

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5018

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

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 2006

Mr. POMBO (for himself, Mr. FRANK of Massachusetts, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Resources

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## A BILL

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

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

3 **SECTION 1. SHORT TITLE: AMENDMENT REFERENCES.**

4 (a) SHORT TITLE.—The Act may be cited as the  
5 “American Fisheries Management and Marine Life En-  
6 hancement Act”.

7 (b) AMENDMENT OF MAGNUSON-STEVENS FISHERY  
8 CONSERVATION AND MANAGEMENT ACT.—Except as oth-  
9 erwise expressly provided, whenever in this Act an amend-  
10 ment or repeal is expressed as an amendment to, or repeal

1 of, a section or other provision, the reference shall be con-  
2 sidered to be made to a section or other provision of the  
3 Magnuson-Stevens Fishery Conservation and Manage-  
4 ment Act (16 U.S.C. 1801 et seq).

5 **SEC. 2. TECHNICAL CORRECTIONS TO DEFINITIONS.**

6 (a) EXECUTION OF PRIOR AMENDMENTS.—

7 (1) CONTINENTAL SHELF FISHERY RE-  
8 SOURCES.—Section 102(2) of the Sustainable Fish-  
9 eries Act (Public Law 104–297; 110 Stat. 3561) is  
10 amended—

11 (A) by striking “COELENTERATA” and  
12 inserting “**COELENTERATA**”;

13 (B) by striking “CNIDARIA” and insert-  
14 ing “**CNIDARIA**”; and

15 (C) by striking “CRUSTACEA” and in-  
16 serting “**CRUSTACEA**”.

17 (2) UNITED STATES HARVESTED FISH.—Sec-  
18 tion 102(11) of the Sustainable Fisheries Act (Pub-  
19 lic Law 104–297; 110 Stat. 3563) is amended by  
20 striking “(42)” and inserting “(43)”.

21 (3) EFFECTIVE DATE.—This subsection shall  
22 take effect on the effective date of section 102 of  
23 Public Law 104–297.

24 (b) CORRECTIONS RELATING TO SPECIAL AREAS.—  
25 Section 3 (16 U.S.C. 1802) is amended—

1 (1) by striking paragraphs (35) and (36);

2 (2) by redesignating paragraphs (37) through  
3 the last paragraph (relating to the definition of “wa-  
4 ters of a foreign nation”) in order as paragraphs  
5 (35) through (44);

6 (3) by inserting “(a) GENERAL DEFINI-  
7 tions.—” before “As used in this Act”; and

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

9 “(b) TERMS RELATING TO AGREEMENT WITH THE  
10 FORMER SOVIET UNION.—As used in this Act the term  
11 ‘special areas’ means the areas referred to as eastern spe-  
12 cial areas in Article 3(1) of the Agreement between the  
13 United States of America and the Union of Soviet Social-  
14 ist Republics on the Maritime Boundary, signed June 1,  
15 1990. In particular, the term refers to those areas east  
16 of the maritime boundary, as defined in that Agreement,  
17 that lie within 200 nautical miles of the baselines from  
18 which the breadth of the territorial sea of Russia is meas-  
19 ured but beyond 200 nautical miles of the baselines from  
20 which the breadth of the territorial sea of the United  
21 States is measured.”.

22 **SEC. 3. SCIENCE-BASED IMPROVEMENTS TO MANAGEMENT.**

23 (a) HARVEST LEVEL CAPS.—

24 (1) MECHANISM.—Section 303(a) (16 U.S.C.  
25 1853(a)) is amended by striking “and” after the

1 semicolon at the end of paragraph (13), by striking  
2 the period at the end of paragraph (14) and insert-  
3 ing a semicolon, and by adding at the end the fol-  
4 lowing:

5 “(15) provide a mechanism for specifying the  
6 total allowable catch or another annual catch limit  
7 under the plan (including for a multiyear plan) for  
8 each fishery for which an annual catch limit can be  
9 established, that—

10 “(A) is based on the best scientific infor-  
11 mation available; and

12 “(B) in the case of a plan issued by a  
13 Council, does not exceed the acceptable biologi-  
14 cal catch level recommended by the scientific  
15 and statistical committee of the Council;”.

16 (2) REQUIREMENT TO ADOPT.—Section 302(h)  
17 (16 U.S.C. 1852(h)) is amended by striking “and”  
18 after the semicolon at the end of paragraph (5), by  
19 striking the period at the end of paragraph (6) and  
20 inserting a semicolon, and by adding at the end the  
21 following:

22 “(7) adopt a total allowable catch limit or other  
23 annual harvest effort control limit for each of the  
24 fisheries for which such a limit can be established,  
25 after considering the recommendation of the sci-

1       entific and statistical committee of the Council hav-  
2       ing jurisdiction over the fishery, which shall not ex-  
3       ceed the recommendation for the acceptable biologi-  
4       cal catch as recommended by such scientific and sta-  
5       tistical committee; and”.

6           (3)     CONFORMING     AMENDMENT.—Section  
7       304(b)(11) (16 U.S.C. 1853(b)(11)) is amended by  
8       striking “allowable biological catch” and inserting  
9       “acceptable biological catch”.

10       (b) BEST SCIENTIFIC INFORMATION AVAILABLE.—  
11       Section 303 (16 U.S.C. 1853) is amended by adding at  
12       the end the following:

13       “(d) BEST SCIENTIFIC INFORMATION AVAILABLE.—  
14       The Secretary shall develop guidelines for the Councils to  
15       use in determining what is the best scientific information  
16       available. The Secretary shall base these guidelines on the  
17       recommendations for guidelines developed by the Ocean  
18       Studies Board of the National Research Council in its re-  
19       port titled ‘Improving the Use of the Best Scientific Infor-  
20       mation Available, Standard in Fisheries Management’.”.

21       (c) SCIENTIFIC AND STATISTICAL COMMITTEES.—  
22       Amend section 302(g)(1) (16 U.S.C. 1852(g)(1)) is  
23       amended by inserting “(A)” before “Each Council”, and  
24       by adding at the end the following:

1           “(B) Each scientific and statistical com-  
2           mittee shall provide its Council ongoing sci-  
3           entific advice for fishery management decisions,  
4           including recommendations for acceptable bio-  
5           logical catch for each fishery under the jurisdic-  
6           tion of the Council, and reports on stock status  
7           and health, bycatch, habitat status, socio-eco-  
8           nomic impacts of management measures, and  
9           sustainability of fishing practices.

10           “(C) Members appointed to the scientific  
11           and statistical committees shall be Federal em-  
12           ployees, State employees, academicians, or inde-  
13           pendent experts with strong scientific or tech-  
14           nical credentials and experience.

15           “(D) In addition to payments authorized  
16           by subsection (f)(7), the Secretary may pay a  
17           stipend to members of the scientific and statis-  
18           tical committees who are not employed by the  
19           Federal Government or a State government  
20           agency.

21           “(E) A science and statistical committee  
22           shall hold its meetings in conjunction with with  
23           the meetings of the Council, to the extent prac-  
24           ticable.”.

1 (d) SCIENTIFIC RESEARCH PRIORITIES.—Section  
2 302(h) (16 U.S.C. 1852(h)) is further amended amended  
3 by adding at the end the following:

4 “(8) develop, in conjunction with the scientific  
5 and statistical committee, multi-year research prior-  
6 ities for fisheries, fisheries interactions, habitats,  
7 and other areas of research that are necessary for  
8 management purposes, that shall—

9 “(A) establish priorities for 5-year periods;

10 “(B) be updated as necessary; and

11 “(C) be submitted to the Secretary and the  
12 regional science centers of the National Marine  
13 Fisheries Service for their consideration in de-  
14 veloping research priorities and budgets for the  
15 region of the Council.”.

16 (e) COOPERATIVE RESEARCH AUTHORITY.—

17 (1) DISCRETIONARY PROVISIONS IN FISHERY  
18 MANAGEMENT PLANS.—Section 303(b) (16 U.S.C.  
19 1853(b)) is amended by striking “and” after the  
20 semicolon at the end of paragraph (11), by striking  
21 the period at the end of paragraph (12) and insert-  
22 ing a semicolon, and by adding at the end the fol-  
23 lowing:

24 “(13) include provisions to create a cooperative  
25 research component including the use of commercial

1 fishing, charter fishing, or recreational fishing ves-  
2 sels for the gathering of data on stock abundance,  
3 composition, distribution, or other relevant informa-  
4 tion important for the implementation of the plan;”.

5 (2) COOPERATIVE RESEARCH BY SECRETARY.—  
6 Section 404 (16 U.S.C. 1881c) is amended by add-  
7 ing at the end the following:

8 “(e) COOPERATIVE RESEARCH BY SECRETARY.—The  
9 research program under subsection (a) may include coop-  
10 erative research using commercial fishing, charter fishing,  
11 or recreational fishing vessels for the gathering of data  
12 on stock abundance, composition, distribution, or other  
13 relevant information.”.

14 (3) PRESERVING FISHING PRIVILEGES.—Sec-  
15 tion 404 (16 U.S.C. 1881c) is further amended by  
16 adding at the end the following:

17 “(f) PRESERVING FISHING PRIVILEGES.—The Sec-  
18 retary shall ensure that—

19 “(1) fishing vessels participating in research ac-  
20 tivities conducted pursuant to section 303(b)(13) or  
21 title IV do not lose allocated fishing privileges (such  
22 as days at sea) based on the research activities, un-  
23 less loss of such privileges is a part of the research  
24 plan under which the vessel participates; and

1           “(2) catch history of a vessel during such re-  
2           search activities at any time when the vessel is sacri-  
3           ficing fishing time in an open season shall accrue to  
4           the vessel, unless loss of such accrual is part of such  
5           research plan.”.

6           (f) REGIONAL STOCK ASSESSMENTS.—

7           (1) IN GENERAL.—Title IV (16 U.S.C. 1881 et  
8           seq.) is amended by adding at the end the following:

9           **“SEC. 408. REGIONAL STOCK ASSESSMENTS.**

10          “(a) IN GENERAL.—The Secretary shall conduct  
11          periodic regional assessments of stocks of fish.

12          “(b) INDEPENDENT REVIEW.—The Secretary shall  
13          ensure that each periodic assessment under this section  
14          is independently reviewed in a manner that—

15                 “(1) will not delay the process of providing to  
16          Regional Fishery Management Councils current as-  
17          sessments for use in managing fisheries; and

18                 “(2) is as transparent as possible, so that the  
19          regulated community can provide input during the  
20          review process.”.

21          (2) CLERICAL AMENDMENT.—The table of con-  
22          tents in the first section is further amended by add-  
23          ing at the end of the items relating to title IV the  
24          following:

“Sec. 408. Regional stock assessments.”.

1           (3) REGIONAL STOCK ASSESSMENTS AND PEER  
2 REVIEW.—Section 302(g) (16 U.S.C. 1852(g)) is  
3 amended by adding at the end the following:

4           “(6) PEER REVIEW PROCESS.—

5           “(A) The Secretary and each Council shall  
6 establish a peer review process for scientific in-  
7 formation used to advise the Secretary or the  
8 Council, respectively, about the conservation  
9 and management of fisheries.

10           “(B) The Secretary and each Council shall  
11 ensure that the peer review process established  
12 under this paragraph—

13           “(i) to the extent practicable, will not  
14 delay the process of providing to the Coun-  
15 cil or the Secretary, respectively, current  
16 information for use in managing fisheries;  
17 and

18           “(ii) is as transparent as possible, so  
19 that the regulated community can provide  
20 input during the review process.”.

21 **SEC. 4. DATA COLLECTION.**

22           (a) AUTHORITY TO REQUIRE VMS.—Section 305 (16  
23 U.S.C. 1855) is amended by adding at the end the fol-  
24 lowing:

1           “(j) AUTHORITY TO REQUIRE VMS.—The Secretary  
2 may require, if requested to do so by a Council, a Vessel  
3 Monitoring System or other similar electronic monitoring  
4 technology for a fishery or specific sectors of a fishery  
5 under the jurisdiction of the Council. To the extent that  
6 the technology is required for enforcement or data collec-  
7 tion purposes for a dedicated access privilege management  
8 system, the cost of such a system shall be included in the  
9 costs that are considered in determining the amount of  
10 any fee required under this Act to be paid to participate  
11 in the fishery. Any information collected under this sub-  
12 section shall be treated as confidential and exempt from  
13 disclosure under section 402(b).”.

14           (b) SHARING OF RECREATIONAL CATCH DATA.—  
15 Section 402 (16 U.S.C. 1881a) is amended by adding at  
16 the end the following:

17           “(f) RECREATIONAL CATCH DATA.—

18                   “(1) The Secretary shall—

19                           “(A) seek to obtain from States informa-  
20                           tion gathered under State recreational fishing  
21                           license programs;

22                           “(B) work with those States that do not  
23                           require a recreational saltwater fishing license  
24                           to determine whether other recreational data

1 sources can provide adequate information about  
2 recreational fishing; and

3 “(C) develop and implement a program for  
4 the use of recreational catch data for all feder-  
5 ally managed fisheries.

6 “(2) The Secretary shall conduct the program  
7 under paragraph (1)(C) in consultation with the  
8 principal State officials having marine fishery man-  
9 agement responsibility and expertise.

10 “(3) The Secretary may provide financial as-  
11 sistance to States for which no recreational saltwater  
12 license is in place to develop such a license. There  
13 is authorized to be appropriated to the Secretary to  
14 provide such assistance \$5,000,000, which shall re-  
15 main available until expended.

16 “(4) The Secretary shall report to the Congress  
17 within three years after the effective date of this  
18 subsection, on—

19 “(A) the progress made in developing a  
20 program under paragraph (1)(C); and

21 “(B) whether the program has resulted in  
22 significantly better data for management of rec-  
23 reational fishing.”.

24 (c) CONFIDENTIALITY OF INFORMATION.—

1           (1) IN GENERAL.—Section 402(b) (16 U.S.C.  
2 1881a(b)) is amended—

3           (A) by redesignating paragraph (2) as  
4 paragraph (4) and resetting it 2 ems from the  
5 left margin;

6           (B) by striking all preceding paragraph  
7 (4), as so redesignated, and inserting the fol-  
8 lowing:

9           “(b) CONFIDENTIALITY OF INFORMATION.—

10           “(1) Any information submitted to the Sec-  
11 retary, a State fishery management agency, or a  
12 Marine Fisheries Commission by any person in com-  
13 pliance with the requirements of this Act, including  
14 confidential information, shall be exempt from dis-  
15 closure under section 552(b)(3) of title 5, United  
16 States Code, except—

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

21           “(B) to State or Marine Fisheries Commis-  
22 sion employees as necessary for achievement of  
23 the purposes of this Act, subject to a confiden-  
24 tiality agreement between the State or commis-  
25 sion, as appropriate, and the Secretary that

1 prohibits public disclosure of confidential infor-  
2 mation relating to any person;

3 “(C) to any State employee who is respon-  
4 sible for fishery management plan enforcement,  
5 if the State employing that employee has en-  
6 tered into a fishery enforcement agreement with  
7 the Secretary and the agreement is in effect;

8 “(D) if such information is used by State,  
9 Council, or Marine Fisheries Commission em-  
10 ployees to verify catch under a limited access  
11 program, but only to the extent that such use  
12 is consistent with subparagraph (B);

13 “(E) if the Secretary has obtained written  
14 authorization from the person submitting such  
15 information to release such information to per-  
16 sons for reasons not otherwise provided for in  
17 this subsection, and such release does not vio-  
18 late any other requirement of this Act; or

19 “(F) if such information is required to be  
20 submitted to the Secretary for any determina-  
21 tion under a limited access program.

22 “(2) Any observer information, Vessel Moni-  
23 toring System, or other technology used on-board for  
24 enforcement or data collection purposes, shall be  
25 confidential and shall not be disclosed, except—

1           “(A) in accordance with the requirements  
2 of subparagraphs (A) through (F) of paragraph  
3 (1);

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

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

13           “(D) as authorized by any regulations  
14 issued under paragraph (4) allowing the collec-  
15 tion of observer information, pursuant to a con-  
16 fidentiality agreement between the observers,  
17 observer employers, and the Secretary prohib-  
18 iting disclosure of the information by the ob-  
19 servers or observer employers, in order—

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

1                   “(ii) to validate the accuracy of the  
2                   observer information collected.

3                   “(3) The Secretary may enter into a memo-  
4                   randum of understanding with the heads of other  
5                   Federal agencies for the sharing of confidential in-  
6                   formation for purposes of this Act, such as Vessel  
7                   Monitoring System or other electronic monitoring  
8                   systems, if the Secretary determines there is a com-  
9                   pelling need to do so and if the heads of the other  
10                  Federal agencies agree to maintain the confiden-  
11                  tiality of the information in accordance with the re-  
12                  quirements that apply to the Secretary under this  
13                  section.”; and

14                  (C) in paragraph (3), as so redesignated,  
15                  by striking “(1)(E).” and inserting “(2)(B).”.

16                  (2) CONFORMING AMENDMENT.—Section  
17                  404(c)(4) (16 U.S.C. 1881c(c)(4)) is amended by  
18                  striking “under section 401”.

19                  (3) DEFINITIONS.—Section 3 (16 U.S.C. 1802)  
20                  is further amended in subsection (a)—

21                  (A) by inserting after paragraph (4) the  
22                  following:

23                  “(4A) The term ‘confidential information’  
24                  means—

25                  “(A) trade secrets; or

1           “(B) commercial or financial information  
2           the disclosure of which is likely to result in sub-  
3           stantial harm to the competitive position of the  
4           person who submitted the information to the  
5           Secretary.”; and

6           (B) by inserting after paragraph (27) the  
7           following:

8           “(27A) The term ‘observer information’ means  
9           any information collected, observed, retrieved, or cre-  
10          ated by an observer or electronic monitoring system  
11          pursuant to authorization by the Secretary, or col-  
12          lected as part of a cooperative research initiative, in-  
13          cluding fish harvest or fish processing observations,  
14          fish sampling or weighing data, vessel logbook data,  
15          vessel- or fish processor-specific information (includ-  
16          ing any safety, location, or operating condition ob-  
17          servations), and video, audio, photographic, or writ-  
18          ten documents.”.

19          (d) SOCIOECONOMIC DATA COLLECTION ACTIVI-  
20          TIES.—Section 402 (16 U.S.C. 1881a) is further amended  
21          by adding at the end the following:

22          “(g) SOCIOECONOMIC DATA COLLECTION.—

23                 “(1) The Secretary may provide funds to Coun-  
24                 cils to carry out collection of socioeconomic data, in-  
25                 cluding information on fishermen and fishing com-

1 munities, necessary to carry out the functions of the  
2 Councils.

3 “(2) To carry out this subsection there is au-  
4 thorized to be appropriated to the Secretary, in addi-  
5 tion to other amounts authorized, \$2,000,000 for  
6 each fiscal year.”.

7 (e) NEED FOR MORE FREQUENT STOCK SURVEYS.—  
8 The Secretary of Commerce—

9 (1) shall determine the need for more frequent  
10 surveys of stocks of fish, and whether State agencies  
11 or cooperative research activities can fill the data  
12 gaps identified; and

13 (2) submit a report to the Congress on the cur-  
14 rent activities and the needs for such surveys, by not  
15 later than 2 years after the date of the enactment  
16 of this Act.

17 **SEC. 5. COUNCIL OPERATIONS AND AUTHORITIES.**

18 (a) COUNCIL APPOINTMENTS.—Section 302(b)(2)(C)  
19 (16 U.S.C. 1852(b)(2)(C)) is amended by inserting after  
20 the first sentence the following: “A Governor may submit  
21 the names of individuals from academia, or other public  
22 interest areas including conservation organizations and  
23 the seafood consuming public, if the Governor has deter-  
24 mined that each such individual is qualified under the re-  
25 quirements of subparagraph (A).”.

1 (b) TRAINING.—Section 302 (16 U.S.C. 1852) is  
2 amended by adding at the end the following:

3 “(k) COUNCIL TRAINING PROGRAM.—

4 “(1) TRAINING COURSE.—Within 6 months  
5 after the date of the enactment of the American  
6 Fisheries Management and Marine Life Enhance-  
7 ment Act, the Secretary, in consultation with the  
8 Councils and the National Sea Grant College Pro-  
9 gram, shall develop a training course for newly ap-  
10 pointed Council members. The course may cover a  
11 variety of topics relevant to matters before the  
12 Councils, including—

13 “(A) fishery science and basic stock assess-  
14 ment methods;

15 “(B) fishery management techniques, data  
16 needs, and Council procedures;

17 “(C) social science and fishery economics;

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

21 “(E) legal requirements of this Act, includ-  
22 ing conflict of interest and disclosure provisions  
23 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;

6           “(H) recreational and commercial fishing  
7 information including fish harvesting tech-  
8 niques, gear types, fishing vessel types, and eco-  
9 nomics, for the fisheries within each Council’s  
10 jurisdiction; and

11           “(I) other topics suggested by the Council.

12           “(2) MEMBER TRAINING.—The training  
13 course—

14           “(A) shall be available to both new and ex-  
15 isting Council members, staff from the regional  
16 offices and regional science centers of the Na-  
17 tional Marine Fisheries Service; and

18           “(B) may be made available to committee  
19 or advisory panel members as resources allow.

20           “(3) REQUIRED TRAINING.—Council members  
21 appointed after the date of the enactment of the  
22 American Fisheries Management and Marine Life  
23 Enhancement Act must complete the training course  
24 developed under this subsection.”.

1 (c) AUTHORITY TO DEVELOP ECOSYSTEM-BASED  
2 FISHERY MANAGEMENT PLANS.—Section 303(b) (16  
3 U.S.C. 1853(b)) is further amended by adding at the end  
4 the following:

5 “(14) contain research, conservation, and man-  
6 agement measures that encompass more than one  
7 fishery and are for the purpose of managing the  
8 fishery resources concerned under an ecosystem-  
9 based management system;”.

10 (d) AUTHORITY TO REQUIRE VESSEL MONITORING  
11 SYSTEMS.—Section 303 (16 U.S.C. 1853) is further  
12 amended by adding at the end the following:

13 “(15) require a Vessel Monitoring System or  
14 other similar electronic monitoring technology for  
15 the purposes of enforcing, monitoring, or collecting  
16 data from a fishery or fishery sector;”.

17 (e) OBSERVER FUNDING CLARIFICATION.—Section  
18 303 (16 U.S.C. 1853) is further amended by adding at  
19 the end the following:

20 “(e) OBSERVER PROVISIONS.—

21 “(1) COSTS.—Costs for observer coverage that  
22 is primarily for the enforcement of a fishery man-  
23 agement plan or for data collection necessary for the  
24 monitoring of a fishery—

1           “(A) shall be paid for by the Secretary;  
2           and

3           “(B) under a limited access program, may  
4           be considered as a cost to be recovered under  
5           the authority of section 303A(e)(2).

6           “(2) LIABILITY FOR SANCTIONS.—A fishing  
7           vessel that is required to have an observer onboard  
8           pursuant to section 303(b)(8), the owner or operator  
9           of such a fishing vessel, and the United States shall  
10          not be liable for any sanction imposed on the ob-  
11          server for actions of the observer in the course of  
12          performance of duties as an observer.”.

13          (f) INCENTIVES.—Section 303(b) (16 U.S.C.  
14 1853(b)) is further amended by adding at the end the fol-  
15          lowing:

16                 “(16) establish a system of incentives to reduce  
17                 total bycatch and seabird interaction, bycatch rates,  
18                 and post-release mortality in fisheries under the  
19                 Council’s or Secretary’s jurisdiction, including—

20                         “(A) measures to incorporate bycatch into  
21                         quotas, including the establishment of collective  
22                         or individual bycatch quotas;

23                         “(B) measures to promote the use of gear  
24                         with verifiable and monitored low bycatch and  
25                         seabird interaction rates; and

1           “(C) measures that, based on the best sci-  
2           entific information available, will reduce bycatch  
3           and seabird interaction, bycatch mortality, post-  
4           release mortality, or regulatory discards in the  
5           fishery;”.

6           (g) HABITAT AREAS OF PARTICULAR CONCERN.—

7           (1) IDENTIFICATION.—Section 303(b) (16  
8           U.S.C. 1853(b)) is further amended by adding at  
9           the end the following:

10           “(17) identify habitat areas of particular con-  
11           cern;”.

12           (2) DEFINITION.—Section 3 (16 U.S.C. 1802)  
13           is further amended in subsection (a) by inserting  
14           after paragraph (18) the following:

15           “(18A) The term ‘habitat area of particular  
16           concern’ means a discrete habitat area that is essen-  
17           tial fish habitat and that—

18           “(A) provides important ecological func-  
19           tions;

20           “(B) is sensitive to human-induced envi-  
21           ronmental degradation; or

22           “(C) is a rare habitat type.”.

23           (h) MARINE PROTECTED AREAS AUTHORITY.—

1           (1)   DISCRETIONARY   AUTHORITY.—Section  
2   303(b) (16 U.S.C. 1853(b)) is further amended by  
3   adding at the end the following:

4           “(18) designate closed areas, seasonal closures,  
5   time/area closures, gear restrictions, or other meth-  
6   ods for limiting impacts on habitat, limit bycatch  
7   impacts of gear, or limit fishing impact on spawning  
8   congregations in specific geographic areas;”.

9           (2)   REQUIREMENTS.—Section   303(a)   (16  
10   U.S.C. 1853(a)) is further amended by adding at  
11   the end the following:

12           “(16) with respect to any closure of an area to  
13   all fisheries managed under this Act, include provi-  
14   sions that ensure that such closure—

15           “(A) is based on the best scientific infor-  
16   mation available;

17           “(B) includes criteria to assess the con-  
18   servation benefit of the closed area;

19           “(C) establishes a timetable for review of  
20   the closed area’s performance that is consistent  
21   with the purposes of the closed area; and

22           “(D) is based on an assessment of the ben-  
23   efits and impacts of the closure, including its  
24   size, in relation to other management measures  
25   (either alone or in combination with such meas-

1           ures), including the benefits and impacts of lim-  
2           iting access to—

3                   “(i) users of the area;

4                   “(ii) overall fishing activity;

5                   “(iii) fishery science; and

6                   “(iv) fishery and marine conserva-  
7                   tion;”.

8           (i) FRAMEWORK AUTHORITY.—Section 304 (16  
9 U.S.C. 1854) is amended by adding at the end the fol-  
10 lowing:

11           “(i) ALTERNATIVE PROCEDURAL MECHANISMS.—

12                   “(1) In a fishery management plan or amend-  
13                   ment, the Council or Secretary, as appropriate, may  
14                   develop alternative procedural mechanisms to be  
15                   used in lieu of plan amendments for implementing  
16                   conservation and management measures.

17                   “(2) Such mechanisms may allow for abbrevi-  
18                   ated processes for the implementation of regula-  
19                   tions or other actions as appropriate.

20                   “(3) Alternative procedural mechanisms shall  
21                   only be approved or adopted for use in situations in  
22                   which—

23                           “(A) the conservation and management  
24                   measures are within the scope of conservation

1 and management measures established in an ex-  
2 isting fishery management plan;

3 “(B) otherwise applicable regulatory proc-  
4 esses are not sufficient to allow timely and effi-  
5 cient implementation of conservation and man-  
6 agement measures in response to new informa-  
7 tion; and

8 “(C) notice of the conservation and man-  
9 agement measures is provided appropriate to  
10 the significance of the expected impacts on af-  
11 fected fishery resources and on the participants  
12 in the fishery.

13 “(4) Any final agency action taken pursuant to  
14 the alternative procedural mechanism must be  
15 promptly published in the Federal Register.

16 “(5) If the alternative procedural mechanism is  
17 approved by the Secretary pursuant to section  
18 304(a), or adopted by the Secretary pursuant to sec-  
19 tion 304(c) or (g) and implemented through regula-  
20 tions, any regulation issued or other action taken  
21 pursuant to the alternative procedural mechanism  
22 need not comply with the rulemaking provisions of  
23 section 304(b), (c), or (g) of this Act, or section  
24 553(b) through (d) of title 5, United States Code.”.

25 (j) COUNCIL MEETING NOTICE.—

1           (1) REGULAR AND EMERGENCY MEETINGS.—  
2           The first sentence of section 302(i)(2)(C) (16 U.S.C.  
3           1852(i)(2)(C)) is amended—

4                   (A) by striking “published in local news-  
5                   papers” and inserting “provided by any means  
6                   that will result in wide publicity (except that e-  
7                   mail notification and Web site postings alone  
8                   are not sufficient)”; and

9                   (B) by striking “fishery) and such notice  
10                  may be given by such other means as will result  
11                  in wide publicity.” and inserting “fishery).”.

12           (2) CLOSED MEETINGS.—Section 302(i)(3)(B)  
13           (16 U.S.C. 1852(i)(3)(B)) is amended by striking  
14           “notify local newspapers” and inserting “provide no-  
15           tice by any means that will result in wide publicity”.

16           (k) CARIBBEAN COUNCIL JURISDICTION.—Section  
17           302(a)(1)(D) (16 U.S.C. 1852(a)(1)(D)) is amended by  
18           inserting “and of commonwealths, territories, and posses-  
19           sions of the United States in the Caribbean Sea” after  
20           “seaward of such States”.

21           (l) COUNCIL COORDINATION COMMITTEE.—Section  
22           302 (16 U.S.C. 1852) is further amended by adding at  
23           the end the following:

24                   “(l) COUNCIL COORDINATION COMMITTEE.—The  
25           Councils may establish a Council coordination committee

1 to discuss issues of relevance to all Councils, including  
2 issues related to the implementation of this Act. The com-  
3 mittee shall consist of the chairs, vice chairs, and executive  
4 directors of each of the Councils described in subsection  
5 (a)(1), or other Council members or staff.”.

6 **SEC. 6. ECOSYSTEM-BASED FISHERY MANAGEMENT.**

7 (a) POLICY.—Section 2(c) (16 U.S.C. 1851(c)) is  
8 amended by striking “and” after the semicolon at the end  
9 of paragraph (6), by striking the period at the end of para-  
10 graph (7) and inserting “; and”, and by adding at the  
11 end the following:

12 “(8) to support and encourage efforts to under-  
13 stand the interactions of species in the marine envi-  
14 ronment and the development of ecosystem-based  
15 approaches to fisheries conservation and manage-  
16 ment that will lead to better stewardship and sus-  
17 tainability of the Nation’s coastal fishery resources  
18 and fishing communities.”.

19 (b) AUTHORIZATION OF RESEARCH.—Section 404(c)  
20 (16 U.S.C. 1881c(c)) is amended by adding at the end  
21 the following:

22 “(5) The interaction of species in the marine  
23 environment, and the development of ecosystem-  
24 based approaches to fishery conservation and man-

1           agement that will lead to better stewardship and  
2           sustainability of coastal fishery resources.”.

3           (c) REGULATIONS DEFINING TERMS.—The Secretary  
4 of Commerce shall, in conjunction with the Regional Fish-  
5 ery Management Councils and based on the recommenda-  
6 tions of the Ecosystems Principles Advisory Panel in the  
7 report entitled “Ecosystem-based Fishery Management. A  
8 report to Congress by the Ecosystem Principles Advisory  
9 Panel” and dated April 1999, and after provision of notice  
10 and an opportunity for public comment, issue regulations  
11 that establish definitions of the terms “ecosystem” and  
12 “marine ecosystem” for purposes of the Magnuson-Ste-  
13 vens Fishery Conservation and Management Act (16  
14 U.S.C. 1801 et seq.).

15           (d) REGIONAL ECOSYSTEM RESEARCH.—Section 406  
16 (16 U.S.C. 1882) is amended by adding at the end the  
17 following:

18           “(f) REGIONAL ECOSYSTEM RESEARCH.—

19                   “(1) STUDY.—Within 180 days after the date  
20 of enactment of the , the Secretary, in consultation  
21 with the Councils, shall undertake and complete a  
22 study on the state of the science for advancing the  
23 concepts and integration of ecosystem considerations  
24 in regional fishery management. The study should

1 build upon the recommendations of the advisory  
2 panel and include—

3 “(A) recommendations for scientific data,  
4 information and technology requirements for  
5 understanding ecosystem processes, and meth-  
6 ods for integrating such information from a va-  
7 riety of Federal, State, and regional sources;

8 “(B) recommendations for processes for in-  
9 corporating broad stake holder participation;

10 “(C) recommendations for processes to ac-  
11 count for effects of environmental variation on  
12 fish stocks and fisheries; and

13 “(D) a description of existing and devel-  
14 oping Council efforts to implement ecosystem  
15 approaches, including lessons learned by the  
16 Councils.

17 “(2) IDENTIFICATION OF MARINE ECOSYSTEMS;  
18 RESEARCH PLAN.—

19 “(A) IN GENERAL.—Within one year after  
20 the date of the publication of the study under  
21 paragraph (1), the Secretary, in conjunction  
22 with the regional science centers of the National  
23 Marine Fisheries Service and the Councils,  
24 shall—

1           “(i) identify specific marine eco-  
2 systems within each region for which a  
3 Council is established by section 302(a);  
4 and

5           “(ii) develop and begin to implement  
6 regional research plans to address the in-  
7 formation deficiencies identified by the  
8 study.

9           “(B) RESEARCH PLANS.—The research  
10 plans shall suggest reasonable timeliness and  
11 cost estimates for the collection of the required  
12 information.

13           “(C) REPORTS.—The Secretary shall re-  
14 port to the Congress annually on the progress  
15 of the regional research plans.

16           “(3) AGENCY TECHNICAL ADVICE AND ASSIST-  
17 ANCE, REGIONAL PILOT PROGRAMS.—The Secretary  
18 is authorized to provide necessary technical advice  
19 and assistance, including grants, to the Councils for  
20 the development and design of regional pilot pro-  
21 grams that build upon the recommendations of the  
22 advisory panel and, when completed, the study.”.

23 **SEC. 7. LIMITED ACCESS PRIVILEGE PROGRAMS.**

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

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

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

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

4 “(a) IN GENERAL.—After the date of enactment of  
5 the American Fisheries Management and Marine Life En-  
6 hancement Act, a Council may submit, and the Secretary  
7 may approve, for a fishery that is managed under a limited  
8 access system, a limited access privilege program to har-  
9 vest fish if the program meets the requirements of this  
10 section.

11 “(b) NO CREATION OF RIGHT, TITLE, OR INTER-  
12 EST.—A limited access system, limited access privilege,  
13 quota share, or other authorization established, imple-  
14 mented, or managed under this Act—

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

17 “(2) may be revoked, limited, or modified at  
18 any time in accordance with this Act, including rev-  
19 ocation for failure to comply with the terms of the  
20 plan or if the system is found to have jeopardized  
21 the sustainability of the stock or the safety of fisher-  
22 men;

23 “(3) shall not confer any right of compensation  
24 to the holder of such limited access privilege, quota

1 share, or other such limited access system authoriza-  
2 tion if it is revoked, limited, or modified;

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

6 “(5) shall be considered a grant of permission  
7 to the holder of the limited access privilege or quota  
8 share to engage in activities permitted by such lim-  
9 ited access privilege or quota share.

10 “(c) REQUIREMENTS FOR LIMITED ACCESS PRIVI-  
11 LEGES.—

12 “(1) IN GENERAL.—In addition to complying  
13 with the other requirements of this Act, any limited  
14 access privilege program to harvest fish submitted  
15 by a Council or approved by the Secretary under  
16 this section shall—

17 “(A) if established in a fishery that is over-  
18 fished or subject to a rebuilding plan, assist in  
19 its rebuilding;

20 “(B) if established in a fishery that is de-  
21 termined by the Secretary or the Council to  
22 have over-capacity, contribute to reducing ca-  
23 pacity;

24 “(C) promote—

1                   “(i) the safety of human life at sea;

2                   and

3                   “(ii) the conservation and manage-  
4                   ment of the fishery;

5                   “(D) prohibit any person other than a  
6                   United States citizen, a corporation, partner-  
7                   ship, or other entity established under the laws  
8                   of the United States or any State, or a perma-  
9                   nent resident alien, that meets the eligibility  
10                  and participation requirements established in  
11                  the program from acquiring a privilege to har-  
12                  vest fish;

13                  “(E) specify the goals of the program;

14                  “(F) include provisions for the regular  
15                  monitoring and review by the Council and the  
16                  Secretary of the operations of the program, in-  
17                  cluding determining progress in meeting the  
18                  goals of the program and this Act, and any nec-  
19                  essary modification of the program to meet  
20                  those goals, with a formal and detailed review  
21                  5 years after the establishment of the program  
22                  and every 5 years thereafter;

23                  “(G) include an effective system for en-  
24                  forcement, monitoring, and management of the  
25                  program, including the use of observers;

1           “(H) include an appeals process for admin-  
2           istrative review of determinations with respect  
3           to the Secretary’s decisions regarding adminis-  
4           tration of the limited access privilege program;  
5           and

6           “(I) provide for the revocation by the Sec-  
7           retary of limited access privileges held by any  
8           person found to have violated the antitrust laws  
9           of the United States.

10          “(2) FISHING COMMUNITIES.—

11                 “(A) IN GENERAL.—

12                         “(i) ELIGIBILITY.—To be eligible to  
13                         participate in a limited access privilege  
14                         program to harvest fish, a fishing commu-  
15                         nity shall—

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

18                                 “(II) meet criteria developed by  
19                                 the relevant Council, approved by the  
20                                 Secretary, and published in the Fed-  
21                                 eral Register;

22                                 “(III) consist of residents of the  
23                                 management area of the relevant  
24                                 Council who conduct commercial or  
25                                 recreational fishing, fish processing,

1 or fishery-dependent support busi-  
2 nesses within such area; and

3 “(IV) develop and submit a com-  
4 munity sustainability plan to the  
5 Council and the Secretary that dem-  
6 onstrates how the plan will address  
7 the social and economic development  
8 needs of fishing communities, includ-  
9 ing those that have not historically  
10 had the resources to participate in the  
11 fishery, for approval by the Council  
12 based on criteria developed by the  
13 Council that have been approved by  
14 the Secretary and published in the  
15 Federal Register.

16 “(ii) FAILURE TO COMPLY WITH  
17 PLAN.—The Secretary shall deny or revoke  
18 limited access privileges for a person that  
19 were granted to a fishing community, if  
20 the person fails to comply with the require-  
21 ments of the community sustainability plan  
22 approved by the relevant Council under  
23 clause (i)(IV).

24 “(B) PARTICIPATION CRITERIA.—In devel-  
25 oping participation criteria for eligible commu-

1           nities under this paragraph, a Council shall  
2           consider—

3                   “(i) traditional fishing or fish proc-  
4                   essing practices in, and dependence on, the  
5                   fishery;

6                   “(ii) the cultural and social frame-  
7                   work relevant to the fishery;

8                   “(iii) economic barriers to access to  
9                   fishery;

10                   “(iv) the existence and severity of pro-  
11                   jected economic and social impacts associ-  
12                   ated with implementation of limited access  
13                   privilege programs on harvesters, fishing  
14                   vessel captains and crews, fish processors,  
15                   and other businesses substantially depend-  
16                   ent upon the fishery in the region or sub-  
17                   region;

18                   “(v) the expected effectiveness, oper-  
19                   ational transparency, and equitability of  
20                   the community sustainability plan; and

21                   “(vi) the potential for improving eco-  
22                   nomic conditions in remote coastal commu-  
23                   nities lacking resources to participate in  
24                   harvesting or fish processing activities in  
25                   the fishery.

1           “(3) REGIONAL FISHERY ASSOCIATIONS.—

2                   “(A) IN GENERAL.—To be eligible to par-  
3           ticipate in a limited access privilege program to  
4           harvest fish, a regional fishery association  
5           shall—

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

8                           “(ii) meet criteria developed by the  
9                           relevant Council, approved by the Sec-  
10                          retary, and published in the Federal Reg-  
11                          ister;

12                          “(iii) be a voluntary association with  
13                          established by-laws and operating proce-  
14                          dures consisting of participants in the fish-  
15                          ery, including commercial or recreational  
16                          fishing, fish processing, fishery-dependent  
17                          support businesses, or fishing communities;  
18                          and

19                          “(iv) develop and submit a regional  
20                          fishery association plan to the Council and  
21                          the Secretary for approval by the Council  
22                          based on criteria developed by the Council  
23                          that have been approved by the Secretary  
24                          and published in the Federal Register.

1           “(B) FAILURE TO COMPLY WITH PLAN.—  
2           The Secretary shall deny or revoke limited ac-  
3           cess privileges for a person that were granted to  
4           a fishery association, if the person fails to com-  
5           ply with the requirements of the regional fish-  
6           ery association plan approved by the relevant  
7           Council under subparagraph (A)(iv).

8           “(C) PARTICIPATION CRITERIA.—In devel-  
9           oping participation criteria for eligible regional  
10          fishery associations under this paragraph, a  
11          Council shall consider—

12                   “(i) traditional fishing or fish proc-  
13                   essing practices in, and dependence on, the  
14                   fishery;

15                   “(ii) the cultural and social frame-  
16                   work relevant to the fishery;

17                   “(iii) economic barriers to access to  
18                   fishery;

19                   “(iv) the existence and severity of pro-  
20                   jected economic and social impacts associ-  
21                   ated with implementation of limited access  
22                   privilege programs on harvesters, captains,  
23                   crew, fish processors, and other businesses  
24                   substantially dependent upon the fishery in  
25                   the region or subregion, upon the adminis-

1           trative and fiduciary soundness of the as-  
2           sociation and its by-laws; and

3           “ (v) the expected effectiveness, oper-  
4           ational transparency, and equitability of  
5           the fishery association plan.

6           “(4) ALLOCATION.—In developing a limited ac-  
7           cess privilege program to harvest fish a Council or  
8           the Secretary shall—

9           “(A) establish procedures to ensure fair  
10          and equitable initial allocations, including con-  
11          sideration of—

12           “(i) current and historical harvests;

13           “(ii) employment in the harvesting  
14          and fish processing sectors;

15           “(iii) investments in, and dependence  
16          upon, the fishery; and

17           “(iv) the current and historical par-  
18          ticipation of fishing communities;

19          “(B) to the extent practicable, consider the  
20          basic cultural and social framework of the fish-  
21          ery, especially through the development of poli-  
22          cies to promote the sustained participation of  
23          small owner-operated fishing vessels and fishing  
24          communities that depend on the fisheries, in-

1 including regional or port-specific landing or de-  
2 livery requirements;

3 “(C) include measures to assist, when nec-  
4 essary and appropriate, entry-level and small  
5 vessel operators, captains, crew, and fishing  
6 communities through set-asides of harvesting  
7 allocations, including providing privileges and,  
8 where appropriate, recommending the provision  
9 of economic assistance in the purchase of lim-  
10 ited access privileges to harvest fish;

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

15 “(i) establishing a maximum share,  
16 expressed as a percentage of the total lim-  
17 ited access privileges, that a limited access  
18 privilege holder is permitted to hold, ac-  
19 quired, or use; and

20 “(ii) establishing any other limitations  
21 or measures necessary to prevent an in-  
22 equitable concentration of limited access  
23 privileges;

24 “(E) establish procedures to address geo-  
25 graphic or other consolidation in both the har-

1 vesting and fish processing sectors of the fish-  
2 ery; and

3 “(F) authorize limited access privileges to  
4 harvest fish to be held, acquired, or used by or  
5 issued under the system to persons who sub-  
6 stantially participate in the fishery, as specified  
7 by the Council, including, as appropriate, fish-  
8 ing vessel owners, vessel captains, vessel crew  
9 members, fishing communities, and regional  
10 fishery associations.

11 “(5) PROGRAM INITIATION.—

12 “(A) LIMITATION.—Except as provided in  
13 subparagraph (D), a Council may initiate a  
14 fishery management plan or amendment to es-  
15 tablish a limited access privilege program to  
16 harvest fish on its own initiative or if the Sec-  
17 retary has certified an appropriate petition.

18 “(B) PETITION.—A group of fishermen  
19 constituting more than 50 percent of the permit  
20 holders, or holding more than 50 percent of the  
21 allocation, in the fishery for which a limited ac-  
22 cess privilege program to harvest fish is sought,  
23 may submit a petition to the Secretary request-  
24 ing that the relevant Council or Councils with  
25 authority over the fishery be authorized to ini-

1           tiate the development of the program. Any such  
2           petition shall clearly state the fishery to which  
3           the limited access privilege program would  
4           apply. For multispecies permits in the Gulf,  
5           only those participants who have substantially  
6           fished the species proposed to be included in the  
7           limited access program shall be eligible to sign  
8           a petition for such a program and shall serve  
9           as the basis for determining the percentage de-  
10          scribed in the first sentence of this subpara-  
11          graph.

12           “(C) CERTIFICATION BY SECRETARY.—  
13          Upon the receipt of any such petition, the Sec-  
14          retary shall review all of the signatures on the  
15          petition and, if the Secretary determines that  
16          the signatures on the petition represent more  
17          than 50 percent of the permit holders, or hold-  
18          ers of more than 50 percent of the allocation in  
19          the fishery, as described by subparagraph (B),  
20          the Secretary shall certify the petition to the  
21          appropriate Council or Councils.

22           “(D) NEW ENGLAND REFERENDUM.—  
23           “(i) The New England Council may  
24           not submit, and the Secretary may not ap-  
25           prove or implement, a fishery management

1 plan or amendment that creates an indi-  
2 vidual fishing quota program, including a  
3 Secretarial plan, unless such a system, as  
4 ultimately developed, has been approved by  
5 more than  $\frac{2}{3}$  of those voting in a ref-  
6 erendum among eligible permit holders  
7 with respect to the New England Council.  
8 If an individual fishing quota program fails  
9 to be approved by the requisite number of  
10 those voting, it may be revised and sub-  
11 mitted for approval in a subsequent ref-  
12 erendum.

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 American Fisheries Man-  
23 agement and Marine Life Enhancement  
24 Act, the Secretary shall publish guidelines  
25 and procedures to determine procedures

1           and voting eligibility requirements for  
2           referenda and to conduct such referenda in  
3           a fair and equitable manner.

4           “(E) GULF OF MEXICO.—The provisions of  
5           section 407(c) of this Act shall apply in lieu of  
6           this paragraph for an individual fishing quota  
7           program for the Gulf of Mexico commercial red  
8           snapper fishery.

9           “(F) OTHER LAW.—Chapter 35 of title 44,  
10          United States Code, (commonly known as the  
11          Paperwork Reduction Act) does not apply to  
12          the referenda conducted under this subpara-  
13          graph.

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

16                 “(A) establish a policy on the transfer-  
17                 ability of limited access privilege shares  
18                 (through sale or lease), including a policy on  
19                 any conditions that apply to the transferability  
20                 of limited access privilege shares that is con-  
21                 sistent with the policies adopted by the Council  
22                 for the fishery under paragraph (2); and

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

1           “(7) 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(g).

5           “(8) LIMITATION ON FEDERAL AGENCIES AND  
6           OFFICIALS.—A Federal agency or official may not  
7           hold, administer, or reallocate an individual quota  
8           issued under a fishery management plan under this  
9           section, other than the Secretary and the Council  
10          having authority over the fishery for which the indi-  
11          vidual quota is issued.

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

18                 “(1) the system or program is administered in  
19                 such a way that the resulting distribution of limited  
20                 access privilege shares meets the program require-  
21                 ments of subsection (c)(2)(A); and

22                 “(2) revenues generated through such a royalty  
23                 program are deposited in the Limited Access System  
24                 Administration Fund established by section

1 305(h)(5)(B) and available subject to annual appro-  
2 priations.

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

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

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

13 “(f) LIMITED DURATION.—In establishing a limited  
14 access privilege program after the date of enactment of  
15 the American Fisheries Management and Marine Life En-  
16 hancement Act, a Council may establish—

17 “(1) a period of time after which any initial or  
18 subsequent allocation of a limited access privilege  
19 shall expire, or various periods for such expiration  
20 within a fishery if the Council determines that vari-  
21 ation of the periods will further achievement of man-  
22 agement goals; and

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

1       “(g) LIMITED ACCESS PRIVILEGE ASSISTED PUR-  
2 CHASE PROGRAM.—

3               “(1) IN GENERAL.—A Council may submit, and  
4 the Secretary may approve and implement, a pro-  
5 gram that reserves up to 25 percent of any fees col-  
6 lected from a fishery under section 304(d)(2) to be  
7 used to issue obligations that aid in financing—

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

11                      “(B) the first-time purchase of limited ac-  
12 cess privileges in that fishery by entry level  
13 fishermen.

14               “(2) ELIGIBILITY CRITERIA.—A Council mak-  
15 ing a submission under paragraph (1) shall rec-  
16 ommend criteria, consistent with the provisions of  
17 this Act, that a fisherman must meet to qualify for  
18 guarantees under subparagraphs (A) and (B) of  
19 paragraph (1) and the portion of funds to be allo-  
20 cated for guarantees under each subparagraph.

21       “(h) EFFECT ON CERTAIN EXISTING SHARES AND  
22 PROGRAMS.—Nothing in this Act, or the amendments  
23 made by the American Fisheries Management and Marine  
24 Life Enhancement Act, shall be construed to require a re-  
25 allocation of individual quota shares, fish processor quota

1 shares, cooperative programs, or other quota programs,  
2 including sector allocation, under development or sub-  
3 mitted by a Council or approved by the Secretary or by  
4 Congressional action before the date of enactment of  
5 the.”.

6 (b) FEES.—Section 304(d)(2) (16 U.S.C.  
7 1854(d)(2)) is amended—

8 (1) by redesignating subparagraphs (B) and  
9 (C) as subparagraphs (F) and (G), respectively;

10 (2) in subparagraph (F), as so redesignated, by  
11 striking “Such fee” and inserting “A fee under this  
12 paragraph”; and

13 (3) by striking “(2)(A)” and all that follows  
14 through the end of subparagraph (A) and inserting  
15 the following:

16 “(2)(A) Notwithstanding paragraph (1), the  
17 Secretary shall collect from a person that holds or  
18 transfers an individual quota issued under a limited  
19 access system established under section 303(b)(6)  
20 fees established by the Secretary in accordance with  
21 this section and section 9701(b) of title 31, United  
22 States Code.

23 “(B) The fees required to be established and  
24 collected by the Secretary under this paragraph are  
25 the following:

1           “(i) With respect to any initial allocation  
2           under a limited access system established after  
3           the date of the enactment of the American  
4           Fisheries Management and Marine Life En-  
5           hancement Act, an initial allocation fee in an  
6           amount, determined by the Secretary, equal to  
7           1 percent of the ex-vessel value of fish author-  
8           ized in one year under an individual quota, that  
9           shall be collected from the person to whom the  
10          individual quota is first issued.

11          “(ii) An annual fee in an amount, deter-  
12          mined by the Secretary, not to exceed 3 percent  
13          of the ex-vessel value of fish authorized each  
14          year under an individual quota share, that shall  
15          be collected from the holder of the individual  
16          quota share.

17          “(iii) A transfer fee in an amount, deter-  
18          mined by the Secretary, equal to 1 percent of  
19          the ex-vessel value of fish authorized each year  
20          under an individual quota share, that shall be  
21          collected from a person who permanently trans-  
22          fers the individual quota share to another per-  
23          son.

24          “(C) In determining the amount of a fee under  
25          this paragraph, the Secretary shall ensure that the

1 amount is commensurate with the cost of managing  
2 the fishery with respect to which the fee is collected,  
3 including reasonable costs for salaries, data analysis,  
4 and other costs directly related to fishery manage-  
5 ment and enforcement.

6 “(D) The Secretary, in consultation with the  
7 Councils, shall promulgate regulations prescribing  
8 the method of determining under this paragraph the  
9 ex-vessel value of fish authorized under an individual  
10 quota share, the amount of fees, and the method of  
11 collecting fees.

12 “(E) Fees collected under this paragraph from  
13 holders of individual quotas in a fishery shall be an  
14 offsetting collection and shall be available to the Sec-  
15 retary only for the purposes of administering and  
16 implementing this Act with respect to that fishery.”.

17 (c) CONFORMING AMENDMENT.—Section  
18 304(d)(2)(F)(i), as redesignated by subsection (b)(1) of  
19 this section, is amended by striking “section  
20 305(h)(5)(B)” and all that follows and inserting “section  
21 305(h)(5)(B).”.

22 (d) LIMITED ACCESS PRIVILEGE DEFINED.—Sub-  
23 section (a) of section 3 (16 U.S.C. 1802) is further  
24 amended by inserting after paragraph (23) the following:

25 “(23A) The term ‘limited access privilege’—

1           “(A) means a Federal permit, issued as  
2           part of a limited access system under section  
3           303A to harvest a quantity of fish that may be  
4           received or held for exclusive use by a person;  
5           and

6           “(B) includes an individual fishing quota;  
7           but

8           “(C) does not include community develop-  
9           ment quotas as described in section 305(i).”.

10 **SEC. 8. JOINT FISHERIES ENFORCEMENT AGREEMENTS.**

11       Section 311 (16 U.S.C. 1861) is amended—

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

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

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

18                   “(vi) access, directly or indirectly, for  
19                   enforcement purposes any data or informa-  
20                   tion required to be provided under this  
21                   title or regulations under this title, includ-  
22                   ing data from vessel monitoring systems,  
23                   or any similar system, subject to the con-  
24                   fidentiality provisions of section 402;”;

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

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

5           “(h) JOINT FISHERIES ENFORCEMENT AGREE-  
6           MENTS.—

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

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

24          “(3) REQUIREMENTS.—Joint fisheries enforce-  
25          ment agreements executed under paragraph (1)—

1           “(A) shall be consistent with the purposes  
2           and intent of this section to the extent applica-  
3           ble to the regulated activities; and

4           “(B) shall provide for confidentiality of  
5           data and information submitted to the State  
6           under section 402.

7           “(4) ALLOCATION OF FUNDS.—The Secretary  
8           shall include in each joint fisheries enforcement  
9           agreement an allocation of funds to assist in man-  
10          agement of the agreement. The allocation shall be  
11          fairly distributed among all eligible States partici-  
12          pating in cooperative agreements under this sub-  
13          section, based upon consideration of Federal marine  
14          fisheries needs, the specific marine fisheries con-  
15          servation needs of each participating eligible State,  
16          and the capacity of the State to undertake the mis-  
17          sion and assist with Federal needs. The agreement  
18          may provide for amounts to be withheld by the Sec-  
19          retary for the cost of any technical or other assist-  
20          ance provided to the State by the Secretary under  
21          the agreement.

22          “(i) IMPROVED DATA SHARING.—

23                 “(1) IN GENERAL.—Notwithstanding any other  
24                 provision of this Act, as soon as practicable but no  
25                 later than 21 months after the date of enactment of

1 the American Fisheries Management and Marine  
2 Life Enhancement Act, the Secretary shall imple-  
3 ment data-sharing measures to make any data re-  
4 quired to be provided by this Act from vessel moni-  
5 toring systems, or similar systems—

6 “(A) directly accessible by State officers  
7 authorized under subsection (a) of this section;  
8 and

9 “(B) available to a State management  
10 agency involved in, or affected by, management  
11 of a fishery if the State has entered into an  
12 agreement with the Secretary under section  
13 402(b)(1)(B) of this Act.

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

17 “(A) the State provides a written opinion  
18 or certification that State law allows the State  
19 to maintain the confidentiality of information  
20 required by Federal law to be kept confidential;  
21 or

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

1 **SEC. 9. FUNDING FOR FISHERY OBSERVER PROGRAMS.**

2 (a) NORTH PACIFIC RESEARCH PLAN.—Section 313  
3 (16 U.S.C. 1862) is amended—

4 (1) by striking subsections (a), (b), (c), and (d);

5 (2) by redesignating existing subsections (e),  
6 (f), (g), (h), and (i) as subsections (a), (b), (c), (d),  
7 and (e), respectively; and

8 (3) in subsection (c), as so redesignated—

9 (A) in paragraph (1) by striking “North  
10 Pacific Fishery Observer Fund” and inserting  
11 “Fishery Observer Fund established under sec-  
12 tion 403(e)”; and

13 (B) in paragraph (2)(A) by striking  
14 “303(b)(10)” and inserting “303(b)(8)”.

15 (b) OBSERVER PROGRAM FUNDING.—Section 403  
16 (16 U.S.C. 1881(b)) is amended by adding at the end the  
17 following:

18 “(d) OBSERVER PROGRAM FUNDING MECHANISM.—

19 “(1) IN GENERAL.—The Secretary may estab-  
20 lish a funding mechanism to cover the cost of an ob-  
21 server program to monitor any fishery managed  
22 under this Act or any other Act administered by the  
23 Secretary, including the Northern Pacific halibut  
24 fishery.

25 “(2) FORM OF MECHANISM.—

1           “(A) The Secretary may exercise broad  
2 discretion in developing a funding mechanism  
3 under this subsection, which may include a sys-  
4 tem of fees, payments collected from limited ac-  
5 cess privilege programs, or any other cost recov-  
6 ery mechanism to pay for—

7                   “(i) the cost of stationing observers  
8 on board fishing vessels and United States  
9 fish processors, and

10                   “(ii) the actual cost of inputting data  
11 and managing observer databases.

12           “(B) The moneys collected under a fund-  
13 ing mechanism established under this sub-  
14 section for an observer program shall be—

15                   “(i) deposited into the Fishery Ob-  
16 server Fund established under subsection  
17 (e); and

18                   “(ii) used only for the observer pro-  
19 gram covering fisheries from which the  
20 moneys were collected.

21           “(e) FISHERY OBSERVER FUND.—

22                   “(1) ESTABLISHMENT OF FUND.—There is es-  
23 tablished on the books of the Treasury of the United  
24 States, a fund that shall be known as the Fishery  
25 Observer Fund (in this subsection referred to as the

1 ‘Fund’). The Fund shall be administered by the Sec-  
2 retary of Commerce. The Fund shall be available,  
3 subject to the availability of appropriations, only to  
4 the Secretary for purposes of carrying out subsection  
5 (d). The Fund shall consist of all moneys deposited  
6 into in it accordance with this section, plus interest  
7 on those moneys.

8 “(2) INVESTMENT OF AMOUNT.—

9 “(A) It shall be the duty of the Secretary  
10 of the Treasury to invest, at the direction of the  
11 Secretary of Commerce, such portion of the  
12 Fund that is not currently needed for the pur-  
13 poses of each observer program covering fish-  
14 eries from which moneys were collected under  
15 subsection (d).

16 “(B) Such investments shall be in public  
17 debt obligations with maturities suitable to the  
18 needs of the Fund, as determined by the Sec-  
19 retary of Commerce. Investments in public debt  
20 obligations shall bear interest at rates deter-  
21 mined by the Secretary of the Treasury taking  
22 into consideration the current market yield on  
23 outstanding marketable obligations of the  
24 United States of comparable maturity.

1           “(3) SALE OF OBLIGATION.—Any obligation ac-  
2           quired by the Fund may be sold by the Secretary of  
3           the Treasury at the direction of the Secretary of  
4           Commerce at market prices.

5           “(f) CONTRIBUTIONS.—For purposes of carrying out  
6           subsections (d) and (e), the Secretary may accept, solicit,  
7           receive, hold, administer, and use gifts, devices, contribu-  
8           tions, and bequests. Amounts received under this sub-  
9           section shall be deposited in the Fishery Observer Fund  
10          established under subsection (c).”.

11   **SEC. 10. COMPETING STATUTES.**

12          (a) REQUIRED INFORMATION IN MANAGEMENT  
13          PLANS.—Section 303(a) (16 U.S.C. 1853A) is further  
14          amended by adding at the end the following:

15                 “(17) contain information on the Council’s ef-  
16                 forts to study, develop, and describe appropriate al-  
17                 ternatives to recommend courses of action;”.

18          (b) REQUIRED ANALYSIS IN MANAGEMENT PLANS.—  
19          Section 303(a)(9) (16 U.S.C. 1853(a)(9)) is amended by  
20          striking “describe the likely effects, if any, of the conserva-  
21          tion and management measures on—” and inserting “ana-  
22          lyze the likely effects, if any, including the cumulative con-  
23          servation, economic, and social impacts of, the conserva-  
24          tion and management measures on, and possible mitiga-  
25          tion measures for—”.

1 (c) COMPLIANCE WITH NATIONAL ENVIRONMENTAL  
2 POLICY ACT OF 1969.—

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

5 **“SEC. 315. COMPLIANCE WITH NATIONAL ENVIRONMENTAL**  
6 **POLICY ACT OF 1969.**

7 “Any fishery management plan, amendment to such  
8 a plan, or regulation implementing such a plan that is pre-  
9 pared in accordance with applicable provisions of sections  
10 303 and 304 of this Act may be deemed to have been pre-  
11 pared in compliance with the requirements of section  
12 102(2)(C) of the National Environmental Policy Act of  
13 1969 (42 U.S.C. 4332(2)(C)) by the Secretary.”.

14 (2) CLERICAL AMENDMENT.—The table of con-  
15 tents in the first section is amended by adding at  
16 the end of the items relating to title III the fol-  
17 lowing:

“Sec. 315. Compliance with National Environmental Policy Act of 1969.”.

18 (3) EFFECT ON TIME REQUIREMENTS.—Section  
19 305(e) (16 U.S.C. 1855(E)) is amended by inserting  
20 “the National Environmental Policy Act of 1969 (42  
21 U.S.C. 4321 et seq.),” after “the Regulatory Flexi-  
22 bility Act (5 U.S.C. 601 et seq.),”.

23 (d) REVIEW OF FISHERY REGULATIONS IN NA-  
24 TIONAL MARINE SANCTUARIES.—Section 304 (16 U.S.C.  
25 1854) is amended by adding at the end the following:

1       “(j) REVIEW OF FISHERY PROPOSED REGULATIONS  
2 IN NATIONAL MARINE SANCTUARIES.—

3           “(1) The Secretary shall review any regulation  
4 proposed under the National Marine Sanctuaries Act  
5 (16 U.S.C. 1431 et seq.) for the conservation or  
6 management of fish (whether or not such fish are  
7 managed under a fishery management plan), or for  
8 the conservation or management of essential fish  
9 habitat identified under section 303.

10          “(2) A proposed regulation referred to in para-  
11 graph (1) shall not take effect unless the Secretary  
12 certifies that the proposed regulation—

13           “(A) meets the national standards under  
14 section 301(a);

15           “(B) is consistent with the other provisions  
16 of this Act; and

17           “(C) is consistent with any ecosystem-  
18 based fishery management plan that includes  
19 the provisions authorized under section  
20 303(b)(14).”.

21 **SEC. 11. DIMINISHED FISHERIES.**

22       (a) SUBSTITUTION OF “DIMINISHED” FOR “OVER-  
23 FISHED”.—

24           (1) SUBSTITUTION OF TERM.—The Act is  
25 amended—

1 (A) by striking “overfished” each place it  
2 appears (other than in subsection (a) of section  
3 of the Act (16 U.S.C. 1802), as amended by  
4 this Act) and inserting “diminished”; and

5 (B) in the heading for section 304(e) (16  
6 U.S.C. 1854(e)) by striking “OVERFISHED”  
7 and inserting “DIMINISHED”.

8 (2) DIMINISHED DEFINED.—Subsection (a) of  
9 section 3 (16 U.S.C. 1802) is further amended—

10 (A) by inserting after paragraph (8) the  
11 following:

12 “(8A) The term ‘diminished’ means, with re-  
13 spect to a stock of fish, that the stock is of a size  
14 that is below the natural range of fluctuation associ-  
15 ated with the production of maximum sustainable  
16 yield.”; and

17 (B) by amending paragraph (29) to read  
18 as follows:

19 “(29) The term ‘overfishing’ means a rate or  
20 level of fishing mortality that jeopardizes the capac-  
21 ity of a fishery to produce the maximum sustainable  
22 yield on a continuing basis.”.

23 (3) DISTINGUISHING IN REPORTS.—Section  
24 304(e)(1) (16 U.S.C. 1854(e)(1)) is amended by  
25 adding at the end the following: “The report shall

1 distinguish between fisheries that are diminished (or  
2 approaching that condition) as a result of fishing  
3 and fisheries that are diminished (or approaching  
4 that condition) as a result of factors other than fish-  
5 ing. The report shall state, for each fishery identi-  
6 fied as diminished or approaching that condition,  
7 whether the fishery is the target of directed fish-  
8 ing.”.

9 (b) DURATION OF MEASURES TO REBUILD DIMIN-  
10 IShed FISHERIES.—Section 304(e)(4)(A)(ii) of the Mag-  
11 nuson-Stevens Fishery Conservation and Management Act  
12 (16 U.S.C. 1854(e)(4)(A)(ii)) is amended to read as fol-  
13 lows:

14 “(ii) not exceed 10 years, except in  
15 cases where—

16 “(I) the biology of the stock of  
17 fish, other environmental conditions,  
18 or management measures under an  
19 international agreement in which the  
20 United States participates dictate oth-  
21 erwise;

22 “(II) the Secretary determines  
23 that such 10-year period should be ex-  
24 tended because the cause of the fish-  
25 ery decline is outside the jurisdiction

1 of the Council or the rebuilding pro-  
2 gram cannot be effective only by lim-  
3 iting fishing activities;

4 “(III) the Secretary determines  
5 that such 10-year period should be ex-  
6 tended for one or more diminished  
7 components of a multi-species fishery;  
8 or

9 “(IV) the Secretary makes sub-  
10 stantial changes to the rebuilding tar-  
11 gets after the rebuilding plan has  
12 been put in place.”.

13 **SEC. 12. NEW PROHIBITED ACTS.**

14 (a) PROHIBITION ON SALE OR PURCHASE OF REC-  
15 REATIONAL CATCH.—Section 307 (16 U.S.C. 1857) is  
16 amended by striking “and” after the semicolon at the end  
17 of paragraph (4), by striking the period at the end of para-  
18 graph (5) and inserting “; and”, and by adding at the  
19 end the following:

20 “(6) to sell or purchase any fish caught in rec-  
21 reational fishing.”.

22 (b) PROHIBITION ON USE OF RETIRED VESSEL.—  
23 Section 307(1) (16 U.S.C. 1857(1)) is amended—

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

1           (2) by striking “carcass.” in subparagraph (P)  
2           and inserting “carcass; or”; and

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

5                   “(R) to use any fishing vessel to engage in  
6           fishing in Federal or State waters, or on the  
7           high seas or the waters of another country,  
8           after the Secretary has made a payment to the  
9           owner of that fishing vessel under section  
10           312(b)(2).”.

11 **SEC. 13. FISHERY FAILURES.**

12           Section 312(a) (16 U.S.C. 1361a) is amended by  
13           striking “commercial fishery” each place it appears and  
14           inserting “fishery”.

15 **SEC. 14. EMERGENCY REGULATIONS.**

16           (a) **LENGTHENING OF SECOND EMERGENCY PE-**  
17 **RIOD.**—Section 305(c)(3)(B) (16 U.S.C. 1855(c)(3)(B))  
18           is amended by striking “180 days,” and inserting “186  
19           days,”.

20           (b) **TECHNICAL AMENDMENT.**—Section  
21           305(c)(3)(D) (16 U.S.C. 1855(c)(3)(D)) is amended by  
22           inserting “or interim measures” after “emergency regula-  
23           tions”.

1 **SEC. 15. BYCATCH AND SEABIRD INTERACTIONS.**

2 (a) GEAR GRANT PROGRAM.—Title IV (1 U.S.C.  
3 1881 et seq.) is further amended by adding at the end  
4 the following:

5 **“SEC. 409. GEAR GRANT PROGRAM.**

6 “(a) IDENTIFICATION OF FISHERIES WITH MOST  
7 URGENT PROBLEMS.—The Secretary shall—

8 “(1) identify those fisheries included in a list  
9 under subsection (a) that have the most urgent by-  
10 catch problems or seabird interaction problems,  
11 based on comments received regarding the list; and

12 “(2) work in conjunction with the Councils and  
13 fishing industry participants to develop new fishing  
14 gear, or modifications to existing fishing gear, that  
15 will help minimize bycatch and seabird interactions  
16 to the extent practicable.

17 “(b) GRANT AUTHORITY.—The Secretary shall, sub-  
18 ject to the availability of appropriations, make grants for  
19 the development of fishing gear and modifications to exist-  
20 ing fishing gear that will help—

21 “(1) minimize bycatch and seabird interactions;  
22 and

23 “(2) minimize adverse fishing gear impacts on  
24 habitat areas of particular concern.

25 “(c) REPORT.—The Secretary shall report to the  
26 Congress annually on—

1           “(1) the amount expended to implement this  
2 section in the preceding year;

3           “(2) developments in gear technology achieved  
4 under this section;

5           “(3) the reductions in bycatch associated with  
6 implementation of this section; and

7           “(4) any other relevant information.

8           “(d) AUTHORIZATION OF APPROPRIATIONS.—To  
9 carry out this section there is authorized to be appro-  
10 priated to the Secretary \$10,000,000 for each of fiscal  
11 years 2007 through 2011.”.

12           (b) CLERICAL AMENDMENT.—The table of contents  
13 in the first section is amended by adding at the end of  
14 the items relating to title IV the following:

“Sec. 409. Bycatch identification and gear grant program.”.

15           (c) REPORT.—The Secretary of Commerce shall re-  
16 port to the Congress within one year after the date of the  
17 enactment of this Act on—

18           (1) the extent of the problem of seabird inter-  
19 action with fisheries of the United States;

20           (2) efforts by the fishing industry and Regional  
21 Fishery Management Councils to address that prob-  
22 lem; and

23           (3) the extent of the problem of seabird inter-  
24 action with fisheries other than the fisheries of the  
25 United States.

1 (d) INTERNATIONAL ACTION.—The Secretary of  
2 Commerce shall take appropriate action at appropriate  
3 international fisheries management bodies to reduce  
4 seabird interactions in fisheries.

5 **SEC. 16. OVER CAPITALIZATION.**

6 (a) DISCRETION OF SECRETARY TO CONDUCT FISH-  
7 ING CAPACITY REDUCTION PROGRAM.—Section 312(b)  
8 (16 U.S.C. 1861a(b)) is amended—

9 (1) in paragraph (1) by striking “, at the re-  
10 quest of the appropriate Council for fisheries under  
11 the authority of such Council, or the Governor of a  
12 State for fisheries under State authority,”;

13 (2) in paragraph (1), by inserting “that is man-  
14 aged under a limited access system authorized by  
15 section 303(b)(6),” after “in a fishery”; and

16 (3) by redesignating paragraph (4) as para-  
17 graph (5), and by inserting after paragraph (3) the  
18 following:

19 “(4) The Council, or the Governor of a State, having  
20 authority over a fishery may request the Secretary to con-  
21 duct a fishing capacity reduction program in the fishery  
22 under this subsection.”.

23 (b) REQUIREMENT TO SURRENDER ALL PERMITS.—  
24 Section 312(b)(2) (16 U.S.C. 1861a(b)(2)) is amended to  
25 read as follows:

1       “(2)(A) The objective of the program shall be to ob-  
2       tain the maximum sustained reduction in fishing capacity  
3       at the least cost and in a minimum period of time.

4               “(B) To achieve that objective, the Secretary is  
5       authorized to pay an amount to the owner of a fish-  
6       ing vessel, if—

7                       “(i) such vessel is scrapped, or through the  
8       Secretary of the department in which the Coast  
9       Guard is operating, subjected to title restric-  
10      tions that permanently prohibit and effectively  
11      prevent its use in fishing;

12                      “(ii) all permits authorizing the participa-  
13      tion of the vessel in any fishery under the jurisdic-  
14      tion of the United States are surrendered for  
15      permanent revocation; and

16                      “(iii) the owner of the vessel and such per-  
17      mits relinquishes any claim associated with the  
18      vessel and such permits that could qualify such  
19      owner for any present or future limited access  
20      system permit in the fishery for which the pro-  
21      gram is established.”.

22       (c) ENSURING VESSELS DO NOT ENTER FOREIGN OR  
23      HIGH SEAS FISHERIES.—Section 312(b) (16 U.S.C.  
24      1861a(b)) is further amended by adding at the end the  
25      following:

1       “(6) The Secretary may not make a payment under  
2 paragraph (2) with respect to a vessel that will not be  
3 scrapped, unless the Secretary certifies that the vessel will  
4 not be used for any fishing, including fishing in the waters  
5 of a foreign nation and fishing on the high seas.”.

6       (d) REPORT.—

7           (1) IN GENERAL.—The Secretary shall, within  
8 12 months after the date of the enactment of this  
9 Act, submit to the Congress a report—

10           (A) identifying and describing the 20 fish-  
11 eries in United States waters with the most se-  
12 vere examples of excess harvesting capacity in  
13 the fisheries, based on value of each fishery and  
14 the amount of excess harvesting capacity as de-  
15 termined by the Secretary;

16           (B) recommending measures for reducing  
17 such excess harvesting capacity, including the  
18 retirement of any latent fishing permits that  
19 could contribute to further excess harvesting ca-  
20 pacity in those fisheries; and

21           (C) potential sources of funding for such  
22 measures.

23           (2) BASIS FOR RECOMMENDATIONS.—The Sec-  
24 retary shall base the recommendations made with re-  
25 spect to a fishery on—

1           (A) the most cost effective means of  
2           achieving voluntary reduction in capacity for  
3           the fishery using the potential for industry fi-  
4           nancing; and

5           (B) including measures to prevent the ca-  
6           pacity that is being removed from the fishery  
7           from moving to other fisheries in the United  
8           States, in the waters of a foreign nation, or in  
9           the high seas.

10 **SEC. 17. AUTHORIZATION OF APPROPRIATIONS.**

11           (a) **AUTHORIZATION.**—Section 4 (16 U.S.C. 1803) is  
12 amended by striking paragraphs (1) through (4) and in-  
13 serting the following:

14           “(1) \$338,970,000 for fiscal year 2007.

15           “(2) \$366,087,000 for fiscal year 2008.

16           “(3) \$395,374,000 for fiscal year 2009.

17           “(4) \$427,604,000 for fiscal year 2010.

18           “(5) \$461,812,000 for fiscal year 2011.”.

19           (b) **CLERICAL AMENDMENT.**—The table of contents  
20 in the first section is amended by inserting after the item  
21 relating to section 3 the following:

“Sec. 4. Authorization of appropriations.”.

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