

103^D CONGRESS
2^D SESSION

H. R. 4713

To promote public confidence in the Magnuson Fishery Conservation and Management Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 1994

Mrs. UNSOELD (for herself and Ms. CANTWELL) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To promote public confidence in the Magnuson Fishery Conservation and Management Act, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Regional Fishery Man-
5 agement Councils Ethics Act of 1994”.

6 **SEC. 2. FINDINGS, PURPOSES, AND POLICY.**

7 (a) FINDINGS.—Section 101(a) of the Magnuson
8 Fishery Conservation and Management Act (16 U.S.C.
9 1801(a)) is amended by adding at the end the following:

1 “(9) Agenda 21 of the United Nations Conference on
2 Environment and Development provides conservation
3 guidelines, principles, and commitments that should be re-
4 spected in the management of the Nation’s fishery re-
5 sources. In particular, sustainable use should be regarded
6 as the touchstone of the Nation’s program of fishery con-
7 servation and management.”.

8 (b) PURPOSES.—Section 2(b) of the Magnuson Fish-
9 ery Conservation and Management Act (16 U.S.C.
10 1801(b)) is amended—

11 (1) in paragraph (5) by striking “and” before
12 “(B)” and by striking “; and” and inserting the fol-
13 lowing: “; and (C) which are free from conflicts of
14 interest affecting any Council member;”;

15 (2) in paragraph (6) by striking the period and
16 inserting “; and”; and

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

18 “(7) to ensure that management decisions with
19 respect to the Nation’s fishery resources are, and
20 are perceived to be, made in a fair and equitable
21 manner.”.

22 (c) POLICY.—Section 2(c)(3) of the Magnuson Fish-
23 ery Conservation and Management Act (16 U.S.C.
24 1801(C)(3)) is amended by inserting after “citizens” the

1 following: “consistent with the conflict of interest provi-
2 sions of section 302(k)”.

3 **SEC. 3. CONFLICTS OF INTEREST.**

4 (a) RECUSAL.—Section 302(k) of the Magnuson
5 Fishery Conservation and Management Act (16 U.S.C.
6 1852(k)), is amended—

7 (1) by inserting before the period at the end of
8 the subsection heading “AND RECUSAL”;

9 (2) in paragraph (2)—

10 (A) in the matter preceding subparagraph

11 (A) by inserting “, or that will be held during
12 the term of the individual as a member of a
13 Council,” after “held”; and

14 (B) by striking subparagraph (B) and in-
15 serting the following:

16 “(B) the spouse, child, grandchild, parent, sib-
17 ling, or partner of that individual;”;

18 (3) in paragraph (3)(B) by striking “within”
19 and all that follows through the period and inserting
20 “to the appointing authority not less than 14 days
21 prior to taking office.”;

22 (4) in paragraph (5)(B) by inserting “and the
23 office of the Secretary” after “offices”;

24 (5) in paragraph (6) by striking “the regula-
25 tions” and all that follows through the period and

1 inserting the following: “this subsection shall require
2 the action to be reconsidered by the Council without
3 the vote of the affected individual if the vote of the
4 affected individual would have resulted in a different
5 action by the Council under subsection (e)(1). Such
6 action shall also be remanded to the Council for re-
7 consideration if the determination of a National Ma-
8 rine Fisheries Service Regional Director has been re-
9 versed by the Secretary under paragraph (7) and the
10 vote of the individual would have resulted in a dif-
11 ferent action by the Council.”;

12 (6) by redesignating paragraph (7) as para-
13 graph (8) and inserting after paragraph (6) the fol-
14 lowing:

15 “(7)(A) A Council member required to disclose a fi-
16 nancial interest under paragraph (2) shall recuse himself
17 or herself from voting in all Council actions that have a
18 direct and predictable effect on that interest. A particular
19 action shall be considered to have a direct and predictable
20 effect on a financial interest if there is a close causal link
21 between the action and any expected effect of the action
22 on the financial interest. An effect may be considered to
23 be direct and predictable even though it does not occur
24 immediately.

1 “(B) If the authority of a Council member to vote
2 in an action is challenged by another Council member on
3 the basis of subparagraph (A), the Council shall provide
4 to the Council member whose authority is challenged an
5 opportunity to respond.

6 “(C) If, after being provided an opportunity to re-
7 spond, the Council member does not recuse himself or her-
8 self from voting in an action and that member or the
9 Council member challenging his or her authority requests
10 that the National Marine Fisheries Service Regional Di-
11 rector for the region of the Council make a determination,
12 then the Regional Director, after consultation with the
13 National Oceanic and Atmospheric Administration Gen-
14 eral Counsel, shall determine whether the member is re-
15 quired to recuse himself or herself under subparagraph
16 (A). If the Regional Director determines that recusal is
17 required, the member shall recuse himself or herself from
18 voting in the action and shall state for the record, for pur-
19 poses of subparagraph (E), how he or she would have
20 voted.

21 “(D) Any Council member may, within 14 days after
22 the determination of the Regional Director under subpara-
23 graph (C), appeal such determination to the Secretary,
24 who shall within not more than 30 days after the date
25 of the appeal make a final determination of whether the

1 Council member who is the subject of the appeal is re-
2 quired to recuse himself or herself.

3 “(E) A vote of a Council with respect to which an
4 appeal to the Secretary is made under subparagraph (D)
5 shall not be final before the date the Secretary issues a
6 determination under subparagraph (D). If the Secretary
7 determines that the Council member is not required to
8 recuse himself or herself, the vote of the member in the
9 action shall be the vote stated for the record under sub-
10 paragraph (C).”; and

11 (7) in paragraph (8), as redesignated by para-
12 graph (6) of this subsection, by striking “with the
13 regulations prescribed under paragraph (5)” and in-
14 serting “this subsection”.

15 (b) REMOVAL.—Paragraph (5) of section 302(b) of
16 the Magnuson Fishery Conservation and Management Act
17 (16 U.S.C. 1852(b)) is amended to read as follows:

18 “(5) The Secretary may remove for cause any mem-
19 ber of a Council required to be appointed by the Secretary
20 in accordance with subsection (b)(2), including for any
21 violation of section 302(k) by the member, if the Secretary
22 makes a written determination, accompanied by a state-
23 ment of the reasons on which the determination is based.”.

24 (c) OATH.—Section 302(b)(2) of the Magnuson Fish-
25 ery Conservation and Management Act (16 U.S.C.

1 1852(b)(2)), is amended by adding at the end the follow-
2 ing:

3 “(E) As trustees of the Nation’s fishery resources,
4 each voting members of a Council shall, at the first meet-
5 ing of the Council the member attends each year, take
6 the following oath:

“I, _____, as a duly appointed member of a
Regional Fishery Management Council established under
the Magnuson Fishery Conservation and Management
Act, hereby promise to conserve and manage the living
marine resources of the United States of America by car-
rying out the business of the Council for the greatest
overall benefit of the Nation, without regard to my own
personal benefit. I recognize my responsibility to serve as
a knowledgeable and experienced trustee of the Nation’s
marine fisheries resources, being careful to balance com-
peting private or regional interests, and always aware
and protective of the public interest in those resources.
I commit myself to uphold the provisions, standards, and
requirements of the Magnuson Fishery Conservation and
Management Act and other applicable law, and shall con-
duct myself at all times according to the rules of conduct
prescribed by the Secretary of Commerce. I fully under-
stand the civil and criminal consequences of my failure
to disclose my financial interests and to recuse myself

from Council actions as required under applicable law. This oath is freely given and without mental reservation or purpose of evasion.”.

1 (d) REQUIREMENT FOR COUNCIL STAFF.—Section
2 302(f) of the Magnuson Fishery Conservation and Man-
3 agement Act (16 U.S.C. 1852(f)) is amended by adding
4 at the end the following:

5 “(8) An individual on the staff of a Council shall
6 avoid any action which might result in, or create the ap-
7 pearance of, any of the following:

8 “(A) Using the Council office for private gain.

9 “(B) Giving preferential treatment to any per-
10 son.

11 “(C) Impeding Government efficiency or econ-
12 omy.

13 “(D) Losing complete independence or impar-
14 tiality.

15 “(E) Making a Government decision outside of-
16 ficial channels.

17 “(F) Affecting adversely the confidence of the
18 public in the integrity of a Council.”.

19 (e) PROTECTION OF COUNCIL STAFF FROM RE-
20 PRISAL FOR DISCLOSURE OF CERTAIN INFORMATION.—
21 Section 302 of the Magnuson Fishery Conservation and

1 Management Act (16 U.S.C. 1852) is further amended by
2 adding at the end the following:

3 “(l) PROTECTION OF COUNCIL STAFF AGAINST RE-
4 PRISAL.—

5 “(1) PROHIBITION OF REPRISALS.—An individ-
6 ual who is an employee of a Council may not be dis-
7 charged, demoted, or otherwise discriminated
8 against as a reprisal for disclosing to a Member of
9 Congress or an official of the Department of Com-
10 merce or the Department of Justice information re-
11 lating to—

12 “(A) a possible violation of a law, rule, or
13 regulation related to a fishery management
14 plan, or

15 “(B) gross management, a gross waste of
16 funds, an abuse of authority, or a substantial
17 and specific threat to the health of a fishery.

18 “(2) INVESTIGATION OF COMPLAINTS.—An in-
19 dividual who believes they have been subjected to a
20 reprisal prohibited under subsection (a) may submit
21 a complaint to the Inspector General of the Depart-
22 ment of Commerce. Unless the inspector general de-
23 termines that the complaint is frivolous, the inspec-
24 tor general shall investigate the complaint and, upon
25 completion of such investigation, submit a report of

1 the findings of the investigation to the person, the
2 Council concerned, and the Secretary of Commerce.

3 “(3) CIVIL PENALTY.—Any person that dis-
4 charges, demotes, or otherwise discriminates against
5 an employee of a Council in violation of paragraph
6 (1) shall be subject to a civil penalty of not more
7 than \$10,000 for each violation, which may be as-
8 sessed by the Secretary.

9 “(4) CONSTRUCTION.—Nothing in this section
10 may be construed to authorize the discharge of, de-
11 motion of, discrimination against a Council staff for
12 a disclosure other than a disclosure referred to in
13 subsection (a), or to modify or derogate from a right
14 or remedy otherwise available to an individual who
15 is an employee of a Council.”.

16 (f) PROHIBITED ACTS AND CRIMINAL OFFENSES.—

17 (1) PROHIBITED ACTS.—Section 307 of the
18 Magnuson Fishery Conservation and Management
19 Act (16 U.S.C. 1857) is amended—

20 (A) in paragraph (1) by striking “or” after
21 the semicolon at the end of subparagraph (M),
22 by striking the period at the end of subpara-
23 graph (N) and inserting “; or”, and by adding
24 at the end the following:

1 “(O) to submit false information, or fail to
2 submit required information, pursuant to sec-
3 tion 302(k)””; and

4 (B) by striking “and” after the semicolon
5 at the end of paragraph (4), by striking the pe-
6 riod at the end of paragraph (5) and inserting
7 “; and”, and by adding at the end the follow-
8 ing:

9 “(6) for a Council member to knowingly and
10 willfully fail to recuse himself or herself in accord-
11 ance with section 302(k)(7).”.

12 (2) CRIMINAL OFFENSES.—Section 309(a) of
13 the Magnuson Fishery Conservation and Manage-
14 ment Act (16 U.S.C. 1859(a)) is amended—

15 (A) in paragraph (1) by striking “or (L)”
16 and inserting “(L), or (O)””; and

17 (B) in paragraph (2) by striking “307(2)”
18 and inserting “307(2) or (6)”.

19 **SEC. 4. REGIONAL FISHERY MANAGEMENT COUNCILS.**

20 (a) COUNCIL PROCEDURES.—Section 302(j) of the
21 Magnuson Fishery Conservation and Management Act (16
22 U.S.C. 1852(j)) is amended by—

23 (1) amending paragraph (1) to read as follows:

1 “(1) Each Council shall comply with meeting proce-
2 dures that ensure to the extent possible full and effective
3 public participation by all interested persons.”;

4 (2) adding at the end of paragraph (2)(D) the
5 following: “Such written statement or oral testimony
6 of a person shall be preceded by a statement of the
7 qualifications of the person and a statement of the
8 interest of the person, including financial interest, in
9 the subject of the written statement or oral testi-
10 mony. Written statements shall be attested to by the
11 submitter. Oral testimony shall be under oath.”;

12 (3) amending subparagraph (E) to read as fol-
13 lows:

14 “(E) Detailed minutes of each meeting of each
15 Council shall be kept and shall contain a record of
16 the persons present, a complete and accurate de-
17 scription of matters discussed and conclusions
18 reached, and copies of all reports received, issued, or
19 approved by the Council. The accuracy of all min-
20 utes shall be certified by the Chairman of the Coun-
21 cil. The Chairman shall submit to the Secretary a
22 copy of the minutes of each meeting. The minutes
23 shall be treated as part of the administrative record
24 for purposes of judicial review under section 302(l)
25 or section 305(b).”;

1 (4) adding at the end of paragraph (2) the fol-
2 lowing:

3 “(G) Subject to section 552 of title 5, United
4 States Code, the records, reports, transcripts, min-
5 utes, appendixes, working papers, drafts, studies,
6 agenda or other documents which are made available
7 to or prepared for or by each Council shall be avail-
8 able for public inspection and copying at a single lo-
9 cation in the offices of the Council.

10 “(H) The National Marine Fisheries Service
11 Regional Director for each region may, whenever he
12 or she determines it to be in the public interest, ad-
13 journ or continue any meeting of the Council for
14 that region.

15 “(I) Any person may add an item to the agenda
16 of a meeting of a Council or of a committee or panel
17 of a Council by presenting to the chair of the Coun-
18 cil, committee, or advisory panel a written descrip-
19 tion of the item signed by 2 or more members of the
20 Council at least 14 days before the date of the meet-
21 ing.”; and

22 (5) adding at the end the following:

23 “(7) Each Council shall establish appropriate proce-
24 dures applicable to it and its committees and advisory pan-
25 els to allow meaningful public participation in each meet-

1 ing by (A) publishing or otherwise making an agenda
2 available to interested persons sufficiently in advance of
3 the meeting, and (B) ensuring that each agenda, as made
4 available, is adhered to.

5 “(8) The Federal Advisory Committee Act (5 U.S.C.
6 App.) shall not apply to the Councils or to the scientific
7 and statistical committees or advisory panels of the Coun-
8 cils.”.

9 (b) FISHERY MANAGEMENT PLANS.—Section 303(a)
10 of the Magnuson Fishery Conservation and Management
11 Act (16 U.S.C. 1853(a)) is amended—

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

14 (2) by redesignating subparagraph (C) as sub-
15 paragraph (D) and inserting after subparagraph (B)
16 the following:

17 “(C) based on a clear preponderance of the
18 evidence in the record; and”.

19 (c) REGULATORY AMENDMENTS.—Section 304 of the
20 Magnuson Fishery Conservation and Management Act (16
21 U.S.C. 1854) is amended by adding at the end the follow-
22 ing:

23 “(h) ACTION ON REGULATORY AMENDMENTS.—

1 “(1) After the receipt date for a regulatory
2 amendment which was prepared by a Council, the
3 Secretary shall—

4 “(A) immediately commence a review of
5 the regulatory amendment to determine wheth-
6 er it is consistent with the fishery management
7 plan it amends, the national standards, the
8 other provisions of this Act, and any other ap-
9 plicable law; and

10 “(B) immediately publish the amendment
11 in the Federal Register for a 30-day public
12 comment period.

13 “(2) The Secretary shall take action under this
14 section on any regulatory amendment which the
15 Council characterizes as being a final regulatory
16 amendment.

17 “(3) If the Secretary does not notify the Coun-
18 cil in writing of the Secretary’s disapproval or par-
19 tial disapproval of a regulatory amendment by the
20 60th day after the receipt date for the amendment,
21 the amendment shall take effect and be imple-
22 mented.

23 “(4) If after review the Secretary determines
24 that the regulatory amendment is not consistent
25 with the items referred to in paragraph (1)(A), the

1 Secretary shall notify the Council in writing of the
2 Secretary's disapproval or partial disapproval of the
3 regulatory amendment. Such notice shall specify—

4 “(A) the applicable law or provision of the
5 fishery management plan with which the regu-
6 latory amendment is inconsistent;

7 “(B) the nature of such inconsistency; and

8 “(C) recommendations concerning the ac-
9 tions that could be taken by the Council to con-
10 form such regulatory amendment to the re-
11 quirements of applicable law and the fishery
12 management plan.

13 “(5) If the Secretary disapproves or partially
14 disapproves a regulatory amendment, the Council
15 may submit a revised regulatory amendment to the
16 Secretary.

17 “(6) After the Secretary receives a revised
18 regulatory amendment, the Secretary shall imme-
19 diately—

20 “(A) commence a review of the revised reg-
21 ulatory amendment to determine if it complies
22 with the items referred to in paragraph (1)(A);
23 and

1 “(B) publish the revised regulatory amend-
2 ment in the Federal Register for a 15-day pub-
3 lic comment period.

4 “(7) Before the close of the 30th day after the
5 receipt date for a revised regulatory amendment, the
6 Secretary, after taking into account any public com-
7 ments, shall complete the review and determine
8 whether the revised regulatory amendment complies
9 with the items referred to in paragraph (1)(A). If
10 the Secretary determines that the revised regulatory
11 amendment is not in compliance with those items,
12 the Secretary shall immediately notify the Council of
13 the Secretary’s disapproval. After notifying a Coun-
14 cil of that disapproval, the Secretary shall promptly
15 provide to the Council a written statement of the
16 reasons on which the disapproval was based and ad-
17 vise the Council that it may submit a further revised
18 regulatory amendment for review and determination
19 under this paragraph. If the Secretary does not no-
20 tify the Council in writing of the Secretary’s dis-
21 approval or partial disapproval by the 30th day after
22 the receipt date, the revised regulatory amendment
23 will take effect and be implemented.

24 “(8) For purposes of this subsection, the term
25 ‘receipt date’ means the 5th day after the day on

1 which a Council transmits to the Secretary a regu-
2 latory amendment or revised regulatory amendment
3 that the Council characterizes as a final regulatory
4 amendment.”.

5 (d) PROHIBITION.—Section 307(1)(I) of the Magnu-
6 son Fishery Conservation and Management Act (16
7 U.S.C. 1857(1)(I)) is amended by inserting after “to a
8 Council,” the following: “in the form of testimony or in
9 any other manner,”.

10 (e) JUDICIAL REVIEW OF COUNCIL ACTIONS.—Sec-
11 tion 302 of the Magnuson Fishery Conservation and Man-
12 agement Act (16 U.S.C. 1852) is amended by adding at
13 the end the following:

14 “(I) JUDICIAL REVIEW OF COUNCIL ACTION.—Any
15 action of a Council shall be subject to judicial review under
16 chapter 7 of title 5, United States Code, as an agency
17 action.”.

18 **SEC. 5. NATIONAL STANDARDS.**

19 (a) NATIONAL STANDARD NO. 1.—Section 301(a)(1)
20 of the Magnuson Fishery Conservation and Management
21 Act (16 U.S.C. 1851(a)(1)) is amended to read as follows:

22 “(1) Conservation of fishery resources shall be
23 the principal objective of fishery management plans
24 and of any regulation promulgated to implement any
25 such plan. Conservation and management measures

1 shall protect vulnerable spawning and nursery areas,
2 prevent overfishing, and minimize waste, including
3 the reduction of excessive fishing capacity and by
4 catch, while achieving, on a continuing basis, the op-
5 timum yield from each fishery.”.

6 (b) NATIONAL STANDARD NO. 5.—Section 301(a)(5)
7 of the Magnuson Fishery Conservation and Management
8 Act (16 U.S.C. 1851(a)(5)) is amended to read as follows:

9 “(5) Conservation and management measures shall,
10 to the extent practicable, promote efficiency in the utiliza-
11 tion of fishery resources, including the avoidance or reduc-
12 tion of excessive fishing capacity and by catch; except that
13 no such measure shall have economic allocation as its sole
14 purpose.”.

15 (c) NEW NATIONAL STANDARD.—Section 301(a) of
16 the Magnuson Fishery Conservation and Management Act
17 (16 U.S.C. 1851(a)) is amended by adding at the end the
18 following:

19 “(8) Conservation and management measures shall
20 promote the safety of life and property at sea.”.

21 **SEC. 6. ECONOMIC ALLOCATIONS.**

22 (a) TWO-THIRDS VOTE REQUIRED.—Section
23 302(e)(1) of the Magnuson Fishery Conservation and
24 Management Act (16 U.S.C. 1852(e)(1)) is amended to
25 read as follows:

1 “(1)(A) Except as provided in subparagraph (B)—

2 “(i) a majority of the voting members of any
3 Council shall constitute a quorum, but one or more
4 such members designated by the Council may hold
5 hearings; and

6 “(ii) all decisions of any Council shall be by ma-
7 jority vote of the voting members present and vot-
8 ing.

9 “(B) A Council decision that makes an economic allo-
10 cation shall be by an affirmative vote by not less than $\frac{2}{3}$
11 of the total number of voting members of the Council,
12 whether or not all such members are present and voting.

13 “(C) If a Council fails to make a decision referred
14 to in subparagraph (B) and the National Marine Fisheries
15 Service Regional Director for the region of the Council de-
16 termines that such failure will adversely affect conserva-
17 tion of any stock of fish, the Regional Director shall, after
18 consultation with each Council member, recommend an al-
19 location regime to the Secretary.”.

20 (b) OVERCAPITALIZATION AND LIMITED ENTRY.—

21 (1) REQUIRED PROVISION OF MANAGEMENT
22 PLAN.—Section 303(a) of the Magnuson Fishery
23 Conservation and Management Act (16 U.S.C.
24 1853(a)) is amended in paragraph (8) by striking
25 “and” after the semicolon, in paragraph (9) by

1 striking the period and inserting “; and”, and by
2 adding at the end the following:

3 “(10) establish a system for limiting access to
4 the fishery, consistent with section 303(b)(6), if the
5 Secretary makes a written determination that the
6 fishery is overcapitalized, and that such over capital-
7 ization is contributing to overfishing.”.

8 (2) REPEAL OF RESTRICTION ON SECRETARY.—
9 Section 304(c) of the Magnuson Fishery Conserva-
10 tion and Management Act (16 U.S.C. 1854(c)) is
11 amended by striking paragraph (3).

12 **SEC. 7. IMPLEMENTATION OF NATIONAL STANDARDS.**

13 Section 301(b) of the Magnuson Fishery Conserva-
14 tion and Management Act, as amended (16 U.S.C.
15 1851(b)) is amended by striking “advisory” and by strik-
16 ing “(which shall not have the force and effect of law).”.

17 **SEC. 8. NONFISHING INDUSTRY REPRESENTATION.**

18 (a) UNITED STATES CONSUMERS.—Section 3(21)(A)
19 of the Magnuson Fishery Conservation and Management
20 Act (16 U.S.C. 1802(21)(A)) is amended by inserting
21 after “food production” the following: “, United States
22 consumers,”.

23 (b) COUNCIL REPRESENTATION.—Section 302(a) of
24 the Magnuson Fishery Conservation and Management Act
25 (16 U.S.C. 1852(a)) is amended—

1 (1) in paragraph (1) by striking “17” and in-
2 serting “19”, and by striking “11” and inserting
3 “13”;

4 (2) in paragraph (2) by striking “19” and in-
5 serting “21”, and by striking “12” and inserting
6 “14”;

7 (3) in paragraph (3) by striking “13” and in-
8 serting “15”, and by striking “8” and inserting
9 “10”;

10 (4) in paragraph (4) by striking “7” and insert-
11 ing “9”, and by striking “4” and inserting “6”;

12 (5) in paragraph (5) by striking “17” and in-
13 serting “19”, and by striking “11” and inserting
14 “13”;

15 (6) in paragraph (6) by striking “13” and in-
16 serting “15”, and by striking “8” and inserting
17 “10”;

18 (7) in paragraph (7) by striking “11” and in-
19 serting “13”, and by striking “7” and inserting “9”;

20 (8) in paragraph (8) by striking “13” and in-
21 serting “15”, and by striking “8” and inserting
22 “10”;

23 (9) in each of paragraphs (1), (2), (3), (4), (5),
24 and (6) by inserting “and at least 2 of whom shall

1 not be representatives of the fishing industry” after
2 “each such State” each place it appears;

3 (10) in paragraph (7) by inserting a comma fol-
4 lowed by “and at least 2 of whom shall not be rep-
5 resentatives of the fishing industry” after “State of
6 Washington”; and

7 (11) in paragraph (8) by inserting a comma fol-
8 lowed by “and at least 2 of whom shall not be rep-
9 resentatives of the fishing industry” after “Islands”
10 the second place it appears.

11 (c) APPOINTMENT OF NONFISHING INDUSTRY REP-
12 RESENTATIVES.—Section 302(b)(2) of the Magnuson
13 Fishery Conservation and Management Act (16 U.S.C.
14 1852(c)(2)) is amended by adding at the end the follow-
15 ing:

16 “(E) Each Governor of a constituent State of a Coun-
17 cil may submit to the Secretary the names of 2 individuals
18 for each appointment of a member of the Council who
19 under subsection (a) is prohibited from being a represent-
20 ative of the fishing industry.

21 “(F) Of the 2 members of a Council who under sub-
22 section (a) are prohibited from being representatives of the
23 fishing industry, not more than 1 may be nominated by
24 the Governor of a particular State.”.

1 **SEC. 9. EFFECTIVE DATE.**

2 Sections 3, 4, 5, 6 and 7 shall take effect 90 days
3 after the date of enactment of this Act, except that the
4 Secretary shall proceed during that 90-day period with
5 such regulatory proceedings, personnel actions, and other
6 activities as the Secretary considers necessary to imple-
7 ment fully those sections upon that effective date.

○

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