

Union Calendar No. 82

104TH CONGRESS
1ST SESSION

H. R. 39

[Report No. 104-171]

A BILL

To amend the Magnuson Fishery Conservation and Management Act to improve fisheries management.

JUNE 30, 1995

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Resources

JUNE 30, 1995

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on January 4, 1995]

A BILL

To amend the Magnuson Fishery Conservation and Management Act to improve fisheries management.

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

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Fishery Conservation*
5 *and Management Amendments of 1995”.*

1 **SEC. 2. AMENDMENT OF THE MAGNUSON FISHERY CON-**
2 **SERVATION AND MANAGEMENT ACT.**

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

9 **SEC. 3. FINDINGS, PURPOSES, AND POLICY.**

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

12 (1) *in paragraph (2)—*

13 (A) *by striking “and (B)” and inserting*
14 *“(B)”*; and

15 (B) *by inserting before the period at the end*
16 *the following: “, and (C) losses of essential fish-*
17 *ery habitat can diminish the ability of stocks of*
18 *fish to survive”*;

19 (2) *in paragraph (6) by inserting after “to in-*
20 *sure conservation,” the following: “to provide long-*
21 *term conservation of essential fishery habitat,”*; and

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

23 *“(9) Continuing loss of essential fishery habitat*
24 *poses a long-term threat to the viability of commercial*
25 *and recreational fisheries of the United States. To*
26 *conserve and manage the fishery resources of the*

1 *United States, increased attention must be given to*
2 *the protection of this habitat.”.*

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

5 *(1) by striking “and” after the semicolon at the*
6 *end of paragraph (5);*

7 *(2) by striking the period at the end of para-*
8 *graph (6) and inserting a semicolon; and*

9 *(3) by adding at the end the following:*

10 *“(7) to promote the conservation of essential fish-*
11 *ery habitat in the review of projects that affect essen-*
12 *tial fishery habitat; and*

13 *“(8) to ensure that conservation and manage-*
14 *ment decisions with respect to the Nation’s fishery re-*
15 *sources are made in a fair and equitable manner.”.*

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

19 **SEC. 4. DEFINITIONS.**

20 *(a) EXECUTION OF PRIOR AMENDMENTS TO DEFINI-*
21 *TIONS.—Notwithstanding section 308 of the Act entitled*
22 *“An Act to provide for the designation of the Flower Garden*
23 *Banks National Marine Sanctuary”, approved March 9,*
24 *1992 (Public Law 102-251; 106 Stat. 66), section 301(b)*

1 *of that Act (adding a definition of the term “special areas”)*
2 *shall take effect on the date of the enactment of this Act.*

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

5 *(1) in paragraph (4)—*

6 *(A) by striking “COLEENTERATA” from the*
7 *heading of the list of corals and inserting*
8 *“CNIDARIA”; and*

9 *(B) in the list appearing under the heading*
10 *“CRUSTACEA”, by striking “Deep-sea Red*
11 *Crab—Geryon quinquedens” and inserting*
12 *“Deep-sea Red Crab—Chaceon quinquedens”;*

13 *(2) in paragraph (16) by striking “of one and*
14 *one-half miles” and inserting “of two and one-half*
15 *kilometers”;*

16 *(3) in paragraph (17) by striking “Pacific Ma-*
17 *rine Fisheries Commission” and inserting “Pacific*
18 *States Marine Fisheries Commission”;*

19 *(4) by amending paragraph (21) to read as fol-*
20 *lows:*

21 *“(21) The term ‘optimum’, with respect to yield*
22 *from a fishery, means the amount of fish—*

23 *“(A) which will provide the greatest overall*
24 *benefit to the Nation, with particular reference to*

1 *food production and recreational opportunities;*
2 *and*

3 “(B)(i) which, subject to clause (ii), is pre-
4 scribed as such on the basis of the maximum sus-
5 tainable yield from such fishery, as modified by
6 any relevant economic, social, or ecological fac-
7 tor; or

8 “(ii) which, in the case of a fishery which
9 has been classified by the Secretary as overfished,
10 is prescribed as such on the basis of the maxi-
11 mum sustainable yield as reduced to allow for
12 the rebuilding of the fishery to a level consistent
13 with producing maximum sustainable yield on a
14 continuing basis.”;

15 (5) in paragraph (31) (as redesignated by the
16 amendments made effective by subsection (a) of this
17 section) by striking “for which a fishery management
18 plan prepared under title III or a preliminary fish-
19 ery management plan prepared under section 201(h)
20 has been implemented” and inserting “regulated
21 under this Act”; and

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

23 “(34) The term ‘bycatch’ means fish which are
24 harvested by a fishing vessel, but which are not sold

1 *or kept for personal use, including economic discards*
2 *and regulatory discards.*

3 *“(35) The term ‘economic discards’ means fish*
4 *which are the target of a fishery, but which are not*
5 *retained by the fishing vessel which harvested them*
6 *because they are of an undesirable size, sex, or qual-*
7 *ity, or for other economic reasons.*

8 *“(36) The term ‘regulatory discards’ means fish*
9 *caught in a fishery which fishermen are required by*
10 *regulation to discard whenever caught, or are re-*
11 *quired by regulation to retain but not sell.*

12 *“(37) The term ‘essential fishery habitat’ means*
13 *those waters necessary to fish for spawning, breeding,*
14 *or growth to maturity.*

15 *“(38) The term ‘overfishing’ means a level or*
16 *rate of fishing mortality that jeopardizes the ability*
17 *of a stock of fish to produce maximum sustainable*
18 *yield on a continuing basis.*

19 *“(39) The term ‘rebuilding program’ means those*
20 *conservation and management measures necessary to*
21 *restore the ability of a stock of fish to produce maxi-*
22 *mum sustainable yield on a continuing basis.*

23 *“(40) The term ‘total allowable catch’ means the*
24 *total amount of fish in a fishery that may be har-*
25 *vested in a fishing season, as established in accord-*

1 *ance with a fishery management plan for the fish-*
2 *ery.”.*

3 **SEC. 5. FOREIGN FISHING.**

4 *(a) TRANSSHIPMENT PERMITS.—*

5 *(1) AUTHORITY TO OPERATE UNDER TRANS-*
6 *SHIPMENT PERMITS.—Section 201(a)(1) (16 U.S.C.*
7 *1821(a)(1)) is amended to read as follows:*

8 *“(1) is authorized under subsection (b) or (c) or*
9 *under a permit issued under section 204(d);”.*

10 *(2) AUTHORITY TO ISSUE TRANSSHIPMENT PER-*
11 *MITS.—Section 204 (16 U.S.C. 1824) is amended by*
12 *adding at the end the following:*

13 *“(d) TRANSSHIPMENT PERMITS.—*

14 *“(1) AUTHORITY TO ISSUE PERMITS.—The Sec-*
15 *retary may issue a transshipment permit under this*
16 *subsection which authorizes a vessel other than a ves-*
17 *sel of the United States to engage in fishing consisting*
18 *solely of transporting fish products at sea from a*
19 *point within the boundaries of any State or the exclu-*
20 *sive economic zone to a point outside the United*
21 *States to any person who—*

22 *“(A) submits an application which is ap-*
23 *proved by the Secretary under paragraph (3);*
24 *and*

1 “(B) pays a fee imposed under paragraph
2 (7).

3 “(2) TRANSMITTAL.—Upon receipt of an appli-
4 cation for a permit under this subsection, the Sec-
5 retary shall promptly transmit copies of the applica-
6 tion to the Secretary of the department in which the
7 Coast Guard is operating, any appropriate Council,
8 and any interested State.

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

12 “(A) the transportation of fish products to
13 be conducted under the permit, as described in
14 the application, will be in the interest of the
15 United States and will meet the applicable re-
16 quirements of this Act;

17 “(B) the applicant will comply with the re-
18 quirements described in section 201(c)(2) with
19 respect to activities authorized by any permit is-
20 sued pursuant to the application;

21 “(C) the applicant has established any
22 bonds or financial assurances that may be re-
23 quired by the Secretary; and

24 “(D) no owner or operator of a vessel of the
25 United States which has adequate capacity to

1 *perform the transportation for which the appli-*
2 *cation is submitted has indicated to the Sec-*
3 *retary an interest in performing the transpor-*
4 *tation at fair and reasonable rates.*

5 “(4) *WHOLE OR PARTIAL APPROVAL.*—*The Sec-*
6 *retary may approve all or any portion of an applica-*
7 *tion under paragraph (3).*

8 “(5) *FAILURE TO APPROVE APPLICATION.*—*If the*
9 *Secretary does not approve any portion of an appli-*
10 *cation submitted under paragraph (1), the Secretary*
11 *shall promptly inform the applicant and specify the*
12 *reasons therefor.*

13 “(6) *CONDITIONS AND RESTRICTIONS.*—*The Sec-*
14 *retary shall establish and include in each permit*
15 *under this subsection conditions and restrictions*
16 *which shall be complied with by the owner and opera-*
17 *tor of the vessel for which the permit is issued. The*
18 *conditions and restrictions shall include the require-*
19 *ments, regulations, and restrictions set forth in sub-*
20 *section (b)(7).*

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

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

3 (1) *RESTRICTION ON ALLOCATIONS.*—Section
4 *201(e)(1)(A) (16 U.S.C. 1821(e)(1)(A))* is amended by
5 *adding at the end the following new sentence: “No al-*
6 *location may be made for a fishery that is not subject*
7 *to a fishery management plan prepared under section*
8 *303.”.*

9 (2) *COUNCIL RECOMMENDATION REQUIRED TO*
10 *APPROVE APPLICATION.*—Section *204(b)(6) (16 U.S.C.*
11 *1824(b)(6))* is amended—

12 (A) *in subparagraph (A) by striking “sub-*
13 *paragraph (B)” and inserting “subparagraphs*
14 *(B) and (C)”;* and

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

17 “(C)(i) *The Secretary may not approve an ap-*
18 *plication which proposes harvest of Atlantic mackerel*
19 *or Atlantic herring by one or more foreign fishing*
20 *vessels unless the appropriate Council has rec-*
21 *ommended that the Secretary approve the portion of*
22 *the application making that proposal and the Sec-*
23 *retary includes the appropriate conditions and re-*
24 *strictions recommended by the Council.*

1 “(ii) For purposes of this subparagraph, the
2 term ‘appropriate Council’ means the Mid-Atlantic
3 Fishery Management Council with respect to Atlantic
4 mackerel and the New England Fishery Management
5 Council with respect to Atlantic herring.”

6 (c) *PERIOD FOR CONGRESSIONAL REVIEW OF GOVERN-*
7 *ING INTERNATIONAL FISHERY AGREEMENTS.—Section 203*
8 *(16 U.S.C. 1823) is amended—*

9 (1) in subsection (a) by striking “60 calendar
10 days of continuous session of the Congress” and in-
11 sserting “120 calendar days (excluding any days in a
12 period for which the Congress is adjourned sine die)”;

13 (2) by striking subsection (c); and

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

16 (d) *TECHNICAL CORRECTION.—*

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

20 (2) *APPLICATION.—The amendment made by*
21 *paragraph (1) shall take effect on the date it would*
22 *take effect if it were enacted by section 301(d)(2) of*
23 *the Act entitled “An Act to provide for the designa-*
24 *tion of the Flower Garden Banks National Marine*

1 *Sanctuary*”, approved March 9, 1992 (Public Law
2 102–251; 106 Stat. 63).

3 **SEC. 6. LARGE-SCALE DRIFT NET FISHING.**

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

6 “(e) *REPORT.*—Not later than March 17th of each
7 year, the Secretary, after consultation with the Secretary
8 of State and the Secretary of the department in which the
9 Coast Guard is operating, shall submit to the Committee
10 on Commerce, Science, and Transportation of the Senate
11 and the Committee on Resources of the House of Representa-
12 tives a list of those nations whose nationals or vessels con-
13 duct, and of those nations that authorize their nationals
14 to conduct, large-scale drift net fishing beyond the exclusive
15 economic zone of any nation in a manner that diminishes
16 the effectiveness of, or is inconsistent with, any inter-
17 national agreement governing large-scale drift net fishing
18 to which the United States is a party or otherwise sub-
19 scribes.”.

20 **SEC. 7. NATIONAL STANDARD FOR FISHERY CONSERVA-**
21 **TION AND MANAGEMENT TO MINIMIZE**
22 **BYCATCH.**

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

1 “(8) Conservation and management measures
2 shall, to the maximum extent practicable, minimize
3 bycatch.”.

4 **SEC. 8. REGIONAL FISHERY MANAGEMENT COUNCILS.**

5 (a) MEMBERSHIP OF NORTH CAROLINA ON MID-AT-
6 LANTIC FISHERY MANAGEMENT COUNCIL.—Section
7 302(a)(2) (16 U.S.C. 1852(a)(2)) is amended—

8 (1) by striking “and Virginia” and inserting
9 “Virginia, and North Carolina”;

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

11 (3) by striking “12” and inserting “13”.

12 (b) VOTING MEMBERS, GENERALLY.—Section 302(b)
13 (16 U.S.C. 1852(b)) is amended—

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

20 (2) by adding at the end the following new para-
21 graph:

22 “(6) The Secretary shall remove any member of a
23 Council required to be appointed by the Secretary in ac-
24 cordance with subsection (b)(2) if the member violates sec-
25 tion 307(1)(O).”.

1 (c) *COMPENSATION.*—

2 (1) *AMENDMENT.*—Section 302(d) (16 U.S.C.
3 1852(d)) is amended in the first sentence—

4 (A) by striking “each Council,” and insert-
5 ing “each Council who are required to be ap-
6 pointed by the Secretary and”; and

7 (B) by striking “shall, until January 1,
8 1992,” and all that follows through “GS-16”
9 and inserting the following: “shall receive com-
10 pensation at a daily rate equivalent to the lowest
11 rate of pay payable for GS-15.”.

12 (2) *EFFECTIVE DATE.*—The amendment made by
13 paragraph (1)(B) shall take effect on January 1,
14 1996.

15 (d) *TRANSACTION OF BUSINESS.*—Section 302(e) (16
16 U.S.C. 1852(e)) is amended by adding at the end the follow-
17 ing:

18 “(5) At the request of any voting member of a
19 Council, the Council shall hold a roll call vote on any
20 matter before the Council. The official minutes re-
21 quired under subsection (j)(2)(E) and other appro-
22 priate records of any Council meeting shall identify
23 all roll call votes held, the name of each voting mem-
24 ber present during each roll call vote, and how each
25 member voted on each roll call vote.”.

1 (e) *COMMUNICATIONS WITH FEDERAL AGENCIES RE-*
2 *GARDING ESSENTIAL AND OTHER FISHERY HABITAT.*—
3 *Section 302(i) (16 U.S.C. 1852(i)) is amended—*

4 (1) *in paragraph (1), by striking “and” after the*
5 *semicolon at the end of subparagraph (A) and strik-*
6 *ing the period at the end of subparagraph (B) and in-*
7 *serting “; and”;*

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

10 *“(C) shall notify the Secretary regarding, and*
11 *may comment on and make recommendations to any*
12 *State or Federal agency concerning, any activity un-*
13 *dertaken, or proposed to be undertaken, by any State*
14 *or Federal agency that, in the view of the Council,*
15 *may have a detrimental effect on the essential fishery*
16 *habitat of a fishery under the authority of the Coun-*
17 *cil.”; and*

18 (3) *by amending paragraph (2) to read as fol-*
19 *lows:*

20 *“(2) Within 15 days after receiving a comment or rec-*
21 *ommendation under paragraph (1) from a Council regard-*
22 *ing the effects of an activity on essential fishery habitat,*
23 *a Federal agency shall provide to the Council a detailed*
24 *response in writing. The response shall include a descrip-*
25 *tion of measures being considered by the agency for avoid-*

1 *ing, mitigating, or offsetting the impact of the activity on*
2 *such habitat. In the case of a response that is inconsistent*
3 *with the recommendations of the Council, the Federal agen-*
4 *cy shall explain its reasons for not following the rec-*
5 *ommendations.”.*

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

8 *(1) by striking “guidelines” in the matter pre-*
9 *ceding subparagraph (A) and inserting “shall”;*

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

14 *(3) by adding at the end of subparagraph (D)*
15 *the following: “The written statement or oral testi-*
16 *mony shall include a brief description of the back-*
17 *ground and interests of the person on the subject of*
18 *the written statement or oral testimony.”;*

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

21 *“(E) Detailed minutes of each meeting of the*
22 *Council shall be kept and shall contain a record of the*
23 *persons present, a complete and accurate description*
24 *of matters discussed and conclusions reached, and*
25 *copies of all reports received, issued, or approved by*

1 *the Council. The Chairman shall certify the accuracy*
2 *of the minutes of each meeting and submit a copy*
3 *thereof to the Secretary. The minutes shall be made*
4 *available to any court of competent jurisdiction.”;*
5 *and*

6 *(5) by adding at the end the following:*

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

14 *(i) DISCLOSURE OF FINANCIAL INTEREST AND*
15 *RECUSAL.—Section 302(k) (16 U.S.C. 1852(k)) is amend-*
16 *ed—*

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

19 *(2) in paragraph (1)—*

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

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

24 *(C) by striking subparagraph (C);*

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

1 (4) in paragraph (5)—

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

4 (B) in subparagraph (B) by striking the pe-
5 riod at the end and inserting “; and”; and

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

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

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

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

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

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

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

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

1 “(B) the General Counsel of the National Oce-
2 anic and Atmospheric Administration (or a designee
3 of the General Counsel under paragraph (10)(C)(ii))
4 determines under paragraph (10) that voting by the
5 member would violate the rules established under
6 paragraph (8).

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

15 “(B) Upon a request under subparagraph (A) regard-
16 ing voting on a matter by a member—

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

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

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

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

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

6 “(11) *For the purposes of this subsection, the term ‘an*
7 *interest that would be significantly affected’ means a per-*
8 *sonal financial interest which would be augmented by vot-*
9 *ing on the matter and which would only be shared by a*
10 *minority of other persons within the same industry sector*
11 *or gear group whose activity would be directly affected by*
12 *a Council’s action.’”.*

13 (j) *CONFORMING AMENDMENT.—Section 302(k)(1)(A)*
14 *(16 U.S.C. 1852(k)(1)(A)) is amended to read as follows:*

15 “(A) *is nominated by the Governor of a State for*
16 *appointment as a voting member of a Council in ac-*
17 *cordance with subsection (b)(2) or is designated by*
18 *the Governor of a State under subsection (b)(1)(A)*
19 *and is not an employee of the State; or”.*

20 **SEC. 9. CONTENTS OF FISHERY MANAGEMENT PLANS.**

21 (a) *REQUIRED PROVISIONS.—*

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

24 (A) *in paragraph (5) by striking “and the*
25 *estimated processing capacity of, and the actual*

1 *processing capacity utilized by, United States*
2 *fish processors,” and inserting the following: “the*
3 *amount and species of bycatch taken on board a*
4 *fishing vessel based on a standardized reporting*
5 *methodology established by the Council for that*
6 *fishery, and the estimated processing capacity of,*
7 *and the actual processing capacity utilized by,*
8 *United States fish processors;”;*

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

11 *“(7) include a description of essential fishery*
12 *habitat for a fishery based on the guidelines estab-*
13 *lished by the Secretary under section 304(h)(1);”;*

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

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

18 *(E) by adding at the end the following:*

19 *“(10) include a measurable and objective deter-*
20 *mination of what constitutes overfishing in that fish-*
21 *ery, and a rebuilding program in the case of a plan*
22 *for any fishery which the Council or the Secretary has*
23 *determined is overfished;*

1 “(11) include conservation and management
2 measures necessary to minimize bycatch to the maxi-
3 mum extent practicable;

4 “(12) to the extent practicable, minimize mortal-
5 ity caused by economic discards and regulatory dis-
6 cards in the fishery;

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

9 “(14) in the case of any plan which under sub-
10 section (b)(8) requires that observers be carried on
11 board vessels—

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

16 “(B) be consistent with other applicable
17 laws;

18 “(C) take into consideration the operating
19 requirements of the fishery and the safety of ob-
20 servers and fishermen; and

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

23 (2) AMENDMENT OF PLANS.—Not later than 18
24 months after the date of enactment of this Act, each
25 Regional Fishery Management Council established

1 *under the Magnuson Fishery Conservation and Man-*
2 *agement Act shall submit to the Secretary of Com-*
3 *merce an amendment to each fishery management*
4 *plan in effect under that Act to comply with the*
5 *amendments made by paragraph (1).*

6 (3) *FISH WEIGHING.*—By January 1, 1997, the
7 *North Pacific Fishery Management Council shall re-*
8 *quire all fish processors that process fish species under*
9 *the management of the Council to weigh those fish to*
10 *ensure an accurate measurement of the total harvest*
11 *of each species.*

12 (b) *AMENDMENTS RELATING TO DISCRETIONARY PRO-*
13 *VISIONS, GENERALLY.*—Section 303(b) (16 U.S.C. 1853(b))
14 *is amended—*

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

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

20 (3) *by redesignating paragraph (10) as para-*
21 *graph (15); and*

22 (4) *by inserting after paragraph (9) the follow-*
23 *ing:*

24 *“(10) assess and specify the effect which con-*
25 *servation and management measures of the plan will*

1 *have on stocks of fish in the ecosystem of the fishery*
2 *which are not part of the fishery;*

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

6 *“(12) specify gear types allowed to be used in the*
7 *fishery and establish a process for evaluating new*
8 *gear technology that is proposed to be used in the fish-*
9 *ery;*

10 *“(13) reserve a portion of the allowable biological*
11 *catch of the fishery for use for scientific research pur-*
12 *poses;*

13 *“(14) establish conservation and management*
14 *measures necessary to minimize, to the extent prac-*
15 *ticable, adverse impacts on essential fishery habitat*
16 *described in the plan under subsection (a)(7) caused*
17 *by fishing; and”.*

18 (c) *REQUIREMENT TO SUBMIT FISHERY IMPACT*
19 *STATEMENTS TO AFFECTED STATES AND THE CON-*
20 *GRESS.—Section 303 of the Magnuson Fishery Conserva-*
21 *tion and Management Act (16 U.S.C. 1853), as amended*
22 *by section 16(b), is further amended by adding at the end*
23 *the following new subsection:*

24 *“(h) SUBMISSION OF FISHERY IMPACT STATEMENTS*
25 *TO INTERESTED STATES AND THE CONGRESS.—Not later*

1 *than the date a fishery management plan prepared by a*
2 *Council or the Secretary takes effect under section 304, the*
3 *Council or the Secretary, respectively, shall submit the fish-*
4 *ery impact statement required in the plan under subsection*
5 *(a)(9) to—*

6 *“(1) the Governor of each State that might be af-*
7 *ected by the plan, who may use information in the*
8 *statement to assist persons in applying for loans and*
9 *grants for economic relief; and*

10 *“(2) the Committee on Resources of the House of*
11 *Representatives and the Committee on Commerce,*
12 *Science, and Transportation of the Senate.”.*

13 **SEC. 10. AMENDMENTS RELATING TO MISCELLANEOUS DU-**
14 **TIES OF SECRETARY.**

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

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

21 *(1) by striking the subsection heading and in-*
22 *serting the following: “FISHERIES UNDER AUTHORITY*
23 *OF MORE THAN ONE COUNCIL.—”;*

1 (2) in paragraph (3)(C)(ii) by inserting before
2 the semicolon the following: “and the plan develop-
3 ment team established under paragraph (4)”;

4 (3) in paragraph (3)(E), strike “allocation or
5 quota” each place it appears and insert “allocation,
6 quota, or fishing mortality level”;

7 (4) in paragraph (3)(F)(ii) by inserting “and
8 the plan development team established under para-
9 graph (4)” before the semicolon;

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

11 “(4)(A) The Secretary shall establish a plan de-
12 velopment team for each highly migratory species
13 fishery over which the Secretary has authority under
14 paragraph (3)(A), to advise the Secretary on and
15 participate in the development of each fishery man-
16 agement plan or amendment to a plan for the fishery
17 under this subsection.

18 “(B) The plan development team shall—

19 “(i) consist of not less than 7 individuals
20 who are knowledgeable about the fishery for
21 which the plan or amendment is developed, se-
22 lected from members of advisory committees and
23 species working groups appointed under Acts im-
24 plementing relevant international fishery agree-

1 *ments pertaining to highly migratory species*
2 *and from other interested persons;*

3 *“(ii) be balanced in its representation of*
4 *commercial, recreational, and other interests;*
5 *and*

6 *“(iii) participate in all aspects of the devel-*
7 *opment of the plan or amendment.*

8 *“(C) The Federal Advisory Committee Act (5*
9 *U.S.C. App.) shall not apply to any plan develop-*
10 *ment team established under this paragraph.”; and*

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

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

16 *“(iii) promote international conservation;*

17 *“(iv) minimize the establishment of regulations*
18 *that require the discarding of Atlantic highly migra-*
19 *tory species which cannot be returned to the sea alive;*
20 *and*

21 *“(v) promote the implementation of scientific re-*
22 *search programs that include to the extent prac-*
23 *ticable, the tag, and release of Atlantic highly migra-*
24 *tory species.”.*

1 (c) *LIMITED ACCESS.*—Section 304(c)(3) (16 U.S.C.
2 1854(c)(3)) is amended by inserting “or advisory committee
3 appointed under laws implementing relevant international
4 fishery agreements to which the United States is a party”
5 before the period at the end.

6 (d) *INCIDENTAL HARVEST RESEARCH.*—Section
7 304(g) (16 U.S.C. 1854(g)) is amended—

8 (1) in paragraph (1) by striking “3-year”;

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

11 “(4) No later than 12 months after the enactment of
12 the Fishery Conservation and Management Amendments of
13 1995, the Secretary shall, in cooperation with affected inter-
14 ests and based upon the best scientific information avail-
15 able, complete a program to—

16 “(A) develop technological devices and other
17 changes in fishing operations to minimize the inci-
18 dental mortality of nontargeted fishery resources in
19 the course of shrimp trawl activity to the extent prac-
20 ticable from the level of mortality at the date of enact-
21 ment of the Fishery Conservation and Management
22 Amendments of 1990;

23 “(B) evaluate the ecological impacts and the ben-
24 efits and costs of such devices and changes in fishing
25 operations; and

1 “(C) assess whether it is practicable to utilize
2 those nontargeted fishery resources which are not
3 avoidable.”;

4 (3) in paragraph (6)(B) by striking “April 1,
5 1994” and inserting “the submission under para-
6 graph (5) of the detailed report on the program de-
7 scribed in paragraph (4)”;

8 (4) by adding at the end the following new para-
9 graph:

10 “(7) Any measure implemented under this Act to re-
11 duce the incidental mortality of nontargeted fishery re-
12 sources in the course of shrimp trawl fishing shall apply
13 to such fishing throughout the range of the nontargeted fish-
14 ery resource concerned.”.

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

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

22 “(A) establish guidelines to assist the Councils in
23 the description of essential fishery habitat in fishery
24 management plans; and

1 “(B) establish a schedule for the amendment of
2 fishery management plans to describe essential fish
3 habitats.

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

9 “(3) Each Federal agency shall consult with the Sec-
10 retary with respect to any action proposed to be authorized,
11 funded, or carried out by such agency that the head of the
12 agency has reason to believe, or the Secretary believes, may
13 result in the destruction or adverse modification of any es-
14 sential fishery habitat identified by the Secretary under
15 paragraph (2). If the Secretary finds that the proposed ac-
16 tion would result in destruction or adverse modifications
17 of such essential fishery habitat, the Secretary shall com-
18 ment on and make recommendations to the agency concern-
19 ing that action.

20 “(4) Within 15 days after receiving recommendations
21 from the Secretary under paragraph (3) with respect to a
22 proposed action, the head of a Federal agency shall provide
23 a detailed, written response to the Secretary which describes
24 the measures proposed by the agency to avoid, mitigate, or
25 offset the adverse impact of the proposed action on the essen-

1 *tial fishery habitat. In the case of a response that is incon-*
2 *sistent with the recommendation of the Secretary, the agen-*
3 *cy shall explain its reasons for not following the rec-*
4 *ommendations.*

5 “(5) *The Secretary shall review programs adminis-*
6 *tered by the Department of Commerce to ensure that any*
7 *relevant programs further the conservation and enhance-*
8 *ment of essential fishery habitat identified by the Secretary*
9 *under paragraph (2). The Secretary shall coordinate with*
10 *and provide information to other Federal agencies to fur-*
11 *ther the conservation and enhancement of essential fishery*
12 *habitat identified by the Secretary under paragraph (2).*

13 “(6) *Nothing in this subsection shall have the effect of*
14 *amending or repealing any other law or regulation or modi-*
15 *fying any other responsibility of a Federal agency with re-*
16 *spect to fisheries habitat.*

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

1 “(2) If the Council does not submit to the Secretary
2 before the end of the 1-year period beginning on the date
3 of notification under paragraph (1) a fishery management
4 plan, or an amendment to the appropriate existing fishery
5 management plan, which is intended to address overfishing
6 in the fishery and to establish any necessary rebuilding pro-
7 gram, then the Secretary shall within 9 months after the
8 end of that period prepare under subsection (c) a fishery
9 management plan, or an amendment to an existing man-
10 agement plan, to end overfishing in the fishery and to estab-
11 lish any necessary rebuilding program.

12 “(3) If the Secretary finds that overfishing is occurring
13 in any fishery for which a fishery management plan pre-
14 pared by the Secretary is in effect, the Secretary shall—

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

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

20 “(4) Any rebuilding program under this subsection
21 shall specify the time period within which the fishery is
22 expected to be rebuilt. The time period shall be as short as
23 possible, taking into account the biology and natural varia-
24 bility of the stock of fish, other environmental factors or
25 conditions which would affect the rebuilding program, and

1 *the needs of the fishing industry. The time period may not*
2 *exceed 10 years, except in cases where the biology of the*
3 *stock of fish or other environmental factors dictates other-*
4 *wise.*

5 “(5) *If the Secretary finds that the action of any Fed-*
6 *eral agency has caused or contributed to the decline of a*
7 *fishery below maximum sustainable yield, the Secretary*
8 *shall notify the agency of the Secretary’s finding and rec-*
9 *ommend steps that can be taken by the agency to reverse*
10 *that decline.*

11 “(6)(A) *The Secretary shall review the progress of any*
12 *rebuilding program required under this subsection begin-*
13 *ning in the third year in which the plan is in effect, and*
14 *annually thereafter.*

15 “(B) *If the Secretary finds as a result of the review*
16 *that the rebuilding program is not meeting its specified*
17 *goals due to reasons related to the reproductive capacity,*
18 *productivity, life span, or natural variability of the fish*
19 *species concerned or other environmental conditions or fac-*
20 *tors beyond the control of the rebuilding program, the Sec-*
21 *retary shall—*

22 “(i) *reassess the goals of the program;*

23 “(ii) *determine, based on the best available sci-*
24 *entific information, whether revision to the program*
25 *is needed; and*

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

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

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

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

23 “(C) The Secretary shall identify a fishery under sub-
24 paragraph (A) as approaching a condition of being
25 overfished if, based on trends in fishing effort, fishery re-

1 *source size, and other appropriate factors, the Secretary de-*
2 *termines that the fishery is likely to become overfished with-*
3 *in 2 years.*

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

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

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

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

15 “(j) ACTION ON COVERED IMPLEMENTING REGULA-
16 TIONS PROPOSED BY A COUNCIL.—(1) After the receipt date
17 of a covered implementing regulation submitted by a Coun-
18 cil, the Secretary shall—

19 “(A) immediately commence a review of the cov-
20 ered implementing regulation to determine whether it
21 is consistent with the fishery management plan it
22 would implement, the national standards, the other
23 provisions of this Act, and any other applicable law;
24 and

1 “(B) immediately publish the covered imple-
2 menting regulation in the Federal Register and pro-
3 vide a period of not less than 15 days and not more
4 than 45 days for the submission of comments by the
5 public.

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

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

11 “(B) decline to publish a final regulation.

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

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

15 “(A) ‘receipt date’ means the 5th day after the
16 day on which a Council submits to the Secretary a
17 covered implementing regulation that the Council
18 characterizes as a final covered implementing regula-
19 tion; and

20 “(B) ‘covered implementing regulation’—

21 “(i) means a proposed amendment to exist-
22 ing regulations implementing a fishery manage-
23 ment plan in effect under this Act, which does
24 not have the effect of amending the plan; and

1 “(ii) does not include any proposed regula-
2 tion submitted with a plan or amendment to a
3 plan under section 303(c).”.

4 (g) *PACIFIC REGION STOCK ASSESSMENT*.—Section
5 304 (16 U.S.C. 1854) is further amended by adding at the
6 end the following:

7 “(k) *PACIFIC REGION STOCK ASSESSMENT*.—(1) Not
8 later than 120 days after the date of enactment of the Fish-
9 ery Conservation and Management Amendments of 1995,
10 the Secretary shall, in consultation with the Pacific Fishery
11 Management Council and the States of California, Oregon,
12 and Washington, establish a Pacific Region Scientific Re-
13 view Group (in this subsection referred to as the ‘Group’)
14 consisting of representatives of the National Marine Fish-
15 eries Service, each of the States of California, Oregon, and
16 Washington, universities located in those States, commer-
17 cial and recreational fishermen and shore-based processors
18 located in those States, and environmental organizations.
19 Individuals appointed to serve on the Group shall be se-
20 lected from among individuals who are knowledgeable or
21 experienced in the harvesting, processing, biology, or ecology
22 of the fish stocks of fish that are managed under the Pacific
23 Fisheries Management Council Pacific Coast Groundfish
24 Plan (in this subsection referred to as the ‘covered Pacific
25 stocks’).

1 “(2) Not later than 180 days after the date of establish-
2 ment of the Group, the Group shall transmit to the Sec-
3 retary a research plan of at least 3 years duration to assess
4 the status of the covered Pacific stocks, including the abun-
5 dance, location, and species, age, and gender composition
6 of those stocks. The plan shall provide for the use of private
7 vessels to conduct stock surveys.

8 “(3) Immediately upon receiving the plan transmitted
9 under paragraph (2), the Secretary shall take action nec-
10 essary to carry out the plan, including, subject to the avail-
11 ability of appropriations, chartering private vessels, ar-
12 ranging for the deployment of scientists on those vessels (in-
13 cluding the payment of increased insurance costs to vessel
14 owners), and obtaining the assistance of shore-based fish
15 processors.

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

21 **SEC. 11. EMERGENCY ACTIONS.**

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

23 (1) in paragraph (2)(A), by inserting “under
24 section 302(b)(1)(A) and (C)” after “voting mem-
25 bers”;

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

3 “(B) shall remain in effect for not more than
4 180 days after the date of such publication, except
5 that any such regulation may, by agreement of the
6 Secretary and the Council and after notice and an
7 opportunity for submission of comments by the pub-
8 lic, be effective for 1 additional period of not more
9 than 180 days; and”;

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

11 “(4) The Secretary may promulgate emergency regula-
12 tions under this subsection to protect the public health. Not-
13 withstanding paragraph (3), regulations promulgated
14 under this paragraph shall remain in effect until with-
15 drawn by the Secretary. The Secretary shall promptly with-
16 draw regulations under this paragraph when the cir-
17 cumstances requiring the regulations no longer exist. The
18 Secretary shall provide an opportunity for submission of
19 comments by the public after regulations are promulgated
20 under this paragraph.

21 “(5) An emergency regulation promulgated under this
22 subsection that closes an area to fishing shall not remain
23 in effect for an additional period under paragraph (3)(B)
24 unless before the beginning of the additional period the
25 Council having jurisdiction over the area, in conjunction

1 *with the Secretary, publishes a report on the status of the*
2 *fishery in the area that includes an analysis of the costs*
3 *and benefits of the closure.”.*

4 **SEC. 12. STATE JURISDICTION.**

5 (a) *REPORTS.*—Section 306(c)(1) (16 U.S.C.
6 1856(c)(1)) is amended—

7 (1) *by striking “and” at the end of subpara-*
8 *graph (A);*

9 (2) *by striking the period at the end of subpara-*
10 *graph (B) and inserting “; and”; and*

11 (3) *by adding at the end the following:*

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

18 (b) *STATE AUTHORITY.*—Section 306(b) (16 U.S.C.
19 1856(b)) is amended by adding at the end the following:

20 “(3) *For any fishery occurring off the coasts of Alaska*
21 *for which there is no Federal fishery management plan ap-*
22 *proved and implemented pursuant to this Act, or pursuant*
23 *to delegation to a State in a fishery management plan, a*
24 *State may enforce its laws or regulations pertaining to the*
25 *taking of fish in the exclusive economic zone off that State*

1 *or the landing of fish caught in the exclusive economic zone*
2 *providing there is a legitimate State interest in the con-*
3 *servation and management of that fishery, until a Federal*
4 *fishery management plan is implemented. Fisheries cur-*
5 *rently managed pursuant to a Federal fishery management*
6 *plan shall not be removed from Federal management and*
7 *placed under State authority without the unanimous con-*
8 *sent (except for the Regional Director of the National Ma-*
9 *rine Fisheries Service) of the Council which developed the*
10 *fishery management plan.”.*

11 **SEC. 13. PROHIBITED ACTS.**

12 (a) *PROHIBITION ON DAMAGING GEAR.*—Section
13 *307(1)(K) (16 U.S.C. 1857(1)(K)) is amended by striking*
14 *“to knowingly steal, or without authorization, to” and in-*
15 *serting “to steal, or to negligently”.*

16 (b) *FAILURE TO DISCLOSE FINANCIAL INFORMA-*
17 *TION.*—Section 307(1) (16 U.S.C. 1857(1)) is amended—

18 (1) *by striking “or” at the end of subparagraph*

19 *(M);*

20 (2) *by striking the period at the end of subpara-*
21 *graph (N) and inserting “; or”; and*

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

23 *“(O) to knowingly and willfully fail to dis-*
24 *close or falsely disclose any financial interest as*
25 *required under section 302(k) or to knowingly*

1 *violate any rule established under section*
2 *302(k)(8).”.*

3 (c) *PROHIBITED FISHING.*—

4 (1) *IN GENERAL.*—Section 307(2)(B) (16 U.S.C.
5 1857(2)(B)) *is amended to read as follows:*

6 “(B) *in fishing, except recreational fishing*
7 *permitted under section 201(j), within the exclu-*
8 *sive economic zone or within the special areas, or*
9 *for any anadromous species or Continental Shelf*
10 *fishery resources beyond such zone or areas, or in*
11 *fishing consisting of transporting fish products*
12 *from a point within the boundaries of any State*
13 *or the exclusive economic zone or the special*
14 *areas, unless such fishing is authorized under,*
15 *and conducted in accordance with, a valid and*
16 *applicable permit issued under section 204, ex-*
17 *cept that this subparagraph shall not apply to*
18 *fishing within the special areas before the date*
19 *on which the Agreement between the United*
20 *States and the Union of Soviet Socialist Repub-*
21 *lics on the Maritime Boundary, signed June 1,*
22 *1990, enters into force for the United States; or”.*

23 (2) *CONFORMING AMENDMENT.*—Section
24 301(h)(2)(A) *of the Act entitled “An Act to provide*
25 *for the designation of the Flower Garden Banks Na-*

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

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

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

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

18 **SEC. 15. OBSERVERS.**

19 Title III (16 U.S.C. 1851 et seq.) is amended by add-
20 ing at the end the following:

21 **“SEC. 315. RIGHTS OF OBSERVERS.**

22 “(a) CIVIL ACTION.—An observer on a vessel (or the
23 observer’s personal representative) under the requirements
24 of this Act or the Marine Mammal Protection Act of 1972
25 (16 U.S.C. 1361 et seq.) that is ill, disabled, injured, or

1 *killed from service as an observer on that vessel may not*
2 *bring a civil action under any law of the United States*
3 *for that illness, disability for that illness, disability, injury,*
4 *or death against the vessel or vessel owner, except that a*
5 *civil action may be brought against the vessel owner for*
6 *the owner's willful misconduct.*

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

11 **SEC. 16. INDIVIDUAL QUOTA LIMITED ACCESS PROGRAMS.**

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

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

17 “(A) *in developing such system, the Coun-*
18 *cils and the Secretary take into account—*

19 “(i) *the need to promote conservation;*

20 “(ii) *present participation in the fish-*
21 *ery,*

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

24 “(iv) *the economics of the fishery,*

1 “(v) the capability of fishing vessels
2 used in the fishery to engage in other fish-
3 eries,

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

7 “(vii) any other relevant consider-
8 ations; and

9 “(B) in the case of such a system that pro-
10 vides for the allocation and issuance of individ-
11 ual quotas (as that term is defined in subsection
12 (g)), the plan complies with subsection (g).”.

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

15 “(g) *SPECIAL PROVISIONS FOR INDIVIDUAL QUOTA*
16 *SYSTEMS.*—(1) A fishery management plan which estab-
17 lishes an individual quota system for a fishery—

18 “(A) shall provide for administration of the sys-
19 tem by the Secretary in accordance with the terms of
20 the plan;

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

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

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

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

9 “(D) shall include provisions to—

10 “(i) provide for fair and equitable alloca-
11 tion of individual quotas under the system, and
12 minimize negative social and economic impacts
13 of the system on local coastal communities;

14 “(ii) ensure adequate enforcement of the sys-
15 tem, including the use of observers where appro-
16 priate; and

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

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

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

1 “(A) shall be considered a grant, to the holder of
2 the individual quota, of permission to engage in ac-
3 tivities permitted by the individual quota;

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

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

13 “(D) may be received, held, or transferred in ac-
14 cordance with regulations prescribed by the Secretary
15 under this Act;

16 “(E) shall, except in the case of an individual
17 quota allocated under an individual quota system es-
18 tablished before the date of enactment of the Fishery
19 Conservation and Management Amendments of 1995,
20 expire not later than 7 years after the date it is is-
21 sued, in accordance with the terms of the fishery man-
22 agement plan; and

23 “(F) upon expiration under subparagraph (E),
24 may be renewed, reallocated, or reissued if determined

1 *appropriate by each Council having authority over*
2 *the fishery.*

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

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

12 “(C) *A Federal agency or official may not hold, ad-*
13 *minister, or reallocate an individual quota issued under a*
14 *fishery management plan, other than the Secretary and the*
15 *Council having authority over the fishery for which the in-*
16 *dividual quota is issued.*

17 “(4) *Any fishery management plan that establishes an*
18 *individual quota system for a fishery may include provi-*
19 *sions that—*

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

22 “(B) *provide a portion of the annual harvest in*
23 *the fishery for entry-level fishermen, small vessel own-*
24 *ers, or crewmembers who do not hold or qualify for*
25 *individual quotas.*

1 “(5) An individual quota system established for a fish-
2 ery may be limited or terminated at any time by the Sec-
3 retary or through a fishery management plan or amend-
4 ment developed by the Council having authority over the
5 fishery for which it is established, if necessary for the con-
6 servation and management of the fishery.

7 “(6) As used in this subsection:

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

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

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

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

20 (2) by adding at the end the following new para-
21 graph:

22 “(2)(A) Notwithstanding paragraph (1), the Secretary
23 shall collect from a person that holds or transfers an indi-
24 vidual quota issued under a limited access system estab-
25 lished under section 303(b)(6) fees established by the Sec-

1 *retary in accordance with this section and section 9701(b)*
2 *of title 31, United States Code.*

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

5 *“(i) An initial allocation fee in an amount, de-*
6 *termined by the Secretary, equal to 1 percent of the*
7 *value of fish authorized to be harvested in one year*
8 *under an individual quota, which shall be collected*
9 *from the person to whom the individual quota is first*
10 *issued.*

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

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

22 *“(C) In determining the amount of a fee under this*
23 *paragraph, the Secretary shall ensure that the amount is*
24 *commensurate with the cost of managing the fishery with*
25 *respect to which the fee is collected, including reasonable*

1 *costs for salaries, data analysis, and other costs directly re-*
2 *lated to fishery management and enforcement.*

3 “(D) *The Secretary, in consultation with the Councils,*
4 *shall promulgate regulations prescribing the method of de-*
5 *termining under this paragraph the value of fish authorized*
6 *to be taken under an individual quota share, the amount*
7 *of fees, and the method of collecting fees.*

8 “(E) *Fees collected under this paragraph from holders*
9 *of individual quotas in a fishery shall be an offsetting col-*
10 *lection and shall be available to the Secretary only for the*
11 *purposes of administering and implementing this Act with*
12 *respect to that fishery.*

13 “(F) *The Secretary may not assess or collect any fee*
14 *under this paragraph with respect to an individual quota*
15 *system established before the date of enactment of the Fish-*
16 *ery Conservation and Management Amendments of 1995,*
17 *during the 5-year period beginning on that date of enact-*
18 *ment.”.*

19 (d) *APPROVAL OF FISHERY MANAGEMENT PLANS ES-*
20 *TABLISHING INDIVIDUAL QUOTA SYSTEMS.—Section 304*
21 *(16 U.S.C. 1854) is further amended by adding after sub-*
22 *section (k) (as added by section 10 of this Act) the following*
23 *new subsection:*

24 “(l) *ACTION ON LIMITED ACCESS SYSTEMS.—(1) In*
25 *addition to the other requirements of this Act, the Secretary*

1 *may not approve a fishery management plan that estab-*
2 *lishes a limited access system that provides for the alloca-*
3 *tion of individual quotas (in this subsection referred to as*
4 *an ‘individual quota system’) unless the plan complies with*
5 *section 303(g).*

6 “(2) *Within 1 year after receipt of recommendations*
7 *from the review panel established under paragraph (3), the*
8 *Secretary shall issue regulations which establish require-*
9 *ments for establishing an individual quota system. The reg-*
10 *ulations shall be developed in accordance with the rec-*
11 *ommendations. The regulations shall—*

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

15 “(B) *ensure that any individual quota system is*
16 *consistent with the requirements of sections 303(b)*
17 *and 303(g), and require the collection of fees in ac-*
18 *cordance with subsection (d)(2);*

19 “(C) *provide for appropriate penalties for viola-*
20 *tions of individual quotas systems, including the rev-*
21 *ocation of individual quotas for such violations;*

22 “(D) *include recommendations for potential*
23 *management options related to individual quotas, in-*
24 *cluding the authorization of individual quotas that*
25 *may not be transferred by the holder, and the use of*

1 *leases or auctions by the Federal Government in the*
2 *establishment or allocation of individual quotas; and*

3 *“(E) establish a central lien registry system for*
4 *the identification, perfection, and determination of*
5 *lien priorities, and nonjudicial foreclosure of encum-*
6 *brances, on individual quotas.*

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

14 *“(i) the success of the systems in conserving and*
15 *managing fisheries;*

16 *“(ii) the costs of implementing and enforcing the*
17 *systems;*

18 *“(iii) the economic effects of the systems on local*
19 *communities; and*

20 *“(iv) the use of limited access systems under*
21 *which individual quotas may not be transferred by*
22 *the holder, and the use of leases or auctions in the es-*
23 *tablishment or allocation of individual quota shares.*

24 *“(B) The review panel shall consist of—*

25 *“(i) the Secretary or a designee of the Secretary;*

1 “(ii) a representative of each Council, selected by
2 the Council;

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

5 “(iv) one at large representative who is selected
6 by reason of occupational or other experience, sci-
7 entific expertise, or training, and who is knowledge-
8 able regarding the conservation and management or
9 the commercial or recreational harvest of fishery re-
10 sources.

11 “(C) Based on the evaluation required under subpara-
12 graph (A), the review panel shall, by September 30, 1997,
13 submit recommendations—

14 “(i) to the Councils and the Secretary with re-
15 spect to the revision of individual quota systems that
16 were established under this Act prior to June 1, 1995;
17 and

18 “(ii) to the Secretary for the development of the
19 regulations required under paragraph (2).”.

20 (e) RESTRICTION ON NEW INDIVIDUAL QUOTA SYS-
21 TEMS PENDING REGULATIONS.—

22 (1) RESTRICTION.—The Secretary of Commerce
23 may not approve any covered quota system plan, and
24 no covered quota system plan shall take effect, under
25 title III of the Magnuson Fishery Conservation and

1 *Management Act before the effective date of regula-*
2 *tions issued by the Secretary under section 304(l) of*
3 *that Act, as added by subsection (d).*

4 (2) *COVERED QUOTA SYSTEM PLAN DEFINED.—*
5 *In this subsection, the term “covered quota system*
6 *plan” means a fishery management plan or amend-*
7 *ment to a fishery management plan, that—*

8 (A) *proposes establishment of an individual*
9 *quota system (as that term is used in section 303*
10 *of the Magnuson Fishery Conservation and Man-*
11 *agement Act, as amended by subsection (a) of*
12 *this section); and*

13 (B) *is submitted to the Secretary after May*
14 *1, 1995.*

15 **SEC. 17. FISHING CAPACITY REDUCTION PROGRAMS.**

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

19 **“SEC. 316. FISHING CAPACITY REDUCTION PROGRAMS.**

20 “(a) *AUTHORITY TO CONDUCT PROGRAM.—The Sec-*
21 *retary, with the concurrence of the Council having author-*
22 *ity over a fishery, may conduct a voluntary fishing capac-*
23 *ity reduction program for a fishery in accordance with this*
24 *section, if—*

25 “(1) *the Secretary—*

1 “(A) determines that the program is nec-
2 essary for rebuilding, preventing overfishing, or
3 generally improving conservation and manage-
4 ment of the fishery; or

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

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

9 “(A) limits access to the fishery through a
10 Federal fishing permit required by a limited ac-
11 cess system established under section 303(b)(6);
12 and

13 “(B) prevents the replacement of fishing ca-
14 pacity eliminated by the program through—

15 “(i) a moratorium on the issuance of
16 new Federal fishing permits for the dura-
17 tion of the repayment period; and

18 “(ii) restrictions on fishing vessel ca-
19 pacity upgrading.

20 “(b) PROGRAM REQUIREMENTS.—Under a fishing ca-
21 pacity reduction program conducted under this section for
22 a fishery, the Secretary shall—

23 “(1) seek to permanently reduce the maximum
24 effective fishing capacity at the least cost and in the

1 *shortest period of time through the removal of vessels*
2 *and permits from the fishery;*

3 “(2) make payments to—

4 “(A) scrap or otherwise render permanently
5 *unusable for fishing in the United States, vessels*
6 *that operate in the fishery; and*

7 “(B) acquire the Federal fishing permits
8 *that authorize participation in the fishery;*

9 “(3) provide for the funding of those payments
10 *by persons that participate in the fishery, by estab-*
11 *lishing and imposing fees on holders of Federal fish-*
12 *ing permits under this Act that authorize that par-*
13 *ticipation;*

14 “(4) establish criteria for determining the types
15 *of vessels and permits which are eligible to partici-*
16 *pate in the program, that—*

17 “(A) assess vessel impact on the fishery;

18 “(B) minimize program costs; and

19 “(C) take into consideration—

20 “(i) previous fishing capacity reduc-
21 *tion programs; and*

22 “(ii) the characteristics of the fishery;

23 “(5) establish procedures for determining the
24 *amount of payments under paragraph (1); and*

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

4 “(c) PAYMENTS.—

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

9 “(2) ESTABLISHMENT OF FEE REQUIRED.—The
10 Secretary may not make any payment under para-
11 graph (1) for a fishery unless there is in effect for the
12 fishery a fee under subsection (d).

13 “(3) LIMITATION ON TOTAL AMOUNT OF PAY-
14 MENTS FOR FISHERY.—The total amount of payments
15 under paragraph (1) for a fishery may not exceed the
16 total amount the Secretary projects will be deposited
17 into the Fund from fees that apply to the fishery
18 under subsection (d).

19 “(d) FEES.—

20 “(1) IN GENERAL.—Notwithstanding any other
21 provision of law, the Secretary, with the concurrence
22 of a majority of the voting members of a Council hav-
23 ing authority over a fishery for which a fishing ca-
24 pacity reduction program is conducted under this sec-
25 tion, may establish an annual fee on holders of Fed-

1 *eral fishing permits authorizing participation in the*
2 *fishery.*

3 *“(2) AMOUNT OF FEE.—The amount of a fee es-*
4 *tablished under this subsection for a fishery described*
5 *in paragraph (1)—*

6 *“(A) shall be adequate to ensure that the*
7 *total amount collected in the form of the fee will*
8 *not be less than the amount the Secretary deter-*
9 *mines is necessary for payments under sub-*
10 *section (b)(2) to reduce fishing capacity in the*
11 *fishery to a level that will ensure the long-term*
12 *health of the fishery;*

13 *“(B) shall be based on—*

14 *“(i) the value of the fishery;*

15 *“(ii) the projected number of partici-*
16 *pants in the fishery;*

17 *“(iii) the projected catch in the fishery;*

18 *and*

19 *“(iv) the direct costs of implementing a*
20 *fishing capacity reduction program under*
21 *this section for the fishery; and*

22 *“(C) may not exceed, for any permit holder,*
23 *5 percent of the value of fish harvested under the*
24 *permit each year.*

1 “(3) *EFFECTIVE PERIOD.*—A fee under this sub-
2 section may not be in effect for more than 15 years.

3 “(4) *USE OF AMOUNTS RECEIVED.*—Amounts re-
4 ceived by the United States as fees under this sub-
5 section—

6 “(A) shall be deposited into the Fund; and

7 “(B) may not be used to pay any adminis-
8 trative overhead or other costs not directly in-
9 curred in implementing this section with respect
10 to the fishery.

11 “(e) *ADVISORY PANELS.*—

12 “(1) *IN GENERAL.*—The Secretary shall establish
13 for each fishery for which a fishing capacity reduc-
14 tion program is conducted under this section an advi-
15 sory panel to advise the Secretary regarding that pro-
16 gram.

17 “(2) *MEMBERSHIP.*—Each advisory panel under
18 this subsection shall consist of individuals appointed
19 by the Secretary and shall include representatives
20 of—

21 “(A) the Department of Commerce,

22 “(B) Councils having authority over fish-
23 eries for which the panel is established,

1 “(C) appropriate sectors of the fishing in-
2 dustry affected by fishing capacity reduction
3 programs under this sections, and

4 “(D) appropriate States affected by such
5 programs.

6 “(f) FISHERIES CONSERVATION AND RESTORATION
7 FUND.—

8 “(1) ESTABLISHMENT.—There is established in
9 the Treasury of the United States a separate account
10 which shall be known as the Fisheries Conservation
11 and Restoration Fund (in this section referred to as
12 the ‘Fund’).

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

15 “(A) amounts appropriated under clause
16 (iv) of section 2(b)(1)(A) of the Act of August 11,
17 1939 (15 U.S.C. 713c-3(b)(1)(A)), popularly
18 known as the Saltonstall-Kennedy Act;

19 “(B) amounts paid to the United States
20 Government as fees established under subsection
21 (d);

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

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

3 “(3) AVAILABILITY.—

4 “(A) IN GENERAL.—Amounts in the Fund
5 shall be available to the Secretary without fiscal
6 year limitation for making payments under sub-
7 section (b)(2).

8 “(B) MANAGEMENT OF UNNEEDED BAL-
9 ANCE.—Amounts in the Fund that are not cur-
10 rently needed for the purposes of this section
11 shall be invested in obligations of, or guaranteed
12 by, the United States.

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

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

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

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

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

7 **SEC. 18. CONSIDERATION OF ABILITY TO PAY PENALTIES.**

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

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

11 (2) by adding at the end the following new sen-
12 tence: “In assessing such penalty, the Secretary may
13 also consider facts relating to the ability of the viola-
14 tor to pay that are established by the violator in a
15 timely manner.”.

16 **SEC. 19. AUTHORIZATION OF APPROPRIATIONS.**

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

19 **“TITLE IV—MISCELLANEOUS**
20 **PROVISIONS**

21 **“SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

22 “There are authorized to be appropriated to the Sec-
23 retary, for carrying out this Act, the following:

24 “(1) \$114,000,000 for fiscal year 1996.

25 “(2) \$118,000,000 for fiscal year 1997.

1 “(3) \$122,000,000 for fiscal year 1998.

2 “(4) \$126,000,000 for fiscal year 1999.

3 “(5) \$130,000,000 for fiscal year 2000.”.

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

“TITLE IV—MISCELLANEOUS PROVISIONS

“Sec. 401. Authorization of appropriations.”.

9 **SEC. 20. TECHNICAL CORRECTIONS.**

10 (a) *CORRECTION.*—Section 304 of the Act entitled “An
11 Act to provide for the designation of the Flower Garden
12 Banks National Marine Sanctuary”, approved March 9,
13 1992 (Public Law 102–251; 106 Stat. 65), is repealed.

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

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

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

20 “(B) the waters included within a zone,
21 contiguous to the territorial sea of the United
22 States, of which the inner boundary is a line co-
23 terminous with the seaward boundary of each
24 coastal State, and the outer boundary is a line

1 drawn in such a manner that each point on it
2 is 200 nautical miles from the baseline from
3 which the territorial sea is measured; and

4 “(C) the areas referred to as eastern special
5 areas in Article 3(1) of the Agreement between
6 the United States of America and the Union of
7 Soviet Socialist Republics on the Maritime
8 Boundary, signed June 1, 1990; in particular,
9 those areas east of the maritime boundary, as de-
10 fined in that Agreement, that lie within 200
11 nautical miles of the baselines from which the
12 breadth of the territorial sea of Russia is meas-
13 ured but beyond 200 nautical miles of the base-
14 lines from which the breadth of the territorial sea
15 of the United States is measured, except that this
16 subparagraph shall not apply before the date on
17 which the Agreement between the United States
18 and the Union of Soviet Socialist Republics on
19 the Maritime Boundary, signed June 1, 1990,
20 enters into force for the United States.”.

21 **SEC. 21. CLERICAL AMENDMENTS.**

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

1 **SEC. 22. PROVISIONS RELATING TO GULF OF MEXICO.**

2 (a) *FISHERY ASSESSMENTS.*—Section 304(e) (16
3 U.S.C. 1854(e)) is amended by adding at the end the follow-
4 ing new paragraph:

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

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

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

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

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

22 (b) *FISHERY MONITORING.*—Section 304 (16 U.S.C.
23 1854) is further amended by adding at the end the following
24 new subsection:

25 “(m) *FISHERY MONITORING.*—(1) The Secretary shall
26 develop a plan for the Gulf of Mexico region to collect, as-

1 *sess, and report statistics concerning the fisheries in each*
2 *such region.*

3 *“(2) The plan under this subsection shall—*

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

7 *“(B) minimize paperwork and regulatory bur-*
8 *dens on fishermen and fish buyers;*

9 *“(C) minimize costs to Federal and State agen-*
10 *cies;*

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

14 *“(E) ensure the confidentiality of information.*

15 *“(3) The Secretary shall ensure that fishermen, fish*
16 *buyers, and other individuals potentially impacted by the*
17 *plan required under this subsection are actively involved*
18 *in all stages of the development of such plan and that ap-*
19 *propriate fishery management agencies are consulted.*

20 *“(4) No later than 9 months after the date of enact-*
21 *ment of the Fishery Conservation and Management Amend-*
22 *ments of 1995, the Secretary shall publish notice of a pro-*
23 *posed plan required under this subsection and provide the*
24 *public with a reasonable opportunity to comment on such*

1 *proposed plan. The Secretary shall consider such comments*
2 *before submitting the plan under paragraph (5).*

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

9 *(c) GULF OF MEXICO RED SNAPPER STOCK MANAGE-*
10 *MENT STUDY.—*

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

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

17 *(B) the effectiveness of the fishery manage-*
18 *ment plan in effect under the Magnuson Fishery*
19 *Conservation and Management Act that applies*
20 *to Gulf of Mexico red snapper, in terms of the*
21 *appropriateness of the management goal and*
22 *time frame given the available biological data;*
23 *and*

24 *(C) regulations in effect under that Act that*
25 *apply to Gulf of Mexico red snapper, in the*

1 *terms of the effectiveness of fairly controlling*
2 *fishing mortality.*

3 (2) *STUDY REQUIREMENTS.*—*The study shall—*

4 (A) *assess all alternatives that could provide*
5 *a more balanced and practical approach to man-*
6 *aging the red snapper fishery in the Gulf of Mex-*
7 *ico;*

8 (B) *involve commercial and recreational*
9 *fishermen from the Gulf of Mexico in the collec-*
10 *tion of data and information and in the develop-*
11 *ment of an accurate assessment plan; and*

12 (C) *be completed and reported to the Con-*
13 *gress and the Gulf of Mexico Fishery Manage-*
14 *ment Council within 1 year after the date of the*
15 *enactment of this Act.*

16 (3) *USE OF REPORT.*—*It is expected for the re-*
17 *port on the study under this subsection to be used as*
18 *the foundation for any future management of red*
19 *snapper in the Gulf of Mexico by the Gulf of Mexico*
20 *Fishery Management Council or the National Marine*
21 *Fisheries Service (or both). It is also expected that the*
22 *Council will suspend the implementation of any indi-*
23 *vidual fishing quota plan for red snapper in the Gulf*
24 *of Mexico until the study is completed and until the*

1 *Secretary of Commerce has completed standards or*
2 *guidelines.*

3 (4) *LIMITED IMMUNITY.*—*Individuals providing*
4 *credible information to receive the most accurate as-*
5 *sessments shall not be subject to any catch reporting*
6 *violations.*

7 ***SEC. 23. STUDY OF CONTRIBUTION OF BYCATCH TO CHARI-***
8 ***TABLE ORGANIZATIONS.***

9 (a) *STUDY.*—*The Secretary of Commerce shall conduct*
10 *a study of the contribution of bycatch to charitable organi-*
11 *zations by commercial fishermen. The study shall include*
12 *determination of—*

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

16 (2) *the economic benefits to commercial fisher-*
17 *men from those contributions; and*

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

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

24 (c) *BYCATCH DEFINED.*—*In this section the term*
25 *“bycatch” has the meaning given that term in section 3(34)*

1 *of the Magnuson Fishery Conservation and Management*
2 *Act, as amended by section 4 of this Act.*

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