

106TH CONGRESS
1ST SESSION

H. R. 3331

To conserve Atlantic highly migratory species of fish, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 10, 1999

Mr. SAXTON introduced the following bill; which was referred to the
Committee on Resources

A BILL

To conserve Atlantic highly migratory species of fish, and
for other purposes.

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

3 **SECTION. 1. SHORT TITLE.**

4 This Act may be cited as the “Atlantic Highly Migra-
5 tory Species Conservation Act of 1999”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

8 (1) Highly migratory species of fish, including
9 North Atlantic swordfish, species of Atlantic billfish,
10 and Atlantic large coastal sharks, are overfished and
11 require greater conservation as confirmed by recent

1 scientific assessments. In its most recent analysis,
2 the Standing Committee on Research and Statistics
3 (SCRS) of the International Commission for the
4 Conservation of Atlantic Tunas (ICCAT) estimated
5 that a number of key stocks of highly migratory spe-
6 cies have less than the biomass needed to produce
7 their respective maximum sustainable yields. The
8 1999 SCRS stock assessment estimated that the
9 North Atlantic swordfish stock was at 65 percent of
10 the necessary biomass to produce maximum sustain-
11 able yield (MSY). The 1997 SCRS stock assessment
12 estimated that the Atlantic blue marlin stock was at
13 24 percent and the Atlantic white marlin stock was
14 at 23 percent of the necessary biomass to produce
15 MSY. In its most recent stock assessment for Atlan-
16 tic sailfish/spearfish, the SCRS estimated these
17 stocks were at 62 percent of the necessary biomass
18 to produce MSY. Also, the National Marine Fish-
19 eries Service has identified North Atlantic swordfish,
20 Atlantic blue marlin, Atlantic white marlin, Atlantic
21 sailfish/spearfish, and other highly migratory species
22 of fish as overfished.

23 (2) A reduction in the mortality of juvenile
24 swordfish will contribute substantially to the rebuild-
25 ing of North Atlantic swordfish as confirmed by a

1 1998 SCRS report that expressed “concern about
2 the high catches (landings plus discards) of small
3 swordfish” and “emphasized that gains in the yield
4 could accrue if fishing mortality on small fish could
5 be further reduced.”

6 (3) In 1998, ICCAT adopted a resolution di-
7 recting the SCRS to develop options for rebuilding
8 North Atlantic swordfish to levels that would
9 produce the maximum sustainable yield, including
10 alternative methods for reducing small fish mor-
11 tality, for consideration at the ICCAT meeting in
12 1999.

13 (4) Reducing the mortality of species of Atlan-
14 tic billfish, including Atlantic blue marlin, Atlantic
15 white marlin, and Atlantic sailfish/spearfish, will
16 contribute substantially to the rebuilding of these
17 stocks.

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

22 (6) Significant reductions in the mortality of ju-
23 venile swordfish, Atlantic white marlin, Atlantic blue
24 marlin, Atlantic sailfish/spearfish, species of Atlantic
25 large coastal sharks, and other highly migratory spe-

1 cies of fish within the exclusive economic zone of the
2 United States can be achieved by the design and im-
3 plementation of discrete, scientifically-based time-
4 area closures for pelagic longline fishing.

5 (7) A credible, scientifically-based time-area clo-
6 sure for pelagic longline fishing that would achieve
7 reductions in the bycatch and mortality of overfished
8 highly migratory species within the United States
9 Exclusive Economic Zone will provide a model for
10 applying the same conservation concept more broad-
11 ly in international waters through ICCAT in further
12 pursuit of the goal of rebuilding the stocks of these
13 species.

14 (8) The time-area closures for pelagic longline
15 fishing within the United States Exclusive Economic
16 Zone that will achieve the conservation objectives for
17 swordfish, billfish, and large coastal sharks in the
18 Atlantic Ocean and Gulf of Mexico and that will re-
19 duce conflicts between commercial and recreational
20 fishermen will result in adverse economic impacts on
21 United States commercial fishermen who engage in
22 pelagic longline fishing, as well as their families and
23 communities. Such adverse economic impacts can be
24 minimized by a fair and equitable buyout of the per-

1 mits and licenses of certain pelagic longline fishing
2 vessels.

3 (9) The commercial fishermen who sustain ad-
4 verse economic impacts from such time-area closures
5 and who should be eligible to participate in such a
6 government buyout include those who, according to
7 the National Marine Fisheries Service data, have—

8 (A) reported that at least 35 percent of
9 their vessel's annual fishing sets were conducted
10 in the proposed closed areas in any one year
11 from 1992 through 1997;

12 (B) reported that they conducted at least
13 25 pelagic longline gear sets during their quali-
14 fying year;

15 (C) reported that at least 50 percent of
16 their landings for the 1995–1997 period were
17 comprised of pelagic longline target species, in-
18 cluding swordfish, tunas, mahi-mahi, escolar,
19 and oceanic sharks; and

20 (D) qualified for a Directed Swordfish Ini-
21 tial Limited Access Permit.

22 (10) There is a great need for the National Ma-
23 rine Fisheries Service to conduct additional scientific
24 research, in cooperation with pelagic longline fishing
25 vessels, to identify the uses and configurations of pe-

1 logic longline fishing gear that are most effective in
2 reducing bycatch.

3 **SEC. 3. PURPOSES.**

4 The Congress declares that the purposes of this Act
5 are—

6 (1) to expand the scientific knowledge and un-
7 derstanding of Atlantic highly migratory species and
8 the fisheries of the United States therefor;

9 (2) to contribute to the conservation and re-
10 building of overfished stocks of highly migratory spe-
11 cies, including North Atlantic swordfish, Atlantic
12 white marlin, Atlantic blue marlin, Atlantic sailfish/
13 spearfish, and Atlantic large coastal sharks, through
14 reductions in mortality and the protection of those
15 nursery and spawning areas that may occur within
16 the exclusive economic zone of the United States, to
17 levels that will produce maximum sustainable yield,
18 in compliance with United States obligations under
19 the International Convention for the Conservation of
20 Atlantic Tunas and consistent with National Stand-
21 ard (1) and section 304 of the Magnuson-Stevens
22 Act;

23 (3) to minimize socio-economic impacts on
24 United States commercial fishermen and their fami-
25 lies, consistent with National Standard (8) of the

1 Magnuson-Stevens Act and the requirements of the
2 Regulatory Flexibility Act, resulting from the con-
3 servation actions taken under this Act;

4 (4) to ensure a sustainable fishery and a sus-
5 tainable United States pelagic longline fishery for
6 the future;

7 (5) to minimize bycatch, including regulatory
8 discards, consistent with the Magnuson-Stevens Act
9 and the international obligations of the United
10 States;

11 (6) to support and encourage the United States
12 Government's efforts to obtain international agree-
13 ments that provide for effective fishery conservation
14 and management consistent with the policies set
15 forth in section 2(c) of the Magnuson-Stevens Act
16 and to provide the necessary leadership for achieving
17 greater international conservation of highly migra-
18 tory species; and

19 (7) to reduce conflicts within the exclusive eco-
20 nomic zone of the United States between the pelagic
21 longline and recreational fisheries for highly migra-
22 tory species.

23 **SEC. 4. POLICY.**

24 It is declared to be the policy of the Congress in this
25 Act that, consistent with the Magnuson-Stevens Act, all

1 United States fishermen shall be treated fairly in achiev-
2 ing national and international fishery conservation and
3 management objectives and obligations for highly migra-
4 tory species of the Atlantic Ocean and Gulf of Mexico.

5 **SEC. 5. DEFINITIONS.**

6 In this Act, the following definitions apply:

7 (1) **AFFECTED STATE.**—The term “affected
8 State” means one of the following States: South
9 Carolina, Georgia, Florida, Alabama, Mississippi,
10 Louisiana, and Texas.

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

13 (3) **BYCATCH.**—The term “bycatch” means fish
14 which are harvested in a fishery, but which are not
15 sold or kept for personal use, and includes economic
16 discards and regulatory discards. The term does not
17 include fish released alive under a recreational catch
18 and release fishery management program.

19 (4) **COMMERCIAL FISHING.**—The term “com-
20 mercial fishing” means fishing in which the fish har-
21 vested, either in whole or in part, are intended to
22 enter commerce or enter commerce through sale,
23 barter, or trade.—

24 (5) **ELIGIBLE PERMIT HOLDER.**—The term “el-
25 ible permit holder” means the person or group of

1 persons who, on the date of enactment of this Act,
2 holds the Directed Swordfish Limited Access Permit
3 that was issued based on the landings of an eligible
4 vessel.

5 (6) ELIGIBLE VESSEL.—The term “eligible ves-
6 sel” means each vessel listed in section 7(a) of this
7 Act.

8 (7) FISH.—The term “fish” means finfish, mol-
9 lusks, crustaceans, and all other forms of marine
10 animal and plant life other than marine mammals
11 and birds.

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

13 (A) the catching, taking, or harvesting of
14 fish;

15 (B) the attempted catching, taking, or har-
16 vesting of fish;

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

20 (D) any operations at sea in support of, or
21 in preparation for, any activity described in
22 subparagraphs (A) through (C).

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

1 (9) FISHING VESSEL.—The term “fishing ves-
2 sel” means any vessel, boat, ship, or other craft
3 which is used for, equipped to be used for, or of a
4 type which is normally used for—

5 (A) fishing; or

6 (B) aiding or assisting one or more vessels
7 at sea in the performance of any activity relat-
8 ing to fishing, including but not limited to prep-
9 aration, supply, storage, refrigeration, transpor-
10 tation, or processing.—

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

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

17 (12) MAGNUSON-STEVENSON ACT.—The term
18 “Magnuson-Stevens Act” means the Magnuson-Ste-
19 vens Fishery Conservation and Management Act (16
20 U.S.C. 1801 et seq.).

21 (13) MID-ATLANTIC BIGHT.—The term “mid-
22 Atlantic bight” means all waters of the Atlantic
23 Ocean north of 35 degrees north latitude and west
24 of 71 degrees west longitude.

1 (14) OBSERVER.—The term “observer” has the
2 meaning that term has in the Magnuson-Stevens
3 Fishery Management Conservation Act (16 U.S.C.
4 1801 et seq.).

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

12 (16) PERSON.—The term “person” means any
13 individual, corporation, partnership, association, or
14 other entity (whether or not organized or existing
15 under the laws of any State).

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

19 (18) RECORD ADDRESS.—The term “record ad-
20 dress” means the address of record for each permit
21 holder and swordfish dealer as maintained in the
22 National Marine Fisheries Service’s databases.

23 (19) SECRETARY.—The term “Secretary”
24 means the Secretary of Commerce.

1 (20) SWORDFISH DEALER.—The term “sword-
2 fish dealer” means any person who purchases, trades
3 for, or barter for the receipt of any Atlantic sword-
4 fish (whether imported or domestic and regardless of
5 origin) for any commercial purpose (including sell-
6 ing, trading, or bartering such swordfish to others).

7 **SEC. 6. HIGHLY MIGRATORY SPECIES CONSERVATION**
8 **ZONES.**

9 (a) ATLANTIC CONSERVATION ZONE FOR HIGHLY
10 MIGRATORY SPECIES.—No person may engage in pelagic
11 longline fishing in the Atlantic Conservation Zone For
12 Highly Migratory Species, which is the area, seaward of
13 the baseline from which the territorial sea is measured,
14 that is enclosed by a series of geodesics connecting in suc-
15 cession the points at the following coordinates:

16 (1) 26 degrees 30 minutes north latitude, 82
17 degrees 0 minutes west longitude.

18 (2) 24 degrees 0 minutes north latitude, 82 de-
19 grees 0 minutes west longitude.

20 (3) 24 degrees 0 minutes north latitude, 79 de-
21 grees 0 minutes west longitude.

22 (4) 31 degrees 0 minutes north latitude, 79 de-
23 grees 0 minutes west longitude.

24 (5) 31 degrees 0 minutes north latitude, 78 de-
25 grees 0 minutes west longitude.

1 (6) 32 degrees 0 minutes north latitude, 78 de-
2 grees 0 minutes west longitude.

3 (7) 32 degrees 0 minutes north latitude, 77 de-
4 grees 0 minutes west longitude.

5 (8) 33 degrees 0 minutes north latitude, 77 de-
6 grees 0 minutes west longitude.

7 (9) 33 degrees 0 minutes north latitude, 78 de-
8 grees 0 minutes west longitude.

9 (10) 33 degrees 51 minutes north latitude, 78
10 degrees 33 minutes west longitude.

11 (b) GULF OF MEXICO CONSERVATION ZONE FOR
12 SWORDFISH.—Every year, during the period of January
13 1 through Memorial Day, no person may engage in pelagic
14 longline fishing in the Gulf of Mexico Conservation Zone
15 For Swordfish, which is the area enclosed by a series of
16 geodesics connecting in succession the points at the fol-
17 lowing coordinates:

18 (1) 30 degrees 0 minutes north latitude, 87 de-
19 grees 30 minutes west longitude.

20 (2) 30 degrees 0 minutes north latitude, 86 de-
21 grees 0 minutes west longitude.

22 (3) 29 degrees 0 minutes north latitude, 86 de-
23 grees 0 minutes west longitude.

24 (4) 29 degrees 0 minutes north latitude, 87 de-
25 grees 30 minutes west longitude.

1 (c) GULF OF MEXICO CONSERVATION ZONE FOR
2 HIGHLY MIGRATORY SPECIES.—During the period that
3 begins on the first Memorial Day after the date of enact-
4 ment of this Act and continues through Labor Day of the
5 same calendar year, and during the period of Memorial
6 Day through Labor Day in each of the next four calendar
7 years, no person may engage in pelagic longline fishing
8 in the Gulf of Mexico Conservation Zone For Highly Mi-
9 gratory Species, which is the area seaward of the baseline
10 from which the territorial sea is measured, that is enclosed
11 by a series of geodesics connecting in succession the points
12 at the following coordinates:

13 (1) 26 degrees 0 minutes north latitude, 97 de-
14 grees 10 minutes west longitude (at approximately
15 the border between the United States and Mexico).

16 (2) 26 degrees 0 minutes north latitude, 96 de-
17 grees 0 minutes west longitude.

18 (3) 27 degrees 30 minutes north latitude, 94
19 degrees 30 minutes west longitude.

20 (4) 27 degrees 30 minutes north latitude, 90
21 degrees 0 minutes west longitude.

22 (5) 28 degrees 0 minutes north latitude, 90 de-
23 grees 0 minutes west longitude.

24 (6) 28 degrees 0 minutes north latitude, 89 de-
25 grees 30 minutes west longitude.

1 (1) ALEX JAMES, United States official num-
2 ber 593864.

3 (2) AMANDA KAY, United States official
4 number 691398.

5 (3) BEAU, United States official number
6 647878.

7 (4) BETTE BOOP, United States official num-
8 ber 673527.

9 (5) BETTY B, United States official number
10 689987.

11 (6) BIGEYE, United States official number
12 628300.

13 (7) BLACK JACK ONE, United States official
14 number 592219.

15 (8) BONNEY ANNE, United States official
16 number 666686.

17 (9) BUCKAROO, United States official number
18 576503.

19 (10) CANDACE, United States official number
20 673556.

21 (11) CAPT. BOB, United States official num-
22 ber 929813.

23 (12) CAROL ANN, United States official num-
24 ber 609121.

1 (13) CHARLESTON STAR, United States of-
2 ficial number 591301.

3 (14) CHRISTOPHER JOE, United States offi-
4 cial number 608436.

5 (15) CHRISTY, United States official number
6 933833.

7 (16) CLAYTON REED, United States official
8 number 683286.

9 (17) CORAL LADY, United States official
10 number 649372.

11 (18) DAKOTA, United States official number
12 956008.

13 (19) ERICA-LYNN, United States official
14 number 611243.

15 (20) EXPLORER, United States official num-
16 ber 643055.

17 (21) FATHER & SON, United States official
18 number 611056.

19 (22) GINA D, United States official number
20 602788.

21 (23) GRAND CRU, United States official num-
22 ber 508393.

23 (24) HAPPY NIGHT TONIGHT, United
24 States official number 632057.

1 (25) ITALIAN STALLION, United States offi-
2 cial number 603239.

3 (26) JACQUELINE L., United States official
4 number 551612.

5 (27) JANICE ANN, United States official
6 number 646506.

7 (28) JOAN MARIE, United States official
8 number 599408.

9 (29) JOSHUA NICOLE, United States official
10 number 912738.

11 (30) JUST RIGHT, United States official
12 number 692184.

13 (31) KELLY ANN, United States official num-
14 ber 633432.

15 (32) KRISTIN LEE, United States official
16 number 656259.

17 (33) LADY LAURA, State of Florida registra-
18 tion number FL2054GY.

19 (34) LINDSEY JEANETTE, United States of-
20 ficial number 618472.

21 (35) LINNEA C, United States official number
22 665962.

23 (36) LISA ANN, United States official number
24 659897.

1 (37) LORI MARIE, United States official num-
2 ber 674417.

3 (38) MAR JACK, United States official num-
4 ber 640008.

5 (39) MARION FRANCES, United States offi-
6 cial number 541694.

7 (40) MARY ANN, United States official num-
8 ber 596805.

9 (41) MGB, United States official number
10 656564.

11 (42) MISS DANIELLE, United States official
12 number 697038.

13 (43) MISS MANDY, United States official
14 number 636385.

15 (44) MISS MELISSA, United States official
16 number 593587.

17 (45) MISS SUZANNE, United States official
18 number 510728.

19 (46) MISS TAKE, United States official num-
20 ber 667970.

21 (47) MISS-SHELL, United States official
22 number 637883.

23 (48) OUTLAW, United States official number
24 643282.

1 (49) PEACEFUL LADY, United States official
2 number 918933.

3 (50) PROUD MARY ELLEN, United States
4 official number 615810.

5 (51) PROVIDER, United States official num-
6 ber 602041.

7 (52) PROVIDER II, United States official
8 number 648979.

9 (53) R&R, United States official number
10 945535.

11 (54) RAW DAWG, United States official num-
12 ber 677230.

13 (55) REBECCA PAGE, United States official
14 number 684131.

15 (56) REBEL LADY, United States official
16 number 628471.

17 (57) ROYAL LADY, United States official
18 number 615626.

19 (58) RUTH-ANNE, United States official num-
20 ber 598591.

21 (59) SEA ANGEL, United States official num-
22 ber 926754.

23 (60) SEVEN ARROWS, United States official
24 number 611304.

1 (61) SHERRIE ANN II, State of Florida reg-
2 istration number FL3716JU.

3 (62) SOUTHERN GALE, United States offi-
4 cial number 588452.

5 (63) STRAIGHT FLUSH, United States offi-
6 cial number 663691.

7 (64) SUSAN II, United States official number
8 594618.

9 (65) SYLVIA JEAN, United States official
10 number 609788.

11 (66) TRI LINER, United States official num-
12 ber 624323.

13 (67) TRIPLE THREAT, United States official
14 number 646718.

15 (68) UNCLOUDY DAY, United States official
16 number 950979.

17 (b) INELIGIBILITY DUE TO PERMIT OR VESSEL
18 TRANSFER AFTER NOVEMBER 10, 1999.—A vessel listed
19 under subsection (a) shall not be eligible if the vessel or
20 any Federal fishing permit or license applicable to that
21 vessel is transferred to a different person after November
22 10, 1999.

23 (c) COMPENSATION NOTIFICATION.—No later than
24 the 15th calendar day after the date of enactment of this
25 Act, the Secretary shall, by certified mail return receipt

1 requested, addressed to each permit holder at its record
2 address, notify each permit holder of—

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

4 (2) any other compensation instructions or
5 guidance that the Secretary may (but not by regula-
6 tion or further notice of any other kind) establish.

7 (d) COMPENSATION AMOUNT.—The compensation
8 amount shall include, a permit package payment of
9 \$125,000 per eligible permit holder plus, either—

10 (1) zero for any eligible permit holder that did
11 not report any landings of highly migratory species
12 by the associated eligible vessel to the National Ma-
13 rine Fisheries Service for the period beginning on
14 January 1, 1999, and ending on October 1, 1999;
15 or

16 (2) for every other eligible permit holder, a
17 landing payment that the Secretary determines in
18 accordance with subsection (e).

19 (e) LANDING PAYMENT DETERMINATION.—The Sec-
20 retary's determinations of all landing payments shall be
21 final and in accordance with the following:

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

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

3 (2) The amount of each landing payment shall
4 be 100 percent of such basis not to exceed
5 \$325,000.

6 (3) No later than the 75th calendar day after
7 the date of enactment of this Act each permit holder
8 who desires to be compensated under this Act
9 must—

10 (A) advise the Secretary which single cal-
11 endar year from 1992 through 1998 the permit
12 holder chooses as the basis for the permit hold-
13 er's landing payment; and

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

19 (i) is the form of trip tickets (or other
20 landing documentation issued by the first
21 ex-vessel fish buyer or buyers) for the eligi-
22 ble vessel that clearly establishes on their
23 face the identity and location of the first
24 fish buyer,

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

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

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

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

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

1 (f) COMPENSATION OFFER.—No later than the 135th
2 calendar day after the date of enactment of this Act, the
3 Secretary shall, by certified mail return receipt requested,
4 addressed to each eligible permit holder at its record ad-
5 dress, offer each eligible permit holder compensation for
6 an amount determined in accordance with this section.
7 The Secretary’s offer shall be final and not subject to ne-
8 gotiation or counteroffer.

9 (g) COMPENSATION OFFER ACCEPTANCE.—(1) Each
10 eligible permit holder who desires to be compensated in
11 accordance with this Act must accept the Secretary’s com-
12 pensation offer no later than the 165th calendar day after
13 the date of enactment of this Act. Such acceptance—

14 (A) must be in writing signed by the permit
15 holder or permit holder’s duly authorized representa-
16 tive and delivered to the Chief, Financial Services
17 Division, National Marine Fisheries Service, 1315
18 East-West Highway, Silver Spring, MD 20910–
19 3282, and the acceptance letter should include direct
20 wire transfer instructions;

21 (B) shall constitute the permit holder’s irrev-
22 ocable consent for all other restrictions that this Act
23 permanently requires with respect to the eligible ves-
24 sel and all such restrictions shall immediately be in
25 effect; and

1 (C) shall be accompanied by all commercial
2 fishing permits and licenses held by the permit hold-
3 er that are applicable to the eligible vessel.

4 (2) If the acceptance is mailed, it must be mailed by
5 certified mail return receipt requested. The Secretary shall
6 consider the date of acceptance to be the date on which
7 it was mailed.

8 (3) If acceptance is delivered by any other means, the
9 Secretary shall consider the date of acceptance to be the
10 date on which the Secretary first received the acceptance.
11 The Secretary's determinations regarding the timeliness
12 of the acceptance shall be final.

13 (h) COMPENSATION PAYMENT.—No later than the
14 195th calendar day after the date of enactment of this
15 Act, the Secretary shall, in accordance with this section,
16 pay compensation in full to each permit holder whose ac-
17 ceptance of the Secretary's offer was timely.

18 (i) FEDERAL LOAN.—Under the authority of sections
19 1111 and 1112 of title XI of the Merchant Marine Act,
20 1936 (46 U.S.C. App. 1279f and 1279g), the Secretary
21 shall provide up to \$10,000,000 through a direct loan obli-
22 gation for any payments authorized under this section that
23 are not fully paid for by funds appropriated under sub-
24 section (j) of this section. For purposes of such sections
25 1111 and 1112, these payments shall be treated as pay-

1 ments under a fishing capacity reduction program estab-
2 lished under section 312 of the Magnuson-Stevens Act (16
3 U.S.C. 1861a). Notwithstanding subsection (b)(4) of such
4 section 1111, the debt obligation under this subsection
5 shall have a maturity of 30 years.

6 (j) AUTHORIZATION OF APPROPRIATIONS.—There
7 shall be authorized to be appropriated \$100,000 for the
8 costs required by the Federal Credit Reform Act for the
9 \$10,000,000 direct loan authorized under subsections (a)
10 through (i) and \$15,000,000 for the balance of the com-
11 pensation payments authorized under subsections (a)
12 through (i).

13 (k) MID-ATLANTIC BIGHT BUYOUT PROGRAM.—(1)
14 The Secretary shall establish a second voluntary buyout
15 program for permitted vessels that have recorded landings
16 of swordfish of at least 40 percent in the mid-Atlantic
17 bight in any 1 year during the period of 1992 through
18 1999. The compensation package shall be fair and equi-
19 table and shall be based on a similar compensation for-
20 mula outlined in this section.

21 (2) The Secretary shall reduce the overall United
22 States quota of swordfish based on the landings of each
23 vessel as it is bought out. The reduction shall reflect the
24 vessel's overall percentage of the total landings within the

1 mid-Atlantic Bight. The Secretary shall reduce the overall
2 United States quota by that specific percent.

3 (3) Section 6(c)(3)(K) of the Atlantic Tunas Conven-
4 tion Act (16 U.S.C. 971d) is amended by adding at the
5 end the following: “The Secretary may only reduce the
6 United States allocation or quota of swordfish by the
7 amount directly related to amount of landings reduced in
8 the mid-Atlantic bight as a direct result of the buyout
9 under section 7(k) of the Atlantic Highly Migratory Spe-
10 cies Conservation Act of 1999.”.

11 (4) There are authorized to be appropriated
12 \$5,000,000 for the compensation payments authorized
13 under paragraph (1).

14 **SEC. 8. RESTRICTIONS ON VESSELS.**

15 (a) IN GENERAL.—(1) All commercial fishing permits
16 or licenses held by an eligible permit holder accepting com-
17 pensation under section 7 shall be revoked upon receipt
18 by the Secretary of the letter of acceptance under section
19 7(g).

20 (2) For each eligible vessel for which an eligible per-
21 mit holder whose commercial fishing permits and licenses
22 have been revoked and who accepted a landing payment,
23 such vessel shall never again be used by any person any-
24 where in the world (regardless of the national status of
25 such person) for commercial fishing.

1 (b) INELIGIBILITY FOR FISHERIES ENDORSE-
2 MENT.—Section 12108(d) of title 46, United States Code,
3 is amended by inserting “, or a vessel whose commercial
4 fishing permits and licenses have been revoked under sec-
5 tion 8(a)(2) of the Atlantic Highly Migratory Species Con-
6 servation Act of 1999,” before “is not eligible”.

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

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

10 (A) sell, lease, charter, deliver, or in any
11 manner transfer, or agree to sell, lease, charter,
12 deliver, or in any manner transfer, to a person
13 not a citizen of the United States, any interest
14 in or control of a vessel whose commercial fish-
15 ing permits and licenses have been revoked; or

16 (B) place that vessel under foreign registry
17 or operate that vessel under the authority of a
18 foreign country.

19 (2) VOID EFFECT.—Any charter, sale, or trans-
20 fer of a vessel, or interest in or control of that ves-
21 sel, in violation of this subsection is void.

22 (d) PENALTIES.—

23 (1) CRIMINAL PENALTY.—Any person that
24 knowingly charters, sells, or transfers a vessel (or in-
25 terest in or control of that vessel) in violation of this

1 section, or knowingly uses that vessel for commercial
2 fishing in violation of this section, or knowingly sub-
3 mits false documentation for the landing payment
4 under section 7 shall be fined under title 18, United
5 States Code, imprisoned for not more than 5 years,
6 or both.

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

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

14 (ii) a person knowingly charters, sells, or
15 transfers a vessel, or interest or control in that
16 vessel, in violation of this section;

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

19 (C) the permit holder submits false docu-
20 mentation for the landing payment under sec-
21 tion 7.

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

1 tion, or submits false documentation for the landing
2 payment under section 7 is liable to the United
3 States Government for a civil penalty of not more
4 than \$10,000 for each violation.

5 (e) VESSEL IDENTIFICATION SYSTEM.—The Sec-
6 retary of Transportation shall ensure that, for each vessel
7 whose commercial fishing permits and licenses have been
8 revoked, information is recorded and maintained in the
9 vessel identification system established under chapter 125
10 of title 46, United States Code, stating that the vessel is
11 forbidden under this Act from engaging in commercial
12 fishing anywhere in the world, that the vessel is not eligi-
13 ble for any commercial fishing permit or license (regard-
14 less of whether the permit or license is issued by the Fed-
15 eral Government, or a State government or political sub-
16 division thereof), and that use of the vessel in any com-
17 mercial fishing operation may result in Federal civil and
18 criminal penalties and forfeiture of the vessel and its cargo
19 and equipment.

20 **SEC. 9. REPAYMENT OF DIRECT LOAN.**

21 (a) IN GENERAL.—There is established a fishery con-
22 servation fee system, to be administered by the Secretary,
23 for repayment of the direct loan made under section 7(f),
24 with the commercial share to be repaid under subsection
25 (b) of this section and the recreational share to be repaid

1 under subsection (c) of this section. Fees under this sec-
2 tion are established notwithstanding the requirements of
3 section 304 or 312 of the Magnuson-Stevens Act (16
4 U.S.C. 1854 and 1861a).

5 (b) COMMERCIAL SHARE.—

6 (1) DESCRIPTION.—The commercial share of
7 the fishery conservation fee system shall be 50 per-
8 cent of the original principal amount of the loan plus
9 all interest accruing on that 50 percent of the prin-
10 cipal amount.

11 (2) METHOD OF PAYMENT.—The Secretary
12 shall, for the repayment of the commercial share of
13 the loan obligation, plus associated interest, estab-
14 lish a fee, which—

15 (A) shall be an amount determined by the
16 Secretary to be sufficient to amortize the com-
17 mercial share over the loan term of 30 years,
18 not to exceed five cents, for each pound of all
19 Atlantic swordfish sold by swordfish dealers;

20 (B) shall be collected beginning on the
21 365th day after the date of enactment of this
22 Act and continue without interruption, regard-
23 less of the loan's maturity until such commer-
24 cial share is fully paid; and

1 (C) shall be deducted by the swordfish
2 dealer from all proceeds received from the sale
3 by the dealer of all Atlantic swordfish and ac-
4 counted for and forwarded by the dealer to the
5 Secretary in the following manner:

6 (i) The fee for all proceeds received
7 during each month shall be forwarded by
8 not later than the 15th calendar day of
9 each month immediately following the
10 month for which the fees were collected
11 and fee payments shall be late if not re-
12 ceived at the lock box by the 20th calendar
13 day of each such immediately following
14 month.

15 (ii) All fees forwarded shall include a
16 settlement sheet that establishes the total
17 proceeds received during the previous
18 month, the total pounds of all Atlantic
19 swordfish sold upon which such receipts
20 were based, and the total fee forwarded.

21 (iii) All fees shall be forwarded to a
22 lock box account that the Secretary shall
23 designate by a letter to each swordfish
24 dealer holding a swordfish dealer's permit
25 at its record address.

1 (iv) All fee matters shall be in accord-
2 ance with such other conditions as the Sec-
3 retary shall establish, and amend from
4 time to time by a letter (but not by regula-
5 tion or any other form of notice) sent to
6 each swordfish dealer holding a swordfish
7 dealer's permit at its record address.

8 (3) DUTY OF PROMPT NOTIFICATION.—The
9 Secretary shall immediately notify swordfish dealers
10 and swordfish limited access permit holders when
11 the commercial share has been fully repaid and the
12 collection requirement terminates. This shall be ac-
13 complished by the Secretary's letter sent to each
14 swordfish dealer, holding a swordfish dealer's permit
15 and each swordfish access permit holder at its
16 record address.

17 (4) AUDIT.—The Secretary may at reasonable
18 times and places conduct audits of swordfish dealer's
19 books and records to determine compliance with this
20 section. Swordfish dealers shall furnish such books
21 and records as the Secretary may reasonably require
22 for the conduct of such audits.

23 (5) PENALTY INTEREST ON LATE FEE PAY-
24 MENTS.—Swordfish dealers shall pay penalty inter-
25 est equal to one and one-half percent the full

1 amount of each late fee payment for each month, or
2 portion thereof, in which a late fee payment remains
3 unpaid.

4 (6) ENFORCEMENT.—The Secretary shall col-
5 lect all unpaid fees by such manner as the Secretary
6 considers appropriate, including bringing collection
7 enforcement actions at law and attaching and liqui-
8 dating swordfish dealers' assets.

9 (7) CONTINUING OBLIGATION.—Notwith-
10 standing that the commercial share of the loan is
11 not paid in full by the loan's maturity date, the fee
12 shall continue without interruption until such time
13 as the commercial share is paid in full.

14 (c) RECREATIONAL SHARE.—

15 (1) DESCRIPTION.—The recreational share of
16 the fishery conservation fee system shall be 50 per-
17 cent of the original principal amount of the loan plus
18 all interest accruing on 50 percent of the principal
19 amount.

20 (2) METHODS OF PAYMENT.—The recreational
21 share of the loan obligation, plus associated interest,
22 shall be repaid through payment by affected States
23 under paragraph (3), and by the sale of fishery con-
24 servation permits issued under paragraph (4).

1 (3) PAYMENT BY AFFECTED STATE.—A vessel
2 registered in an affected State will not be required
3 to purchase a Federal fishery conservation permit if
4 the State, no later than the 240th calendar day after
5 the date of enactment of this Act, makes a binding,
6 legally enforceable agreement with the United States
7 Government to pay fully, within 4 years after the
8 date of enactment of this Act, the State’s rec-
9 reational share allocation, plus associated interest.
10 The allocations for each affected State shall not ex-
11 ceed 40 percent for any affected States and will be
12 based on the State’s percentage of the total length
13 of coastline adjacent to any area closed under sec-
14 tion 6 and the total number of marine anglers for
15 all seven States. Such allocations are as follows:

16 (A) South Carolina—9.4 percent.

17 (B) Georgia—4.3 percent.

18 (C) Florida—40.0 percent.

19 (D) Alabama—3.2 percent.

20 (E) Mississippi—2.6 percent.

21 (F) Louisiana—14.6 percent.

22 (G) Texas—19.9 percent.

23 (4) FISHERY CONSERVATION PERMITS.—

24 (A) ISSUANCE AND SALE.—On or about
25 one year after the date of enactment of this Act

1 and thereafter until the recreational share is
2 fully repaid, the Secretary shall issue for \$25
3 each an annual fishery conservation permit to
4 vessels over eighteen feet in length wishing to
5 engage in recreational fishing for highly migra-
6 tory species in any area closed under section 6.
7 For vessels registered in a state electing to pay
8 the recreational share, the Secretary shall issue
9 the permit free of charge.

10 (B) MEANS OF SALE OR ISSUANCE.—The
11 Secretary—

12 (i) may, to the extent practicable, au-
13 thorize the permits to be issued or sold by
14 a variety of persons, including state agen-
15 cies, retail dealers, and through convenient
16 means, including the Internet and toll-free
17 telephone numbers; and

18 (ii) may establish procedures for such
19 persons to account for and forward the
20 proceeds of sale to the Secretary.

21 (C) LIMITATION ON PERMITTING.—The
22 Secretary shall not be authorized to issue such
23 permit upon the repayment of the recreational
24 share of the loan obligation.

1 (D) OBTAINING FISHERY CONSERVATION
2 PERMIT.—Vessels registered in affected states
3 agreeing to pay the recreational share shall ob-
4 tain a fishery conservation permit from the Sec-
5 retary or the affected state where the vessel is
6 registered.

7 (5) PROHIBITION.—After the 240th day of the
8 date of enactment until the recreational share is
9 fully repaid under this Act, no person may engage
10 in recreational fishing for highly migratory species
11 in any closed area from a vessel of 18 feet or more
12 in length, unless the vessel has been issued a valid
13 fishery conservation permit. It shall be a rebuttable
14 presumption that any 18 foot or larger recreational
15 vessel with gear aboard capable of catching highly
16 migratory species shall be presumed to be fishing for
17 highly migratory species.

18 (6) DUTY OF PROMPT NOTIFICATION.—The
19 Secretary shall immediately notify the Coast Guard,
20 the heads of the agencies of the affected States that
21 have responsibility for marine fishery law enforce-
22 ment, retail dealers and others who sell fishery con-
23 servation permits under this subsection, and the
24 public when—

1 (A) payment of the recreational share be-
2 gins, and

3 (B) the recreational share has been fully
4 repaid.

5 This shall be accomplished by a Federal Register no-
6 tice, direct communication, and such other means as
7 the Secretary determines are effective and appro-
8 priate.

9 (7) REPAYMENT.—Money received under para-
10 graphs (3) and (4), shall be accounted for and paid
11 by the Secretary into the subaccount of the Treasury
12 established for the repayment of the direct loan
13 made under section 7(i).

14 **SEC. 10. PROHIBITED ACT UNDER MAGNUSON-STEVENSON**
15 **ACT.**

16 A person who violates this Act shall, in addition to
17 any other penalties provided in this Act or elsewhere, be
18 considered to have committed an act prohibited under sec-
19 tion 307(1)(A) of the Magnuson-Stevens Act (16 U.S.C.
20 1857(1)(A)).

21 **SEC. 11. BILLFISH BYCATCH MORTALITY REDUCTION RE-**
22 **SEARCH PROGRAM.**

23 (a) ESTABLISHMENT OF PROGRAM.—There is estab-
24 lished within the National Marine Fisheries Service at the
25 Southeast Fisheries Science Center a Pelagic Longline

1 Billfish Bycatch and Mortality Reduction Research Pro-
2 gram. The Program shall identify and test a variety of
3 pelagic longline fishing gear configurations and uses and
4 determine which of those configurations and uses are the
5 most effective in reducing billfish bycatch mortality in the
6 pelagic longline fisheries of the Gulf of Mexico and in the
7 exclusive economic zone north of the Atlantic Conservation
8 Zone established under section 6. The program shall also
9 include provision for observers to be placed on pelagic
10 longline fishing vessels for the purposes of monitoring the
11 fishery and participating in the research program. To fund
12 the observers, the Secretary shall collect a fee to recover
13 only the actual costs directly related to the observer pro-
14 gram in the mid-Atlantic bight to monitor billfish bycatch
15 and mortality and substantial net increase in vessels or
16 effort. Such a fee shall not exceed 1 percent of the ex-
17 vessel value of fish harvested in the mid-Atlantic bight,
18 and shall be collected at either the time of the landing,
19 filing of a landing report, or sale of such fish during a
20 fishing season in the last quarter of the calendar year in
21 which the fish is harvested.

22 (b) PROGRAM DESIGN.—The Program design shall
23 be developed through a scientific workshop organized and
24 convened by the Southeast Fisheries Science Center of the
25 National Marine Fisheries Service. Knowledgeable mem-

1 bers of the pelagic longline fishing sector and the rec-
2 reational billfish sector, along with scientists associated
3 with each such industry, shall be invited to participate on
4 the workshop design team. The Center shall make its best
5 efforts to ensure that each such sector is fairly represented
6 on the design team. The program design shall be sub-
7 mitted to the Secretary no later than the 120th calendar
8 day after the date of enactment of this Act and shall in-
9 clude a scientifically-based recommendation for the level
10 of observer coverage on pelagic longline fishing vessels
11 that is necessary to monitor the fishery effectively and
12 participate in the research program. The Secretary is di-
13 rected to aggressively monitor the mid-Atlantic bight dur-
14 ing the months of June, July, and August to determine
15 if there has been a substantial net increase in the number
16 of vessels or effort from the remaining pelagic longline
17 fleet and whether that net increase is negatively impacting
18 billfish bycatch. In the event the Secretary so finds, the
19 Secretary shall immediately report the finding to the Com-
20 mittee on Commerce, Science and Transportation of the
21 Senate and the Committee on Resources of the House of
22 Representatives along with his recommendations to ad-
23 dress the impact.

24 (c) REPORT TO CONGRESS.—No later than the 90th
25 calendar day after the third year of closure of the Gulf

1 Of Mexico Conservation Zone For Highly Migratory Spe-
2 cies under section 6(c), the Secretary shall submit a report
3 on the Program's determinations to the Committee on
4 Commerce, Science, and Transportation of the Senate and
5 the Committee on Resources of the House of Representa-
6 tives. The report shall include any recommendations for
7 legislation that may be appropriate prior to the expiration
8 of the closure of the Gulf Of Mexico Conservation Zone
9 For Highly Migratory Species.

10 **SEC. 12. RESTRICTIONS ON PELAGIC LONGLINE VESSELS**
11 **IN MID-ATLANTIC BIGHT.**

12 Upon enactment of this Act, permitted pelagic
13 longline vessels fishing in the mid-Atlantic bight from
14 June through August shall not—

15 (1) increase their total pelagic longline effort
16 (defined as number of hooks and sets, length of line,
17 and soak time) by more than 10 percent based on
18 the average total effort in the mid-Atlantic bight
19 from 1992 through 1997, and

20 (2) increase days at sea in the mid-Atlantic
21 bight by more than 10 percent based on the average
22 days at sea from 1992 through 1997.

23 **SEC. 13. INTERIM REGULATIONS.**

24 (a) INTERIM REGULATIONS.—The Secretary may not
25 propose, approve or implement before a date that is either

1 one year after the date on which the Secretary submits
2 its report to Congress on the results of the Billfish By-
3 catch Mortality Reduction Research Program under sec-
4 tion 11(c) or four years from the date of enactment of
5 this Act, whichever is later, any rules or regulations that
6 have the effect of establishing any time-area closures for
7 pelagic longline fishing in the Atlantic by United States
8 fishing vessels that are in addition to, or otherwise expand,
9 those time-area closures established under this Act.

10 (b) EXCEPTION.—The prohibition set forth in sub-
11 section (b) shall not apply—

12 (1) to rules or regulations necessary to imple-
13 ment any future recommendation of ICCAT or Act
14 of Congress;

15 (2) to strictly technical and conforming correc-
16 tions to those time-area closures established under
17 this Act that the Secretary finds are necessary for
18 public safety and enforcement of this Act; or

19 (3) if the Secretary, after consultation with the
20 Commissioners appointed under the Atlantic Tunas
21 Convention Act, finds that—

22 (A) fishing by United States pelagic
23 longline fishing vessels is causing an emergency
24 with respect to the conservation of an Atlantic
25 highly migratory species of fish;

1 (B) such emergency can not or will not be
2 addressed by the International Commission for
3 the Conservation of Atlantic Tunas in a timely
4 manner; and

5 (C) time-area closures for pelagic longline
6 fishing in the Atlantic by United States fishing
7 vessels that are in addition to, or otherwise ex-
8 pand, those time-area closures established
9 under this Act are necessary to address such
10 emergency and there are no other practicable
11 means available to address such emergency.

12 **SEC. 14. VESSEL MONITORING DEVICE.**

13 (a) VESSEL MONITORING DEVICE REQUIREMENT.—
14 After the 165th day after the date of enactment of this
15 Act, no pelagic longline vessel shall operate within the At-
16 lantic highly migratory species fishery without a vessel
17 monitoring device approved by the Secretary.

18 (b) LIMITATION ON REQUIREMENT.—No vessel ac-
19 cepting the buyout under section 7 will be required to
20 carry a vessel monitoring device.

21 (c) RESPONSIBILITY OF THE SECRETARY FOR
22 COSTS.—Any costs attributable to the purchase and in-
23 stallation of vessel monitoring devices on any pelagic
24 longline vessel fishing in the Atlantic highly migratory spe-

1 cies fishery that is required to carry such a device under
2 this section shall be the responsibility of the Secretary.

3 **SEC. 15. NULLIFICATION.**

4 If Congress fails to appropriate funds adequate to
5 complete the buyout under section 7, then no provision
6 of this Act shall be effective. If the Congress fails to ap-
7 propriate funds adequate to place vessel monitoring de-
8 vices on vessels, then the requirement to carry such de-
9 vices shall have no effect.

10 **SEC. 16. AUTHORIZATION OF APPROPRIATIONS.**

11 There are authorized to be appropriated to the
12 Secretary—

13 (1) \$250,000 per fiscal year as the cost of car-
14 rying out the compensation program;

15 (2) \$2,250,000 for vessel monitoring devices;

16 and

17 (3) \$3,000,000 for research;

18 plus such other sums as may be necessary for carrying
19 out all other functions in the Act. In addition, there are
20 authorized to be appropriated to the Secretary not more
21 than \$400,000 for the Southeast Fisheries Science Center
22 to conduct additional research on billfish and swordfish.

○