Mr. Speaker, we in the Committee on Commerce had a problem with the portion of the amendment that allows scholarship recipients to pay back their debt by working in an academic setting where their primary responsibility is the recruitment of more Indians. The problem is that Indians do not have enough medical care on their reservations, and this amendment offers somewhat of a loophole for scholarship recipients to avoid working on reservations by living and working at universities.

Mr. Speaker, after reviewing these hardship cases of health professionals who thought that they were getting credit for doing recruitment, we agree those cases were better dealt with on a case-by-case basis under a Secretarial waiver authority rather than by a large loophole. The amendments grant the Secretary waiver authority for hardship and good cause, so we all agreed to strike the academic recruitment language from the bill, and the managers state their concerns on the floor.

Mr. Speaker, with the above concerns discussed earlier relative to the legislation, I support the amendments that we have now agreed to with the other side, and I ask my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

I will compliment the gentleman on the statement. He and I worked very closely on these issues in committee, and he is a great friend of Alaska natives and most people involved in American native group.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I have no additional speakers at this time. I urge the adoption of this measure, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alaska [Mr. YOUNG] that the House suspend the rules and agree to the resolution, House Resolution 544.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution just agreed to.

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

There was no objection.

SUSTAINABLE FISHERIES ACT

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 39) to amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

The Clerk read as follows:

S. 39

Be it enacted by the Senate and House of Representatives 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 ''Sustainable Fisheries Act''.

(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 Fishery Conservation and Management Act.

TITLE I—CONSERVATION AND MANAGEMENT

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

TITLE II—FISHERY MONITORING AND RESEARCH

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

TITLE III—FISHERIES FINANCING

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

TITLE IV—MARINE FISHERY STATUTE REAUTHORIZATIONS

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

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

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

TITLE I—CONSERVATION AND MANAGEMENT

SEC. 101. FINDINGS; PURPOSES; POLICY.

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

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

''(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.'';

(2) by inserting ''to facilitate long-term protection of essential fish habitats,'' in subsection (a)(6) after ''conservation,'';

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

''(9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States.

''(10) Pacific Insular Areas contain unique historical, cultural, legal, political, and geographical circumstances which make fisheries resources important in sustaining their economic growth.'';

(4) by striking ''principles;'' in subsection (b)(3) and inserting ''principles, including the promotion of catch and release programs in recreational fishing;'';

(5) by striking ''and'' after the semicolon at the end of subsection (b)(5);

(6) by striking ''development.'' in subsection (b)(6) and inserting ''development in a non-wasteful manner; and'';

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

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

(8) in subsection (c)(3)—

(A) by striking ''promotes'' and inserting ''considers''; and

(B) by inserting ''minimize bycatch and'' after ''practical measures that'';

(9) striking ''and'' at the end of paragraph (c)(5);

(10) striking the period at the end of paragraph (c)(6) and inserting ''; and''; and

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

''(7) to ensure that the fishery resources adjacent to a Pacific Insular Area, including resident or migratory stocks within the exclusive economic zone adjacent to such areas, be explored, developed, conserved, and managed for the benefit of the people of such area and of the United States.''.

SEC. 102. DEFINITIONS.

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

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

''(2) The term 'bycatch' means fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such term does not include fish released

alive under a recreational catch and release fishery management program.

''(3) The term 'charter fishing' means fishing from a vessel carrying a passenger for hire (as defined in section 2101(21a) of title 46, United States Code) who is engaged in recreational fishing.

''(4) The term 'commercial fishing' means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter or trade.'';

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

(A) by striking ''COELENTERATA'' from the heading of the list of corals and inserting ''CNIDARIA''; and

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

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

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

''(10) The term 'essential fish habitat' means those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity.'';

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

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

(5) by redesignating paragraphs (21) through (38) (as redesignated) as paragraphs (22) through (39), respectively, and inserting after paragraph (20) (as redesignated) the following:

''(21) The term 'individual fishing quota' means a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person. Such term does not include community development quotas as described in section 305(i).'';

(6) by striking ''of one and one-half miles'' in paragraph (23) (as redesignated) and inserting ''of two and one-half kilometers'';

(7) by striking paragraph (28) (as redesignated), and inserting the following:

''(28) The term 'optimum', with respect to the yield from a fishery, means the amount of fish which—

''(A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems;

''(B) is prescribed on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant social, economic, or ecological factor; and

''(C) in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.'';

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

''(29) The terms 'overfishing' and 'overfished' mean a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.

''(30) The term 'Pacific Insular Area' means American Samoa, Guam, the Northern Mariana Islands, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Wake Island, or Palmyra Atoll, as applicable, and includes all islands and reefs appurtenant to such island, reef, or atoll.'';

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

''(32) The term 'recreational fishing' means fishing for sport or pleasure.

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

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

''(36) The term 'special areas' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990. In particular, the term refers to those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.'';

(11) by striking ''for which a fishery management plan prepared under title III or a preliminary fishery management plan prepared under section 201(g) has been implemented'' in paragraph (42) (as redesignated) and inserting ''regulated under this Act''; and

(12) by redesignating paragraph (44) (as redesignated) as paragraph (45), and inserting after paragraph (43) the following:

''(44) The term 'vessel subject to the jurisdiction of the United States' has the same meaning such term has in section 3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(c)).''.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

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

''SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of this Act, not to exceed the following sums:

''(1) $147,000,000 for fiscal year 1996;

''(2) $151,000,000 for fiscal year 1997;

''(3) $155,000,000 for fiscal year 1998; and

''(4) $159,000,000 for fiscal year 1999.''.

SEC. 104. HIGHLY MIGRATORY SPECIES.

Section 102 (16 U.S.C. 1812) is amended by striking ''promoting the objective of optimum utilization'' and inserting ''shall promote the achievement of optimum yield''.

SEC. 105. FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS.

(a) AUTHORITY TO OPERATE UNDER TRANSSHIPMENT PERMITS.—Section 201 (16 U.S.C. 1821) is amended—

(1) by striking paragraphs (1) and (2) of subsection (a) and inserting the following:

''(1) is authorized under subsections (b) or (c) or section 204(e), or under a permit issued under section 204(d);

''(2) is not prohibited under subsection (f); and'';

(2) by striking ''(i)'' in subsection (c)(2)(D) and inserting ''(h)'';

(3) by striking subsection (f);

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

(5) in paragraph (2) of subsection (h) (as redesignated), redesignate subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and insert after subparagraph (A) the following:

''(B) in a situation where the foreign fishing vessel is operating under a Pacific Insular Area fishing agreement, the Governor of the applicable Pacific Insular Area, in consultation with the Western Pacific Council, has established an observer coverage program that is at least equal in effectiveness to the program established by the Secretary;''; and

(6) in subsection (i) (as redesignated) by striking''305'' and inserting''304''.

(b) INTERNATIONAL FISHERY AGREEMENTS.—Section 202 (16 U.S.C. 1822) is amended—

(1) by adding before the period at the end of subsection (c) ''or section 204(e)'';

(2) by adding at the end the following:

''(h) BYCATCH REDUCTION AGREEMENTS.—

''(1) The Secretary of State, in cooperation with the Secretary, shall seek to secure an international agreement to establish standards and measures for bycatch reduction that are comparable to the standards and measures applicable to United States fishermen for such purposes in any fishery regulated pursuant to this Act for which the Secretary, in consultation with the Secretary of State, determines that such an international agreement is necessary and appropriate.

''(2) An international agreement negotiated under this subsection shall be—

''(A) consistent with the policies and purposes of this Act; and

''(B) subject to approval by Congress under section 203.

''(3) Not later than January 1, 1997, and annually thereafter, the Secretary, in consultation with the Secretary of State, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing actions taken under this subsection.''.

(c) PERIOD FOR CONGRESSIONAL REVIEW OF INTERNATIONAL FISHERY AGREEMENTS.—Section 203 (16 U.S.C. 1823) is amended—

(1) by striking ''GOVERNING'' in the section heading;

(2) by striking ''agreement'' each place it appears in subsection (a) and inserting ''agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement'';

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

(4) by striking subsection (c);

(5) by redesignating subsection (d) as subsection (c); and

(6) by striking ''agreement'' in subsection (c)(2)(A), as redesignated, and inserting ''agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement''.

(d) TRANSSHIPMENT PERMITS AND PACIFIC INSULAR AREA FISHING.—Section 204 (16 U.S.C. 1824) is amended—

(1) by inserting ''or subsection (d)'' in the first sentence of subsection (b)(7) after ''under paragraph (6)'';

(2) by striking ''the regulations promulgated to implement any such plan'' in subsection (b)(7)(A) and inserting ''any applicable federal or State fishing regulations'';

(3) by inserting ''or subsection (d)'' in subsection (b)(7)(D) after ''paragraph (6)(B)''; and

(4) by adding at the end the following:

''(d) TRANSSHIPMENT PERMITS.—

''(1) AUTHORITY TO ISSUE PERMITS.—The Secretary may issue a transshipment permit under this subsection which authorizes a vessel other than a vessel of the United States to engage in fishing consisting solely of transporting fish or fish products at sea from a point within the exclusive economic zone or, with the concurrence of a State, within the boundaries of that State, to a point outside the United States to any person who—

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

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

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

''(3) APPROVAL OF APPLICATION.—The Secretary may approve, in consultation with the appropriate Council or Marine Fisheries Commission, an application for a permit under this section if the Secretary determines that—

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

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

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

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

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

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

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

''(7) FEES.—The Secretary shall collect a fee for each permit issued under this subsection, in an amount adequate to recover the costs incurred by the United States in issuing the permit, except that the Secretary shall waive the fee for the permit if the foreign nation under which the vessel is registered does not collect a fee from a vessel of the United States engaged in similar activities in the waters of such foreign nation.

''(e) PACIFIC INSULAR AREAS.—

''(1) NEGOTIATION OF PACIFIC INSULAR AREA FISHERY AGREEMENTS.—The Secretary of State, with the concurrence of the Secretary and in consultation with any appropriate Council, may negotiate and enter into a Pacific Insular Area fishery agreement to authorize foreign fishing within the exclusive economic zone adjacent to a Pacific Insular Area—

''(A) in the case of American Samoa, Guam, or the Northern Mariana Islands, at the request and with the concurrence of, and in consultation with, the Governor of the Pacific Insular Area to which such agreement applies; and

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

''(2) AGREEMENT TERMS AND CONDITIONS.—A Pacific Insular Area fishery agreement—

''(A) shall not be considered to supersede any governing international fishery agreement currently in effect under this Act, but shall provide an alternative basis for the conduct of foreign fishing within the exclusive economic zone adjacent to Pacific Insular Areas;

''(B) shall be negotiated and implemented consistent only with the governing international fishery agreement provisions of this title specifically made applicable in this subsection;

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

''(D) shall not be entered into if it is determined by the Governor of the applicable Pacific Insular Area with respect to agreements initiated under paragraph (1)(A), or the Western Pacific Council with respect to agreements initiated under paragraph (1)(B), that such an agreement will adversely affect the fishing activities of the indigenous people of such Pacific Insular Area;

''(E) shall be valid for a period not to exceed three years and shall only become effective according to the procedures in section 203; and

''(F) shall require the foreign nation and its fishing vessels to comply with the requirements of paragraphs (1), (2), (3) and (4)(A) of section 201(c), section 201(d), and section 201(h).

''(3) PERMITS FOR FOREIGN FISHING.—

''(A) Application for permits for foreign fishing authorized under a Pacific Insular Areas fishing agreement shall be made, considered and approved or disapproved in accordance with paragraphs (3), (4), (5), (6), (7)(A) and (B), (8), and (9) of subsection (b), and shall include any conditions and restrictions established by the Secretary in consultation with the Secretary of State, the Secretary of the department in which the Coast Guard is operating, the Governor of the applicable Pacific Insular Area, and the appropriate Council.

''(B) If a foreign nation notifies the Secretary of State of its acceptance of the requirements of this paragraph, paragraph (2)(F), and paragraph (5), including any conditions and restrictions established under subparagraph (A), the Secretary of State shall promptly transmit such notification to the Secretary. Upon receipt of any payment required under a Pacific Insular Area fishing agreement, the Secretary shall thereupon issue to such foreign nation, through the Secretary of State, permits for the appropriate fishing vessels of that nation. Each permit shall contain a statement of all of the requirements, conditions, and restrictions established under this subsection which apply to the fishing vessel for which the permit is issued.

''(4) MARINE CONSERVATION PLANS.—

''(A) Prior to entering into a Pacific Insular Area fishery agreement, the Western Pacific Council and the appropriate Governor shall develop a 3-year marine conservation plan detailing uses for funds to be collected by the Secretary pursuant to such agreement. Such plan shall be consistent with any applicable fishery management plan, identify conservation and management objectives (including criteria for determining when such objectives have been met), and prioritize planned marine conservation projects. Conservation and management objectives shall include, but not be limited to—

''(i) establishment of Pacific Insular Area observer programs, approved by the Secretary in consultation with the Western Pacific Council, that provide observer coverage for foreign fishing under Pacific Insular Area fishery agreements that is at least equal in effectiveness to the program established by the Secretary under section 201(h);

''(ii) conduct of marine and fisheries research, including development of systems for information collection, analysis, evaluation, and reporting;

''(iii) conservation, education, and enforcement activities related to marine and coastal management, such as living marine resource assessments, habitat monitoring and coastal studies;

''(iv) grants to the University of Hawaii for technical assistance projects by the Pacific Island Network, such as education and training in the development and implementation of sustainable marine resources development projects, scientific research, and conservation strategies; and

''(v) western Pacific community-based demonstration projects under section 112(b) of the Sustainable Fisheries Act and other coastal improvement projects to foster and promote the management, conservation, and economic enhancement of the Pacific Insular Areas.

''(B) In the case of American Samoa, Guam, and the Northern Mariana Islands, the appropriate Governor, with the concurrence of the Western Pacific Council, shall develop the marine conservation plan described in subparagraph (A) and submit such plan to the Secretary for approval. In the case of other Pacific Insular Areas, the Western Pacific Council shall develop and submit the marine conservation plan described in subparagraph (A) to the Secretary for approval.

''(C) If a Governor or the Western Pacific Council intends to request that the Secretary of State renew a Pacific Insular Area fishery agreement, a subsequent 3-year plan shall be submitted to the Secretary for approval by the end of the second year of the existing 3-year plan.

''(5) RECIPROCAL CONDITIONS.—Except as expressly provided otherwise in this subsection, a Pacific Insular Area fishing agreemeent may include terms similar to the terms applicable to United States fishing vessels for access to similar fisheries in waters subject to the fisheries jurisdiction of another nation.

''(6) USE OF PAYMENTS BY AMERICAN SAMOA, GUAM, NORTHERN MARIANA ISLANDS.—Any payments received by the Secretary under a Pacific Insular Area fishery agreement for American Samoa, Guam, or the Northern Mariana Islands shall be deposited into the United States Treasury and then covered over to the Treasury of the Pacific Insular Area for which those funds were collected. Amounts deposited in the Treasury of a Pacific Insular Area shall be available, without appropriation or fiscal year limitation, to the Governor of the Pacific Insular Area—

''(A) to carry out the purposes of this subsection;

''(B) to compensate (i) the Western Pacific Council for mutually agreed upon administrative costs incurred relating to any Pacific Insular Area fishery agreement for such Pacific Insular Area, and (ii) the Secretary of State for mutually agreed upon travel expenses for no more than 2 Federal representatives incurred as a direct result of complying with paragraph (1)(A); and

''(C) to implement a marine conservation plan developed and approved under paragraph (4).

''(7) WESTERN PACIFIC SUSTAINABLE FISHERIES FUND.—There is established in the United States Treasury a Western Pacific Sustainable Fisheries Fund into which any payments received by the Secretary under a Pacific Insular Area fishery agreement for any Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands shall be deposited. The Western Pacific Sustainable Fisheries Fund shall be made available, without appropriation or fiscal year limitation, to the Secretary, who shall provide such funds only to—

''(A) the Western Pacific Council for the purpose of carrying out the provisions of this subsection, including implementation of a marine conservation plan approved under paragraph (4);

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

''(C) the Western Pacific Council to meet conservation and management objectives in the State of Hawaii if monies remain in the Western Pacific Sustainable Fisheries Fund after the funding requirements of subparagraphs (A) and (B) have been satisfied.

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

''(8) USE OF FINES AND PENALTIES.—In the case of violations occurring within the exclusive economic zone off American Samoa, Guam, or the Northern Mariana Islands, amounts received by the Secretary which are attributable to fines or penalties imposed under this Act, including such sums collected from the forfeiture and disposition or sale of property seized subject to its authority, after payment of direct costs of the enforcement action to all entities involved in such action, shall be deposited into the Treasury of the Pacific Insular Area adjacent to the exclusive economic zone in which the violation occurred, to be used for fisheries enforcement and for implementation of a marine conservation plan under paragraph (4).''.

(e) ATLANTIC HERRING TRANSSHIPMENT.—Within 30 days of receiving an application, the Secretary shall, under Section 204(d) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, issue permits to up to fourteen Canadian transport vessels that are not equipped for fish harvesting or processing, for the transshipment, within the boundaries of the State of Maine or within the portion of the exclusive economic zone east of the line 69 degrees 30 minutes west and within 12 nautical miles from the seaward boundary of that State, of Atlantic herring harvested by United States fishermen within the area described and used solely in sardine processing. In issuing a permit pursuant to this subsection, the Secretary shall provide a waiver under section 201(h)(2)(C) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, provided that such vessels comply with Federal or State monitoring and reporting requirements for the Atlantic herring fishery, including the stationing of United States observers aboard such vessels, if necessary.

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

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

(2) in subsection (f), by striking ''(e)(6),'' and inserting ''(e)(4),''.

(g) RUSSIAN FISHING IN THE BERING SEA.—No later than September 30, 1997, the North Pacific Fishery Management Council, in consultation with the North Pacific and Bering Sea Advisory Body, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing the institutional structures in Russia pertaining to stock assessment, management, and enforcement for fishery harvests in the Bering Sea, and recommendations for improving coordination between the United States and Russia for managing and conserving Bering Sea fishery resources of mutual concern.

SEC. 106. NATIONAL STANDARDS.

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

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

''(8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

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

''(10) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.''.

SEC. 107. REGIONAL FISHERY MANAGEMENT COUNCILS.

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

(1) by inserting ''(1)'' after the subsection heading;

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

(3) by striking ''section 304(f)(3)'' wherever it appears and inserting ''paragraph (3)'';

(4) in paragraph (1)(B), as amended—

(A) by striking ''and Virginia'' and inserting ''Virginia, and North Carolina'';

(B) by inserting ''North Carolina, and'' after ''except'';

(C) by striking ''19'' and inserting ''21''; and

(D) by striking ''12'' and inserting ''13'';

(5) by striking paragraph (1)(F), as redesignated, and inserting the following:

''(F) PACIFIC COUNCIL.—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 14 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State), and including one appointed from an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho in accordance with subsection (b)(5).'';

(6) by indenting the sentence at the end thereof and inserting ''(2)'' before ''Each Council''; and

(7) by adding at the end the following:

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

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

(1) by striking ''subsection (b)(2)'' in paragraphs (1)(C) and (3), and inserting in both places ''paragraphs (2) and (5)'';

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

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

''(5)(A) The Secretary shall appoint to the Pacific Council one representative of an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho from a list of not less than 3 individuals submitted by the tribal governments. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regulation the procedure for submitting a list under this subparagraph.

''(B) Representation shall be rotated among the tribes taking into consideration—

''(i) the qualifications of the individuals on the list referred to in subparagraph (A),

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

''(iii) the geographic area in which the tribe of the representative is located.

''(C) A vacancy occurring prior to the expiration of any term shall be filled in the same manner as set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen.

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

''(A) the Council concerned first recommends removal by not less than two-thirds of the members who are voting members and submits such removal recommendation to the Secretary in writing together with a statement of the basis for the recommendation; or

''(B) the member is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 307(1)(O).''.

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

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

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

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

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

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

''(4) The Secretary shall establish advisory panels to assist in the collection and evaluation of information relevant to the development of any fishery management plan or plan amendment for a fishery to which subsection (a)(3) applies. Each advisory panel shall participate in all aspects of the development of the plan or amendment; be balanced in its representation of commercial, recreational, and other interests; and consist

of not less than 7 individuals who are knowledgeable about the fishery for which the plan or amendment is developed, selected from among—

''(A) members of advisory committees and species working groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

''(B) other interested persons.''.

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

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

''(1) for each fishery under its authority that requires conservation and management, prepare and submit to the Secretary (A) a fishery management plan, and (B) amendments to each such plan that are necessary from time to time (and promptly whenever changes in conservation and management measures in another fishery substantially affect the fishery for which such plan was developed);'';

(2) in paragraph (2)—

(A) by striking ''section 204(b)(4)(C),'' in paragraph (2) and inserting ''section 204(b)(4)(C) or section 204(d),'';

(B) by striking ''304(c)(2)'' and inserting ''304(c)(4)''; and

(3) by striking ''304(f)(3) ''in paragraph (5) and inserting ''subsection (a)(3)''.

(g) Section 302 is amended further by striking subsection (i), and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

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

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

(2) by striking ''of a Council:'' in paragraph (2) and inserting ''established under subsection (g):'';

(3) by striking ''Council's'' in paragraph (2)(C);

(4) by adding the following at the end of paragraph (2)(C): ''The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to the meeting date, unless such modification is to address an emergency action under section 305(c), in which case public notice shall be given immediately.'';

(5) by adding the following at the end of paragraph (2)(D): ''All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.'';

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

''(E) Detailed minutes of each meeting of the Council, except for any closed session, shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed. The Chairman shall certify the accuracy of the minutes of each such meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction.'';

(7) by striking ''by the Council'' the first place it appears in paragraph (2)(F);

(8) by inserting ''or the Secretary, as appropriate'' in paragraph (2)(F) after ''of the Council''; and

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

(10) by striking ''303(d)'' in paragraph (4) and inserting ''402(b)''.

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

(1) by inserting ''and Recusal'' after ''Interest'' in the subsection heading;

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

''(1) For the purposes of this subsection—

''(A) the term 'affected individual' means an individual who—

''(i) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2); or

''(ii) is a voting member of a Council appointed—

''(I) under subsection (b)(2); or

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

''(B) the term 'designated official' means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, in consultation with the Council, to attend Council meetings and make determinations under paragraph (7)(B).'';

(3) by striking ''(1)(A)'' in paragraph (3)(A) and inserting ''(1)(A)(i)'';

(4) by striking ''(1)(B) or (C)'' in paragraph (3)(B) and inserting ''(1)(A)(ii)'';

(5) by striking ''(1)(B) or (C)'' in paragraph (4) and inserting ''(1)(A)(ii)'';

(6)(A) by striking ''and'' at the end of paragraph (5)(A);

(B) by striking the period at the end of paragraph (5)(B) and inserting a semicolon and the word ''and''; and

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

''(C) be kept on file by the Secretary for use in reviewing determinations under paragraph (7)(B) and made available for public inspection at reasonable hours.'';

(7) by striking ''(1)(B) or (C)'' in paragraph (6) and inserting ''(1)(A)(ii)'';

(8) by redesignating paragraph (7) as paragraph (8) and inserting after paragraph (6) the following:

''(7)(A) After the effective date of regulations promulgated under subparagraph (F) of this paragraph, an affected individual required to disclose a financial interest under paragraph (2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

''(B) At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

''(C) Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

''(D) Any affected individual who does not vote in a Council decision in accordance with this subsection may state for the record how he or she would have voted on such decision if he or she had voted.

''(E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.

''(F) The Secretary, in consultation with the Councils and by not later than one year from the date of enactment of the Sustainable Fisheries Act, shall promulgate regulations which prohibit an affected individual from voting in accordance with subparagraph (A), and which allow for the making of determinations under subparagraphs (B) and (C).''; and

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

SEC. 108. FISHERY MANAGEMENT PLANS.

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

(1) in paragraph (1)(A) by inserting ''and rebuild overfished stocks'' after ''overfishing'';

(2) by inserting ''commercial, recreational, and charter fishing in'' in paragraph (5) after ''with respect to'';

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

''(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;'';

(4) by striking ''and'' at the end of paragraph (8);

(5) by inserting ''and fishing communities'' after ''fisheries'' in paragraph (9)(A);

(6) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(7) by adding at the end the following:

''(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

''(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—

''(A) minimize bycatch; and

''(B) minimize the mortality of bycatch which cannot be avoided;

''(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

''(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors; and

''(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and

equitably among the commercial, recreational, and charter fishing sectors in the fishery.''.

(b) IMPLEMENTATION.—Not later than 24 months after the date of enactment of this Act, each Regional Fishery Management Council shall submit to the Secretary of Commerce amendments to each fishery management plan under its authority to comply with the amendments made in subsection (a) of this section.

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

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

''(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the—

''(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

''(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

''(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;'';

(2) by striking ''system for limiting access to'' in paragraph (6) and inserting ''limited access system for'';

(3) by striking ''fishery'' in subparagraph (E) of paragraph (6) and inserting ''fishery and any affected fishing communities'';

(4) by inserting ''one or more'' in paragraph (8) after ''require that'';

(5) by striking ''and'' at the end of paragraph (9);

(6) by redesignating paragraph (10) as paragraph (12); and

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

''(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

''(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research; and''.

(d) REGULATIONS.—Section 303 (16 U.S.C. 1853) is amended by striking subsection (c) and inserting the following:

''(c) PROPOSED REGULATIONS.—Proposed regulations which the Council deems necessary or appropriate for the purposes of—

''(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

''(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.''.

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

''(d) INDIVIDUAL FISHING QUOTAS.—

''(1)(A) A Council may not submit and the Secretary may not approve or implement before October 1, 2000, any fishery management plan, plan amendment, or regulation under this Act which creates a new individual fishing quota program.

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

''(2)(A) No provision of law shall be construed to limit the authority of a Council to submit and the Secretary to approve the termination or limitation, without compensation to holders of any limited access system permits, of a fishery management plan, plan amendment, or regulation that provides for a limited access system, including an individual fishing quota program.

''(B) This subsection shall not be construed to prohibit a Council from submitting, or the Secretary from approving and implementing, amendments to the North Pacific halibut and sablefish, South Atlantic wreckfish, or Mid-Atlantic surf clam and ocean (including mahogany) quahog individual fishing quota programs.

''(3) An individual fishing quota or other limited access system authorization—

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

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

''(C) shall not confer any right of compensation to the holder of such individual fishing quota or other such limited access system authorization if it is revoked or limited; and

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

''(4)(A) 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 the—

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

''(ii) first-time purchase of individual fishing quotas in that fishery by entry level fishermen.

''(B) A Council making a submission under subparagraph (A) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under clauses (i) and (ii) of subparagraph (A) and the portion of funds to be allocated for guarantees under each clause.

''(5) In submitting and approving any new individual fishing quota program on or after October 1, 2000, the Councils and the Secretary shall consider the report of the National Academy of Sciences required under section 108(f) of the Sustainable Fisheries Act, and any recommendations contained in such report, and shall ensure that any such program—

''(A) establishes procedures and requirements for the review and revision of the terms of any such program (including any revisions that may be necessary once a national policy with respect to individual fishing quota programs is implemented), and, if appropriate, for the renewal, reallocation, or reissuance of individual fishing quotas;

''(B) provides for the effective enforcement and management of any such program, including adequate observer coverage, and for fees under section 304(d)(2) to recover actual costs directly related to such enforcement and management; and

''(C) provides for a fair and equitable initial allocation of individual fishing quotas, prevents any person from acquiring an excessive share of the individual fishing quotas issued, and considers the allocation of a portion of the annual harvest in the fishery for entry-level fishermen, small vessel owners, and crew members who do not hold or qualify for individual fishing quotas.''.

(f) INDIVIDUAL FISHING QUOTA REPORT.— (1) Not later than October 1, 1998, the National Academy of Sciences, in consultation with the Secretary of Commerce and the Regional Fishery Management Councils, shall submit to the Congress a comprehensive final report on individual fishing quotas, which shall include recommendations to implement a national policy with respect to individual fishing quotas. The report shall address all aspects of such quotas, including an analysis of—

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

(B) mechanisms to prevent foreign control of the harvest of United States fisheries under individual fishing quota programs, including mechanisms to prohibit persons who are not eligible to be deemed a citizen of the United States for the purpose of operating a vessel in the coastwise trade under section 2(a) and section 2(c) of the Shipping Act, 1916 (46 U.S.C. 802 (a) and (c)) from holding individual fishing quotas;

(C) the impact of limiting the duration of individual fishing quota programs;

(D) the impact of authorizing Federal permits to process a quantity of fish that correspond to individual fishing quotas, and of the value created for recipients of any such permits, including a comparison of such value to the value of the corresponding individual fishing quotas;

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

(F) mechanisms to provide for effective monitoring and enforcement, including the inspection of fish harvested and incentives to reduce bycatch, and in particular economic discards;

(G) threshold criteria for determining whether a fishery may be considered for individual fishing quota management, including criteria related to the geographical range, population dynamics and condition of a fish stock, the socioeconomic characteristics of a fishery (including participants' involvement in multiple fisheries in the region), and participation by commercial, charter, and recreational fishing sectors in the fishery;

(H) mechanisms to ensure that vessel owners, vessel masters, crew members, and United States fish processors are treated fairly and equitably in initial allocations, to require persons holding individual fishing quotas to be on board the vessel using such quotas, and to facilitate new entry under individual fishing quota programs;

(I) potential social and economic costs and benefits to the nation, individual fishing quota recipients, and any recipients of Federal permits described in subparagraph (D) under individual fishing quota programs, including from capital gains revenue, the allocation of such quotas or permits through Federal auctions, annual fees and transfer fees at various levels, or other measures;

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

(K) such other matters as the National Academy of Sciences deems appropriate.

(2) The report shall include a detailed analysis of individual fishing quota programs already implemented in the United States, including the impacts: of any limits on transferability, on past and present participants, on fishing communities, on the rate and total amount of bycatch (including economic and regulatory discards) in the fishery, on

the safety of life and vessels in the fishery, on any excess harvesting or processing capacity in the fishery, on any gear conflicts in the fishery, on product quality from the fishery, on the effectiveness of enforcement in the fishery, on the size and composition of fishing vessel fleets, of the economic value created by individual fishing quotas for initial recipients and non-recipients, on conservation of the fishery resource, on fishermen who rely on participation in several fisheries, on the success in meeting any fishery management plan goals, and the fairness and effectiveness of the methods used for allocating quotas and controlling transferability. The report shall also include any information about individual fishing quota programs in other countries that may be useful.

(3) The report shall identify and analyze alternative conservation and management measures, including other limited access systems such as individual transferable effort systems, that could accomplish the same objectives as individual fishing quota programs, as well as characteristics that are unique to individual fishing quota programs.

(4) The Secretary of Commerce shall, in consultation with the National Academy of Sciences, the Councils, the fishing industry, affected States, conservation organizations and other interested persons, establish two individual fishing quota review groups to assist in the preparation of the report, which shall represent: (A) Alaska, Hawaii, and the other Pacific coastal States; and (B) Atlantic coastal States and the Gulf of Mexico coastal States. The Secretary shall, to the extent practicable, achieve a balanced representation of viewpoints among the individuals on each review group. The review groups shall be deemed to be advisory panels under section 302(g) of the Magnuson Fishery Conservation and Management Act, as amended by this Act.

(5) The Secretary of Commerce, in consultation with the National Academy of Sciences and the Councils, shall conduct public hearings in each Council region to obtain comments on individual fishing quotas for use by the National Academy of Sciences in preparing the report required by this subsection. The National Academy of Sciences shall submit a draft report to the Secretary of Commerce by January 1, 1998. The Secretary of Commerce shall publish in the Federal Register a notice and opportunity for public comment on the draft of the report, or any revision thereof. A detailed summary of comments received and views presented at the hearings, including any dissenting views, shall be included by the National Academy of Sciences in the final report.

(6) Section 210 of Public Law 104-134 is hereby repealed.

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

(2)(A) For the purposes of this subsection, the phrase ''fishermen who fish from small vessels'' in section 303(d)(4)(A)(i) of such Act shall mean fishermen wishing to purchase individual fishing quotas for use from Category B, Category C, or Category D vessels, as defined in part 676.20(c) of title 50, Code of Federal Regulations (as revised as of October 1, 1995), whose aggregate ownership of individual fishing quotas will not exceed the equivalent of a total of 50,000 pounds of halibut and sablefish harvested in the fishing year in which a guarantee application is made if the guarantee is approved, who will participate aboard the fishing vessel in the harvest of fish caught under such quotas, who have at least 150 days of experience working as part of the harvesting crew in any U.S. commercial fishery, and who do not own in whole or in part any Category A or Category B vessel, as defined in such part and title of the Code of Federal Regulations.

(B) For the purposes of this subsection, the phrase ''entry level fishermen'' in section 303(d)(4)(A)(ii) of such Act shall mean fishermen who do not own any individual fishing quotas, who wish to obtain the equivalent of not more than a total of 8,000 pounds of halibut and sablefish harvested in the fishing year in which a guarantee application is made, and who will participate aboard the fishing vessel in the harvest of fish caught under such quotas.

(h) COMMUNITY DEVELOPMENT QUOTA REPORT.—Not later than October 1, 1998, the National Academy of Sciences, in consultation with the Secretary, the North Pacific and Western Pacific Councils, communities and organizations participating in the program, participants in affected fisheries, and the affected States, shall submit to the Secretary of Commerce and Congress a comprehensive report on the performance and effectiveness of the community development quota programs under the authority of the North Pacific and Western Pacific Councils. The report shall—

(1) evaluate the extent to which such programs have met the objective of providing communities with the means to develop ongoing commercial fishing activities;

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

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

(B) obtaining the capital necessary to invest in commercial fishing, fish processing, and commercial fishing support projects (including infrastructure to support commercial fishing);

(3) evaluate the social and economic conditions in the participating communities and the extent to which alternative private sector employment opportunities exist;

(4) evaluate the economic impacts on participants in the affected fisheries, taking into account the condition of the fishery resource, the market, and other relevant factors;

(5) recommend a proposed schedule for accomplishing the developmental purposes of community development quotas; and

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

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

SEC. 109. ACTION BY THE SECRETARY.

(a) SECRETARIAL REVIEW OF PLANS AND REGULATIONS.—Section 304 (16 U.S.C. 1854) is amended by striking subsections (a) and (b) and inserting the following:

''(a) REVIEW OF PLANS.—

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

''(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

''(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

''(2) In undertaking the review required under paragraph (1), the Secretary shall—

''(A) take into account the information, views, and comments received from interested persons;

''(B) consult with the Secretary of State with respect to foreign fishing; and

''(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

''(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

''(A) the applicable law with which the plan or amendment is inconsistent;

''(B) the nature of such inconsistencies; and

''(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

''(4) If the Secretary disapproves or partially approves a plan or amendment, the Council may submit a revised plan or amendment to the Secretary for review under this subsection.

''(5) For purposes of this subsection and subsection (b), the term 'immediately' means on or before the 5th day after the day on which a Council transmits to the Secretary a fishery management plan, plan amendment, or proposed regulation that the Council characterizes as final.

''(b) REVIEW OF REGULATIONS.—

''(1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, plan amendment, this Act and other applicable law. Within 15 days of initiating such evaluation the Secretary shall make a determination and—

''(A) if that determination is affirmative, the Secretary shall publish such regulations in the Federal Register, with such technical changes as may be necessary for clarity and an explanation of those changes, for a public comment period of 15 to 60 days; or

''(B) if that determination is negative, the Secretary shall notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent with the fishery management plan, plan amendment, this Act, and other applicable law.

''(2) Upon receiving a notification under paragraph (1)(B), the Council may revise the proposed regulations and submit them to the Secretary for reevaluation under paragraph (1).

''(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (1)(A). The Secretary shall consult with the Council before making any revisions to the proposed regulations, and must publish in the Federal Register an explanation of any differences between the proposed and final regulations.''.

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

(1) by striking the subsection heading and inserting ''PREPARATION AND REVIEW OF SECRETARIAL PLANS'';

(2) by striking ''or'' at the end of paragraph (1)(A);

(3) by striking all that follows ''further revised plan'' in paragraph (1) and inserting ''or amendment; or'';

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

''(C) the Secretary is given authority to prepare such plan or amendment under this section.'';

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

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

''(A) conduct public hearings, at appropriate times and locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan and any regulations implementing the plan; and

''(B) consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.'';

(6) by inserting ''for a fishery under the authority of a Council'' after ''paragraph (1)'' in paragraph (3);

(7) by striking ''system described in section 303(b)(6)'' in paragraph (3) and inserting ''system, including any individual fishing quota program''; and

(8) by inserting after paragraph (3) the following new paragraphs:

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

''(A) for a plan or amendment for a fishery under the authority of a Council, submit such plan or amendment to the appropriate Council for consideration and comment; and

''(B) publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

''(5) Whenever a plan or amendment is submitted under paragraph (4)(A), the appropriate Council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 60-day period referred to in paragraph (4)(B). After the close of such 60-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, information, or comments submitted under paragraph (4)(B), may adopt such plan or amendment.

''(6) The Secretary may propose regulations in the Federal Register to implement any plan or amendment prepared by the Secretary. In the case of a plan or amendment to which paragraph (4)(A) applies, such regulations shall be submitted to the Council with such plan or amendment. The comment period on proposed regulations shall be 60 days, except that the Secretary may shorten the comment period on minor revisions to existing regulations.

''(7) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (6). The Secretary must publish in the Federal Register an explanation of any substantive differences between the proposed and final rules. All final regulations must be consistent with the fishery management plan, with the national standards and other provisions of this Act, and with any other applicable law.''.

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

(1) by inserting ''(1)'' immediately before the first sentence; and

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

''(2)(A) Notwithstanding paragraph (1), the Secretary is authorized and shall collect a fee to recover the actual costs directly related to the management and enforcement of any—

''(i) individual fishing quota program; and

''(ii) community development quota program that allocates a percentage of the total allowable catch of a fishery to such program.

''(B) Such fee shall not exceed 3 percent of the ex-vessel value of fish harvested under any such program, and shall be collected at either the time of the landing, filing of a landing report, or sale of such fish during a fishing season or in the last quarter of the calendar year in which the fish is harvested.

''(C)(i) Fees collected under this paragraph shall be in addition to any other fees charged under this Act and shall be deposited in the Limited Access System Administration Fund established under section 305(h)(5)(B), except that the portion of any such fees reserved under section 303(d)(4)(A) shall be deposited in the Treasury and available, subject to annual appropriations, to cover the costs of new direct loan obligations and new loan guarantee commitments as required by section 504(b)(1) of the Federal Credit Reform Act (2 U.S.C. 661c(b)(1)).

''(ii) Upon application by a State, the Secretary shall transfer to such State up to 33 percent of any fee collected pursuant to subparagraph (A) under a community development quota program and deposited in the Limited Access System Administration Fund in order to reimburse such State for actual costs directly incurred in the management and enforcement of such program.''.

(d) DELAY OF FEES.—Notwithstanding any other provision of law, the Secretary shall not begin the collection of fees under section 304(d)(2) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, in the surf clam and ocean (including mahogany) quahog fishery or in the wreckfish fishery until after January 1, 2000.

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

''(e) REBUILDING OVERFISHED FISHERIES.—

''(1) The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council's geographical area of authority and identify those fisheries that are overfished or are approaching a condition of being overfished. For those fisheries managed under a fishery management plan or international agreement, the status shall be determined using the criteria for overfishing specified in such plan or agreement. A fishery shall be classified as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary estimates that the fishery will become overfished within two years.

''(2) If the Secretary determines at any time that a fishery is overfished, the Secretary shall immediately notify the appropriate Council and request that action be taken to end overfishing in the fishery and to implement conservation and management measures to rebuild affected stocks of fish. The Secretary shall publish each notice under this paragraph in the Federal Register.

''(3) Within one year of an identification under paragraph (1) or notification under paragraphs (2) or (7), the appropriate Council (or the Secretary, for fisheries under section 302(a)(3)) shall prepare a fishery management plan, plan amendment, or proposed regulations for the fishery to which the identification or notice applies—

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

''(B) to prevent overfishing from occurring in the fishery whenever such fishery is identified as approaching an overfished condition.

''(4) For a fishery that is overfished, any fishery management plan, amendment, or proposed regulations prepared pursuant to paragraph (3) or paragraph (5) for such fishery shall—

''(A) specify a time period for ending overfishing and rebuilding the fishery that shall—

''(i) be as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem; and

''(ii) not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;

''(B) allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery; and

''(C) for fisheries managed under an international agreement, reflect traditional participation in the fishery, relative to other nations, by fishermen of the United States.

''(5) If, within the one-year period beginning on the date of identification or notification that a fishery is overfished, the Council does not submit to the Secretary a fishery management plan, plan amendment, or proposed regulations required by paragraph (3)(A), the Secretary shall prepare a fishery management plan or plan amendment and any accompanying regulations to stop overfishing and rebuild affected stocks of fish within 9 months under subsection (c).

''(6) During the development of a fishery management plan, a plan amendment, or proposed regulations required by this subsection, the Council may request the Secretary to implement interim measures to reduce overfishing under section 305(c) until such measures can be replaced by such plan, amendment, or regulations. Such measures, if otherwise in compliance with the provisions of this Act, may be implemented even though they are not sufficient by themselves to stop overfishing of a fishery.

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

''(A) in the case of a fishery to which section 302(a)(3) applies, immediately make revisions necessary to achieve adequate progress; or

''(B) for all other fisheries, immediately notify the appropriate Council. Such notification shall recommend further conservation and management measures which the Council should consider under paragraph (3) to achieve adequate progress.''.

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

(g) ATLANTIC HIGHLY MIGRATORY SPECIES.—Section 304 (16 U.S.C. 1854) is amended further by striking subsection (g) and inserting the following:

''(g) ATLANTIC HIGHLY MIGRATORY SPECIES.—(1) PREPARATION AND IMPLEMENTATION OF PLAN OR PLAN AMENDMENT.—The Secretary shall prepare a fishery management plan or plan amendment under subsection (c) with respect to any highly migratory species fishery to which section 302(a)(3) applies. In preparing and implementing any such plan or amendment, the Secretary shall—

''(A) consult with and consider the comments and views of affected Councils, commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species, and the advisory panel established under section 302(g);

''(B) establish an advisory panel under section 302(g) for each fishery management plan to be prepared under this paragraph;

''(C) evaluate the likely effects, if any, of conservation and management measures on participants in the affected fisheries and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors;

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

''(E) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan;

''(F) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), comparable international fishery management measures with respect to fishing for highly migratory species; and

''(G) ensure that conservation and management measures under this subsection—

''(i) promote international conservation of the affected fishery;

''(ii) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;

''(iii) are fair and equitable in allocating fishing privileges among United States fishermen and do not have economic allocation as the sole purpose; and

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

''(2) CERTAIN FISH EXCLUDED FROM 'BYCATCH' DEFINITION.—Notwithstanding section 3(2), fish harvested in a commercial fishery managed by the Secretary under this subsection or the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d) that are not regulatory discards and that are tagged and released alive under a scientific tagging and release program established by the Secretary shall not be considered bycatch for purposes of this Act.''.

(h) COMPREHENSIVE MANAGEMENT SYSTEM FOR ATLANTIC PELAGIC LONGLINE FISHERY.—(1) The Secretary of Commerce shall—

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

(B) conduct surveys and workshops with affected fishery participants to provide information and identify options for future management programs;

(C) to the extent practicable and necessary for the evaluation of options for a comprehensive management system, recover vessel production records; and

(D) complete by January 1, 1998, a comprehensive study on the feasibility of implementing a comprehensive management system for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species, including, but not limited to, individual fishing quota programs and other limited access systems.

(2) Based on the study under paragraph (1)(D) and consistent with the requirements of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), in cooperation with affected participants in the fishery, the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas, and the advisory panel established under paragraph (1)(A), the Secretary of Commerce may, after October 1, 1998, implement a comprehensive management system pursuant to section 304 of such Act (16 U.S.C. 1854) for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species. Such a system may not implement an individual fishing quota program until after October 1, 2000.

(i) REPEAL OR REVOCATION OF A FISHERY MANAGEMENT PLAN.—Section 304, as amended, is further amended by adding at the end the following:

''(h) REPEAL OR REVOCATION OF A FISHERY MANAGEMENT PLAN.—The Secretary may repeal or revoke a fishery management plan for a fishery under the authority of a Council only if the Council approves the repeal or revocation by a three-quarters majority of the voting members of the Council.''.

(j) AMERICAN LOBSTER FISHERY.—Section 304(h) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, shall not apply to the American Lobster Fishery Management Plan.

SEC. 110. OTHER REQUIREMENTS AND AUTHORITY.

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

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

(2) by redesignating subsection (b) as subsection (f); and

(3) by inserting the following before subsection (c):

''SEC. 305. OTHER REQUIREMENTS AND AUTHORITY.

''(a) GEAR EVALUATION AND NOTIFICATION OF ENTRY.—

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

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

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

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

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

''(4) A Council may submit to the Secretary any proposed changes to such list or such guidelines the Council deems appropriate. The Secretary shall publish a revised list, after notice and an opportunity for public comment, upon receiving any such proposed changes from a Council.

''(5) A Council may request the Secretary to promulgate emergency regulations under subsection (c) to prohibit any persons or vessels from using an unlisted fishing gear or engaging in an unlisted fishery if the appropriate Council, or the Secretary for fisheries to which section 302(a)(3) applies, determines that such unlisted gear or unlisted fishery would compromise the effectiveness of conservation and management efforts under this Act.

''(6) Nothing in this subsection shall be construed to permit a person or vessel to engage in fishing or employ fishing gear when such fishing or gear is prohibited or restricted by regulation under a fishery management plan or plan amendment, or under other applicable law.

''(b) FISH HABITAT.—(1)(A) The Secretary shall, within 6 months of the date of enactment of the Sustainable Fisheries Act, establish by regulation guidelines to assist the Councils in the description and identification of essential fish habitat in fishery management plans (including adverse impacts on such habitat) and in the consideration of actions to ensure the conservation and enhancement of such habitat. The Secretary shall set forth a schedule for the amendment of fishery management plans to include the identification of essential fish habitat and for the review and updating of such identifications based on new scientific evidence or other relevant information.

''(B) The Secretary, in consultation with participants in the fishery, shall provide each Council with recommendations and information regarding each fishery under that Council's authority to assist it in the identification of essential fish habitat, the adverse impacts on that habitat, and the actions that should be considered to ensure the conservation and enhancement of that habitat.

''(C) The Secretary shall review programs administered by the Department of Commerce and ensure that any relevant programs further the conservation and enhancement of essential fish habitat.

''(D) The Secretary shall coordinate with and provide information to other Federal agencies to further the conservation and enhancement of essential fish habitat.

''(2) Each Federal agency shall consult with the Secretary with respect to any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by such agency that may adversely affect any essential fish habitat identified under this Act.

''(3) Each Council—

''(A) may comment on and make recommendations to the Secretary and any Federal or State agency concerning any activity authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any Federal or State agency that, in the view of the Council, may affect the habitat, including essential fish habitat, of a fishery resource under its authority; and

''(B) shall comment on and make recommendations to the Secretary and any Federal or State agency concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat, including essential fish habitat, of an anadromous fishery resource under its authority.

''(4)(A) If the Secretary receives information from a Council or Federal or State agency or determines from other sources that an action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any State or Federal agency would adversely affect any essential fish habitat

identified under this Act, the Secretary shall recommend to such agency measures that can be taken by such agency to conserve such habitat.

''(B) Within 30 days after receiving a recommendation under subparagraph (A), a Federal agency shall provide a detailed response in writing to any Council commenting under paragraph (3) and the Secretary regarding the matter. The response shall include a description of measures proposed by the agency for avoiding, mitigating, or offsetting the impact of the activity on such habitat. In the case of a response that is inconsistent with the recommendations of the Secretary, the Federal agency shall explain its reasons for not following the recommendations.''.

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

(1) in the heading by striking ''ACTIONS'' and inserting ''ACTIONS AND INTERIM MEASURES'';

(2) in paragraphs (1) and (2)—

(A) by striking ''involving'' and inserting ''or that interim measures are needed to reduce overfishing for''; and

(B) by inserting ''or interim measures'' after ''emergency regulations''; and

(C) by inserting ''or overfishing'' after ''emergency''; and

(3) in paragraph (3)—

(A) by inserting ''or interim measure'' after ''emergency regulation'' each place such term appears;

(B) by striking subparagraph (B);

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

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

''(B) shall, except as provided in subparagraph (C), remain in effect for not more than 180 days after the date of publication, and may be extended by publication in the Federal Register for one additional period of not more than 180 days, provided the public has had an opportunity to comment on the emergency regulation or interim measure, and, in the case of a Council recommendation for emergency regulations or interim measures, the Council is actively preparing a fishery management plan, plan amendment, or proposed regulations to address the emergency or overfishing on a permanent basis;

''(C) that responds to a public health emergency or an oil spill may remain in effect until the circumstances that created the emergency no longer exist, provided that the public has an opportunity to comment after the regulation is published, and, in the case of a public health emergency, the Secretary of Health and Human Services concurs with the Secretary's action; and''.

(c) Section 305(e) is amended—

(1) by striking ''12291, dated February 17, 1981,'' and inserting ''12866, dated September 30, 1993,''; and

(2) by striking ''subsection (c) or section 304(a) and (b)'' and inserting ''subsections (a), (b), and (c) of section 304''.

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

''(g) NEGOTIATED CONSERVATION AND MANAGEMENT MEASURES.—

''(1)(A) In accordance with regulations promulgated by the Secretary pursuant to this paragraph, a Council may establish a fishery negotiation panel to assist in the development of specific conservation and management measures for a fishery under its authority. The Secretary may establish a fishery negotiation panel to assist in the development of specific conservation and management measures required for a fishery under section 304(e)(5), for a fishery for which the Secretary has authority under section 304(g), or for any other fishery with the approval of the appropriate Council.

''(B) No later than 180 days after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations establishing procedures, developed in cooperation with the Administrative Conference of the United States, for the establishment and operation of fishery negotiation panels. Such procedures shall be comparable to the procedures for negotiated rulemaking established by subchapter III of chapter 5 of title 5, United States Code.

''(2) If a negotiation panel submits a report, such report shall specify all the areas where consensus was reached by the panel, including, if appropriate, proposed conservation and management measures, as well as any other information submitted by members of the negotiation panel. Upon receipt, the Secretary shall publish such report in the Federal Register for public comment.

''(3) Nothing in this subsection shall be construed to require either a Council or the Secretary, whichever is appropriate, to use all or any portion of a report from a negotiation panel established under this subsection in the development of specific conservation and management measures for the fishery for which the panel was established.

''(h) CENTRAL REGISTRY SYSTEM FOR LIMITED ACCESS SYSTEM PERMITS.—

''(1) Within 6 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall establish an exclusive central registry system (which may be administered on a regional basis) for limited access system permits established under section 303(b)(6) or other Federal law, including individual fishing quotas, which shall provide for the registration of title to, and interests in, such permits, as well as for procedures for changes in the registration of title to such permits upon the occurrence of involuntary transfers, judicial or nonjudicial foreclosure of interests, enforcement of judgments thereon, and related matters deemed appropriate by the Secretary. Such registry system shall—

''(A) provide a mechanism for filing notice of a nonjudicial foreclosure or enforcement of a judgment by which the holder of a senior security interest acquires or conveys ownership of a permit, and in the event of a nonjudicial foreclosure, by which the interests of the holders of junior security interests are released when the permit is transferred;

''(B) provide for public access to the information filed under such system, notwithstanding section 402(b); and

''(C) provide such notice and other requirements of applicable law that the Secretary deems necessary for an effective registry system.

''(2) The Secretary shall promulgate such regulations as may be necessary to carry out this subsection, after consulting with the Councils and providing an opportunity for public comment. The Secretary is authorized to contract with non-federal entities to administer the central registry system.

''(3) To be effective and perfected against any person except the transferor, its heirs and devisees, and persons having actual notice thereof, all security interests, and all sales and other transfers of permits described in paragraph (1), shall be registered in compliance with the regulations promulgated under paragraph (2). Such registration shall constitute the exclusive means of perfection of title to, and security interests in, such permits, except for federal tax liens thereon, which shall be perfected exclusively in accordance with the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.). The Secretary shall notify both the buyer and seller of a permit if a lien has been filed by the Secretary of Treasury against the permit before collecting any transfer fee under paragraph (5) of this subsection.

''(4) The priority of security interests shall be determined in order of filing, the first filed having the highest priority. A validly-filed security interest shall remain valid and perfected notwithstanding a change in residence or place of business of the owner of record. For the purposes of this subsection, 'security interest' shall include security interests, assignments, liens and other encumbrances of whatever kind.

''(5)(A) Notwithstanding section 304(d)(1), the Secretary shall collect a reasonable fee of not more than one-half of one percent of the value of a limited access system permit upon registration of the title to such permit with the central registry system and upon the transfer of such registered title. Any such fee collected shall be deposited in the Limited Access System Administration Fund established under subparagraph (B).

''(B) There is established in the Treasury a Limited Access System Administration Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purposes of—

''(i) administering the central registry system; and

''(ii) administering and implementing this Act in the fishery in which the fees were collected. Sums in the Fund that are not currently needed for these purposes shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.''.

(e) REGISTRY TRANSITION.—Security interests on permits described under section 305(h)(1) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, that are effective and perfected by otherwise applicable law on the date of the final regulations implementing section 305(h) shall remain effective and perfected if, within 120 days after such date, the secured party submits evidence satisfactory to the Secretary of Commerce and in compliance with such regulations of the perfection of such security.

SEC. 111. PACIFIC COMMUNITY FISHERIES.

(a) HAROLD SPARCK MEMORIAL COMMUNITY DEVELOPMENT QUOTA PROGRAM.—Section 305, as amended, is amended further by adding at the end:

''(i) ALASKA AND WESTERN PACIFIC COMMUNITY DEVELOPMENT PROGRAMS.—

''(1)(A) The North Pacific Council and the Secretary shall establish a western Alaska community development quota program under which a percentage of the total allowable catch of any Bering Sea fishery is allocated to the program.

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

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

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

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

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

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

''(vi) not have previously developed harvesting or processing capability sufficient to support substantial participation in the groundfish fisheries in the Bering Sea, unless

the community can show that the benefits from an approved Community Development Plan would be the only way for the community to realize a return from previous investments.

''(C)(i) Prior to October 1, 2001, the North Pacific Council may not submit to the Secretary any fishery management plan, plan amendment, or regulation that allocates to the western Alaska community development quota program a percentage of the total allowable catch of any Bering Sea fishery for which, prior to October 1, 1995, the Council had not approved a percentage of the total allowable catch for allocation to such community development quota program. The expiration of any plan, amendment, or regulation that meets the requirements of clause (ii) prior to October 1, 2001, shall not be construed to prohibit the Council from submitting a revision or extension of such plan, amendment, or regulation to the Secretary if such revision or extension complies with the other requirements of this paragraph.

''(ii) With respect to a fishery management plan, plan amendment, or regulation for a Bering Sea fishery that—

''(I) allocates to the western Alaska community development quota program a percentage of the total allowable catch of such fishery; and

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

the Secretary shall, except as provided in clause (iii) and after approval of such plan, amendment, or regulation under section 304, allocate to the program the percentage of the total allowable catch described in such plan, amendment, or regulation. Prior to October 1, 2001, the percentage submitted by the Council and approved by the Secretary for any such plan, amendment, or regulation shall be no greater than the percentage approved by the Council for such fishery prior to October 1, 1995.

''(iii) The Secretary shall phase in the percentage for community development quotas approved in 1995 by the North Pacific Council for the Bering Sea crab fisheries as follows:

''(I) 3.5 percent of the total allowable catch of each such fishery for 1998 shall be allocated to the western Alaska community development quota program;

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

''(III) 7.5 percent of the total allowable catch of each such fishery for 2000 and thereafter shall be allocated to the western Alaska community development quota program, unless the North Pacific Council submits and the Secretary approves a percentage that is no greater than 7.5 percent of the total allowable catch of each such fishery for 2001 or the North Pacific Council submits and the Secretary approves any other percentage on or after October 1, 2001.

''(D) This paragraph shall not be construed to require the North Pacific Council to resubmit, or the Secretary to reapprove, any fishery management plan or plan amendment approved by the North Pacific Council prior to October 1, 1995, that includes a community development quota program, or any regulations to implement such plan or amendment.

''(2)(A) The Western Pacific Council and the Secretary may establish a western Pacific community development program for any fishery under the authority of such Council in order to provide access to such fishery for western Pacific communities that participate in the program.

''(B) To be eligible to participate in the western Pacific community development program, a community shall—

''(i) be located within the Western Pacific Regional Fishery Management Area;

''(ii) meet criteria developed by the Western Pacific Council, approved by the Secretary and published in the Federal Register;

''(iii) consist of community residents who are descended from the aboriginal people indigenous to the area who conducted commercial or subsistence fishing using traditional fishing practices in the waters of the Western Pacific region;

''(iv) not have previously developed harvesting or processing capability sufficient to support substantial participation in fisheries in the Western Pacific Regional Fishery Management Area; and

''(v) develop and submit a Community Development Plan to the Western Pacific Council and the Secretary.

''(C) In developing the criteria for eligible communities under subparagraph (B)(ii), the Western Pacific Council shall base such criteria on traditional fishing practices in or dependence on the fishery, the cultural and social framework relevant to the fishery, and economic barriers to access to the fishery.

''(D) For the purposes of this subsection 'Western Pacific Regional Fishery Management Area' means the area under the jurisdiction of the Western Pacific Council, or an island within such area.

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

''(3) The Secretary shall deduct from any fees collected from a community development quota program under section 304(d)(2) the costs incurred by participants in the program for observer and reporting requirements which are in addition to observer and reporting requirements of other participants in the fishery in which the allocation to such program has been made.

''(4) After the date of enactment of the Sustainable Fisheries Act, the North Pacific Council and Western Pacific Council may not submit to the Secretary a community development quota program that is not in compliance with this subsection.''.

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

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

(A) identify and apply traditional indigenous fishing practices;

(B) develop or enhance western Pacific community-based fishing opportunities; and

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

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

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

(4) The Western Pacific Fishery Management Council shall, with the assistance of such advisory panel, submit an annual report to the Congress assessing the status and progress of demonstration projects carried out under this subsection.

(5) Appropriate Federal agencies may provide technical assistance to western Pacific community-based entities to assist in carrying out demonstration projects under this subsection.

(6) For the purposes of this subsection, 'western Pacific community' shall mean a community eligible to participate under section 305(i)(2)(B) of the Magnuson Fishery Conservation and Management Act, as amended by this Act.

SEC. 112. STATE JURISDICTION.

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

''(3) A State may regulate a fishing vessel outside the boundaries of the State in the following circumstances:

''(A) The fishing vessel is registered under the law of that State, and (i) there is no fishery management plan or other applicable federal fishing regulations for the fishery in which the vessel is operating; or (ii) the State's laws and regulations are consistent with the fishery management plan and applicable federal fishing regulations for the fishery in which the vessel is operating.

''(B) The fishery management plan for the fishery in which the fishing vessel is operating delegates management of the fishery to a State and the State's laws and regulations are consistent with such fishery management plan. If at any time the Secretary determines that a State law or regulation applicable to a fishing vessel under this circumstance is not consistent with the fishery management plan, the Secretary shall promptly notify the State and the appropriate Council of such determination and provide an opportunity for the State to correct any inconsistencies identified in the notification. If, after notice and opportunity for corrective action, the State does not correct the inconsistencies identified by the Secretary, the authority granted to the State under this subparagraph shall not apply until the Secretary and the appropriate Council find that the State has corrected the inconsistencies. For a fishery for which there was a fishery management plan in place on August 1, 1996 that did not delegate management of the fishery to a State as of that date, the authority provided by this subparagraph applies only if the Council approves the delegation of management of the fishery to the State by a three-quarters majority vote of the voting members of the Council.

''(C) The fishing vessel is not registered under the law of the State of Alaska and is operating in a fishery in the exclusive economic zone off Alaska for which there was no fishery management plan in place on August 1, 1996, and the Secretary and the North Pacific Council find that there is a legitimate interest of the State of Alaska in the conservation and management of such fishery. The authority provided under this subparagraph shall terminate when a fishery management plan under this Act is approved and implemented for such fishery.''.

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

''(3) If the State involved requests that a hearing be held pursuant to paragraph (1), the Secretary shall conduct such hearing prior to taking any action under paragraph (1).''.

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

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

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon and the word ''and''; and

(3) by inserting after subparagraph (B) the following:

''(C) the owner or operator of the vessel submits reports on the tonnage of fish received from vessels of the United States and the locations from which such fish were harvested, in accordance with such procedures as the Secretary by regulation shall prescribe.''.

(d) INTERIM AUTHORITY FOR DUNGENESS CRAB.—(1) Subject to the provisions of this subsection and notwithstanding section 306(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1856(a)), the States of Washington, Oregon, and California may each enforce State laws and regulations governing fish harvesting and processing against any vessel operating in the exclusive economic zone off each respective State in a fishery for Dungeness crab (Cancer magister) for which there is no fishery management plan implemented under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) Any law or regulation promulgated under this subsection shall apply equally to vessels operating in the exclusive economic zone and adjacent State waters and shall be limited to—

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

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

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

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

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

(A) any State law limiting entry to a fishery subject to regulation under this subsection may not be enforced against a vessel that is operating in the exclusive economic zone off that State and is not registered under the law of that State, if the vessel is otherwise legally fishing in the exclusive economic zone, except that State laws regulating landings may be enforced; and

(B) no vessel may harvest or process fish which is subject to regulation under this subsection unless under an appropriate State permit or pursuant to a Federal court order.

(4) The authority provided under this subsection to regulate the Dungeness crab fishery shall terminate on October 1, 1999, or when a fishery management plan is implemented under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) for such fishery, whichever date is earlier.

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

(6)(A) It is the sense of Congress that the Pacific Fishery Management Council, at the earliest practicable date, should develop and submit to the Secretary fishery management plans for shellfish fisheries conducted in the geographic area of authority of the Council, especially Dungeness crab, which are not subject to a fishery management plan on the date of enactment of this Act.

(B) Not later than December 1, 1997, the Pacific Fishery Management Council shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives describing the progress in developing the fishery management plans referred to in subparagraph (A) and any impediments to such progress.

SEC. 113. PROHIBITED ACTS.

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

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

(2) by inserting before the semicolon the following: '', or in the absence of any such plan, is smaller than the minimum possession size in effect at the time under a coastal fishery management plan for American lobster adopted by the Atlantic States Marine Fisheries Commission under the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 et seq.)''.

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

(1) by striking ''knowingly steal or without authorization, to'' and inserting ''to steal or attempt to steal or to negligently and without authorization''; and

(2) by striking ''gear, or attempt to do so;'' and insert ''gear;''.

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

''(L) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this Act, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this Act;''.

(d) Section 307(1) (16 U.S.C. 1857(1)) is amended—

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

(2) by striking ''pollock.'' in subparagraph (N) and inserting ''pollock; or''; and

(3) by adding at the end the following:

''(O) to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required under section 302(j), or to knowingly vote on a Council decision in violation of section 302(j)(7)(A).''.

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

''(A) in fishing within the boundaries of any State, except—

''(i) recreational fishing permitted under section 201(i);

''(ii) fish processing permitted under section 306(c); or

''(iii) transshipment at sea of fish or fish products within the boundaries of any State in accordance with a permit approved under section 204(d);''.

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

(1) by striking ''(j)'' and inserting ''(i)''; and

(2) by striking ''204(b) or (c)'' and inserting ''204(b), (c), or (d)''.

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

''(3) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer at sea directly or indirectly, or attempt to so transfer at sea, any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the exclusive economic zone or within the boundaries of any State except to the extent that the foreign fishing vessel has been permitted under section 204(d) or section 306(c) to receive such fish;''.

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

SEC. 114. CIVIL PENALTIES AND PERMIT SANCTIONS; REBUTTABLE PRESUMPTIONS.

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

(b) The first sentence of section 308(b) (16 U.S.C. 1858(b)) is amended to read as follows: ''Any person against whom a civil penalty is assessed under subsection (a) or against whom a permit sanction is imposed under subsection (g) (other than a permit suspension for nonpayment of penalty or fine) may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such order.''.

(c) Section 308(g)(1)(C) (16 U.S.C. 1858(g)(1)(C)) is amended by striking the matter from ''or (C) any'' through ''overdue,'' and inserting the following: ''(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, or (D) any payment required for observer services provided to or contracted by an owner or operator who has been issued a permit or applied for a permit under any marine resource law administered by the Secretary has not been paid and is overdue,''.

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

''(3) For purposes of this Act, it shall be a rebuttable presumption that any vessel that is shoreward of the outer boundary of the exclusive economic zone of the United States or beyond the exclusive economic zone of any nation, and that has gear on board that is capable of use for large-scale driftnet fishing, is engaged in such fishing.''.

SEC. 115. ENFORCEMENT.

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

(1) by striking ''Guam, any Commonwealth, territory, or'' and inserting ''Guam or any''; and

(2) by inserting a comma before the period and the following: ''and except that in the case of the Northern Mariana Islands, the appropriate court is the United States District Court for the District of the Northern Mariana Islands''.

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

(1) by striking ''fishery'' each place it appears and inserting ''marine'';

(2) by inserting ''of not less than 20 percent of the penalty collected or $20,000, whichever is the lesser amount,'' after ''reward'' in subparagraph (B), and

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

''(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), as made applicable by section 310(c) of this Act or by any other marine resource law enforced by the Secretary, to seizures made by the Secretary, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and''.

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

''(2) Any person found in an administrative or judicial proceeding to have violated this

Act or any other marine resource law enforced by the Secretary shall be liable for the cost incurred in the sale, storage, care, and maintenance of any fish or other property lawfully seized in connection with the violation.''.

(d) Section 311 (16 U.S.C. 1861) is amended by redesignating subsection (g) as subsection (h) , and by inserting the following after subsection (f):

''(g) ENFORCEMENT IN THE PACIFIC INSULAR AREAS.—The Secretary, in consultation with the Governors of the Pacific Insular Areas and the Western Pacific Council, shall to the extent practicable support cooperative enforcement agreements between Federal and Pacific Insular Area authorities.''.

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

SEC. 116. TRANSITION TO SUSTAINABLE FISHERIES.

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

''SEC. 312. TRANSITION TO SUSTAINABLE FISHERIES.

''(a) FISHERIES DISASTER RELIEF.—(1) At the discretion of the Secretary or at the request of the Governor of an affected State or a fishing community, the Secretary shall determine whether there is a commercial fishery failure due to a fishery resource disaster as a result of—

''(A) natural causes;

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

''(C) undetermined causes.

''(2) Upon the determination under paragraph (1) that there is a commercial fishery failure, the Secretary is authorized to make sums available to be used by the affected State, fishing community, or by the Secretary in cooperation with the affected State or fishing community for assessing the economic and social effects of the commercial fishery failure, or any activity that the Secretary determines is appropriate to restore the fishery or prevent a similar failure in the future and to assist a fishing community affected by such failure. Before making funds available for an activity authorized under this section, the Secretary shall make a determination that such activity will not expand the size or scope of the commercial fishery failure in that fishery or into other fisheries or other geographic regions.

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

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

''(b) FISHING CAPACITY REDUCTION PROGRAM.—(1) The Secretary, at the request of the appropriate Council for fisheries under the authority of such Council, or the Governor of a State for fisheries under State authority, may conduct a fishing capacity reduction program (referred to in this section as the 'program') in a fishery if the Secretary determines that the program—

''(A) is necessary to prevent or end overfishing, rebuild stocks of fish, or achieve measurable and significant improvements in the conservation and management of the fishery;

''(B) is consistent with the federal or State fishery management plan or program in effect for such fishery, as appropriate, and that the fishery management plan—

''(i) will prevent the replacement of fishing capacity removed by the program through a moratorium on new entrants, restrictions on vessel upgrades, and other effort control measures, taking into account the full potential fishing capacity of the fleet; and

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

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

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

''(A) the owner of a fishing vessel, if such vessel is (i) scrapped, or (ii) through the Secretary of the department in which the Coast Guard is operating, subjected to title restrictions that permanently prohibit and effectively prevent its use in fishing, and if the permit authorizing the participation of the vessel in the fishery is surrendered for permanent revocation and the owner relinquishes any claim associated with the vessel and permit that could qualify such owner for any present or future limited access system permit in the fishery for which the program is established; or

''(B) the holder of a permit authorizing participation in the fishery, if such permit is surrendered for permanent revocation, and such holder relinquishes any claim associated with the permit and vessel used to harvest fishery resources under the permit that could qualify such holder for any present or future limited access system permit in the fishery for which the program was established.

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

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

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

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

''(B) appropriated for the purposes of this section;

''(C) provided by an industry fee system established under subsection (d) and in accordance with section 1111 of title XI of the Merchant Marine Act, 1936; or

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

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

''(d) INDUSTRY FEE SYSTEM.—(1)(A) If an industry fee system is necessary to fund the program, the Secretary, at the request of the appropriate Council, may conduct a referendum on such system. Prior to the referendum, the Secretary, in consultation with the Council, shall—

''(i) identify, to the extent practicable, and notify all permit or vessel owners who would be affected by the program; and

''(ii) make available to such owners information about the industry fee system describing the schedule, procedures, and eligibility requirements for the referendum, the proposed program, and the amount and duration and any other terms and conditions of the proposed fee system.

''(B) The industry fee system shall be considered approved if the referendum votes which are cast in favor of the proposed system constitute a two-thirds majority of the participants voting.

''(2) Notwithstanding section 304(d) and consistent with an approved industry fee system, the Secretary is authorized to establish such a system to fund the program and repay debt obligations incurred pursuant to section 1111 of title XI of the Merchant Marine Act, 1936. The fees for a program established under this section shall—

''(A) be determined by the Secretary and adjusted from time to time as the Secretary considers necessary to ensure the availability of sufficient funds to repay such debt obligations;

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

''(C) be deducted by the first ex-vessel fish purchaser from the proceeds otherwise payable to the seller and accounted for and forwarded by such fish purchasers to the Secretary in such manner as the Secretary may establish; and

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

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

''(A) define criteria for determining types and numbers of vessels which are eligible for participation in the program taking into account characteristics of the fishery, the requirements of applicable fishery management plans, the needs of fishing communities, and the need to minimize program costs; and

''(B) establish procedures for program participation (such as submission of owner bid under an auction system or fair market-value assessment) including any terms and conditions for participation which the Secretary deems to be reasonably necessary to meet the goals of the program.

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

''(A) the Secretary shall conduct a public hearing in each State affected by the program; and

''(B) the appropriate Council or State shall submit its comments and recommendations, if any, regarding the plan and regulations.

''(3) Within 45 days after the close of the public comment period, the Secretary, in consultation with the appropriate Council or State, shall analyze the public comment received and publish in the Federal Register a final implementation plan for the program and regulations for its implementation. The Secretary may not adopt a final implementation plan involving industry fees or debt obligation unless an industry fee system has been approved by a referendum under this section.''.

(b) STUDY OF FEDERAL INVESTMENT.—The Secretary of Commerce shall establish a task force comprised of interested parties to study and report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives within 2 years of the date of enactment of this Act on the role of the Federal Government in—

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

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

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

(1) by striking ''and'' at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting a semicolon and the word ''and''; and

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

''(iv) to fund the Federal share of a fishing capacity reduction program established under section 312 of the Magnuson Fishery Conservation and Management Act; and''.

SEC. 117. NORTH PACIFIC AND NORTHWEST ATLANTIC OCEAN FISHERIES.

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

(1) by striking ''RESEARCH PLAN'' in the section heading and inserting ''CONSERVATION'';

(2) in subsection (a) by striking ''North Pacific Fishery Management Council'' and inserting ''North Pacific Council''; and

(3) by adding at the end the following:

''(f) BYCATCH REDUCTION.—In implementing section 303(a)(11) and this section, the North Pacific Council shall submit conservation and management measures to lower, on an annual basis for a period of not less than four years, the total amount of economic discards occurring in the fisheries under its jurisdiction.

''(g) BYCATCH REDUCTION INCENTIVES.—(1) Notwithstanding section 304(d), the North Pacific Council may submit, and the Secretary may approve, consistent with the provisions of this Act, a system of fines in a fishery to provide incentives to reduce bycatch and bycatch rates; except that such fines shall not exceed $25,000 per vessel per season. Any fines collected shall be deposited in the North Pacific Fishery Observer Fund, and may be made available by the Secretary to offset costs related to the reduction of bycatch in the fishery from which such fines were derived, including conservation and management measures and research, and to the State of Alaska to offset costs incurred by the State in the fishery from which such penalties were derived or in fisheries in which the State is directly involved in management or enforcement and which are directly affected by the fishery from which such penalties were derived.

''(2)(A) Notwithstanding section 303(d), and in addition to the authority provided in section 303(b)(10), the North Pacific Council may submit, and the Secretary may approve, conservation and management measures which provide allocations of regulatory discards to individual fishing vessels as an incentive to reduce per vessel bycatch and bycatch rates in a fishery, provided that—

''(i) such allocations may not be transferred for monetary consideration and are made only on an annual basis; and

''(ii) any such conservation and management measures will meet the requirements of subsection (h) and will result in an actual reduction in regulatory discards in the fishery.

''(B) The North Pacific Council may submit restrictions in addition to the restriction imposed by clause (i) of subparagraph (A) on the transferability of any such allocations, and the Secretary may approve such recommendation.

''(h) CATCH MEASUREMENT.—(1) By June 1, 1997 the North Pacific Council shall submit, and the Secretary may approve, consistent with the other provisions of this Act, conservation and management measures to ensure total catch measurement in each fishery under the jurisdiction of such Council. Such measures shall ensure the accurate enumeration, at a minimum, of target species, economic discards, and regulatory discards.

''(2) To the extent the measures submitted under paragraph (1) do not require United States fish processors and fish processing vessels (as defined in chapter 21 of title 46, United States Code) to weigh fish, the North Pacific Council and the Secretary shall submit a plan to the Congress by January 1, 1998, to allow for weighing, including recommendations to assist such processors and processing vessels in acquiring necessary equipment, unless the Council determines that such weighing is not necessary to meet the requirements of this subsection.

''(i) FULL RETENTION AND UTILIZATION.—(1) The North Pacific Council shall submit to the Secretary by October 1, 1998 a report on the advisability of requiring the full retention by fishing vessels and full utilization by United States fish processors of economic discards in fisheries under its jurisdiction if such economic discards, or the mortality of such economic discards, cannot be avoided. The report shall address the projected impacts of such requirements on participants in the fishery and describe any full retention and full utilization requirements that have been implemented.

''(2) The report shall address the advisability of measures to minimize processing waste, including standards setting minimum percentages which must be processed for human consumption. For the purpose of the report, 'processing waste' means that portion of any fish which is processed and which could be used for human consumption or other commercial use, but which is not so used.''.

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

TITLE II—FISHERY MONITORING AND RESEARCH

SEC. 201. CHANGE OF TITLE.

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

''TITLE IV—FISHERY MONITORING AND RESEARCH''.

SEC. 202. REGISTRATION AND INFORMATION MANAGEMENT.

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

''SEC. 401. REGISTRATION AND INFORMATION MANAGEMENT.

''(a) STANDARDIZED FISHING VESSEL REGISTRATION AND INFORMATION MANAGEMENT SYSTEM.—The Secretary shall, in cooperation with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, develop recommendations for implementation of a standardized fishing vessel registration and information management system on a regional basis. The recommendations shall be developed after consultation with interested governmental and nongovernmental parties and shall—

''(1) be designed to standardize the requirements of vessel registration and information collection systems required by this Act, the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.), and any other marine resource law implemented by the Secretary, and, with the permission of a State, any marine resource law implemented by such State;

''(2) integrate information collection programs under existing fishery management plans into a non-duplicative information collection and management system;

''(3) avoid duplication of existing state, tribal, or federal systems and shall utilize, to the maximum extent practicable, information collected from existing systems;

''(4) provide for implementation of the system through cooperative agreements with appropriate State, regional, or tribal entities and Marine Fisheries Commissions;

''(5) provide for funding (subject to appropriations) to assist appropriate State, regional, or tribal entities and Marine Fisheries Commissions in implementation;

''(6) establish standardized units of measurement, nomenclature, and formats for the collection and submission of information;

''(7) minimize the paperwork required for vessels registered under the system;

''(8) include all species of fish within the geographic areas of authority of the Councils and all fishing vessels including charter fishing vessels, but excluding recreational fishing vessels;

''(9) require United States fish processors, and fish dealers and other first ex-vessel purchasers of fish that are subject to the proposed system, to submit information (other than economic information) which may be necessary to meet the goals of the proposed system; and

''(10) include procedures necessary to ensure—

''(A) the confidentiality of information collected under this section in accordance with section 402(b); and

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

''(b) FISHING VESSEL REGISTRATION.—The proposed registration system should, at a minimum, obtain the following information for each fishing vessel—

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

''(2) gross tonnage, vessel capacity, type and quantity of fishing gear, mode of operation (catcher, catcher processor, or other), and such other pertinent information with respect to vessel characteristics as the Secretary may require; and

''(3) identification (by species, gear type, geographic area of operations, and season) of the fisheries in which the fishing vessel participates.

''(c) FISHERY INFORMATION.—The proposed information management system should, at a minimum, provide basic fisheries performance information for each fishery, including—

''(1) the number of vessels participating in the fishery including charter fishing vessels;

''(2) the time period in which the fishery occurs;

''(3) the approximate geographic location or official reporting area where the fishery occurs;

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

''(5) other information required under subsection 303(a)(5) or requested by the Council under section 402 .

''(d) USE OF REGISTRATION.—Any registration recommended under this section shall not be considered a permit for the purposes of this Act, and the Secretary may not propose to revoke, suspend, deny, or impose any other conditions or restrictions on any such registration or the use of such registration under this Act.

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

''(1) a description of the arrangements of the Secretary for consultation and cooperation with the department in which the Coast Guard is operating, the States, the Councils, Marine Fisheries Commissions, the fishing industry and other interested parties; and

''(2) any proposed regulations or legislation necessary to implement the proposal.

''(f) CONGRESSIONAL TRANSMITTAL.—Within 60 days after the end of the comment period and after consideration of comments received under subsection (e), the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a recommended proposal for implementation of a national fishing vessel registration system that includes—

''(1) any modifications made after comment and consultation;

''(2) a proposed implementation schedule, including a schedule for the proposed cooperative agreements required under subsection (a)(4); and

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

''(g) REPORT TO CONGRESS.—Within 15 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall report to Congress on the need to include recreational fishing vessels into a national fishing vessel registration and information collection system. In preparing its report, the Secretary shall cooperate with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, and consult with governmental and nongovernmental parties.''.

SEC. 203. INFORMATION COLLECTION.

Section 402 is amended to read as follows:

''SEC. 402. INFORMATION COLLECTION.

''(a) COUNCIL REQUESTS.—If a Council determines that additional information (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this subsection regarding a Council request shall be made within a reasonable period of time after receipt of that request.

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

''(A) to Federal employees and Council employees who are responsible for fishery management plan development and monitoring;

''(B) to State or Marine Fisheries Commission employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

''(C) when required by court order;

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

''(E) that observer information collected in fisheries under the authority of the North Pacific Council may be released to the public as specified in a fishery management plan or regulation for weekly summary bycatch information identified by vessel, and for haul-specific bycatch information without vessel identification; or

''(F) 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.

''(2) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (1)(E) .

''(c) RESTRICTION ON USE OF CERTAIN INFORMATION.—(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

''(2) The Secretary may not require the submission of a federal or State income tax return or statement as a prerequisite for issuance of a permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

''(d) CONTRACTING AUTHORITY.—Notwithstanding any other provision of law, the Secretary may provide a grant, contract, or other financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for the purpose of carrying out information collection or other programs if—

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

''(2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

''(e) RESOURCE ASSESSMENTS.—(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

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

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

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

''(C) may permit fish harvested during such survey to count towards a vessel's catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel's participation in a fishery that counted under the plan for purposes of determining catch history.

''(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.''.

SEC. 204. OBSERVERS.

Section 403 is amended to read as follows:

''SEC. 403. OBSERVERS.

''(a) GUIDELINES FOR CARRYING OBSERVERS.—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—

''(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

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

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

''(1) establish programs to ensure that each observer receives adequate training in collecting and analyzing the information necessary for the conservation and management purposes of the fishery to which such observer is assigned;

''(2) require that an observer demonstrate competence in fisheries science and statistical analysis at a level sufficient to enable such person to fulfill the responsibilities of the position;

''(3) ensure that an observer has received adequate training in basic vessel safety; and

''(4) make use of university and any appropriate private nonprofit organization training facilities and resources, where possible, in carrying out this subsection.

''(c) OBSERVER STATUS.—An observer on a vessel and under contract to carry out responsibilities under this Act or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) shall be deemed to be a Federal employee for the purpose of compensation under the Federal Employee Compensation Act (5 U.S.C. 8101 et seq.).''.

SEC. 205. FISHERIES RESEARCH.

Section 404 is amended to read as follows:

''SEC. 404. FISHERIES RESEARCH.

''(a) IN GENERAL.—The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire

knowledge and information, including statistics, on fishery conservation and management and on the economics and social characteristics of the fisheries.

''(b) STRATEGIC PLAN.—Within one year after the date of enactment of the Sustainable Fisheries Act, and at least every 3 years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the five years immediately following such publication. The plan shall—

''(1) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in subsection (c);

''(2) indicate goals and timetables for the program described in paragraph (1);

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

''(4) provide for collection and dissemination, in a timely manner, of complete and accurate information concerning fishing activities, catch, effort, stock assessments, and other research conducted under this section; and

''(5) be developed in cooperation with the Councils and affected States, and provide for coordination with the Councils, affected States, and other research entities.

''(c) AREAS OF RESEARCH.—Areas of research are as follows:

''(1) Research to support fishery conservation and management, including but not limited to, biological research concerning the abundance and life history parameters of stocks of fish, the interdependence of fisheries or stocks of fish, the identification of essential fish habitat, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other factors affecting the abundance and availability of fish.

''(2) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize bycatch and any adverse effects on essential fish habitat and promote efficient harvest of target species.

''(3) Research on the fisheries, including the social, cultural, and economic relationships among fishing vessel owners, crew, United States fish processors, associated shoreside labor, seafood markets and fishing communities.

''(4) Information management research, including the development of a fishery information base and an information management system under section 401 that will permit the full use of information in the support of effective fishery conservation and management.

''(d) PUBLIC NOTICE.—In developing the plan required under subsection (a), the Secretary shall consult with relevant Federal, State, and international agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.''.

SEC. 206. INCIDENTAL HARVEST RESEARCH.

Section 405 is amended to read as follows:

''SEC. 405. INCIDENTAL HARVEST RESEARCH.

''(a) COLLECTION OF INFORMATION.—Within nine months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall, after consultation with the Gulf Council and South Atlantic Council, conclude the collection of information in the program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the authority of such Councils. Within the same time period, the Secretary shall make available to the public aggregated summaries of information collected prior to June 30, 1994 under such program.

''(b) IDENTIFICATION OF STOCK.—The program concluded pursuant to subsection (a) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

''(c) COLLECTION AND ASSESSMENT OF SPECIFIC STOCK INFORMATION.—For stocks of fish identified pursuant to subsection (b), with priority given to stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

''(1) a program to collect and evaluate information on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

''(2) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

''(3) a program of information collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

''(d) BYCATCH REDUCTION PROGRAM.—Not later than 12 months after the enactment of the Sustainable Fisheries Act, the Secretary shall, in cooperation with affected interests, and based upon the best scientific information available, complete a program to—

''(1) develop technological devices and other changes in fishing operations necessary and appropriate to minimize the incidental mortality of bycatch in the course of shrimp trawl activity to the extent practicable, taking into account the level of bycatch mortality in the fishery on November 28, 1990;

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

''(3) assess whether it is practicable to utilize bycatch which is not avoidable.

''(e) REPORT TO CONGRESS.—The Secretary shall, within one year of completing the programs required by this section, submit a detailed report on the results of such programs to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.

''(f) IMPLEMENTATION CRITERIA.—To the extent practicable, any conservation and management measure implemented under this Act to reduce the incidental mortality of bycatch in the course of shrimp trawl fishing shall be consistent with—

''(1) measures applicable to fishing throughout the range in United States waters of the bycatch species concerned; and

''(2) the need to avoid any serious adverse environmental impacts on such bycatch species or the ecology of the affected area.''.

SEC. 207. MISCELLANEOUS RESEARCH.

(a) FISHERIES SYSTEMS RESEARCH.—Section 406 (16 U.S.C. 1882) is amended to read as follows:

''SEC. 406. FISHERIES SYSTEMS RESEARCH.

''(a) ESTABLISHMENT OF PANEL.—Not later than 180 days after the date of enactment of the Sustainable Fisheries Act, the Secretary shall establish an advisory panel under this Act to develop recommendations to expand the application of ecosystem principles in fishery conservation and management activities.

''(b) PANEL MEMBERSHIP.—The advisory panel shall consist of not more than 20 individuals and include—

''(1) individuals with expertise in the structures, functions, and physical and biological characteristics of ecosystems; and

''(2) representatives from the Councils, States, fishing industry, conservation organizations, or others with expertise in the management of marine resources.

''(c) RECOMMENDATIONS.—Prior to selecting advisory panel members, the Secretary shall, with respect to panel members described in subsection (b)(1), solicit recommendations from the National Academy of Sciences.

''(d) REPORT.—Within 2 years after the date of enactment of this Act, the Secretary shall submit to the Congress a completed report of the panel established under this section, which shall include—

''(1) an analysis of the extent to which ecosystem principles are being applied in fishery conservation and management activities, including research activities;

''(2) proposed actions by the Secretary and by the Congress that should be undertaken to expand the application of ecosystem principles in fishery conservation and management; and

''(3) such other information as may be appropriate.

''(e) PROCEDURAL MATTER.—The advisory panel established under this section shall be deemed an advisory panel under section 302(g).''.

(b) GULF OF MEXICO RED SNAPPER RESEARCH.—Title IV of the Act (16 U.S.C. 1882) is amended by adding the following new section:

''SEC. 407. GULF OF MEXICO RED SNAPPER RESEARCH.

''(a) INDEPENDENT PEER REVIEW.—(1) Within 30 days of the date of enactment of the Sustainable Fisheries Act, the Secretary shall initiate an independent peer review to evaluate—

''(A) the accuracy and adequacy of fishery statistics used by the Secretary for the red snapper fishery in the Gulf of Mexico to account for all commercial, recreational, and charter fishing harvests and fishing effort on the stock;

''(B) the appropriateness of the scientific methods, information, and models used by the Secretary to assess the status and trends of the Gulf of Mexico red snapper stock and as the basis for the fishery management plan for the Gulf of Mexico red snapper fishery;

''(C) the appropriateness and adequacy of the management measures in the fishery management plan for red snapper in the Gulf of Mexico for conserving and managing the red snapper fishery under this Act; and

''(D) the costs and benefits of all reasonable alternatives to an individual fishing quota program for the red snapper fishery in the Gulf of Mexico.

''(2) The Secretary shall ensure that commercial, recreational, and charter fishermen in the red snapper fishery in the Gulf of Mexico are provided an opportunity to—

''(A) participate in the peer review under this subsection; and

''(B) provide information to the Secretary concerning the review of fishery statistics under this subsection without being subject to penalty under this Act or other applicable law for any past violation of a requirement to report such information to the Secretary.

''(3) The Secretary shall submit a detailed written report on the findings of the peer review conducted under this subsection to the

Gulf Council no later than one year after the date of enactment of the Sustainable Fisheries Act.

''(b) PROHIBITION.—In addition to the restrictions under section 303(d)(1)(A), the Gulf Council may not, prior to October 1, 2000, undertake or continue the preparation of any fishery management plan, plan amendment or regulation under this Act for the Gulf of Mexico commercial red snapper fishery that creates an individual fishing quota program or that authorizes the consolidation of licenses, permits, or endorsements that result in different trip limits for vessels in the same class.

''(c) REFERENDUM.—

''(1) On or after October 1, 2000, the Gulf Council may prepare and submit a fishery management plan, plan amendment, or regulation for the Gulf of Mexico commercial red snapper fishery that creates an individual fishing quota program or that authorizes the consolidation of licenses, permits, or endorsements that result in different trip limits for vessels in the same class, only if the preparation of such plan, amendment, or regulation is approved in a referendum conducted under paragraph (2) and only if the submission to the Secretary of such plan, amendment, or regulation is approved in a subsequent referendum conducted under paragraph (2).

''(2) The Secretary, at the request of the Gulf Council, shall conduct referendums under this subsection. Only a person who held an annual vessel permit with a red snapper endorsement for such permit on September 1, 1996 (or any person to whom such permit with such endorsement was transferred after such date) and vessel captains who harvested red snapper in a commercial fishery using such endorsement in each red snapper fishing season occurring between January 1, 1993, and such date may vote in a referendum under this subsection. The referendum shall be decided by a majority of the votes cast. The Secretary shall develop a formula to weight votes based on the proportional harvest under each such permit and endorsement and by each such captain in the fishery between January 1, 1993, and September 1, 1996. Prior to each referendum, the Secretary, in consultation with the Council, shall—

''(A) identify and notify all such persons holding permits with red snapper endorsements and all such vessel captains; and

''(B) make available to all such persons and vessel captains information about the schedule, procedures, and eligibility requirements for the referendum and the proposed individual fishing quota program.

''(d) CATCH LIMITS.—Any fishery management plan, plan amendment, or regulation submitted by the Gulf Council for the red snapper fishery after the date of enactment of the Sustainable Fisheries Act shall contain conservation and management measures that—

''(1) establish separate quotas for recreational fishing (which, for the purposes of this subsection shall include charter fishing) and commercial fishing that, when reached, result in a prohibition on the retention of fish caught during recreational fishing and commercial fishing, respectively, for the remainder of the fishing year; and

''(2) ensure that such quotas reflect allocations among such sectors and do not reflect any harvests in excess of such allocations.''.

SEC. 208. STUDY OF CONTRIBUTION OF BYCATCH TO CHARITABLE ORGANIZATIONS.

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

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

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

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

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

(c) BYCATCH DEFINED.—In this section the term ''bycatch'' has the meaning given that term in section 3 of the Magnuson Fishery Conservation and Management Act, as amended by section 102 of this Act.

SEC. 209. STUDY OF IDENTIFICATION METHODS FOR HARVEST STOCKS.

(a) IN GENERAL.—The Secretary of Commerce shall conduct a study to determine the best possible method of identifying various Atlantic and Pacific salmon and steelhead stocks in the ocean at time of harvest. The study shall include an assessment of—

(1) coded wire tags;

(2) fin clipping; and

(3) other identification methods.

(b) REPORT.—The Secretary shall report the results of the study, together with any recommendations for legislation deemed necessary based on the study, within 6 months after the date of enactment of this Act to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 210. REVIEW OF NORTHEAST FISHERY STOCK ASSESSMENTS.

The National Academy of Sciences, in consultation with regionally recognized fishery experts, shall conduct a peer review of Canadian and United States stock assessments, information collection methodologies, biological assumptions and projections, and other relevant scientific information used as the basis for conservation and management in the Northeast multispecies fishery. The National Academy of Sciences shall submit the results of such review to the Congress and the Secretary of Commerce no later than March 1, 1997.

SEC. 211. CLERICAL AMENDMENTS.

The table of contents is amended by striking the matter relating to title IV and inserting the following:

''Sec. 312. Transition to sustainable fisheries.
''Sec. 313. North Pacific fisheries conservation.
''Sec. 314. Northwest Atlantic Ocean fisheries reinvestment program.
''TITLE IV—FISHERY MONITORING AND RESEARCH
''Sec. 401. Registration and information management.
''Sec. 402. Information collection.
''Sec. 403. Observers.
''Sec. 404. Fisheries research.
''Sec. 405. Incidental harvest research.
''Sec. 406. Fisheries systems research.
''Sec. 407. Gulf of Mexico red snapper research.''.

TITLE III—FISHERIES FINANCING

SEC. 301. SHORT TITLE.

This title may be cited as the ''Fisheries Financing Act''.

SEC. 302. INDIVIDUAL FISHING QUOTA LOANS.

(a) AMENDMENT OF MERCHANT MARINE ACT, 1936.—Section 1104A of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274) is amended—

(1) by striking ''or'' at the end of subsection (a)(5);

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

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

''(7) financing or refinancing, including, but not limited to, 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 Fishery Conservation and Management Act (16 U.S.C. 1853(d)(4)).''; and

(4) by striking ''paragraph (6)'' in the last sentence of subsection (a) and inserting ''paragraphs (6) and (7)''; and

(5) by striking ''equal to'' in the third proviso of subsection (b)(2) and inserting ''not to exceed''.

(b) PROHIBITION.—Until October 1, 2001, no new loans may be guaranteed by the Federal Government for the construction of new fishing vessels if the construction will result in an increased harvesting capacity within the United States exclusive economic zone.

SEC. 303. FISHERIES FINANCING AND CAPACITY REDUCTION.

(a) CAPACITY REDUCTION AND FINANCING AUTHORITY.—Title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), is amended by adding at the end the following new sections:

''Sec. 1111. (a) The Secretary is authorized to guarantee the repayment of debt obligations issued by entities under this section. Debt obligations to be guaranteed may be issued by any entity that has been approved by the Secretary and has agreed with the Secretary to such conditions as the Secretary deems necessary for this section to achieve the objective of the program and to protect the interest of the United States.

''(b) Any debt obligation guaranteed under this section shall—

''(1) be treated in the same manner and to the same extent as other obligations guaranteed under this title, except with respect to provisions of this title that by their nature cannot be applied to obligations guaranteed under this section;

''(2) have the fishing fees established under the program paid into a separate subaccount of the fishing capacity reduction fund established under this section;

''(3) not exceed $100,000,000 in an unpaid principal amount outstanding at any one time for a program;

''(4) have such maturity (not to exceed 20 years), take such form, and contain such conditions as the Secretary determines necessary for the program to which they relate;

''(5) have as the exclusive source of repayment (subject to the proviso in subsection (c)(2)) and as the exclusive payment security, the fishing fees established under the program; and

''(6) at the discretion of the Secretary be issued in the public market or sold to the Federal Financing Bank.

''(c)(1) There is established in the Treasury of the United States a separate account which shall be known as the fishing capacity reduction fund (referred to in this section as the 'fund'). Within the fund, at least one subaccount shall be established for each program into which shall be paid all fishing fees established under the program and other amounts authorized for the program.

''(2) Amounts in the fund shall be available, without appropriation or fiscal year limitation, to the Secretary to pay the cost of the program, including payments to financial institutions to pay debt obligations incurred by entities under this section; provided that funds available for this purpose from other amounts available for the program may also be used to pay such debt obligations.

''(3) Sums in the fund that are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of the United States.

''(d) The Secretary is authorized and directed to issue such regulations as the Secretary deems necessary to carry out this section.

''(e) For the purposes of this section, the term 'program' means a fishing capacity reduction program established under section 312 of the Magnuson Fishery Conservation and Management Act.

''SEC. 1112. (a) Notwithstanding any other provision of this title, all obligations involving any fishing vessel, fishery facility, aquaculture facility, individual fishing quota, or fishing capacity reduction program issued under this title after the date of enactment of the Sustainable Fisheries Act shall be direct loan obligations, for which the Secretary shall be the obligee, rather than obligations issued to obligees other than the Secretary and guaranteed by the Secretary. All direct loan obligations under this section shall be treated in the same manner and to the same extent as obligations guaranteed under this title except with respect to provisions of this title which by their nature can only be applied to obligations guaranteed under this title.

''(b) Notwithstanding any other provisions of this title, the annual rate of interest which obligors shall pay on direct loan obligations under this section shall be fixed at two percent of the principal amount of such obligations outstanding plus such additional percent as the Secretary shall be obligated to pay as the interest cost of borrowing from the United States Treasury the funds with which to make such direct loans.''.

TITLE IV—MARINE FISHERY STATUTE REAUTHORIZATIONS

SEC. 401. MARINE FISH PROGRAM AUTHORIZATION OF APPROPRIATIONS.

(a) FISHERIES INFORMATION COLLECTION AND ANALYSIS.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out fisheries information and analysis activities under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, $51,800,000 for fiscal year 1997, and $52,345,000 for each of the fiscal years 1998, 1999, and 2000. Such activities may include, but are not limited to, the collection, analysis, and dissemination of scientific information necessary for the management of living marine resources and associated marine habitat.

(b) FISHERIES CONSERVATION AND MANAGEMENT OPERATIONS.— There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out activities relating to fisheries conservation and management operations under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, $29,028,000 for fiscal year 1997, and $29,899,000 for each of the fiscal years 1998, 1999, and 2000. Such activities may include, but are not limited to, development, implementation, and enforcement of conservation and management measures to achieve continued optimum use of living marine resources, hatchery operations, habitat conservation, and protected species management.

(c) FISHERIES STATE AND INDUSTRY COOPERATIVE PROGRAMS.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out State and industry cooperative programs under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, $27,932,000 for fiscal year 1997, and $28,226,000 for each of the fiscal years 1998, 1999, and 2000. These activities include, but are not limited to, ensuring the quality and safety of seafood products and providing grants to States for improving the management of interstate fisheries.

(d) AUTHORIZATION OF APPROPRIATIONS FOR CHESAPEAKE BAY OFFICE.—Section 2(e) of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended—

(1) by striking ''1992 and 1993'' and inserting ''1997 and 1998'';

(2) by striking ''establish'' and inserting ''operate'';

(3) by striking ''306'' and inserting ''307''; and

(4) by striking ''1991'' and inserting ''1992''.

(e) RELATION TO OTHER LAWS.—Authorizations under this section shall be in addition to monies authorized under the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 3301 et seq.), the Anadromous Fish Conservation Act (16 U.S.C. 757 et seq.), and the Interjurisdictional Fisheries Act (16 U.S.C. 4107 et seq.).

(f) NEW ENGLAND HEALTH PLAN.—The Secretary of Commerce is authorized to provide up to $2,000,000 from previously appropriated funds to Caritas Christi for the implementation of a health care plan for fishermen in New England if Caritas Christi submits such plan to the Secretary no later than January 1, 1997, and the Secretary, in consultation with the Secretary of Health and Human Services, approves such plan.

SEC. 402. INTERJURISDICTIONAL FISHERIES ACT AMENDMENTS.

(a) REAUTHORIZATION.—Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) by amending subsection (a) to read as follows:

''(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title—

''(1) $3,400,000 for fiscal year 1996;

''(2) $3,900,000 for fiscal year 1997;

''(3) $4,400,000 for each of the fiscal years 1998, 1999, and 2000.'';

(2) by striking ''$350,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993, and $600,000 for each of the fiscal years 1994 and 1995,'' in subsection (c) and inserting ''$700,000 for fiscal year 1997, and $750,000 for each of the fiscal years 1998, 1999, and 2000,''.

(b) NEW ENGLAND REPORT.—Section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)) is amended by adding at the end the following new paragraph:

''(7) With respect to funds available for the New England region, the Secretary shall submit to the Congress by January 1, 1997, with annual updates thereafter as appropriate, a report on the New England fishing capacity reduction initiative which provides:

''(A) the total number of Northeast multispecies permits in each permit category and calculates the maximum potential fishing capacity of vessels holding such permits based on the principal gear, gross registered tonnage, engine horsepower, length, age, and other relevant characteristics;

''(B) the total number of days at sea available to the permitted Northeast multispecies fishing fleet and the total days at sea weighted by the maximum potential fishing capacity of the fleet;

''(C) an analysis of the extent to which the weighted days at sea are used by the active participants in the fishery and of the reduction in such days as a result of the fishing capacity reduction program; and

''(D) an estimate of conservation benefits (such as reduction in fishing mortality) directly attributable to the fishing capacity reduction program.''.

SEC. 403. ANADROMOUS FISHERIES AMENDMENTS.

Section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d) is amended to read as follows:

''SEC. 4. (a)(1) There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

''(A) $4,000,000 for fiscal year 1997; and

''(B) $4,250,000 for each of fiscal years 1998, 1999, and 2000.

''(2) Sums appropriated under this subsection are authorized to remain available until expended.

''(b) Not more than $625,000 of the funds appropriated under this section in any one fiscal year shall be obligated in any one State.''.

SEC. 404. ATLANTIC COASTAL FISHERIES AMENDMENTS.

(a) DEFINITION.—Paragraph (1) of section 803 of the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5102) is amended—

(1) by inserting ''and'' after the semicolon in subparagraph (A);

(2) by striking ''States; and'' in subparagraph (B) and inserting ''States.''; and

(3) by striking subparagraph (C).

(b) IMPLEMENTATION STANDARD FOR FEDERAL REGULATION.—Subparagraph (A) of section 804(b)(1) of such Act (16 U.S.C. 5103(b)(1)) is amended by striking ''necessary to support'' and inserting ''compatible with''.

(c) AMERICAN LOBSTER MANAGEMENT.—Section 809 (16 U.S.C. 5108) and section 810 of such Act are redesignated as sections 811 and 812, respectively, and the following new sections are inserted at the end of section 808:

''SEC. 809. STATE PERMITS VALID IN CERTAIN WATERS.

''(a) PERMITS.—Notwithstanding any provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 et seq.), or any requirement of a fishery management plan or coastal fishery management plan to the contrary, a person holding a valid license issued by the State of Maine which lawfully permits that person to engage in commercial fishing for American lobster may, with the approval of the State of Maine, engage in commercial fishing for American Lobster in the following areas designated as federal waters, if such fishing is conducted in such waters in accordance with all other applicable federal and state regulations:

''(1) west of Monhegan Island in the area located north of the line 43° 42′ 08″ N, 69° 34′ 18″ W and 43° 42′ 15″ N, 69° 19′ 18″ W;

''(2) east of Monhegan Island in the area located west of the line 43° 44′ 00″ N, 69° 15′ 05″ W and 43° 48′ 10″ N, 69° 08′ 01″ W;

''(3) south of Vinalhaven in the area located west of the line 43° 52′ 21″ N, 68° 39′ 54″ W and 43° 48′ 10″ N, 69° 08′ 01″ W; and

''(4) south of Bois Bubert Island in the area located north of the line 44° 19′ 15″ N, 67° 49′ 30″ W and 44° 23′ 45″ N, 67° 40′ 33″ W.

''(b) ENFORCEMENT.—The exemption from federal fishery permitting requirements granted by subsection (a) may be revoked or suspended by the Secretary in accordance with section 308(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858(g)) for violations of such Act or this Act.

''SEC. 810. TRANSITION TO MANAGEMENT OF AMERICAN LOBSTER FISHERY BY COMMISSION.

''(a) TEMPORARY LIMITS.—Notwithstanding any other provision of this Act or of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), if no regulations have been issued under section

804(b) of this Act by December 31, 1997, to implement a coastal fishery management plan for American lobster, then the Secretary shall issue interim regulations before March 1, 1998, that will prohibit any vessel that takes lobsters in the exclusive economic zone by a method other than pots or traps from landing lobsters (or any parts thereof) at any location within the United States in excess of—

''(1) 100 lobsters (or parts thereof) for each fishing trip of 24 hours or less duration (up to a maximum of 500 lobsters, or parts thereof, during any 5-day period); or

''(2) 500 lobsters (or parts thereof) for a fishing trip of 5 days or longer.

''(b) SECRETARY TO MONITOR LANDINGS.—Before January 1, 1998, the Secretary shall monitor, on a timely basis, landings of American lobster, and, if the Secretary determines that catches from vessels that take lobsters in the exclusive economic zone by a method other than pots or traps have increased significantly, then the Secretary may, consistent with the national standards in section 301 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801), and after opportunity for public comment and consultation with the Atlantic States Marine Fisheries Commission, implement regulations under section 804(b) of this Act that are necessary for the conservation of American lobster.

''(c) REGULATIONS TO REMAIN IN EFFECT UNTIL PLAN IMPLEMENTED.—Regulations issued under subsection (a) or (b) shall remain in effect until the Secretary implements regulations under section 804(b) of this Act to implement a coastal fishery management plan for American lobster.''.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 810 of such Act, as amended by this Act, is amended further by striking ''1996.'' and inserting ''1996, and $7,000,000 for each of the fiscal years 1997, 1998, 1999, and 2000.''.

SEC. 405. TECHNICAL AMENDMENTS TO MARITIME BOUNDARY AGREEMENT.

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

(b) CONFORMING AMENDMENTS.—

(1) Section 301(h)(2)(A) of the FGB Act is repealed.

(2) Section 304 of the FGB Act is repealed.

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

''(15) The term 'waters under the jurisdiction of the United States' means—

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

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

''(C) the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured, except that this subparagraph shall not apply before the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.''.

SEC. 406. AMENDMENTS TO THE FISHERIES ACT.

Section 309(b) of the Fisheries Act of 1995 (Public Law 104-43) is amended by striking ''July 1, 1996'' and inserting ''July 1, 1997''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska [Mr. YOUNG] and the gentleman from Massachusetts [Mr. STUDDS] each will control 20 minutes.

The Chair recognizes the gentleman from Alaska [Mr. YOUNG].

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of House passage of S. 39, the Sustainable Fisheries Act.

This legislation reauthorizes the Magnuson Fishery Conservation and Management Act of 1976 through fiscal year 1999. Mr. Speaker, as I am sure you are aware, the Magnuson Act was enacted in 1976 in direct response to the depletion of U.S. fishery resources by foreign vessels. The Magnuson Act expanded U.S. jurisdiction over fishery resources to 200 miles. The act also included provisions intended to encourage the development of a domestic fishing industry.

The Magnuson Act created eight regional fishery management councils to manage the fishery resources within their geographic area. This means the councils were charged with determining the appropriate level of harvest to maximize the benefit to the Nation, while still protecting the long-term sustainability of the stocks.

These councils are in the difficult position of balancing the often competing interests of commercial and recreational fishermen, and the often competing gear groups within the commercial industry.

It is important to note that this legislation maintains and supports the current regional fishery management councils system. This legislation does include some reforms of the council process and requires new disclosure rules to deal with the perception of conflict of interest on the councils.

Mr. Speaker, the House passed H.R. 39, the Fishery Conservation and Management Amendments of 1995, on October 18, 1995, by a vote of 388 to 37. I appreciate all of the hard work that members of the Resources Committee put into H.R. 39, and I especially appreciate the bipartisan nature of the entire process. I want to thank Mr. MILLER, the ranking member of the full committee, Mr. STUDDS, the ranking subcommittee member, and Mr. SAXTON, the subcommittee chairman for their dedication to creating a very good bill.

Mr. Speaker, while S. 39 is similar to H.R. 39, in my opinion the House-passed bill is a much stronger bill. However, in the waning days of this Congress, we are in a position of accepting a weaker bill or accomplishing nothing for fisheries conservation and management.

As Members are aware, the other body was negotiating the package until S. 39 was actually taken up on the Senate Floor. Because of the constant negotiations, the authors of the bill in the other body may have left a number of provisions unclear. I want to take this opportunity to clarify in legislative history the intent of several provisions in the bill. I have attached these clarifications to my statement.

Mr. Speaker, while I would prefer having more time to conference with the Senate on a number of provisions in this legislation, this appears to be the best deal we can get under the circumstances. Having said that, I would like to highlight a number of the major themes of H.R. 39 also contained in S. 39, including: Provisions for the reduction of bycatch; for the identification and prevention of overfishing; for the protection of habitat necessary for the continued reproduction and long-term health of important commercial and recreational fisheries; and buyout provisions to reduce the harvesting capacity in overfished fisheries.

Mr. Speaker, this legislation does a number of important things to better fisheries management in the Federal Exclusive Economic Zone [EEZ].

First, the bill recognizes that bycatch is one of the most pressing problems facing the continuation of sustainable fisheries, and one of the most crucial challenges facing fisheries managers today. In 1993, in the North Pacific alone, more than 740 million pounds of fish were discarded. This is clearly unacceptable.

This legislation creates a new national standard that requires all fishery management plans and regulations to include conservation and management measures to minimize bycatch to the extent practicable. In the event that bycatch cannot be avoided, plans and regulations should include efforts to minimize the mortality of bycatch to the extent practicable. While these provisions are not as strong as those in the House-passed bill, this is still a major step forward.

The legislation also creates a new system for the identification and prevention of overfished fisheries. It is crucial that the management agencies within the Federal Government be proactive in protecting fisheries rather than attempting to address overfished stocks after they are in a crisis situation. This legislation requires that the Secretary report annually on the status of fisheries and identify any fisheries which are over fished or approaching an overfished condition. The Regional Councils are then required to take steps to address any overfished fishery and include measures for rebuilding the overfished stocks.

Mr. Speaker, these are just a few of the main provisions of S. 39 which will

help to maintain a viable fishing industry through sustainable fishing measures. While not as strong as H.R. 39, this bill is a step in the right direction for sound fishery conservation and management.

Mr. Speaker, I have been approached by a number of Members who support passage of this legislation, but share my concern about specific provisions which may need to be modified next year. Despite the number of misgivings I have about this bill, in my opinion, this bill is better than the alternative—no bill at all. A number of Members of the other body have threatened to kill this bill if the House makes any changes. I regret that they have taken that position and regret that the House is in a position of having to accept a bill which is not as good as the House-passed bill.

Mr. Speaker, while I support passage of this legislation and urge all Members to do so, I also realize there may be some problems with the legislation which will need to be addressed in the next Congress. I am committed to working with Members next year to address outstanding concerns.

If we had a few weeks or months left in this Congress, I would urge all Members to join me in sending the Senate a better bill than the one they have sent us. Unfortunately, we do not have that luxury.

While most of the affected industry groups and the environmental community would like to see some minor modifications to this bill, a reluctant groundswell has urged the House to accept this legislation rather than lose all that we have worked so hard for.

I urge all Members to support passage of S. 39 and send this important piece fishery management and conservation legislation to the President for his signature.

Mr. Speaker, in their efforts to achieve consensus on S. 39, the authors of the bill in the other body accidentally left unclear some of the provisions in the bill. In order to avoid confusion on the part of those affected by these provisions—including the National Marine Fisheries Service, the regional councils, and the seafood industry—I will take this opportunity to clarify in legislative history the intent of these parts of the bill.

Section 105(d) of S. 39 amends section 204 of the act in a manner similar to the House-passed bill by allowing permits to be issued for transshipment of fish. The Senate added a requirement that permit applications be forwarded to affected States and that the Secretary consult with the appropriate Marine Fisheries Commission. Since the Marine Fisheries Commissions are composed of individual States, it is obvious that the consultation requirement was meant to extend to any individual affected State that received a copy of the permit. Although this is inferred, rather than written directly, it is the intent of this provision that States, as well as commissions and councils, be consulted.

Section 106 of S. 39 establishes a new national standard regarding bycatch which is similar to the new national standard established in the House-passed bill. The application of this new standard is expanded in section 108(a)(7) of S. 39, which describes new required provisions for fishery management plans. Both the standard and the required provision make clear that bycatch be avoided where practicable, and the mortality of unavoidable bycatch be minimized where practicable. The use of the term ''to the extent practicable'' was chosen deliberately by both the Senate and the House. Both bodies recognize that bycatch can occur in any fishery, and that complete avoidance of mortality is impossible. Councils should make reasonable efforts in their management plans to prevent bycatch and minimize its mortality. However, it is not the intent of the Congress that the councils ban a type of fishing gear or a type of fishing in order to comply with this standard. ''Practicable'' requires an analysis of the cost of imposing a management action; the Congress does not intend that this provision will be used to allocate among fishing gear groups, nor to impose costs on fishermen and processors that cannot be reasonably met.

Section 107 of S. 39 adds an additional seat on the Pacific Fishery Management Council that is to be filled by a member of an Indian tribe with Federally recognized fishing rights. The Senate neglected to define this term, believing that its meaning is obvious. Unfortunately, a recent court ruling in U.S. District Court in the Western District of Washington regarding a subproceeding of United States versus Washington, which is under appeal, has clouded the previously clear meaning of this term as upheld by the Supreme Court. In order to avoid confusion in the definition of a term that has been clear for nearly 20 years, I want to make clear that is the intent of the Congress that the term ''Federally recognized fishing rights'' as used in regard to the Magnuson Fishery Conservation and Management Act, means a treaty fishing right that has been finally approved by the courts under the process defined in section 19(g) of the final court order under United States versus Washington, and the approval is not subject to further appeal.

Section 107(h) of S. 39 amends section 302(l) of the Magnuson Fishery Conservation and Management Act by providing additional procedures for the operation of Regional Fishery Management Councils. Specifically, it requires individuals testifying before, or providing information to, a Council to disclose their background and interest in the matter at hand. This provision was included in the House passed bill. The Senate added an additional sentence to make sure that valid data is provided to the councils. Unfortunately, this sentence could be interpreted as precluding a fisherman, processor, or member of the public from providing information based on their own experiences. Clearly, this was not the intent of the authors of the bill. The council system was established specifically to allow public input into the fisheries management process. It is clearly the intent of the Congress that this provision is not meant to require a fisherman, processor, or member of the public to fully document every statement made in a letter to a council by providing fish tickets, landing receipts, processing records, or similar information.

Section 109(3)(6) of S. 39 amends section 304(c)(3) of the Magnuson Fishery Conservation and Management Act regarding the authority of the Secretary to propose a limited entry system under a fishery management plan or amendment prepared by the Secretary. The amendment is purely technical in nature and is not intended to modify the requirement that the Secretary obtain approval of a council before a limited entry system is put in place. In other words, the Secretary has no authority to prepare a plan for a fishery managed by a State or a Marine Fishery Commission and include a limited entry system in the plan without obtaining approval of the council within whose area of jurisdiction that fishery exists.

Section 109(e) of S. 39 includes new provisions regarding overfishing and rebuilding overfished stocks that are essentially the same as those included in the House passed bill. Both the House and the Senate noted that exceptions could be made to the time required for rebuilding. While the House was more specific in its list of exceptions, the Senate incorporated all of the House exceptions under the phrase ''other environmental conditions.'' It is the intent of this section that the phrase ''other environmental conditions'' includes factors beyond the control of the rebuilding program.

The rebuilding provisions of section 109(e) also require the Secretary to prepare a plan or plan amendment if the council takes no action within 1 year. The Senate language as drafted is unclear on the time frame for Secretarial action. The intent of the Senate provision is that the Secretary take action within 9 months of the end of the period provided for council action.

Section 110(d) of S. 39 amends section 305 of the Magnuson Fishery Conservation and Management Act by adding a new subsection (h) providing for a limited entry permit lien registry system. While establishment of the lien registry system by the Secretary is mandatory, participation in the system by limited access permit holders is not. It is the intent of the Congress that any permit holder registering a permit with the system comply with the requirements of this section, including paying any applicable fees. However, it is not the intent of the Congress that all permit holders register with the system; this is a discretionary action that each permit holder must decide to take after weighing the costs and benefits of participating in the system.

Section 111(a) of S. 39 amends section 305 of the Magnuson Act by adding a new subsection to require the North Pacific Fishery Management Council and the Secretary of Commerce to consolidate the western Alaska community development quota programs that the council and the Secretary presently are implementing. Of co-equal importance, subsection (i)(1)(A) also requires the council and the Secretary to allocate to the single program a percentage of the total allowable catch—and with respect to crab fisheries a percentage of the guideline harvest level—of each Bering Sea fishery.

I am pleased that in drafting subsection 305(i)(1)(A) and (B) the Senate incorporated the text of paragraphs (1) and (2) of the amendment to section 313 of the Magnuson Act that is contained in section 14 of H.R. 39.

In that regard, when the western Alaska community development quota program was considered by the Resources Committee, I and other members of the committee gave serious consideration to including a provision which would have mandated the North Pacific

Fishery Management Council and the Secretary to annually allocate specific percentages of the total allowable catches and guideline harvest levels of each Bering Sea fishery to the western Alaska community development quota program, so that the percentages allocated are large enough to enable participating communities and organizations to accomplish the economic, social, developmental, and other objectives that implementation of the program is intended to achieve.

However, we did not do so. Instead, H.R. 39 assigned the council and the Secretary the important task of deciding the percentage of the total allowable catch and guideline harvest level of each Bering Sea fishery that should be allocated to the western Alaska community development quota program. However, in recommending section 14 of H.R. 39 to the House, it was the intent of the Resources Committee—and by accepting the text of that portion of H.R. 39 it is the intent of the Senate—that, with respect to each Bering Sea fishery, the percentage allocated by the council and the Secretary shall be large enough to enable communities participating in the program to accomplish the program's objectives, and particularly the objective of establishing a sustainable local economy in each participating community.

It is of particular importance to note that the North Pacific Fishery Management Council previously has allocated a least 7.5 percent of the total allowable catches and guideline harvest levels of Bering Sea pollock, sablefish, other groundfish species, halibut, and all crab species to the three community development quota programs.

It is important to note the reason the House and Senate versions of the Sustainable Fisheries Act both mandate the establishment and implementation of the western Alaska community development quota program. In 1976 Congress, speaking through section 301(a)(4)(A) of the Magnuson Act, established as the policy of the Nation the regulatory principle that fishery management councils and the Secretary shall allocate commercial fishing privileges in the exclusive economic zone among U.S. fishermen in a manner that is fair and equitable to all such fishermen.

Unfortunately, throughout the 1980's the North Pacific Fishery Management Council and the Secretary's regulation of commercial fishing in the Alaska portion of the EEZ did not allocate fishing privileges in a manner that was fair and equitable to the Eskimo and Aleut fishermen who live in 55 Native villages located from the northern coast of the Aleutian Islands north along the coast of western Alaska to the Seward Peninsula, as well as on the Pribilof Islands. To alleviate that regulatory omission, in 1991 the North Pacific Fishery Management Council established a western Alaska community development quota program for pullock, after which it established a second program for halibut and sablefish, and in June 1995 recommended to the Secretary the establishment of a third program for all other Bering Sea groundfish species, as well as all Bering Sea crab species.

When S. 39 was debated on the Senate floor Senator Inouye, the former chairman of the Committee on Indian Affairs and one of the Nation's steadfast champions of Alaska Native and other Native American rights, explained to the Senate the history of the western Alaska community development quota program and the important objectives the Senate intends implementation of the program to achieve. I would like to associate myself with the remarks of Senator INOUYE. I also would like to associate myself with the remarks of Senator TED STEVENS, Alaska's senior Senator and the sponsor both of S. 39 and of the amendment in the nature of a substitute that the Senate adopted. As Senator STEVENS rightly reminded the Senate, the intended beneficiaries of the western Alaska community development quota program are Native Americans for whose economic and social well-being Congress, the Secretary of Commerce has a well-recognized fiduciary responsibility. As Senator STEVENS explained:

> The community development quotas are based in part on the authority of Congress to regulate the commerce of the Indian tribes. The communities of the west coast of Alaska are predominately Alaska Native people. They were there and fishing a long time before anyone else came on the fishing scene. As a matter of fact, there were no factory trawlers off Alaska from the State of Washington until about 9 years ago. . . . We are allocating a portion of the fisheries to the communities involved that are historic Native communities along our coast.

In addition to directing the House's attention to the history and policy objectives of the western Alaska community development quota programs that the enactment of S. 39 will consolidate, I also would like to explain the manner in which the new subsection 305(i)(1) is intended to affect the North Pacific Fishery Management Council and the Secretary of Commerce's implementation of the program.

Subsection (i)(1)(C) prohibits the North Pacific Fishery Management Council between the date of enactment of the Sustainable Fisheries Act and October 1, 2001, submitting to the Secretary a fishery management plan for a Bering Sea fishery, or an amendment to a fishery management plan for a Bering Sea fishery, or a regulation whose promulgation will implement a plan or an amendment if the Secretary's approval of the plan or plan amendment or promulgation of the regulation will allocate a percentage of the total allowable catch or guideline harvest level of a Bering Sea fishery to the western Alaska community development quota program. However, the aforementioned prohibition does not apply to the submission of a plan or plan amendment or regulation whose approval or promulgation will allocate a percentage of the total allowable catch or guideline harvest level of a Bering Sea fishery for which prior to October 1, 1995 the Council approved the allocation of a percentage of the catch or guideline harvest level to a western Alaska community development quota program. Bering Sea fisheries not subject to the aforementioned prohibition include the pollock, halibut, sablefish, crab, and other groundfish fisheries.

It also is the intent of subsection (i)(1)(C) that the expiration in 1998 of the amendment to the Bering Sea and Aleutian Islands Area groundfish fishery management plan that made the initial allocation of pollock to a western Alaska community development quota program not subject pollock to the prohibition on Council authority that subparagraph (C) imposes.

Subparagraph (C) also prohibits the Council from submitting and prohibits the Secretary from approving and implementing between the date of enactment of the Sustainable Fisheries Act and October 1, 2001, a fishery management plan or an amendment to a fishery management plan that allocates a percentage of the total allowable catch or guideline harvest level of a Bering Sea fishery to the western Alaska community development quota program that is greater than the percentage of the catch or guideline harvest level that the Council approved for allocation to a western Alaska community development quota program prior to October 1, 1995. For example, prior to October 1, 2001, no more than 7.5 percent of the total allowable catches and guideline harvest levels of Bering Sea pollock and of each Bering Sea crab species may be allocated to the program.

In June 1995 the North Pacific Management Council recommended to the Secretary that he approve and implement the allocation of 7.5 percent of the guideline harvest levels of each Bering Sea crab species and 7.5 percent of the total allowable catch of each Bering Sea groundfish species—other than pollock and sablefish—to a western Alaska community development quota program for those species. Rather than approving and implementing the immediate allocation of 7.5 percent for Bering Sea crab species, subsection (i)(1)(C)(iii) requires the Secretary to phase in his implementation of the Council's recommendation for crab species by in 1998 allocating to the western Alaska community development quota program 3.5 percent of the guideline harvest level of each crab species, by in 1999 allocating 5 percent of the guideline harvest level of each crab species to the program, and by in 2000 allocating 7.5 percent of the guideline harvest level of each crab species to the program, after which without further action by either the Council or the Secretary 7.5 percent of the guideline harvest level of each crab species will each year be allocated to the program unless in 2001, the Council submits and the Secretary approves and implements a percentage for a particular crab species that is less than 7.5 percent, or unless during a year subsequent to October 1, 2001, the Council submits and the Secretary approves and implements a percentage for a particular crab species that is a percentage that is either less than or more than 7.5 percent.

Finally, subsection (i)(1)(D) eliminates the necessity for the North Pacific Fishery Management Council and the Secretary to implement subsection (i)(1)(A) by the Council resubmitting or the Secretary reapproving a fishery management plan or an amendment to a plan that contains an allocation of the total allowable catch or guideline harvest level of a Bering Sea fishery to the western Alaska community development quota program, if the plan or amendment in which the allocation is contained was approved by the Council prior to October 1, 1995. For example, as a consequence of subparagraph (D), the Council is not required to resubmit to the Secretary the plan amendment it approved in June 1995 in order for the Secretary to implement the phase in of the percentage allocation of the guideline harvest level for Bering Sea crab species established by subparagraph (C)(iii). Similarly, in 1998 and during each year thereafter the Secretary shall continue to allocate 7.5 percent of the total allowable catch of Bering Sea pollock to the western Alaska community development quota program notwithstanding the expiration of the plan amendment in which the allocation initially was made, unless prior to October 1, 2001, the council submits and the Secretary approves and implements an amendment to the Bering Sea and Aleutian

Islands area groundfish fishery management plan that allocates a percentage that is less than 7.5 percent, or unless subsequent to October 1, 2001, the council submits and the Secretary approves and implements an amendment to such plan that allocates a percentage that is either less than or more than 7.5 percent.

The enactment of section 111(a) of S. 39 will provide the North Pacific Fishery Management Council and the Secretary of Commerce the statutory tools required to improve the efficiency of their implementation of the western Alaska community development quota program. And the enactment of section 111(a) will codify Congress strong support for the council and the Secretary's innovative effort to provide fishermen and other residents of Native villages on the coast of the Bering Sea a fair and equitable opportunity to participate in Bering Sea fisheries that prior to the creation of the western Alaska community development quota program was long overdue.

Section 112(d) of S. 39 provides interim authority for limited State management of the Dungeness crab fishery in the exclusive economic zone adjacent to the States of Washington, Oregon, and California. This authority is provided only to ensure conservation of the crab resource outside of State waters; it is not intended to provide allocation authority to the States, nor to have an allocative effect on vessels based on size or State of registry. This is underscored by the provisions of section 112(d)(3), that make clear that State limited entry programs cannot be enforced against vessels of another State when those vessels are operating in the exclusive economic zone.

Section 112(d)(2) also specifically limits the type of State authority allowed, providing the States only with authority that is generally agreed to now on a voluntary basis. This includes conservation-based rules on season opening and closing dates, minimum crab sizes, and requirements to release female crabs. This section also allows the State of Washington to impose area closures and limits on the number of pots that can be fished, but only if these are necessary to meet the requirements of a court-imposed mandate. It is not the intent that this gives the State of Washington authority to impose allocative regulations such as a ban on the practice of ''longlining'' pots—that is, fishing with pots that are connected to each other by a line. A ban on longlining would constitute an impermissible allocation regulation not required by the courts and is not allowed under the provisions of this section.

Finally, the Congress strongly encourages the Pacific Fishery Management Council to develop a fishery management plan for the Dungeness crab fishery, in order to avoid future allocation fights of this nature.

Section 113(c) establishes a new prohibited action that is punishable as a criminal offense. Again, the Senate language is vague on its face and requires clarification. The use of the adverb ''forcibly'' in the beginning of the new subparagraph added by this amendment should be construed to apply to all physical actions listed in the subparagraph, including assaulting, resisting, opposing, impeding, intimidating, sexually harassing, and interfering. Since forcible bribery cannot occur, the adverb is to be read as modifying only the other verbs in this subparagraph.

Section 116(a) of S. 39 establishes a mechanism for an industry-funded buyback program. Among other provisions, this section requires industry contributions—if required—to be deducted by the first ex-vessel fish purchaser. This requirement could impose an unwarranted burden on a seafood processor who stands to receive no benefit from a buyback program. The intent of the Congress is that a deduction system be designed that imposes no unnecessary paperwork or financial burden on the fish purchaser collecting the deductions.

Section 203 of S. 39 modifies existing data collection requirements and establishes a new data collection program. It should be noted that—as a new provision of law—this section takes precedence over prior enacted law. The Office of Management and Budget has from time to time imposed rules interpreting the Paperwork Reduction Act to apply to collection of social, economic, and scientific data under the Magnuson Fishery Conservation and Management Act. Notwithstanding the goals of the Paperwork Reduction Act, these interpretations have resulted in an increased burden for data collectors and data providers alike. It is clearly the intent of Congress that the data collection provisions enacted in this bill are not to be interpreted as requiring Paperwork Reduction Act review or agency approval under that Act.

□ 1045

Mr. SAXTON. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Speaker, I will ask the chairman of the committee to engage in a colloquy regarding the definition of the term ''recreational fishery'' in the Senate bill.

Mr. Speaker, the Senate bill appears to define recreational fishing, at least it appears to define it to some people, as fishing for sport or pleasure, but makes no mention of fishing for personal consumption.

My understanding of the definition is that it is not in any way intended to preclude a recreational angler from consuming the fish which he or she catches.

Mr. YOUNG of Alaska. Mr. Speaker, the gentleman from New Jersey [Mr. SAXTON], is right. He has brought this to my attention. The definition in no way denies the recreational fishermen the pleasure of eating their catch, as long as the fish was caught during the appropriate season and met any State or Federal regulations, including size restriction, and other appropriate landing laws.

My staff has contacted the National Marine Fisheries Service and their interpretation is the same as mine and the same as the gentleman's, that this definition does not preclude the recreational fisherman from consuming his or her catch if it meets the appropriate State and Federal rules.

Mr. SAXTON. Mr. Speaker, it is my intention to introduce legislation in the coming Congress to clarify that recreational fishing indeed does include harvesting fish for personal consumption.

I thank the chairman for his leadership, and I look forward to working to remedy this deficiency.

Mr. YOUNG of Alaska. Mr. Speaker, again I want to thank the gentleman from New Jersey [Mr. SAXTON].

It is funny how these things happen, if the gentleman will just bear with me. It was never the intent, we never thought it was interpreted that way, that the guy who catches the fish cannot eat them. That would not affect me because I do not catch a whole lot, but I would suggest respectfully that is not the intention.

Mr. SAXTON. Mr. Speaker, with that understanding, I rise in support of House passage of S. 39, the Sustainable Fisheries Act.

The House passed H.R. 39, the Fisheries Conservation and Management Amendments of 1995 by a vote of 388 to 37 almost a full year ago. We in the House worked in a bipartisan fashion to craft a strong conservation measure that was fair and equitable to all fishing sectors.

Mr. Speaker, the chairman of the committee, along with the gentleman from California [Mr. MILLER], and the gentleman from Massachusetts [Mr. STUDDS], and I know that fish do not respect the artificial boundaries imposed upon them, nor do they care which party is in power.

All fisheries measures are by definition bipartisan, which is one of the reasons it is such a pleasure to chair the Subcommittee on Fisheries, Wildlife and Oceans of the Committee on Resources. I thank each of my colleagues for taking into consideration the unique needs of the mid-Atlantic fishermen throughout the negotiations on H.R. 39.

It was a great bill, and I cannot pretend to be as pleased about the passage of S. 39 as I was our bill. I firmly believe the House bill was far stronger and more comprehensive and made far more sense than the bill we are currently passing. So I concur with Chairman YOUNG that it is necessary to accept the hastily assembled Senate bill, because a weaker bill that does provide some new fisheries and conservation and management guidance is better than nothing at all. However, I intend to work closely with the chairman in the coming Congress to fix the deficiencies in this bill.

Having said that, I request that all Members vote ''aye'' today.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise with mixed emotions to support the passage of this bill. The Magnuson Act was the first substantive piece of legislation I coauthored when I came to Congress in 1973, the same year the gentleman from Alaska came. So it is somewhat fitting that it will also be one of the last bills in my career here.

Mr. Speaker, the original Magnuson Act took 4 years of effort and negotiations, but finally, in 1976, H.R. 200 became law. At the time, the gentleman may recall, and those who are old enough to remember, it was intended to be an interim measure that would

stay in place until the Law of the Sea was ratified. Instead, it has become the cornerstone of fisheries management in the United States.

A year ago when the House began consideration to reauthorize the act, it was clear very major changes were needed. Despite numerous efforts to improve the law over the past two decades, the sad reality is that the act did not prevent the current crisis in New England groundfish stocks, a crisis for the conservation of both fish stocks and fishing families.

Working together last year with the gentleman from Alaska [Mr. YOUNG], and the gentleman from California, [Mr. MILLER], and others, we passed a strong bipartisan bill that addressed problems of overfishing, of bycatch, and of habitat degradation that faced fishermen in New England and around the country. It had the support of the environmental community and much of the industry.

Now, a year later, and in the last waning hours of this Congress, our colleagues in the Senate instead have sent back to us a bill that also contains provisions that I find, some of them, of serious concern. The bill before us today would, for instance, authorize the Secretary to buy back fishing permits; allow nations in violation of the International Whaling Commission to fish in some U.S. waters; and make possible the future giveaway of Individual Transferable Quotas, so-called ITQ's, at public expense.

Regretfully, we will not be given the chance to correct these flaws, and we are obliged to choose, as has been said moments ago, between this bill and no bill at all. While I do not believe it had to be this way, that we could have been given the opportunity to resolve differences and issues of concern to our constituents, I will support S. 39 at this time.

Despite these shortcomings, the bill also includes many long overdue conservation measures critical for fish and fishermen. Most significantly, it will finally require the Council and the Secretary to maintain fishing at biologically sustainable levels. In addition, they will be required to rebuild fisheries which have collapsed, and to take new steps to protect fisheries habitat.

As was the case in 1976, when foreign vessels were plying our shores and we passed the first act, the fisheries from Maine to Alaska need these new protections and they need them now. The crisis in New England, unfortunately, clearly demonstrates that.

Finally, on a personal note, I would like to add that I have had no greater privilege over the past 24 years than representing the hardworking fishing families of southeastern Massachusetts. In 1921 in his Maritime History of Massachusetts, Samuel Elliott Morrison admired our fisherman as ''a tough but nervous, tenacious but restless race * * * eternally torn between a passion for righteousness and a desire to get on in the world.''

It was with deep respect for fishermen across America, from New England to the gulf and north Pacific, that I coauthored the first Magnuson Act in 1973. It is for those fishermen that I support this bill today.

May I also add, Mr. Speaker, that there seems to be an impression in the other body that, notwithstanding article I of the Constitution, we have a unicameral legislature around here. The gentleman from Alaska will recall that time and time again, as we have shared leadership on the previous Committee on Merchant Marine and Fisheries, and in the current Congress, we have done our work in diligent fashion, had hearings, markups, debates on the floor, amended bills, considered bills, sent them to the Senate where they resided for a year, and they would come back here in the waning hours of a Congress, essentially labeled take it or leave it, so we are forced again and again to deal with a product that is solely the product of the other body, and does not reflect the very good, very conscientious, very nonpartisan, and serious work of this committee and this Congress.

It ought not to be that way. That flies in the face of the clear constitutional intent for a bicameral legislature. I salute the gentleman from Alaska and the gentleman from New Jersey for pointing that out as clearly as they have.

Finally, Mr. Speaker, I would like to pay my personal respects to the gentleman from Alaska, with whom I have served for more years than either he or I would like to acknowledge. His beard was of a different hue when we first got here. In fact, I do not think he had a beard when we first got here. Actually, we will not discuss hair any longer, it is a very sensitive topic.

I want to say to the gentleman, I had thought that he would choose this opportunity to move to send this bill back to the Senate with an amendment renaming the act, something we have discussed many years, many years, but it seems to me only fitting that at this time in my career, and relatively late in the gentleman's career, that at long last we should have at least one fishery statute named the Young-Studds Act. So I hope the gentleman will take advantage of that opportunity.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, may I suggest respectfully, I have great respect for the gentleman from Massachusetts [Mr. STUDDS], and his efforts in the fisheries field. As many times as he has mentioned the subject, I think this bill will probably get that name through attrition more than anything else.

But I will say again that the gentleman from Massachusetts, it may be the last time he works on this floor on this type of legislation, and that I do thank him for his love for the sea and the fishermen he has served with, and the sense that he and I had a great deal in common with regard to the oceans. I believe we have worked well.

I cannot agree with him more about the actions of the Senate. I will defend my senior Senator. We worked on the bill, and of course they were threatened with, you know, holds and blocks, et cetera. This is not what I would have liked to have done, but it is the best thing we can do for our oceans today.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. MILLER], the distinguished ranking member of the committee.

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, I reluctantly oppose the passage of S. 39, the Sustainable Fisheries Act.

Like many other Members of the House, I had hoped to be able to give this bill my unqualified support, or to amend it in the same bipartisan spirit with which we initially passed our bill in the House, and send it back to the other body. The process by which this product arrives on the floor today, however, has not allowed the Members of the House, who passed a different—and stronger—bill to play any significant role in the formulation of the bill now before us.

As most Members are aware, the chairman of the Resources Committee and I rarely see eye to eye on natural resource management issues. The reauthorization of the Magnuson Act, however, proved to be a departure from the norm.

Last year, we worked together to pass a strong, bipartisan bill that had broad support from the fishing industry, the environmental community, and the administration. We passed that bill by a 10-to-1 margin, and then waited for the other body to act so that we could work out our differences in conference.

As everyone knows, it has been a long wait. In fact, it took a year for the bill to finally be returned to us last week. To no one's surprise, it was returned in a much altered state. Even worse, the legislation has been presented to us, in the closing days of the Congress, as a take it or leave it proposition. Members in the other body flatly stated that ''Any unilateral changes to the legislation by the House would be the death knell to the bill.'' So, we are given a choice between this bill, which ignores many of the provisions overwhelmingly supported by the Members of this body, or no bill, which would allow the overfishing that now plagues many of our fisheries to continue.

There are provisions in this bill that improve on the status quo of fisheries management, including measures to

address overfishing, habitat protection, and Fishery Management Council reform.

There are, however, also many provisions that are bad for the fish and bad for the fishing communities. The result is a bill that comes with qualified support: This is the best we are going to get.

In fact, it is difficult to find strong support for the bill. Many in the industry have concerns about the bill. Fishermen and fish processors from California, who were strong supporters of the House-passed bill, have told me they would prefer no bill to the enactment of S. 39. The environmental community's support is generally qualified and hardly overwhelming, and many Members in this body retain concerns about provisions that were added without debate or the knowledge of those most affected in the industry.

Let me mention several provisions of concern to me that were never debated in the House at all, or where the House position was essentially ignored in S. 39.

BUYING BACK A PUBLIC RESOURCE AT THE TAXPAYERS' EXPENSE

S. 39 authorizes the Secretary to buy back fishing permits in biologically depressed fisheries as a means of reducing fishing effort. Those permits are issued for free or for a nominal administrative cost. As a result of this Senate provision, the taxpayer could be paying to reclaim a permit—issued for free—when the industry itself was responsible for the decline of the stocks. Given that there are already administrative and regulatory methods for reclaiming permits, this provision establishes an unnecessary precedent whereby Government would compensate industry for conservation measures necessary to restore a public natural resource.

PROTECTION FOR FISHING COMMUNITIES HAS BEEN IGNORED

The House bill contained important measures to protect small family fishermen. S. 39 turns these protections on their head, defining fishing communities far too broadly. Some have gone as far as to suggest that the provisions in the Senate bill are actually worse than the status quo for the small fishermen, and would prefer to see the provisions stricken altogether.

THE GIVE AWAY OF A PUBLIC RESOURCE WILL CONTINUE

The House bill contained clear provisions to prevent the sale for private profit of individual fishing quotas issued for free. While S. 39 includes a moratorium on new quota programs, it does nothing to address the continued give away that will occur when the moratorium is over. This is bad for the taxpayer and bad for the small fishermen who will be unable to compete with large, corporate interests. The result will be a rip-off of the taxpayers, and the continued concentration of the fishing industry into the hands of those who can pay the most.

WHALING

Under long established domestic law, foreign nations wishing to fish in U.S. waters are prohibited from doing so, or are penalized, if they are out of compliance with the International Whaling Commission [IWC]. This bill would allow countries that wish to fish in the waters of U.S. Pacific Insular Areas to do so regardless of whether they comply with the IWC. Let us be clear about what this means: Japan, which consistently flaunts IWC policies for protecting whales, will now be permitted to fish for tuna and other valuable fisheries in the waters off United States territories. Once again, we are told that those who ignore not only our environmental protection policies, but those subscribed to by dozens of other nations as well, will be granted special privileges in trade and economic relations.

BYCATCH

At the beginning of this debate, bycatch reduction was identified as a top priority for environmentalists, industry, and the chairman, Mr. YOUNG. To that end, the House passed a bill mandating strong bycatch reduction measures. S. 39 weakened those provisions.

Mr. Speaker, it should come as no surprise to the other body that we have concerns about these and other provisions in the bill. House staff from both parties made every effort to convey these concerns to their Senate counterparts, but the majority of our concerns were dismissed as being outside the brokered Senate deal, or simply were not addressed.

It is unlikely that the Senate is going to comprehend the message that the House must be granted a coequal role in preparing legislation that affects our constituents if we simply roll over and play dead when presented with an ultimatum. This bill is just not good enough. We were consulted little in its drafting, and our concerns were ignored. There are legitimate problems in the way it affects coastal communities, the environment, marine mammal protection, and the taxpayers.

At some point, when we are told—with our backs to the legislative wall—''This is a take-it-or-leave-it offer''—the House will have to find the courage to leave it, and hope that by standing up for our institution and for our constituents, we improve the likelihood for better legislation. Unfortunately, that was not done in this case, and so I cannot support either this legislation or the process that produced it.

□ 1100

Mr. Speaker, the gentleman from Alaska and the gentleman from Massachusetts have worked hard on this legislation, and I have enjoyed working with them on this matter along with the gentleman from New Jersey [Mr. SAXTON].

Finally, let me just say that this is probably the last bill I will work on with the gentleman from Massachusetts [Mr. STUDDS]. His service in this Congress has become synonymous with concern about our oceans, about our fisheries, about the fishermen and their families. His efforts over the years have provided many improvements not only to the environment, to the habitat, to the fisheries but to those families. He has tried his darnedest to see whether or not we could sustain those families in this endeavor, to sustain an American fishing industry, to sustain what it means to the culture of many of these people, to our communities and to regions of this country.

I thank him for that, because this was a shambles before he got involved and the devastation would have continued without his involvement. I thank him for that effort. I also thank him for his service in this Congress. As many have said already on this floor, he is clearly one of our brightest, most articulate and committed Members to ever serve in this House. It has been a pleasure that I have been able to serve so many years with him and I thank him for his public service.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentleman from Maine [Mr. LONGLEY], a great committee member.

Mr. LONGLEY. Mr. Speaker, I want to thank Chairman YOUNG and Chairman SAXTON of the Subcommittee on Fisheries, Wildlife and Oceans. In every single instance on matters pertaining to fisheries in Maine, the waters off the State of Maine, in the gulf of Maine, they have been extremely supportive of issues of concern to us.

I also want to thank the gentleman from Massachusetts [Mr. STUDDS]. It has been a pleasure to work with him again on issues relating to fisheries.

I have to say honestly from the standpoint of Maine, we are very pleased with the provisions of the legislation that are now before us. That is not to say that we could not have hoped for something better, but on a very practical and fundamental level, we feel comfortable that we have made important changes to the Magnuson Act which will enhance the fisheries off the coast of Maine.

Specifically, two issues that we think are improvements are improved language relating to the consideration of habitat, in the evaluation of each fishery, as well as provisions relating to bycatch.

In an effort to be practical with respect to the actual difficulties that the fishermen experience in attempting to harvest their resource, we are particularly pleased at the incorporation of the bulk buyout program. We believe that this is a concrete, positive step in the direction of reducing fishing vessel capacity in limited-access fisheries that will allow for better conservation of the resource over the long term.

Some other provisions of the legislation that have particular benefit to the

State of Maine include a change in jurisdiction relative to pockets of Federal waters that are surrounded on three sides by State water. In this case, in certain situations we will be seeing the State assert more jurisdiction over Federal waters off the coast of Maine.

This is particularly important because, as I visited the fishing ports along the coast of Maine, one point has become abundantly clear, and that is, to the extent that the State officials and the fishermen on the State level have had an enhanced ability to act in the management of and control of the resource, generally those resources are doing significantly better than the resources that are being managed federally.

Again, that is not to suggest that one jurisdiction has any greater or solitary responsibility as opposed to any of the others. Each jurisdiction must work hand in hand with each other. But again, as I said, by favoring State jurisdiction over waters that potentially could be in either Federal or State jurisdiction, I believe that we are acting to protect the resources off the coast of Maine.

Furthermore, there is a provision in the bill that is going to allow the continuation of the practice of transporting herring at sea by Maine harvesters. Again, given the fluctuation in harvest with the seasons and the location of the herring, this is an important consideration both for herring fishermen as well as for those who are concerned with bait.

Finally, there is a provision that I think we should all be ecstatic about, and that is, there has been a practice that has developed in Federal waters off the coast of Maine for a number of years where dragging for lobsters has occurred, and that is to say that fishing has not occurred in the traditional method of lobster pot but in the manner of a wholesale destruction of the floor of the ocean.

Senator SNOWE's amendment to the bill, which I think is a singular accomplishment, will restrict dragging for lobsters off the coast of Maine. This is going to help protect Maine's lobster fishery by restricting this wasteful and destructive practice.

Furthermore, her amendment is going to require the National Academy of Sciences to conduct independent peer review on the science on which the management of New England groundfish fishery is based.

As we all know, amendment 7 is having and is going to continue to have an enormous impact on thousands of Maine and New England fishing families. These small businesses deserve the reassurance of sound science before we restrict their livelihood. On balance, as I indicated, we are very pleased with the content of this legislation.

I spoke this morning with Commissioner Robin Alden of the Maine Department of Marine Resources. She is very pleased that it is coming to the floor today. That is not to say that the legislation is perfect, but at least from the vantage of my State and my district, we have made a concrete, positive step forward in a direction that will help ensure the continuation of a valuable resource in a State that has a tradition of fishing off the oceans that goes back almost 390 years to when we were first settled in 1607 at Popham Beach.

Again, Mr. Speaker, I appreciate the opportunity to address the provisions of this legislation. Again, I want to thank Chairman YOUNG of the Resources Committee as well as Chairman JIM SAXTON of the Subcommittee on Fisheries, Wildlife and Oceans for their extra efforts to pay attention to the issues that affect the fishermen off the coast of Maine and their consideration of these issues in this legislation.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I want to join the gentleman from California [Mr. MILLER] and also the gentleman from Massachusetts [Mr. STUDDS] in expressing concern over the take it or leave it process that has been offered essentially by the Senate in bringing this bill to the floor.

I believe, because there was no conference, there was no opportunity to negotiate, if you will, a compromise or conference bill, that is why there are many problems with this legislation, including the one that my colleague the gentleman from New Jersey [Mr. SAXTON] mentioned with the definition of recreational fishermen.

I just wanted to say on that topic that in my State, many of the recreational fishermen are very concerned about the definition. The term in the bill, recreational fishing, is defined as, ''fishing for sport or pleasure,'' and does not account for the importance of personal consumption nor the significance upon which sectors of the recreational fishing community sell, barter, or trade fish. For decades, fishermen of all social classes have engaged in these practices, which have not been shown to be deleterious to fisheries resources.

I am very pleased to see the colloquy that the chairman and the gentleman from New Jersey [Mr. SAXTON] entered into basically making it clear that it was not the intent of Congress to exclude these fundamental historical characteristics of the recreational fishing industry. I hope that NMFS, or the National Marine Fisheries Service, gets it.

What the fishermen are afraid of is that when we do allocations, they will not get their quota, that the recreational guys will be told, ''You can just catch and release, you can't keep your fish.'' But I think that that colloquy between the gentleman from New Jersey [Mr. SAXTON] and the gentleman from Alaska [Mr. YOUNG] hopefully will put that to rest.

If anybody from NMFS comes to me at some point in the future in their rulemaking and says that we are going to somehow negatively impact recreational fishermen because of that definition, I will go back to that colloquy that was entered into today.

I also want to point out that I will be cosponsoring, I mentioned to the gentleman from New Jersey [Mr. SAXTON], the legislation that he plans to introduce in the next session that will ensure that national policy clearly acknowledges all the elements of recreational fishing with a more appropriate definition.

The SPEAKER pro tempore (Mr. KINGSTON). The time of the gentleman from New Jersey, [Mr. PALLONE] has expired.

Mr. PALLONE. Lastly, I wanted to say something about the gentleman from Massachusetts [Mr. STUDDS]. He would probably appreciate it if I sat down, anyway. So with that I will say thank you for everything, GERRY, and I will sit down.

Mr. STUDDS. No greater commendation than silence. Mr. Speaker, I thank the gentleman, it was a very clever ploy, but it did not work.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Guam [Mr. UNDERWOOD].

Mr. UNDERWOOD. I thank the gentleman for yielding me the time.

Mr. Speaker, I want to get my congratulations in early so I will not have to ask for more time. Congratulations for all your fine work, Mr. STUDDS.

Mr. Speaker, I am pleased to rise in support of the Senate's version of the Sustainable Fisheries Act. This legislation contains important provisions which would authorize the Secretary of State to institute Pacific insular area fisheries agreements at the request of and with the concurrence of the Governors of the affected Pacific insular areas.

The inclusion of these provisions is the culmination of efforts which started when the Governors met with the Department of the Interior and other Federal agencies to draft legislation which would allow for the responsible development of fisheries resources in the Pacific.

I am pleased to note that the other body has included provisions which were part of my original legislation, H.R. 2369, introduced last year, and this element includes an important recognition of the growing role of Pacific territories over their exclusive economic zone.

Under this legislation, fees from these fisheries agreements would be covered over into the Treasury of the insular area from where the fees were collected. Fees may be charged to foreign fishing vessels that wish to take advantage of the Pacific fisheries agreements under this bill.

It is our understanding that the legislative intent is not to limit the foreign fishing fees to correspond directly to the fees charged by the United States or to be specific to a single nation but, rather, to give us a mechanism for charging such fees in a manner similar to current agreements with

foreign nations. This provision will level the playing field between American and foreign fishing vessels in the Pacific.

It is also our understanding that the legislative intent is to give maximum flexibility to the Secretary of State in interpreting appropriate reciprocal agreements.

I would like to thank the gentleman from Massachusetts [Mr. STUDDS] and the gentleman from Alaska [Mr. YOUNG] for their fine work on this legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. I thank the chairman for yielding me this time.

Mr. Speaker, I think this has been a very positive exercise for this body, the House of Representatives, to go through and understand the nature and importance of the marine ecosystems, the world's oceans and especially the coastal waters of the United States in order to sustain the fishing stock which is necessary for so many livelihoods and so many people that depend on that type of food source.

There are three very important elements that I think have occurred in this legislation that survived in the House, that survived in the Senate, and that survived in the conference. Those three very important provisions are the habitat provisions, the bycatch provisions and the optimum yield provisions.

The habitat provision. If we did not include those into the legislation, even if we had all of the best regulations concerning the coastal fisheries possible, we could still lose, without protecting the habitat where the fish spawn, 75 percent of the commercial caught fish. We have solved that problem.

The next one, if we are going to have some type of efficiency built into the bycatch provision, if we do not have some type of protection built into the bycatch provision, we were catching and throwing away 10 fish for every targeted fish we were keeping. So the bycatch provisions in this legislation practically eliminates that and works to bringing that down to zero.

The last one is the optimum yield provision which I think is one of the most important. If we do not have any understanding as to the data of the health of the fish stock, how do we know how to allocate those fish stocks to each fisherman?

□ 1115

The scientific data collected now to determine the health of the efficient stocks is to be calculated into the allocation and the quota to each fisherman. Sustaining the marine ecosystem in this way, this piece of legislation goes a long way into accomplishing that task.

I want to thank the gentleman from Massachusetts [Mr. STUDDS], and wish him well in his future endeavors, and thank the gentleman from Alaska [Mr. YOUNG], for all the work he has done. I encourage people to vote for the conference report.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, in my first Congress I served on the Merchant Marine and Fisheries Committee. Chairman STUDDS demonstrated that under his leadership it was possible to legislate in a manner that puts the public interest first, rather than the personal interest. That is a rare talent, indeed.

His quick wit and humor are far too rare in this body and will be sorely missed. His ability to craft bipartisan compromise is something we should all learn. But most of all, GERRY has become a very dear friend to me. He has greatly brightened my years in this Congress, and I will miss him sorely.

Unfortunately, I must also today rise in reluctant opposition to this bill. When we considered the House version a year ago, I was an enthusiastic supporter of the legislation, but, unfortunately, because of the Senate's failure to act on this issue until this final hour, we are forced to accept an inferior bill. There are a number of provisions which I find objectionable, but I will list just two.

First, the Senate bill removes the safeguards for coastal communities, and those small coastal communities that are up and down my district are often economically dependent on the bounty of the fishery resource. They must be taken into account when fishery regulations are developed. I do not think this bill does that.

Second, the Senate bill attempts to limit public participation in council proceedings. For example, a fisherman writing a letter to a council who does not provide complete documentation for his views could be subject to a $100,000 fine.

Now, that is absurd. We need more input, not less.

It is a shame that this bill is not what it could or should have been, and I must reluctantly conclude that no bill is better than this second-rate Senate bill.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Speaker, I thank the gentleman for yielding me time.

I rise in support of this bill. This bill passed out of this body last October. I regret that some of the strong provisions in the House bill were watered down in the Senate. However, the bill still retains many of the strongest provisions of the House-passed bill, particularly that which we just heard from Congressman WAYNE GILCHREST, the optimum sustained yield standard. Is it is a remarkably strong standard we ought to have in law. The second is the fish habitat protections. In balance it is a good bill, and I commend the authors for their leadership and urge an ''aye'' vote.

While I am here, I would like for a moment to just talk about the fact that this is perhaps Congressman STUDDS' last appearance on the floor, and I think it would be remiss if we did not recognize that history is going to be very kind to this man in his service to this Nation. As former chairman of the Merchant Marine and Fisheries Committee and now, I guess, chairman emeritus, he was able to do some remarkable things. One of them was that he authored legislation to make oil companies liable for their spills.

He created the Studds-Magnuson Act which extended the 200-mile limit to our coastal zone. When you think about it, that is the largest acquisition of land without any price paid for it and without a shot fired. It was bigger than the Louisiana Purchase, and it now allows us to govern out to 200 miles from our shorelines all around the United States and its territory islands.

He also is famous, I think, for starting remarkable town hall meetings. Everybody knows his meetings in Massachusetts kind of set the stage for how we should all conduct our meetings at home.

To pay the greatest tribute to him, I think because he was involved with so many fishermen of Portuguese descent in this committee, he went out and learned Portuguese.

He has done many great things as chairman, and we are going to sadly miss him. This bill and the marine sanctuary bill are a real tribute to his years in Congress. We look forward to having many years of friendship with him after he is gone.

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that each side have 5 additional minutes.

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

There was no objection.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I join my enormous admiration for my colleague from Massachusetts with my disappointment at the bill he has been put, against his will, in the position of supporting. I acknowledge also that the gentleman from Alaska, who has been unfailingly courteous to other Members, also was put in an uncomfortable position.

There is a lot of good work in this bill and I wish we had back the bill these two gentlemen brought forward. But in a development that will undoubtedly astound people, the United States Senate did not do what we all wished they would do, namely, keep a good bill.

One of the things they have added, quite surprisingly in this climate, is a new tax, in effect, on fishermen, because this bill says that under the new central lien registry fishermen will involuntarily be assessed one-half of 1

percent of the value of their permits. We are not sure what the permits are, but this is going to go to fishermen who are struggling now, trying to make a living, and take more money from them to finance government activities.

This is an assessment on the fishermen that will be indistinguishable to them when they have to pay it from any other tax. It is an error. I hope we will have a chance, and I will vote against this bill because of it in part, but I hope we have a chance to revisit it in the future. There are ambiguities because permits are not valued here.

I also oppose the lobster bycatch restrictions. We have State authority here. Again, it seems to me somewhat unusual that the Senate would disregard States' rights and impose nationally through legislation rules which are fully within the competence of States to deal with and which, at least in the case of Massachusetts, States have already dealt with.

I welcome the inclusion of peer review, because I think there has been an error with regards to further restrictions. I think amendment 7 in New England goes much further than necessary, when amendment 5 is working. I welcome the improvements there. But I do not welcome the additional tax, I do not welcome the intrusion into what could be a State matter, and I very much regret the Senate has ruined a good bill.

Mr. STUDDS. Mr. Speaker, I yield one minute to the gentleman from Maine [Mr. BALDACCI].

Mr. BALDACCI. Mr. Speaker, first I would like to commend the chairman emeritus of the committee, the gentleman from Massachusetts, GERRY STUDDS, for his leadership over his course of history here in the U.S. Congress, because certainly our fisheries in Maine and Massachusetts and elsewhere have been well served through his leadership.

I would also like to thank the gentleman from Alaska [Mr. YOUNG] for indulging us in some additional time on a very important issue, especially as it pertains to Maine.

I would like to stand in support of this legislation, recognizing that everything is not going to be perfect and we are not all going to get what we all would like to get, that there is more here to be gained I think for the fisheries, for fishery management, for our lobster resources and for the fishermen. I think those are the important people that we have to recognize and serve.

Here in Maine, we are going to be well served by this legislation, because it is going to conserve our lobster resources, it is going to protect our ground fish, and it is going to continue the boat buyback program which has been started by the Department of Commerce. I would like to commend them for their work, working with the State and working with the fishermen, because I think we are moving in the right direction, and it will be supportive of this legislation.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the distinguished dean of the House, the gentleman from Michigan [Mr. DINGELL].

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, this is a good bill and I urge my colleagues to support it.

Mr. Speaker, I want to pay tribute to two men. First, the distinguished chairman of the committee, my friend from Alaska, DON YOUNG, with whom I have served over the years on other committees and in other places and with whom I have done some great work. I have enormous respect and affection for him, and I wish to salute him at this time.

I also wish to pay tribute to my distinguished friend and colleague from Massachusetts, GERRY STUDDS. I have served with him on the Merchant Marine and Fisheries Committee earlier in happier days. I also have had the pleasure of serving with him on the Committee on Commerce, in which capacity he has been an extraordinarily competent, dedicated and decent man.

I want to praise him for the hard work he has done in the area of the environment, in the area of conservation, and to note that milestone legislation in the whole area of conservation bears his name and his imprimatur. Superfund legislation on proposals relating to conservation, fish and wildlife, things like the endangered species, ocean dumping, marine mammals protective legislation, and National Environmental Policy Act, are pieces of legislation which bear the imprint of his hand, his wisdom and his character.

We are grateful to him for what he has done in these area. The people that he has served so well in the Cape Cod, Massachusetts area, have reason to be grateful to him for his interest in fisheries and natural resources, for the splendid programs that he has pushed, not only to protect fishery resources, but for the constituent service which he has given, and for the concern he has had about them, about the people of the country, about the environment, about the future of this Nation, and about the general things that are so important to quality of life to the people of this country.

He has been a valuable member of the Committee on Commerce, and I will personally miss him. The committee will miss his wisdom, his superb service, and his diligence. We will also miss his sense of humor and the good will and good spirit with which he approaches legislation and the problems of this place.

I express to him my warm good wishes for great happiness and success in his future undertakings. I will miss him, and the lovely Deborah, my wife, joins in expressing to him our joint wishes for happiness, success, and long life.

Mr. STUDDS. Mr. Speaker, I yield myself a minute just to acknowledge with deep appreciation and, believe it or not, humility, for the very kind remarks of the dean of the House. In fairness, many of the statutes for which he gave me credit bear his name.

May I finally just say what a pleasure it has been to serve with him and my friend from Alaska and all of my colleagues here, almost all of them, and leave you with one thing I heard at one point.

Long before I served in this Congress, a very dear friend of mine had a grandfather who was a very senior Republican Member of Congress. Once, after a couple of drinks, he looked at me and he said, ''Young man, remember Rule 6. Rule 6 is don't take yourself too seriously, and there are no other rules.''

Mr. Speaker, I thank my colleagues for a magnificent 24 years, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I was sitting here listening to the gentleman from Michigan, the dean of the House [Mr. DINGELL], give his compliments for my good friend, the gentleman from Massachusetts, and I cannot echo those words enough. I can assure him as one that has been the author and the worker of the Magnuson Act, and the gentleman from California [Mr. MILLER], I want them both to be aware that I have not left this subject. As I mentioned, we have reviewed this three times.

I will cherish the advice that the gentleman from Massachusetts [Mr. STUDDS] can give me on this issue as he goes into another life. We have modern communications today, far exceed that which we had in the past. As a friend, I expect him to keep in contact with me on issues that he thinks are important to the sea.

The gentleman from California himself brought up some issues that I believe very strongly in. I happen to think that the issuance of an IDQ, or IFQ, and then creating a great value of it, to be sold for wealth, is very wrong, and it is wrong to accumulate a massive amount, creating a monopoly. We are going to continue to address those issues as the future unfolds as far as our seas go.

I would like to say, Mr. Speaker, to my friends in the House, I would like to extend our interest in the oceans beyond the 200 miles. We sometimes concentrate, because fishermen vote and fishermen are very vocal and they are probably the hardest group in the world to represent, but I would like to extend our interest concerning what effect is going on beyond the 200 miles.

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Because the key to our survival in this Nation today and all nations in this world is a healthy, providing ocean. If it is unhealthy, it does not provide. If it does not provide, I do not think any nation can survive. Someone

who may live in the middle of our great Nation or the middle of Russia or the middle of India or the middle of China may say, what has that got to do with me? All of our food cycle chain and all of our wealth eventually is created from the sea.

So I am going to suggest in the future, if I have anything to do with it, with the gentleman from California [Mr. MILLER], that we extend not only beyond the 200 miles, I mean brought within the 200 miles, to be beyond the 200 miles, internationally trying to come to grips with, are the seas healthy, are the species healthy, have we done something wrong, have the death curtains been eliminated, what should we be doing, not impinging upon people's rights but how do we prevail in maintaining a healthy sea.

Mr. Speaker, again, in closing, I can suggest that those who have worked with me over the years on these issues, the ocean, I deeply appreciate their friendship and especially their dedication. The staffs that have been working with the gentleman from Massachusetts [Mr. STUDDS] are exceptionally good. We will continue to overview and to watch the great oceans that surround our shores.

Mr. GOSS. Mr. Speaker, I am pleased that today we will send S. 39, the Sustainable Fisheries Act, to the President. The bill before us is the result of a long process—it was almost a year ago that the House passed H.R. 39, the basis for the bill we're debating today. H.R. 39 was carefully crafted to limit over-fishing, rebuild depleted stocks of fish, reduce bycatch and protect our marine resources.

Of particular concern to me is the bycatch issue—when sea turtles, red snapper, and other nontargeted species get caught and die in fishing nets. During consideration of the Magnuson reauthorization bill, the House adopted an amendment I offered to address this issue.

It is clear that the delicate balance between protecting our marine resources and encouraging industry has been maintained in this bill.

Mr. Speaker, this bill is slightly different than the House-passed bill, but on the whole, it is a responsible step forward and an environmentally sound bill. Reauthorization of the Magnuson Act is long overdue. I strongly urge my colleagues to support passage of S. 39.

Mr. RIGGS. Mr. Speaker, I first want to thank my colleague from Alaska, the chairman of the committee, for his work on this bill. As the representative of a coastal district, I appreciate the difficulties and complexities you faced in crafting legislation in the face of such diverse and complicated fishing interests.

As you know, the reauthorization of the Magnuson Act is crucial to continuing the sound management of our Nation's fishery resources. Responsible fishing practices are necessary for protecting our nation's essential fishery habitat.

Last October, the House completed work on the Magnuson Act. The bill we sent the other body was a good bill that went a long way to restore the health of our fisheries.

However, it was not until last week that the Senate completed work on this bill and sent it to the House for final consideration. Obviously with only a few days left in the session, our options are limited and the opportunity to amend it is nonexistent. This has left me and many of my colleagues with a difficult choice. Either pass the bill in its current form, as watered down as it is, or send it back to the Senate where it would surely die. With reservations I will support this bill, in the hope that when we return to Congress next year, further improvements can be made.

I first want to point out that the Senate failed to adequately address the interests of small coastal fishing communities in the version delivered to the House.

Second, while the House addressed the windfall profit aspect associated with ITQS, the Senate bill falls silent. In addition, the Senate bill does not prohibit the development of ITQS through the moratorium period and does not prohibit ITQS from being placed in perpetuity.

Third, limited access schemes included in the bill may require permit holders to register their permits with a lien registry and pay a fee every time the permit is transferred.

I am concerned regarding provisions in the bill that may give the Secretary of Commerce the ability to impose a limited access plan, including ITQS, at his discretion, on any fishery that is not currently managed by a regional fishery management plan.

My last point is of special concern to many of my constituents. The Senate bill obscures the fishing community language by including the home ports of the distant water, corporately held, factory trawlers under the definition of ''community-based fleets.'' The House bill gives consideration of local, community-based fleets and protects the interests of the historic, generation after generation family fishermen.

As I stated previously, while I have very real concerns and reservations regarding this bill, I will vote for final passage to further the process of protecting our Nation's fisheries.

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KINGSTON). The question is on the motion offered by the gentleman from Alaska [Mr. YOUNG] that the House suspend the rules and pass the Senate bill, S. 39.

The question was taken.

Mr. MILLER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 39, the bill just considered.

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

There was no objection.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

EXTENDING AUTHORITY FOR THE MARSHAL AND POLICE OF THE SUPREME COURT

Mr. HYDE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4164) to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.

The Clerk read as follows:

H.R. 4164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 9(c) of the Act entitled ''An Act relating to the policing of the building and grounds of the Supreme Court of the United States'', approved August 18, 1949 (40 U.S.C. 13n(c)) is amended by striking ''1996'' and inserting ''2000''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. HYDE] and the gentlewoman from Colorado [Mrs. SCHROEDER] each will control 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the consideration of the House H.R. 4164, a bill to extend the authority for the Marshal of the Supreme Court and the Supreme Court Police to provide security to Justices, court employees, and official visitors beyond the Court's buildings and grounds. It is crucial that we take favorable action on this legislation before adjourning this Congress, since authority to provide this protection is slated to expire on December 29, 1996.

The authority for the Marshal of the Supreme Court and the Supreme Court Police to provide security beyond court grounds appears at 40 U.S.C. 13n(a)(2), and was first established by Congress in 1982. Congress has periodically extended that authority—in the past 14 years, there has not been an interruption of the Supreme Court police's authority to provide such protection. Congress originally provided that the authority would terminate in December 1985, and extensions have been provided ever since. In 1985, authority was extended through December 26, 1990; in 1990, it was extended through December 29, 1993; and in 1993, it was extended through December 29, 1996.

Chief Justice Rehnquist has written to me requesting that Congress extend this authority permanently. As the