

104TH CONGRESS
2D SESSION

S. 39

AN ACT

To amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Sustainable Fisheries Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
 Sec. 2. Amendment of Magnuson Fishery Conservation and Management Act.

TITLE I—CONSERVATION AND MANAGEMENT

- Sec. 101. Findings; purposes; policy.
 Sec. 102. Definitions.
 Sec. 103. Authorization of appropriations.
 Sec. 104. Highly migratory species.
 Sec. 105. Foreign fishing and international fishery agreements.
 Sec. 106. National standards.
 Sec. 107. Regional fishery management councils.
 Sec. 108. Fishery management plans.
 Sec. 109. Action by the Secretary.
 Sec. 110. Other requirements and authority.
 Sec. 111. Pacific community fisheries.
 Sec. 112. State jurisdiction.
 Sec. 113. Prohibited acts.
 Sec. 114. Civil penalties and permit sanctions; rebuttable presumptions.
 Sec. 115. Enforcement.
 Sec. 116. Transition to sustainable fisheries.
 Sec. 117. North Pacific and northwest Atlantic Ocean fisheries.

TITLE II—FISHERY MONITORING AND RESEARCH

- Sec. 201. Change of title.
 Sec. 202. Registration and information management.
 Sec. 203. Information collection.
 Sec. 204. Observers.
 Sec. 205. Fisheries research.
 Sec. 206. Incidental harvest research.
 Sec. 207. Miscellaneous research.
 Sec. 208. Study of contribution of bycatch to charitable organizations.
 Sec. 209. Study of identification methods for harvest stocks.
 Sec. 210. Review of Northeast fishery stock assessments.
 Sec. 211. Clerical amendments.

TITLE III—FISHERIES FINANCING

- Sec. 301. Short title.
 Sec. 302. Individual fishing quota loans.
 Sec. 303. Fisheries financing and capacity reduction.

TITLE IV—MARINE FISHERY STATUTE REAUTHORIZATIONS

- Sec. 401. Marine fish program authorization of appropriations.
 Sec. 402. Interjurisdictional Fisheries Act amendments.
 Sec. 403. Anadromous fisheries amendments.
 Sec. 404. Atlantic coastal fisheries amendments.
 Sec. 405. Technical amendments to maritime boundary agreement.
 Sec. 406. Amendments to the Fisheries Act.

1 **SEC. 2. AMENDMENT OF MAGNUSON FISHERY CONSERVA-**
2 **TION AND MANAGEMENT ACT.**

3 Except as otherwise expressly provided, whenever in
4 this Act an amendment or repeal is expressed in terms
5 of an amendment to, or repeal of, a section or other provi-
6 sion, the reference shall be considered to be made to a
7 section or other provision of the Magnuson Fishery Con-
8 servation and Management Act (16 U.S.C. 1801 et seq.).

9 **TITLE I—CONSERVATION AND**
10 **MANAGEMENT**

11 **SEC. 101. FINDINGS; PURPOSES; POLICY.**

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

13 (1) by striking subsection (a)(2) and inserting
14 the following:

15 “(2) Certain stocks of fish have declined to the
16 point where their survival is threatened, and other
17 stocks of fish have been so substantially reduced in
18 number that they could become similarly threatened
19 as a consequence of (A) increased fishing pressure,
20 (B) the inadequacy of fishery resource conservation
21 and management practices and controls, or (C) di-
22 rect and indirect habitat losses which have resulted
23 in a diminished capacity to support existing fishing
24 levels.”;

1 (2) by inserting “to facilitate long-term protec-
2 tion of essential fish habitats,” in subsection (a)(6)
3 after “conservation,”;

4 (3) by adding at the end of subsection (a) the
5 following:

6 “(9) One of the greatest long-term threats to
7 the viability of commercial and recreational fisheries
8 is the continuing loss of marine, estuarine, and other
9 aquatic habitats. Habitat considerations should re-
10 ceive increased attention for the conservation and
11 management of fishery resources of the United
12 States.

13 “(10) Pacific Insular Areas contain unique his-
14 torical, cultural, legal, political, and geographical cir-
15 cumstances which make fisheries resources impor-
16 tant in sustaining their economic growth.”;

17 (4) by striking “principles;” in subsection
18 (b)(3) and inserting “principles, including the pro-
19 motion of catch and release programs in recreational
20 fishing;”;

21 (5) by striking “and” after the semicolon at the
22 end of subsection (b)(5);

23 (6) by striking “development.” in subsection
24 (b)(6) and inserting “development in a non-wasteful
25 manner; and”;

1 (7) by adding at the end of subsection (b) the
2 following:

3 “(7) to promote the protection of essential fish
4 habitat in the review of projects conducted under
5 Federal permits, licenses, or other authorities that
6 affect or have the potential to affect such habitat.”;

7 (8) in subsection (c)(3)—

8 (A) by striking “promotes” and inserting
9 “considers”; and

10 (B) by inserting “minimize bycatch and”
11 after “practical measures that”;

12 (9) striking “and” at the end of paragraph
13 (c)(5);

14 (10) striking the period at the end of paragraph
15 (c)(6) and inserting “; and”; and

16 (11) adding at the end of subsection (c) a new
17 paragraph as follows:

18 “(7) to ensure that the fishery resources adja-
19 cent to a Pacific Insular Area, including resident or
20 migratory stocks within the exclusive economic zone
21 adjacent to such areas, be explored, developed, con-
22 served, and managed for the benefit of the people of
23 such area and of the United States.”.

24 **SEC. 102. DEFINITIONS.**

25 Section 3 (16 U.S.C. 1802) is amended—

1 (1) by redesignating paragraphs (2) through
2 (32) as paragraphs (5) through (35) respectively,
3 and inserting after paragraph (1) the following:

4 “(2) The term ‘bycatch’ means fish which are
5 harvested in a fishery, but which are not sold or
6 kept for personal use, and includes economic dis-
7 cards and regulatory discards. Such term does not
8 include fish released alive under a recreational catch
9 and release fishery management program.

10 “(3) The term ‘charter fishing’ means fishing
11 from a vessel carrying a passenger for hire (as de-
12 fined in section 2101(21a) of title 46, United States
13 Code) who is engaged in recreational fishing.

14 “(4) The term ‘commercial fishing’ means fish-
15 ing in which the fish harvested, either in whole or
16 in part, are intended to enter commerce or enter
17 commerce through sale, barter or trade.”;

18 (2) in paragraph (7) (as redesignated)—

19 (A) by striking “COELENTERATA” from
20 the heading of the list of corals and inserting
21 “CNIDARIA”; and

22 (B) in the list appearing under the heading
23 “CRUSTACEA”, by striking “Deep-sea Red
24 Crab—Geryon quinquedens” and inserting
25 “Deep-sea Red Crab—Chaceon quinquedens”;

1 (3) by redesignating paragraphs (9) through
2 (35) (as redesignated) as paragraphs (11) through
3 (37), respectively, and inserting after paragraph (8)
4 (as redesignated) the following:

5 “(9) The term ‘economic discards’ means fish
6 which are the target of a fishery, but which are not
7 retained because they are of an undesirable size, sex,
8 or quality, or for other economic reasons.

9 “(10) The term ‘essential fish habitat’ means
10 those waters and substrate necessary to fish for
11 spawning, breeding, feeding or growth to maturity.”;

12 (4) by redesignating paragraphs (16) through
13 (37) (as redesignated) as paragraphs (17) through
14 (38), respectively, and inserting after paragraph
15 (15) (as redesignated) the following:

16 “(16) The term ‘fishing community’ means a
17 community which is substantially dependent on or
18 substantially engaged in the harvest or processing of
19 fishery resources to meet social and economic needs,
20 and includes fishing vessel owners, operators, and
21 crew and United States fish processors that are
22 based in such community.”;

23 (5) by redesignating paragraphs (21) through
24 (38) (as redesignated) as paragraphs (22) through

1 (39), respectively, and inserting after paragraph
2 (20) (as redesignated) the following:

3 “(21) The term ‘individual fishing quota’ means
4 a Federal permit under a limited access system to
5 harvest a quantity of fish, expressed by a unit or
6 units representing a percentage of the total allowable
7 catch of a fishery that may be received or held for
8 exclusive use by a person. Such term does not in-
9 clude community development quotas as described in
10 section 305(i).”;

11 (6) by striking “of one and one-half miles” in
12 paragraph (23) (as redesignated) and inserting “of
13 two and one-half kilometers”;

14 (7) by striking paragraph (28) (as redesign-
15 ated), and inserting the following:

16 “(28) The term ‘optimum’, with respect to the
17 yield from a fishery, means the amount of fish
18 which—

19 “(A) will provide the greatest overall bene-
20 fit to the Nation, particularly with respect to
21 food production and recreational opportunities,
22 and taking into account the protection of ma-
23 rine ecosystems;

24 “(B) is prescribed on the basis of the max-
25 imum sustainable yield from the fishery, as re-

1 duced by any relevant social, economic, or eco-
2 logical factor; and

3 “(C) in the case of an overfished fishery,
4 provides for rebuilding to a level consistent with
5 producing the maximum sustainable yield in
6 such fishery.”;

7 (8) by redesignating paragraphs (29) through
8 (39) (as redesignated) as paragraphs (31) through
9 (41), respectively, and inserting after paragraph
10 (28) (as redesignated) the following:

11 “(29) The terms ‘overfishing’ and ‘overfished’
12 mean a rate or level of fishing mortality that jeop-
13 ardizes the capacity of a fishery to produce the max-
14 imum sustainable yield on a continuing basis.

15 “(30) The term “Pacific Insular Area” means
16 American Samoa, Guam, the Northern Mariana Is-
17 lands, Baker Island, Howland Island, Jarvis Island,
18 Johnston Atoll, Kingman Reef, Midway Island,
19 Wake Island, or Palmyra Atoll, as applicable, and
20 includes all islands and reefs appurtenant to such is-
21 land, reef, or atoll.”;

22 (9) by redesignating paragraphs (32) through
23 (41) (as redesignated) as paragraphs (34) through
24 (43), respectively, and inserting after paragraph
25 (31) (as redesignated) the following:

1 “(32) The term ‘recreational fishing’ means
2 fishing for sport or pleasure.

3 “(33) The term ‘regulatory discards’ means fish
4 harvested in a fishery which fishermen are required
5 by regulation to discard whenever caught, or are re-
6 quired by regulation to retain but not sell.”;

7 (10) by redesignating paragraphs (36) through
8 (43) (as redesignated) as paragraphs (37) through
9 (44), respectively, and inserting after paragraph
10 (35) (as redesignated) the following:

11 “(36) The term ‘special areas’ means the areas
12 referred to as eastern special areas in Article 3(1)
13 of the Agreement between the United States of
14 America and the Union of Soviet Socialist Republics
15 on the Maritime Boundary, signed June 1, 1990. In
16 particular, the term refers to those areas east of the
17 maritime boundary, as defined in that Agreement,
18 that lie within 200 nautical miles of the baselines
19 from which the breadth of the territorial sea of Rus-
20 sia is measured but beyond 200 nautical miles of the
21 baselines from which the breadth of the territorial
22 sea of the United States is measured.”;

23 (11) by striking “for which a fishery manage-
24 ment plan prepared under title III or a preliminary
25 fishery management plan prepared under section

1 201(g) has been implemented” in paragraph (42)
2 (as redesignated) and inserting “regulated under
3 this Act”; and

4 (12) by redesignating paragraph (44) (as redesi-
5 gnated) as paragraph (45), and inserting after
6 paragraph (43) the following:

7 “(44) The term ‘vessel subject to the jurisdic-
8 tion of the United States’ has the same meaning
9 such term has in section 3(c) of the Maritime Drug
10 Law Enforcement Act (46 U.S.C. App. 1903(c)).”.

11 **SEC. 103. AUTHORIZATION OF APPROPRIATIONS.**

12 The Act is amended by inserting after section 3 (16
13 U.S.C. 1802) the following:

14 **“SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

15 “There are authorized to be appropriated to the Sec-
16 retary for the purposes of carrying out the provisions of
17 this Act, not to exceed the following sums:

18 “(1) \$147,000,000 for fiscal year 1996;

19 “(2) \$151,000,000 for fiscal year 1997;

20 “(3) \$155,000,000 for fiscal year 1998; and

21 “(4) \$159,000,000 for fiscal year 1999.”.

22 **SEC. 104. HIGHLY MIGRATORY SPECIES.**

23 Section 102 (16 U.S.C. 1812) is amended by striking
24 “promoting the objective of optimum utilization” and in-
25 serting “shall promote the achievement of optimum yield”.

1 **SEC. 105. FOREIGN FISHING AND INTERNATIONAL FISHERY**2 **AGREEMENTS.**

3 (a) AUTHORITY TO OPERATE UNDER TRANS-
4 SHIPMENT PERMITS.—Section 201 (16 U.S.C. 1821) is
5 amended—

6 (1) by striking paragraphs (1) and (2) of sub-
7 section (a) and inserting the following:

8 “(1) is authorized under subsections (b) or (c)
9 or section 204(e), or under a permit issued under
10 section 204(d);

11 “(2) is not prohibited under subsection (f);
12 and”;

13 (2) by striking “(i)” in subsection (c)(2)(D)
14 and inserting “(h)”;

15 (3) by striking subsection (f);

16 (4) by redesignating subsections (g) through (j)
17 as subsections (f) through (i), respectively;

18 (5) in paragraph (2) of subsection (h) (as re-
19 designated), redesignate subparagraphs (B) and (C)
20 as subparagraphs (C) and (D), respectively, and in-
21 sert after subparagraph (A) the following:

22 “(B) in a situation where the foreign fish-
23 ing vessel is operating under a Pacific Insular
24 Area fishing agreement, the Governor of the ap-
25 plicable Pacific Insular Area, in consultation
26 with the Western Pacific Council, has estab-

1 lished an observer coverage program that is at
2 least equal in effectiveness to the program es-
3 tablished by the Secretary;” and

4 (6) in subsection (i) (as redesignated) by
5 striking “305” and inserting “304”.

6 (b) INTERNATIONAL FISHERY AGREEMENTS.—Sec-
7 tion 202 (16 U.S.C. 1822) is amended—

8 (1) by adding before the period at the end of
9 subsection (c) “or section 204(e)”;

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

11 “(h) BYCATCH REDUCTION AGREEMENTS.—

12 “(1) The Secretary of State, in cooperation
13 with the Secretary, shall seek to secure an inter-
14 national agreement to establish standards and meas-
15 ures for bycatch reduction that are comparable to
16 the standards and measures applicable to United
17 States fishermen for such purposes in any fishery
18 regulated pursuant to this Act for which the Sec-
19 retary, in consultation with the Secretary of State,
20 determines that such an international agreement is
21 necessary and appropriate.

22 “(2) An international agreement negotiated
23 under this subsection shall be—

24 “(A) consistent with the policies and pur-
25 poses of this Act; and

1 “(B) subject to approval by Congress
2 under section 203.

3 “(3) Not later than January 1, 1997, and an-
4 nually thereafter, the Secretary, in consultation with
5 the Secretary of State, shall submit to the Commit-
6 tee on Commerce, Science, and Transportation of
7 the Senate and the Committee on Resources of the
8 House of Representatives a report describing actions
9 taken under this subsection.”.

10 (c) PERIOD FOR CONGRESSIONAL REVIEW OF INTER-
11 NATIONAL FISHERY AGREEMENTS.—Section 203 (16
12 U.S.C. 1823) is amended—

13 (1) by striking “GOVERNING” in the section
14 heading;

15 (2) by striking “agreement” each place it ap-
16 pears in subsection (a) and inserting “agreement,
17 bycatch reduction agreement, or Pacific Insular Area
18 fishery agreement”;

19 (3) by striking “60 calendar days of continuous
20 session of the Congress” in subsection (a) and in-
21 serting “120 days (excluding any days in a period
22 for which the Congress is adjourned sine die)”;

23 (4) by striking subsection (c);

24 (5) by redesignating subsection (d) as sub-
25 section (c); and

1 (6) by striking “agreement” in subsection
2 (c)(2)(A), as redesignated, and inserting “agree-
3 ment, bycatch reduction agreement, or Pacific Insu-
4 lar Area fishery agreement”.

5 (d) TRANSSHIPMENT PERMITS AND PACIFIC INSU-
6 LAR AREA FISHING.— Section 204 (16 U.S.C. 1824) is
7 amended—

8 (1) by inserting “or subsection (d)” in the first
9 sentence of subsection (b)(7) after “under paragraph
10 (6)”;

11 (2) by striking “the regulations promulgated to
12 implement any such plan” in subsection (b)(7)(A)
13 and inserting “any applicable federal or State fish-
14 ing regulations”;

15 (3) by inserting “or subsection (d)” in sub-
16 section (b)(7)(D) after “paragraph (6)(B)”;

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

18 “(d) TRANSSHIPMENT PERMITS.—

19 “(1) AUTHORITY TO ISSUE PERMITS.—The Sec-
20 retary may issue a transshipment permit under this
21 subsection which authorizes a vessel other than a
22 vessel of the United States to engage in fishing con-
23 sisting solely of transporting fish or fish products at
24 sea from a point within the exclusive economic zone
25 or, with the concurrence of a State, within the

1 boundaries of that State, to a point outside the
2 United States to any person who—

3 “(A) submits an application which is ap-
4 proved by the Secretary under paragraph (3);
5 and

6 “(B) pays a fee imposed under paragraph
7 (7).

8 “(2) TRANSMITTAL.—Upon receipt of an appli-
9 cation for a permit under this subsection, the Sec-
10 retary shall promptly transmit copies of the applica-
11 tion to the Secretary of State, Secretary of the de-
12 partment in which the Coast Guard is operating, any
13 appropriate Council, and any affected State.

14 “(3) APPROVAL OF APPLICATION.—The Sec-
15 retary may approve, in consultation with the appro-
16 priate Council or Marine Fisheries Commission, an
17 application for a permit under this section if the
18 Secretary determines that—

19 “(A) the transportation of fish or fish
20 products to be conducted under the permit, as
21 described in the application, will be in the inter-
22 est of the United States and will meet the ap-
23 plicable requirements of this Act;

24 “(B) the applicant will comply with the re-
25 quirements described in section 201(c)(2) with

1 respect to activities authorized by any permit
2 issued pursuant to the application;

3 “(C) the applicant has established any
4 bonds or financial assurances that may be re-
5 quired by the Secretary; and

6 “(D) no owner or operator of a vessel of
7 the United States which has adequate capacity
8 to perform the transportation for which the ap-
9 plication is submitted has indicated to the Sec-
10 retary an interest in performing the transpor-
11 tation at fair and reasonable rates.

12 “(4) WHOLE OR PARTIAL APPROVAL.—The Sec-
13 retary may approve all or any portion of an applica-
14 tion under paragraph (3).

15 “(5) FAILURE TO APPROVE APPLICATION.—If
16 the Secretary does not approve any portion of an ap-
17 plication submitted under paragraph (1), the Sec-
18 retary shall promptly inform the applicant and speci-
19 fy the reasons therefor.

20 “(6) CONDITIONS AND RESTRICTIONS.—The
21 Secretary shall establish and include in each permit
22 under this subsection conditions and restrictions, in-
23 cluding those conditions and restrictions set forth in
24 subsection (b)(7), which shall be complied with by

1 the owner and operator of the vessel for which the
2 permit is issued.

3 “(7) FEES.—The Secretary shall collect a fee
4 for each permit issued under this subsection, in an
5 amount adequate to recover the costs incurred by
6 the United States in issuing the permit, except that
7 the Secretary shall waive the fee for the permit if
8 the foreign nation under which the vessel is reg-
9 istered does not collect a fee from a vessel of the
10 United States engaged in similar activities in the
11 waters of such foreign nation.

12 “(e) PACIFIC INSULAR AREAS.—

13 “(1) NEGOTIATION OF PACIFIC INSULAR AREA
14 FISHERY AGREEMENTS.—The Secretary of State,
15 with the concurrence of the Secretary and in con-
16 sultation with any appropriate Council, may nego-
17 tiate and enter into a Pacific Insular Area fishery
18 agreement to authorize foreign fishing within the ex-
19 clusive economic zone adjacent to a Pacific Insular
20 Area—

21 “(A) in the case of American Samoa,
22 Guam, or the Northern Mariana Islands, at the
23 request and with the concurrence of, and in
24 consultation with, the Governor of the Pacific

1 Insular Area to which such agreement applies;
2 and

3 “(B) in the case of a Pacific Insular Area
4 other than American Samoa, Guam, or the
5 Northern Mariana Islands, at the request of the
6 Western Pacific Council.

7 “(2) AGREEMENT TERMS AND CONDITIONS.—A
8 Pacific Insular Area fishery agreement—

9 “(A) shall not be considered to supersede
10 any governing international fishery agreement
11 currently in effect under this Act, but shall pro-
12 vide an alternative basis for the conduct of for-
13 eign fishing within the exclusive economic zone
14 adjacent to Pacific Insular Areas;

15 “(B) shall be negotiated and implemented
16 consistent only with the governing international
17 fishery agreement provisions of this title specifi-
18 cally made applicable in this subsection;

19 “(C) may not be negotiated with a nation
20 that is in violation of a governing international
21 fishery agreement in effect under this Act;

22 “(D) shall not be entered into if it is deter-
23 mined by the Governor of the applicable Pacific
24 Insular Area with respect to agreements initi-
25 ated under paragraph (1)(A), or the Western

1 Pacific Council with respect to agreements initi-
2 ated under paragraph (1)(B), that such an
3 agreement will adversely affect the fishing ac-
4 tivities of the indigenous people of such Pacific
5 Insular Area;

6 “(E) shall be valid for a period not to ex-
7 ceed three years and shall only become effective
8 according to the procedures in section 203; and

9 “(F) shall require the foreign nation and
10 its fishing vessels to comply with the require-
11 ments of paragraphs (1), (2), (3) and (4)(A) of
12 section 201(c), section 201(d), and section
13 201(h).

14 “(3) PERMITS FOR FOREIGN FISHING.—

15 “(A) Application for permits for foreign
16 fishing authorized under a Pacific Insular
17 Areas fishing agreement shall be made, consid-
18 ered and approved or disapproved in accordance
19 with paragraphs (3), (4), (5), (6), (7)(A) and
20 (B), (8), and (9) of subsection (b), and shall in-
21 clude any conditions and restrictions established
22 by the Secretary in consultation with the Sec-
23 retary of State, the Secretary of the department
24 in which the Coast Guard is operating, the Gov-

1 ernor of the applicable Pacific Insular Area,
2 and the appropriate Council.

3 “(B) If a foreign nation notifies the Sec-
4 retary of State of its acceptance of the require-
5 ments of this paragraph, paragraph (2)(F), and
6 paragraph (5), including any conditions and re-
7 strictions established under subparagraph (A),
8 the Secretary of State shall promptly transmit
9 such notification to the Secretary. Upon receipt
10 of any payment required under a Pacific Insu-
11 lar Area fishing agreement, the Secretary shall
12 thereupon issue to such foreign nation, through
13 the Secretary of State, permits for the appro-
14 priate fishing vessels of that nation. Each per-
15 mit shall contain a statement of all of the re-
16 quirements, conditions, and restrictions estab-
17 lished under this subsection which apply to the
18 fishing vessel for which the permit is issued.

19 “(4) MARINE CONSERVATION PLANS.—

20 “(A) Prior to entering into a Pacific Insu-
21 lar Area fishery agreement, the Western Pacific
22 Council and the appropriate Governor shall de-
23 velop a 3-year marine conservation plan detail-
24 ing uses for funds to be collected by the Sec-
25 retary pursuant to such agreement. Such plan

1 shall be consistent with any applicable fishery
2 management plan, identify conservation and
3 management objectives (including criteria for
4 determining when such objectives have been
5 met), and prioritize planned marine conserva-
6 tion projects. Conservation and management
7 objectives shall include, but not be limited to—

8 “(i) establishment of Pacific Insular
9 Area observer programs, approved by the
10 Secretary in consultation with the Western
11 Pacific Council, that provide observer cov-
12 erage for foreign fishing under Pacific In-
13 sular Area fishery agreements that is at
14 least equal in effectiveness to the program
15 established by the Secretary under section
16 201(h);

17 “(ii) conduct of marine and fisheries
18 research, including development of systems
19 for information collection, analysis, evalua-
20 tion, and reporting;

21 “(iii) conservation, education, and en-
22 forcement activities related to marine and
23 coastal management, such as living marine
24 resource assessments, habitat monitoring
25 and coastal studies;

1 “(iv) grants to the University of Ha-
2 waii for technical assistance projects by the
3 Pacific Island Network, such as education
4 and training in the development and imple-
5 mentation of sustainable marine resources
6 development projects, scientific research,
7 and conservation strategies; and

8 “(v) western Pacific community-based
9 demonstration projects under section
10 112(b) of the Sustainable Fisheries Act
11 and other coastal improvement projects to
12 foster and promote the management, con-
13 servation, and economic enhancement of
14 the Pacific Insular Areas.

15 “(B) In the case of American Samoa, Guam,
16 and the Northern Mariana Islands, the appropriate
17 Governor, with the concurrence of the Western Pa-
18 cific Council, shall develop the marine conservation
19 plan described in subparagraph (A) and submit such
20 plan to the Secretary for approval. In the case of
21 other Pacific Insular Areas, the Western Pacific
22 Council shall develop and submit the marine con-
23 servation plan described in subparagraph (A) to the
24 Secretary for approval.

1 “(C) If a Governor or the Western Pacific
2 Council intends to request that the Secretary of
3 State renew a Pacific Insular Area fishery agree-
4 ment, a subsequent 3-year plan shall be submitted
5 to the Secretary for approval by the end of the sec-
6 ond year of the existing 3-year plan.

7 “(5) RECIPROCAL CONDITIONS.—Except as ex-
8 pressly provided otherwise in this subsection, a Pa-
9 cific Insular Area fishing agreement may include
10 terms similar to the terms applicable to United
11 States fishing vessels for access to similar fisheries
12 in waters subject to the fisheries jurisdiction of an-
13 other nation.

14 “(6) USE OF PAYMENTS BY AMERICAN SAMOA,
15 GUAM, NORTHERN MARIANA ISLANDS.—Any pay-
16 ments received by the Secretary under a Pacific In-
17 sular Area fishery agreement for American Samoa,
18 Guam, or the Northern Mariana Islands shall be de-
19 posited into the United States Treasury and then
20 covered over to the Treasury of the Pacific Insular
21 Area for which those funds were collected. Amounts
22 deposited in the Treasury of a Pacific Insular Area
23 shall be available, without appropriation or fiscal
24 year limitation, to the Governor of the Pacific Insu-
25 lar Area—

1 “(A) to carry out the purposes of this sub-
2 section;

3 “(B) to compensate (i) the Western Pacific
4 Council for mutually agreed upon administra-
5 tive costs incurred relating to any Pacific Insu-
6 lar Area fishery agreement for such Pacific In-
7 sular Area, and (ii) the Secretary of State for
8 mutually agreed upon travel expenses for no
9 more than 2 Federal representatives incurred
10 as a direct result of complying with paragraph
11 (1)(A); and

12 “(C) to implement a marine conservation
13 plan developed and approved under paragraph
14 (4).

15 “(7) WESTERN PACIFIC SUSTAINABLE FISH-
16 ERIES FUND.—There is established in the United
17 States Treasury a Western Pacific Sustainable Fish-
18 eries Fund into which any payments received by the
19 Secretary under a Pacific Insular Area fishery
20 agreement for any Pacific Insular Area other than
21 American Samoa, Guam, or the Northern Mariana
22 Islands shall be deposited. The Western Pacific Sus-
23 tainable Fisheries Fund shall be made available,
24 without appropriation or fiscal year limitation, to the
25 Secretary, who shall provide such funds only to—

1 “(A) the Western Pacific Council for the
2 purpose of carrying out the provisions of this
3 subsection, including implementation of a ma-
4 rine conservation plan approved under para-
5 graph (4);

6 “(B) the Secretary of State for mutually
7 agreed upon travel expenses for no more than
8 2 federal representatives incurred as a direct
9 result of complying with paragraph (1)(B); and

10 “(C) the Western Pacific Council to meet
11 conservation and management objectives in the
12 State of Hawaii if monies remain in the West-
13 ern Pacific Sustainable Fisheries Fund after
14 the funding requirements of subparagraphs (A)
15 and (B) have been satisfied.

16 Amounts deposited in such fund shall not diminish
17 funding received by the Western Pacific Council for
18 the purpose of carrying out other responsibilities
19 under this Act.

20 “(8) USE OF FINES AND PENALTIES.—In the
21 case of violations occurring within the exclusive eco-
22 nomic zone off American Samoa, Guam, or the
23 Northern Mariana Islands, amounts received by the
24 Secretary which are attributable to fines or penalties
25 imposed under this Act, including such sums col-

1 lected from the forfeiture and disposition or sale of
2 property seized subject to its authority, after pay-
3 ment of direct costs of the enforcement action to all
4 entities involved in such action, shall be deposited
5 into the Treasury of the Pacific Insular Area adja-
6 cent to the exclusive economic zone in which the vio-
7 lation occurred, to be used for fisheries enforcement
8 and for implementation of a marine conservation
9 plan under paragraph (4).”.

10 (e) ATLANTIC HERRING TRANSSHIPMENT.—Within
11 30 days of receiving an application, the Secretary shall,
12 under Section 204(d) of the Magnuson Fishery Conserva-
13 tion and Management Act, as amended by this Act, issue
14 permits to up to fourteen Canadian transport vessels that
15 are not equipped for fish harvesting or processing, for the
16 transshipment, within the boundaries of the State of
17 Maine or within the portion of the exclusive economic zone
18 east of the line 69 degrees 30 minutes west and within
19 12 nautical miles from the seaward boundary of that
20 State, of Atlantic herring harvested by United States fish-
21 ermen within the area described and used solely in sardine
22 processing. In issuing a permit pursuant to this sub-
23 section, the Secretary shall provide a waiver under section
24 201(h)(2)(C) of the Magnuson Fishery Conservation and
25 Management Act, as amended by this Act, provided that

1 such vessels comply with Federal or State monitoring and
2 reporting requirements for the Atlantic herring fishery, in-
3 cluding the stationing of United States observers aboard
4 such vessels, if necessary.

5 (f) LARGE SCALE DRIFTNET FISHING.—Section 206
6 (16 U.S.C. 1826) is amended—

7 (1) in subsection (e), by striking paragraphs (3)
8 and (4), and redesignating paragraphs (5) and (6)
9 as (3) and (4), respectively; and

10 (2) in subsection (f), by striking “(e)(6),” and
11 inserting “(e)(4),”.

12 (g) RUSSIAN FISHING IN THE BERING SEA.—No
13 later than September 30, 1997, the North Pacific Fishery
14 Management Council, in consultation with the North Pa-
15 cific and Bering Sea Advisory Body, shall submit to the
16 Committee on Commerce, Science, and Transportation of
17 the Senate and the Committee on Resources of the House
18 of Representatives a report describing the institutional
19 structures in Russia pertaining to stock assessment, man-
20 agement, and enforcement for fishery harvests in the Ber-
21 ing Sea, and recommendations for improving coordination
22 between the United States and Russia for managing and
23 conserving Bering Sea fishery resources of mutual con-
24 cern.

1 **SEC. 106. NATIONAL STANDARDS.**

2 (a) Section 301(a)(5) (16 U.S.C. 1851(a)(5)) is
3 amended by striking “promote” and inserting “consider”.

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

6 “(8) Conservation and management measures
7 shall, consistent with the conservation requirements
8 of this Act (including the prevention of overfishing
9 and rebuilding of overfished stocks), take into ac-
10 count the importance of fishery resources to fishing
11 communities in order to (A) provide for the sus-
12 tained participation of such communities, and (B) to
13 the extent practicable, minimize adverse economic
14 impacts on such communities.

15 “(9) Conservation and management measures
16 shall, to the extent practicable, (A) minimize bycatch
17 and (B) to the extent bycatch cannot be avoided,
18 minimize the mortality of such bycatch.

19 “(10) Conservation and management measures
20 shall, to the extent practicable, promote the safety of
21 human life at sea.”.

22 **SEC. 107. REGIONAL FISHERY MANAGEMENT COUNCILS.**

23 (a) Section 302(a) (16 U.S.C. 1852(a)) is amended—

24 (1) by inserting “(1)” after the subsection
25 heading;

1 (2) by redesignating paragraphs (1) through
2 (8) as subparagraphs (A) through (H), respectively;

3 (3) by striking “section 304(f)(3)” wherever it
4 appears and inserting “paragraph (3)”;

5 (4) in paragraph (1)(B), as amended—

6 (A) by striking “and Virginia” and insert-
7 ing “Virginia, and North Carolina”;

8 (B) by inserting “North Carolina, and”
9 after “except”;

10 (C) by striking “19” and inserting “21”;

11 and

12 (D) by striking “12” and inserting “13”;

13 (5) by striking paragraph (1)(F), as redesign-
14 nated, and inserting the following:

15 “(F) PACIFIC COUNCIL.—The Pacific
16 Fishery Management Council shall consist of
17 the States of California, Oregon, Washington,
18 and Idaho and shall have authority over the
19 fisheries in the Pacific Ocean seaward of such
20 States. The Pacific Council shall have 14 voting
21 members, including 8 appointed by the Sec-
22 retary in accordance with subsection (b)(2) (at
23 least one of whom shall be appointed from each
24 such State), and including one appointed from
25 an Indian tribe with Federally recognized fish-

1 ing rights from California, Oregon, Washington,
2 or Idaho in accordance with subsection (b)(5).”;
3 (6) by indenting the sentence at the end thereof
4 and inserting “(2)” before “Each Council”; and
5 (7) by adding at the end the following:

6 “(3) The Secretary shall have authority over
7 any highly migratory species fishery that is within
8 the geographical area of authority of more than one
9 of the following Councils: New England Council,
10 Mid-Atlantic Council, South Atlantic Council, Gulf
11 Council, and Caribbean Council.”.

12 (b) Section 302(b) (16 U.S.C. 1852(b)) is amended—

13 (1) by striking “subsection (b)(2)” in para-
14 graphs (1)(C) and (3), and inserting in both places
15 “paragraphs (2) and (5)”;

16 (2) by striking the last sentence in paragraph
17 (3) and inserting the following: “Any term in which
18 an individual was appointed to replace a member
19 who left office during the term shall not be counted
20 in determining the number of consecutive terms
21 served by that Council member.”; and

22 (3) by striking paragraph (5) and inserting
23 after paragraph (4) the following:

24 “(5)(A) The Secretary shall appoint to the Pa-
25 cific Council one representative of an Indian tribe

1 with Federally recognized fishing rights from Cali-
2 fornia, Oregon, Washington, or Idaho from a list of
3 not less than 3 individuals submitted by the tribal
4 governments. The Secretary, in consultation with the
5 Secretary of the Interior and tribal governments,
6 shall establish by regulation the procedure for sub-
7 mitting a list under this subparagraph.

8 “(B) Representation shall be rotated among the
9 tribes taking into consideration—

10 “(i) the qualifications of the individuals on
11 the list referred to in subparagraph (A),

12 “(ii) the various rights of the Indian tribes
13 involved and judicial cases that set forth how
14 those rights are to be exercised, and

15 “(iii) the geographic area in which the
16 tribe of the representative is located.

17 “(C) A vacancy occurring prior to the expira-
18 tion of any term shall be filled in the same manner
19 as set out in subparagraphs (A) and (B), except that
20 the Secretary may use the list from which the
21 vacating representative was chosen.

22 “(6) The Secretary may remove for cause any
23 member of a Council required to be appointed by the
24 Secretary in accordance with paragraphs (2) or (5)
25 if—

1 “(A) the Council concerned first rec-
2 ommends removal by not less than two-thirds of
3 the members who are voting members and sub-
4 mits such removal recommendation to the Sec-
5 retary in writing together with a statement of
6 the basis for the recommendation; or

7 “(B) the member is found by the Sec-
8 retary, after notice and an opportunity for a
9 hearing in accordance with section 554 of title
10 5, United States Code, to have committed an
11 act prohibited by section 307(1)(O).”.

12 (c) Section 302(d) (16 U.S.C. 1852(d)) is amended
13 in the first sentence—

14 (1) by striking “each Council,” and inserting
15 “each Council who are required to be appointed by
16 the Secretary and”; and

17 (2) by striking “shall, until January 1, 1992,”
18 and all that follows through “GS-16” and inserting
19 “shall receive compensation at the daily rate for GS-
20 15, step 7”.

21 (d) Section 302(e) (16 U.S.C. 1852(e)) is amended
22 by adding at the end the following:

23 “(5) At the request of any voting member of a
24 Council, the Council shall hold a roll call vote on any
25 matter before the Council. The official minutes and

1 other appropriate records of any Council meeting
2 shall identify all roll call votes held, the name of
3 each voting member present during each roll call
4 vote, and how each member voted on each roll call
5 vote.”.

6 (e) Section 302(g) (16 U.S.C. 1852(g)) is amended
7 by redesignating paragraph (4) as paragraph (5), and by
8 inserting after paragraph (3) the following:

9 “(4) The Secretary shall establish advisory pan-
10 els to assist in the collection and evaluation of infor-
11 mation relevant to the development of any fishery
12 management plan or plan amendment for a fishery
13 to which subsection (a)(3) applies. Each advisory
14 panel shall participate in all aspects of the develop-
15 ment of the plan or amendment; be balanced in its
16 representation of commercial, recreational, and other
17 interests; and consist of not less than 7 individuals
18 who are knowledgeable about the fishery for which
19 the plan or amendment is developed, selected from
20 among—

21 “(A) members of advisory committees and
22 species working groups appointed under Acts
23 implementing relevant international fishery
24 agreements pertaining to highly migratory spe-
25 cies; and

1 “(B) other interested persons.”.

2 (f) Section 302(h) (16 U.S.C. 1852(h)) is amended—

3 (1) by striking paragraph (1) and inserting the
4 following:

5 “(1) for each fishery under its authority that
6 requires conservation and management, prepare and
7 submit to the Secretary (A) a fishery management
8 plan, and (B) amendments to each such plan that
9 are necessary from time to time (and promptly
10 whenever changes in conservation and management
11 measures in another fishery substantially affect the
12 fishery for which such plan was developed);”;

13 (2) in paragraph (2)—

14 (A) by striking “section 204(b)(4)(C),” in
15 paragraph (2) and inserting “section
16 204(b)(4)(C) or section 204(d),”;

17 (B) by striking “304(c)(2)” and inserting
18 “304(c)(4)”;

19 (3) by striking “304(f)(3) “in paragraph (5)
20 and inserting “subsection (a)(3)”.

21 (g) Section 302 is amended further by striking sub-
22 section (i), and by redesignating subsections (j) and (k)
23 as subsections (i) and (j), respectively.

24 (h) Section 302(i), as redesignated, is amended—

1 (1) by striking “of the Councils” in paragraph
2 (1) and inserting “established under subsection (g)”;

3 (2) by striking “of a Council:” in paragraph (2)
4 and inserting “established under subsection (g):”;

5 (3) by striking “Council’s” in paragraph (2)(C);

6 (4) by adding the following at the end of para-
7 graph (2)(C): “The published agenda of the meeting
8 may not be modified to include additional matters
9 for Council action without public notice or within 14
10 days prior to the meeting date, unless such modifica-
11 tion is to address an emergency action under section
12 305(c), in which case public notice shall be given im-
13 mediately.”;

14 (5) by adding the following at the end of para-
15 graph (2)(D): “All written information submitted to
16 a Council by an interested person shall include a
17 statement of the source and date of such informa-
18 tion. Any oral or written statement shall include a
19 brief description of the background and interests of
20 the person in the subject of the oral or written state-
21 ment.”;

22 (6) by striking paragraph (2)(E) and inserting:

23 “(E) Detailed minutes of each meeting of
24 the Council, except for any closed session, shall
25 be kept and shall contain a record of the per-

1 sons present, a complete and accurate descrip-
2 tion of matters discussed and conclusions
3 reached, and copies of all statements filed. The
4 Chairman shall certify the accuracy of the min-
5 utes of each such meeting and submit a copy
6 thereof to the Secretary. The minutes shall be
7 made available to any court of competent juris-
8 diction.”;

9 (7) by striking “by the Council” the first place
10 it appears in paragraph (2)(F);

11 (8) by inserting “or the Secretary, as appro-
12 priate” in paragraph (2)(F) after “of the Council”;
13 and

14 (9) by striking “303(d)” each place it appears
15 in paragraph (2)(F) and inserting “402(b)”; and

16 (10) by striking “303(d)” in paragraph (4) and
17 inserting “402(b)”.

18 (i) Section 302(j), as redesignated, is amended—

19 (1) by inserting “and Recusal” after “Interest”
20 in the subsection heading;

21 (2) by striking paragraph (1) and inserting the
22 following:

23 “(1) For the purposes of this subsection—

24 “(A) the term ‘affected individual’ means
25 an individual who—

1 “(i) is nominated by the Governor of
2 a State for appointment as a voting mem-
3 ber of a Council in accordance with sub-
4 section (b)(2); or

5 “(ii) is a voting member of a Council
6 appointed—

7 “(I) under subsection (b)(2); or

8 “(II) under subsection (b)(5) who
9 is not subject to disclosure and
10 recusal requirements under the laws
11 of an Indian tribal government; and

12 “(B) the term ‘designated official’ means a
13 person with expertise in Federal conflict-of-in-
14 terest requirements who is designated by the
15 Secretary, in consultation with the Council, to
16 attend Council meetings and make determina-
17 tions under paragraph (7)(B).”;

18 (3) by striking “(1)(A)” in paragraph (3)(A)
19 and inserting “(1)(A)(i)”;

20 (4) by striking “(1)(B) or (C)” in paragraph
21 (3)(B) and inserting “(1)(A)(ii)”;

22 (5) by striking “(1)(B) or (C)” in paragraph
23 (4) and inserting “(1)(A)(ii)”;

24 (6)(A) by striking “and” at the end of para-
25 graph (5)(A);

1 (B) by striking the period at the end of para-
2 graph (5)(B) and inserting a semicolon and the
3 word “and”; and

4 (C) by adding at the end of paragraph (5) the
5 following:

6 “(C) be kept on file by the Secretary for
7 use in reviewing determinations under para-
8 graph (7)(B) and made available for public in-
9 spection at reasonable hours.”;

10 (7) by striking “(1)(B) or (C)” in paragraph
11 (6) and inserting “(1)(A)(ii)”;

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

15 “(7)(A) After the effective date of regulations
16 promulgated under subparagraph (F) of this para-
17 graph, an affected individual required to disclose a
18 financial interest under paragraph (2) shall not vote
19 on a Council decision which would have a significant
20 and predictable effect on such financial interest. A
21 Council decision shall be considered to have a sig-
22 nificant and predictable effect on a financial interest
23 if there is a close causal link between the Council de-
24 cision and an expected and substantially dispropor-
25 tionate benefit to the financial interest of the af-

1 affected individual relative to the financial interests of
2 other participants in the same gear type or sector of
3 the fishery. An affected individual who may not vote
4 may participate in Council deliberations relating to
5 the decision after notifying the Council of the voting
6 recusal and identifying the financial interest that
7 would be affected.

8 “(B) At the request of an affected individual, or
9 upon the initiative of the appropriate designated of-
10 ficial, the designated official shall make a determina-
11 tion for the record whether a Council decision would
12 have a significant and predictable effect on a finan-
13 cial interest.

14 “(C) Any Council member may submit a writ-
15 ten request to the Secretary to review any deter-
16 mination by the designated official under subpara-
17 graph (B) within 10 days of such determination.
18 Such review shall be completed within 30 days of re-
19 ceipt of the request.

20 “(D) Any affected individual who does not vote
21 in a Council decision in accordance with this sub-
22 section may state for the record how he or she would
23 have voted on such decision if he or she had voted.

24 “(E) If the Council makes a decision before the
25 Secretary has reviewed a determination under sub-

1 paragraph (C), the eventual ruling may not be treat-
2 ed as cause for the invalidation or reconsideration by
3 the Secretary of such decision.

4 “(F) The Secretary, in consultation with the
5 Councils and by not later than one year from the
6 date of enactment of the Sustainable Fisheries Act,
7 shall promulgate regulations which prohibit an af-
8 fected individual from voting in accordance with sub-
9 paragraph (A), and which allow for the making of
10 determinations under subparagraphs (B) and (C).”;
11 and

12 (9) by striking “(1)(B) or (C)” in paragraph
13 (8), as redesignated, and inserting “(1)(A)(ii)”.

14 **SEC. 108. FISHERY MANAGEMENT PLANS.**

15 (a) **REQUIRED PROVISIONS.**—Section 303(a) (16
16 U.S.C. 1853(a)) is amended—

17 (1) in paragraph (1)(A) by inserting “and re-
18 build overfished stocks” after “overfishing”;

19 (2) by inserting “commercial, recreational, and
20 charter fishing in” in paragraph (5) after “with re-
21 spect to”;

22 (3) by striking paragraph (7) and inserting the
23 following:

24 “(7) describe and identify essential fish habitat
25 for the fishery based on the guidelines established by

1 the Secretary under section 305(b)(1)(A), minimize
2 to the extent practicable adverse effects on such
3 habitat caused by fishing, and identify other actions
4 to encourage the conservation and enhancement of
5 such habitat;”;

6 (4) by striking “and” at the end of paragraph
7 (8);

8 (5) by inserting “and fishing communities”
9 after “fisheries” in paragraph (9)(A);

10 (6) by striking the period at the end of para-
11 graph (9) and inserting a semicolon; and

12 (7) by adding at the end the following:

13 “(10) specify objective and measurable criteria
14 for identifying when the fishery to which the plan
15 applies is overfished (with an analysis of how the cri-
16 teria were determined and the relationship of the
17 criteria to the reproductive potential of stocks of fish
18 in that fishery) and, in the case of a fishery which
19 the Council or the Secretary has determined is ap-
20 proaching an overfished condition or is overfished,
21 contain conservation and management measures to
22 prevent overfishing or end overfishing and rebuild
23 the fishery;

24 “(11) establish a standardized reporting meth-
25 odology to assess the amount and type of bycatch

1 occurring in the fishery, and include conservation
2 and management measures that, to the extent prac-
3 ticable and in the following priority—

4 “(A) minimize bycatch; and

5 “(B) minimize the mortality of bycatch
6 which cannot be avoided;

7 “(12) assess the type and amount of fish
8 caught and released alive during recreational fishing
9 under catch and release fishery management pro-
10 grams and the mortality of such fish, and include
11 conservation and management measures that, to the
12 extent practicable, minimize mortality and ensure
13 the extended survival of such fish;

14 “(13) include a description of the commercial,
15 recreational, and charter fishing sectors which par-
16 ticipate in the fishery and, to the extent practicable,
17 quantify trends in landings of the managed fishery
18 resource by the commercial, recreational, and char-
19 ter fishing sectors; and

20 “(14) to the extent that rebuilding plans or
21 other conservation and management measures which
22 reduce the overall harvest in a fishery are necessary,
23 allocate any harvest restrictions or recovery benefits
24 fairly and equitably among the commercial, rec-

1 recreational, and charter fishing sectors in the fish-
2 ery.”.

3 (b) IMPLEMENTATION.—Not later than 24 months
4 after the date of enactment of this Act, each Regional
5 Fishery Management Council shall submit to the Sec-
6 retary of Commerce amendments to each fishery manage-
7 ment plan under its authority to comply with the amend-
8 ments made in subsection (a) of this section.

9 (c) DISCRETIONARY PROVISIONS.—Section 303(b)
10 (16 U.S.C. 1853(b)) is amended—

11 (1) by striking paragraph (3) and inserting the
12 following:

13 “(3) establish specified limitations which are
14 necessary and appropriate for the conservation and
15 management of the fishery on the —

16 “(A) catch of fish (based on area, species,
17 size, number, weight, sex, bycatch, total bio-
18 mass, or other factors);

19 “(B) sale of fish caught during commer-
20 cial, recreational, or charter fishing, consistent
21 with any applicable Federal and State safety
22 and quality requirements; and

23 “(C) transshipment or transportation of
24 fish or fish products under permits issued pur-
25 suant to section 204;”;

1 (2) by striking “system for limiting access to”
2 in paragraph (6) and inserting “limited access sys-
3 tem for”;

4 (3) by striking “fishery” in subparagraph (E)
5 of paragraph (6) and inserting “fishery and any af-
6 fected fishing communities”;

7 (4) by inserting “one or more” in paragraph
8 (8) after “require that”;

9 (5) by striking “and” at the end of paragraph
10 (9);

11 (6) by redesignating paragraph (10) as para-
12 graph (12); and

13 (7) by inserting after paragraph (9) the follow-
14 ing:

15 “(10) include, consistent with the other provi-
16 sions of this Act, conservation and management
17 measures that provide harvest incentives for partici-
18 pants within each gear group to employ fishing prac-
19 tices that result in lower levels of bycatch or in lower
20 levels of the mortality of bycatch;

21 “(11) reserve a portion of the allowable biologi-
22 cal catch of the fishery for use in scientific research;
23 and”.

1 (d) REGULATIONS.—Section 303 (16 U.S.C. 1853) is
2 amended by striking subsection (c) and inserting the fol-
3 lowing:

4 “(c) PROPOSED REGULATIONS.—Proposed regula-
5 tions which the Council deems necessary or appropriate
6 for the purposes of—

7 “(1) implementing a fishery management plan
8 or plan amendment shall be submitted to the Sec-
9 retary simultaneously with the plan or amendment
10 under section 304; and

11 “(2) making modifications to regulations imple-
12 menting a fishery management plan or plan amend-
13 ment may be submitted to the Secretary at any time
14 after the plan or amendment is approved under sec-
15 tion 304.”.

16 (e) INDIVIDUAL FISHING QUOTAS.—Subsection 303
17 (16 U.S.C. 1853) is amended further by striking sub-
18 sections (d), (e), and (f), and inserting the following:

19 “(d) INDIVIDUAL FISHING QUOTAS.—

20 “(1)(A) A Council may not submit and the Sec-
21 retary may not approve or implement before October
22 1, 2000, any fishery management plan, plan amend-
23 ment, or regulation under this Act which creates a
24 new individual fishing quota program.

1 “(B) Any fishery management plan, plan
2 amendment, or regulation approved by the Secretary
3 on or after January 4, 1995, which creates any new
4 individual fishing quota program shall be repealed
5 and immediately returned by the Secretary to the
6 appropriate Council and shall not be resubmitted,
7 reapproved, or implemented during the moratorium
8 set forth in subparagraph (A).

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

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

24 “(3) An individual fishing quota or other lim-
25 ited access system authorization—

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

3 “(B) may be revoked or limited at any
4 time in accordance with this Act;

5 “(C) shall not confer any right of com-
6 pensation to the holder of such individual fish-
7 ing quota or other such limited access system
8 authorization if it is revoked or limited; and

9 “(D) shall not create, or be construed to
10 create, any right, title, or interest in or to any
11 fish before the fish is harvested.

12 “(4)(A) A Council may submit, and the Sec-
13 retary may approve and implement, a program
14 which reserves up to 25 percent of any fees collected
15 from a fishery under section 304(d)(2) to be used,
16 pursuant to section 1104A(a)(7) of the Merchant
17 Marine Act, 1936 (46 U.S.C. App. 1274(a)(7)), to
18 issue obligations that aid in financing the—

19 “(i) purchase of individual fishing quotas
20 in that fishery by fishermen who fish from
21 small vessels; and

22 “(ii) first-time purchase of individual fish-
23 ing quotas in that fishery by entry level fisher-
24 men.

1 “(B) A Council making a submission under
2 subparagraph (A) shall recommend criteria, consist-
3 ent with the provisions of this Act, that a fisherman
4 must meet to qualify for guarantees under clauses
5 (i) and (ii) of subparagraph (A) and the portion of
6 funds to be allocated for guarantees under each
7 clause.

8 “(5) In submitting and approving any new indi-
9 vidual fishing quota program on or after October 1,
10 2000, the Councils and the Secretary shall consider
11 the report of the National Academy of Sciences re-
12 quired under section 108(f) of the Sustainable Fish-
13 eries Act, and any recommendations contained in
14 such report, and shall ensure that any such pro-
15 gram—

16 “(A) establishes procedures and require-
17 ments for the review and revision of the terms
18 of any such program (including any revisions
19 that may be necessary once a national policy
20 with respect to individual fishing quota pro-
21 grams is implemented), and, if appropriate, for
22 the renewal, reallocation, or reissuance of indi-
23 vidual fishing quotas;

24 “(B) provides for the effective enforcement
25 and management of any such program, includ-

1 ing adequate observer coverage, and for fees
2 under section 304(d)(2) to recover actual costs
3 directly related to such enforcement and man-
4 agement; and

5 “(C) provides for a fair and equitable ini-
6 tial allocation of individual fishing quotas, pre-
7 vents any person from acquiring an excessive
8 share of the individual fishing quotas issued,
9 and considers the allocation of a portion of the
10 annual harvest in the fishery for entry-level
11 fishermen, small vessel owners, and crew mem-
12 bers who do not hold or qualify for individual
13 fishing quotas.”.

14 (f) INDIVIDUAL FISHING QUOTA REPORT.— (1) Not
15 later than October 1, 1998, the National Academy of
16 Sciences, in consultation with the Secretary of Commerce
17 and the Regional Fishery Management Councils, shall
18 submit to the Congress a comprehensive final report on
19 individual fishing quotas, which shall include recommenda-
20 tions to implement a national policy with respect to indi-
21 vidual fishing quotas. The report shall address all aspects
22 of such quotas, including an analysis of—

23 (A) the effects of limiting or prohibiting the
24 transferability of such quotas;

1 (B) mechanisms to prevent foreign control of
2 the harvest of United States fisheries under individ-
3 ual fishing quota programs, including mechanisms to
4 prohibit persons who are not eligible to be deemed
5 a citizen of the United States for the purpose of op-
6 erating a vessel in the coastwise trade under section
7 2(a) and section 2(c) of the Shipping Act, 1916 (46
8 U.S.C. 802 (a) and (c)) from holding individual fish-
9 ing quotas;

10 (C) the impact of limiting the duration of indi-
11 vidual fishing quota programs;

12 (D) the impact of authorizing Federal permits
13 to process a quantity of fish that correspond to indi-
14 vidual fishing quotas, and of the value created for
15 recipients of any such permits, including a compari-
16 son of such value to the value of the corresponding
17 individual fishing quotas;

18 (E) mechanisms to provide for diversity and to
19 minimize adverse social and economic impacts on
20 fishing communities, other fisheries affected by the
21 displacement of vessels, and any impacts associated
22 with the shifting of capital value from fishing vessels
23 to individual fishing quotas, as well as the use of
24 capital construction funds to purchase individual
25 fishing quotas;

1 (F) mechanisms to provide for effective mon-
2 itoring and enforcement, including the inspection of
3 fish harvested and incentives to reduce bycatch, and
4 in particular economic discards;

5 (G) threshold criteria for determining whether a
6 fishery may be considered for individual fishing
7 quota management, including criteria related to the
8 geographical range, population dynamics and condi-
9 tion of a fish stock, the socioeconomic characteristics
10 of a fishery (including participants' involvement in
11 multiple fisheries in the region), and participation by
12 commercial, charter, and recreational fishing sectors
13 in the fishery;

14 (H) mechanisms to ensure that vessel owners,
15 vessel masters, crew members, and United States
16 fish processors are treated fairly and equitably in
17 initial allocations, to require persons holding individ-
18 ual fishing quotas to be on board the vessel using
19 such quotas, and to facilitate new entry under indi-
20 vidual fishing quota programs;

21 (I) potential social and economic costs and ben-
22 efits to the nation, individual fishing quota recipi-
23 ents, and any recipients of Federal permits described
24 in subparagraph (D) under individual fishing quota
25 programs, including from capital gains revenue, the

1 allocation of such quotas or permits through Federal
2 auctions, annual fees and transfer fees at various
3 levels, or other measures;

4 (J) the value created for recipients of individual
5 fishing quotas, including a comparison of such value
6 to the value of the fish harvested under such quotas
7 and to the value of permits created by other types
8 of limited access systems, and the effects of creating
9 such value on fishery management and conservation;
10 and

11 (K) such other matters as the National Acad-
12 emy of Sciences deems appropriate.

13 (2) The report shall include a detailed analysis
14 of individual fishing quota programs already imple-
15 mented in the United States, including the impacts:
16 of any limits on transferability, on past and present
17 participants, on fishing communities, on the rate
18 and total amount of bycatch (including economic
19 and regulatory discards) in the fishery, on the safety
20 of life and vessels in the fishery, on any excess har-
21 vesting or processing capacity in the fishery, on any
22 gear conflicts in the fishery, on product quality from
23 the fishery, on the effectiveness of enforcement in
24 the fishery, on the size and composition of fishing
25 vessel fleets, of the economic value created by indi-

1 vidual fishing quotas for initial recipients and non-
2 recipients, on conservation of the fishery resource,
3 on fishermen who rely on participation in several
4 fisheries, on the success in meeting any fishery man-
5 agement plan goals, and the fairness and effective-
6 ness of the methods used for allocating quotas and
7 controlling transferability. The report shall also in-
8 clude any information about individual fishing quota
9 programs in other countries that may be useful.

10 (3) The report shall identify and analyze alter-
11 native conservation and management measures, in-
12 cluding other limited access systems such as individ-
13 ual transferable effort systems, that could accom-
14 plish the same objectives as individual fishing quota
15 programs, as well as characteristics that are unique
16 to individual fishing quota programs.

17 (4) The Secretary of Commerce shall, in con-
18 sultation with the National Academy of Sciences, the
19 Councils, the fishing industry, affected States, con-
20 servation organizations and other interested persons,
21 establish two individual fishing quota review groups
22 to assist in the preparation of the report, which shall
23 represent: (A) Alaska, Hawaii, and the other Pacific
24 coastal States; and (B) Atlantic coastal States and
25 the Gulf of Mexico coastal States. The Secretary

1 shall, to the extent practicable, achieve a balanced
2 representation of viewpoints among the individuals
3 on each review group. The review groups shall be
4 deemed to be advisory panels under section 302(g)
5 of the Magnuson Fishery Conservation and Manage-
6 ment Act, as amended by this Act.

7 (5) The Secretary of Commerce, in consultation
8 with the National Academy of Sciences and the
9 Councils, shall conduct public hearings in each
10 Council region to obtain comments on individual
11 fishing quotas for use by the National Academy of
12 Sciences in preparing the report required by this
13 subsection. The National Academy of Sciences shall
14 submit a draft report to the Secretary of Commerce
15 by January 1, 1998. The Secretary of Commerce
16 shall publish in the Federal Register a notice and
17 opportunity for public comment on the draft of the
18 report, or any revision thereof. A detailed summary
19 of comments received and views presented at the
20 hearings, including any dissenting views, shall be in-
21 cluded by the National Academy of Sciences in the
22 final report.

23 (6) Section 210 of Public Law 104-134 is here-
24 by repealed.

1 (g) NORTH PACIFIC LOAN PROGRAM.—(1) By not
2 later than October 1, 1997 the North Pacific Fishery
3 Management Council shall recommend to the Secretary of
4 Commerce a program which uses the full amount of fees
5 authorized to be used under section 303(d)(4) of the Mag-
6 nuson Fishery Conservation and Management Act, as
7 amended by this Act, in the halibut and sablefish fisheries
8 off Alaska to guarantee obligations in accordance with
9 such section.

10 (2)(A) For the purposes of this subsection, the
11 phrase “fishermen who fish from small vessels” in
12 section 303(d)(4)(A)(i) of such Act shall mean fish-
13 ermen wishing to purchase individual fishing quotas
14 for use from Category B, Category C, or Category
15 D vessels, as defined in part 676.20(c) of title 50,
16 Code of Federal Regulations (as revised as of Octo-
17 ber 1, 1995), whose aggregate ownership of individ-
18 ual fishing quotas will not exceed the equivalent of
19 a total of 50,000 pounds of halibut and sablefish
20 harvested in the fishing year in which a guarantee
21 application is made if the guarantee is approved,
22 who will participate aboard the fishing vessel in the
23 harvest of fish caught under such quotas, who have
24 at least 150 days of experience working as part of
25 the harvesting crew in any U.S. commercial fishery,

1 and who do not own in whole or in part any Cat-
2 egory A or Category B vessel, as defined in such
3 part and title of the Code of Federal Regulations.

4 (B) For the purposes of this subsection, the
5 phrase “entry level fishermen” in section
6 303(d)(4)(A)(ii) of such Act shall mean fishermen
7 who do not own any individual fishing quotas, who
8 wish to obtain the equivalent of not more than a
9 total of 8,000 pounds of halibut and sablefish har-
10 vested in the fishing year in which a guarantee ap-
11 plication is made, and who will participate aboard
12 the fishing vessel in the harvest of fish caught under
13 such quotas.

14 (h) COMMUNITY DEVELOPMENT QUOTA REPORT.—
15 Not later than October 1, 1998, the National Academy
16 of Sciences, in consultation with the Secretary, the North
17 Pacific and Western Pacific Councils, communities and or-
18 ganizations participating in the program, participants in
19 affected fisheries, and the affected States, shall submit to
20 the Secretary of Commerce and Congress a comprehensive
21 report on the performance and effectiveness of the commu-
22 nity development quota programs under the authority of
23 the North Pacific and Western Pacific Councils. The re-
24 port shall—

1 (1) evaluate the extent to which such programs
2 have met the objective of providing communities
3 with the means to develop ongoing commercial fish-
4 ing activities;

5 (2) evaluate the manner and extent to which
6 such programs have resulted in the communities and
7 residents—

8 (A) receiving employment opportunities in
9 commercial fishing and processing; and

10 (B) obtaining the capital necessary to in-
11 vest in commercial fishing, fish processing, and
12 commercial fishing support projects (including
13 infrastructure to support commercial fishing);

14 (3) evaluate the social and economic conditions
15 in the participating communities and the extent to
16 which alternative private sector employment oppor-
17 tunities exist;

18 (4) evaluate the economic impacts on partici-
19 pants in the affected fisheries, taking into account
20 the condition of the fishery resource, the market,
21 and other relevant factors;

22 (5) recommend a proposed schedule for accom-
23 plishing the developmental purposes of community
24 development quotas; and

1 (6) address such other matters as the National
2 Academy of Sciences deems appropriate.

3 (i) **EXISTING QUOTA PLANS.**—Nothing in this Act or
4 the amendments made by this Act shall be construed to
5 require a reallocation of individual fishing quotas under
6 any individual fishing quota program approved by the Sec-
7 retary before January 4, 1995.

8 **SEC. 109. ACTION BY THE SECRETARY.**

9 (a) **SECRETARIAL REVIEW OF PLANS AND REGULA-**
10 **TIONS.**—Section 304 (16 U.S.C. 1854) is amended by
11 striking subsections (a) and (b) and inserting the follow-
12 ing:

13 “(a) **REVIEW OF PLANS.**—

14 “(1) Upon transmittal by the Council to the
15 Secretary of a fishery management plan or plan
16 amendment, the Secretary shall—

17 “(A) immediately commence a review of
18 the plan or amendment to determine whether it
19 is consistent with the national standards, the
20 other provisions of this Act, and any other ap-
21 plicable law; and

22 “(B) immediately publish in the Federal
23 Register a notice stating that the plan or
24 amendment is available and that written infor-
25 mation, views, or comments of interested per-

1 sons on the plan or amendment may be submit-
2 ted to the Secretary during the 60-day period
3 beginning on the date the notice is published.

4 “(2) In undertaking the review required under
5 paragraph (1), the Secretary shall—

6 “(A) take into account the information,
7 views, and comments received from interested
8 persons;

9 “(B) consult with the Secretary of State
10 with respect to foreign fishing; and

11 “(C) consult with the Secretary of the de-
12 partment in which the Coast Guard is operating
13 with respect to enforcement at sea and to fish-
14 ery access adjustments referred to in section
15 303(a)(6).

16 “(3) The Secretary shall approve, disapprove,
17 or partially approve a plan or amendment within 30
18 days of the end of the comment period under para-
19 graph (1) by written notice to the Council. A notice
20 of disapproval or partial approval shall specify—

21 “(A) the applicable law with which the
22 plan or amendment is inconsistent;

23 “(B) the nature of such inconsistencies;
24 and

1 “(C) recommendations concerning the ac-
2 tions that could be taken by the Council to con-
3 form such plan or amendment to the require-
4 ments of applicable law.

5 If the Secretary does not notify a Council within 30
6 days of the end of the comment period of the ap-
7 proval, disapproval, or partial approval of a plan or
8 amendment, then such plan or amendment shall
9 take effect as if approved.

10 “(4) If the Secretary disapproves or partially
11 approves a plan or amendment, the Council may
12 submit a revised plan or amendment to the Sec-
13 retary for review under this subsection.

14 “(5) For purposes of this subsection and sub-
15 section (b), the term ‘immediately’ means on or be-
16 fore the 5th day after the day on which a Council
17 transmits to the Secretary a fishery management
18 plan, plan amendment, or proposed regulation that
19 the Council characterizes as final.

20 “(b) REVIEW OF REGULATIONS.—

21 “(1) Upon transmittal by the Council to the
22 Secretary of proposed regulations prepared under
23 section 303(c), the Secretary shall immediately initi-
24 ate an evaluation of the proposed regulations to de-
25 termine whether they are consistent with the fishery

1 management plan, plan amendment, this Act and
2 other applicable law. Within 15 days of initiating
3 such evaluation the Secretary shall make a deter-
4 mination and—

5 “(A) if that determination is affirmative,
6 the Secretary shall publish such regulations in
7 the Federal Register, with such technical
8 changes as may be necessary for clarity and an
9 explanation of those changes, for a public com-
10 ment period of 15 to 60 days; or

11 “(B) if that determination is negative, the
12 Secretary shall notify the Council in writing of
13 the inconsistencies and provide recommenda-
14 tions on revisions that would make the proposed
15 regulations consistent with the fishery manage-
16 ment plan, plan amendment, this Act, and
17 other applicable law.

18 “(2) Upon receiving a notification under para-
19 graph (1)(B), the Council may revise the proposed
20 regulations and submit them to the Secretary for re-
21 evaluation under paragraph (1).

22 “(3) The Secretary shall promulgate final regu-
23 lations within 30 days after the end of the comment
24 period under paragraph (1)(A). The Secretary shall
25 consult with the Council before making any revisions

1 to the proposed regulations, and must publish in the
2 Federal Register an explanation of any differences
3 between the proposed and final regulations.”.

4 (b) PREPARATION BY THE SECRETARY.—Section
5 304(c) (16 U.S.C. 1854(c)) is amended—

6 (1) by striking the subsection heading and in-
7 serting “PREPARATION AND REVIEW OF SECRETAR-
8 IAL PLANS”;

9 (2) by striking “or” at the end of paragraph
10 (1)(A);

11 (3) by striking all that follows “further revised
12 plan” in paragraph (1) and inserting “or amend-
13 ment; or”;

14 (4) by inserting after subparagraph (1)(B), as
15 amended, the following new subparagraph:

16 “(C) the Secretary is given authority to
17 prepare such plan or amendment under this
18 section.”;

19 (5) by striking paragraph (2) and inserting:

20 “(2) In preparing any plan or amendment
21 under this subsection, the Secretary shall—

22 “(A) conduct public hearings, at appro-
23 priate times and locations in the geographical
24 areas concerned, so as to allow interested per-
25 sons an opportunity to be heard in the prepara-

1 tion and amendment of the plan and any regu-
2 lations implementing the plan; and

3 “(B) consult with the Secretary of State
4 with respect to foreign fishing and with the
5 Secretary of the department in which the Coast
6 Guard is operating with respect to enforcement
7 at sea.”;

8 (6) by inserting “for a fishery under the au-
9 thority of a Council” after “paragraph (1)” in para-
10 graph (3);

11 (7) by striking “system described in section
12 303(b)(6)” in paragraph (3) and inserting “system,
13 including any individual fishing quota program”;
14 and

15 (8) by inserting after paragraph (3) the follow-
16 ing new paragraphs:

17 “(4) Whenever the Secretary prepares a fishery
18 management plan or plan amendment under this
19 section, the Secretary shall immediately—

20 “(A) for a plan or amendment for a fishery
21 under the authority of a Council, submit such
22 plan or amendment to the appropriate Council
23 for consideration and comment; and

24 “(B) publish in the Federal Register a no-
25 tice stating that the plan or amendment is

1 available and that written information, views, or
2 comments of interested persons on the plan or
3 amendment may be submitted to the Secretary
4 during the 60-day period beginning on the date
5 the notice is published.

6 “(5) Whenever a plan or amendment is submit-
7 ted under paragraph (4)(A), the appropriate Council
8 must submit its comments and recommendations, if
9 any, regarding the plan or amendment to the Sec-
10 retary before the close of the 60-day period referred
11 to in paragraph (4)(B). After the close of such 60-
12 day period, the Secretary, after taking into account
13 any such comments and recommendations, as well as
14 any views, information, or comments submitted
15 under paragraph (4)(B), may adopt such plan or
16 amendment.

17 “(6) The Secretary may propose regulations in
18 the Federal Register to implement any plan or
19 amendment prepared by the Secretary. In the case
20 of a plan or amendment to which paragraph (4)(A)
21 applies, such regulations shall be submitted to the
22 Council with such plan or amendment. The comment
23 period on proposed regulations shall be 60 days, ex-
24 cept that the Secretary may shorten the comment
25 period on minor revisions to existing regulations.

1 “(7) The Secretary shall promulgate final regu-
2 lations within 30 days after the end of the comment
3 period under paragraph (6). The Secretary must
4 publish in the Federal Register an explanation of
5 any substantive differences between the proposed
6 and final rules. All final regulations must be consist-
7 ent with the fishery management plan, with the na-
8 tional standards and other provisions of this Act,
9 and with any other applicable law.”.

10 (c) INDIVIDUAL FISHING QUOTA AND COMMUNITY
11 DEVELOPMENT QUOTA FEES.—Section 304(d) (16
12 U.S.C. 1854(d)) is amended—

13 (1) by inserting “(1)” immediately before the
14 first sentence; and

15 (2) by inserting the at the end the following:

16 “(2)(A) Notwithstanding paragraph (1), the
17 Secretary is authorized and shall collect a fee to re-
18 cover the actual costs directly related to the manage-
19 ment and enforcement of any—

20 “(i) individual fishing quota program; and

21 “(ii) community development quota pro-
22 gram that allocates a percentage of the total al-
23 lowable catch of a fishery to such program.

24 “(B) Such fee shall not exceed 3 percent of the
25 ex-vessel value of fish harvested under any such pro-

1 gram, and shall be collected at either the time of the
2 landing, filing of a landing report, or sale of such
3 fish during a fishing season or in the last quarter
4 of the calendar year in which the fish is harvested.

5 “(C)(i) Fees collected under this paragraph
6 shall be in addition to any other fees charged under
7 this Act and shall be deposited in the Limited Ac-
8 cess System Administration Fund established under
9 section 305(h)(5)(B), except that the portion of any
10 such fees reserved under section 303(d)(4)(A) shall
11 be deposited in the Treasury and available, subject
12 to annual appropriations, to cover the costs of new
13 direct loan obligations and new loan guarantee com-
14 mitments as required by section 504(b)(1) of the
15 Federal Credit Reform Act (2 U.S.C. 661c(b)(1)).

16 “(ii) Upon application by a State, the Secretary
17 shall transfer to such State up to 33 percent of any
18 fee collected pursuant to subparagraph (A) under a
19 community development quota program and depos-
20 ited in the Limited Access System Administration
21 Fund in order to reimburse such State for actual
22 costs directly incurred in the management and en-
23 forcement of such program.”.

24 (d) DELAY OF FEES.—Notwithstanding any other
25 provision of law, the Secretary shall not begin the collec-

1 tion of fees under section 304(d)(2) of the Magnuson
2 Fishery Conservation and Management Act, as amended
3 by this Act, in the surf clam and ocean (including mahog-
4 any) quahog fishery or in the wreckfish fishery until after
5 January 1, 2000.

6 (e) OVERFISHING.—Section 304(e) (16 U.S.C.
7 1854(e)) is amended to read as follows:

8 “(e) REBUILDING OVERFISHED FISHERIES.—

9 “(1) The Secretary shall report annually to the
10 Congress and the Councils on the status of fisheries
11 within each Council’s geographical area of authority
12 and identify those fisheries that are overfished or
13 are approaching a condition of being overfished. For
14 those fisheries managed under a fishery manage-
15 ment plan or international agreement, the status
16 shall be determined using the criteria for overfishing
17 specified in such plan or agreement. A fishery shall
18 be classified as approaching a condition of being
19 overfished if, based on trends in fishing effort, fish-
20 ery resource size, and other appropriate factors, the
21 Secretary estimates that the fishery will become
22 overfished within two years.

23 “(2) If the Secretary determines at any time
24 that a fishery is overfished, the Secretary shall im-
25 mediately notify the appropriate Council and request

1 that action be taken to end overfishing in the fishery
2 and to implement conservation and management
3 measures to rebuild affected stocks of fish. The Sec-
4 retary shall publish each notice under this para-
5 graph in the Federal Register.

6 “(3) Within one year of an identification under
7 paragraph (1) or notification under paragraphs (2)
8 or (7), the appropriate Council (or the Secretary, for
9 fisheries under section 302(a)(3)) shall prepare a
10 fishery management plan, plan amendment, or pro-
11 posed regulations for the fishery to which the identi-
12 fication or notice applies—

13 “(A) to end overfishing in the fishery and
14 to rebuild affected stocks of fish; or

15 “(B) to prevent overfishing from occurring
16 in the fishery whenever such fishery is identi-
17 fied as approaching an overfished condition.

18 “(4) For a fishery that is overfished, any fish-
19 ery management plan, amendment, or proposed reg-
20 ulations prepared pursuant to paragraph (3) or
21 paragraph (5) for such fishery shall—

22 “(A) specify a time period for ending over-
23 fishing and rebuilding the fishery that shall—

24 “(i) be as short as possible, taking
25 into account the status and biology of any

1 overfished stocks of fish, the needs of fish-
2 ing communities, recommendations by
3 international organizations in which the
4 United States participates, and the inter-
5 action of the overfished stock of fish within
6 the marine ecosystem; and

7 “(ii) not exceed 10 years, except in
8 cases where the biology of the stock of fish,
9 other environmental conditions, or manage-
10 ment measures under an international
11 agreement in which the United States par-
12 ticipates dictate otherwise;

13 “(B) allocate both overfishing restrictions
14 and recovery benefits fairly and equitably
15 among sectors of the fishery; and

16 “(C) for fisheries managed under an inter-
17 national agreement, reflect traditional participa-
18 tion in the fishery, relative to other nations, by
19 fishermen of the United States.

20 “(5) If, within the one-year period beginning on
21 the date of identification or notification that a fish-
22 ery is overfished, the Council does not submit to the
23 Secretary a fishery management plan, plan amend-
24 ment, or proposed regulations required by paragraph
25 (3)(A), the Secretary shall prepare a fishery man-

1 agement plan or plan amendment and any accom-
2 panying regulations to stop overfishing and rebuild
3 affected stocks of fish within 9 months under sub-
4 section (c).

5 “(6) During the development of a fishery man-
6 agement plan, a plan amendment, or proposed regu-
7 lations required by this subsection, the Council may
8 request the Secretary to implement interim measures
9 to reduce overfishing under section 305(c) until such
10 measures can be replaced by such plan, amendment,
11 or regulations. Such measures, if otherwise in com-
12 pliance with the provisions of this Act, may be im-
13 plemented even though they are not sufficient by
14 themselves to stop overfishing of a fishery.

15 “(7) The Secretary shall review any fishery
16 management plan, plan amendment, or regulations
17 required by this subsection at routine intervals that
18 may not exceed two years. If the Secretary finds as
19 a result of the review that such plan, amendment, or
20 regulations have not resulted in adequate progress
21 toward ending overfishing and rebuilding affected
22 fish stocks, the Secretary shall—

23 “(A) in the case of a fishery to which sec-
24 tion 302(a)(3) applies, immediately make revi-
25 sions necessary to achieve adequate progress; or

1 “(B) for all other fisheries, immediately
2 notify the appropriate Council. Such notifica-
3 tion shall recommend further conservation and
4 management measures which the Council
5 should consider under paragraph (3) to achieve
6 adequate progress.”.

7 (f) FISHERIES UNDER AUTHORITY OF MORE THAN
8 ONE COUNCIL.—Section 304(f) is amended by striking
9 paragraph (3).

10 (g) ATLANTIC HIGHLY MIGRATORY SPECIES.—Sec-
11 tion 304 (16 U.S.C. 1854) is amended further by striking
12 subsection (g) and inserting the following:

13 “(g) ATLANTIC HIGHLY MIGRATORY SPECIES.—(1)
14 PREPARATION AND IMPLEMENTATION OF PLAN OR PLAN
15 AMENDMENT.—The Secretary shall prepare a fishery
16 management plan or plan amendment under subsection (c)
17 with respect to any highly migratory species fishery to
18 which section 302(a)(3) applies. In preparing and imple-
19 menting any such plan or amendment, the Secretary
20 shall—

21 “(A) consult with and consider the comments
22 and views of affected Councils, commissioners and
23 advisory groups appointed under Acts implementing
24 relevant international fishery agreements pertaining

1 to highly migratory species, and the advisory panel
2 established under section 302(g);

3 “(B) establish an advisory panel under section
4 302(g) for each fishery management plan to be pre-
5 pared under this paragraph;

6 “(C) evaluate the likely effects, if any, of con-
7 servation and management measures on participants
8 in the affected fisheries and minimize, to the extent
9 practicable, any disadvantage to United States fish-
10 ermen in relation to foreign competitors;

11 “(D) with respect to a highly migratory species
12 for which the United States is authorized to harvest
13 an allocation, quota, or at a fishing mortality level
14 under a relevant international fishery agreement,
15 provide fishing vessels of the United States with a
16 reasonable opportunity to harvest such allocation,
17 quota, or at such fishing mortality level;

18 “(E) review, on a continuing basis (and
19 promptly whenever a recommendation pertaining to
20 fishing for highly migratory species has been made
21 under a relevant international fishery agreement),
22 and revise as appropriate, the conservation and man-
23 agement measures included in the plan;

24 “(F) diligently pursue, through international
25 entities (such as the International Commission for

1 the Conservation of Atlantic Tunas), comparable
2 international fishery management measures with re-
3 spect to fishing for highly migratory species; and

4 “(G) ensure that conservation and management
5 measures under this subsection—

6 “(i) promote international conservation of
7 the affected fishery;

8 “(ii) take into consideration traditional
9 fishing patterns of fishing vessels of the United
10 States and the operating requirements of the
11 fisheries;

12 “(iii) are fair and equitable in allocating
13 fishing privileges among United States fisher-
14 men and do not have economic allocation as the
15 sole purpose; and

16 “(iv) promote, to the extent practicable,
17 implementation of scientific research programs
18 that include the tagging and release of Atlantic
19 highly migratory species.

20 “(2) CERTAIN FISH EXCLUDED FROM ‘BYCATCH’
21 DEFINITION.—Notwithstanding section 3(2), fish har-
22 vested in a commercial fishery managed by the Secretary
23 under this subsection or the Atlantic Tunas Convention
24 Act of 1975 (16 U.S.C. 971d) that are not regulatory dis-
25 cards and that are tagged and released alive under a sci-

1 entific tagging and release program established by the
2 Secretary shall not be considered bycatch for purposes of
3 this Act.”.

4 (h) COMPREHENSIVE MANAGEMENT SYSTEM FOR
5 ATLANTIC PELAGIC LONGLINE FISHERY.—(1) The Sec-
6 retary of Commerce shall—

7 (A) establish an advisory panel under section
8 302(g)(4) of the Magnuson Fishery Conservation
9 and Management Act, as amended by this Act, for
10 pelagic longline fishing vessels that participate in
11 fisheries for Atlantic highly migratory species;

12 (B) conduct surveys and workshops with af-
13 fected fishery participants to provide information
14 and identify options for future management pro-
15 grams;

16 (C) to the extent practicable and necessary for
17 the evaluation of options for a comprehensive man-
18 agement system, recover vessel production records;
19 and

20 (D) complete by January 1, 1998, a com-
21 prehensive study on the feasibility of implementing
22 a comprehensive management system for pelagic
23 longline fishing vessels that participate in fisheries
24 for Atlantic highly migratory species, including, but

1 not limited to, individual fishing quota programs and
2 other limited access systems.

3 (2) Based on the study under paragraph (1)(D)
4 and consistent with the requirements of the Magnu-
5 son Fishery Conservation and Management Act (16
6 U.S.C. 1801 et seq.), in cooperation with affected
7 participants in the fishery, the United States Com-
8 missioners on the International Commission for the
9 Conservation of Atlantic Tunas, and the advisory
10 panel established under paragraph (1)(A), the Sec-
11 retary of Commerce may, after October 1, 1998, im-
12 plement a comprehensive management system pursu-
13 ant to section 304 of such Act (16 U.S.C. 1854) for
14 pelagic longline fishing vessels that participate in
15 fisheries for Atlantic highly migratory species. Such
16 a system may not implement an individual fishing
17 quota program until after October 1, 2000.

18 (i) REPEAL OR REVOCATION OF A FISHERY MANAGE-
19 MENT PLAN.—Section 304, as amended, is further amend-
20 ed by adding at the end the following:

21 “(h) REPEAL OR REVOCATION OF A FISHERY MAN-
22 AGEMENT PLAN.—The Secretary may repeal or revoke a
23 fishery management plan for a fishery under the authority
24 of a Council only if the Council approves the repeal or

1 revocation by a three-quarters majority of the voting mem-
 2 bers of the Council.”.

3 (j) AMERICAN LOBSTER FISHERY.—Section 304(h)
 4 of the Magnuson Fishery Conservation and Management
 5 Act, as amended by this Act, shall not apply to the Amer-
 6 ican Lobster Fishery Management Plan.

7 **SEC. 110. OTHER REQUIREMENTS AND AUTHORITY.**

8 (a) Section 305 (18 U.S.C. 1855) is amended—

9 (1) by striking the title and subsection (a);

10 (2) by redesignating subsection (b) as sub-
 11 section (f); and

12 (3) by inserting the following before subsection

13 (c):

14 **“SEC. 305. OTHER REQUIREMENTS AND AUTHORITY.**

15 **“(a) GEAR EVALUATION AND NOTIFICATION OF**
 16 **ENTRY.—**

17 **“(1) Not later than 18 months after the date**
 18 **of enactment of the Sustainable Fisheries Act, the**
 19 **Secretary shall publish in the Federal Register, after**
 20 **notice and an opportunity for public comment, a list**
 21 **of all fisheries —**

22 **“(A) under the authority of each Council**
 23 **and all fishing gear used in such fisheries,**
 24 **based on information submitted by the Councils**
 25 **under section 303(a); and**

1 “(B) to which section 302(a)(3) applies
2 and all fishing gear used in such fisheries.

3 “(2) The Secretary shall include with such list
4 guidelines for determining when fishing gear or a
5 fishery is sufficiently different from those listed as
6 to require notification under paragraph (3).

7 “(3) Effective 180 days after the publication of
8 such list, no person or vessel may employ fishing
9 gear or engage in a fishery not included on such list
10 without giving 90 days advance written notice to the
11 appropriate Council, or the Secretary with respect to
12 a fishery to which section 302(a)(3) applies. A
13 signed return receipt shall serve as adequate evi-
14 dence of such notice and as the date upon which the
15 90-day period begins.

16 “(4) A Council may submit to the Secretary
17 any proposed changes to such list or such guidelines
18 the Council deems appropriate. The Secretary shall
19 publish a revised list, after notice and an oppor-
20 tunity for public comment, upon receiving any such
21 proposed changes from a Council.

22 “(5) A Council may request the Secretary to
23 promulgate emergency regulations under subsection
24 (c) to prohibit any persons or vessels from using an
25 unlisted fishing gear or engaging in an unlisted fish-

1 ery if the appropriate Council, or the Secretary for
2 fisheries to which section 302(a)(3) applies, deter-
3 mines that such unlisted gear or unlisted fishery
4 would compromise the effectiveness of conservation
5 and management efforts under this Act.

6 “(6) Nothing in this subsection shall be con-
7 strued to permit a person or vessel to engage in fish-
8 ing or employ fishing gear when such fishing or gear
9 is prohibited or restricted by regulation under a fish-
10 ery management plan or plan amendment, or under
11 other applicable law.

12 “(b) FISH HABITAT.—(1)(A) The Secretary shall,
13 within 6 months of the date of enactment of the Sustain-
14 able Fisheries Act, establish by regulation guidelines to
15 assist the Councils in the description and identification of
16 essential fish habitat in fishery management plans (includ-
17 ing adverse impacts on such habitat) and in the consider-
18 ation of actions to ensure the conservation and enhance-
19 ment of such habitat. The Secretary shall set forth a
20 schedule for the amendment of fishery management plans
21 to include the identification of essential fish habitat and
22 for the review and updating of such identifications based
23 on new scientific evidence or other relevant information.

24 “(B) The Secretary, in consultation with par-
25 ticipants in the fishery, shall provide each Council

1 with recommendations and information regarding
2 each fishery under that Council’s authority to assist
3 it in the identification of essential fish habitat, the
4 adverse impacts on that habitat, and the actions
5 that should be considered to ensure the conservation
6 and enhancement of that habitat.

7 “(C) The Secretary shall review programs ad-
8 ministered by the Department of Commerce and en-
9 sure that any relevant programs further the con-
10 servation and enhancement of essential fish habitat.

11 “(D) The Secretary shall coordinate with and
12 provide information to other Federal agencies to fur-
13 ther the conservation and enhancement of essential
14 fish habitat.

15 “(2) Each Federal agency shall consult with the
16 Secretary with respect to any action authorized,
17 funded, or undertaken, or proposed to be authorized,
18 funded, or undertaken, by such agency that may ad-
19 versely affect any essential fish habitat identified
20 under this Act.

21 “(3) Each Council—

22 “(A) may comment on and make rec-
23 ommendations to the Secretary and any Federal
24 or State agency concerning any activity author-
25 ized, funded, or undertaken, or proposed to be

1 authorized, funded, or undertaken, by any Fed-
2 eral or State agency that, in the view of the
3 Council, may affect the habitat, including es-
4 sential fish habitat, of a fishery resource under
5 its authority; and

6 “(B) shall comment on and make rec-
7 ommendations to the Secretary and any Federal
8 or State agency concerning any such activity
9 that, in the view of the Council, is likely to sub-
10 stantially affect the habitat, including essential
11 fish habitat, of an anadromous fishery resource
12 under its authority.

13 “(4)(A) If the Secretary receives information
14 from a Council or Federal or State agency or deter-
15 mines from other sources that an action authorized,
16 funded, or undertaken, or proposed to be authorized,
17 funded, or undertaken, by any State or Federal
18 agency would adversely affect any essential fish
19 habitat identified under this Act, the Secretary shall
20 recommend to such agency measures that can be
21 taken by such agency to conserve such habitat.

22 “(B) Within 30 days after receiving a rec-
23 ommendation under subparagraph (A), a Federal
24 agency shall provide a detailed response in writing to
25 any Council commenting under paragraph (3) and

1 the Secretary regarding the matter. The response
2 shall include a description of measures proposed by
3 the agency for avoiding, mitigating, or offsetting the
4 impact of the activity on such habitat. In the case
5 of a response that is inconsistent with the rec-
6 ommendations of the Secretary, the Federal agency
7 shall explain its reasons for not following the rec-
8 ommendations.”.

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

10 (1) in the heading by striking “ACTIONS” and
11 inserting “ACTIONS AND INTERIM MEASURES”;

12 (2) in paragraphs (1) and (2)—

13 (A) by striking “involving” and inserting
14 “or that interim measures are needed to reduce
15 overfishing for”; and

16 (B) by inserting “or interim measures”
17 after “emergency regulations”; and

18 (C) by inserting “or overfishing” after
19 “emergency”; and

20 (3) in paragraph (3)—

21 (A) by inserting “or interim measure”
22 after “emergency regulation” each place such
23 term appears;

24 (B) by striking subparagraph (B);

1 (C) by redesignating subparagraph (C) as
2 subparagraph (D); and

3 (D) by inserting after subparagraph (A)
4 the following:

5 “(B) shall, except as provided in subpara-
6 graph (C), remain in effect for not more than
7 180 days after the date of publication, and may
8 be extended by publication in the Federal Reg-
9 ister for one additional period of not more than
10 180 days, provided the public has had an op-
11 portunity to comment on the emergency regula-
12 tion or interim measure, and, in the case of a
13 Council recommendation for emergency regula-
14 tions or interim measures, the Council is ac-
15 tively preparing a fishery management plan,
16 plan amendment, or proposed regulations to ad-
17 dress the emergency or overfishing on a perma-
18 nent basis;

19 “(C) that responds to a public health
20 emergency or an oil spill may remain in effect
21 until the circumstances that created the emer-
22 gency no longer exist, provided that the public
23 has an opportunity to comment after the regu-
24 lation is published, and, in the case of a public
25 health emergency, the Secretary of Health and

1 Human Services concurs with the Secretary's
2 action; and”.

3 (c) Section 305(e) is amended—

4 (1) by striking “12291, dated February 17,
5 1981,” and inserting “12866, dated September 30,
6 1993,”; and

7 (2) by striking “subsection (c) or section 304(a)
8 and (b)” and inserting “subsections (a), (b), and (c)
9 of section 304”.

10 (d) Section 305, as amended, is further amended by
11 adding at the end the following:

12 “(g) NEGOTIATED CONSERVATION AND MANAGE-
13 MENT MEASURES.—

14 “(1)(A) In accordance with regulations promul-
15 gated by the Secretary pursuant to this paragraph,
16 a Council may establish a fishery negotiation panel
17 to assist in the development of specific conservation
18 and management measures for a fishery under its
19 authority. The Secretary may establish a fishery ne-
20 gotiation panel to assist in the development of spe-
21 cific conservation and management measures re-
22 quired for a fishery under section 304(e)(5), for a
23 fishery for which the Secretary has authority under
24 section 304(g), or for any other fishery with the ap-
25 proval of the appropriate Council.

1 “(B) No later than 180 days after the date of
2 enactment of the Sustainable Fisheries Act, the Sec-
3 retary shall promulgate regulations establishing pro-
4 cedures, developed in cooperation with the Adminis-
5 trative Conference of the United States, for the es-
6 tablishment and operation of fishery negotiation
7 panels. Such procedures shall be comparable to the
8 procedures for negotiated rulemaking established by
9 subchapter III of chapter 5 of title 5, United States
10 Code.

11 “(2) If a negotiation panel submits a report,
12 such report shall specify all the areas where consen-
13 sus was reached by the panel, including, if appro-
14 priate, proposed conservation and management
15 measures, as well as any other information submit-
16 ted by members of the negotiation panel. Upon re-
17 ceipt, the Secretary shall publish such report in the
18 Federal Register for public comment.

19 “(3) Nothing in this subsection shall be con-
20 strued to require either a Council or the Secretary,
21 whichever is appropriate, to use all or any portion of
22 a report from a negotiation panel established under
23 this subsection in the development of specific con-
24 servation and management measures for the fishery
25 for which the panel was established.

1 “(h) CENTRAL REGISTRY SYSTEM FOR LIMITED AC-
2 CESS SYSTEM PERMITS.—

3 “(1) Within 6 months after the date of enact-
4 ment of the Sustainable Fisheries Act, the Secretary
5 shall establish an exclusive central registry system
6 (which may be administered on a regional basis) for
7 limited access system permits established under sec-
8 tion 303(b)(6) or other Federal law, including indi-
9 vidual fishing quotas, which shall provide for the
10 registration of title to, and interests in, such per-
11 mits, as well as for procedures for changes in the
12 registration of title to such permits upon the occur-
13 rence of involuntary transfers, judicial or nonjudicial
14 foreclosure of interests, enforcement of judgments
15 thereon, and related matters deemed appropriate by
16 the Secretary. Such registry system shall—

17 “(A) provide a mechanism for filing notice
18 of a nonjudicial foreclosure or enforcement of a
19 judgment by which the holder of a senior secu-
20 rity interest acquires or conveys ownership of a
21 permit, and in the event of a nonjudicial fore-
22 closure, by which the interests of the holders of
23 junior security interests are released when the
24 permit is transferred;

1 “(B) provide for public access to the infor-
2 mation filed under such system, notwithstand-
3 ing section 402(b); and

4 “(C) provide such notice and other require-
5 ments of applicable law that the Secretary
6 deems necessary for an effective registry sys-
7 tem.

8 “(2) The Secretary shall promulgate such regu-
9 lations as may be necessary to carry out this sub-
10 section, after consulting with the Councils and pro-
11 viding an opportunity for public comment. The Sec-
12 retary is authorized to contract with non-federal en-
13 tities to administer the central registry system.

14 “(3) To be effective and perfected against any
15 person except the transferor, its heirs and devisees,
16 and persons having actual notice thereof, all security
17 interests, and all sales and other transfers of per-
18 mits described in paragraph (1), shall be registered
19 in compliance with the regulations promulgated
20 under paragraph (2). Such registration shall con-
21 stitute the exclusive means of perfection of title to,
22 and security interests in, such permits, except for
23 federal tax liens thereon, which shall be perfected ex-
24 clusively in accordance with the Internal Revenue
25 Code of 1986 (26 U.S.C. 1 et seq.). The Secretary

1 shall notify both the buyer and seller of a permit if
2 a lien has been filed by the Secretary of Treasury
3 against the permit before collecting any transfer fee
4 under paragraph (5) of this subsection.

5 “(4) The priority of security interests shall be
6 determined in order of filing, the first filed having
7 the highest priority. A validly-filed security interest
8 shall remain valid and perfected notwithstanding a
9 change in residence or place of business of the owner
10 of record. For the purposes of this subsection, ‘secu-
11 rity interest’ shall include security interests, assign-
12 ments, liens and other encumbrances of whatever
13 kind.

14 “(5)(A) Notwithstanding section 304(d)(1), the
15 Secretary shall collect a reasonable fee of not more
16 than one-half of one percent of the value of a limited
17 access system permit upon registration of the title to
18 such permit with the central registry system and
19 upon the transfer of such registered title. Any such
20 fee collected shall be deposited in the Limited Access
21 System Administration Fund established under sub-
22 paragraph (B).

23 “(B) There is established in the Treasury a
24 Limited Access System Administration Fund. The
25 Fund shall be available, without appropriation or fis-

1 cal year limitation, only to the Secretary for the pur-
2 poses of—

3 “(i) administering the central registry sys-
4 tem; and

5 “(ii) administering and implementing this
6 Act in the fishery in which the fees were col-
7 lected. Sums in the Fund that are not currently
8 needed for these purposes shall be kept on de-
9 posit or invested in obligations of, or guaran-
10 teed by, the United States.”.

11 (e) **REGISTRY TRANSITION.**—Security interests on
12 permits described under section 305(h)(1) of the Magnu-
13 son Fishery Conservation and Management Act, as
14 amended by this Act, that are effective and perfected by
15 otherwise applicable law on the date of the final regula-
16 tions implementing section 305(h) shall remain effective
17 and perfected if, within 120 days after such date, the se-
18 cured party submits evidence satisfactory to the Secretary
19 of Commerce and in compliance with such regulations of
20 the perfection of such security.

21 **SEC. 111. PACIFIC COMMUNITY FISHERIES.**

22 (a) **HAROLD SPARCK MEMORIAL COMMUNITY DE-**
23 **VELOPMENT QUOTA PROGRAM.**—Section 305, as amend-
24 ed, is amended further by adding at the end:

1 “(i) ALASKA AND WESTERN PACIFIC COMMUNITY
2 DEVELOPMENT PROGRAMS.—

3 “(1)(A) The North Pacific Council and the Sec-
4 retary shall establish a western Alaska community
5 development quota program under which a percent-
6 age of the total allowable catch of any Bering Sea
7 fishery is allocated to the program.

8 “(B) To be eligible to participate in the western
9 Alaska community development quota program
10 under subparagraph (A) a community shall—

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

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

19 “(iii) meet criteria developed by the Gov-
20 ernor of Alaska, approved by the Secretary, and
21 published in the Federal Register;

22 “(iv) be certified by the Secretary of the
23 Interior pursuant to the Alaska Native Claims
24 Settlement Act (43 U.S.C. 1601 et seq.) to be
25 a Native village;

1 “(v) consist of residents who conduct more
2 than one-half of their current commercial or
3 subsistence fishing effort in the waters of the
4 Bering Sea or waters surrounding the Aleutian
5 Islands; and

6 “(vi) not have previously developed har-
7 vesting or processing capability sufficient to
8 support substantial participation in the ground-
9 fish fisheries in the Bering Sea, unless the com-
10 munity can show that the benefits from an ap-
11 proved Community Development Plan would be
12 the only way for the community to realize a re-
13 turn from previous investments.

14 “(C)(i) Prior to October 1, 2001, the North Pa-
15 cific Council may not submit to the Secretary any
16 fishery management plan, plan amendment, or regu-
17 lation that allocates to the western Alaska commu-
18 nity development quota program a percentage of the
19 total allowable catch of any Bering Sea fishery for
20 which, prior to October 1, 1995, the Council had not
21 approved a percentage of the total allowable catch
22 for allocation to such community development quota
23 program. The expiration of any plan, amendment, or
24 regulation that meets the requirements of clause (ii)
25 prior to October 1, 2001, shall not be construed to

1 prohibit the Council from submitting a revision or
2 extension of such plan, amendment, or regulation to
3 the Secretary if such revision or extension complies
4 with the other requirements of this paragraph.

5 “(ii) With respect to a fishery management
6 plan, plan amendment, or regulation for a Bering
7 Sea fishery that—

8 “(I) allocates to the western Alaska com-
9 munity development quota program a percent-
10 age of the total allowable catch of such fishery;
11 and

12 “(II) was approved by the North Pacific
13 Council prior to October 1, 1995;

14 the Secretary shall, except as provided in clause (iii)
15 and after approval of such plan, amendment, or reg-
16 ulation under section 304, allocate to the program
17 the percentage of the total allowable catch described
18 in such plan, amendment, or regulation. Prior to Oc-
19 tober 1, 2001, the percentage submitted by the
20 Council and approved by the Secretary for any such
21 plan, amendment, or regulation shall be no greater
22 than the percentage approved by the Council for
23 such fishery prior to October 1, 1995.

24 “(iii) The Secretary shall phase in the percent-
25 age for community development quotas approved in

1 1995 by the North Pacific Council for the Bering
2 Sea crab fisheries as follows:

3 “(I) 3.5 percent of the total allowable
4 catch of each such fishery for 1998 shall be al-
5 located to the western Alaska community devel-
6 opment quota program;

7 “(II) 5 percent of the total allowable catch
8 of each such fishery for 1999 shall be allocated
9 to the western Alaska community development
10 quota program; and

11 “(III) 7.5 percent of the total allowable
12 catch of each such fishery for 2000 and there-
13 after shall be allocated to the western Alaska
14 community development quota program, unless
15 the North Pacific Council submits and the Sec-
16 retary approves a percentage that is no greater
17 than 7.5 percent of the total allowable catch of
18 each such fishery for 2001 or the North Pacific
19 Council submits and the Secretary approves any
20 other percentage on or after October 1, 2001.

21 “(D) This paragraph shall not be construed to
22 require the North Pacific Council to resubmit, or the
23 Secretary to reapprove, any fishery management
24 plan or plan amendment approved by the North Pa-
25 cific Council prior to October 1, 1995, that includes

1 a community development quota program, or any
2 regulations to implement such plan or amendment.

3 “(2)(A) The Western Pacific Council and the
4 Secretary may establish a western Pacific commu-
5 nity development program for any fishery under the
6 authority of such Council in order to provide access
7 to such fishery for western Pacific communities that
8 participate in the program.

9 “(B) To be eligible to participate in the western
10 Pacific community development program, a commu-
11 nity shall—

12 “(i) be located within the Western Pacific
13 Regional Fishery Management Area;

14 “(ii) meet criteria developed by the West-
15 ern Pacific Council, approved by the Secretary
16 and published in the Federal Register;

17 “(iii) consist of community residents who
18 are descended from the aboriginal people indig-
19 enous to the area who conducted commercial or
20 subsistence fishing using traditional fishing
21 practices in the waters of the Western Pacific
22 region;

23 “(iv) not have previously developed har-
24 vesting or processing capability sufficient to
25 support substantial participation in fisheries in

1 the Western Pacific Regional Fishery Manage-
2 ment Area; and

3 “(v) develop and submit a Community De-
4 velopment Plan to the Western Pacific Council
5 and the Secretary.

6 “(C) In developing the criteria for eligible com-
7 munities under subparagraph (B)(ii), the Western
8 Pacific Council shall base such criteria on traditional
9 fishing practices in or dependence on the fishery, the
10 cultural and social framework relevant to the fish-
11 ery, and economic barriers to access to the fishery.

12 “(D) For the purposes of this subsection ‘West-
13 ern Pacific Regional Fishery Management Area’
14 means the area under the jurisdiction of the West-
15 ern Pacific Council, or an island within such area.

16 “(E) Notwithstanding any other provision of
17 this Act, the Western Pacific Council shall take into
18 account traditional indigenous fishing practices in
19 preparing any fishery management plan.

20 “(3) The Secretary shall deduct from any fees
21 collected from a community development quota pro-
22 gram under section 304(d)(2) the costs incurred by
23 participants in the program for observer and report-
24 ing requirements which are in addition to observer
25 and reporting requirements of other participants in

1 the fishery in which the allocation to such program
2 has been made.

3 “(4) After the date of enactment of the Sus-
4 tainable Fisheries Act, the North Pacific Council
5 and Western Pacific Council may not submit to the
6 Secretary a community development quota program
7 that is not in compliance with this subsection.”.

8 (b) WESTERN PACIFIC DEMONSTRATION
9 PROJECTS.—(1) The Secretary of Commerce and the Sec-
10 retary of the Interior are authorized to make direct grants
11 to eligible western Pacific communities, as recommended
12 by the Western Pacific Fishery Management Council, for
13 the purpose of establishing not less than three and not
14 more than five fishery demonstration projects to foster
15 and promote traditional indigenous fishing practices. The
16 total amount of grants awarded under this subsection
17 shall not exceed \$500,000 in each fiscal year.

18 (2) Demonstration projects funded pursuant to this
19 subsection shall foster and promote the involvement of
20 western Pacific communities in western Pacific fisheries
21 and may—

22 (A) identify and apply traditional indigenous
23 fishing practices;

24 (B) develop or enhance western Pacific commu-
25 nity-based fishing opportunities; and

1 (C) involve research, community education, or
2 the acquisition of materials and equipment necessary
3 to carry out any such demonstration project.

4 (3)(A) The Western Pacific Fishery Management
5 Council, in consultation with the Secretary of Commerce,
6 shall establish an advisory panel under section 302(g) of
7 the Magnuson Fishery Conservation and Management Act
8 (16 U.S.C. 1852(g)) to evaluate, determine the relative
9 merits of, and annually rank applications for such grants.
10 The panel shall consist of not more than 8 individuals who
11 are knowledgeable or experienced in traditional indigenous
12 fishery practices of western Pacific communities and who
13 are not members or employees of the Western Pacific
14 Fishery Management Council.

15 (B) If the Secretary of Commerce or the Secretary
16 of the Interior awards a grant for a demonstration project
17 not in accordance with the rank given to such project by
18 the advisory panel, the Secretary shall provide a detailed
19 written explanation of the reasons therefor.

20 (4) The Western Pacific Fishery Management Coun-
21 cil shall, with the assistance of such advisory panel, submit
22 an annual report to the Congress assessing the status and
23 progress of demonstration projects carried out under this
24 subsection.

1 (5) Appropriate Federal agencies may provide tech-
2 nical assistance to western Pacific community-based enti-
3 ties to assist in carrying out demonstration projects under
4 this subsection.

5 (6) For the purposes of this subsection, ‘western Pa-
6 cific community’ shall mean a community eligible to par-
7 ticipate under section 305(i)(2)(B) of the Magnuson Fish-
8 ery Conservation and Management Act, as amended by
9 this Act.

10 **SEC. 112. STATE JURISDICTION.**

11 (a) Paragraph (3) of section 306(a) (16 U.S.C.
12 1856(a)) is amended to read as follows:

13 “(3) A State may regulate a fishing vessel out-
14 side the boundaries of the State in the following cir-
15 cumstances:

16 “(A) The fishing vessel is registered under
17 the law of that State, and (i) there is no fishery
18 management plan or other applicable federal
19 fishing regulations for the fishery in which the
20 vessel is operating; or (ii) the State’s laws and
21 regulations are consistent with the fishery man-
22 agement plan and applicable federal fishing reg-
23 ulations for the fishery in which the vessel is
24 operating.

1 “(B) The fishery management plan for the
2 fishery in which the fishing vessel is operating
3 delegates management of the fishery to a State
4 and the State’s laws and regulations are con-
5 sistent with such fishery management plan. If
6 at any time the Secretary determines that a
7 State law or regulation applicable to a fishing
8 vessel under this circumstance is not consistent
9 with the fishery management plan, the Sec-
10 retary shall promptly notify the State and the
11 appropriate Council of such determination and
12 provide an opportunity for the State to correct
13 any inconsistencies identified in the notification.
14 If, after notice and opportunity for corrective
15 action, the State does not correct the inconsis-
16 tencies identified by the Secretary, the authority
17 granted to the State under this subparagraph
18 shall not apply until the Secretary and the ap-
19 propriate Council find that the State has cor-
20 rected the inconsistencies. For a fishery for
21 which there was a fishery management plan in
22 place on August 1, 1996 that did not delegate
23 management of the fishery to a State as of that
24 date, the authority provided by this subpara-
25 graph applies only if the Council approves the

1 delegation of management of the fishery to the
2 State by a three-quarters majority vote of the
3 voting members of the Council.

4 “(C) The fishing vessel is not registered
5 under the law of the State of Alaska and is op-
6 erating in a fishery in the exclusive economic
7 zone off Alaska for which there was no fishery
8 management plan in place on August 1, 1996,
9 and the Secretary and the North Pacific Coun-
10 cil find that there is a legitimate interest of the
11 State of Alaska in the conservation and man-
12 agement of such fishery. The authority provided
13 under this subparagraph shall terminate when a
14 fishery management plan under this Act is ap-
15 proved and implemented for such fishery.”.

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

18 “(3) If the State involved requests that a hear-
19 ing be held pursuant to paragraph (1), the Secretary
20 shall conduct such hearing prior to taking any action
21 under paragraph (1).”.

22 (c) Section 306(c)(1) (16 U.S.C. 1856(c)(1)) is
23 amended—

1 (1) by striking “(4)(C); and” in subparagraph
2 (A) and inserting “(4)(C) or has received a permit
3 under section 204(d);”;

4 (2) by striking the period at the end of sub-
5 paragraph (B) and inserting a semicolon and the
6 word “and”; and

7 (3) by inserting after subparagraph (B) the fol-
8 lowing:

9 “(C) the owner or operator of the vessel
10 submits reports on the tonnage of fish received
11 from vessels of the United States and the loca-
12 tions from which such fish were harvested, in
13 accordance with such procedures as the Sec-
14 retary by regulation shall prescribe.”.

15 (d) INTERIM AUTHORITY FOR DUNGENESS CRAB.—

16 (1) Subject to the provisions of this subsection and not-
17 withstanding section 306(a) of the Magnuson Fishery
18 Conservation and Management Act (16 U.S.C. 1856(a)),
19 the States of Washington, Oregon, and California may
20 each enforce State laws and regulations governing fish
21 harvesting and processing against any vessel operating in
22 the exclusive economic zone off each respective State in
23 a fishery for Dungeness crab (*Cancer magister*) for which
24 there is no fishery management plan implemented under

1 the Magnuson Fishery Conservation and Management Act
2 (16 U.S.C. 1801 et seq.).

3 (2) Any law or regulation promulgated under
4 this subsection shall apply equally to vessels operat-
5 ing in the exclusive economic zone and adjacent
6 State waters and shall be limited to—

7 (A) establishment of season opening and
8 closing dates, including presoak dates for crab
9 pots;

10 (B) setting of minimum sizes and crab
11 meat recovery rates;

12 (C) restrictions on the retention of crab of
13 a certain sex; and

14 (D) closure of areas or pot limitations to
15 meet the harvest requirements arising under
16 the jurisdiction of United States v. Washington,
17 subproceeding 89-3.

18 (3) With respect to the States of Washington,
19 Oregon, and California—

20 (A) any State law limiting entry to a fish-
21 ery subject to regulation under this subsection
22 may not be enforced against a vessel that is op-
23 erating in the exclusive economic zone off that
24 State and is not registered under the law of
25 that State, if the vessel is otherwise legally fish-

1 ing in the exclusive economic zone, except that
2 State laws regulating landings may be enforced;
3 and

4 (B) no vessel may harvest or process fish
5 which is subject to regulation under this sub-
6 section unless under an appropriate State per-
7 mit or pursuant to a Federal court order.

8 (4) The authority provided under this sub-
9 section to regulate the Dungeness crab fishery shall
10 terminate on October 1, 1999, or when a fishery
11 management plan is implemented under the Magnu-
12 son Fishery Conservation and Management Act (16
13 U.S.C. 1801 et seq.) for such fishery, whichever date
14 is earlier.

15 (5) Nothing in this subsection shall reduce the
16 authority of any State, as such authority existed on
17 July 1, 1996, to regulate fishing, fish processing, or
18 landing of fish.

19 (6)(A) It is the sense of Congress that the Pa-
20 cific Fishery Management Council, at the earliest
21 practicable date, should develop and submit to the
22 Secretary fishery management plans for shellfish
23 fisheries conducted in the geographic area of author-
24 ity of the Council, especially Dungeness crab, which

1 are not subject to a fishery management plan on the
2 date of enactment of this Act.

3 (B) Not later than December 1, 1997, the Pa-
4 cific Fishery Management Council shall provide a re-
5 port to the Committee on Commerce, Science, and
6 Transportation of the Senate and the Committee on
7 Resources of the House of Representatives describ-
8 ing the progress in developing the fishery manage-
9 ment plans referred to in subparagraph (A) and any
10 impediments to such progress.

11 **SEC. 113. PROHIBITED ACTS.**

12 (a) Section 307(1)(J)(i) (16 U.S.C. 1857(1)(J)(i)) is
13 amended—

14 (1) by striking “plan,” and inserting “plan”;
15 and

16 (2) by inserting before the semicolon the follow-
17 ing: “, or in the absence of any such plan, is smaller
18 than the minimum possession size in effect at the
19 time under a coastal fishery management plan for
20 American lobster adopted by the Atlantic States Ma-
21 rine Fisheries Commission under the Atlantic Coast-
22 al Fisheries Cooperative Management Act (16
23 U.S.C. 5101 et seq.)”.

24 (b) Section 307(1)(K) (16 U.S.C. 1857(1)(K)) is
25 amended—

1 (1) by striking “knowingly steal or without au-
2 thorization, to” and inserting “to steal or attempt to
3 steal or to negligently and without authorization”;
4 and

5 (2) by striking “gear, or attempt to do so;” and
6 insert “gear;”.

7 (c) Section 307(1)(L) (16 U.S.C. 1857(1)(L)) is
8 amended to read as follows:

9 “(L) to forcibly assault, resist, oppose, im-
10 pede, intimidate, sexually harass, bribe, or
11 interfere with any observer on a vessel under
12 this Act, or any data collector employed by the
13 National Marine Fisheries Service or under
14 contract to any person to carry out responsibil-
15 ities under this Act;”.

16 (d) Section 307(1) (16 U.S.C. 1857(1)) is amend-
17 ed—

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

20 (2) by striking “pollock.” in subparagraph (N)
21 and inserting “pollock; or”; and

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

23 “(O) to knowingly and willfully fail to dis-
24 close, or to falsely disclose, any financial inter-
25 est as required under section 302(j), or to

1 knowingly vote on a Council decision in viola-
2 tion of section 302(j)(7)(A).”.

3 (e) Section 307(2)(A) (16 U.S.C. 1857(2)(A)) is
4 amended to read as follows:

5 “(A) in fishing within the boundaries of
6 any State, except—

7 “(i) recreational fishing permitted
8 under section 201(i);

9 “(ii) fish processing permitted under
10 section 306(c); or

11 “(iii) transshipment at sea of fish or
12 fish products within the boundaries of any
13 State in accordance with a permit ap-
14 proved under section 204(d);”.

15 (f) Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is
16 amended—

17 (1) by striking “(j)” and inserting “(i)”; and

18 (2) by striking “204(b) or (c)” and inserting
19 “204(b), (c), or (d)”.

20 (g) Section 307(3) (16 U.S.C. 1857(3)) is amended
21 to read as follows:

22 “(3) for any vessel of the United States, and
23 for the owner or operator of any vessel of the United
24 States, to transfer at sea directly or indirectly, or at-
25 tempt to so transfer at sea, any United States har-

1 vested fish to any foreign fishing vessel, while such
2 foreign vessel is within the exclusive economic zone
3 or within the boundaries of any State except to the
4 extent that the foreign fishing vessel has been per-
5 mitted under section 204(d) or section 306(c) to re-
6 ceive such fish;”.

7 (h) Section 307(4) (16 U.S.C. 1857(4)) is amended
8 by inserting “or within the boundaries of any State” after
9 “zone”.

10 **SEC. 114. CIVIL PENALTIES AND PERMIT SANCTIONS; RE-**
11 **BUTTABLE PRESUMPTIONS.**

12 (a) Section 308(a) (16 U.S.C. 1858(a)) is amended
13 by striking “ability to pay,” and adding at the end the
14 following new sentence: “In assessing such penalty the
15 Secretary may also consider any information provided by
16 the violator relating to the ability of the violator to pay,
17 provided that the information is served on the Secretary
18 at least 30 days prior to an administrative hearing.”.

19 (b) The first sentence of section 308(b) (16 U.S.C.
20 1858(b)) is amended to read as follows: “Any person
21 against whom a civil penalty is assessed under subsection
22 (a) or against whom a permit sanction is imposed under
23 subsection (g) (other than a permit suspension for nonpay-
24 ment of penalty or fine) may obtain review thereof in the
25 United States district court for the appropriate district by

1 filing a complaint against the Secretary in such court
2 within 30 days from the date of such order.”.

3 (c) Section 308(g)(1)(C) (16 U.S.C. 1858(g)(1)(C))
4 is amended by striking the matter from “or (C) any”
5 through “overdue,” and inserting the following: “(C) any
6 amount in settlement of a civil forfeiture imposed on a
7 vessel or other property, or any civil penalty or criminal
8 fine imposed on a vessel or owner or operator of a vessel
9 or any other person who has been issued or has applied
10 for a permit under any marine resource law enforced by
11 the Secretary has not been paid and is overdue, or (D)
12 any payment required for observer services provided to or
13 contracted by an owner or operator who has been issued
14 a permit or applied for a permit under any marine re-
15 source law administered by the Secretary has not been
16 paid and is overdue,”.

17 (d) Section 310(e) (16 U.S.C. 1860(e)) is amended
18 by adding at the end the following new paragraph:

19 “(3) For purposes of this Act, it shall be a re-
20 buttable presumption that any vessel that is shore-
21 ward of the outer boundary of the exclusive eco-
22 nomic zone of the United States or beyond the ex-
23 clusive economic zone of any nation, and that has
24 gear on board that is capable of use for large-scale
25 driftnet fishing, is engaged in such fishing.”.

1 **SEC. 115. ENFORCEMENT.**

2 (a) The second sentence of section 311(d) (16 U.S.C.
3 1861(d)) is amended—

4 (1) by striking “Guam, any Commonwealth,
5 territory, or” and inserting “Guam or any”; and

6 (2) by inserting a comma before the period and
7 the following: “and except that in the case of the
8 Northern Mariana Islands, the appropriate court is
9 the United States District Court for the District of
10 the Northern Mariana Islands”.

11 (b) Section 311(e)(1) (16 U.S.C. 1861(e)(1)) is
12 amended—

13 (1) by striking “fishery” each place it appears
14 and inserting “marine”;

15 (2) by inserting “of not less than 20 percent of
16 the penalty collected or \$20,000, whichever is the
17 lesser amount,” after “reward” in subparagraph
18 (B), and

19 (3) by striking subparagraph (E) and inserting
20 the following:

21 “(E) claims of parties in interest to prop-
22 erty disposed of under section 612(b) of the
23 Tariff Act of 1930 (19 U.S.C. 1612(b)), as
24 made applicable by section 310(e) of this Act or
25 by any other marine resource law enforced by
26 the Secretary, to seizures made by the Sec-

1 retary, in amounts determined by the Secretary
2 to be applicable to such claims at the time of
3 seizure; and”.

4 (c) Section 311(e)(2) (16 U.S.C. 1861(e)(2)) is
5 amended to read as follows:

6 “(2) Any person found in an administrative or
7 judicial proceeding to have violated this Act or any
8 other marine resource law enforced by the Secretary
9 shall be liable for the cost incurred in the sale, stor-
10 age, care, and maintenance of any fish or other
11 property lawfully seized in connection with the viola-
12 tion.”.

13 (d) Section 311 (16 U.S.C. 1861) is amended by re-
14 designating subsection (g) as subsection (h) , and by in-
15 serting the following after subsection (f):

16 “(g) ENFORCEMENT IN THE PACIFIC INSULAR
17 AREAS.—The Secretary, in consultation with the Gov-
18 ernors of the Pacific Insular Areas and the Western Pa-
19 cific Council, shall to the extent practicable support coop-
20 erative enforcement agreements between Federal and Pa-
21 cific Insular Area authorities.”.

22 (e) Section 311 (16 U.S.C. 1861), as amended by
23 subsection (d), is amended by striking “201(b), (c),” in
24 subsection (i)(1), as redesignated, and inserting “201(b)
25 or (c), or section 204(d),”.

1 **SEC. 116. TRANSITION TO SUSTAINABLE FISHERIES.**

2 (a) Section 312 is amended to read as follows:

3 **“SEC. 312. TRANSITION TO SUSTAINABLE FISHERIES.**

4 “(a) **FISHERIES DISASTER RELIEF.**—(1) At the dis-
5 cretion of the Secretary or at the request of the Governor
6 of an affected State or a fishing community, the Secretary
7 shall determine whether there is a commercial fishery fail-
8 ure due to a fishery resource disaster as a result of—

9 “(A) natural causes;

10 “(B) man-made causes beyond the control of
11 fishery managers to mitigate through conservation
12 and management measures; or

13 “(C) undetermined causes.

14 “(2) Upon the determination under paragraph (1)
15 that there is a commercial fishery failure, the Secretary
16 is authorized to make sums available to be used by the
17 affected State, fishing community, or by the Secretary in
18 cooperation with the affected State or fishing community
19 for assessing the economic and social effects of the com-
20 mercial fishery failure, or any activity that the Secretary
21 determines is appropriate to restore the fishery or prevent
22 a similar failure in the future and to assist a fishing com-
23 munity affected by such failure. Before making funds
24 available for an activity authorized under this section, the
25 Secretary shall make a determination that such activity
26 will not expand the size or scope of the commercial fishery

1 failure in that fishery or into other fisheries or other geo-
2 graphic regions.

3 “(3) The Federal share of the cost of any activity
4 carried out under the authority of this subsection shall not
5 exceed 75 percent of the cost of that activity.

6 “(4) There are authorized to be appropriated to the
7 Secretary such sums as are necessary for each of the fiscal
8 years 1996, 1997, 1998, and 1999.

9 “(b) FISHING CAPACITY REDUCTION PROGRAM.—(1)
10 The Secretary, at the request of the appropriate Council
11 for fisheries under the authority of such Council, or the
12 Governor of a State for fisheries under State authority,
13 may conduct a fishing capacity reduction program (re-
14 ferred to in this section as the ‘program’) in a fishery if
15 the Secretary determines that the program—

16 “(A) is necessary to prevent or end overfishing,
17 rebuild stocks of fish, or achieve measurable and sig-
18 nificant improvements in the conservation and man-
19 agement of the fishery;

20 “(B) is consistent with the federal or State fish-
21 ery management plan or program in effect for such
22 fishery, as appropriate, and that the fishery manage-
23 ment plan—

24 “(i) will prevent the replacement of fishing
25 capacity removed by the program through a

1 moratorium on new entrants, restrictions on
2 vessel upgrades, and other effort control meas-
3 ures, taking into account the full potential fish-
4 ing capacity of the fleet; and

5 “(ii) establishes a specified or target total
6 allowable catch or other measures that trigger
7 closure of the fishery or adjustments to reduce
8 catch; and

9 “(C) is cost-effective and capable of repaying
10 any debt obligation incurred under section 1111 of
11 title XI of the Merchant Marine Act, 1936.

12 “(2) The objective of the program shall be to obtain
13 the maximum sustained reduction in fishing capacity at
14 the least cost and in a minimum period of time. To achieve
15 that objective, the Secretary is authorized to pay—

16 “(A) the owner of a fishing vessel, if such vessel
17 is (i) scrapped, or (ii) through the Secretary of the
18 department in which the Coast Guard is operating,
19 subjected to title restrictions that permanently pro-
20 hibit and effectively prevent its use in fishing, and
21 if the permit authorizing the participation of the
22 vessel in the fishery is surrendered for permanent
23 revocation and the owner relinquishes any claim as-
24 sociated with the vessel and permit that could qual-
25 ify such owner for any present or future limited ac-

1 cess system permit in the fishery for which the pro-
2 gram is established; or

3 “(B) the holder of a permit authorizing partici-
4 pation in the fishery, if such permit is surrendered
5 for permanent revocation, and such holder relin-
6 quishes any claim associated with the permit and
7 vessel used to harvest fishery resources under the
8 permit that could qualify such holder for any present
9 or future limited access system permit in the fishery
10 for which the program was established.

11 “(3) Participation in the program shall be voluntary,
12 but the Secretary shall ensure compliance by all who do
13 participate.

14 “(4) The Secretary shall consult, as appropriate, with
15 Councils, Federal agencies, State and regional authorities,
16 affected fishing communities, participants in the fishery,
17 conservation organizations, and other interested parties
18 throughout the development and implementation of any
19 program under this section.

20 “(c) PROGRAM FUNDING.—(1) The program may be
21 funded by any combination of amounts—

22 “(A) available under clause (iv) of section
23 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C.
24 713c-3(b)(1)(A); the Saltonstall-Kennedy Act);

1 “(B) appropriated for the purposes of this sec-
2 tion;

3 “(C) provided by an industry fee system estab-
4 lished under subsection (d) and in accordance with
5 section 1111 of title XI of the Merchant Marine Act,
6 1936; or

7 “(D) provided from any State or other public
8 sources or private or non-profit organizations.

9 “(2) All funds for the program, including any fees
10 established under subsection (d), shall be paid into the
11 fishing capacity reduction fund established under section
12 1111 of title XI of the Merchant Marine Act, 1936.

13 “(d) INDUSTRY FEE SYSTEM.—(1)(A) If an industry
14 fee system is necessary to fund the program, the Sec-
15 retary, at the request of the appropriate Council, may con-
16 duct a referendum on such system. Prior to the referen-
17 dum, the Secretary, in consultation with the Council,
18 shall—

19 “(i) identify, to the extent practicable, and no-
20 tify all permit or vessel owners who would be af-
21 fected by the program; and

22 “(ii) make available to such owners information
23 about the industry fee system describing the sched-
24 ule, procedures, and eligibility requirements for the
25 referendum, the proposed program, and the amount

1 and duration and any other terms and conditions of
2 the proposed fee system.

3 “(B) The industry fee system shall be considered ap-
4 proved if the referendum votes which are cast in favor of
5 the proposed system constitute a two-thirds majority of
6 the participants voting.

7 “(2) Notwithstanding section 304(d) and consistent
8 with an approved industry fee system, the Secretary is au-
9 thorized to establish such a system to fund the program
10 and repay debt obligations incurred pursuant to section
11 1111 of title XI of the Merchant Marine Act, 1936. The
12 fees for a program established under this section shall—

13 “(A) be determined by the Secretary and ad-
14 justed from time to time as the Secretary considers
15 necessary to ensure the availability of sufficient
16 funds to repay such debt obligations;

17 “(B) not exceed 5 percent of the ex-vessel value
18 of all fish harvested from the fishery for which the
19 program is established;

20 “(C) be deducted by the first ex-vessel fish pur-
21 chaser from the proceeds otherwise payable to the
22 seller and accounted for and forwarded by such fish
23 purchasers to the Secretary in such manner as the
24 Secretary may establish; and

1 “(D) be in effect only until such time as the
2 debt obligation has been fully paid.

3 “(e) IMPLEMENTATION PLAN.—(1) The Secretary, in
4 consultation with the appropriate Council or State and
5 other interested parties, shall prepare and publish in the
6 Federal Register for a 60-day public comment period an
7 implementation plan, including proposed regulations, for
8 each program. The implementation plan shall—

9 “(A) define criteria for determining types and
10 numbers of vessels which are eligible for participa-
11 tion in the program taking into account characteris-
12 tics of the fishery, the requirements of applicable
13 fishery management plans, the needs of fishing com-
14 munities, and the need to minimize program costs;
15 and

16 “(B) establish procedures for program partici-
17 pation (such as submission of owner bid under an
18 auction system or fair market-value assessment) in-
19 cluding any terms and conditions for participation
20 which the Secretary deems to be reasonably nec-
21 essary to meet the goals of the program.

22 “(2) During the 60-day public comment period—

23 “(A) the Secretary shall conduct a public hear-
24 ing in each State affected by the program; and

1 “(B) the appropriate Council or State shall sub-
2 mit its comments and recommendations, if any, re-
3 garding the plan and regulations.

4 “(3) Within 45 days after the close of the public com-
5 ment period, the Secretary, in consultation with the appro-
6 priate Council or State, shall analyze the public comment
7 received and publish in the Federal Register a final imple-
8 mentation plan for the program and regulations for its
9 implementation. The Secretary may not adopt a final im-
10 plementation plan involving industry fees or debt obliga-
11 tion unless an industry fee system has been approved by
12 a referendum under this section.”.

13 (b) STUDY OF FEDERAL INVESTMENT.—The Sec-
14 retary of Commerce shall establish a task force comprised
15 of interested parties to study and report to the Committee
16 on Commerce, Science, and Transportation of the Senate
17 and the Committee on Resources of the House of Rep-
18 resentatives within 2 years of the date of enactment of
19 this Act on the role of the Federal Government in—

20 (1) subsidizing the expansion and contraction of
21 fishing capacity in fishing fleets managed under the
22 Magnuson Fishery Conservation and Management
23 Act (16 U.S.C. 1801 et seq.); and

24 (2) otherwise influencing the aggregate capital
25 investments in fisheries.

1 (c) Section 2(b)(1)(A) of the Act of August 11, 1939
 2 (15 U.S.C. 713c3(b)(1)(A)) is amended—

3 (1) by striking “and” at the end of clause (ii);

4 (2) by striking the period at the end of clause
 5 (iii) and inserting a semicolon and the word “and”;

6 and

7 (3) by adding at the end the following new
 8 clause:

9 “(iv) to fund the Federal share of a
 10 fishing capacity reduction program estab-
 11 lished under section 312 of the Magnuson
 12 Fishery Conservation and Management
 13 Act; and”.

14 **SEC. 117. NORTH PACIFIC AND NORTHWEST ATLANTIC**
 15 **OCEAN FISHERIES.**

16 (a) NORTH PACIFIC FISHERIES CONSERVATION.—
 17 Section 313 (16 U.S.C. 1862) is amended—

18 (1) by striking “RESEARCH PLAN” in the
 19 section heading and inserting “CONSERVATION”;

20 (2) in subsection (a) by striking “North Pacific
 21 Fishery Management Council” and inserting “North
 22 Pacific Council”; and

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

24 “(f) BYCATCH REDUCTION.—In implementing sec-
 25 tion 303(a)(11) and this section, the North Pacific Council

1 shall submit conservation and management measures to
2 lower, on an annual basis for a period of not less than
3 four years, the total amount of economic discards occur-
4 ring in the fisheries under its jurisdiction.

5 “(g) BYCATCH REDUCTION INCENTIVES.—(1) Not-
6 withstanding section 304(d), the North Pacific Council
7 may submit, and the Secretary may approve, consistent
8 with the provisions of this Act, a system of fines in a fish-
9 ery to provide incentives to reduce bycatch and bycatch
10 rates; except that such fines shall not exceed \$25,000 per
11 vessel per season. Any fines collected shall be deposited
12 in the North Pacific Fishery Observer Fund, and may be
13 made available by the Secretary to offset costs related to
14 the reduction of bycatch in the fishery from which such
15 fines were derived, including conservation and manage-
16 ment measures and research, and to the State of Alaska
17 to offset costs incurred by the State in the fishery from
18 which such penalties were derived or in fisheries in which
19 the State is directly involved in management or enforce-
20 ment and which are directly affected by the fishery from
21 which such penalties were derived.

22 “(2)(A) Notwithstanding section 303(d), and in addi-
23 tion to the authority provided in section 303(b)(10), the
24 North Pacific Council may submit, and the Secretary may
25 approve, conservation and management measures which

1 provide allocations of regulatory discards to individual
2 fishing vessels as an incentive to reduce per vessel bycatch
3 and bycatch rates in a fishery, provided that—

4 “(i) such allocations may not be transferred for
5 monetary consideration and are made only on an an-
6 nual basis; and

7 “(ii) any such conservation and management
8 measures will meet the requirements of subsection
9 (h) and will result in an actual reduction in regu-
10 latory discards in the fishery.

11 “(B) The North Pacific Council may submit restric-
12 tions in addition to the restriction imposed by clause (i)
13 of subparagraph (A) on the transferability of any such al-
14 locations, and the Secretary may approve such rec-
15 ommendation.

16 “(h) CATCH MEASUREMENT.—(1) By June 1, 1997
17 the North Pacific Council shall submit, and the Secretary
18 may approve, consistent with the other provisions of this
19 Act, conservation and management measures to ensure
20 total catch measurement in each fishery under the juris-
21 diction of such Council. Such measures shall ensure the
22 accurate enumeration, at a minimum, of target species,
23 economic discards, and regulatory discards.

24 “(2) To the extent the measures submitted under
25 paragraph (1) do not require United States fish processors

1 and fish processing vessels (as defined in chapter 21 of
2 title 46, United States Code) to weigh fish, the North Pa-
3 cific Council and the Secretary shall submit a plan to the
4 Congress by January 1, 1998, to allow for weighing, in-
5 cluding recommendations to assist such processors and
6 processing vessels in acquiring necessary equipment, un-
7 less the Council determines that such weighing is not nec-
8 essary to meet the requirements of this subsection.

9 “(i) FULL RETENTION AND UTILIZATION.—(1) The
10 North Pacific Council shall submit to the Secretary by Oc-
11 tober 1, 1998 a report on the advisability of requiring the
12 full retention by fishing vessels and full utilization by
13 United States fish processors of economic discards in fish-
14 eries under its jurisdiction if such economic discards, or
15 the mortality of such economic discards, cannot be avoid-
16 ed. The report shall address the projected impacts of such
17 requirements on participants in the fishery and describe
18 any full retention and full utilization requirements that
19 have been implemented.

20 “(2) The report shall address the advisability of
21 measures to minimize processing waste, including stand-
22 ards setting minimum percentages which must be proc-
23 essed for human consumption. For the purpose of the re-
24 port, ‘processing waste’ means that portion of any fish
25 which is processed and which could be used for human

1 consumption or other commercial use, but which is not
2 so used.”.

3 (b) NORTHWEST ATLANTIC OCEAN FISHERIES.—
4 Section 314 (16 U.S.C. 1863) is amended by striking
5 “1997” in subsection (a)(4) and inserting “1999”.

6 **TITLE II—FISHERY MONITORING**
7 **AND RESEARCH**

8 **SEC. 201. CHANGE OF TITLE.**

9 The heading of title IV (16 U.S.C. 1881 et seq.) is
10 amended to read as follows:

11 **“TITLE IV—FISHERY**
12 **MONITORING AND RESEARCH”.**

13 **SEC. 202. REGISTRATION AND INFORMATION MANAGE-**
14 **MENT.**

15 Title IV (16 U.S.C. 1881 et seq.) is amended by in-
16 serting after the title heading the following:

17 **“SEC. 401. REGISTRATION AND INFORMATION MANAGE-**
18 **MENT.**

19 “(a) STANDARDIZED FISHING VESSEL REGISTRA-
20 TION AND INFORMATION MANAGEMENT SYSTEM.—The
21 Secretary shall, in cooperation with the Secretary of the
22 department in which the Coast Guard is operating, the
23 States, the Councils, and Marine Fisheries Commissions,
24 develop recommendations for implementation of a stand-
25 ardized fishing vessel registration and information man-

1 agement system on a regional basis. The recommendations
2 shall be developed after consultation with interested gov-
3 ernmental and nongovernmental parties and shall—

4 “(1) be designed to standardize the require-
5 ments of vessel registration and information collec-
6 tion systems required by this Act, the Marine Mam-
7 mal Protection Act (16 U.S.C. 1361 et seq.), and
8 any other marine resource law implemented by the
9 Secretary, and, with the permission of a State, any
10 marine resource law implemented by such State;

11 “(2) integrate information collection programs
12 under existing fishery management plans into a non-
13 duplicative information collection and management
14 system;

15 “(3) avoid duplication of existing state, tribal,
16 or federal systems and shall utilize, to the maximum
17 extent practicable, information collected from exist-
18 ing systems;

19 “(4) provide for implementation of the system
20 through cooperative agreements with appropriate
21 State, regional, or tribal entities and Marine Fish-
22 eries Commissions;

23 “(5) provide for funding (subject to appropria-
24 tions) to assist appropriate State, regional, or tribal

1 entities and Marine Fisheries Commissions in imple-
2 mentation;

3 “(6) establish standardized units of measure-
4 ment, nomenclature, and formats for the collection
5 and submission of information;

6 “(7) minimize the paperwork required for ves-
7 sels registered under the system;

8 “(8) include all species of fish within the geo-
9 graphic areas of authority of the Councils and all
10 fishing vessels including charter fishing vessels, but
11 excluding recreational fishing vessels;

12 “(9) require United States fish processors, and
13 fish dealers and other first ex-vessel purchasers of
14 fish that are subject to the proposed system, to sub-
15 mit information (other than economic information)
16 which may be necessary to meet the goals of the pro-
17 posed system; and

18 “(10) include procedures necessary to ensure—

19 “(A) the confidentiality of information col-
20 lected under this section in accordance with sec-
21 tion 402(b); and

22 “(B) the timely release or availability to
23 the public of information collected under this
24 section consistent with section 402(b).

1 “(b) FISHING VESSEL REGISTRATION.—The pro-
2 posed registration system should, at a minimum, obtain
3 the following information for each fishing vessel—

4 “(1) the name and official number or other
5 identification, together with the name and address of
6 the owner or operator or both;

7 “(2) gross tonnage, vessel capacity, type and
8 quantity of fishing gear, mode of operation (catcher,
9 catcher processor, or other), and such other perti-
10 nent information with respect to vessel characteris-
11 tics as the Secretary may require; and

12 “(3) identification (by species, gear type, geo-
13 graphic area of operations, and season) of the fish-
14 eries in which the fishing vessel participates.

15 “(c) FISHERY INFORMATION.—The proposed infor-
16 mation management system should, at a minimum, pro-
17 vide basic fisheries performance information for each fish-
18 ery, including—

19 “(1) the number of vessels participating in the
20 fishery including charter fishing vessels;

21 “(2) the time period in which the fishery oc-
22 curs;

23 “(3) the approximate geographic location or of-
24 ficial reporting area where the fishery occurs;

1 “(4) a description of fishing gear used in the
2 fishery, including the amount and type of such gear
3 and the appropriate unit of fishing effort; and

4 “(5) other information required under sub-
5 section 303(a)(5) or requested by the Council under
6 section 402 .

7 “(d) USE OF REGISTRATION.—Any registration rec-
8 ommended under this section shall not be considered a
9 permit for the purposes of this Act, and the Secretary may
10 not propose to revoke, suspend, deny, or impose any other
11 conditions or restrictions on any such registration or the
12 use of such registration under this Act.

13 “(e) PUBLIC COMMENT.—Within one year after the
14 date of enactment of the Sustainable Fisheries Act, the
15 Secretary shall publish in the Federal Register for a 60-
16 day public comment period a proposal that would provide
17 for implementation of a standardized fishing vessel reg-
18 istration and information collection system that meets the
19 requirements of subsections (a) through (c). The proposal
20 shall include—

21 “(1) a description of the arrangements of the
22 Secretary for consultation and cooperation with the
23 department in which the Coast Guard is operating,
24 the States, the Councils, Marine Fisheries Commis-

1 sions, the fishing industry and other interested par-
2 ties; and

3 “(2) any proposed regulations or legislation
4 necessary to implement the proposal.

5 “(f) CONGRESSIONAL TRANSMITTAL.—Within 60
6 days after the end of the comment period and after consid-
7 eration of comments received under subsection (e), the
8 Secretary shall transmit to the Committee on Commerce,
9 Science, and Transportation of the Senate and the Com-
10 mittee on Resources of the House of Representatives a
11 recommended proposal for implementation of a national
12 fishing vessel registration system that includes—

13 “(1) any modifications made after comment and
14 consultation;

15 “(2) a proposed implementation schedule, in-
16 cluding a schedule for the proposed cooperative
17 agreements required under subsection (a)(4); and

18 “(3) recommendations for any such additional
19 legislation as the Secretary considers necessary or
20 desirable to implement the proposed system.

21 “(g) REPORT TO CONGRESS.—Within 15 months
22 after the date of enactment of the Sustainable Fisheries
23 Act, the Secretary shall report to Congress on the need
24 to include recreational fishing vessels into a national fish-
25 ing vessel registration and information collection system.

1 In preparing its report, the Secretary shall cooperate with
2 the Secretary of the department in which the Coast Guard
3 is operating, the States, the Councils, and Marine Fish-
4 eries Commissions, and consult with governmental and
5 nongovernmental parties.”.

6 **SEC. 203. INFORMATION COLLECTION.**

7 Section 402 is amended to read as follows:

8 **“SEC. 402. INFORMATION COLLECTION.**

9 “(a) COUNCIL REQUESTS.—If a Council determines
10 that additional information (other than information that
11 would disclose proprietary or confidential commercial or
12 financial information regarding fishing operations or fish
13 processing operations) would be beneficial for developing,
14 implementing, or revising a fishery management plan or
15 for determining whether a fishery is in need of manage-
16 ment, the Council may request that the Secretary imple-
17 ment an information collection program for the fishery
18 which would provide the types of information (other than
19 information that would disclose proprietary or confidential
20 commercial or financial information regarding fishing op-
21 erations or fish processing operations) specified by the
22 Council. The Secretary shall undertake such an informa-
23 tion collection program if he determines that the need is
24 justified, and shall promulgate regulations to implement
25 the program within 60 days after such determination is

1 made. If the Secretary determines that the need for an
2 information collection program is not justified, the Sec-
3 retary shall inform the Council of the reasons for such
4 determination in writing. The determinations of the Sec-
5 retary under this subsection regarding a Council request
6 shall be made within a reasonable period of time after re-
7 ceipt of that request.

8 “(b) CONFIDENTIALITY OF INFORMATION.—(1) Any
9 information submitted to the Secretary by any person in
10 compliance with any requirement under this Act shall be
11 confidential and shall not be disclosed, except—

12 “(A) to Federal employees and Council employ-
13 ees who are responsible for fishery management plan
14 development and monitoring;

15 “(B) to State or Marine Fisheries Commission
16 employees pursuant to an agreement with the Sec-
17 retary that prevents public disclosure of the identity
18 or business of any person;

19 “(C) when required by court order;

20 “(D) when such information is used to verify
21 catch under an individual fishing quota program;

22 “(E) that observer information collected in fish-
23 eries under the authority of the North Pacific Coun-
24 cil may be released to the public as specified in a
25 fishery management plan or regulation for weekly

1 summary bycatch information identified by vessel,
2 and for haul-specific bycatch information without
3 vessel identification; or

4 “(F) when the Secretary has obtained written
5 authorization from the person submitting such infor-
6 mation to release such information to persons for
7 reasons not otherwise provided for in this subsection,
8 and such release does not violate other requirements
9 of this Act.

10 “(2) The Secretary shall, by regulation, prescribe
11 such procedures as may be necessary to preserve the con-
12 fidentiality of information submitted in compliance with
13 any requirement or regulation under this Act, except that
14 the Secretary may release or make public any such infor-
15 mation in any aggregate or summary form which does not
16 directly or indirectly disclose the identity or business of
17 any person who submits such information. Nothing in this
18 subsection shall be interpreted or construed to prevent the
19 use for conservation and management purposes by the
20 Secretary, or with the approval of the Secretary, the Coun-
21 cil, of any information submitted in compliance with any
22 requirement or regulation under this Act or the use, re-
23 lease, or publication of bycatch information pursuant to
24 paragraph (1)(E) .

1 “(c) RESTRICTION ON USE OF CERTAIN INFORMA-
2 TION.—(1) The Secretary shall promulgate regulations to
3 restrict the use, in civil enforcement or criminal proceed-
4 ings under this Act, the Marine Mammal Protection Act
5 of 1972 (16 U.S.C. 1361 et seq.), and the Endangered
6 Species Act (16 U.S.C. 1531 et seq.), of information col-
7 lected by voluntary fishery data collectors, including sea
8 samplers, while aboard any vessel for conservation and
9 management purposes if the presence of such a fishery
10 data collector aboard is not required by any of such Acts
11 or regulations thereunder.

12 “(2) The Secretary may not require the submission
13 of a federal or State income tax return or statement as
14 a prerequisite for issuance of a permit until such time as
15 the Secretary has promulgated regulations to ensure the
16 confidentiality of information contained in such return or
17 statement, to limit the information submitted to that nec-
18 essary to achieve a demonstrated conservation and man-
19 agement purpose, and to provide appropriate penalties for
20 violation of such regulations.

21 “(d) CONTRACTING AUTHORITY.—Notwithstanding
22 any other provision of law, the Secretary may provide a
23 grant, contract, or other financial assistance on a sole-
24 source basis to a State, Council, or Marine Fisheries Com-

1 mission for the purpose of carrying out information collec-
2 tion or other programs if—

3 “(1) the recipient of such a grant, contract, or
4 other financial assistance is specified by statute to
5 be, or has customarily been, such State, Council, or
6 Marine Fisheries Commission; or

7 “(2) the Secretary has entered into a coopera-
8 tive agreement with such State, Council, or Marine
9 Fisheries Commission.

10 “(e) RESOURCE ASSESSMENTS.—(1) The Secretary
11 may use the private sector to provide vessels, equipment,
12 and services necessary to survey the fishery resources of
13 the United States when the arrangement will yield statis-
14 tically reliable results.

15 “(2) The Secretary, in consultation with the ap-
16 propriate Council and the fishing industry—

17 “(A) may structure competitive sollicita-
18 tions under paragraph (1) so as to compensate
19 a contractor for a fishery resources survey by
20 allowing the contractor to retain for sale fish
21 harvested during the survey voyage;

22 “(B) in the case of a survey during which
23 the quantity or quality of fish harvested is not
24 expected to be adequately compensatory, may
25 structure those sollicitations so as to provide

1 that compensation by permitting the contractor
2 to harvest on a subsequent voyage and retain
3 for sale a portion of the allowable catch of the
4 surveyed fishery; and

5 “(C) may permit fish harvested during
6 such survey to count towards a vessel’s catch
7 history under a fishery management plan if
8 such survey was conducted in a manner that
9 precluded a vessel’s participation in a fishery
10 that counted under the plan for purposes of de-
11 termining catch history.

12 “(3) The Secretary shall undertake efforts to expand
13 annual fishery resource assessments in all regions of the
14 Nation.”.

15 **SEC. 204. OBSERVERS.**

16 Section 403 is amended to read as follows:

17 **“SEC. 403. OBSERVERS.**

18 “(a) GUIDELINES FOR CARRYING OBSERVERS.—
19 Within one year after the date of enactment of the Sus-
20 tainable Fisheries Act, the Secretary shall promulgate reg-
21 ulations, after notice and opportunity for public comment,
22 for fishing vessels that carry observers. The regulations
23 shall include guidelines for determining—

24 “(1) when a vessel is not required to carry an
25 observer on board because the facilities of such ves-

1 sel for the quartering of an observer, or for carrying
2 out observer functions, are so inadequate or unsafe
3 that the health or safety of the observer or the safe
4 operation of the vessel would be jeopardized; and

5 “(2) actions which vessel owners or operators
6 may reasonably be required to take to render such
7 facilities adequate and safe.

8 “(b) TRAINING.—The Secretary, in cooperation with
9 the appropriate States and the National Sea Grant College
10 Program, shall—

11 “(1) establish programs to ensure that each ob-
12 server receives adequate training in collecting and
13 analyzing the information necessary for the con-
14 servation and management purposes of the fishery to
15 which such observer is assigned;

16 “(2) require that an observer demonstrate com-
17 petence in fisheries science and statistical analysis at
18 a level sufficient to enable such person to fulfill the
19 responsibilities of the position;

20 “(3) ensure that an observer has received ade-
21 quate training in basic vessel safety; and

22 “(4) make use of university and any appro-
23 priate private nonprofit organization training facili-
24 ties and resources, where possible, in carrying out
25 this subsection.

1 “(c) OBSERVER STATUS.—An observer on a vessel
2 and under contract to carry out responsibilities under this
3 Act or the Marine Mammal Protection Act of 1972 (16
4 U.S.C. 1361 et seq.) shall be deemed to be a Federal em-
5 ployee for the purpose of compensation under the Federal
6 Employee Compensation Act (5 U.S.C. 8101 et seq.).”.

7 **SEC. 205. FISHERIES RESEARCH.**

8 Section 404 is amended to read as follows:

9 **“SEC. 404. FISHERIES RESEARCH.**

10 “(a) IN GENERAL.—The Secretary shall initiate and
11 maintain, in cooperation with the Councils, a comprehen-
12 sive program of fishery research to carry out and further
13 the purposes, policy, and provisions of this Act. Such pro-
14 gram shall be designed to acquire knowledge and informa-
15 tion, including statistics, on fishery conservation and man-
16 agement and on the economics and social characteristics
17 of the fisheries.

18 “(b) STRATEGIC PLAN.—Within one year after the
19 date of enactment of the Sustainable Fisheries Act, and
20 at least every 3 years thereafter, the Secretary shall de-
21 velop and publish in the Federal Register a strategic plan
22 for fisheries research for the five years immediately follow-
23 ing such publication. The plan shall—

24 “(1) identify and describe a comprehensive pro-
25 gram with a limited number of priority objectives for

1 research in each of the areas specified in subsection
2 (c);

3 “(2) indicate goals and timetables for the pro-
4 gram described in paragraph (1);

5 “(3) provide a role for commercial fishermen in
6 such research, including involvement in field testing;

7 “(4) provide for collection and dissemination, in
8 a timely manner, of complete and accurate informa-
9 tion concerning fishing activities, catch, effort, stock
10 assessments, and other research conducted under
11 this section; and

12 “(5) be developed in cooperation with the Coun-
13 cils and affected States, and provide for coordination
14 with the Councils, affected States, and other re-
15 search entities.

16 “(c) AREAS OF RESEARCH.—Areas of research are
17 as follows:

18 “(1) Research to support fishery conservation
19 and management, including but not limited to, bio-
20 logical research concerning the abundance and life
21 history parameters of stocks of fish, the interdepend-
22 ence of fisheries or stocks of fish, the identification
23 of essential fish habitat, the impact of pollution on
24 fish populations, the impact of wetland and estua-

1 rine degradation, and other factors affecting the
2 abundance and availability of fish.

3 “(2) Conservation engineering research, includ-
4 ing the study of fish behavior and the development
5 and testing of new gear technology and fishing tech-
6 niques to minimize bycatch and any adverse effects
7 on essential fish habitat and promote efficient har-
8 vest of target species.

9 “(3) Research on the fisheries, including the so-
10 cial, cultural, and economic relationships among
11 fishing vessel owners, crew, United States fish proc-
12 essors, associated shoreside labor, seafood markets
13 and fishing communities.

14 “(4) Information management research, includ-
15 ing the development of a fishery information base
16 and an information management system under sec-
17 tion 401 that will permit the full use of information
18 in the support of effective fishery conservation and
19 management.

20 “(d) PUBLIC NOTICE.—In developing the plan re-
21 quired under subsection (a), the Secretary shall consult
22 with relevant Federal, State, and international agencies,
23 scientific and technical experts, and other interested per-
24 sons, public and private, and shall publish a proposed plan
25 in the Federal Register for the purpose of receiving public

1 comment on the plan. The Secretary shall ensure that af-
2 fected commercial fishermen are actively involved in the
3 development of the portion of the plan pertaining to con-
4 servation engineering research. Upon final publication in
5 the Federal Register, the plan shall be submitted by the
6 Secretary to the Committee on Commerce, Science, and
7 Transportation of the Senate and the Committee on Re-
8 sources of the House of Representatives.”.

9 **SEC. 206. INCIDENTAL HARVEST RESEARCH.**

10 Section 405 is amended to read as follows:

11 **“SEC. 405. INCIDENTAL HARVEST RESEARCH.**

12 “(a) COLLECTION OF INFORMATION.—Within nine
13 months after the date of enactment of the Sustainable
14 Fisheries Act, the Secretary shall, after consultation with
15 the Gulf Council and South Atlantic Council, conclude the
16 collection of information in the program to assess the im-
17 pact on fishery resources of incidental harvest by the
18 shrimp trawl fishery within the authority of such Councils.
19 Within the same time period, the Secretary shall make
20 available to the public aggregated summaries of informa-
21 tion collected prior to June 30, 1994 under such program.

22 “(b) IDENTIFICATION OF STOCK.—The program con-
23 cluded pursuant to subsection (a) shall provide for the
24 identification of stocks of fish which are subject to signifi-

1 cant incidental harvest in the course of normal shrimp
2 trawl fishing activity.

3 “(c) COLLECTION AND ASSESSMENT OF SPECIFIC
4 STOCK INFORMATION.—For stocks of fish identified pur-
5 suant to subsection (b), with priority given to stocks which
6 (based upon the best available scientific information) are
7 considered to be overfished, the Secretary shall conduct—

8 “(1) a program to collect and evaluate informa-
9 tion on the nature and extent (including the spatial
10 and temporal distribution) of incidental mortality of
11 such stocks as a direct result of shrimp trawl fishing
12 activities;

13 “(2) an assessment of the status and condition
14 of such stocks, including collection of information
15 which would allow the estimation of life history pa-
16 rameters with sufficient accuracy and precision to
17 support sound scientific evaluation of the effects of
18 various management alternatives on the status of
19 such stocks; and

20 “(3) a program of information collection and
21 evaluation for such stocks on the magnitude and dis-
22 tribution of fishing mortality and fishing effort by
23 sources of fishing mortality other than shrimp trawl
24 fishing activity.

1 “(d) BYCATCH REDUCTION PROGRAM.—Not later
2 than 12 months after the enactment of the Sustainable
3 Fisheries Act, the Secretary shall, in cooperation with af-
4 fected interests, and based upon the best scientific infor-
5 mation available, complete a program to—

6 “(1) develop technological devices and other
7 changes in fishing operations necessary and appro-
8 priate to minimize the incidental mortality of
9 bycatch in the course of shrimp trawl activity to the
10 extent practicable, taking into account the level of
11 bycatch mortality in the fishery on November 28,
12 1990;

13 “(2) evaluate the ecological impacts and the
14 benefits and costs of such devices and changes in
15 fishing operations; and

16 “(3) assess whether it is practicable to utilize
17 bycatch which is not avoidable.

18 “(e) REPORT TO CONGRESS.—The Secretary shall,
19 within one year of completing the programs required by
20 this section, submit a detailed report on the results of such
21 programs to the Committee on Commerce, Science, and
22 Transportation of the Senate and the Committee on Re-
23 sources of the House of Representatives.

24 “(f) IMPLEMENTATION CRITERIA.—To the extent
25 practicable, any conservation and management measure

1 implemented under this Act to reduce the incidental mor-
2 tality of bycatch in the course of shrimp trawl fishing shall
3 be consistent with—

4 “(1) measures applicable to fishing throughout
5 the range in United States waters of the bycatch
6 species concerned; and

7 “(2) the need to avoid any serious adverse envi-
8 ronmental impacts on such bycatch species or the
9 ecology of the affected area.”.

10 **SEC. 207. MISCELLANEOUS RESEARCH.**

11 (a) FISHERIES SYSTEMS RESEARCH.—Section 406
12 (16 U.S.C. 1882) is amended to read as follows:

13 **“SEC. 406. FISHERIES SYSTEMS RESEARCH.**

14 “(a) ESTABLISHMENT OF PANEL.—Not later than
15 180 days after the date of enactment of the Sustainable
16 Fisheries Act, the Secretary shall establish an advisory
17 panel under this Act to develop recommendations to ex-
18 pand the application of ecosystem principles in fishery
19 conservation and management activities.

20 “(b) PANEL MEMBERSHIP.—The advisory panel shall
21 consist of not more than 20 individuals and include—

22 “(1) individuals with expertise in the struc-
23 tures, functions, and physical and biological charac-
24 teristics of ecosystems; and

1 “(2) representatives from the Councils, States,
2 fishing industry, conservation organizations, or oth-
3 ers with expertise in the management of marine re-
4 sources.

5 “(c) RECOMMENDATIONS.—Prior to selecting advi-
6 sory panel members, the Secretary shall, with respect to
7 panel members described in subsection (b)(1), solicit rec-
8 ommendations from the National Academy of Sciences.

9 “(d) REPORT.—Within 2 years after the date of en-
10 actment of this Act, the Secretary shall submit to the Con-
11 gress a completed report of the panel established under
12 this section, which shall include—

13 “(1) an analysis of the extent to which eco-
14 system principles are being applied in fishery con-
15 servation and management activities, including re-
16 search activities;

17 “(2) proposed actions by the Secretary and by
18 the Congress that should be undertaken to expand
19 the application of ecosystem principles in fishery
20 conservation and management; and

21 “(3) such other information as may be appro-
22 priate.

23 “(e) PROCEDURAL MATTER.—The advisory panel es-
24 tablished under this section shall be deemed an advisory
25 panel under section 302(g).”.

1 (b) GULF OF MEXICO RED SNAPPER RESEARCH.—
2 Title IV of the Act (16 U.S.C. 1882) is amended by add-
3 ing the following new section:

4 **“SEC. 407. GULF OF MEXICO RED SNAPPER RESEARCH.**

5 “(a) INDEPENDENT PEER REVIEW.—(1) Within 30
6 days of the date of enactment of the Sustainable Fisheries
7 Act, the Secretary shall initiate an independent peer re-
8 view to evaluate—

9 “(A) the accuracy and adequacy of fishery sta-
10 tistics used by the Secretary for the red snapper
11 fishery in the Gulf of Mexico to account for all com-
12 mercial, recreational, and charter fishing harvests
13 and fishing effort on the stock;

14 “(B) the appropriateness of the scientific meth-
15 ods, information, and models used by the Secretary
16 to assess the status and trends of the Gulf of Mexico
17 red snapper stock and as the basis for the fishery
18 management plan for the Gulf of Mexico red snap-
19 per fishery;

20 “(C) the appropriateness and adequacy of the
21 management measures in the fishery management
22 plan for red snapper in the Gulf of Mexico for con-
23 serving and managing the red snapper fishery under
24 this Act; and

1 “(D) the costs and benefits of all reasonable al-
2 ternatives to an individual fishing quota program for
3 the red snapper fishery in the Gulf of Mexico.

4 “(2) The Secretary shall ensure that commercial, rec-
5 reational, and charter fishermen in the red snapper fishery
6 in the Gulf of Mexico are provided an opportunity to—

7 “(A) participate in the peer review under this
8 subsection; and

9 “(B) provide information to the Secretary con-
10 cerning the review of fishery statistics under this
11 subsection without being subject to penalty under
12 this Act or other applicable law for any past viola-
13 tion of a requirement to report such information to
14 the Secretary.

15 “(3) The Secretary shall submit a detailed written re-
16 port on the findings of the peer review conducted under
17 this subsection to the Gulf Council no later than one year
18 after the date of enactment of the Sustainable Fisheries
19 Act.

20 “(b) PROHIBITION.—In addition to the restrictions
21 under section 303(d)(1)(A), the Gulf Council may not,
22 prior to October 1, 2000, undertake or continue the prepa-
23 ration of any fishery management plan, plan amendment
24 or regulation under this Act for the Gulf of Mexico com-
25 mercial red snapper fishery that creates an individual fish-

1 ing quota program or that authorizes the consolidation of
2 licenses, permits, or endorsements that result in different
3 trip limits for vessels in the same class.

4 “(c) REFERENDUM.—

5 “(1) On or after October 1, 2000, the Gulf
6 Council may prepare and submit a fishery manage-
7 ment plan, plan amendment, or regulation for the
8 Gulf of Mexico commercial red snapper fishery that
9 creates an individual fishing quota program or that
10 authorizes the consolidation of licenses, permits, or
11 endorsements that result in different trip limits for
12 vessels in the same class, only if the preparation of
13 such plan, amendment, or regulation is approved in
14 a referendum conducted under paragraph (2) and
15 only if the submission to the Secretary of such plan,
16 amendment, or regulation is approved in a subse-
17 quent referendum conducted under paragraph (2).

18 “(2) The Secretary, at the request of the Gulf
19 Council, shall conduct referendums under this sub-
20 section. Only a person who held an annual vessel
21 permit with a red snapper endorsement for such per-
22 mit on September 1, 1996 (or any person to whom
23 such permit with such endorsement was transferred
24 after such date) and vessel captains who harvested
25 red snapper in a commercial fishery using such en-

1 dorsement in each red snapper fishing season occur-
2 ring between January 1, 1993, and such date may
3 vote in a referendum under this subsection. The ref-
4 erendum shall be decided by a majority of the votes
5 cast. The Secretary shall develop a formula to
6 weight votes based on the proportional harvest under
7 each such permit and endorsement and by each such
8 captain in the fishery between January 1, 1993, and
9 September 1, 1996. Prior to each referendum, the
10 Secretary, in consultation with the Council, shall—

11 “(A) identify and notify all such persons
12 holding permits with red snapper endorsements
13 and all such vessel captains; and

14 “(B) make available to all such persons
15 and vessel captains information about the
16 schedule, procedures, and eligibility require-
17 ments for the referendum and the proposed in-
18 dividual fishing quota program.

19 “(d) CATCH LIMITS.—Any fishery management plan,
20 plan amendment, or regulation submitted by the Gulf
21 Council for the red snapper fishery after the date of enact-
22 ment of the Sustainable Fisheries Act shall contain con-
23 servation and management measures that—

24 “(1) establish separate quotas for recreational
25 fishing (which, for the purposes of this subsection

1 shall include charter fishing) and commercial fishing
2 that, when reached, result in a prohibition on the re-
3 tention of fish caught during recreational fishing
4 and commercial fishing, respectively, for the remain-
5 der of the fishing year; and

6 “(2) ensure that such quotas reflect allocations
7 among such sectors and do not reflect any harvests
8 in excess of such allocations.”.

9 **SEC. 208. STUDY OF CONTRIBUTION OF BYCATCH TO CHAR-**
10 **ITABLE ORGANIZATIONS.**

11 (a) **STUDY.**—The Secretary of Commerce shall con-
12 duct a study of the contribution of bycatch to charitable
13 organizations by commercial fishermen. The study shall
14 include determinations of—

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

18 (2) the economic benefits to commercial fisher-
19 men from those contributions; and

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

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

1 (c) BYCATCH DEFINED.—In this section the term
2 “bycatch” has the meaning given that term in section 3
3 of the Magnuson Fishery Conservation and Management
4 Act, as amended by section 102 of this Act.

5 **SEC. 209. STUDY OF IDENTIFICATION METHODS FOR HAR-**
6 **VEST STOCKS.**

7 (a) IN GENERAL.—The Secretary of Commerce shall
8 conduct a study to determine the best possible method of
9 identifying various Atlantic and Pacific salmon and
10 steelhead stocks in the ocean at time of harvest. The study
11 shall include an assessment of—

- 12 (1) coded wire tags;
13 (2) fin clipping; and
14 (3) other identification methods.

15 (b) REPORT.—The Secretary shall report the results
16 of the study, together with any recommendations for legis-
17 lation deemed necessary based on the study, within 6
18 months after the date of enactment of this Act to the
19 Committee on Resources of the House of Representatives
20 and the Committee on Commerce, Science, and Transpor-
21 tation of the Senate.

22 **SEC. 210. REVIEW OF NORTHEAST FISHERY STOCK ASSESS-**
23 **MENTS.**

24 The National Academy of Sciences, in consultation
25 with regionally recognized fishery experts, shall conduct

1 a peer review of Canadian and United States stock assess-
 2 ments, information collection methodologies, biological as-
 3 sumptions and projections, and other relevant scientific in-
 4 formation used as the basis for conservation and manage-
 5 ment in the Northeast multispecies fishery. The National
 6 Academy of Sciences shall submit the results of such re-
 7 view to the Congress and the Secretary of Commerce no
 8 later than March 1, 1997.

9 **SEC. 211. CLERICAL AMENDMENTS.**

10 The table of contents is amended by striking the mat-
 11 ter relating to title IV and inserting the following:

“Sec. 312. Transition to sustainable fisheries.

“Sec. 313. North Pacific fisheries conservation.

“Sec. 314. Northwest Atlantic Ocean fisheries reinvestment program.

“TITLE IV—FISHERY MONITORING AND RESEARCH

“Sec. 401. Registration and information management.

“Sec. 402. Information collection.

“Sec. 403. Observers.

“Sec. 404. Fisheries research.

“Sec. 405. Incidental harvest research.

“Sec. 406. Fisheries systems research.

“Sec. 407. Gulf of Mexico red snapper research.”.

12 **TITLE III—FISHERIES**
 13 **FINANCING**

14 **SEC. 301. SHORT TITLE.**

15 This title may be cited as the “Fisheries Financing
 16 Act”.

17 **SEC. 302. INDIVIDUAL FISHING QUOTA LOANS.**

18 (a) AMENDMENT OF MERCHANT MARINE ACT,
 19 1936.—Section 1104A of the Merchant Marine Act, 1936
 20 (46 U.S.C. App. 1274) is amended—

21 (1) by striking “or” at the end of subsection

22 (a)(5);

1 U.S.C. App. 1271 et seq.), is amended by adding at the
2 end the following new sections:

3 “SEC.1111. (a) The Secretary is authorized to guar-
4 antee the repayment of debt obligations issued by entities
5 under this section. Debt obligations to be guaranteed may
6 be issued by any entity that has been approved by the Sec-
7 retary and has agreed with the Secretary to such condi-
8 tions as the Secretary deems necessary for this section to
9 achieve the objective of the program and to protect the
10 interest of the United States.

11 “(b) Any debt obligation guaranteed under this sec-
12 tion shall—

13 “(1) be treated in the same manner and to the
14 same extent as other obligations guaranteed under
15 this title, except with respect to provisions of this
16 title that by their nature cannot be applied to obliga-
17 tions guaranteed under this section;

18 “(2) have the fishing fees established under the
19 program paid into a separate subaccount of the fish-
20 ing capacity reduction fund established under this
21 section;

22 “(3) not exceed \$100,000,000 in an unpaid
23 principal amount outstanding at any one time for a
24 program;

1 “(4) have such maturity (not to exceed 20
2 years), take such form, and contain such conditions
3 as the Secretary determines necessary for the pro-
4 gram to which they relate;

5 “(5) have as the exclusive source of repayment
6 (subject to the proviso in subsection (c)(2)) and as
7 the exclusive payment security, the fishing fees es-
8 tablished under the program; and

9 “(6) at the discretion of the Secretary be issued
10 in the public market or sold to the Federal Financ-
11 ing Bank.

12 “(c)(1) There is established in the Treasury of the
13 United States a separate account which shall be known
14 as the fishing capacity reduction fund (referred to in this
15 section as the ‘fund’). Within the fund, at least one sub-
16 account shall be established for each program into which
17 shall be paid all fishing fees established under the program
18 and other amounts authorized for the program.

19 “(2) Amounts in the fund shall be available, without
20 appropriation or fiscal year limitation, to the Secretary to
21 pay the cost of the program, including payments to finan-
22 cial institutions to pay debt obligations incurred by enti-
23 ties under this section; provided that funds available for
24 this purpose from other amounts available for the program
25 may also be used to pay such debt obligations.

1 “(3) Sums in the fund that are not currently needed
2 for the purpose of this section shall be kept on deposit
3 or invested in obligations of the United States.

4 “(d) The Secretary is authorized and directed to issue
5 such regulations as the Secretary deems necessary to carry
6 out this section.

7 “(e) For the purposes of this section, the term ‘pro-
8 gram’ means a fishing capacity reduction program estab-
9 lished under section 312 of the Magnuson Fishery Con-
10 servation and Management Act.

11 “SEC.1112. (a) Notwithstanding any other provision
12 of this title, all obligations involving any fishing vessel,
13 fishery facility, aquaculture facility, individual fishing
14 quota, or fishing capacity reduction program issued under
15 this title after the date of enactment of the Sustainable
16 Fisheries Act shall be direct loan obligations, for which
17 the Secretary shall be the obligee, rather than obligations
18 issued to obligees other than the Secretary and guaranteed
19 by the Secretary. All direct loan obligations under this sec-
20 tion shall be treated in the same manner and to the same
21 extent as obligations guaranteed under this title except
22 with respect to provisions of this title which by their na-
23 ture can only be applied to obligations guaranteed under
24 this title.

1 “(b) Notwithstanding any other provisions of this
 2 title, the annual rate of interest which obligors shall pay
 3 on direct loan obligations under this section shall be fixed
 4 at two percent of the principal amount of such obligations
 5 outstanding plus such additional percent as the Secretary
 6 shall be obligated to pay as the interest cost of borrowing
 7 from the United States Treasury the funds with which to
 8 make such direct loans.”.

9 **TITLE IV—MARINE FISHERY**
 10 **STATUTE REAUTHORIZATIONS**

11 **SEC. 401. MARINE FISH PROGRAM AUTHORIZATION OF AP-**
 12 **PROPRIATIONS.**

13 (a) FISHERIES INFORMATION COLLECTION AND
 14 ANALYSIS.—There are authorized to be appropriated to
 15 the Secretary of Commerce, to enable the National Oce-
 16 anic and Atmospheric Administration to carry out fish-
 17 eries information and analysis activities under the Fish
 18 and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and
 19 any other law involving those activities, \$51,800,000 for
 20 fiscal year 1997, and \$52,345,000 for each of the fiscal
 21 years 1998, 1999, and 2000. Such activities may include,
 22 but are not limited to, the collection, analysis, and dis-
 23 semination of scientific information necessary for the man-
 24 agement of living marine resources and associated marine
 25 habitat.

1 (b) FISHERIES CONSERVATION AND MANAGEMENT
2 OPERATIONS.— There are authorized to be appropriated
3 to the Secretary of Commerce, to enable the National Ocea-
4 nic and Atmospheric Administration to carry out activi-
5 ties relating to fisheries conservation and management op-
6 erations under the Fish and Wildlife Act of 1956 (16
7 U.S.C. 742a et seq.) and any other law involving those
8 activities, \$29,028,000 for fiscal year 1997, and
9 \$29,899,000 for each of the fiscal years 1998, 1999, and
10 2000. Such activities may include, but are not limited to,
11 development, implementation, and enforcement of con-
12 servation and management measures to achieve continued
13 optimum use of living marine resources, hatchery oper-
14 ations, habitat conservation, and protected species man-
15 agement.

16 (c) FISHERIES STATE AND INDUSTRY COOPERATIVE
17 PROGRAMS.—There are authorized to be appropriated to
18 the Secretary of Commerce, to enable the National Ocea-
19 nic and Atmospheric Administration to carry out State
20 and industry cooperative programs under the Fish and
21 Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any
22 other law involving those activities, \$27,932,000 for fiscal
23 year 1997, and \$28,226,000 for each of the fiscal years
24 1998, 1999, and 2000. These activities include, but are
25 not limited to, ensuring the quality and safety of seafood

1 products and providing grants to States for improving the
2 management of interstate fisheries.

3 (d) AUTHORIZATION OF APPROPRIATIONS FOR
4 CHESAPEAKE BAY OFFICE.—Section 2(e) of the National
5 Oceanic and Atmospheric Administration Marine Fish-
6 eries Program Authorization Act (Public Law 98-210; 97
7 Stat. 1409) is amended—

8 (1) by striking “1992 and 1993” and inserting
9 “1997 and 1998”;

10 (2) by striking “establish” and inserting “oper-
11 ate”;

12 (3) by striking “306” and inserting “307”; and

13 (4) by striking “1991” and inserting “1992”.

14 (e) RELATION TO OTHER LAWS.—Authorizations
15 under this section shall be in addition to monies author-
16 ized under the Magnuson Fishery Conservation and Man-
17 agement Act of 1976 (16 U.S.C. 1801 et seq.), the Marine
18 Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.),
19 the Endangered Species Act of 1973 (16 U.S.C. 3301 et
20 seq.), the Anadromous Fish Conservation Act (16 U.S.C.
21 757 et seq.), and the Interjurisdictional Fisheries Act (16
22 U.S.C. 4107 et seq.).

23 (f) NEW ENGLAND HEALTH PLAN.—The Secretary
24 of Commerce is authorized to provide up to \$2,000,000
25 from previously appropriated funds to Caritas Christi for

1 the implementation of a health care plan for fishermen
2 in New England if Caritas Christi submits such plan to
3 the Secretary no later than January 1, 1997, and the Sec-
4 retary, in consultation with the Secretary of Health and
5 Human Services, approves such plan.

6 **SEC. 402. INTERJURISDICTIONAL FISHERIES ACT AMEND-**
7 **MENTS.**

8 (a) REAUTHORIZATION.—Section 308 of the Inter-
9 jurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is
10 amended—

11 (1) by amending subsection (a) to read as fol-
12 lows:

13 “(a) GENERAL APPROPRIATIONS.—There are author-
14 ized to be appropriated to the Department of Commerce
15 for apportionment to carry out the purposes of this title—

16 “(1) \$3,400,000 for fiscal year 1996;

17 “(2) \$3,900,000 for fiscal year 1997;

18 “(3) \$4,400,000 for each of the fiscal years
19 1998, 1999, and 2000.”;

20 (2) by striking “\$350,000 for each of the fiscal
21 years 1989, 1990, 1991, 1992, and 1993, and
22 \$600,000 for each of the fiscal years 1994 and
23 1995,” in subsection (c) and inserting “\$700,000
24 for fiscal year 1997, and \$750,000 for each of the
25 fiscal years 1998, 1999, and 2000.”.

1 (b) NEW ENGLAND REPORT.—Section 308(d) of the
2 Interjurisdictional Fisheries Act of 1986 (16 U.S.C.
3 4107(d)) is amended by adding at the end the following
4 new paragraph:

5 “(7) With respect to funds available for the
6 New England region, the Secretary shall submit to
7 the Congress by January 1, 1997, with annual up-
8 dates thereafter as appropriate, a report on the New
9 England fishing capacity reduction initiative which
10 provides:

11 “(A) the total number of Northeast multi-
12 species permits in each permit category and cal-
13 culates the maximum potential fishing capacity
14 of vessels holding such permits based on the
15 principal gear, gross registered tonnage, engine
16 horsepower, length, age, and other relevant
17 characteristics;

18 “(B) the total number of days at sea avail-
19 able to the permitted Northeast multispecies
20 fishing fleet and the total days at sea weighted
21 by the maximum potential fishing capacity of
22 the fleet;

23 “(C) an analysis of the extent to which the
24 weighted days at sea are used by the active par-
25 ticipants in the fishery and of the reduction in

1 such days as a result of the fishing capacity re-
2 duction program; and

3 “(D) an estimate of conservation benefits
4 (such as reduction in fishing mortality) directly
5 attributable to the fishing capacity reduction
6 program.”.

7 **SEC. 403. ANADROMOUS FISHERIES AMENDMENTS.**

8 Section 4 of the Anadromous Fish Conservation Act
9 (16 U.S.C. 757d) is amended to read as follows:

10 “SEC. 4. (a)(1) There are authorized to be appro-
11 priated to carry out the purposes of this Act not to exceed
12 the following sums:

13 “(A) \$4,000,000 for fiscal year 1997; and

14 “(B) \$4,250,000 for each of fiscal years 1998,
15 1999, and 2000.

16 “(2) Sums appropriated under this subsection are au-
17 thorized to remain available until expended.

18 “(b) Not more than \$625,000 of the funds appro-
19 priated under this section in any one fiscal year shall be
20 obligated in any one State.”.

21 **SEC. 404. ATLANTIC COASTAL FISHERIES AMENDMENTS.**

22 (a) DEFINITION.—Paragraph (1) of section 803 of
23 the Atlantic Coastal Fisheries Cooperative Management
24 Act (16 U.S.C. 5102) is amended—

1 (1) by inserting “and” after the semicolon in
2 subparagraph (A);

3 (2) by striking “States; and” in subparagraph
4 (B) and inserting “States.”; and

5 (3) by striking subparagraph (C).

6 (b) IMPLEMENTATION STANDARD FOR FEDERAL
7 REGULATION.—Subparagraph (A) of section 804(b)(1) of
8 such Act (16 U.S.C. 5103(b)(1)) is amended by striking
9 “necessary to support” and inserting “compatible with”.

10 (c) AMERICAN LOBSTER MANAGEMENT.—Section
11 809 (16 U.S.C. 5108) and section 810 of such Act are
12 redesignated as sections 811 and 812, respectively, and
13 the following new sections are inserted at the end of sec-
14 tion 808:

15 **“SEC. 809. STATE PERMITS VALID IN CERTAIN WATERS.**

16 “(a) PERMITS.—Notwithstanding any provision of
17 the Magnuson Fishery Conservation and Management Act
18 (16 U.S.C. 1801 et seq.), the Atlantic Coastal Fisheries
19 Cooperative Management Act (16 U.S.C. 5101 et seq.),
20 or any requirement of a fishery management plan or coast-
21 al fishery management plan to the contrary, a person hold-
22 ing a valid license issued by the State of Maine which law-
23 fully permits that person to engage in commercial fishing
24 for American lobster may, with the approval of the State
25 of Maine, engage in commercial fishing for American Lob-

1 ster in the following areas designated as federal waters,
 2 if such fishing is conducted in such waters in accordance
 3 with all other applicable federal and state regulations:

4 “(1) west of Monhegan Island in the area lo-
 5 cated north of the line $43^{\circ} 42' 08''$ N, $69^{\circ} 34' 18''$
 6 W and $43^{\circ} 42' 15''$ N, $69^{\circ} 19' 18''$ W;

7 “(2) east of Monhegan Island in the area lo-
 8 cated west of the line $43^{\circ} 44' 00''$ N, $69^{\circ} 15' 05''$
 9 W and $43^{\circ} 48' 10''$ N, $69^{\circ} 08' 01''$ W;

10 “(3) south of Vinalhaven in the area located
 11 west of the line $43^{\circ} 52' 21''$ N, $68^{\circ} 39' 54''$ W and
 12 $43^{\circ} 48' 10''$ N, $69^{\circ} 08' 01''$ W; and

13 “(4) south of Bois Bubert Island in the area lo-
 14 cated north of the line $44^{\circ} 19' 15''$ N, $67^{\circ} 49' 30''$
 15 W and $44^{\circ} 23' 45''$ N, $67^{\circ} 40' 33''$ W.

16 “(b) ENFORCEMENT.—The exemption from federal
 17 fishery permitting requirements granted by subsection (a)
 18 may be revoked or suspended by the Secretary in accord-
 19 ance with section 308(g) of the Magnuson Fishery Con-
 20 servation and Management Act (16 U.S.C. 1858(g)) for
 21 violations of such Act or this Act.

22 **“SEC. 810. TRANSITION TO MANAGEMENT OF AMERICAN**
 23 **LOBSTER FISHERY BY COMMISSION.**

24 “(a) TEMPORARY LIMITS.—Notwithstanding any
 25 other provision of this Act or of the Magnuson Fishery

1 Conservation and Management Act (16 U.S.C. 1801 et
2 seq.), if no regulations have been issued under section
3 804(b) of this Act by December 31, 1997, to implement
4 a coastal fishery management plan for American lobster,
5 then the Secretary shall issue interim regulations before
6 March 1, 1998, that will prohibit any vessel that takes
7 lobsters in the exclusive economic zone by a method other
8 than pots or traps from landing lobsters (or any parts
9 thereof) at any location within the United States in excess
10 of—

11 “(1) 100 lobsters (or parts thereof) for each
12 fishing trip of 24 hours or less duration (up to a
13 maximum of 500 lobsters, or parts thereof, during
14 any 5-day period); or

15 “(2) 500 lobsters (or parts thereof) for a fish-
16 ing trip of 5 days or longer.

17 “(b) SECRETARY TO MONITOR LANDINGS.—Before
18 January 1, 1998, the Secretary shall monitor, on a timely
19 basis, landings of American lobster, and, if the Secretary
20 determines that catches from vessels that take lobsters in
21 the exclusive economic zone by a method other than pots
22 or traps have increased significantly, then the Secretary
23 may, consistent with the national standards in section 301
24 of the Magnuson Fishery Conservation and Management
25 Act (16 U.S.C. 1801), and after opportunity for public

1 comment and consultation with the Atlantic States Marine
2 Fisheries Commission, implement regulations under sec-
3 tion 804(b) of this Act that are necessary for the conserva-
4 tion of American lobster.

5 “(c) REGULATIONS TO REMAIN IN EFFECT UNTIL
6 PLAN IMPLEMENTED.—Regulations issued under sub-
7 section (a) or (b) shall remain in effect until the Secretary
8 implements regulations under section 804(b) of this Act
9 to implement a coastal fishery management plan for
10 American lobster.”.

11 (d) AUTHORIZATION OF APPROPRIATIONS.—Section
12 810 of such Act, as amended by this Act, is amended fur-
13 ther by striking “1996.” and inserting “1996, and
14 \$7,000,000 for each of the fiscal years 1997, 1998, 1999,
15 and 2000.”.

16 **SEC. 405. TECHNICAL AMENDMENTS TO MARITIME BOUND-**
17 **ARY AGREEMENT.**

18 (a) EXECUTION OF PRIOR AMENDMENTS TO DEFINI-
19 TIONS.—Notwithstanding section 308 of the Act entitled
20 “An Act to provide for the designation of the Flower Gar-
21 den Banks National Marine Sanctuary”, approved March
22 9, 1992 (Public Law 102-251; 106 Stat. 66) hereinafter
23 referred to as the “FGB Act”, section 301(b) of that Act
24 (adding a definition of the term “special areas”) shall take
25 effect on the date of enactment of this Act.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 301(h)(2)(A) of the FGB Act is re-
3 pealed.

4 (2) Section 304 of the FGB Act is repealed.

5 (3) Section 3(15) of the Marine Mammal Pro-
6 tection Act of 1972 (16 U.S.C. 1362(15)) is amend-
7 ed to read as follows:

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

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

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

20 “(C) the areas referred to as eastern spe-
21 cial areas in Article 3(1) of the Agreement be-
22 tween the United States of America and the
23 Union of Soviet Socialist Republics on the Mar-
24itime Boundary, signed June 1, 1990; in par-
25 ticular, those areas east of the maritime bound-

1 ary, as defined in that Agreement, that lie with-
2 in 200 nautical miles of the baselines from
3 which the breadth of the territorial sea of Rus-
4 sia is measured but beyond 200 nautical miles
5 of the baselines from which the breadth of the
6 territorial sea of the United States is measured,
7 except that this subparagraph shall not apply
8 before the date on which the Agreement be-
9 tween the United States and the Union of So-
10 viet Socialist Republics on the Maritime Bound-
11 ary, signed June 1, 1990, enters into force for
12 the United States.”.

13 **SEC. 406. AMENDMENTS TO THE FISHERIES ACT.**

14 Section 309(b) of the Fisheries Act of 1995 (Public
15 Law 104-43) is amended by striking “July 1, 1996” and
16 inserting “July 1, 1997”.

Passed the Senate September 19, 1996.

Attest:

Secretary.

104TH CONGRESS
2^D SESSION

S. 39

AN ACT

To amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

S 39 ES—	2
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