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[Report No. 109–229]

To authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2006 through 2012, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 15, 2005

Mr. STEVENS (for himself, Mr. INOUYE, Ms. SNOWE, Ms. CANTWELL, Mr. VITTER, Mrs. BOXER, Mrs. HUTCHISON, Mr. LAUTENBERG, Mr. KERRY, Mr. LOTT, Mr. SMITH, Mr. PRYOR, and Mr. NELSON of Florida) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

APRIL 4, 2006

Reported by Mr. STEVENS, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2006 through 2012, 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,*

~~SECTION 1. SHORT TITLE; TABLE OF CONTENTS.~~

~~(a) SHORT TITLE.—This Act may be cited as the "Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005".~~

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

~~Sec. 1. Short title; table of contents.~~
~~Sec. 2. Amendment of Magnuson-Stevens Fishery Conservation and Management Act.~~
~~Sec. 3. Changes in definitions.~~
~~Sec. 4. Highly migratory species.~~
~~Sec. 5. Total allowable level of foreign fishing.~~
~~Sec. 6. Western Pacific Sustainable Fisheries Fund.~~
~~Sec. 7. Authorization of appropriations.~~

~~TITLE I—CONSERVATION AND MANAGEMENT~~

~~Sec. 101. Cumulative impacts.~~
~~Sec. 102. Caribbean Council jurisdiction.~~
~~Sec. 103. Regional fishery management councils.~~
~~Sec. 104. Fishery management plan requirements.~~
~~Sec. 105. Fishery management plan discretionary provisions.~~
~~Sec. 106. Limited access privilege programs.~~
~~Sec. 107. Environmental review process.~~
~~Sec. 108. Emergency regulations.~~
~~Sec. 109. Western Pacific community development.~~
~~Sec. 110. Western Alaska Community Development Quota Program.~~
~~Sec. 111. Secretarial action on State groundfish fishing.~~
~~Sec. 112. Joint enforcement agreements.~~
~~Sec. 113. Transition to sustainable fisheries.~~
~~Sec. 114. Regional coastal disaster assistance, transition, and recovery program.~~
~~Sec. 115. Bycatch reduction engineering program.~~

~~TITLE II—INFORMATION AND RESEARCH~~

~~Sec. 201. Recreational fisheries information.~~
~~Sec. 202. Collection of information.~~
~~Sec. 203. Access to certain information.~~
~~Sec. 204. Cooperative research and management program.~~
~~Sec. 205. Herring study.~~
~~Sec. 206. Restoration study.~~
~~Sec. 207. Western Pacific fishery demonstration projects.~~
~~Sec. 208. Fisheries Conservation and Management Fund.~~
~~Sec. 209. Use of fishery finance program and capital construction fund for sustainable purposes.~~

~~TITLE III—OTHER FISHERIES STATUTES~~

~~Sec. 301. Amendments to Northern Pacific Halibut Act.~~

~~Sec. 302. Reauthorization of other fisheries acts.~~

~~TITLE IV—INTERNATIONAL~~

~~Sec. 401. International monitoring and compliance.~~
~~Sec. 402. Finding with respect to illegal, unreported, and unregulated fishing.~~
~~Sec. 403. Action to end illegal, unreported, or unregulated fishing and reduce bycatch of protected marine species.~~
~~Sec. 404. Monitoring of Pacific insular area fisheries.~~
~~Sec. 405. Reauthorization of Atlantic Tunas Convention Act.~~
~~Sec. 406. International overfishing and domestic equity.~~

~~TITLE V—IMPLEMENTATION OF WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION~~

~~Sec. 501. Short title.~~
~~Sec. 502. Definitions.~~
~~Sec. 503. Appointment of United States commissioners.~~
~~Sec. 504. Authority and responsibility of the Secretary of State.~~
~~Sec. 505. Rulemaking authority of the Secretary of Commerce.~~
~~Sec. 506. Enforcement.~~
~~Sec. 507. Penalties.~~
~~Sec. 508. Cooperation in carrying out convention.~~
~~Sec. 509. Territorial participation.~~
~~Sec. 510. Authorization of appropriations.~~

~~TITLE VI—PACIFIC WHITING~~

~~Sec. 601. Short title.~~
~~Sec. 602. Definitions.~~
~~Sec. 603. United States representation on joint management committee.~~
~~Sec. 604. United States representation on the scientific review group.~~
~~Sec. 605. United States representation on joint technical committee.~~
~~Sec. 606. United States representation on advisory panel.~~
~~Sec. 607. Responsibilities of the Secretary.~~
~~Sec. 608. Rulemaking.~~
~~Sec. 609. Administrative matters.~~
~~Sec. 610. Enforcement.~~
~~Sec. 611. Authorization of appropriations.~~

~~SEC. 2. AMENDMENT OF MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT.~~

~~Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson-Stevens Fish-~~

~~ery Conservation and Management Act (16 U.S.C. 1801 et seq.).~~

~~SEC. 3. CHANGES IN DEFINITIONS.~~

~~(a) IN GENERAL.—Section 3 (16 U.S.C. 1802) is amended—~~

~~(1) by inserting after paragraph (6) the following:~~

~~"(6A) The term 'confidential information' means—~~

~~"(A) trade secrets; or~~

~~"(B) commercial or financial information the disclosure of which is likely to result in substantial harm to the competitive position of the person who submitted the information to the Secretary.";~~

~~(2) by inserting after paragraph (13) the following:~~

~~"(13B) the term 'regional fishery association' means an association formed for the mutual benefit of members comprising persons engaging in the harvest or processing of fishery resources in a specific geographic region or subregion who otherwise own or operate businesses substantially dependent upon a fishery to meet social and economic needs in that region or subregion.";~~

~~(3) by inserting after paragraph (23) the following:~~

~~"(23A) The term 'limited access privilege'—~~

~~"(A) means a Federal permit, issued as part of a limited access system under section 303A to harvest a quantity of fish that may be received or held for exclusive use by a person; and~~

~~"(B) includes an individual fishing quota; but~~

~~"(C) does not include community development quotas as described in section 305(i).";~~ ~~and~~

~~(4) by inserting after paragraph (27) the following:~~

~~"(27A) The term 'observer information' means any information collected, observed, retrieved, or created by an observer or electronic monitoring system pursuant to authorization by the Secretary, or collected as part of a cooperative research initiative, including fish harvest or processing observations, fish sampling or weighing data, vessel logbook data, vessel or processor-specific information (including any safety, location, or operating condition observations),~~

~~and video, audio, photographic, or written documents.''.~~

~~(b) REDESIGNATION.—Paragraphs (1) through (45) of section 3 (16 U.S.C. 1802), as amended by subsection (a), are redesignated as paragraphs (1) thorough (49), respectively.~~

~~(c) CONFORMING AMENDMENTS.—~~

~~(1) The following provisions of the Act are amended by striking ''an individual fishing quota'' and inserting ''a limited access privilege'':~~

~~(A) Section 304(e)(3) (16 U.S.C. 1854(e)(3)).~~

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

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

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

~~(2) Section 305(h)(1) (16 U.S.C. 1855(h)(1)) is amended by striking ''individual fishing quotas,'' and inserting ''limited access privileges,''.~~

~~SEC. 4. HIGHLY MIGRATORY SPECIES.~~

~~Section 102 (16 U.S.C. 1912) is amended—~~

~~(1) by inserting "(a) IN GENERAL.—" before "The"; and~~

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

~~"(b) TRADITIONAL PARTICIPATION.—For fisheries being managed under an international fisheries agreement to which the United States is a party, Council or Secretarial action, if any, shall reflect traditional participation in the fishery, relative to other Nations, by fishermen of the United States on fishing vessels of the United States.~~

~~"(c) PROMOTION OF STOCK MANAGEMENT.—If a relevant international fisheries organization does not have a process for developing a formal plan to rebuild a depleted stock, an overfished stock, or a stock that is approaching a condition of being overfished, the provisions of this Act in this regard shall be communicated to and promoted by the United States in the international or regional fisheries organization.".~~

~~SEC. 5. TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.~~

~~Section 201(d) (16 U.S.C. 1821(d)) is amended—~~

~~(1) by striking "shall be" and inserting "is";~~

~~(2) by striking "will not" and inserting "cannot, or will not,"; and~~

~~(3) by inserting after "Act." the following: "Allocations of the total allowable level of foreign fishing are discretionary, except that the total allowable~~

~~level shall be zero for fisheries determined by the secretary to have adequate or excess harvest capacity.''~~

~~SEC. 6. WESTERN PACIFIC SUSTAINABLE FISHERIES FUND.~~

~~Section 204(e) (16 U.S.C. 1824(e)(7)) is amended—~~

~~(1) by inserting ''and any funds or contributions received in support of conservation and management objectives under a marine conservation plan'' after ''agreement'' in paragraph (7);~~

~~(2) by striking ''authority, after payment of direct costs of the enforcement action to all entities involved in such action,'' in paragraph (8); and~~

~~(3) by inserting after ''paragraph (4).'' in paragraph (8) ''In the case of violations by foreign vessels occurring within the exclusive economic zones off Midway Atoll, Johnston Atoll, Kingman Reef, Palmyra Atoll, Jarvis, Howland, Baker, and Wake Islands, amounts received by the Secretary attributable to fines and penalties imposed under this Act, shall be deposited into the Western Pacific Sustainable Fisheries Fund established under paragraph (7) of this subsection.''.~~

~~SEC. 7. AUTHORIZATION OF APPROPRIATIONS.~~

~~Section 4 (16 U.S.C. 1803) is amended to read as follows:~~

~~"SEC. 4. AUTHORIZATION OF APPROPRIATIONS.~~

~~"There are authorized to be appropriated to the Secretary to carry out the provisions of this Act $328,004,000.00 for fiscal year 2006, and such sums as may be necessary for fiscal years 2007 through 2012."~~

~~TITLE I—CONSERVATION AND MANAGEMENT~~

~~SEC. 101. CUMULATIVE IMPACTS.~~

~~(a) NATIONAL STANDARDS.—Section 301(a)(8) (16 U.S.C. 1851(a)(8)) is amended by inserting "by utilizing economic and social data and assessment methods based on the best economic and social information available," after "fishing communities".~~

~~(b) CONTENTS OF PLANS.—Section 303(a)(9) (16 U.S.C. 1853(a)(9)) is amended by striking "describe the likely effects, if any, of the conservation and management measures on—" and inserting "analyze the likely effects, if any, including the cumulative economic and social impacts, of the conservation and management measures on, and possible mitigation measures for—".~~

~~SEC. 102. CARIBBEAN COUNCIL JURISDICTION.~~

~~Section 302(a)(1)(D) (16 U.S.C. 852(a)(1)(D)) is amended by inserting "and of commonwealths, territories, and possessions of the United States in the Caribbean Sea" after "seaward of such States".~~

~~**SEC. 103. REGIONAL FISHERY MANAGEMENT COUNCILS.**~~

~~(a) TRIBAL ALTERNATE ON PACIFIC COUNCIL.—Section 302(b)(5) (16 U.S.C. 1852(b)(5)) is amended by adding at the end thereof the following:~~

~~"(D) The tribal representative appointed under subparagraph (A) may designate as an alternate, during the period of the representative's term, an individual knowledgeable concerning tribal rights, tribal law, and the fishery resources of the geographical area concerned.".~~

~~(b) SCIENTIFIC AND STATISTICAL COMMITTEES.—Section 302 (16 U.S.C. 1852) is amended—~~

~~(1) by striking so much of subsection (g) as precedes paragraph (2) and inserting the following:~~

~~"(g) COMMITTEES AND ADVISORY PANELS.—~~

~~"(1)(A) Each Council shall establish, maintain, and appoint the members of, a scientific and statistical committee to assist it in the development, collection, evaluation, and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.~~

~~"(B) Each scientific and statistical committee shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch or opti-~~

~~mum yield, and reports on stock status and health, bycatch, habitat status, socio-economic impacts of management measures, and sustainability of fishing practices.~~

~~"(C) Members appointed by the Councils to the scientific and statistical committees shall be Federal employees, State employees, academicians, or independent experts with strong scientific or technical credentials and experience.~~

~~"(D) The Secretary and each Council may establish a peer review process for that Council, developed in consultation with the Council coordination committee for scientific information used to advise the Council about the conservation and management of the fishery. The review process, which may include existing committees or panels, is deemed to satisfy the requirements of the guidelines issued pursuant to section 515 of the Treasury and General Government Appropriations Act for Fiscal year 2001 (Public Law 106–554—Appendix C; 114 Stat. 2763A–153).~~

~~"(E) In addition to the provisions of section 302(f)(7), the Secretary may pay a stipend to members of the scientific and statistical committees or advisory panels who are not employed by the Federal~~

~~government or a State marine fisheries agency.''; and~~

~~(2) by striking ''other'' in paragraph (2); and~~

~~(3) by resetting the left margin of paragraphs (2) through (5) 2 ems from the left.~~

~~(c) COUNCIL FUNCTIONS.—Section 302(h) (16 U.S.C. 1852(h)) is amended—~~

~~(1) by striking ''and'' after the semicolon in paragraph (5);~~

~~(2) by redesignating paragraph (6) as paragraph (7); and~~

~~(3) by inserting after paragraph (5) the following:~~

~~''(6) adopt annual catch limits for each of its managed fisheries after considering the recommendations of its scientific and statistical committee or other appropriate scientific body; and''.~~

~~(d) REGULAR AND EMERGENCY MEETINGS.—The first sentence of section 302(i)(2)(C) (16 U.S.C. 1852(i)(2)(C)) is amended—~~

~~(1) by striking ''published in local newspapers'' and inserting ''provided by any means that will result in wide publicity (except that e-mail notification and website postings alone are not sufficient)''; and~~

~~(2) by striking "fishery) and such notice may be given by such other means as will result in wide publicity." and inserting "fishery).".~~

~~(e) CLOSED MEETINGS.—Section 302(i)(3)(B) (16 U.S.C. 1852(i)(3)(B)) is amended by striking "notify local newspapers" and inserting "provide notice by any means that will result in wide publicity".~~

~~(f) TRAINING.—Section 302 (16 U.S.C. 1852) is amended by adding at the end the following:~~

~~"(k) COUNCIL TRAINING PROGRAM.—~~

~~"(1) TRAINING COURSE.—Within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, the Secretary, in consultation with the Councils and the National Sea Grant College Program, shall develop a training course for newly appointed Council members. The course may cover a variety of topics relevant to matters before the Councils, including—~~

~~"(A) fishery science and basic stock assessment methods;~~

~~"(B) fishery management techniques, data needs, and Council procedures;~~

~~"(C) social science and fishery economics;~~

~~"(D) tribal treaty rights and native customs, access, and other rights related to Western Pacific indigenous communities;~~

~~"(E) legal requirements of this Act, including conflict of interest and disclosure provisions of this section and related policies;~~

~~"(F) other relevant legal and regulatory requirements, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.);~~

~~"(G) public process for development of fishery management plans; and~~

~~"(H) other topics suggested by the Council.~~

~~"(2) MEMBER TRAINING.—The training course shall be available to both new and existing Council members, and may be made available to committee or advisory panel members as resources allow.~~

~~"(l) COUNCIL COORDINATION COMMITTEE.—The Councils may establish a Council coordination committee consisting of the chairs, vice chairs, and executive directors of each of the 8 Councils described in subsection (a)(1), or other Council members or staff, in order to discuss issues of relevance to all Councils, including issues related to the implementation of this Act.".~~

~~(g) PROCEDURAL MATTERS.—Section 302(i) (16 U.S.C. 1852(i)) is amended—~~

~~(1) by striking "to the Councils or to the scientific and statistical committees or advisory panels established under subsection (g)" in paragraph (1) and inserting "to the Councils, the Council coordination committee established under subsection (l), or to the scientific and statistical committees or other committees or advisory panels established under subsection (g)";~~

~~(2) by striking "of a Council, and of the scientific and statistical committee and advisory panels established under subsection (g)" in paragraph (2) and inserting "of a Council, of the Council coordination committee established under subsection (l), and of the scientific and statistical committees or other committees or advisory panels established under subsection (g)"; and~~

~~(3) by inserting "other committee," in paragraph (3)(A) after "committee,".~~

~~(h) CONFLICTS OF INTEREST.—Section 302(j) (16 U.S.C. 1852(j)) is amended—~~

~~(1) by striking "and" after the semicolon in paragraph (2)(B);~~

~~(2) by inserting after paragraph (2)(C) the following:~~

~~"(D) the members of any fishing, processing, or marketing association if the individual is serving as an employee or contractor or otherwise receiving compensation from the association; and~~

~~"(E) any entity or other individual from whom the individual is receiving or will receive compensation of any kind;"~~

~~(3) by striking subparagraph (B) of paragraph (5) and inserting the following:~~

~~"(B) be kept on file by the Council and made available on the Internet and for public inspection at the Council offices during reasonable times; and"; and~~

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

~~"(9) On January 1, 2008, and annually thereafter, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on action taken by the Secretary and the Councils to implement the disclosure of financial interest and recusal requirements of this subsection.".~~

~~SEC. 104. FISHERY MANAGEMENT PLAN REQUIREMENTS.~~

~~(a) IN GENERAL.—Section 303(a) (16 U.S.C. 1853(a)) is amended—~~

~~(1) striking "and charter fishing" in paragraph (5) and inserting "charter fishing, and fish processing";~~

~~(2) by inserting "economic information necessary to meet the requirements of this Act," in paragraph (5) after "number of hauls,";~~

~~(3) by striking "and" after the semicolon in paragraph (13);~~

~~(4) by striking "fishery." in paragraph (14) and inserting "fishery; and"; and~~

~~(5) by adding at the end the following:~~

~~"(15) specify, in the plan or implementing regulations, annual catch limits, which shall be established by the Council or Secretary based on the best scientific information available at a level that does not exceed optimum yield, and, for the purposes of which harvests exceeding the specified annual catch limit (including the specified annual catch limit for a sector) shall be deducted from the following year's annual catch limit (including that sector).".~~

~~(b) EFFECTIVE DATE.—The amendment made by subsection (a)(5) shall take effect 2 years after the date of enactment of this Act.~~

~~SEC. 105. FISHERY MANAGEMENT PLAN DISCRETIONARY PROVISIONS.~~

~~Section 303(b) (16 U.S.C. 1853(b)) is amended—~~

~~(1) by striking paragraph (6) and inserting the following:~~

~~"(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—~~

~~"(A) the conservation requirements of this Act with respect to the fishery;~~

~~"(B) present participation in the fishery;~~

~~"(C) historical fishing practices in, and dependence on, the fishery;~~

~~"(D) the economics of the fishery;~~

~~"(E) the capability of fishing vessels used in the fishery to engage in other fisheries;~~

~~"(F) the cultural and social framework relevant to the fishery and any affected fishing communities;~~

~~"(G) the fair and equitable distribution of access privileges to a public resource; and~~

~~"(H) any other relevant considerations;";~~

~~(2) by striking "(other than economic data)" in paragraph (7);~~

~~(3) by striking "and" after the semicolon in paragraph (11); and~~

~~(4) by redesignating paragraph (12) as paragraph (13) and inserting after paragraph (11) the following:~~

~~"(12) establish a process for complying with the National Environmental Policy Act (42 U.S.C. 4321 et seq.) pursuant to section 304(h) of this Act; and".~~

~~SEC. 106. LIMITED ACCESS PRIVILEGE PROGRAMS.~~

~~(a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.) is amended—~~

~~(1) by striking section 303(d); and~~

~~(2) by inserting after section 303 the following:~~

~~"SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.~~

~~"(a) IN GENERAL.—After the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, a Council may submit, and the Secretary may approve, for a fishery that has been managed under a limited access system for at least 1 year, a limited access privilege program to harvest fish, if the program meets the requirements of this section.~~

~~"(b) NO CREATION OF RIGHT, TITLE, OR INTEREST.—A limited access system, limited access privilege,~~

~~quota share, or other authorization established, implemented, or managed under this Act—~~

~~"(1) shall be considered a permit for the purposes of sections 307, 308, and 309;~~

~~"(2) may be revoked, limited, or modified at any time in accordance with this Act, including revocation for failure to comply with the terms of the plan or if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;~~

~~"(3) shall not confer any right of compensation to the holder of such limited access privilege, quota share, or other such limited access system authorization if it is revoked, limited, or modified;~~

~~"(4) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested or purchased by the holder; and~~

~~"(5) shall be considered a grant of permission to the holder of the limited access privilege or quota share to engage in activities permitted by such limited access privilege or quota share.~~

~~"(c) LIMITED ACCESS PRIVILEGES TO HARVEST FISH.—~~

~~"(1) IN GENERAL.—In addition to complying with the other requirements of this Act, any limited~~

~~access privilege program to harvest fish submitted by a Council or approved by the Secretary under this section—~~

~~"(A) shall—~~

~~"(i) if established in a fishery that is overfished or subject to a rebuilding plan, assist in its rebuilding; and~~

~~"(ii) if established in a fishery that is determined by the Secretary or the Council to have excess capacity, contribute to reducing capacity;~~

~~"(B) shall promote—~~

~~"(i) the safety of human life at sea; and~~

~~"(ii) the conservation and management of the fishery;~~

~~"(C) shall prohibit any person other than a United States citizen, a corporation, partnership, or other entity established under the laws of the United States or any State, a permanent resident alien, a fishing community, or a regional fishery association from acquiring a privilege to harvest fish; and~~

~~"(D) shall require that all fish harvested under a limited access privilege program be~~

~~processed by vessels of the United States in United States waters or on United States soil (including any territory of the United States).~~

~~"(2) FISHING COMMUNITIES.—~~

~~"(A) IN GENERAL.—To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall—~~

~~"(i) be located within the management area of the relevant Council;~~

~~"(ii) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;~~

~~"(iii) consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council's management area; and~~

~~"(iv) develop and submit a community sustainability plan to the Council and the Secretary for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.~~

1 ~~"(B) PARTICIPATION CRITERIA.—In developing participation criteria for eligible communities and regional fishery associations under this paragraph, a Council shall base the criteria on traditional fishing or processing practices in, and dependence on, the fishery, the cultural and social framework relevant to the fishery, economic barriers to access to fishery, and the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion.~~

15 ~~"(3) ALLOCATION.—In developing a limited access privilege program to harvest fish a Council or the Secretary shall—~~

18 ~~"(A) establish procedures to ensure fair and equitable initial allocations, including consideration of—~~

21 ~~"(i) current and historical harvests;~~

22 ~~"(ii) employment in the harvesting and processing sectors;~~

24 ~~"(iii) investments in, and dependence upon, the fishery; and~~

1 ~~"(iv) the current and historical par-~~
2 ~~ticipation of fishing communities;~~
3 ~~"(B) to the extent practicable, consider the~~
4 ~~basic cultural and social framework of the fish-~~
5 ~~ery, especially through the development of poli-~~
6 ~~cies to promote the sustained participation of~~
7 ~~small owner-operated fishing vessels and fishing~~
8 ~~communities that depend on the fisheries, in-~~
9 ~~cluding regional or port-specific landing or de-~~
10 ~~livery requirements;~~
11 ~~"(C) include measures to assist, when nec-~~
12 ~~essary and appropriate, entry-level and small~~
13 ~~vessel operators, captains, crew, and fishing~~
14 ~~communities through set-asides of harvesting~~
15 ~~allocations, including providing privileges and,~~
16 ~~where appropriate, recommending the provision~~
17 ~~of economic assistance in the purchase of lim-~~
18 ~~ited access privileges to harvest fish;~~
19 ~~"(D) ensure that limited access privilege~~
20 ~~holders do not acquire an excessive share of the~~
21 ~~total limited access privileges in the program~~
22 ~~by—~~
23 ~~"(i) establishing a maximum share,~~
24 ~~expressed as a percentage of the total lim-~~

~~ited access privileges, that a limited access privilege holder is permitted to own; and~~

~~"(ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges;~~

~~"(E) establish procedures to minimize geographic or other consolidation in both the harvesting and processing sectors of the fishery; and~~

~~"(F) authorize limited access privileges to harvest fish to be held by or issued under the system to persons who substantially participate in the fishery, as specified by the Council, including, as appropriate, fishing vessel owners, vessel captains, vessel crew members, fishing communities, and regional fishery associations.~~

~~"(4) PROGRAM INITIATION.—~~

~~"(A) CERTIFICATION REQUIREMENT.—Except as provided in subparagraph (D), a Council may initiate a fishery management plan or amendment to establish a limited access privilege program to harvest fish on its own initiative if the Secretary has certified an appropriate petition.~~

1 ~~"(B) INITIATION REQUEST.—A group of~~
2 ~~fishermen constituting more than 50 percent of~~
3 ~~the permit holders, or holding more than 50~~
4 ~~percent of the allocation, in the fishery for~~
5 ~~which a limited access privilege program to har-~~
6 ~~vest fish is sought, may submit a petition to the~~
7 ~~Secretary requesting that the relevant Council~~
8 ~~or Councils with authority over the fishery be~~
9 ~~authorized to initiate the development of the~~
10 ~~program. Any such petition shall clearly state~~
11 ~~the fishery to which the limited access privilege~~
12 ~~program would apply.~~
13 ~~"(C) CERTIFICATION BY SECRETARY.—~~
14 ~~Upon the receipt of any such petition, the Sec-~~
15 ~~retary shall review all of the signatures on the~~
16 ~~petition and, if the Secretary determines that~~
17 ~~the signatures on the petition represent more~~
18 ~~than 50 percent of the permit holders, or hold-~~
19 ~~ers of more than 50 percent of the allocation,~~
20 ~~in the fishery, the Secretary shall certify the pe-~~
21 ~~tition to the appropriate Council or Councils.~~
22 ~~"(D) NEW ENGLAND AND GULF REF-~~
23 ~~ERENDUM.—~~
24 ~~"(i) Except as provided in clause (iii)~~
25 ~~for the Gulf of Mexico commercial red~~

~~snapper fishery, the New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates a fishing quota system, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than ⅔ of those voting in a referendum among eligible permit holders. If a fishing quota system fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.~~

~~"(ii) The Secretary shall conduct a referendum under this subparagraph, including notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures, and eligibility requirements for the referendum process and the proposed fishing quota system. Within 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, the Secretary shall publish guide-~~

~~lines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.~~

~~"(iii) The provisions of section 407(c) of this Act shall apply in lieu of this subparagraph for any fishing quota system for the Gulf of Mexico commercial red snapper fishery.~~

~~"(iv) Chapter 35 of title 44, United States Code, (commonly known as the 'Paperwork Reduction Act') does not apply to the referenda conducted under this subparagraph.".~~

~~"(5) PROGRAM REQUIREMENTS.—Any such limited access privilege program to harvest fish shall—~~

~~"(A) specify the goals of the program;~~

~~"(B) include provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, including determined progress in meeting the goals of the program and this Act, and any necessary modification of the program, with a formal and detailed review 5 years after the estab-~~

~~lishment of the program and every 5 years thereafter;~~

~~"(C) include an effective system for enforcement, monitoring, and management of the program, including the use of observers;~~

~~"(D) include an appeals process for administrative review of determinations with respect to the Secretary's decisions regarding administration of the limited access privilege program;~~

~~"(E) provide for the establishment by the Secretary, in consultation with the Department of Justice and the Federal Trade Commission, for a mandatory information collection and review process to provide any and all information necessary for the Department of Justice and the Federal Trade Commission to determine whether any illegal acts of anti-competition, anti-trust, price collusion, or price fixing have occurred among regional fishery associations persons receiving limited access privileges to harvest fish under the program; and~~

~~"(F) provide for the revocation by the Secretary of limited access privileges held by any person found to have violated the antitrust laws of the United States.~~

1 ~~"(6) TRANSFERABILITY.—In establishing a lim-~~
2 ~~ited access privilege program, a Council shall—~~
3 ~~"(A) establish a policy on the transfer-~~
4 ~~ability of limited access privilege shares~~
5 ~~(through sale or lease), including a policy on~~
6 ~~any conditions that apply to the transferability~~
7 ~~of limited access privilege shares that is con-~~
8 ~~sistent with the policies adopted by the Council~~
9 ~~for the fishery under paragraph (3); and~~
10 ~~"(B) establish criteria for the approval and~~
11 ~~monitoring of transfers (including sales and~~
12 ~~leases) of limited access privilege shares.~~
13 ~~"(7) PREPARATION AND IMPLEMENTATION OF~~
14 ~~SECRETARIAL PLANS.—This subsection also applies~~
15 ~~to a plan prepared and implemented by the Sec-~~
16 ~~retary under section 304(g). For the purpose of ap-~~
17 ~~plying this subsection to such a plan—~~
18 ~~"(A) the term 'Secretary' shall be sub-~~
19 ~~stituted for the term 'Council'; and~~
20 ~~"(B) paragraphs (2)(A), (4)(A), and~~
21 ~~(4)(C) shall not apply.~~
22 ~~"(8) NO WAIVER.—Nothing in this Act shall~~
23 ~~constitute a waiver, either express or implied, of the~~
24 ~~antitrust laws of the United States.~~

1 ~~"(d) AUCTION AND OTHER PROGRAMS.—In establishing a limited access privilege program, a Council may consider, and provide for, if appropriate, an auction system or other program to collect royalties for the initial distribution of allocations in a limited access privilege program if—~~

7 ~~"(1) the system or program is administered in such a way that the resulting distribution of limited access privilege shares meets the program requirements of subsection (c)(3)(A); and~~

11 ~~"(2) revenues generated through such a royalty program are deposited in the Limited Access System Administration Fund established by section 305(h)(5)(B) and available subject to annual appropriations.~~

16 ~~"(e) COST RECOVERY.—In establishing a limited access privilege program, a Council shall—~~

18 ~~"(1) develop a methodology and the means to identify and assess the management, science, data collection, observer coverage, and enforcement programs that are directly related to and in support of the program; and~~

23 ~~"(2) provide, under section 304(d)(2), for a program of fees paid by limited access privilege holders that will cover the costs of management, science,~~

~~data collection and analysis, observer coverage, and enforcement activities.~~

~~"(f) LIMITED ACCESS PRIVILEGE ASSISTED PURCHASE PROGRAM.—~~

~~"(1) IN GENERAL.—A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 1104A(a)(7) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274(a)(7)), to issue obligations that aid in financing—~~

~~"(A) the purchase of limited access privileges in that fishery by fishermen who fish from small vessels; and~~

~~"(B) the first-time purchase of limited access privileges in that fishery by entry level fishermen.~~

~~"(2) ELIGIBILITY CRITERIA.—A Council making a submission under paragraph (1) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under subparagraphs (A) and (B) of paragraph (1) and the portion of funds to be allocated for guarantees under each subparagraph.~~

1 ~~"(g) EFFECT ON CERTAIN EXISTING SHARES AND~~
2 ~~PROGRAMS.—Nothing in this Act, or the amendments by~~
3 ~~this Act, shall be construed to require a reallocation of~~
4 ~~individual quota shares or processor quota shares or other~~
5 ~~quota programs, including sector allocation, submitted by~~
6 ~~a Council or approved by the Secretary or Congressional~~
7 ~~action before the date of enactment of the Magnuson-Ste-~~
8 ~~vens Fishery Conservation and Management Reauthoriza-~~
9 ~~tion Act of 2005.".~~
10 ~~(b) FEES.—Section 304(d)(2)(A) (16 U.S.C.~~
11 ~~1854(d)(2)(A)) is amended by striking "management and~~
12 ~~enforcement" and inserting "management, data collection,~~
13 ~~and enforcement".~~
14 ~~(c) CONFORMING AMENDMENT.—Section~~
15 ~~304(d)(2)(C)(i) (16 U.S.C. 1854(d)(2)(C)(i)) is amended~~
16 ~~by striking "section 305(h)(5)(B)" and all that follows~~
17 ~~and inserting "section 305(h)(5)(B).".~~
18 **~~SEC. 107. ENVIRONMENTAL REVIEW PROCESS.~~**
19 ~~Section 304 (16 U.S.C. 1854) is amended by adding~~
20 ~~at the end the following:~~
21 ~~"(h) ENVIRONMENTAL REVIEW PROCESS.—~~
22 ~~"(1) PROCEDURES.—The Secretary shall, in~~
23 ~~consultation with the Councils and the Council on~~
24 ~~Environmental Quality, revise and update agency~~
25 ~~procedures for compliance with the National Envi-~~

1 ~~ronmental Policy Act (42 U.S.C. 4231 et seq.). The~~
2 ~~procedures shall—~~
3 ~~"(A) conform to the time lines for review~~
4 ~~and approval of fishery management plans and~~
5 ~~plan amendments under this section; and~~
6 ~~"(B) integrate applicable environmental~~
7 ~~analysis process, including the time frames for~~
8 ~~public input, with the process for the prepara-~~
9 ~~tion and dissemination of fishery management~~
10 ~~plans, plan amendments, and other actions~~
11 ~~taken or approved pursuant to this Act in order~~
12 ~~to provide for timely, clear and concise analysis~~
13 ~~that is useful to decision makers and the public,~~
14 ~~reduce extraneous paperwork, and effectively in-~~
15 ~~volve the public.~~
16 ~~"(2) USAGE.—The updated agency procedures~~
17 ~~promulgated in accordance with this section used by~~
18 ~~the Councils or the Secretary sill be the sole environ-~~
19 ~~mental impact assessment process for fishery man-~~
20 ~~agement plans, amendments, regulations, or other~~
21 ~~actions taken or approved pursuant to this Act.~~
22 ~~"(3) SCHEDULE FOR PROMULGATION OF FINAL~~
23 ~~PROCEDURES.—The Secretary shall—~~
24 ~~"(A) propose revised procedures within 12~~
25 ~~months after the date of enactment of the Mag-~~

~~nuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005;~~

~~"(B) provide 90 days for public review and comments; and~~

~~"(C) promulgate final procedures no later than 18 months after the date of enactment of that Act.~~

~~"(4) PUBLIC PARTICIPATION.—The Secretary is authorized and directed, in cooperation with the Council on Environmental Quality and the Councils, to involve the affected public in the development of revised procedures, including workshops or other appropriate means of public involvement.".~~

~~SEC. 108. EMERGENCY REGULATIONS.~~

~~(a) LENGTHENING OF SECOND EMERGENCY PERIOD.—Section 305(c)(3)(B) (16 U.S.C. 1855(c)(3)(B)) is amended by striking "180 days," and inserting "186 days,".~~

~~(b) TECHNICAL AMENDMENT.—Section 305(c)(3)(D) (16 U.S.C. 1855(c)(3)(D)) is amended by inserting "or interim measures" after "emergency regulations".~~

~~SEC. 109. WESTERN PACIFIC COMMUNITY DEVELOPMENT.~~

~~Section 305 (16 U.S.C. 1855) is amended by adding at the end thereof the following:~~

1 ~~"(j) WESTERN PACIFIC REGIONAL MARINE EDU-~~
2 ~~CATION AND TRAINING.—~~
3 ~~"(1) IN GENERAL.—The Secretary shall estab-~~
4 ~~lish a pilot program for regionally-based marine edu-~~
5 ~~cation and training programs in the Western Pacific~~
6 ~~to foster understanding, practical use of knowledge~~
7 ~~(including native Hawaiian and other Pacific Is-~~
8 ~~lander-based knowledge), and technical expertise rel-~~
9 ~~evant to stewardship of living marine resources. The~~
10 ~~Secretary shall, in cooperation with the Western Pa-~~
11 ~~cific Regional Fishery Management Council, regional~~
12 ~~educational institutions, and local Western Pacific~~
13 ~~community training entities, establish programs or~~
14 ~~projects that will improve communication, education,~~
15 ~~and training on marine resource issues throughout~~
16 ~~the region and increase scientific education for ma-~~
17 ~~rine-related professions among coastal community~~
18 ~~residents, including indigenous Pacific islanders, Na-~~
19 ~~tive Hawaiians and other underrepresented groups~~
20 ~~in the region.~~
21 ~~"(2) PROGRAM COMPONENTS.—The program~~
22 ~~shall—~~
23 ~~"(A) include marine science and technology~~
24 ~~education and training programs focused on~~
25 ~~preparing community residents for employment~~

~~in marine related professions, including marine resource conservation and management, marine science, marine technology, and maritime operations;~~

~~"(B) include fisheries and seafood-related training programs, including programs for fishery observers, seafood safety and seafood marketing, focused on increasing the involvement of coastal community residents in fishing, fishery management, and seafood-related operations;~~

~~"(C) include outreach programs and materials to educate and inform consumers about the quality and sustainability of wild fish or fish products farmed through responsible aquaculture, particularly in Hawaii and the Western Pacific;~~

~~"(D) include programs to identify, with the fishing industry, methods and technologies that will improve the data collection, quality, and reporting and increase the sustainability of fishing practices, and to transfer such methods and technologies among fisheries sectors and to other nations in the Western and Central Pacific;~~

~~"(E) develop means by which local and traditional knowledge (including Pacific islander and Native Hawaiian knowledge) can enhance science-based management of fishery resources of the region; and~~

~~"(F) develop partnerships with other Western Pacific Island agencies, academic institutions, and other entities to meet the purposes of this section.".~~

~~SEC. 110. WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM.~~

~~Section 305(i)(1) (16 U.S.C. 1855(i)(1)) is amended—~~

~~(1) by striking "To" in subparagraph (B) and inserting "Except as provided in subparagraph (E), to"; and~~

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

~~"(E) A community shall be eligible to participate in the western Alaska community development quota program under subparagraph (A) if the community was—~~

~~"(i) listed in table 7 to part 679 of title 50, Code of Federal Regulations, as in effect on January 1, 2004; or~~

1 ~~"(ii) approved by the National Marine~~
2 ~~Fisheries Service on April 19, 1999.".~~

3 **~~SEC. 111. SECRETARIAL ACTION ON STATE GROUNDFISH~~**
4 **~~FISHING.~~**

5 ~~Section 305 (16 U.S.C. 1855) is amended by adding~~
6 ~~at the end thereof the following:~~

7 ~~"(k) MULTISPECIES GROUNDFISH.—Within 60 days~~
8 ~~after the date of enactment of the Magnuson-Stevens~~
9 ~~Fishery Conservation and Management Reauthorization~~
10 ~~Act of 2005, the Secretary of Commerce shall determine~~
11 ~~whether fishing in State waters without a New England~~
12 ~~multispecies groundfish fishery permit on regulated spe-~~
13 ~~cies within the multispecies complex is not consistent with~~
14 ~~the applicable Federal fishery management plan. If the~~
15 ~~Secretary makes a determination that such actions are not~~
16 ~~consistent with the plan, the Secretary shall, in consulta-~~
17 ~~tion with the Council, and after notifying the affected~~
18 ~~State, develop and implement measures to cure the incon-~~
19 ~~sistency.".~~

20 **~~SEC. 112. JOINT ENFORCEMENT AGREEMENTS.~~**

21 ~~(a) IN GENERAL.—Section 311 (16 U.S.C. 1861) is~~
22 ~~amended—~~

23 ~~(1) by striking "and" after the semicolon in~~
24 ~~subsection (b)(1)(A)(iv);~~

~~(2) by inserting "and" after the semicolon in subsection (b)(1)(A)(v);~~

~~(3) by inserting after clause (v) of subsection (b)(1)(A) the following:~~

~~"(vi) access, directly or indirectly, for enforcement purposes any data or information required to be provided under this title or regulations under this title, including data from Global Maritime Distress and Safety Systems, vessel monitoring systems, or any similar system, subject to the confidentiality provisions of section 402,";~~

~~(4) by redesignating subsection (h) as subsection (j); and~~

~~(5) by inserting after subsection (g) the following:~~

~~"(h) JOINT ENFORCEMENT AGREEMENTS.—~~

~~"(1) IN GENERAL.—The Governor of an eligible State may apply to the Secretary for execution of a joint enforcement agreement with the Secretary that will authorize the deputization and funding of State law enforcement officers with marine law enforcement responsibilities to perform duties of the Secretary relating to law enforcement provisions under this title or any other marine resource law enforced~~

~~by the Secretary. Upon receiving an application meeting the requirements of this subsection, the Secretary may enter into a joint enforcement agreement with the requesting State.~~

~~"(2) ELIGIBLE STATE.—A State is eligible to participate in the cooperative enforcement agreements under this section if it is in, or bordering on, the Atlantic Ocean (including the Caribbean Sea), the Pacific Ocean, the Arctic Ocean, the Gulf of Mexico, Long Island Sound, or 1 or more of the Great Lakes.~~

~~"(3) REQUIREMENTS.—Joint enforcement agreements executed under paragraph (1)—~~

~~"(A) shall be consistent with the purposes and intent of this section to the extent applicable to the regulated activities;~~

~~"(B) may include specifications for joint management responsibilities as provided by the first section of Public Law 91–412 (15 U.S.C. 1525); and~~

~~"(C) shall provide for confidentiality of data and information submitted to the State under section 402.~~

~~"(4) ALLOCATION OF FUNDS.—The Secretary shall include in each joint enforcement agreement an~~

~~allocation of funds to assist in management of the agreement. The allocation shall be fairly distributed among all eligible States participating in cooperative enforcement agreements under this subsection, based upon consideration of Federal marine enforcement needs, the specific marine conservation enforcement needs of each participating eligible State, and the capacity of the State to undertake the marine enforcement mission and assist with enforcement needs. The agreement may provide for amounts to be withheld by the Secretary for the cost of any technical or other assistance provided to the State by the Secretary under the agreement.~~

~~"(i) IMPROVED DATA SHARING.—~~

~~"(1) IN GENERAL.—Notwithstanding any other provision of this Act, as soon as practicable but no later than 21 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, the Secretary shall implement data-sharing measures to make any data required to be provided by this Act from Global Maritime Distress and Safety Systems or similar systems—~~

1 ~~"(A) directly accessible by State enforce-~~
2 ~~ment officers authorized under subsection (a) of~~
3 ~~this section; and~~
4 ~~"(B) available to a State management~~
5 ~~agency involved in, or affected by, management~~
6 ~~of a fishery if the State has entered into an~~
7 ~~agreement with the Secretary under section~~
8 ~~402(b)(1)(B) of this Act.~~
9 ~~"(2) AGREEMENT REQUIRED.—The Secretary~~
10 ~~shall promptly enter into an agreement with a State~~
11 ~~under section 402(b)(1)(B) of this Act if—~~
12 ~~"(A) the Attorney General or highest rank-~~
13 ~~ing legal officer of the State provides a written~~
14 ~~opinion or certification that State law allows~~
15 ~~the State to maintain the confidentiality of in-~~
16 ~~formation required by Federal law to be kept~~
17 ~~confidential; or~~
18 ~~"(B) the Secretary is provided other rea-~~
19 ~~sonable assurance that the State can and will~~
20 ~~protect the identity or business of any person to~~
21 ~~which such information relates.".~~
22 ~~(b) REPORT ON USING GMDSS FOR FISHERY PUR-~~
23 ~~POSES.—Within 15 months after the date of enactment~~
24 ~~of this Act, the National Marine Fisheries Service and the~~
25 ~~United States Coast Guard shall transmit a joint report~~

~~to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources containing—~~

~~(1) a cost-to-benefit analysis of the feasibility, value, and cost of using the Global Maritime Distress and Safety Systems or similar systems for fishery management, conservation, enforcement, and safety purposes with the Federal government bearing the capital costs of any such system;~~

~~(2) an examination of the cumulative impact of existing requirements for commercial vessels;~~

~~(3) an examination of whether the Global Maritime Distress and Safety Systems or similar requirements would overlap existing requirements or render them redundant;~~

~~(4) an examination of how data integration from such systems could be addressed;~~

~~(5) an examination of how to maximize the data-sharing opportunities between relevant State and Federal agencies and provide specific information on how to develop these opportunities, including the provision of direct access to the Global Maritime Distress and Safety Systems or similar system data to State enforcement officers, while considering the need to maintain or provide an appropriate level of~~

~~individual vessel confidentiality where practicable; and~~

~~(6) an assessment of how the Global Maritime Distress and Safety Systems or similar systems could be developed, purchased, and distributed to regulated vessels.~~

~~SEC. 113. TRANSITION TO SUSTAINABLE FISHERIES.~~

~~(a) IN GENERAL.—Section 312 (16 U.S.C. 1861a) is amended—~~

~~(1) by striking "measures;" in subsection (a)(1)(B) and inserting "measures, including regulatory or judicial harvest restrictions imposed to protect human health or the marine environment;";~~

~~(2) by striking "1996, 1997, 1998, and 1999." in subsection (a)(4) and inserting "2006 through 2012.";~~

~~(3) by striking "or the Governor of a State for fisheries under State authority, may conduct a fishing" in subsection (b)(1) and inserting "the Governor of a State for fisheries under State authority, or a majority of permit holders in the fishery, may conduct a voluntary fishing";~~

~~(4) by inserting "practicable" after "entrants," in subsection (b)(1)(B)((i);~~

~~(5) by striking "cost-effective and" in subsection (b)(1)C) and inserting "cost-effective and, in the instance of a program involving an industry fee system, prospectively, and";~~

~~(6) by striking subparagraph (A) of subsection (b)(2) and inserting the following:~~

~~"(A) the owner of a fishing vessel, if the permit authorizing the participation of the vessel in the fishery is surrendered for permanent revocation and the vessel owner and permit holder relinquish any claim associated with the vessel or permit that could qualify such owner or holder for any present or future limited access system permit in the fishery for which the program is established and such vessel is (i) scrapped, or (ii) through the Secretary of the department in which the Coast Guard is operating, subjected to title restrictions (including loss of the vessel's fisheries endorsement) that permanently prohibit and effectively prevent its use in fishing in federal or state waters, or fishing on the high seas or in the waters of a foreign nation ; or";~~

~~(7) by striking "The Secretary shall consult, as appropriate, with Councils," in subsection (b)(4) and inserting "The harvester proponents of each pro-~~

~~gram and the Secretary shall consult, as appropriate and practicable, with Councils,'';~~

~~(8) by striking ''Secretary, at the request of the appropriate Council,'' in subsection (d)(1)(A) and inserting ''Secretary'';~~

~~(9) by striking ''Secretary, in consultation with the Council,'' in subsection (d)(1)(A) and inserting ''Secretary'';~~

~~(10) by striking ''a two-thirds majority of the participants voting.'' in subsection (d)(1)(B) and inserting ''at least a majority of the permit holders in the fishery, or 50 percent of the permitted allocation of the fishery.'';~~

~~(11) by striking ''establish;'' in subsection (d)(2)((C) and inserting ''establish, unless the Secretary determines that such fees should be collected from the seller;'' and~~

~~(12) striking subsection (e) and inserting the following:~~

~~''(e) IMPLEMENTATION PLAN.—~~

~~''(1) FRAMEWORK REGULATIONS.—The Secretary shall propose and adopt framework regulations applicable to the implementation of all programs under this section.~~

1 ~~"(2) PROGRAM REGULATIONS.—The Secretary~~
2 ~~shall implement each program under this section by~~
3 ~~promulgating regulations that, together with the~~
4 ~~framework regulations, establish each program and~~
5 ~~control its implementation.~~
6 ~~"(3) HARVESTER PROPONENTS' IMPLEMENTA-~~
7 ~~TION PLAN.—The Secretary may not propose imple-~~
8 ~~mentation regulations for a program to be paid for~~
9 ~~by an industry fee system until the harvester pro-~~
10 ~~ponents of the program provide to the Secretary a~~
11 ~~proposed implementation plan that, among other~~
12 ~~matters—~~
13 ~~"(A) proposes the types and numbers of~~
14 ~~vessels or permits that are eligible to participate~~
15 ~~in the program and the manner in which the~~
16 ~~program shall proceed, taking into account—~~
17 ~~"(i) the requirements of this section;~~
18 ~~"(ii) the requirements of the frame-~~
19 ~~work regulations;~~
20 ~~"(iii) the characteristics of the fishery;~~
21 ~~"(iv) the requirements of the applica-~~
22 ~~ble fishery management plan and any~~
23 ~~amendment that such plan may require to~~
24 ~~support the proposed program;~~

1 ~~"(v) the general needs and desires of~~
2 ~~harvesters in the fishery;~~
3 ~~"(vi) the need to minimize program~~
4 ~~costs; and~~
5 ~~"(vii) other matters, including the~~
6 ~~manner in which such proponents propose~~
7 ~~to fund the program to ensure its cost ef-~~
8 ~~fectiveness, as well as any relevant factors~~
9 ~~demonstrating the potential for, or nec-~~
10 ~~essary to obtain, the support and general~~
11 ~~cooperation of a substantial number of af-~~
12 ~~fected harvesters in the fishery (or portion~~
13 ~~of the fishery) for which the program is in-~~
14 ~~tended; and~~
15 ~~"(B) proposes procedures for program par-~~
16 ~~ticipation (such as submission of owner bids~~
17 ~~under an auction system or fair market-value~~
18 ~~assessment), including any terms and condi-~~
19 ~~tions for participation, that the harvester pro-~~
20 ~~ponents deem to be reasonably necessary to~~
21 ~~meet the program's proposed objectives.~~
22 ~~"(4) PARTICIPATION CONTRACTS.—The Sec-~~
23 ~~retary shall contract with each person participating~~
24 ~~in a program, and each such contract shall, in addi-~~
25 ~~tion to including such other matters as the Secretary~~

~~deems necessary and appropriate to effectively implement each program (including penalties for contract non-performance) be consistent with the framework and implementing regulations and all other applicable law.~~

~~"(5) REDUCTION AUCTIONS.—Each program not involving fair market assessment shall involve a reduction auction that scores the reduction price of each bid offer by the data relevant to each bidder under an appropriate fisheries productivity factor. If the Secretary accepts bids, the Secretary shall accept responsive bids in the rank order of their bid scores, starting with the bid whose reduction price is the lowest percentage of the productivity factor, and successively accepting each additional responsive bid in rank order until either there are no more responsive bids or acceptance of the next bid would cause the total value of bids accepted to exceed the amount of funds available for the program.~~

~~"(6) BID INVITATIONS.—Each program shall proceed by the Secretary issuing invitations to bid setting out the terms and conditions for participation consistent with the framework and implementing regulations. Each bid that the Secretary re-~~

~~ceives in response to the invitation to bid shall constitute an irrevocable offer from the bidder.''.~~

~~(b) TECHNICAL AMENDMENT.—Sections 116, 203, 204, 205, and 206 of the Sustainable Fisheries Act are deemed to have added sections 312, 402, 403, 404, and 405, respectively to the Act as of the date of enactment of the Sustainable Fisheries Act.~~

~~SEC. 114. REGIONAL COASTAL DISASTER ASSISTANCE, TRANSITION, AND RECOVERY PROGRAM.~~

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

~~''SEC. 315. REGIONAL COASTAL DISASTER ASSISTANCE, TRANSITION, AND RECOVERY PROGRAM.~~

~~''(a) IN GENERAL.—When there is a catastrophic regional fishery disaster the Secretary may, upon the request of, and in consultation with, the Governors of affected States, establish a regional economic transition program to provide immediate disaster relief assistance to the fishermen, charter fishing operators, United States fish processors, and owners of related fishery infrastructure affected by the disaster.~~

~~''(b) PROGRAM COMPONENTS.—~~

~~''(1) IN GENERAL.—The program shall provide funds or other economic assistance to affected entities for—~~

~~"(A) meeting immediate regional shoreside fishery infrastructure needs, including processing facilities, cold storage facilities, ice houses, docks, including temporary docks and storage facilities, and other related shoreside fishery support facilities and infrastructure;~~

~~"(B) financial assistance and job training assistance for fishermen who wish to remain in a fishery in the region that may be temporarily closed as a result of environmental or other effects associated with the disaster;~~

~~"(C) funding, pursuant to the requirements of section 312(b), to fishermen who are willing to scrap a fishing vessel and permanently surrender permits for fisheries named on that vessel; and~~

~~"(D) any other activities authorized under section 312(a) of this Act or section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)).~~

~~"(2) JOB TRAINING.—Any fisherman who decides to scrap a fishing vessel under the program shall be eligible for job training assistance.~~

~~"(3) STATE PARTICIPATION OBLIGATION.—The participation by a State in the program shall be con-~~

~~ditioned upon a commitment by the appropriate State entity to ensure that the relevant State fishery meets the requirements of section 312(b) of this Act to ensure excess capacity does not re-enter the fishery.~~

~~"(4) NO MATCHING.—Amounts provided under the program may not be conditioned upon matching State or local government funds or contributions.~~

~~"(5) NET REVENUE LIMIT INAPPLICABLE.—Section 308(d)(3) of the Interjurisdictional Fisheries Act (16 U.S.C. 4107(d)(3)) shall not apply to assistance under this section.".~~

~~"(e) REGIONAL IMPACT EVALUATION.—Within 2 months after a catastrophic regional fishery disaster the Secretary shall provide the Governor of each State participating in the program a comprehensive economic and socio-economic evaluation of the affected region's fisheries to assist the Governor in assessing the current and future economic viability of affected fisheries, including the economic impact of foreign fish imports and the direct, indirect, or environmental impact of the disaster on the fishery and coastal communities.~~

~~"(d) CATASTROPHIC REGIONAL FISHERY DISASTER DEFINED.—In this section the term 'catastrophic regional fishery disaster' means a natural disaster, including a hur-~~

1 ~~ricane or tsunami, or a judicial or regulatory closure to~~
2 ~~protect human health or the marine environment, that—~~
3 ~~"(1) results in economic losses to coastal or~~
4 ~~fishing communities;~~
5 ~~"(2) affects more than 1 State or a major fish-~~
6 ~~ery managed by a Council or interstate fishery com-~~
7 ~~mission; and~~
8 ~~"(3) is determined by the Secretary to be a~~
9 ~~commercial fishery failure under section 312(a) of~~
10 ~~this Act or a fishery resource disaster or section~~
11 ~~308(d) of the Interjurisdictional Fisheries Act of~~
12 ~~1986 (16 U.S.C. 4107(d)).".~~

13 ~~**SEC. 115. BYCATCH REDUCTION ENGINEERING PROGRAM.**~~

14 ~~Title III (16 U.S.C. 1851 et seq.), as amended by~~
15 ~~section 114 of this Act, is further amended by adding at~~
16 ~~the end the following:~~

17 ~~**"SEC. 316. BYCATCH REDUCTION ENGINEERING PROGRAM.**~~

18 ~~"(a) BYCATCH REDUCTION ENGINEERING PRO-~~
19 ~~GRAM.—Not later than 1 year after the date of enactment~~
20 ~~of the Magnuson-Stevens Fishery Conservation and Man-~~
21 ~~agement Reauthorization Act of 2005, the Secretary, in~~
22 ~~cooperation with the Councils and other affected interests,~~
23 ~~and based upon the best scientific information available,~~
24 ~~shall establish a bycatch reduction program to develop~~
25 ~~technological devices and other conservation engineering~~

~~changes designed to minimize bycatch, bycatch mortality, and post-release mortality in Federally managed fisheries. The program shall—~~

~~"(1) be regionally based;~~

~~"(2) be coordinated with projects conducted under the cooperative research and management program established under this Act;~~

~~"(3) provide information and outreach to fishery participants that will encourage adoption and use of technologies developed under the program; and~~

~~"(4) provide for routine consultation with the Councils in order to maximize opportunities to incorporate results of the program in Council actions and provide incentives for adoption of methods developed under the program in fishery management plans developed by the Councils.~~

~~"(b) INCENTIVES.—Any fishery management plan prepared by a Council or by the Secretary may establish a system of incentives to reduce total bycatch amounts, bycatch rates, and post-release mortality in fisheries under the Council's or Secretary's jurisdiction, including—~~

~~"(1) measures to incorporate bycatch into quotas, including the establishment of collective or individual bycatch quotas;~~

"(2) measures to promote the use of gear with verifiable and monitored low bycatch rates; and

"(3) measures that, based on the best scientific information available, will reduce bycatch, bycatch mortality, post-release mortality, or regulatory discards in the fishery.".

TITLE II—INFORMATION AND RESEARCH

SEC. 201. RECREATIONAL FISHERIES INFORMATION.

Section 401 (16 U.S.C. 1881) is amended by striking subsection (g) and inserting the following:

"(g) RECREATIONAL FISHERIES.—

"(1) FEDERAL PROGRAM.—The Secretary shall establish and implement a regionally based registry program for recreational fishermen in each of the 8 fishery management regions. The program, which shall not require a fee, shall provide for—

"(A) the registration (including identification and contact information) of individuals who engage in recreational fishing—

"(i) in the Exclusive Economic Zone;

"(ii) for anadromous species; or

"(iii) for Continental Shelf fishery resources beyond the Exclusive Economic Zone; and

1 ~~"(B) if appropriate, the registration (in-~~
2 ~~cluding the ownership, operator, and identifica-~~
3 ~~tion of the vessel) of vessels used in such fish-~~
4 ~~ing.~~
5 ~~"(2) STATE PROGRAMS.—The Secretary shall~~
6 ~~exempt from registration under the program rec-~~
7 ~~reational fishermen and charter fishing vessels li-~~
8 ~~censed, permitted, or registered under the laws of a~~
9 ~~State if the Secretary determines that information~~
10 ~~from the State program is suitable for the Sec-~~
11 ~~retary's use or is used to assist in completing marine~~
12 ~~recreational fisheries statistical surveys, or evalu-~~
13 ~~ating the effects of proposed conservation and man-~~
14 ~~agement measures for marine recreational fisheries.~~
15 ~~"(3) DATA COLLECTION.—Within 24 months~~
16 ~~after the date of enactment of the Magnuson-Ste-~~
17 ~~vens Fishery conservation and Management Reau-~~
18 ~~thorization Act of 2005, the Secretary shall establish~~
19 ~~a program to improve the quality and accuracy of~~
20 ~~information generated by the Marine Recreational~~
21 ~~Fishery Statistics Survey, with a goal of achieving~~
22 ~~acceptible accuracy and utility for each individual~~
23 ~~fishery. Unless the Secretary determines that alter-~~
24 ~~nate methods will achieve this goal more efficiently~~

~~and effectively, the program shall, to the extent possible, include—~~

~~"(A) an adequate number of dockside interviews to accurately estimate recreational catch and effort;~~

~~"(B) use of surveys that target anglers registered or licensed at the State or Federal level to collect participation and effort data;~~

~~"(C) collection and analysis of vessel trip report data from charter fishing vessels; and~~

~~"(D) development of a weather corrective factor that can be applied to recreational catch and effort estimates.~~

~~"(4) REPORT.—Within 24 months after establishment of the program, the Secretary shall submit a report to Congress that describes the progress made toward achieving the goals and objectives of the program.".~~

~~SEC. 202. COLLECTION OF INFORMATION.~~

~~Section 402(a) (16 U.S.C. 1881a(a)) is amended—~~

~~(1) by striking "(a) COUNCIL REQUESTS.—" in the subsection heading and inserting "(a) COLLECTION PROGRAMS.—";~~

(2) by resetting the text following "(a) COLLECTION PROGRAMS.—" as a new paragraph 2 ems from the left margin;

(3) by inserting "(1) COUNCIL REQUESTS.—" before "If a Council";

(4) by striking "subsection" in the last sentence and inserting "paragraph";

(5) by striking "(other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations)" each place it appears; and

(6) by adding at the end the following:

"(2) SECRETARIAL INITIATION.—If the Secretary determines that additional information is necessary for developing, implementing, revising, or monitoring a fishery management plan, or for determining whether a fishery is in need of management, the Secretary may, by regulation, implement an information collection or observer program requiring submission of such additional information for the fishery.".

SEC. 203. ACCESS TO CERTAIN INFORMATION.

(a) IN GENERAL.—Section 402(b) (16 U.S.C. 1881a(b)) is amended—

~~(1) by redesignating paragraph (2) as paragraph (3) and resetting it 2 ems from the left margin;~~

~~(2) by striking all preceding paragraph (3), as redesignated, and inserting the following:~~

~~"(b) CONFIDENTIALITY OF INFORMATION.—~~

~~"(1) Any information submitted to the Secretary, a state fishery management agency, or a marine fisheries commission by any person in compliance with the requirements of this Act that contains confidential information shall be confidential and shall be exempt from disclosure under section 552(h)(3) of title 5, United States Code, except—~~

~~"(A) to Federal employees and Council employees who are responsible for fishery management plan development, monitoring, or enforcement;~~

~~"(B) to State or Marine Fisheries Commission employees as necessary to further the Department's mission, subject to a confidentiality agreement that prohibits public disclosure of confidential information relating to any person;~~

~~"(C) to State employees who are responsible for fishery management plan enforcement, if the States employing those employees have~~

~~entered into a fishery enforcement agreement with the Secretary and the agreement is in effect;~~

~~"(D) when such information is used by State, Council, or Marine Fisheries Commission employees to verify catch under a limited access program, but only to the extent that such use is consistent with subparagraph (B);~~

~~"(E) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act;~~

~~"(F) when such information is required to be submitted to the Secretary for any determination under a limited access program; or~~

~~"(G) in support of homeland and national security activities, including the Coast Guard's homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2)).~~

~~"(2) Any observer information shall be confidential and shall not be disclosed, except in accord-~~

~~ance with the requirements of subparagraphs (A) through (G) of paragraph (1), or—~~

~~"(A) as authorized by a fishery management plan or regulations under the authority of the North Pacific Council to allow disclosure to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification;~~

~~"(B) when such information is necessary in proceedings to adjudicate observer certifications; or~~

~~"(C) as authorized by any regulations issued under paragraph (3) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—~~

~~"(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or~~

~~"(ii) to validate the accuracy of the observer information collected."; and~~

~~(3) by striking "(1)(E)." in paragraph (3), as redesignated, and inserting "(2)(A).".~~

~~(b) CONFORMING AMENDMENT.—Section 404(c)(4) (16 U.S.C. 1881c(c)(4)) is amended by striking "under section 401".~~

~~SEC. 204. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM.~~

~~Title III (16 U.S.C. 1851 et seq.), as amended by section 111, is further amended by adding at the end the following:~~

~~"SEC. 317. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM.~~

~~"(a) IN GENERAL.—The Secretary of Commerce, in consultation with the Councils, shall establish a cooperative research and management program to address needs identified under this Act and under any other marine resource laws enforced by the Secretary. The program shall be implemented on a regional basis and shall be developed and conducted through partnerships among Federal, State, and Tribal managers and scientists (including interstate fishery commissions), fishing industry participants, and educational institutions.~~

~~"(b) ELIGIBLE PROJECTS.—The Secretary shall make funds available under the program for the support of projects to address critical needs identified by the Sec-~~

~~retary in consultation with the Councils. The program shall promote and encourage efforts to utilize sources of data maintained by other Federal agencies, State agencies, or academia for use in such projects.~~

~~"(c) FUNDING.—In making funds available the Secretary shall award funding on a competitive basis and based on regional fishery management needs, select programs that form part of a coherent program of research focused on solving priority issues identified by the Councils, and shall give priority to the following projects:~~

~~"(1) Projects to collect data to improve, supplement, or enhance stock assessments, including the use of fishing vessels or acoustic or other marine technology.~~

~~"(2) Projects to assess the amount and type of bycatch or post-release mortality occurring in a fishery.~~

~~"(3) Conservation engineering projects designed to reduce bycatch, including avoidance of post-release mortality, reduction of bycatch in high seas fisheries, and transfer of such fishing technologies to other nations.~~

~~"(4) Projects for the identification of habitat areas of particular concern and for habitat conservation.~~

1 ~~"(5) Projects designed to collect and compile~~
2 ~~economic and social data.~~
3 ~~"(d) EXPERIMENTAL PERMITTING PROCESS.—Not~~
4 ~~later than 180 days after the date of enactment of the~~
5 ~~Magnuson-Stevens Fishery Conservation and Manage-~~
6 ~~ment Reauthorization Act of 2005, the Secretary, in con-~~
7 ~~sultation with the Councils, shall promulgate regulations~~
8 ~~that create an expedited, uniform, and regionally-based~~
9 ~~process to promote issuance, where practicable, of experi-~~
10 ~~mental fishing permits.~~
11 ~~"(e) GUIDELINES.—The Secretary, in consultation~~
12 ~~with the Councils, shall establish guidelines to ensure that~~
13 ~~participation in a research project funded under this sec-~~
14 ~~tion does not result in loss of a participant's catch history~~
15 ~~or unexpended days-at-sea as part of a limited entry sys-~~
16 ~~tem.".~~
17 **~~SEC. 205. HERRING STUDY.~~**
18 ~~Title III (16 U.S.C. 1851 et seq.), as amended by~~
19 ~~section 204, is further amended by adding at the end the~~
20 ~~following:~~
21 **~~"SEC. 318. HERRING STUDY.~~**
22 ~~"(a) IN GENERAL.—The Secretary may conduct a co-~~
23 ~~operative research program to study the issues of abun-~~
24 ~~dance, distribution and the role of herring as forage fish~~
25 ~~for other commercially important fish stocks in the North-~~

~~west Atlantic, and the potential for local scale depletion from herring harvesting and how it relates to other fisheries in the Northwest Atlantic. In planning, designing, and implementing this program, the Secretary shall engage multiple fisheries sectors and stakeholder groups concerned with herring management.~~

~~"(b) REPORT.—The Secretary shall present the final results of this study to Congress within 3 months following the completion of the study, and an interim report at the end of fiscal year 2008.~~

~~"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for fiscal year 2007 through fiscal year 2009 to conduct this study.".~~

~~SEC. 206. RESTORATION STUDY.~~

~~Title III (16 U.S.C. 1851 et seq.), as amended by section 205, is further amended by adding at the end the following:~~

~~"SEC. 319. RESTORATION STUDY.~~

~~"(a) IN GENERAL.—The Secretary may conduct a study to update scientific information and protocols needed to improve restoration techniques for a variety of coast habitat types and synthesize the results in a format easily understandable by restoration practitioners and local communities.~~

1 ~~"(b) AUTHORIZATION OF APPROPRIATIONS.—There~~
2 ~~are authorized to be appropriated $500,000 for fiscal year~~
3 ~~2007 to conduct this study.".~~

4 **~~SEC. 207. WESTERN PACIFIC FISHERY DEMONSTRATION~~**
5 **~~PROJECTS.~~**

6 ~~Section 111(b) of the Sustainable Fisheries Act (16~~
7 ~~U.S.C. 1855 note) is amended—~~

8 ~~(1) by striking "and the Secretary of the Inte-~~
9 ~~rior are" in paragraph (1) and inserting "is";~~

10 ~~(2) by striking "not less than three and not~~
11 ~~more than five" in paragraph (1); and~~

12 ~~(3) by striking paragraph (6) and inserting the~~
13 ~~following:~~

14 ~~"(6) In this subsection the term 'Western Pa-~~
15 ~~cific community' means a community eligible to par-~~
16 ~~ticipate under section 305(i)(2)(B)(i) through (iv) of~~
17 ~~the Magnuson-Stevens Fishery Conservation and~~
18 ~~Management Act (16 U.S.C. 1855(i)(2)(B)(i)~~
19 ~~through (iv)).".~~

20 **~~SEC. 208. FISHERIES CONSERVATION AND MANAGEMENT~~**
21 **~~FUND.~~**

22 ~~(a) IN GENERAL.—The Secretary shall establish and~~
23 ~~maintain a fund, to be known as the "Fisheries Conserva-~~
24 ~~tion and Management Fund", which shall consist of~~

~~amounts retained and deposited into the Fund under subsection (c).~~

~~(b) PURPOSES.—Subject to the allocation of funds described in subsection (d), amounts in the Fund shall be available to the Secretary of Commerce, without appropriation or fiscal year limitation, to disburse as described in subsection (c) for—~~

~~(1) efforts to improve fishery harvest data collection including—~~

~~(A) expanding the use of electronic catch reporting programs and technology; and~~

~~(B) improvement of monitoring and observer coverage through the expanded use of electronic monitoring devices and satellite tracking systems such as VMS on small vessels;~~

~~(2) cooperative fishery research and analysis, in collaboration with fishery participants, academic institutions, community residents, and other interested parties;~~

~~(3) development of methods or new technologies to improve the quality, health safety, and value of fish landed;~~

~~(4) conducting analysis of fish and seafood for health benefits and risks, including levels of con-~~

~~taminants and, where feasible, the source of such contaminants;~~

~~(5) marketing of sustainable United States fishery products, including consumer education regarding the health or other benefits of wild fishery products harvested by vessels of the United States; and~~

~~(6) providing financial assistance to fishermen to offset the costs of modifying fishing practices and gear to meet the requirements of this Act, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and other Federal laws in pari materia.~~

~~(c) DEPOSITS TO THE FUND.—~~

~~(1) COMPLIANCE ASSISTANCE.—Paragraph (1) of section 311(e) (16 U.S.C. 1861(e)) is amended—~~

~~(A) by striking "and" after the semicolon in subparagraph (E);~~

~~(B) by striking "law." in subparagraph (F); and~~

~~(C) by adding at the end the following:~~

~~"(G) amounts to the Fishery Conservation and Management fund established by section 208 of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005 necessary to assist in improving moni-~~

~~toring, enforcement, and compliance activities under this Act.''.~~

~~(2) QUOTA SET-ASIDES.—Any amount generated through quota set-asides established by a Council under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and designated by the Council for inclusion in the Fishery Conservation and Management Fund, may be deposited in the Fund.~~

~~(3) OTHER FUNDS.—In addition to amounts received under sections 311(e)(1)(G) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861(e)(1)(G), and amounts received pursuant to paragraph (2) of this subsection, the Fishery Conservation and Management Fund may also receive funds from—~~

~~(A) appropriations for the purposes of this section; and~~

~~(B) States or other public sources or private or non-profit organizations for purposes of this section.~~

~~(d) REGIONAL ALLOCATION.—The Secretary shall, every 2 years, apportion monies from the Fund among the eight Council regions according to consensus recommendations of the Councils, based on regional priorities identi-~~

~~fied through the Council process, except that no region shall receive less than 5 percent of the Fund in each allocation period.~~

~~(c) LIMITATION ON THE USE OF THE FUND.—No amount made available from the Fund may be used to defray the costs of carrying out other requirements of this Act or the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).~~

~~SEC. 209. USE OF FISHERY FINANCE PROGRAM AND CAPITAL CONSTRUCTION FUND FOR SUSTAINABLE PURPOSES.~~

~~(a) PURPOSE OF OBLIGATIONS.—Section 1104A(a)(7) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274(a)(7)) is amended to read as follows:~~

~~"financing or refinancing including,~~

~~"(A) the reimbursement of obligors for expenditures previously made, for the purchase of individual fishing quotas in accordance with section 303(d)(4) of the Magnuson-Stevens Fishery Conservation and Management Act;~~

~~"(B) activities that assist in the transition to reduced fishing capacity;~~

~~"(C) technologies or upgrades designed to improve collection and reporting of fishery-dependent data, to reduce bycatch, to improve se-~~

~~lectivity or reduce adverse impacts of fishing gear, or to improve safety; or~~

~~"(D) developing a sustainable fisheries labeling and marketing plan for a fishery, as defined in section 607(k)(10) of this Act, determined by the Secretary to be in compliance with the requirements of this Act and any other marine resource law implemented by the Secretary.".~~

~~(b) by striking "fisheries of the United States" in the second sentence of subsection (a) and inserting "fisheries of the United States, or for the purpose of developing a sustainable fisheries labeling and marketing plan for a fishery determined by the Secretary to be in compliance with the requirements of this Act and any other living marine resource law implemented by the Secretary, or with respect to seafood imports, to have been taken and retained in a manner consistent with international regulations governing the taking of such stock of fish and is accompanied by a certificate of origin under section 219 of the Fish and Seafood Promotion Act of 1986,";~~

~~(c) EXPANSION OF PURPOSES FOR QUALIFIED WITHDRAWALS.—Section 607(f)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(f)(1)) is amended—~~

~~(1) by striking "for:" and inserting "for—";~~

~~(2) by striking "vessel," in subparagraph (A) and inserting "vessel;";~~

~~(3) by striking "vessel, or" in subparagraph (B) and inserting "vessel;";~~

~~(4) by striking "vessel." in subparagraph (C) and inserting "vessel;"; and~~

~~(5) by inserting after subparagraph (C) the following:~~

~~"(D) in the case of any person for whose benefit the fund was established and who participates in the fishing capacity reduction program under section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a)—~~

~~"(i) if such person remains in the fishery, the satisfaction of any debt obligation undertaken pursuant to such program; and~~

~~"(ii) if such person withdraws 1 or more vessels from the fishery, the substitution of amounts the person would otherwise receive under such program for such person's vessel or permit to engage in the fishery;~~

~~"(E) the repair, maintenance, or upgrade of an eligible vessel or its equipment for the purpose of—~~

~~"(i) making conservation engineering changes to reduce bycatch, improve selectivity of fishing gear, or reduce adverse impacts of fishing gear;~~

~~"(ii) improving vessel safety; or~~

~~"(iii) acquiring, installing, or upgrading equipment to improve collection, reporting, or accuracy of fishery data; or~~

~~"(F) the acquisition, construction, reconstruction, upgrading, or investment in shoreside fishery-related facilities or infrastructure in the United States for the purpose of promoting United States ownership of fishery-related facilities in the United States without contributing to overcapacity in the sector.".~~

~~TITLE III—OTHER FISHERIES STATUTES~~

~~SEC. 301. AMENDMENTS TO NORTHERN PACIFIC HALIBUT ACT.~~

~~(a) CIVIL PENALTIES.—Section 8(a) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773f(a)) is amended—~~

(1) by striking "$25,000" and inserting "$200,000";

(2) by striking "violation, the degree of culpability, and history of prior offenses, ability to pay," in the fifth sentence and inserting "violator, the degree of culpability, any history of prior offenses,"; and

(3) by adding at the end the following: "In assessing such penalty, the Secretary may also consider any information provided by the violator relating to the ability of the violator to pay if the information is provided to the Secretary at least 30 days prior to an administrative hearing.".

(b) PERMIT SANCTIONS.—Section 8 of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773f) is amended by adding at the end the following:

"(e) REVOCATION OR SUSPENSION OF PERMIT.—

"(1) IN GENERAL.—The Secretary may take any action described in paragraph (2) in any case in which—

"(A) a vessel has been used in the commission of any act prohibited under section 7;

"(B) the owner or operator of a vessel or any other person who has been issued or has

~~applied for a permit under this Act has acted in violation of section 7; or~~

~~"(C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary has not been paid and is overdue.~~

~~"(2) PERMIT-RELATED ACTIONS.—Under the circumstances described in paragraph (1) the Secretary may—~~

~~"(A) revoke any permit issued with respect to such vessel or person, with or without prejudice to the issuance of subsequent permits;~~

~~"(B) suspend such permit for a period of time considered by the Secretary to be appropriate;~~

~~"(C) deny such permit; or~~

~~"(D) impose additional conditions and restrictions on any permit issued to or applied for by such vessel or person under this Act and, with respect to any foreign fishing vessel, on the approved application of the foreign nation~~

~~involved and on any permit issued under that application.~~

~~"(3) FACTORS TO BE CONSIDERED.—In imposing a sanction under this subsection, the Secretary shall take into account—~~

~~"(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and~~

~~"(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.~~

~~"(4) TRANSFERS OF OWNERSHIP.—Transfer of ownership of a vessel, a permit, or any interest in a permit, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, permit, or interest in a permit, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel, permit, or interest at the time of the transfer.~~

~~"(5) REINSTATEMENT.—In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty, criminal fine, or any~~

~~amount in settlement of a civil forfeiture, the Secretary shall reinstate the permit upon payment of the penalty, fine, or settlement amount and interest thereon at the prevailing rate.~~

~~"(6) HEARING.—No sanction shall be imposed under this subsection unless there has been prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed either in conjunction with a civil penalty proceeding under this section or otherwise.~~

~~"(7) PERMIT DEFINED.—In this subsection, the term 'permit' means any license, certificate, approval, registration, charter, membership, exemption, or other form of permission issued by the Commission or the Secretary, and includes any quota share or other transferable quota issued by the Secretary.".~~

~~(c) CRIMINAL PENALTIES.—Section 9(b) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773g(b)) is amended—~~

~~(1) by striking "$50,000" and inserting "$200,000"; and~~

~~(2) by striking "$100,000," and inserting "$400,000,".~~

~~SEC. 302. REAUTHORIZATION OF OTHER FISHERIES ACTS.~~

~~(a) ATLANTIC STRIPED BASS CONSERVATION ACT.—Section 7(a) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 5156(a)) is amended to read as follows:~~

~~"(a) AUTHORIZATION.—For each of fiscal years 2006, 2007, 2008, 2009, and 2010, there are authorized to be appropriated to carry out this Act—~~

~~"(1) $1,000,000 to the Secretary of Commerce; and~~

~~"(2) $250,000 to the Secretary of the Interior.".~~

~~(b) YUKON RIVER SALMON ACT OF 2000.—Section 208 of the Yukon River Salmon Act of 2000 (16 U.S.C. 5727) is amended by striking "$4,000,000 for each of fiscal years 2004 through 2008," and inserting "$4,000,000 for each of fiscal years 2006 through 2010,".~~

~~(c) SHARK FINNING PROHIBITION ACT.—Section 10 of the Shark Finning Prohibition Act (16 U.S.C. 1822 note) is amended by striking "fiscal years 2001 through 2005" and inserting "fiscal years 2006 through 2010".~~

~~(d) PACIFIC SALMON TREATY ACT.—~~

~~(1) TRANSFER OF SECTION TO ACT.—The text of section 623 of title VI of H.R. 3421 (113 Stat. 1501A–56), as introduced on November 17, 1999, and enacted into law by section 1000(a)(1) of the Act of November 29, 1999 (Public Law 106–113)—~~

~~(A) is transferred to the Pacific Salmon Treaty Act (16 U.S.C. 3631 et seq.) and inserted after section 15; and~~

~~(B) amended—~~

~~(i) by striking "SEC. 623."; and~~

~~(ii) inserting before "(a) NORTHERN FUND AND SOUTHERN FUND.—" the following:~~

~~"SEC. 16. NORTHERN AND SOUTHERN FUNDS; TREATY IMPLEMENTATION; ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.".~~

~~(2) TECHNICAL CORRECTION.—The amendment made by the Department of Commerce and Related Agencies Appropriations Act, 2005 under the heading "PACIFIC COASTAL SALMON RECOVERY" (118 Stat. 2881), to section 628(2)(A) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 is deemed to have been made to section 623(d)(2)(A) of title VI of H.R. 3421 (113 Stat. 1501A–56), as introduced on November 17, 1999, enacted into law by section 1000(a)(1) of the Act of November 29, 1999 (Public Law 106–113) instead of to such section 628(2)(A), as of the date of enact-~~

~~ment of the Department of Commerce and Related Agencies Appropriations Act, 2005.~~

~~(3) REAUTHORIZATION.—Section 16(d)(2)(A) of the Pacific Salmon Treaty Act, as transferred by subsection (a), is amended—~~

~~(A) by inserting "sustainable salmon fisheries," after "enhancement,"; and~~

~~(B) by inserting "2006, 2007, 2008, 2009, and 2010," after "2005,".~~

~~(e) ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT ACT.—Section 811(a) of the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5108(a)) is amended by striking "2005." and inserting "2005 and $15,000,000 for each of fiscal years 2006 through 2010.".~~

~~(f) STATE AUTHORITY FOR DUNGENESS CRAB FISHERY MANAGEMENT.—Section 203 of Public Law 105–384 (16 U.S.C. 1856 note) is amended—~~

~~(1) by striking "September 30, 2006." in subsection (i) and inserting "September 30, 2011.";~~

~~(2) by striking "health" in subsection (j) and inserting "status"; and~~

~~(3) by striking "California." in subsection (j) and inserting "California, including—~~

1 ~~"(1) stock status and trends throughout its~~
2 ~~range;~~
3 ~~"(2) a description of applicable research and~~
4 ~~scientific review processes used to determine stock~~
5 ~~status and trends; and~~
6 ~~"(3) measures implemented or planned that are~~
7 ~~designed to prevent or end overfishing in the fish-~~
8 ~~ery.".~~

9 # ~~TITLE IV—INTERNATIONAL~~

10 **~~SEC. 401. INTERNATIONAL MONITORING AND COMPLIANCE.~~**

11 ~~Title II (16 U.S.C. 1821 et seq.) is amended by add-~~
12 ~~ing at the end the following:~~

13 **~~"SEC. 207. INTERNATIONAL MONITORING AND COMPLI-~~**
14 **~~ANCE.~~**

15 ~~"(a) IN GENERAL.—The Secretary may undertake~~
16 ~~activities to promote improved monitoring and compliance~~
17 ~~for high seas fisheries, or fisheries governed by inter-~~
18 ~~national fishery management agreements, and to imple-~~
19 ~~ment the requirements of this title.~~

20 ~~"(b) SPECIFIC AUTHORITIES.—In carrying out sub-~~
21 ~~section (a), the Secretary may—~~

22 ~~"(1) share information on harvesting and proc-~~
23 ~~essing capacity and illegal, unreported and unregu-~~
24 ~~lated fishing on the high seas, in areas covered by~~
25 ~~international fishery management agreements, and~~

~~by vessels of other nations within the United States exclusive economic zone, with relevant law enforcement organizations of foreign nations and relevant international organizations;~~

~~"(2) further develop real time information sharing capabilities, particularly on harvesting and processing capacity and illegal, unreported and unregulated fishing;~~

~~"(3) participate in global and regional efforts to build an international network for monitoring, control, and surveillance of high seas fishing and fishing under regional or global agreements;~~

~~"(4) support efforts to create an international registry or database of fishing vessels, including by building on or enhancing registries developed by international fishery management organizations;~~

~~"(5) enhance enforcement capabilities through the application of commercial or governmental remote sensing technology to locate or identify vessels engaged in illegal, unreported, or unregulated fishing on the high seas, including encroachments into the exclusive economic zone by fishing vessels of other nations;~~

1 ~~"(6) provide technical or other assistance to de-~~
2 ~~veloping countries to improve their monitoring, con-~~
3 ~~trol, and surveillance capabilities; and~~
4 ~~"(7) support coordinated international efforts~~
5 ~~to ensure that all large-scale fishing vessels oper-~~
6 ~~ating on the high seas are required by their flag~~
7 ~~State to be fitted with vessel monitoring systems no~~
8 ~~later than December 31, 2008, or earlier if so de-~~
9 ~~cided by the relevant flag State or any relevant~~
10 ~~international fishery management organization.".~~

11 **~~SEC. 402. FINDING WITH RESPECT TO ILLEGAL, UNRE-~~**
12 **~~PORTED, AND UNREGULATED FISHING.~~**

13 ~~Section 2(a) (16 U.S.C. 1802(a)) is amended by add-~~
14 ~~ing at the end the following:~~
15 ~~"(11) International cooperation is necessary to~~
16 ~~address illegal, unreported, and unregulated fishing~~
17 ~~and other fishing practices which may harm the sus-~~
18 ~~tainability of living marine resources and disadvan-~~
19 ~~tage the United States fishing industry.".~~

20 **~~SEC. 403. ACTION TO END ILLEGAL, UNREPORTED, OR UN-~~**
21 **~~REGULATED FISHING AND REDUCE BYCATCH~~**
22 **~~OF PROTECTED MARINE SPECIES.~~**

23 ~~(a) IN GENERAL.—The High Seas Driftnet Fishing~~
24 ~~Moratorium Protection Act (16 U.S.C. 1826d et seq.), is~~
25 ~~amended by adding at the end the following:~~

~~"SEC. 607 BIENNIAL REPORT ON INTERNATIONAL COMPLIANCE.~~

~~"The Secretary, in consultation with the Secretary of State, shall provide to Congress, by not later than 2 years after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, and every 2 years thereafter, a report that includes—~~

~~"(1) the state of knowledge on the status of international living marine resources, including a list of all fish stocks classified as overfished, overexploited, depleted, endangered, or threatened with extinction by any international or other authority charged with management or conservation of living marine resources;~~

~~"(2) a list of nations whose vessels have been identified under sections 609(a) or 610(a), including the specific offending activities and any subsequent actions taken pursuant to section 609 or 610;~~

~~"(3) a description of efforts taken by nations on those lists to comply with the provisions of sections 609 and 610, and an evaluation of the progress of those efforts, including steps taken by the United States to implement those sections and to improve international compliance;~~

1 ~~"(4) progress at the international level, pursu-~~
2 ~~ant to section 608, to strengthen the efforts of inter-~~
3 ~~national fishery management organizations to end il-~~
4 ~~legal, unreported, or unregulated fishing; and~~
5 ~~"(5) a plan of action for ensuring the conclu-~~
6 ~~sion and entry into force of international measures~~
7 ~~comparable to those of the United States to reduce~~
8 ~~impacts of fishing and other practices on protected~~
9 ~~living marine resources, if no international agree-~~
10 ~~ment to achieve such goal exists, or if the relevant~~
11 ~~international fishery or conservation organization~~
12 ~~has failed to implement effective measures to end or~~
13 ~~reduce the adverse impacts of fishing practices on~~
14 ~~such species.~~

15 **~~"SEC. 608. ACTION TO STRENGTHEN INTERNATIONAL FISH-~~**
16 **~~ERY MANAGEMENT ORGANIZATIONS.~~**

17 ~~"The Secretary, in consultation with the Secretary of~~
18 ~~State, and in cooperation with relevant fishery manage-~~
19 ~~ment councils, shall take actions to improve the effective-~~
20 ~~ness of international fishery management organizations in~~
21 ~~conserving and managing fish stocks under their jurisdic-~~
22 ~~tion. These actions shall include—~~
23 ~~"(1) urging international fishery management~~
24 ~~organizations to which the United States is a mem-~~
25 ~~ber—~~

~~"(A) to incorporate multilateral sanctions against member governments whose vessels engage in illegal, unreported, or unregulated fishing;~~

~~"(B) to seek adoption of lists that identify fishing vessels engaged in illegal, unreported, or unregulated fishing, including authorized (green) and unauthorized (red) vessel lists, that can be shared among all members and other international fishery management organizations;~~

~~"(C) to seek international adoption of a centralized vessel monitoring system with an independent secretariat in order to monitor and document capacity in fleets of all nations involved in fishing in areas under the an international fishery management organization's jurisdiction;~~

~~"(D) to increase use of observers and technologies needed to monitor compliance with conservation and management measures established by the organization, including vessel monitoring systems and automatic identification systems; and~~

~~"(E) to seek adoption of greater port state controls in all nations, particularly those na-~~

~~tions whose vessels engage in illegal, unreported, or unregulated fishing;~~

~~"(2) urging international fishery management organizations to which the United States is a member, as well as all members of those organizations, to adopt and expand the use of market-related measures to combat illegal, unreported, or unregulated fishing, including—~~

~~"(A) import prohibitions, landing restrictions, or other market-based measures needed to enforce compliance with international fishery management organization measures, such as quotas and catch limits;~~

~~"(B) import restrictions or other market-based measures to prevent the trade or importation of fish caught by vessels identified multilaterally as engaging in illegal, unreported, or unregulated fishing; and~~

~~"(C) catch documentation and certification schemes to improve tracking and identification of catch of vessels engaged in illegal, unreported, or unregulated fishing, including advance transmission of catch documents to ports of entry; and~~

1 ~~"(3) urging other nations at bilateral, regional,~~
2 ~~and international levels, including the Convention on~~
3 ~~International Trade in Endangered Species of~~
4 ~~Fauna and Flora and the World Trade Organization~~
5 ~~to take all steps necessary, consistent with inter-~~
6 ~~national law, to adopt measures and policies that~~
7 ~~will prevent fish or other living marine resources~~
8 ~~harvested by vessels engaged in illegal, unreported,~~
9 ~~or unregulated fishing from being traded or im-~~
10 ~~ported into their nation or territories.~~

11 **~~"SEC. 609 ILLEGAL, UNREPORTED, OR UNREGULATED FISH-~~**
12 **~~ING.~~**

13 ~~"(a) IDENTIFICATION.—The Secretary shall identify,~~
14 ~~and list in the report under section 607, a nation if—~~

15 ~~"(1) fishing vessels of that nation are engaged,~~
16 ~~or have been engaged during the preceding calendar~~
17 ~~year in illegal, unreported, or unregulated fishing;~~
18 ~~and~~

19 ~~"(2) the relevant international fishery manage-~~
20 ~~ment organization has failed to implement effective~~
21 ~~measures to end the illegal unreported, or unregu-~~
22 ~~lated fishing activity by vessels of that nation or the~~
23 ~~nation is not a party to, or does not maintain co-~~
24 ~~operating status with, such organization, or where~~

~~no international fishery management organization exists.~~

~~"(b) NOTIFICATION.—An identification under subsection (a) or section 610(a) is deemed to be an identification under section 101(b)(1)(A) of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(b)(1)(A)), and the Secretary shall notify the President and that nation of such identification.~~

~~"(c) CONSULTATION.—No later than 60 days after submitting a report to Congress under section 607, the Secretary, in consultation with the Secretary of State, shall—~~

~~"(1) notify nations listed in the report of the requirements of this section;~~

~~"(2) initiate consultations for the purpose of encouraging such nations to take the appropriate corrective action with respect to the offending activities of their fishing vessels identified in the report; and~~

~~"(3) notify any relevant international fishery management organization of the actions taken by the United States under this section.~~

~~"(d) IUU CERTIFICATION PROCEDURE.—~~

~~"(1) CERTIFICATION.—The Secretary shall establish a procedure, consistent with the provisions of~~

~~subchapter II of chapter 5 of title 5, United States Code, and including notice and an opportunity for comment by the governments of any nation listed by the Secretary under subsection (a), for determining if that government has taken appropriate corrective action with respect to the offending activities of its fishing vessels identified in the report under section 607. The Secretary shall determine, on the basis of the procedure, and certify to the Congress no later than 90 days after the date on which the Secretary promulgates a final rule containing the procedure, and biennially thereafter in the report under section 607—~~

~~"(A) whether the government of each nation identified under subsection (b) has provided documentary evidence that it has taken corrective action with respect to the offending activities of its fishing vessels identified in the report; or~~

~~"(B) whether the relevant international fishery management organization has implemented measures that are effective in ending the illegal, unreported, or unregulated fishing activity by vessels of that nation.~~

1 ~~"(2) ALTERNATIVE PROCEDURE.—The Sec-~~
2 ~~retary may establish a procedure for certification, on~~
3 ~~a shipment-by-shipment, shipper-by-shipper, or other~~
4 ~~basis of fish or fish products from a vessel of a har-~~
5 ~~vesting nation not certified under paragraph (1) if~~
6 ~~the Secretary determines that—~~
7 ~~"(A) the vessel has not engaged in illegal,~~
8 ~~unreported, or unregulated fishing under an~~
9 ~~international fishery management agreement to~~
10 ~~which the United States is a party; or~~
11 ~~"(B) the vessel is not identified by an~~
12 ~~international fishery management organization~~
13 ~~as participating in illegal, unreported, or un-~~
14 ~~regulated fishing activities.~~
15 ~~"(3) EFFECT OF CERTIFICATION.—The provi-~~
16 ~~sions of section 101(a) and section 101(b)(3) and~~
17 ~~(4) of this Act (16 U.S.C. 1826a(a), (b)(3), and~~
18 ~~(b)(4)) shall apply to any nation identified under~~
19 ~~subsection (a) that has not been certified by the Sec-~~
20 ~~retary under this subsection, or for which the Sec-~~
21 ~~retary has issued a negative certification under this~~
22 ~~subsection, but shall not apply to any nation identi-~~
23 ~~fied under subsection (a) for which the Secretary~~
24 ~~has issued a positive certification under this sub-~~
25 ~~section.~~

1 ~~"(e) ILLEGAL, UNREPORTED, OR UNREGULATED~~
2 ~~FISHING DEFINED.—~~
3 ~~"(1) IN GENERAL.—In this Act the term 'ille-~~
4 ~~gal, unreported, or unregulated fishing' has the~~
5 ~~meaning established under paragraph (2).~~
6 ~~"(2) SECRETARY TO DEFINE TERM WITHIN~~
7 ~~LEGISLATIVE GUIDELINES.—Within 3 months after~~
8 ~~the date of enactment of the Magnuson-Stevens~~
9 ~~Fishery Conservation and Management Reauthoriza-~~
10 ~~tion Act of 2005, the Secretary shall publish a defi-~~
11 ~~nition of the term 'illegal, unreported, or unregu-~~
12 ~~lated fishing' for purposes of this Act.~~
13 ~~"(3) GUIDELINES.—The Secretary shall include~~
14 ~~in the definition, at a minimum—~~
15 ~~"(A) fishing activities that violate con-~~
16 ~~servation and management measures required~~
17 ~~under an international fishery management~~
18 ~~agreement to which the United States is a~~
19 ~~party, including catch limits or quotas, capacity~~
20 ~~restrictions, and bycatch reduction require-~~
21 ~~ments;~~
22 ~~"(B) overfishing of fish stocks for which~~
23 ~~there are no applicable conservation or manage-~~
24 ~~ment measures or in areas with no applicable~~

international fishery management organization or agreement; and

"(C) destructive fishing practices, including bottom trawling, that have adverse impacts on seamounts, hydrothermal vents, and cold water corals located beyond national jurisdiction, for which there are no applicable conservation or management measures or in areas with no applicable international fishery management organization or agreement.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal years 2006 through 2012 such sums as are necessary to carry out this section.

"SEC. 610. EQUIVALENT CONSERVATION MEASURES.

"(a) IDENTIFICATION.—The Secretary shall identify, and list in the report under section 607, a nation if—

"(1) fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year in fishing activities or practices beyond the exclusive economic zone that result in bycatch of a protected living marine resource;

"(2) the relevant international organization for the conservation and protection of such species or the relevant international or regional fishery organi-

~~zation has failed to implement effective measures to end or reduce the impacts of the fishing practices of the nation's vessels on such species, or the nation is not a party to, or does not maintain cooperating status with, such organization; and~~

~~"(3) the nation has not adopted a regulatory program governing such fishing practices and associated bycatch of protected living marine resources that are comparable to those of the United States, taking into account different conditions.~~

~~"(b) CONSULTATION AND NEGOTIATION.—The Secretary, acting through the Secretary of State, shall—~~

~~"(1) notify, as soon as possible, other nations whose vessels engage in fishing activities or practices described in subsection (a), about the requirements of this section and this Act;~~

~~"(2) initiate discussions as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, fishing activities or practices described in subsection (a), for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species;~~

~~"(3) seek agreements calling for international restrictions on fishing activities or practices de-~~

1 scribed in subsection (a) through the United Na-
2 tions, the Food and Agriculture Organization's Com-
3 mittee on Fisheries, and appropriate international
4 fishery management bodies; and
5 "(4) initiate the amendment of any existing
6 international treaty for the protection and conserva-
7 tion of such species to which the United States is a
8 party in order to make such treaty consistent with
9 the purposes and policies of this section.
10 "(e) CONSERVATION CERTIFICATION PROCEDURE.—
11 "(1) CERTIFICATION.—The Secretary shall de-
12 termine, on the basis of a procedure consistent with
13 the provisions of subchapter II of chapter 5 of title
14 5, United States Code, and including notice and an
15 opportunity for comment by the governments of any
16 nation identified by the Secretary under subsection
17 (a). The Secretary shall certify to the Congress by
18 January 31, 2007, and annually thereafter whether
19 the government of each harvesting nation—
20 "(A) has provided documentary evidence of
21 the adoption of a regulatory program governing
22 the conservation of the protected living marine
23 resource, including measures to ensure max-
24 imum probability for survival after release, that
25 is comparable to that of the United States, tak-

~~ing into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and~~

~~"(B) has established a management plan containing requirements that will assist in gathering species-specific data to support international stock assessments and conservation enforcement efforts for protected living marine resources.~~

~~"(2) ALTERNATIVE PROCEDURE.—The Secretary shall establish a procedure for certification, on a shipment-by-shipment, shipper-by-shipper, or other basis of fish or fish products from a vessel of a harvesting nation not certified under paragraph (1) if the Secretary determines that such imports were harvested by practices that do not result in bycatch of a protected marine species, or were harvested by practices that—~~

~~"(A) are comparable to those of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks,~~

careful handling and release equipment, and training and observer programs; and

"(B) include the gathering of species specific data that can be used to support international and regional stock assessments and conservation efforts for protected living marine resources.

"(3) EFFECT OF CERTIFICATION.—The provisions of section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4)) shall apply to any nation identified under subsection (a) that has not been certified by the Secretary under this subsection, or for which the Secretary has issued a negative certification under this subsection, but shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

"(d) INTERNATIONAL COOPERATION AND ASSISTANCE.—To the greatest extent possible consistent with existing authority and the availability of funds, the Secretary shall—

"(1) provide appropriate assistance to nations identified by the Secretary under subsection (a) and international organizations of which those nations

~~are members to assist those nations in qualifying for certification under subsection (c);~~

~~"(2) undertake, where appropriate, cooperative research activities on species statistics and improved harvesting techniques, with those nations or organizations;~~

~~"(3) encourage and facilitate the transfer of appropriate technology to those nations or organizations to assist those nations in qualifying for certification under subsection (c); and~~

~~"(4) provide assistance to those nations or organizations in designing and implementing appropriate fish harvesting plans.~~

~~"(e) PROTECTED LIVING MARINE RESOURCE DEFINED.—In this section the term 'protected living marine resource'—~~

~~"(1) means non-target fish, sea turtles, or marine mammals occurring in areas beyond United States jurisdiction that are protected under United States law or international agreement, including the Marine Mammal Protection Act, the Endangered Species Act, the Shark Finning Prohibition Act, and the Convention on International Trade in Endangered Species of Wild Flora and Fauna; but~~

1 ~~"(2) does not include species, except sharks,~~
2 ~~managed under the Magnuson-Stevens Fishery Con-~~
3 ~~servation and Management Act, the Atlantic Tunas~~
4 ~~Convention Act, or any international fishery man-~~
5 ~~agement agreement.~~
6 ~~"(f) AUTHORIZATION OF APPROPRIATIONS.—There~~
7 ~~are authorized to be appropriated to the Secretary for fis-~~
8 ~~cal years 2006 through 2012 such sums as are necessary~~
9 ~~to carry out this section.".~~
10 ~~(b) CONFORMING AMENDMENTS.—~~
11 ~~(1) DENIAL OF PORT PRIVILEGES.—Section~~
12 ~~101(b) of the High Seas Driftnet Fisheries Enforce-~~
13 ~~ment Act (16 U.S.C. 1826a(b)) is amended by in-~~
14 ~~serting "or illegal, unreported, or unregulated fish-~~
15 ~~ing" after "fishing" in paragraph (1)(A)(i), para-~~
16 ~~graph (1)(B), paragraph (2), and paragraph~~
17 ~~(4)(A)(i).~~
18 ~~(2) DURATION OF DENIAL.—Section 102 of the~~
19 ~~High Seas Driftnet Fisheries Enforcement Act (16~~
20 ~~U.S.C. 1826b) is amended by inserting "or illegal,~~
21 ~~unreported, or unregulated fishing" after "fishing".~~
22 **~~SEC. 404. MONITORING OF PACIFIC INSULAR AREA FISH-~~**
23 **~~ERIES.~~**
24 ~~(a) WAIVER AUTHORITY.—Section 201(h)(2)(B) (16~~
25 ~~U.S.C. 1821(h)(2)(B)) is amended by striking "that is at~~

least equal in effectiveness to the program established by the Secretary;'' and inserting ''or other monitoring program that the Secretary, in consultation with the Western Pacific Management Council, determines is adequate to monitor harvest, bycatch, and compliance with the laws of the United States by vessels fishing under the agreement;''.

(b) MARINE CONSERVATION PLANS.—Section 204(e)(4)(A)(i) (16 U.S.C. 1824(e)(4)(A)(i)) is amended to read as follows:

''(i) Pacific Insular Area observer programs, or other monitoring programs, that the Secretary determines are adequate to monitor the harvest, bycatch, and compliance with the laws of the United States by foreign fishing vessels that fish under Pacific Insular Area fishing agreements;''.

SEC. 405. REAUTHORIZATION OF ATLANTIC TUNAS CONVENTION ACT.

(a) IN GENERAL.—Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

''SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this Act, including use for payment of the United States share of the joint

~~expenses of the Commission as provided in Article X of the Convention—~~

~~"(1) $5,495,000 for fiscal year 2006;~~

~~"(2) $5,770,000 for each of fiscal years 2007 and 2008;~~

~~"(3) $6,058,000 for each of fiscal years 2009 and 2010; and~~

~~"(4) $6,631,000 for each of fiscal years 2011 and 2012.~~

~~"(b) ALLOCATION.—Of the amounts made available under subsection (a) for each fiscal year—~~

~~"(1) $160,000 are authorized for the advisory committee established under section 4 of this Act and the species working groups established under section 4A of this Act; and~~

~~"(2) $7,500,000 are authorized for research activities under this Act and section 3 of Public Law 94–339 (16 U.S.C. 971i), of which $3,000,000 shall be for the cooperative research program under section 3(b)(2)(H) of that section (16 U.S.C. 971i(b)(2)(H)).".~~

~~(b) ATLANTIC BILLFISH COOPERATIVE RESEARCH PROGRAM.—Section 3(b)(2) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971i(b)(2)) is amended—~~

~~(1) by striking "and" after the semicolon in subparagraph (G);~~

~~(2) by redesignating subparagraph (H) as subparagraph (I); and~~

~~(3) by inserting after subparagraph (G) the following:~~

~~"(H) include a cooperative research program on Atlantic billfish based on the Southeast Fisheries Science Center Atlantic Billfish Research Plan of 2002; and".~~

~~SEC. 406. INTERNATIONAL OVERFISHING AND DOMESTIC EQUITY.~~

~~(a) REBUILDING OVERFISHED FISHERIES.—Section 304(e) (16 U.S.C. 1854(e)) is amended by adding at the end thereof the following:~~

~~"(8) The provisions of this paragraph shall apply in lieu of paragraphs (2) through (7) of this subsection to a fishery that the Secretary determines is overfished or approaching a condition of being overfished due to excessive international fishing pressure, and for which there are no management measures to end overfishing under an international agreement to which the United States is a party. For such fisheries—~~

1 ~~"(A) the Secretary, in cooperation with the~~
2 ~~Secretary of State, immediately take appro-~~
3 ~~priate action at the international level to end~~
4 ~~the overfishing; and~~
5 ~~"(B) within 1 year after the Secretary's~~
6 ~~determination, the appropriate Council, or Sec-~~
7 ~~retary, for fisheries under section 302(a)(3)~~
8 ~~shall—~~
9 ~~"(i) develop recommendations for do-~~
10 ~~mestic regulations to address the relative~~
11 ~~impact of fishing vessels of the United~~
12 ~~States on the stock and, if developed by a~~
13 ~~Council, the Council shall submit such rec-~~
14 ~~ommendations to the Secretary; and~~
15 ~~"(ii) develop and submit recommenda-~~
16 ~~tions to the Secretary of State, and to the~~
17 ~~Congress, for international actions that~~
18 ~~will end overfishing in the fishery and re-~~
19 ~~build the affected stocks, taking into ac-~~
20 ~~count the relative impact of vessels of~~
21 ~~other nations and vessels of the United~~
22 ~~States on the relevant stock.".~~
23 ~~(b) HIGHLY MIGRATORY SPECIES TAGGING RE-~~
24 ~~SEARCH.—Section 304(g)(2) (16 U.S.C. 1854(g)(2)) is~~
25 ~~amended by striking "(16 U.S.C. 971d)" and inserting~~

~~"(16 U.S.C. 971d), or highly migratory species harvested in a commercial fishery managed by a Council under this Act or the Western and Central Pacific Fisheries Convention Implementation Act,".~~

~~TITLE V—IMPLEMENTATION OF WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION~~

~~SEC. 501. SHORT TITLE.~~

~~This title may be cited as the "Western and Central Pacific Fisheries Convention Implementation Act".~~

~~SEC. 502. DEFINITIONS.~~

~~In this title:~~

~~(1) 1982 CONVENTION.—The term "1982 Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982.~~

~~(2) AGREEMENT.—The term "Agreement" means the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.~~

~~(3) COMMISSION.—The term "Commission" means the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the~~

~~Western and Central Pacific Ocean established in accordance with this Convention.~~

~~(4) CONVENTION AREA.—The term "convention area" means all waters of the Pacific Ocean bounded to the south and to the east by the following line: From the south coast of Australia due south along the 141th meridian of east longitude to its intersection with the 55th parallel of south latitude; thence due east along the 55th parallel of south latitude to its intersection with the 150th meridian of east longitude; thence due south along the 150th meridian of east longitude to its intersection with the 60th parallel of south latitude; thence due east along the 60th parallel of south latitude to its intersection with the 130th meridian of west longitude; thence due north along the 130th meridian of west longitude to its intersection with the 4th parallel of south latitude; thence due west along the 4th parallel of south latitude to its intersection with the 150th meridian of west longitude; thence due north along the 150th meridian of west longitude.~~

~~(5) EXCLUSIVE ECONOMIC ZONE.—The term "exclusive economic zone" means the zone established by Presidential Proclamation Numbered 5030 of March 10, 1983.~~

~~(6) FISHING.—The term "fishing" means—~~

~~(A) searching for, catching, taking, or harvesting fish;~~

~~(B) attempting to search for, catch, take, or harvest fish;~~

~~(C) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish for any purpose;~~

~~(D) placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons;~~

~~(E) any operations at sea directly in support of, or in preparation for, any activity described in subparagraphs (A) through (D), including transshipment; and~~

~~(F) use of any other vessel, vehicle, aircraft, or hovercraft, for any activity described in subparagraphs (A) through (E) except for emergencies involving the health and safety of the crew or the safety of a vessel.~~

~~(7) FISHING VESSEL.—The term "fishing vessel" means any vessel used or intended for use for the purpose of fishing, including support ships, car-~~

~~rier vessels, and any other vessel directly involved in such fishing operations.~~

~~(8) HIGHLY MIGRATORY FISH STOCKS.—The term "highly migratory fish stocks" means all fish stocks of the species listed in Annex 1 of the 1982 Convention occurring in the Convention Area, and such other species of fish as the Commission may determine.~~

~~(9) SECRETARY.—The term "Secretary" means the Secretary of Commerce.~~

~~(10) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.~~

~~(11) TRANSHIPMENT.—The term "transshipment" means the unloading of all or any of the fish on board a fishing vessel to another fishing vessel either at sea or in port.~~

~~(12) WCPCF CONVENTION; WESTERN AND CENTRAL PACIFIC CONVENTION.—The terms "WCPCF Convention" and "Western and Central Pacific Convention" means the Convention on the Conservation and Management of the Highly Migra-~~

~~tory Fish Stocks in the Western and Central Pacific Ocean, with Annexes, which was adopted at Honolulu, Hawaii, on September 5, 2000, by the Multilateral High Level Conference on the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.~~

~~SEC. 503. APPOINTMENT OF UNITED STATES COMMISSIONERS.~~

~~(a) IN GENERAL.—The President shall appoint at least 5 individuals as United States Commissioners to represent the United States as members of the United States Section of the Commission. In making the appointments, the President shall select Commissioners from among individuals, including officials of the United States government (one of whom shall be an officer or employee of the Department of Commerce), and the chairman of the Western Pacific Fishery Management Council or the chairman's designee, who are knowledgeable or experienced concerning highly migratory fish stocks in the Western and Central Pacific Ocean. The Secretary of State, or the Secretary of State's designee, shall also serve as a member of the United States Section. The Commissioners shall be entitled to select a Chairman and to adopt such rules of procedures as they find necessary.~~

~~(b) ALTERNATE COMMISSIONERS.—The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise at any meeting of the Commission, Council, any Panel, or the advisory committee established pursuant to subsection (d), all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.~~

~~(c) ADMINISTRATIVE MATTERS.—~~

~~(1) EMPLOYMENT STATUS.—Individuals serving as such Commissioners shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28, United States Code.~~

~~(2) COMPENSATION.—The United States Commissioners or Alternate Commissioners, although officers of the United States while so serving, shall re-~~

~~ceive no compensation for their services as such Commissioners or Alternate Commissioners.~~

~~(3) TRAVEL EXPENSES.—~~

~~(A) The Secretary of State shall pay the necessary travel expenses of United States Commissioners, Alternate United States Commissioners, and authorized advisers in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.~~

~~(B) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.~~

~~(d) ADVISORY COMMITTEES.—~~

~~(1) ESTABLISHMENT OF PERMANENT ADVISORY COMMITTEE.—~~

~~(A) MEMBERSHIP.—There is established an advisory committee which shall be composed of—~~

~~(i) not less than 10 nor more than 15 individuals appointed by the United States Commissioners who shall select such individuals from the various groups concerned with the fisheries covered by the WCPFC Convention, providing, to the maximum ex-~~

~~tent practicable, an equitable balance among such groups;~~

~~(ii) the chair of the Western Pacific Fishery Management Council's Advisory Committee or the chair's designee; and~~

~~(iii) officials of the fisheries management authorities of American Samoa, Guam, and the Northern Mariana Islands (or their designees).~~

~~(B) TERMS AND PRIVILEGES.—Each member of the advisory committee appointed under subparagraph (A) shall serve for a term of 2 years and shall be eligible for reappointment. Members of the advisory committee may attend all public meetings of the Commission, Council, or any Panel and any other meetings to which they are invited by the Commission, Council, or any Panel. The advisory committee shall be invited to attend all non-executive meetings of the United States Commissioners and at such meetings shall be given opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission.~~

~~(C) PROCEDURES.—The advisory committee established by subparagraph (A) shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the WCPFC Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures. A majority of the members of the advisory committee shall constitute a quorum, but one or more such members designated by the advisory committee may hold meetings to provide for public participation and to discuss measures relating to the United States implementation of Commission recommendations. Meetings of the advisory committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion. and the advisory committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).~~

~~(D) PROVISION OF INFORMATION.—The Secretary and the Secretary of State shall fur-~~

~~nish the advisory committee with relevant information concerning fisheries and international fishery agreements.~~

~~(2) ADMINISTRATIVE MATTERS.—~~

~~(A) SUPPORT SERVICES.—The Secretary shall provide to advisory committees in a timely manner such administrative and technical support services as are necessary for their effective functioning.~~

~~(B) COMPENSATION; STATUS; EXPENSES.—Individuals appointed to serve as a member of an advisory committee—~~

~~(i) shall serve without pay, but while away from their homes or regular places of business in the performance of services for the advisory committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code; and~~

~~(ii) shall not be considered Federal employees by reason of their service as members of an advisory committee, except~~

~~for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.~~

~~(c) MEMORANDUM OF UNDERSTANDING.—For highly migratory species in the Pacific, the Secretary, in coordination with the Secretary of State, shall develop a memorandum of understanding with the Western Pacific, Pacific, and North Pacific Fishery Management Councils, that establishes a mechanism for the relevant Council or Councils to—~~

~~(1) participate in United States delegations to international fishery organizations in the Pacific Ocean, including government-to-government consultations;~~

~~(2) make formal recommendations to the Secretary and the Secretary of State regarding necessary measures for both domestic and foreign vessels fishing for these species;~~

~~(3) coordinate positions with the United States delegation for presentation to the appropriate international fishery organization; and~~

~~(4) recommend those domestic fishing regulations that are consistent with the actions of the international fishery organization, for approval and~~

implementation under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)

SEC. 504. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF STATE.

The Secretary of State may—

(1) receive and transmit, on behalf of the United States, reports, requests, recommendations, proposals, and other communications of and to the Commission;

(2) in consultation with the Secretary and the United States Commissioners, approve, disapprove, object to, or withdraw objections to the general annual program of the WCPFC Commission with respect to conservation and management measures and other measures proposed or adopted in accordance with the WCPCF Convention; and

(3) act upon, or refer to other appropriate authority, any communication referred to in paragraph (1).

SEC. 505. RULEMAKING AUTHORITY OF THE SECRETARY OF COMMERCE.

(a) PROMULGATION OF REGULATIONS.—The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and the ap-

~~propriate Regional Fishery Management Council, shall promulgate such regulations as may be necessary to carry out the United States international obligations under the WCPFC Convention and this title. The Secretary shall promulgate such regulations in accordance with the procedures established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).~~

~~(b) ADDITIONS TO FISHERY REGIMES AND REGULATIONS.—The Secretary may promulgate regulations applicable to nationals or vessels of the United States, or both, which are in addition to, and not in conflict with, fishery conservation and management measures and regulations adopted under the WCPFC Convention.~~

~~SEC. 506. ENFORCEMENT.~~

~~(a) IN GENERAL.—The Secretary may—~~

~~(1) administer and enforce this title and any regulations issued under this title, including enforcement of any such regulations within the boundaries of any State bordering on the convention area;~~

~~(2) request and utilize on a reimbursed or non-reimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies in—~~

~~(A) the administration and enforcement of this title; and~~

~~(B) the conduct of scientific, research, and other programs under this title;~~

~~(3) conduct fishing operations and biological experiments for purposes of scientific investigation or other purposes necessary to implement the WCPFC Convention;~~

~~(4) collect, utilize, and disclose such information as may be necessary to implement the WCPFC Convention, subject to sections 552 and 552a of title 5, United States Code, and section 402(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a(b));~~

~~(5) assess and collect fees to recover the costs of implementing and enforcing this title, policy and rulemaking activities, user information services, international activities under this title, and the costs to the United States of enforcing the WCPFC Convention, which shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Secretary under this title; and~~

~~(6) issue permits to owners and operators of United States vessels to fish in the convention area seaward of the United States Exclusive Economic Zone.~~

~~(b) PROHIBITED ACTS.—It is unlawful for any person to violate any provision of this title or the regulations promulgated under this title.~~

~~(c) ACTIONS BY THE SECRETARY.—The Secretary shall prevent any person from violating this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Magnuson-Stevens Fishery Conservation Act (16 U.S.C. 1857) were incorporated into and made a part of this title. Any person that violates any provision of this title is subject to the penalties and entitled to the privileges and immunities provided in the Magnuson-Stevens Fishery Conservation Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of that Act were incorporated into and made a part of this title.~~

~~SEC. 507. PENALTIES.~~

~~This title shall be enforced by the Secretary as if a violation of this title or of any regulation promulgated by the Commission under this title were a violation of section 307 of the Magnuson-Stevens Fishery Conservation Act (16 U.S.C. 1857).~~

~~SEC. 508. COOPERATION IN CARRYING OUT CONVENTION.~~

~~(a) FEDERAL AND STATE AGENCIES; PRIVATE INSTITUTIONS AND ORGANIZATIONS.—The United States Commissioners, through the Secretary of State and with the concurrence of the Secretary, institution, or organization concerned, may arrange for the cooperation of Federal agencies and of State and private institutions and organizations in carrying out responsibilities under the WCPFC Convention.~~

~~(b) SCIENTIFIC AND OTHER PROGRAMS; FACILITIES AND PERSONNEL.—All Federal agencies are authorized, upon the request of the Secretary of Commerce Commission, to cooperate in the conduct of scientific and other programs and to furnish facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the WCPFC Convention.~~

~~SEC. 509. TERRITORIAL PARTICIPATION.~~

~~The Secretary of State shall ensure participation in the Commission and its subsidiary bodies by American Samoa, Guam, and the Northern Mariana Islands to the same extent provided to the territories of other nations.~~

~~SEC. 510. AUTHORIZATION OF APPROPRIATIONS.~~

~~There are authorized to be appropriated to the Secretary of Commerce such sums as may be necessary to carry out this title and to pay the United States' contribu-~~

~~tion to the Commission under section 5 of part III of the WCPFC Convention.~~

~~TITLE VI—PACIFIC WHITING~~

~~SEC. 601. SHORT TITLE.~~

~~This title may be cited as the "Pacific Whiting Act of 2005".~~

~~SEC. 602. DEFINITIONS.~~

~~In this title:~~

~~(1) ADVISORY PANEL.—The term "advisory panel" means the Advisory Panel on Pacific Hake/Whiting established by the Agreement.~~

~~(2) AGREEMENT.—The term "Agreement" means the Agreement between the Government of the United States and the Government of Canada on Pacific Hake/Whiting, signed at Seattle, Washington, on November 21, 2003.~~

~~(3) CATCH.—The term "catch" means all fishery removals from the offshore whiting resource, including landings, discards, and bycatch in other fisheries.~~

~~(4) JOINT MANAGEMENT COMMITTEE.—The term "joint management committee" means the joint management committee established by the Agreement.~~

(5) JOINT TECHNICAL COMMITTEE.—The term "joint technical committee" means the joint technical committee established by the Agreement.

(6) OFFSHORE WHITING RESOURCE.—The term "offshore whiting resource" means the transboundary stock of Merluccius productus that is located in the offshore waters of the United States and Canada except in Puget Sound and the Strait of Georgia.

(7) SCIENTIFIC REVIEW GROUP.—The term "scientific review group" means the scientific review group established by the Agreement.

(8) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(9) UNITED STATES SECTION.—The term "United States Section" means the United States representatives on the joint management committee.

SEC. 603. UNITED STATES REPRESENTATION ON JOINT MANAGEMENT COMMITTEE.

(a) REPRESENTATIVES.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall appoint 4 individuals to represent the United States as the United States Section on the joint management committee. In making the appointments, the Secretary

~~shall select representatives from among individuals who are knowledgeable or experienced concerning the offshore whiting resource. Of these—~~

~~(A) 1 shall be an official of the National Oceanic and Atmospheric Administration;~~

~~(B) 1 shall be a member of the Pacific Fishery Management Council, appointed with consideration given to any recommendation provided by that Council;~~

~~(C) 1 shall be appointed from a list submitted by the treaty Indian tribes with treaty fishing rights to the offshore whiting resource; and~~

~~(D) 1 shall be appointed from the commercial sector of the whiting fishing industry concerned with the offshore whiting resource.~~

~~(2) TERM OF OFFICE.—Each representative appointed under paragraph (1) shall be appointed for a term not to exceed 4 years, except that, of the initial appointments, 2 representatives shall be appointed for terms of 2 years. Any individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term. A representative may be appointed for a term~~

of less than 4 years if such term is necessary to ensure that the term of office of not more than 2 representatives will expire in any single year. An individual appointed to serve as a representative is eligible for reappointment.

(3) CHAIR.—Unless otherwise agreed by all of the 4 representatives, the chair shall rotate annually among the 4 members, with the order of rotation determined by lot at the first meeting.

(b) ALTERNATE REPRESENTATIVES.—The Secretary, in consultation with the Secretary of State, may designate alternate representatives of the United States to serve on the joint management committee. An alternative representative may exercise, at any meeting of the committee, all the powers and duties of a representative in the absence of a duly designated representative for whatever reason.

SEC. 604. UNITED STATES REPRESENTATION ON THE SCIENTIFIC REVIEW GROUP.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall appoint no more than 2 scientific experts to serve on the scientific review group. An individual shall not be eligible to serve on the scientific review group while serving on the joint technical committee.

~~(b) TERM.—An individual appointed under subsection (a) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of a term of office of that individual's predecessor shall be appointed to serve for the remainder of that term.~~

~~(c) JOINT APPOINTMENTS.—In addition to individuals appointed under subsection (a), the Secretary, jointly with the Government of Canada, may appoint to the scientific review group, from a list of names provided by the advisory panel —~~

~~(1) up to 2 independent members of the scientific review group; and~~

~~(2) 2 public advisors.~~

~~SEC. 605. UNITED STATES REPRESENTATION ON JOINT TECHNICAL COMMITTEE.~~

~~(a) SCIENTIFIC EXPERTS.—~~

~~(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall appoint at least 6 but not more than 12 individuals to serve as scientific experts on the joint technical committee, at least 1 of whom shall be an official of the National Oceanic and Atmospheric Administration.~~

~~(2) TERM OF OFFICE.—An individual appointed under paragraph (1) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term.~~

~~(b) INDEPENDENT MEMBER.—In addition to individuals appointed under subsection (a), the Secretary, jointly with the Government of Canada, shall appoint 1 independent member to the joint technical committee selected from a list of names provided by the advisory panel.~~

~~SEC. 606. UNITED STATES REPRESENTATION ON ADVISORY PANEL.~~

~~(a) IN GENERAL.—~~

~~(1) APPOINTMENT.—The Secretary, in consultation with the Secretary of State, shall appoint at least 6 but not more than 12 individuals to serve as members of the advisory panel, selected from among individuals who are—~~

~~(A) knowledgeable or experienced in the harvesting, processing, marketing, management, conservation, or research of the offshore whiting resource; and~~

~~(B) not employees of the United States.~~

1 ~~(2) TERM OF OFFICE.—An individual appointed~~
2 ~~under paragraph (1) shall be appointed for a term~~
3 ~~of not to exceed 4 years, but shall be eligible for re-~~
4 ~~appointment. An individual appointed to fill a va-~~
5 ~~cancy occurring prior to the expiration of the term~~
6 ~~of office of that individual's predecessor shall be ap-~~
7 ~~pointed for the remainder of that term.~~

8 **~~SEC. 607. RESPONSIBILITIES OF THE SECRETARY.~~**

9 ~~(a) IN GENERAL.—The Secretary is responsible for~~
10 ~~carrying out the Agreement and this title, including the~~
11 ~~authority, to be exercised in consultation with the Sec-~~
12 ~~retary of State, to accept or reject, on behalf of the United~~
13 ~~States, recommendations made by the joint management~~
14 ~~committee.~~

15 ~~(b) REGULATIONS; COOPERATION WITH CANADIAN~~
16 ~~OFFICIALS.—In exercising responsibilities under this title,~~
17 ~~the Secretary—~~

18 ~~(1) may promulgate such regulations as may be~~
19 ~~necessary to carry out the purposes and objectives of~~
20 ~~the Agreement and this title; and~~

21 ~~(2) with the concurrence of the Secretary of~~
22 ~~State, may cooperate with officials of the Canadian~~
23 ~~Government duly authorized to carry out the Agree-~~
24 ~~ment.~~

~~**SEC. 608. RULEMAKING.**~~

~~(a) APPLICATION WITH MAGNUSON-STEVENS ACT.—The Secretary shall establish the United States catch level for Pacific whiting according to the standards and procedures of the Agreement and this title rather than under the standards and procedures of the Magnuson-Stevens Fishery Conservation Act (16 U.S.C. 1801 et seq.), except to the extent necessary to address the rebuilding needs of other species. Except for establishing the catch level, all other aspects of Pacific whiting management shall be—~~

~~(1) subject to the Magnuson-Stevens Fishery Conservation Act; and~~

~~(2) consistent with this title.~~

~~(b) JOINT MANAGEMENT COMMITTEE RECOMMENDATIONS.—For any year in which both parties to the Agreement approve recommendations made by the joint management committee with respect to the catch level, the Secretary shall implement the approved recommendations. Any regulation promulgated by the Secretary to implement any such recommendation shall apply, as necessary, to all persons and all vessels subject to the jurisdiction of the United States wherever located.~~

~~(c) YEARS WITH NO APPROVED CATCH RECOMMENDATIONS.—If the parties to the Agreement do not approve the joint management committee's recommendation with respect to the catch level for any year, the Sec-~~

~~retary shall establish the total allowable catch for Pacific whiting for the United States catch. In establishing the total allowable catch under this subsection, the Secretary shall—~~

~~(1) take into account any recommendations from the Pacific Fishery Management Council, the joint management committee, the joint technical committee, the scientific review group, and the advisory panel;~~

~~(2) base the total allowable catch on the best scientific information available;~~

~~(3) use the default harvest rate set out in paragraph 1 of Article III of the Agreement unless the Secretary determines that the scientific evidence demonstrates that a different rate is necessary to sustain the offshore whiting resource; and~~

~~(4) establish the United State's share of the total allowable catch based on paragraph 2 of Article III of the Agreement and make any adjustments necessary under section 5 of Article II of the Agreement.~~

~~SEC. 609. ADMINISTRATIVE MATTERS.~~

~~(a) EMPLOYMENT STATUS.—Except for an individual who is an employee (as defined in section 2103 of title 5, United States Code), without regard to an appointment~~

~~under this title, an individual appointed as a United States representative under section 603(a), an alternate United States representative under section 603(b), a scientific expert under section 604(a) or 605(a), or a member of the advisory panel under section 606(a) (other than an individual described in subsection (b)(2)) shall not be considered to be a Federal employee while serving as such a representative, alternate representative, scientific expert, or member, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28, United States Code.~~

~~(b) COMPENSATION.—~~

~~(1) IN GENERAL.—Except as provided in paragraph (2), an individual appointed under this title shall receive no compensation for the individual's service as a representative, alternate representative, scientific expert, or advisory panel member under this title.~~

~~(2) SCIENTIFIC REVIEW GROUP.—Notwithstanding paragraph (1), the Secretary may employ and fix the compensation of an individual appointed under section 604(a) to serve as a scientific expert on the scientific review group who is not employed by the United States government, a State govern-~~

~~ment, or an Indian tribal government in accordance with section 3109 of title 5, United States Code.~~

~~(c) TRAVEL EXPENSES.—Except as provided in subsection (d), the Secretary shall pay the necessary travel expenses of individuals appointed under this title in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.~~

~~(d) JOINT APPOINTEES.—With respect to the 2 independent members of the scientific review group and the 2 public advisors to the scientific review group jointly appointed under section 604(c), and the 1 independent member to the joint technical committee jointly appointed under section 605(b), the Secretary may pay up to 50 percent of—~~

~~(1) any compensation paid to such individuals; and~~

~~(2) the necessary travel expenses of such individuals.~~

~~SEC. 610. ENFORCEMENT.~~

~~(a) IN GENERAL.—The Secretary may—~~

~~(1) administer and enforce this title and any regulations issued under this title;~~

~~(2) request and utilize on a reimbursed or non-reimbursed basis the assistance, services, personnel,~~

~~equipment, and facilities of other Federal departments and agencies in the administration and enforcement of this title; and~~

~~(3) collect, utilize, and disclose such information as may be necessary to implement the Agreement and this title, subject to sections 552 and 552a of title 5, United States Code.~~

~~(b) PROHIBITED ACTS.—It is unlawful for any person to violate any provision of this title or the regulations promulgated under this title.~~

~~(c) ACTIONS BY THE SECRETARY.—The Secretary shall prevent any person from violating this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Magnuson-Stevens Fishery Conservation Act (16 U.S.C. 1857) were incorporated into and made a part of this title. Any person that violates any provision of this title is subject to the penalties and entitled to the privileges and immunities provided in the Magnuson-Stevens Fishery Conservation Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of that Act were incorporated into and made a part of this title.~~

~~(d) PENALTIES.—This title shall be enforced by the Secretary as if a violation of this title or of any regulation promulgated by the Secretary under this title were a violation of section 307 of the Magnuson-Stevens Fishery Conservation Act (16 U.S.C. 1857).~~

~~SEC. 611. AUTHORIZATION OF APPROPRIATIONS.~~

~~There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the obligations of the United States under the Agreement and this title.~~

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005".

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

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of Magnuson-Stevens Fishery Conservation and Management Act.
Sec. 3. Changes in findings and definitions.
Sec. 4. Highly migratory species.
Sec. 5. Total allowable level of foreign fishing.
Sec. 6. Western Pacific Sustainable Fisheries Fund.
Sec. 7. Authorization of appropriations.

TITLE I—CONSERVATION AND MANAGEMENT

Sec. 101. Cumulative impacts.
Sec. 102. Caribbean Council jurisdiction.
Sec. 103. Regional fishery management councils.
Sec. 104. Fishery management plan requirements.
Sec. 105. Fishery management plan discretionary provisions.
Sec. 106. Limited access privilege programs.
Sec. 107. Environmental review process.
Sec. 108. Emergency regulations.
Sec. 109. Western Pacific community development.
Sec. 110. Western Alaska Community Development Quota Program.

Sec. 111. Secretarial action on State groundfish fishing.
Sec. 112. Joint enforcement agreements.
Sec. 113. Transition to sustainable fisheries.
Sec. 114. Regional coastal disaster assistance, transition, and recovery program.
Sec. 115. Fishery finance program hurricane assistance.
Sec. 116. Shrimp fisheries hurricane assistance program.
Sec. 117. Bycatch reduction engineering program.
Sec. 118. Community-based restoration program for fishery and coastal habitats.
Sec. 119. Prohibited acts.
Sec. 120. Enforcement.

TITLE II—INFORMATION AND RESEARCH

Sec. 201. Recreational fisheries information.
Sec. 202. Collection of information.
Sec. 203. Access to certain information.
Sec. 204. Cooperative research and management program.
Sec. 205. Herring study.
Sec. 206. Restoration study.
Sec. 207. Western Pacific fishery demonstration projects.
Sec. 208. Fisheries Conservation and Management Fund.
Sec. 209. Use of fishery finance program and capital construction fund for sustainable purposes.
Sec. 210. Regional ecosystem research.
Sec. 211. Deep sea coral research and technology program.
Sec. 212. Impact of turtle excluder devices on shrimping.
Sec. 213. Shrimp and oyster fisheries and habitats.

TITLE III—OTHER FISHERIES STATUTES

Sec. 301. Amendments to Northern Pacific Halibut Act.
Sec. 302. Reauthorization of other fisheries acts.

TITLE IV—INTERNATIONAL

Sec. 401. International monitoring and compliance.
Sec. 402. Finding with respect to illegal, unreported, and unregulated fishing.
Sec. 403. Action to end illegal, unreported, or unregulated fishing and reduce bycatch of protected marine species.
Sec. 404. Monitoring of Pacific insular area fisheries.
Sec. 405. Reauthorization of Atlantic Tunas Convention Act.
Sec. 406. International overfishing and domestic equity.

TITLE V—IMPLEMENTATION OF WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION

Sec. 501. Short title.
Sec. 502. Definitions.
Sec. 503. Appointment of United States commissioners.
Sec. 504. Authority and responsibility of the Secretary of State.
Sec. 505. Rulemaking authority of the Secretary of Commerce.
Sec. 506. Enforcement.
Sec. 507. Penalties.
Sec. 508. Cooperation in carrying out convention.
Sec. 509. Territorial participation.
Sec. 510. Authorization of appropriations.

TITLE VI—PACIFIC WHITING

Sec. 601. Short title.
Sec. 602. Definitions.
Sec. 603. United States representation on joint management committee.
Sec. 604. United States representation on the scientific review group.
Sec. 605. United States representation on joint technical committee.
Sec. 606. United States representation on advisory panel.
Sec. 607. Responsibilities of the Secretary.
Sec. 608. Rulemaking.
Sec. 609. Administrative matters.
Sec. 610. Enforcement.
Sec. 611. Authorization of appropriations.

SEC. 2. AMENDMENT OF MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT.

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

SEC. 3. CHANGES IN FINDINGS AND DEFINITIONS.

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

"(11) A number of the Fishery Management Councils have demonstrated significant progress in integrating ecosystem considerations in fisheries management using the existing authorities provided under this Act.".

(b) IN GENERAL.—Section 3 (16 U.S.C. 1802) is amended—

(1) by inserting after paragraph (6) the following:

"(6A) The term 'confidential information' means—

"(A) trade secrets; or

"(B) commercial or financial information the disclosure of which is likely to result in substantial harm to the competitive position of the person who submitted the information to the Secretary.";

(2) by inserting after paragraph (13) the following:

"(13A) The term 'regional fishery association' means an association formed for the mutual benefit of members—

"(A) to meet social and economic needs in a region or subregion; and

"(B) comprised of persons engaging in the harvest or processing of fishery resources in that specific region or subregion or who otherwise own or operate businesses substantially dependent upon a fishery.";

(3) by inserting after paragraph (20) the following:

"(20A) The term 'import'—

"(A) means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States; but

"(B) does not include any activity described in subparagraph (A) with respect to fish caught in the exclusive economic zone or by a vessel of the United States.";

(4) by inserting after paragraph (23) the following:

"(23A) The term 'limited access privilege'—

"(A) means a Federal permit, issued as part of a limited access system under section 303A to harvest a quantity of fish that may be received or held for exclusive use by a person; and

"(B) includes an individual fishing quota; but

"(C) does not include community development quotas as described in section 305(i)."; and

(5) by inserting after paragraph (27) the following:

"(27A) The term 'observer information' means any information collected, observed, retrieved, or created by an observer or electronic monitoring system pursuant to authorization by the Secretary, or collected as part of a cooperative research initiative, including fish harvest or processing observations, fish sampling or weighing data, vessel logbook data, vessel or processor-specific information (including any safety, location, or operating condition observations), and video, audio, photographic, or written documents.".

(c) REDESIGNATION.—Paragraphs (1) through (45) of section 3 (16 U.S.C. 1802), as amended by subsection (a), are redesignated as paragraphs (1) thorough (50), respectively.

(d) CONFORMING AMENDMENTS.—

(1) The following provisions of the Act are amended by striking "an individual fishing quota" and inserting "a limited access privilege":

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

(B) Section 407(a)(1)(D) and (c)(1) (16 U.S.C. 1883(a)(1)(D); (c)(1)).

(2) The following provisions of the Act are amended by striking "individual fishing quota" and inserting "limited access privilege":

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

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

(C) Section 407(c)(2)(B) (16 U.S.C. 1883(c)(2)(B)).

(3) Section 305(h)(1) (16 U.S.C. 1855(h)(1)) is amended by striking "individual fishing quotas," and inserting "limited access privileges,".

SEC. 4. HIGHLY MIGRATORY SPECIES.

Section 102 (16 U.S.C. 1812) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The"; and

(2) by adding at the end the following:

"(b) TRADITIONAL PARTICIPATION.—For fisheries being managed under an international fisheries agreement to which the United States is a party, Council or Secretarial action, if any, shall reflect traditional participation in the fishery, relative to other Nations, by fishermen of the United States on fishing vessels of the United States.

"(c) PROMOTION OF STOCK MANAGEMENT.—If a relevant international fisheries organization does not have a process for developing a formal plan to rebuild a depleted stock, an overfished stock, or a stock that is approaching a condition of being overfished, the provisions of this Act

in this regard shall be communicated to and promoted by the United States in the international or regional fisheries organization.".

SEC. 5. TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.

Section 201(d) (16 U.S.C. 1821(d)) is amended—

(1) by striking "shall be" and inserting "is";

(2) by striking "will not" and inserting "cannot, or will not,";

(3) by inserting after "Act." the following: "Allocations of the total allowable level of foreign fishing are discretionary, except that the total allowable level shall be zero for fisheries determined by the Secretary to have adequate or excess harvest capacity."

SEC. 6. WESTERN PACIFIC SUSTAINABLE FISHERIES FUND.

Section 204(e) (16 U.S.C. 1824(e)(7)) is amended—

(1) by inserting "and any funds or contributions received in support of conservation and management objectives under a marine conservation plan" after "agreement" in paragraph (7);

(2) by striking "authority, after payment of direct costs of the enforcement action to all entities involved in such action," in paragraph (8); and

(3) by inserting after "paragraph (4)." in paragraph (8) the following: "In the case of violations by foreign vessels occurring within the exclusive economic

zones off Midway Atoll, Johnston Atoll, Kingman Reef, Palmyra Atoll, Jarvis, Howland, Baker, and Wake Islands, amounts received by the Secretary attributable to fines and penalties imposed under this Act, shall be deposited into the Western Pacific Sustainable Fisheries Fund established under paragraph (7) of this subsection.".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 4 (16 U.S.C. 1803) is amended to read as follows:

"SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary to carry out the provisions of this Act—

"(1) $328,004,000 for fiscal year 2006; and

"(2) such sums as may be necessary for fiscal years 2007 through 2012.".

TITLE I—CONSERVATION AND MANAGEMENT

SEC. 101. CUMULATIVE IMPACTS.

(a) NATIONAL STANDARDS.—Section 301(a)(8) (16 U.S.C. 1851(a)(8)) is amended by inserting "by utilizing economic and social data and assessment methods based on the best economic and social information available," after "fishing communities".

(b) CONTENTS OF PLANS.—Section 303(a)(9) (16 U.S.C. 1853(a)(9)) is amended by striking "describe the likely effects, if any, of the conservation and management measures on—" and inserting "analyze the likely effects, if any, including the cumulative economic and social impacts, of the conservation and management measures on, and possible mitigation measures for—".

SEC. 102. CARIBBEAN COUNCIL JURISDICTION.

Section 302(a)(1)(D) (16 U.S.C. 1852(a)(1)(D)) is amended by inserting "and of commonwealths, territories, and possessions of the United States in the Caribbean Sea" after "seaward of such States".

SEC. 103. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) TRIBAL ALTERNATE ON PACIFIC COUNCIL.—Section 302(b)(5) (16 U.S.C. 1852(b)(5)) is amended by adding at the end thereof the following:

"(D) The tribal representative appointed under subparagraph (A) may designate as an alternate, during the period of the representative's term, an individual knowledgeable concerning tribal rights, tribal law, and the fishery resources of the geographical area concerned.".

(b) SCIENTIFIC AND STATISTICAL COMMITTEES.—Section 302(g) (16 U.S.C. 1852(g)) is amended—

(1) by striking so much of subsection (g) as precedes paragraph (2) and inserting the following:

"(g) COMMITTEES AND ADVISORY PANELS.—

"(1)(A) Each Council shall establish, maintain, and appoint the members of a scientific and statistical committee to assist it in the development, collection, evaluation, and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.

"(B) Each scientific and statistical committee shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch or maximum sustainable yield, and reports on stock status and health, bycatch, habitat status, socio-economic impacts of management measures, and sustainability of fishing practices.

"(C) Members appointed by the Councils to the scientific and statistical committees shall be Federal employees, State employees, academicians, or independent experts with strong scientific or technical credentials and experience.

"(D) The Secretary and each Council may establish a peer review process for that Council for scientific information used to advise the Council about the conservation and management of the fishery. The

review process, which may include existing committees or panels, is deemed to satisfy the requirements of the guidelines issued pursuant to section 515 of the Treasury and General Government Appropriations Act for Fiscal year 2001 (Public Law 106–554—Appendix C; 114 Stat. 2763A–153).

"(E) In addition to the provisions of section 302(f)(7), the Secretary may pay a stipend to members of the scientific and statistical committees or advisory panels who are not employed by the Federal government or a State marine fisheries agency.";

(2) by striking "other" in paragraph (2); and

(3) by resetting the left margin of paragraphs (2) through (5) 2 ems from the left.

(c) COUNCIL FUNCTIONS.—Section 302(h) (16 U.S.C. 1852(h)) is amended—

(1) by striking "authority, and" in paragraph (5) and inserting "authority;";

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

"(6) adopt annual catch limits for each of its managed fisheries after considering the recommendations of its scientific and statistical committee or the

peer review process established under subsection (g); and".

(d) REGULAR AND EMERGENCY MEETINGS.—The first sentence of section 302(i)(2)(C) (16 U.S.C. 1852(i)(2)(C)) is amended—

(1) by striking "published in local newspapers" and inserting "provided by any means that will result in wide publicity (except that e-mail notification and website postings alone are not sufficient)"; and

(2) by striking "fishery) and such notice may be given by such other means as will result in wide publicity." and inserting "fishery).".

(e) CLOSED MEETINGS.—Section 302(i)(3)(B) (16 U.S.C. 1852(i)(3)(B)) is amended by striking "notify local newspapers" and inserting "provide notice by any means that will result in wide publicity".

(f) TRAINING.—Section 302 (16 U.S.C. 1852) is amended by adding at the end the following:

"(k) COUNCIL TRAINING PROGRAM.—

"(1) TRAINING COURSE.—Within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, the Secretary, in consultation with the Councils and the National Sea Grant College Program, shall develop a training course for newly ap-

pointed Council members. The course may cover a variety of topics relevant to matters before the Councils, including—

"(A) fishery science and basic stock assessment methods;

"(B) fishery management techniques, data needs, and Council procedures;

"(C) social science and fishery economics;

"(D) tribal treaty rights and native customs, access, and other rights related to Western Pacific indigenous communities;

"(E) legal requirements of this Act, including conflict of interest and disclosure provisions of this section and related policies;

"(F) other relevant legal and regulatory requirements, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.);

"(G) public process for development of fishery management plans; and

"(H) other topics suggested by the Council.

"(2) MEMBER TRAINING.—The training course shall be available to both new and existing Council members, and may be made available to committee or advisory panel members as resources allow.

"(l) COUNCIL COORDINATION COMMITTEE.—The Councils may establish a Council coordination committee consisting of the chairs, vice chairs, and executive directors of each of the 8 Councils described in subsection (a)(1), or other Council members or staff, in order to discuss issues of relevance to all Councils, including issues related to the implementation of this Act.".

(g) PROCEDURAL MATTERS.—Section 302(i) (16 U.S.C. 1852(i)) is amended—

(1) by striking "to the Councils or to the scientific and statistical committees or advisory panels established under subsection (g)." in paragraph (1) and inserting "to the Councils, the Council coordination committee established under subsection (l), or to the scientific and statistical committees or other committees or advisory panels established under subsection (g).";

(2) by striking "of a Council, and of the scientific and statistical committee and advisory panels established under subsection (g):" in paragraph (2) and inserting "of a Council, of the Council coordination committee established under subsection (l), and of the scientific and statistical committees or other committees or advisory panels established under subsection (g):"; and

(3) by inserting "the Council Coordination Committee established under subsection (1)," in paragraph (3)(A) after "Council,"; and

(4) by inserting "other committee," in paragraph (3)(A) after "committee,".

(h) CONFLICTS OF INTEREST.—Section 302(j) (16 U.S.C. 1852(j)) is amended—

(1) by inserting "lobbying, advocacy," after "processing," in paragraph (2);

(2) by striking "jurisdiction." in paragraph (2) and inserting "jurisdiction, or with respect to any other individual or organization with a financial interest in such activity.";

(3) by striking subparagraph (B) of paragraph (5) and inserting the following:

"(B) be kept on file by the Council and made available on the Internet and for public inspection at the Council offices during reasonable times; and"; and

(4) by adding at the end the following:

"(9) On January 1, 2008, and annually thereafter, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on action taken by the Secretary and the Councils to implement the disclo-

sure of financial interest and recusal requirements of this subsection.".

(i) GULF OF MEXICO FISHERIES MANAGEMENT COUNCIL.—Section 302(b)(2) (16 U.S.C. 1852(b)(2)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by inserting after subparagraph (C) the following:

"(D)(i) The Secretary shall appoint to the Gulf of Mexico Fisheries Management Council—

"(I) 5 representatives of the commercial fishing sector;

"(II) 5 representatives of the recreational fishing and charter fishing sectors; and

"(III) 1 other individual who is knowledgeable regarding the conservation and management of fisheries resources in the jurisdiction of the Council.

"(ii) The Governor of a State submitting a list of names of individuals for appointment by the Secretary of Commerce to the Gulf of Mexico Fisheries Management Council under subparagraph (C) shall include—

"(I) at least 1 nominee each from the commercial, recreational, and charter fishing sectors; and

"(II) at least 1 other individual who is knowledgeable regarding the conservation and management of fisheries resources in the jurisdiction of the Council.

"(iii) If the Secretary determines that the list of names submitted by the Governor does not meet the requirements of clause (ii), the Secretary shall—

"(I) publish a notice in the Federal Register asking the residents of that State to submit the names and pertinent biographical data of individuals who would meet the requirement not met for appointment to the Council; and

"(II) add the name of any qualified individual submitted by the public who meets the unmet requirement to the list of names submitted by the Governor.

"(iv) For purposes of clause (ii), an individual who owns or operates a fish farm outside of the Unites States shall not be considered to be a representative of the commercial fishing sector.".

(j) REPORT AND RECOMMENDATIONS ON GULF COUNCIL AMENDMENT.—

(1) IN GENERAL.—Before August, 2011, the Secretary of Commerce, in consultation with the Gulf of Mexico Fisheries Management Council, shall analyze the impact of the amendment made by subsection (i)

and determine whether section 302(b)(2)(D) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(b)(2)(D)) has resulted in a fair and balanced apportionment of the active participants in the commercial and recreational fisheries under the jurisdiction of the Council.

(2) REPORT.—By no later than August, 2011, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources setting forth the Secretary's findings and determination, including any recommendations for legislative or other changes that may be necessary to achieve such a fair and balanced apportionment, including whether to renew the authority.

SEC. 104. FISHERY MANAGEMENT PLAN REQUIREMENTS.

(a) IN GENERAL.—Section 303(a) (16 U.S.C. 1853(a)) is amended—

(1) striking "and charter fishing" in paragraph (5) and inserting "charter fishing, and fish processing";

(2) by inserting "economic information necessary to meet the requirements of this Act," in paragraph (5) after "number of hauls,";

(3) by striking "fishery" the first place it appears in paragraph (13) and inserting "fishery, including their economic impact,";

(4) by striking "and" after the semicolon in paragraph (13);

(5) by striking "allocate" in paragraph (14) and inserting "allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector,";

(6) by striking "fishery." in paragraph (14) and inserting "fishery; and"; and

(7) by adding at the end the following:

"(15) provide a mechanism for specifying annual catch limits in the plan (including a multiyear plan), the implementing regulations, or the annual specifications that shall be established by the Council or Secretary based on the best scientific information available at a level that does not exceed optimum yield, and, for purposes of which harvests exceeding the specified annual catch limit (including the specified annual catch limit for a sector) shall either be deducted from the following year's annual catch limit (including the annual catch limit for that sector), or by adjusting other management measures and input controls such that the fishing mortality rate for the

following year is reduced to account for the overage to achieve the overfishing and rebuilding objectives of the plan for that sector.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a)(5) shall take effect 2 years after the date of enactment of this Act.

SEC. 105. FISHERY MANAGEMENT PLAN DISCRETIONARY PROVISIONS.

Section 303(b) (16 U.S.C. 1853(b)) is amended—

(1) by inserting "(A)" after "(2)" in paragraph (2);

(2) by inserting after paragraph (2) the following:

"(B) designate such zones in areas where deep sea corals are identified under section 408, to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals, after considering long-term sustainable uses of fishery resources in such areas; and

"(C) with respect to any closure of an area to all fisheries managed under this Act, ensure that such closure—

"(i) is based on the best scientific information available;

"(ii) includes criteria to assess the conservation benefit of the closed area;

"(iii) establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and

"(iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation;";

(2) by striking "fishery;" in paragraph (5) and inserting "fishery and take into account the different circumstances affecting fisheries from different States and port, including distances to fishing grounds and proximity to time and area closures;";

(3) by striking paragraph (6) and inserting the following:

"(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

"(A) the conservation requirements of this Act with respect to the fishery;

"(B) present participation in the fishery;

"(C) historical fishing practices in, and dependence on, the fishery;

"(D) the economics of the fishery;

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

"(F) the cultural and social framework relevant to the fishery and any affected fishing communities;

"(G) the fair and equitable distribution of access privileges to a public resource; and

"(H) any other relevant considerations;";

(4) by striking "(other than economic data)" in paragraph (7);

(5) by striking "and" after the semicolon in paragraph (11); and

(6) by redesignating paragraph (12) as paragraph (14) and inserting after paragraph (11) the following:

"(12) establish a process for complying with the National Environmental Policy Act (42 U.S.C. 4321 et seq.) pursuant to section 304(h) of this Act;

"(13) include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations; and".

SEC. 106. LIMITED ACCESS PRIVILEGE PROGRAMS.

(a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.) is amended—

(1) by striking section 303(d); and

(2) by inserting after section 303 the following:

"SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.

"(a) IN GENERAL.—After the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, a Council may submit, and the Secretary may approve, for a fishery that is managed under a limited access system, a limited access privilege program to harvest fish if the program meets the requirements of this section.

"(b) NO CREATION OF RIGHT, TITLE, OR INTEREST.—A limited access system, limited access privilege, quota share, or other authorization established, implemented, or managed under this Act—

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

"(2) may be revoked, limited, or modified at any time in accordance with this Act, including revoca-

tion for failure to comply with the terms of the plan or if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;

"(3) shall not confer any right of compensation to the holder of such limited access privilege, quota share, or other such limited access system authorization if it is revoked, limited, or modified;

"(4) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested by the holder; and

"(5) shall be considered a grant of permission to the holder of the limited access privilege or quota share to engage in activities permitted by such limited access privilege or quota share.

"(c) REQUIREMENTS FOR LIMITED ACCESS PRIVILEGES.—

"(1) IN GENERAL.—In addition to complying with the other requirements of this Act, any limited access privilege program to harvest fish submitted by a Council or approved by the Secretary under this section shall—

"(A) if established in a fishery that is overfished or subject to a rebuilding plan, assist in its rebuilding; and

"(B) if established in a fishery that is determined by the Secretary or the Council to have over-capacity, contribute to reducing capacity;

"(C) promote—

"(i) the safety of human life at sea; and

"(ii) the conservation and management of the fishery;

"(D) prohibit any person other than a United States citizen, a corporation, partnership, or other entity established under the laws of the United States or any State, or a permanent resident alien, that meets the eligibility and participation requirements established in the program from acquiring a privilege to harvest fish;

"(E) require that all fish harvested under a limited access privilege program be processed by vessels of the United States, in United States waters, or on United States soil (including any territory of the United States).

"(F) specify the goals of the program;

"(G) include provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, in-

cluding determining progress in meeting the goals of the program and this Act, and any necessary modification of the program to meet those goals, with a formal and detailed review 5 years after the establishment of the program and every 5 years thereafter;

"(H) include an effective system for enforcement, monitoring, and management of the program, including the use of observers;

"(I) include an appeals process for administrative review of determinations with respect to the Secretary's decisions regarding administration of the limited access privilege program;

"(J) provide for the establishment by the Secretary, in consultation with the Department of Justice and the Federal Trade Commission, for an information collection and review process to provide any additional information needed by the Department of Justice and the Federal Trade Commission to determine whether any illegal acts of anti-competition, anti-trust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges under the program; and

"(K) provide for the revocation by the Secretary of limited access privileges held by any person found to have violated the antitrust laws of the United States.

"(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(E) if the Secretary determines that—

"(A) the fishery has historically processed the fish outside of the United States; and

"(B) the United States has a seafood safety equivalency agreement with the country where processing will occur (or other assurance that seafood safety procedures to be used in such processing are equivalent or superior to the applicable United States seafood safety standards).

"(3) FISHING COMMUNITIES.—

"(A) IN GENERAL.—

"(i) ELIGIBILITY.—To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall—

"(I) be located within the management area of the relevant Council;

"(II) meet criteria developed by the relevant Council, approved by the

Secretary, and published in the Federal Register;

"(III) consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council's management area; and

"(IV) develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of fishing communities, including those that have not historically had the resources to participate in the fishery, for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

"(ii) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny limited access privileges granted under this section for any person who fails to comply with the requirements of the plan.

"(B) PARTICIPATION CRITERIA.—In developing participation criteria for eligible communities under this paragraph, a Council shall consider—

"(i) traditional fishing or processing practices in, and dependence on, the fishery;

"(ii) the cultural and social framework relevant to the fishery;

"(iii) economic barriers to access to fishery;

"(iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;

"(v) the expected effectiveness, operational transparency, and equitability of the community sustainability plan; and

"(vi) the potential for improving economic conditions in remote coastal communities lacking resources to participate in harvesting or processing activities in the fishery.

"(4) REGIONAL FISHERY ASSOCIATIONS.—

"(A) IN GENERAL.—To be eligible to participate in a limited access privilege program to harvest fish, a regional fishery association shall—

"(i) be located within the management area of the relevant Council;

"(ii) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;

"(iii) be a voluntary association with established by-laws and operating procedures consisting of participants in the fishery, including commercial or recreational fishing, processing, fishery-dependent support businesses, or fishing communities; and

"(iv) develop and submit a regional fishery association plan to the Council and the Secretary for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

"(B) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny limited access privileges granted under this section for any person

who fails to comply with the requirements of the plan.

"(C) PARTICIPATION CRITERIA.—In developing participation criteria for eligible regional fishery associations under this paragraph, a Council shall consider—

"(i) traditional fishing or processing practices in, and dependence on, the fishery;

"(ii) the cultural and social framework relevant to the fishery;

"(iii) economic barriers to access to fishery;

"(iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion, upon the administrative and fiduciary soundness of the association and its by-laws; and

"(v) the expected effectiveness, operational transparency, and equitability of the fishery association plan.

"(5) ALLOCATION.—In developing a limited access privilege program to harvest fish a Council or the Secretary shall—

"(A) establish procedures to ensure fair and equitable initial allocations, including consideration of—

"(i) current and historical harvests;

"(ii) employment in the harvesting and processing sectors;

"(iii) investments in, and dependence upon, the fishery; and

"(iv) the current and historical participation of fishing communities;

"(B) to the extent practicable, consider the basic cultural and social framework of the fishery, especially through the development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, including regional or port-specific landing or delivery requirements;

"(C) include measures to assist, when necessary and appropriate, entry-level and small vessel operators, captains, crew, and fishing communities through set-asides of harvesting alloca-

tions, including providing privileges and, where appropriate, recommending the provision of economic assistance in the purchase of limited access privileges to harvest fish;

"(D) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by—

"(i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to hold, acquired, or use; and

"(ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges;

"(E) establish procedures to address geographic or other consolidation in both the harvesting and processing sectors of the fishery; and

"(F) authorize limited access privileges to harvest fish to be held, acquired, or used by or issued under the system to persons who substantially participate in the fishery, as specified by the Council, including, as appropriate, fishing

vessel owners, vessel captains, vessel crew members, fishing communities, and regional fishery associations.

"(6) PROGRAM INITIATION.—

"(A) LIMITATION.—Except as provided in subparagraph (D), a Council may initiate a fishery management plan or amendment to establish a limited access privilege program to harvest fish on its own initiative or if the Secretary has certified an appropriate petition.

"(B) PETITION.—A group of fishermen constituting more than 50 percent of the permit holders, or holding more than 50 percent of the allocation, in the fishery for which a limited access privilege program to harvest fish is sought, may submit a petition to the Secretary requesting that the relevant Council or Councils with authority over the fishery be authorized to initiate the development of the program. Any such petition shall clearly state the fishery to which the limited access privilege program would apply. For multispecies permits in the Gulf, only those participants who have substantially fished the species proposed to be included in the limited access program shall be eligible to sign a petition

for such a program and shall serve as the basis for determining the percentage described in the first sentence of this subparagraph.

"(C) CERTIFICATION BY SECRETARY.—Upon the receipt of any such petition, the Secretary shall review all of the signatures on the petition and, if the Secretary determines that the signatures on the petition represent more than 50 percent of the permit holders, or holders of more than 50 percent of the allocation in the fishery, as described by subparagraph (B), the Secretary shall certify the petition to the appropriate Council or Councils.

"(D) NEW ENGLAND AND GULF REFERENDUM.—

"(i) Except as provided in clause (iii) for the Gulf of Mexico commercial red snapper fishery, the New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than ⅔ of those voting in

a referendum among eligible permit holders with respect to the New England Council, and by a majority of those voting in the referendum among eligible permit holders with respect to the Gulf Council. For multispecies permits in the Gulf, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum. If an individual fishing quota program fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

"(ii) The Secretary shall conduct a referendum under this subparagraph, including notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures, and eligibility requirements for the referendum process and the proposed individual fishing quota program. Within 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act

of 2005, the Secretary shall publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

"(iii) The provisions of section 407(c) of this Act shall apply in lieu of this subparagraph for an individual fishing quota program for the Gulf of Mexico commercial red snapper fishery.

"(iv) Chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) does not apply to the referenda conducted under this subparagraph.

"(7) TRANSFERABILITY.—In establishing a limited access privilege program, a Council shall—

"(A) establish a policy on the transferability of limited access privilege shares (through sale or lease), including a policy on any conditions that apply to the transferability of limited access privilege shares that is consistent with the policies adopted by the Council for the fishery under paragraph (3); and

"(B) establish criteria for the approval and monitoring of transfers (including sales and leases) of limited access privilege shares.

"(8) PREPARATION AND IMPLEMENTATION OF SECRETARIAL PLANS.—This subsection also applies to a plan prepared and implemented by the Secretary under section 304(g).

"(9) ANTITRUST SAVINGS CLAUSE.—Nothing in this Act shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of the preceding sentence, the term 'antitrust laws' has the meaning given such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

"(d) AUCTION AND OTHER PROGRAMS.—In establishing a limited access privilege program, a Council may consider, and provide for, if appropriate, an auction system or other program to collect royalties for the initial, or any subsequent, distribution of allocations in a limited access privilege program if—

"(1) the system or program is administered in such a way that the resulting distribution of limited

access privilege shares meets the program requirements of subsection (c)(3)(A); and

"(2) revenues generated through such a royalty program are deposited in the Limited Access System Administration Fund established by section 305(h)(5)(B) and available subject to annual appropriations.

"(e) COST RECOVERY.—In establishing a limited access privilege program, a Council shall—

"(1) develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the program; and

"(2) provide, under section 304(d)(2), for a program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.

"(f) LIMITED DURATION.—In establishing a limited access privilege program after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, a Council may establish—

"(1) a set term after which any initial or subsequent allocation of a limited access privilege shall expire;

"(2) different set terms within a fishery if the Council determines that variation of terms will further management goals; and

"(3) a mechanism under which participants in and entrants to the program may acquire or reacquire allocations.

"(g) LIMITED ACCESS PRIVILEGE ASSISTED PURCHASE PROGRAM.—

"(1) IN GENERAL.—A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 1104A(a)(7) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274(a)(7)), to issue obligations that aid in financing—

"(A) the purchase of limited access privileges in that fishery by fishermen who fish from small vessels; and

"(B) the first-time purchase of limited access privileges in that fishery by entry level fishermen.

"(2) ELIGIBILITY CRITERIA.—A Council making a submission under paragraph (1) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees

under subparagraphs (A) and (B) of paragraph (1) and the portion of funds to be allocated for guarantees under each subparagraph.

"(h) EFFECT ON CERTAIN EXISTING SHARES AND PROGRAMS.—Nothing in this Act, or the amendments made by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, shall be construed to require a reallocation of individual quota shares, processor quota shares, cooperative programs, or other quota programs, including sector allocation, under development or submitted by a Council or approved by the Secretary or by Congressional action before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005.".

(b) FEES.—Section 304(d)(2)(A) (16 U.S.C. 1854(d)(2)(A)) is amended by striking "management and enforcement" and inserting "management, data collection, and enforcement".

(c) INVESTMENT IN UNITED STATES SEAFOOD PROCESSING FACILITIES.—The Secretary of Commerce shall work with the Small Business Administration and other Federal agencies to develop financial and other mechanisms to encourage United States investment in seafood processing facilities in the United States for fisheries that lack capacity needed to process fish harvested by United States vessels

in compliance with the Magnuson—Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(d) CONFORMING AMENDMENT.—Section 304(d)(2)(C)(i) (16 U.S.C. 1854(d)(2)(C)(i)) is amended by striking "section 305(h)(5)(B)" and all that follows and inserting "section 305(h)(5)(B).".

(e) APPLICATION WITH AMERICAN FISHERIES ACT.—Nothing in section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), as added by subsection (a), shall be construed to modify or supersede any provision of the American Fisheries Act (46 U.S.C. 12102 note; 16 U.S.C. 1851 note; et alia).

SEC. 107. ENVIRONMENTAL REVIEW PROCESS.

Section 304 (16 U.S.C. 1854) is amended by adding at the end the following:

"(i) ENVIRONMENTAL REVIEW PROCESS.—

"(1) PROCEDURES.—The Secretary shall, in consultation with the Councils and the Council on Environmental Quality, revise and update agency procedures for compliance with the National Environmental Policy Act (42 U.S.C. 4231 et seq.). The procedures shall—

"(A) conform to the time lines for review and approval of fishery management plans and plan amendments under this section; and

"(B) integrate applicable environmental analytical procedures, including the time frames for public input, with the procedure for the preparation and dissemination of fishery management plans, plan amendments, and other actions taken or approved pursuant to this Act in order to provide for timely, clear and concise analysis that is useful to decision makers and the public, reduce extraneous paperwork, and effectively involve the public.

"(2) USAGE.—The updated agency procedures promulgated in accordance with this section used by the Councils or the Secretary shall be the sole environmental impact assessment procedure for fishery management plans, amendments, regulations, or other actions taken or approved pursuant to this Act.

"(3) SCHEDULE FOR PROMULGATION OF FINAL PROCEDURES.—The Secretary shall—

"(A) propose revised procedures within 12 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005;

"(B) provide 90 days for public review and comments; and

"(C) promulgate final procedures no later than 18 months after the date of enactment of that Act.

"(4) PUBLIC PARTICIPATION.—The Secretary is authorized and directed, in cooperation with the Council on Environmental Quality and the Councils, to involve the affected public in the development of revised procedures, including workshops or other appropriate means of public involvement.".

SEC. 108. EMERGENCY REGULATIONS.

(a) LENGTHENING OF SECOND EMERGENCY PERIOD.—Section 305(c)(3)(B) (16 U.S.C. 1855(c)(3)(B)) is amended by striking "180 days," and inserting "186 days,".

(b) TECHNICAL AMENDMENT.—Section 305(c)(3)(D) (16 U.S.C. 1855(c)(3)(D)) is amended by inserting "or interim measures" after "emergency regulations".

SEC. 109. WESTERN PACIFIC COMMUNITY DEVELOPMENT.

Section 305 (16 U.S.C. 1855) is amended by adding at the end thereof the following:

"(j) WESTERN PACIFIC REGIONAL MARINE EDUCATION AND TRAINING.—

"(1) IN GENERAL.—The Secretary shall establish a pilot program for regionally-based marine education and training programs in the Western Pacific

to foster understanding, practical use of knowledge (including native Hawaiian and other Pacific Islander-based knowledge), and technical expertise relevant to stewardship of living marine resources. The Secretary shall, in cooperation with the Western Pacific Regional Fishery Management Council, regional educational institutions, and local Western Pacific community training entities, establish programs or projects that will improve communication, education, and training on marine resource issues throughout the region and increase scientific education for marine-related professions among coastal community residents, including indigenous Pacific islanders, Native Hawaiians and other underrepresented groups in the region.

"(2) PROGRAM COMPONENTS.—The program shall—

"(A) include marine science and technology education and training programs focused on preparing community residents for employment in marine related professions, including marine resource conservation and management, marine science, marine technology, and maritime operations;

"(B) include fisheries and seafood-related training programs, including programs for fishery observers, seafood safety and seafood marketing, focused on increasing the involvement of coastal community residents in fishing, fishery management, and seafood-related operations;

"(C) include outreach programs and materials to educate and inform consumers about the quality and sustainability of wild fish or fish products farmed through responsible aquaculture, particularly in Hawaii and the Western Pacific;

"(D) include programs to identify, with the fishing industry, methods and technologies that will improve the data collection, quality, and reporting and increase the sustainability of fishing practices, and to transfer such methods and technologies among fisheries sectors and to other nations in the Western and Central Pacific;

"(E) develop means by which local and traditional knowledge (including Pacific islander and Native Hawaiian knowledge) can enhance science-based management of fishery resources of the region; and

"(F) develop partnerships with other Western Pacific Island agencies, academic institu-

tions, and other entities to meet the purposes of this section.".

SEC. 110. WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM.

Section 305(i)(1) (16 U.S.C. 1855(i)(1)) is amended—

(1) by striking "To" in subparagraph (B) and inserting "Except as provided in subparagraph (E), to"; and

(2) by adding at the end the following:

"(E) A community shall be eligible to participate in the western Alaska community development quota program under subparagraph (A) if the community was—

"(i) listed in table 7 to part 679 of title 50, Code of Federal Regulations, as in effect on January 1, 2004; or

"(ii) approved by the National Marine Fisheries Service on April 19, 1999.".

SEC. 111. SECRETARIAL ACTION ON STATE GROUNDFISH FISHING.

Section 305 (16 U.S.C. 1855), as amended by section 109, is further amended by adding at the end thereof the following:

"(k) MULTISPECIES GROUNDFISH.—Within 60 days after the date of enactment of the Magnuson-Stevens Fishery

Conservation and Management Reauthorization Act of 2005, the Secretary of Commerce shall determine whether fishing in State waters without a New England multispecies groundfish fishery permit on regulated species within the multispecies complex is not consistent with the applicable Federal fishery management plan. If the Secretary makes a determination that such actions are not consistent with the plan, the Secretary shall, in consultation with the Council, and after notifying the affected State, develop and implement measures to cure the inconsistency.".

SEC. 112. JOINT ENFORCEMENT AGREEMENTS.

(a) IN GENERAL.—Section 311 (16 U.S.C. 1861) is amended—

(1) by striking "and" after the semicolon in subsection (b)(1)(A)(iv);

(2) by inserting "and" after the semicolon in subsection (b)(1)(A)(v);

(3) by inserting after clause (v) of subsection (b)(1)(A) the following:

"(vi) access, directly or indirectly, for enforcement purposes any data or information required to be provided under this title or regulations under this title, including data from Global Maritime Distress and Safety Systems, vessel monitoring systems,

or any similar system, subject to the confidentiality provisions of section 402;";

(4) by redesignating subsection (h) as subsection (j); and

(5) by inserting after subsection (g) the following:

"(h) JOINT ENFORCEMENT AGREEMENTS.—

"(1) IN GENERAL.—The Governor of an eligible State may apply to the Secretary for execution of a joint enforcement agreement with the Secretary that will authorize the deputization and funding of State law enforcement officers with marine law enforcement responsibilities to perform duties of the Secretary relating to law enforcement provisions under this title or any other marine resource law enforced by the Secretary. Upon receiving an application meeting the requirements of this subsection, the Secretary may enter into a joint enforcement agreement with the requesting State.

"(2) ELIGIBLE STATE.—A State is eligible to participate in the cooperative enforcement agreements under this section if it is in, or bordering on, the Atlantic Ocean (including the Caribbean Sea), the Pacific Ocean, the Arctic Ocean, the Gulf of Mexico, Long Island Sound, or 1 or more of the Great Lakes.

"(3) REQUIREMENTS.—Joint enforcement agreements executed under paragraph (1)—

"(A) shall be consistent with the purposes and intent of this section to the extent applicable to the regulated activities;

"(B) may include specifications for joint management responsibilities as provided by the first section of Public Law 91–412 (15 U.S.C. 1525); and

"(C) shall provide for confidentiality of data and information submitted to the State under section 402.

"(4) ALLOCATION OF FUNDS.—The Secretary shall include in each joint enforcement agreement an allocation of funds to assist in management of the agreement. The allocation shall be fairly distributed among all eligible States participating in cooperative enforcement agreements under this subsection, based upon consideration of Federal marine enforcement needs, the specific marine conservation enforcement needs of each participating eligible State, and the capacity of the State to undertake the marine enforcement mission and assist with enforcement needs. The agreement may provide for amounts to be withheld by the Secretary for the cost of any technical or other as-

sistance provided to the State by the Secretary under the agreement.

"(i) IMPROVED DATA SHARING.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, as soon as practicable but no later than 21 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, the Secretary shall implement data-sharing measures to make any data required to be provided by this Act from Global Maritime Distress and Safety Systems, vessel monitoring systems, or similar systems—

"(A) directly accessible by State enforcement officers authorized under subsection (a) of this section; and

"(B) available to a State management agency involved in, or affected by, management of a fishery if the State has entered into an agreement with the Secretary under section 402(b)(1)(B) of this Act.

"(2) AGREEMENT REQUIRED.—The Secretary shall promptly enter into an agreement with a State under section 402(b)(1)(B) of this Act if—

"(A) the Attorney General or highest ranking legal officer of the State provides a written

opinion or certification that State law allows the State to maintain the confidentiality of information required by Federal law to be kept confidential; or

"(B) the Secretary is provided other reasonable assurance that the State can and will protect the identity or business of any person to which such information relates.".

(b) REPORT ON USING GMDSS FOR FISHERY PURPOSES.—Within 15 months after the date of enactment of this Act, the National Marine Fisheries Service and the United States Coast Guard shall transmit a joint report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources containing—

(1) a cost-to-benefit analysis of the feasibility, value, and cost of using the Global Maritime Distress and Safety Systems, vessel monitoring systems, or similar systems for fishery management, conservation, enforcement, and safety purposes with the Federal government bearing the capital costs of any such system;

(2) an examination of the cumulative impact of existing requirements for commercial vessels;

(3) an examination of whether the Global Maritime Distress and Safety Systems or similar requirements would overlap existing requirements or render them redundant;

(4) an examination of how data integration from such systems could be addressed;

(5) an examination of how to maximize the data-sharing opportunities between relevant State and Federal agencies and provide specific information on how to develop these opportunities, including the provision of direct access to the Global Maritime Distress and Safety Systems or similar system data to State enforcement officers, while considering the need to maintain or provide an appropriate level of individual vessel confidentiality where practicable; and

(6) an assessment of how the Global Maritime Distress and Safety Systems or similar systems could be developed, purchased, and distributed to regulated vessels.

SEC. 113. TRANSITION TO SUSTAINABLE FISHERIES.

(a) IN GENERAL.—Section 312 (16 U.S.C. 1861a) is amended—

(1) by striking "measures;" in subsection (a)(1)(B) and inserting "measures, including regu-

latory restrictions imposed to protect human health or the marine environment and judicially imposed harvest restrictions;";

(2) by striking "1996, 1997, 1998, and 1999." in subsection (a)(4) and inserting "2006 through 2012.";

(3) by striking "or the Governor of a State for fisheries under State authority, may conduct a fishing" in subsection (b)(1) and inserting "the Governor of a State for fisheries under State authority, or a majority of permit holders in the fishery, may conduct a voluntary fishing";

(4) by inserting "practicable" after "entrants," in subsection (b)(1)(B)((i);

(5) by striking "cost-effective and" in subsection (b)(1)C) and inserting "cost-effective and, in the instance of a program involving an industry fee system, prospectively";

(6) by striking subparagraph (A) of subsection (b)(2) and inserting the following:

"(A) the owner of a fishing vessel, if the permit authorizing the participation of the vessel in the fishery is surrendered for permanent revocation and the vessel owner and permit holder relinquish any claim associated with the vessel or permit that could qualify such owner or holder for any present or future limited

access system permit in the fishery for which the program is established and such vessel is (i) scrapped, or (ii) through the Secretary of the department in which the Coast Guard is operating, subjected to title restrictions (including loss of the vessel's fisheries endorsement) that permanently prohibit and effectively prevent its use in fishing in federal or state waters, or fishing on the high seas or in the waters of a foreign nation; or";

(7) by striking "The Secretary shall consult, as appropriate, with Councils," in subsection (b)(4) and inserting "The harvester proponents of each program and the Secretary shall consult, as appropriate and practicable, with Councils,";

(8) by striking "Secretary, at the request of the appropriate Council," in subsection (d)(1)(A) and inserting "Secretary";

(9) by striking "Secretary, in consultation with the Council," in subsection (d)(1)(A) and inserting "Secretary";

(10) by striking "a two-thirds majority of the participants voting." in subsection (d)(1)(B) and inserting "at least a majority of the permit holders in the fishery, or 50 percent of the permitted allocation of the fishery, who participated in the fishery.";

(11) by striking "establish;" in subsection (d)(2)((C) and inserting "establish, unless the Secretary determines that such fees should be collected from the seller;" and

(12) striking subsection (e) and inserting the following:

"(e) IMPLEMENTATION PLAN.—

"(1) FRAMEWORK REGULATIONS.—The Secretary shall propose and adopt framework regulations applicable to the implementation of all programs under this section.

"(2) PROGRAM REGULATIONS.—The Secretary shall implement each program under this section by promulgating regulations that, together with the framework regulations, establish each program and control its implementation.

"(3) HARVESTER PROPONENTS' IMPLEMENTATION PLAN.—The Secretary may not propose implementation regulations for a program to be paid for by an industry fee system until the harvester proponents of the program provide to the Secretary a proposed implementation plan that, among other matters—

"(A) proposes the types and numbers of vessels or permits that are eligible to participate in

the program and the manner in which the program shall proceed, taking into account—

"(i) the requirements of this section;

"(ii) the requirements of the framework regulations;

"(iii) the characteristics of the fishery;

"(iv) the requirements of the applicable fishery management plan and any amendment that such plan may require to support the proposed program;

"(v) the general needs and desires of harvesters in the fishery;

"(vi) the need to minimize program costs; and

"(vii) other matters, including the manner in which such proponents propose to fund the program to ensure its cost effectiveness, as well as any relevant factors demonstrating the potential for, or necessary to obtain, the support and general cooperation of a substantial number of affected harvesters in the fishery (or portion of the fishery) for which the program is intended; and

"(B) proposes procedures for program participation (such as submission of owner bids under an auction system or fair market-value assessment), including any terms and conditions for participation, that the harvester proponents deem to be reasonably necessary to meet the program's proposed objectives.

"(4) PARTICIPATION CONTRACTS.—The Secretary shall contract with each person participating in a program, and each such contract shall, in addition to including such other matters as the Secretary deems necessary and appropriate to effectively implement each program (including penalties for contract nonperformance) be consistent with the framework and implementing regulations and all other applicable law.

"(5) REDUCTION AUCTIONS.—Each program not involving fair market assessment shall involve a reduction auction that scores the reduction price of each bid offer by the data relevant to each bidder under an appropriate fisheries productivity factor. If the Secretary accepts bids, the Secretary shall accept responsive bids in the rank order of their bid scores, starting with the bid whose reduction price is the lowest percentage of the productivity factor, and successively ac-

cepting each additional responsive bid in rank order until either there are no more responsive bids or acceptance of the next bid would cause the total value of bids accepted to exceed the amount of funds available for the program.

"(6) BID INVITATIONS.—Each program shall proceed by the Secretary issuing invitations to bid setting out the terms and conditions for participation consistent with the framework and implementing regulations. Each bid that the Secretary receives in response to the invitation to bid shall constitute an irrevocable offer from the bidder.".

(b) TECHNICAL AMENDMENT.—Sections 116, 203, 204, 205, and 206 of the Sustainable Fisheries Act are deemed to have added sections 312, 402, 403, 404, and 405, respectively to the Act as of the date of enactment of the Sustainable Fisheries Act.

SEC. 114. REGIONAL COASTAL DISASTER ASSISTANCE, TRANSITION, AND RECOVERY PROGRAM.

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

"SEC. 315. REGIONAL COASTAL DISASTER ASSISTANCE, TRANSITION, AND RECOVERY PROGRAM.

"(a) IN GENERAL.—When there is a catastrophic regional fishery disaster the Secretary may, upon the request

of, and in consultation with, the Governors of affected States, establish a regional economic transition program to provide immediate disaster relief assistance to the fishermen, charter fishing operators, United States fish processors, and owners of related fishery infrastructure affected by the disaster.

"(b) PROGRAM COMPONENTS.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the program shall provide funds or other economic assistance to affected entities, or to governmental entities for disbursement to affected entities, for—

"(A) meeting immediate regional shoreside fishery infrastructure needs, including processing facilities, cold storage facilities, ice houses, docks, including temporary docks and storage facilities, and other related shoreside fishery support facilities and infrastructure;

"(B) financial assistance and job training assistance for fishermen who wish to remain in a fishery in the region that may be temporarily closed as a result of environmental or other effects associated with the disaster;

"(C) funding, pursuant to the requirements of section 312(b), to fishermen who are willing to

scrap a fishing vessel and permanently surrender permits for fisheries named on that vessel; and

"(D) any other activities authorized under section 312(a) of this Act or section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)).

"(2) JOB TRAINING.—Any fisherman who decides to scrap a fishing vessel under the program shall be eligible for job training assistance.

"(3) STATE PARTICIPATION OBLIGATION.—The participation by a State in the program shall be conditioned upon a commitment by the appropriate State entity to ensure that the relevant State fishery meets the requirements of section 312(b) of this Act to ensure excess capacity does not re-enter the fishery.

"(4) NO MATCHING REQUIRED.—The Secretary may waive the matching requirements of section 312 of this Act, section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107), and any other provision of law under which the Federal share of the cost of any activity is limited to less than 100 percent if the Secretary determines that—

"(A) no reasonable means are available through which applicants can meet the matching requirement; and

"(B) the probable benefit of 100 percent Federal financing outweighs the public interest in imposition of the matching requirement.

"(5) NET REVENUE LIMIT INAPPLICABLE.—Section 308(d)(3) of the Interjurisdictional Fisheries Act (16 U.S.C. 4107(d)(3)) shall not apply to assistance under this section.

"(c) REGIONAL IMPACT EVALUATION.—Within 2 months after a catastrophic regional fishery disaster the Secretary shall provide the Governor of each State participating in the program a comprehensive economic and socioeconomic evaluation of the affected region's fisheries to assist the Governor in assessing the current and future economic viability of affected fisheries, including the economic impact of foreign fish imports and the direct, indirect, or environmental impact of the disaster on the fishery and coastal communities.

"(d) CATASTROPHIC REGIONAL FISHERY DISASTER DEFINED.—In this section the term 'catastrophic regional fishery disaster' means a natural disaster, including a hurricane or tsunami, or a judicial or regulatory closure to protect human health or the marine environment, that—

"(1) results in economic losses to coastal or fishing communities;

"(2) affects more than 1 State or a major fishery managed by a Council or interstate fishery commission; and

"(3) is determined by the Secretary to be a commercial fishery failure under section 312(a) of this Act or a fishery resource disaster or section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)).".

SEC. 115. FISHERY FINANCE PROGRAM HURRICANE ASSISTANCE.

(a) LOAN ASSISTANCE.—Subject to availability of appropriations, the Secretary of Commerce shall provide assistance to eligible holders of fishery finance program loans and allocate such assistance among eligible holders based upon their outstanding principal balances as of December 2, 2005, for any of the following purposes:

(1) To defer principal payments on the debt for 1 year and re-amortize the debt over the remaining term of the loan.

(2) To allow for an extension of the term of the loan for up to 1 year beyond the remaining term of the loan, or September 30, 2013, whichever is later.

(3) To pay the interest costs for such loans over fiscal years 2006 through 2012, not to exceed amounts authorized under subsection (d).

(4) To provide opportunities for loan forgiveness, as specified in subsection (c).

(b) LOAN FORGIVENESS.—

(1) IN GENERAL.—Upon application made by an eligible holder of a fishery finance program loan, made at such time, in such manner, and containing such information as the Secretary may require, the Secretary, on a calendar year basis beginning in 2005, may—

(A) offset against the outstanding balance on the loan an amount equal to the sum of the amounts expended by the holder during the calendar year to repair or replace covered vessels or facilities, or to invest in new fisheries infrastructure within or for use within the declared fisheries disaster area; or

(B) cancel the amount of debt equal to 100 hundred percent of actual expenditures on eligible repairs, reinvestment, expansion, or new investment in fisheries infrastructure in the disaster region, or repairs to, or replacement of, eligible fishing vessels.

(c) DEFINITIONS.—In this section:

(1) DECLARED FISHERIES DISASTER AREA.—The term "declared fisheries disaster area" means fisheries

located in the major disaster area designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) as a result of Hurricane Katrina or Hurricane Rita.

(2) ELIGIBLE HOLDER.—The term "eligible holder" means the holder of a fishery finance program loan if—

(A) that loan is used to guarantee or finance any fishing vessel or fish processing facility home-ported or located within the declared fisheries disaster area; and

(B) the holder makes expenditures to repair or replace such covered vessels or facilities, or invests in new fisheries infrastructure within or for use within the declared fisheries disaster area, to restore such facilities following the disaster.

(3) FISHERY FINANCE PROGRAM LOAN.—The term "fishery finance program loan" means a loan made or guaranteed under the fishery finance program under title XI of the Merchant Marine Act, 1936, (46 U.S.C. App. 1271 et seq,).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for the purposes of this section not more than $15,000,000

for each eligible holder for the period beginning with fiscal year 2006 through fiscal year 2012.

SEC. 116. SHRIMP FISHERIES HURRICANE ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary of Commerce shall establish an assistance program for the Gulf of Mexico shrimp fishing industry.

(b) ALLOCATION OF FUNDS.—Under the program, the Secretary shall allocate funds appropriated to carry out the program among the States of Alabama, Louisiana, Florida, Mississippi, and Texas in proportion to the percentage of the shrimp catch landed by each State, except that the amount allocated to Florida shall be based exclusively on the proportion of such catch landed by the Florida Gulf Coast fishery.

(c) USE OF FUNDS.—Of the amounts made available to each State under the program—

(1) 2 percent shall be retained by the State to be used for the distribution of additional payments to fishermen with a demonstrated record of compliance with turtle excluder and bycatch reduction device regulations; and

(2) the remainder of the amounts shall be used for—

(A) personal assistance, with priority given to food, energy needs, housing assistance, transportation fuel, and other urgent needs;

(B) assistance for small businesses, including fishermen, fish processors, and related businesses serving the fishing industry;

(C) domestic product marketing and seafood promotion;

(D) State seafood testing programs;

(E) the development of limited entry programs for the fishery;

(F) funding or other incentives to ensure widespread and proper use of turtle excluder devices and bycatch reduction devices in the fishery; and

(G) voluntary capacity reduction programs for shrimp fisheries under limited access programs.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $17,500,000 for fiscal years 2006 through 2011 to carry out this section.

SEC. 117. BYCATCH REDUCTION ENGINEERING PROGRAM.

Title III (16 U.S.C. 1851 et seq.), as amended by section 114 of this Act, is further amended by adding at the end the following:

"SEC. 316. BYCATCH REDUCTION ENGINEERING PROGRAM.

"(a) BYCATCH REDUCTION ENGINEERING PROGRAM.—Not later than 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, the Secretary, in cooperation with the Councils and other affected interests, and based upon the best scientific information available, shall establish a bycatch reduction program to develop technological devices and other conservation engineering changes designed to minimize bycatch, seabird bycatch, bycatch mortality, and post-release mortality in Federally managed fisheries. The program shall—

"(1) be regionally based;

"(2) be coordinated with projects conducted under the cooperative research and management program established under this Act;

"(3) provide information and outreach to fishery participants that will encourage adoption and use of technologies developed under the program; and

"(4) provide for routine consultation with the Councils in order to maximize opportunities to incorporate results of the program in Council actions and

provide incentives for adoption of methods developed under the program in fishery management plans developed by the Councils.

"(b) INCENTIVES.—Any fishery management plan prepared by a Council or by the Secretary may establish a system of incentives to reduce total bycatch and seabird bycatch amounts, bycatch rates, and post-release mortality in fisheries under the Council's or Secretary's jurisdiction, including—

"(1) measures to incorporate bycatch into quotas, including the establishment of collective or individual bycatch quotas;

"(2) measures to promote the use of gear with verifiable and monitored low bycatch and seabird bycatch rates; and

"(3) measures that, based on the best scientific information available, will reduce bycatch and seabird bycatch, bycatch mortality, post-release mortality, or regulatory discards in the fishery.".

SEC. 118. COMMUNITY-BASED RESTORATION PROGRAM FOR FISHERY AND COASTAL HABITATS.

(a) IN GENERAL.—The Secretary of Commerce shall establish a community-based fishery and coastal habitat restoration program to implement and support the restoration of fishery and coastal habitats.

(b) AUTHORIZED ACTIVITIES.—In carrying out the program, the Secretary may—

(1) provide funding and technical expertise to fishery and coastal communities to assist them in restoring fishery and coastal habitat;

(2) advance the science and monitoring of coastal habitat restoration;

(3) transfer restoration technologies to the private sector, the public, and other governmental agencies;

(4) develop public-private partnerships to accomplish sound coastal restoration projects;

(5) promote significant community support and volunteer participation in fishery and coastal habitat restoration;

(6) promote stewardship of fishery and coastal habitats; and

(7) leverage resources through national, regional, and local public-private partnerships.

SEC. 119. PROHIBITED ACTS.

Section 307(1) (16 U.S.C. 1857(1)) is amended—

(1) by striking "or" after the semicolon in subparagraph (O);

(2) by striking "carcass." in subparagraph (P) and inserting "carcass;"; and

(3) by inserting after subparagraph (P) and before the last sentence the following:

"(Q) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish taken, possessed, transported, or sold in violation of any foreign law or regulation; or

"(R) to use any fishing vessel to engage in fishing in Federal or State waters, or on the high seas or the waters of another country, after the Secretary has made a payment to the owner of that fishing vessel under section 312(b)(2).".

SEC. 120. ENFORCEMENT.

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

(1) by striking "$100,000" in subsection (a) and inserting "$240,000";

(2) by striking "this section," in subsection (f) and inserting "this Act (or any other marine resource law enforced by the Secretary),";

(3) by inserting "a permit, or any interest in a permit," in subsection (g)(3) after "vessel," each place it appears;

(4) by striking "the vessel" in subsection (g)(3) and inserting "the vessel, permit, or interest";

(5) by inserting "or any amount in settlement of a civil forfeiture," after "criminal fine," in subsection (g)(4); and

(6) by striking "penalty or fine" in subsection (g)(4) and inserting "penalty, fine, or settlement amount".

(b) CRIMINAL PENALTIES.—Section 309 (16 U.S.C. 1859) is amended to read as follows:

"SEC. 309. CRIMINAL PENALTIES.

"(a) FINES AND IMPRISONMENT.—

"(1) IN GENERAL.—Any person (other than a foreign government or entity thereof) who knowingly violates subparagraph (D), (E), (F), (H), (I), or (L) of paragraph (1) of section 307, or paragraph (2) of section 307, shall be imprisoned for not more than 5 years and fined—

"(A) not more than $500,000 if such person is an individual; or

"(B) not more than $1,000,000 if such person is a corporation or other legal entity other than an individual.

"(2) AGGRAVATED OFFENSES.—Notwithstanding paragraph (1), the maximum term of imprisonment shall be for not more than 10 years if—

"(A) the violator is an individual; and

"(B) in the commission of a violation described in paragraph (1), that individual—

"(A) used a dangerous weapon;

"(B) engaged in conduct that caused bodily injury to any observer described in section 307, any officer authorized to enforce the provisions of this Act under section 311, or any Council member or staff; or

"(C) placed any such observer, officer, Council member, or staff in fear of imminent bodily injury.

"(b) OTHER VIOLATIONS.—Any person (other than a foreign government or entity thereof) who knowingly violates any other provision of section 307 shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

"(c) JURISDICTION.—

"(1) IN GENERAL.—The district courts of the United States shall have jurisdiction over any action arising under this Act.

"(2) VENUE.—For purposes of this Act—

"(A) each violation of this Act shall constitute a separate offense and the offense shall be deemed to have been committed not only in the

district where it first occurred, but also in any other district as authorized by law;

"(B) any offense not committed within a judicial district of the United States is subject to the venue provisions of section 3238 of title 18, United States Code; and

"(C) American Samoa shall be included within the judicial district of the United States District Court for the District of Hawaii.".

(c) CIVIL FORFEITURES.—Section 310(a) (16 U.S.C. 1860(a)) is amended—

(1) by striking "(other than any act for which the issuance of a citation under section 311(a) is sufficient sanction)"; and

(2) by striking "States." and inserting "States, except that no fishing vessel shall be subject to forfeiture under this section as the result of any act for which the issuance of a citation under section 311(a) is sufficient sanction.".

(d) ENFORCEMENT RESPONSIBILITY.—Section 311(a) (16 U.S.C. 1861(a)) is amended—

(1) by striking "Act" and inserting "Act, and the provisions of any marine resource law administered by the Secretary,"; and

(2) by striking "State agency," and inserting "agency of any State, Territory, Commonwealth, or Tribe,".

(e) POWERS OF AUTHORIZED OFFICERS.—Section 311(b) (16 U.S.C. 1861(b)) is amended by striking "Federal or State".

(f) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—Section 311(e)(1)(B) (16 U.S.C. 1861(e)(1)(B)) is amended to read as follows:

"(B) a reward to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment, or forfeiture of property for any violation of any provision of this Act or any other marine resource law enforced by the Secretary of up to the lesser of—

"(i) 20 percent of the penalty or fine collected; or

"(ii) $20,000;".

TITLE II—INFORMATION AND RESEARCH

SEC. 201. RECREATIONAL FISHERIES INFORMATION.

Section 401 (16 U.S.C. 1881) is amended by striking subsection (g) and inserting the following:

"(g) RECREATIONAL FISHERIES.—

"(1) FEDERAL PROGRAM.—The Secretary shall establish and implement a regionally based registry program for recreational fishermen in each of the 8 fishery management regions. The program shall provide for—

"(A) the registration (including identification and contact information) of individuals who engage in recreational fishing—

"(i) in the Exclusive Economic Zone;

"(ii) for anadromous species; or

"(iii) for Continental Shelf fishery resources beyond the Exclusive Economic Zone; and

"(B) if appropriate, the registration (including the ownership, operator, and identification of the vessel) of vessels used in such fishing.

"(2) STATE PROGRAMS.—The Secretary shall exempt from registration under the program recreational fishermen and charter fishing vessels licensed, permitted, or registered under the laws of a State if the Secretary determines that information from the State program is suitable for the Secretary's use or is used to assist in completing marine recreational fisheries statistical surveys, or evaluating

the effects of proposed conservation and management measures for marine recreational fisheries.

"(3) DATA COLLECTION.—Within 24 months after the date of enactment of the Magnuson-Stevens Fishery conservation and Management Reauthorization Act of 2005, the Secretary shall establish a program to improve the quality and accuracy of information generated by the Marine Recreational Fishery Statistics Survey, with a goal of achieving acceptable accuracy and utility for each individual fishery. Unless the Secretary determines that alternate methods will achieve this goal more efficiently and effectively, the program shall, to the extent possible, include—

"(A) an adequate number of dockside interviews to accurately estimate recreational catch and effort;

"(B) use of surveys that target anglers registered or licensed at the State or Federal level to collect participation and effort data;

"(C) collection and analysis of vessel trip report data from charter fishing vessels; and

"(D) development of a weather corrective factor that can be applied to recreational catch and effort estimates.

"(4) REPORT.—Within 24 months after establishment of the program, the Secretary shall submit a report to Congress that describes the progress made toward achieving the goals and objectives of the program.".

SEC. 202. COLLECTION OF INFORMATION.

Section 402(a) (16 U.S.C. 1881a(a)) is amended—

(1) by striking "(a) COUNCIL REQUESTS.—" in the subsection heading and inserting "(a) COLLECTION PROGRAMS.—";

(2) by resetting the text following "(a) COLLECTION PROGRAMS.—" as a new paragraph 2 ems from the left margin;

(3) by inserting "(1) COUNCIL REQUESTS.—" before "If a Council";

(4) by striking "subsection" in the last sentence and inserting "paragraph";

(5) by striking "(other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations)" each place it appears; and

(6) by adding at the end the following:

"(2) SECRETARIAL INITIATION.—If the Secretary determines that additional information is necessary

for developing, implementing, revising, or monitoring a fishery management plan, or for determining whether a fishery is in need of management, the Secretary may, by regulation, implement an information collection or observer program requiring submission of such additional information for the fishery.".

SEC. 203. ACCESS TO CERTAIN INFORMATION.

(a) IN GENERAL.—Section 402(b) (16 U.S.C. 1881a(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3) and resetting it 2 ems from the left margin;

(2) by striking all preceding paragraph (3), as redesignated, and inserting the following:

"(b) CONFIDENTIALITY OF INFORMATION.—

"(1) Any information submitted to the Secretary, a state fishery management agency, or a marine fisheries commission by any person in compliance with the requirements of this Act that contains confidential information shall be confidential and shall be exempt from disclosure under section 552(h)(3) of title 5, United States Code, except—

"(A) to Federal employees and Council employees who are responsible for fishery management plan development, monitoring, or enforcement;

"(B) to State or Marine Fisheries Commission employees as necessary to further the Department's mission, subject to a confidentiality agreement that prohibits public disclosure of confidential information relating to any person;

"(C) to State employees who are responsible for fishery management plan enforcement, if the States employing those employees have entered into a fishery enforcement agreement with the Secretary and the agreement is in effect;

"(D) when such information is used by State, Council, or Marine Fisheries Commission employees to verify catch under a limited access program, but only to the extent that such use is consistent with subparagraph (B);

"(E) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act;

"(F) when such information is required to be submitted to the Secretary for any determination under a limited access program; or

"(G) in support of homeland and national security activities, including the Coast Guard's homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2)).

"(2) Any observer information shall be confidential and shall not be disclosed, except in accordance with the requirements of subparagraphs (A) through (G) of paragraph (1), or—

"(A) as authorized by a fishery management plan or regulations under the authority of the North Pacific Council to allow disclosure to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification;

"(B) when such information is necessary in proceedings to adjudicate observer certifications; or

"(C) as authorized by any regulations issued under paragraph (3) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

"(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

"(ii) to validate the accuracy of the observer information collected."; and

(3) by striking "(1)(E)." in paragraph (3), as redesignated, and inserting "(2)(A).".

(b) CONFORMING AMENDMENT.—Section 404(c)(4) (16 U.S.C. 1881c(c)(4)) is amended by striking "under section 401".

SEC. 204. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM.

Title III (16 U.S.C. 1851 et seq.), as amended by section 115, is further amended by adding at the end the following:

"SEC. 317. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM.

"(a) IN GENERAL.—The Secretary of Commerce, in consultation with the Councils, shall establish a cooperative research and management program to address needs identified under this Act and under any other marine resource laws enforced by the Secretary. The program shall be implemented on a regional basis and shall be developed and con-

ducted through partnerships among Federal, State, and Tribal managers and scientists (including interstate fishery commissions), fishing industry participants, and educational institutions.

"(b) ELIGIBLE PROJECTS.—The Secretary shall make funds available under the program for the support of projects to address critical needs identified by the Councils in consultation with the Secretary. The program shall promote and encourage efforts to utilize sources of data maintained by other Federal agencies, State agencies, or academia for use in such projects.

"(c) FUNDING.—In making funds available the Secretary shall award funding on a competitive basis and based on regional fishery management needs, select programs that form part of a coherent program of research focused on solving priority issues identified by the Councils, and shall give priority to the following projects:

"(1) Projects to collect data to improve, supplement, or enhance stock assessments, including the use of fishing vessels or acoustic or other marine technology.

"(2) Projects to assess the amount and type of bycatch or post-release mortality occurring in a fishery.

"(3) Conservation engineering projects designed to reduce bycatch, including avoidance of post-release mortality, reduction of bycatch in high seas fisheries, and transfer of such fishing technologies to other nations.

"(4) Projects for the identification of habitat areas of particular concern and for habitat conservation.

"(5) Projects designed to collect and compile economic and social data.

"(d) EXPERIMENTAL PERMITTING PROCESS.—Not later than 180 days after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, the Secretary, in consultation with the Councils, shall promulgate regulations that create an expedited, uniform, and regionally-based process to promote issuance, where practicable, of experimental fishing permits.

"(e) GUIDELINES.—The Secretary, in consultation with the Councils, shall establish guidelines to ensure that participation in a research project funded under this section does not result in loss of a participant's catch history or unexpended days-at-sea as part of a limited entry system.

"(f) EXEMPTED PROJECTS.—The procedures of this section shall not apply to research funded by quota set-asides in a fishery.".

SEC. 205. HERRING STUDY.

Title III (16 U.S.C. 1851 et seq.), as amended by section 204, is further amended by adding at the end the following:

"SEC. 318. HERRING STUDY.

"(a) IN GENERAL.—The Secretary may conduct a cooperative research program to study the issues of abundance, distribution and the role of herring as forage fish for other commercially important fish stocks in the Northwest Atlantic, and the potential for local scale depletion from herring harvesting and how it relates to other fisheries in the Northwest Atlantic. In planning, designing, and implementing this program, the Secretary shall engage multiple fisheries sectors and stakeholder groups concerned with herring management.

"(b) REPORT.—The Secretary shall present the final results of this study to Congress within 3 months following the completion of the study, and an interim report at the end of fiscal year 2008.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for fiscal year 2007 through fiscal year 2009 to conduct this study.".

SEC. 206. RESTORATION STUDY.

Title III (16 U.S.C. 1851 et seq.), as amended by section 205, is further amended by adding at the end the following:

"SEC. 319. RESTORATION STUDY.

"(a) IN GENERAL.—The Secretary may conduct a study to update scientific information and protocols needed to improve restoration techniques for a variety of coast habitat types and synthesize the results in a format easily understandable by restoration practitioners and local communities.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 for fiscal year 2007 to conduct this study.".

SEC. 207. WESTERN PACIFIC FISHERY DEMONSTRATION PROJECTS.

Section 111(b) of the Sustainable Fisheries Act (16 U.S.C. 1855 note) is amended—

(1) by striking "and the Secretary of the Interior are" in paragraph (1) and inserting "is";

(2) by striking "not less than three and not more than five" in paragraph (1); and

(3) by striking paragraph (6) and inserting the following:

"(6) In this subsection the term 'Western Pacific community' means a community eligible to partici-

pate under section 305(i)(2)(B)(i) through (iv) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)(2)(B)(i) through (iv)).".

SEC. 208. FISHERIES CONSERVATION AND MANAGEMENT FUND.

(a) IN GENERAL.—The Secretary shall establish and maintain a fund, to be known as the "Fisheries Conservation and Management Fund", which shall consist of amounts retained and deposited into the Fund under subsection (c).

(b) PURPOSES.—Subject to the allocation of funds described in subsection (d), amounts in the Fund shall be available to the Secretary of Commerce, without appropriation or fiscal year limitation, to disburse as described in subsection (e) for—

(1) efforts to improve fishery harvest data collection including—

(A) expanding the use of electronic catch reporting programs and technology; and

(B) improvement of monitoring and observer coverage through the expanded use of electronic monitoring devices and satellite tracking systems such as VMS on small vessels;

(2) cooperative fishery research and analysis, in collaboration with fishery participants, academic in-

stitutions, community residents, and other interested parties;

(3) development of methods or new technologies to improve the quality, health safety, and value of fish landed;

(4) conducting analysis of fish and seafood for health benefits and risks, including levels of contaminants and, where feasible, the source of such contaminants;

(5) marketing of sustainable United States fishery products, including consumer education regarding the health or other benefits of wild fishery products harvested by vessels of the United States; and

(6) providing financial assistance to fishermen to offset the costs of modifying fishing practices and gear to meet the requirements of this Act, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and other Federal laws in pari materia.

(c) DEPOSITS TO THE FUND.—

(1) QUOTA SET-ASIDES.—Any amount generated through quota set-asides established by a Council under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and designated by the Council for inclusion in the Fishery

Conservation and Management Fund, may be deposited in the Fund.

(2) OTHER FUNDS.—In addition to amounts received under sections 311(e)(1)(G) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861(e)(1)(G), and amounts received pursuant to paragraph (1) of this subsection, the Fishery Conservation and Management Fund may also receive funds from—

(A) appropriations for the purposes of this section; and

(B) States or other public sources or private or non-profit organizations for purposes of this section.

(d) REGIONAL ALLOCATION.—The Secretary shall, every 2 years, apportion monies from the Fund among the eight Council regions according to consensus recommendations of the Councils, based on regional priorities identified through the Council process, except that no region shall receive less than 5 percent of the Fund in each allocation period.

(e) LIMITATION ON THE USE OF THE FUND.—No amount made available from the Fund may be used to defray the costs of carrying out other requirements of this Act

or the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

SEC. 209. USE OF FISHERY FINANCE PROGRAM AND CAPITAL CONSTRUCTION FUND FOR SUSTAINABLE PURPOSES.

(a) PURPOSE OF OBLIGATIONS.—Section 1104A(a)(7) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274(a)(7)) is amended to read as follows:

"(7) financing or refinancing including,

"(A) the reimbursement of obligors for expenditures previously made, for the purchase of individual fishing quotas in accordance with section 303(d)(4) of the Magnuson-Stevens Fishery Conservation and Management Act;

"(B) activities that assist in the transition to reduced fishing capacity; or

"(C) technologies or upgrades designed to improve collection and reporting of fishery-dependent data, to reduce bycatch, to improve selectivity or reduce adverse impacts of fishing gear, or to improve safety.".

(b) EXPANSION OF PURPOSES FOR QUALIFIED WITHDRAWALS.—Section 607(f)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(f)(1)) is amended—

(1) by striking "for:" and inserting "for—";

(B) by striking "vessel," in subparagraph (A) and inserting "vessel;";

(C) by striking "vessel, or" in subparagraph (B) and inserting "vessel;";

(D) by striking "vessel." in subparagraph (C) and inserting "vessel;"; and

(E) by inserting after subparagraph (C) the following:

"(D) in the case of any person for whose benefit the fund was established and who participates in the fishing capacity reduction program under section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a)—

"(i) if such person remains in the fishery, the satisfaction of any debt obligation undertaken pursuant to such program; and

"(ii) if such person withdraws 1 or more vessels from the fishery, the substitution of amounts the person would otherwise receive under such program for such person's vessel or permit to engage in the fishery;

"(E) the repair, maintenance, or upgrade of an eligible vessel or its equipment for the purpose of—

"(i) making conservation engineering changes to reduce bycatch, improve selectivity of fishing gear, or reduce adverse impacts of fishing gear;

"(ii) improving vessel safety; or

"(iii) acquiring, installing, or upgrading equipment to improve collection, reporting, or accuracy of fishery data; or

"(F) the acquisition, construction, reconstruction, upgrading, or investment in shoreside fishery-related facilities or infrastructure in the United States for the purpose of promoting United States ownership of fishery-related facilities in the United States without contributing to overcapacity in the sector.".

SEC. 210. REGIONAL ECOSYSTEM RESEARCH.

Section 406 (16 U.S.C. 1882) is amended by adding at the end the following:

"(f) REGIONAL ECOSYSTEM RESEARCH.—

"(1) STUDY.—Within 180 days after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005,

the Secretary, in consultation with the Councils, shall undertake and complete a study on the state of the science for advancing the concepts and integration of ecosystem considerations in regional fishery management. The study should build upon the recommendations of the advisory panel and include—

"(A) recommendations for scientific data, information and technology requirements for understanding ecosystem processes, and methods for integrating such information from a variety of federal, state, and regional sources;

"(B) recommendations for processes for incorporating broad stake holder participation;

"(C) recommendations for processes to account for effects of environmental variation on fish stocks and fisheries; and

"(D) a description of existing and developing council efforts to implement ecosystem approaches, including lessons learned by the councils.

"(2) AGENCY TECHNICAL ADVICE AND ASSISTANCE, REGIONAL PILOT PROGRAMS.—The Secretary is authorized to provide necessary technical advice and assistance, including grants, to the Councils for the development and design of regional pilot pro-

grams that build upon the recommendations of the advisory panel and, when completed, the study.".

SEC. 211. DEEP SEA CORAL RESEARCH AND TECHNOLOGY PROGRAM.

Title IV (16 U.S.C. 1881 et seq.) is amended by adding at the end the following:

"SEC. 408. DEEP SEA CORAL RESEARCH AND TECHNOLOGY PROGRAM.

"(a) IN GENERAL.—The Secretary, in consultation with appropriate regional fishery management councils and in coordination with other federal agencies and educational institutions, shall establish a program—

"(1) to identify existing research on, and known locations of, deep sea corals and submit such information to the appropriate Councils;

"(2) to locate and map locations of deep sea corals and submit such information to the Councils;

"(3) to monitor activity in locations where deep sea corals are known or likely to occur, based on best scientific information available, including through underwater or remote sensing technologies and submit such information to the appropriate Councils;

"(4) to conduct research, including cooperative research with fishing industry participants, on deep sea corals and related species, and on survey methods;

"(5) to develop technologies or methods designed to assist fishing industry participants in reducing interactions between fishing gear and deep sea corals; and

"(6) to prioritize program activities in areas where deep sea corals are known to occur, and in areas where scientific modeling or other methods predict deep sea corals are likely to be present.

"(b) REPORTING.—Beginning 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, the Secretary, in consultation with the Councils, shall submit biennial reports to Congress and the public on steps taken by the Secretary to identify and monitor, and the Councils to protect, deep sea coral areas, including summaries of the results of mapping, research, and data collection performed under the program.".

SEC. 212. IMPACT OF TURTLE EXCLUDER DEVICES ON SHRIMPING.

(a) IN GENERAL.—The Undersecretary of Commerce for Oceans and Atmosphere shall execute an agreement with the National Academy of Sciences to conduct, jointly, a multi-year, comprehensive in-water study designed—

(1) to measure accurately the efforts and effects of shrimp fishery efforts to utilize turtle excluder devices;

(2) to analyze the impact of those efforts on sea turtle mortality, including interaction between turtles and shrimp trawlers in the inshore, nearshore, and offshore waters of the Gulf of Mexico and similar geographical locations in the waters of the Southeastern United States; and

(3) to evaluate innovative technologies to increase shrimp retention in turtle excluder devices while ensuring the protection of endangered and threatened sea turtles.

(b) OBSERVERS.—In conducting the study, the Undersecretary shall ensure that observers are placed onboard commercial shrimp fishing vessels where appropriate or necessary.

(c) INTERIM REPORTS.—During the course of the study and until a final report is submitted to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources, the National Academy of Sciences shall transmit interim reports to the Committees biannually containing a summary of preliminary findings and conclusions from the study.

SEC. 213. HURRICANE EFFECTS ON SHRIMP AND OYSTER FISHERIES AND HABITATS.

(a) FISHERIES REPORT.—Within 180 days after the date of enactment of this Act, the Secretary of Commerce shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on the impact of Hurricane Katrina, Hurricane Rita, and Hurricane Wilma on—

(1) commercial and recreational fisheries in the States of Alabama, Louisiana, Florida, Mississippi, and Texas;

(2) shrimp fishing vessels in those States; and

(3) the oyster industry in those States.

(b) HABITAT REPORT.—Within 180 days after the date of enactment of this Act, the Secretary of Commerce shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on the impact of Hurricane Katrina, Hurricane Rita, and Hurricane Wilma on habitat, including the habitat of shrimp and oysters in those States.

(c) HABITAT RESTORATION.—The Secretary shall carry out activities to restore fishery habitats, including the shrimp and oyster habitats in Louisiana and Mississippi.

TITLE III—OTHER FISHERIES STATUTES

SEC. 301. AMENDMENTS TO NORTHERN PACIFIC HALIBUT ACT.

(a) CIVIL PENALTIES.—Section 8(a) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773f(a)) is amended—

(1) by striking "$25,000" and inserting "$200,000";

(2) by striking "violation, the degree of culpability, and history of prior offenses, ability to pay," in the fifth sentence and inserting "violator, the degree of culpability, any history of prior offenses,"; and

(3) by adding at the end the following: "In assessing such penalty, the Secretary may also consider any information provided by the violator relating to the ability of the violator to pay if the information is provided to the Secretary at least 30 days prior to an administrative hearing.".

(b) PERMIT SANCTIONS.—Section 8 of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773f) is amended by adding at the end the following:

"(e) REVOCATION OR SUSPENSION OF PERMIT.—

"(1) IN GENERAL.—The Secretary may take any action described in paragraph (2) in any case in which—

"(A) a vessel has been used in the commission of any act prohibited under section 7;

"(B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under this Act has acted in violation of section 7; or

"(C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary has not been paid and is overdue.

"(2) PERMIT-RELATED ACTIONS.—Under the circumstances described in paragraph (1) the Secretary may—

"(A) revoke any permit issued with respect to such vessel or person, with or without prejudice to the issuance of subsequent permits;

"(B) suspend such permit for a period of time considered by the Secretary to be appropriate;

"(C) deny such permit; or

"(D) impose additional conditions and restrictions on any permit issued to or applied for by such vessel or person under this Act and, with respect to any foreign fishing vessel, on the approved application of the foreign nation involved and on any permit issued under that application.

"(3) FACTORS TO BE CONSIDERED.—In imposing a sanction under this subsection, the Secretary shall take into account—

"(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

"(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

"(4) TRANSFERS OF OWNERSHIP.—Transfer of ownership of a vessel, a permit, or any interest in a permit, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the

transfer of ownership of a vessel, permit, or interest in a permit, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel, permit, or interest at the time of the transfer.

"(5) REINSTATEMENT.—In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty, criminal fine, or any amount in settlement of a civil forfeiture, the Secretary shall reinstate the permit upon payment of the penalty, fine, or settlement amount and interest thereon at the prevailing rate.

"(6) HEARING.—No sanction shall be imposed under this subsection unless there has been prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed either in conjunction with a civil penalty proceeding under this section or otherwise.

"(7) PERMIT DEFINED.—In this subsection, the term 'permit' means any license, certificate, approval, registration, charter, membership, exemption, or other form of permission issued by the Commission or the Secretary, and includes any quota share or other transferable quota issued by the Secretary.".

(c) CRIMINAL PENALTIES.—Section 9(b) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773g(b)) is amended—

(1) by striking "$50,000" and inserting "$200,000"; and

(2) by striking "$100,000," and inserting "$400,000,".

SEC. 302. REAUTHORIZATION OF OTHER FISHERIES ACTS.

(a) ATLANTIC STRIPED BASS CONSERVATION ACT.—Section 7(a) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 5156(a)) is amended to read as follows:

"(a) AUTHORIZATION.—For each of fiscal years 2006, 2007, 2008, 2009, and 2010, there are authorized to be appropriated to carry out this Act—

"(1) $1,000,000 to the Secretary of Commerce; and

"(2) $250,000 to the Secretary of the Interior.".

(b) YUKON RIVER SALMON ACT OF 2000.—Section 208 of the Yukon River Salmon Act of 2000 (16 U.S.C. 5727) is amended by striking "$4,000,000 for each of fiscal years 2004 through 2008," and inserting "$4,000,000 for each of fiscal years 2006 through 2010,".

(c) SHARK FINNING PROHIBITION ACT.—Section 10 of the Shark Finning Prohibition Act (16 U.S.C. 1822 note)

is amended by striking "fiscal years 2001 through 2005" and inserting "fiscal years 2006 through 2010".

(d) PACIFIC SALMON TREATY ACT.—

(1) TRANSFER OF SECTION TO ACT.—The text of section 623 of title VI of H.R. 3421 (113 Stat. 1501A–56), as introduced on November 17, 1999, and enacted into law by section 1000(a)(1) of the Act of November 29, 1999 (Public Law 106–113)—

(A) is transferred to the Pacific Salmon Treaty Act (16 U.S.C. 3631 et seq.) and inserted after section 15; and

(B) amended—

(i) by striking "SEC. 623."; and

(ii) inserting before "(a) NORTHERN FUND AND SOUTHERN FUND.—" the following:

"SEC. 16. NORTHERN AND SOUTHERN FUNDS; TREATY IMPLEMENTATION; ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.".

(2) TECHNICAL CORRECTION.—The amendment made by the Department of Commerce and Related Agencies Appropriations Act, 2005 under the heading "PACIFIC COASTAL SALMON RECOVERY" (118 Stat. 2881), to section 628(2)(A) of the Departments of Commerce, Justice, and State, the Judiciary, and Re-

lated Agencies Appropriations Act, 2001 is deemed to have been made to section 623(d)(2)(A) of title VI of H.R. 3421 (113 Stat. 1501A–56), as introduced on November 17, 1999, enacted into law by section 1000(a)(1) of the Act of November 29, 1999 (Public Law 106–113) instead of to such section 628(2)(A), as of the date of enactment of the Department of Commerce and Related Agencies Appropriations Act, 2005.

(3) REAUTHORIZATION.—Section 16(d)(2)(A) of the Pacific Salmon Treaty Act, as transferred by subsection (a), is amended—

(1) by inserting "sustainable salmon fisheries," after "enhancement,"; and

(2) by inserting "2006, 2007, 2008, and 2009," after "2005,".

(e) STATE AUTHORITY FOR DUNGENESS CRAB FISHERY MANAGEMENT.—Section 203 of Public Law 105–384 (16 U.S.C. 1856 note) is amended—

(1) by striking "September 30, 2006." in subsection (i) and inserting "September 30, 2016.";

(2) by striking "health" in subsection (j) and inserting "status"; and

(3) by striking "California." in subsection (j) and inserting "California, including—

"(1) stock status and trends throughout its range;

"(2) a description of applicable research and scientific review processes used to determine stock status and trends; and

"(3) measures implemented or planned that are designed to prevent or end overfishing in the fishery.".

TITLE IV—INTERNATIONAL

SEC. 401. INTERNATIONAL MONITORING AND COMPLIANCE.

Title II (16 U.S.C. 1821 et seq.) is amended by adding at the end the following:

"SEC. 207. INTERNATIONAL MONITORING AND COMPLIANCE.

"(a) IN GENERAL.—The Secretary may undertake activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and to implement the requirements of this title.

"(b) SPECIFIC AUTHORITIES.—In carrying out subsection (a), the Secretary may—

"(1) share information on harvesting and processing capacity and illegal, unreported and unregulated fishing on the high seas, in areas covered by international fishery management agreements, and by vessels of other nations within the United States ex-

clusive economic zone, with relevant law enforcement organizations of foreign nations and relevant international organizations;

"(2) further develop real time information sharing capabilities, particularly on harvesting and processing capacity and illegal, unreported and unregulated fishing;

"(3) participate in global and regional efforts to build an international network for monitoring, control, and surveillance of high seas fishing and fishing under regional or global agreements;

"(4) support efforts to create an international registry or database of fishing vessels, including by building on or enhancing registries developed by international fishery management organizations;

"(5) enhance enforcement capabilities through the application of commercial or governmental remote sensing technology to locate or identify vessels engaged in illegal, unreported, or unregulated fishing on the high seas, including encroachments into the exclusive economic zone by fishing vessels of other nations;

"(6) provide technical or other assistance to developing countries to improve their monitoring, control, and surveillance capabilities; and

"(7) support coordinated international efforts to ensure that all large-scale fishing vessels operating on the high seas are required by their flag State to be fitted with vessel monitoring systems no later than December 31, 2008, or earlier if so decided by the relevant flag State or any relevant international fishery management organization.".

SEC. 402. FINDING WITH RESPECT TO ILLEGAL, UNREPORTED, AND UNREGULATED FISHING.

Section 2(a) (16 U.S.C. 1801(a)), as amended by section 3 of this Act, is further amended by adding at the end the following:

"(12) International cooperation is necessary to address illegal, unreported, and unregulated fishing and other fishing practices which may harm the sustainability of living marine resources and disadvantage the United States fishing industry.".

SEC. 403. ACTION TO END ILLEGAL, UNREPORTED, OR UNREGULATED FISHING AND REDUCE BYCATCH OF PROTECTED MARINE SPECIES.

(a) IN GENERAL.—Title VI of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826d et seq.), is amended by adding at the end the following:

"SEC. 607. BIENNIAL REPORT ON INTERNATIONAL COMPLIANCE.

"The Secretary, in consultation with the Secretary of State, shall provide to Congress, by not later than 2 years after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, and every 2 years thereafter, a report that includes—

"(1) the state of knowledge on the status of international living marine resources, including a list of all fish stocks classified as overfished, overexploited, depleted, endangered, or threatened with extinction by any international or other authority charged with management or conservation of living marine resources;

"(2) a list of nations whose vessels have been identified under sections 609(a) or 610(a), including the specific offending activities and any subsequent actions taken pursuant to section 609 or 610;

"(3) a description of efforts taken by nations on those lists to comply with the provisions of sections 609 and 610, and an evaluation of the progress of those efforts, including steps taken by the United States to implement those sections and to improve international compliance;

"(4) progress at the international level, pursuant to section 608, to strengthen the efforts of inter-

national fishery management organizations to end illegal, unreported, or unregulated fishing; and

"(5) a plan of action for ensuring the conclusion and entry into force of international measures comparable to those of the United States to reduce impacts of fishing and other practices on protected living marine resources, if no international agreement to achieve such goal exists, or if the relevant international fishery or conservation organization has failed to implement effective measures to end or reduce the adverse impacts of fishing practices on such species.

"SEC. 608. ACTION TO STRENGTHEN INTERNATIONAL FISHERY MANAGEMENT ORGANIZATIONS.

"The Secretary, in consultation with the Secretary of State, and in cooperation with relevant fishery management councils, shall take actions to improve the effectiveness of international fishery management organizations in conserving and managing fish stocks under their jurisdiction. These actions shall include—

"(1) urging international fishery management organizations to which the United States is a member—

"(A) to incorporate multilateral sanctions against member or nonmember governments

whose vessels engage in illegal, unreported, or unregulated fishing;

"(B) to seek adoption of lists that identify fishing vessels engaged in illegal, unreported, or unregulated fishing, including authorized (green) and unauthorized (red) vessel lists, that can be shared among all members and other international fishery management organizations;

"(C) to seek international adoption of a centralized vessel monitoring system with an independent secretariat in order to monitor and document capacity in fleets of all nations involved in fishing in areas under the an international fishery management organization's jurisdiction;

"(D) to increase use of observers and technologies needed to monitor compliance with conservation and management measures established by the organization, including vessel monitoring systems and automatic identification systems; and

"(E) to seek adoption of greater port state controls in all nations, particularly those nations whose vessels engage in illegal, unreported, or unregulated fishing;

"(2) urging international fishery management organizations to which the United States is a member, as well as all members of those organizations, to adopt and expand the use of market-related measures to combat illegal, unreported, or unregulated fishing, including—

"(A) import prohibitions, landing restrictions, or other market-based measures needed to enforce compliance with international fishery management organization measures, such as quotas and catch limits;

"(B) import restrictions or other market-based measures to prevent the trade or importation of fish caught by vessels identified multilaterally as engaging in illegal, unreported, or unregulated fishing; and

"(C) catch documentation and certification schemes to improve tracking and identification of catch of vessels engaged in illegal, unreported, or unregulated fishing, including advance transmission of catch documents to ports of entry; and

"(3) urging other nations at bilateral, regional, and international levels, including the Convention on International Trade in Endangered Species of Fauna and Flora and the World Trade Organization to take

all steps necessary, consistent with international law, to adopt measures and policies that will prevent fish or other living marine resources harvested by vessels engaged in illegal, unreported, or unregulated fishing from being traded or imported into their nation or territories.

"SEC. 609. ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.

"(a) IDENTIFICATION.—The Secretary shall identify, and list in the report under section 607, a nation if—

"(1) fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year in illegal, unreported, or unregulated fishing; and

"(2) the relevant international fishery management organization has failed to implement effective measures to end the illegal unreported, or unregulated fishing activity by vessels of that nation or the nation is not a party to, or does not maintain cooperating status with, such organization, or where no international fishery management organization exists.

"(b) NOTIFICATION.—An identification under subsection (a) or section 610(a) is deemed to be an identification under section 101(b)(1)(A) of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(b)(1)(A)), and

the Secretary shall notify the President and that nation of such identification.

"(c) CONSULTATION.—No later than 60 days after submitting a report to Congress under section 607, the Secretary, in consultation with the Secretary of State, shall—

"(1) notify nations listed in the report of the requirements of this section;

"(2) initiate consultations for the purpose of encouraging such nations to take the appropriate corrective action with respect to the offending activities of their fishing vessels identified in the report; and

"(3) notify any relevant international fishery management organization of the actions taken by the United States under this section.

"(d) IUU CERTIFICATION PROCEDURE.—

"(1) CERTIFICATION.—The Secretary shall establish a procedure, consistent with the provisions of subchapter II of chapter 5 of title 5, United States Code, and including notice and an opportunity for comment by the governments of any nation listed by the Secretary under subsection (a), for determining if that government has taken appropriate corrective action with respect to the offending activities of its fishing vessels identified in the report under section 607. The Secretary shall determine, on the basis of the pro-

cedure, and certify to the Congress no later than 90 days after the date on which the Secretary promulgates a final rule containing the procedure, and biennially thereafter in the report under section 607—

"(A) whether the government of each nation identified under subsection (b) has provided documentary evidence that it has taken corrective action with respect to the offending activities of its fishing vessels identified in the report; or

"(B) whether the relevant international fishery management organization has implemented measures that are effective in ending the illegal, unreported, or unregulated fishing activity by vessels of that nation.

"(2) ALTERNATIVE PROCEDURE.—The Secretary may establish a procedure for certification, on a shipment-by-shipment, shipper-by-shipper, or other basis of fish or fish products from a vessel of a harvesting nation not certified under paragraph (1) if the Secretary determines that—

"(A) the vessel has not engaged in illegal, unreported, or unregulated fishing under an international fishery management agreement to which the United States is a party; or

"(B) the vessel is not identified by an international fishery management organization as participating in illegal, unreported, or unregulated fishing activities.

"(3) EFFECT OF CERTIFICATION.—The provisions of section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4)) shall apply to any nation identified under subsection (a) that has not been certified by the Secretary under this subsection, or for which the Secretary has issued a negative certification under this subsection, but shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

"(e) ILLEGAL, UNREPORTED, OR UNREGULATED FISHING DEFINED.—

"(1) IN GENERAL.—In this Act the term 'illegal, unreported, or unregulated fishing' has the meaning established under paragraph (2).

"(2) SECRETARY TO DEFINE TERM WITHIN LEGISLATIVE GUIDELINES.—Within 3 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, the Secretary shall publish a definition of the

term 'illegal, unreported, or unregulated fishing' for purposes of this Act.

"(3) GUIDELINES.—The Secretary shall include in the definition, at a minimum—

"(A) fishing activities that violate conservation and management measures required under an international fishery management agreement to which the United States is a party, including catch limits or quotas, capacity restrictions, and bycatch reduction requirements;

"(B) overfishing of fish stocks shared by the United States, for which there are no applicable international conservation or management measures or in areas with no applicable international fishery management organization or agreement, that has adverse impacts on such stocks; and

"(C) fishing activity, including bottom trawling, that have adverse impacts on seamounts, hydrothermal vents, and cold water corals located beyond national jurisdiction, for which there are no applicable conservation or management measures or in areas with no applicable international fishery management organization or agreement.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal years 2006 through 2012 such sums as are necessary to carry out this section.

"SEC. 610. EQUIVALENT CONSERVATION MEASURES.

"(a) IDENTIFICATION.—The Secretary shall identify, and list in the report under section 607, a nation if—

"(A) fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year in fishing activities or practices beyond the exclusive economic zone that result in bycatch of a protected living marine resource;

"(2) the relevant international organization for the conservation and protection of such species or the relevant international or regional fishery organization has failed to implement effective measures to end or reduce the impacts of the fishing practices of the nation's vessels on such species, or the nation is not a party to, or does not maintain cooperating status with, such organization; and

"(3) the nation has not adopted a regulatory program governing such fishing practices and associated bycatch of protected living marine resources that are comparable to those of the

United States, taking into account different conditions.

"(b) CONSULTATION AND NEGOTIATION.—The Secretary, acting through the Secretary of State, shall—

"(1) notify, as soon as possible, other nations whose vessels engage in fishing activities or practices described in subsection (a), about the requirements of this section and this Act;

"(2) initiate discussions as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, fishing activities or practices described in subsection (a), for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species;

"(3) seek agreements calling for international restrictions on fishing activities or practices described in subsection (a) through the United Nations, the Food and Agriculture Organization's Committee on Fisheries, and appropriate international fishery management bodies; and

"(4) initiate the amendment of any existing international treaty for the protection and conservation of such species to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section.

"(c) CONSERVATION CERTIFICATION PROCEDURE.—

"(1) CERTIFICATION.—The Secretary shall determine, on the basis of a procedure consistent with the provisions of subchapter II of chapter 5 of title 5, United States Code, and including notice and an opportunity for comment by the governments of any nation identified by the Secretary under subsection (a). The Secretary shall certify to the Congress by January 31, 2007, and annually thereafter whether the government of each harvesting nation—

"(A) has provided documentary evidence of the adoption of a regulatory program governing the conservation of the protected living marine resource, including measures to ensure maximum probability for survival after release, that is comparable to that of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and

"(B) has established a management plan containing requirements that will assist in gathering species-specific data to support international stock assessments and conservation en-

forcement efforts for protected living marine resources.

"(2) ALTERNATIVE PROCEDURE.—The Secretary shall establish a procedure for certification, on a shipment-by-shipment, shipper-by-shipper, or other basis of fish or fish products from a vessel of a harvesting nation not certified under paragraph (1) if the Secretary determines that such imports were harvested by practices that do not result in bycatch of a protected marine species, or were harvested by practices that—

"(A) are comparable to those of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and

"(B) include the gathering of species specific data that can be used to support international and regional stock assessments and conservation efforts for protected living marine resources.

"(3) EFFECT OF CERTIFICATION.—The provisions of section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4)) shall apply to any nation identified under subsection (a) that has not been certified by the Secretary under

this subsection, or for which the Secretary has issued a negative certification under this subsection, but shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

"(d) INTERNATIONAL COOPERATION AND ASSISTANCE.—To the greatest extent possible consistent with existing authority and the availability of funds, the Secretary shall—

"(1) provide appropriate assistance to nations identified by the Secretary under subsection (a) and international organizations of which those nations are members to assist those nations in qualifying for certification under subsection (c);

"(2) undertake, where appropriate, cooperative research activities on species statistics and improved harvesting techniques, with those nations or organizations;

"(3) encourage and facilitate the transfer of appropriate technology to those nations or organizations to assist those nations in qualifying for certification under subsection (c); and

"(4) provide assistance to those nations or organizations in designing and implementing appropriate fish harvesting plans.

"(e) PROTECTED LIVING MARINE RESOURCE DEFINED.—In this section the term 'protected living marine resource'—

"(1) means non-target fish, sea turtles, or marine mammals occurring in areas beyond United States jurisdiction that are protected under United States law or international agreement, including the Marine Mammal Protection Act, the Endangered Species Act, the Shark Finning Prohibition Act, and the Convention on International Trade in Endangered Species of Wild Flora and Fauna; but

"(2) does not include species, except sharks, managed under the Magnuson-Stevens Fishery Conservation and Management Act, the Atlantic Tunas Convention Act, or any international fishery management agreement.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal years 2006 through 2012 such sums as are necessary to carry out this section.".

(b) CONFORMING AMENDMENTS.—

(1) DENIAL OF PORT PRIVILEGES.—Section 101(b) of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(b)) is amended by inserting "or illegal, unreported, or unregulated fishing"

after "fishing" in paragraph (1)(A)(i), paragraph (1)(B), paragraph (2), and paragraph (4)(A)(i).

(2) DURATION OF DENIAL.—Section 102 of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826b) is amended by inserting "or illegal, unreported , or unregulated fishing" after "fishing".

SEC. 404. MONITORING OF PACIFIC INSULAR AREA FISHERIES.

(a) WAIVER AUTHORITY.—Section 201(h)(2)(B) (16 U.S.C. 1821(h)(2)(B)) is amended by striking "that is at least equal in effectiveness to the program established by the Secretary;" and inserting "or other monitoring program that the Secretary, in consultation with the Western Pacific Management Council, determines is adequate to monitor harvest, bycatch, and compliance with the laws of the United States by vessels fishing under the agreement;".

(b) MARINE CONSERVATION PLANS.—Section 204(e)(4)(A)(i) (16 U.S.C. 1824(e)(4)(A)(i)) is amended to read as follows:

"(i) Pacific Insular Area observer programs, or other monitoring programs, that the Secretary determines are adequate to monitor the harvest, bycatch, and compliance with the laws of the United States by foreign fishing vessels that fish under Pacific Insular Area fishing agreements;".

SEC. 405. REAUTHORIZATION OF ATLANTIC TUNAS CONVENTION ACT.

(a) IN GENERAL.—Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

"SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in Article X of the Convention—

"(1) $5,495,000 for fiscal year 2006;

"(2) $5,770,000 for each of fiscal years 2007 and 2008;

"(3) $6,058,000 for each of fiscal years 2009 and 2010; and

"(4) $6,631,000 for each of fiscal years 2011 and 2012.

"(b) ALLOCATION.—Of the amounts made available under subsection (a) for each fiscal year—

"(1) $160,000 are authorized for the advisory committee established under section 4 of this Act and the species working groups established under section 4A of this Act; and

"(2) $7,500,000 are authorized for research activities under this Act and section 3 of Public Law

96–339 (16 U.S.C. 971i), of which $3,000,000 shall be for the cooperative research program under section 3(b)(2)(H) of that section (16 U.S.C. 971i(b)(2)(H).".

(b) ATLANTIC BILLFISH COOPERATIVE RESEARCH PROGRAM.—Section 3(b)(2) of Public Law 96–339 (16 U.S.C. 971i(b)(2)) is amended—

(1) by striking "and" after the semicolon in subparagraph (G);

(2) by redesignating subparagraph (H) as subparagraph (I); and

(3) by inserting after subparagraph (G) the following:

"(H) include a cooperative research program on Atlantic billfish based on the Southeast Fisheries Science Center Atlantic Billfish Research Plan of 2002; and".

SEC. 406. INTERNATIONAL OVERFISHING AND DOMESTIC EQUITY.

(a) REBUILDING OVERFISHED FISHERIES.—Section 304(e) (16 U.S.C. 1854(e)) is amended by adding at the end thereof the following:

"(8) The provisions of this paragraph shall apply in lieu of paragraphs (2) through (7) of this subsection to a fishery that the Secretary determines is overfished or approaching a condition of being

overfished due to excessive international fishing pressure, and for which there are no management measures to end overfishing under an international agreement to which the United States is a party. For such fisheries—

"(A) the Secretary, in cooperation with the Secretary of State, immediately take appropriate action at the international level to end the overfishing; and

"(B) within 1 year after the Secretary's determination, the appropriate Council, or Secretary, for fisheries under section 302(a)(3) shall—

"(i) develop recommendations for domestic regulations to address the relative impact of fishing vessels of the United States on the stock and, if developed by a Council, the Council shall submit such recommendations to the Secretary; and

"(ii) develop and submit recommendations to the Secretary of State, and to the Congress, for international actions that will end overfishing in the fishery and rebuild the affected stocks, taking into account the relative impact of vessels of other nations

and vessels of the United States on the relevant stock.".

(b) HIGHLY MIGRATORY SPECIES TAGGING RESEARCH.—Section 304(g)(2) (16 U.S.C. 1854(g)(2)) is amended by striking "(16 U.S.C. 971d)" and inserting "(16 U.S.C. 971d), or highly migratory species harvested in a commercial fishery managed by a Council under this Act or the Western and Central Pacific Fisheries Convention Implementation Act,".

TITLE V—IMPLEMENTATION OF WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION

SEC. 501. SHORT TITLE.

This title may be cited as the "Western and Central Pacific Fisheries Convention Implementation Act".

SEC. 502. DEFINITIONS.

In this title:

(1) 1982 CONVENTION.—The term "1982 Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982.

(2) AGREEMENT.—The term "Agreement" means the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Con-

servation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

(3) COMMISSION.—The term "Commission" means the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean established in accordance with this Convention.

(4) CONVENTION AREA.—The term "convention area" means all waters of the Pacific Ocean bounded to the south and to the east by the following line:

From the south coast of Australia due south along the 141th meridian of east longitude to its intersection with the 55th parallel of south latitude; thence due east along the 55th parallel of south latitude to its intersection with the 150th meridian of east longitude; thence due south along the 150th meridian of east longitude to its intersection with the 60th parallel of south latitude; thence due east along the 60th parallel of south latitude to its intersection with the 130th meridian of west longitude; thence due north along the 130th meridian of west longitude to its intersection with the 4th parallel of south latitude; thence due west along the 4th parallel of south latitude to its intersection with the 150th meridian of

west longitude; thence due north along the 150th meridian of west longitude.

(5) EXCLUSIVE ECONOMIC ZONE.—The term "exclusive economic zone" means the zone established by Presidential Proclamation Numbered 5030 of March 10, 1983.

(6) FISHING.—The term "fishing" means:

(A) searching for, catching, taking, or harvesting fish.

(B) attempting to search for, catch, take, or harvest fish.

(C) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish for any purpose.

(D) placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons.

(E) any operations at sea directly in support of, or in preparation for, any activity described in subparagraphs (A) through (D), including transshipment.

(F) use of any other vessel, vehicle, aircraft, or hovercraft, for any activity described in subparagraphs (A) through (E) except for emer-

gencies involving the health and safety of the crew or the safety of a vessel.

(7) FISHING VESSEL.—The term "fishing vessel" means any vessel used or intended for use for the purpose of fishing, including support ships, carrier vessels, and any other vessel directly involved in such fishing operations.

(8) HIGHLY MIGRATORY FISH STOCKS.—The term "highly migratory fish stocks" means all fish stocks of the species listed in Annex 1 of the 1982 Convention occurring in the Convention Area, and such other species of fish as the Commission may determine.

(9) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(10) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.

(11) TRANSHIPMENT.—The term "transshipment" means the unloading of all or any of the fish on board a fishing vessel to another fishing vessel either at sea or in port.

(12) WCPCF CONVENTION; WESTERN AND CENTRAL PACIFIC CONVENTION.—The terms "WCPCF Convention" and "Western and Central Pacific Convention" means the Convention on the Conservation and Management of the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, with Annexes, which was adopted at Honolulu, Hawaii, on September 5, 2000, by the Multilateral High Level Conference on the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

SEC. 503. APPOINTMENT OF UNITED STATES COMMISSIONERS.

(a) IN GENERAL.—The United States shall be represented on the Commission by 5 United States Commissioners. The President shall appoint individuals to serve on the Commission at the pleasure of the President. In making the appointments, the President shall select Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks in the Western and Central Pacific Ocean, one of whom shall be an officer or employee of the Department of Commerce, and one of whom shall be the chairman or a member of the Western Pacific Fishery Management Council. The Commissioners shall be entitled to adopt such rules of procedures as they find necessary and to select a chairman from among

members who are officers or employees of the United States Government.

(b) ALTERNATE COMMISSIONERS.—The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise at any meeting of the Commission, Council, any Panel, or the advisory committee established pursuant to subsection (d), all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.

(c) ADMINISTRATIVE MATTERS.—

(1) EMPLOYMENT STATUS.—Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall be considered to be Federal employees while performing such service, only for purposes of—

(A) injury compensation under chapter 81 of title 5, United States Code;

(B) tort claims liability as provided under chapter 171 of title 28 United States Code;

(C) requirements concerning ethics, conflicts of interest, and corruption as provided under title 18, United States Code; and

(D) any other criminal or civil statute or regulation governing the conduct of Federal employees.

(2) COMPENSATION.—The United States Commissioners or Alternate Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as such Commissioners or Alternate Commissioners.

(3) TRAVEL EXPENSES.—

(A) The Secretary of State shall pay the necessary travel expenses of United States Commissioners and Alternate United States Commissioners in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(B) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.

(d) ADVISORY COMMITTEES.—

(1) ESTABLISHMENT OF PERMANENT ADVISORY COMMITTEE.—

(A) MEMBERSHIP.—There is established an advisory committee which shall be composed of—

(i) not less than 15 nor more than 20 individuals appointed by the United States Commissioners who shall select such individuals from the various groups concerned with the fisheries covered by the WCPFC Convention, providing, to the maximum extent practicable, an equitable balance among such groups;

(ii) the chair of the Western Pacific Fishery Management Council's Advisory Committee or the chair's designee; and

(iii) officials of the fisheries management authorities of American Samoa, Guam, and the Northern Mariana Islands (or their designees).

(B) TERMS AND PRIVILEGES.—Each member of the advisory committee appointed under subparagraph (A) shall serve for a term of 2 years and shall be eligible for reappointment. Members of the advisory committee may attend all public meetings of the Commission, Council,

or any Panel and any other meetings to which they are invited by the Commission, Council, or any Panel. The advisory committee shall be invited to attend all non-executive meetings of the United States Commissioners and at such meetings shall be given opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission.

(C) PROCEDURES.—The advisory committee established by subparagraph (A) shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the WCPFC Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures. A majority of the members of the advisory committee shall constitute a quorum, but one or more such members designated by the advisory committee may hold meetings to provide for public participation and to discuss measures relating to the United States implementation of Commission recommenda-

tions. Meetings of the advisory committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion. and the advisory committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(D) PROVISION OF INFORMATION.—The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

(2) ADMINISTRATIVE MATTERS.—

(A)SUPPORT SERVICES.—The Secretary shall provide to advisory committees in a timely manner such administrative and technical support services as are necessary for their effective functioning.

(B) COMPENSATION; STATUS; EXPENSES.—Individuals appointed to serve as a member of an advisory committee—

(i) shall serve without pay, but while away from their homes or regular places of business in the performance of services for the advisory committee shall be allowed travel expenses, including per diem in lieu

of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code; and

(ii) shall not be considered Federal employees by reason of their service as members of an advisory committee, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

(f) MEMORANDUM OF UNDERSTANDING.—For highly migratory species in the Pacific, the Secretary, in coordination with the Secretary of State, shall develop a memorandum of understanding with the Western Pacific, Pacific, and North Pacific Fishery Management Councils, that specifies the role of the relevant Council or Councils with respect to—

(1) participation in United States delegations to international fishery organizations in the Pacific Ocean, including government-to-government consultations;

(2) providing formal recommendations to the Secretary and the Secretary of State regarding nec-

essary measures for both domestic and foreign vessels fishing for these species;

(3) coordinating positions with the United States delegation for presentation to the appropriate international fishery organization; and

(4) recommending those domestic fishing regulations that are consistent with the actions of the international fishery organization, for approval and implementation under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)

SEC. 504. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF STATE.

The Secretary of State may—

(1) receive and transmit, on behalf of the United States, reports, requests, recommendations, proposals, decisions, and other communications of and to the Commission;

(2) in consultation with the Secretary and the United States Commissioners, approve, disapprove, object to, or withdraw objections to bylaws and rules, or amendments thereof, adopted by the WCPFC Commission, and, with the concurrence of the Secretary to approve or disapprove the general annual program of the WCPFC Commission with respect to conservation

and management measures and other measures proposed or adopted in accordance with the WCPFC Convention; and

(3) act upon, or refer to other appropriate authority, any communication referred to in paragraph (1).

SEC. 505. RULEMAKING AUTHORITY OF THE SECRETARY OF COMMERCE.

(a) PROMULGATION OF REGULATIONS.—The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and the appropriate Regional Fishery Management Council, shall promulgate such regulations as may be necessary to carry out the United States international obligations under the WCPFC Convention and this title. The Secretary shall promulgate such regulations in accordance with the procedures established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(b) ADDITIONS TO FISHERY REGIMES AND REGULATIONS.—The Secretary may promulgate regulations applicable to nationals or vessels of the United States, or both, which are in addition to, and not in conflict with, fishery conservation and management measures and regulations adopted under the WCPFC Convention.

SEC. 506. ENFORCEMENT.

(a) IN GENERAL.—The Secretary may—

(1) administer and enforce this title and any regulations issued under this title, including enforcement of any such regulations within the boundaries of any State bordering on the convention area;

(2) request and utilize on a reimbursed or non-reimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies in—

(A) the administration and enforcement of this title; and

(B) the conduct of scientific, research, and other programs under this title;

(3) conduct fishing operations and biological experiments for purposes of scientific investigation or other purposes necessary to implement the WCPFC Convention;

(4) collect, utilize, and disclose such information as may be necessary to implement the WCPFC Convention, subject to sections 552 and 552a of title 5, United States Code, and section 402(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a(b));

(5) assess and collect fees to recover the costs of implementing and enforcing this title, policy and

rulemaking activities, user information services, international activities under this title, and the costs to the United States of enforcing the WCPFC Convention, which shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Secretary under this title; and

(6) issue permits to owners and operators of United States vessels to fish in the convention area seaward of the United States Exclusive Economic Zone.

(b) PROHIBITED ACTS.—It is unlawful for any person to violate any provision of this title or the regulations promulgated under this title.

(c) ACTIONS BY THE SECRETARY.—The Secretary shall prevent any person from violating this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) were incorporated into and made a part of this title. Any person that violates any provision of this title is subject to the penalties and entitled to the privileges and immunities provided in the Magnuson-Stevens Fishery Conservation and Management Act in the same manner, by the same means, and with the

same jurisdiction, power, and duties as though all applicable terms and provisions of that Act were incorporated into and made a part of this title.

SEC. 507. PENALTIES.

This title shall be enforced by the Secretary as if a violation of this title or of any regulation promulgated by the Commission under this title were a violation of section 307 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857).

SEC. 508. COOPERATION IN CARRYING OUT CONVENTION.

(a) FEDERAL AND STATE AGENCIES; PRIVATE INSTITUTIONS AND ORGANIZATIONS.—The United States Commissioners, through the Secretary of State and with the concurrence of the Secretary, institution, or organization concerned, may arrange for the cooperation of Federal agencies and of State and private institutions and organizations in carrying out responsibilities under the WCPFC Convention.

(b) SCIENTIFIC AND OTHER PROGRAMS; FACILITIES AND PERSONNEL.—All Federal agencies are authorized, upon the request of the Secretary of Commerce Commission, to cooperate in the conduct of scientific and other programs and to furnish facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the WCPFC Convention.

SEC. 509. TERRITORIAL PARTICIPATION.

The Secretary of State shall ensure participation in the Commission and its subsidiary bodies by American Samoa, Guam, and the Northern Mariana Islands to the same extent provided to the territories of other nations.

SEC. 510. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Commerce such sums as may be necessary to carry out this title and to pay the United States' contribution to the Commission under section 5 of part III of the WCPFC Convention.

TITLE VI—PACIFIC WHITING

SEC. 601. SHORT TITLE.

This title may be cited as the "Pacific Whiting Act of 2005".

SEC. 602. DEFINITIONS.

In this title:

(1) ADVISORY PANEL.—The term "advisory panel" means the Advisory Panel on Pacific Hake/Whiting established by the Agreement.

(2) AGREEMENT.—The term "Agreement" means the Agreement between the Government of the United States and the Government of Canada on Pacific Hake/Whiting, signed at Seattle, Washington, on November 21, 2003.

(3) CATCH.—The term "catch" means all fishery removals from the offshore whiting resource, including landings, discards, and bycatch in other fisheries.

(4) JOINT MANAGEMENT COMMITTEE.—The term "joint management committee" means the joint management committee established by the Agreement.

(5) JOINT TECHNICAL COMMITTEE.—The term "joint technical committee" means the joint technical committee established by the Agreement.

(6) OFFSHORE WHITING RESOURCE.—The term "offshore whiting resource" means the transboundary stock of Merluccius productus that is located in the offshore waters of the United States and Canada except in Puget Sound and the Strait of Georgia.

(7) SCIENTIFIC REVIEW GROUP.—The term "scientific review group" means the scientific review group established by the Agreement.

(8) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(9) UNITED STATES SECTION.—The term "United States Section" means the United States representatives on the joint management committee.

SEC. 603. UNITED STATES REPRESENTATION ON JOINT MANAGEMENT COMMITTEE.

(a) REPRESENTATIVES.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall appoint 4 individuals to represent the United States as the United States Section on the joint management committee. In making the appointments, the Secretary shall select representatives from among individuals who are knowledgeable or experienced concerning the offshore whiting resource. Of these—

(A) 1 shall be an official of the National Oceanic and Atmospheric Administration;

(B) 1 shall be a member of the Pacific Fishery Management Council, appointed with consideration given to any recommendation provided by that Council;

(C) 1 shall be appointed from a list submitted by the treaty Indian tribes with treaty fishing rights to the offshore whiting resource; and

(D) 1 shall be appointed from the commercial sector of the whiting fishing industry concerned with the offshore whiting resource.

(2) TERM OF OFFICE.—Each representative appointed under paragraph (1) shall be appointed for a term not to exceed 4 years, except that, of the initial appointments, 2 representatives shall be appointed for

terms of 2 years. Any individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term. A representative may be appointed for a term of less than 4 years if such term is necessary to ensure that the term of office of not more than 2 representatives will expire in any single year. An individual appointed to serve as a representative is eligible for reappointment.

(3) CHAIR.—Unless otherwise agreed by all of the 4 representatives, the chair shall rotate annually among the 4 members, with the order of rotation determined by lot at the first meeting.

(b) ALTERNATE REPRESENTATIVES.—The Secretary, in consultation with the Secretary of State, may designate alternate representatives of the United States to serve on the joint management committee. An alternative representative may exercise, at any meeting of the committee, all the powers and duties of a representative in the absence of a duly designated representative for whatever reason.

SEC. 604. UNITED STATES REPRESENTATION ON THE SCIENTIFIC REVIEW GROUP.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall appoint no more than 2 scientific experts to serve on the scientific review group. An

individual shall not be eligible to serve on the scientific review group while serving on the joint technical committee.

(b) TERM.—An individual appointed under subsection (a) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of a term of office of that individual's predecessor shall be appointed to serve for the remainder of that term.

(c) JOINT APPOINTMENTS.—In addition to individuals appointed under subsection (a), the Secretary, jointly with the Government of Canada, may appoint to the scientific review group, from a list of names provided by the advisory panel —

(1) up to 2 independent members of the scientific review group; and

(2) 2 public advisors.

SEC. 605. UNITED STATES REPRESENTATION ON JOINT TECHNICAL COMMITTEE.

(a) SCIENTIFIC EXPERTS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall appoint at least 6 but not more than 12 individuals to serve as scientific experts on the joint technical committee, at least 1 of whom shall be an official of the National Oceanic and Atmospheric Administration.

(2) TERM OF OFFICE.—An individual appointed under paragraph (1) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term.

(b) INDEPENDENT MEMBER.—In addition to individuals appointed under subsection (a), the Secretary, jointly with the Government of Canada, shall appoint 1 independent member to the joint technical committee selected from a list of names provided by the advisory panel.

SEC. 606. UNITED STATES REPRESENTATION ON ADVISORY PANEL.

(a) IN GENERAL.—

(1) APPOINTMENT.—The Secretary, in consultation with the Secretary of State, shall appoint at least 6 but not more than 12 individuals to serve as members of the advisory panel, selected from among individuals who are—

(A) knowledgeable or experienced in the harvesting, processing, marketing, management, conservation, or research of the offshore whiting resource; and

(B) not employees of the United States.

(2) TERM OF OFFICE.—An individual appointed under paragraph (1) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term.

SEC. 607. RESPONSIBILITIES OF THE SECRETARY.

(a) IN GENERAL.—The Secretary is responsible for carrying out the Agreement and this title, including the authority, to be exercised in consultation with the Secretary of State, to accept or reject, on behalf of the United States, recommendations made by the joint management committee.

(b) REGULATIONS; COOPERATION WITH CANADIAN OFFICIALS.—In exercising responsibilities under this title, the Secretary—

(1) may promulgate such regulations as may be necessary to carry out the purposes and objectives of the Agreement and this title; and

(2) with the concurrence of the Secretary of State, may cooperate with officials of the Canadian Government duly authorized to carry out the Agreement.

SEC. 608. RULEMAKING.

(a) APPLICATION WITH MAGNUSON-STEVENS ACT.—The Secretary shall establish the United States catch level for Pacific whiting according to the standards and procedures of the Agreement and this title rather than under the standards and procedures of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), except to the extent necessary to address the rebuilding needs of other species. Except for establishing the catch level, all other aspects of Pacific whiting management shall be—

(1) subject to the Magnuson-Stevens Fishery Conservation and Management Act; and

(2) consistent with this title.

(b) JOINT MANAGEMENT COMMITTEE RECOMMENDATIONS.—For any year in which both parties to the Agreement approve recommendations made by the joint management committee with respect to the catch level, the Secretary shall implement the approved recommendations. Any regulation promulgated by the Secretary to implement any such recommendation shall apply, as necessary, to all persons and all vessels subject to the jurisdiction of the United States wherever located.

(c) YEARS WITH NO APPROVED CATCH RECOMMENDATIONS.—If the parties to the Agreement do not approve the joint management committee's recommendation with respect to the catch level for any year, the Secretary shall

establish the total allowable catch for Pacific whiting for the United States catch. In establishing the total allowable catch under this subsection, the Secretary shall—

(1) take into account any recommendations from the Pacific Fishery Management Council, the joint management committee, the joint technical committee, the scientific review group, and the advisory panel;

(2) base the total allowable catch on the best scientific information available;

(3) use the default harvest rate set out in paragraph 1 of Article III of the Agreement unless the Secretary determines that the scientific evidence demonstrates that a different rate is necessary to sustain the offshore whiting resource; and

(4) establish the United State's share of the total allowable catch based on paragraph 2 of Article III of the Agreement and make any adjustments necessary under section 5 of Article II of the Agreement.

SEC. 609. ADMINISTRATIVE MATTERS.

(a) EMPLOYMENT STATUS.—Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall be considered to be Federal employees while performing such service, only for purposes of—

(1) injury compensation under chapter 81 of title 5, United States Code;

(2) tort claims liability as provided under chapter 171 of title 28 United States Code;

(3) requirements concerning ethics, conflicts of interest, and corruption as provided under title 18, United States Code; and

(4) any other criminal or civil statute or regulation governing the conduct of Federal employees.

(b) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), an individual appointed under this title shall receive no compensation for the individual's service as a representative, alternate representative, scientific expert, or advisory panel member under this title.

(2) SCIENTIFIC REVIEW GROUP.—Notwithstanding paragraph (1), the Secretary may employ and fix the compensation of an individual appointed under section 604(a) to serve as a scientific expert on the scientific review group who is not employed by the United States Government, a State government, or an Indian tribal government in accordance with section 3109 of title 5, United States Code.

(c) TRAVEL EXPENSES.—Except as provided in subsection (d), the Secretary shall pay the necessary travel expenses of individuals appointed under this title in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(d) JOINT APPOINTEES.—With respect to the 2 independent members of the scientific review group and the 2 public advisors to the scientific review group jointly appointed under section 604(c), and the 1 independent member to the joint technical committee jointly appointed under section 605(b), the Secretary may pay up to 50 percent of—

(1) any compensation paid to such individuals; and

(2) the necessary travel expenses of such individuals.

SEC. 610. ENFORCEMENT.

(a) IN GENERAL.—The Secretary may—

(1) administer and enforce this title and any regulations issued under this title;

(2) request and utilize on a reimbursed or non-reimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies in the administration and enforcement of this title; and

(3) collect, utilize, and disclose such information as may be necessary to implement the Agreement and this title, subject to sections 552 and 552a of title 5, United States Code.

(b) PROHIBITED ACTS.—It is unlawful for any person to violate any provision of this title or the regulations promulgated under this title.

(c) ACTIONS BY THE SECRETARY.—The Secretary shall prevent any person from violating this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) were incorporated into and made a part of this title. Any person that violates any provision of this title is subject to the penalties and entitled to the privileges and immunities provided in the Magnuson-Stevens Fishery Conservation and Management Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of that Act were incorporated into and made a part of this title.

(d) PENALTIES.—This title shall be enforced by the Secretary as if a violation of this title or of any regulation promulgated by the Secretary under this title were a viola-

tion of section 307 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857).

SEC. 611. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the obligations of the United States under the Agreement and this title.

Calendar No. 389

109TH CONGRESS
2D SESSION

S. 2012

[Report No. 109–229]

A BILL

To authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2006 through 2012, and for other purposes.

APRIL 4, 2006

Reported with an amendment