

109TH CONGRESS
2D SESSION

S. 2012

AN ACT

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Magnuson-Stevens Fishery Conservation and Manage-
6 ment Reauthorization Act of 2006”.

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

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

TITLE I—CONSERVATION AND MANAGEMENT

- Sec. 101. Cumulative impacts.
- Sec. 102. Caribbean Council jurisdiction.
- Sec. 103. Regional fishery management councils.
- Sec. 104. Fishery management plan requirements.
- Sec. 105. Fishery management plan discretionary provisions.
- Sec. 106. Limited access privilege programs.
- Sec. 107. Environmental review process.
- Sec. 108. Emergency regulations.
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- Sec. 110. Western Alaska Community Development Quota Program.
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- Sec. 112. Joint enforcement agreements.
- Sec. 113. Transition to sustainable fisheries.
- Sec. 114. Regional coastal disaster assistance, transition, and recovery program.
- Sec. 115. Fishery finance program hurricane assistance.
- Sec. 116. Shrimp fisheries hurricane assistance program.
- Sec. 117. Bycatch reduction engineering program.
- Sec. 118. Community-based restoration program for fishery and coastal habitats.
- Sec. 119. Prohibited acts.
- Sec. 120. Enforcement.

TITLE II—INFORMATION AND RESEARCH

- Sec. 201. Recreational fisheries information.
- Sec. 202. Collection of information.
- Sec. 203. Access to certain information.
- Sec. 204. Cooperative research and management program.
- Sec. 205. Herring study.
- Sec. 206. Restoration study.
- Sec. 207. Western Pacific fishery demonstration projects.
- Sec. 208. Fisheries Conservation and Management Fund.
- Sec. 209. Use of fishery finance program and capital construction fund for sustainable purposes.
- Sec. 210. Regional ecosystem research.
- Sec. 211. Deep sea coral research and technology program.
- Sec. 212. Impact of turtle excluder devices on shrimping.
- Sec. 213. Hurricane effects on shrimp and oyster fisheries and habitats.
- Sec. 214. Northwest Pacific fisheries conservation.
- Sec. 215. New England groundfish fishery.

Sec. 216. Report on council management coordination.

TITLE III—OTHER FISHERIES STATUTES

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Sec. 302. Reauthorization of other fisheries acts.

TITLE IV—INTERNATIONAL

Sec. 401. International monitoring and compliance.

Sec. 402. Finding with respect to illegal, unreported, and unregulated fishing.

Sec. 403. Action to end illegal, unreported, or unregulated fishing and reduce bycatch of protected marine species.

Sec. 404. Monitoring of Pacific Insular Area fisheries.

Sec. 405. Reauthorization of Atlantic Tunas Convention Act.

Sec. 406. International overfishing and domestic equity.

Sec. 407. United States catch history.

Sec. 408. Secretarial representative for international fisheries.

TITLE V—IMPLEMENTATION OF WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION

Sec. 501. Short title.

Sec. 502. Definitions.

Sec. 503. Appointment of United States commissioners.

Sec. 504. Authority and responsibility of the Secretary of State.

Sec. 505. Rulemaking authority of the Secretary of Commerce.

Sec. 506. Enforcement.

Sec. 507. Prohibited acts.

Sec. 508. Cooperation in carrying out convention.

Sec. 509. Territorial participation.

Sec. 510. Exclusive economic zone notification.

Sec. 511. Authorization of appropriations.

TITLE VI—PACIFIC WHITING

Sec. 601. Short title.

Sec. 602. Definitions.

Sec. 603. United States representation on joint management committee.

Sec. 604. United States representation on the scientific review group.

Sec. 605. United States representation on joint technical committee.

Sec. 606. United States representation on advisory panel.

Sec. 607. Responsibilities of the Secretary.

Sec. 608. Rulemaking.

Sec. 609. Administrative matters.

Sec. 610. Enforcement.

Sec. 611. Authorization of appropriations.

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

3 Except as otherwise expressly provided, whenever in
4 this Act an amendment or repeal is expressed in terms

1 of an amendment to, or repeal of, a section or other provi-
 2 sion, the reference shall be considered to be made to a
 3 section or other provision of the Magnuson-Stevens Fish-
 4 ery Conservation and Management Act (16 U.S.C. 1801
 5 et seq.).

6 **SEC. 3. CHANGES IN FINDINGS AND DEFINITIONS.**

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

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

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

16 (1) by inserting after paragraph (6) the fol-
 17 lowing:

18 “(6A) The term ‘confidential information’
 19 means—

20 “(A) trade secrets; or

21 “(B) commercial or financial information
 22 the disclosure of which is likely to result in sub-
 23 stantial harm to the competitive position of the
 24 person who submitted the information to the
 25 Secretary.”;

1 (2) by inserting after paragraph (13) the fol-
2 lowing:

3 “(13A) The term ‘regional fishery association’
4 means an association formed for the mutual benefit
5 of members—

6 “(A) to meet social and economic needs in
7 a region or subregion; and

8 “(B) comprised of persons engaging in the
9 harvest or processing of fishery resources in
10 that specific region or subregion or who other-
11 wise own or operate businesses substantially de-
12 pendent upon a fishery.”;

13 (3) by inserting after paragraph (20) the fol-
14 lowing:

15 “(20A) The term ‘import’—

16 “(A) means to land on, bring into, or in-
17 troduce into, or attempt to land on, bring into,
18 or introduce into, any place subject to the juris-
19 diction of the United States, whether or not
20 such landing, bringing, or introduction con-
21 stitutes an importation within the meaning of
22 the customs laws of the United States; but

23 “(B) does not include any activity de-
24 scribed in subparagraph (A) with respect to fish

1 caught in the exclusive economic zone or by a
2 vessel of the United States.”;

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

5 “(23A) The term ‘limited access privilege’—

6 “(A) means a Federal permit, issued as
7 part of a limited access system under section
8 303A to harvest a quantity of fish expressed by
9 a unit or units representing a portion of the
10 total allowable catch of the fishery that may be
11 received or held for exclusive use by a person;
12 and

13 “(B) includes an individual fishing quota;
14 but

15 “(C) does not include community develop-
16 ment quotas as described in section 305(i).

17 “(23B) The term ‘limited access system’ means
18 a system that limits participation in a fishery to
19 those satisfying certain eligibility criteria or require-
20 ments contained in a fishery management plan or
21 associated regulation.”; and

22 (5) by inserting after paragraph (27) the fol-
23 lowing:

24 “(27A) The term ‘observer information’ means
25 any information collected, observed, retrieved, or cre-

1 ated by an observer or electronic monitoring system
 2 pursuant to authorization by the Secretary, or col-
 3 lected as part of a cooperative research initiative, in-
 4 cluding fish harvest or processing observations, fish
 5 sampling or weighing data, vessel logbook data, ves-
 6 sel or processor-specific information (including any
 7 safety, location, or operating condition observations),
 8 and video, audio, photographic, or written docu-
 9 ments.”.

10 (c) REDESIGNATION.—Paragraphs (1) through (45)
 11 of section 3 (16 U.S.C. 1802), as amended by subsection
 12 (a), are redesignated as paragraphs (1) thorough (51), re-
 13 spectively.

14 (d) CONFORMING AMENDMENTS.—

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

18 (A) Section 402(b)(1)(D) (16 U.S.C.
 19 1881a(b)(1)(D)).

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

22 (2) The following provisions of the Act are
 23 amended by striking “individual fishing quota” and
 24 inserting “limited access privilege”:

1 (A) Section 304(c)(3) (16 U.S.C.
2 1854(c)(3)).

3 (B) Section 304(d)(2)(A)(i) (16 U.S.C.
4 1854(d)(2)(A)(i)).

5 (C) Section 407(c)(2)(B) (16 U.S.C.
6 1883(c)(2)(B)).

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

10 **SEC. 4. HIGHLY MIGRATORY SPECIES.**

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

12 (1) by inserting “(a) IN GENERAL.—” before
13 “‘The’”; and

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

15 “(b) TRADITIONAL PARTICIPATION.—In managing
16 any fisheries under an international fisheries agreement
17 to which the United States is a party, the appropriate
18 Council or Secretary shall take into account the traditional
19 participation in the fishery, relative to other nations, by
20 fishermen of the United States on fishing vessels of the
21 United States.

22 “(c) PROMOTION OF STOCK MANAGEMENT.—If a rel-
23 evant international fisheries organization does not have a
24 process for developing a formal plan to rebuild a depleted
25 stock, an overfished stock, or a stock that is approaching

1 a condition of being overfished, the provisions of this Act
 2 in this regard shall be communicated to and promoted by
 3 the United States in the international or regional fisheries
 4 organization.”.

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

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

7 (1) by striking “shall be” and inserting “is”;

8 (2) by striking “will not” and inserting “can-
 9 not, or will not,”;

10 (3) by inserting after “Act.” the following: “Al-
 11 locations of the total allowable level of foreign fish-
 12 ing are discretionary, except that the total allowable
 13 level shall be zero for fisheries determined by the
 14 Secretary to have adequate or excess harvest capac-
 15 ity.”

16 **SEC. 6. WESTERN PACIFIC SUSTAINABLE FISHERIES FUND.**

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

18 (1) by inserting “and any funds or contribu-
 19 tions received in support of conservation and man-
 20 agement objectives under a marine conservation
 21 plan” after “agreement” in paragraph (7); and

22 (2) by inserting after “paragraph (4).” in para-
 23 graph (8) the following: “In the case of violations by
 24 foreign vessels occurring within the exclusive eco-
 25 nomic zones off Midway Atoll, Johnston Atoll, King-

1 man Reef, Palmyra Atoll, Jarvis, Howland, Baker,
 2 and Wake Islands, amounts received by the Sec-
 3 retary attributable to fines and penalties imposed
 4 under this Act, shall be deposited into the Western
 5 Pacific Sustainable Fisheries Fund established
 6 under paragraph (7) of this subsection.”.

7 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

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

10 **“SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

11 “There are authorized to be appropriated to the Sec-
 12 retary to carry out the provisions of this Act—

13 “(1) \$328,004,000 for fiscal year 2006;

14 “(2) \$337,844,000 for fiscal year 2007;

15 “(3) \$347,684,000 for fiscal year 2008;

16 “(4) \$357,524,000 for fiscal year 2009;

17 “(5) \$367,364,000 for fiscal year 2010;

18 “(6) \$377,204,000 for fiscal year 2011; and

19 “(7) \$387,044,000 for fiscal year 2012.”.

20 **TITLE I—CONSERVATION AND**
 21 **MANAGEMENT**

22 **SEC. 101. CUMULATIVE IMPACTS.**

23 (a) NATIONAL STANDARDS.—Section 301(a)(8) (16
 24 U.S.C. 1851(a)(8)) is amended by inserting “by utilizing

1 economic and social data that meet the requirements of
2 paragraph (2),” after “fishing communities”.

3 (b) CONTENTS OF PLANS.—Section 303(a)(9) (16
4 U.S.C. 1853(a)(9)) is amended by striking “describe the
5 likely effects, if any, of the conservation and management
6 measures on—” and inserting “analyze the likely effects,
7 if any, including the cumulative economic and social im-
8 pacts, of the conservation and management measures on,
9 and possible mitigation measures for—”.

10 **SEC. 102. CARIBBEAN COUNCIL JURISDICTION.**

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

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

16 (a) TRIBAL ALTERNATE ON PACIFIC COUNCIL.—Sec-
17 tion 302(b)(5) (16 U.S.C. 1852(b)(5)) is amended by add-
18 ing at the end thereof the following:

19 “(D) The tribal representative appointed under sub-
20 paragraph (A) may designate as an alternate, during the
21 period of the representative’s term, an individual knowl-
22 edgeable concerning tribal rights, tribal law, and the fish-
23 ery resources of the geographical area concerned.”.

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

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

3 “(g) COMMITTEES AND ADVISORY PANELS.—

4 “(1)(A) Each Council shall establish, maintain,
5 and appoint the members of a scientific and statis-
6 tical committee to assist it in the development, col-
7 lection, evaluation, and peer review of such statis-
8 tical, biological, economic, social, and other scientific
9 information as is relevant to such Council’s develop-
10 ment and amendment of any fishery management
11 plan.

12 “(B) Each scientific and statistical committee
13 shall provide its Council ongoing scientific advice for
14 fishery management decisions, including rec-
15 ommendations for acceptable biological catch or
16 maximum sustainable yield, and reports on stock
17 status and health, bycatch, habitat status, socio-eco-
18 nomic impacts of management measures, and sus-
19 tainability of fishing practices.

20 “(C) Members appointed by the Councils to the
21 scientific and statistical committees shall be Federal
22 employees, State employees, academicians, or inde-
23 pendent experts with strong scientific or technical
24 credentials and experience.

1 “(D) The Secretary and each Council may es-
 2 tablish a peer review process for that Council for sci-
 3 entific information used to advise the Council about
 4 the conservation and management of the fishery.
 5 The review process, which may include existing com-
 6 mittees or panels, is deemed to satisfy the require-
 7 ments of the guidelines issued pursuant to section
 8 515 of the Treasury and General Government Ap-
 9 propriations Act for Fiscal year 2001 (Public Law
 10 106–554—Appendix C; 114 Stat. 2763A–153).

11 “(E) In addition to the provisions of section
 12 302(f)(7), the Secretary may pay a stipend to mem-
 13 bers of the scientific and statistical committees or
 14 advisory panels who are not employed by the Federal
 15 government or a State marine fisheries agency.”;

16 (2) by striking “other” in paragraph (2); and

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

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

21 (1) by striking “authority, and” in paragraph
 22 (5) and inserting “authority;”;

23 (2) by redesignating paragraph (6) as para-
 24 graph (7); and

1 (3) by inserting after paragraph (5) the fol-
2 lowing:

3 “(6) develop annual catch limits for each of its
4 managed fisheries after considering the rec-
5 ommendations of its scientific and statistical com-
6 mittee or the peer review process established under
7 subsection (g); and”.

8 (d) **REGULAR AND EMERGENCY MEETINGS.**—Section
9 302(i)(2)(C) (16 U.S.C. 1852(i)(2)(C)) is amended by
10 striking “published in local newspapers in the major fish-
11 ing ports of the region (and in other major fishing ports
12 having a direct interest in the affected fishery) and such
13 notice may be given by such other means as will result
14 in wide publicity.” and inserting “provided by any means
15 that will result in wide publicity in the major fishing ports
16 of the region (and in other major fishing ports having a
17 direct interest in the affected fishery), except that e-mail
18 notification and website postings alone are not suffi-
19 cient.”.

20 (e) **CLOSED MEETINGS.**—Section 302(i)(3)(B) (16
21 U.S.C. 1852(i)(3)(B)) is amended by striking “notify local
22 newspapers in the major fishing ports within its region
23 (and in other major, affected fishing ports,” and inserting
24 “provide notice by any means that will result in wide pub-
25 licity in the major fishing ports of the region (and in other

1 major fishing ports having a direct interest in the affected
2 fishery),”.

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

5 “(k) COUNCIL TRAINING PROGRAM.—

6 “(1) TRAINING COURSE.—Within 6 months
7 after the date of enactment of the Magnuson-Ste-
8 vens Fishery Conservation and Management Reau-
9 thorization Act of 2006, the Secretary, in consulta-
10 tion with the Councils and the National Sea Grant
11 College Program, shall develop a training course for
12 newly appointed Council members. The course may
13 cover a variety of topics relevant to matters before
14 the Councils, including—

15 “(A) fishery science and basic stock assess-
16 ment methods;

17 “(B) fishery management techniques, data
18 needs, and Council procedures;

19 “(C) social science and fishery economics;

20 “(D) tribal treaty rights and native cus-
21 toms, access, and other rights related to West-
22 ern Pacific indigenous communities;

23 “(E) legal requirements of this Act, includ-
24 ing conflict of interest and disclosure provisions
25 of this section and related policies;

1 “(F) other relevant legal and regulatory
2 requirements, including the National Environ-
3 mental Policy Act (42 U.S.C. 4321 et seq.);

4 “(G) public process for development of
5 fishery management plans; and

6 “(H) other topics suggested by the Coun-
7 cil.

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

12 “(l) COUNCIL COORDINATION COMMITTEE.—The
13 Councils may establish a Council coordination committee
14 consisting of the chairs, vice chairs, and executive direc-
15 tors of each of the 8 Councils described in subsection
16 (a)(1), or other Council members or staff, in order to dis-
17 cuss issues of relevance to all Councils, including issues
18 related to the implementation of this Act.”.

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

21 (1) by striking “to the Councils or to the sci-
22 entific and statistical committees or advisory panels
23 established under subsection (g).” in paragraph (1)
24 and inserting “to the Councils, the Council coordina-
25 tion committee established under subsection (l), or

1 to the scientific and statistical committees or other
2 committees or advisory panels established under sub-
3 section (g).”;

4 (2) by striking “of a Council, and of the sci-
5 entific and statistical committee and advisory panels
6 established under subsection (g):” in paragraph (2)
7 and inserting “of a Council, of the Council coordina-
8 tion committee established under subsection (l), and
9 of the scientific and statistical committees or other
10 committees or advisory panels established under sub-
11 section (g):”; and

12 (3) by inserting “the Council Coordination
13 Committee established under subsection (1),” in
14 paragraph (3)(A) after “Council,”; and

15 (4) by inserting “other committees,” in para-
16 graph (3)(A) after “committee,”.

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

19 (1) by inserting “lobbying, advocacy,” after
20 “processing,” in paragraph (2);

21 (2) by striking “jurisdiction.” in paragraph (2)
22 and inserting “jurisdiction, or with respect to an in-
23 dividual or organization with a financial interest in
24 such activity.”;

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

3 “(B) be kept on file by the Council and made
4 available on the Internet and for public inspection at
5 the Council offices during reasonable hours; and”;
6 and

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

8 “(9) On January 1, 2008, and annually thereafter,
9 the Secretary shall submit a report to the Senate Com-
10 mittee on Commerce, Science, and Transportation and the
11 House of Representatives Committee on Resources on ac-
12 tion taken by the Secretary and the Councils to implement
13 the disclosure of financial interest and recusal require-
14 ments of this subsection.”.

15 (i) GULF OF MEXICO FISHERIES MANAGEMENT
16 COUNCIL.—Section 302(b)(2) (16 U.S.C. 1852(b)(2)) is
17 amended—

18 (1) by redesignating subparagraph (D) as sub-
19 paragraph (E); and

20 (2) by inserting after subparagraph (C) the fol-
21 lowing:

22 “(D)(i) The Secretary shall appoint to the Gulf of
23 Mexico Fisheries Management Council—

24 “(I) 5 representatives of the commercial fishing
25 sector;

1 “(II) 5 representatives of the recreational fish-
2 ing or charter fishing sectors; and

3 “(III) 1 other individual who is knowledgeable
4 regarding the conservation and management of fish-
5 eries resources in the jurisdiction of the Council.

6 “(ii) The Governor of a State submitting a list of
7 names of individuals for appointment by the Secretary of
8 Commerce to the Gulf of Mexico Fisheries Management
9 Council under subparagraph (C) shall include—

10 “(I) at least 1 nominee each from the commer-
11 cial, recreational, and charter fishing sectors; and

12 “(II) at least 1 other individual who is knowl-
13 edgeable regarding the conservation and manage-
14 ment of fisheries resources in the jurisdiction of the
15 Council.

16 “(iii) Notwithstanding the requirements of
17 302(b)(2)(C), if the Secretary determines that the list of
18 names submitted by the Governor does not meet the re-
19 quirements of clause (ii), the Secretary shall—

20 “(I) publish a notice in the Federal Register
21 asking the residents of that State to submit the
22 names and pertinent biographical data of individuals
23 who would meet the requirement not met for ap-
24 pointment to the Council; and

1 “(II) add the name of any qualified individual
2 submitted by the public who meets the unmet re-
3 quirement to the list of names submitted by the
4 Governor.

5 “(iv) For purposes of clause (ii), an individual who
6 owns or operates a fish farm outside of the United States
7 shall not be considered to be a representative of the com-
8 mercial fishing sector.

9 “(v) The requirements of subparagraph (D) shall ex-
10 pire at the end of fiscal year 2012.”.

11 (j) REPORT AND RECOMMENDATIONS ON GULF
12 COUNCIL AMENDMENT.—

13 (1) IN GENERAL.—Before August, 2011, the
14 Secretary of Commerce, in consultation with the
15 Gulf of Mexico Fisheries Management Council, shall
16 analyze the impact of the amendment made by sub-
17 section (i) and determine whether section
18 302(b)(2)(D) of the Magnuson-Stevens Fishery Con-
19 servation and Management Act (16 U.S.C.
20 1852(b)(2)(D)) has resulted in a fair and balanced
21 apportionment of the active participants in the com-
22 mercial and recreational fisheries under the jurisdic-
23 tion of the Council.

24 (2) REPORT.—By no later than August, 2011,
25 the Secretary shall transmit a report to the Senate

1 Committee on Commerce, Science, and Transpor-
2 tation and the House of Representatives Committee
3 on Resources setting forth the Secretary’s findings
4 and determination, including any recommendations
5 for legislative or other changes that may be nec-
6 essary to achieve such a fair and balanced appor-
7 tionment, including whether to renew the authority.

8 **SEC. 104. FISHERY MANAGEMENT PLAN REQUIREMENTS.**

9 (a) IN GENERAL.—Section 303(a) (16 U.S.C.
10 1853(a)) is amended—

11 (1) striking “and charter fishing” in paragraph
12 (5) and inserting “charter fishing, and fish proc-
13 essing”;

14 (2) by inserting “economic information nec-
15 essary to meet the requirements of this Act,” in
16 paragraph (5) after “number of hauls,”;

17 (3) by striking “fishery” the first place it ap-
18 pears in paragraph (13) and inserting “fishery, in-
19 cluding its economic impact,”;

20 (4) by striking “and” after the semicolon in
21 paragraph (13);

22 (5) by striking “allocate” in paragraph (14)
23 and inserting “allocate, taking into consideration the
24 economic impact of the harvest restrictions or recov-

1 ery benefits on the fishery participants in each sec-
2 tor,”;

3 (6) by striking “fishery.” in paragraph (14)
4 and inserting “fishery;”; and

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

6 “(15) establish a mechanism for specifying an-
7 nual catch limits in the plan (including a multiyear
8 plan), implementing regulations, or annual specifica-
9 tions, at a level such that optimum yield is not ex-
10 ceeded in the fishery; and

11 “(16) establish a mechanism under which har-
12 vests exceeding the specified annual catch limit (in-
13 cluding the specified annual catch limit for a sector)
14 shall be deducted in the following fishing year, or
15 the next action in a multiyear specification that es-
16 tablishes or adjusts annual catch limits (including
17 those specified for that sector), and which may use
18 the type of adjustment measures already relied on in
19 the plan, unless sufficient information on the harvest
20 level cannot be obtained in that timeframe, but the
21 deduction shall occur not later than 3 fishing years
22 after the close of the fishing year in which the over-
23 age occurs.”.

24 (b) EFFECTIVE DATES; APPLICATION TO CERTAIN
25 SPECIES.—The amendment made by subsection (a)(7)—

1 (1) shall take effect—

2 (A) in fishing year 2010 for fisheries de-
3 termined by the Secretary to be subject to over-
4 fishing; and

5 (B) in fishing year 2011 for all other fish-
6 eries; and

7 (2) shall not apply to a fishery for species that
8 have a life cycle of approximately 1 year unless the
9 Secretary has determined the fishery is subject to
10 overfishing.

11 **SEC. 105. FISHERY MANAGEMENT PLAN DISCRETIONARY**
12 **PROVISIONS.**

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

14 (1) by inserting “(A)” after “(2)” in paragraph
15 (2);

16 (2) by inserting after paragraph (2) the fol-
17 lowing:

18 “(B) designate such zones in areas where deep
19 sea corals are identified under section 408, to pro-
20 tect deep sea corals from physical damage from fish-
21 ing gear or to prevent loss or damage to such fishing
22 gear from interactions with deep sea corals, after
23 considering long-term sustainable uses of fishery re-
24 sources in such areas; and

1 “(C) with respect to any closure of an area
 2 under this Act that prohibits all fishing, ensure that
 3 such closure—

4 “(i) is based on the best scientific informa-
 5 tion available;

6 “(ii) includes criteria to assess the con-
 7 servation benefit of the closed area;

8 “(iii) establishes a timetable for review of
 9 the closed area’s performance that is consistent
 10 with the purposes of the closed area; and

11 “(iv) is based on an assessment of the ben-
 12 efits and impacts of the closure, including its
 13 size, in relation to other management measures
 14 (either alone or in combination with such meas-
 15 ures), including the benefits and impacts of lim-
 16 iting access to: users of the area, overall fishing
 17 activity, fishery science, and fishery and marine
 18 conservation;”;

19 (3) by striking “fishery;” in paragraph (5) and
 20 inserting “fishery and take into account the dif-
 21 ferent circumstances affecting fisheries from dif-
 22 ferent States and ports, including distances to fish-
 23 ing grounds and proximity to time and area clo-
 24 sures;”;

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

3 “(6) establish a limited access system for the
4 fishery in order to achieve optimum yield if, in devel-
5 oping such system, the Council and the Secretary
6 take into account—

7 “(A) present participation in the fishery;

8 “(B) historical fishing practices in, and de-
9 pendence on, the fishery;

10 “(C) the economics of the fishery;

11 “(D) the capability of fishing vessels used
12 in the fishery to engage in other fisheries;

13 “(E) the cultural and social framework rel-
14 evant to the fishery and any affected fishing
15 communities;

16 “(F) the fair and equitable distribution of
17 access privileges in the fishery; and

18 “(G) any other relevant considerations;”;

19 (5) by striking “(other than economic data)” in
20 paragraph (7);

21 (6) by striking “and” after the semicolon in
22 paragraph (11); and

23 (7) by redesignating paragraph (12) as para-
24 graph (14) and inserting after paragraph (11) the
25 following:

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

4 “(13) include management measures in the
 5 plan to conserve target and non-target species and
 6 habitats, considering the variety of ecological factors
 7 affecting fishery populations; and”.

8 **SEC. 106. LIMITED ACCESS PRIVILEGE PROGRAMS.**

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

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

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

13 **“SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.**

14 “(a) IN GENERAL.—After the date of enactment of
 15 the Magnuson-Stevens Fishery Conservation and Manage-
 16 ment Reauthorization Act of 2006, a Council may submit,
 17 and the Secretary may approve, for a fishery that is man-
 18 aged under a limited access system, a limited access privi-
 19 lege program to harvest fish if the program meets the re-
 20 quirements of this section.

21 “(b) NO CREATION OF RIGHT, TITLE, OR INTER-
 22 EST.—Limited access privilege, quota share, or other lim-
 23 ited access system authorization established, implemented,
 24 or managed under this Act—

1 “(1) shall be considered a permit for the pur-
 2 poses of sections 307, 308, and 309;

3 “(2) may be revoked, limited, or modified at
 4 any time in accordance with this Act, including rev-
 5 ocation for failure to comply with the terms of the
 6 plan or if the system is found to have jeopardized
 7 the sustainability of the stock or the safety of fisher-
 8 men;

9 “(3) shall not confer any right of compensation
 10 to the holder of such limited access privilege, quota
 11 share, or other such limited access system authoriza-
 12 tion if it is revoked, limited, or modified;

13 “(4) shall not create, or be construed to create,
 14 any right, title, or interest in or to any fish before
 15 the fish is harvested by the holder; and

16 “(5) shall be considered a grant of permission
 17 to the holder of the limited access privilege or quota
 18 share to engage in activities permitted by such lim-
 19 ited access privilege or quota share.

20 “(c) REQUIREMENTS FOR LIMITED ACCESS PRIVI-
 21 LEGES.—

22 “(1) IN GENERAL.—Any limited access privilege
 23 program to harvest fish submitted by a Council or
 24 approved by the Secretary under this section shall—

1 “(A) if established in a fishery that is over-
2 fished or subject to a rebuilding plan, assist in
3 its rebuilding; and

4 “(B) if established in a fishery that is de-
5 termined by the Secretary or the Council to
6 have over-capacity, contribute to reducing ca-
7 pacity;

8 “(C) promote—

9 “(i) fishing safety; and

10 “(ii) fishery conservation and manage-
11 ment;

12 “(D) prohibit any person other than a
13 United States citizen, a corporation, partner-
14 ship, or other entity established under the laws
15 of the United States or any State, or a perma-
16 nent resident alien, that meets the eligibility
17 and participation requirements established in
18 the program from acquiring a privilege to har-
19 vest fish, including any person that acquires a
20 limited access privilege solely for the purpose of
21 perfecting or realizing on a security interest in
22 such privilege;

23 “(E) require that all fish harvested under
24 a limited access privilege program be processed
25 on vessels of the United States or on United

1 States soil (including any territory of the
2 United States);

3 “(F) specify the goals of the program;

4 “(G) include provisions for the regular
5 monitoring and review by the Council and the
6 Secretary of the operations of the program, in-
7 cluding determining progress in meeting the
8 goals of the program and this Act, and any nec-
9 essary modification of the program to meet
10 those goals, with a formal and detailed review
11 5 years after the establishment of the program
12 and every 5 years thereafter;

13 “(H) include an effective system for en-
14 forcement, monitoring, and management of the
15 program, including the use of observers or elec-
16 tronic monitoring systems;

17 “(I) include an appeals process for admin-
18 istrative review of the Secretary’s decisions re-
19 garding initial allocation of limited access privi-
20 leges;

21 “(J) provide for the establishment by the
22 Secretary, in consultation with the Department
23 of Justice and the Federal Trade Commission,
24 for an information collection and review process
25 to provide any additional information needed by

the Department of Justice and the Federal Trade Commission to determine whether any illegal acts of anti-competition, anti-trust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges under the program; and

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

“(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(E) if the Secretary determines that—

“(A) the fishery has historically processed the fish outside of the United States; and

“(B) the United States has a seafood safety equivalency agreement with the country where processing will occur.

“(3) FISHING COMMUNITIES.—

“(A) IN GENERAL.—

“(i) ELIGIBILITY.—To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall—

1 “(I) be located within the man-
2 agement area of the relevant Council;

3 “(II) meet criteria developed by
4 the relevant Council, approved by the
5 Secretary, and published in the Fed-
6 eral Register;

7 “(III) consist of residents who
8 conduct commercial or recreational
9 fishing, processing, or fishery-depend-
10 ent support businesses within the
11 Council’s management area; and

12 “(IV) develop and submit a com-
13 munity sustainability plan to the
14 Council and the Secretary that dem-
15 onstrates how the plan will address
16 the social and economic development
17 needs of fishing communities, includ-
18 ing those that have not historically
19 had the resources to participate in the
20 fishery, for approval based on criteria
21 developed by the Council that have
22 been approved by the Secretary and
23 published in the Federal Register.

24 “(ii) FAILURE TO COMPLY WITH
25 PLAN.—The Secretary shall deny limited

1 access privileges granted under this section
2 for any person who fails to comply with the
3 requirements of the community sustain-
4 ability plan.

5 “(B) PARTICIPATION CRITERIA.—In devel-
6 oping participation criteria for eligible commu-
7 nities under this paragraph, a Council shall
8 consider—

9 “(i) traditional fishing or processing
10 practices in, and dependence on, the fish-
11 ery;

12 “(ii) the cultural and social frame-
13 work relevant to the fishery;

14 “(iii) economic barriers to access to
15 fishery;

16 “(iv) the existence and severity of pro-
17 jected economic and social impacts associ-
18 ated with implementation of limited access
19 privilege programs on harvesters, captains,
20 crew, processors, and other businesses sub-
21 stantially dependent upon the fishery in
22 the region or subregion;

23 “(v) the expected effectiveness, oper-
24 ational transparency, and equitability of
25 the community sustainability plan; and

“(vi) the potential for improving economic conditions in remote coastal communities lacking resources to participate in harvesting or processing activities in the fishery.

“(4) REGIONAL FISHERY ASSOCIATIONS.—

“(A) IN GENERAL.—To be eligible to participate in a limited access privilege program to harvest fish, a regional fishery association shall—

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

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

“(iii) be a voluntary association with established by-laws and operating procedures;

“(iv) consist of participants in the fishery who hold quota share that are designated for use in the specific region or subregion covered by the regional fishery association, including commercial or recreational fishing, processing, fishery-de-

pendent support businesses, or fishing communities;

“(v) not be eligible to receive an initial allocation of a limited access privilege but may acquire such privileges after the initial allocation, and may hold the annual fishing privileges of any limited access privileges it holds or the annual fishing privileges that its members contribute; and

“(vi) develop and submit a regional fishery association plan to the Council and the Secretary for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

“(B) FAILURE TO COMPLY WITH PLAN.—

The Secretary shall deny limited access privileges granted under this section to any person participating in a regional fishery association who fails to comply with the requirements of the regional fishery association plan.

“(C) PARTICIPATION CRITERIA.—In developing participation criteria for eligible regional fishery associations under this paragraph, a Council shall consider—

1 “(i) traditional fishing or processing
2 practices in, and dependence on, the fish-
3 ery;

4 “(ii) the cultural and social frame-
5 work relevant to the fishery;

6 “(iii) economic barriers to access to
7 fishery;

8 “(iv) the existence and severity of pro-
9 jected economic and social impacts associ-
10 ated with implementation of limited access
11 privilege programs on harvesters, captains,
12 crew, processors, and other businesses sub-
13 stantially dependent upon the fishery in
14 the region or subregion;

15 “(v) the administrative and fiduciary
16 soundness of the association; and

17 “(vi) the expected effectiveness, oper-
18 ational transparency, and equitability of
19 the fishery association plan.

20 “(5) ALLOCATION.—In developing a limited ac-
21 cess privilege program to harvest fish a Council or
22 the Secretary shall—

23 “(A) establish procedures to ensure fair
24 and equitable initial allocations, including con-
25 sideration of—

- 1 “(i) current and historical harvests;
- 2 “(ii) employment in the harvesting
- 3 and processing sectors;
- 4 “(iii) investments in, and dependence
- 5 upon, the fishery; and
- 6 “(iv) the current and historical par-
- 7 ticipation of fishing communities;
- 8 “(B) to the extent practicable, consider the
- 9 basic cultural and social framework of the fish-
- 10 ery, especially through—
- 11 “(i) the development of policies to
- 12 promote the sustained participation of
- 13 small owner-operated fishing vessels and
- 14 fishing communities that depend on the
- 15 fisheries, including regional or port-specific
- 16 landing or delivery requirements; and
- 17 “(ii) procedures to address concerns
- 18 over excessive geographic or other consoli-
- 19 dation in the harvesting or processing sec-
- 20 tors of the fishery;
- 21 “(C) include measures to assist, when nec-
- 22 essary and appropriate, entry-level and small
- 23 vessel owner-operators, captains, crew, and fish-
- 24 ing communities through set-asides of har-
- 25 vesting allocations, including providing privi-

leges, which may include set-asides or allocations of harvesting privileges, or economic assistance in the purchase of limited access privileges;

“(D) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by—

“(i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to hold, acquire, or use; and

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

“(E) authorize limited access privileges to harvest fish to be held, acquired, used by, or issued under the system to persons who substantially participate in the fishery, including in a specific sector of such fishery, as specified by the Council.

“(6) PROGRAM INITIATION.—

1 “(A) LIMITATION.—Except as provided in
2 subparagraph (D), a Council may initiate a
3 fishery management plan or amendment to es-
4 tablish a limited access privilege program to
5 harvest fish on its own initiative or if the Sec-
6 retary has certified an appropriate petition.

7 “(B) PETITION.—A group of fishermen
8 constituting more than 50 percent of the permit
9 holders, or holding more than 50 percent of the
10 allocation, in the fishery for which a limited ac-
11 cess privilege program to harvest fish is sought,
12 may submit a petition to the Secretary request-
13 ing that the relevant Council or Councils with
14 authority over the fishery be authorized to ini-
15 tiate the development of the program. Any such
16 petition shall clearly state the fishery to which
17 the limited access privilege program would
18 apply. For multispecies permits in the Gulf,
19 only those participants who have substantially
20 fished the species proposed to be included in the
21 limited access program shall be eligible to sign
22 a petition for such a program and shall serve
23 as the basis for determining the percentage de-
24 scribed in the first sentence of this subpara-
25 graph.

1 “(C) CERTIFICATION BY SECRETARY.—

2 Upon the receipt of any such petition, the Sec-
 3 retary shall review all of the signatures on the
 4 petition and, if the Secretary determines that
 5 the signatures on the petition represent more
 6 than 50 percent of the permit holders, or hold-
 7 ers of more than 50 percent of the allocation in
 8 the fishery, as described by subparagraph (B),
 9 the Secretary shall certify the petition to the
 10 appropriate Council or Councils.

11 “(D) NEW ENGLAND AND GULF REF-
 12 ERENDUM.—

13 “(i) Except as provided in clause (iii)
 14 for the Gulf of Mexico commercial red
 15 snapper fishery, the New England and
 16 Gulf Councils may not submit, and the
 17 Secretary may not approve or implement, a
 18 fishery management plan or amendment
 19 that creates an individual fishing quota
 20 program, including a Secretarial plan, un-
 21 less such a system, as ultimately developed,
 22 has been approved by more than $\frac{2}{3}$ of
 23 those voting in a referendum among eligi-
 24 ble permit holders with respect to the New
 25 England Council, and by a majority of

1 those voting in the referendum among eli-
2 gible permit holders with respect to the
3 Gulf Council. For multispecies permits in
4 the Gulf, only those participants who have
5 substantially fished the species proposed to
6 be included in the individual fishing quota
7 program shall be eligible to vote in such a
8 referendum. If an individual fishing quota
9 program fails to be approved by the req-
10 uisite number of those voting, it may be
11 revised and submitted for approval in a
12 subsequent referendum.

13 “(ii) The Secretary shall conduct a
14 referendum under this subparagraph, in-
15 cluding notifying all persons eligible to
16 participate in the referendum and making
17 available to them information concerning
18 the schedule, procedures, and eligibility re-
19 quirements for the referendum process and
20 the proposed individual fishing quota pro-
21 gram. Within 1 year after the date of en-
22 actment of the Magnuson-Stevens Fishery
23 Conservation and Management Reauthor-
24 ization Act of 2006, the Secretary shall
25 publish guidelines and procedures to deter-

1 mine procedures and voting eligibility re-
2 quirements for referenda and to conduct
3 such referenda in a fair and equitable
4 manner.

5 “(iii) The provisions of section 407(c)
6 of this Act shall apply in lieu of this sub-
7 paragraph for an individual fishing quota
8 program for the Gulf of Mexico commercial
9 red snapper fishery.

10 “(iv) Chapter 35 of title 44, United
11 States Code, (commonly known as the Pa-
12 perwork Reduction Act) does not apply to
13 the referenda conducted under this sub-
14 paragraph.

15 “(7) TRANSFERABILITY.—In establishing a lim-
16 ited access privilege program, a Council shall—

17 “(A) establish a policy on the transfer-
18 ability of limited access privileges (through sale
19 or lease), that is consistent with the policies
20 adopted by the Council for the fishery under
21 paragraph (5); and

22 “(B) establish criteria for the approval and
23 monitoring of transfers (including sales and
24 leases) of limited access privileges.

1 “(8) PREPARATION AND IMPLEMENTATION OF
2 SECRETARIAL PLANS.—This subsection also applies
3 to a plan prepared and implemented by the Sec-
4 retary under section 304(c) or 304(g).

5 “(9) ANTITRUST SAVINGS CLAUSE.—Nothing in
6 this Act shall be construed to modify, impair, or su-
7 persede the operation of any of the antitrust laws.
8 For purposes of the preceding sentence, the term
9 ‘antitrust laws’ has the meaning given such term in
10 subsection (a) of the first section of the Clayton Act,
11 except that such term includes section 5 of the Fed-
12 eral Trade Commission Act to the extent that such
13 section 5 applies to unfair methods of competition.

14 “(d) AUCTION AND OTHER PROGRAMS.—In estab-
15 lishing a limited access privilege program, a Council may
16 consider, and provide for, if appropriate, an auction sys-
17 tem or other program to collect royalties for the initial,
18 or any subsequent, distribution of allocations in a limited
19 access privilege program if—

20 “(1) the system or program is administered in
21 such a way that the resulting distribution of limited
22 access privilege shares meets the program require-
23 ments of this section; and

24 “(2) revenues generated through such a royalty
25 program are deposited in the Limited Access System

1 Administration Fund established by section
2 305(h)(5)(B) and available subject to annual appro-
3 priations.

4 “(e) COST RECOVERY.—In establishing a limited ac-
5 cess privilege program, a Council shall—

6 “(1) develop a methodology and the means to
7 identify and assess the management, data collection
8 and analysis, and enforcement programs that are di-
9 rectly related to and in support of the program; and

10 “(2) provide, under section 304(d)(2), for a
11 program of fees paid by limited access privilege hold-
12 ers that will cover the costs of management, data
13 collection and analysis, and enforcement activities.

14 “(f) LIMITED DURATION.—In establishing a limited
15 access privilege program after the date of enactment of
16 the Magnuson-Stevens Fishery Conservation and Manage-
17 ment Reauthorization Act of 2006, a Council may
18 establish—

19 “(1) a set term after which any initial or subse-
20 quent allocation of a limited access privilege shall ex-
21 pire;

22 “(2) different set terms within a fishery if the
23 Council determines that variation of terms will fur-
24 ther management goals; and

1 “(3) a mechanism under which participants in
2 and entrants to the program may acquire or reac-
3 quire allocations.

4 “(g) LIMITED ACCESS PRIVILEGE ASSISTED PUR-
5 CHASE PROGRAM.—

6 “(1) IN GENERAL.—A Council may submit, and
7 the Secretary may approve and implement, a pro-
8 gram which reserves up to 25 percent of any fees
9 collected from a fishery under section 304(d)(2) to
10 be used, pursuant to section 1104A(a)(7) of the
11 Merchant Marine Act, 1936 (46 U.S.C. App.
12 1274(a)(7)), to issue obligations that aid in
13 financing—

14 “(A) the purchase of limited access privi-
15 leges in that fishery by fishermen who fish from
16 small vessels; and

17 “(B) the first-time purchase of limited ac-
18 cess privileges in that fishery by entry level
19 fishermen.

20 “(2) ELIGIBILITY CRITERIA.—A Council mak-
21 ing a submission under paragraph (1) shall rec-
22 ommend criteria, consistent with the provisions of
23 this Act, that a fisherman must meet to qualify for
24 guarantees under subparagraphs (A) and (B) of

1 paragraph (1) and the portion of funds to be allo-
2 cated for guarantees under each subparagraph.

3 “(h) EFFECT ON CERTAIN EXISTING SHARES AND
4 PROGRAMS.—Nothing in this Act, or the amendments
5 made by the Magnuson-Stevens Fishery Conservation and
6 Management Reauthorization Act of 2006, shall be con-
7 strued to require a reallocation or a reevaluation of indi-
8 vidual quota shares, processor quota shares, cooperative
9 programs, or other quota programs, including sector allo-
10 cation in effect before the date of enactment of the Mag-
11 nuson-Stevens Fishery Conservation and Management Re-
12 authorization Act of 2006.

13 “(i) TRANSITION RULE.—The requirements of this
14 section shall not apply to any quota program, including
15 any individual quota program, cooperative program, or
16 sector allocation placed on a Council agenda for final ac-
17 tion, submitted by a Council to the Secretary, or approved
18 by the Secretary or by Congressional action, within 60
19 days after the date of enactment of the Magnuson-Stevens
20 Fishery Conservation and Management Reauthorization
21 Act of 2006, except that—

22 “(1) the requirements of section 303(d) of this
23 Act in effect on the day before the date of enact-
24 ment of that Act shall apply to any such program;

1 “(2) the program shall be subject to review
2 under subsection (c)(1)(G) of this section not later
3 than 5 years after the program approval; and

4 “(3) nothing in this subsection precludes a
5 Council from incorporating criteria contained in this
6 section into any such plans.”.

7 (b) FEES.—Section 304(d)(2)(A) (16 U.S.C.
8 1854(d)(2)(A)) is amended by striking “management and
9 enforcement” and inserting “management, data collection,
10 and enforcement”.

11 (c) INVESTMENT IN UNITED STATES SEAFOOD
12 PROCESSING FACILITIES.—The Secretary of Commerce
13 shall work with the Small Business Administration and
14 other Federal agencies to develop financial and other
15 mechanisms to encourage United States investment in sea-
16 food processing facilities in the United States for fisheries
17 that lack capacity needed to process fish harvested by
18 United States vessels in compliance with the Magnuson—
19 Stevens Fishery Conservation and Management Act (16
20 U.S.C. 1801 et seq.).

21 (d) CONFORMING AMENDMENT.—Section
22 304(d)(2)(C)(i) (16 U.S.C. 1854(d)(2)(C)(i)) is amended
23 by striking “section 305(h)(5)(B)” and all that follows
24 and inserting “section 305(h)(5)(B).”.

1 (e) APPLICATION WITH AMERICAN FISHERIES
 2 ACT.—Nothing in section 303A of the Magnuson-Stevens
 3 Fishery Conservation and Management Act (16 U.S.C.
 4 1801 et seq.), as added by subsection (a), shall be con-
 5 strued to modify or supersede any provision of the Amer-
 6 ican Fisheries Act (46 U.S.C. 12102 note; 16 U.S.C. 1851
 7 note; et alia).

8 **SEC. 107. ENVIRONMENTAL REVIEW PROCESS.**

9 Section 304 (16 U.S.C. 1854) is amended by adding
 10 at the end the following:

11 “(i) ENVIRONMENTAL REVIEW PROCESS.—

12 “(1) PROCEDURES.—The Secretary shall, in
 13 consultation with the Councils and the Council on
 14 Environmental Quality, revise and update agency
 15 procedures for compliance with the National Envi-
 16 ronmental Policy Act (42 U.S.C. 4231 et seq.). The
 17 procedures shall—

18 “(A) conform to the time lines for review
 19 and approval of fishery management plans and
 20 plan amendments under this section; and

21 “(B) integrate applicable environmental
 22 analytical procedures, including the time frames
 23 for public input, with the procedure for the
 24 preparation and dissemination of fishery man-
 25 agement plans, plan amendments, and other ac-

1 tions taken or approved pursuant to this Act in
2 order to provide for timely, clear and concise
3 analysis that is useful to decision makers and
4 the public, reduce extraneous paperwork, and
5 effectively involve the public.

6 “(2) USAGE.—The updated agency procedures
7 promulgated in accordance with this section used by
8 the Councils or the Secretary shall be the sole envi-
9 ronmental impact assessment procedure for fishery
10 management plans, amendments, regulations, or
11 other actions taken or approved pursuant to this
12 Act.

13 “(3) SCHEDULE FOR PROMULGATION OF FINAL
14 PROCEDURES.—The Secretary shall—

15 “(A) propose revised procedures within 12
16 months after the date of enactment of the Mag-
17 nuson-Stevens Fishery Conservation and Man-
18 agement Reauthorization Act of 2006;

19 “(B) provide 90 days for public review and
20 comments; and

21 “(C) promulgate final procedures no later
22 than 18 months after the date of enactment of
23 that Act.

24 “(4) PUBLIC PARTICIPATION.—The Secretary is
25 authorized and directed, in cooperation with the

1 Council on Environmental Quality and the Councils,
 2 to involve the affected public in the development of
 3 revised procedures, including workshops or other ap-
 4 propriate means of public involvement.”.

5 **SEC. 108. EMERGENCY REGULATIONS.**

6 (a) LENGTHENING OF SECOND EMERGENCY PE-
 7 RIOD.—Section 305(c)(3)(B) (16 U.S.C. 1855(c)(3)(B))
 8 is amended by striking “180 days,” the second time it ap-
 9 pears and inserting “186 days,”.

10 (b) TECHNICAL AMENDMENT.—Section 305(c)(3)(D)
 11 (16 U.S.C. 1855(c)(3)(D)) is amended by inserting “or
 12 interim measures” after “emergency regulations”.

13 **SEC. 109. WESTERN PACIFIC COMMUNITY DEVELOPMENT.**

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

16 “(j) WESTERN PACIFIC REGIONAL MARINE EDU-
 17 CATION AND TRAINING.—

18 “(1) IN GENERAL.—The Secretary shall estab-
 19 lish a pilot program for regionally-based marine edu-
 20 cation and training programs in the Western Pacific
 21 to foster understanding, practical use of knowledge
 22 (including native Hawaiian and other Pacific Is-
 23 lander-based knowledge), and technical expertise rel-
 24 evant to stewardship of living marine resources. The
 25 Secretary shall, in cooperation with the Western Pa-

1 cific Regional Fishery Management Council, regional
2 educational institutions, and local Western Pacific
3 community training entities, establish programs or
4 projects that will improve communication, education,
5 and training on marine resource issues throughout
6 the region and increase scientific education for ma-
7 rine-related professions among coastal community
8 residents, including indigenous Pacific islanders, Na-
9 tive Hawaiians and other underrepresented groups
10 in the region.

11 “(2) PROGRAM COMPONENTS.—The program
12 shall—

13 “(A) include marine science and technology
14 education and training programs focused on
15 preparing community residents for employment
16 in marine related professions, including marine
17 resource conservation and management, marine
18 science, marine technology, and maritime oper-
19 ations;

20 “(B) include fisheries and seafood-related
21 training programs, including programs for fish-
22 ery observers, seafood safety and seafood mar-
23 keting, focused on increasing the involvement of
24 coastal community residents in fishing, fishery
25 management, and seafood-related operations;

1 “(C) include outreach programs and mate-
2 rials to educate and inform consumers about
3 the quality and sustainability of wild fish or
4 fish products farmed through responsible aqua-
5 culture, particularly in Hawaii and the Western
6 Pacific;

7 “(D) include programs to identify, with the
8 fishing industry, methods and technologies that
9 will improve the data collection, quality, and re-
10 porting and increase the sustainability of fish-
11 ing practices, and to transfer such methods and
12 technologies among fisheries sectors and to
13 other nations in the Western and Central Pa-
14 cific;

15 “(E) develop means by which local and
16 traditional knowledge (including Pacific islander
17 and Native Hawaiian knowledge) can enhance
18 science-based management of fishery resources
19 of the region; and

20 “(F) develop partnerships with other West-
21 ern Pacific Island agencies, academic institu-
22 tions, and other entities to meet the purposes of
23 this section.”.

1 **SEC. 110. WESTERN ALASKA COMMUNITY DEVELOPMENT**
2 **QUOTA PROGRAM.**

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

5 (1) by striking “To” in subparagraph (B) and
6 inserting “Except as provided in subparagraph (E),
7 to”; and

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

9 “(E) A community shall be eligible to par-
10 ticipate in the western Alaska community devel-
11 opment quota program under subparagraph (A)
12 if the community was—

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

16 “(ii) approved by the National Marine
17 Fisheries Service on April 19, 1999.”.

18 **SEC. 111. SECRETARIAL ACTION ON STATE GROUND FISH**
19 **FISHING.**

20 Section 305 (16 U.S.C. 1855), as amended by section
21 109, is further amended by adding at the end thereof the
22 following:

23 “(k) MULTISPECIES GROUND FISH.—Within 60 days
24 after the date of enactment of the Magnuson-Stevens
25 Fishery Conservation and Management Reauthorization
26 Act of 2006, the Secretary of Commerce shall determine

1 whether fishing in State waters without a New England
 2 multispecies groundfish fishery permit on regulated spe-
 3 cies within the multispecies complex is not consistent with
 4 the applicable Federal fishery management plan. If the
 5 Secretary makes a determination that such actions are not
 6 consistent with the plan, the Secretary shall, in consulta-
 7 tion with the Council, and after notifying the affected
 8 State, develop and implement measures to cure the incon-
 9 sistency pursuant to section 306(b).”.

10 **SEC. 112. JOINT ENFORCEMENT AGREEMENTS.**

11 (a) IN GENERAL.—Section 311 (16 U.S.C. 1861) is
 12 amended—

13 (1) by striking “and” after the semicolon in
 14 subsection (b)(1)(A)(iv);

15 (2) by inserting “and” after the semicolon in
 16 subsection (b)(1)(A)(v);

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

19 “(vi) access, directly or indirectly, for
 20 enforcement purposes any data or informa-
 21 tion required to be provided under this
 22 title or regulations under this title, includ-
 23 ing data from Global Maritime Distress
 24 and Safety Systems, vessel monitoring sys-

1 tems, or any similar system, subject to the
2 confidentiality provisions of section 402;”;

3 (4) by redesignating subsection (h) as sub-
4 section (j); and

5 (5) by inserting after subsection (g) the fol-
6 lowing:

7 “(h) JOINT ENFORCEMENT AGREEMENTS.—

8 “(1) IN GENERAL.—The Governor of an eligible
9 State may apply to the Secretary for execution of a
10 joint enforcement agreement with the Secretary that
11 will authorize the deputization and funding of State
12 law enforcement officers with marine law enforce-
13 ment responsibilities to perform duties of the Sec-
14 retary relating to law enforcement provisions under
15 this title or any other marine resource law enforced
16 by the Secretary. Upon receiving an application
17 meeting the requirements of this subsection, the Sec-
18 retary may enter into a joint enforcement agreement
19 with the requesting State.

20 “(2) ELIGIBLE STATE.—A State is eligible to
21 participate in the cooperative enforcement agree-
22 ments under this section if it is in, or bordering on,
23 the Atlantic Ocean (including the Caribbean Sea),
24 the Pacific Ocean, the Arctic Ocean, the Gulf of

1 Mexico, Long Island Sound, or 1 or more of the
2 Great Lakes.

3 “(3) REQUIREMENTS.—Joint enforcement
4 agreements executed under paragraph (1)—

5 “(A) shall be consistent with the purposes
6 and intent of this section to the extent applica-
7 ble to the regulated activities;

8 “(B) may include specifications for joint
9 management responsibilities as provided by the
10 first section of Public Law 91–412 (15 U.S.C.
11 1525); and

12 “(C) shall provide for confidentiality of
13 data and information submitted to the State
14 under section 402.

15 “(4) ALLOCATION OF FUNDS.—The Secretary
16 shall include in each joint enforcement agreement an
17 allocation of funds to assist in management of the
18 agreement. The allocation shall be fairly distributed
19 among all eligible States participating in cooperative
20 enforcement agreements under this subsection, based
21 upon consideration of Federal marine enforcement
22 needs, the specific marine conservation enforcement
23 needs of each participating eligible State, and the
24 capacity of the State to undertake the marine en-
25 forcement mission and assist with enforcement

1 needs. The agreement may provide for amounts to
2 be withheld by the Secretary for the cost of any
3 technical or other assistance provided to the State
4 by the Secretary under the agreement.

5 “(i) IMPROVED DATA SHARING.—

6 “(1) IN GENERAL.—Notwithstanding any other
7 provision of this Act, as soon as practicable but no
8 later than 21 months after the date of enactment of
9 the Magnuson-Stevens Fishery Conservation and
10 Management Reauthorization Act of 2006, the Sec-
11 retary shall implement data-sharing measures to
12 make any data required to be provided by this Act
13 from Global Maritime Distress and Safety Systems,
14 vessel monitoring systems, or similar systems—

15 “(A) directly accessible by State enforce-
16 ment officers authorized under subsection (a) of
17 this section; and

18 “(B) available to a State management
19 agency involved in, or affected by, management
20 of a fishery if the State has entered into an
21 agreement with the Secretary under section
22 402(b)(1)(B) of this Act.

23 “(2) AGREEMENT REQUIRED.—The Secretary
24 shall promptly enter into an agreement with a State
25 under section 402(b)(1)(B) of this Act if—

1 “(A) the Attorney General or highest rank-
 2 ing legal officer of the State provides a written
 3 opinion or certification that State law allows
 4 the State to maintain the confidentiality of in-
 5 formation required by Federal law to be kept
 6 confidential; or

7 “(B) the Secretary is provided other rea-
 8 sonable assurance that the State can and will
 9 protect the identity or business of any person to
 10 which such information relates.”.

11 (b) REPORT ON USING GMDSS FOR FISHERY PUR-
 12 POSES.—Within 15 months after the date of enactment
 13 of this Act, the National Marine Fisheries Service and the
 14 United States Coast Guard shall transmit a joint report
 15 to the Senate Committee on Commerce, Science, and
 16 Transportation and the House of Representatives Com-
 17 mittee on Resources containing—

18 (1) a cost-to-benefit analysis of the feasibility,
 19 value, and cost of using the Global Maritime Dis-
 20 tress and Safety Systems, vessel monitoring systems,
 21 or similar systems for fishery management, con-
 22 servation, enforcement, and safety purposes with the
 23 Federal government bearing the capital costs of any
 24 such system;

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

3 (3) an examination of whether the Global Mari-
4 time Distress and Safety Systems or similar require-
5 ments would overlap existing requirements or render
6 them redundant;

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

9 (5) an examination of how to maximize the
10 data-sharing opportunities between relevant State
11 and Federal agencies and provide specific informa-
12 tion on how to develop these opportunities, including
13 the provision of direct access to the Global Maritime
14 Distress and Safety Systems or similar system data
15 to State enforcement officers, while considering the
16 need to maintain or provide an appropriate level of
17 individual vessel confidentiality where practicable;
18 and

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

23 **SEC. 113. TRANSITION TO SUSTAINABLE FISHERIES.**

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

1 (1) by striking “measures;” in subsection
2 (a)(1)(B) and inserting “measures, including regu-
3 latory restrictions (including those imposed as a re-
4 sult of judicial action) imposed to protect human
5 health or the marine environment;”;

6 (2) by striking “1996, 1997, 1998, and 1999.”
7 in subsection (a)(4) and inserting “2006 through
8 2012.”;

9 (3) by striking “or the Governor of a State for
10 fisheries under State authority, may conduct a fish-
11 ing” in subsection (b)(1) and inserting “the Gov-
12 ernor of a State for fisheries under State authority,
13 or a majority of permit holders in the fishery, may
14 conduct a voluntary fishing”;

15 (4) by inserting “practicable” after “entrants,”
16 in subsection (b)(1)(B)(i);

17 (5) by striking “cost-effective and” in sub-
18 section (b)(1)(C) and inserting “cost-effective and, in
19 the instance of a program involving an industry fee
20 system, prospectively”;

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

23 “(A) the owner of a fishing vessel, if the permit
24 authorizing the participation of the vessel in the
25 fishery is surrendered for permanent revocation and

1 the vessel owner and permit holder relinquish any
 2 claim associated with the vessel or permit that could
 3 qualify such owner or holder for any present or fu-
 4 ture limited access system permit in the fishery for
 5 which the program is established and such vessel is
 6 (i) scrapped, or (ii) through the Secretary of the de-
 7 partment in which the Coast Guard is operating,
 8 subjected to title restrictions (including loss of the
 9 vessel's fisheries endorsement) that permanently
 10 prohibit and effectively prevent its use in fishing in
 11 federal or state waters, or fishing on the high seas
 12 or in the waters of a foreign nation; or”;

13 (7) by striking “The Secretary shall consult, as
 14 appropriate, with Councils,” in subsection (b)(4) and
 15 inserting “The harvester proponents of each pro-
 16 gram and the Secretary shall consult, as appropriate
 17 and practicable, with Councils,”;

18 (8) by striking “Secretary, at the request of the
 19 appropriate Council,” in subsection (d)(1)(A) and
 20 inserting “Secretary”;

21 (9) by striking “Secretary, in consultation with
 22 the Council,” in subsection (d)(1)(A) and inserting
 23 “Secretary”;

24 (10) by striking “a two-thirds majority of the
 25 participants voting.” in subsection (d)(1)(B) and in-

1 serting “at least a majority of the permit holders in
2 the fishery, or 50 percent of the permitted allocation
3 of the fishery, who participated in the fishery.”;

4 (11) by striking “establish;” in subsection
5 (d)(2)((C) and inserting “establish, unless the Sec-
6 retary determines that such fees should be collected
7 from the seller;” and

8 (12) striking subsection (e) and inserting the
9 following:

10 “(e) IMPLEMENTATION PLAN.—

11 “(1) FRAMEWORK REGULATIONS.—The Sec-
12 retary shall propose and adopt framework regula-
13 tions applicable to the implementation of all pro-
14 grams under this section.

15 “(2) PROGRAM REGULATIONS.—The Secretary
16 shall implement each program under this section by
17 promulgating regulations that, together with the
18 framework regulations, establish each program and
19 control its implementation.

20 “(3) HARVESTER PROPONENTS’ IMPLEMENTA-
21 TION PLAN.—The Secretary may not propose imple-
22 mentation regulations for a program to be paid for
23 by an industry fee system until the harvester pro-
24 ponents of the program provide to the Secretary a

1 proposed implementation plan that, among other
2 matters—

3 “(A) proposes the types and numbers of
4 vessels or permits that are eligible to participate
5 in the program and the manner in which the
6 program shall proceed, taking into account—

7 “(i) the requirements of this section;

8 “(ii) the requirements of the frame-
9 work regulations;

10 “(iii) the characteristics of the fishery;

11 “(iv) the requirements of the applica-
12 ble fishery management plan and any
13 amendment that such plan may require to
14 support the proposed program;

15 “(v) the general needs and desires of
16 harvesters in the fishery;

17 “(vi) the need to minimize program
18 costs; and

19 “(vii) other matters, including the
20 manner in which such proponents propose
21 to fund the program to ensure its cost ef-
22 fectiveness, as well as any relevant factors
23 demonstrating the potential for, or nec-
24 essary to obtain, the support and general
25 cooperation of a substantial number of af-

1 fected harvesters in the fishery (or portion
2 of the fishery) for which the program is in-
3 tended; and

4 “(B) proposes procedures for program par-
5 ticipation (such as submission of owner bids
6 under an auction system or fair market-value
7 assessment), including any terms and condi-
8 tions for participation, that the harvester pro-
9 ponents deem to be reasonably necessary to
10 meet the program’s proposed objectives.

11 “(4) PARTICIPATION CONTRACTS.—The Sec-
12 retary shall contract with each person participating
13 in a program, and each such contract shall, in addi-
14 tion to including such other matters as the Secretary
15 deems necessary and appropriate to effectively im-
16 plement each program (including penalties for con-
17 tract non-performance) be consistent with the frame-
18 work and implementing regulations and all other ap-
19 plicable law.

20 “(5) REDUCTION AUCTIONS.—Each program
21 not involving fair market assessment shall involve a
22 reduction auction that scores the reduction price of
23 each bid offer by the data relevant to each bidder
24 under an appropriate fisheries productivity factor. If
25 the Secretary accepts bids, the Secretary shall ac-

cept responsive bids in the rank order of their bid scores, starting with the bid whose reduction price is the lowest percentage of the productivity factor, and successively accepting each additional responsive bid in rank order until either there are no more responsive bids or acceptance of the next bid would cause the total value of bids accepted to exceed the amount of funds available for the program.

“(6) BID INVITATIONS.—Each program shall proceed by the Secretary issuing invitations to bid setting out the terms and conditions for participation consistent with the framework and implementing regulations. Each bid that the Secretary receives in response to the invitation to bid shall constitute an irrevocable offer from the bidder.”.

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

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

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

1 **“SEC. 315. REGIONAL COASTAL DISASTER ASSISTANCE,**
2 **TRANSITION, AND RECOVERY PROGRAM.**

3 “(a) IN GENERAL.—When there is a catastrophic re-
4 gional fishery disaster the Secretary may, upon the re-
5 quest of, and in consultation with, the Governors of af-
6 fected States, establish a regional economic transition pro-
7 gram to provide immediate disaster relief assistance to the
8 fishermen, charter fishing operators, United States fish
9 processors, and owners of related fishery infrastructure af-
10 fected by the disaster.

11 “(b) PROGRAM COMPONENTS.—

12 “(1) IN GENERAL.—Subject to the availability
13 of appropriations, the program shall provide funds
14 or other economic assistance to affected entities, or
15 to governmental entities for disbursement to affected
16 entities, for—

17 “(A) meeting immediate regional shoreside
18 fishery infrastructure needs, including proc-
19 essing facilities, cold storage facilities, ice
20 houses, docks, including temporary docks and
21 storage facilities, and other related shoreside
22 fishery support facilities and infrastructure;

23 “(B) financial assistance and job training
24 assistance for fishermen who wish to remain in
25 a fishery in the region that may be temporarily

1 closed as a result of environmental or other ef-
2 fects associated with the disaster;

3 “(C) funding, pursuant to the require-
4 ments of section 312(b), to fishermen who are
5 willing to scrap a fishing vessel and perma-
6 nently surrender permits for fisheries named on
7 that vessel; and

8 “(D) any other activities authorized under
9 section 312(a) of this Act or section 308(d) of
10 the Interjurisdictional Fisheries Act of 1986
11 (16 U.S.C. 4107(d)).

12 “(2) JOB TRAINING.—Any fisherman who de-
13 cides to scrap a fishing vessel under the program
14 shall be eligible for job training assistance.

15 “(3) STATE PARTICIPATION OBLIGATION.—The
16 participation by a State in the program shall be con-
17 ditioned upon a commitment by the appropriate
18 State entity to ensure that the relevant State fishery
19 meets the requirements of section 312(b) of this Act
20 to ensure excess capacity does not re-enter the fish-
21 ery.

22 “(4) NO MATCHING REQUIRED.—The Secretary
23 may waive the matching requirements of section 312
24 of this Act, section 308 of the Interjurisdictional
25 Fisheries Act of 1986 (16 U.S.C. 4107), and any

1 other provision of law under which the Federal share
 2 of the cost of any activity is limited to less than 100
 3 percent if the Secretary determines that—

4 “(A) no reasonable means are available
 5 through which applicants can meet the match-
 6 ing requirement; and

7 “(B) the probable benefit of 100 percent
 8 Federal financing outweighs the public interest
 9 in imposition of the matching requirement.

10 “(5) NET REVENUE LIMIT INAPPLICABLE.—
 11 Section 308(d)(3) of the Interjurisdictional Fisheries
 12 Act (16 U.S.C. 4107(d)(3)) shall not apply to assist-
 13 ance under this section.

14 “(c) REGIONAL IMPACT EVALUATION.—Within 2
 15 months after a catastrophic regional fishery disaster the
 16 Secretary shall provide the Governor of each State partici-
 17 pating in the program a comprehensive economic and
 18 socio-economic evaluation of the affected region’s fisheries
 19 to assist the Governor in assessing the current and future
 20 economic viability of affected fisheries, including the eco-
 21 nomic impact of foreign fish imports and the direct, indi-
 22 rect, or environmental impact of the disaster on the fish-
 23 ery and coastal communities.

24 “(d) CATASTROPHIC REGIONAL FISHERY DISASTER
 25 DEFINED.—In this section the term ‘catastrophic regional

1 fishery disaster’ means a natural disaster, including a hur-
 2 ricane or tsunami, or a regulatory closure (including regu-
 3 latory closures resulting from judicial action) to protect
 4 human health or the marine environment, that—

5 “(1) results in economic losses to coastal or
 6 fishing communities;

7 “(2) affects more than 1 State or a major fish-
 8 ery managed by a Council or interstate fishery com-
 9 mission; and

10 “(3) is determined by the Secretary to be a
 11 commercial fishery failure under section 312(a) of
 12 this Act or a fishery resource disaster or section
 13 308(d) of the Interjurisdictional Fisheries Act of
 14 1986 (16 U.S.C. 4107(d)).”.

15 (b) SALMON PLAN AND STUDY.—

16 (1) RECOVERY PLAN.—Not later than 6 months
 17 after the date of enactment of this Act, the Sec-
 18 retary of Commerce shall complete a recovery plan
 19 for Klamath River Coho salmon and make it avail-
 20 able to the public.

21 (2) ANNUAL REPORT.—Not later than 2 years
 22 after the date of enactment of this Act, and annually
 23 thereafter, the Secretary of Commerce shall submit
 24 a report to the Senate Committee on Commerce,

1 Science, and Transportation and the House of Rep-
2 resentatives Committee on Resources on—

3 (A) the actions taken under the recovery
4 plan and other law relating to recovery of
5 Klamath River Coho salmon, and how those ac-
6 tions are specifically contributing to its recov-
7 ery;

8 (B) the progress made on the restoration
9 of salmon spawning habitat, including water
10 conditions as they relate to salmon health and
11 recovery, with emphasis on the Klamath River
12 and its tributaries below Iron Gate Dam;

13 (C) the status of other Klamath River
14 anadromous fish populations, particularly Chi-
15 nook salmon; and

16 (D) the actions taken by the Secretary to
17 address the calendar year 2003 National Re-
18 search Council recommendations regarding
19 monitoring and research on Klamath River
20 Basin salmon stocks.

21 (c) OREGON AND CALIFORNIA SALMON FISHERY.—

22 Federally recognized Indian tribes and small businesses,
23 including fishermen, fish processors, and related busi-
24 nesses serving the fishing industry, adversely affected by
25 Federal closures and fishing restrictions in the Oregon

1 and California 2006 fall Chinook salmon fishery are eligi-
 2 ble to receive direct assistance under section 312(a) of the
 3 Magnuson-Stevens Fishery Conservation and Manage-
 4 ment Act (16 U.S.C. 1861a(a)) and section 308(d) of the
 5 Interjurisdictional Fisheries Act of 1986 (16 U.S.C.
 6 4107(d)). The Secretary may use no more than 4 percent
 7 of any monetary assistance to pay for administrative costs.

8 **SEC. 115. FISHERY FINANCE PROGRAM HURRICANE ASSIST-**
 9 **ANCE.**

10 (a) LOAN ASSISTANCE.—Subject to availability of ap-
 11 propriations, the Secretary of Commerce shall provide as-
 12 sistance to eligible holders of fishery finance program
 13 loans and allocate such assistance among eligible holders
 14 based upon their outstanding principal balances as of De-
 15 cember 2, 2005, for any of the following purposes:

16 (1) To defer principal payments on the debt for
 17 1 year and re-amortize the debt over the remaining
 18 term of the loan.

19 (2) To allow for an extension of the term of the
 20 loan for up to 1 year beyond the remaining term of
 21 the loan, or September 30, 2013, whichever is later.

22 (3) To pay the interest costs for such loans over
 23 fiscal years 2006 through 2012, not to exceed
 24 amounts authorized under subsection (d).

1 (4) To provide opportunities for loan forgive-
2 ness, as specified in subsection (c).

3 (b) LOAN FORGIVENESS.—

4 (1) IN GENERAL.—Upon application made by
5 an eligible holder of a fishery finance program loan,
6 made at such time, in such manner, and containing
7 such information as the Secretary may require, the
8 Secretary, on a calendar year basis beginning in
9 2005, may—

10 (A) offset against the outstanding balance
11 on the loan an amount equal to the sum of the
12 amounts expended by the holder during the cal-
13 endar year to repair or replace covered vessels
14 or facilities, or to invest in new fisheries infra-
15 structure within or for use within the declared
16 fisheries disaster area; or

17 (B) cancel the amount of debt equal to
18 100 hundred percent of actual expenditures on
19 eligible repairs, reinvestment, expansion, or new
20 investment in fisheries infrastructure in the dis-
21 aster region, or repairs to, or replacement of,
22 eligible fishing vessels.

23 (c) DEFINITIONS.—In this section:

24 (1) DECLARED FISHERIES DISASTER AREA.—
25 The term “declared fisheries disaster area” means

1 fisheries located in the major disaster area des-
2 ignated by the President under the Robert T. Staf-
3 ford Disaster Relief and Emergency Assistance Act
4 (42 U.S.C. 5121 et seq.) as a result of Hurricane
5 Katrina or Hurricane Rita.

6 (2) ELIGIBLE HOLDER.—The term “eligible
7 holder” means the holder of a fishery finance pro-
8 gram loan if—

9 (A) that loan is used to guarantee or fi-
10 nance any fishing vessel or fish processing facil-
11 ity home-ported or located within the declared
12 fisheries disaster area; and

13 (B) the holder makes expenditures to re-
14 pair or replace such covered vessels or facilities,
15 or invests in new fisheries infrastructure within
16 or for use within the declared fisheries disaster
17 area, to restore such facilities following the dis-
18 aster.

19 (3) FISHERY FINANCE PROGRAM LOAN.—The
20 term “fishery finance program loan” means a loan
21 made or guaranteed under the fishery finance pro-
22 gram under title XI of the Merchant Marine Act,
23 1936, (46 U.S.C. App. 1271 et seq.).

24 (d) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to the Secretary of Com-

1 merce for the purposes of this section not more than
2 \$15,000,000 for each eligible holder for the period begin-
3 ning with fiscal year 2006 through fiscal year 2012.

4 **SEC. 116. SHRIMP FISHERIES HURRICANE ASSISTANCE**
5 **PROGRAM.**

6 (a) IN GENERAL.—The Secretary of Commerce shall
7 establish an assistance program for the Gulf of Mexico
8 shrimp fishing industry.

9 (b) ALLOCATION OF FUNDS.—Under the program,
10 the Secretary shall allocate funds appropriated to carry
11 out the program among the States of Alabama, Louisiana,
12 Florida, Mississippi, and Texas in proportion to the per-
13 centage of the shrimp catch landed by each State, except
14 that the amount allocated to Florida shall be based exclu-
15 sively on the proportion of such catch landed by the Flor-
16 ida Gulf Coast fishery.

17 (c) USE OF FUNDS.—Of the amounts made available
18 to each State under the program—

19 (1) 2 percent shall be retained by the State to
20 be used for the distribution of additional payments
21 to fishermen with a demonstrated record of compli-
22 ance with turtle excluder and bycatch reduction de-
23 vice regulations; and

24 (2) the remainder of the amounts shall be used
25 for—

1 (A) personal assistance, with priority given
2 to food, energy needs, housing assistance,
3 transportation fuel, and other urgent needs;

4 (B) assistance for small businesses, includ-
5 ing fishermen, fish processors, and related busi-
6 nesses serving the fishing industry;

7 (C) domestic product marketing and sea-
8 food promotion;

9 (D) State seafood testing programs;

10 (E) the development of limited entry pro-
11 grams for the fishery;

12 (F) funding or other incentives to ensure
13 widespread and proper use of turtle excluder
14 devices and bycatch reduction devices in the
15 fishery; and

16 (G) voluntary capacity reduction programs
17 for shrimp fisheries under limited access pro-
18 grams.

19 (d) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Secretary of Com-
21 merce \$17,500,000 for fiscal years 2006 through 2011 to
22 carry out this section.

1 **SEC. 117. BYCATCH REDUCTION ENGINEERING PROGRAM.**

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

5 **“SEC. 316. BYCATCH REDUCTION ENGINEERING PROGRAM.**

6 “(a) BYCATCH REDUCTION ENGINEERING PRO-
7 GRAM.—Not later than 1 year after the date of enactment
8 of the Magnuson-Stevens Fishery Conservation and Man-
9 agement Reauthorization Act of 2006, the Secretary, in
10 cooperation with the Councils and other affected interests,
11 and based upon the best scientific information available,
12 shall establish a bycatch reduction program to develop
13 technological devices and other conservation engineering
14 changes designed to minimize bycatch, seabird bycatch,
15 bycatch mortality, and post-release mortality in Federally
16 managed fisheries. The program shall—

17 “(1) be regionally based;

18 “(2) be coordinated with projects conducted
19 under the cooperative research and management
20 program established under this Act;

21 “(3) provide information and outreach to fish-
22 ery participants that will encourage adoption and
23 use of technologies developed under the program;
24 and

25 “(4) provide for routine consultation with the
26 Councils in order to maximize opportunities to incor-

1 porate results of the program in Council actions and
 2 provide incentives for adoption of methods developed
 3 under the program in fishery management plans de-
 4 veloped by the Councils.

5 “(b) INCENTIVES.—Any fishery management plan
 6 prepared by a Council or by the Secretary may establish
 7 a system of incentives to reduce total bycatch and seabird
 8 bycatch amounts, bycatch rates, and post-release mortality
 9 in fisheries under the Council’s or Secretary’s jurisdiction,
 10 including—

11 “(1) measures to incorporate bycatch into
 12 quotas, including the establishment of collective or
 13 individual bycatch quotas;

14 “(2) measures to promote the use of gear with
 15 verifiable and monitored low bycatch and seabird by-
 16 catch rates; and

17 “(3) measures that, based on the best scientific
 18 information available, will reduce bycatch and
 19 seabird bycatch, bycatch mortality, post-release mor-
 20 tality, or regulatory discards in the fishery.

21 “(c) COORDINATION ON SEABIRD BYCATCH.—The
 22 Secretary, in coordination with the Secretary of Interior,
 23 is authorized to undertake projects in cooperation with in-
 24 dustry to improve information and technology to reduce
 25 seabird bycatch, including—

1 “(1) outreach to industry on new technologies
2 and methods; and

3 “(2) projects to mitigate for seabird mor-
4 tality.”.

5 **SEC. 118. COMMUNITY-BASED RESTORATION PROGRAM**
6 **FOR FISHERY AND COASTAL HABITATS.**

7 (a) IN GENERAL.—The Secretary of Commerce shall
8 establish a community-based fishery and coastal habitat
9 restoration program to implement and support the res-
10 toration of fishery and coastal habitats.

11 (b) AUTHORIZED ACTIVITIES.—In carrying out the
12 program, the Secretary may—

13 (1) provide funding and technical expertise to
14 fishery and coastal communities to assist them in re-
15 storing fishery and coastal habitat;

16 (2) advance the science and monitoring of
17 coastal habitat restoration;

18 (3) transfer restoration technologies to the pri-
19 vate sector, the public, and other governmental
20 agencies;

21 (4) develop public-private partnerships to ac-
22 complish sound coastal restoration projects;

23 (5) promote significant community support and
24 volunteer participation in fishery and coastal habitat
25 restoration;

1 (6) promote stewardship of fishery and coastal
2 habitats; and

3 (7) leverage resources through national, re-
4 gional, and local public-private partnerships.

5 **SEC. 119. PROHIBITED ACTS.**

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

7 (1) by striking “or” after the semicolon in sub-
8 paragraph (O);

9 (2) by striking “carcass.” in subparagraph (P)
10 and inserting “carcass;”; and

11 (3) by inserting after subparagraph (P) and be-
12 fore the last sentence the following:

13 “(Q) to import, export, transport, sell, re-
14 ceive, acquire, or purchase in interstate or for-
15 eign commerce any fish taken, possessed, trans-
16 ported, or sold in violation of any foreign law
17 or regulation; or

18 “(R) to use any fishing vessel to engage in
19 fishing in Federal or State waters, or on the
20 high seas or in the waters of another country,
21 after the Secretary has made a payment to the
22 owner of that fishing vessel under section
23 312(b)(2).”.

1 **SEC. 120. ENFORCEMENT.**

2 (a) CIVIL ENFORCEMENT.—Section 308 (16 U.S.C.
3 1858) is amended—

4 (1) by striking “\$100,000” in subsection (a)
5 and inserting “\$240,000”;

6 (2) by striking “this section,” in subsection (f)
7 and inserting “this Act (or any other marine re-
8 source law enforced by the Secretary),”;

9 (3) by inserting “a permit, or any interest in a
10 permit,” in subsection (g)(3) after “vessel,” each
11 place it appears;

12 (4) by striking “the vessel” in subsection (g)(3)
13 and inserting “the vessel, permit, or interest”;

14 (5) by inserting “or any amount in settlement
15 of a civil forfeiture,” after “criminal fine,” in sub-
16 section (g)(4); and

17 (6) by striking “penalty or fine” in subsection
18 (g)(4) and inserting “penalty, fine, or settlement
19 amount”.

20 (b) CRIMINAL PENALTIES.—Section 309 (16 U.S.C.
21 1859) is amended to read as follows:

22 **“SEC. 309. CRIMINAL PENALTIES.**

23 **“(a) FINES AND IMPRISONMENT.—**

24 **“(1) IN GENERAL.—**Any person (other than a
25 foreign government or entity thereof) who knowingly
26 violates subparagraph (D), (E), (F), (H), (I), or (L)

1 of paragraph (1) of section 307, or paragraph (2) of
 2 section 307, shall be imprisoned for not more than
 3 5 years and fined—

4 “(A) not more than \$500,000 if such per-
 5 son is an individual; or

6 “(B) not more than \$1,000,000 if such
 7 person is a corporation or other legal entity
 8 other than an individual.

9 “(2) AGGRAVATED OFFENSES.—Notwith-
 10 standing paragraph (1), the maximum term of im-
 11 prisonment shall be for not more than 10 years if—

12 “(A) the violator is an individual; and

13 “(B) in the commission of a violation de-
 14 scribed in paragraph (1), that individual—

15 “(A) used a dangerous weapon;

16 “(B) engaged in conduct that caused bod-
 17 ily injury to any observer described in section
 18 307, any officer authorized to enforce the provi-
 19 sions of this Act under section 311, or any
 20 Council member or staff; or

21 “(C) placed any such observer, officer,
 22 Council member, or staff in fear of imminent
 23 bodily injury.

24 “(b) OTHER VIOLATIONS.—Any person (other than
 25 a foreign government or entity thereof) who knowingly vio-

1 lates any other provision of section 307 shall be fined
 2 under title 18, United States Code, imprisoned for not
 3 more than 5 years, or both.

4 “(c) JURISDICTION.—

5 “(1) IN GENERAL.—The district courts of the
 6 United States shall have jurisdiction over any action
 7 arising under this Act.

8 “(2) VENUE.—For purposes of this Act—

9 “(A) each violation of this Act shall con-
 10 stitute a separate offense and the offense shall
 11 be deemed to have been committed not only in
 12 the district where it first occurred, but also in
 13 any other district as authorized by law;

14 “(B) any offense not committed within a
 15 judicial district of the United States is subject
 16 to the venue provisions of section 3238 of title
 17 18, United States Code; and

18 “(C) American Samoa shall be included
 19 within the judicial district of the United States
 20 District Court for the District of Hawaii.”.

21 (c) CIVIL FORFEITURES.—Section 310(a) (16 U.S.C.
 22 1860(a)) is amended—

23 (1) by striking “(other than any act for which
 24 the issuance of a citation under section 311(a) is
 25 sufficient sanction)”; and

1 (2) by striking “States.” and inserting “States,
2 except that no fishing vessel shall be subject to for-
3 feiture under this section as the result of any act for
4 which the issuance of a citation under section 311(a)
5 is sufficient sanction.”.

6 (d) ENFORCEMENT RESPONSIBILITY.—Section
7 311(a) (16 U.S.C. 1861(a)) is amended—

8 (1) by striking “Act” and inserting “Act, and
9 the provisions of any marine resource law adminis-
10 tered by the Secretary,”; and

11 (2) by striking “State agency,” and inserting
12 “agency of any State, Territory, Commonwealth, or
13 Tribe,”.

14 (e) POWERS OF AUTHORIZED OFFICERS.—Section
15 311(b) (16 U.S.C. 1861(b)) is amended by striking “Fed-
16 eral or State”.

17 (f) PAYMENT OF STORAGE, CARE, AND OTHER
18 COSTS.—Section 311(e)(1)(B) (16 U.S.C. 1861(e)(1)(B))
19 is amended to read as follows:

20 “(B) a reward to any person who furnishes in-
21 formation which leads to an arrest, conviction, civil
22 penalty assessment, or forfeiture of property for any
23 violation of any provision of this Act or any other
24 marine resource law enforced by the Secretary of up
25 to the lesser of—

1 “(i) 20 percent of the penalty or fine col-
 2 lected; or
 3 “(ii) \$20,000;”.

4 **TITLE II—INFORMATION AND** 5 **RESEARCH**

6 **SEC. 201. RECREATIONAL FISHERIES INFORMATION.**

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

9 “(g) RECREATIONAL FISHERIES.—

10 “(1) FEDERAL PROGRAM.—The Secretary shall
 11 establish and implement a regionally based registry
 12 program for recreational fishermen in each of the 8
 13 fishery management regions. The program, which
 14 shall not require a fee before January 1, 2011, shall
 15 provide for—

16 “(A) the registration (including identifica-
 17 tion and contact information) of individuals
 18 who engage in recreational fishing—

19 “(i) in the Exclusive Economic Zone;

20 “(ii) for anadromous species; or

21 “(iii) for Continental Shelf fishery re-
 22 sources beyond the Exclusive Economic
 23 Zone; and

24 “(B) if appropriate, the registration (in-
 25 cluding the ownership, operator, and identifica-

tion of the vessel) of vessels used in such fishing.

“(2) STATE PROGRAMS.—The Secretary shall exempt from registration under the program recreational fishermen and charter fishing vessels licensed, permitted, or registered under the laws of a State if the Secretary determines that information from the State program is suitable for the Secretary’s use or is used to assist in completing marine recreational fisheries statistical surveys, or evaluating the effects of proposed conservation and management measures for marine recreational fisheries.

“(3) DATA COLLECTION.—

“(A) IMPROVEMENT OF THE MARINE RECREATIONAL FISHERY STATISTICS SURVEY.—

Within 24 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with representatives of the recreational fishing industry and experts in statistics, technology, and other appropriate fields, shall establish a program to improve the quality and accuracy of information generated by the Marine Recreational Fishery Statistics Survey, with a goal of achieving ac-

1 ceptable accuracy and utility for each individual
2 fishery.

3 “(B) NRC REPORT RECOMMENDATIONS.—

4 The program shall take into consideration and,
5 to the maximum extent feasible, implement the
6 recommendations of the National Research
7 Council in its report Review of Recreational
8 Fisheries Survey Methods (2006), including—

9 “(i) redesigning the Survey to improve
10 the effectiveness and appropriateness of
11 sampling and estimation procedures, its
12 applicability to various kinds of manage-
13 ment decisions, and its usefulness for so-
14 cial and economic analyses; and

15 “(ii) providing for ongoing technical
16 evaluation and modification as needed to
17 meet emerging management needs.

18 “(C) METHODOLOGY.—Unless the Sec-
19 retary determines that alternate methods will
20 achieve this goal more efficiently and effec-
21 tively, the program shall, to the extent possible,
22 include—

23 “(i) an adequate number of dockside
24 interviews to accurately estimate rec-
25 reational catch and effort;

1 “(ii) use of surveys that target anglers
 2 registered or licensed at the State or Fed-
 3 eral level to collect participation and effort
 4 data;

5 “(iii) collection and analysis of vessel
 6 trip report data from charter fishing ves-
 7 sels; and

8 “(iv) development of a weather correc-
 9 tive factor that can be applied to rec-
 10 reational catch and effort estimates.

11 “(D) DEADLINE.—The Secretary shall
 12 complete the program under this paragraph and
 13 implement the improved Marine Recreational
 14 Fishery Statistics Survey not later than Janu-
 15 ary 1, 2011.

16 “(4) REPORT.—Within 24 months after estab-
 17 lishment of the program, the Secretary shall submit
 18 a report to Congress that describes the progress
 19 made toward achieving the goals and objectives of
 20 the program.”.

21 **SEC. 202. COLLECTION OF INFORMATION.**

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

23 (1) by striking “(a) COUNCIL REQUESTS.—” in
 24 the subsection heading and inserting “(a) COLLEC-
 25 TION PROGRAMS.—”;

1 (2) by resetting the text following “(a) COLLEC-
 2 TION PROGRAMS.—” as a new paragraph 2 ems
 3 from the left margin;

4 (3) by inserting “(1) COUNCIL REQUESTS.—”
 5 before “If a Council”;

6 (4) by striking “subsection” in the last sentence
 7 and inserting “paragraph”;

8 (5) by striking “(other than information that
 9 would disclose proprietary or confidential commercial
 10 or financial information regarding fishing operations
 11 or fish processing operations)” each place it appears;
 12 and

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

14 “(2) SECRETARIAL INITIATION.—If the Sec-
 15 retary determines that additional information is nec-
 16 essary for developing, implementing, revising, or
 17 monitoring a fishery management plan, or for deter-
 18 mining whether a fishery is in need of management,
 19 the Secretary may, by regulation, implement an in-
 20 formation collection or observer program requiring
 21 submission of such additional information for the
 22 fishery.”.

23 **SEC. 203. ACCESS TO CERTAIN INFORMATION.**

24 (a) IN GENERAL.—Section 402(b) (16 U.S.C.
 25 1881a(b)) is amended—

1 (1) by redesignating paragraph (2) as para-
2 graph (3) and resetting it 2 ems from the left mar-
3 gin;

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

6 “(b) CONFIDENTIALITY OF INFORMATION.—

7 “(1) Any information submitted to the Sec-
8 retary, a state fishery management agency, or a ma-
9 rine fisheries commission by any person in compli-
10 ance with the requirements of this Act that contains
11 confidential information shall be confidential and
12 shall be exempt from disclosure under section
13 552(b)(3) of title 5, United States Code, except—

14 “(A) to Federal employees and Council em-
15 ployees who are responsible for fishery manage-
16 ment plan development, monitoring, or enforce-
17 ment;

18 “(B) to State or Marine Fisheries Commis-
19 sion employees as necessary to further the De-
20 partment’s mission, subject to a confidentiality
21 agreement that prohibits public disclosure of
22 confidential information relating to any person;

23 “(C) to State employees who are respon-
24 sible for fishery management plan enforcement,
25 if the States employing those employees have

1 entered into a fishery enforcement agreement
2 with the Secretary and the agreement is in ef-
3 fect;

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

9 “(E) when the Secretary has obtained
10 written authorization from the person submit-
11 ting such information to release such informa-
12 tion to persons for reasons not otherwise pro-
13 vided for in this subsection, and such release
14 does not violate other requirements of this Act;

15 “(F) when such information is required to
16 be submitted to the Secretary for any deter-
17 mination under a limited access program; or

18 “(G) in support of homeland and national
19 security activities, including the Coast Guard’s
20 homeland security missions as defined in sec-
21 tion 888(a)(2) of the Homeland Security Act of
22 2002 (6 U.S.C. 468(a)(2)).

23 “(2) Any observer information shall be con-
24 fidential and shall not be disclosed, except in accord-

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

3 “(A) as authorized by a fishery manage-
4 ment plan or regulations under the authority of
5 the North Pacific Council to allow disclosure to
6 the public of weekly summary bycatch informa-
7 tion identified by vessel or for haul-specific by-
8 catch information without vessel identification;

9 “(B) when such information is necessary
10 in proceedings to adjudicate observer certifi-
11 cations; or

12 “(C) as authorized by any regulations
13 issued under paragraph (3) allowing the collec-
14 tion of observer information, pursuant to a con-
15 fidentiality agreement between the observers,
16 observer employers, and the Secretary prohib-
17 iting disclosure of the information by the ob-
18 servers or observer employers, in order—

19 “(i) to allow the sharing of observer
20 information among observers and between
21 observers and observer employers as nec-
22 essary to train and prepare observers for
23 deployments on specific vessels; or

24 “(ii) to validate the accuracy of the
25 observer information collected.”; and

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

3 (b) CONFORMING AMENDMENT.—Section 404(c)(4)
4 (16 U.S.C. 1881c(c)(4)) is amended by striking “under
5 section 401”.

6 **SEC. 204. COOPERATIVE RESEARCH AND MANAGEMENT**
7 **PROGRAM.**

8 Title III (16 U.S.C. 1851 et seq.), as amended by
9 section 115, is further amended by adding at the end the
10 following:

11 **“SEC. 317. COOPERATIVE RESEARCH AND MANAGEMENT**
12 **PROGRAM.**

13 “(a) IN GENERAL.—The Secretary of Commerce, in
14 consultation with the Councils, shall establish a coopera-
15 tive research and management program to address needs
16 identified under this Act and under any other marine re-
17 source laws enforced by the Secretary. The program shall
18 be implemented on a regional basis and shall be developed
19 and conducted through partnerships among Federal,
20 State, and Tribal managers and scientists (including inter-
21 state fishery commissions), fishing industry participants,
22 and educational institutions.

23 “(b) ELIGIBLE PROJECTS.—The Secretary shall
24 make funds available under the program for the support
25 of projects to address critical needs identified by the Coun-

1 cils in consultation with the Secretary. The program shall
2 promote and encourage efforts to utilize sources of data
3 maintained by other Federal agencies, State agencies, or
4 academia for use in such projects.

5 “(c) FUNDING.—In making funds available the Sec-
6 retary shall award funding on a competitive basis and
7 based on regional fishery management needs, select pro-
8 grams that form part of a coherent program of research
9 focused on solving priority issues identified by the Coun-
10 cils, and shall give priority to the following projects:

11 “(1) Projects to collect data to improve, supple-
12 ment, or enhance stock assessments, including the
13 use of fishing vessels or acoustic or other marine
14 technology.

15 “(2) Projects to assess the amount and type of
16 bycatch or post-release mortality occurring in a fish-
17 ery.

18 “(3) Conservation engineering projects designed
19 to reduce bycatch, including avoidance of post-re-
20 lease mortality, reduction of bycatch in high seas
21 fisheries, and transfer of such fishing technologies to
22 other nations.

23 “(4) Projects for the identification of habitat
24 areas of particular concern and for habitat conserva-
25 tion.

1 “(5) Projects designed to collect and compile
2 economic and social data.

3 “(d) EXPERIMENTAL PERMITTING PROCESS.—Not
4 later than 180 days after the date of enactment of the
5 Magnuson-Stevens Fishery Conservation and Manage-
6 ment Reauthorization Act of 2006, the Secretary, in con-
7 sultation with the Councils, shall promulgate regulations
8 that create an expedited, uniform, and regionally-based
9 process to promote issuance, where practicable, of experi-
10 mental fishing permits.

11 “(e) GUIDELINES.—The Secretary, in consultation
12 with the Councils, shall establish guidelines to ensure that
13 participation in a research project funded under this sec-
14 tion does not result in loss of a participant’s catch history
15 or unexpended days-at-sea as part of a limited entry sys-
16 tem.

17 “(f) EXEMPTED PROJECTS.—The procedures of this
18 section shall not apply to research funded by quota set-
19 asides in a fishery.”.

20 **SEC. 205. HERRING STUDY.**

21 Title III (16 U.S.C. 1851 et seq.), as amended by
22 section 204, is further amended by adding at the end the
23 following:

1 **“SEC. 318. HERRING STUDY.**

2 “(a) IN GENERAL.—The Secretary may conduct a co-
3 operative research program to study the issues of abun-
4 dance, distribution and the role of herring as forage fish
5 for other commercially important fish stocks in the North-
6 west Atlantic, and the potential for local scale depletion
7 from herring harvesting and how it relates to other fish-
8 eries in the Northwest Atlantic. In planning, designing,
9 and implementing this program, the Secretary shall en-
10 gage multiple fisheries sectors and stakeholder groups
11 concerned with herring management.

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

16 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated \$2,000,000 for fiscal
18 year 2007 through fiscal year 2009 to conduct this
19 study.”.

20 **SEC. 206. RESTORATION STUDY.**

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

24 **“SEC. 319. RESTORATION STUDY.**

25 “(a) IN GENERAL.—The Secretary may conduct a
26 study to update scientific information and protocols need-

1 ed to improve restoration techniques for a variety of coast
 2 habitat types and synthesize the results in a format easily
 3 understandable by restoration practitioners and local com-
 4 munities.

5 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
 6 are authorized to be appropriated \$500,000 for fiscal year
 7 2007 to conduct this study.”.

8 **SEC. 207. WESTERN PACIFIC FISHERY DEMONSTRATION**
 9 **PROJECTS.**

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

12 (1) by striking “and the Secretary of the Inte-
 13 rior are” in paragraph (1) and inserting “is”;

14 (2) by striking “not less than three and not
 15 more than five” in paragraph (1); and

16 (3) by striking paragraph (6) and inserting the
 17 following:

18 “(6) In this subsection the term ‘Western Pa-
 19 cific community’ means a community eligible to par-
 20 ticipate under section 305(i)(2)(B)(i) through (iv) of
 21 the Magnuson-Stevens Fishery Conservation and
 22 Management Act (16 U.S.C. 1855(i)(2)(B)(i)
 23 through (iv)).”.

1 **SEC. 208. FISHERIES CONSERVATION AND MANAGEMENT**
2 **FUND.**

3 (a) IN GENERAL.—The Secretary shall establish and
4 maintain a fund, to be known as the “Fisheries Conserva-
5 tion and Management Fund”, which shall consist of
6 amounts retained and deposited into the Fund under sub-
7 section (c).

8 (b) PURPOSES.—Subject to the allocation of funds
9 described in subsection (d), amounts in the Fund shall be
10 available to the Secretary of Commerce, without appro-
11 priation or fiscal year limitation, to disburse as described
12 in subsection (e) for—

13 (1) efforts to improve fishery harvest data col-
14 lection including—

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

17 (B) improvement of monitoring and ob-
18 server coverage through the expanded use of
19 electronic monitoring devices and satellite track-
20 ing systems such as VMS on small vessels;

21 (2) cooperative fishery research and analysis, in
22 collaboration with fishery participants, academic in-
23 stitutions, community residents, and other interested
24 parties;

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

4 (4) conducting analysis of fish and seafood for
5 health benefits and risks, including levels of con-
6 taminants and, where feasible, the source of such
7 contaminants;

8 (5) marketing of sustainable United States fish-
9 ery products, including consumer education regard-
10 ing the health or other benefits of wild fishery prod-
11 ucts harvested by vessels of the United States;

12 (6) improving data collection under the Marine
13 Recreational Fishery Statistics Survey in accordance
14 with section 401(g)(3) of the Magnuson-Stevens
15 Fishery Conservation and Management Act (16
16 U.S.C. 1881(g)(3)); and

17 (7) providing financial assistance to fishermen
18 to offset the costs of modifying fishing practices and
19 gear to meet the requirements of this Act, the Mag-
20 nuson-Stevens Fishery Conservation and Manage-
21 ment Act (16 U.S.C. 1801 et seq.), and other Fed-
22 eral laws in pari materia.

23 (c) DEPOSITS TO THE FUND.—

24 (1) QUOTA SET-ASIDES.—Any amount gen-
25 erated through quota set-asides established by a

1 Council under the Magnuson-Stevens Fishery Con-
2 servation and Management Act (16 U.S.C. 1801 et
3 seq.) and designated by the Council for inclusion in
4 the Fishery Conservation and Management Fund,
5 may be deposited in the Fund.

6 (2) OTHER FUNDS.—In addition to amounts re-
7 ceived pursuant to paragraph (1) of this subsection,
8 the Fishery Conservation and Management Fund
9 may also receive funds from—

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

12 (B) States or other public sources or pri-
13 vate or non-profit organizations for purposes of
14 this section.

15 (d) REGIONAL ALLOCATION.—The Secretary shall,
16 every 2 years, apportion monies from the Fund among the
17 eight Council regions according to recommendations of the
18 Councils, based on regional priorities identified through
19 the Council process, except that no region shall receive less
20 than 5 percent of the Fund in each allocation period.

21 (e) LIMITATION ON THE USE OF THE FUND.—No
22 amount made available from the Fund may be used to de-
23 fray the costs of carrying out requirements of this Act or
24 the Magnuson-Stevens Fishery Conservation and Manage-

1 ment Act (16 U.S.C. 1801 et seq.) other than those uses
 2 identified in this section.

3 **SEC. 209. USE OF FISHERY FINANCE PROGRAM AND CAP-**
 4 **ITAL CONSTRUCTION FUND FOR SUSTAIN-**
 5 **ABLE PURPOSES.**

6 (a) PURPOSE OF FISHERY FINANCE PROGRAM OBLI-
 7 GATIONS.—Section 1104A(a)(7) of the Merchant Marine
 8 Act, 1936 (46 U.S.C. App. 1274(a)(7)) is amended to
 9 read as follows:

10 “(7) financing or refinancing including,
 11 “(A) the reimbursement of obligors for ex-
 12 penditures previously made, for the purchase of
 13 individual fishing quotas in accordance with
 14 section 303(d)(4) of the Magnuson-Stevens
 15 Fishery Conservation and Management Act;
 16 “(B) activities that assist in the transition
 17 to reduced fishing capacity; or
 18 “(C) technologies or upgrades designed to
 19 improve collection and reporting of fishery-de-
 20 pendent data, to reduce bycatch, to improve se-
 21 lectivity or reduce adverse impacts of fishing
 22 gear, or to improve safety.”.

23 (b) EXPANSION OF PURPOSES FOR QUALIFIED
 24 WITHDRAWALS.—Section 607(f)(1) of the Merchant Ma-
 25 rine Act, 1936 (46 U.S.C. App. 1177(f)(1)) is amended—

- 1 (1) by striking “for:” and inserting “for—”;
- 2 (B) by striking “vessel,” in subparagraph (A)
- 3 and inserting “vessel;”;
- 4 (C) by striking “vessel, or” in subparagraph
- 5 (B) and inserting “vessel;”;
- 6 (D) by striking “vessel.” in subparagraph (C)
- 7 and inserting “vessel;”;
- 8 (E) by inserting after subparagraph (C) the fol-
- 9 lowing:
- 10 “(D) in the case of any person for whose
- 11 benefit the fund was established and who par-
- 12 ticipates in the fishing capacity reduction pro-
- 13 gram under section 312 of the Magnuson-Ste-
- 14 vens Fishery Conservation and Management
- 15 Act (16 U.S.C. 1861a)—
- 16 “(i) if such person remains in the
- 17 fishery, the satisfaction of any debt obliga-
- 18 tion undertaken pursuant to such program;
- 19 and
- 20 “(ii) if such person withdraws 1 or
- 21 more vessels from the fishery, the substi-
- 22 tution of amounts the person would other-
- 23 wise receive under such program for such
- 24 person’s vessel or permit to engage in the
- 25 fishery;

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

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

“(ii) improving vessel safety; or

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

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

SEC. 210. REGIONAL ECOSYSTEM RESEARCH.

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

“(f) REGIONAL ECOSYSTEM RESEARCH.—

“(1) STUDY.—Within 180 days after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of

1 2006, the Secretary, in consultation with the Coun-
2 cils, shall undertake and complete a study on the
3 state of the science for advancing the concepts and
4 integration of ecosystem considerations in regional
5 fishery management. The study should build upon
6 the recommendations of the advisory panel and
7 include—

8 “(A) recommendations for scientific data,
9 information and technology requirements for
10 understanding ecosystem processes, and meth-
11 ods for integrating such information from a va-
12 riety of federal, state, and regional sources;

13 “(B) recommendations for processes for in-
14 corporating broad stake holder participation;

15 “(C) recommendations for processes to ac-
16 count for effects of environmental variation on
17 fish stocks and fisheries; and

18 “(D) a description of existing and devel-
19 oping council efforts to implement ecosystem
20 approaches, including lessons learned by the
21 councils.

22 “(2) AGENCY TECHNICAL ADVICE AND ASSIST-
23 ANCE, REGIONAL PILOT PROGRAMS.—The Secretary
24 is authorized to provide necessary technical advice
25 and assistance, including grants, to the Councils for

1 the development and design of regional pilot pro-
 2 grams that build upon the recommendations of the
 3 advisory panel and, when completed, the study.”.

4 **SEC. 211. DEEP SEA CORAL RESEARCH AND TECHNOLOGY**
 5 **PROGRAM.**

6 Title IV (16 U.S.C. 1881 et seq.) is amended by add-
 7 ing at the end the following:

8 **“SEC. 408. DEEP SEA CORAL RESEARCH AND TECHNOLOGY**
 9 **PROGRAM.**

10 “(a) IN GENERAL.—The Secretary, in consultation
 11 with appropriate regional fishery management councils
 12 and in coordination with other federal agencies and edu-
 13 cational institutions, shall establish a program—

14 “(1) to identify existing research on, and known
 15 locations of, deep sea corals and submit such infor-
 16 mation to the appropriate Councils;

17 “(2) to locate and map locations of deep sea
 18 corals and submit such information to the Councils;

19 “(3) to monitor activity in locations where deep
 20 sea corals are known or likely to occur, based on
 21 best scientific information available, including
 22 through underwater or remote sensing technologies
 23 and submit such information to the appropriate
 24 Councils;

1 “(4) to conduct research, including cooperative
 2 research with fishing industry participants, on deep
 3 sea corals and related species, and on survey meth-
 4 ods;

5 “(5) to develop technologies or methods de-
 6 signed to assist fishing industry participants in re-
 7 ducing interactions between fishing gear and deep
 8 sea corals; and

9 “(6) to prioritize program activities in areas
 10 where deep sea corals are known to occur, and in
 11 areas where scientific modeling or other methods
 12 predict deep sea corals are likely to be present.

13 “(b) REPORTING.—Beginning 1 year after the date
 14 of enactment of the Magnuson-Stevens Fishery Conserva-
 15 tion and Management Reauthorization Act of 2006, the
 16 Secretary, in consultation with the Councils, shall submit
 17 biennial reports to Congress and the public on steps taken
 18 by the Secretary to identify and monitor, and the Councils
 19 to protect, deep sea coral areas, including summaries of
 20 the results of mapping, research, and data collection per-
 21 formed under the program.”.

22 **SEC. 212. IMPACT OF TURTLE EXCLUDER DEVICES ON**
 23 **SHRIMPING.**

24 (a) IN GENERAL.—The Undersecretary of Commerce
 25 for Oceans and Atmosphere shall execute an agreement

1 with the National Academy of Sciences to conduct, jointly,
2 a multi-year, comprehensive in-water study designed—

3 (1) to measure accurately the efforts and ef-
4 fects of shrimp fishery efforts to utilize turtle ex-
5 cluder devices;

6 (2) to analyze the impact of those efforts on sea
7 turtle mortality, including interaction between tur-
8 tles and shrimp trawlers in the inshore, nearshore,
9 and offshore waters of the Gulf of Mexico and simi-
10 lar geographical locations in the waters of the
11 Southeastern United States; and

12 (3) to evaluate innovative technologies to in-
13 crease shrimp retention in turtle excluder devices
14 while ensuring the protection of endangered and
15 threatened sea turtles.

16 (b) OBSERVERS.—In conducting the study, the Un-
17 dersecretary shall ensure that observers are placed on-
18 board commercial shrimp fishing vessels where appro-
19 priate or necessary.

20 (c) INTERIM REPORTS.—During the course of the
21 study and until a final report is submitted to the Senate
22 Committee on Commerce, Science, and Transportation
23 and the House of Representatives Committee on Re-
24 sources, the National Academy of Sciences shall transmit
25 interim reports to the Committees biannually containing

1 a summary of preliminary findings and conclusions from
2 the study.

3 **SEC. 213. HURRICANE EFFECTS ON SHRIMP AND OYSTER**
4 **FISHERIES AND HABITATS.**

5 (a) FISHERIES REPORT.—Within 180 days after the
6 date of enactment of this Act, the Secretary of Commerce
7 shall transmit a report to the Senate Committee on Com-
8 merce, Science, and Transportation and the House of Rep-
9 resentatives Committee on Resources on the impact of
10 Hurricane Katrina, Hurricane Rita, and Hurricane Wilma
11 on—

12 (1) commercial and recreational fisheries in the
13 States of Alabama, Louisiana, Florida, Mississippi,
14 and Texas;

15 (2) shrimp fishing vessels in those States; and

16 (3) the oyster industry in those States.

17 (b) HABITAT REPORT.—Within 180 days after the
18 date of enactment of this Act, the Secretary of Commerce
19 shall transmit a report to the Senate Committee on Com-
20 merce, Science, and Transportation and the House of Rep-
21 resentatives Committee on Resources on the impact of
22 Hurricane Katrina, Hurricane Rita, and Hurricane Wilma
23 on habitat, including the habitat of shrimp and oysters
24 in those States.

1 (c) HABITAT RESTORATION.—The Secretary shall
 2 carry out activities to restore fishery habitats, including
 3 the shrimp and oyster habitats in Louisiana and Mis-
 4 sissippi.

5 **SEC. 214. NORTHWEST PACIFIC FISHERIES CONSERVATION.**

6 Section 313 (16 U.S.C. 1862) is amended—

7 (1) by striking “all fisheries under the Council’s
 8 jurisdiction except salmon fisheries” in subsection
 9 (a) and inserting “any fishery under the Council’s
 10 jurisdiction except a salmon fishery”;

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

13 “(2) establishes a system, or system, of fees,
 14 which may vary by fishery, management area, or ob-
 15 server coverage level, to pay for the cost of imple-
 16 menting the plan.”;

17 (3) by striking “observers” in subsection
 18 (b)(2)(A) and inserting “observers, or electronic
 19 monitoring systems,”;

20 (4) by inserting “a fixed amount reflecting ac-
 21 tual observer costs as described in subparagraph (A)
 22 or” in subsection (b)(2)(E) after “expressed as”;

23 (5) by inserting “some or” in subsection
 24 (b)(2)(F) after “against”;

1 (6) by inserting “or an electronic monitoring
2 system” after “observer” in subsection (b)(2)(F);

3 (7) by striking “and” after the semicolon in
4 subsection (b)(2)(H); and

5 (8) by redesignating subparagraph (I) of sub-
6 section (b)(2) as subparagraph (J) and inserting
7 after subparagraph (H) the following:

8 “(I) provide that fees collected will be credited
9 against any fee for stationing observers or electronic
10 monitoring systems on board fishing vessels and
11 United States fish processors and the actual cost of
12 inputting collected data to which a fishing vessel or
13 fish processor is subject under section 304(d) of this
14 Act; and”.

15 **SEC. 215. NEW ENGLAND GROUND FISH FISHERY.**

16 (a) REVIEW.—The Secretary of Commerce shall con-
17 duct a unique, thorough examination of the potential im-
18 pact on all affected and interested parties of Framework
19 42 to the Northeast Multispecies Fishery Management
20 Plan.

21 (b) REPORT.—The Secretary shall report the Sec-
22 retary’s findings under subsection (a) within 30 days after
23 the date of enactment of this Act. The Secretary shall in-
24 clude in the report a detailed discussion of each of the
25 following:

1 (1) The economic and social implications for af-
 2 fected parties within the fishery, including potential
 3 losses to infrastructure, expected from the imposi-
 4 tion of Framework 42.

5 (2) The estimated average annual income gen-
 6 erated by fishermen in New England, separated by
 7 State and vessel size, and the estimated annual in-
 8 come expected after the imposition of Framework
 9 42.

10 (3) Whether the differential days-at-sea count-
 11 ing imposed by Framework 42 would result in a re-
 12 duction in the number of small vessels actively par-
 13 ticipating in the New England Fishery.

14 (4) The percentage and approximate number of
 15 vessels in the New England fishery, separated by
 16 State and vessel type, that are incapable of fishing
 17 outside the areas designated in Framework 42 for
 18 differential days-at-sea counting.

19 (5) The percentage of the annual groundfish
 20 catch in the New England fishery that is harvested
 21 by small vessels.

22 (6) The current monetary value of groundfish
 23 permits in the New England fishery and the actual
 24 impact that the potential imposition of Framework
 25 42 is having on such value.

1 (7) Whether permitting days-at-sea to be leased
2 is altering the market value for groundfish permits
3 or days-at-sea in New England.

4 (8) Whether there is a substantially high prob-
5 ability that the biomass targets used as a basis for
6 Amendment 13 remain achievable.

7 (9) An identification of the year in which the
8 biomass targets used as a basis for Amendment 13
9 were last evident or achieved, and the evidence used
10 to determine such date.

11 (10) Any separate or non-fishing factors, in-
12 cluding environmental factors, that may be leading
13 to a slower rebuilding of groundfish than previously
14 anticipated.

15 (11) The potential harm to the non-fishing en-
16 vironment and ecosystem from the reduction in fish-
17 ing resulting from Framework 42 and the potential
18 redevelopment of the coastal land for other purposes,
19 including potential for increases in non-point source
20 of pollution and other impacts.

21 **SEC. 216. REPORT ON COUNCIL MANAGEMENT COORDINA-**
22 **TION.**

23 The Mid-Atlantic Fishery Council, in consultation
24 with the New England Fishery Council, shall submit a re-
25 port to the Senate Committee on Commerce, Science, and

1 Transportation within 9 months after the date of enact-
2 ment of this Act—

3 (1) describing the role of council liaisons be-
4 tween the Mid-Atlantic and New England Councils,
5 including an explanation of council policies regarding
6 the liaison's role in Council decision-making since
7 1996;

8 (2) describing how management actions are
9 taken regarding the operational aspects of current
10 joint fishery management plans, and how such joint
11 plans may undergo changes through amendment or
12 framework processes;

13 (3) evaluating the role of the New England
14 Fishery Council and the Mid-Atlantic Fishery Coun-
15 cil liaisons in the development and approval of man-
16 agement plans for fisheries in which the liaisons or
17 members of the non-controlling Council have a dem-
18 onstrated interest and significant current and histor-
19 ical landings of species managed by either Council;

20 (4) evaluating the effectiveness of the various
21 approaches developed by the Councils to improve
22 representation for affected members of the non-con-
23 trolling Council in Council decision-making, such as
24 use of liaisons, joint management plans, and other
25 policies, taking into account both the procedural and

conservation requirements of the Magnuson-Stevens
Fishery Conservation and Management Act; and

(5) analyzing characteristics of North Carolina
and Florida that supported their inclusion as voting
members of more than one Council and the extent
to which those characteristics support Rhode Is-
land’s inclusion on a second Council (the Mid-Atlan-
tic Council).

TITLE III—OTHER FISHERIES

STATUTES

SEC. 301. AMENDMENTS TO NORTHERN PACIFIC HALIBUT

ACT.

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

(1) by striking “\$25,000” and inserting
“\$200,000”;

(2) by striking “violation, the degree of culpa-
bility, and history of prior offenses, ability to pay,”
in the fifth sentence and inserting “violation, the de-
gree of culpability, any history of prior offenses,”;
and

(3) by adding at the end the following: “In as-
sessing such penalty, the Secretary may also con-
sider any information provided by the violator relat-

1 ing to the ability of the violator to pay if the infor-
 2 mation is provided to the Secretary at least 30 days
 3 prior to an administrative hearing.”.

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

7 “(e) REVOCATION OR SUSPENSION OF PERMIT.—

8 “(1) IN GENERAL.—The Secretary may take
 9 any action described in paragraph (2) in any case in
 10 which—

11 “(A) a vessel has been used in the commis-
 12 sion of any act prohibited under section 7;

13 “(B) the owner or operator of a vessel or
 14 any other person who has been issued or has
 15 applied for a permit under this Act has acted
 16 in violation of section 7; or

17 “(C) any amount in settlement of a civil
 18 forfeiture imposed on a vessel or other property,
 19 or any civil penalty or criminal fine imposed on
 20 a vessel or owner or operator of a vessel or any
 21 other person who has been issued or has ap-
 22 plied for a permit under any marine resource
 23 law enforced by the Secretary has not been paid
 24 and is overdue.

1 “(2) PERMIT-RELATED ACTIONS.—Under the
2 circumstances described in paragraph (1) the Sec-
3 retary may—

4 “(A) revoke any permit issued with respect
5 to such vessel or person, with or without preju-
6 dice to the issuance of subsequent permits;

7 “(B) suspend such permit for a period of
8 time considered by the Secretary to be appro-
9 priate;

10 “(C) deny such permit; or

11 “(D) impose additional conditions and re-
12 strictions on any permit issued to or applied for
13 by such vessel or person under this Act and,
14 with respect to any foreign fishing vessel, on
15 the approved application of the foreign nation
16 involved and on any permit issued under that
17 application.

18 “(3) FACTORS TO BE CONSIDERED.—In impos-
19 ing a sanction under this subsection, the Secretary
20 shall take into account—

21 “(A) the nature, circumstances, extent,
22 and gravity of the prohibited acts for which the
23 sanction is imposed; and

1 “(B) with respect to the violator, the de-
2 gree of culpability, any history of prior offenses,
3 and such other matters as justice may require.

4 “(4) TRANSFERS OF OWNERSHIP.—Transfer of
5 ownership of a vessel, a permit, or any interest in
6 a permit, by sale or otherwise, shall not extinguish
7 any permit sanction that is in effect or is pending
8 at the time of transfer of ownership. Before exe-
9 cuting the transfer of ownership of a vessel, permit,
10 or interest in a permit, by sale or otherwise, the
11 owner shall disclose in writing to the prospective
12 transferee the existence of any permit sanction that
13 will be in effect or pending with respect to the ves-
14 sel, permit, or interest at the time of the transfer.

15 “(5) REINSTATEMENT.—In the case of any per-
16 mit that is suspended under this subsection for non-
17 payment of a civil penalty, criminal fine, or any
18 amount in settlement of a civil forfeiture, the Sec-
19 retary shall reinstate the permit upon payment of
20 the penalty, fine, or settlement amount and interest
21 thereon at the prevailing rate.

22 “(6) HEARING.—No sanction shall be imposed
23 under this subsection unless there has been prior op-
24 portunity for a hearing on the facts underlying the
25 violation for which the sanction is imposed either in

1 conjunction with a civil penalty proceeding under
2 this section or otherwise.

3 “(7) PERMIT DEFINED.—In this subsection, the
4 term ‘permit’ means any license, certificate, ap-
5 proval, registration, charter, membership, exemption,
6 or other form of permission issued by the Commis-
7 sion or the Secretary, and includes any quota share
8 or other transferable quota issued by the Sec-
9 retary.”.

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

13 (1) by striking “\$50,000” and inserting
14 “\$200,000”; and

15 (2) by striking “\$100,000,” and inserting
16 “\$400,000,”.

17 **SEC. 302. REAUTHORIZATION OF OTHER FISHERIES ACTS.**

18 (a) ATLANTIC STRIPED BASS CONSERVATION ACT.—
19 Section 7(a) of the Atlantic Striped Bass Conservation Act
20 (16 U.S.C. 5156(a)) is amended to read as follows:

21 “(a) AUTHORIZATION.—For each of fiscal years
22 2006, 2007, 2008, 2009, and 2010, there are authorized
23 to be appropriated to carry out this Act—

24 “(1) \$1,000,000 to the Secretary of Commerce;
25 and

1 “(2) \$250,000 to the Secretary of the Inte-
2 rior.”.

3 (b) YUKON RIVER SALMON ACT OF 2000.—Section
4 208 of the Yukon River Salmon Act of 2000 (16 U.S.C.
5 5727) is amended by striking “\$4,000,000 for each of fis-
6 cal years 2004 through 2008,” and inserting “\$4,000,000
7 for each of fiscal years 2006 through 2010,”.

8 (c) SHARK FINNING PROHIBITION ACT.—Section 10
9 of the Shark Finning Prohibition Act (16 U.S.C. 1822
10 note) is amended by striking “fiscal years 2001 through
11 2005” and inserting “fiscal years 2006 through 2010”.

12 (d) PACIFIC SALMON TREATY ACT.—

13 (1) TRANSFER OF SECTION TO ACT.—The text
14 of section 623 of title VI of H.R. 3421 (113 Stat.
15 1501A–56), as introduced on November 17, 1999,
16 and enacted into law by section 1000(a)(1) of the
17 Act of November 29, 1999 (Public Law 106–113)—

18 (A) is transferred to the Pacific Salmon
19 Treaty Act (16 U.S.C. 3631 et seq.) and in-
20 serted after section 15; and

21 (B) amended—

22 (i) by striking “SEC. 623.”; and

23 (ii) inserting before “(a) NORTHERN
24 FUND AND SOUTHERN FUND.—” the fol-
25 lowing:

1 **“SEC. 16. NORTHERN AND SOUTHERN FUNDS; TREATY IM-**
 2 **PLEMENTATION; ADDITIONAL AUTHORIZA-**
 3 **TION OF APPROPRIATIONS.”.**

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

7 (1) by inserting “sustainable salmon fisheries,”
 8 after “enhancement,”; and

9 (2) by inserting “2006, 2007, 2008, and 2009,”
 10 after “2005,”.

11 (e) STATE AUTHORITY FOR DUNGENESS CRAB FISH-
 12 ERY MANAGEMENT.—Section 203 of Public Law 105–384
 13 (16 U.S.C. 1856 note) is amended—

14 (1) by striking “September 30, 2006.” in sub-
 15 section (i) and inserting “September 30, 2016.”;

16 (2) by striking “health” in subsection (j) and
 17 inserting “status”; and

18 (3) by striking “California.” in subsection (j)
 19 and inserting “California, including—

20 “(1) stock status and trends throughout its
 21 range;

22 “(2) a description of applicable research and
 23 scientific review processes used to determine stock
 24 status and trends; and

1 “(3) measures implemented or planned that are
 2 designed to prevent or end overfishing in the fish-
 3 ery.”.

4 (f) PACIFIC FISHERY MANAGEMENT COUNCIL.—

5 (1) IN GENERAL.—The Pacific Fishery Man-
 6 agement Council shall develop a proposal for the ap-
 7 propriate rationalization program for the Pacific
 8 trawl groundfish and whiting fisheries, including the
 9 shore-based sector of the Pacific whiting fishery
 10 under its jurisdiction. The proposal may include only
 11 the Pacific whiting fishery, including the shore-based
 12 sector, if the Pacific Council determines that a ra-
 13 tionalization plan for the fishery as a whole cannot
 14 be achieved before the report is required to be sub-
 15 mitted under paragraph (3).

16 (2) REQUIRED ANALYSIS.—In developing the
 17 proposal to rationalize the fishery, the Pacific Coun-
 18 cil shall fully analyze alternative program designs,
 19 including the allocation of limited access privileges
 20 to harvest fish to fishermen and processors working
 21 together in regional fishery associations or some
 22 other cooperative manner to harvest and process the
 23 fish, as well as the effects of these program designs
 24 and allocations on competition and conservation.
 25 The analysis shall include an assessment of the im-

1 pact of the proposal on conservation and the eco-
 2 nomics of communities, fishermen, and processors
 3 participating in the trawl groundfish fisheries, in-
 4 cluding the shore-based sector of the Pacific whiting
 5 fishery.

6 (3) REPORT.—The Pacific Council shall submit
 7 the proposal and related analysis to the Senate Com-
 8 mittee on Commerce, Science, and Transportation
 9 and the House of Representatives Committee on Re-
 10 sources no later than 24 months after the date of
 11 enactment of this Act.

12 **TITLE IV—INTERNATIONAL**

13 **SEC. 401. INTERNATIONAL MONITORING AND COMPLIANCE.**

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

16 **“SEC. 207. INTERNATIONAL MONITORING AND COMPLI-** 17 **ANCE.**

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

23 “(b) SPECIFIC AUTHORITIES.—In carrying out sub-
 24 section (a), the Secretary may—

1 “(1) share information on harvesting and proc-
2 essing capacity and illegal, unreported and unregu-
3 lated fishing on the high seas, in areas covered by
4 international fishery management agreements, and
5 by vessels of other nations within the United States
6 exclusive economic zone, with relevant law enforce-
7 ment organizations of foreign nations and relevant
8 international organizations;

9 “(2) further develop real time information shar-
10 ing capabilities, particularly on harvesting and proc-
11 essing capacity and illegal, unreported and unregu-
12 lated fishing;

13 “(3) participate in global and regional efforts to
14 build an international network for monitoring, con-
15 trol, and surveillance of high seas fishing and fishing
16 under regional or global agreements;

17 “(4) support efforts to create an international
18 registry or database of fishing vessels, including by
19 building on or enhancing registries developed by
20 international fishery management organizations;

21 “(5) enhance enforcement capabilities through
22 the application of commercial or governmental re-
23 mote sensing technology to locate or identify vessels
24 engaged in illegal, unreported, or unregulated fish-
25 ing on the high seas, including encroachments into

1 the exclusive economic zone by fishing vessels of
 2 other nations;

3 “(6) provide technical or other assistance to de-
 4 veloping countries to improve their monitoring, con-
 5 trol, and surveillance capabilities; and

6 “(7) support coordinated international efforts
 7 to ensure that all large-scale fishing vessels oper-
 8 ating on the high seas are required by their flag
 9 State to be fitted with vessel monitoring systems no
 10 later than December 31, 2008, or earlier if so de-
 11 cided by the relevant flag State or any relevant
 12 international fishery management organization.”.

13 **SEC. 402. FINDING WITH RESPECT TO ILLEGAL, UNRE-**
 14 **PORTED, AND UNREGULATED FISHING.**

15 Section 2(a) (16 U.S.C. 1801(a)), as amended by sec-
 16 tion 3 of this Act, is further amended by adding at the
 17 end the following:

18 “(12) International cooperation is necessary to
 19 address illegal, unreported, and unregulated fishing
 20 and other fishing practices which may harm the sus-
 21 tainability of living marine resources and disadvan-
 22 tage the United States fishing industry.”.

1 **SEC. 403. ACTION TO END ILLEGAL, UNREPORTED, OR UN-**
2 **REGULATED FISHING AND REDUCE BYCATCH**
3 **OF PROTECTED MARINE SPECIES.**

4 (a) IN GENERAL.—Title VI of the High Seas Driftnet
5 Fishing Moratorium Protection Act (16 U.S.C. 1826d et
6 seq.), is amended by adding at the end the following:

7 **“SEC. 607. BIENNIAL REPORT ON INTERNATIONAL COMPLI-**
8 **ANCE.**

9 “The Secretary, in consultation with the Secretary of
10 State, shall provide to Congress, by not later than 2 years
11 after the date of enactment of the Magnuson-Stevens
12 Fishery Conservation and Management Reauthorization
13 Act of 2006, and every 2 years thereafter, a report that
14 includes—

15 “(1) the state of knowledge on the status of
16 international living marine resources shared by the
17 United States or subject to treaties or agreements to
18 which the United States is a party, including a list
19 of all such fish stocks classified as overfished, over-
20 exploited, depleted, endangered, or threatened with
21 extinction by any international or other authority
22 charged with management or conservation of living
23 marine resources;

24 “(2) a list of nations whose vessels have been
25 identified under sections 609(a) or 610(a), including

1 the specific offending activities and any subsequent
2 actions taken pursuant to section 609 or 610;

3 “(3) a description of efforts taken by nations on
4 those lists to comply take appropriate corrective ac-
5 tion consistent with sections 609 and 610, and an
6 evaluation of the progress of those efforts, including
7 steps taken by the United States to implement those
8 sections and to improve international compliance;

9 “(4) progress at the international level, con-
10 sistent with section 608, to strengthen the efforts of
11 international fishery management organizations to
12 end illegal, unreported, or unregulated fishing; and

13 “(5) steps taken by the Secretary at the inter-
14 national level to adopt international measures com-
15 parable to those of the United States to reduce im-
16 pacts of fishing and other practices on protected liv-
17 ing marine resources, if no international agreement
18 to achieve such goal exists, or if the relevant inter-
19 national fishery or conservation organization has
20 failed to implement effective measures to end or re-
21 duce the adverse impacts of fishing practices on
22 such species.

1 **“SEC. 608. ACTION TO STRENGTHEN INTERNATIONAL FISH-**
2 **ERY MANAGEMENT ORGANIZATIONS.**

3 “The Secretary, in consultation with the Secretary of
4 State, and in cooperation with relevant fishery manage-
5 ment councils and any relevant advisory committees, shall
6 take actions to improve the effectiveness of international
7 fishery management organizations in conserving and man-
8 aging fish stocks under their jurisdiction. These actions
9 shall include—

10 “(1) urging international fishery management
11 organizations to which the United States is a
12 member—

13 “(A) to incorporate multilateral market-re-
14 lated measures against member or nonmember
15 governments whose vessels engage in illegal, un-
16 reported, or unregulated fishing;

17 “(B) to seek adoption of lists that identify
18 fishing vessels and vessel owners engaged in il-
19 legal, unreported, or unregulated fishing that
20 can be shared among all members and other
21 international fishery management organizations;

22 “(C) to seek international adoption of a
23 centralized vessel monitoring system in order to
24 monitor and document capacity in fleets of all
25 nations involved in fishing in areas under the

1 an international fishery management organiza-
2 tion’s jurisdiction;

3 “(D) to increase use of observers and tech-
4 nologies needed to monitor compliance with con-
5 servation and management measures estab-
6 lished by the organization, including vessel
7 monitoring systems and automatic identification
8 systems; and

9 “(E) to seek adoption of stronger port
10 state controls in all nations, particularly those
11 nations in whose ports vessels engaged in ille-
12 gal, unreported, or unregulated fishing land or
13 transship fish;

14 “(2) urging international fishery management
15 organizations to which the United States is a mem-
16 ber, as well as all members of those organizations,
17 to adopt and expand the use of market-related meas-
18 ures to combat illegal, unreported, or unregulated
19 fishing, including—

20 “(A) import prohibitions, landing restric-
21 tions, or other market-based measures needed
22 to enforce compliance with international fishery
23 management organization measures, such as
24 quotas and catch limits;

1 “(B) import restrictions or other market-
 2 based measures to prevent the trade or impor-
 3 tation of fish caught by vessels identified multi-
 4 laterally as engaging in illegal, unreported, or
 5 unregulated fishing; and

6 “(C) catch documentation and certification
 7 schemes to improve tracking and identification
 8 of catch of vessels engaged in illegal, unre-
 9 ported, or unregulated fishing, including ad-
 10 vance transmission of catch documents to ports
 11 of entry; and

12 “(3) urging other nations at bilateral, regional,
 13 and international levels, including the Convention on
 14 International Trade in Endangered Species of
 15 Fauna and Flora and the World Trade Organization
 16 to take all steps necessary, consistent with inter-
 17 national law, to adopt measures and policies that
 18 will prevent fish or other living marine resources
 19 harvested by vessels engaged in illegal, unreported,
 20 or unregulated fishing from being traded or im-
 21 ported into their nation or territories.

22 **“SEC. 609. ILLEGAL, UNREPORTED, OR UNREGULATED**
 23 **FISHING.**

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

1 vessels of that nation are engaged, or have been engaged
 2 at any point during the preceding two years in illegal, un-
 3 reported, or unregulated fishing; and—

4 “(1) the relevant international fishery manage-
 5 ment organization has failed to implement effective
 6 measures to end the illegal unreported, or unregu-
 7 lated fishing activity by vessels of that nation or the
 8 nation is not a party to, or does not maintain co-
 9 operating status with, such organization; or

10 “(2) where no international fishery manage-
 11 ment organization exists with a mandate to regulate
 12 the fishing activity in question.

13 “(b) NOTIFICATION.—An identification under sub-
 14 section (a) or section 610(a) is deemed to be an identifica-
 15 tion under section 101(b)(1)(A) of the High Seas Driftnet
 16 Fisheries Enforcement Act (16 U.S.C. 1826a(b)(1)(A)),
 17 and the Secretary shall notify the President and that na-
 18 tion of such identification.

19 “(c) CONSULTATION.—No later than 60 days after
 20 submitting a report to Congress under section 607, the
 21 Secretary, acting through the Secretary of State, shall—

22 “(1) notify nations listed in the report of the
 23 requirements of this section;

24 “(2) initiate consultations for the purpose of
 25 encouraging such nations to take the appropriate

1 corrective action with respect to the offending activi-
2 ties of their fishing vessels identified in the report;
3 and

4 “(3) notify any relevant international fishery
5 management organization of the actions taken by
6 the United States under this section.

7 “(d) IUU CERTIFICATION PROCEDURE.—

8 “(1) CERTIFICATION.—The Secretary shall es-
9 tablish a procedure, consistent with the provisions of
10 subchapter II of chapter 5 of title 5, United States
11 Code, and including notice and an opportunity for
12 comment by the governments of any nation listed by
13 the Secretary under subsection (a), for determining
14 if that government has taken appropriate corrective
15 action with respect to the offending activities of its
16 fishing vessels identified in the report under section
17 607. The Secretary shall determine, on the basis of
18 the procedure, and certify to the Congress no later
19 than 90 days after the date on which the Secretary
20 promulgates a final rule containing the procedure,
21 and biennially thereafter in the report under section
22 607—

23 “(A) whether the government of each na-
24 tion identified under subsection (b) has pro-
25 vided documentary evidence that it has taken

1 corrective action with respect to the offending
2 activities of its fishing vessels identified in the
3 report; or

4 “(B) whether the relevant international
5 fishery management organization has imple-
6 mented measures that are effective in ending
7 the illegal, unreported, or unregulated fishing
8 activity by vessels of that nation.

9 “(2) ALTERNATIVE PROCEDURE.—The Sec-
10 retary may establish a procedure for certification, on
11 a shipment-by-shipment, shipper-by-shipper, or other
12 basis of fish or fish products from a vessel of a har-
13 vesting nation not certified under paragraph (1) if
14 the Secretary determines that—

15 “(A) the vessel has not engaged in illegal,
16 unreported, or unregulated fishing under an
17 international fishery management agreement to
18 which the United States is a party; or

19 “(B) the vessel is not identified by an
20 international fishery management organization
21 as participating in illegal, unreported, or un-
22 regulated fishing activities.

23 “(3) EFFECT OF CERTIFICATION.—The provi-
24 sions of section 101(a) and section 101(b)(3) and
25 (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and

1 (b)(4)) (except to the extent that such provisions
 2 apply to sport fishing equipment or fish or products
 3 thereof not managed under the relevant inter-
 4 national fishery agreement (or, where there is no
 5 such agreement, not caught by the vessels engaged
 6 in illegal, unreported, or unregulated fishing)) shall
 7 apply to any nation identified under subsection (a)
 8 that has not been certified by the Secretary under
 9 this subsection, or for which the Secretary has
 10 issued a negative certification under this subsection,
 11 but shall not apply to any nation identified under
 12 subsection (a) for which the Secretary has issued a
 13 positive certification under this subsection.

14 “(e) ILLEGAL, UNREPORTED, OR UNREGULATED
 15 FISHING DEFINED.—

16 “(1) IN GENERAL.—In this Act the term ‘ille-
 17 gal, unreported, or unregulated fishing’ has the
 18 meaning established under paragraph (2).

19 “(2) SECRETARY TO DEFINE TERM WITHIN
 20 LEGISLATIVE GUIDELINES.—Within 3 months after
 21 the date of enactment of the Magnuson-Stevens
 22 Fishery Conservation and Management Reauthoriza-
 23 tion Act of 2006, the Secretary shall publish a defi-
 24 nition of the term ‘illegal, unreported, or unregu-
 25 lated fishing’ for purposes of this Act.

1 “(3) GUIDELINES.—The Secretary shall include
2 in the definition, at a minimum—

3 “(A) fishing activities that violate con-
4 servation and management measures required
5 under an international fishery management
6 agreement to which the United States is a
7 party, including catch limits or quotas, capacity
8 restrictions, and bycatch reduction require-
9 ments;

10 “(B) overfishing of fish stocks shared by
11 the United States, for which there are no appli-
12 cable international conservation or management
13 measures or in areas with no applicable inter-
14 national fishery management organization or
15 agreement, that has adverse impacts on such
16 stocks; and

17 “(C) fishing activity, including bottom
18 trawling, that has adverse impacts on
19 seamounts, hydrothermal vents, and cold water
20 corals located beyond national jurisdiction, for
21 which there are no applicable conservation or
22 management measures or in areas with no ap-
23 plicable international fishery management orga-
24 nization or agreement.

1 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
 2 are authorized to be appropriated to the Secretary for fis-
 3 cal years 2006 through 2012 such sums as are necessary
 4 to carry out this section.

5 **“SEC. 610. EQUIVALENT CONSERVATION MEASURES.**

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

8 “(1) fishing vessels of that nation are engaged,
 9 or have been engaged during the preceding calendar
 10 year in fishing activities or practices;

11 “(A) beyond the exclusive economic zone of
 12 any nation that result in bycatch of a protected
 13 living marine resource; or

14 “(B) beyond the exclusive economic zone of
 15 the United States that result in bycatch of a
 16 protected living marine resource shared by the
 17 United States;

18 “(2) the relevant international organization for
 19 the conservation and protection of such resources or
 20 the relevant international or regional fishery organi-
 21 zation has failed to implement effective measures to
 22 end or reduce such bycatch, or the nation is not a
 23 party to, or does not maintain cooperating status
 24 with, such organization; and

1 “(3) the nation has not adopted a regulatory
2 program governing such fishing practices designed
3 to end or reduce such bycatch that is comparable to
4 that of the United States, taking into account dif-
5 ferent conditions.

6 “(b) CONSULTATION AND NEGOTIATION.—The Sec-
7 retary, acting through the Secretary of State, shall—

8 “(1) notify, as soon as possible, other nations
9 whose vessels engage in fishing activities or practices
10 described in subsection (a), about the provisions of
11 this section and this Act;

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

19 “(3) seek agreements calling for international
20 restrictions on fishing activities or practices de-
21 scribed in subsection (a) through the United Na-
22 tions, the Food and Agriculture Organization’s Com-
23 mittee on Fisheries, and appropriate international
24 fishery management bodies; and

1 “(4) initiate the amendment of any existing
2 international treaty for the protection and conserva-
3 tion of such species to which the United States is a
4 party in order to make such treaty consistent with
5 the purposes and policies of this section.

6 “(c) CONSERVATION CERTIFICATION PROCEDURE.—

7 “(1) CERTIFICATION.—The Secretary shall de-
8 termine, on the basis of a procedure consistent with
9 the provisions of subchapter II of chapter 5 of title
10 5, United States Code, and including notice and an
11 opportunity for comment by the governments of any
12 nation identified by the Secretary under subsection
13 (a). The Secretary shall certify to the Congress by
14 January 31, 2007, and biennially thereafter whether
15 the government of each harvesting nation—

16 “(A) has provided documentary evidence of
17 the adoption of a regulatory program governing
18 the conservation of the protected living marine
19 resource that is comparable to that of the
20 United States, taking into account different
21 conditions, and which, in the case of pelagic
22 longline fishing, includes mandatory use of cir-
23 cle hooks, careful handling and release equip-
24 ment, and training and observer programs; and

1 “(B) has established a management plan
2 containing requirements that will assist in gath-
3 ering species-specific data to support inter-
4 national stock assessments and conservation en-
5 forcement efforts for protected living marine re-
6 sources.

7 “(2) ALTERNATIVE PROCEDURE.—The Sec-
8 retary shall establish a procedure for certification,
9 on a shipment-by-shipment, shipper-by-shipper, or
10 other basis of fish or fish products from a vessel of
11 a harvesting nation not certified under paragraph
12 (1) if the Secretary determines that such imports
13 were harvested by practices that do not result in by-
14 catch of a protected marine species, or were har-
15 vested by practices that—

16 “(A) are comparable to those of the United
17 States, taking into account different conditions,
18 and which, in the case of pelagic longline fish-
19 ing, includes mandatory use of circle hooks,
20 careful handling and release equipment, and
21 training and observer programs; and

22 “(B) include the gathering of species spe-
23 cific data that can be used to support inter-
24 national and regional stock assessments and

1 conservation efforts for protected living marine
2 resources.

3 “(3) EFFECT OF CERTIFICATION.—The provi-
4 sions of section 101(a) and section 101(b)(3) and
5 (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and
6 (b)(4)) (except to the extent that such provisions
7 apply to sport fishing equipment or fish or fish prod-
8 ucts not caught by the vessels engaged in illegal, un-
9 reported, or unregulated fishing) shall apply to any
10 nation identified under subsection (a) that has not
11 been certified by the Secretary under this sub-
12 section, or for which the Secretary has issued a neg-
13 ative certification under this subsection, but shall
14 not apply to any nation identified under subsection
15 (a) for which the Secretary has issued a positive cer-
16 tification under this subsection.

17 “(d) INTERNATIONAL COOPERATION AND ASSIST-
18 ANCE.—To the greatest extent possible consistent with ex-
19 isting authority and the availability of funds, the Secretary
20 shall—

21 “(1) provide appropriate assistance to nations
22 identified by the Secretary under subsection (a) and
23 international organizations of which those nations
24 are members to assist those nations in qualifying for
25 certification under subsection (c);

1 “(2) undertake, where appropriate, cooperative
 2 research activities on species statistics and improved
 3 harvesting techniques, with those nations or organi-
 4 zations;

5 “(3) encourage and facilitate the transfer of ap-
 6 propriate technology to those nations or organiza-
 7 tions to assist those nations in qualifying for certifi-
 8 cation under subsection (c); and

9 “(4) provide assistance to those nations or or-
 10 ganizations in designing and implementing appro-
 11 priate fish harvesting plans.

12 “(e) PROTECTED LIVING MARINE RESOURCE DE-
 13 FINED.—In this section the term ‘protected living marine
 14 resource’—

15 “(1) means non-target fish, sea turtles, or ma-
 16 rine mammals that are protected under United
 17 States law or international agreement, including the
 18 Marine Mammal Protection Act, the Endangered
 19 Species Act, the Shark Finning Prohibition Act, and
 20 the Convention on International Trade in Endan-
 21 gered Species of Wild Flora and Fauna; but

22 “(2) does not include species, except sharks,
 23 managed under the Magnuson-Stevens Fishery Con-
 24 servation and Management Act, the Atlantic Tunas

1 Convention Act, or any international fishery man-
2 agement agreement.

3 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Secretary for fis-
5 cal years 2006 through 2012 such sums as are necessary
6 to carry out this section.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) DENIAL OF PORT PRIVILEGES.—Section
9 101(b) of the High Seas Driftnet Fisheries Enforce-
10 ment Act (16 U.S.C. 1826a(b)) is amended by in-
11 sserting “or illegal, unreported, or unregulated
12 fishing” after “fishing” in paragraph (1)(A)(i),
13 paragraph (1)(B), paragraph (2), and paragraph
14 (4)(A)(i).

15 (2) DURATION OF DENIAL.—Section 102 of the
16 High Seas Driftnet Fisheries Enforcement Act (16
17 U.S.C. 1826b) is amended by inserting “or illegal,
18 unreported , or unregulated fishing” after “fishing”.

19 **SEC. 404. MONITORING OF PACIFIC INSULAR AREA FISH-**
20 **ERIES.**

21 (a) WAIVER AUTHORITY.—Section 201(h)(2)(B) (16
22 U.S.C. 1821(h)(2)(B)) is amended by striking “that is at
23 least equal in effectiveness to the program established by
24 the Secretary;” and inserting “or other monitoring pro-
25 gram that the Secretary, in consultation with the Western

1 Pacific Management Council, determines is adequate to
 2 monitor harvest, bycatch, and compliance with the laws
 3 of the United States by vessels fishing under the agree-
 4 ment;”.

5 (b) MARINE CONSERVATION PLANS.—Section
 6 204(e)(4)(A)(i) (16 U.S.C. 1824(e)(4)(A)(i)) is amended
 7 to read as follows:

8 “(i) Pacific Insular Area observer programs, or
 9 other monitoring programs, that the Secretary deter-
 10 mines are adequate to monitor the harvest, bycatch,
 11 and compliance with the laws of the United States
 12 by foreign fishing vessels that fish under Pacific In-
 13 sular Area fishing agreements;”.

14 **SEC. 405. REAUTHORIZATION OF ATLANTIC TUNAS CON-**
 15 **VENTION ACT.**

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

19 **“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

20 “(a) IN GENERAL.—There are authorized to be ap-
 21 propriated to the Secretary to carry out this Act, including
 22 use for payment of the United States share of the joint
 23 expenses of the Commission as provided in Article X of
 24 the Convention—

25 “(1) \$5,495,000 for fiscal year 2006;

1 “(2) \$5,770,000 for each of fiscal years 2007
2 and 2008;

3 “(3) \$6,058,000 for each of fiscal years 2009
4 and 2010; and

5 “(4) \$6,361,000 for each of fiscal years 2011
6 and 2012.

7 “(b) ALLOCATION.—Of the amounts made available
8 under subsection (a) for each fiscal year—

9 “(1) \$160,000 are authorized for the advisory
10 committee established under section 4 of this Act
11 and the species working groups established under
12 section 4A of this Act; and

13 “(2) \$7,500,000 are authorized for research ac-
14 tivities under this Act and section 3 of Public Law
15 96–339 (16 U.S.C. 971i), of which \$3,000,000 shall
16 be for the cooperative research program under sec-
17 tion 3(b)(2)(H) of that section (16 U.S.C.
18 971i(b)(2)(H)).”.

19 (b) DISQUALIFICATION FROM APPOINTMENT TO
20 INTERNATIONAL COMMISSION FOR THE CONSERVATION
21 OF ATLANTIC TUNAS.—Section 3(a) of the Atlantic Tunas
22 Convention Act of 1975 (16 U.S.C. 971a(a)) is amended
23 by adding at the end the following:

24 “(4) An individual who has directly represented,
25 aided, or advised a foreign entity in any marine re-

1 sources negotiation, or marine resource dispute, with
 2 the United States may not be appointed or serve as
 3 a Commissioner.”.

4 (c) ATLANTIC BILLFISH COOPERATIVE RESEARCH
 5 PROGRAM.—Section 3(b)(2) of Public Law 96–339 (16
 6 U.S.C. 971i(b)(2)) is amended—

7 (1) by striking “and” after the semicolon in
 8 subparagraph (G);

9 (2) by redesignating subparagraph (H) as sub-
 10 paragraph (I); and

11 (3) by inserting after subparagraph (G) the fol-
 12 lowing:

13 “(H) include a cooperative research pro-
 14 gram on Atlantic billfish based on the South-
 15 east Fisheries Science Center Atlantic Billfish
 16 Research Plan of 2002; and”.

17 **SEC. 406. INTERNATIONAL OVERFISHING AND DOMESTIC**
 18 **EQUITY.**

19 (a) INTERNATIONAL OVERFISHING.—Section 304
 20 (16 U.S.C. 1854) is amended by adding at the end thereof
 21 the following:

22 “(i) INTERNATIONAL OVERFISHING.—The provisions
 23 of this subsection shall apply in lieu of subsection (e) to
 24 a fishery that the Secretary determines is overfished or
 25 approaching a condition of being overfished due to exces-

1 sive international fishing pressure, and for which there are
 2 no management measures to end overfishing under an
 3 international agreement to which the United States is a
 4 party. For such fisheries—

5 “(1) the Secretary, in cooperation with the Sec-
 6 retary of State, immediately take appropriate action
 7 at the international level to end the overfishing; and

8 “(2) within 1 year after the Secretary’s deter-
 9 mination, the appropriate Council, or Secretary, for
 10 fisheries under section 302(a)(3) shall—

11 “(A) develop recommendations for domes-
 12 tic regulations to address the relative impact of
 13 fishing vessels of the United States on the stock
 14 and, if developed by a Council, the Council shall
 15 submit such recommendations to the Secretary;
 16 and

17 “(B) develop and submit recommendations
 18 to the Secretary of State, and to the Congress,
 19 for international actions that will end over-
 20 fishing in the fishery and rebuild the affected
 21 stocks, taking into account the relative impact
 22 of vessels of other nations and vessels of the
 23 United States on the relevant stock.”.

24 (b) HIGHLY MIGRATORY SPECIES TAGGING RE-
 25 SEARCH.—Section 304(g)(2) (16 U.S.C. 1854(g)(2)) is

1 amended by striking “(16 U.S.C. 971d)” and inserting
 2 “(16 U.S.C. 971d), or highly migratory species harvested
 3 in a commercial fishery managed by a Council under this
 4 Act or the Western and Central Pacific Fisheries Conven-
 5 tion Implementation Act,”.

6 **SEC. 407. UNITED STATES CATCH HISTORY.**

7 In establishing catch allocations under international
 8 fisheries agreements, the Secretary, in consultation with
 9 the Secretary of the Department in which the Coast Guard
 10 is operating, and the Secretary of State, shall ensure that
 11 all catch history in a fishery associated with a vessel of
 12 the United States remains with the United States in that
 13 fishery, and is not transferred or credited to any other
 14 nation or vessel of such nation, including when a vessel
 15 of the United States is sold or transferred to a citizen
 16 of another nation or to an entity controlled by citizens of
 17 another nation.

18 **SEC. 408. SECRETARIAL REPRESENTATIVE FOR INTER-**
 19 **NATIONAL FISHERIES.**

20 (a) IN GENERAL.—The Secretary, in consultation
 21 with the Under Secretary of Commerce for Oceans and
 22 Atmosphere, shall designate a Senate-confirmed, senior of-
 23 ficial within the National Oceanic and Atmospheric Ad-
 24 ministration to perform the duties of the Secretary with
 25 respect to international agreements involving fisheries and

1 other living marine resources, including policy develop-
2 ment and representation as a U.S. Commissioner, under
3 any such international agreements.

4 (b) ADVICE.—The designated official shall, in con-
5 sultation with the Deputy Assistant Secretary for Inter-
6 national Affairs and the Administrator of the National
7 Marine Fisheries Service, advise the Secretary, Undersec-
8 retary of Commerce for Oceans and Atmosphere, and
9 other senior officials of the Department of Commerce and
10 the National Oceanic and Atmospheric Administration on
11 development of policy on international fisheries conserva-
12 tion and management matters.

13 (c) CONSULTATION.—The designated official shall
14 consult with the Senate Committee on Commerce, Science,
15 and Transportation and the House Committee on Re-
16 sources on matters pertaining to any regional or inter-
17 national negotiation concerning living marine resources,
18 including shellfish, including before initialing any agree-
19 ment concerning living marine resources or attending any
20 official meeting at which management measures will be
21 discussed, and shall otherwise keep the committees in-
22 formed throughout the negotiation process.

23 (d) DELEGATION.—The designated official may dele-
24 gate and authorize successive re-delegation of such func-
25 tions, powers, and duties to such officers and employees

1 of the National Oceanic and Atmospheric Administration
 2 as deemed necessary to discharge the responsibility of the
 3 Office.

4 (e) DISQUALIFICATION FROM DESIGNATION.—The
 5 Secretary may not designate an individual under sub-
 6 section (a) who has directly represented, aided, or advised
 7 a foreign entity (as defined in section 207(f)(3) of title
 8 18, United States Code) in any marine resource negotia-
 9 tion, or marine resource dispute, with the United States.

10 **TITLE V—IMPLEMENTATION OF** 11 **WESTERN AND CENTRAL PA-** 12 **CIFIC FISHERIES CONVEN-** 13 **TION**

14 **SEC. 501. SHORT TITLE.**

15 This title may be cited as the “Western and Central
 16 Pacific Fisheries Convention Implementation Act”.

17 **SEC. 502. DEFINITIONS.**

18 In this title:

19 (1) 1982 CONVENTION.—The term “1982 Con-
 20 vention” means the United Nations Convention on
 21 the Law of the Sea of 10 December 1982.

22 (2) AGREEMENT.—The term “Agreement”
 23 means the Agreement for the Implementation of the
 24 Provisions of the United Nations Convention on the
 25 Law of the Sea of 10 December 1982 relating to the

1 Conservation and Management of Straddling Fish
2 Stocks and Highly Migratory Fish Stocks.

3 (3) COMMISSION.—The term “Commission”
4 means the Commission for the Conservation and
5 Management of Highly Migratory Fish Stocks in the
6 Western and Central Pacific Ocean established in
7 accordance with this Convention.

8 (4) CONVENTION AREA.—The term “convention
9 area” means all waters of the Pacific Ocean bounded
10 to the south and to the east by the following line:
11 From the south coast of Australia due south along
12 the 141th meridian of east longitude to its intersec-
13 tion with the 55th parallel of south latitude; thence
14 due east along the 55th parallel of south latitude to
15 its intersection with the 150th meridian of east lon-
16 gitude; thence due south along the 150th meridian
17 of east longitude to its intersection with the 60th
18 parallel of south latitude; thence due east along the
19 60th parallel of south latitude to its intersection
20 with the 130th meridian of west longitude; thence
21 due north along the 130th meridian of west lon-
22 gitude to its intersection with the 4th parallel of
23 south latitude; thence due west along the 4th par-
24 allel of south latitude to its intersection with the

1 150th meridian of west longitude; thence due north
2 along the 150th meridian of west longitude.

3 (5) EXCLUSIVE ECONOMIC ZONE.—The term
4 “exclusive economic zone” means the zone estab-
5 lished by Presidential Proclamation Numbered 5030
6 of March 10, 1983.

7 (6) FISHING.—The term “fishing” means:

8 (A) searching for, catching, taking, or har-
9 vesting fish.

10 (B) attempting to search for, catch, take,
11 or harvest fish.

12 (C) engaging in any other activity which
13 can reasonably be expected to result in the lo-
14 cating, catching, taking, or harvesting of fish
15 for any purpose.

16 (D) placing, searching for, or recovering
17 fish aggregating devices or associated electronic
18 equipment such as radio beacons.

19 (E) any operations at sea directly in sup-
20 port of, or in preparation for, any activity de-
21 scribed in subparagraphs (A) through (D), in-
22 cluding transshipment.

23 (F) use of any other vessel, vehicle, air-
24 craft, or hovercraft, for any activity described
25 in subparagraphs (A) through (E) except for

1 emergencies involving the health and safety of
2 the crew or the safety of a vessel.

3 (7) FISHING VESSEL.—The term “fishing ves-
4 sel” means any vessel used or intended for use for
5 the purpose of fishing, including support ships, car-
6 rier vessels, and any other vessel directly involved in
7 such fishing operations.

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

14 (9) SECRETARY.—The term “Secretary” means
15 the Secretary of Commerce.

16 (10) STATE.—The term “State” means each of
17 the several States of the United States, the District
18 of Columbia, the Commonwealth of the Northern
19 Mariana Islands, American Samoa, Guam, and any
20 other commonwealth, territory, or possession of the
21 United States.

22 (11) TRANSHIPMENT.—The term “trans-
23 shipment” means the unloading of all or any of the
24 fish on board a fishing vessel to another fishing ves-
25 sel either at sea or in port.

1 (12) WCPCF CONVENTION; WESTERN AND
 2 CENTRAL PACIFIC CONVENTION.—The terms
 3 “WCPCF Convention” and “Western and Central
 4 Pacific Convention” means the Convention on the
 5 Conservation and Management of the Highly Migra-
 6 tory Fish Stocks in the Western and Central Pacific
 7 Ocean, with Annexes, which was adopted at Hono-
 8 lulu, Hawaii, on September 5, 2000, by the Multilat-
 9 eral High Level Conference on the Highly Migratory
 10 Fish Stocks in the Western and Central Pacific
 11 Ocean.

12 **SEC. 503. APPOINTMENT OF UNITED STATES COMMIS-**
 13 **SIONERS.**

14 (a) IN GENERAL.—The United States shall be rep-
 15 resented on the Commission by 5 United States Commis-
 16 sioners. The President shall appoint individuals to serve
 17 on the Commission at the pleasure of the President. In
 18 making the appointments, the President shall select Com-
 19 missioners from among individuals who are knowledgeable
 20 or experienced concerning highly migratory fish stocks in
 21 the Western and Central Pacific Ocean, one of whom shall
 22 be an officer or employee of the Department of Commerce,
 23 and one of whom shall be the chairman or a member of
 24 the Western Pacific Fishery Management Council. The
 25 Commissioners shall be entitled to adopt such rules of pro-

1 cedures as they find necessary and to select a chairman
2 from among members who are officers or employees of the
3 United States Government.

4 (b) ALTERNATE COMMISSIONERS.—The Secretary of
5 State, in consultation with the Secretary, may designate
6 from time to time and for periods of time deemed appro-
7 priate Alternate United States Commissioners to the Com-
8 mission. Any Alternate United States Commissioner may
9 exercise at any meeting of the Commission, Council, any
10 Panel, or the advisory committee established pursuant to
11 subsection (d), all powers and duties of a United States
12 Commissioner in the absence of any Commissioner ap-
13 pointed pursuant to subsection (a) of this section for what-
14 ever reason. The number of such Alternate United States
15 Commissioners that may be designated for any such meet-
16 ing shall be limited to the number of United States Com-
17 missioners appointed pursuant to subsection (a) of this
18 section who will not be present at such meeting.

19 (c) ADMINISTRATIVE MATTERS.—

20 (1) EMPLOYMENT STATUS.—Individuals serving
21 as such Commissioners, other than officers or em-
22 ployees of the United States Government, shall be
23 considered to be Federal employees while performing
24 such service, only for purposes of—

1 (A) injury compensation under chapter 81
2 of title 5, United States Code;

3 (B) tort claims liability as provided under
4 chapter 171 of title 28 United States Code;

5 (C) requirements concerning ethics, con-
6 flicts of interest, and corruption as provided
7 under title 18, United States Code; and

8 (D) any other criminal or civil statute or
9 regulation governing the conduct of Federal em-
10 ployees.

11 (2) COMPENSATION.—The United States Com-
12 missioners or Alternate Commissioners, although of-
13 ficers of the United States while so serving, shall re-
14 ceive no compensation for their services as such
15 Commissioners or Alternate Commissioners.

16 (3) TRAVEL EXPENSES.—

17 (A) The Secretary of State shall pay the
18 necessary travel expenses of United States
19 Commissioners and Alternate United States
20 Commissioners in accordance with the Federal
21 Travel Regulations and sections 5701, 5702,
22 5704 through 5708, and 5731 of title 5, United
23 States Code.

1 (B) The Secretary may reimburse the Sec-
 2 retary of State for amounts expended by the
 3 Secretary of State under this subsection.

4 (d) ADVISORY COMMITTEES.—

5 (1) ESTABLISHMENT OF PERMANENT ADVISORY
 6 COMMITTEE.—

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

10 (i) not less than 15 nor more than 20
 11 individuals appointed by the United States
 12 Commissioners who shall select such indi-
 13 viduals from the various groups concerned
 14 with the fisheries covered by the WCPFC
 15 Convention, providing, to the maximum ex-
 16 tent practicable, an equitable balance
 17 among such groups;

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

21 (iii) officials of the fisheries manage-
 22 ment authorities of American Samoa,
 23 Guam, and the Northern Mariana Islands
 24 (or their designees).

1 (B) TERMS AND PRIVILEGES.—Each mem-
2 ber of the advisory committee appointed under
3 subparagraph (A) shall serve for a term of 2
4 years and shall be eligible for reappointment.
5 Members of the advisory committee may attend
6 all public meetings of the Commission, Council,
7 or any Panel to which they are invited by the
8 Commission, Council, or any Panel. The advi-
9 sory committee shall be invited to attend all
10 non-executive meetings of the United States
11 Commissioners and at such meetings shall be
12 given opportunity to examine and to be heard
13 on all proposed programs of investigation, re-
14 ports, recommendations, and regulations of the
15 Commission.

16 (C) PROCEDURES.—The advisory com-
17 mittee established by subparagraph (A) shall
18 determine its organization, and prescribe its
19 practices and procedures for carrying out its
20 functions under this chapter, the Magnuson-
21 Stevens Fishery Conservation and Management
22 Act (16 U.S.C. 1801 et seq.), and the WCPFC
23 Convention. The advisory committee shall pub-
24 lish and make available to the public a state-
25 ment of its organization, practices, and proce-

1 dures. A majority of the members of the advi-
 2 sory committee shall constitute a quorum.
 3 Meetings of the advisory committee, except
 4 when in executive session, shall be open to the
 5 public, and prior notice of meetings shall be
 6 made public in a timely fashion. and the advi-
 7 sory committee shall not be subject to the Fed-
 8 eral Advisory Committee Act (5 U.S.C. App.).

9 (D) PROVISION OF INFORMATION.—The
 10 Secretary and the Secretary of State shall fur-
 11 nish the advisory committee with relevant infor-
 12 mation concerning fisheries and international
 13 fishery agreements.

14 (2) ADMINISTRATIVE MATTERS.—

15 (A) SUPPORT SERVICES.—The Secretary
 16 shall provide to advisory committees in a timely
 17 manner such administrative and technical sup-
 18 port services as are necessary for their effective
 19 functioning.

20 (B) COMPENSATION; STATUS; EX-
 21 PENSES.—Individuals appointed to serve as a
 22 member of an advisory committee—

23 (i) shall serve without pay, but while
 24 away from their homes or regular places of
 25 business in the performance of services for

1 the advisory committee shall be allowed
 2 travel expenses, including per diem in lieu
 3 of subsistence, in the same manner as per-
 4 sons employed intermittently in the Gov-
 5 ernment service are allowed expenses under
 6 section 5703 of title 5, United States
 7 Code; and

8 (ii) shall not be considered Federal
 9 employees by reason of their service as
 10 members of an advisory committee, except
 11 for purposes of injury compensation or tort
 12 claims liability as provided in chapter 81 of
 13 title 5, United States Code, and chapter
 14 171 of title 28, United States Code.

15 (f) MEMORANDUM OF UNDERSTANDING.—For highly
 16 migratory species in the Pacific, the Secretary, in coordi-
 17 nation with the Secretary of State, shall develop a memo-
 18 randum of understanding with the Western Pacific, Pa-
 19 cific, and North Pacific Fishery Management Councils,
 20 that specifies the role of the relevant Council or Councils
 21 with respect to—

22 (1) participation in United States delegations to
 23 international fishery organizations in the Pacific
 24 Ocean, including government-to-government con-
 25 sultations;

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

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

(4) recommending those domestic fishing regulations that are consistent with the actions of the international fishery organization, for approval and implementation under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)

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

The Secretary of State may—

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

(2) in consultation with the Secretary and the United States Commissioners, approve, disapprove, object to, or withdraw objections to bylaws and rules, or amendments thereof, adopted by the WCPFC Commission, and, with the concurrence of

1 the Secretary to approve or disapprove the general
 2 annual program of the WCPFC Commission with re-
 3 spect to conservation and management measures
 4 and other measures proposed or adopted in accord-
 5 ance with the WCPFC Convention; and

6 (3) act upon, or refer to other appropriate au-
 7 thority, any communication referred to in paragraph
 8 (1).

9 **SEC. 505. RULEMAKING AUTHORITY OF THE SECRETARY OF**
 10 **COMMERCE.**

11 (a) PROMULGATION OF REGULATIONS.—The Sec-
 12 retary, in consultation with the Secretary of State and,
 13 with respect to enforcement measures, the Secretary of the
 14 Department in which the Coast Guard is operating, is au-
 15 thorized to promulgate such regulations as may be nec-
 16 essary to carry out the United States international obliga-
 17 tions under the WCPFC Convention and this title, includ-
 18 ing recommendations and decisions adopted by the Com-
 19 mission. In cases where the Secretary has discretion in
 20 the implementation of one or more measures adopted by
 21 the Commission that would govern fisheries under the au-
 22 thority of a Regional Fishery Management Council, the
 23 Secretary may, to the extent practicable within the imple-
 24 mentation schedule of the WCPFC Convention and any
 25 recommendations and decisions adopted by the Commis-

1 sion, promulgate such regulations in accordance with the
 2 procedures established by the Magnuson-Stevens Fishery
 3 Conservation and Management Act (16 U.S.C. 1801 et
 4 seq.).

5 (b) ADDITIONS TO FISHERY REGIMES AND REGULA-
 6 TIONS.—The Secretary may promulgate regulations appli-
 7 cable to all vessels and persons subject to the jurisdiction
 8 of the United States, including United States flag vessels
 9 wherever they may be operating, on such date as the Sec-
 10 retary shall prescribe.

11 **SEC. 506. ENFORCEMENT.**

12 (a) IN GENERAL.—The Secretary may—

13 (1) administer and enforce this title and any
 14 regulations issued under this title, except to the ex-
 15 tent otherwise provided for in this Act;

16 (2) request and utilize on a reimbursed or non-
 17 reimbursed basis the assistance, services, personnel,
 18 equipment, and facilities of other Federal depart-
 19 ments and agencies in—

20 (A) the administration and enforcement of
 21 this title; and

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

24 (3) conduct fishing operations and biological ex-
 25 periments for purposes of scientific investigation or

1 other purposes necessary to implement the WCPFC
2 Convention;

3 (4) collect, utilize, and disclose such informa-
4 tion as may be necessary to implement the WCPFC
5 Convention, subject to sections 552 and 552a of title
6 5, United States Code, and section 402(b) of the
7 Magnuson-Stevens Fishery Conservation and Man-
8 agement Act (16 U.S.C. 1881a(b));

9 (5) if recommended by the United States Com-
10 missioners or proposed by a Council with authority
11 over the relevant fishery, assess and collect fees, not
12 to exceed three percent of the ex-vessel value of fish
13 harvested by vessels of the United States in fisheries
14 managed pursuant to this title, to recover the actual
15 costs to the United States of management and en-
16 forcement under this title, which shall be deposited
17 as an offsetting collection in, and credited to, the ac-
18 count providing appropriations to carry out the func-
19 tions of the Secretary under this title; and

20 (6) issue permits to owners and operators of
21 United States vessels to fish in the convention area
22 seaward of the United States Exclusive Economic
23 Zone, under such terms and conditions as the Sec-
24 retary may prescribe, and shall remain valid for a
25 period to be determined by the Secretary.

1 (b) CONSISTENCY WITH OTHER LAWS.—The Sec-
2 retary shall ensure the consistency, to the extent prac-
3 ticable, of fishery management programs administered
4 under this Act, the Magnuson-Stevens Fishery Conserva-
5 tion and Management Act (16 U.S.C. 1801 et seq.), the
6 Tuna Conventions Act (16 U.S.C. 951 et seq.), the South
7 Pacific Tuna Act (16 U.S.C. 973 et seq.), section 401 of
8 Public Law 108–219 (16 U.S.C. 1821 note) (relating to
9 Pacific albacore tuna), and the Atlantic Tunas Convention
10 Act (16 U.S.C. 971).

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

25 (d) CONFIDENTIALITY.—

1 (1) IN GENERAL.—Any information submitted
2 to the Secretary in compliance with any requirement
3 under this Act shall be confidential and shall not be
4 disclosed, except—

5 (A) to Federal employees who are respon-
6 sible for administering, implementing, and en-
7 forcing this Act;

8 (B) to the Commission, in accordance with
9 requirements in the Convention and decisions of
10 the Commission, and, insofar as possible, in ac-
11 cordance with an agreement with the Commis-
12 sion that prevents public disclosure of the iden-
13 tity or business of any person;

14 (C) to State or Marine Fisheries Commis-
15 sion employees pursuant to an agreement with
16 the Secretary that prevents public disclosure of
17 the identity or business or any person;

18 (D) when required by court order; or

19 (E) when the Secretary has obtained writ-
20 ten authorization from the person submitting
21 such information to release such information to
22 persons for reasons not otherwise provided for
23 in this subsection, and such release does not
24 violate other requirements of this Act.

1 (2) USE OF INFORMATION.—The Secretary
2 shall, by regulation, prescribe such procedures as
3 may be necessary to preserve the confidentiality of
4 information submitted in compliance with any re-
5 quirement or regulation under this Act, except that
6 the Secretary may release or make public any such
7 information in any aggregate or summary form that
8 does not directly or indirectly disclose the identity or
9 business of any person. Nothing in this subsection
10 shall be interpreted or construed to prevent the use
11 for conservation and management purposes by the
12 Secretary of any information submitted in compli-
13 ance with any requirement or regulation under this
14 Act.

15 **SEC. 507. PROHIBITED ACTS.**

16 (a) IN GENERAL.—It is unlawful for any person—

17 (1) to violate any provision of this title or any
18 regulation or permit issued pursuant to this title;

19 (2) to use any fishing vessel to engage in fish-
20 ing after the revocation, or during the period of sus-
21 pension, or an applicable permit issued pursuant to
22 this title;

23 (3) to refuse to permit any officer authorized to
24 enforce the provisions of this title to board a fishing
25 vessel subject to such person's control for the pur-

1 poses of conducting any search, investigation, or in-
2 spection in connection with the enforcement of this
3 title or any regulation, permit, or the Convention;

4 (4) to forcibly assault, resist, oppose, impede,
5 intimidate, or interfere with any such authorized of-
6 ficer in the conduct of any search, investigations, or
7 inspection in connection with the enforcement of this
8 title or any regulation, permit, or the Convention;

9 (5) to resist a lawful arrest for any act prohib-
10 ited by this title;

11 (6) to ship, transport, offer for sale, sell, pur-
12 chase, import, export, or have custody, control, or
13 possession of, any fish taken or retained in violation
14 of this title or any regulation, permit, or agreement
15 referred to in paragraph (1) or (2);

16 (7) to interfere with, delay, or prevent, by any
17 means, the apprehension or arrest of another person,
18 knowing that such other person has committed any
19 chapter prohibited by this section;

20 (8) to knowingly and willfully submit to the
21 Secretary false information (including false informa-
22 tion regarding the capacity and extent to which a
23 United States fish processor, on an annual basis,
24 will process a portion of the optimum yield of a fish-
25 ery that will be harvested by fishery vessels of the

1 United States), regarding any matter that the Sec-
2 retary is considering in the course of carrying out
3 this title;

4 (9) to forcibly assault, resist, oppose, impede,
5 intimidate, sexually harass, bribe, or interfere with
6 any observer on a vessel under this title, or any
7 data collector employed by the National Marine
8 Fisheries Service or under contract to any person to
9 carry out responsibilities under this title;

10 (10) to engage in fishing in violation of any
11 regulation adopted pursuant to section 506(a) of
12 this title;

13 (11) to ship, transport, purchase, sell, offer for
14 sale, import, export, or have in custody, possession,
15 or control any fish taken or retained in violation of
16 such regulations;

17 (12) to fail to make, keep, or furnish any catch
18 returns, statistical records, or other reports as are
19 required by regulations adopted pursuant to this
20 title to be made, kept, or furnished;

21 (13) to fail to stop a vessel upon being hailed
22 and instructed to stop by a duly authorized official
23 of the United States;

24 (14) to import, in violation of any regulation
25 adopted pursuant to section 506(a) of this title, any

1 fish in any form of those species subject to regula-
2 tion pursuant to a recommendation, resolution, or
3 decision of the Commission, or any tuna in any form
4 not under regulation but under investigation by the
5 Commission, during the period such fish have been
6 denied entry in accordance with the provisions of
7 section 506(a) of this title.

8 (b) ENTRY CERTIFICATION.—In the case of any fish
9 described in subsection (a) offered for entry into the
10 United States, the Secretary of Commerce shall require
11 proof satisfactory to the Secretary that such fish is not
12 ineligible for such entry under the terms of section 506(a)
13 of this title.

14 **SEC. 508. COOPERATION IN CARRYING OUT CONVENTION.**

15 (a) FEDERAL AND STATE AGENCIES; PRIVATE INSTI-
16 TUTIONS AND ORGANIZATIONS.—The Secretary may co-
17 operate with agencies of the United States government,
18 any public or private institutions or organizations within
19 the United States or abroad, and, through the Secretary
20 of State, the duly authorized officials of the government
21 of any party to the WCPFC Convention, in carrying out
22 responsibilities under this title.

23 (b) SCIENTIFIC AND OTHER PROGRAMS; FACILITIES
24 AND PERSONNEL.—All Federal agencies are authorized,
25 upon the request of the Secretary, to cooperate in the con-

1 duct of scientific and other programs and to furnish facili-
 2 ties and personnel for the purpose of assisting the Com-
 3 mission in carrying out its duties under the WCPFC Con-
 4 vention.

5 (c) SANCTIONED FISHING OPERATIONS AND BIO-
 6 LOGICAL EXPERIMENTS.—Nothing in this title, or in the
 7 laws or regulations of any State, prevents the Secretary
 8 or the Commission from—

9 (1) conducting or authorizing the conduct of
 10 fishing operations and biological experiments at any
 11 time for purposes of scientific investigation; or

12 (2) discharging any other duties prescribed by
 13 the WCPFC Convention.

14 (d) STATE JURISDICTION NOT AFFECTED.—Except
 15 as provided in subsection (e) of this section, nothing in
 16 this title shall be construed to diminish or to increase the
 17 jurisdiction of any State in the territorial sea of the
 18 United States.

19 (e) APPLICATION OF REGULATIONS—

20 (1) IN GENERAL.—regulations promulgated
 21 under section 506(a) of this title shall apply within
 22 the boundaries of any State bordering on the Con-
 23 vention area if the Secretary has provided notice to
 24 such State, the State does not request an agency

1 hearing, and the Secretary determines that the
2 State—

3 (A) has not, within a reasonable period of
4 time after the promulgation of regulations pur-
5 suant to this title, enacted laws or promulgated
6 regulations that implement the recommenda-
7 tions of the Commission within the boundaries
8 of such State; or

9 (B) has enacted laws or promulgated regu-
10 lations that implement the recommendations of
11 the commission within the boundaries of such
12 State that—

13 (i) are less restrictive than the regula-
14 tions promulgated under section 506(a) of
15 this title; or

16 (ii) are not effectively enforced.

17 (2) DETERMINATION BY SECRETARY.—The reg-
18 ulations promulgated pursuant to section 506(a) of
19 this title shall apply until the Secretary determines
20 that the State is effectively enforcing within its
21 boundaries measures that are not less restrictive
22 than the regulations promulgated under section
23 506(a) of this title.

24 (3) HEARING.—If a State requests a formal
25 agency hearing, the Secretary shall not apply the

1 regulations promulgated pursuant section 506(a) of
2 this title within that State's boundaries unless the
3 hearing record supports a determination under para-
4 graph (1)(A) or (B).

5 (f) REVIEW OF STATE LAWS AND REGULATIONS.—

6 To ensure that the purposes of subsection (e) are carried
7 out, the Secretary shall undertake a continuing review of
8 the laws and regulations of all States to which subsection
9 (e) applies or may apply and the extent to which such laws
10 and regulations are enforced.

11 **SEC. 509. TERRITORIAL PARTICIPATION.**

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

16 **SEC. 510. EXCLUSIVE ECONOMIC ZONE NOTIFICATION.**

17 Masters of commercial fishing vessels of nations fish-
18 ing for species under the management authority of the
19 Western and Central Pacific Fisheries Convention that do
20 not carry vessel monitoring systems capable of commu-
21 nicating with United States enforcement authorities shall,
22 prior to, or as soon as reasonably possible after, entering
23 and transiting the Exclusive Economic Zone seaward of
24 Hawaii and of the Commonwealths, territories, and pos-
25 sessions of the United States in the Pacific Ocean area—

1 (1) notify the United States Coast Guard or the
 2 National Marine Fisheries Service Office of Law En-
 3 forcement in the appropriate region of the name,
 4 flag state, location, route, and destination of the ves-
 5 sel and of the circumstances under which it will
 6 enter United States waters;

7 (2) ensure that all fishing gear on board the
 8 vessel is stowed below deck or otherwise removed
 9 from the place where it is normally used for fishing
 10 and placed where it is not readily available for fish-
 11 ing; and

12 (3) where requested by an enforcement officer,
 13 proceed to a specified location so that a vessel in-
 14 spection can be conducted.

15 **SEC. 511. AUTHORIZATION OF APPROPRIATIONS.**

16 There are authorized to be appropriated to the Sec-
 17 retary of Commerce such sums as may be necessary to
 18 carry out this title and to pay the United States' contribu-
 19 tion to the Commission under section 5 of part III of the
 20 WCPFC Convention.

21 **TITLE VI—PACIFIC WHITING**

22 **SEC. 601. SHORT TITLE.**

23 This title may be cited as the “Pacific Whiting Act
 24 of 2006”.

1 **SEC. 602. DEFINITIONS.**

2 In this title:

3 (1) **ADVISORY PANEL.**—The term “advisory
4 panel” means the Advisory Panel on Pacific Hake/
5 Whiting established by the Agreement.

6 (2) **AGREEMENT.**—The term “Agreement”
7 means the Agreement between the Government of
8 the United States and the Government of Canada on
9 Pacific Hake/Whiting, signed at Seattle, Wash-
10 ington, on November 21, 2003.

11 (3) **CATCH.**—The term “catch” means all fish-
12 ery removals from the offshore whiting resource, in-
13 cluding landings, discards, and bycatch in other fish-
14 eries.

15 (4) **JOINT MANAGEMENT COMMITTEE.**—The
16 term “joint management committee” means the
17 joint management committee established by the
18 Agreement.

19 (5) **JOINT TECHNICAL COMMITTEE.**—The term
20 “joint technical committee” means the joint tech-
21 nical committee established by the Agreement.

22 (6) **OFFSHORE WHITING RESOURCE.**—The term
23 “offshore whiting resource” means the
24 transboundary stock of *Merluccius productus* that is
25 located in the offshore waters of the United States

1 and Canada except in Puget Sound and the Strait
2 of Georgia.

3 (7) SCIENTIFIC REVIEW GROUP.—The term
4 “scientific review group” means the scientific review
5 group established by the Agreement.

6 (8) SECRETARY.—The term “Secretary” means
7 the Secretary of Commerce.

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

11 **SEC. 603. UNITED STATES REPRESENTATION ON JOINT**
12 **MANAGEMENT COMMITTEE.**

13 (a) REPRESENTATIVES.—

14 (1) IN GENERAL.—The Secretary, in consulta-
15 tion with the Secretary of State, shall appoint 4 in-
16 dividuals to represent the United States as the
17 United States Section on the joint management com-
18 mittee. In making the appointments, the Secretary
19 shall select representatives from among individuals
20 who are knowledgeable or experienced concerning
21 the offshore whiting resource. Of these—

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

24 (B) 1 shall be a member of the Pacific
25 Fishery Management Council, appointed with

1 consideration given to any recommendation pro-
2 vided by that Council;

3 (C) 1 shall be appointed from a list sub-
4 mitted by the treaty Indian tribes with treaty
5 fishing rights to the offshore whiting resource;
6 and

7 (D) 1 shall be appointed from the commer-
8 cial sector of the whiting fishing industry con-
9 cerned with the offshore whiting resource.

10 (2) TERM OF OFFICE.—Each representative ap-
11 pointed under paragraph (1) shall be appointed for
12 a term not to exceed 4 years, except that, of the ini-
13 tial appointments, 2 representatives shall be ap-
14 pointed for terms of 2 years. Any individual ap-
15 pointed to fill a vacancy occurring prior to the expi-
16 ration of the term of office of that individual's pred-
17 ecessor shall be appointed for the remainder of that
18 term. A representative may be appointed for a term
19 of less than 4 years if such term is necessary to en-
20 sure that the term of office of not more than 2 rep-
21 resentatives will expire in any single year. An indi-
22 vidual appointed to serve as a representative is eligi-
23 ble for reappointment.

24 (3) CHAIR.—Unless otherwise agreed by all of
25 the 4 representatives, the chair shall rotate annually

1 among the 4 members, with the order of rotation de-
2 termined by lot at the first meeting.

3 (b) ALTERNATE REPRESENTATIVES.—The Secretary,
4 in consultation with the Secretary of State, may designate
5 alternate representatives of the United States to serve on
6 the joint management committee. An alternative rep-
7 resentative may exercise, at any meeting of the committee,
8 all the powers and duties of a representative in the ab-
9 sence of a duly designated representative for whatever rea-
10 son.

11 **SEC. 604. UNITED STATES REPRESENTATION ON THE SCI-**
12 **ENTIFIC REVIEW GROUP.**

13 (a) IN GENERAL.—The Secretary, in consultation
14 with the Secretary of State, shall appoint no more than
15 2 scientific experts to serve on the scientific review group.
16 An individual shall not be eligible to serve on the scientific
17 review group while serving on the joint technical com-
18 mittee.

19 (b) TERM.—An individual appointed under sub-
20 section (a) shall be appointed for a term of not to exceed
21 4 years, but shall be eligible for reappointment. An indi-
22 vidual appointed to fill a vacancy occurring prior to the
23 expiration of a term of office of that individual's prede-
24 cessor shall be appointed to serve for the remainder of that
25 term.

1 (c) JOINT APPOINTMENTS.—In addition to individ-
 2 uals appointed under subsection (a), the Secretary, jointly
 3 with the Government of Canada, may appoint to the sci-
 4 entific review group, from a list of names provided by the
 5 advisory panel —

6 (1) up to 2 independent members of the sci-
 7 entific review group; and

8 (2) 2 public advisors.

9 **SEC. 605. UNITED STATES REPRESENTATION ON JOINT**
 10 **TECHNICAL COMMITTEE.**

11 (a) SCIENTIFIC EXPERTS.—

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

18 (2) TERM OF OFFICE.—An individual appointed
 19 under paragraph (1) shall be appointed for a term
 20 of not to exceed 4 years, but shall be eligible for re-
 21 appointment. An individual appointed to fill a va-
 22 cancy occurring prior to the expiration of the term
 23 of office of that individual's predecessor shall be ap-
 24 pointed for the remainder of that term.

1 (b) INDEPENDENT MEMBER.—In addition to individ-
 2 uals appointed under subsection (a), the Secretary, jointly
 3 with the Government of Canada, shall appoint 1 inde-
 4 pendent member to the joint technical committee selected
 5 from a list of names provided by the advisory panel.

6 **SEC. 606. UNITED STATES REPRESENTATION ON ADVISORY**
 7 **PANEL.**

8 (a) IN GENERAL.—

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

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

18 (B) not employees of the United States.

19 (2) TERM OF OFFICE.—An individual appointed
 20 under paragraph (1) shall be appointed for a term
 21 of not to exceed 4 years, but shall be eligible for re-
 22 appointment. An individual appointed to fill a va-
 23 cancy occurring prior to the expiration of the term
 24 of office of that individual's predecessor shall be ap-
 25 pointed for the remainder of that term.

1 **SEC. 607. RESPONSIBILITIES OF THE SECRETARY.**

2 (a) IN GENERAL.—The Secretary is responsible for
3 carrying out the Agreement and this title, including the
4 authority, to be exercised in consultation with the Sec-
5 retary of State, to accept or reject, on behalf of the United
6 States, recommendations made by the joint management
7 committee.

8 (b) REGULATIONS; COOPERATION WITH CANADIAN
9 OFFICIALS.—In exercising responsibilities under this title,
10 the Secretary—

11 (1) may promulgate such regulations as may be
12 necessary to carry out the purposes and objectives of
13 the Agreement and this title; and

14 (2) with the concurrence of the Secretary of
15 State, may cooperate with officials of the Canadian
16 Government duly authorized to carry out the Agree-
17 ment.

18 **SEC. 608. RULEMAKING.**

19 (a) APPLICATION WITH MAGNUSON-STEVENSON ACT.—
20 The Secretary shall establish the United States catch level
21 for Pacific whiting according to the standards and proce-
22 dures of the Agreement and this title rather than under
23 the standards and procedures of the Magnuson-Stevens
24 Fishery Conservation and Management Act (16 U.S.C.
25 1801 et seq.), except to the extent necessary to address
26 the rebuilding needs of other species. Except for estab-

1 lishing the catch level, all other aspects of Pacific whiting
2 management shall be—

3 (1) subject to the Magnuson-Stevens Fishery
4 Conservation and Management Act; and
5 (2) consistent with this title.

6 (b) JOINT MANAGEMENT COMMITTEE REC-
7 OMMENDATIONS.—For any year in which both parties to
8 the Agreement approve recommendations made by the
9 joint management committee with respect to the catch
10 level, the Secretary shall implement the approved rec-
11 ommendations. Any regulation promulgated by the Sec-
12 retary to implement any such recommendation shall apply,
13 as necessary, to all persons and all vessels subject to the
14 jurisdiction of the United States wherever located.

15 (c) YEARS WITH NO APPROVED CATCH REC-
16 OMMENDATIONS.—If the parties to the Agreement do not
17 approve the joint management committee’s recommenda-
18 tion with respect to the catch level for any year, the Sec-
19 retary shall establish the total allowable catch for Pacific
20 whiting for the United States catch. In establishing the
21 total allowable catch under this subsection, the Secretary
22 shall—

23 (1) take into account any recommendations
24 from the Pacific Fishery Management Council, the
25 joint management committee, the joint technical

1 committee, the scientific review group, and the advisory panel;
 2

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

5 (3) use the default harvest rate set out in paragraph 1 of Article III of the Agreement unless the
 6 Secretary determines that the scientific evidence
 7 demonstrates that a different rate is necessary to
 8 sustain the offshore whiting resource; and
 9

10 (4) establish the United State's share of the
 11 total allowable catch based on paragraph 2 of Article
 12 III of the Agreement and make any adjustments
 13 necessary under section 5 of Article II of the Agreement.
 14

15 **SEC. 609. ADMINISTRATIVE MATTERS.**

16 (a) EMPLOYMENT STATUS.—Individuals serving as
 17 such Commissioners, other than officers or employees of
 18 the United States Government, shall be considered to be
 19 Federal employees while performing such service, only for
 20 purposes of—

21 (1) injury compensation under chapter 81 of
 22 title 5, United States Code;

23 (2) tort claims liability as provided under chapter
 24 171 of title 28 United States Code;

1 (3) requirements concerning ethics, conflicts of
2 interest, and corruption as provided under title 18,
3 United States Code; and

4 (4) any other criminal or civil statute or regula-
5 tion governing the conduct of Federal employees.

6 (b) COMPENSATION.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), an individual appointed under this title
9 shall receive no compensation for the individual's
10 service as a representative, alternate representative,
11 scientific expert, or advisory panel member under
12 this title.

13 (2) SCIENTIFIC REVIEW GROUP.—Notwith-
14 standing paragraph (1), the Secretary may employ
15 and fix the compensation of an individual appointed
16 under section 604(a) to serve as a scientific expert
17 on the scientific review group who is not employed
18 by the United States government, a State govern-
19 ment, or an Indian tribal government in accordance
20 with section 3109 of title 5, United States Code.

21 (c) TRAVEL EXPENSES.—Except as provided in sub-
22 section (d), the Secretary shall pay the necessary travel
23 expenses of individuals appointed under this title in ac-
24 cordance with the Federal Travel Regulations and sections

1 5701, 5702, 5704 through 5708, and 5731 of title 5,
 2 United States Code.

3 (d) JOINT APPOINTEES.—With respect to the 2 inde-
 4 pendent members of the scientific review group and the
 5 2 public advisors to the scientific review group jointly ap-
 6 pointed under section 604(c), and the 1 independent mem-
 7 ber to the joint technical committee jointly appointed
 8 under section 605(b), the Secretary may pay up to 50 per-
 9 cent of—

10 (1) any compensation paid to such individuals;

11 and

12 (2) the necessary travel expenses of such indi-
 13 viduals.

14 **SEC. 610. ENFORCEMENT.**

15 (a) IN GENERAL.—The Secretary may—

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

18 (2) request and utilize on a reimbursed or non-
 19 reimbursed basis the assistance, services, personnel,
 20 equipment, and facilities of other Federal depart-
 21 ments and agencies in the administration and en-
 22 forcement of this title; and

23 (3) collect, utilize, and disclose such informa-
 24 tion as may be necessary to implement the Agree-

1 ment and this title, subject to sections 552 and 552a
2 of title 5, United States Code.

3 (b) PROHIBITED ACTS.—It is unlawful for any per-
4 son to violate any provision of this title or the regulations
5 promulgated under this title.

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

20 (d) PENALTIES.—This title shall be enforced by the
21 Secretary as if a violation of this title or of any regulation
22 promulgated by the Secretary under this title were a viola-
23 tion of section 307 of the Magnuson-Stevens Fishery Con-
24 servation and Management Act (16 U.S.C. 1857).

1 **SEC. 611. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated to the Sec-
3 retary such sums as may be necessary to carry out the
4 obligations of the United States under the Agreement and
5 this title.

Passed the Senate June 19, 2006.

Attest:

Secretary.

109TH CONGRESS
2D SESSION

S. 2012

AN ACT

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