

107TH CONGRESS  
1ST SESSION

# H. R. 1367

To provide for the conservation and rebuilding of overfished stocks of Atlantic highly migratory species of fish, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2001

Mr. SAXTON (for himself and Mr. SIMMONS) introduced the following bill;  
which was referred to the Committee on Resources

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## A BILL

To provide for the conservation and rebuilding of overfished stocks of Atlantic highly migratory species of fish, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Atlantic Highly Migratory Species Conservation Act of  
6 2001”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.

- Sec. 4. Definitions.
- Sec. 5. Closure of highly migratory species conservation zones.
- Sec. 6. Pelagic longline fishing vessel permit holder compensation program.
- Sec. 7. Restrictions on vessels.
- Sec. 8. Restrictions on compensated eligible permit holders.
- Sec. 9. Prohibited act under Magnuson-Stevens Act.
- Sec. 10. Information collection review not to apply.
- Sec. 11. Highly migratory species bycatch mortality reduction research program.
- Sec. 12. Reallocation of total allowable catch.
- Sec. 13. Monitoring and evaluation of area closures.
- Sec. 14. Vessel monitoring device.
- Sec. 15. Effective date.
- Sec. 16. Authorization of appropriations.

1 **SEC. 2. FINDINGS.**

2 The Congress makes the following findings:

3 (1) Highly migratory species of fish, including  
4 North Atlantic swordfish, species of Atlantic billfish,  
5 and Atlantic large coastal sharks, are overfished and  
6 require greater conservation as confirmed by recent  
7 scientific assessments. In its most recent analysis,  
8 the Standing Committee on Research and Statistics  
9 of the International Commission for the Conserva-  
10 tion of Atlantic Tunas estimated that a number of  
11 key stocks of highly migratory species have less than  
12 the biomass needed to produce their respective max-  
13 imum sustainable yields. The 1999 SCRS stock as-  
14 sessment estimated that the North Atlantic sword-  
15 fish stock was at 65 percent of the necessary bio-  
16 mass to produce maximum sustainable yield. The  
17 1997 SCRS stock assessment estimated that the At-  
18 lantic blue marlin stock was at 24 percent, and the  
19 Atlantic white marlin stock was at 23 percent, of the

1 necessary biomass to produce MSY. In its most re-  
2 cent stock assessment for Atlantic sailfish/spearfish,  
3 the SCRS estimated these stocks were at 62 percent  
4 of the necessary biomass to produce MSY. Also, the  
5 National Marine Fisheries Service has identified  
6 North Atlantic swordfish, Atlantic blue marlin, At-  
7 lantic white marlin, Atlantic sailfish/spearfish, and  
8 other highly migratory species of fish as overfished.

9 (2) A reduction in the mortality of undersized  
10 swordfish will contribute substantially to the rebuild-  
11 ing of North Atlantic swordfish as confirmed by a  
12 1998 SCRS report that expressed “concern about  
13 the high catches (landings plus discards) of small  
14 swordfish” and “emphasized that gains in the yield  
15 could accrue if fishing mortality on small fish could  
16 be further reduced.”

17 (3) In 1998, ICCAT adopted a resolution di-  
18 recting the SCRS to develop options for rebuilding  
19 North Atlantic swordfish to levels that would  
20 produce the maximum sustainable yield, including  
21 alternative methods for reducing small fish mor-  
22 tality, for consideration at the ICCAT meeting in  
23 1999.

24 (4) Reducing the mortality of species of Atlan-  
25 tic billfish, including Atlantic blue marlin, Atlantic

1 white marlin, and Atlantic sailfish/spearfish, will  
2 contribute substantially to the rebuilding of these  
3 stocks.

4 (5) In 1990, ICCAT encouraged its member  
5 states to take appropriate measures within their na-  
6 tional jurisdictions to protect small swordfish, in-  
7 cluding the establishment of time and area closures.

8 (6) Significant reductions in the mortality of ju-  
9 venile swordfish, Atlantic white marlin, Atlantic blue  
10 marlin, Atlantic sailfish/spearfish, species of Atlantic  
11 large coastal sharks, and other highly migratory spe-  
12 cies of fish within the exclusive economic zone of the  
13 United States can be achieved by the design and im-  
14 plementation of discrete, scientifically based time-  
15 area closures for pelagic longline fishing.

16 (7) A credible, scientifically based time-area clo-  
17 sure for pelagic longline fishing that would achieve  
18 reductions in the bycatch and mortality of overfished  
19 highly migratory species within the United States  
20 exclusive economic zone will provide a model for ap-  
21 plying the same conservation concept more broadly  
22 in international waters through ICCAT in further  
23 pursuit of the goal of rebuilding the stocks of these  
24 species.

1           (8) The time-area closures for pelagic longline  
2 fishing within the United States exclusive economic  
3 zone that will achieve the conservation objectives for  
4 swordfish, billfish, and large coastal sharks in the  
5 Atlantic Ocean and Gulf of Mexico and that will re-  
6 duce conflicts between commercial and recreational  
7 fishermen will result in harmful economic impacts on  
8 United States commercial fishermen who engage in  
9 pelagic longline fishing, as well as their families.  
10 Such harmful economic impacts can be offset by a  
11 fair and equitable buyout of the permits and licenses  
12 of certain pelagic longline fishing vessels.

13           (9) There is a great need for the National Ma-  
14 rine Fisheries Service to conduct additional scientific  
15 research, in cooperation with pelagic longline fishing  
16 vessels, to identify the uses and configurations of pe-  
17 lagic longline fishing gear that are most effective in  
18 reducing bycatch.

19 **SEC. 3. PURPOSES.**

20           The purposes of this Act are the following:

21           (1) To expand the scientific knowledge and un-  
22 derstanding of Atlantic highly migratory species and  
23 the fisheries of the United States, including rec-  
24 reational and commercial research, both design and  
25 deployment.

1           (2) To contribute to the conservation and re-  
2 building of overfished stocks of highly migratory spe-  
3 cies, including North Atlantic swordfish, Atlantic  
4 white marlin, Atlantic blue marlin, Atlantic sailfish/  
5 spearfish, and Atlantic large coastal sharks, through  
6 reductions in mortality and the protection of those  
7 areas that may occur within the exclusive economic  
8 zone of the United States, to levels that will produce  
9 maximum sustainable yield, in compliance with  
10 United States obligations under the International  
11 Convention for the Conservation of Atlantic Tunas  
12 and consistent with section 301(a)(1) of the Magnu-  
13 son-Stevens Act (16 U.S.C. 1851(a)(1)) and section  
14 304 of the Magnuson-Stevens Act (16 U.S.C. 1854).

15           (3) To minimize socio-economic impacts on  
16 United States commercial fishermen and their fami-  
17 lies, consistent with section 301(a)(8) of the Magnu-  
18 son-Stevens Act (16 U.S.C. 1851(a)(8)) and the re-  
19 quirements of chapter 6 of title 5, United States  
20 Code (popularly known as the Regulatory Flexibility  
21 Act), resulting from the conservation actions taken  
22 under this Act.

23           (4) To ensure a sustainable fishery.

24           (5) To minimize both bycatch, including regu-  
25 latory discards, consistent with the Magnuson-Ste-

1       vens Act and the international obligations of the  
2       United States, and marine mammal and sea turtle  
3       mortality as required by the Marine Mammal Pro-  
4       tection Act of 1972 and the Endangered Species Act  
5       of 1973.

6               (6) To support and encourage the United  
7       States Government's efforts to obtain international  
8       agreements that provide for effective fishery con-  
9       servation and management consistent with the poli-  
10      cies set forth in section 2(c) of the Magnuson-Ste-  
11      vens Act (16 U.S.C. 1801(c)) and to provide the  
12      necessary leadership for achieving greater inter-  
13      national conservation of highly migratory species.

14              (7) To reduce conflicts within the exclusive eco-  
15      nomic zone of the United States between the pelagic  
16      longline and recreational fisheries for highly migra-  
17      tory species.

18              (8) To minimize bycatch, and to the extent pos-  
19      sible, to prevent displacement of fishing effort result-  
20      ing from the conservation actions under this Act.

21 **SEC. 4. DEFINITIONS.**

22       In this Act, the following definitions apply:

23              (1) ATLANTIC OCEAN.—The term “Atlantic  
24      Ocean” includes the waters of the Gulf of Mexico  
25      and the Caribbean Sea.

1           (2) BILLFISH.—The term “billfish” means blue  
2 marlin, spearfish, sailfish, and white marlin.

3           (3) BYCATCH.—The term “bycatch” means fish  
4 that are harvested in a fishery, but that are not sold  
5 or kept for personal use, and includes economic dis-  
6 cards and regulatory discards. The term does not in-  
7 clude fish released alive under a recreational catch  
8 and release fishery management program.

9           (4) COMMERCIAL FISHING.—The term “com-  
10 mercial fishing” means fishing in which the fish har-  
11 vested, either in whole or in part, are intended to  
12 enter commerce through sale, barter, or trade.

13           (5) ELIGIBLE PERMIT HOLDER.—The term “el-  
14 igible permit holder” means a person or group of  
15 persons who, on the date of enactment of this Act,  
16 holds a Directed Swordfish Limited Access Permit  
17 or a Tuna Longline Permit with Incidental Sword-  
18 fish and Shark that was issued based on the land-  
19 ings of an eligible vessel.

20           (6) EEZ.—The term “EEZ” means the exclu-  
21 sive economic zone established by Proclamation  
22 Numbered 5030, dated March 10, 1983.

23           (7) FISH.—The term “fish” means finfish, mol-  
24 lusks, crustaceans, and all other forms of marine

1 animal and plant life other than marine mammals  
2 and birds.

3 (8) FISHING.—The term “fishing” means—

4 (A) the catching, taking, or harvesting of  
5 fish;

6 (B) the attempted catching, taking, or har-  
7 vesting of fish;

8 (C) any other activity which can reason-  
9 ably be expected to result in the catching, tak-  
10 ing, or harvesting of fish; or

11 (D) any operations at sea in support of, or  
12 in preparation for, any activity described in  
13 subparagraphs (A) through (C).

14 The term does not include any scientific research ac-  
15 tivity that is authorized by the Secretary.

16 (9) FISHING VESSEL.—The term “fishing ves-  
17 sel” means any vessel, boat, ship, or other craft that  
18 is used for, equipped to be used for, or of a type  
19 that is normally used for—

20 (A) fishing; or

21 (B) aiding or assisting one or more vessels  
22 at sea in the performance of any activity relat-  
23 ing to fishing, including but not limited to prep-  
24 aration, supply, storage, refrigeration, transpor-  
25 tation, or processing.

1           (10) GEODESIC.—The term “geodesic” means  
2 the shortest line between two points that lies on the  
3 surface of the Earth.

4           (11) HIGHLY MIGRATORY SPECIES.—The term  
5 “highly migratory species” means tuna species, bill-  
6 fish, oceanic sharks, and swordfish.

7           (12) ICCAT.—The term “ICCAT” means the  
8 International Commission for the Conservation of  
9 Atlantic Tunas.

10          (13) MAGNUSON-STEVENSON ACT.—The term  
11 “Magnuson-Stevens Act” means the Magnuson-Ste-  
12 venson Fishery Conservation and Management Act (16  
13 U.S.C. 1801 et seq.).

14          (14) MID-ATLANTIC BIGHT.—The term “Mid-  
15 Atlantic Bight” means all waters of the Atlantic  
16 Ocean north of 35 degrees north latitude and west  
17 of 71 degrees west longitude.

18          (15) MSY.—The term “MSY” means maximum  
19 sustainable yield.

20          (16) OBSERVER.—The term “observer” has the  
21 meaning that term has in the Magnuson-Stevens Act  
22 (16 U.S.C. 1801 et seq.).

23          (17) OVERFISHED.—The term “overfished” has  
24 the meaning that term has in the Magnuson-Stevens  
25 Act (16 U.S.C. 1801 et seq.).

1           (18) PELAGIC LONGLINE FISHING.—The term  
2           “pelagic longline fishing” means a method of fishing  
3           that uses any fishing gear consisting of a length of  
4           line suspended horizontally in the water above the  
5           bottom from lines attached to surface floats and to  
6           which gangions and hooks are attached and are used  
7           to target pelagic species.

8           (19) PERSON.—The term “person” means any  
9           individual, corporation, partnership, association, or  
10          other entity (whether or not organized or existing  
11          under the laws of any State).

12          (20) RECORD ADDRESS.—The term “record ad-  
13          dress” means the address of record for each permit  
14          holder and highly migratory species dealer as main-  
15          tained in the National Marine Fisheries Service’s  
16          databases.

17          (21) RECREATIONAL FISHING.—The term “rec-  
18          reational fishing” means fishing for sport or pleas-  
19          ure.

20          (22) SCRS.—The term “SCRS” means the  
21          Standing Committee on Research and Statistics of  
22          ICCAT.

23          (23) SECRETARY.—The term “Secretary”  
24          means the Secretary of Commerce or a designee of  
25          such Secretary.

1           (24) TUNAS.—The term “tunas” means alba-  
2           core, bigeye, bluefin, skipjack, and yellowfin tunas.

3 **SEC. 5. CLOSURE OF HIGHLY MIGRATORY SPECIES CON-**  
4 **SERVATION ZONES.**

5           (a) GULF OF MEXICO CONSERVATION ZONE FOR  
6 HIGHLY MIGRATORY SPECIES.—During the period that  
7 begins on the first Memorial Day after the effective date  
8 of this Act and continues through Labor Day of the same  
9 calendar year, and every year thereafter, no person may  
10 engage in pelagic longline fishing in the Gulf of Mexico  
11 Conservation Zone For Highly Migratory Species. For  
12 purposes of this subsection, such zone is the area of the  
13 exclusive economic zone seaward of the baseline from  
14 which the territorial sea is measured, that is enclosed by  
15 a series of geodesics connecting in succession the points  
16 at the following coordinates:

17           (1) 26 degrees 0 minutes north latitude, 97 de-  
18           grees 10 minutes west longitude (at approximately  
19           the border between the United States and Mexico).

20           (2) 26 degrees 0 minutes north latitude, 96 de-  
21           grees 0 minutes west longitude.

22           (3) 27 degrees 30 minutes north latitude, 94  
23           degrees 30 minutes west longitude.

24           (4) 27 degrees 30 minutes north latitude, 90  
25           degrees 0 minutes west longitude.

1           (5) 28 degrees 0 minutes north latitude, 90 de-  
2           grees 0 minutes west longitude.

3           (6) 28 degrees 0 minutes north latitude, 89 de-  
4           grees 30 minutes west longitude.

5           (7) 29 degrees 0 minutes north latitude, 87 de-  
6           grees 30 minutes west longitude.

7           (8) 29 degrees 0 minutes north latitude, 86 de-  
8           grees 0 minutes west longitude.

9           (9) 29 degrees 40 minutes north latitude, 85  
10          degrees 20 minutes west longitude (at Cape San  
11          Blas, Florida).

12          (b) MID-ATLANTIC CONSERVATION ZONES FOR  
13          HIGHLY MIGRATORY SPECIES.—

14               (1) ANNUAL CLOSURE.—No person shall—

15                       (A) engage in pelagic longline fishing in  
16                       the Northern Mid-Atlantic Conservation Zone  
17                       for Highly Migratory Species—

18                               (i) during the period that begins on  
19                               the first July 21 occurring after the date  
20                               of the enactment of this section and ends  
21                               on August 31 of the same calendar year;

22                               or

23                               (ii) during the same period in any  
24                               year thereafter; or

1 (B) engage in pelagic longline fishing in  
2 the Southern Mid-Atlantic Conservation Zone  
3 for Highly Migratory Species—

4 (i) during the period that begins on  
5 the first September 1 occurring after the  
6 date of enactment of this section and ends  
7 on September 30 of the same calendar  
8 year; or

9 (ii) during the same period in any  
10 year thereafter.

11 (2) ZONES DESCRIBED.—

12 (A) NORTHERN MID-ATLANTIC CONSERVA-  
13 TION ZONE.—For purposes of paragraph (1),  
14 the Northern Mid-Atlantic Conservation Zone  
15 for Highly Migratory Species is the area en-  
16 closed by a series of geodesics connecting in  
17 succession the points at the following coordi-  
18 nates:

19 (i) 37 degrees 30 minutes north lati-  
20 tude, 74 degrees 30 minutes west lon-  
21 gitude.

22 (ii) 40 degrees 0 minutes north lati-  
23 tude, 72 degrees 15 minutes west lon-  
24 gitude.

1 (iii) 39 degrees 0 minutes north lati-  
2 tude, 72 degrees 15 minutes west lon-  
3 gitude.

4 (iv) 37 degrees 30 minutes north lati-  
5 tude, 73 degrees 30 minutes west lon-  
6 gitude.

7 (B) SOUTHERN MID-ATLANTIC CONSERVA-  
8 TION ZONE.—For purposes of paragraph (1),  
9 the Southern Mid-Atlantic Conservation Zone  
10 for Highly Migratory Species is the area en-  
11 closed by a series of geodesics connecting in  
12 succession the points at the following coordi-  
13 nates:

14 (i) 36 degrees 33 minutes north lati-  
15 tude, 74 degrees 45 minutes west lon-  
16 gitude.

17 (ii) 37 degrees 15 minutes north lati-  
18 tude, 74 degrees 45 minutes west lon-  
19 gitude.

20 (iii) 37 degrees 30 minutes north lati-  
21 tude, 74 degrees 30 minutes west lon-  
22 gitude.

23 (iv) 37 degrees 30 minutes north lati-  
24 tude, 73 degrees 30 minutes west lon-  
25 gitude.

1 (v) 37 degrees 0 minutes north lati-  
2 tude, 74 degree 0 minutes west longitude.

3 (vi) 36 degrees 33 minutes north lati-  
4 tude, 74 degrees 0 minutes west longitude.

5 (3) EFFORT LIMITATION.—

6 (A) IN GENERAL.—The Secretary—

7 (i) shall find, by not later than Au-  
8 gust 30 of each year, whether or not the  
9 cumulative number of pelagic longline fish-  
10 ing sets in the Mid-Atlantic Bight for  
11 swordfish and tuna during the period of  
12 June, July, August, and September of that  
13 year will exceed 1,250; and

14 (ii) if the Secretary makes an affirma-  
15 tive finding under clause (i), shall take  
16 such measures as are necessary to ensure  
17 that the cumulative number of such sets in  
18 that period does not exceed that number.

19 (B) REGULATIONS.—The Secretary shall  
20 issue regulations implementing this paragraph  
21 by not later than 180 days after the date of the  
22 enactment of this Act.

23 (c) PELAGIC LONGLINE CAPACITY REDUCTION PRO-  
24 GRAM.—

1           (1) IN GENERAL.—There is established under  
2           the National Marine Fisheries Service a pelagic  
3           longline fishing vessel capacity reduction program.  
4           The Secretary of Commerce shall implement the pro-  
5           gram in a manner consistent with the provisions of  
6           this subsection. Under the program, the Secretary  
7           shall—

8                   (A) establish guidelines for the reduction  
9                   of the Atlantic pelagic longline fleet through the  
10                  surrender of directed swordfish, incidental  
11                  swordfish, and Atlantic tuna permits to the  
12                  United States Government; and

13                  (B) establish a reverse auction for such  
14                  permits for the purpose of reducing pelagic  
15                  longline capacity.

16           (2) ELIGIBILITY.—Any pelagic longline fishing  
17           vessel shall be eligible for the program, except that  
18           the Secretary shall give priority to vessels that had  
19           significant landings of fish from the Mid-Atlantic  
20           Bight in the period 1992 through 1998.

21           (3) NOTIFICATION.—The Secretary shall notify  
22           all eligible incidental and directed pelagic longline  
23           swordfish and Atlantic tuna permit holders of their  
24           eligibility for the program, within 180 days after the  
25           date of enactment of this Act.

1           (4) APPROPRIATIONS FOR COMPENSATION PRO-  
2           GRAM.—There are authorized to be appropriated to  
3           the Secretary of Commerce \$5,000,000 for the pro-  
4           gram established under paragraph (1).

5           (5) REQUEST FOR SUPPLEMENTAL APPROPRIA-  
6           TIONS.—If the Secretary determines that the  
7           amounts appropriated explicitly for the purpose of  
8           making payments under this subsection are inad-  
9           equiate to carry out this subsection completely, then  
10          the Secretary shall notify the Committees on Appro-  
11          priations of the Senate and the House of Represent-  
12          atives of that determination. The Secretary shall in-  
13          clude in the notification a description of possible  
14          sources of additional funds for the purpose of com-  
15          pleting the payments authorized by this section.

16          (d) SCIENTIFIC RESEARCH EXCEPTION.—The re-  
17          strictions under this section on fishing do not apply to pe-  
18          lagic longline fishery research authorized by the Secretary.  
19          No fish caught under the research program may be sold  
20          unless authorized by the Secretary.

21 **SEC. 6. PELAGIC LONGLINE FISHING VESSEL PERMIT**  
22 **HOLDER COMPENSATION PROGRAM.**

23          (a) VOLUNTARY COMPENSATION PROGRAM.—

24                  (1) IN GENERAL.—The Secretary shall conduct  
25          a voluntary Pelagic Longline Vessel Permit Holder

1 Compensation Program, under which the Secretary  
2 shall buy in accordance with this section Directed  
3 Swordfish Initial Limited Access Permits and Tuna  
4 Longline Permits with Incidental Swordfish and  
5 Shark that are in effect under the Magnuson-Ste-  
6 vens Act from each eligible permit holder, by paying  
7 to the eligible permit holder the applicable com-  
8 pensation amount under subsection (d).

9 (2) PRIORITY.—In buying permits under this  
10 subsection, the Secretary shall give priority to per-  
11 mits held by eligible permit holders who, in the 1992  
12 through 1998 fishing seasons, had significant land-  
13 ings of fish under those permits from areas that  
14 were subject to closure under the final rule regard-  
15 ing Atlantic highly migratory species and pelagic  
16 longline management published on August 1, 2000  
17 (65 Fed. Reg. 47214).

18 (3) CONSISTENCY WITH MAGNUSON-STEVENSON  
19 ACT.—To ensure its effectiveness and equity, such  
20 program shall be carried out consistent with the  
21 standards for capacity reduction programs under  
22 section 312(b) of the Magnuson-Stevens Act (16  
23 U.S.C. 1861a(b)).

24 (b) INELIGIBILITY DUE TO PERMIT OR VESSEL  
25 TRANSFER AFTER NOVEMBER 10, 1999.—The Secretary

1 shall not purchase a permit under this section if the vessel  
2 authorized to engage in fishing under the permit, or any  
3 Federal fishing permit or license applicable to that vessel,  
4 is transferred to a different person after November 10,  
5 1999.

6 (c) COMPENSATION NOTIFICATION.—No later than  
7 45 days after the date of enactment of this Act, the Sec-  
8 retary shall, by certified mail return receipt requested, ad-  
9 dressed to each eligible permit holder, notify each eligible  
10 permit holder of—

11 (1) the compensation provisions of this Act; and

12 (2) any other compensation instructions or  
13 guidance that the Secretary may establish.

14 (d) COMPENSATION AMOUNT.—

15 (1) IN GENERAL.—Subject to paragraph (2),  
16 the compensation amount shall be a payment of—

17 (A) \$50,000 per eligible permit holder for  
18 all permits referred to in subsection (a)(1) that  
19 are held by the eligible permit holder, reduced  
20 by the fair market value of any type of such  
21 permits that is not held by the eligible permit  
22 holder; plus

23 (B) for each eligible permit holder that re-  
24 ported to the National Marine Fisheries Service  
25 any landings of highly migratory species by any

1 vessel authorized to be used for fishing under  
2 the permit or permits for which the payment is  
3 made for the period beginning on January 1,  
4 1999, and ending on October 1, 1999, a land-  
5 ing payment that the Secretary determines in  
6 accordance with subsection (e).

7 (2) REDUCTION FOR OBLIGATIONS OWED TO  
8 THE U.S.—The compensation amount determined  
9 under paragraph (1) shall be reduced by the amount  
10 of any lien, judgment, or other such final obligation  
11 owed to the United States by the eligible permit  
12 holder. Before making payment under this section,  
13 the Secretary shall identify all such outstanding obli-  
14 gations with respect to an eligible permit holder and  
15 notify that person of the amount of the reduction  
16 under this paragraph and the obligations taken into  
17 account.

18 (e) LANDING PAYMENT DETERMINATION.—The Sec-  
19 retary's determinations of all landing payments under sub-  
20 section (d) shall be final and shall be made as follows:

21 (1) The basis for each landing payment shall be  
22 the gross ex-vessel value of all fish (regardless of  
23 species) landed by the eligible vessel during any 1  
24 calendar year in the period beginning with the cal-

1       endar year 1992 and ending with calendar year  
2       1998.

3               (2) The amount of each landing payment shall  
4       be 100 percent of such basis, up to \$400,000.

5               (3) No later than 105 days after the date of en-  
6       actment of this Act each permit holder who desires  
7       to be compensated under this section must—

8                       (A) advise the Secretary which single cal-  
9       endar year from 1992 through 1998 the permit  
10      holder chooses pursuant to paragraph (1) as  
11      the basis for the permit holder's landing pay-  
12      ment; and

13                      (B) submit to the Secretary the permit  
14      holder's documentation for the gross ex-vessel  
15      value of all fish (regardless of species) landed  
16      by the eligible vessel during the basis year cho-  
17      sen, that—

18                               (i) is the form of trip tickets or any  
19      relevant criteria required by the Secretary  
20      to verify eligibility (or other landing docu-  
21      mentation issued by the first ex-vessel fish  
22      buyer or buyers) for the eligible vessel that  
23      clearly establishes on their face the identity  
24      and location of the first fish buyer;

1 (ii) states each vessel from which the  
2 fish was bought;

3 (iii) states the date the fish was  
4 bought, and how many pounds of each spe-  
5 cies of fish was bought; and

6 (iv) states how much per pound the  
7 landing vessel was paid for each species of  
8 fish bought (no other documentation shall  
9 be acceptable); or

10 (C) advise the Secretary that the permit  
11 holder does not possess adequate documentation  
12 and, consequently elects to have the Secretary  
13 calculate a default landing payment.

14 (4) If the permit holder submits adequate docu-  
15 mentation the Secretary shall use it to calculate the  
16 landing payment. If the permit holder elects to have  
17 the Secretary calculate a default landing payment  
18 (or submits inadequate documentation), the Sec-  
19 retary shall calculate a default payment by applying  
20 average ex-vessel prices (where possible, for each  
21 month of landing and State or area of landing as  
22 maintained in the National Marine Fisheries Serv-  
23 ice's databases) to each pound of species of fish  
24 landed by the permit holder's eligible vessel during  
25 the basis year that the permit holder chooses.

1           (f) COMPENSATION OFFER.—No later than 165 days  
2 after the date of enactment of this Act, the Secretary  
3 shall, by certified mail return receipt requested, addressed  
4 to each eligible permit holder at its record address, offer  
5 each eligible permit holder compensation for an amount  
6 determined in accordance with this section. The Sec-  
7 retary’s offer shall be final and not subject to negotiation  
8 or counteroffer.

9           (g) COMPENSATION OFFER ACCEPTANCE.—

10           (1) IN GENERAL.—Each eligible permit holder  
11 who desires to be compensated in accordance with  
12 this Act must accept the Secretary’s compensation  
13 offer no later than 195 days after the date of enact-  
14 ment of this Act. Such acceptance—

15                   (A) must be in writing signed by the per-  
16 mit holder or permit holder’s duly authorized  
17 representative and delivered to the Chief, Fi-  
18 nancial Services Division, National Marine  
19 Fisheries Service, 1315 East-West Highway,  
20 Silver Spring, MD 20910–3282, and the ac-  
21 ceptance letter shall include any necessary di-  
22 rect wire transfer instructions;

23                   (B) shall constitute the permit holder’s ir-  
24 revocable consent for all other restrictions that  
25 this Act permanently requires with respect to

1 the eligible vessel, and all such restrictions shall  
2 immediately be in effect; and

3 (C) shall be accompanied by all commercial  
4 fishing permits and licenses held by the permit  
5 holder that are applicable to the eligible vessel.

6 (2) DELIVERY BY MAIL.—If the acceptance is  
7 mailed, it must be mailed by certified mail return re-  
8 ceipt requested. The Secretary shall consider the  
9 date of acceptance to be the date on which it was  
10 mailed.

11 (3) DELIVERY OTHER THAN BY MAIL.—If ac-  
12 ceptance is delivered by any other means, the Sec-  
13 retary shall consider the date of acceptance to be the  
14 date on which the Secretary first received the ac-  
15 ceptance. The Secretary's determinations regarding  
16 the timeliness of the acceptance shall be final.

17 (h) COMPENSATION PAYMENT.—No later than 225  
18 days after the date of enactment of this Act, the Secretary  
19 shall, in accordance with this section, pay compensation  
20 in full to each permit holder whose acceptance of the Sec-  
21 retary's offer was timely.

22 (i) AUTHORIZATION OF APPROPRIATIONS.—There  
23 are authorized to be appropriated \$25,000,000 for the  
24 compensation payments authorized under this section.

1 **SEC. 7. RESTRICTIONS ON VESSELS.**

2 (a) IN GENERAL.—

3 (1) REVOCATION OF FISHING PERMITS.—EX-  
4 cept as provided in paragraph (2), all commercial  
5 fishing permits or licenses held by an eligible permit  
6 holder accepting compensation under section 6 shall  
7 be revoked upon receipt by the Secretary of the let-  
8 ter of acceptance under section 6(g).

9 (2) CERTAIN TRANSFERS MAY BE ALLOWED.—  
10 The Secretary may allow, under regulations issued  
11 by this Secretary, a transfer of such a permit to an-  
12 other entity if the Secretary determines that the per-  
13 mit will not be used for pelagic longline fishing.

14 (3) GLOBAL DISQUALIFICATION OF VESSEL.—A  
15 vessel that was authorized to engage in fishing  
16 under a permit or license that is revoked under this  
17 section shall never again be used by any person any-  
18 where in the world (regardless of the national status  
19 of such person) for commercial fishing.

20 (4) NOTICE.—The Secretary shall notify the  
21 Secretary of Transportation of each revocation of a  
22 vessel's fishing permits and licenses under this Act.  
23 The notice shall include any future restrictions on  
24 the vessel required by this Act.

25 (b) INELIGIBILITY FOR FISHERIES ENDORSE-  
26 MENT.—Section 12108(d) of title 46, United States Code,

1 is amended by inserting “, or a vessel whose commercial  
2 fishing permits and licenses have been surrendered or re-  
3 voked, respectively, under section 5(c) or 7(a)(1) of the  
4 Atlantic Highly Migratory Species Conservation Act of  
5 2001,” before “is not eligible”.

6 (c) TRANSFER TO FOREIGN OWNERSHIP OR REG-  
7 ISTRY PROHIBITED.—

8 (1) PROHIBITED TRANSFER.—No person may—

9 (A) sell, lease, charter, deliver, or in any  
10 manner transfer, or agree to sell, lease, charter,  
11 deliver, or in any manner transfer, to a person  
12 who is not a citizen of the United States, any  
13 interest in or control of a vessel that was au-  
14 thorized to be used to engage in fishing under  
15 a permit or license revoked under this section;  
16 or

17 (B) place such a vessel under foreign reg-  
18 istry or operate that vessel under the authority  
19 of a foreign country.

20 (2) VOID EFFECT.—Any sale, lease, charter, de-  
21 livery, or transfer of a vessel, or interest in or con-  
22 trol of a vessel, in violation of this subsection is void.

23 (d) PENALTIES.—

24 (1) CRIMINAL PENALTY.—Any person that  
25 knowingly violates this section, or knowingly submits

1 false documentation for the landing payment under  
2 section 6, shall be fined under title 18, United  
3 States Code, imprisoned for not more than 5 years,  
4 or both.

5 (2) FORFEITURE.—A vessel (including its fish-  
6 ing gear, furniture, appurtenances, stores, and  
7 cargo) may be seized by, and forfeited to, the United  
8 States Government if—

9 (A)(i) the vessel is placed under foreign  
10 registry or operated under the authority of a  
11 foreign country in violation of this section;

12 (ii) a person knowingly sells, leases, char-  
13 ters, delivers, or transfers the vessel, or an in-  
14 terest in or control of that vessel, in violation  
15 of this section;

16 (B) the vessel is used for commercial fish-  
17 ing in violation of this section; or

18 (C) a permit holder submits false docu-  
19 mentation for the landing payment under sec-  
20 tion 6 with respect to landings made, or alleged  
21 to have been made, using the vessel.

22 (3) CIVIL PENALTY.—A person that sells,  
23 leases, charters, delivers, or transfers a vessel (or an  
24 interest in or control of a vessel) in violation of this  
25 section, uses a vessel for commercial fishing in viola-

1       tion of this section, or submits false documentation  
2       for the landing payment under section 6 is subject  
3       to a civil penalty determined by the Secretary under  
4       section 308 of the Magnuson-Stevens Act (16 U.S.C.  
5       1858).

6       (e) VESSEL IDENTIFICATION SYSTEM.—The Sec-  
7       retary of Transportation shall ensure that, for each vessel  
8       that was authorized to be used to engage in fishing under  
9       a permit or license that is revoked under this section, in-  
10      formation is recorded and maintained in the vessel identi-  
11      fication system established under chapter 125 of title 46,  
12      United States Code, stating that—

13           (1) the vessel is prohibited under this Act from  
14           engaging in commercial fishing anywhere in the  
15           world;

16           (2) the vessel is not eligible for any commercial  
17           fishing permit or license, regardless of whether the  
18           permit or license is issued by the Federal Govern-  
19           ment, or a State government or political subdivision  
20           thereof; and

21           (3) use of the vessel in any commercial fishing  
22           operation may result in Federal civil and criminal  
23           penalties and forfeiture of the vessel and its cargo  
24           and equipment.

1 **SEC. 8. RESTRICTIONS ON COMPENSATED ELIGIBLE PER-**  
2 **MIT HOLDERS.**

3 Any eligible permit holder who has been compensated  
4 under section 6 is prohibited from reentering the Directed  
5 Swordfish Limited Access Fishery or Atlantic Tuna  
6 Longline Fishery.

7 **SEC. 9. PROHIBITED ACT UNDER MAGNUSON-STEVENSON ACT.**

8 A person who violates this Act or any regulation  
9 under this Act shall, in addition to any other penalties  
10 provided in this Act or elsewhere, be considered to have  
11 committed an act prohibited under section 307(1)(A) of  
12 the Magnuson-Stevens Act (16 U.S.C. 1857(1)(A)).

13 **SEC. 10. INFORMATION COLLECTION REVIEW NOT TO**  
14 **APPLY.**

15 Section 3507 of title 44, United States Code, does  
16 not apply to the collection of information under this Act.

17 **SEC. 11. HIGHLY MIGRATORY SPECIES BYCATCH MOR-**  
18 **TALITY REDUCTION RESEARCH PROGRAM.**

19 (a) ESTABLISHMENT OF PROGRAM.—There is estab-  
20 lished within the National Marine Fisheries Service at the  
21 Southeast Fisheries Science Center a Pelagic Longline  
22 Highly Migratory Species Bycatch and Mortality Reduc-  
23 tion Research Program. The Program shall identify and  
24 test a variety of pelagic longline fishing gear configura-  
25 tions and uses, including recreational catch and release,  
26 and determine which of those configurations and uses are

1 the most effective in reducing highly migratory species  
2 mortality and sea turtle mortality in the pelagic longline  
3 fisheries in the exclusive economic zone of the United  
4 States in the Atlantic Ocean. The program shall also in-  
5 clude provision for observers to be placed on pelagic  
6 longline fishing vessels for the purposes of monitoring the  
7 fishery and participating in the research program. To fund  
8 the observers, the Secretary shall collect a fee that shall  
9 not exceed 1 percent of the ex-vessel value of fish har-  
10 vested from Atlantic and Gulf of Mexico pelagic longline  
11 vessels, and shall be collected at either the time of the  
12 landing, filing of a landing report, or sale of such fish dur-  
13 ing a fishing season in the last quarter of the calendar  
14 year in which the fish is harvested.

15 (b) PROGRAM DESIGN.—The Program design shall  
16 be developed through a scientific workshop organized and  
17 convened by the Southeast Fisheries Science Center of the  
18 National Marine Fisheries Service. Knowledgeable mem-  
19 bers of the pelagic longline fishing sector, the recreational  
20 billfish and tuna sector, and the conservation community,  
21 along with scientists associated with each such entity,  
22 shall be invited to participate on the workshop design  
23 team. The Center shall make its best efforts to ensure that  
24 each such sector is fairly represented on the design team.  
25 The program design shall be submitted to the Secretary

1 no later than 120 days after the date of enactment of this  
2 Act and shall include a statistically significant rec-  
3 ommendation for the level of observer coverage on pelagic  
4 longline fishing vessels that is necessary to monitor the  
5 fishery effectively and participate in the research program.

6 (c) MARLIN RESEARCH.—The Secretary shall place  
7 emphasis on determining the gear configurations and uses  
8 that are the most effective in reducing blue and white mar-  
9 lin mortality in the exclusive economic zone of the United  
10 States in the Atlantic Ocean.

11 (d) REPORT TO CONGRESS.—No later than 90 days  
12 after the third year of closure of the Gulf of Mexico Con-  
13 servation Zone For Highly Migratory Species under sec-  
14 tion 5(a), the Secretary shall submit a report on the Pro-  
15 gram’s determinations to the Committee on Commerce,  
16 Science, and Transportation of the Senate and the Com-  
17 mittee on Resources of the House of Representatives. The  
18 report shall include proposed statutory language for legis-  
19 lation that may be appropriate prior to the expiration of  
20 the closure of the Gulf of Mexico Conservation Zone For  
21 Highly Migratory Species.

22 **SEC. 12. REALLOCATION OF TOTAL ALLOWABLE CATCH.**

23 The Secretary shall reallocate, to the United States  
24 commercial swordfish hand gear fishing fleet, the portion  
25 of total allowable catch of swordfish by the United States

1 pelagic longline fishing fleet that was attributable to ves-  
2 sels that were authorized to engage in fishing under per-  
3 mits and licenses revoked under section 7. Such realloca-  
4 tion shall be based on the data used to calculate landing  
5 payments under section 6(e) for such vessels.

6 **SEC. 13. MONITORING AND EVALUATION OF AREA CLO-**  
7 **SURES.**

8 (a) ANNUAL MONITORING AND EVALUATION.—The  
9 Secretary shall closely monitor and evaluate, on an annual  
10 basis, the effectiveness of the fishing area closures made  
11 by section 5.

12 (b) RESPONSE ACTION.—As a result of the moni-  
13 toring and evaluation, the Secretary shall take additional  
14 action as necessary to minimize bycatch to meet the re-  
15 quirements of the Magnuson-Stevens Act and all other ap-  
16 plicable laws.

17 **SEC. 14. VESSEL MONITORING DEVICE.**

18 (a) IN GENERAL.—Beginning 225 days after the date  
19 of the enactment of this Act, no person shall operate a  
20 pelagic longline vessel in an Atlantic Ocean highly migra-  
21 tory species fishery unless the vessel is equipped with a  
22 vessel monitoring device approved by the Secretary.

23 (b) COSTS.—Any cost attributable to the initial pur-  
24 chase and installation of vessel monitoring devices re-  
25 quired by subsection (a) shall be paid for by the Secretary.

1 The Secretary shall reimburse any person who provides  
2 sufficient documentation that they previously purchased  
3 such equipment in order to comply with the highly migra-  
4 tory species fishery management plan final rule published  
5 on May 28, 1999 (64 F.R. 29090).

6 (c) CIVIL PENALTY.—A person who operates a vessel  
7 in violation of this section is subject to a civil penalty de-  
8 termined by the Secretary under section 308 of the Mag-  
9 nuson-Stevens Act (16 U.S.C. 1858).

10 (d) LIMITATION ON APPLICATION.—If the Secretary  
11 publishes a finding that adequate amounts are not avail-  
12 able to pay costs and reimbursement under subsection (b)  
13 to place vessel monitoring devices on vessels, then sub-  
14 section (a) does not apply. This subsection does not limit  
15 or otherwise affect any requirement for vessel monitoring  
16 devices on such vessels imposed under the authority of any  
17 other law.

18 **SEC. 15. EFFECTIVE DATE.**

19 Sections 5 and 6 shall take effect on the date the  
20 Secretary publishes a finding that sufficient funds are  
21 available to carry out section 6 and section 11.

22 **SEC. 16. AUTHORIZATION OF APPROPRIATIONS.**

23 (a) IN GENERAL.—There are authorized to be appro-  
24 priated to the Secretary—

1           (1) \$250,000 per fiscal year for the cost of car-  
2           rying out the compensation program under section  
3           6;

4           (2) \$2,400,000 for vessel monitoring devices  
5           under section 14;

6           (3) \$3,000,000 for research under section 11;  
7           and

8           (4) such sums as may be necessary carry out all  
9           other functions under the Act.

10          (b) SOUTHEAST FISHERIES SCIENCE CENTER.—In  
11          addition to amounts authorized under subsection (a),  
12          there are authorized to be appropriated to the Secretary  
13          not more than \$400,000 for the Southeast Fisheries  
14          Science Center to conduct additional research on billfish  
15          and swordfish.

○