

106TH CONGRESS  
2D SESSION

# S. 2832

To reauthorize the Magnuson-Stevens Fishery Conservation and Management Act, and for other purposes

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IN THE SENATE OF THE UNITED STATES

JUNE 29, 2000

Ms. SNOWE introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To reauthorize the Magnuson-Stevens Fishery Conservation and Management Act, and for other purposes

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Magnuson-Stevens Re-  
5 authorization Act of 2000”.

1       **TITLE I—REAUTHORIZATION**  
2                               **AND REVISION**

3       **SEC. 101. AMENDMENT OF THE MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT.**

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

12       **SEC. 102. AUTHORIZATION OF APPROPRIATIONS.**

13           Section 4 (16 U.S.C. 1803) is amended by striking  
14 paragraphs (1) through (4) and inserting the following:

15                   “(1) \$400,000,000 for fiscal year 2000;

16                   “(2) \$415,000,000 for fiscal year 2001;

17                   “(3) \$430,000,000 for fiscal year 2002;

18                   “(4) \$445,000,000 for fiscal year 2003;

19                   “(5) \$460,000,000 for fiscal year 2004; and

20                   “(6) \$475,000,000 for fiscal year 2005.”.

21       **SEC. 103. POLICY.**

22           Section 2(c) (16 U.S.C. 1081(c)) is amended—

23                   (1) by striking “and” after the semicolon in  
24                   paragraph (6);

1           (2) by striking “States.” in paragraph (7) and  
2           inserting “States; and; and

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

4           “(8) to use the best scientific information avail-  
5           able when making fisheries management and con-  
6           servation decisions, meaning information that is col-  
7           lected and analyzed by a process that, to the extent  
8           practicable—

9                   “(A) is directly related to the specific issue  
10                  under consideration;

11                   “(B) is based on a statistically sufficient  
12                  sample such that any conclusions drawn are  
13                  reasonably supported;

14                   “(C) has been independently peer-reviewed;

15                   “(D) has been collected within a time  
16                  frame that is reasonably related to the specific  
17                  issue under consideration; and

18                   “(E) incorporates a broad base of available  
19                  sources.”.

20 **SEC. 104. DEFINITIONS; NEW TERMS.**

21           (a) **NEW TERMS.**—Section 3 (16 U.S.C. 1802) is  
22           amended as follows:

23                   (1) **HABITAT AREA OF PARTICULAR CON-**  
24                  **CERN.**—After paragraph (18), insert the following:

1           “( ) The term ‘habitat area of particular con-  
2           cern’ means those waters and submerged substrate  
3           that form a discrete vulnerable subunit of essential  
4           fish habitat that is required for a stock to sustain  
5           itself and which is designated through a specified set  
6           of national criteria which includes, at a minimum, a  
7           requirement that designation be based on the best  
8           scientific information available regarding habitat-  
9           specific density of that fish stock, growth, reproduc-  
10          tion, and survival rates of that stock within the des-  
11          ignated area.”.

12           (2) MAXIMUM SUSTAINABLE YIELD.—After  
13          paragraph (23), insert the following:

14           “( ) The term ‘maximum sustainable yield’  
15          means the largest long-term average catch or yield  
16          in terms of weight of fish caught for commercial and  
17          recreational purposes that can be continuously taken  
18          from a stock under existing environmental condi-  
19          tions, and which is adjusted as environmental condi-  
20          tions change.”.

21          (b) NUMERATION AND REDESIGNATION.—Section 3  
22          (16 U.S.C. 1802), as amended by subsection (a), is  
23          amended—

24           (1) by moving paragraph (35) to follow para-  
25          graph (36); and

1           (2) by renumbering all paragraphs in numerical  
2           order from (1) through (47).

3           (c) REFERENCES IN OTHER LAW.—Whenever any  
4           other provision of law refers to a term defined in section  
5           3 of the Magnuson-Stevens Fishery Conservation and  
6           Management Act (16 U.S.C. 1802) by its paragraph num-  
7           ber and that paragraph was renumbered by subsection (b)  
8           of this section, the reference shall be considered to be a  
9           reference to the paragraph number given that paragraph  
10          under subsection (b) or subsequent amendment of that  
11          Act.

12       **SEC. 105. ADVISORY COMMITTEE REFORM AND PEER RE-**  
13                               **VIEW.**

14          (a) REFORM.—Section 302(g) (16 U.S.C. 1852(g))  
15          is amended—

16               (1) by adding at the end of paragraph (3) the  
17          following:

18                       “(C) For each committee established under  
19                       subparagraph (A), each Council shall establish  
20                       standard operating procedures relating to time,  
21                       place, and frequency of meetings, a description  
22                       of the type and format of information to be pro-  
23                       vided under subparagraph (A), a description of  
24                       how recommendations under subparagraph (A)  
25                       will be used, and other relevant factors.”;

1           (2) by redesignating paragraph (5) as para-  
2           graph (6); and

3           (3) by inserting after paragraph (4) the fol-  
4           lowing:

5           “(5) Each Council shall establish standard op-  
6           erating procedures relating to the relevant scientific  
7           review committee or committees that are responsible  
8           for conducting peer reviews of all stock assessments  
9           and economic and social analyses prepared for fish-  
10          eries under the Council’s jurisdiction. Committees  
11          under this paragraph shall consist of members from  
12          the committee established under paragraph (1) of  
13          this subsection and, to the extent practicable, inde-  
14          pendent scientists qualified to peer review such as-  
15          sessments and analyses.”.

16          (b) PEER REVIEW.—Section 302(h) (16 U.S.C.  
17 1852(h)) is amended—

18           (1) by striking “and” at the end of paragraph  
19           (5);

20           (2) by redesignating paragraph (6) as para-  
21           graph (7); and

22           (3) by inserting after paragraph (5) the fol-  
23           lowing:

24           “(6) to the extent practicable conduct a peer re-  
25           view of any stock assessments and economic and so-

1        cial analyses prepared for a fishery under its juris-  
2        diction, utilizing the procedures established under  
3        subsection (g)(5); and”.

4    **SEC. 106. OVERFISHING AND REBUILDING.**

5        (a) REBUILDING OVERFISHED FISHERIES.—Section  
6    304(e) (16 U.S.C. 1854(e)) is amended—

7            (1) by striking “(1) The Secretary” in para-  
8        graph (1) and inserting “(1)(A) The Secretary”;

9            (2) by inserting after “overfished.” the fol-  
10       lowing:

11            “The Secretary shall also identify which  
12        fisheries are managed under a fishery manage-  
13        ment plan or international agreement, and the  
14        estimated percentage of the total volume of all  
15        species in United States waters that are  
16        managed under a fishery management plan or  
17        international agreement.”

18            (3) by striking the last sentence of paragraph  
19        (1) and inserting the following: “A fishery shall be  
20        classified as approaching a condition of being over-  
21        fished if, based on the best scientific information  
22        available trends in fishing effort and fishery resource  
23        size and other appropriate factors, the Secretary es-  
24        timates that the fishery will become overfished with-  
25        in 2 years.”;

1           (4) by adding at the end of paragraph (1) the  
2 following:

3           “(B) If the Secretary determines that insuffi-  
4 cient information is available on which to conclude  
5 that a fishery is approaching a condition of being  
6 overfished, the Secretary shall immediately notify  
7 the appropriate Council and within six months of  
8 such notification implement a research program, in-  
9 cluding cooperative research, designed to provide the  
10 information needed to determine whether or not the  
11 fishery is approaching a condition of being over-  
12 fished.”;

13           (5) by striking paragraph (2) and inserting the  
14 following:

15           “(2)(A) If the Secretary determines at any time  
16 that a fishery is overfished, the Secretary shall im-  
17 mediately notify the appropriate Council and request  
18 that action be taken to end overfishing and to imple-  
19 ment conservation and management measures to re-  
20 build the stock of fish.

21           “(B) If a fishery harvests more than one stock  
22 of fish, the fishery shall be managed as a unit and  
23 considered as a unit for purposes of this Act, and  
24 the conservation and management targets of this

1 Act do not require that the fishery be managed on  
2 a stock-by-stock basis.

3 “(C) The Secretary shall publish each notice  
4 under this paragraph in the Federal Register.”;

5 (6) striking clauses (i) and (ii) of paragraph (4)  
6 and inserting the following:

7 “(i) be as short as possible, taking into ac-  
8 count the status and biology of any overfished  
9 stocks of fish, the need to minimize adverse so-  
10 cial and economic impacts, including the cumu-  
11 lative impact of conservation and management  
12 measures on fishing communities, oceano-  
13 graphic and other environmental conditions that  
14 affect the stocks of fish, the interaction of the  
15 overfished stock of fish within the marine eco-  
16 system, and be consistent with conservation and  
17 management measures adopted by an inter-  
18 national organization in which the United  
19 States participates; and

20 “(ii) not exceed 10 years, except in cases  
21 where the biology of the stock of fish, or other  
22 environmental conditions dictate otherwise, or  
23 in cases where conservation and management  
24 measures adopted by an international organiza-

1           tion in which the United States participates  
2           recommend otherwise.”; and

3           (7) by striking “United States.” in paragraph  
4           (4)(C) and inserting the following: “United States,  
5           and provide fair and equitable sharing of the man-  
6           agement and conservation requirements among all  
7           contracting harvesters under such an agreement.”.

8           (b) ATLANTIC HIGHLY MIGRATORY SPECIES.—Sec-  
9           tion 304(g)(1) (16 U.S.C. 1854(g)(1)) is amended—

10           (1) by redesignating subparagraphs (A) through  
11           (G) as subparagraphs (B) through (H), respectively;

12           (2) by inserting before subparagraph (B), as so  
13           redesignated, the following:

14           “(A) consult with the commissioners appointed  
15           under section 971a of the Atlantic Tunas Conven-  
16           tion Act (16 U.S.C. 971) during the preparation of  
17           plans, plan amendments, and regulations that imple-  
18           ment recommendations of the International Commis-  
19           sion for the Conservation of Atlantic Tunas to en-  
20           sure that the implementation of such plans, plan  
21           amendments, and regulations is consistent with such  
22           recommendations.”;

23           (3) by striking “commissioners and” in sub-  
24           paragraph (B), as so redesignated;

1           (4) by redesignating clauses (iii) and (iv) in  
2           subparagraph (H), as so redesignated, as clauses (v)  
3           and (vi), respectively, and inserting after clause (ii)  
4           the following:

5                   “(iii) do not have the effect of increasing  
6                   or decreasing any allocation or quota of fish or  
7                   fishing mortality level to the United States  
8                   agreed to pursuant to a recommendation of the  
9                   International Commission for the Conservation  
10                  of Atlantic Tunas;

11                   “(iv) require comparable permitting, re-  
12                   porting, monitoring, and enforcement for all  
13                   commercial and recreational fisheries;” and

14           (5) by striking “species;” in subparagraph (G),  
15           as redesignated, and inserting “species and maintain  
16           the conservation leadership role of the United States  
17           through such measures;”.

18 **SEC. 107. OBSERVERS.**

19           (a) IN GENERAL.—Section 303 (16 U.S.C. 1853) is  
20           amended by adding at the end thereof the following:

21                   “(e) OBSERVER PROGRAMS.—

22                   “(1) When establishing any new program under  
23                   this Act which utilizes observers deployed on United  
24                   States fishing vessels or in United States fish proc-  
25                   essing plants for purposes of monitoring the har-

1 vesting of fish and collecting scientific information,  
2 the Council with jurisdiction over the fishery (or in  
3 the case of a highly migratory species fishery, the  
4 Secretary) in which the observers will be deployed  
5 shall establish a set of goals and objectives, an im-  
6 plementation schedule for the program, and a statis-  
7 tically reliable method for achieving the goals and  
8 objectives.

9 “(2) The goals and objectives required under  
10 paragraph (1) shall take into account—

11 “(A) equity among the various harvesting  
12 and processing sectors in the fishery;

13 “(B) fair and equitable sharing of the  
14 costs of the program among participants in the  
15 fishery; and

16 “(C) that those fishing vessels and proc-  
17 essing plants where observers are deployed are  
18 not put at a disadvantage with respect to other  
19 harvesters or processors in that fishery or in  
20 other fisheries.

21 “(3) Any system of fees established under this  
22 section shall provide that the total amount of fees  
23 collected under this section not exceed the combined  
24 cost of—

1           “(A) stationing observers on board fishing  
2 vessels and United States fish processors;

3           “(B) the actual cost of inputting collected  
4 data; and

5           “(C) less any amount received for such  
6 purpose from another source, including Federal  
7 funds.”.

8       (b) PLAN REQUIREMENT.—Section 303(a) (16  
9 U.S.C. 1853(a)) is amended—

10           (1) by striking “and” at the end of paragraph  
11 (13);

12           (2) by striking “fishery.” in paragraph (14)  
13 and inserting “fishery; and”; and

14           (3) by adding at the end thereof the following:

15           “(15) to the extent that observers are deployed  
16 on board United States fishing vessels or in United  
17 States fish processing plants under the provisions of  
18 a fishery management plan or regulations imple-  
19 menting a fishery management plan, comply with  
20 the goals and objectives required under subsection  
21 (e).”.

22 **SEC. 108. CUMULATIVE IMPACTS.**

23       (a) NATIONAL STANDARDS.—Section 301(a)(8) (16  
24 U.S.C. 1851(a)(8)) is amended to read as follows:

1           “(8) Conservation and management measures  
 2 shall, consistent with the conservation requirements  
 3 of this Act, take into account the importance of fish-  
 4 ery resources to fishing communities, and the indi-  
 5 vidual and cumulative economic and social impact of  
 6 fishery conservation and management measures on  
 7 such communities, in order to—

8                   “(A) provide for the sustained participa-  
 9 tion of such communities; and

10                   “(B) to the extent practicable, minimize  
 11 adverse social and economic impacts on such  
 12 communities.”.

13           (b) CONTENTS OF PLANS.—Section 303(a)(9) (16  
 14 U.S.C. 1853(a)(9)) is amended by striking “describe the  
 15 likely effects, if any, of the conservation and management  
 16 measures on—” and inserting “describe in detail the likely  
 17 effects, including the individual and cumulative economic  
 18 and social impacts, of the conservation and management  
 19 measures on—”.

20 **SEC. 109. ESSENTIAL FISH HABITAT.**

21           (a) FISHERY MANAGEMENT PLANS.—Section  
 22 303(a)(7) (16 U.S.C. 1853(a)(7)) is amended to read as  
 23 follows:

24                   “(7) describe and identify essential fish habitat  
 25 and habitat areas of particular concern for the fish-

1       ery based on the guidelines established by the Sec-  
2       retary under section 305(b)(1)(A), and minimize to  
3       the extent practicable adverse effects on habitat  
4       areas of particular concern caused by fishing and  
5       identify other actions to encourage the conservation  
6       and enhancement of such habitat.”.

7       (b) FISH HABITAT REQUIREMENT.—Section  
8       305(b)(1) (16 U.S.C. 1855) is amended by inserting “and  
9       habitat areas of particular concern” following “essential  
10      fish habitat” each time it appears in subparagraphs (A)  
11      and (B).

12      **SEC. 110. REGIONAL FISHERY MANAGEMENT COUNCILS.**

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

14              (1) by inserting “and of the commonwealths,  
15      territories, and possessions of the United States in  
16      the Caribbean Sea” in subsection (a)(1)(D) after  
17      “States”;

18              (2) by inserting “or disseminated by any other  
19      means that will result in wide publicity” in sub-  
20      section (i)(2)(C) after “fishery”;

21              (3) by inserting “or notify the public through  
22      any other means that will result in wide publicity”  
23      in subsection (i)(3)(B) after “ports”.

1 **SEC. 111. CONTENTS OF FISHERY MANAGEMENT PLANS.**

2 Section 303(b)(7) (16 U.S.C. 1853(b)(7)) is amended  
3 by striking “(other than economic data)”.

4 **SEC. 112. ACTION BY THE SECRETARY.**

5 Section 304 (16 U.S.C. 1854) is amended—

6 (1) by inserting “and any proposed imple-  
7 menting regulations prepared under section  
8 303(c)(1),” in subsection (a)(1) after “plan amend-  
9 ment,”;

10 (2) by redesignating subparagraphs (A) and  
11 (B) of subsection (a)(1) as subparagraphs (B) and  
12 (C), respectively;

13 (3) by inserting before subparagraph (B), as so  
14 redesignated, of subsection (a)(1) the following:

15 “(A) immediately make a preliminary evalua-  
16 tion of the management plan or amendment for pur-  
17 poses of deciding if it is consistent with the national  
18 standards and sufficient in scope and substance to  
19 warrant review under this subsection, and

20 “(i) if that decision is affirmative, imple-  
21 ment subparagraphs (B) and (C) with respect  
22 to the plan or amendment; or

23 “(ii) if that decision is negative, disapprove  
24 the plan or amendment and notify the Council,  
25 in writing, of the disapproval and of those mat-

1           ters specified in paragraph (3)(A), (B), and (C)  
2           as they relate to the plan or amendment;”;

3           (4) striking subparagraph (C), as so redesign-  
4           nated, of subsection (a)(1) and inserting the fol-  
5           lowing:

6           “(C) by the 15th day following transmittal of  
7           the plan and proposed implementing regulations,  
8           publish in the Federal Register—

9           “(i) a notice stating that the plan or  
10          amendment is available and that written data,  
11          views, or comments of interested persons on the  
12          plan or amendment may be submitted to the  
13          Secretary during the 50-day period beginning  
14          on the date the notice is published; and

15          “(ii) any proposed implementing regula-  
16          tions that are consistent with the fishery man-  
17          agement plan or amendment, this Act, and  
18          other applicable law, for a comment period of  
19          50 days (incorporating any technical changes to  
20          the Council’s proposed regulations the Sec-  
21          retary believes to be necessary for clarity, to-  
22          gether with an explanation of those changes).”;

23          (5) by striking “section 303(c),” in subsection  
24          (b)(1) and inserting “section 303(c)(2),”;

1           (6) by striking “if that determination is affirm-  
2           ative, the Secretary shall” in subsection (b)(1)(A)  
3           and inserting “if the Secretary determines that the  
4           regulations are consistent, the Secretary shall, with-  
5           in 15 days of transmittal,”;

6           (7) by striking “if that determination is nega-  
7           tive, the Secretary shall” in subsection (b)(1)(B)  
8           and inserting “if the Secretary determines that the  
9           regulations are not consistent, the Secretary shall,  
10          within 15 days of transmittal,”; and

11          (8) by striking “paragraph (1)(A).” in sub-  
12          section (b)(3) and inserting “paragraph (1)(A), and  
13          within 45 days after the end of the comment period  
14          under subsection (a)(1)(C).”.

15 **SEC. 113. INFORMATION COLLECTION.**

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

17          (1) by striking “(other than information that  
18          would disclose proprietary or confidential commercial  
19          or financial information regarding fishing operations  
20          or fish processing operations)” each place it appears  
21          in subsection (a);

22          (2) by striking “under this Act shall be con-  
23          fidential and shall not be disclosed,” in subsection  
24          (b)(1) and inserting “under this Act, and that would  
25          disclose proprietary or confidential commercial or fi-

1       nancial information regarding fishing operations or  
 2       fish processing operations, shall be kept confidential  
 3       and not disclosed for a period of 20 years following  
 4       the year of submission to the Secretary,”; and

5               (3) by striking “under this Act,” in subsection  
 6       (b)(2) and inserting “under this Act, and that would  
 7       disclose proprietary or confidential commercial or fi-  
 8       nancial information regarding fishing operations or  
 9       fish processing operations,”.

10 **SEC. 114. COOPERATIVE RESEARCH AND MANAGEMENT.**

11       The Act is amended by adding at the end thereof the  
 12 following:

13                   **“TITLE V—COOPERATIVE**  
 14                   **RESEARCH AND MANAGEMENT**

15 **“SEC. 501. ESTABLISHMENT OF PROGRAM.**

16       “(a) IN GENERAL.—The Secretary shall establish a  
 17 national cooperative research and management program  
 18 to be administered by the National Marine Fisheries Serv-  
 19 ice, based on recommendations by the Councils. The pro-  
 20 gram shall consist of cooperative research and manage-  
 21 ment activities between fishing industry participants, the  
 22 affected States, and the Service.

23       “(b) RESEARCH AWARDS.—Each research project  
 24 under this program shall be awarded on a standard com-  
 25 petitive basis established by the Service, in consultation

1 with the Councils. Each Council shall establish a research  
2 steering committee to carry out this subsection.

3 “(c) GUIDELINES.—The Secretary, in consultation  
4 with the appropriate Council and the fishing industry,  
5 shall create guidelines so that participants in this program  
6 are not penalized for loss of catch history or unexpended  
7 days-at-sea as part of a limited entry system.”.

8 **“SEC. 502. AUTHORIZATION OF APPROPRIATIONS.**

9 “There are authorized to be appropriated to the Na-  
10 tional Marine Fisheries Service, in addition to amounts  
11 otherwise authorized by this Act, the following amounts,  
12 to remain available until expended, for the conduct of this  
13 program:

14 “(1) \$15,000,000 for fiscal year 2001.

15 “(2) \$20,000,000 for fiscal year 2002.

16 “(3) \$25,000,000 for fiscal year 2003.

17 “(4) \$30,000,000 for fiscal year 2004.

18 “(5) \$35,000,000 for fiscal year 2005.”.

19 **SEC. 115. INDIVIDUAL FISHING QUOTAS.**

20 Section 303(d)(1)(A) is amended by striking “before  
21 October 1, 2000,” and inserting “before October 1,  
22 2003,”.

23 **SEC. 116. COOPERATIVE ENFORCEMENT AGREEMENTS.**

24 Title III is amended by adding at the end thereof  
25 the following:

1 **“SEC. 315. COOPERATIVE ENFORCEMENT USES.**

2       “(a) IN GENERAL.—The Governor of a State rep-  
3 resented on an Interstate Fisheries Commission may apply  
4 to the Secretary for execution of a cooperative enforce-  
5 ment agreement with the Secretary that will authorize the  
6 deputization of State law enforcement officers with marine  
7 law enforcement responsibilities to perform duties of the  
8 Secretary relating to law enforcement provisions under  
9 this Act or any other marine resource laws enforced by  
10 the Secretary. Upon receiving an application meeting the  
11 requirements of this section, the Secretary shall enter into  
12 the cooperative enforcement agreement with the request-  
13 ing State.

14       “(b) REQUIREMENTS.—Cooperative enforcement  
15 agreements executed under subsection (a)—

16               “(1) shall be consistent with the purposes and  
17 intent of section 311(a) of this Act, to the extent ap-  
18 plicable to the regulated activities; and

19               “(2) may include specifications for joint man-  
20 agement responsibilities as provided by the first sec-  
21 tion of Public Law 91-412 (15 U.S.C. 1525).

22       “(c) AUTHORIZATION AND ALLOCATION OF  
23 FUNDS.—There are authorized to be appropriated to the  
24 Secretary for the purposes of carrying out this section  
25 \$10,000,000 in each of fiscal years 2001 through 2005.  
26 The Secretary shall include in each cooperative enforce-

1 ment agreement an allocation of funds to assist in man-  
2 agement of the agreement. The allocation shall be equi-  
3 tably distributed among all States participating in cooper-  
4 ative enforcement agreements under this subsection, based  
5 upon consideration of the specific marine conservation en-  
6 forcement needs of each participating State. Such agree-  
7 ment may provide for amounts to be withheld by the Sec-  
8 retary for the cost of any technical or other assistance pro-  
9 vided to the State by the Secretary under the agreement.”.

10 **SEC. 117. STATEMENT OF POLICY REGARDING DELEGA-**  
11 **TION.**

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

13 (1) by striking “and” after the semicolon in  
14 paragraph (6);

15 (2) by striking “States.” in paragraph (7) and  
16 inserting “States; and”; and

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

18 “(8) to ensure that, notwithstanding any other  
19 provision of law, the Secretary has exclusive author-  
20 ity in the Federal Government for managing fishery  
21 resources (as defined in this Act), but the Secretary  
22 may delegate such authority to any other Federal of-  
23 ficial.”.

1 **SEC. 118. SCIENTIFIC AND STATISTICAL COMMITTEES RE-**  
2 **PORT ON ECOSYSTEM RESEARCH PRIOR-**  
3 **ITIES; PILOT PROGRAM FOR FISHERY ECO-**  
4 **SYSTEM PLANS.**

5 Section 406 (16 U.S.C. 1882) is amended by adding  
6 at the end thereof the following:

7 “(f) RESEARCH.—

8 “(1) REPORT REQUIRED.—Within 12 months  
9 after the date of enactment of the Magnuson-Ste-  
10 vens Reauthorization Act of 2000 the Scientific and  
11 Statistical Committees of each regional fishery man-  
12 agement council shall identify and submit a report  
13 to the Secretary outlining prioritized information or  
14 research needs to support ecosystem based manage-  
15 ment of the fisheries within its jurisdiction. In deter-  
16 mining what factors to consider, the Committees  
17 may consider the recommendations outlined in the  
18 report under section (d).

19 “(2) ASSISTANCE.—The Secretary shall provide  
20 assistance to the regional councils to obtain the  
21 prioritized information and conduct research identi-  
22 fied in the reports under paragraph (1). These ef-  
23 forts shall not displace existing research efforts and  
24 priorities identified by the regional councils or the  
25 Secretary.

26 “(g) PILOT PROGRAM.—

1           “(1) IN GENERAL.—Within 18 months after the  
2           date of enactment of the Magnuson-Stevens Reau-  
3           thorization Act of 2000, the Secretary, in consulta-  
4           tion with the 8 regional fishery management council  
5           Chairs and affected stakeholders, shall identify at  
6           least one fishery or complex of interacting fisheries  
7           suitable for the development of a pilot Fishery Eco-  
8           system Plan. The Secretary shall consider the re-  
9           ports submitted under subsection (f) when selecting  
10          the pilot program.

11           “(2) COORDINATION WITH APPROPRIATE COUN-  
12          CIL.—After identifying the pilot Fishery Ecosystem  
13          Plan, the Secretary shall coordinate with the appro-  
14          priate regional fishery management council to iden-  
15          tify any information or conduct any research that  
16          may be needed to complete such a plan including a  
17          model of the food web, habitat needs of organisms  
18          identified in the food web, rates of mortality, identi-  
19          fication of indicator species, and any other relevant  
20          data and monitoring needs.

21           “(3) FISHERY ECOSYSTEM PLAN.—Within 30  
22          months after identification of the pilot fishery or  
23          complex of interacting fisheries, the appropriate re-  
24          gional fishery management council shall submit to  
25          the Secretary for approval a Fishery Ecosystem

1 Plan. In creating such plan, the council may con-  
 2 sider the recommendations outlined in the report  
 3 under section (d).”.

## 4 **TITLE II—SHARK** 5 **CONSERVATION**

### 6 **SEC. 201. PROHIBITION ON SHARK-FINNING AND THE** 7 **LANDING OF SHARK FINS TAKEN BY SHARK-** 8 **FINNING.**

9 (a) IN GENERAL.—Section 307 of the Magnuson-Ste-  
 10 vens Fishery Conservation and Management Act (16  
 11 U.S.C. 1857) is amended—

12 (1) by inserting “(a) IN GENERAL.—” before  
 13 “It is unlawful—”;

14 (2) by striking “or” after the semicolon in sub-  
 15 paragraph (N);

16 (3) by striking the period in subparagraph (O)  
 17 and inserting a semicolon and “or”; and

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

19 “(P) to engage in shark-finning, or to land  
 20 the fins of a shark that were taken by shark-  
 21 finning.

22 “(b) SHARK-FINNING PRESUMPTION.—For purposes  
 23 of subsection (a)(1)(P), there is a rebuttable presumption  
 24 that shark fins landed from a fishing vessel or found on  
 25 board a fishing vessel were taken by shark-finning.”.

1 (b) DEFINITION ADDED TO ACT.—Section 3 of the  
2 Magnuson-Stevens Fishery Conservation and Manage-  
3 ment Act (16 U.S.C. 1802), as amended by section 103,  
4 is amended—

5 (1) by redesignating paragraphs (38) through  
6 (48), and any reference to any such paragraph else-  
7 where in that Act, as paragraphs (39) through (49);  
8 and

9 (2) by inserting after paragraph (37) the fol-  
10 lowing:

11 “(38) The term ‘shark-finning’ means the tak-  
12 ing of a shark, removing the fin or fins (whether or  
13 not including the tail), and returning the remainder  
14 of the shark to the sea.”.

15 **SEC. 202. REGULATIONS.**

16 No later than 90 days after the date of enactment  
17 of this Act, the Secretary of Commerce shall promulgate  
18 regulations implementing the prohibition set forth in sec-  
19 tion 307(a)(1)(P) of the Magnuson-Stevens Fishery Con-  
20 servation and Management Act (16 U.S.C. 1857(a)(1)(P))  
21 that—

22 (1) establish shark fin landing requirements  
23 that consider species identification needs, shark  
24 processing methods, and the nature and availability

1 of markets for shark products in the region in which  
2 the shark fins are landed;

3 (2) contain procedures governing release of  
4 sharks caught but not retained by a fishing vessel  
5 that will ensure maximum probability of survival of  
6 sharks after release;

7 (3) contain documentation and other require-  
8 ments necessary to assure the timely and adequate  
9 collection of data to support shark stock assessments  
10 and conservation enforcement efforts; and

11 (4) set forth the facts and circumstances under  
12 which a person may rebut the presumption estab-  
13 lished by section 307(b) of the Magnuson-Stevens  
14 Fishery Conservation and Management Act (16  
15 U.S.C. 1857(b), including the use of documentation  
16 provided through applicable fisheries observer pro-  
17 grams and dockside inspection.

18 **SEC. 203. INTERNATIONAL NEGOTIATIONS.**

19 The Secretary of Commerce, acting through the Sec-  
20 retary of State, may with respect to the fishing practices  
21 on highly migratory sharks governed by regulations pro-  
22 mulgated by the Secretary of Commerce pursuant to sec-  
23 tion 202 of this title—

24 (1) notify other nations whose vessels engage in  
25 fishing on highly migratory sharks, as soon as pos-

1 sible, about the import certification procedures and  
2 regulations under section of this title, as well as the  
3 international cooperation and assistance provisions  
4 of section 204;

5 (2) initiate discussions as soon as possible for  
6 purpose of developing bilateral or multilateral agree-  
7 ments with other nations to conserve and manage  
8 highly migratory sharks, which should include provi-  
9 sions prohibiting shark-finning and minimizing ad-  
10 verse effects of commercial fishing operations on  
11 species of highly migratory sharks;

12 (3) provide to the Congress, by not later than  
13 1 year after the date of enactment of this Act, and  
14 every year thereafter, a full report which—

15 (A) includes a list of nations whose vessels  
16 conduct shark-finning or commercial fishing op-  
17 erations which may adversely affect highly mi-  
18 gratory shark species;

19 (B) describes the efforts taken to carry out  
20 this title and evaluates the progress of those ef-  
21 forts;

22 (C) includes a determination as to whether  
23 the importation into the United States of  
24 sharks and shark products (including fins) is  
25 adversely affecting the effectiveness of national

1 and international measures for the conservation  
2 of highly migratory sharks; and

3 (D) includes recommendations for meas-  
4 ures to ensure that United States actions are  
5 consistent with national, international, and re-  
6 gional obligations relating to highly migratory  
7 shark populations, including those listed under  
8 the Convention on the International Trade in  
9 Endangered Species.

10 **SEC. 204. IMPORT CERTIFICATION.**

11 (a) IN GENERAL.—If the Secretary of Commerce,  
12 after consultation with the Secretary of State, determines  
13 that the importation of sharks or shark products into the  
14 United States is adversely affecting the effectiveness of  
15 national and international measures for the conservation  
16 of highly migratory sharks, then the Secretary shall report  
17 that determination to the Congress and establish a proce-  
18 dure, consistent with the provisions of subchapter II of  
19 chapter 5 of title 5, United States Code, and including  
20 notice and an opportunity for comment by the govern-  
21 ments of nations listed by the Secretary under paragraph  
22 (6) of section 203, for determining whether those  
23 governments—

24 (1) have adopted regulatory programs gov-  
25 erning shark-finning and other harvesting practices

1 adversely affecting highly migratory sharks that are  
2 comparable, taking into account different conditions,  
3 to those of the United States;

4 (2) have established management plans gov-  
5 erning release of highly migratory species of sharks  
6 caught but not retained by fishing vessels that en-  
7 sure maximum probability of survival after release;  
8 and

9 (3) have established a management plan con-  
10 taining requirements that will assist in gathering  
11 species-specific data to support international and re-  
12 gional shark stock assessments and conservation en-  
13 forcement efforts.

14 (b) CERTIFICATION PROCEDURE.—

15 (1) IN GENERAL.—The Secretary shall deter-  
16 mine, on the basis of the procedure under subsection  
17 (a), and certify to the Congress not later than 90  
18 days after promulgation of the regulations under  
19 section 202, and annually thereafter whether the  
20 government of each harvesting nation—

21 (A) has provided documentary evidence of  
22 the adoption of a regulatory program governing  
23 shark-finning and the conservation of highly mi-  
24 gratory sharks that is comparable, taking into

1 account different conditions, to that of the  
2 United States;

3 (B) has established a management plan  
4 governing release of highly migratory species of  
5 sharks caught but not retained by a fishing ves-  
6 sel that will ensure maximum probability of sur-  
7 vival of after release; and

8 (C) has established a management plan  
9 containing requirements that will assist in gath-  
10 ering species-specific data to support inter-  
11 national and regional shark stock assessments  
12 and conservation enforcement efforts.

13 (2) ALTERNATIVE PROCEDURE.—The Secretary  
14 shall establish a procedure for certification, on a  
15 shipment-by-shipment, shipper-by-shipper, or other  
16 basis of imports of highly migratory sharks or prod-  
17 ucts (including fins) from a vessel of a harvesting  
18 nation not certified under paragraph (1) if the Sec-  
19 retary determines that such imports were harvested  
20 by practices that—

21 (A) do not adversely affect highly migra-  
22 tory sharks;

23 (B) include release of highly migratory  
24 species of sharks caught but not retained by

1           such vessel in a manner that ensures maximum  
2           probability of survival after release;

3           (C) include the gathering of species-spe-  
4           cific data that can be used to support inter-  
5           national and regional shark stock assessments  
6           and conservation efforts; or

7           (D) are consistent with harvesting prac-  
8           tices comparable, taking into account the cir-  
9           cumstances, to those of the United States.

10       (c) UNCERTIFIED IMPORTS.—It is unlawful to import  
11 highly migratory sharks or products (including fins) which  
12 have been harvested by the practice of shark-finning or  
13 other commercial fishing practices that may affect ad-  
14 versely such populations of sharks more than 90 days  
15 after promulgation of the regulations under section 202  
16 if such sharks or products were harvested by a vessel of  
17 a harvesting nation not certified under subsection (b)(1)  
18 unless that vessel is certified under subsection (b)(2).

19       (d) REINSTATEMENT OF UNCERTIFIED COUNTRY  
20 STATUS.—If the Secretary fails to make the annual cer-  
21 tification required by subsection (b)(1) with respect to a  
22 country previously certified under that subsection, and ex-  
23 cept as provided in subsection (b)(2), then subsection (c)  
24 shall apply to imports of highly migratory sharks or prod-  
25 ucts (including fins) harvested by vessels of that nation

1 beginning 90 days after the date in any year on which  
2 the Secretary fails to make the scheduled annual certifi-  
3 cation required by subsection (b).

4 **SEC. 205. SHARK-FINNING DEFINED.**

5 For the purposes of this title, the term “shark-fin-  
6 ning” means the taking of a shark, removing the fin or  
7 fins (whether or not including the tail), and returning the  
8 remainder of the shark to the sea.

9 **SEC. 206. INTERNATIONAL COOPERATION AND ASSIST-**  
10 **ANCE.**

11 To the greatest extent possible consistent with exist-  
12 ing authority and the availability of funds, the Secretary  
13 of Commerce shall—

14 (1) provide appropriate technological and other  
15 assistance to nations listed under paragraph (6) of  
16 section 203 and regional or international organiza-  
17 tions of which those nations are members to assist  
18 those nations in qualifying for certification under  
19 section 204(b)(1);

20 (2) undertake, where appropriate, cooperative  
21 research activities on species statistics and improved  
22 harvesting techniques, with those nations or organi-  
23 zations;

24 (3) encourage and facilitate the transfer of ap-  
25 propriate technology to those nations or organiza-

1 tions to assist those nations in qualifying for certifi-  
2 cation under section 204(b)(1); and

3 (4) provide assistance to those nations or orga-  
4 nizations in designing and implementing appropriate  
5 shark harvesting plans.

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