestions made by National Marine Fisheries Service and is a discretionary provision. I think this is a good step in better fisheries management and urge my colleagues to support the amendment.

Mr. STUDDS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I support the gentleman's efforts to develop new methods of fisheries stock assessment. In this time of declining budgets, the use of fishing vessels may provide a very viable alternative to research vessels that could enable us to collect more timely data and hopefully provide some more opportunity for fishermen.

I do have some concerns with the details of this proposal, as I think the gentleman knows, particularly the authority to allow fishermen to harvest fish outside of and beyond the research surveys in order to cover their costs. This might be difficult to enforce, and I wonder whether we are encouraging fishing in excess of the total allowable catch levels.

I will not oppose the amendment, because I think the premise is a sound one, but I would ask the gentleman if we could continue to work on this issue to iron out these concerns before we go to conference?

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, as the gentleman well knows, when this legislation passes the House, the Senate has not passed theirs. You will be on the conference, sitting be-

side me as we have done all these years, and I will continue to work with the gentleman, because you do raise a valid point.

The attempt here is to allow what is already being done in other areas where we are being told that they do not think they have the authority. This is really a request by the National Marine Fisheries Institute.

Mr. STUDDS. Mr. Chairman, I support the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Alaska [Mr. YOUNG].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STUDDS: Page 43, after line 2, insert the following new subsection:

(d) RESTRICTION ON SALE OF LOBSTERS.—Section 307(l)(J)(i) (16 U.S.C. 1557(l)(J)(i)) is amended—

(1) by striking "plan," and inserting "plan"; and

(2) by inserting before the semicolon the following: ", or in the absence of both such plans is smaller than the minimum possession size in effect at the time under the Atlantic States Marine Fisheries Commission's American Lobster Fishery Management Plan".

Mr. STUDDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. STUDDS. Mr. Chairman, my amendment is very straightforward. Under current law, the sale, shipment, and transport of American lobsters smaller than the minimum size established in the Federal American Lobster Fishery Management Plan is prohibited.

Recently, the National Marine Fisheries Service has indicated that this plan might be withdrawn. If it is, the prohibition on the sale and shipment of undersized lobsters would no longer be in effect and our market would be flooded with undersized lobsters. This would have serious implications for the resource and the industry.

This amendment would ensure that the prohibition would remain in effect by allowing the minimum size established by the Atlantic States Marine Fisheries Commission to serve as the baseline in the absence of a Federal plan.

It is supported by the industry, and I hope Members can support it here today.

The administration has seen this amendment and has no objection to it.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, once again, my friend from Massachusetts has the foresight to be proactive instead of reactive.

It is my understanding that the National Marine Fisheries Service has in-

dictated that the current Fishery Management Plan for lobster may be withdrawn. If this does occur, it would mean that the current restrictions on the sale and transportation of undersized lobster would no longer be in effect.

Current law prohibits the sale, shipment, and transport of American lobsters smaller than the minimum size established in the Federal American Lobster Fishery Management Plan.

The gentleman's amendment provides the necessary measures to ensure that the current restrictions are not removed, by allowing the minimum size established by the Atlantic States Marine Fisheries Commission to serve as a baseline in the absence of a Federal Fishery Management Plan.

I support the gentleman's amendment and urge the adoption of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: Page 47, line 13, insert "and" after the semicolon.

Page 47, strike lines 17 through 19.

Page 48, line 13, strike ", held, or transferred" and insert "and held".

Page 50, after line 6, insert the following:

"(6) Any individual quota system established for a fishery after the date of enactment of the Fishery Conservation and Management Amendments of 1995—

"(A) shall not allow individual quotas shares under the system to be sold, transferred, or leased;

"(B) shall prohibit a person from holding an individual quota share under the system unless the person participates in the fishery for which the individual quota share is issued; and

"(C) shall require that if any person that holds an individual quota share under the system does not engage in fishing under the individual quota share for 3 or more years in any period of 5 consecutive years, the individual quota share shall revert to the Secretary and shall be reallocated under the system to qualified participants in the fishery in a fair and equitable manner and in accordance with the following priorities:

"(i) As the first priority, to persons who have participated in the fishery but have not received any individual quota shares under the system, or have received individual quota shares under the system in an amount insufficient to allow participation in the fishery.

"(ii) As the second priority, to persons who desire to enter the fishery.

"(iii) As the third priority, to persons who participate in the fishery and hold individual quota shares sufficient to permit that participation.

"(7) In reallocating individual quota shares under paragraph (6)(C)(iii), the Secretary may utilize a royalty auction or other comparable bidding process.

"(8) The Secretary may suspend the applicability of paragraph (6) for individuals on a case-by-case basis due to death, disablement, undue hardship, or in any case in which fishing is prohibited by the Secretary or the Council.

Page 50, line 7, strike "(6)" and insert "(9)".

Page 50, line 23, strike "or transfers".

Page 51, strike lines 16 through 21.

Page 54, line 20, strike "the use of limited access systems under which individual quotas may not be transferred by the holder, and".

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, this amendment is fairly straightforward. What it would do for new ITQ's is allow those portions of the quotas that are not utilized to be reallocated to other fishing interests, to, in many cases, fishermen that have worked these fishing grounds for many, many years, and the crews of the boats, to allow them to participate in the fisheries of their historical position, and fishing of those grounds should not the full quota be used.

This amendment would only pertain to future ITQ's and not to those that have already been granted by the Government. I also think it makes sure that the public resources are continued to be used and widely dispersed for those who have historically been involved in the utilization of those resources, in this case the fisheries, and I would hope the committee would accept the amendment.

My amendment is intended to prevent the giveaway of yet another public resource—our fisheries—as a form of corporate welfare.

ITQ's are a new fisheries management tool where specific quotas are allocated to individual fishermen or corporations based on formulas established by fisheries management councils made up of industry representatives that in many cases will reap the benefits of the formula they establish.

These quotas, which are allocated for free, can then be brought and sold, taking a public resource and turning it into a private commodity.

The chairman's bill has taken some important steps to address the inequities of ITQ's, including a limit on the term of quota allocation and the assessment of a nominal fee of 1 percent if the quota is sold, but it doesn't go far enough however and still results in hundreds of millions of dollars in windfall profits for big, industrial fishing corporations who will receive these quotas shares for free.

My amendment simply eliminates the ability to sell or lease your privilege to harvest a public resource. If you do not use it, it reverts to the Government to be reallocated to individuals wishing to enter the fishery or those who need more quota to make their shares economically viable.

Why is this amendment necessary? Here are just a few reasons.

In the North Pacific halibut/black cod fishery ITQ program that was implemented this year, 40 boat owners received quota shares worth more than \$100 million for free. Crew members and skippers, many of whom had years of participation in the fishery, received nothing.

Anyone not lucky enough to receive an initial allocation will have to buy shares from those recipients who got their shares for free. According to some quota brokers in Alaska, those shares are already selling for as much as five to eight times the actual value of the fish they permit you to harvest.

Now the push is on by National Marine Fisheries Service and the large industrial fishing fleets to impose ITQ's in the North Pacific groundfish fishery, the largest dollar fishery in the United States, worth more than a billion dollars at the dock last year.

The reason: After opposing plans to restrict access and control overcapitalization, too many factory trawlers entered the fishery in the late 1980's, ensuring that none of the boats could remain competitive. Now they want us to give them our fish—a public resource—to enable them to make the best of some very bad investments.

Depending on the allocation formula that is adopted, Tyson Seafoods could receive quota shares worth hundreds of millions of dollars for free and then turn around and sell them.

Proponents of quota systems tout their advantages. Allowing holders to fish when they want instead of in a derby fashion, they can produce higher quality product, spread out their season, and stay at the dock when the weather is bad. All of these advantages will still hold true.

But what does not merit nor does it require, the flatout giveaway of a public resource with no benefits to the taxpayers. Why does a corporation like Tyson—with \$5 billion in annual revenues—need to receive a \$200 million subsidy from the taxpayers? Because they made a bad investment of \$230 million in 1993, buying Arctic Alaska, when the fishery was already overcapitalized, and now they want a bailout at the expense of the taxpayer.

This is just another form of corporate welfare paid for with taxpayers' resources.

My amendment would ensure that the giveaway of a public resource would be prevented; that big fishing corporations would not profit at the taxpayers expense; and the stewardship of our fisheries remains in the public trust where it belongs.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I support the gentleman's amendment to eliminate transferability of individual quota shares. While I do not like the ITQ's, I want everybody to understand, I have supported and continue to support the regional councils in their role as managers of our Nation's fishery resources.

In fact, the gentleman from California, I am going to tell him now, I had an amendment to his amendment, and I probably will not offer it, because my worthwhile staff reminded me I have always said not to interfere with the council's role in this. But this is a good amendment.

ITQ's have been very controversial both in practice and from a policy perspective. One aspect that has caused a great deal of concern is the recipients of ITQ shares receive a windfall by being the only users of a public resource.

I believe this amendment addresses the concern that fishermen are receiving windfall profits by selling their ITQ

shares, while the general public receives nothing from the allocation of this public resource.

I have heard from many fishermen that ITQ's give a few individuals a local on a public resource. The gentlemen's amendment makes sure that those who receive shares must fish them or lose them. If the shares are not fished by the fisherman for 3 or more years, they would revert back to the Secretary, who would then reallocate the share through an auction or other comparable bidding process. This reallocation will allow those who did not get an adequate share, or those who have fished, but did not qualify for shares, to bid on shares.

This amendment eliminates the incentive to enact ITQ systems rather than other limited access options, because some fishermen believe they will reap a monetary windfall from the quota shares they receive.

I want to again stress one of the biggest problems is the possibility of the acquisition of shares by, may I say those that may not be totally 100 percent American, and in controlling what I fought to do with the gentleman from Massachusetts [Mr. STUDDS] in 1976, and that was to Americanize our fleet and to protect our stock and to have a sustained yield. What we find in many areas around the Nation is this is not occurring.

So this really is, with the original language in the bill, a further attempt to make sure that we are looking at the management concept of the fisheries and not just a monetary concept of the fisheries.

□ 1045

Now, I am all in favor of everybody making large profits. I am all in favor of everybody making a return on their investments. But, I am not in favor of a locked system. And the IDQ's do create a locked system.

Now, if I understood the gentleman correctly, we are only talking about prospective IDQ's, not those that have already been issued. Because one of the things that I have resented in this Congress is that sometimes we become retroactive in tax laws and other laws and people that try to follow the laws that Congress has passed find themselves caught in an untenable position.

Mr. Chairman, I do support the gentleman's amendment. I think it is a correct one to further make sure that we have the management tools that are necessary for the fisheries and they are not depleted to the point they were prior to 1976.

The CHAIRMAN pro tempore (Mr. BUNNING). The question is on the amendment offered by the gentleman from California [Mr. MILLER].

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments?

AMENDMENT OFFERED BY MR. FARR

Mr. FARR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FARR: Page 21, line 13, before the first semicolon insert the following: "and conservation and management measures necessary to minimize, to the extent practicable, adverse impacts on that habitat caused by fishing".

Page 23, line 21, strike "(15)" and insert "(14)".

Page 24, line 12, strike the semicolon and insert "; and'".

Page 24, strike lines 13 through 17.

Mr. FARR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN *pro tempore*. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FARR. Mr. Chairman, first of all, I want to thank the gentleman from Alaska [Mr. YOUNG] for dedicating his service here in Congress to revising this trend and introducing H.R. 39 to help preserve our fisheries for fishers and fish eaters for many generations to come.

However, there is a flaw in the bill. It was made in committee after its original introduction by the gentleman from Alaska, and my amendment corrects that flaw and brings it back to the way it was first presented to the committee.

Mr. Chairman, in essence what is happening with many of our fishery stocks in America in our offshore waters is that the habitat of those fishing stocks are being destroyed and there is no requirement for the councils that manage these fish stocks to look into habitat protection for fish stock protection.

Indeed, in my district alone, the famous Monterey area which people know about because of Steinbeck's writing about the sardine industry, we lost 30,000 jobs in California. We have an industry, the Monterey sardine industry once supported Cannery Row and it died out 50 years ago because of overfishing.

California alone has lost 30,000 jobs since 1978. In a recent report by Governor Wilson on the future of California's ocean resources says that the total California catch declined 18 percent between 1991 and 1992. These losses forced the Governor to declare a state of emergency in 1994 for California's north coast fishing communities. True, California has had a bumper salmon season, but this does not make up for years of decline.

My amendment does one simple thing. It simply requires the regional fishery management councils to include measures to minimize, to the extent practicable, fishing impact on fish habitat. We all know too well that healthy fisheries depend on healthy habitat. Fishery biologists and other scientists point out the loss of wetland and river habitat as the major cause for decline in many commercial fisheries.

Mr. Chairman, H.R. 39 will help address this problem, helping to slow some of the inland harm to commercial

fisheries. But the fishing industry itself has a part to play in protecting the fish habitat.

The way the bill is currently drafted, it says that the councils may take steps to minimize impacts on fishing habitats. This is essentially the same as current law which, while it does not mention the subject, would still allow councils to take steps if they chose to.

The problem is that the councils have done nothing to address this under current law. Since they are not required and they will not be required, there is no indication they will address the problem at all. Thus, the councils could go on ignoring fish habitat issues under this bill.

Mr. Chairman, my amendment would fix this problem by requiring conservation measures necessary to minimize, to the extent practicable, adverse impacts on the impact of habitat caused by fishing.

It would require the councils to look for ways to minimize the impacts that fishing gear and fishing practices have on the habitat. This might include time or area closures or restrictions of particular types of gear.

If the councils find that such measures are practical, my amendment would require the councils to include them in their plans. Contrary to what my colleagues might hear, my amendment will not allow any lawsuits because the Magnuson Act, and H.R. 39, do not include citizen suit provisions. Thus, my amendment would provide no basis for lawsuits; certainly, no more basis than any other mandatory provisions in H.R. 39.

Contrary to what my colleagues might hear, my amendment would not give one kind of fisherman a weapon to reallocate fishing shares, because the Magnuson Act requires the councils to allocate fish access to fisheries in a fair and equitable manner.

Finally, it may look like environmental interests are driving this amendment, but there is clearly an environmental component to it. Even if the fish habitat impacts raise no environmental concerns, economics would still argue for my amendment. The decline of a fishery because of fish habitat loss helps kill jobs, helps kill coastal economies and consumer choice.

Mr. Chairman, I am offering my amendment because it has broad support from people who make their living catching fish, including such organizations as the Pacific Coast Federation of Fishermen; the Golden Gate Fisherman's Association; the North Pacific Fisheries Association; the Alaskan Marine Conservation Council; the Unalaska Native Fisherman's Association; the New Jersey Alliance to Save Fisheries; King and Sons, Inc., the largest shipper of American lobsters in the world; Trout Unlimited; the Maine Lobsters Association; the Maine Fish Conservation Network; and the Center for Marine Conservation.

Mr. Chairman, I believe that councils should be required to take those prac-

tical steps needed to minimize the impacts. I ask for an aye vote on my amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, after the great and kind compliments the gentleman from California has given to me, which are rare and far between on this floor of the House, it is unpleasant for me to rise in opposition to the amendment.

Mr. Chairman, I do understand the gentleman's concerns about protecting fishing habitat from the potential adverse impacts of fishing gear, but I am also concerned about the possible unintended results of the gentleman's amendment.

The Regional Fishery Management Councils, and by the way, none of them when we had our hearings, we had over 14 hearings in the last 4 years, none of them ever spoke in favor of this amendment. I want everybody to remember, the councils do not favor this amendment. Other interest groups may, but not the councils.

The Regional Fisheries Management Councils currently have the ability to reduce adverse impacts that fishing gear may have on fishery habitat. Some councils have already taken steps to reduce the effects on habitat by closing off breeding and nursery areas during certain times of the year.

While the language of H.R. 39 is discretionary, it sends a direct message to the councils that this is an important issue. It recommends that if steps have not already been taken to address this problem, the councils should take the necessary steps to correct any adverse effects that fishing may be having on essential fishery habitat under the council's jurisdiction.

Mr. Chairman, I am concerned that moving this language to the mandatory requirements section of the act will require councils to restrict certain types of gear. It could potentially heighten gear conflicts in fisheries where councils have already taken appropriate steps to minimize the impact on the habitat.

And for those who are not aware of the fishing industry, this is a very competitive industry. There is little what I call comradeship between a troller, a purse seiner, a gill netter, or a hand troller. All of them are seeking part of this. And when we put the council into a decisionmaking factor of choosing one gear over other gear, when it may not be appropriate. In fact the gentleman said there could be no lawsuits. There is a reality that one group could sue the Secretary of Commerce, not the council but the Secretary of Commerce saying that another type of gear could be adversely impacting the habitat, thus gaining a bigger share of the fish.

So I would suggest this just drives a bigger wedge between the gear groups and causes a tremendous problem with the council. The habitat is important and we have already suggested in the bill that they do take this and do promote habitat protection. But let us not

make it mandatory, where there may be another way that they can protect the habitat and avoid the conflicts which would arise between the different gear groups and thus diluting the role of the council.

Mr. Chairman, I do stress this. Only through the councils can this Magnuson Act work. Only through the councils can we truly manage this system. There are those under this administration and the past administration, so it is not partisan, that want to centralize the control of all fisheries here in Washington, DC.

Think about that a moment. They want to bring it here, take it away from the councils, because they happen to think that they have more brains here in Washington, DC, than anybody else. We all know that is wrong. If my colleagues do not know it, I do not know where they have been.

Mr. Chairman, it was set at the 1976 level to make sure that the councils do their work. In some cases, the councils have not worked and we have addressed that issue in this bill and will continue to address it. But it is important that we allow the councils to make these decisions. It is necessary to make sure it is a working unit. When it is mandatory, we are taking away the council's opportunities to function.

Mr. Chairman, I do oppose the amendment.

Mr. FARR. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. FARR. Mr. Chairman, in the original bill of the gentleman from Alaska, there was this language. And, in fact, it was not even as weak as perhaps my amendment is, because my amendment says "to the extent practicable."

The problem that I think the gentleman recognizes is there is only one body that really can deal with it and has the total jurisdiction and that is the councils.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, I will tell the gentleman, I put it in the bill understanding what he was trying to do, but removed it after hearing from the councils. That is why we have the hearing process and the input from the general public. That is why there was no outcry for this amendment at any time during the hearings.

Mr. Chairman, we had a broad spectrum of people interested in this legislation. This has been on the burner for 4 years. I am going to suggest respectfully that I followed the train of thought of the gentleman from California [Mr. FARR] when I introduced the bill originally. But after hearing the councils and other members of the public say this would be detrimental and driving us apart, I made it discretionary and not mandatory. That is the reason.

Mr. FARR. Mr. Chairman, if the gentleman would continue to yield, I think you have just pinpointed the exact dif-

ficulty: That nobody wants to deal with this issue. They have had the ability; it is permissible in law; they could have dealt with it if they wanted to.

The CHAIRMAN pro tempore. The time of the gentleman from Alaska [Mr. YOUNG] has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 1 additional minute.)

Mr. YOUNG of Alaska. Mr. Chairman, I yield to the gentleman from California.

Mr. FARR. Mr. Chairman, they could have dealt with it and have not. We have to, as lawmakers, make that responsible decision to say that this is important enough that they have to deal with it where it is practicable to deal with it.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, the difference is the councils in many cases have already acted. With the language that is in the bill now, it is really an awakening call for the councils. We will be revisiting this if they do not.

Mr. Chairman, I believe that they do see the importance of this and we do have the backing of the councils. But we have to allow the councils the discretion or we end up being the total managers of the fisheries and that would be a disaster for the fisheries.

The fisheries are very competitive and very monetarily important for certain interest groups and we do not want this Congress to be involved, but should allow the councils to be the ones with the discretion.

Mr. Chairman, I do urge the defeat of the amendment.

Mr. STUDDS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, people may wonder, since the gentleman from Alaska [Mr. YOUNG] and I invariably agree on virtually all matters relating to fisheries, how I could conceivably find myself in a different position. I do not, really, since the gentleman has taken three different positions in the course of this debate. I am going to be with him the first time he was there.

Mr. Chairman, the original draft of the bill, as the gentleman from California indicated, contained the language of the bill drafted by the gentleman from Alaska and myself that he now seeks to reinstate. That aroused some controversy during the committee markup and the gentleman from Alaska, in his usual statesmanlike way, offered a compromise which added the phrase "to the extent practicable" to the amendment. I thought that was a pretty good idea too, although it did weaken it to some extent. Then, even that was removed and it is totally discretionary for the councils.

There is nothing in this language that speaks to any conflict or any controversy between gear types. The language in question simply directs the council, when they are developing a plan, to consider conservation of management measures necessary to minimize to the extent practicable, a very

large loophole, adverse impacts on that habitat caused by fishing.

Mr. Chairman, it is very difficult to see how that language on its face could be the source of a great deal of controversy. I would think it would be almost inarguable that we would want councils, in the course of developing plans, to consider ways to minimize to the extent practicable adverse impacts on fishery habitat, for very obvious, and it seems to me, self-evident reasons.

Mr. Chairman, I think the gentleman from Alaska was entirely correct when he put this in his initial version. I think he was bending, in the way we must around here occasionally, to circumstance when he agreed to its slight weakening with the addition of the phrase "to the extent practicable."

□ 1100

But I do think to remove this from a requirement for the council's consideration and place it, as the bill now does as simply discretionary, our very sad history here indicates, probably, councils probably will not do it. So I agree with the first two positions of the gentleman from Alaska and the current position of the gentleman from California, and urge support of the amendment.

Mr. GILCHREST. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to extend my compliments to the chairman of the full committee for coming up with a bill that goes a long way in protecting a huge natural resource and a very strong part of the U.S. economy, and that is the fishing industry.

I also rise in support of the amendment offered by the gentleman from California, and I think because of several reasons that this body ought to vote for that amendment.

First, it was in the original bill. I think the idea of this provision being in the original bill was to give the councils some discretion to place an emphasis on one of the most important aspects and parts of the fishing industry, and that is habitat, where these fish spawn. They have the discretion; to the extent practicable, they can use this in the formulation of their plan.

One striking detail, or one striking fact, shows the necessity, in my judgment, of this amendment, and that is you could stop fishing today. You could stop all fishing in the coastal areas and still lose 75 percent of the commercially valuable fish to habitat loss. Now, this does, to be honest, involve some of the recommendations and some of the insights into gear types between different competing fishermen. But the emphasis here is to protect habitat laws, and the emphasis needed for the council to use this discretion is overpowering.

To lose 75 percent of the commercial fish because of habitat loss is a striking fact. We also see problems with water quality being degraded by a whole range of sources. In any one

given year in this country, actually in any one given day, one-third of the shellfish beds throughout this country are closed because of problems with habitat.

So the bill has gone a long way to protecting the fishing industry in this country.

I think we should stick with the original language, including "to the extent practicable" from the gentleman from California, and I urge a "yes" vote on the amendment.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. Let me try to set the record straight.

The current law has this language in the discretionary section. Current law is that the ability of the agency is discretionary in this area.

The gentleman's amendment would change current law to make this requirement mandatory upon the agency in every fisheries plan. Now, why is that a bad idea? It is a bad idea for a number of reasons. We are in the throes today of an attempt to reform our Superfund laws because of the fact that when we originally wrote the Superfund laws, we created such a litigation problem that the law has wasted billions of dollars on litigation. Everyone sues, everyone complains, everyone challenges each other under that law.

Please, let us not make that same mistake in this important act.

The amendment offered by the gentleman putting this language into the mandatory section invites those kinds of lawsuits. By whom? Who is going to file a lawsuit if this language is put under the mandatory section? I will tell you who: competing gear types. If there are two kinds of fisheries out there, one which has an allocation that it does not think is fair, another which has an allocation it would like to get, you can bet there would be a lawsuit filed on this particular mandatory section, and the two gear types will be in litigation over this bill.

But let me tell you of an even more important reason why this should not, this amendment, should not be adopted. Current law is working very well. Anyone who tries to say current law is not working well has simply not observed the facts. The facts are that the councils do have the authority today and use that authority where essentially important to restrict damaging gear types in their management plans. They have the authority and have used it to protect sensitive habitat areas such as nurseries and hatcheries from fishing types. They have that authority. They use it.

For us to change the law to make it mandatory simply invites someone to test whether or not they have used their authority correctly or incorrectly in court every time a council moves.

I live on the gulf coast, as do many of the members of our committee live near the coastal areas. We have an im-

portant fisheries—25 percent of all the commercial fish landings in America come off the coast of Louisiana. We have incredible nursing grounds. We understand that relationship. Our councils work, in fact, to restrict fishing and fishing gear types when, in fact, there is good evidence those fishing stocks are in any kind of difficulty. They use the discretionary features of this law quite well. We complain sometimes about the science they use, but the fact is that councils are working quite well.

For those of you who want to change the law, and that is what this amendment does, for those of you who want to change this law to make this mandatory, will mean from now on every time our council makes a decision in Louisiana waters, you can bet there will be a lawsuit filed from some other fishermen in some other States. There is a great contest for some of these species. Red snapper, for example, is a very desirable species. It is one that is regulated by the councils. The Florida fishermen used to be in Louisiana waters in droves until the council took some actions to regulate the kind of fishing that occurred in the red snapper industry. You can bet that if there is a mandatory feature in this act, the moment the council moves to do anything in that fishery in Louisiana waters that does not please the Florida fishermen, there will be a lawsuit filed. If they do not do something that somebody else wants them to do under this mandatory section, there will be a lawsuit filed. There will be lawsuits like Superfund lawsuits coming out of our ears, and the bottom line is that this fisheries councils system will begin to do what our Superfund has done: waste money in courts, encourage gear fights and wars, encourage fights between States when right now we are trying to cooperate across State boundaries on the outer continental shelf and will, in fact, destroy what is currently a good and discretionary feature of the law that is working quite well.

I urge Members not to change it.

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Maryland.

Mr. GILCHREST. I would like to ask the gentleman from Louisiana a couple of questions. If we were debating this issue in 1901, then I would agree that all of this discretion is fine.

Mr. TAUZIN. I thought the gentleman had a question.

Mr. GILCHREST. But in 1995, my question is, considering the gear type we have in 1995, considering the number of fishermen that are out there, considering the number of boats out there, considering all of the technologies—

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 3 additional minutes.)

Mr. GILCHREST. If the gentleman will yield further, considering that we have sonar finders, hydraulic gear, spotter planes, onboard processing equipment, satellite communications systems, considering all of this out here now, taking fewer fish with more fishermen, should there not be some emphasis, and that is what this amendment does, it places emphasis on the discretion of the management councils, which I do not think have done that up to this point.

Mr. TAUZIN. Let me try to answer, yes, indeed, there are many more gear types out there. But if you make this feature a mandatory portion of the law, every one of those new and inventive gear types will be suing to ensure they get a better allotment out of the fisheries plan than the other plan and suing on the basis that council did not follow the mandates of the law now in this area.

Currently, the councils have discretion. They can do everything you want them to do in this amendment, and they can do it without all the lawsuits.

What you are going to do is have a multiplicity of lawsuits. You will have gear wars going on, which we cannot afford. Give these councils the tools without mandating them into lawsuits is what the current law does, and I urge you not to change it.

Mr. FARR. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from California.

Mr. FARR. As you know, the councils now set very controversial issues, and, as you know, in this piece of legislation they can include conservation and management measures necessary to minimize by-catch, that is, the TED's used in Louisiana waters. Those are very controversial. There has never been a lawsuit on that.

Mr. TAUZIN. Reclaiming my time, sir, the TED's are not a by-catch issue. The TED's are an endangered species issue, and that kind of confusion has caused more trouble on our debates on this bill than has helped. I want to straighten that out. This is not a TED's issue. This is not a TED's issue. This is a question of whether or not this feature of the law, which is discretionary, is going to become a mandatory feature in this area, and I urge you not to make it mandatory, because you will have gear wars and litigation unending in this area, where currently the administration and the agencies have the discretion to do the right thing when they need to do it.

Mr. FARR. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from California.

Mr. FARR. My concern is I think you are using the fear tactic of lawsuits. There have never been lawsuits filed. We make some very controversial issues on this.

Mr. TAUZIN. The reason there are no lawsuits filed is no mandatory provision in the law. I cannot file a lawsuit



today to tell the agency it must do something the law said it did not have to do. The reason there is no lawsuit from one gear type to the other is because we do not have your amendment. With your amendment, I can guarantee there will be wars, litigation, many more lawsuits. If you do not believe it, talk to the folks who operate all the gear. They complain every day about their allotments.

They think their type of fishing ought to be the best one, the one that gets the most allotment. There will be lawsuits every day in that case. You will be in lawsuits and your friends on the environmental side trying to stop the fisheries completely, and saying the agency should have had a habitat plan that locked it up. There will be lawsuits from every side of this issue, and I suggest to you that is the last thing that we need. We need more help and cooperation, less lawsuits.

Mr. UNDERWOOD. Mr. Chairman, I move to strike the requisite number of words.

Mr. FARR. Mr. Chairman, will the gentleman yield?

Mr. UNDERWOOD. I yield to the gentleman from California.

Mr. FARR. I thank the gentleman for yielding.

I want to point out a couple of issues here. One is, this makes it possible, to the extent practicable, to regulate. It is also a bill that is very much supported by the fishery groups, by the people making their living in the water. They understand there is this controversy going on, and they need to have a forum where that controversy can be resolved.

I agree with the chairman we do not want this resolved in Washington. That is why we are delegating the responsibility to the commission so that they can resolve it on a case-by-case basis on the issues, on the fish that they are responsible in law to regulate.

This bill makes the inclusion of the issue that the gentleman from Louisiana [Mr. TAUZIN] just brought up, the by-catch measures, mandatory. That is going to be as controversial as anything in the bill.

Indeed, if you are worried about issues raising for lawsuits, that one you could argue is even more so than what I am trying to do.

I urge these Members to take a look at those that are sponsoring this amendment, a broad range of fishery groups on both the East Coast, the West Coast, and fishery groups that make their living at the sea, and they want this conflict of the sea resolved. We think this is the best way to do it.

I ask for an "aye" vote on the amendment.

Mrs. SMITH of Washington. Mr. Chairman, I rise in support of the Metcalf amendment to H.R. 39.

The halibut and sablefish individual transferable quota [ITQ] for fishermen in the North Pacific is a product of nearly a decade of work.

This ITQ program went into effect earlier this year and has been very successful. This

ITQ was necessary because the race for the fish in the North Pacific was becoming extremely dangerous. In fact, between the years 1991 and 1993, there were 216 search and rescue efforts in the halibut fishery alone.

Because of the safety issue and the years it took to develop the plan, it would be patently unfair to change the rules for the halibut and sablefish ITQ in the middle of the game.

I would like to commend the Fishing Vessels Owners' Association and the Deep Sea Fisherman's Union for their diligence in clarifying the intent of this legislation for Washington State fishermen.

I strongly urge my colleagues to support the Metcalf amendment.

Ms. FURSE. Mr. Chairman, I rise to support my friend from California's amendment.

Commercial fishing is one of the Nation's oldest industries. It contributes \$111 billion annually to our national economy and creates jobs for 1½ million Americans. Obviously, to maintain a healthy and viable fishing industry, we must protect the habitat in which these valuable fish live.

H.R. 39 currently contains language requiring that fishery plans address the problem of habitat degradation. But it fails to include one significant cause of habitat damage—damage caused by fishing itself. Fishing gear such as trawl nets that are dragged along the bottom of the ocean floor can have a very significant impact on the productivity of essential fishery habitat.

The Farr amendment would improve upon H.R. 39's habitat protection provisions by fixing this shortcoming.

If we're going to look at other sources of habitat degradation, it is only fair that we also require the fishing industry to make sure it's not also contributing to the problem. Anything less would be hypocritical.

The fishing industry recognizes this and supports the Farr amendment. In particular, the fishermen and women of the west coast have endorsed this amendment. The Pacific Coast Federation of Fishermen's Associations says—and I quote:

Habitat loss is the single most important threat to the health and productivity of this nation's fisheries. Everyone must do their share to restore that habitat to full productivity—including the fishing industry—and to protect essential fishery habitat whenever possible.

I urge my colleagues to join me in voting "yes" for this sensible and necessary amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. FARR].

The question was taken; and the Chairman announced that the noes appeared to have it.

#### RECORDED VOTE

Mr. FARR. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 251, noes 162, not voting 19, as follows:

[Roll No. 717]

#### AYES—251

Abercrombie  
Ackerman  
Andrews  
Bachus  
Baesler

Baker (CA)  
Baldacci  
Barcia  
Barrett (WI)  
Becerra

Beilenson  
Bentsen  
Berman  
Bilbray  
Bilirakis

Bishop  
Boehlert  
Bonior  
Borski  
Boucher  
Browder  
Brown (CA)  
Brown (FL)  
Brown (OH)  
Brownback  
Bryant (TX)  
Bunn  
Burr  
Canady  
Castle  
Chrysler  
Clayton  
Clement  
Clyburn  
Coleman  
Collins (IL)  
Condit  
Conyers  
Costello  
Cox  
Coyne  
Cramer  
Cunningham  
Davis  
de la Garza  
DeFazio  
DeLauro  
Dellums  
Deutsch  
Diaz-Balart  
Dicks  
Dingell  
Dixon  
Doggett  
Dooley  
Doyle  
Durbin  
Ehlers  
Ehrlich  
Engel  
English  
Ensign  
Eshoo  
Evans  
Ewing  
Farr  
Fattah  
Fawell  
Fazio  
Filner  
Flake  
Flanagan  
Foglietta  
Foley  
Forbes  
Ford  
Fox  
Franks (NJ)  
Frelinghuysen  
Frost  
Furse  
Ganske  
Gejdenson  
Gephardt  
Gilchrest  
Gillmor  
Gilman  
Gonzalez  
Goodlatte  
Gordon  
Goss  
Green  
Greenwood  
Gunderson

Gutierrez  
Hall (OH)  
Hamilton  
Harman  
Hastings (FL)  
Hefley  
Hefner  
Heineman  
Hilliard  
Hinchey  
Hobson  
Hoekstra  
Holden  
Horn  
Hoyer  
Hutchinson  
Inglis  
Jackson-Lee  
Johnson (CT)  
Johnson (SD)  
Johnson, E. B.  
Johnston  
Kanjorski  
Kaptur  
Kasich  
Kelly  
Kennedy (MA)  
Kennedy (RI)  
Kennelly  
Kildee  
Kingston  
Kleczka  
Klink  
Klug  
LaFalce  
LaHood  
Lantos  
Lazio  
Leach  
Levin  
Lewis (GA)  
Lipinski  
LoBiondo  
Lofgren  
Lowey  
Luther  
Maloney  
Manton  
Manzullo  
Markey  
Martinez  
Martini  
Mascara  
Matsui  
McCarthy  
McDade  
McDermott  
McHale  
McKinney  
McNulty  
Meehan  
Meek  
Menendez  
Meyers  
Miller (CA)  
Miller (FL)  
Minge  
Mink  
Moakley  
Mollohan  
Moran  
Morella  
Nadler  
Neal  
Neumann  
Obey  
Olver  
Owens  
Pallone

Pastor  
Payne (NJ)  
Payne (VA)  
Pelosi  
Peterson (FL)  
Petri  
Porter  
Portman  
Poshard  
Pryce  
Quinn  
Rahall  
Ramstad  
Reed  
Regula  
Richardson  
Rivers  
Roemer  
Ros-Lehtinen  
Rose  
Roth  
Roukema  
Roybal-Allard  
Rush  
Sabo  
Salmon  
Sanders  
Sanford  
Sawyer  
Schroeder  
Schumer  
Scott  
Seastrand  
Sensenbrenner  
Serrano  
Shaw  
Shays  
Skaggs  
Slaughter  
Smith (MI)  
Smith (NJ)  
Souders  
Spratt  
Stark  
Stokes  
Studds  
Stupak  
Talent  
Tanner  
Taylor (NC)  
Thompson  
Thornton  
Thurman  
Torres  
Torricelli  
Towns  
Upton  
Velazquez  
Vento  
Visclosky  
Walker  
Walsh  
Wamp  
Ward  
Waters  
Watt (NC)  
Waxman  
Weldon (PA)  
Weller  
White  
Whitfield  
Williams  
Wise  
Woolsey  
Wyden  
Yates  
Young (FL)  
Zimmer

#### NOES—162

Allard  
Armey  
Baker (LA)  
Ballenger  
Barr  
Barrett (NE)  
Bartlett  
Bass  
Bereuter  
Bevill  
Bliley  
Blute  
Boehner  
Bonilla  
Bono  
Brewster  
Bryant (TN)  
Bunning

Burton  
Buyer  
Callahan  
Calvert  
Camp  
Chabot  
Chambliss  
Chenoweth  
Christensen  
Clinger  
Coble  
Coburn  
Collins (GA)  
Combest  
Cooley  
Crane  
Crapo  
Cremeans

Cubin  
Danner  
Deal  
DeLay  
Dickey  
Doolittle  
Dornan  
Dreier  
Duncan  
Dunn  
Edwards  
Emerson  
Everett  
Fields (TX)  
Fowler  
Frank (MA)  
Franks (CT)  
Frisa

Funderburk	Lincoln	Rogers
Gallegly	Linder	Rohrabacher
Gekas	Livingston	Royce
Geren	Longley	Saxton
Goodling	Lucas	Schaefer
Graham	McCollum	Schiff
Gutknecht	McCrery	Shadegg
Hall (TX)	McHugh	Shuster
Hancock	McInnis	Sisisky
Hansen	McIntosh	Skeen
Hastert	McKeon	Skelton
Hastings (WA)	Metcalfe	Smith (TX)
Hayes	Mica	Smith (WA)
Hayworth	Molinari	Solomon
Herger	Montgomery	Spence
Hillery	Moorhead	Stearns
Hoke	Murtha	Stenholm
Hostettler	Myers	Stockman
Houghton	Myrick	Stump
Hunter	Nethercutt	Tate
Hyde	Ney	Tauzin
Istook	Norwood	Taylor (MS)
Jacobs	Nussle	Thomas
Johnson, Sam	Ortiz	Thornberry
Jones	Orton	Tiahrt
Kim	Oxley	Torkildsen
King	Packard	Trafigant
Knollenberg	Parker	Vucanovich
Kolbe	Paxon	Waldholtz
Largent	Pickett	Watts (OK)
Latham	Pombo	Weldon (FL)
LaTourette	Quillen	Wicker
Laughlin	Radanovich	Wilson
Lewis (CA)	Rangel	Wolf
Lewis (KY)	Riggs	Young (AK)
Lightfoot	Roberts	Zeliff

## NOT VOTING—19

Archer	Fields (LA)	Scarborough
Barton	Gibbons	Tejeda
Bateman	Jefferson	Tucker
Cardin	Mfume	Volkmer
Chapman	Oberstar	Wynn
Clay	Peterson (MN)	
Collins (MI)	Pomeroy	

□ 1133

The Clerk announced the following pair:

On this vote:

Miss Collins of Michigan for, with Mr. Scarborough against.

Mr. SAM JOHNSON of Texas and Mrs. FOWLER changed their vote from "aye" to "no."

Messrs. BALDACCI, HEFLEY, TALENT, WELLER, GUNDERSON, and ENGLISH of Pennsylvania changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. BUNNING of Kentucky). Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. METCALF

Mr. METCALF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. METCALF: Page 48, line 4, after "time" insert ", in accordance with the terms of the plan and regulations issued by the Secretary."

Page 50, strike lines 1 through 6 and insert the following:

"(5)(A) An individual quota system established for a fishery may be limited or terminated at any time if necessary for the conservation and management of the fishery, by—

"(i) the Council which has authority over the fishery for which the system is established, through a fishery management plan or amendment; or

"(ii) the Secretary, in the case of any individual quota system established by a fishery management plan developed by the Secretary.

"(B) This paragraph does not diminish the authority of the Secretary under any other provision of this Act.

Page 55, beginning at line 12, strike "1997, submit recommendations—" and insert "1997—"

Page 55, line 14, after "(i)" insert "submit comments".

Page 55, line 18, after "(ii)" insert "submit recommendations".

Page 47, line 11, strike ", and" and insert a semicolon.

Page 47, line 12, insert "(ii)" before the text appearing on that line, and move the left margin of that line 2 ems to the right.

Page 47, line 14, strike "(ii)" and insert "(iii)".

Page 47, line 17, strike "(iii)" and insert "(iv)".

Page 50, line 7, strike "(6)" and insert "(7)".

Page 50, after line 6, insert the following new paragraph:

"(6) This subsection does not require a Council or the Secretary to amend a fishery management plan in order to comply with paragraph (1)(D)(i) or (ii) with respect to an individual quota system, if the plan (or an amendment to the plan) established the individual quota system before the date of enactment of the Fishery Conservation and Management Amendments of 1995.

Mr. METCALF (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. METCALF. Mr. Chairman, this amendment is a narrow one. It does not address the issue of how the new guidelines will affect future individual programs. The amendment addresses only existing individual programs, and it addresses them in only one way. It provides that the existing programs would not be required to be revised in order to minimize the effects on local coastal communities.

In considering the amendment, it is also important to know that existing law already requires that the interests of coastal communities be considered in the development of individual quota systems. The development of those systems also must take into consideration an array of other interests.

The individual fishing quota plan for the halibut and sablefish fisheries of the Bering Sea and Gulf of Alaska, in particular, took 10 long years to be developed. Hundreds of members of the public, including those from local coastal communities, gave testimony before the North Pacific Fishery Management Council in scores of meetings held in many Alaskan towns and in Seattle, WA.

The plan was subjected to close analysis in an environmental impact statement and regulatory flexibility analysis, which were reviewed by the public, the Council, and the Department of Commerce. The Secretary of Commerce approved the program after full opportunity for public comment on the plan and the regulations to implement it. The formal administrative record for the program is 10 feet high.

While features of the plan should be more than sufficient to comply with the new guideline requiring that im-

pacts on communities be minimized, some Commerce Department official or Federal judge might decide otherwise. That could result in an elaborate and costly reconsideration of the program. At the end of the revision process, the public and the fisheries managers could find themselves confronted with another stack of administrative papers 10 feet high.

If the North Pacific Council and the Secretary wish to revisit the issue of coastal communities, that is their prerogative under prevailing law. My amendment simply makes it clear that the system should not be required to be revised due to a possible interpretation of a single new guideline in H.R. 39.

I urge my colleagues to agree to my amendment.

Ms. DUNN of Washington. Mr. Chairman, will the gentleman yield?

Mr. METCALF. I yield to the gentleman from Washington.

(Ms. DUNN of Washington asked and was given permission to revise and extend her remarks.)

Ms. DUNN of Washington. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment of the gentleman from Washington [Mr. METCALF]. This is a fairness amendment. I ask my colleagues to support it.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I support the gentleman's amendment. The gentleman has been working very diligently and hard with me to try to resolve our differences. It was never my intention that the new individual quota system guidelines developed and incorporated in this bill cause a major disruption to already existing ITQ's. I mentioned that to the gentleman from California [Mr. MILLER] and the gentleman from Massachusetts [Mr. STUDDS] a moment ago.

The gentleman is well aware of my general opposition to ITQ's, but I also stated I do not want Congress to overturn any plans implemented already or taken advantage of by those people that follow the present law.

This amendment clarifies the authority of the Secretary of Commerce in regard to amending or limiting fishery management plans. It also clarifies that this legislation will not cause a reallocation of already issued quota shares. It does, however, allow the Councils to make revisions to existing ITQ plans, which is consistent with the Council's current authority.

Mr. Chairman, I urge the adoption of the amendment.

Mr. STUDDS. Mr. Chairman, I rise in brief, muffled opposition to the amendment.

Mr. Chairman, in the past we have always required existing fishery management plans to be amended to comply with any new requirements of the act. I think to start exempting plans or particular aspects of plans from new

requirements, as this amendment would do, would set an unfortunate precedent that I myself cannot support, although I recognize the realities of the situation.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Washington [Mr. METCALF].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. UNDERWOOD

Mr. UNDERWOOD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. UNDERWOOD: Designate the existing text as title I, and at the end of the bill add the following new title:

## TITLE II—INSULAR AREAS

### SEC. 201. SHORT TITLE.

This title may be cited as the "Pacific Insular Areas Fisheries Empowerment Act of 1995".

### SEC. 202. FINDINGS AND POLICY.

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

"(10) The Pacific Insular Areas of the United States contain a unique historical, cultural, legal, political, and geographic circumstance, including the importance of fisheries resources to their economic growth."

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

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "' and"; and

(3) by adding at the end the following new paragraph:

"(7) to assure that the fishery resources adjacent to Pacific Insular Areas, including those within the exclusive economic zone of such areas and any Continental Shelf fishery resources of such areas, be explored, exploited, conserved, and managed for the benefit of the people of each such areas."

### SEC. 203. DEFINITIONS.

Section 3 (16 U.S.C. 1802), as amended by section 4 of this Act, is further amended by redesignating paragraphs (39) and (40) as paragraphs (40) and (41), respectively, and by inserting after paragraph (38) the following new paragraph:

"(39) The term 'Pacific Insular Area' means American Samoa, Guam, or the Northern Mariana Islands."

### SEC. 204. FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS.

(a) AUTHORITY FOR FOREIGN FISHING UNDER A PACIFIC INSULAR AREA AGREEMENT.—Section 201(a)(1) (16 U.S.C. 1821(a)(1)), as amended by title I of this Act, is further amended by inserting "or (e)" after "section 204(d)".

(b) AUTHORITY TO ENTER INTO A PACIFIC INSULAR AREAS AGREEMENT.—Section 202(c)(2) (16 U.S.C. 1822(c)(2)) is amended by inserting before the period at the end the following: "or section 204(e)".

(c) PACIFIC INSULAR AREA AGREEMENTS.—Section 204 (26 U.S.C. 1824), as amended by section 5 of this Act, is further amended by adding at the end the following:

"(e) PACIFIC INSULAR AREAS.—After consultation with or at the request of the Governor of a Pacific Insular Area, the Secretary of State, in concurrence with the Secretary and the appropriate Council, may negotiate and enter into a Pacific Insular Area Fishery Agreement (in this subsection referred to as a 'PIAFA') to authorize foreign fishing within the exclusive economic zone adjacent to such Pacific Insular Area or for Continental Shelf fishery resources beyond such zone.

"(2)(A) Fees pursuant to a PIAFA shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit has been issued pursuant to this section.

"(B) The Secretary of Commerce, in consultation with the Governor of the Pacific Island Insular Area, may establish, by regulation, the level of fees which may be charged pursuant to a PIAFA. The amount of fees may exceed administrative costs and shall be reasonable, fair, and equitable to all participants in the fisheries.

"(C) amounts received by the United States as fees under this paragraph shall be deposited in the general fund of the Treasury and shall be used, as provided in appropriations Act, for fishery conservation and management purposes in waters adjacent to the Pacific Insular Area with respect to which the fees are paid.

"(3) A PIAFA shall become effective according to the procedures of section 203.

"(4) The Secretary of State may not negotiate a PIAFA with a country that is in violation of a governing international fishery agreement in effect under this Act.

"(5) This subsection shall not be considered to supersede any governing international fishery agreement in effect under this Act."

### SEC. 205. ENFORCEMENT.

Section 311 (16 U.S.C. 1861) is amended by adding at the end the following new subsection:

"(f) ENFORCEMENT IN THE INSULAR AREAS.—The Secretary, in consultation with the Governors of the Pacific Insular Areas shall, to the greatest extent practicable, support cooperative enforcement agreements between Federal and Pacific Insular Area authorities."

### SEC. 206. CONFORMING AMENDMENTS.

(a) Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is amended by striking "204 (b) or (c)" and inserting "204 (b), (c), or (e)".

(b) Section 311(g)(1) (16 U.S.C. 1861(g)(1)) is amended by inserting after the citation "201 (b) or (c)" the words "or section 204(d)".

Mr. UNDERWOOD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Guam?

There was no objection.

Mr. UNDERWOOD. Mr. Chairman, my amendment would allow the U.S. Territories of Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands to responsibly develop an important natural resource and to receive the benefits of that development. I want to reiterate the policy statement in section 202(b) of my amendment, that it is Congress' intent to:

assure that the fishery resources adjacent to Pacific Insular Areas, including within the exclusive economic zone of such areas and any Continental Shelf fishery resources of such areas, be explored, exploited, conserved, and managed for the benefit of the people of each such areas.

My amendment authorizes fisheries development in the exclusive economic zone adjacent to the Pacific territories through Pacific Insular Area Fisheries Agreements. These agreements would be entered into by the Secretary of State in consultation with the Secretary of Commerce, the Western Pacific Regional Fishery Management

Council, and the Governor of the affected U.S. territory. Under my amendment, permits and licensing fees levied on foreign vessels would be used by the participating U.S. territory for fisheries conservation and management purposes in the waters adjacent to the affected insular area. It is also our intent that the schedule of fees, and the portion of fees to be received by each participating territory when there is an overlap of interests, would be developed in joint consultation by the Governors of Guam, American Samoa, the Northern Mariana Islands, and the Western Pacific Regional Fishery Management Council.

Under current law, any economic benefit from licensing fishing vessels would not accrue directly to the territories. Violations of the exclusive economic zone surrounding the territories by foreign fishing vessels are common. In fact, in the same week the House Committee on Resources considered the Magnuson Act, two Japanese vessels were seized by the U.S. Coast Guard in waters adjacent to Guam for illegal fishing.

Mr. Chairman, I should also point out that the Magnuson Act does not allow displacement of domestic fishermen by foreign fishermen.

□ 1145

Foreign vessels would be licensed only for the portion of the allowable catch that is not harvested by domestic fishermen. An important benefit of my amendment would be the increased incentive for foreign fleets to self-regulate foreign fishing in these areas.

Those licensed to fish in our waters would have an interest in reporting those vessels that are fishing illegally. A database would be developed that would help us gauge the true potential of our fishing resources and this information would help us to develop a domestic fishing industry in the Pacific territories.

My amendment is modeled on draft legislation developed by the joint Federal-insular area fisheries working group and endorsed by the Western Pacific Regional Fishery Management Council. Participating in that working group were territorial governors and the Departments of Interior, Commerce, and State.

Mr. Chairman, this amendment is the product of the collaborative efforts of the gentleman from Alaska [Mr. YOUNG], chairman of the Committee on Resources, the gentleman from Massachusetts [Mr. STUDDS], and their staffs. In addition, the Western Pacific Regional Fishery Management Council worked with us and supported our efforts.

The people of the Pacific have responsibly managed their resources for thousands of years. This amendment gives us a valuable tool to develop our fishing resources and contribute to the development of the island economies of the Pacific insular areas.

Mr. Chairman, I again thank the gentleman from Alaska [Mr. YOUNG], the

gentleman from California [Mr. MILLER], and the gentleman from Massachusetts [Mr. STUDDS] for their interest and support of Pacific territories and I urge our colleagues to vote in favor of this amendment.

But as my experience in the crafting of this amendment, and in fishing in the past, has borne out, we do not catch everything we want, and sometimes we get things we do not want, but we are happy we went fishing anyway.

Mr. Chairman, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Chairman, I move to strike the last word. I rise today in strong support of the Underwood amendment, the Pacific Insular Areas Fisheries Empowerment Act of 1995.

Mr. Chairman, the U.S. insular areas have been under fire lately. Early this year, the delegates from the territories and the District of Columbia had their symbolic votes on the floor of the House taken away. Included in the future agenda is a plan to take away the tax coverovers currently in existence, and the possessions tax credit is on the chopping block as part of the budget reconciliation package in both the House and Senate.

It is clearly time for the leaders in the insular areas to be more resourceful in attracting new business and new forms of revenue. The Pacific Insular Areas Fisheries Empowerment Act of 1995 is one step in that direction.

As has already been stated, in coordination with the U.S. Government, this provision will enable the Pacific U.S. insular areas to charge fees to foreign fishing vessels which wish to fish in the exclusive economic zones surrounding these insular areas.

The U.S. Government does not incur any additional expense because of this change in the law, but the insular areas benefit through increased revenue, and the anticipated assistance of permit holders in reporting violations of fishing rights in the local EEZ's. Any revenues collected must be used for fishery conservation and management purposes in waters adjacent to the insular areas. This is a true win-win scenario for all involved.

It is my understanding that the administration supports this provision.

I want to thank Congressman UNDERWOOD for taking the lead on this issue and crafting legislative language acceptable to the leadership in the insular areas, the majority in the House, and the administration. I also want to thank Chairman YOUNG, Chairman SAXTON, and Congressmen MILLER and STUDDS, the senior Democratic members on the relevant committee and subcommittee for their support of this provision.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I thank the two gentlemen who have been speaking previously. We have worked very hard on this legislation. Frankly, I am pleased

with the efforts that have been put forth.

Mr. Chairman, I believe it is important to get these Pacific insular areas involved in conservation and management of the fisheries resources off of their coasts.

Foreign vessels have been reported to be fishing illegally in the 200-mile Exclusive Economic Zone off the coast of these insular areas and they are part of our great United States. Frankly, when the gentleman from Guam [Mr. UNDERWOOD] walked in a while ago, I asked the gentleman to vote with me, and forgot he had lost his vote; both of the gentlemen. This is one time that I would frankly like to have the gentlemen's votes.

Mr. Chairman, I again support this amendment as it has been proposed and compliment the two gentlemen.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I would like to join in commending the gentleman from Guam [Mr. UNDERWOOD]. This is important to the insular areas and I am delighted that it could be worked out.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, I urge the passage of the amendment.

The Chairman pro tempore (Mr. BUNNING). The question is on the amendment offered by the gentleman from Guam [Mr. UNDERWOOD].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRANK of Massachusetts: Page 50, line 17, strike "(c) FEES." and all that follows through Page 52, line 18, and renumber paragraphs accordingly.

Mr. FRANK of Massachusetts (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK of Massachusetts. Mr. Chairman, this amendment becomes, I think, even more logical with the adoption of the amendment of the gentleman from California [Mr. MILLER]. What we have here is the establishment of the individual quota system. It has been the individual transferable quota, but I guess it is no longer that, thanks to the gentleman from California.

Mr. Chairman, what this does is mandate in the bill before us that the Secretary impose fees on the fishermen who receive these individual quotas, not simply to recover the cost to the Government of administering it, but as a revenue raiser.

Now, the law, without this bill, gives the authorities the ability to recover

any costs. So, fees imposed for the purposes of cost recovery will not be affected by my amendment.

The policy question is: should we go to the fishermen who are receiving these individual quotas and make them pay revenues that will help support other parts of the Government?

It is true that from one perspective the individual quotas are a benefit. They are a benefit compared to the people that do not have individual quotas. But they are a reflection of the restrictions we have imposed for conservation purposes. In other words, it is looking at only half the picture to say, "Oh, there are these people and they get the quota and they can fish and other people cannot."

Mr. Chairman, I think we all agree that the people involved would rather not have the quotas. They would rather there not be such a system. They would rather simply be able to fish. The individual quotas come in as part of a very restrictive scheme. Restrictions are required, we can debate exactly how much, because of conservation.

But what we have is this situation: Fishermen today, compared to some time ago, are being significantly restricted in what they can catch. That is mandated by the needs of conservation. To logically organize this restrictive system, we are giving individual quotas. The question is, should these fishermen who represent an industry that is already being hit by economic problems, an industry that is already being put upon, should they then, as they are being told they can fish less, have to pay more? Should they pay an additional tax?

So, Mr. Chairman, saying to people that have individual quotas, "You are lucky," remember, these are people who would rather not have the quota. Telling them they are lucky is like the people who told George Orwell, who fought in the Spanish Civil War and was shot in the neck and when he got out of the hospital some people said to him, "You are a lucky person, because you were shot in the neck and recovered." And he said, "Well, I have to think that all the people who were never shot in the neck in the first place are even luckier than I am." To tell the people who have individual quotas that they are lucky, I think that they would say, "You know who is even luckier? The people who are allowed to go about their businesses and their lines of work without these restrictions."

Individual quotas are not a benefit. They are an effort to make a restrictive regime more manageable. To go to the people who have received this restrictive regime, the people in the fishing industry, and say to them as part of what they are getting in terms of restrictions, we are going to make them pay for the cost of administering their system, not simply what it cost the Government, this goes beyond recovery.

But we are going to make some money off the fact of their restrictions.

We are going to impose this restrictive regime which individual quota is a part of on them, and as part of that we are going to make a profit. We, the Government, because we are going to mandate that a fee be charged.

Mr. Chairman, in the prior situation, if they could sell the quota, then I think they should have to make a percentage payment to the Government. I was going to have my amendment reflect that and if we still had the quota as a salable item, like taxi medallions, yes, the Government should get a share of that. But thanks to the gentleman from California [Mr. MILLER], the quotas are not transferable.

So, Mr. Chairman, what we are talking about is in this restrictive regime, we are saying to fishermen that they cannot fish as much as they used to. They are under restrictions. But in consequence of our not driving them totally out of business, in recognition of the fact that we are going to let them fish some, although less than they used to, we are going to make them pay a fee not simply to administer this, but for the Government to make a profit off of it.

Mr. Chairman, I think that is inappropriate and, therefore, my amendment leaves everything else in this bill in place, but it says to the fisherman who was not driven out of business entirely, but instead restricted, he will not be required to pay a fee over and above what it costs us to administer this. We are not going to make any money off of him.

Mr. Chairman, I hope my amendment is adopted.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I reluctantly but strongly rise in opposition to the amendment of the gentleman from Massachusetts [Mr. FRANK]. No. 1, this is relatively a new amendment. We just received it today.

No. 2, the amendment would strike in this language the Secretary's ability to charge fees for the management and implementation and enforcement costs of the individual transferral quota system. And for those Members that might be watching this program in their offices, the IDQ's or IFQ's really are a license restriction, like a liquor license. Merchants cannot sell liquor within a certain area or in competition within another area. This gives an exclusive right of a public resource to a fisherman; a boat, a captain, or a fisherman.

All we are asking in this is a minimal fee to help pay the costs of applying this application of IFQ's and IDQ's to these individuals.

Now, as far as saying they are going to catch less, that is not necessarily true. In fact, the quota for the catch is now dispersed among those that got the IDQ's and not the overall general public. In fact, they will probably catch more fish instead of less fish.

But what we are saying is if this costs the Federal Government money

to give exclusive rights to that public resource, then that person who receives those exclusive rights ought to be able to, and willing to. By the way, in the committee hearings, most, I would say 99 percent of those that are affected by the IDQ's, supported the concept of paying a minimal fee to implement the act. I want to stress that.

Mr. Chairman, this gives the chance for the Government to recover some of the costs of implementing the IDQ's and IFQ's. It also, in fact, is supported by those that get and have been issued these quotas.

May I say it is only for the quotas that have been issued today and not retroactive and not prospectively in the future. I am going to suggest that if we were to take this away, if my colleagues believe in a free lunch, then they would vote for this amendment. If they believe, as those people receiving the IFQ's and IDQ's, that they ought to participate in the program and pay for the cost, they will defeat the amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I may have misunderstood it, but as I read the language, the existing statute, which I had understood was not being amended, gives the Secretary the right to recover the cost of administering the system. And as I read this, it seemed that the fee being mandated here could go beyond that, that that linkage was being weakened.

If the understanding is that they are not to charge any more than the cost of administering, that is one thing. But it did seem to me that 4 percent of the value of the fish, that would be a pretty expensive permitting process.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, in determining the amount of fee under this paragraph, the Secretary shall ensure the amount is commensurate with the cost of managing the fisheries with respect to the way the fee is collected, including reasonable cost for salaries and data analysis and other costs directly related to fishery management and enforcement.

Mr. Chairman, I am, frankly, not a lawyer, and the gentleman from Massachusetts is, but if there was an exorbitant amount of fee and the money was given to the Treasury, the Secretary would be open to a lawsuit.

Mr. FRANK of Massachusetts. Mr. Chairman, if the gentleman would continue to yield, there is a difference. The existing law says the level of fees charged under this subsection shall not exceed the administrative fees in covering the permits. The language the gentleman just read allows the fee on the individual quota to include other costs directly related to fishery management and enforcement far beyond whatever you get for the license.

Mr. YOUNG of Alaska. Mr. Chairman, again reclaiming my time, I do

not believe it does that. What we have attempted to do, and may I stress the fact again that this person the IDQ has been given to by the council, and all of this helps pay for the cost of the administration of that program. That is all it does. And no more money goes to the general Treasury and there is no more added cost.

Mr. Chairman, we are not going to balance the deficit on this. I truthfully think that if we are going to talk on this floor about mining royalties, about below-cost timber sales, about all the other good things, then we ought to be considering if we give someone an exclusive right. Now remember, I am not talking about all the fishing fleet. I am talking about the exclusive right, exclusive to catch that fish. He excludes everyone else; then he has told us that he would be willing to pay a share to manage this program.

□ 1200

I have heard no objection from this. This is why I am surprised at the amendment, frankly.

In the hearings we heard none. I can ask the gentleman from Massachusetts, the gentleman from California, the gentleman from Connecticut [Mr. GEJDENSON], which I am reluctant to ask anything, but if in reality did they hear at any time, and I yield to the gentleman from Connecticut, being that I mentioned his name, I will yield to the gentleman from Connecticut.

Mr. GEJDENSON. I was almost about to agree with the gentleman. But I may still agree with you. I would say, no matter what the issue at hand is, though, on the fisheries, the magnitude of how much the taxpayers get ripped off in mining and in timber still outweighs anything involved in this issue, it is wrong to even bring it in.

Mr. YOUNG of Alaska. Reclaiming my time, I do not want to hear speech A.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I will be nicer. Maybe the difference is not as great as we think.

The CHAIRMAN. The time of the gentleman from Alaska [Mr. YOUNG] has expired.

(At the request of Mr. FRANK of Massachusetts, and by unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 2 additional minutes.)

Mr. FRANK of Massachusetts. If the gentleman will yield further, I have heard complaints. The complaints have been from people who say, frankly, at least in my area, these are part of a restrictive regime which is mandated by conservation, and they do not want to have to pay for more than the cost of administering the system, and I would say to the gentleman, as I read the language on 51 and 52, there is a difference in the current law. If he tells me that is not all that intentional, maybe we

can narrow this. That is, if we are talking about a fee that is to cover essentially the cost of the individual quota system, that is one thing. If the gentleman is saying to me it was not intended this would go to broader enforcement, because it does say fishery management enforcement, but that it would not deal with matters, you could not charge a fee for matters unrelated to the administration of the quota system, that includes people overfishing.

Mr. YOUNG of Alaska. Reclaiming my time, this goes just for not only issuing the permit but enforcing the permit and all the paperwork. Just one set of IDQ's costs the Government 3 million taxpayer dollars. I never heard anybody object to participating, we are talking about a very small fee here, participating because they have an exclusive right, and, you know, I am still a little bit befuddled here by where this pressure is coming to eliminate the Secretary's right to collect a fee.

Mr. FRANK of Massachusetts. I will explain it. It came from people who read it, as I read it, and I did not read that language as restrictively as the gentleman has interpreted it, and with the understanding that it is not intended to be more than cost recovery for the actual administration and enforcement of this system, I would withdraw the amendment if I got unanimous consent and ask the gentleman to be able to work with him if we got to conference. I would urge that.

Mr. YOUNG of Alaska. We will continue to work with the gentleman, because that is intent of the amendment.

Mr. FRANK of Massachusetts. If the gentleman would yield further, I would ask if we could agree we could try to work out language to make it exactly clear so there is no ambiguity and other people would not get the same misimpression I have gotten. We would not have a problem.

Mr. YOUNG of Alaska. We will work with the gentleman as I have always worked with the gentleman.

Mr. FRANK of Massachusetts. Yes, the gentleman has.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AMENDMENT OFFERED BY MR. GILCHREST

Mr. GILCHREST. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GILCHREST: Page 4, strike line 19 and all that follows through page 5, line 14, and insert the following:

(4) by amending paragraph (21) to read as follows:

"(21) The term 'optimum', when used in reference to the yield from a fishery, means the amount of fish which—

"(A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, taking into account the protection of marine ecosystems;

"(B) is prescribed on the basis of the maximum sustainable yield from the fishery, as

reduced by an relevant, social, economic, or ecological factor, and

"(C) in the case of an overfished fishery resource, provides for rebuilding of the resource to a level consistent with providing the maximum sustainable yield from the resource.";

Mr. GILCHREST (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. GILCHREST. Mr. Chairman, as children, many of us heard the story of the goose that laid the golden egg and the folly of the man who killed the goose to eat it. The same principle applies to marine fisheries.

Every year, each fishery provides us with a harvest of fish for our consumption and recreation. But each species must maintain a certain population in order to reproduce and maintain the stock, and if we overfish the stock, we impair the ability of the resource to renew itself.

The collapse of the New England fishery is an example of what happens when we exceed the maximum sustainable yield of a fishery. They deep fry the goose that laid the golden egg.

Our constituents have had to pay millions of dollars to bail out fishermen who lost their livelihood as a result of the failure to manage the resource. Current law allows fishery management councils to allow a stock to be overfished for short-term social or economic reasons. This was one of the main contributors to the collapse of the New England ground fishery.

The bill before us, while good in many ways, does not change the tragic flaw in the Magnuson Act, leaving open the possibility other fisheries will collapse in the future, requiring more bailouts. The principle is simple: In order for a fish stock to replenish itself, a certain base population must be maintained, and in order to maintain that population, a cap must be placed on the number of fish which can be caught. This limit is called the maximum sustainable yield for the fishery.

The way this works is similar to principal and interest in a savings account. As long as we only spend the interest in our savings account, the principal will perpetually replace that interest for us. If we spend down the principal investment, then we impede our ability to get future investment and future interest.

The amendment essentially says we can only catch that portion of the fish that represents interest. This is called the maximum sustainable yield. Without touching the principal, fish, that being the critical population necessary to replenish the stock year after year, we will continue to have fish.

I should emphasize this is not a new concept. We have been calculating maximum sustainable yield for fisheries for many years. The unfortunate fact, however, is that many fishery

management councils simply choose to exceed MSY to serve short-term economic interests. I realize most people believe this is an environmental amendment, and I agree to a certain extent it is. Even if overfishing had no environmental impact at all, economics would still argue for this amendment.

Overfishing leads to unemployment, shortages of certain seafood and, in many cases, taxpayer bailouts for fishermen who lose their jobs because there is no more fish.

You do not have to care about the environment to oppose mismanagement of a publicly owned resource.

Some opponents of this amendment will claim that it will prevent fishery management councils from allowing overfishing of so-called trash fish that threaten populations of commercial fish. This argument is its own species of trash fish, and that is, it is a red herring. It is true two fisheries have called for fishing down two species, the arrowtooth flounder and Atlantic mackerel. Both of these species could be fished at several times their current rate without violating the provisions of this amendment.

This amendment will not prevent fisheries from reducing populations of trash fish which threaten commercial fish populations.

We have two choices here: We can manage and preserve the resource, or we can exploit the resource and lose it. I want to call your attention, if the camera can just look at this so people can see this back in their offices, take a look at this chart. In 1900, the number of fishermen compared to the number of fish. Now, 1995, look at the number of fish compared to the number of fishermen, and include the following, there are sonar finders on each one of these ships, there is hydraulic gear, spotter planes, there is onboard processing equipment, there are satellite communications systems. We went in 1900 from this to 1995 to this.

There has to be some sense of a management tool to preserve the stock so we can preserve the fisheries.

Now, there is a bright spot in all of this. There is a bright spot. In the mid-Atlantic region, striped bass or rockfish in 1985 was commercially extinct. When we injected some reasoned management in this to prevent overfishing, 1995, with some sense in the management, the rockfish, striped bass, are fully recovered. This would not have happened if we did not inject some science to prevent overfishing.

If we want to preserve the fishing industry, I encourage you to adopt my amendment.

Ms. FURSE. Mr. Chairman, I rise in strong support of the Gilchrest amendment. It is a commonsense amendment. It has been endorsed by the Pacific Coast Federation of Fishermen's Associations. That is the Nation's largest organization of commercial fishermen and women who fish the west coast.

I really want to compliment my colleague for introducing this very, very



sensible amendment, and I urge that my colleagues support it.

Mr. Chairman, I rise in strong support of the Gilchrest amendment.

This is a commonsense amendment.

It does not take a rocket scientist to figure out that if we catch more fish than are produced in a given year then we will decrease that fish population. And if we continue to do this year after year, we may deplete that species to levels so low that we cannot harvest them at all. If there is no fish to catch, then the fishermen and women who rely on those fish for their livelihood cannot make a living, cannot pay their bills, and cannot feed their families.

If we want to prevent this overfishing that leads to economic tragedy for our fishing communities, then we need to harvest within the biological limits of the fish population. It is that simple.

The Gilchrest amendment would ensure the long-term sustainability of the U.S. fishing industry by changing how annual fish quotas are calculated so that they never exceed the biological limits of the fish population being harvested. In this way we can prevent overfishing before it happens and causes economic disruption to fishing communities.

This amendment has been endorsed by the Pacific Coast Federation of Fishermen's Associations, which is the Nation's largest organization of commercial fishermen and women on the west coast.

It is not often that an industry comes to Congress and asks for stronger regulations, yet fishermen and women are calling upon us to pass this amendment to protect the long-term viability of their livelihood. Who are we to deny this request to assist them in better managing their economically vital industry?

I strongly urge my colleagues to support this well thought out and commonsense amendment.

Mr. GILCHREST. Mr. Chairman, will the gentlewoman yield?

Ms. FURSE. I yield to the gentleman from Maryland.

Mr. GILCHREST. I thank the gentlewoman for yielding.

What I would like to do is just give a demonstration of what overfishing is. If you look at this chart up here, sustainable fishing, you can only take what the fish can make. I am going to show you what a sustainable fishing management plan does.

If you look at the green fish up here, this is considered that catch. If you look down here, you see breeding and juveniles. These are the fish that actually have the potential to reproduce themselves. Sometimes fish have to be 9 years old before they can reproduce. Sometimes they have to be older than that.

A sustainable fishery plan works as follows. Just watch this. You take the catch. You look down here, those 10 fish can be replaced with the number of spawning fish at the bottom. This is like being back in a classroom. Now they are replaced. What we can do down here, there are still a number of fish that can grow and respawn. That is a fishery management plan that brought the rockfish or the striped bass back in the mid-Atlantic States.

I am going to show you what happens if you do not have a management plan. You exceed maximum sustainable yield. You take more of the spawning in the catch than can be replaced.

When you do down that far, the only thing that can be replaced are now three. The next year, since fishermen are used to catching what they have caught the previous year, you are going to go further down into the breeding population, into the juvenile population, and what you have is a fishery that collapses. We have seen it in New England. We have seen it in the Gulf of Mexico. We have seen it around the coastal areas of the United States.

The United States has more coastal fisheries waters than any country in the entire world, but unfortunately, because occasionally there has been mismanagement, we are a net importer of fish. If we want to sustain the fishing industry, which is worth billions of dollars, if we want to sustain fishermen who need to support their families, I will give you an example: In 1986, in the Gulf of Mexico, the average wage for a fisherman was \$39,000. Now, 1995, the average wage for a fisherman in the Gulf of Mexico is \$29,000. That is because they expend much more time trying to catch fewer fish.

I encourage you, let us put some sense back into the management of one of the greatest laws this country has had, the Magnuson Act. I urge we include some science, we include some data to relieve the burden of the management councils from making these decisions. They receive this information from the National Marine Fishery Service, from the scientific statistical committee, from an advisory panel. They get this information. Let them use this information. They can allocate the amount of time you will be out there fishing. They can allocate the number of fishermen. They can allocate the months of the year that you do it.

Unless we manage the fisheries wisely, we are going to lose the fisheries in this country.

I urge adoption of my amendment.

Ms. FURSE. Reclaiming my time, I just want to thank the gentleman for certainly the most colorful and interesting dissertation on reproduction I have seen on the House floor.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

I am hard-pressed to compete with show-and-tell on television. That is one of the things that is wrong with our Congress today. It was well done.

But there is more to legislation than a show-and-tell program for those that promote one side of the issue. This issue was voted for in committee and thoroughly defeated. No one spoke in favor of this in the committee. Every council, the North Pacific, Pacific council, mid-Atlantic council, South Atlantic council, and the gulf council spoke against this amendment, and yet this body and the audiences exposed to a very good presentation, but it is not

scientific. The issuer of setting optimum yield [OY], maximum sustainable yield, [MYSY], is a complicated one that fisheries management has been arguing about for years. It is not an easy issue. It is just not a little display with red fish and green fish and little fish and big fish.

If you believe in science, the scientists oppose this amendment. Yes, they do. There are some conservation groups or so-called preservation groups or antifishing groups that do support it.

□ 1215

Unfortunately, the thing that bothers me the most is that under this legislation, this amendment, the council will now be required to address those stocks which are overfished and institute a rebuilding of those stocks, including saber tooth flounder, which kill everything else that flows and grows in the ocean. And they may be God's creatures, but there are other creatures out there that in fact are the prey of the saber tooth flounder. And yet we are in the business of saying we are going to have sustained yield for all those fish that spawn and all those fish that we consume and all those fish that support the fishermen in the communities. We are also asking the council to manage them well enough where they have a sustainable yield, but under this amendment those which prey upon that other than the fish themselves, which in reality would be devouring those little fishes at the bottom of the scale.

Now, those that do not believe that man should be involved in this management program, I would vote for the amendment, too; if we want to exclude everybody out of it, including the fishermen, then I would vote for the amendment, too.

But I can suggest respectfully we have made great progress with the councils today. We are managing our fish much better. By the way, this is relatively a new law in the scope of time, 1976. And why did we pass this law? Because the foreign fleets literally were raping our seas and our fish and leaving nothing back but the carnage that they created.

This Congress finally decided we should Americanize our fleet. I tell you, we did make some mistakes, because we were unprepared to manage it. But every council, every region, the National Fishery Institute, and all the scientists that I know directly involved with this, oppose this amendment.

Again, I cannot compete with someone that is a professor that presents a very nice and simple explanation. But if you believe in the committee process and the testimony before the committees, one of my biggest disappointments in this body has been the lack of listening to those who testify and allowing amendments to come to this floor with really no backing or justification for them, other than to be interest-special to be presented to this

Congress, and because it has the pizzazz, people vote for it. I understand that. We just went through one of those votes. It is easy. But the credibility of the legislation as we write a law is diminished when this type of event occurs.

Again, let me stress, every council, the National Marines Institute, Fishery Institute, everybody involved directly oppose this amendment.

Now, if the committee process means nothing, vote for the gentleman from Maryland's amendment. If you believe man should not be involved with the management of, vote for the gentleman from Maryland's amendment, and everybody will be happy. But if you believe in the process of science, the process of the councils, and the committee process, you will vote no on this amendment.

The gentleman is well intended, his intentions are honorable. The gentleman made a great presentation, and I compliment him. But this is a bad amendment and it should be rejected.

Mr. FARR of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, again, I want to compliment the gentleman from Alaska, Chairman YOUNG, for bringing this measure to the floor, but I also want to talk for a moment just about why it is essential that we adopt amendments like this and the one we just adopted.

Since 1976, the United States has had exclusive jurisdiction over the, out to 200 miles, what we call the exclusive economic zone. That means that all of the activities, whether they be mining or fishing, sports or commercial, are regulated within that zone.

We are the only elected body that has responsibility for that, because all of that property is under public ownership. I think that the big debate on this whole bill is how we move forward in the 21st century being able to sustain a very vital activity which is labor intensive, and for every coastal community in the United States that has been historically the reason for that community existing, and that is its offshore fisheries.

We have seen, and, as I said before, I represent the Monterey Bay area, which was once the sardine capital of the world. We lost all that. The canneries shut down. We had massive unemployment. The fishermen stopped fishing. It was a really depressed area.

Why did it happen? It was because nobody took account of what was in balance, of trying to keep the fisheries in balance. What this amendment is all about is it essentially is a statement by those of us, Members of the U.S. Congress, who have taken the oath of office to manage these resources in a practical, reasonable manner, so that they are indeed this word that we use all the time now, sustainable, so that future generations can go out there and fish as well.

We have to manage it. The debate is on how you manage it. We have given

that responsibility to these fishery councils. Do they manage every kind of fishery in the ocean? No. Do they get into certain commercial fisheries? Yes. Why do we have those councils? Because we need to have some local forum, where the debate about that particular fishery can be held and rules can be set. The season can be set, limited entry, if that is the issue, can be set, in a way in which we have been able to delegate the responsibility for looking at that fishery.

What these amendments are all about is giving that council a little bit more authority, saying look beyond just the fishery at hand, the ability for us to make money on a catch this year. Let us look at trying to sustain this over a period of time; and, indeed, if you are disturbing the hatchery, the very thing that is providing the commercial catch, you are going to wipe out that fishery.

As the gentleman from Maryland [Mr. GILCHREST] said, our Nation has jurisdiction over more ocean territory than any other country in the world, and is now a net importer of fish because we have lost so many of our fisheries. This importing of fish is essentially creating additional Federal trade debt.

So these amendments I think are very responsible amendments. We are the only ones in the United States, the only elected officials, that can deal with this issue, because we have exclusive jurisdiction over the economic zone of the oceans out to 200 miles, and these councils are wisely, as this bill states, the responsibility for managing those zones for a particular type of fishery.

I think if these councils have enough responsibility and enough jurisdiction to do it wisely, indeed, we can sustain these fisheries for generations to come. The fishermen that are there today and the fisherwomen there today, their generations and their grandchildren can go into that industry.

If we do not protect these fisheries, they are going to be a one time wipe out and nobody will be employed, and the processors will be shut down, and the commercial activity of fishing will be lost. That would be senseless, for the U.S. Congress until 1995 to wipe out one of America's most effective and historic industries.

So I urge an "aye" vote on this amendment.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is not a simple question. I represent that area of the country probably most sadly impacted by the failure of inability of a council to wisely and effectively manage a resource, in the case of the New England ground fishery. We have seen, to our great pain, what happens when the loophole provided in the current statute allowing maximum yield to be exceeded for economic and social reasons

is taken advantage of. It is something I think we need to think carefully about.

First of all, I want to thank the gentleman from Alaska [Mr. YOUNG], our chairman, for allowing a modification in the original text which is now in the bill in the case of an overfished fishery. The gentleman agreed with us in the case of a fishery that has already been overfished and depleted, that we ought under no circumstances allow the maximum yield be exceeded. I thank the gentleman, and I concur with him.

The question occurs and is raised by the gentleman from Maryland as to whether we need to go further, whether there ought to be any circumstances or in any fishery for any reason where we would allow the maximum yield to be exceeded.

Now, the gentleman, referring to his either saber tooth or saw tooth or arrow head flounder, I forget which flounder it is, is making, as I understand it, essentially an ecological argument that there may be cases, given the balance or imbalance of the stocks in the sea, when the maximum yield of one or more stocks may well want to be exceeded, for ecological reasons.

I am not a scientist, but I would concede to the gentleman that may be the case, and, if it is the case, we probably should allow for that with the best science we have, knowing, as the gentleman knows, as I do, that our science in these matters is at best imprecise. Unfortunately, we are cutting back on resources given to this research, which is, sad but another question.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. One of the problems we have though, if we in fact fish the saber tooth flounder, or arrow tooth flounder, or whatever it is, and by the way, for the audience listening, it looks like an ordinary flounder, but it has the worst set of teeth you can imagine. You cannot catch one because it cuts the line and everything else. If we try to fish them down there would be a lawsuit contrary to saying you are doing it for economic purposes because you are saving the salmon and cod and halibut.

Now, there is our catch-22. That is why when we make things mandatory, we do mess up the soup. I am very concerned about that. It is, by the way, an ecology-type question. But the gentleman sees what I am saying. If I fish down the arrow tooth flounder, supposedly to provide more halibut, cod, or whatever else is available, then I can be in fact accused, or the council can be, of fishing for economic purposes.

Mr. STUDDS. Mr. Chairman, reclaiming my time, I do not think we are disagreeing on this matter. By the way, I would not wish upon the gentleman the maximum yield of the arrow tooth flounder. I think we are only taking 10 percent of it at the moment. God knows what we would do with the other 90 percent.

But, let me say the current law, as the gentleman knows, and it is repeated in part in this bill, with regard to maximum sustainable yield, says "as modified by any relevant economic, social, or ecological factor."

I am not disagreeing with the gentleman with regard to ecological factors, whether it is the arrow tooth or any other flounder. We may in fact have a situation in New England that is somewhat analogous to that. We may, in the depletion of the traditional ground fish stocks, the cod, flounder, and haddock, have a disproportionately large and unnatural amount of, say, dog fish or skate or mackerel or something, which may be related to the fact that our human effort deleted the traditional commercial stocks. It may be, I do not know, but it may be we want to overharvest, if you will, the current supply of the new species in order to restore what was some semblance of the natural balance over time. That may be. And if it is, it is an ecological factor that the scientists need to take into account.

What I suggest to the gentleman is, conceding that, maybe the lesson we should draw from the tragedy in New England is we ought not to allow this maximum yield to be exceeded for economic or social reasons. That is where we made our fundamental mistake in New England.

I grant the gentleman, there might be a case to be made for ecological variation. But it would seem to me what we experienced in New England, to our horror, would say to us we ought not to allow the maximum yield to be exceeded for economic or for social reasons on the grounds that, you know, we have got to pay the mortgage next month or the next year, and the hell with the next decade or next century.

That is what got us where we are. That is the kind of shortsightedness that so damaged our ground fishery and I think bodes so ill for fisheries elsewhere.

So all I am saying to the gentleman is while I support this amendment as it is currently written, in the amendment, the unlikely event, that the gentleman from Maryland were not to succeed in prevailing upon the body with his wisdom, I would suggest we support this.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. STUDDS] has expired.

(On request of Mr. GILCHREST, and by unanimous consent, Mr. STUDDS was allowed to proceed for 2 additional minutes.)

Mr. STUDDS. I yield to the gentleman from Maryland.

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding.

Just a comment very quickly to the chairman of the full committee, and also I would say the ranking member of the full committee, the gentleman from Massachusetts [Mr. STUDDS]. These two gentlemen probably know more about fishing than anybody else

in this Congress. I also want to compliment the gentleman from Alaska for dealing with this issue to protect the fishing industry.

Just a couple of quick comments about my amendment and how it would impact arrow tooth flounder. Right now, the allowable catch for arrow tooth flounder is 312,000 tons. What is being caught right now is 45,000 tons. So we can continue to catch a huge amount. I am not sure what you would do with it, but you can catch a huge amount more, and not come close to maximum sustainable yield.

I see the gentleman from Massachusetts, the other gentleman from Massachusetts, who has an issue with Atlantic mackerel, the allowable catch for Atlantic mackerel is 850,000 metric tons. What is actually harvested right now is 12,500 metric tons. So that means you could increase both of these enormously without impacting the yield of this particular species.

What you need to do to catch more mackerel or more arrow tooth flounder is to find a market for it. But my amendment does not impact in any way the complexity of the ecology of the fisheries.

□ 1230

I also want to make one other comment about the number of organizations and people that are supporting this amendment. I have three pages of organizations, from fisheries institutes, from fishermen, from scientists, and so on.

Mr. STUDDS. Mr. Chairman, I thank the gentleman.

Mr. Chairman, as I say, while I do intend to support the gentleman's amendment, and I hope that it prevails, I would really ask that all Members look carefully at what we have just gone through and are still going through and will be going through, unfortunately, for a good many years to come in New England. I think we are paying a heavy price for having allowed ourselves the luxury of modifying that yield for economic and social reasons.

Mr. TORKILDSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to reluctantly oppose the gentleman's amendment, and I understand the arguments both he and my colleague from Massachusetts have been making.

I think if we went back in time perhaps 20 or 25 years, I would have no trouble supporting this amendment at all. But now we are in a situation where, as the gentleman from Massachusetts [Mr. STUDDS] pointed out, in the past, the yield for certain ground fishes off the coast of New England were altered for reasons that may be very arbitrary. However, those stocks are now depleted.

Mr. Chairman, the gentleman from Maryland makes the point that mackerel, an underutilized species, could be caught in a significantly greater num-

bers. I look at our role as trying to restore the balance to the fishing stocks somewhere close to where they were before. If we continue where we are now, we have very low numbers of ground fish, we have very high numbers of what are called underutilized species. Those species prey upon the young ground fish we say we are trying to restore.

So, Mr. Chairman, this amendment, the effect of it now, would actually make it more difficult to restore those ground fish stocks. I think the intent of the gentleman is positive. Again, if this had been proposed maybe 20 years ago I think I would support it.

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. TORKILDSEN. I yield to the gentleman from Maryland.

Mr. GILCHREST. Mr. Chairman, as far as Atlantic mackerel is concerned, we could catch 60 times more than we are catching now under my amendment. I do not think my amendment would prevent catching this particular mackerel to raise the stock of the ground fish.

Mr. TORKILDSEN. Mr. Chairman, the point on mackerel, on herring, and other underutilized species is that, literally, we have to, if you will, substantially increase the catch if we are going to quickly see the restoration of ground fish.

Now, the gentleman knows, because we have talked about this before, that there really is not a huge market for mackerel in the United States right now. There are efforts under way, some in Massachusetts, some in other States, to create markets for that. But even if the markets are not there, if we are serious about restoring our ground fish, we will have to look at what creatures in the environment are preying upon their young. Right now some underutilized species are in exactly that circumstance.

So, Mr. Chairman, I do rise to reluctantly oppose the gentleman's statement. I would hope we could work out some language to take in specific considerations, but in those areas where the environment is not in balance. I think we have to make exceptions. The amendment does not make exceptions that I think are adequate to restore the ground fish off the coast of New England, therefore, I do have to oppose the amendment.

The CHAIRMAN pro tempore (Mr. BUNNING of Kentucky). The question is on the amendment offered by the gentleman from Maryland [Mr. GILCHREST].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. GILCHREST. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 304, noes 113, not voting 15, as follows:

[Roll No. 718]

## AYES—304

Abercrombie Ganske Moakley  
Ackerman Gejdenson Molinari  
Andrews Gekas Mollohan  
Army Gephardt Montgomery  
Bachus Geren Moorhead  
Baesler Gibbons Moran  
Baker (CA) Gilchrest Morella  
Baldacci Gillmor Murtha  
Barcia Gilman Nadler  
Barrett (NE) Gonzalez Neal  
Barrett (WI) Goodlatte Ney  
Bartlett Goodling Oberstar  
Barton Gordon Obey  
Bass Goss Oliver  
Becerra Graham Owens  
Beilenson Green Oxley  
Bentsen Greenwood Pallone  
Bereuter Gunderson Pastor  
Berman Gutierrez Payne (NJ)  
Bevill Gutknecht Payne (VA)  
Billbray Hall (OH) Pelosi  
Billakis Hamilton Peterson (MN)  
Bishop Hansen Petri  
Boehlert Harman Pickett  
Bonior Hastert Pomeroy  
Borski Hastings (FL) Porter  
Boucher Hefley Portman  
Brewster Hefner Poshard  
Browder Heineman Pryce  
Brown (CA) Hilliard Quinn  
Brown (FL) Hinchey Rahall  
Brown (OH) Hobson Ramstad  
Brownback Hoekstra Rangel  
Bryant (TX) Hoke Reed  
Burr Holden Regula  
Camp Horn Richardson  
Canady Houghton Rivers  
Cardin Hoyer Roemer  
Castle Hunter Rohrabacher  
Chabot Hyde Ros-Lehtinen  
Christensen Inglis Roth  
Chrysler Jackson-Lee Roukema  
Clay Jacobs Roybal-Allard  
Clayton Jefferson Royce  
Clement Johnson (CT) Rush  
Clinger Johnson (SD) Sabo  
Clyburn Johnson, E. B. Salmon  
Coleman Kanjorski Sanders  
Collins (GA) Kelly Sanford  
Collins (MI) Kennedy (MA) Sawyer  
Condit Kennedy (RI) Saxton  
Conyers Kennelly Schiff  
Costello Kildee Schroeder  
Cox King Schumer  
Coyne Kingston Scott  
Cramer Kleczka Seastrand  
Cremeans Klink Sensenbrenner  
Cunningham Klug Serrano  
Danner Kolbe Shaw  
Davis LaFalce Shays  
Deal LaHood Sisisky  
DeFazio Lantos Skaggs  
DeLauro Latham Skeen  
Dellums LaTourette Skelton  
Deutsch Lazio Slaughter  
Diaz-Balart Leach Smith (NJ)  
Dicks Levin Smith (TX)  
Dingell Lewis (GA) Souder  
Dixon Lincoln Spence  
Doggett Lipinski Spratt  
Doyle LoBiondo Stark  
Ehlers Lofgren Stenholm  
Ehrlich Lowey Stokes  
Engel Luther Studs  
English Maloney Stupak  
Ensign Manton Talent  
Eshoo Manzullo Tanner  
Evans Markey Taylor (MS)  
Ewing Martini Thompson  
Farr Mascara Thornton  
Fattah Matsui Tiahrt  
Fawell McCarthy Torres  
Fazio McDade Torricelli  
Filner McDermott Towns  
Flake McHale Trafficant  
Foglietta McHugh Upton  
Foley McKinney Velazquez  
Forbes McNulty Vento  
Ford Meehan Vislosky  
Fowler Meek Volkmer  
Fox Menendez Waldholtz  
Franks (NJ) Meyers Walker  
Frelinghuysen Miller (CA) Walsh  
Frost Miller (FL) Wamp  
Furse Minge Ward  
Gallegly Mink Waters

Watt (NC)  
Watts (OK)  
Waxman  
Weldon (FL)  
Weldon (PA)  
Weller

White  
Whitfield  
Williams  
Wise  
Woolsey  
Wyden

Wynn  
Yates  
Young (FL)  
Zimmer

## NOES—113

Allard  
Archer  
Baker (LA)  
Ballenger  
Barr  
Bateman  
Bileley  
Blute  
Boehner  
Bonilla  
Bono  
Bryant (TN)  
Bunn  
Bunning  
Burton  
Buyer  
Callahan  
Calvert  
Chambliss  
Chenoweth  
Coble  
Coburn  
Combust  
Cooley  
Crane  
Crapo  
Cubin  
de la Garza  
DeLay  
Dickey  
Dooley  
Doolittle  
Dorman  
Dreier  
Duncan  
Dunn  
Edwards  
Emerson  
Everett  
Fields (TX)  
Flanagan  
Frank (MA)  
Franks (CT)  
Frisa  
Funderburk  
Hall (TX)  
Hancock  
Hastings (WA)  
Hayes  
Hayworth  
Herger  
Hilleary  
Hostettler  
Hutchinson  
Istook  
Johnson, Sam  
Jones  
Kaptur  
Kim  
Knollenberg  
Largent  
Laughlin  
Lewis (CA)  
Lewis (KY)  
Lightfoot  
Linder  
Livingston  
Longley  
Lucas  
Martinez  
McCollum  
McCrery  
McInnis  
McKeon  
Metcalf  
Mica

Myers  
Myrick  
Nethercutt  
Neumann  
Norwood  
Nussle  
Ortiz  
Orton  
Packard  
Paxon  
Peterson (FL)  
Pombo  
Quillen  
Radanovich  
Roberts  
Rogers  
Rose  
Schaefer  
Shadegg  
Shuster  
Smith (WA)  
Solomon  
Stearns  
Stockman  
Stump  
Tate  
Tauzin  
Taylor (NC)  
Thomas  
Thornberry  
Thurman  
Torkildsen  
Vucanovich  
Wicker  
Wolf  
Young (AK)  
Zeliff

## NOT VOTING—15

Chapman  
Collins (IL)  
Durbin  
Fields (LA)  
Johnston  
Kasich  
McIntosh  
Mfume  
Parker  
Riggs  
Scarborough  
Smith (MI)  
Tejeda  
Tucker  
Wilson

## □ 1253

Messrs. HUTCHINSON, ROBERTS, and DOOLITTLE changed their vote from "aye" to "no."

Messrs. KLINK, BREWSTER, and DEAL changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. BUNNING). Are there other amendments to the bill?

## AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill, add the following new section:

**SEC. . SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.**

(a) IN GENERAL.—Title IV, as amended by section 19, is further amended by adding at the end the following new section.

**SEC. 402. SENSE OF CONGRESS; NOTICE TO RECIPIENTS OF ASSISTANCE.**

"(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

"(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary, to the greatest extent practicable, shall provide to each

recipient of the assistance a notice describing the statement made in subsection (a) by the Congress."

Mr. TRAFICANT. Mr. Chairman, this is a buy-American amendment that would, in fact, apply to the funds appropriated under this act. It has the support, from what I understand, of the chairman and the ranking Democrat.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I think the gentleman makes a great presentation of this buy-American amendment. He has been the leader in buy-American. He is so pro-American, that I will accept this amendment with open arms and embrace it and congratulate the gentleman.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, me too.

Mr. TRAFICANT. Mr. Chairman, reclaiming my time, this does not mean that we have to buy and eat American fish. There is a whole lot more to it.

Mr. Chairman, I ask for an "aye" vote.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there other amendments to the bill?

## AMENDMENT OFFERED BY MR. GOSS

Mr. GOSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOSS: Page 29, line 3, add "and" after the semicolon.

Page 29, strike lines 4 through 7 (and redesignate the subsequent paragraph accordingly).

Mr. GOSS. Mr. Chairman, this amendment simply strikes one paragraph from the bill—language added to H.R. 39 during consideration by the Resources Committee. The provision I am seeking to remove bars two regional fishery management councils—the Gulf of Mexico and the South Atlantic—from taking any actions to reduce shrimp bycatch for another year. "Bycatch" in this case refers to the finfish, turtles, marine mammals, and any other non-shrimp sea creatures that are caught and killed by shrimpers. Put plainly: Bycatch is waste, pure and simple—the fish, turtles, sharks, and so forth are caught in the nets, die, and are discarded. How much of these resources are wasted under current practices? The National Marine Fisheries Service states that in the South Atlantic, shrimp make up a mere 20 percent of a shrimper's typical harvest—and in the Gulf of Mexico that figure drops to just 16 percent, meaning that over 80 percent of the average haul is wasted. For every 1 pound of shrimp caught in the gulf, more than 4 pounds of finfish alone are killed and discarded. Congress and NMFS have

recognized that this level of bycatch can cause serious environmental and economic problems.

On the economic front, the tremendous waste of finfish hits two Florida industries hard. It hits commercial fishermen who rely on healthy stocks of finfish like the red snapper in order to make a living. These stocks have been heavily depleted by shrimping nets and according to NMFS, "This source of mortality would have to be significantly reduced in order to rebuild red snapper stocks within the time frame established by the Gulf of Mexico Fishery Management Council without halting all directed commercial and recreational red snapper fisheries."

Other commercial finfish stocks are also threatened. Another industry important to Florida is recreational fishing. Former President Bush and millions of others enjoy Florida's coastal waters for the excellent sport fishing opportunities. But the stocks of gamefish are dwindling—in some part due to bycatch by shrimp trawlers—and we in Florida cannot afford to lose this resource.

On the environmental front, the decline of fish stocks overall has a negative impact on the entire food chain and could potentially throw the whole system out of balance. In addition, endangered sea turtles have historically been caught and killed in shrimp nets. While efforts in the gulf—specifically the use of turtle excluder devices—have reduced the take of these creatures, the death rate has climbed this year, and it is clear that more could be done to reduce turtle deaths.

Again, in the State of Florida this is a fairness issue: residents of Florida's coastal communities have imposed strict limits on the size, location, and lighting of houses—partly in an effort to help the endangered sea turtles. These measures won't make a difference without the cooperation of those who share the gulf's resources, including the shrimpers.

Mr. Chairman, others will argue that allowing this exemption for the shrimpers in the South Atlantic and Gulf of Mexico is unfair because it puts their own fishermen at a disadvantage—but I will leave that to them. I am here as a gulf coast Member, representing Southwest Florida. And the message from my district is very clear—don't waste more time and money on studies of this problem. Since 1990 we've spent some \$7.5 million on studies—all the while delaying action. The time has come to move forward and allow the fishery management councils to do their jobs. I would ask my colleagues to support my amendment which allows councils opportunity to get on with the job of reducing unnecessary and significant bycatch waste.

□ 1300

Ms. FURSE. Mr. Chairman, I rise in favor of the amendment. I am a cosponsor of the amendment.

This amendment will just ensure that all fisheries in this country are treated equally. That is only fair. Americans hate waste, and in the fishing industry waste is called bycatch. This bycatch means fish that are thrown away, caught and killed because they are the wrong type of fish or they are the wrong size. The bycatch totals 27 million metric tons each year; that is 25 percent of all the fish we catch.

Now, H.R. 39 currently contains several important provisions to try and reduce the problem of bycatch. These measures apply to all fisheries along the U.S. coasts except one, the shrimp trawl fishery in the Gulf of Mexico and South Atlantic. An amendment was added in the markup that will let these shrimpers continue to fish the way they do today.

Now, every other fisher man and fisher woman in the United States is working to fish more cleanly. Why this special treatment? Why this loophole? What makes this loophole even more unfair is that the gulf fishery has the worst bycatch rate of any fishery in the United States. More than 80 percent of all fish are thrown back dead or dying.

Now, the Goss-Furse amendment will make the shrimp fishery follow the rules of every other fishery in the United States. I have brought with me today a photo of a typical shrimp trawl harvest, this one. You will note that, although the target fishery is shrimp, the net is full of many other finfish and invertebrate species.

To further illustrate this, I have brought along a chart of an average 60-pound harvest from a shrimp trawl fisher. This is what they would catch in an hour. These numbers come from a very recent report which we paid for, was asked for by Congress of the National Marine Fisheries Service.

As you can see in this chart, shrimp make up only 16 percent of the weight of the catch. Commercially and recreationally important finfish are thrown away; 68 percent of the catch is thrown away. In other words, for every pound of shrimp that is caught and kept, 4.3 pounds of fish are wasted.

Now, this waste practice has resulted in 1 billion pounds of fish, and the marine life wasted on the Gulf of Mexico is about 1 billion pounds.

Now, this third chart I have brought along shows that the 600 million pounds of commercially and recreationally harvested finfish that are wasted annually include 13 billion Atlantic croaker, 35 million red snapper, a great fish food, and more than 5 million Spanish and king mackerel. This is fish that sports men and women and commercial fishers would love to catch and we would all like to eat.

I ask my colleagues, where is the fairness in asking the fisher men and women of the West Coast, the companies of Alaska and New England to all pitch in and do their fair share while a single fishery is allowed to waste and plunder a viable resource?

Now, it is very important to point out to my colleagues that the Gulf and the South Atlantic fishery council is made up of local fishermen, regional fishermen. They want to move forward and do the right thing. Yet we are about to pass a law that would prevent them from cleaning up the fishery. That is not States rights. We need to allow these fishery councils to do their job.

We certainly do not need another report. As my colleague points out, we have already spent \$7 million on a shrimp by catch trawl report. We know there is a problem. It is a huge problem. We do not need to wait. If we are serious about Government that makes common sense, we must oppose the loophole. We must support the Goss-Furse amendment.

Simply, this amendment would make all the fisher men and fisher women in this country follow the same rules. It is fair. It is a good idea. I urge my colleagues to vote "yes" on the Goss-Furse amendment.

Mr. TAUZIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is not about turtle excluder devices, but it is just like the turtle excluder device process. This issue involves another device which the agency and the Federal Government has invented called a fish excluder device. A fish excluder device, or FED, is what the agency wants to compel shrimp fishermen in the Gulf of Mexico to carry in their shrimp nets. They are already carrying a TED, a turtle excluder device. Now they want them to carry a new invention, a fish excluder device.

The language the committee adopted said hold off a second. Let us give this thing a year. Why do we not do what the House voted on earlier this year? Why do we not subject this fish excluder device to the new test of peer review by scientists outside the agency and examination of what other devices or what other techniques can best avoid the bycatch problem in the fisheries of shrimp in the Gulf of Mexico? A cost-benefit analysis called for in the regulatory reform bill that passed this House is over waiting for action in the Senate right now.

But, no, this amendment says, go ahead, do not worry about whether it is cost-benefit effective. Do not worry about whether there may be better ways to deal with the bycatch issue than requiring fishermen to carry another device in their shrimp nets. Just go ahead and impose this fish excluder device on the shrimp fishing industry, just like we imposed the turtle excluder device on the shrimp fishing industry in years past.

So the two are somewhat related. The two are very related. This House voted overwhelmingly to change the rules by which the agency regulates in this area. What did we say? We said, look, before you impose a recovery plan or a management plan like a fish

excluder device, look at all the alternatives available. Look at the ones which work without putting people out of business. Look at the ones which will get you the same results without forcing someone to sell their shrimp boat or to give it up or to give it up because they cannot pay the payments on the mortgage.

Look for all the ways to solve these problems before we impose a Government-inspired new device upon the industry without any consultation in terms of alternatives and good scientific evaluation of whether this new device is going to help or hurt. But, no, this amendment comes in and says, let us go forward. Let us rush this fish excluder device, put it out, force it on the industry, whether or not it makes good sense, whether or not it meets the cost-benefit analysis of the bill that is awaiting action.

Why the rush? I will tell you why the rush. The rush is on to do this regulation, impose this new device because they are afraid that the Senate just might one day pass our regulatory reform bill, and the government agency that is trying to impose this new device just might have to subject it to the kind of review that agency regulations ought to be subject to, the kind of review that includes a wide range of discussions of what might work in bycatch and a wide-ranging discussion of what the cost-benefit analysis of this new requirement is.

Let me give my colleagues quickly a summary of the results on the TED's. Yes, we have a 98 compliance rate with the TED's in the Gulf of Mexico today, a 98 compliance rate. Unfortunately, 25,000 fishing families have now been reduced to 12,000 fishing families. We held a task force hearing in my district to talk to some of those fishermen who were left, the ones who are still surviving.

What they have told us without exception is, if you let the Government impose a new device like a fish excluder device on it, without examining the cost-benefit relationships, without working with us to reduce bycatch or to utilize bycatch more efficiently, if you do not work with us, the rest of us are gone in short order.

Now, there are Members in this House who would just as soon see the commercial shrimp fishing industry gone. There are Members in this House who would be satisfied for America to live on imported shrimp and not have a shrimp industry in America. There are Members in this House who do not much care about whether there is a gulf fisheries shrimp industry alive or not. But there are 12,000 families in my district who still support themselves by fishing shrimp, supplying it to the American household. There are 12,000 families asking us to do a simple thing: Ask the agencies not to impose this device until we have had a chance for the new regulatory reform bill to pass and to go into effect.

Why the rush? The rush is on because the environmentalists want to see this FED imposed. They want to see an end to the shrimp fishing industry. That is what this is all about. If Members want to please them, if we want to throw a vote to them again today, then vote for this amendment. But if we want to see the end of shrimp fisheries in the Gulf of Mexico, that is what we will be accomplishing. I urge Members not to adopt this amendment.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, on behalf of the gentleman from Louisiana, as a Member from Maryland, I will do everything in my power to sustain and to continue the livelihood of those families that are engaged in these shrimp fisheries in the Gulf of Mexico. I think the last thing I and Members of this committee want to do is to eliminate that particular industry. The last thing we want to do is to import more shrimp rather than to use our domestic shrimp, and the last thing we want to do is to impose burdensome gear types that are unworkable.

I want to make a couple of points. The gentleman was talking about rush to judgment on using different gear types, on reducing by-catch. There was a study that cost well over \$1.7 million. That study has been going on for 5 years.

□ 1315

The study is ready to be implemented, and the gulf council, the South Atlantic council are gearing up to implement the study that was approved by a full range of groups, including a number of fishermen. So the last thing we want to do is to put people out of business. We are not rushing to judgment. This study has been completed, and it is ready to go.

What the gentleman from Louisiana wants to do is postpone it yet another year. I am not sure the ecology of the fishing industry in the Gulf of Mexico or the South Atlantic can wait that long.

By-catch and waste are currently the greatest threat to the commercial fishing industry. Fishery managers around the country are faced with the problem of how to reallocate what is thrown overboard toward a more beneficial use. A fish that is caught and thrown back dead does not add anything to the economy. It does not put food on the table. It does not keep the shrimp fishery families in business, and it will certainly not produce generations of fish that will yield economic benefit in the future.

Discards represent 80 percent of what the gulf shrimp fishing industry pulls in over the side. Throwing away 80 percent of what they catch, we cannot sustain that. Something has to be changed.

As this Congress endeavors to find ways to diminish a staggering Federal deficit, as we contemplate the exploi-

tation of some of our most fragile natural resources to address that, I find it absolutely unconscionable that we will allow this sort of waste to continue as we try to stretch taxpayers' dollars to assist communities in New England that once relied on the collapsed Georges Bank stocks. It is astounding that we prevent these two councils, South Atlantic council and gulf council, from managing the stocks under their jurisdiction to prevent a similar catastrophe for red snapper fishermen and so on.

Fishery managers in this country are charged with the duty of managing marine resources to the maximum benefit of this Nation. We do not want to interfere with the fishing industry in the Gulf of Mexico, but I do not think Washington, DC, should tell the gulf council that is deciding to implement some of the advice of this 4- or 5-year-long study and the South Atlantic council that are ready to implement some of the recommendations, I do not think we here in Congress should at the last minute, which is what is happening, deny those councils the right to do that. It does not necessarily mean in all cases a FED, a fish excluder device. It does not necessarily mean the FEDs are going to be implemented in all of the ships.

My last point, we waste, just in that area of our coastal waters alone, try to imagine, 50,000 10-ton garbage trucks. That is how many fish are wasted each and every year. We cannot afford to continue that waste. While we are wasting fish, even though we have more territory than any other nation in this world as far as the ocean is concerned, we are a net importer of fish.

This is a study that has taken 5 years. It is a study that has cost \$7.4 million. It is a study that the gulf council and South Atlantic council are willing and ready and gearing up to implement, and I do not think we, as a Congress, in the last minute should deny them that right.

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. I thank the gentleman for yielding.

Does your bill require, or, well, let us back up a little bit, I think you made a statement about what percentage of the shrimp that is consumed in America comes from overseas. What percentage is that?

Mr. GILCHREST. I made a comment about the percentage of fish caught and percentage wasted. When I said we are a net importer of fish, I did not include a percentage of any particular species of fish.

Mr. TAYLOR of Mississippi. We are directing this amendment at the gulf fishing fleet. I would like to remind this body well over 80, and probably closer to 90, percent of all shrimp eaten in America is imported now. Much of it comes from communist China.

What you are asking this body to do is put yet one more mandate on the



American fleet that is only about now 15 percent of the total that is consumed here, while not putting a similar mandate on the Chinese, on the Mexicans, on the Koreans.

Mr. GILCHREST. Reclaiming my time, what we want to do is sustain.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by my good friend, the gentleman from Florida [Mr. GOSS].

This amendment, in my opinion, would allow the premature imposition of potentially devastating regulations on the Texas shrimping industry. Texas shrimpers represent a \$6 million trade employing 30,000 men and women on a total of 2,400 trawlers.

By cutting short a comprehensive review of by-catch reduction devices, this amendment threatens the livelihood of an entire industry. Instead of relying on sound science, this amendment, in my opinion, is based on speculation, incomplete information, and bureaucratic inertia.

As originally written, this program was to be a cooperative effort between the Federal Government and the affected industries. Unfortunately, the Government appears to have already made up its mind and is now threatening to leave the industry research unfunded. These studies, which would end should this amendment be adopted, are producing information which directly contradicts the regulatory tilt of the National Marine Fisheries Service's findings.

For example, take some of the early data from a study by the Gulf and South Atlantic Fisheries Foundation authorized under this program. This information indicates that the fin fish by-catch is not as severe as once thought. Rather than 15 pounds of fin fish by-catch per pound of shrimp, as originally estimated by the NMFS, the foundation study indicates that, in reality, this ratio is closer to 2 to 3 pounds.

Did the NMFS change their study to reflect this information? No. They continued to press for an increase in regulation despite scientific evidence to the contrary.

Another disturbing item is the lack of direct side-by-side testing of these devices. The Gulf and South Atlantic Fisheries Foundation petitioned the NMFS to allow the basic tests, towing a naked net without by-catch reduction devices, while simultaneously towing another equipped to free nontarget species. One would think that a direct comparison would be the easiest way to evaluate the performance of these devices. Yet the NMFS refused to allow the test, citing that the chance that turtles might be caught. You talk about a catch 22.

We need these devices to save the species, but because you might catch one, we cannot perform the test to see if they work. It is ironic that measures designed to save these animals may not

have any actual impact because we have decided not to test them thoroughly.

It appears that this amendment would put the cart before the horse. While the goals of this amendment are commendable, it recklessly curtails the only source of accurate science-based information available. Acting without such information would be both a mistake and a disaster.

The fishing industry is just asking that we allow 1 year to get this one right. Presently, both the regional councils and the NMFS are poised to start a new round of regulation based on incomplete data and misguided science. Where have you heard that before? They know the study will be completed by June. Would it not be best for all involved, the fin fish, the shrimping industry, the American people, to make sure that these devices work? Let us not be in a rush to regulate.

I urge you to vote "no" on the Goss amendment.

Mr. TAYLOR of Mississippi. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not want to, and I will not, question the motives of people who are in favor of this amendment. I am sure they are well-intended. But I do not think they have taken the time to think out what they are doing.

As I mentioned to my friend, the gentleman from Maryland [Mr. GILCHREST], something in the nature between 80 and 90 percent of all the shrimp that are eaten in this country are imported anyway. So what you are doing is putting another mandate on the American fisherman who has seen his percentage of the shrimp sales in this country shrink from about 90 percent just 15 years ago down to 10 percent right now. They are at the mercy of the shrimp that are dumped on the market by the Red Chinese, the Indians, the Ecuadorans, the Mexicans, and other places. They are already at the mercy of them as far as price, because 10 percent of the market does not dictate the market price. Ninety percent of the market does.

They already are the only nation in the world that has to pull the turtle excluder device. I have visited several other countries as a result of my work on the Committee on National Security. It almost always takes me out over the water. Invariably, I get a chance to look at other people's fishing vessels. In Panama, I have never seen a TED. In Colombia, I have never seen a TED. Other places I have visited around the world, not one TED. Yet our Nation allows these shrimp to come into our country and gives those people an advantage over our fishermen who are living by the rules.

I also think I have a little advantage over some of the proponents of this bill. I have been on shrimp boats. I own a shrimp trawl, and I can tell, those of you who are in favor of marine mammals ought to know most of these fish that are caught that are tossed over-

board that are dying are eaten by porpoises. What the porpoises do not eat, the sea gulls eat. They are not wasted. A lot are kept for bait by commercial crabbers.

The science behind this, they would have you believe, the statement of the gentleman from Maryland [Mr. GILCHREST] would have you believe they are literally dumped overboard like garbage. They become an important part of the Marine ecosystem. Thousands upon thousands of sea gulls flock to the Mississippi Gulf Coast in time for shrimp season every year.

What happens if you no longer allow this? They are going to die. So for those of you concerned about messing up the ecosystem, you are the ones who are going to mess up the ecosystem by passing this ill-advised piece of legislation.

But lastly, I just want to make a point of fairness. It is really fair to put one more mandate on the American fisherman, who is already barely surviving, who does not dictate the price for his product, that comes from Red China, comes from India, Ecuador? Is it really fair to make him do one more thing that you will not ask our foreign competitors to do? My answer to that is "No," it is not fair.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Is there a law right now that requires that imported shrimp caught in other countries brought into America in competition with shrimp produced here in America has to abide by any of these regulations?

Mr. TAYLOR of Mississippi. I say to the gentleman from Louisiana [Mr. TAUZIN] there is such a law. As we both know, the Commerce Department, for political reasons, not wanting to offend our friends and allies we have bases with overseas, does not enforce it. I can assure you it is not being enforced in Panama.

Mr. TAUZIN. The other nations, in fact, are free to import into this country without complying with the same requirements that our fishermen are at great disadvantage?

Mr. TAYLOR of Mississippi. It is very much my NAFTA argument all over again. We are putting rules on Americans that we are not willing to put on our trading partners.

Ms. FURSE. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Oregon.

Ms. FURSE. Is it not true that every fishery in this country has to abide by by-catch rules, the Alaska fishermen, the Northwest fishermen, the North Atlantic fishermen? What this amendment does is says there is one rule for all fisheries, and that the people who set the requirements are those local councils.

Now, we understand that the Gulf of Mexico and the South Atlantic council, made up of citizens in the fishing industry, are ready to implement the by-

catch regulations. Our amendment says merely that all fishermen have to hold by the same rules which are set by these regional councils of fishermen, made up of fishermen. We just say it is not fair Alaska fishermen and North Atlantic fishermen and Oregon and Washington fishermen have to be held by rules, but this one fishery has been allowed by an amendment in the bill to be exempt from these rules. This is a fairness issue, I say to the gentleman from Mississippi [Mr. TAYLOR]. This is an issue that fishermen are ready to put some time and attention to, and now why should one fishermen be exempt?

The CHAIRMAN pro tempore (Mr. GILLMOR). The time of the gentleman from Mississippi [Mr. TAYLOR] has expired.

(By unanimous consent, Mr. TAYLOR of Mississippi was allowed to proceed for 2 additional minutes.)

Mr. TAYLOR of Mississippi. Mr. Chairman, the gentlewoman raises an excellent question. I say to the gentleman from Oregon [Ms. FURSE], you are speaking fairness, and you are asking for universal implementation of the law.

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But the truth of the matter is, the only people who would have to implement this law will be Americans. Foreign competitors will not implement this law. The foreign competitors have not implemented the TED law. The American shrimpers have suffered as a result of that.

This is yet another good idea that has not been perfected, much like the TED's where the Federal Government spent \$4 million trying to perfect a turtle excluder device which to this day does not work properly. Now we are putting one more mandate on these fishermen.

Getting back to what was said, it is simply not fair to ask the American fisherman to do this, if his foreign competitor will not.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have no intention of prolonging this debate. I do want to put one thing in perspective, if I may.

I think the gentleman from Florida and the gentlewoman from Oregon are entirely correct, and I commend the gentleman from Louisiana, who is certainly one of our most skillful parliamentarians and has been extraordinarily successful in battling for the interests of his constituencies as he sees them. I would remind Members how successful the gentleman has been.

There has been some suggestion here we are singling out the gulf shrimp fishermen for unfair treatment. Quite the reverse is true. The gentleman from Louisiana has been successful in singling them out for uniquely special treatment under the law, unlike that available to anybody else, any other fishery in the country.

Five years ago, the gentleman successfully wrote into law an exemption for the gulf fisheries specifically so a 3-year study could take place. The 3-year study took place. The gentleman then extended the extension for the gulf fishery another 3 months, which I guess is all we would give him, until April 1994.

The important thing is not only have there been special exemptions for this fishery and this fishery alone, but since April 1994, which is almost a year and a half ago, there have been no such exemption and there have been no regulations promulgated by the Councils. So nobody apparently is in a real big rush to do anything.

I would also remind Members that in the event that any regulation were promulgated, it would not be by the Secretary of Commerce or anybody in Washington; it would be by the Fishery Management Councils in the region.

To put a little more context, if I may, the bill before us, which the gentleman from Alaska and others have worked so hard on, makes some very major progress in strengthening the fundamental act. One of the most important pieces of that progress is to strengthen the provisions dealing with bicatch.

The worst bicatch problem by far in this country is precisely in the fishery we are now discussing. At a time when we are ratcheting down in the bicatch in every other fishery in the land, in Alaska, in New England and everywhere else, which is going to cause pain everywhere else, once again those who speak for the gulf fishery are in here asking for special treatment and special exemptions from this, as they have done so successfully for over 5 years now.

I love shrimp. I love the fishery. I stand with the gentleman and all others in defense of the fishery. But so far as I know, there are orders for gulf fishing boats in the shrimp fishery. I realize there is an imbalance in terms of imports, but I do not think you have trouble selling what you catch.

But even that is really extraneous to what is here. The question is, with the new national standards, trying to get at one of the worse problems we have, not just in Louisiana or the gulf, but everywhere, which is bicatch and wasted biomass and food, once again that region of the country which has the worst problem and which is the only region that has exempted itself from a law which applies to everybody else in the country for 5 years, is once again asking for special exemption for them and for them alone.

I think on the grounds of fairness, we should stand behind the gentleman from Florida and the gentlewoman from Oregon and say no, we are going to treat all regions of the Nation equally.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. The gentleman has pleaded that we not treat one area different from the other. Would the gentleman tell me whether these turtles are found in the waters of Massachusetts and whether the waters of Massachusetts are covered by the TED's regulation?

The answer is they are found, and you are not covered by the TED's regulation. They stop at the Carolinas. The answer is these regulations do not apply to the gentleman's region. They have been very specially applied to our region.

Mr. STUDDS. Mr. Chairman, reclaiming my time, we are not talking about TED's, as these gentlemen have pointed out.

Mr. TAUZIN. Mr. Chairman, if the gentleman will continue to yield, the gentleman has made a very complimentary statement that this gentleman has done a great job of exempting his region from coverage by the regulation. I am covered by the TED's.

The region in Massachusetts where turtles are found is not covered by the TED's regulation. I wonder why? I wonder how that happened. Perhaps I should compliment the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, reclaiming my time, the gentleman quite accurately pointed out that we are not talking about TED's. There is no reference to that in here. I am also informed, to my utter astonishment and delight, that New England shrimp fishermen do pull TED's, or FED's.

Mr. TAUZIN. If the gentleman will yield further, would the gentleman confirm for me that the TED's regulation stops at the Carolinas?

Mr. STUDDS. I believe that is correct. It is also irrelevant. The gentleman was quite correct in pointing out we are not talking about that. At least we were not until the gentleman chose to.

Mr. TAUZIN. Will the gentleman yield?

Mr. STUDDS. I do not know.

Mr. TAUZIN. Think about it.

Mr. STUDDS. I will think about it.

Mr. TAUZIN. I would like to compliment the gentleman from Massachusetts.

Mr. STUDDS. In that case, I will certainly yield.

Mr. TAUZIN. Mr. Chairman, I would like to compliment the gentleman from Massachusetts for doing such a great job of making sure the TED's regulations stopped at the Carolinas, since he has done such a great job of complimenting me.

Mr. STUDDS. Mr. Chairman, reclaiming my time, I thank the gentleman for his absolutely pungent and totally irrelevant observation.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the requisite number of words.

I will submit my statement for the RECORD in opposition to the Goss amendment. I also suggest respectfully

there will probably be another amendment offered at a later time that I hope everyone sees the wisdom of voting for.

I have watched this Congress in the light of supposedly protecting, which I support, but also supposedly in making sure that all species are protected, which is well and good.

But we have driven our tuna fleet overseas. When I first came to Congress we had 212 tuna boats. We have three left. They are catching tuna; I do not see any shortage of tuna, but without any regard to what we said had to be done in our waters or with our American fleet.

We are doing the same thing with the shrimp fleet. If, in fact, what the gentleman from Florida [Mr. GOSS] and the gentlewoman from Oregon [Ms. FURSE] mention is a fact, and I will not dispute what they say, if in fact that is occurring, that should apply to every country that we import those type fishes from, and then let the Americans, like I say, eat bread, otherwise have no shrimp. That is what it boils down to.

I do not think it is fair to pick out just my shrimpers or somebody else's shrimpers. If what they are doing is supposedly biologically wrong, that should apply to India, China, Ecuador, or Mexico, which this whole thing started over the turtle. It always bothered me when I would go to Mexico and see people eating turtle eggs, and eating and drinking turtle oil for certain medicinal purposes, and having turtle boots, and our fishermen are saying no, you have to drag a TED. I do not think that is fair, nor is it equitable or correct environmentally.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, let me point out what the gentleman's amendment will delete from the bill, and I call the attention of the gentleman from Massachusetts to this particularly. They will delete the section that says any measure implemented under this act to reduce incidental mortality of nontargeted fisheries or sources shall apply to such fishing throughout the range of the nontargeted fishing resource concerned.

In short, we are trying to make sure when these regulations do go into effect, they cover everybody, not just a selected area.

Second, let me point out that our amendment adopted by the committee did not create an exemption for the gulf. It did not. It simply said that before the regulations were put in place, that several things had to occur: First, that a cost-benefit analysis under our regulatory reform had to occur; second, that technological devices and other changes in fishing operations to minimize bycatch should be examined so that all options are open to the fisheries councils in the various regions; and third, whether it was practicable to utilize nontargeted fisheries re-

sources which were unavoidably caught; in short, to do the complete work.

You heard the gentleman from Texas [Mr. DELAY] point out that the agency refused to allow a side-by-side test to find out what really worked and what did not work. This business of going forward without the full science, without a cost-benefit analysis, without an evaluation of what else might work, so we do not impose these mandates on our fisheries that are not imposed on other countries that import to America, is wrong. We ought to tell the agency, do it right, if you are going to do it. We ought to tell the agency when you do it, when you require it, require it across the whole range. Do not stop at North Carolina. If the fish are getting caught in the gulf waters and in the waters off Massachusetts, and you have to have this device, make sure it is applied all over the range of those fisheries, not just some of it.

But most importantly, this is not an exemption which the amendment tries to strike. It is simply a requirement that the agency follow the rules we adopted in the House; cost-benefit analysis, alternative resource recovery devices, good science behind the study before you promulgate another device, and fair treatment for Americans who are trying to earn their living and produce food and fiber for this Nation.

Now, if that is not a correct plea, then what is? Should we not ask the agency to follow the rules we adopted this year? Why this rush to judgment? I suggest to you they want to rush it out because they are not prepared to defend it under the new rules, and they know they cannot defend it under the new rules. They want to rush it out, impose it, and then we are stuck with it, the way we have been stuck with a lot of other Federal regulations that do not make good sense.

The gentleman from Alaska has asked us to pay attention. If this amendment is adopted, there will be an amendment to follow it. Please pay attention to the next amendment, if this one should, by all worst reasons, get adopted.

The next amendment says we ought not treat our Americans differently than we do others. Watch for that one when it comes. We ought to at least do that.

We ought to defeat this amendment, make sure good science and proper evaluation of these devices occurs before we go forward.

The CHAIRMAN. The time of the gentleman from Alaska [Mr. YOUNG] has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 1 additional minute.)

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I would just like to clarify what the amendment before us does and does not do. I

believe the gentleman from Louisiana suggested that it strikes lines 10 through 14 on page 29, which says it shall apply throughout the range of nontargeted fishery resources.

It does not strike that unless I have the wrong amendment. It strikes lines 4 through 7 and those four lines only.

Mr. TAUZIN. Mr. Chairman, what the gentleman says is correct.

Mr. STUDDS. The gentleman's last oratorical flurry was based on that assumption.

Mr. TAUZIN. Mr. Chairman, if the gentleman will yield, the gentleman's last oratorical flurry was in answer to the gentleman's very complimentary words that we have exempted our region. We have not. We have not exempted our region.

We have simply said get the scientific work done and make sure it does apply. If you are not striking to make sure it does not apply to everything, I am grateful, but you ought to get it done right so your fisheries and my fisheries have the same good science making these determinations, not some science that says, as the gentleman from Texas [Mr. DELAY], pointed out, we are not going to test everything. We just want to impose this Federal Excluder Device, this FED, on everybody, without ever checking out to see if there is a better way to do things.

Mr. ORTIZ. Mr. Chairman, I rise in opposition to the Goss-Furse amendment. This amendment would require premature, costly regulation to be imposed on the shrimp fishery before a comprehensive review of the best scientific data is available. A study being coordinated by the Gulf and South Atlantic Fisheries Foundation is currently evaluating the best methods of reducing bycatch. This study is expected to be completed in June 1996.

Without the results of this study, the shrimping industry will be subjected to mandatory bycatch reduction devices without the benefit of the best data available to make this decision. This results in lower catches and more expense to an industry which is working to be resource conscious.

Let's not advocate needless regulations which will only damage the shrimping industry in south Texas. We need meaningful research with representation and input from all interested and affected parties to come up with some solutions and achieve their intended result without decimating a once-proud industry.

Vote "no" on the Goss-Furse amendment.

The CHAIRMAN pro tempore (Mr. GILLMOR). The question is on the amendment offered by the gentleman from Florida [Mr. GOSS].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Ms. FURSE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 294, noes 129, not voting 9, as follows:

[Roll No. 719]

## AYES—294

Abercrombie Gephardt Mollohan  
Ackerman Geren Moorhead  
Andrews Gibbons Moran  
Baesler Gilcrest Morella  
Baldacci Gillmor Murtha  
Barcia Gilman Nadler  
Barrett (WI) Goodlatte Neal  
Bartlett Goodling Nethercutt  
Barton Gordon Ney  
Bass Goss Oberstar  
Beccerra Graham Obey  
Beilenson Green Oliver  
Bentsen Greenwood Orton  
Berman Gunderson Owens  
Bevill Gutierrez Packard  
Bilirakis Hall (OH) Pallone  
Bishop Hamilton Pastor  
Blute Harman  
Boehlert Hastings (FL) Payne (NJ)  
Boehner Hefley Payne (VA)  
Bonior Hefner Pelosi  
Bono Heineman Peterson (MN)  
Borski Herger Petri  
Boucher Hilliard Pomeroy  
Brown (FL) Hinchey Porter  
Brown (OH) Hobson Portman  
Brownback Hoekstra Poshard  
Bryant (TN) Hoke Pryce  
Bryant (TX) Holden Quillen  
Bunn Horn Quinn  
Buyer Houghton Rahall  
Camp Hoyer Ramstad  
Canady Hyde Rangel  
Cardin Jackson-Lee Reed  
Castle Jacobs Richardson  
Chabot Jefferson Rivers  
Chambliss Johnson (CT) Roemer  
Chrysler Johnson (SD) Rohrabacher  
Clay Johnson, E. B. Ros-Lehtinen  
Clayton Johnston Roth  
Clement Kanjorski Roukema  
Clinger Kaptur Roybal-Allard  
Clyburn Kasich Rush  
Coleman Kelly Sabo  
Collins (GA) Kennedy (MA) Sanders  
Collins (IL) Kennedy (RI) Sawyer  
Collins (MI) Kennelly Saxton  
Condit Kildee Schaefer  
Conyers King Schiff  
Costello Kingston Schroeder  
Cox Kleczka Schumer  
Coyne Klink Scott  
Cramer Klug Seastrand  
Cremeans Kolbe Sensenbrenner  
Davis LaFalce Serrano  
DeFazio LaHood Shaw  
DeLauro Lantos Shays  
Dellums LaTourette Skaggs  
Deutsch Lazio Skeen  
Diaz-Balart Leach Slaughter  
Dicks Levin Smith (MI)  
Dingell Lewis (GA) Smith (NJ)  
Dixon Lincoln Smith (WA)  
Doggett Linder Souder  
Dooley Lipinski Spratt  
Doyle LoBiondo Stark  
Dunn Lofgren Stenholm  
Durbin Longley Stokes  
Ehlers Lowey Studds  
Ehrlich Luther Stupak  
Engel Maloney Tanner  
English Manton Tate  
Eshoo Manzullo Torkildsen  
Evans Markey Torres  
Ewing Martinez Torricelli  
Farr Martini Towns  
Fattah Mascara Upton  
Fawell Matsui Velazquez  
Fazio McCarthy Vento  
Filner McCollum Visclosky  
Flake McDade Waldholtz  
Flanagan McDermott Walker  
Foglietta McHale Walsh  
Foley McHugh Wamp  
Forbes McKinney Ward  
Ford McNulty Waters  
Fox Meehan Watt (NC)  
Frank (MA) Meek Waxman  
Frank (NJ) Menendez Weldon (FL)  
Frelinghuysen Meyers Weldon (PA)  
Frost Miller (CA) Weller  
Furse Miller (FL) Whitfield  
Gallegly Minge Wicker  
Ganske Mink Williams  
Gejdenson Moakley Wise  
Gekas Molinari Wolf

Woolsey  
WydenWynn  
YatesYoung (FL)  
Zimmer

## NOES—129

Allard Everrett Norwood  
Archer Fields (TX) Nussle  
Armye Fowler Ortiz  
Bachus Franks (CT) Parker  
Baker (CA) Frisa Paxon  
Baker (LA) Funderburk Peterson (FL)  
Ballenger Gonzalez Pickett  
Barr Gutknecht Pombo  
Barrett (NE) Hall (TX) Radanovich  
Bateman Hancock Regula  
Bereuter Hansen Riggs  
Bilbray Hastert Roberts  
Bliley Hastings (WA) Rogers  
Bonilla Hayes Rose  
Brewster Hayworth Royce  
Browder Hilleary Salmon  
Bunning Hostettler Sanford  
Burr Hunter Scarborough  
Burton Hutchinson Shadeegg  
Callahan Inglis Shuster  
Calvert Istook Skelton  
Chenoweth Johnson, Sam Smith (TX)  
Christensen Jones Solomon  
Coble Kim Spence  
Coburn Knollenberg Stearns  
Combest Largent Stockman  
Cooley Latham Stump  
Crane Laughlin Talent  
Crapo Lewis (CA) Tauzin  
Cubin Lewis (KY) Taylor (MS)  
Cunningham Lightfoot Taylor (NC)  
Danner Livingston Thomas  
de la Garza Lucas Thompson  
Deal McCreery Thornberry  
DeLay McNinn Thornton  
Dickey McIntosh Thurman  
Doolittle McKeon Tiahrt  
Dornan Metcalf Traficant  
Dreier Mica Vucanovich  
Duncan Montgomery Watts (OK)  
Edwards Myers White  
Emerson Myrick Young (AK)  
Ensign Neumann Zeliff

## NOT VOTING—9

Brown (CA) Mfume Tucker  
Chapman Sisisky Volkmer  
Fields (LA) Tejeda Wilson

## □ 1404

Messrs. SKELTON, THOMPSON, PAXON, HALL of Texas, SMITH of Texas, and BURTON of Indiana changed their vote from "aye" to "no."

Messrs. CHAMBLISS, RANGEL, TOWNS, WELLER, PAYNE of New Jersey, MANZULLO, JEFFERSON, OWENS, and FLANAGAN, Ms. BROWN of Florida, and Ms. MCKINNEY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: Page 5, after line 14, insert the following: "and (D) which provides employment opportunities and economic benefits through the sustained participation of local community-based fleets and the coastal communities which those fleets support."

Page 7, line 2, strike the closing quotation marks and second period, and after line 2 insert the following:

"(41) The term 'efficiency' with respect to the utilization of fishery resources means fishing which—

"(A) yields the greatest economic value of the fishery with the minimum practicable amount of bycatch, and

"(B) provides the maximum economic opportunity for, and participation of, local community-based fleets and the coastal communities which those fleets support."

Page 22, at line 8 strike "and", and at line 22 strike "program" and all that follows through the end of the line and insert "program; and".

Page 22, after line 22, insert the following: "(15) take into account the historic participation of local community-based fleets and the coastal communities which those fleets support, and provide for the sustained participation of those fleets and communities."

Page 38, after line 20, insert the following:

(h) ECONOMIC ANALYSIS.—Section 304 (16 U.S.C. 1854) is further amended by adding after subsection (m) (as added by section 22(b) of this Act) the following new subsection:

"(n) ECONOMIC ANALYSIS.—In performing any economic analysis of a plan, amendment, or regulation proposed under this Act, the Secretary or a Council, as appropriate, shall consider the costs and benefits which accrue to local community-based fleets and the coastal communities they support."

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, this amendment is simple and straightforward. What it seeks to ensure is that local, community-based fishing fleets continue as a valuable sector of our fishing industry. It requires that in the consideration of optimum and efficient use of resources, that we understand the overall benefit to this Nation of the sustained participation of our coastal fleets and our coastal communities and the families that are involved in the business of fishing.

Mr. Chairman, it seeks to recognize, as we all should, that very often a fishing boat represents a small business. It represents an individual, or in many cases a husband and wife or two brothers, providing for their families, or fathers and sons, who are engaged in the small business of fishing.

Mr. Chairman, this is an amendment that tries to make that compatible with the decisions that the councils have to make about the sustainability of the resources and takes into account the economic impacts on communities and on coastal fleets. I think it is a good amendment and I would hope that the committee could support it.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would suggest that if I knew the gentleman from California [Mr. MILLER] was going to be so cooperative and so understanding on issues of fisheries, he should have joined our committee many, many years ago.

The gentleman from Massachusetts [Mr. STUDDS] and I have had a great working relationship concerning the seas. We have worked, I believe, although we had our discussions about to which degree we can go, but we have always sought to protect the species, provide the species, and make sure that the American fisherman does exist.

Mr. Chairman, the gentleman from California has offered an amendment that has great merit. Again, I want to compliment the gentleman. One of my biggest fears over the years is after we Americanize the fleet, through no fault of the fishermen themselves, those that had the great, deep pockets from overseas, and other areas, would have the possibility of obtaining total control of the fisheries and thus we would have avoided what we were seeking to begin with, and that is an Americanized-type fishery, especially with the communities that live along the coast.

So, I do compliment the gentleman and would suggest respectfully that he look forward to the future when we have this continued cooperation regardless of who sits in the chair. Regardless of what happens, that we work together on these important issues.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I cannot resist the observation that it is certainly not my fault that the gentleman from California has had to engage in a crash course in the fisheries.

Mr. YOUNG of Alaska. That is true.

Mr. STUDDS. Mr. Chairman, let me also join the gentleman from Alaska in his assessment of the amendment of the gentleman from California [Mr. MILLER]. I know that the gentleman from Alaska shares the same vision with regard to how we would like to see the future of this industry develop.

Mr. Chairman, we need more fishermen, not necessarily more boats. We need smaller vessels. We need vessels run by those who own them. We need, if anything, possibly and ironically, a less rather than a more efficient fishery in many respects.

Mr. Chairman, I commend the gentleman from Alaska. I commend the gentleman from California and anyone else who ought to be commended.

Mr. YOUNG of Alaska. Mr. Chairman, I urge support of the amendment.

Ms. FURSE. I rise in strong support of the Miller of California amendment.

The small coastal communities that line much of our Nation's perimeter—including my district in northwest Oregon—are often economically dependent upon the bounty of the fishery resources that lie off their shores. Many of them have fleets of small, family-owned boats that bring back their marine harvest to be processed onshore. In this way, they multiply the economic benefit of their catch by generating additional jobs and marketable products in their communities—unlike the mammoth factory trawlers that process their huge catches at sea and take it to distant ports. These small boat fleets and coastal communities suffer the most as fisheries become overcapitalized and overfished.

The Miller amendment will help protect these coastal communities and small boat fleets by making sure their fate is considered when fishing rules and regulations are adopted by the regional councils.

The Pacific Coast Federation of Fishermen's Associations, which is the Nation's largest

trade association of commercial fishermen and women on the west coast, endorses this amendment because they see it as vital to protect the economic health of America's family fishing operations and keep coastal communities economically afloat.

I urge my colleagues to join me and the family fishermen and women in supporting the Miller amendment.

The CHAIRMAN pro tempore. The question is on the amendment of the gentleman from California [Mr. MILLER].

The amendment was agreed to.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from California [Mr. RIGGS] for the purpose of a colloquy.

Mr. RIGGS. Mr. Chairman, first of all, I want to thank the chairman of the committee and the ranking member for their work on this bill. As a Representative of a coastal district, in fact, I represent more coastline than any member of the California delegation.

Mr. Chairman, I appreciate the difficulties and complexities the gentleman from Alaska has faced in crafting legislation to balance such diverse and complicated and sometimes competing fishing interests. I believe, however, there is still one aspect of the legislation which should be clarified hence my colloquy now.

As the gentleman knows, the law currently permits fishermen to avoid regulation in the absence of a fishery management plan by fishing exclusively in Federal waters, then delivering their catch to a coastal State or nation without landing laws addressing that particular species of fish.

Mr. Chairman, there are a number of smaller fisheries along the west coast, such as pink shrimp, thresher shark, and dungeness crab, which are not now covered by a fishery management plan. I have been informed that the Pacific Fishery Management Council and the National Marine Fisheries Service simply do not have the resources to develop and implement fishery management plans for these fisheries. Much of the fishing activity occurs in State waters, but there is fishing activity on the same stocks in the exclusive economic zone as well.

These States' efforts to control and manage these smaller fisheries are being frustrated by their inability to extend these regulations to the exclusive economic zone.

The language currently found in the Magnuson Act would allow nonresident fishermen to harvest fishery resources and deliver them to Canada or Mexico, or to forum shop between conflicting State landing laws on the west coast. Such action is in direct defiance of the efforts of our States to implement conservation and management regimes in the absence of Federal management.

At a time when the Congress is asking the States to assume a greater share of the burden in managing public resources, we need to let the States fill

the conservation and management vacuum caused by insufficient Federal management funds.

Again, Mr. Chairman, as a Member of Congress from a west coast State with coastal constituencies, I respectfully ask that the gentleman from Alaska [Mr. YOUNG] and his able staff, work to find a balanced and agreeable solution that will ensure these stocks not covered by a Federal fishery management plan can be protected from overharvesting.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, I commend my colleague for his tenacity on this issue. At every point in the reauthorization of this act, he has shown his commitment by continually pushing me and the members of the committee on this matter.

Mr. Chairman, in response to the specific questions of the gentleman from California, I assure the gentleman I will make it a priority of the committee to find a solution that will adequately protect those stocks not covered by a fishery management plan from overharvest.

Mr. Chairman, may I suggest to the gentleman this has been one of my goals. The gentleman is absolutely correct that many areas for other reasons have not had a fishing plan that would cover them, consequently I think they are being overfished and we will address this issue. Probably in conference, by the way.

Mr. RIGGS. Mr. Chairman, if the gentleman would continue to yield, I thank the gentleman from Alaska and look forward to working with him.

AMENDMENT OFFERED BY MR. HAYES

Mr. HAYES. Mr. Chairman, I offer an amendment.

The Clerk read the following:

Amendment offered by Mr. HAYES: At the end of title I of the bill, add the following new section:

**"SEC.—PROHIBITION.**

"No fish may be introduced into interstate commerce of the United States unless the Secretary of Commerce certifies that the country of origin of the fish has implemented and is enforcing laws or regulations requiring fish excluder devices on that country's fishing industry."

Mr. HAYES: Mr. Chairman, I rise to explain and support the amendment.

Mr. Chairman, in the previous debate on a prior vote on an amendment, we had a resolution of a confrontation of whether certain environmental goals were so important as to perhaps interfere with those who are trying to make a living.

I think as a society, the reflection of that vote was, with a combination of concerns of sports fishermen, combination with that of concerns of environmentalists, that that is a decision that we as a country would make.

Mr. Chairman, what I have done with this amendment is to simply say let us do not disguise who we are talking about when we say this country's commercial fishermen or fishing industry. To the place I come from they are not

an industry and they are not commercial, in the sense of a large corporate existence. They are small families of people who are able to send their kids through school because they get up early in the morning and bring home nets late in the evenings.

They live in a world of regulatory schemes, almost none of which are easily comprehended if you are of the highest educational level. Instead, more often than not, they are the families whose kids never have quite too few dollars to be able to get a Federal grant for educational assistance, and who make a little too much to receive any of our generous government programs. Who make enough to support their family, but not an additional amount to pay for tuition.

□ 1415

They do not like Feds. They did not like them before they heard the word this afternoon and for good reason. They feel that they are always the ones who are the last to be recognized unless we are sending 20,000 kids into Bosnia, in which case they will be the first people to get the notice in the mail.

So what I have done is simply this, I have said that if we are going to have these environmental goals recognized, if we are going to recognize the commercial fishing industry at all, then let us implement a fairness that simply says, you cannot bring the product into this country from places where they do not care about these rules and where they are supporting their people who are trying to scratch out a living fishing. Let us not do that at the expense of our own people. Let us make it fair.

It is my understanding that this is not a matter that is opposed.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I know exactly what the gentleman wants to do. I frankly do not have any objection to it. I suspect this was drafted hastily. I want to suggest, although I am not sure precisely how to improve it, the way it reads now is that no fish may be introduced into the United States unless, I am skipping here, the country of origin of the fish has implemented and is enforcing laws or regulations requiring fish excluder devices on that country's fishing industry. That is the totality of the fishing industry of the country.

I assume what the gentleman intends, and I do not quite know how to say this, is that requiring devices on that country's fishing industry and fisheries where such devices would be appropriate and analogous to U.S. requirements or something like that. I hope the gentleman does not mean to suggest that the entire fishery, all fisheries have to have them whether they need it or not.

Mr. HAYES. Why do we not say this, is enforcing laws or regulations requir-

ing fish excluder devices on that country's fishing industry in the manner in which such laws or regulations would be enforced in the United States?

Mr. STUDDS. Mr. Chairman, if the gentleman will continue to yield, that is exactly the kind of thing I am suggesting.

Mr. HAYES. Mr. Chairman, I would have no objection to adding that.

Mr. STUDDS. I assume that is the gentleman's intent.

Mr. HAYES. Mr. Chairman, that is correct.

Mr. STUDDS. That may not be the perfect wording but it is closer than this.

Mr. HAYES. I have no objection to that perfecting language.

MODIFICATION OF AMENDMENT OFFERED BY MR. HAYES

Mr. HAYES. Mr. Chairman, I ask unanimous consent that the amendment be modified.

The CHAIRMAN pro tempore (Mr. COMBEST). The clerk will report the modification.

The Clerk read as follows:

Modification of amendment offered by Mr. HAYES: At the end of the matter proposed to be inserted by the amendment, before the period, add the following: "in the manner in which these laws are enforced in the United States".

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman. I simply want to rise in support of the amendment and also indicate that the amendment as drafted could mean that not only are these devices going to be required on other countries that are required on our fishermen, but they are going to be enforced the same way they are enforced on our fishermen. We have a similar law of TED's right now that is not enforced in Mexico, not enforced in other countries. That is wrong. If this is such a great thing that has to be foisted on the industry with or without cost-benefit analysis, we want to make sure it is enforced on other countries equally as it is enforced on fishermen in our country.

Mr. HAYES. Mr. Chairman, I would make the further observation that the existing provision was circumvented by a letter from the Secretary of Commerce involving TED's because the country of origin was deemed to be one of low economic standards. While the gentleman and I represent districts in America whose median family incomes are well below the national average, we would like to make it clear in this debate, we are talking about any country, any place under any economic circumstances.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to compliment the gentleman from Louisiana and the

gentleman from Massachusetts and the other gentleman from Louisiana. This is an example of what should have been implemented in this Congress many, many years ago. We would not have the trade deficit we have today if we were to do so. But I will say, my favorite individual groups, interest groups, preservationists, and I could call them a whole lot of other things, somehow think that the so-called environmental movement only has to reside in the United States. We can clean all the air up; we can clean all the water up and save all the fish and all the furry animals and everything else. But we also buy from overseas.

I just mentioned the turtles in a previous statement. You could go right down, I think you can go right down now to Mexico and buy turtle soup, turtle oil, turtle leather, yet our shrimp fishermen are penalized.

I can go into the clothing industry and all the other industries, which most of my colleagues should be aware of that do not meet our standards but we buy it from abroad. We wonder why we have lost our jobs and why we have lost our other industries. We have lost 500,000 jobs in the oil industry overseas, supposedly to protect the environment of the United States. We lost our timber jobs to protect the spotted owl. Now we are buying timber from Canada, cutting the rain forests in South America. And we are continually not recognizing this environment is a one-world operation.

We cannot have it on one end and say we are going to be pure on this end and dip this hand into the mud. That is what we have been doing.

This amendment is an attempt to bring to light the unfairness of allowing and requiring our small, little tiny remaining industry in the fishing field to meet requirements supposedly for an interest group and not requiring them someplace else.

The gentleman from Louisiana has done an excellent job in presenting this amendment. The only thing I have any reservations about is, will the Secretary of Commerce enforce the law? I want to suggest to this body, I have watched now six administrations, four Republican, two Democrat, I have watched department heads, undersecretaries, and secretaries thumb their nose at the Congress.

I have said before, I will say it again, we ought to in fact cite them for contempt when they do not implement the law passed by this Congress. If we believe we are coequal branches of the government, when we make the laws, they are to implement them. And when they ignore us, they are wrong. That is why we do not have a great deal of faith in this government by the general public.

I am not going to always agree to what this Congress does. Many times my friend from Massachusetts will support something that is totally way out on the left side. I will support something way out on the right side, but



that is the system. But when there is finally a law passed and the President signs it, then to have one of the agency heads say we are not going to do it because it might interfere or hurt someone's feeling overseas, that is wrong.

I think this body has a responsibility to cite those agencies and those people responsible for contempt when they do so.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I was just getting into the gentleman's vision speech. It is very compelling.

I believe there are no further amendments left to the bill. Members should know that we are virtually at the end of this debate.

I just had to take a second to reflect, I was sitting here in my mind seeing the gentleman and myself and a handful of others standing here in 1976, when we enacted this statute in the first instance. Since then, as Members know, the Senate has seen fit, in a subsequent Congress, to actually rename, to name the statute after one of its former Members, which is a remarkable act that only the upper Chamber could contemplate, I suspect.

I have no idea whether either the gentleman or I will live long enough to see the next reauthorization of this statute. And since there is always a chance that neither he nor I will be here on that occasion, is the gentleman contemplating as a final amendment here what I have suggested so many times, renaming it once again so the Senate will understand once and for all this should be the Young-Studds Act?

Mr. YOUNG of Alaska. Mr. Chairman, I have not considered that, although I do think we deserve the merit for this bill probably more so than the one it is named after. I do say this with respect. The gentleman and I put the work in on this bill. The gentleman was chairman of the subcommittee. Unfortunately, history has a way, those that are still available are never remembered in good light. So after we leave, we will not know whether to rename the bill.

Mr. STUDDS. That was supposed to be lighthearted, not egotistical. The name, if we think about it, has a certain ring to it, which I think might last longer than both of us. May I also say, the gentleman does not look as old as he must be given how long ago we were here.

Mr. YOUNG of Alaska. Mr. Chairman, I want to thank the staff members that have worked on this and not individually by name but each one of them knows how much has been put into it. This legislation will go, in fact, over to the Senate side, and we will go to conference. But the ultimate goal of everyone in this room is to make sure that our fishermen and our fish can coexist for future generations.

This is a good and well-balanced bill. It should and will become law. It is

time that this Congress acts in a positive fashion.

Mr. TAYLOR of Mississippi. Mr. Chairman, I move to strike the requisite number of words.

Let me begin my complimenting my colleague, the gentleman from Louisiana [Mr. HAYES], for his amendment. It is the right thing to do.

But as my colleague, the gentleman from Alaska [Mr. YOUNG], pointed out, we will be counting on the Department of Commerce to enforce it. History has shown for all of the reasons that he has named, in addition to political treaties, in addition to bases in different places, in addition to mutual alliances, it probably will not be enforced.

So what the net effect will be is that we will have put another unfunded mandate on the American fishermen that his foreign competitors will not have to have. I am going to vote for the Hayes amendment. I am going to pray that the Department of Commerce will enforce it. But I can tell Members this, they are not. Therefore, I am going to vote against this whole bill, because it is just one more example of Washington not being fair to our folks.

One of the reasons for the big change last November is the people got sick and tired of us not being fair to them. So I will encourage Members to vote for the Hayes amendment. I will encourage the Secretary of Commerce for once to stand up for the American people, the people who pay his salary. I also encourage Members to vote against the bill because it is not being fair to the American shrimp.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Louisiana [Mr. HAYES], as modified.

The amendment, as modified, was agreed to.

Mrs. SMITH of Washington. Mr. Chairman, I join my colleague Congressman RIGGS in his concerns with the lack of management authority outside the jurisdiction of State waters.

I have been working with the Columbia river Crab Fisherman Association and the Columbia River Crab Fisherman's Association on this very important issue. I cannot emphasize enough the importance of fishing and crabbing to the small communities in Pacific and Gray Harbor Counties.

Certain fisheries such as dungeness crab, scallops, and thresher shark are not covered by a Federal Fishery Management Plan. States lack the authority to manage these fisheries while the Pacific Fishery Management Council and the National Marine Fisheries Service lack the resources to manage them.

In the absence of management and conservation authority, these fisheries can easily be exploited by fisherman fishing exclusively in the EEZ and then landing the product in State or foreign nation without landing laws addressing that species of fish.

The bill as currently written grants authority to manage in the EEZ in Alaska. I appreciate the commitment by Chairman YOUNG to give serious consideration to extending this authority to other States.

Ms. PELOSI. Mr. Chairman, I rise today to express my support for the amendment of-

fered by Mr. Gilchrest to H.R. 39, legislation to reauthorize the Magnuson Act.

Since it was originally enacted, the Magnuson Act has been the premier legislative tool for ocean fisheries management.

This bipartisan reauthorization bill goes a long way to address the problems associated with overfishing, bycatch and waste of fish, and fish habitat protection. However, we need to further strengthen the bill.

The amendment offered by the gentleman from Maryland reinforces the bill's overfishing provisions by redefining optimum yield. Currently, more than 40 percent of our Nation's fish species are overfished.

The Gilchrest amendment proposes a new definition of optimum yield so that short-term social and economic factors would not take precedence over long-term social, economic, and ecological health.

Marine fisheries are one of our country's greatest and most valuable natural resources and they must be conserved for long-term economic and ecological sustainability. The Gilchrest amendment shares this goal.

I urge my colleagues to strengthen the Magnuson Act by supporting the Gilchrest amendment.

Mr. ZELIFF. Mr. Chairman, I rise today to urge my colleagues to support the fine work of the Resources Committee and Chairman YOUNG and support H.R. 39, the reauthorization of the Magnuson Act.

This issue is of tremendous importance to the fishermen along the seacoast of New Hampshire, and I am pleased that I have had an opportunity to work with the Resources Committee and Chairmen YOUNG and SEXTON to address a particular concern of mine. The problem of gear conflict, or acts—either intentional or not—that destroy gear such as nets and lobster pots, is an increasingly serious problem for fishermen in the Northeast, who are already suffering these days.

After working for several months with Chairman SEXTON and Chairman YOUNG, we were able to work out language that addresses the problem of gear conflict, and I have no doubt that this provision will be of tremendous assistance to our fishermen in New Hampshire and the entire Northeast.

Prior to discussing the amendment, however, I wish to provide a bit of background information and set the stage as to why this language is necessary.

First of all, fisherman's gear can be loosely defined as the tools he, or she, uses to catch fish. Gear could be fixed gill nets, lobster pots, or nets dragged behind large trawlers that catch everything in their path. The fishing industry in New Hampshire consists primarily of gill net fishermen who leave a number of nets attached to a secured line in the ocean and check on those nets periodically every few days or so.

The simplest example of a gear conflict would be to envision a large boat dragging a net behind it navigating through an area where gill nets are located. The gill nets are caught up in the trawler's net and are destroyed. The same situation occurs when a trawler passes through an area of lobster pots. The pots are either destroyed or entangled in the nets and pulled from the ocean.

The gear conflict problem is exacerbated in the New England area by the recent closing of fishing grounds off the east coast which were traditionally fished by large trawling vessels.

Predictably, the large trawlers, in search of new areas to fish, have moved inshore and are now competing for fish in areas traditionally fished by gill-netters and small lobster fishermen. As NMFS and the New England Fishery Management Council review even more restrictive measures to further limit traditional fishing areas, there will be fewer and fewer areas to fish and that such reductions will lead to a greater concentration of fishing vessels and more gear conflict.

In a report provided to the New England Fishery Management Council, in the period between November 1992 and January 1995, there were 73 gear conflict incidents reported to the Portsmouth, NH, NMFS Office of Enforcement. Primarily, these incidents were between large trawling vessels and small gill-net or lobster fishermen. Based on discussions with fishermen and fishery officials, it is apparent that the actual number of such incidents may be twice what is reported.

The economic costs to the small boats whose gear is being destroyed is staggering. The gear lost in the period referenced above had a value of \$130,000, costing individual vessel owners anywhere from \$1,700 to \$23,000 to replace the gear. In light of the fact that most small fishermen, like many other small businesses throughout the country, are struggling to survive and face increasing Government regulation, losing gear can prove to be an economic burden that is simply too difficult to bear.

The Magnuson Act, as currently written, requires that, to hold an alleged perpetrator of a great conflict liable, NOAA General Counsel must prove that an individual knowingly destroyed gear. It has been very difficult for NOAA to prove an individual's state of mind or that he acted with intent. Therefore, many gear conflict cases are left unpunished.

The language I worked out with the Resources Committee includes a two-tier system to address NOAA's dilemma. First, this system sets a negligence standard as its base, meaning that if NOAA could prove that a vessel is simply negligent then NOAA could hold a vessel civilly liable for the gear conflict. This tier would carry a fairly wide range of penalties so that NOAA could implement a small penalty in the event that a conflict was truly accidental. However, in the event that a vessel continually—or intentionally—is involved in gear conflict situations, NOAA would have the opportunity to severely penalize repeat offenders.

It is the second tier that would be used in the most egregious cases wherein NOAA had sufficient evidence to prove that a vessel consciously and with intent destroyed another fisherman's gear. This tier would carry the opportunity for NOAA to criminally prosecute the vessel responsible for the gear conflict.

It is absolutely essential that we in Congress give the fishery enforcement community the tools it needs to protect the small commercial fishermen working off the coasts of our great Nation. On the mainland, any individual who consciously destroys the tools necessary for an individual's small business to operate would be severely treated. I believe, and I am sure the small boat fishermen in New Hampshire and nationwide, would agree, that if NOAA can prove an individual consciously destroyed another person's tools of livelihood, that person should be considered a criminal.

The fact is, as the Government continues to decrease the areas where fishermen are al-

lowed to fish, more and more vessels are going to be concentrated into smaller areas. If we don't act now to develop language which will deter conflicts, many small boat fishermen will simply be wiped out. Worse yet, if we don't act, fishermen will take it upon themselves to protect their own gear, inevitably leading to the kind of standoff I outlined earlier. I am hopeful that my colleagues will not allow this to happen.

We are an anticrime Congress. We are a Congress that believes in protecting small business. I believe that this legislation does both. I urge my colleagues to support H.R. 39.

Ms. PELOSI. Mr. Chairman, I rise today to express my strong support for the amendment offered by Mr. MILLER to H.R. 39. This important amendment will help maintain the economic viability of family fishing operations throughout the United States, and by doing so, help keep our coastal, community-based fishing fleets alive.

The Miller amendment to H.R. 39 requires fishery management plans to consider historic participation and the needs of coastal fleets and the communities they support.

When the Magnuson Act became law in 1976, its chief goal was to develop U.S. fishing capacity and to promote efficient use of our fisheries. Since then, fisheries management plans have favored larger boats with huge capacities at the expense of smaller, family-run operations.

By requiring that fishery management plans consider the participation and needs of smaller operations, we will ensure a diversified fleet throughout our country which maximizes jobs, provides greater economic benefits to our communities, and results in less waste and lower capital costs.

I am proud to represent a congressional district with a long history of active family fishing operations. Each year, millions of visitors to northern California enjoy the fruits of the sea which are a result of long hours and hard work. This amendment supports these family operations and ensures that their sector of the coastal fishing economy will be strengthened.

I urge my colleagues to support the Miller amendment and vote "yes" on H.R. 39.

The CHAIRMAN pro tempore. Are there further amendments to the bill.

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Pursuant to the order of the House of September 18, 1995, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. COMBEST, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 39) to amend the Magnuson Fishery Conservation and Management Act to improve fisheries management, pursuant to the order of the House of September 18, 1995, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Pursuant to the order of the House of Sep-

tember 18, 1995, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. YOUNG of Alaska. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 388, nays 37, not voting 7, as follows:

[Roll No. 720]

YEAS—388

Abercrombie	Clyburn	Franks (NJ)
Ackerman	Coble	Frelinghuysen
Allard	Coburn	Frisa
Andrews	Coleman	Frost
Archer	Collins (GA)	Funderburk
Armey	Collins (IL)	Furse
Baesler	Collins (MI)	Galleghy
Baker (CA)	Combest	Ganske
Baldacci	Condit	Gejdenson
Ballenger	Conyers	Gekas
Barcia	Costello	Gephardt
Barr	Cox	Geren
Barrett (NE)	Coyne	Gibbons
Barrett (WI)	Cramer	Gilchrest
Bartlett	Crane	Gillmor
Barton	Crapo	Gilman
Bass	Creameans	Gonzalez
Bateman	Cubin	Goodlatte
Becerra	Cunningham	Goodling
Beilenson	Danner	Gordon
Bentsen	Davis	Goss
Bereuter	Deal	Graham
Berman	DeFazio	Green
Bevill	DeLauro	Greenwood
Bilbray	DeLay	Gunderson
Bilirakis	Dellums	Gutierrez
Bishop	Deutsch	Gutknecht
Bliley	Diaz-Balart	Hall (OH)
Blute	Dickey	Hall (TX)
Boehlert	Dingell	Hamilton
Boehner	Dixon	Hansen
Bonilla	Doggett	Harman
Bonior	Dooley	Hastert
Bono	Doolittle	Hastings (FL)
Borski	Doyle	Hayworth
Boucher	Dreier	Hefley
Brewster	Duncan	Hefner
Browder	Durbin	Heineman
Brown (CA)	Edwards	Herger
Brown (FL)	Ehlers	Hilleary
Brown (OH)	Ehrlich	Hilliard
Brownback	Emerson	Hinchey
Bryant (TN)	Engel	Hobson
Bryant (TX)	English	Hoekstra
Bunn	Ensign	Hoke
Bunning	Eshoo	Holden
Burr	Evans	Horn
Burton	Ewing	Hostettler
Buyer	Farr	Houghton
Calvert	Fattah	Hoyer
Camp	Fawell	Hunter
Canady	Fazio	Hutchinson
Cardin	Fields (TX)	Hyde
Castle	Filner	Inglis
Chabot	Flanagan	Istook
Chambliss	Foglietta	Jackson-Lee
Chenoweth	Foley	Jacobs
Christensen	Forbes	Jefferson
Chrysler	Ford	Johnson (CT)
Clay	Fowler	Johnson (SD)
Clayton	Fox	Johnson, E.B.
Clement	Frank (MA)	Johnson, Sam
Clinger	Franks (CT)	Johnston

Jones	Moorhead	Sensenbrenner
Kanjorski	Moran	Serrano
Kaptur	Morella	Shadegg
Kasich	Murtha	Shaw
Kelly	Myers	Shays
Kennedy (MA)	Myrick	Shuster
Kennedy (RI)	Nadler	Sisisky
Kennelly	Neal	Skaggs
Kildee	Ney	Skeen
Kim	Norwood	Skelton
King	Nussle	Slaughter
Kingston	Oberstar	Smith (MI)
Klecza	Obey	Smith (NJ)
Klink	Olver	Smith (TX)
Klug	Orton	Solomon
Knollenberg	Owens	Souder
Kolbe	Oxley	Spence
LaFalce	Packard	Spratt
LaHood	Pallone	Stark
Lantos	Pastor	Stenholm
Largent	Paxon	Stokes
Latham	Payne (NJ)	Studds
LaTourette	Payne (VA)	Stupak
Lazio	Pelosi	Talent
Leach	Peterson (FL)	Tanner
Levin	Peterson (MN)	Taylor (NC)
Lewis (CA)	Petri	Thomas
Lewis (GA)	Pickett	Thornberry
Lewis (KY)	Pomeroy	Thurman
Lightfoot	Porter	Torkildsen
Linder	Portman	Torres
Lipinski	Poshard	Torricelli
LoBiondo	Pryce	Towns
Lofgren	Quillen	Trafficant
Longley	Quinn	Upton
Lowey	Radanovich	Velazquez
Lucas	Rahall	Vento
Luther	Ramstad	Visclosky
Maloney	Rangel	Vucanovich
Manton	Reed	Waldholtz
Manzullo	Regula	Walker
Markey	Richardson	Walsh
Martinez	Riggs	Wamp
Martini	Rivers	Ward
Mascara	Roberts	Waters
Matsui	Roemer	Watt (NC)
McCarthy	Rogers	Watts (OK)
McCollum	Rohrabacher	Waxman
McDade	Ros-Lehtinen	Weldon (FL)
McHale	Rose	Weldon (PA)
McHugh	Roth	Weller
McInnis	Roukema	Whitfield
McKeon	Roybal-Allard	Wicker
McKinney	Royce	Williams
McNulty	Rush	Wilson
Meehan	Sabo	Wise
Meek	Salmon	Wolf
Menendez	Sanders	Woolsey
Meyers	Sanford	Wyden
Mica	Sawyer	Wynn
Miller (CA)	Saxton	Yates
Miller (FL)	Schaefer	Young (AK)
Minge	Schiff	Young (FL)
Mink	Schroeder	Zeliff
Moakley	Schumer	Zimmer
Molinari	Scott	
Mollohan	Sastrand	

## NAYS—37

Bachus	Lincoln	Smith (WA)
Baker (LA)	Livingston	Stearns
Callahan	McCrery	Stockman
Cooley	McDermott	Stump
de la Garza	McIntosh	Tate
Dicks	Metcalf	Tauzin
Dornan	Montgomery	Taylor (MS)
Dunn	Nethercutt	Thompson
Everett	Neumann	Thornton
Hancock	Ortiz	Tiahrt
Hastings (WA)	Parker	White
Hayes	Pombo	
Laughlin	Scarborough	

## NOT VOTING—7

Chapman	Mfume	Volkmer
Fields (LA)	Tejeda	
Flake	Tucker	

□ 1449

Messrs. EVERETT, LAUGHLIN, NETHERCUTT, DE LA GARZA, and MCCRERY changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

# AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 39, FISHERY CONSERVATION AND MANAGEMENT AMENDMENTS OF 1995

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 39, the Clerk be authorized to make such technical and conforming changes as are necessary to reflect the actions of the House on the bill just passed.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Alaska?

There was no objection.

## PERSONAL EXPLANATION

Ms. JACKSON-LEE. Mr. Speaker, I rise to indicate that yesterday I had an official leave of absence because of official business in my district, and I would like to place in the RECORD my position on rollcall votes No. 714, 715, and 716.

Mr. Speaker, if I had been present at the time of rollcall 714, I would have voted "aye"; if I had been present at the time of rollcall 715, I would have voted "aye"; and if I had been present at the time of rollcall 716, I would have voted "aye."

## PERSONAL EXPLANATION

Mr. CHAMBLISS. Mr. Speaker, I was tending to business in my district yesterday, which caused me to miss rollcall votes 714, 715, and 716. Had I been present, I would have voted "yes" on approving the Journal, "yes" on H.R. 2070, and "yes" on H.R. 2353.

# APPOINTMENT OF CONFEREES ON H.R. 2076, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mr. ROGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2076), making appropriations for the Departments of Commerce, Justice, and State, the judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes with a Senate amendment thereto, disagree

to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. MOLLOHAN

Mr. MOLLOHAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MOLLOHAN moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 2076 be instructed to insist on the House position regarding the salaries and expenses of the Securities and Exchange Commission.

The SPEAKER pro tempore. Under the rule, the gentleman from West Virginia [Mr. MOLLOHAN] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my motion urges the House conferees to insist on the House position regarding the level of appropriations and the allowable level of fees collected by the Securities and Exchange Commission.

The House bill, Mr. Speaker, provides for a total appropriation of \$103 million. This level provides for the commission to operate at their fiscal year 1995 funding level after the collection of fees totaling \$184 million plus an approximate \$10 million carryover.

Mr. Speaker, the Senate bill appropriates a total of \$135 million, while allowing for the collection of only \$123 million in fees. This means, in plain terms, that the Senate bill spends \$32 million more than the House bill while at the same time it cuts the commission's operating level.

I was suggesting this anomaly that the Senate appropriates more money than the House does but reduces the fee collection, which means, in plain terms, that the Senate spends \$32 million more than the House bill but at the same time it cuts the commission's operating level by approximately 10 percent. There are substantive reasons why I oppose cutting the SEC's operating level, which I will discuss in a moment.

But the Senate bill makes absolutely no sense from a fiscal standpoint. It provides \$32 million higher spending levels to get a 10-percent cut in operations. It is not good fiscal policy.

Mr. Speaker, the cuts to the SEC's operating level mean fewer investigations. It means delays in the review of legal disputes. They mean a lessened ability for the SEC to pursue fraud, and it means less of an ability to prosecute fraud when fraud is found. This would come at a time when American financial markets are expanding and the potential for fraud increases along with that expansion.