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H. R. 5946

One Hundred Ninth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday, the third day of January, two thousand and six

An Act

To amend the Magnuson-Stevens Fishery Conservation and Management Act to authorize activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006".

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

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

TITLE I—CONSERVATION AND MANAGEMENT

Sec. 101. Cumulative impacts.
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Sec. 103. Regional fishery management councils.
Sec. 104. Fishery management plan requirements.
Sec. 105. Fishery management plan discretionary provisions.
Sec. 106. Limited access privilege programs.
Sec. 107. Environmental review process.
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Sec. 114. Fishery finance program hurricane assistance.
Sec. 115. Fisheries hurricane assistance program.
Sec. 116. Bycatch reduction engineering program.
Sec. 117. Community-based restoration program for fishery and coastal habitats.
Sec. 118. Prohibited acts.
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Sec. 121. Southeast Alaska fisheries communities capacity reduction.
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TITLE II—INFORMATION AND RESEARCH

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Sec. 202. Collection of information.
Sec. 203. Access to certain information.
Sec. 204. Cooperative research and management program.

Sec. 205. Herring study.
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Sec. 207. Western Pacific fishery demonstration projects.
Sec. 208. Fisheries conservation and management fund.
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Sec. 210. Regional ecosystem research.
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Sec. 212. Impact of turtle excluder devices on shrimping.
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Sec. 214. North Pacific Fisheries Convention.
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Sec. 218. Gulf of Alaska Rockfish demonstration program.

TITLE III—OTHER FISHERIES STATUTES

Sec. 301. Amendments to Northern Pacific Halibut Act.
Sec. 302. Reauthorization of other fisheries Acts.

TITLE IV—INTERNATIONAL

Sec. 401. International monitoring and compliance.
Sec. 402. Finding with respect to illegal, unreported, and unregulated fishing.
Sec. 403. Action to end illegal, unreported, or unregulated fishing and reduce by-catch of protected marine species.
Sec. 404. Monitoring of Pacific insular area fisheries.
Sec. 405. Reauthorization of Atlantic Tunas Convention Act.
Sec. 406. International overfishing and domestic equity.
Sec. 407. United States catch history.
Sec. 408. Secretarial representative for international fisheries.

TITLE V—IMPLEMENTATION OF WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION

Sec. 501. Short title.
Sec. 502. Definitions.
Sec. 503. Appointment of United States commissioners.
Sec. 504. Authority and responsibility of the Secretary of State.
Sec. 505. Rulemaking authority of the Secretary of Commerce.
Sec. 506. Enforcement.
Sec. 507. Prohibited acts.
Sec. 508. Cooperation in carrying out convention.
Sec. 509. Territorial participation.
Sec. 510. Exclusive economic zone notification.
Sec. 511. Authorization of appropriations.

TITLE VI—PACIFIC WHITING

Sec. 601. Short title.
Sec. 602. Definitions.
Sec. 603. United States representation on joint management committee.
Sec. 604. United States representation on the scientific review group.
Sec. 605. United States representation on joint technical committee.
Sec. 606. United States representation on advisory panel.
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Sec. 609. Administrative matters.
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TITLE VII—MISCELLANEOUS

Sec. 701. Study of the acidification of the oceans and effect on fisheries.
Sec. 702. Puget Sound regional shellfish settlement.

TITLE VIII—TSUNAMI WARNING AND EDUCATION

Sec. 801. Short title.
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Sec. 803. Purposes.
Sec. 804. Tsunami forecasting and warning program.
Sec. 805. National tsunami hazard mitigation program.
Sec. 806. Tsunami research program.
Sec. 807. Global tsunami warning and mitigation network.

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TITLE IX—POLAR BEARS

Sec. 901. Short title.
Sec. 902. Amendment of Marine Mammal Protection Act of 1972.

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

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

SEC. 3. CHANGES IN FINDINGS AND DEFINITIONS.

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

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

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

(1) by inserting after paragraph (13) the following:

"(13A) The term 'regional fishery association' means an association formed for the mutual benefit of members—

"(A) to meet social and economic needs in a region or subregion; and

"(B) comprised of persons engaging in the harvest or processing of fishery resources in that specific region or subregion or who otherwise own or operate businesses substantially dependent upon a fishery.";

(2) by inserting after paragraph (20) the following:

"(20A) The term 'import'—

"(A) means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States; but

"(B) does not include any activity described in subparagraph (A) with respect to fish caught in the exclusive economic zone or by a vessel of the United States.";

(3) by inserting after paragraph (23) the following:

"(23A) The term 'limited access privilege'—

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

"(B) includes an individual fishing quota; but

"(C) does not include community development quotas as described in section 305(i).

"(23B) The term 'limited access system' means a system that limits participation in a fishery to those satisfying certain eligibility criteria or requirements contained in a fishery management plan or associated regulation."; and

(4) by inserting after paragraph (27) the following:

"(27A) The term 'observer information' means any information collected, observed, retrieved, or created by an observer or electronic monitoring system pursuant to authorization by the Secretary, or collected as part of a cooperative research initiative, including fish harvest or processing observations, fish sampling or weighing data, vessel logbook data, vessel or processor-specific information (including any safety, location, or operating condition observations), and video, audio, photographic, or written documents.".

(c) REDESIGNATION.—Paragraphs (1) through (45) of section 3 (16 U.S.C. 1802), as amended by subsection (a), are redesignated as paragraphs (1) thorough (50), respectively.

(d) CONFORMING AMENDMENTS.—

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

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

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

(2) The following provisions of the Act are amended by striking "individual fishing quota" and inserting "limited access privilege":

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

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

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

SEC. 4. HIGHLY MIGRATORY SPECIES.

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

(1) by inserting "(a) IN GENERAL.—" before "The"; and

(2) by adding at the end the following:

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

"(c) PROMOTION OF STOCK MANAGEMENT.—If a relevant international fisheries organization does not have a process for developing a formal plan to rebuild a depleted stock, an overfished stock, or a stock that is approaching a condition of being overfished, the provisions of this Act in this regard shall be communicated to and promoted by the United States in the international or regional fisheries organization.".

SEC. 5. TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.

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

(1) by striking "shall be" and inserting "is";

(2) by striking "will not" and inserting "cannot, or will not,"; and

(3) by inserting after "Act." the following: "Allocations of the total allowable level of foreign fishing are discretionary, except that the total allowable level shall be zero for fisheries determined by the Secretary to have adequate or excess domestic harvest capacity.".

SEC. 6. WESTERN PACIFIC SUSTAINABLE FISHERIES FUND.

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

(1) by inserting "and any funds or contributions received in support of conservation and management objectives under a marine conservation plan" after "agreement" in paragraph (7); and

(2) by inserting after "paragraph (4)." in paragraph (8) the following: "In the case of violations by foreign vessels occurring within the exclusive economic zones off Midway Atoll, Johnston Atoll, Kingman Reef, Palmyra Atoll, Jarvis, Howland, Baker, and Wake Islands, amounts received by the Secretary attributable to fines and penalties imposed under this Act, shall be deposited into the Western Pacific Sustainable Fisheries Fund established under paragraph (7) of this subsection.".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

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

"SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary to carry out the provisions of this Act—

"(1) $337,844,000 for fiscal year 2007;
"(2) $347,684,000 for fiscal year 2008;
"(3) $357,524,000 for fiscal year 2009;
"(4) $367,364,000 for fiscal year 2010;
"(5) $377,204,000 for fiscal year 2011;
"(6) $387,044,000 for fiscal year 2012; and
"(7) $396,875,000 for fiscal year 2013.".

TITLE I—CONSERVATION AND MANAGEMENT

SEC. 101. CUMULATIVE IMPACTS.

(a) NATIONAL STANDARDS.—Section 301(a)(8) (16 U.S.C. 1851(a)(8)) is amended by inserting "by utilizing economic and social data that meet the requirements of paragraph (2)," after "fishing communities".

(b) CONTENTS OF PLANS.—Section 303(a)(9) (16 U.S.C. 1853(a)(9)) is amended by striking "describe the likely effects, if any, of the conservation and management measures on—" and inserting "analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for—".

SEC. 102. CARIBBEAN COUNCIL JURISDICTION.

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

SEC. 103. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) TRIBAL ALTERNATE ON PACIFIC COUNCIL.—Section 302(b)(5) (16 U.S.C. 1852(b)(5)) is amended by adding at the end thereof the following:

"(D) The tribal representative appointed under subparagraph (A) may designate as an alternate, during the period of the representative's term, an individual knowledgeable concerning tribal rights, tribal law, and the fishery resources of the geographical area concerned.".

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

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

"(g) COMMITTEES AND ADVISORY PANELS.—

"(1)(A) Each Council shall establish, maintain, and appoint the members of a scientific and statistical committee to assist it in the development, collection, evaluation, and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.

"(B) Each scientific and statistical committee shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices.

"(C) Members appointed by the Councils to the scientific and statistical committees shall be Federal employees, State employees, academicians, or independent experts and shall have strong scientific or technical credentials and experience.

"(D) Each member of a scientific and statistical committee shall be treated as an affected individual for purposes of paragraphs (2), (3)(B), (4), and (5)(A) of subsection (j). The Secretary shall keep disclosures made pursuant to this subparagraph on file.

"(E) The Secretary and each Council may establish a peer review process for that Council for scientific information used to advise the Council about the conservation and management of the fishery. The review process, which may include existing committees or panels, is deemed to satisfy the requirements of the guidelines issued pursuant to section 515 of the Treasury and General Government Appropriations Act for Fiscal year 2001 (Public Law 106–554—Appendix C; 114 Stat. 2763A–153).

"(F) In addition to the provisions of section 302(f)(7), the Secretary shall, subject to the availability of appropriations, pay a stipend to members of the scientific and statistical committees or advisory panels who are not employed by the Federal Government or a State marine fisheries agency.

"(G) A science and statistical committee shall hold its meetings in conjunction with the meeting of the Council, to the extent practicable.".

(2) by striking "other" in paragraph (2); and

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

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

(1) by striking "authority, and" in paragraph (5) and inserting "authority;";

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

"(6) develop annual catch limits for each of its managed fisheries that may not exceed the fishing level recommendations of its scientific and statistical committee or the peer review process established under subsection (g); and".

(d) SCIENTIFIC RESEARCH PRIORITIES.—Section 302(h) (16 U.S.C. 1852(h)), as amended by subsection (c), is further amended—

(1) by striking "(g); and" in paragraph (6) and inserting "(g);";

(2) by redesignating paragraph (7), as redesignated by subsection (c)(2), as paragraph (8);

(2) by inserting after paragraph (6) the following:

"(7) develop, in conjunction with the scientific and statistical committee, multi-year research priorities for fisheries, fisheries interactions, habitats, and other areas of research that are necessary for management purposes, that shall—

"(A) establish priorities for 5-year periods;

"(B) be updated as necessary; and

"(C) be submitted to the Secretary and the regional science centers of the National Marine Fisheries Service for their consideration in developing research priorities and budgets for the region of the Council; and".

(e) REGULAR AND EMERGENCY MEETINGS.—Section 302(i)(2)(C) (16 U.S.C. 1852(i)(2)(C)) is amended by striking "published in local newspapers in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery) and such notice may be given by such other means as will result in wide publicity." and inserting "provided by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient.".

(f) CLOSED MEETINGS.—Section 302(i)(3)(B) (16 U.S.C. 1852(i)(3)(B)) is amended by striking "notify local newspapers in the major fishing ports within its region (and in other major, affected fishing ports," and inserting "provide notice by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient,".

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

"(k) COUNCIL TRAINING PROGRAM.—

"(1) TRAINING COURSE.—Within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with the Councils and the National Sea Grant College Program, shall develop a training course for newly appointed Council members. The course may cover a variety of topics relevant to matters before the Councils, including—

"(A) fishery science and basic stock assessment methods;

"(B) fishery management techniques, data needs, and Council procedures;

"(C) social science and fishery economics;

"(D) tribal treaty rights and native customs, access, and other rights related to Western Pacific indigenous communities;

"(E) legal requirements of this Act, including conflict of interest and disclosure provisions of this section and related policies;

"(F) other relevant legal and regulatory requirements, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.);

"(G) public process for development of fishery management plans;

"(H) other topics suggested by the Council; and

"(I) recreational and commercial fishing information, including fish harvesting techniques, gear types, fishing vessel types, and economics for the fisheries within each Council's jurisdiction.

"(2) MEMBER TRAINING.—The training course shall be available to both new and existing Council members, staff from the regional offices and regional science centers of the National Marine Fisheries Service, and may be made available to committee or advisory panel members as resources allow.

"(3) REQUIRED TRAINING.—Council members appointed after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 shall complete a training course that meets the requirements of this section not later than 1 year after the date on which they were appointed. Any Council member who has completed a training course within 24 months before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 shall be considered to have met the training requirement of this paragraph.

"(l) COUNCIL COORDINATION COMMITTEE.—The Councils may establish a Council coordination committee consisting of the chairs, vice chairs, and executive directors of each of the 8 Councils described in subsection (a)(1), or other Council members or staff, in order to discuss issues of relevance to all Councils, including issues related to the implementation of this Act.".

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

(1) by striking "to the Councils or to the scientific and statistical committees or advisory panels established under subsection (g)." in paragraph (1) and inserting "to the Councils, the Council coordination committee established under subsection (l), or to the scientific and statistical committees or other committees or advisory panels established under subsection (g).";

(2) by striking "of a Council, and of the scientific and statistical committee and advisory panels established under subsection (g):" in paragraph (2) and inserting "of a Council, of the Council coordination committee established under subsection (l), and of the scientific and statistical committees or other committees or advisory panels established under subsection (g):"; and

(3) by inserting "the Council Coordination Committee established under subsection (l)," in paragraph (3)(A) after "Council,"; and

(4) by inserting "other committees," in paragraph (3)(A) after "committee,".

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

(1) by inserting "lobbying, advocacy," after "processing," in paragraph (2);

(2) by striking "jurisdiction." in paragraph (2) and inserting "jurisdiction, or with respect to an individual or organization with a financial interest in such activity.";

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

"(B) be kept on file by the Council and made available on the Internet and for public inspection at the Council offices during reasonable hours; and"; and

(4) by adding at the end the following:

"(9) On January 1, 2008, and annually thereafter, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on action taken by the Secretary and the Councils to implement the disclosure of financial interest and recusal requirements of this subsection, including identification of any conflict of interest problems with respect to the Councils and scientific and statistical committees and recommendations for addressing any such problems.".

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

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by inserting after subparagraph (C) the following:

"(D)(i) The Governor of a State submitting a list of names of individuals for appointment by the Secretary of Commerce to the Gulf of Mexico Fisheries Management Council under subparagraph (C) shall include—

"(I) at least 1 nominee each from the commercial, recreational, and charter fishing sectors; and

"(II) at least 1 other individual who is knowledgeable regarding the conservation and management of fisheries resources in the jurisdiction of the Council.

"(ii) Notwithstanding the requirements of subparagraph (C), if the Secretary determines that the list of names submitted by the Governor does not meet the requirements of clause (i) the Secretary shall—

"(I) publish a notice in the Federal Register asking the residents of that State to submit the names and pertinent biographical data of individuals who would meet the requirement not met for appointment to the Council; and

"(II) add the name of any qualified individual submitted by the public who meets the unmet requirement to the list of names submitted by the Governor.

"(iii) For purposes of clause (i) an individual who owns or operates a fish farm outside of the United States shall not be considered to be a representative of the commercial or recreational fishing sector.

"(iv) The requirements of this subparagraph shall expire at the end of fiscal year 2012.".

SEC. 104. FISHERY MANAGEMENT PLAN REQUIREMENTS.

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

(1) by striking "and charter fishing" in paragraph (5) and inserting "charter fishing, and fish processing";

(2) by inserting "economic information necessary to meet the requirements of this Act," in paragraph (5) after "number of hauls,";

(3) by striking "and" after the semicolon in paragraph (9)(A);

(4) by inserting "and" after the semicolon in paragraph (9)(B);

(5) by inserting after paragraph (9)(B) the following:

"(C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;";

(6) by striking "fishery" the first place it appears in paragraph (13) and inserting "fishery, including its economic impact,";

(7) by striking "and" after the semicolon in paragraph (13);

(8) by striking "allocate" in paragraph (14) and inserting "allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector,";

(9) by striking "fishery." in paragraph (14) and inserting "fishery and;"; and

(10) by adding at the end the following:

"(15) establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.".

(b) EFFECTIVE DATES; APPLICATION TO CERTAIN SPECIES.—The amendment made by subsection (a)(10)—

(1) shall, unless otherwise provided for under an international agreement in which the United States participates, take effect—

(A) in fishing year 2010 for fisheries determined by the Secretary to be subject to overfishing; and

(B) in fishing year 2011 for all other fisheries; and

(2) shall not apply to a fishery for species that have a life cycle of approximately 1 year unless the Secretary has determined the fishery is subject to overfishing of that species; and

(3) shall not limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(1) or 1854(e), respectively).

(c) CLARIFICATION OF REBUILDING PROVISION.—Section 304(e) (16 U.S.C. 1854(e)) is amended—

(1) by striking "one year of" in paragraph (3) and inserting "2 years after";

(2) by inserting "and implement" after "prepare" in paragraph (3);

(3) by inserting "immediately" after "overfishing" in paragraph (3)(A);

(4) by striking "ending overfishing and" in paragraph (4)(A); and

(5) by striking "one-year" in paragraph (5) and inserting "2-year".

(d) EFFECTIVE DATE FOR SUBSECTION (c).—The amendments made by subsection (c) shall take effect 30 months after the date of enactment of this Act.

SEC. 105. FISHERY MANAGEMENT PLAN DISCRETIONARY PROVISIONS.

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

(1) by inserting "(A)" after "(2)" in paragraph (2);

(2) by inserting after paragraph (2) the following:

"(B) designate such zones in areas where deep sea corals are identified under section 408, to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals, after considering long-term sustainable uses of fishery resources in such areas; and

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

"(i) is based on the best scientific information available;

"(ii) includes criteria to assess the conservation benefit of the closed area;

"(iii) establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and

"(iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation;";

(3) by striking "fishery;" in paragraph (5) and inserting "fishery and take into account the different circumstances affecting fisheries from different States and ports, including distances to fishing grounds and proximity to time and area closures;";

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

"(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

"(A) present participation in the fishery;

"(B) historical fishing practices in, and dependence on, the fishery;

"(C) the economics of the fishery;

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

"(E) the cultural and social framework relevant to the fishery and any affected fishing communities;

"(F) the fair and equitable distribution of access privileges in the fishery; and

"(G) any other relevant considerations;";

(5) by striking "(other than economic data)" in paragraph (7);

(6) by striking "and" after the semicolon in paragraph (11); and

(7) by redesignating paragraph (12) as paragraph (14) and inserting after paragraph (11) the following:

"(12) include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations; and".

SEC. 106. LIMITED ACCESS PRIVILEGE PROGRAMS.

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

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

(2) by inserting after section 303 the following:

"SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.

"(a) IN GENERAL.—After the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, a Council may submit, and the Secretary may approve, for a fishery that is managed under a limited access system, a limited access privilege program to harvest fish if the program meets the requirements of this section.

"(b) NO CREATION OF RIGHT, TITLE, OR INTEREST.—Limited access privilege, quota share, or other limited access system authorization established, implemented, or managed under this Act—

"(1) shall be considered a permit for the purposes of sections 307, 308, and 309;

"(2) may be revoked, limited, or modified at any time in accordance with this Act, including revocation if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;

"(3) shall not confer any right of compensation to the holder of such limited access privilege, quota share, or other such limited access system authorization if it is revoked, limited, or modified;

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

"(5) shall be considered a grant of permission to the holder of the limited access privilege or quota share to engage in activities permitted by such limited access privilege or quota share.

"(c) REQUIREMENTS FOR LIMITED ACCESS PRIVILEGES.—

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

"(A) if established in a fishery that is overfished or subject to a rebuilding plan, assist in its rebuilding;

"(B) if established in a fishery that is determined by the Secretary or the Council to have over-capacity, contribute to reducing capacity;

"(C) promote—

"(i) fishing safety;

"(ii) fishery conservation and management; and

"(iii) social and economic benefits;

"(D) prohibit any person other than a United States citizen, a corporation, partnership, or other entity established under the laws of the United States or any State, or a permanent resident alien, that meets the eligibility and participation requirements established in the program from acquiring a privilege to harvest fish, including any

person that acquires a limited access privilege solely for the purpose of perfecting or realizing on a security interest in such privilege;

"(E) require that all fish harvested under a limited access privilege program be processed on vessels of the United States or on United States soil (including any territory of the United States);

"(F) specify the goals of the program;

"(G) include provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, including determining progress in meeting the goals of the program and this Act, and any necessary modification of the program to meet those goals, with a formal and detailed review 5 years after the implementation of the program and thereafter to coincide with scheduled Council review of the relevant fishery management plan (but no less frequently than once every 7 years);

"(H) include an effective system for enforcement, monitoring, and management of the program, including the use of observers or electronic monitoring systems;

"(I) include an appeals process for administrative review of the Secretary's decisions regarding initial allocation of limited access privileges;

"(J) provide for the establishment by the Secretary, in consultation with appropriate Federal agencies, for an information collection and review process to provide any additional information needed to determine whether any illegal acts of anti-competition, anti-trust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges under the program; and

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

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

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

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

"(3) FISHING COMMUNITIES.—

"(A) IN GENERAL.—

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

"(I) be located within the management area of the relevant Council;

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

"(III) consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council's management area; and

"(IV) develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social

and economic development needs of coastal communities, including those that have not historically had the resources to participate in the fishery, for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

"(ii) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section for any person who fails to comply with the requirements of the community sustainability plan. Any limited access privileges denied or revoked under this section may be reallocated to other eligible members of the fishing community.

"(B) PARTICIPATION CRITERIA.—In developing participation criteria for eligible communities under this paragraph, a Council shall consider—

"(i) traditional fishing or processing practices in, and dependence on, the fishery;

"(ii) the cultural and social framework relevant to the fishery;

"(iii) economic barriers to access to fishery;

"(iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;

"(v) the expected effectiveness, operational transparency, and equitability of the community sustainability plan; and

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

"(4) REGIONAL FISHERY ASSOCIATIONS.—

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

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

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

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

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

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

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

"(B) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section to any person participating in a regional fishery association who fails to comply with the requirements of the regional fishery association plan.

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

"(i) traditional fishing or processing practices in, and dependence on, the fishery;

"(ii) the cultural and social framework relevant to the fishery;

"(iii) economic barriers to access to fishery;

"(iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;

"(v) the administrative and fiduciary soundness of the association; and

"(vi) the expected effectiveness, operational transparency, and equitability of the fishery association plan.

"(5) ALLOCATION.—In developing a limited access privilege program to harvest fish a Council or the Secretary shall—

"(A) establish procedures to ensure fair and equitable initial allocations, including consideration of—

"(i) current and historical harvests;

"(ii) employment in the harvesting and processing sectors;

"(iii) investments in, and dependence upon, the fishery; and

"(iv) the current and historical participation of fishing communities;

"(B) consider the basic cultural and social framework of the fishery, especially through—

"(i) the development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, including regional or port-specific landing or delivery requirements; and

"(ii) procedures to address concerns over excessive geographic or other consolidation in the harvesting or processing sectors of the fishery;

"(C) include measures to assist, when necessary and appropriate, entry-level and small vessel owner-operators, captains, crew, and fishing communities through set-asides of harvesting allocations, including providing privileges, which may include set-asides or allocations of harvesting privileges, or economic assistance in the purchase of limited access privileges;

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

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

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

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

"(6) PROGRAM INITIATION.—

"(A) LIMITATION.—Except as provided in subparagraph (D), a Council may initiate a fishery management plan or amendment to establish a limited access privilege program to harvest fish on its own initiative or if the Secretary has certified an appropriate petition.

"(B) PETITION.—A group of fishermen constituting more than 50 percent of the permit holders, or holding more than 50 percent of the allocation, in the fishery for which a limited access privilege program to harvest fish is sought, may submit a petition to the Secretary requesting that the relevant Council or Councils with authority over the fishery be authorized to initiate the development of the program. Any such petition shall clearly state the fishery to which the limited access privilege program would apply. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the limited access program shall be eligible to sign a petition for such a program and shall serve as the basis for determining the percentage described in the first sentence of this subparagraph.

"(C) CERTIFICATION BY SECRETARY.—Upon the receipt of any such petition, the Secretary shall review all of the signatures on the petition and, if the Secretary determines that the signatures on the petition represent more than 50 percent of the permit holders, or holders of more than 50 percent of the allocation in the fishery, as described by subparagraph (B), the Secretary shall certify the petition to the appropriate Council or Councils.

"(D) NEW ENGLAND AND GULF REFERENDUM.—

"(i) Except as provided in clause (iii) for the Gulf of Mexico commercial red snapper fishery, the New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than ⅔ of those voting in a referendum among eligible permit holders, or other persons described in clause (v), with respect to the New England Council, and by a majority of those voting in the referendum among eligible permit holders with

respect to the Gulf Council. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum. If an individual fishing quota program fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

"(ii) The Secretary shall conduct a referendum under this subparagraph, including notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures, and eligibility requirements for the referendum process and the proposed individual fishing quota program. Within 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

"(iii) The provisions of section 407(c) of this Act shall apply in lieu of this subparagraph for an individual fishing quota program for the Gulf of Mexico commercial red snapper fishery.

"(iv) Chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) does not apply to the referenda conducted under this subparagraph.

"(v) The Secretary shall promulgate criteria for determining whether additional fishery participants are eligible to vote in the New England referendum described in clause (i) in order to ensure that crew members who derive a significant percentage of their total income from the fishery under the proposed program are eligible to vote in the referendum.

"(vi) In this subparagraph, the term 'individual fishing quota' does not include a sector allocation.

"(7) TRANSFERABILITY.—In establishing a limited access privilege program, a Council shall—

"(A) establish a policy and criteria for the transferability of limited access privileges (through sale or lease), that is consistent with the policies adopted by the Council for the fishery under paragraph (5); and

"(B) establish, in coordination with the Secretary, a process for monitoring of transfers (including sales and leases) of limited access privileges.

"(8) PREPARATION AND IMPLEMENTATION OF SECRETARIAL PLANS.—This subsection also applies to a plan prepared and implemented by the Secretary under section 304(c) or 304(g).

"(9) ANTITRUST SAVINGS CLAUSE.—Nothing in this Act shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of the preceding sentence, the term 'antitrust laws' has the meaning given such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade

Commission Act to the extent that such section 5 applies to unfair methods of competition.

"(d) AUCTION AND OTHER PROGRAMS.—In establishing a limited access privilege program, a Council shall consider, and may provide, if appropriate, an auction system or other program to collect royalties for the initial, or any subsequent, distribution of allocations in a limited access privilege program if—

"(1) the system or program is administered in such a way that the resulting distribution of limited access privilege shares meets the program requirements of this section; and

"(2) revenues generated through such a royalty program are deposited in the Limited Access System Administration Fund established by section 305(h)(5)(B) and available subject to annual appropriations.

"(e) COST RECOVERY.—In establishing a limited access privilege program, a Council shall—

"(1) develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the program; and

"(2) provide, under section 304(d)(2), for a program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.

"(f) CHARACTERISTICS.—A limited access privilege established after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 is a permit issued for a period of not more than 10 years that—

"(1) will be renewed before the end of that period, unless it has been revoked, limited, or modified as provided in this subsection;

"(2) will be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have failed to comply with any term of the plan identified in the plan as cause for revocation, limitation, or modification of a permit, which may include conservation requirements established under the plan;

"(3) may be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have committed an act prohibited by section 307 of this Act; and

"(4) may be acquired, or reacquired, by participants in the program under a mechanism established by the Council if it has been revoked, limited, or modified under paragraph (2) or (3).

"(g) LIMITED ACCESS PRIVILEGE ASSISTED PURCHASE PROGRAM.—

"(1) IN GENERAL.—A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 53706(a)(7) of title 46, United States Code, to issue obligations that aid in financing—

"(A) the purchase of limited access privileges in that fishery by fishermen who fish from small vessels; and

"(B) the first-time purchase of limited access privileges in that fishery by entry level fishermen.

"(2) ELIGIBILITY CRITERIA.—A Council making a submission under paragraph (1) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under subparagraphs (A) and (B) of paragraph (1) and the portion of funds to be allocated for guarantees under each subparagraph.

"(h) EFFECT ON CERTAIN EXISTING SHARES AND PROGRAMS.—Nothing in this Act, or the amendments made by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, shall be construed to require a reallocation or a reevaluation of individual quota shares, processor quota shares, cooperative programs, or other quota programs, including sector allocation in effect before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

"(i) TRANSITION RULES.—

"(1) IN GENERAL.—The requirements of this section shall not apply to any quota program, including any individual quota program, cooperative program, or sector allocation for which a Council has taken final action or which has been submitted by a Council to the Secretary, or approved by the Secretary, within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, except that—

"(A) the requirements of section 303(d) of this Act in effect on the day before the date of enactment of that Act shall apply to any such program;

"(B) the program shall be subject to review under subsection (c)(1)(G) of this section not later than 5 years after the program implementation; and

"(C) nothing in this subsection precludes a Council from incorporating criteria contained in this section into any such plans.

"(2) PACIFIC GROUNDFISH PROPOSALS.—The requirements of this section, other than subparagraphs (A) and (B) of subsection (c)(1) and subparagraphs (A), (B), and (C) of paragraph (1) of this subsection, shall not apply to any proposal authorized under section 302(f) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 that is submitted within the timeframe prescribed by that section.".

(b) FEES.—Section 304(d)(2)(A) (16 U.S.C. 1854(d)(2)(A)) is amended by striking "management and enforcement" and inserting "management, data collection, and enforcement".

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

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

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

SEC. 107. ENVIRONMENTAL REVIEW PROCESS.

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

"(i) ENVIRONMENTAL REVIEW PROCESS.—

"(1) PROCEDURES.—The Secretary shall, in consultation with the Councils and the Council on Environmental Quality, revise and update agency procedures for compliance with the National Environmental Policy Act (42 U.S.C. 4231 et seq.). The procedures shall—

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

"(B) integrate applicable environmental analytical procedures, including the time frames for public input, with the procedure for the preparation and dissemination of fishery management plans, plan amendments, and other actions taken or approved pursuant to this Act in order to provide for timely, clear and concise analysis that is useful to decision makers and the public, reduce extraneous paperwork, and effectively involve the public.

"(2) USAGE.—The updated agency procedures promulgated in accordance with this section used by the Councils or the Secretary shall be the sole environmental impact assessment procedure for fishery management plans, amendments, regulations, or other actions taken or approved pursuant to this Act.

"(3) SCHEDULE FOR PROMULGATION OF FINAL PROCEDURES.—The Secretary shall—

"(A) propose revised procedures within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006;

"(B) provide 90 days for public review and comments; and

"(C) promulgate final procedures no later than 12 months after the date of enactment of that Act.

"(4) PUBLIC PARTICIPATION.—The Secretary is authorized and directed, in cooperation with the Council on Environmental Quality and the Councils, to involve the affected public in the development of revised procedures, including workshops or other appropriate means of public involvement.".

SEC. 108. EMERGENCY REGULATIONS.

(a) LENGTHENING OF SECOND EMERGENCY PERIOD.—Section 305(c)(3)(B) (16 U.S.C. 1855(c)(3)(B)) is amended by striking "180 days," the second time it appears and inserting "186 days,".

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

SEC. 109. WESTERN PACIFIC AND NORTH PACIFIC COMMUNITY DEVELOPMENT.

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

"(j) WESTERN PACIFIC AND NORTHERN PACIFIC REGIONAL MARINE EDUCATION AND TRAINING.—

"(1) IN GENERAL.—The Secretary shall establish a pilot program for regionally-based marine education and training programs in the Western Pacific and the Northern Pacific to foster understanding, practical use of knowledge (including native Hawaiian, Alaskan Native, and other Pacific Islander-based knowledge), and technical expertise relevant to stewardship of living marine resources. The Secretary shall, in cooperation with the Western Pacific and the North Pacific Regional Fishery Management Councils, regional educational institutions, and local Western Pacific and Northern Pacific community training entities, establish programs or projects that will improve communication, education, and training on marine resource issues throughout the region and increase scientific education for marine-related professions among coastal community residents, including indigenous Pacific islanders, Native Hawaiians, Alaskan Natives, and other underrepresented groups in the region.

"(2) PROGRAM COMPONENTS.—The program shall—

"(A) include marine science and technology education and training programs focused on preparing community residents for employment in marine related professions, including marine resource conservation and management, marine science, marine technology, and maritime operations;

"(B) include fisheries and seafood-related training programs, including programs for fishery observers, seafood safety and seafood marketing, focused on increasing the involvement of coastal community residents in fishing, fishery management, and seafood-related operations;

"(C) include outreach programs and materials to educate and inform consumers about the quality and sustainability of wild fish or fish products farmed through responsible aquaculture, particularly in Hawaii, Alaska, the Western Pacific, the Northern Pacific, and the Central Pacific;

"(D) include programs to identify, with the fishing industry, methods and technologies that will improve the data collection, quality, and reporting and increase the sustainability of fishing practices, and to transfer such methods and technologies among fisheries sectors and to other nations in the Western, Northern, and Central Pacific;

"(E) develop means by which local and traditional knowledge (including Pacific islander, Native Hawaiian, and Alaskan Native knowledge) can enhance science-based management of fishery resources of the region; and

"(F) develop partnerships with other Western Pacific Island and Alaskan agencies, academic institutions, and other entities to meet the purposes of this section.".

SEC. 110. SECRETARIAL ACTION ON STATE GROUNDFISH FISHING.

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

"(k) MULTISPECIES GROUNDFISH.—

"(1) IN GENERAL.—Within 60 days after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary of Commerce shall determine whether fishing in State waters—

"(A) without a New England multispecies groundfish fishery permit on regulated species within the multispecies complex is not consistent with the applicable Federal fishery management plan; or

"(B) without a Federal bottomfish and seamount groundfish permit in the Hawaiian archipelago on regulated species within the complex is not consistent with the applicable Federal fishery management plan or State data are not sufficient to make such a determination.

"(2) CURE.—If the Secretary makes a determination that such actions are not consistent with the plan, the Secretary shall, in consultation with the Council, and after notifying the affected State, develop and implement measures to cure the inconsistency pursuant to section 306(b).".

SEC. 111. JOINT ENFORCEMENT AGREEMENTS.

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

(1) by striking "and" after the semicolon in subsection (b)(1)(A)(iv);

(2) by inserting "and" after the semicolon in subsection (b)(1)(A)(v);

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

"(vi) access, directly or indirectly, for enforcement purposes any data or information required to be provided under this title or regulations under this title, including data from vessel monitoring systems, satellite-based maritime distress and safety systems, or any similar system, subject to the confidentiality provisions of section 402;";

(4) by redesignating subsection (h) as subsection (j); and

(5) by inserting after subsection (g) the following:

"(h) JOINT ENFORCEMENT AGREEMENTS.—

"(1) IN GENERAL.—The Governor of an eligible State may apply to the Secretary for execution of a joint enforcement agreement with the Secretary that will authorize the deputization and funding of State law enforcement officers with marine law enforcement responsibilities to perform duties of the Secretary relating to law enforcement provisions under this title or any other marine resource law enforced by the Secretary. Upon receiving an application meeting the requirements of this subsection, the Secretary may enter into a joint enforcement agreement with the requesting State.

"(2) ELIGIBLE STATE.—A State is eligible to participate in the cooperative enforcement agreements under this section if it is in, or bordering on, the Atlantic Ocean (including the Caribbean Sea), the Pacific Ocean, the Arctic Ocean, the Gulf

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

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

"(A) shall be consistent with the purposes and intent of this section to the extent applicable to the regulated activities;

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

"(C) shall provide for confidentiality of data and information submitted to the State under section 402.

"(4) ALLOCATION OF FUNDS.—The Secretary shall include in each joint enforcement agreement an allocation of funds to assist in management of the agreement. The allocation shall be fairly distributed among all eligible States participating in cooperative enforcement agreements under this subsection, based upon consideration of Federal marine enforcement needs, the specific marine conservation enforcement needs of each participating eligible State, and the capacity of the State to undertake the marine enforcement mission and assist with enforcement needs. The agreement may provide for amounts to be withheld by the Secretary for the cost of any technical or other assistance provided to the State by the Secretary under the agreement.

"(i) IMPROVED DATA SHARING.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, as soon as practicable but no later than 21 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall implement data-sharing measures to make any data required to be provided by this Act from satellite-based maritime distress and safety systems, vessel monitoring systems, or similar systems—

"(A) directly accessible by State enforcement officers authorized under subsection (a) of this section; and

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

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

"(A) the Attorney General or highest ranking legal officer of the State provides a written opinion or certification that State law allows the State to maintain the confidentiality of information required by Federal law to be kept confidential; or

"(B) the Secretary is provided other reasonable assurance that the State can and will protect the identity or business of any person to which such information relates.".

(b) REPORT.—Within 15 months after the date of enactment of this Act, the National Marine Fisheries Service and the United States Coast Guard shall transmit a joint report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources containing—

(1) a cost-to-benefit analysis of the feasibility, value, and cost of using vessel monitoring systems, satellite-based maritime distress and safety systems, or similar systems for fishery management, conservation, enforcement, and safety purposes with the Federal government bearing the capital costs of any such system;

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

(3) an examination of whether satellite-based maritime distress and safety systems, or similar requirements would overlap existing requirements or render them redundant;

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

(5) an examination of how to maximize the data-sharing opportunities between relevant State and Federal agencies and provide specific information on how to develop these opportunities, including the provision of direct access to satellite-based maritime distress and safety system or similar system data to State enforcement officers, while considering the need to maintain or provide an appropriate level of individual vessel confidentiality where practicable; and

(6) an assessment of how the satellite-based maritime distress and safety system or similar systems could be developed, purchased, and distributed to regulated vessels.

SEC. 112. TRANSITION TO SUSTAINABLE FISHERIES.

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

(1) by striking "measures;" in subsection (a)(1)(B) and inserting "measures, including regulatory restrictions (including those imposed as a result of judicial action) imposed to protect human health or the marine environment;";

(2) by striking "1996, 1997, 1998, and 1999." in subsection (a)(4) and inserting "2007 through 2013.";

(3) by striking "or the Governor of a State for fisheries under State authority, may conduct a fishing" in subsection (b)(1) and inserting "the Governor of a State for fisheries under State authority, or a majority of permit holders in the fishery, may conduct a voluntary fishing";

(4) by inserting "practicable" after "entrants," in subsection (b)(1)(B)(i);

(5) by striking "cost-effective and" in subsection (b)(1)(C) and inserting "cost-effective and, in the instance of a program involving an industry fee system, prospectively";

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

"(A) the owner of a fishing vessel, if the permit authorizing the participation of the vessel in the fishery is surrendered for permanent revocation and the vessel owner and permit holder relinquish any claim associated with the vessel or permit that could qualify such owner or holder for any present or future limited access system permit in the fishery for which the program is established or in any other fishery and such vessel is (i) scrapped, or (ii) through the Secretary of the department in which the Coast Guard is operating, subjected to title restrictions (including loss of the vessel's fisheries endorsement) that permanently prohibit and effectively prevent its

use in fishing in federal or state waters, or fishing on the high seas or in the waters of a foreign nation; or";

(7) by striking "The Secretary shall consult, as appropriate, with Councils," in subsection (b)(4) and inserting "The harvester proponents of each program and the Secretary shall consult, as appropriate and practicable, with Councils,";

(8) by adding at the end of subsection (b) the following:

"(5) PAYMENT CONDITION.—The Secretary may not make a payment under paragraph (2) with respect to a vessel that will not be scrapped unless the Secretary certifies that the vessel will not be used for fishing in the waters of a foreign nation or fishing on the high seas.

"(6) REPORT.—

"(A) IN GENERAL.—Subject to the availability of funds, the Secretary shall, within 12 months after the date of the enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 submit to the Congress a report—

"(i) identifying and describing the 20 fisheries in United States waters with the most severe examples of excess harvesting capacity in the fisheries, based on value of each fishery and the amount of excess harvesting capacity as determined by the Secretary;

"(ii) recommending measures for reducing such excess harvesting capacity, including the retirement of any latent fishing permits that could contribute to further excess harvesting capacity in those fisheries; and

"(iii) potential sources of funding for such measures.

"(B) BASIS FOR RECOMMENDATIONS.—The Secretary shall base the recommendations made with respect to a fishery on—

"(i) the most cost effective means of achieving voluntary reduction in capacity for the fishery using the potential for industry financing; and

"(ii) including measures to prevent the capacity that is being removed from the fishery from moving to other fisheries in the United States, in the waters of a foreign nation, or on the high seas.";

(9) by striking "Secretary, at the request of the appropriate Council," in subsection (d)(1)(A) and inserting "Secretary";

(10) by striking "Secretary, in consultation with the Council," in subsection (d)(1)(A) and inserting "Secretary";

(11) by striking "a two-thirds majority of the participants voting." in subsection (d)(1)(B) and inserting "at least a majority of the permit holders in the fishery, or 50 percent of the permitted allocation of the fishery, who participated in the fishery.";

(12) by striking "establish;" in subsection (d)(2)(C) and inserting "establish, unless the Secretary determines that such fees should be collected from the seller;"; and

(13) striking subsection (e) and inserting the following:

"(e) IMPLEMENTATION PLAN.—

"(1) FRAMEWORK REGULATIONS.—The Secretary shall propose and adopt framework regulations applicable to the implementation of all programs under this section.

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

"(3) HARVESTER PROPONENTS' IMPLEMENTATION PLAN.—The Secretary may not propose implementation regulations for a program to be paid for by an industry fee system until the harvester proponents of the program provide to the Secretary a proposed implementation plan that, among other matters—

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

"(i) the requirements of this section;

"(ii) the requirements of the framework regulations;

"(iii) the characteristics of the fishery and affected fishing communities;

"(iv) the requirements of the applicable fishery management plan and any amendment that such plan may require to support the proposed program;

"(v) the general needs and desires of harvesters in the fishery;

"(vi) the need to minimize program costs; and

"(vii) other matters, including the manner in which such proponents propose to fund the program to ensure its cost effectiveness, as well as any relevant factors demonstrating the potential for, or necessary to obtain, the support and general cooperation of a substantial number of affected harvesters in the fishery (or portion of the fishery) for which the program is intended; and

"(B) proposes procedures for program participation (such as submission of owner bids under an auction system or fair market-value assessment), including any terms and conditions for participation, that the harvester proponents deem to be reasonably necessary to meet the program's proposed objectives.

"(4) PARTICIPATION CONTRACTS.—The Secretary shall contract with each person participating in a program, and each such contract shall, in addition to including such other matters as the Secretary deems necessary and appropriate to effectively implement each program (including penalties for contract nonperformance) be consistent with the framework and implementing regulations and all other applicable law.

"(5) REDUCTION AUCTIONS.—Each program not involving fair market assessment shall involve a reduction auction that scores the reduction price of each bid offer by the data relevant to each bidder under an appropriate fisheries productivity factor. If the Secretary accepts bids, the Secretary shall accept responsive bids in the rank order of their bid scores, starting with the bid whose reduction price is the lowest percentage of the productivity factor, and successively accepting each additional responsive bid in rank order until either there are no more responsive bids or acceptance of the next bid would cause the total value of bids accepted to exceed the amount of funds available for the program.

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

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

SEC. 113. REGIONAL COASTAL DISASTER ASSISTANCE, TRANSITION, AND RECOVERY PROGRAM.

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

"SEC. 315. REGIONAL COASTAL DISASTER ASSISTANCE, TRANSITION, AND RECOVERY PROGRAM.

"(a) IN GENERAL.—When there is a catastrophic regional fishery disaster the Secretary may, upon the request of, and in consultation with, the Governors of affected States, establish a regional economic transition program to provide immediate disaster relief assistance to the fishermen, charter fishing operators, United States fish processors, and owners of related fishery infrastructure affected by the disaster.

"(b) PROGRAM COMPONENTS.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the program shall provide funds or other economic assistance to affected entities, or to governmental entities for disbursement to affected entities, for—

"(A) meeting immediate regional shoreside fishery infrastructure needs, including processing facilities, cold storage facilities, ice houses, docks, including temporary docks and storage facilities, and other related shoreside fishery support facilities and infrastructure while ensuring that those projects will not result in an increase or replacement of fishing capacity;

"(B) financial assistance and job training assistance for fishermen who wish to remain in a fishery in the region that may be temporarily closed as a result of environmental or other effects associated with the disaster;

"(C) funding, pursuant to the requirements of section 312(b), to fishermen who are willing to scrap a fishing vessel and permanently surrender permits for fisheries named on that vessel; and

"(D) any other activities authorized under section 312 of this Act or section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)).

"(2) JOB TRAINING.—Any fisherman who decides to scrap a fishing vessel under the program shall be eligible for job training assistance.

"(3) STATE PARTICIPATION OBLIGATION.—The participation by a State in the program shall be conditioned upon a commitment by the appropriate State entity to ensure that the relevant State fishery meets the requirements of section 312(b) of this Act to ensure excess capacity does not re-enter the fishery.

"(4) NO MATCHING REQUIRED.—The Secretary may waive the matching requirements of section 312 of this Act, section

308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107), and any other provision of law under which the Federal share of the cost of any activity is limited to less than 100 percent if the Secretary determines that—

"(A) no reasonable means are available through which applicants can meet the matching requirement; and

"(B) the probable benefit of 100 percent Federal financing outweighs the public interest in imposition of the matching requirement.

"(5) NET REVENUE LIMIT INAPPLICABLE.—Section 308(d)(3) of the Interjurisdictional Fisheries Act (16 U.S.C. 4107(d)(3)) shall not apply to assistance under this section.

"(c) REGIONAL IMPACT EVALUATION.—Within 2 months after a catastrophic regional fishery disaster the Secretary shall provide the Governor of each State participating in the program a comprehensive economic and socio-economic evaluation of the affected region's fisheries to assist the Governor in assessing the current and future economic viability of affected fisheries, including the economic impact of foreign fish imports and the direct, indirect, or environmental impact of the disaster on the fishery and coastal communities.

"(d) CATASTROPHIC REGIONAL FISHERY DISASTER DEFINED.—In this section the term 'catastrophic regional fishery disaster' means a natural disaster, including a hurricane or tsunami, or a regulatory closure (including regulatory closures resulting from judicial action) to protect human health or the marine environment, that—

"(1) results in economic losses to coastal or fishing communities;

"(2) affects more than 1 State or a major fishery managed by a Council or interstate fishery commission; and

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

(b) SALMON PLAN AND STUDY.—

(1) RECOVERY PLAN.—Not later than 6 months after the date of enactment of this Act, the Secretary of Commerce shall complete a recovery plan for Klamath River Coho salmon and make it available to the public.

(2) ANNUAL REPORT.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Secretary of Commerce shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on—

(A) the actions taken under the recovery plan and other law relating to recovery of Klamath River Coho salmon, and how those actions are specifically contributing to its recovery;

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

(C) the status of other Klamath River anadromous fish populations, particularly Chinook salmon; and

(D) the actions taken by the Secretary to address the calendar year 2003 National Research Council recommendations regarding monitoring and research on Klamath River Basin salmon stocks.

(c) OREGON AND CALIFORNIA SALMON FISHERY.—Federally recognized Indian tribes and small businesses, including fishermen, fish processors, and related businesses serving the fishing industry, adversely affected by Federal closures and fishing restrictions in the Oregon and California 2006 fall Chinook salmon fishery are eligible to receive direct assistance under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a)) and section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)). The Secretary may use no more than 4 percent of any monetary assistance to pay for administrative costs.

SEC. 114. FISHERY FINANCE PROGRAM HURRICANE ASSISTANCE.

(a) LOAN ASSISTANCE.—Subject to availability of appropriations, the Secretary of Commerce shall provide assistance to eligible holders of fishery finance program loans and allocate such assistance among eligible holders based upon their outstanding principal balances as of December 2, 2005, for any of the following purposes:

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

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

(3) To pay the interest costs for such loans over fiscal years 2007 through 2013, not to exceed amounts authorized under subsection (d).

(4) To provide opportunities for loan forgiveness, as specified in subsection (c).

(b) LOAN FORGIVENESS.—Upon application made by an eligible holder of a fishery finance program loan, made at such time, in such manner, and containing such information as the Secretary may require, the Secretary, on a calendar year basis beginning in 2005, may, with respect to uninsured losses—

(1) offset against the outstanding balance on the loan an amount equal to the sum of the amounts expended by the holder during the calendar year to repair or replace covered vessels or facilities, or to invest in new fisheries infrastructure within or for use within the declared fisheries disaster area; or

(2) cancel the amount of debt equal to 100 hundred percent of actual expenditures on eligible repairs, reinvestment, expansion, or new investment in fisheries infrastructure in the disaster region, or repairs to, or replacement of, eligible fishing vessels.

(c) DEFINITIONS.—In this section:

(1) DECLARED FISHERIES DISASTER AREA.—The term "declared fisheries disaster area" means fisheries located in the major disaster area designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) as a result of Hurricane Katrina or Hurricane Rita.

(2) ELIGIBLE HOLDER.—The term "eligible holder" means the holder of a fishery finance program loan if—

(A) that loan is used to guarantee or finance any fishing vessel or fish processing facility home-ported or located within the declared fisheries disaster area; and

(B) the holder makes expenditures to repair or replace such covered vessels or facilities, or invests in new fisheries infrastructure within or for use within the declared fisheries disaster area, to restore such facilities following the disaster.

(3) FISHERY FINANCE PROGRAM LOAN.—The term "fishery finance program loan" means a loan made or guaranteed under the fishery finance program under chapter 537 of title 46, United States Code.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for the purposes of this section not more than $15,000,000 for each eligible holder for the period beginning with fiscal year 2007 through fiscal year 2013.

SEC. 115. FISHERIES HURRICANE ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary of Commerce shall establish an assistance program for the Gulf of Mexico commercial and recreational fishing industry.

(b) ALLOCATION OF FUNDS.—Under the program, the Secretary shall allocate funds appropriated to carry out the program among the States of Alabama, Louisiana, Florida, Mississippi, and Texas in proportion to the percentage of the fishery (including crawfish) catch landed by each State before August 29, 2005, except that the amount allocated to Florida shall be based exclusively on the proportion of such catch landed by the Florida Gulf Coast fishery.

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

(1) 2 percent shall be retained by the State to be used for the distribution of additional payments to fishermen with a demonstrated record of compliance with turtle excluder and bycatch reduction device regulations; and

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

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

(B) assistance for small businesses, including fishermen, fish processors, and related businesses serving the fishing industry;

(C) domestic product marketing and seafood promotion;

(D) State seafood testing programs;

(E) the development of limited entry programs for the fishery;

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

(G) voluntary capacity reduction programs for shrimp fisheries under limited access programs.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $17,500,000 for each of fiscal years 2007 through 2012 to carry out this section.

SEC. 116. BYCATCH REDUCTION ENGINEERING PROGRAM.

(a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.), as amended by section 113 of this Act, is further amended by adding at the end the following:

"SEC. 316. BYCATCH REDUCTION ENGINEERING PROGRAM.

"(a) BYCATCH REDUCTION ENGINEERING PROGRAM.—Not later than 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in cooperation with the Councils and other affected interests, and based upon the best scientific information available, shall establish a bycatch reduction program, including grants, to develop technological devices and other conservation engineering changes designed to minimize bycatch, seabird interactions, bycatch mortality, and post-release mortality in Federally managed fisheries. The program shall—

"(1) be regionally based;

"(2) be coordinated with projects conducted under the cooperative research and management program established under this Act;

"(3) provide information and outreach to fishery participants that will encourage adoption and use of technologies developed under the program; and

"(4) provide for routine consultation with the Councils in order to maximize opportunities to incorporate results of the program in Council actions and provide incentives for adoption of methods developed under the program in fishery management plans developed by the Councils.

"(b) INCENTIVES.—Any fishery management plan prepared by a Council or by the Secretary may establish a system of incentives to reduce total bycatch and seabird interactions, amounts, bycatch rates, and post-release mortality in fisheries under the Council's or Secretary's jurisdiction, including—

"(1) measures to incorporate bycatch into quotas, including the establishment of collective or individual bycatch quotas;

"(2) measures to promote the use of gear with verifiable and monitored low bycatch and seabird interactions, rates; and

"(3) measures that, based on the best scientific information available, will reduce bycatch and seabird interactions, bycatch mortality, post-release mortality, or regulatory discards in the fishery.

"(c) COORDINATION ON SEABIRD INTERACTIONS.—The Secretary, in coordination with the Secretary of Interior, is authorized to undertake projects in cooperation with industry to improve information and technology to reduce seabird bycatch, including—

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

"(2) projects to mitigate for seabird mortality; and

"(3) actions at appropriate international fishery organizations to reduce seabird interactions in fisheries.

"(d) REPORT.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources that—

"(1) describes funding provided to implement this section;

"(2) describes developments in gear technology achieved under this section; and

"(3) describes improvements and reduction in bycatch and seabird interactions associated with implementing this section, as well as proposals to address remaining bycatch or seabird interaction problems.".

(b) CDQ BYCATCH LIMITATIONS.—

(1) IN GENERAL.—Section 305(i) (16 U.S.C. 1855(i)) is amended—

(A) by striking "directed fishing allocation" and all that follows in paragraph (1)(B)(ii)(I), and inserting "total allocation (directed and nontarget combined) of 10.7 percent effective January 1, 2008; and";

(B) by striking "directed fishing allocation of 10 percent." in paragraph (1)(B)(ii)(II) and inserting "total allocation (directed and nontarget combined) of 10.7 percent.";

(C) by inserting after paragraph (1)(B)(ii) the following: "The total allocation (directed and nontarget combined) for a fishery to which subclause (I) or (II) applies may not be exceeded."; and

(D) by inserting "Voluntary transfers by and among eligible entities shall be allowed, whether before or after harvesting. Notwithstanding the first sentence of this subparagraph, seven-tenths of one percent of the total allowable catch, guideline harvest level, or other annual catch limit, within the amount allocated to the program by subclause (I) or subclause (II) of subparagraph (B)(ii), shall be allocated among the eligible entities by the panel established in subparagraph (G), or allocated by the Secretary based on the nontarget needs of eligible entities in the absence of a panel decision." after "2006." in paragraph (1)(C).

(2) EFFECTIVE DATE.—The allocation percentage in subclause (I) of section 305(i)(1)(B)(ii) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)(1)(B)(ii)), as amended by paragraph (1) of this subsection, shall be in effect in 2007 with respect to any sector of a fishery to which such subclause applies and in which a fishing cooperative is established in 2007, and such sector's 2007 allocation shall be reduced by a pro rata amount to accomplish such increased allocation to the program. For purposes of section 305(i)(1) of that Act and of this subsection, the term "fishing cooperative" means a fishing cooperative whether or not authorized by a fishery management council or Federal agency, if a majority of the participants in the sector are participants in the fishing cooperative.

SEC. 117. COMMUNITY-BASED RESTORATION PROGRAM FOR FISHERY AND COASTAL HABITATS.

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

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

(1) provide funding and technical expertise to fishery and coastal communities to assist them in restoring fishery and coastal habitat;

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

(3) transfer restoration technologies to the private sector, the public, and other governmental agencies;

(4) develop public-private partnerships to accomplish sound coastal restoration projects;

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

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

(7) leverage resources through national, regional, and local public-private partnerships.

SEC. 118. PROHIBITED ACTS.

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

(1) by striking "or" after the semicolon in subparagraph (O);

(2) by striking "carcass." in subparagraph (P) and inserting "carcass;"; and

(3) by inserting after subparagraph (P) and before the last sentence the following:

"(Q) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish taken, possessed, transported, or sold in violation of any foreign law or regulation; or

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

SEC. 119. SHARK FEEDING.

Title III (16 U.S.C. 1851 et seq.), as amended by section 116 of this Act, is further amended by adding at the end the following:

"SEC. 317. SHARK FEEDING.

"Except to the extent determined by the Secretary, or under State law, as presenting no public health hazard or safety risk, or when conducted as part of a research program funded in whole or in part by appropriated funds, it is unlawful to introduce, or attempt to introduce, food or any other substance into the water to attract sharks for any purpose other than to harvest sharks within the Exclusive Economic Zone seaward of the State of Hawaii and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean Area.".

SEC. 120. CLARIFICATION OF FLEXIBILITY.

(a) IN GENERAL.—The Secretary of Commerce has the discretion under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) to extend the time for rebuilding the summer flounder fishery to not later than January 1, 2013, only if—

(1) the Secretary has determined that—

(A) overfishing is not occurring in the fishery and that a mechanism is in place to ensure overfishing does not occur in the fishery; and

(B) stock biomass levels are increasing;

(2) the biomass rebuilding target previously applicable to such stock will be met or exceeded within the new time for rebuilding;

(3) the extension period is based on the status and biology of the stock and the rate of rebuilding;

(4) monitoring will ensure rebuilding continues;

(5) the extension meets the requirements of section 301(a)(1) of that Act (16 U.S.C. 1851(a)(1)); and

(6) the best scientific information available shows that the extension will allow continued rebuilding.

(b) AUTHORITY.—Nothing in this section shall be construed to amend the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) or to limit or otherwise alter the authority of the Secretary under that Act concerning other species.

SEC. 121. SOUTHEAST ALASKA FISHERIES COMMUNITIES CAPACITY REDUCTION.

Section 209 of the Department of Commerce and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2884) is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 209.";

(2) by striking "is authorized to" in the first sentence and inserting "shall";

(3) by striking "$50,000,000" and all that follows in the first sentence and inserting "up to $25,000,000 pursuant to section 57735 of title 46, United States Code.";

(4) by striking the third sentence and inserting: "The loan shall have a term of 40 years."; and

(5) by adding at the end the following:

"(b) SOUTHEAST ALASKA FISHERIES PROGRAM.—

"(1) CONDUCT OF PROGRAM BY RSA.—The program described in subsection (a) shall be conducted under Alaska law by the Southeast Revitalization Association.

"(2) TREATMENT UNDER CHAPTER 577 OF TITLE 46.—For purposes of section 57735 of title 46, United States Code, the program shall be considered to be a program established under section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a).

"(3) APPLICATION OF MAGNUSON-STEVENS ACT.—Notwithstanding paragraph (2), the program shall not be subject to section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a), except for subsections (b)(1)(C) and (d) of that section.

"(c) SOUTHEAST ALASKA FISHERIES PROGRAM APPROVAL AND REFERENDUM.—

"(1) IN GENERAL.—The Secretary of Commerce may approve a capacity reduction plan submitted by the Southeast Revitalization Association under subsection (b).

"(2) REFERENDUM.—The Secretary shall conduct an industry fee system referendum for the buyback under the program in accordance with section 312(d)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a), except that—

"(A) no Council request and no consultation shall be required; and

"(B) the fee shall not exceed 3 percent of the annual ex-vessel value of all salmon harvested in the southeast Alaska purse seine fishery.

"(d) DISBURSAL OF LOAN PROCEEDS.—If the industry fee system is approved as provided in section 312(d)(1)(B) of that Act (16 U.S.C. 1861a(d)(1)(B)), the Secretary shall disburse the loan in the form of reduction payments to participants in such amounts as the Southeast Revitalization Association certifies to have been accepted under Alaska law for reduction payments. The Secretary shall thereafter administer the fee system in accordance with section 312(d)(2) of that Act (16 U.S.C. 1861a(d)(2)), and any person paying or collecting the fee shall make such payments or collection such fees in accordance with the requirements of that Act (16 U.S.C. 1801 et seq.)".

SEC. 122. CONVERSION TO CATCHER/PROCESSOR SHARES.

(a) IN GENERAL.—

(1) AMENDMENT OF PLAN.—Not later than 90 days after the date of enactment of this Act, the Secretary of Commerce shall amend the fishery management plan for the Bering Sea/Aleutian Islands King and Tanner Crabs for the Northern Region (as that term is used in the plan) to authorize—

(A) an eligible entity holding processor quota shares to elect on an annual basis to work together with other entities holding processor quota shares and affiliated with such eligible entity through common ownership to combine any catcher vessel quota shares for the Northern Region with their processor quota shares and to exchange them for newly created catcher/processor owner quota shares for the Northern Region; and

(B) an eligible entity holding catcher vessel quota shares to elect on an annual basis to work together with other entities holding catcher vessel quota shares and affiliated with such eligible entity through common ownership to combine any processor quota shares for the Northern Region with their catcher vessel quota shares and to exchange them for newly created catcher/processor owner quota shares for the Northern Region.

(2) ELIGIBILITY AND LIMITATIONS.—

(A) The authority provided in paragraph (1)(A) shall—

(i)(I) apply only to an entity which was initially awarded both catcher/processor owner quota shares, and processor quota shares under the plan (in combination with the processor quota shares of its commonly owned affiliates) of less than 7 percent of the Bering Sea/Aleutian Island processor quota shares; or

(II) apply only to an entity which was initially awarded both catcher/processor owner quota shares under the plan and processor quota shares under section 417(a) of the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109–241; 120 Stat. 546);

(ii) be limited to processor quota shares initially awarded to such entities and their commonly owned affiliates under the plan or section 417(a) of that Act; and

(iii) shall not exceed 1 million pounds per entity during any calendar year.

(B) The authority provided in paragraph (1)(B) shall—

(i) apply only to an entity which was initially awarded both catcher/processor owner quota shares, and processor quota shares under the plan (in combination with the processor quota shares of its commonly owned affiliates) of more than 7 percent of the Bering Sea/Aleutian Island processor quota shares;

(ii) be limited to catcher vessel quota shares initially awarded to such entity and its commonly owned affiliates; and

(iii) shall not exceed 1 million pounds per entity during any calendar year.

(3) EXCHANGE RATE.—The entities referred to in paragraph (1) shall receive under the amendment 1 unit of newly created catcher/processor owner quota shares in exchange for 1 unit of catcher vessel owner quota shares and 0.9 units of processor quota shares.

(4) AREA OF VALIDITY.—Each unit of newly created catcher/processor owner quota shares under this subsection shall only be valid for the Northern Region.

(b) FEES.—

(1) LOCAL FEES.—The holder of the newly created catcher/processor owner quota shares under subsection (a) shall pay a fee of 5 percent of the ex-vessel value of the crab harvested pursuant to those shares to any local governmental entities in the Northern Region if the processor quota shares used to produce those newly created catcher/processor owner quota shares were originally derived from the processing activities that occurred in a community under the jurisdiction of those local governmental entities.

(2) STATE FEE.—The State of Alaska may collect from the holder of the newly created catcher/processor owner quota shares under subsection (a) a fee of 1 percent of the ex-vessel value of the crab harvested pursuant to those shares.

(c) OFF-LOADING REQUIREMENT.—Crab harvested pursuant to catcher/processor owner quota shares created under this subsection shall be off-loaded in those communities receiving the local governmental entities fee revenue set forth in subsection (b)(1).

(d) PERIODIC COUNCIL REVIEW.—As part of its periodic review of the plan, the North Pacific Fishery Management Council may review the effect, if any, of this subsection upon communities in the Northern Region. If the Council determines that this section adversely affects the communities, the Council may recommend to the Secretary of Commerce, and the Secretary may approve, such changes to the plan as are necessary to mitigate those adverse effects.

(e) USE CAPS.—

(1) IN GENERAL.—Notwithstanding sections 680.42(b)(ii)(2) and 680.7(a)(ii)(7) of title 50, Code of Federal Regulations, custom processing arrangements shall not count against any use cap for the processing of opilio crab in the Northern Region so long as such crab is processed in the Northern Region by a shore-based crab processor.

(2) SHORE-BASED CRAB PROCESSOR DEFINED.—In this paragraph, the term "shore-based crab processor" means any person

or vessel that receives, purchases, or arranges to purchase unprocessed crab, that is located on shore or moored within the harbor.

TITLE II—INFORMATION AND RESEARCH

SEC. 201. RECREATIONAL FISHERIES INFORMATION.

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

"(g) RECREATIONAL FISHERIES.—

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

"(A) the registration (including identification and contact information) of individuals who engage in recreational fishing—

"(i) in the Exclusive Economic Zone;

"(ii) for anadromous species; or

"(iii) for Continental Shelf fishery resources beyond the Exclusive Economic Zone; and

"(B) if appropriate, the registration (including the ownership, operator, and identification of the vessel) of vessels used in such fishing.

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

"(3) DATA COLLECTION.—

"(A) IMPROVEMENT OF THE MARINE RECREATIONAL FISHERY STATISTICS SURVEY.—Within 24 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with representatives of the recreational fishing industry and experts in statistics, technology, and other appropriate fields, shall establish a program to improve the quality and accuracy of information generated by the Marine Recreational Fishery Statistics Survey, with a goal of achieving acceptable accuracy and utility for each individual fishery.

"(B) NRC REPORT RECOMMENDATIONS.—The program shall take into consideration and, to the extent feasible, implement the recommendations of the National Research Council in its report Review of Recreational Fisheries Survey Methods (2006), including—

"(i) redesigning the Survey to improve the effectiveness and appropriateness of sampling and estimation procedures, its applicability to various kinds of

management decisions, and its usefulness for social and economic analyses; and

"(ii) providing for ongoing technical evaluation and modification as needed to meet emerging management needs.

"(C) METHODOLOGY.—Unless the Secretary determines that alternate methods will achieve this goal more efficiently and effectively, the program shall, to the extent possible, include—

"(i) an adequate number of intercepts to accurately estimate recreational catch and effort;

"(ii) use of surveys that target anglers registered or licensed at the State or Federal level to collect participation and effort data;

"(iii) collection and analysis of vessel trip report data from charter fishing vessels;

"(iv) development of a weather corrective factor that can be applied to recreational catch and effort estimates; and

"(v) an independent committee composed of recreational fishermen, academics, persons with expertise in stock assessments and survey design, and appropriate personnel from the National Marine Fisheries Service to review the collection estimates, geographic, and other variables related to dockside intercepts and to identify deficiencies in recreational data collection, and possible correction measures.

"(D) DEADLINE.—The Secretary shall complete the program under this paragraph and implement the improved Marine Recreational Fishery Statistics Survey not later than January 1, 2009.

"(4) REPORT.—Within 24 months after establishment of the program, the Secretary shall submit a report to Congress that describes the progress made toward achieving the goals and objectives of the program.".

SEC. 202. COLLECTION OF INFORMATION.

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

(1) by striking "(a) COUNCIL REQUESTS.—" in the subsection heading and inserting "(a) COLLECTION PROGRAMS.—";

(2) by resetting the text following "(a) COLLECTION PROGRAMS.—" as a new paragraph 2 ems from the left margin;

(3) by inserting "(1) COUNCIL REQUESTS.—" before "If a Council";

(4) by striking "subsection" in the last sentence and inserting "paragraph";

(5) by striking "(other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations)" each place it appears; and

(6) by adding at the end the following:

"(2) SECRETARIAL INITIATION.—If the Secretary determines that additional information is necessary for developing, implementing, revising, or monitoring a fishery management plan, or for determining whether a fishery is in need of management, the Secretary may, by regulation, implement an information

collection or observer program requiring submission of such additional information for the fishery.".

SEC. 203. ACCESS TO CERTAIN INFORMATION.

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

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

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

"(b) CONFIDENTIALITY OF INFORMATION.—

"(1) Any information submitted to the Secretary, a State fishery management agency, or a marine fisheries commission by any person in compliance with the requirements of this Act shall be confidential and shall not be disclosed except—

"(A) to Federal employees and Council employees who are responsible for fishery management plan development, monitoring, or enforcement;

"(B) to State or Marine Fisheries Commission employees as necessary to further the Department's mission, subject to a confidentiality agreement that prohibits public disclosure of the identity of business of any person;

"(C) to State employees who are responsible for fishery management plan enforcement, if the States employing those employees have entered into a fishery enforcement agreement with the Secretary and the agreement is in effect;

"(D) when required by court order;

"(E) when such information is used by State, Council, or Marine Fisheries Commission employees to verify catch under a limited access program, but only to the extent that such use is consistent with subparagraph (B);

"(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act;

"(G) when such information is required to be submitted to the Secretary for any determination under a limited access program; or

"(H) in support of homeland and national security activities, including the Coast Guard's homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2)).

"(2) Any observer information shall be confidential and shall not be disclosed, except in accordance with the requirements of subparagraphs (A) through (H) of paragraph (1), or—

"(A) as authorized by a fishery management plan or regulations under the authority of the North Pacific Council to allow disclosure to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification;

"(B) when such information is necessary in proceedings to adjudicate observer certifications; or

"(C) as authorized by any regulations issued under paragraph (3) allowing the collection of observer information, pursuant to a confidentiality agreement between the

observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

"(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

"(ii) to validate the accuracy of the observer information collected."; and

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

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

SEC. 204. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM.

Title III (16 U.S.C. 1851 et seq.), as amended by section 119 of this Act, is further amended by adding at the end the following:

"SEC. 318. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM.

"(a) IN GENERAL.—The Secretary of Commerce, in consultation with the Councils, shall establish a cooperative research and management program to address needs identified under this Act and under any other marine resource laws enforced by the Secretary. The program shall be implemented on a regional basis and shall be developed and conducted through partnerships among Federal, State, and Tribal managers and scientists (including interstate fishery commissions), fishing industry participants (including use of commercial charter or recreational vessels for gathering data), and educational institutions.

"(b) ELIGIBLE PROJECTS.—The Secretary shall make funds available under the program for the support of projects to address critical needs identified by the Councils in consultation with the Secretary. The program shall promote and encourage efforts to utilize sources of data maintained by other Federal agencies, State agencies, or academia for use in such projects.

"(c) FUNDING.—In making funds available the Secretary shall award funding on a competitive basis and based on regional fishery management needs, select programs that form part of a coherent program of research focused on solving priority issues identified by the Councils, and shall give priority to the following projects:

"(1) Projects to collect data to improve, supplement, or enhance stock assessments, including the use of fishing vessels or acoustic or other marine technology.

"(2) Projects to assess the amount and type of bycatch or post-release mortality occurring in a fishery.

"(3) Conservation engineering projects designed to reduce bycatch, including avoidance of post-release mortality, reduction of bycatch in high seas fisheries, and transfer of such fishing technologies to other nations.

"(4) Projects for the identification of habitat areas of particular concern and for habitat conservation.

"(5) Projects designed to collect and compile economic and social data.

"(d) EXPERIMENTAL PERMITTING PROCESS.—Not later than 180 days after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with the Councils, shall promulgate regulations that create an expedited, uniform, and regionally-based

process to promote issuance, where practicable, of experimental fishing permits.

"(e) GUIDELINES.—The Secretary, in consultation with the Councils, shall establish guidelines to ensure that participation in a research project funded under this section does not result in loss of a participant's catch history or unexpended days-at-sea as part of a limited entry system.

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

SEC. 205. HERRING STUDY.

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

"SEC. 319. HERRING STUDY.

"(a) IN GENERAL.—The Secretary may conduct a cooperative research program to study the issues of abundance, distribution and the role of herring as forage fish for other commercially important fish stocks in the Northwest Atlantic, and the potential for local scale depletion from herring harvesting and how it relates to other fisheries in the Northwest Atlantic. In planning, designing, and implementing this program, the Secretary shall engage multiple fisheries sectors and stakeholder groups concerned with herring management.

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

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for fiscal year 2007 through fiscal year 2009 to conduct this study.".

SEC. 206. RESTORATION STUDY.

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

"SEC. 320. RESTORATION STUDY.

"(a) IN GENERAL.—The Secretary may conduct a study to update scientific information and protocols needed to improve restoration techniques for a variety of coast habitat types and synthesize the results in a format easily understandable by restoration practitioners and local communities.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 for fiscal year 2007 to conduct this study.".

SEC. 207. WESTERN PACIFIC FISHERY DEMONSTRATION PROJECTS.

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

(1) by striking "and the Secretary of the Interior are" in paragraph (1) and inserting "is";

(2) by striking "not less than three and not more than five" in paragraph (1); and

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

"(6) In this subsection the term 'Western Pacific community' means a community eligible to participate under section 305(i)(2)(B)(i) through (iv) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)(2)(B)(i) through (iv)).".

SEC. 208. FISHERIES CONSERVATION AND MANAGEMENT FUND.

(a) IN GENERAL.—The Secretary shall establish and maintain a fund, to be known as the "Fisheries Conservation and Management Fund", which shall consist of amounts retained and deposited into the Fund under subsection (c).

(b) PURPOSES.—Subject to the allocation of funds described in subsection (d), amounts in the Fund shall be available to the Secretary of Commerce, without appropriation or fiscal year limitation, to disburse as described in subsection (e) for—

(1) efforts to improve fishery harvest data collection including—

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

(B) improvement of monitoring and observer coverage through the expanded use of electronic monitoring devices and satellite tracking systems such as VMS on small vessels;

(2) cooperative fishery research and analysis, in collaboration with fishery participants, academic institutions, community residents, and other interested parties;

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

(4) conducting analysis of fish and seafood for health benefits and risks, including levels of contaminants and, where feasible, the source of such contaminants;

(5) marketing of sustainable United States fishery products, including consumer education regarding the health or other benefits of wild fishery products harvested by vessels of the United States;

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

(7) providing financial assistance to fishermen to offset the costs of modifying fishing practices and gear to meet the requirements of this Act, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and other Federal laws in pari materia.

(c) DEPOSITS TO THE FUND.—

(1) QUOTA SET-ASIDES.—Any amount generated through quota set-asides established by a Council under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and designated by the Council for inclusion in the Fishery Conservation and Management Fund, may be deposited in the Fund.

(2) OTHER FUNDS.—In addition to amounts received pursuant to paragraph (1) of this subsection, the Fishery Conservation and Management Fund may also receive funds from—

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

(B) States or other public sources or private or nonprofit organizations for purposes of this section.

(d) REGIONAL ALLOCATION.—The Secretary shall, every 2 years, apportion monies from the Fund among the eight Council regions according to recommendations of the Councils, based on regional priorities identified through the Council process, except that no

region shall receive less than 5 percent of the Fund in each allocation period.

(e) LIMITATION ON THE USE OF THE FUND.—No amount made available from the Fund may be used to defray the costs of carrying out requirements of this Act or the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) other than those uses identified in this section.

SEC. 209. USE OF FISHERY FINANCE PROGRAM FOR SUSTAINABLE PURPOSES.

Section 53706(a)(7) of title 46, United States Code, is amended to read as follows:

"(7) Financing or refinancing—

"(A) the purchase of individual fishing quotas in accordance with section 303(d)(4) of the Magnuson-Stevens Fishery Conservation and Management Act (including the reimbursement of obligors for expenditures previously made for such a purchase);

"(B) activities that assist in the transition to reduced fishing capacity; or

"(C) technologies or upgrades designed to improve collection and reporting of fishery-dependent data, to reduce bycatch, to improve selectivity or reduce adverse impacts of fishing gear, or to improve safety.".

SEC. 210. REGIONAL ECOSYSTEM RESEARCH.

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

"(f) REGIONAL ECOSYSTEM RESEARCH.—

"(1) STUDY.—Within 180 days after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with the Councils, shall undertake and complete a study on the state of the science for advancing the concepts and integration of ecosystem considerations in regional fishery management. The study should build upon the recommendations of the advisory panel and include—

"(A) recommendations for scientific data, information and technology requirements for understanding ecosystem processes, and methods for integrating such information from a variety of federal, state, and regional sources;

"(B) recommendations for processes for incorporating broad stake holder participation;

"(C) recommendations for processes to account for effects of environmental variation on fish stocks and fisheries; and

"(D) a description of existing and developing council efforts to implement ecosystem approaches, including lessons learned by the councils.

"(2) AGENCY TECHNICAL ADVICE AND ASSISTANCE, REGIONAL PILOT PROGRAMS.—The Secretary is authorized to provide necessary technical advice and assistance, including grants, to the Councils for the development and design of regional pilot programs that build upon the recommendations of the advisory panel and, when completed, the study.".

SEC. 211. DEEP SEA CORAL RESEARCH AND TECHNOLOGY PROGRAM.

Title IV (16 U.S.C. 1881 et seq.) is amended by adding at the end the following:

"SEC. 408. DEEP SEA CORAL RESEARCH AND TECHNOLOGY PROGRAM.

"(a) IN GENERAL.—The Secretary, in consultation with appropriate regional fishery management councils and in coordination with other federal agencies and educational institutions, shall, subject to the availability of appropriations, establish a program—

"(1) to identify existing research on, and known locations of, deep sea corals and submit such information to the appropriate Councils;

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

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

"(4) to conduct research, including cooperative research with fishing industry participants, on deep sea corals and related species, and on survey methods;

"(5) to develop technologies or methods designed to assist fishing industry participants in reducing interactions between fishing gear and deep sea corals; and

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

"(b) REPORTING.—Beginning 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with the Councils, shall submit biennial reports to Congress and the public on steps taken by the Secretary to identify, monitor, and protect deep sea coral areas, including summaries of the results of mapping, research, and data collection performed under the program.".

SEC. 212. IMPACT OF TURTLE EXCLUDER DEVICES ON SHRIMPING.

(a) IN GENERAL.—The Undersecretary of Commerce for Oceans and Atmosphere shall execute an agreement with the National Academy of Sciences to conduct, jointly, a multi-year, comprehensive in-water study designed—

(1) to measure accurately the efforts and effects of shrimp fishery efforts to utilize turtle excluder devices;

(2) to analyze the impact of those efforts on sea turtle mortality, including interaction between turtles and shrimp trawlers in the inshore, nearshore, and offshore waters of the Gulf of Mexico and similar geographical locations in the waters of the Southeastern United States; and

(3) to evaluate innovative technologies to increase shrimp retention in turtle excluder devices while ensuring the protection of endangered and threatened sea turtles.

(b) OBSERVERS.—In conducting the study, the Undersecretary shall ensure that observers are placed onboard commercial shrimp fishing vessels where appropriate or necessary.

(c) INTERIM REPORTS.—During the course of the study and until a final report is submitted to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources, the National Academy of Sciences shall transmit interim reports to the Committees biannually containing a summary of preliminary findings and conclusions from the study.

SEC. 213. HURRICANE EFFECTS ON COMMERCIAL AND RECREATION FISHERY HABITATS.

(a) FISHERIES REPORT.—Within 180 days after the date of enactment of this Act, the Secretary of Commerce shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on the impact of Hurricane Katrina, Hurricane Rita, and Hurricane Wilma on—

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

(2) shrimp fishing vessels in those States; and

(3) the oyster industry in those States.

(b) HABITAT REPORT.—Within 180 days after the date of enactment of this Act, the Secretary of Commerce shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on the impact of Hurricane Katrina, Hurricane Rita, and Hurricane Wilma on habitat, including the habitat of shrimp and oysters in those States.

(c) HABITAT RESTORATION.—The Secretary shall carry out activities to restore fishery habitats, including the shrimp and oyster habitats in Louisiana and Mississippi.

SEC. 214. NORTH PACIFIC FISHERIES CONVENTION.

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

(1) by striking "all fisheries under the Council's jurisdiction except salmon fisheries" in subsection (a) and inserting "any fishery under the Council's jurisdiction except a salmon fishery";

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

"(2) establishes a system, or system, of fees, which may vary by fishery, management area, or observer coverage level, to pay for the cost of implementing the plan.";

(3) by striking "observers" in subsection (b)(2)(A) and inserting "observers, or electronic monitoring systems,";

(4) by inserting "a fixed amount reflecting actual observer costs as described in subparagraph (A) or" in subsection (b)(2)(E) after "expressed as";

(5) by inserting "some or" in subsection (b)(2)(F) after "against";

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

(7) by striking "and" after the semicolon in subsection (b)(2)(H); and

(8) by redesignating subparagraph (I) of subsection (b)(2) as subparagraph (J) and inserting after subparagraph (H) the following:

"(I) provide that fees collected will be credited against any fee for stationing observers or electronic monitoring systems on board fishing vessels and United States fish processors

and the actual cost of inputting collected data to which a fishing vessel or fish processor is subject under section 304(d) of this Act; and".

SEC. 215. NEW ENGLAND GROUNDFISH FISHERY.

(a) REVIEW.—The Secretary of Commerce shall conduct a unique, thorough examination of the potential impact on all affected and interested parties of Framework 42 to the Northeast Multispecies Fishery Management Plan.

(b) REPORT.—The Secretary shall report the Secretary's findings under subsection (a) within 30 days after the date of enactment of this Act. The Secretary shall include in the report a detailed discussion of each of the following:

(1) The economic and social implications for affected parties within the fishery, including potential losses to infrastructure, expected from the imposition of Framework 42.

(2) The estimated average annual income generated by fishermen in New England, separated by State and vessel size, and the estimated annual income expected after the imposition of Framework 42.

(3) Whether the differential days-at-sea counting imposed by Framework 42 would result in a reduction in the number of small vessels actively participating in the New England Fishery.

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

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

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

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

(8) Whether there is a substantially high probability that the biomass targets used as a basis for Amendment 13 remain achievable.

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

(10) Any separate or non-fishing factors, including environmental factors, that may be leading to a slower rebuilding of groundfish than previously anticipated.

(11) The potential harm to the non-fishing environment and ecosystem from the reduction in fishing resulting from Framework 42 and the potential redevelopment of the coastal land for other purposes, including potential for increases in non-point source of pollution and other impacts.

SEC. 216. REPORT ON COUNCIL MANAGEMENT COORDINATION.

The Mid-Atlantic Fishery Council, in consultation with the New England Fishery Council, shall submit a report to the Senate Committee on Commerce, Science, and Transportation within 9 months after the date of enactment of this Act—

(1) describing the role of council liaisons between the Mid-Atlantic and New England Councils, including an explanation

of council policies regarding the liaison's role in Council decision-making since 1996;

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

(3) evaluating the role of the New England Fishery Council and the Mid-Atlantic Fishery Council liaisons in the development and approval of management plans for fisheries in which the liaisons or members of the non-controlling Council have a demonstrated interest and significant current and historical landings of species managed by either Council;

(4) evaluating the effectiveness of the various approaches developed by the Councils to improve representation for affected members of the non-controlling Council in Council decision-making, such as use of liaisons, joint management plans, and other policies, taking into account both the procedural and conservation requirements of the Magnuson-Stevens Fishery Conservation and Management Act; and

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

SEC. 217. STUDY OF SHORTAGE IN THE NUMBER OF INDIVIDUALS WITH POST- BACCALAUREATE DEGREES IN SUBJECTS RELATED TO FISHERY SCIENCE.

(a) IN GENERAL.—The Secretary of Commerce and the Secretary of Education shall collaborate to conduct a study of—

(1) whether there is a shortage in the number of individuals with post-baccalaureate degrees in subjects related to fishery science, including fishery oceanography, fishery ecology, and fishery anthropology, who have the ability to conduct high quality scientific research in fishery stock assessment, fishery population dynamics, and related fields, for government, non-profit, and private sector entities;

(2) what Federal programs are available to help facilitate the education of students hoping to pursue these degrees; and

(3) what institutions of higher education, the private sector, and the Congress could do to try to increase the number of individuals with such post-baccalaureate degrees.

(b) REPORT.—Not later than 8 months after the date of enactment of this Act, the Secretaries of Commerce and Education shall transmit a report to each committee of Congress with jurisdiction over the programs referred to in subsection (a), detailing the findings and recommendations of the study under this section.

SEC. 218. GULF OF ALASKA ROCKFISH DEMONSTRATION PROGRAM.

Section 802 of Public Law 108–199 (118 Stat. 110) is amended by striking "2 years" and inserting "5 years".

TITLE III—OTHER FISHERIES STATUTES

SEC. 301. AMENDMENTS TO NORTHERN PACIFIC HALIBUT ACT.

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

(1) by striking "$25,000" and inserting "$200,000";

(2) by striking "violation, the degree of culpability, and history of prior offenses, ability to pay," in the fifth sentence and inserting "violator, the degree of culpability, any history of prior offenses,"; and

(3) by adding at the end the following: "In assessing such penalty, the Secretary may also consider any information provided by the violator relating to the ability of the violator to pay if the information is provided to the Secretary at least 30 days prior to an administrative hearing.".

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

"(e) REVOCATION OR SUSPENSION OF PERMIT.—

"(1) IN GENERAL.—The Secretary may take any action described in paragraph (2) in any case in which—

"(A) a vessel has been used in the commission of any act prohibited under section 7;

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

"(C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary has not been paid and is overdue.

"(2) PERMIT-RELATED ACTIONS.—Under the circumstances described in paragraph (1) the Secretary may—

"(A) revoke any permit issued with respect to such vessel or person, with or without prejudice to the issuance of subsequent permits;

"(B) suspend such permit for a period of time considered by the Secretary to be appropriate;

"(C) deny such permit; or

"(D) impose additional conditions and restrictions on any permit issued to or applied for by such vessel or person under this Act and, with respect to any foreign fishing vessel, on the approved application of the foreign nation involved and on any permit issued under that application.

"(3) FACTORS TO BE CONSIDERED.—In imposing a sanction under this subsection, the Secretary shall take into account—

"(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

"(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

"(4) TRANSFERS OF OWNERSHIP.—Transfer of ownership of a vessel, a permit, or any interest in a permit, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, permit, or interest in a permit, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel, permit, or interest at the time of the transfer.

"(5) REINSTATEMENT.—In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty, criminal fine, or any amount in settlement of a civil forfeiture, the Secretary shall reinstate the permit upon payment of the penalty, fine, or settlement amount and interest thereon at the prevailing rate.

"(6) HEARING.—No sanction shall be imposed under this subsection unless there has been prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed either in conjunction with a civil penalty proceeding under this section or otherwise.

"(7) PERMIT DEFINED.—In this subsection, the term 'permit' means any license, certificate, approval, registration, charter, membership, exemption, or other form of permission issued by the Commission or the Secretary, and includes any quota share or other transferable quota issued by the Secretary.".

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

(1) by striking "$50,000" and inserting "$200,000"; and

(2) by striking "$100,000," and inserting "$400,000,".

SEC. 302. REAUTHORIZATION OF OTHER FISHERIES ACTS.

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

"(a) AUTHORIZATION.—For each of fiscal years 2007, 2008, 2009, 2010, 2011, there are authorized to be appropriated to carry out this Act—

"(1) $1,000,000 to the Secretary of Commerce; and

"(2) $250,000 to the Secretary of the Interior.".

(b) YUKON RIVER SALMON ACT OF 2000.—Section 208 of the Yukon River Salmon Act of 2000 (16 U.S.C. 5727) is amended by striking "$4,000,000 for each of fiscal years 2004 through 2008," and inserting "$4,000,000 for each of fiscal years 2007 through 2011".

(c) SHARK FINNING PROHIBITION ACT.—Section 10 of the Shark Finning Prohibition Act (16 U.S.C. 1822 note) is amended by striking "fiscal years 2001 through 2005" and inserting "fiscal years 2007 through 2011".

(d) PACIFIC SALMON TREATY ACT.—

(1) TRANSFER OF SECTION TO ACT.—The text of section 623 of title VI of H.R. 3421 (113 Stat. 1501A–56), as introduced on November 17, 1999, enacted into law by section 1000(a)(1) of the Act of November 29, 1999 (Public Law 106–113), and amended by Public Law 106–533 (114 Stat. 2762A–108)—

(A) is transferred to the Pacific Salmon Treaty Act (16 U.S.C. 3631 et seq.) and inserted after section 15; and

(B) amended—

(i) by striking "SEC. 623."; and

(ii) inserting before "(a) NORTHERN FUND AND SOUTHERN FUND.—" the following:

"SEC. 16. NORTHERN AND SOUTHERN FUNDS; TREATY IMPLEMENTATION; ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.".

(2) REAUTHORIZATION.—Section 16(d)(2)(A) of the Pacific Salmon Treaty Act, as transferred by paragraph (1), is amended—

(1) by inserting "sustainable salmon fisheries," after "enhancement,";

(2) by inserting "2005, 2006, 2007, 2008, and 2009," after "2003,"; and

(3) by inserting "Idaho," after "Oregon,".

(e) STATE AUTHORITY FOR DUNGENESS CRAB FISHERY MANAGEMENT.—Section 203 of Public Law 105–384 (16 U.S.C. 1856 note) is amended—

(1) by striking "September 30, 2006." in subsection (i) and inserting "September 30, 2016.";

(2) by striking "health" in subsection (j) and inserting "status"; and

(3) by striking "California." in subsection (j) and inserting "California, including—

"(1) stock status and trends throughout its range;

"(2) a description of applicable research and scientific review processes used to determine stock status and trends; and

"(3) measures implemented or planned that are designed to prevent or end overfishing in the fishery.".

(f) PACIFIC FISHERY MANAGEMENT COUNCIL.—

(1) IN GENERAL.—The Pacific Fishery Management Council shall develop a proposal for the appropriate rationalization program for the Pacific trawl groundfish and whiting fisheries, including the shore-based sector of the Pacific whiting fishery under its jurisdiction. The proposal may include only the Pacific whiting fishery, including the shore-based sector, if the Pacific Council determines that a rationalization plan for the fishery as a whole cannot be achieved before the report is required to be submitted under paragraph (3).

(2) REQUIRED ANALYSIS.—In developing the proposal to rationalize the fishery, the Pacific Council shall fully analyze alternative program designs, including the allocation of limited access privileges to harvest fish to fishermen and processors working together in regional fishery associations or some other cooperative manner to harvest and process the fish, as well as the effects of these program designs and allocations on competition and conservation. The analysis shall include an assessment of the impact of the proposal on conservation and the economics of communities, fishermen, and processors participating in the trawl groundfish fisheries, including the shore-based sector of the Pacific whiting fishery.

(3) REPORT.—The Pacific Council shall submit the proposal and related analysis to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources no later than 24 months after the date of enactment of this Act.

(g) REAUTHORIZATION OF THE INTERJURISDICTIONAL FISHERIES ACT OF 1986.—Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for apportionment to carry out the purposes of this title $5,000,000 for each of fiscal years 2007 through 2012."; and

(2) by striking "$850,000 for each of fiscal years 2003 and 2004, and $900,000 for each of fiscal years 2005 and 2006" in subsection (c) and inserting "$900,000 for each of fiscal years 2007 through 2012".

(h) REAUTHORIZATION AND AMENDMENT OF THE ANADROMOUS FISH CONSERVATION ACT.—Section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d) is amended to read as follows:

"SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out the purposes of this Act not to exceed $4,500,000 for each of fiscal years 2007 through 2012.".

(i) REAUTHORIZATION OF THE NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995.—Section 211 of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5610) is amended by striking "2006" and inserting "2012".

TITLE IV—INTERNATIONAL

SEC. 401. INTERNATIONAL MONITORING AND COMPLIANCE.

Title II (16 U.S.C. 1821 et seq.) is amended by adding at the end the following:

"SEC. 207. INTERNATIONAL MONITORING AND COMPLIANCE.

"(a) IN GENERAL.—The Secretary may undertake activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and to implement the requirements of this title.

"(b) SPECIFIC AUTHORITIES.—In carrying out subsection (a), the Secretary may—

"(1) share information on harvesting and processing capacity and illegal, unreported and unregulated fishing on the high seas, in areas covered by international fishery management agreements, and by vessels of other nations within the United States exclusive economic zone, with relevant law enforcement organizations of foreign nations and relevant international organizations;

"(2) further develop real time information sharing capabilities, particularly on harvesting and processing capacity and illegal, unreported and unregulated fishing;

"(3) participate in global and regional efforts to build an international network for monitoring, control, and surveillance of high seas fishing and fishing under regional or global agreements;

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

"(5) enhance enforcement capabilities through the application of commercial or governmental remote sensing technology to locate or identify vessels engaged in illegal, unreported,

or unregulated fishing on the high seas, including encroachments into the exclusive economic zone by fishing vessels of other nations;

"(6) provide technical or other assistance to developing countries to improve their monitoring, control, and surveillance capabilities; and

"(7) support coordinated international efforts to ensure that all large-scale fishing vessels operating on the high seas are required by their flag State to be fitted with vessel monitoring systems no later than December 31, 2008, or earlier if so decided by the relevant flag State or any relevant international fishery management organization.".

SEC. 402. FINDING WITH RESPECT TO ILLEGAL, UNREPORTED, AND UNREGULATED FISHING.

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

"(12) International cooperation is necessary to address illegal, unreported, and unregulated fishing and other fishing practices which may harm the sustainability of living marine resources and disadvantage the United States fishing industry.".

SEC. 403. ACTION TO END ILLEGAL, UNREPORTED, OR UNREGULATED FISHING AND REDUCE BYCATCH OF PROTECTED MARINE SPECIES.

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

"SEC. 607. BIENNIAL REPORT ON INTERNATIONAL COMPLIANCE.

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

"(1) the state of knowledge on the status of international living marine resources shared by the United States or subject to treaties or agreements to which the United States is a party, including a list of all such fish stocks classified as overfished, overexploited, depleted, endangered, or threatened with extinction by any international or other authority charged with management or conservation of living marine resources;

"(2) a list of nations whose vessels have been identified under section 609(a) or 610(a), including the specific offending activities and any subsequent actions taken pursuant to section 609 or 610;

"(3) a description of efforts taken by nations on those lists to comply take appropriate corrective action consistent with sections 609 and 610, and an evaluation of the progress of those efforts, including steps taken by the United States to implement those sections and to improve international compliance;

"(4) progress at the international level, consistent with section 608, to strengthen the efforts of international fishery management organizations to end illegal, unreported, or unregulated fishing; and

"(5) steps taken by the Secretary at the international level to adopt international measures comparable to those of the United States to reduce impacts of fishing and other practices on protected living marine resources, if no international agreement to achieve such goal exists, or if the relevant international fishery or conservation organization has failed to implement effective measures to end or reduce the adverse impacts of fishing practices on such species.

"SEC. 608. ACTION TO STRENGTHEN INTERNATIONAL FISHERY MANAGEMENT ORGANIZATIONS.

"The Secretary, in consultation with the Secretary of State, and in cooperation with relevant fishery management councils and any relevant advisory committees, shall take actions to improve the effectiveness of international fishery management organizations in conserving and managing fish stocks under their jurisdiction. These actions shall include—

"(1) urging international fishery management organizations to which the United States is a member—

"(A) to incorporate multilateral market-related measures against member or nonmember governments whose vessels engage in illegal, unreported, or unregulated fishing;

"(B) to seek adoption of lists that identify fishing vessels and vessel owners engaged in illegal, unreported, or unregulated fishing that can be shared among all members and other international fishery management organizations;

"(C) to seek international adoption of a centralized vessel monitoring system in order to monitor and document capacity in fleets of all nations involved in fishing in areas under an international fishery management organization's jurisdiction;

"(D) to increase use of observers and technologies needed to monitor compliance with conservation and management measures established by the organization, including vessel monitoring systems and automatic identification systems; and

"(E) to seek adoption of stronger port state controls in all nations, particularly those nations in whose ports vessels engaged in illegal, unreported, or unregulated fishing land or transship fish;

"(2) urging international fishery management organizations to which the United States is a member, as well as all members of those organizations, to adopt and expand the use of market-related measures to combat illegal, unreported, or unregulated fishing, including—

"(A) import prohibitions, landing restrictions, or other market-based measures needed to enforce compliance with international fishery management organization measures, such as quotas and catch limits;

"(B) import restrictions or other market-based measures to prevent the trade or importation of fish caught by vessels identified multilaterally as engaging in illegal, unreported, or unregulated fishing; and

"(C) catch documentation and certification schemes to improve tracking and identification of catch of vessels engaged in illegal, unreported, or unregulated fishing,

including advance transmission of catch documents to ports of entry; and

"(3) urging other nations at bilateral, regional, and international levels, including the Convention on International Trade in Endangered Species of Fauna and Flora and the World Trade Organization to take all steps necessary, consistent with international law, to adopt measures and policies that will prevent fish or other living marine resources harvested by vessels engaged in illegal, unreported, or unregulated fishing from being traded or imported into their nation or territories.

"SEC. 609. ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.

"(a) IDENTIFICATION.—The Secretary shall identify, and list in the report under section 607, a nation if fishing vessels of that nation are engaged, or have been engaged at any point during the preceding 2 years, in illegal, unreported, or unregulated fishing—

"(1) the relevant international fishery management organization has failed to implement effective measures to end the illegal, unreported, or unregulated fishing activity by vessels of that nation or the nation is not a party to, or does not maintain cooperating status with, such organization; or

"(2) where no international fishery management organization exists with a mandate to regulate the fishing activity in question.

"(b) NOTIFICATION.—An identification under subsection (a) or section 610(a) is deemed to be an identification under section 101(b)(1)(A) of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(b)(1)(A)), and the Secretary shall notify the President and that nation of such identification.

"(c) CONSULTATION.—No later than 60 days after submitting a report to Congress under section 607, the Secretary, acting through the Secretary of State, shall—

"(1) notify nations listed in the report of the requirements of this section;

"(2) initiate consultations for the purpose of encouraging such nations to take the appropriate corrective action with respect to the offending activities of their fishing vessels identified in the report; and

"(3) notify any relevant international fishery management organization of the actions taken by the United States under this section.

"(d) IUU CERTIFICATION PROCEDURE.—

"(1) CERTIFICATION.—The Secretary shall establish a procedure, consistent with the provisions of subchapter II of chapter 5 of title 5, United States Code, for determining if a nation identified under subsection (a) and listed in the report under section 607 has taken appropriate corrective action with respect to the offending activities of its fishing vessels identified in the report under section 607. The certification procedure shall provide for notice and an opportunity for comment by any such nation. The Secretary shall determine, on the basis of the procedure, and certify to the Congress no later than 90 days after the date on which the Secretary promulgates a final rule containing the procedure, and biennially thereafter in the report under section 607—

"(A) whether the government of each nation identified under subsection (a) has provided documentary evidence that it has taken corrective action with respect to the offending activities of its fishing vessels identified in the report; or

"(B) whether the relevant international fishery management organization has implemented measures that are effective in ending the illegal, unreported, or unregulated fishing activity by vessels of that nation.

"(2) ALTERNATIVE PROCEDURE.—The Secretary may establish a procedure for certification, on a shipment-by-shipment, shipper-by-shipper, or other basis of fish or fish products from a vessel of a harvesting nation not certified under paragraph (1) if the Secretary determines that—

"(A) the vessel has not engaged in illegal, unreported, or unregulated fishing under an international fishery management agreement to which the United States is a party; or

"(B) the vessel is not identified by an international fishery management organization as participating in illegal, unreported, or unregulated fishing activities.

"(3) EFFECT OF CERTIFICATION.—

"(A) IN GENERAL.—The provisions of section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4))—

"(i) shall apply to any nation identified under subsection (a) that has not been certified by the Secretary under this subsection, or for which the Secretary has issued a negative certification under this subsection; but

"(ii) shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

"(B) EXCEPTIONS.—Subparagraph (A)(i) does not apply—

"(i) to the extent that such provisions would apply to sport fishing equipment or to fish or fish products not managed under the applicable international fishery agreement; or

"(ii) if there is no applicable international fishery agreement, to the extent that such provisions would apply to fish or fish products caught by vessels not engaged in illegal, unreported, or unregulated fishing.

"(e) ILLEGAL, UNREPORTED, OR UNREGULATED FISHING DEFINED.—

"(1) IN GENERAL.—In this Act the term 'illegal, unreported, or unregulated fishing' has the meaning established under paragraph (2).

"(2) SECRETARY TO DEFINE TERM WITHIN LEGISLATIVE GUIDELINES.—Within 3 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish a definition of the term 'illegal, unreported, or unregulated fishing' for purposes of this Act.

"(3) GUIDELINES.—The Secretary shall include in the definition, at a minimum—

"(A) fishing activities that violate conservation and management measures required under an international fishery management agreement to which the United States is a party, including catch limits or quotas, capacity restrictions, and bycatch reduction requirements;

"(B) overfishing of fish stocks shared by the United States, for which there are no applicable international conservation or management measures or in areas with no applicable international fishery management organization or agreement, that has adverse impacts on such stocks; and

"(C) fishing activity that has an adverse impact on seamounts, hydrothermal vents, and cold water corals located beyond national jurisdiction, for which there are no applicable conservation or management measures or in areas with no applicable international fishery management organization or agreement.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal years 2007 through 2013 such sums as are necessary to carry out this section.

"SEC. 610. EQUIVALENT CONSERVATION MEASURES.

"(a) IDENTIFICATION.—The Secretary shall identify, and list in the report under section 607, a nation if—

"(1) fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year in fishing activities or practices;

"(A) in waters beyond any national jurisdiction that result in bycatch of a protected living marine resource; or

"(B) beyond the exclusive economic zone of the United States that result in bycatch of a protected living marine resource shared by the United States;

"(2) the relevant international organization for the conservation and protection of such resources or the relevant international or regional fishery organization has failed to implement effective measures to end or reduce such bycatch, or the nation is not a party to, or does not maintain cooperating status with, such organization; and

"(3) the nation has not adopted a regulatory program governing such fishing practices designed to end or reduce such bycatch that is comparable to that of the United States, taking into account different conditions.

"(b) CONSULTATION AND NEGOTIATION.—The Secretary, acting through the Secretary of State, shall—

"(1) notify, as soon as possible, other nations whose vessels engage in fishing activities or practices described in subsection (a), about the provisions of this section and this Act;

"(2) initiate discussions as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, fishing activities or practices described in subsection (a), for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species;

"(3) seek agreements calling for international restrictions on fishing activities or practices described in subsection (a) through the United Nations, the Food and Agriculture

Organization's Committee on Fisheries, and appropriate international fishery management bodies; and

"(4) initiate the amendment of any existing international treaty for the protection and conservation of such species to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section.

"(c) CONSERVATION CERTIFICATION PROCEDURE.—

"(1) DETERMINATION.—The Secretary shall establish a procedure consistent with the provisions of subchapter II of chapter 5 of title 5, United States Code, for determining whether the government of a harvesting nation identified under subsection (a) and listed in the report under section 607—

"(A) has provided documentary evidence of the adoption of a regulatory program governing the conservation of the protected living marine resource that is comparable to that of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and

"(B) has established a management plan containing requirements that will assist in gathering species-specific data to support international stock assessments and conservation enforcement efforts for protected living marine resources.

"(2) PROCEDURAL REQUIREMENT.—The procedure established by the Secretary under paragraph (1) shall include notice and opportunity for comment by any such nation.

"(3) CERTIFICATION.—The Secretary shall certify to the Congress by January 31, 2007, and biennially thereafter whether each such nation has provided the documentary evidence described in paragraph (1)(A) and established a management plan described in paragraph (1)(B).

"(4) ALTERNATIVE PROCEDURE.—The Secretary shall establish a procedure for certification, on a shipment-by-shipment, shipper-by-shipper, or other basis of fish or fish products from a vessel of a harvesting nation not certified under paragraph (3) if the Secretary determines that such imports were harvested by practices that do not result in bycatch of a protected marine species, or were harvested by practices that—

"(A) are comparable to those of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and

"(B) include the gathering of species specific data that can be used to support international and regional stock assessments and conservation efforts for protected living marine resources.

"(5) EFFECT OF CERTIFICATION.—The provisions of section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4)) (except to the extent that such provisions apply to sport fishing equipment or fish or fish products not caught by the vessels engaged in illegal, unreported, or unregulated fishing) shall apply to any nation identified under subsection (a) that has not been certified by the Secretary under this subsection, or for which the Secretary

has issued a negative certification under this subsection, but shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

"(d) INTERNATIONAL COOPERATION AND ASSISTANCE.—To the greatest extent possible consistent with existing authority and the availability of funds, the Secretary shall—

"(1) provide appropriate assistance to nations identified by the Secretary under subsection (a) and international organizations of which those nations are members to assist those nations in qualifying for certification under subsection (c);

"(2) undertake, where appropriate, cooperative research activities on species statistics and improved harvesting techniques, with those nations or organizations;

"(3) encourage and facilitate the transfer of appropriate technology to those nations or organizations to assist those nations in qualifying for certification under subsection (c); and

"(4) provide assistance to those nations or organizations in designing and implementing appropriate fish harvesting plans.

"(e) PROTECTED LIVING MARINE RESOURCE DEFINED.—In this section the term 'protected living marine resource'—

"(1) means non-target fish, sea turtles, or marine mammals that are protected under United States law or international agreement, including the Marine Mammal Protection Act, the Endangered Species Act, the Shark Finning Prohibition Act, and the Convention on International Trade in Endangered Species of Wild Flora and Fauna; but

"(2) does not include species, except sharks, managed under the Magnuson-Stevens Fishery Conservation and Management Act, the Atlantic Tunas Convention Act, or any international fishery management agreement.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal years 2007 through 2013 such sums as are necessary to carry out this section.".

(b) CONFORMING AMENDMENTS.—

(1) DENIAL OF PORT PRIVILEGES.—Section 101(b) of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(b)) is amended by inserting "or illegal, unreported, or unregulated fishing" after "fishing" in paragraph (1)(A)(i), paragraph (1)(B), paragraph (2), and paragraph (4)(A)(i).

(2) DURATION OF DENIAL.—Section 102 of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826b) is amended by inserting "or illegal, unreported , or unregulated fishing" after "fishing".

SEC. 404. MONITORING OF PACIFIC INSULAR AREA FISHERIES.

(a) WAIVER AUTHORITY.—Section 201(h)(2)(B) (16 U.S.C. 1821(h)(2)(B)) is amended by striking "that is at least equal in effectiveness to the program established by the Secretary;" and inserting "or other monitoring program that the Secretary, in consultation with the Western Pacific Management Council, determines is adequate to monitor harvest, bycatch, and compliance with the laws of the United States by vessels fishing under the agreement;".

(b) MARINE CONSERVATION PLANS.—Section 204(e)(4)(A)(i) (16 U.S.C. 1824(e)(4)(A)(i)) is amended to read as follows:

"(i) Pacific Insular Area observer programs, or other monitoring programs, that the Secretary determines are adequate to monitor the harvest, bycatch, and compliance with the laws of the United States by foreign fishing vessels that fish under Pacific Insular Area fishing agreements;".

SEC. 405. REAUTHORIZATION OF ATLANTIC TUNAS CONVENTION ACT.

(a) IN GENERAL.—Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

"SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in Article X of the Convention—

"(1) $5,770,000 for each of fiscal years 2007 and 2008;

"(2) $6,058,000 for each of fiscal years 2009 and 2010; and

"(3) $6,361,000 for each of fiscal years 2011 and 2013.

"(b) ALLOCATION.—Of the amounts made available under subsection (a) for each fiscal year—

"(1) $160,000 are authorized for the advisory committee established under section 4 of this Act and the species working groups established under section 4A of this Act; and

"(2) $7,500,000 are authorized for research activities under this Act and section 3 of Public Law 96–339 (16 U.S.C. 971i), of which $3,000,000 shall be for the cooperative research program under section 3(b)(2)(H) of that section (16 U.S.C. 971i(b)(2)(H).".

(b) ATLANTIC BILLFISH COOPERATIVE RESEARCH PROGRAM.—Section 3(b)(2) of Public Law 96–339 (16 U.S.C. 971i(b)(2)) is amended—

(1) by striking "and" after the semicolon in subparagraph (G);

(2) by redesignating subparagraph (H) as subparagraph (I); and

(3) by inserting after subparagraph (G) the following:

"(H) include a cooperative research program on Atlantic billfish based on the Southeast Fisheries Science Center Atlantic Billfish Research Plan of 2002; and".

(c) SENSE OF CONGRESS REGARDING FISH HABITAT.—Section 3 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a) is amended by adding at the end the following:

"(e) SENSE OF CONGRESS REGARDING FISH HABITAT.—It is the sense of the Congress that the United States Commissioners should seek to include ecosystem considerations in fisheries management, including the conservation of fish habitat.".

SEC. 406. INTERNATIONAL OVERFISHING AND DOMESTIC EQUITY.

(a) INTERNATIONAL OVERFISHING.—Section 304 (16 U.S.C. 1854) is amended by adding at the end thereof the following:

"(i) INTERNATIONAL OVERFISHING.—The provisions of this subsection shall apply in lieu of subsection (e) to a fishery that the Secretary determines is overfished or approaching a condition of being overfished due to excessive international fishing pressure, and for which there are no management measures to end overfishing under an international agreement to which the United States is a party. For such fisheries—

"(1) the Secretary, in cooperation with the Secretary of State, immediately take appropriate action at the international level to end the overfishing; and

"(2) within 1 year after the Secretary's determination, the appropriate Council, or Secretary, for fisheries under section 302(a)(3) shall—

"(A) develop recommendations for domestic regulations to address the relative impact of fishing vessels of the United States on the stock and, if developed by a Council, the Council shall submit such recommendations to the Secretary; and

"(B) develop and submit recommendations to the Secretary of State, and to the Congress, for international actions that will end overfishing in the fishery and rebuild the affected stocks, taking into account the relative impact of vessels of other nations and vessels of the United States on the relevant stock.".

(b) HIGHLY MIGRATORY SPECIES TAGGING RESEARCH.—Section 304(g)(2) (16 U.S.C. 1854(g)(2)) is amended by striking "(16 U.S.C. 971d)" and inserting "(16 U.S.C. 971d), or highly migratory species harvested in a commercial fishery managed by a Council under this Act or the Western and Central Pacific Fisheries Convention Implementation Act,".

SEC. 407. UNITED STATES CATCH HISTORY.

In establishing catch allocations under international fisheries agreements, the Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating, and the Secretary of State, shall ensure that all catch history associated with a vessel of the United States remains with the United States and is not transferred or credited to any other nation or vessel of such nation, including when a vessel of the United States is sold or transferred to a citizen of another nation or to an entity controlled by citizens of another nation.

SEC. 408. SECRETARIAL REPRESENTATIVE FOR INTERNATIONAL FISHERIES.

(a) IN GENERAL.—The Secretary, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall designate a Senate-confirmed, senior official within the National Oceanic and Atmospheric Administration to perform the duties of the Secretary with respect to international agreements involving fisheries and other living marine resources, including policy development and representation as a U.S. Commissioner, under any such international agreements.

(b) ADVICE.—The designated official shall, in consultation with the Deputy Assistant Secretary for International Affairs and the Administrator of the National Marine Fisheries Service, advise the Secretary, Undersecretary of Commerce for Oceans and Atmosphere, and other senior officials of the Department of Commerce and the National Oceanic and Atmospheric Administration on development of policy on international fisheries conservation and management matters.

(c) CONSULTATION.—The designated official shall consult with the Senate Committee on Commerce, Science, and Transportation and the House Committee on Resources on matters pertaining to any regional or international negotiation concerning living marine resources, including shellfish.

(d) DELEGATION.—The designated official may delegate and authorize successive re-delegation of such functions, powers, and duties to such officers and employees of the National Oceanic and Atmospheric Administration as deemed necessary to discharge the responsibility of the Office.

(e) EFFECTIVE DATE.—This section shall take effect on January 1, 2009.

TITLE V—IMPLEMENTATION OF WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION

SEC. 501. SHORT TITLE.

This title may be cited as the "Western and Central Pacific Fisheries Convention Implementation Act".

SEC. 502. DEFINITIONS.

In this title:

(1) 1982 CONVENTION.—The term "1982 Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982.

(2) AGREEMENT.—The term "Agreement" means the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

(3) COMMISSION.—The term "Commission" means the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean established in accordance with this Convention.

(4) CONVENTION AREA.—The term "convention area" means all waters of the Pacific Ocean bounded to the south and to the east by the following line:

From the south coast of Australia due south along the 141th meridian of east longitude to its intersection with the 55th parallel of south latitude; thence due east along the 55th parallel of south latitude to its intersection with the 150th meridian of east longitude; thence due south along the 150th meridian of east longitude to its intersection with the 60th parallel of south latitude; thence due east along the 60th parallel of south latitude to its intersection with the 130th meridian of west longitude; thence due north along the 130th meridian of west longitude to its intersection with the 4th parallel of south latitude; thence due west along the 4th parallel of south latitude to its intersection with the 150th meridian of west longitude; thence due north along the 150th meridian of west longitude.

(5) EXCLUSIVE ECONOMIC ZONE.—The term "exclusive economic zone" means the zone established by Presidential Proclamation Numbered 5030 of March 10, 1983.

(6) FISHING.—The term "fishing" means—

(A) searching for, catching, taking, or harvesting fish;

(B) attempting to search for, catch, take, or harvest fish;

(C) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish for any purpose;

(D) placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons;

(E) any operations at sea directly in support of, or in preparation for, any activity described in subparagraphs (A) through (D), including transshipment; and

(F) use of any other vessel, vehicle, aircraft, or hovercraft, for any activity described in subparagraphs (A) through (E) except for emergencies involving the health and safety of the crew or the safety of a vessel.

(7) FISHING VESSEL.—The term "fishing vessel" means any vessel used or intended for use for the purpose of fishing, including support ships, carrier vessels, and any other vessel directly involved in such fishing operations.

(8) HIGHLY MIGRATORY FISH STOCKS.—The term "highly migratory fish stocks" means all fish stocks of the species listed in Annex 1 of the 1982 Convention, except sauries, occurring in the Convention Area, and such other species of fish as the Commission may determine.

(9) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(10) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.

(11) TRANSHIPMENT.—The term "transshipment" means the unloading of all or any of the fish on board a fishing vessel to another fishing vessel either at sea or in port.

(12) WCPFC CONVENTION; WESTERN AND CENTRAL PACIFIC CONVENTION.—The terms "WCPFC Convention" and "Western and Central Pacific Convention" means the Convention on the Conservation and Management of the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, (including any annexes, amendments, or protocols which are in force, or have come into force, for the United States) which was adopted at Honolulu, Hawaii, on September 5, 2000, by the Multilateral High Level Conference on the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

SEC. 503. APPOINTMENT OF UNITED STATES COMMISSIONERS.

(a) IN GENERAL.—The United States shall be represented on the Commission by 5 United States Commissioners. The President shall appoint individuals to serve on the Commission at the pleasure of the President. In making the appointments, the President shall select Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks in the Western and Central Pacific Ocean, one of whom shall be an officer or employee of the Department of Commerce, and one of whom shall be the chairman or a member of the Western Pacific Fishery Management Council and the Pacific Fishery Management Council. The Commissioners shall be entitled to adopt such rules of procedures as they find necessary and to select a chairman from among

members who are officers or employees of the United States Government.

(b) ALTERNATE COMMISSIONERS.—The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise at any meeting of the Commission, Council, any Panel, or the advisory committee established pursuant to subsection (d), all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.

(c) ADMINISTRATIVE MATTERS.—

(1) EMPLOYMENT STATUS.—Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall be considered to be Federal employees while performing such service, only for purposes of—

(A) injury compensation under chapter 81 of title 5, United States Code;

(B) requirements concerning ethics, conflicts of interest, and corruption as provided under title 18, United States Code; and

(C) any other criminal or civil statute or regulation governing the conduct of Federal employees.

(2) COMPENSATION.—The United States Commissioners or Alternate Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as such Commissioners or Alternate Commissioners.

(3) TRAVEL EXPENSES.—

(A) The Secretary of State shall pay the necessary travel expenses of United States Commissioners and Alternate United States Commissioners in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(B) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.

(d) ADVISORY COMMITTEES.—

(1) ESTABLISHMENT OF PERMANENT ADVISORY COMMITTEE.—

(A) MEMBERSHIP.—There is established an advisory committee which shall be composed of—

(i) not less than 15 nor more than 20 individuals appointed by the Secretary of Commerce in consultation with the United States Commissioners, who shall select such individuals from the various groups concerned with the fisheries covered by the WCPFC Convention, providing, to the maximum extent practicable, an equitable balance among such groups;

(ii) the chair of the Western Pacific Fishery Management Council's Advisory Committee or the chair's designee; and

(iii) officials of the fisheries management authorities of American Samoa, Guam, and the Northern Mariana Islands (or their designees).

(B) TERMS AND PRIVILEGES.—Each member of the advisory committee appointed under subparagraph (A) shall serve for a term of 2 years and shall be eligible for reappointment. The advisory committee shall be invited to attend all non-executive meetings of the United States Commissioners and at such meetings shall be given opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission.

(C) PROCEDURES.—The advisory committee established by subparagraph (A) shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the WCPFC Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures. A majority of the members of the advisory committee shall constitute a quorum. Meetings of the advisory committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion. and the advisory committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(D) PROVISION OF INFORMATION.—The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

(2) ADMINISTRATIVE MATTERS.—

(A) SUPPORT SERVICES.—The Secretary shall provide to advisory committees in a timely manner such administrative and technical support services as are necessary for their effective functioning.

(B) COMPENSATION; STATUS; EXPENSES.—Individuals appointed to serve as a member of an advisory committee—

(i) shall serve without pay, but while away from their homes or regular places of business in the performance of services for the advisory committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code; and

(ii) shall be considered Federal employees while performing service as members of an advisory committee only for purposes of—

(I) injury compensation under chapter 81 of title 5, United States Code;

(II) requirements concerning ethics, conflicts-of-interest, and corruption, as provided by title 18, United States Code; and

(III) any other criminal or civil statute or regulation governing the conduct of Federal employees in their capacity as Federal employees.

(f) MEMORANDUM OF UNDERSTANDING.—For highly migratory species in the Pacific, the Secretary, in coordination with the Secretary of State, shall develop a memorandum of understanding

with the Western Pacific, Pacific, and North Pacific Fishery Management Councils, that clarifies the role of the relevant Council or Councils with respect to—

(1) participation in United States delegations to international fishery organizations in the Pacific Ocean, including government-to-government consultations;

(2) providing formal recommendations to the Secretary and the Secretary of State regarding necessary measures for both domestic and foreign vessels fishing for these species;

(3) coordinating positions with the United States delegation for presentation to the appropriate international fishery organization; and

(4) recommending those domestic fishing regulations that are consistent with the actions of the international fishery organization, for approval and implementation under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)

SEC. 504. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF STATE.

The Secretary of State may—

(1) receive and transmit, on behalf of the United States, reports, requests, recommendations, proposals, decisions, and other communications of and to the Commission;

(2) in consultation with the Secretary approve, disapprove, object to, or withdraw objections to bylaws and rules, or amendments thereof, adopted by the WCPFC Commission, and, with the concurrence of the Secretary to approve or disapprove the general annual program of the WCPFC Commission with respect to conservation and management measures and other measures proposed or adopted in accordance with the WCPFC Convention; and

(3) act upon, or refer to other appropriate authority, any communication referred to in paragraph (1).

SEC. 505. RULEMAKING AUTHORITY OF THE SECRETARY OF COMMERCE.

(a) PROMULGATION OF REGULATIONS.—The Secretary, in consultation with the Secretary of State and, with respect to enforcement measures, the Secretary of the Department in which the Coast Guard is operating, is authorized to promulgate such regulations as may be necessary to carry out the United States international obligations under the WCPFC Convention and this title, including recommendations and decisions adopted by the Commission. In cases where the Secretary has discretion in the implementation of one or more measures adopted by the Commission that would govern fisheries under the authority of a Regional Fishery Management Council, the Secretary may, to the extent practicable within the implementation schedule of the WCPFC Convention and any recommendations and decisions adopted by the Commission, promulgate such regulations in accordance with the procedures established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(b) ADDITIONS TO FISHERY REGIMES AND REGULATIONS.—The Secretary may promulgate regulations applicable to all vessels and persons subject to the jurisdiction of the United States, including United States flag vessels wherever they may be operating, on such date as the Secretary shall prescribe.

SEC. 506. ENFORCEMENT.

(a) IN GENERAL.—The Secretary may—

(1) administer and enforce this title and any regulations issued under this title, except to the extent otherwise provided for in this Act;

(2) request and utilize on a reimbursed or non-reimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies in—

(A) the administration and enforcement of this title; and

(B) the conduct of scientific, research, and other programs under this title;

(3) conduct fishing operations and biological experiments for purposes of scientific investigation or other purposes necessary to implement the WCPFC Convention;

(4) collect, utilize, and disclose such information as may be necessary to implement the WCPFC Convention, subject to sections 552 and 552a of title 5, United States Code, and section 402(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a(b));

(5) if recommended by the United States Commissioners or proposed by a Council with authority over the relevant fishery, assess and collect fees, not to exceed three percent of the ex-vessel value of fish harvested by vessels of the United States in fisheries managed pursuant to this title, to recover the actual costs to the United States of management and enforcement under this title, which shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Secretary under this title; and

(6) issue permits to owners and operators of United States vessels to fish in the convention area seaward of the United States Exclusive Economic Zone, under such terms and conditions as the Secretary may prescribe, and shall remain valid for a period to be determined by the Secretary.

(b) CONSISTENCY WITH OTHER LAWS.—The Secretary shall ensure the consistency, to the extent practicable, of fishery management programs administered under this Act, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Tuna Conventions Act (16 U.S.C. 951 et seq.), the South Pacific Tuna Act (16 U.S.C. 973 et seq.), section 401 of Public Law 108–219 (16 U.S.C. 1821 note) (relating to Pacific albacore tuna), and the Atlantic Tunas Convention Act (16 U.S.C. 971).

(c) ACTIONS BY THE SECRETARY.—The Secretary shall prevent any person from violating this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) were incorporated into and made a part of this title. Any person that violates any provision of this title is subject to the penalties and entitled to the privileges and immunities provided in the Magnuson-Stevens Fishery Conservation and Management Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of that Act were incorporated into and made a part of this title.

(d) CONFIDENTIALITY.—

(1) IN GENERAL.—Any information submitted to the Secretary in compliance with any requirement under this Act shall be confidential and shall not be disclosed, except—

(A) to Federal employees who are responsible for administering, implementing, and enforcing this Act;

(B) to the Commission, in accordance with requirements in the Convention and decisions of the Commission, and, insofar as possible, in accordance with an agreement with the Commission that prevents public disclosure of the identity or business of any person;

(C) to State or Marine Fisheries Commission employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business or any person;

(D) when required by court order; or

(E) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act.

(2) USE OF INFORMATION.—The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form that does not directly or indirectly disclose the identity or business of any person. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary of any information submitted in compliance with any requirement or regulation under this Act.

SEC. 507. PROHIBITED ACTS.

(a) IN GENERAL.—It is unlawful for any person—

(1) to violate any provision of this title or any regulation or permit issued pursuant to this title;

(2) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, on an applicable permit issued pursuant to this title;

(3) to refuse to permit any officer authorized to enforce the provisions of this title to board a fishing vessel subject to such person's control for the purposes of conducting any search, investigation, or inspection in connection with the enforcement of this title or any regulation, permit, or the Convention;

(4) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, investigations, or inspection in connection with the enforcement of this title or any regulation, permit, or the Convention;

(5) to resist a lawful arrest for any act prohibited by this title;

(6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this title or any regulation, permit, or agreement referred to in paragraph (1) or (2);

(7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that

such other person has committed any chapter prohibited by this section;

(8) to knowingly and willfully submit to the Secretary false information (including false information regarding the capacity and extent to which a United States fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishery vessels of the United States), regarding any matter that the Secretary is considering in the course of carrying out this title;

(9) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this title, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this title;

(10) to engage in fishing in violation of any regulation adopted pursuant to section 506(a) of this title;

(11) to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations;

(12) to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this title to be made, kept, or furnished;

(13) to fail to stop a vessel upon being hailed and instructed to stop by a duly authorized official of the United States;

(14) to import, in violation of any regulation adopted pursuant to section 506(a) of this title, any fish in any form of those species subject to regulation pursuant to a recommendation, resolution, or decision of the Commission, or any tuna in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of section 506(a) of this title.

(b) ENTRY CERTIFICATION.—In the case of any fish described in subsection (a) offered for entry into the United States, the Secretary of Commerce shall require proof satisfactory to the Secretary that such fish is not ineligible for such entry under the terms of section 506(a) of this title.

SEC. 508. COOPERATION IN CARRYING OUT CONVENTION.

(a) FEDERAL AND STATE AGENCIES; PRIVATE INSTITUTIONS AND ORGANIZATIONS.—The Secretary may cooperate with agencies of the United States government, any public or private institutions or organizations within the United States or abroad, and, through the Secretary of State, the duly authorized officials of the government of any party to the WCPFC Convention, in carrying out responsibilities under this title.

(b) SCIENTIFIC AND OTHER PROGRAMS; FACILITIES AND PERSONNEL.—All Federal agencies are authorized, upon the request of the Secretary, to cooperate in the conduct of scientific and other programs and to furnish facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the WCPFC Convention.

(c) SANCTIONED FISHING OPERATIONS AND BIOLOGICAL EXPERIMENTS.—Nothing in this title, or in the laws or regulations of any State, prevents the Secretary or the Commission from—

(1) conducting or authorizing the conduct of fishing operations and biological experiments at any time for purposes of scientific investigation; or

(2) discharging any other duties prescribed by the WCPFC Convention.

(d) STATE JURISDICTION NOT AFFECTED.—Except as provided in subsection (e) of this section, nothing in this title shall be construed to diminish or to increase the jurisdiction of any State in the territorial sea of the United States.

(e) APPLICATION OF REGULATIONS—

(1) IN GENERAL.—Regulations promulgated under section 506(a) of this title shall apply within the boundaries of any State bordering on the Convention area if the Secretary has provided notice to such State, the State does not request an agency hearing, and the Secretary determines that the State—

(A) has not, within a reasonable period of time after the promulgation of regulations pursuant to this title, enacted laws or promulgated regulations that implement the recommendations of the Commission within the boundaries of such State; or

(B) has enacted laws or promulgated regulations that implement the recommendations of the commission within the boundaries of such State that—

(i) are less restrictive that the regulations promulgated under section 506(a) of this title; or

(ii) are not effectively enforced.

(2) DETERMINATION BY SECRETARY.—The regulations promulgated pursuant to section 506(a) of this title shall apply until the Secretary determines that the State is effectively enforcing within its boundaries measures that are not less restrictive than the regulations promulgated under section 506(a) of this title.

(3) HEARING.—If a State requests a formal agency hearing, the Secretary shall not apply the regulations promulgated pursuant section 506(a) of this title within that State's boundaries unless the hearing record supports a determination under paragraph (1)(A) or (B).

(f) REVIEW OF STATE LAWS AND REGULATIONS.—To ensure that the purposes of subsection (e) are carried out, the Secretary shall undertake a continuing review of the laws and regulations of all States to which subsection (e) applies or may apply and the extent to which such laws and regulations are enforced.

SEC. 509. TERRITORIAL PARTICIPATION.

The Secretary of State shall ensure participation in the Commission and its subsidiary bodies by American Samoa, Guam, and the Northern Mariana Islands to the same extent provided to the territories of other nations.

SEC. 510. EXCLUSIVE ECONOMIC ZONE NOTIFICATION.

Masters of commercial fishing vessels of nations fishing for species under the management authority of the Western and Central Pacific Fisheries Convention that do not carry vessel monitoring systems capable of communicating with United States enforcement authorities shall, prior to, or as soon as reasonably possible after, entering and transiting the Exclusive Economic Zone seaward of Hawaii and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean area—

(1) notify the United States Coast Guard or the National Marine Fisheries Service Office of Law Enforcement in the appropriate region of the name, flag state, location, route, and destination of the vessel and of the circumstances under which it will enter United States waters;

(2) ensure that all fishing gear on board the vessel is stowed below deck or otherwise removed from the place where it is normally used for fishing and placed where it is not readily available for fishing; and

(3) where requested by an enforcement officer, proceed to a specified location so that a vessel inspection can be conducted.

SEC. 511. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Commerce such sums as may be necessary to carry out this title and to pay the United States' contribution to the Commission under section 5 of part III of the WCPFC Convention.

TITLE VI—PACIFIC WHITING

SEC. 601. SHORT TITLE.

This title may be cited as the "Pacific Whiting Act of 2006".

SEC. 602. DEFINITIONS.

In this title:

(1) ADVISORY PANEL.—The term "advisory panel" means the Advisory Panel on Pacific Hake/Whiting established by the Agreement.

(2) AGREEMENT.—The term "Agreement" means the Agreement between the Government of the United States and the Government of Canada on Pacific Hake/Whiting, signed at Seattle, Washington, on November 21, 2003.

(3) CATCH.—The term "catch" means all fishery removals from the offshore whiting resource, including landings, discards, and bycatch in other fisheries.

(4) JOINT MANAGEMENT COMMITTEE.—The term "joint management committee" means the joint management committee established by the Agreement.

(5) JOINT TECHNICAL COMMITTEE.—The term "joint technical committee" means the joint technical committee established by the Agreement.

(6) OFFSHORE WHITING RESOURCE.—The term "offshore whiting resource" means the transboundary stock of Merluccius productus that is located in the offshore waters of the United States and Canada except in Puget Sound and the Strait of Georgia.

(7) SCIENTIFIC REVIEW GROUP.—The term "scientific review group" means the scientific review group established by the Agreement.

(8) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(9) UNITED STATES SECTION.—The term "United States Section" means the United States representatives on the joint management committee.

SEC. 603. UNITED STATES REPRESENTATION ON JOINT MANAGEMENT COMMITTEE.

(a) REPRESENTATIVES.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall appoint 4 individuals to represent the United States as the United States Section on the joint management committee. In making the appointments, the Secretary shall select representatives from among individuals who are knowledgeable or experienced concerning the offshore whiting resource. Of these—

(A) 1 shall be an official of the National Oceanic and Atmospheric Administration;

(B) 1 shall be a member of the Pacific Fishery Management Council, appointed with consideration given to any recommendation provided by that Council;

(C) 1 shall be appointed from a list submitted by the treaty Indian tribes with treaty fishing rights to the offshore whiting resource; and

(D) 1 shall be appointed from the commercial sector of the whiting fishing industry concerned with the offshore whiting resource.

(2) TERM OF OFFICE.—Each representative appointed under paragraph (1) shall be appointed for a term not to exceed 4 years, except that, of the initial appointments, 2 representatives shall be appointed for terms of 2 years. Any individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term. A representative may be appointed for a term of less than 4 years if such term is necessary to ensure that the term of office of not more than 2 representatives will expire in any single year. An individual appointed to serve as a representative is eligible for reappointment.

(3) CHAIR.—Unless otherwise agreed by all of the 4 representatives, the chair shall rotate annually among the 4 members, with the order of rotation determined by lot at the first meeting.

(b) ALTERNATE REPRESENTATIVES.—The Secretary, in consultation with the Secretary of State, may designate alternate representatives of the United States to serve on the joint management committee. An alternative representative may exercise, at any meeting of the committee, all the powers and duties of a representative in the absence of a duly designated representative for whatever reason.

SEC. 604. UNITED STATES REPRESENTATION ON THE SCIENTIFIC REVIEW GROUP.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall appoint no more than 2 scientific experts to serve on the scientific review group. An individual shall not be eligible to serve on the scientific review group while serving on the joint technical committee.

(b) TERM.—An individual appointed under subsection (a) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy

occurring prior to the expiration of a term of office of that individual's predecessor shall be appointed to serve for the remainder of that term.

(c) JOINT APPOINTMENTS.—In addition to individuals appointed under subsection (a), the Secretary, jointly with the Government of Canada, may appoint to the scientific review group, from a list of names provided by the advisory panel—

(1) up to 2 independent members of the scientific review group; and

(2) 2 public advisors.

SEC. 605. UNITED STATES REPRESENTATION ON JOINT TECHNICAL COMMITTEE.

(a) SCIENTIFIC EXPERTS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall appoint at least 6 but not more than 12 individuals to serve as scientific experts on the joint technical committee, at least 1 of whom shall be an official of the National Oceanic and Atmospheric Administration.

(2) TERM OF OFFICE.—An individual appointed under paragraph (1) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term.

(b) INDEPENDENT MEMBER.—In addition to individuals appointed under subsection (a), the Secretary, jointly with the Government of Canada, shall appoint 1 independent member to the joint technical committee selected from a list of names provided by the advisory panel.

SEC. 606. UNITED STATES REPRESENTATION ON ADVISORY PANEL.

(a) IN GENERAL.—

(1) APPOINTMENT.—The Secretary, in consultation with the Secretary of State, shall appoint at least 6 but not more than 12 individuals to serve as members of the advisory panel, selected from among individuals who are—

(A) knowledgeable or experienced in the harvesting, processing, marketing, management, conservation, or research of the offshore whiting resource; and

(B) not employees of the United States.

(2) TERM OF OFFICE.—An individual appointed under paragraph (1) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term.

SEC. 607. RESPONSIBILITIES OF THE SECRETARY.

(a) IN GENERAL.—The Secretary is responsible for carrying out the Agreement and this title, including the authority, to be exercised in consultation with the Secretary of State, to accept or reject, on behalf of the United States, recommendations made by the joint management committee.

(b) REGULATIONS; COOPERATION WITH CANADIAN OFFICIALS.—In exercising responsibilities under this title, the Secretary—

(1) may promulgate such regulations as may be necessary to carry out the purposes and objectives of the Agreement and this title; and

(2) with the concurrence of the Secretary of State, may cooperate with officials of the Canadian Government duly authorized to carry out the Agreement.

SEC. 608. RULEMAKING.

(a) APPLICATION WITH MAGNUSON-STEVENS ACT.—The Secretary shall establish the United States catch level for Pacific whiting according to the standards and procedures of the Agreement and this title rather than under the standards and procedures of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), except to the extent necessary to address the rebuilding needs of other species. Except for establishing the catch level, all other aspects of Pacific whiting management shall be—

(1) subject to the Magnuson-Stevens Fishery Conservation and Management Act; and

(2) consistent with this title.

(b) JOINT MANAGEMENT COMMITTEE RECOMMENDATIONS.—For any year in which both parties to the Agreement approve recommendations made by the joint management committee with respect to the catch level, the Secretary shall implement the approved recommendations. Any regulation promulgated by the Secretary to implement any such recommendation shall apply, as necessary, to all persons and all vessels subject to the jurisdiction of the United States wherever located.

(c) YEARS WITH NO APPROVED CATCH RECOMMENDATIONS.—If the parties to the Agreement do not approve the joint management committee's recommendation with respect to the catch level for any year, the Secretary shall establish the total allowable catch for Pacific whiting for the United States catch. In establishing the total allowable catch under this subsection, the Secretary shall—

(1) take into account any recommendations from the Pacific Fishery Management Council, the joint management committee, the joint technical committee, the scientific review group, and the advisory panel;

(2) base the total allowable catch on the best scientific information available;

(3) use the default harvest rate set out in paragraph 1 of Article III of the Agreement unless the Secretary determines that the scientific evidence demonstrates that a different rate is necessary to sustain the offshore whiting resource; and

(4) establish the United State's share of the total allowable catch based on paragraph 2 of Article III of the Agreement and make any adjustments necessary under section 5 of Article II of the Agreement.

SEC. 609. ADMINISTRATIVE MATTERS.

(a) EMPLOYMENT STATUS.—Individuals appointed under section 603, 604, 605, or 606 of this title who are serving as such Commissioners, other than officers or employees of the United States Government, shall be considered to be Federal employees while performing such service, only for purposes of—

(1) injury compensation under chapter 81 of title 5, United States Code;

(2) requirements concerning ethics, conflicts of interest, and corruption as provided under title 18, United States Code; and

(3) any other criminal or civil statute or regulation governing the conduct of Federal employees.

(b) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), an individual appointed under this title shall receive no compensation for the individual's service as a representative, alternate representative, scientific expert, or advisory panel member under this title.

(2) SCIENTIFIC REVIEW GROUP.—Notwithstanding paragraph (1), the Secretary may employ and fix the compensation of an individual appointed under section 604(a) to serve as a scientific expert on the scientific review group who is not employed by the United States Government, a State government, or an Indian tribal government in accordance with section 3109 of title 5, United States Code.

(c) TRAVEL EXPENSES.—Except as provided in subsection (d), the Secretary shall pay the necessary travel expenses of individuals appointed under this title in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(d) JOINT APPOINTEES.—With respect to the 2 independent members of the scientific review group and the 2 public advisors to the scientific review group jointly appointed under section 604(c), and the 1 independent member to the joint technical committee jointly appointed under section 605(b), the Secretary may pay up to 50 percent of—

(1) any compensation paid to such individuals; and

(2) the necessary travel expenses of such individuals.

SEC. 610. ENFORCEMENT.

(a) IN GENERAL.—The Secretary may—

(1) administer and enforce this title and any regulations issued under this title;

(2) request and utilize on a reimbursed or non-reimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies in the administration and enforcement of this title; and

(3) collect, utilize, and disclose such information as may be necessary to implement the Agreement and this title, subject to sections 552 and 552a of title 5, United States Code.

(b) PROHIBITED ACTS.—It is unlawful for any person to violate any provision of this title or the regulations promulgated under this title.

(c) ACTIONS BY THE SECRETARY.—The Secretary shall prevent any person from violating this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) were incorporated into and made a part of this title. Any person that violates any provision of this title is subject to the penalties and entitled to the privileges and immunities provided in the Magnuson-Stevens Fishery Conservation and Management Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and

provisions of that Act were incorporated into and made a part of this title.

(d) PENALTIES.—This title shall be enforced by the Secretary as if a violation of this title or of any regulation promulgated by the Secretary under this title were a violation of section 307 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857).

SEC. 611. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the obligations of the United States under the Agreement and this title.

TITLE VII—MISCELLANEOUS

SEC. 701. STUDY OF THE ACIDIFICATION OF THE OCEANS AND EFFECT ON FISHERIES.

The Secretary of Commerce shall request the National Research Council to conduct a study of the acidification of the oceans and how this process affects the United States.

SEC. 702. PUGET SOUND REGIONAL SHELLFISH SETTLEMENT.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) the Tribes have established treaty rights to take shellfish from public and private tidelands in Washington State, including from some lands owned, leased, or otherwise subject to harvest by commercial shellfish growers;

(B) the district court that adjudicated the Tribes' treaty rights to take shellfish found that the growers are innocent purchasers who had no notice of the Tribes' fishing right when they acquired their properties;

(C) numerous unresolved issues remain outstanding regarding implementation of the Tribes' treaty right to take shellfish from lands owned, leased, or otherwise subject to harvest by the growers;

(D) the Tribes, the growers, the State of Washington, and the United States Department of the Interior have resolved by a settlement agreement many of the disputes between and among them regarding implementation of the Tribes' treaty right to take shellfish from covered tidelands owned or leased by the growers;

(E) the settlement agreement does not provide for resolution of any claims to take shellfish from lands owned or leased by the growers that potentially may be brought in the future by other Tribes;

(F) in the absence of congressional actions, the prospect of other Tribes claims to take shellfish from lands owned or leased by the growers could be pursued through the courts, a process which in all likelihood could consume many years and thereby promote uncertainty in the State of Washington and the growers and to the ultimate detriment of both the Tribes and other Tribes and their members;

(G) in order to avoid this uncertainty, it is the intent of Congress that other Tribes have the option of resolving their claims, if any, to a treaty right to take shellfish

from covered tidelands owned or leased by the growers; and

(H) this Act represents a good faith effort on the part of Congress to extend to other Tribes the same fair and just option of resolving their claims to take shellfish from covered tidelands owned or leased by the growers that the Tribes have agreed to in the settlement agreement.

(2) PURPOSES.—The purposes of this section are—

(A) to approve, ratify, and confirm the settlement agreement entered into by and among the Tribes, commercial shellfish growers, the State of Washington, and the United States;

(B) to provide other Tribes with a fair and just resolution of any claims to take shellfish from covered tidelands, as that term is defined in the settlement agreement, that potentially could be brought in the future by other Tribes; and

(C) to authorize the Secretary to implement the terms and conditions of the settlement agreement and this section.

(b) APPROVAL OF SETTLEMENT AGREEMENT.—

(1) IN GENERAL.—The settlement agreement is hereby approved, ratified, and confirmed, and section 6 of the settlement agreement, Release of Claims, is specifically adopted and incorporated into this section as if fully set forth herein.

(2) AUTHORIZATION FOR IMPLEMENTATION.—The Secretary is hereby authorized to implement the terms and conditions of the settlement agreement in accordance with the settlement agreement and this section.

(c) FUND, SPECIAL HOLDING ACCOUNT, AND CONDITIONS.—

(1) PUGET SOUND REGIONAL SHELLFISH SETTLEMENT TRUST FUND.—

(A) There is hereby established in the Treasury of the United States an account to be designated as the "Puget Sound Regional Shellfish Settlement Trust Fund". The Secretary shall deposit funds in the amount of $22,000,000 at such time as appropriated pursuant to this section into the Fund.

(B) The Fund shall be maintained and invested by the Secretary of the Interior pursuant to the Act of June 24, 1938 (25 U.S.C. 162a) until such time as all monies are transferred from the Fund.

(C) The Secretary shall transfer monies held in the Fund to each Tribe of the Tribes in the amounts and manner specified by and in accordance with the payment agreement established pursuant to the settlement agreement and this section.

(2) PUGET SOUND REGIONAL SHELLFISH SETTLEMENT SPECIAL HOLDING ACCOUNT.—

(A) There is hereby established in the Treasury of the United States a fund to be designated as the "Puget Sound Regional Shellfish Settlement Special Holding Account". The Secretary shall deposit funds in the amount of $1,500,000 into the Special Holding Account in fiscal year 2011 at such time as such funds are appropriated pursuant to this section.

(B) The Special Holding Account shall be maintained and invested by the Secretary of the Interior pursuant to the Act of June 24, 1938, (25 U.S.C. 162a) until such time as all monies are transferred from the Special Holding Account.

(C) If a court of competent jurisdiction renders a final decision declaring that any of the other Tribes has an established treaty right to take or harvest shellfish in covered tidelands, as that term is defined in the settlement agreement, and such tribe opts to accept a share of the Special Holding Account, rather than litigate this claim against the growers, the Secretary shall transfer the appropriate share of the monies held in the Special Holding Account to each such tribe of the other Tribes in the amounts appropriate to compensate the other Tribes in the same manner and for the same purposes as the Tribes who are signatory to the settlement agreement. Such a transfer to a tribe shall constitute full and complete satisfaction of that tribe's claims to shellfish on the covered tidelands.

(D) The Secretary may retain such amounts of the Special Holding Account as necessary to provide for additional tribes that may judicially establish their rights to take shellfish in the covered tidelands within the term of that Account, provided that the Secretary pays the remaining balance to the other Tribes prior to the expiration of the term of the Special Holding Account.

(E) The Tribes shall have no interest, possessory or otherwise, in the Special Holding Account.

(F) Twenty years after the deposit of funds into the Special Holding Account, the Secretary shall close the Account and transfer the balance of any funds held in the Special Holding Account at that time to the Treasury. However, the Secretary may continue to maintain the Special Holding Account in order to resolve the claim of an other Tribe that has notified the Secretary in writing within the 20-year term of that Tribe's interest in resolving its claim in the manner provided for in this section.

(G) It is the intent of Congress that the other Tribes, if any, shall have the option of agreeing to similar rights and responsibilities as the Tribes that are signatories to the settlement agreement, if they opt not to litigate against the growers.

(3) ANNUAL REPORT.—Each tribe of the Tribes, or any of the other Tribes accepting a settlement of its claims to shellfish on covered lands pursuant to paragraph (2)(C), shall submit to the Secretary an annual report that describes all expenditures made with monies withdrawn from the Fund or Special Holding Account during the year covered by the report.

(4) JUDICIAL AND ADMINISTRATIVE ACTION.—The Secretary may take judicial or administrative action to ensure that any monies withdrawn from the Fund or Special Holding Account are used in accordance with the purposes described in the settlement agreement and this section.

(5) CLARIFICATION OF TRUST RESPONSIBILITY.—Beginning on the date that monies are transferred to a tribe of the Tribes or a tribe of the other Tribes pursuant to this section,

any trust responsibility or liability of the United States with respect to the expenditure or investment of the monies withdrawn shall cease.

(d) STATE OF WASHINGTON PAYMENT.—The Secretary shall not be accountable for nor incur any liability for the collection, deposit, management or nonpayment of the State of Washington payment of $11,000,000 to the Tribes pursuant to the settlement agreement.

(e) RELEASE OF OTHER TRIBES CLAIMS.—

(1) RIGHT TO BRING ACTIONS.—As of the date of enactment of this section, all right of any other Tribes to bring an action to enforce or exercise its treaty rights to take shellfish from public and private tidelands in Washington State, including from some lands owned, leased, or otherwise subject to harvest by any and all growers shall be determined in accordance with the decisions of the Courts of the United States in United States v. Washington, Civ. No. 9213 (Western District of Washington).

(2) CERTAIN RIGHTS GOVERNED BY THIS SECTION.—If a tribe falling within the other Tribes category opts to resolve its claims to take shellfish from covered tidelands owned or leased by the growers pursuant to subsection (c)(2)(C) of this section, that tribe's rights shall be governed by this section, as well as by the decisions of the Courts in United States v. Washington, Civ. No. 9213.

(3) NO BREACH OF TRUST.—Notwithstanding whether the United States has a duty to initiate such an action, the failure or declination by the United States to initiate any action to enforce any other Tribe's or other Tribes' treaty rights to take shellfish from public and private tidelands in Washington State, including from covered tidelands owned, leased, or otherwise subject to harvest by any and all growers shall not constitute a breach of trust by the United States or be compensable to other Tribes.

(f) CAUSE OF ACTION.—If any payment by the United States is not paid in the amount or manner specified by this section, or is not paid within 6 months after the date specified by the settlement agreement, such failure shall give rise to a cause of action by the Tribes either individually or collectively against the United States for money damages for the amount authorized but not paid to the Tribes, and the Tribes, either individually or collectively, are authorized to bring an action against the United States in the United States Court of Federal Claims for such funds plus interest.

(g) DEFINITIONS.—In this section:

(1) FUND.—The term "Fund" means the Puget Sound Shellfish Settlement Trust Fund Account established by this section.

(2) GROWERS.—The term "growers" means Taylor United, Inc.; Olympia Oyster Company; G.R. Clam & Oyster Farm; Cedric E. Lindsay; Minterbrook Oyster Company; Charles and Willa Murray; Skookum Bay Oyster Company; J & G Gunstone Clams, Inc.; and all persons who qualify as "growers" in accordance with and pursuant to the settlement agreement.

(3) OTHER TRIBES.—The term "other Tribes" means any federally recognized Indian nation or tribe other than the Tribes described in paragraph (6) that, within 20 years after the deposit of funds in the Special Holding Account, establishes a legally enforceable treaty right to take shellfish from covered

tidelands described in the settlement agreement, owned, leased or otherwise subject to harvest by those persons or entities that qualify as growers.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) SETTLEMENT AGREEMENT.—The term "settlement agreement" means the settlement agreement entered into by and between the Tribes, commercial shellfish growers, the State of Washington and the United States, to resolve certain disputes between and among them regarding implementation of the Tribes' treaty right to take shellfish from certain covered tidelands owned, leased or otherwise subject to harvest by the growers.

(6) TRIBES.—The term "Tribes" means the following federally recognized Tribes that executed the settlement agreement: Tulalip, Stillaguamish, Sauk Suiattle, Puyallup, Squaxin Island, Makah, Muckleshoot, Upper Skagit, Nooksack, Nisqually, Skokomish, Port Gamble S'Klallam, Lower Elwha Klallam, Jamestown S'Klallam, and Suquamish Tribes, the Lummi Nation, and the Swinomish Indian Tribal Community.

(7) SPECIAL HOLDING ACCOUNT.—The term "Special Holding Account" means the Puget Sound Shellfish Settlement Special Holding Account established by this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $23,500,000 to carry out this section—

(A) $2,000,000 for fiscal year 2007;

(B) $5,000,000 for each of fiscal years 2008 through 2010; and

(C) $6,500,000 for fiscal year 2011.

TITLE VIII—TSUNAMI WARNING AND EDUCATION

SEC. 801. SHORT TITLE.

This title may be cited as the "Tsunami Warning and Education Act".

SEC. 802. DEFINITIONS.

In this title:

(1) The term "Administration" means the National Oceanic and Atmospheric Administration.

(2) The term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

SEC. 803. PURPOSES.

The purposes of this title are—

(1) to improve tsunami detection, forecasting, warnings, notification, outreach, and mitigation to protect life and property in the United States;

(2) to enhance and modernize the existing Pacific Tsunami Warning System to increase coverage, reduce false alarms, and increase the accuracy of forecasts and warnings, and to expand detection and warning systems to include other vulnerable States and United States territories, including the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico areas;

(3) to improve mapping, modeling, research, and assessment efforts to improve tsunami detection, forecasting, warnings, notification, outreach, mitigation, response, and recovery;

(4) to improve and increase education and outreach activities and ensure that those receiving tsunami warnings and the at-risk public know what to do when a tsunami is approaching;

(5) to provide technical and other assistance to speed international efforts to establish regional tsunami warning systems in vulnerable areas worldwide, including the Indian Ocean; and

(6) to improve Federal, State, and international coordination for detection, warnings, and outreach for tsunami and other coastal impacts.

SEC. 804. TSUNAMI FORECASTING AND WARNING PROGRAM.

(a) IN GENERAL.—The Administrator, through the National Weather Service and in consultation with other relevant Administration offices, shall operate a program to provide tsunami detection, forecasting, and warnings for the Pacific and Arctic Ocean regions and for the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico region.

(b) COMPONENTS.—The program under this section shall—

(1) include the tsunami warning centers established under subsection (d);

(2) utilize and maintain an array of robust tsunami detection technologies;

(3) maintain detection equipment in operational condition to fulfill the detection, forecasting, and warning requirements of this title;

(4) provide tsunami forecasting capability based on models and measurements, including tsunami inundation models and maps for use in increasing the preparedness of communities, including through the TsunamiReady program;

(5) maintain data quality and management systems to support the requirements of the program;

(6) include a cooperative effort among the Administration, the United States Geological Survey, and the National Science Foundation under which the Geological Survey and the National Science Foundation shall provide rapid and reliable seismic information to the Administration from international and domestic seismic networks;

(7) provide a capability for the dissemination of warnings to at-risk States and tsunami communities through rapid and reliable notification to government officials and the public, including utilization of and coordination with existing Federal warning systems, including the National Oceanic and Atmospheric Administration Weather Radio All Hazards Program;

(8) allow, as practicable, for integration of tsunami detection technologies with other environmental observing technologies; and

(9) include any technology the Administrator considers appropriate to fulfill the objectives of the program under this section.

(c) SYSTEM AREAS.—The program under this section shall operate—

(1) a Pacific tsunami warning system capable of forecasting tsunami anywhere in the Pacific and Arctic Ocean regions and providing adequate warnings; and

(2) an Atlantic Ocean, Caribbean Sea, and Gulf of Mexico tsunami warning system capable of forecasting tsunami and providing adequate warnings in areas of the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico that are determined—

(A) to be geologically active, or to have significant potential for geological activity; and

(B) to pose significant risks of tsunami for States along the coastal areas of the Atlantic Ocean, Caribbean Sea, or Gulf of Mexico.

(d) TSUNAMI WARNING CENTERS.—

(1) IN GENERAL.—The Administrator, through the National Weather Service, shall maintain or establish—

(A) a Pacific Tsunami Warning Center in Hawaii;

(B) a West Coast and Alaska Tsunami Warning Center in Alaska; and

(C) any additional forecast and warning centers determined by the National Weather Service to be necessary.

(2) RESPONSIBILITIES.—The responsibilities of each tsunami warning center shall include—

(A) continuously monitoring data from seismological, deep ocean, and tidal monitoring stations;

(B) evaluating earthquakes that have the potential to generate tsunami;

(C) evaluating deep ocean buoy data and tidal monitoring stations for indications of tsunami resulting from earthquakes and other sources;

(D) disseminating forecasts and tsunami warning bulletins to Federal, State, and local government officials and the public;

(E) coordinating with the tsunami hazard mitigation program described in section 805 to ensure ongoing sharing of information between forecasters and emergency management officials; and

(F) making data gathered under this title and post-warning analyses conducted by the National Weather Service or other relevant Administration offices available to researchers.

(e) TRANSFER OF TECHNOLOGY; MAINTENANCE AND UPGRADES.—

(1) IN GENERAL.—In carrying out this section, the National Weather Service, in consultation with other relevant Administration offices, shall—

(A) develop requirements for the equipment used to forecast tsunami, which shall include provisions for multi-purpose detection platforms, reliability and performance metrics, and to the maximum extent practicable how the equipment will be integrated with other United States and global ocean and coastal observation systems, the global earth observing system of systems, global seismic networks, and the Advanced National Seismic System;

(B) develop and execute a plan for the transfer of technology from ongoing research described in section 806 into the program under this section; and

(C) ensure that maintaining operational tsunami detection equipment is the highest priority within the program carried out under this title.

(2) REPORT TO CONGRESS.—

(A) Not later than 1 year after the date of enactment of this Act, the National Weather Service, in consultation with other relevant Administration offices, shall transmit to Congress a report on how the tsunami forecast system under this section will be integrated with other United States and global ocean and coastal observation systems, the global earth observing system of systems, global seismic networks, and the Advanced National Seismic System.

(B) Not later than 3 years after the date of enactment of this Act, the National Weather Service, in consultation with other relevant Administration offices, shall transmit a report to Congress on how technology developed under section 806 is being transferred into the program under this section.

(f) FEDERAL COOPERATION.—When deploying and maintaining tsunami detection technologies, the Administrator shall seek the assistance and assets of other appropriate Federal agencies.

(g) ANNUAL EQUIPMENT CERTIFICATION.—At the same time Congress receives the budget justification documents in support of the President's annual budget request for each fiscal year, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a certification that—

(1) identifies the tsunami detection equipment deployed pursuant to this title, as of December 31 of the preceding calendar year;

(2) certifies which equipment is operational as of December 31 of the preceding calendar year;

(3) in the case of any piece of such equipment that is not operational as of such date, identifies that equipment and describes the mitigation strategy that is in place—

(A) to repair or replace that piece of equipment within a reasonable period of time; or

(B) to otherwise ensure adequate tsunami detection coverage;

(4) identifies any equipment that is being developed or constructed to carry out this title but which has not yet been deployed, if the Administration has entered into a contract for that equipment prior to December 31 of the preceding calendar year, and provides a schedule for the deployment of that equipment; and

(5) certifies that the Administrator expects the equipment described in paragraph (4) to meet the requirements, cost, and schedule provided in that contract.

(h) CONGRESSIONAL NOTIFICATIONS.—The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives within 30 days of—

(1) impaired regional forecasting capabilities due to equipment or system failures; and

(2) significant contractor failures or delays in completing work associated with the tsunami forecasting and warning system.

(i) REPORT.—Not later than January 31, 2010, the Comptroller General of the United States shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives that—

(1) evaluates the current status of the tsunami detection, forecasting, and warning system and the tsunami hazard mitigation program established under this title, including progress toward tsunami inundation mapping of all coastal areas vulnerable to tsunami and whether there has been any degradation of services as a result of the expansion of the program;

(2) evaluates the National Weather Service's ability to achieve continued improvements in the delivery of tsunami detection, forecasting, and warning services by assessing policies and plans for the evolution of modernization systems, models, and computational abilities (including the adoption of new technologies); and

(3) lists the contributions of funding or other resources to the program by other Federal agencies, particularly agencies participating in the program.

(j) EXTERNAL REVIEW.—The Administrator shall enter into an arrangement with the National Academy of Sciences to review the tsunami detection, forecast, and warning program established under this title to assess further modernization and coverage needs, as well as long-term operational reliability issues, taking into account measures implemented under this title. The review shall also include an assessment of how well the forecast equipment has been integrated into other United States and global ocean and coastal observation systems and the global earth observing system of systems. Not later than 2 years after the date of enactment of this Act, the Administrator shall transmit a report containing the National Academy of Sciences' recommendations, the Administrator's responses to the recommendations, including those where the Administrator disagrees with the Academy, a timetable to implement the accepted recommendations, and the cost of implementing all the Academy's recommendations, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

(k) REPORT.—Not later than 3 months after the date of enactment of this Act, the Administrator shall establish a process for monitoring and certifying contractor performance in carrying out the requirements of any contract to construct or deploy tsunami detection equipment, including procedures and penalties to be imposed in cases of significant contractor failure or negligence.

SEC. 805. NATIONAL TSUNAMI HAZARD MITIGATION PROGRAM.

(a) IN GENERAL.—The Administrator, through the National Weather Service and in consultation with other relevant Administration offices, shall conduct a community-based tsunami hazard mitigation program to improve tsunami preparedness of at-risk areas in the United States and its territories.

(b) COORDINATING COMMITTEE.—In conducting the program under this section, the Administrator shall establish a coordinating committee comprising representatives of Federal, State, local, and tribal government officials. The Administrator may establish subcommittees to address region-specific issues. The committee shall—

(1) recommend how funds appropriated for carrying out the program under this section will be allocated;

(2) ensure that areas described in section 804(c) in the United States and its territories can have the opportunity to participate in the program;

(3) provide recommendations to the National Weather Service on how to improve the TsunamiReady program, particularly on ways to make communities more tsunami resilient through the use of inundation maps and other mitigation practices; and

(4) ensure that all components of the program are integrated with ongoing hazard warning and risk management activities, emergency response plans, and mitigation programs in affected areas, including integrating information to assist in tsunami evacuation route planning.

(c) PROGRAM COMPONENTS.—The program under this section shall—

(1) use inundation models that meet a standard of accuracy defined by the Administration to improve the quality and extent of inundation mapping, including assessment of vulnerable inner coastal and nearshore areas, in a coordinated and standardized fashion to maximize resources and the utility of data collected;

(2) promote and improve community outreach and education networks and programs to ensure community readiness, including the development of comprehensive coastal risk and vulnerability assessment training and decision support tools, implementation of technical training and public education programs, and providing for certification of prepared communities;

(3) integrate tsunami preparedness and mitigation programs into ongoing hazard warning and risk management activities, emergency response plans, and mitigation programs in affected areas, including integrating information to assist in tsunami evacuation route planning;

(4) promote the adoption of tsunami warning and mitigation measures by Federal, State, tribal, and local governments and nongovernmental entities, including educational programs to discourage development in high-risk areas; and

(5) provide for periodic external review of the program.

(d) SAVINGS CLAUSE.—Nothing in this section shall be construed to require a change in the chair of any existing tsunami hazard mitigation program subcommittee.

SEC. 806. TSUNAMI RESEARCH PROGRAM.

The Administrator shall, in consultation with other agencies and academic institutions, and with the coordinating committee established under section 805(b), establish or maintain a tsunami research program to develop detection, forecast, communication, and mitigation science and technology, including advanced sensing techniques, information and communication technology, data collection, analysis, and assessment for tsunami tracking and numerical forecast modeling. Such research program shall—

(1) consider other appropriate research to mitigate the impact of tsunami;

(2) coordinate with the National Weather Service on technology to be transferred to operations;

(3) include social science research to develop and assess community warning, education, and evacuation materials; and

(4) ensure that research and findings are available to the scientific community.

SEC. 807. GLOBAL TSUNAMI WARNING AND MITIGATION NETWORK.

(a) INTERNATIONAL TSUNAMI WARNING SYSTEM.—The Administrator, through the National Weather Service and in consultation with other relevant Administration offices, in coordination with other members of the United States Interagency Committee of the National Tsunami Hazard Mitigation Program, shall provide technical assistance and training to the Intergovernmental Oceanographic Commission, the World Meteorological Organization, and other international entities, as part of international efforts to develop a fully functional global tsunami forecast and warning system comprising regional tsunami warning networks, modeled on the International Tsunami Warning System of the Pacific.

(b) INTERNATIONAL TSUNAMI INFORMATION CENTER.—The Administrator, through the National Weather Service and in consultation with other relevant Administration offices, in cooperation with the Intergovernmental Oceanographic Commission, shall operate an International Tsunami Information Center to improve tsunami preparedness for all Pacific Ocean nations participating in the International Tsunami Warning System of the Pacific, and may also provide such assistance to other nations participating in a global tsunami warning system established through the Intergovernmental Oceanographic Commission. As part of its responsibilities around the world, the Center shall—

(1) monitor international tsunami warning activities around the world;

(2) assist member states in establishing national warning systems, and make information available on current technologies for tsunami warning systems;

(3) maintain a library of materials to promulgate knowledge about tsunami in general and for use by the scientific community; and

(4) disseminate information, including educational materials and research reports.

(c) DETECTION EQUIPMENT; TECHNICAL ADVICE AND TRAINING.—In carrying out this section, the National Weather Service—

(1) shall give priority to assisting nations in identifying vulnerable coastal areas, creating inundation maps, obtaining or designing real-time detection and reporting equipment, and establishing communication and warning networks and contact points in each vulnerable nation;

(2) may establish a process for transfer of detection and communication technology to affected nations for the purposes of establishing the international tsunami warning system; and

(3) shall provide technical and other assistance to support international tsunami programs.

(d) DATA-SHARING REQUIREMENT.—The National Weather Service, when deciding to provide assistance under this section, may take into consideration the data sharing policies and practices of nations proposed to receive such assistance, with a goal to encourage all nations to support full and open exchange of data.

SEC. 808. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator to carry out this title—

(1) $25,000,000 for fiscal year 2008, of which—

(A) not less than 27 percent of the amount appropriated shall be for the tsunami hazard mitigation program under section 805; and

(B) not less than 8 percent of the amount appropriated shall be for the tsunami research program under section 806;

(2) $26,000,000 for fiscal year 2009, of which—

(A) not less than 27 percent of the amount appropriated shall be for the tsunami hazard mitigation program under section 805; and

(B) not less than 8 percent of the amount appropriated shall be for the tsunami research program under section 806;

(3) $27,000,000 for fiscal year 2010, of which—

(A) not less than 27 percent of the amount appropriated shall be for the tsunami hazard mitigation program under section 805; and

(B) not less than 8 percent of the amount appropriated shall be for the tsunami research program under section 806;

(4) $28,000,000 for fiscal year 2011, of which—

(A) not less than 27 percent of the amount appropriated shall be for the tsunami hazard mitigation program under section 805; and

(B) not less than 8 percent of the amount appropriated shall be for the tsunami research program under section 806; and

(5) $29,000,000 for fiscal year 2012, of which—

(A) not less than 27 percent of the amount appropriated shall be for the tsunami hazard mitigation program under section 805; and

(B) not less than 8 percent of the amount appropriated shall be for the tsunami research program under section 806.

TITLE IX—POLAR BEARS

SEC. 901. SHORT TITLE.

This title may be cited as the "United States-Russia Polar Bear Conservation and Management Act of 2006".

SEC. 902. AMENDMENT OF MARINE MAMMAL PROTECTION ACT OF 1972.

(a) IN GENERAL.—The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding at the end thereof the following:

"TITLE V—POLAR BEARS

"SEC. 501. DEFINITIONS.

"In this title:

"(1) AGREEMENT.—The term 'Agreement' means the Agreement Between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population, signed at Washington, D.C., on October 16, 2000.

"(2) ALASKA NANUUQ COMMISSION.—The term 'Alaska Nanuuq Commission' means the Alaska Native entity, in existence on the date of enactment of the United States-Russia Polar Bear Conservation and Management Act of 2006, that represents all villages in the State of Alaska that engage in the annual subsistence taking of polar bears from the Alaska-Chukotka population and any successor entity.

"(3) IMPORT.—The term 'import' means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, without regard to whether the landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

"(4) POLAR BEAR PART OR PRODUCT.—The term 'part or product of a polar bear' means any polar bear part or product, including the gall bile and gall bladder.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

"(6) TAKING.—The term 'taking' has the meaning given the term in the Agreement.

"(7) COMMISSION.—The term 'Commission' means the commission established under article 8 of the Agreement.

"SEC. 502. PROHIBITIONS.

"(a) IN GENERAL.—It is unlawful for any person who is subject to the jurisdiction of the United States or any person in waters or on lands under the jurisdiction of the United States—

"(1) to take any polar bear in violation of the Agreement;

"(2) to take any polar bear in violation of the Agreement or any annual taking limit or other restriction on the taking of polar bears that is adopted by the Commission pursuant to the Agreement;

"(3) to import, export, possess, transport, sell, receive, acquire, or purchase, exchange, barter, or offer to sell, purchase, exchange, or barter any polar bear, or any part or product of a polar bear, that is taken in violation of paragraph (2);

"(4) to import, export, sell, purchase, exchange, barter, or offer to sell, purchase, exchange, or barter, any polar bear gall bile or polar bear gall bladder;

"(5) to attempt to commit, solicit another person to commit, or cause to be committed, any offense under this subsection; or

"(6) to violate any regulation promulgated by the Secretary to implement any of the prohibitions established in this subsection.

"(b) EXCEPTIONS.—For the purpose of forensic testing or any other law enforcement purpose, the Secretary, and Federal law enforcement officials, and any State or local law enforcement official authorized by the Secretary, may import a polar bear or any part or product of a polar bear.

"SEC. 503. ADMINISTRATION.

"(a) IN GENERAL.—The Secretary, acting through the Director of the United States Fish and Wildlife Service, shall do all things necessary and appropriate, including the promulgation of regulations, to implement, enforce, and administer the provisions of the Agreement on behalf of the United States. The Secretary shall consult with the Secretary of State and the Alaska Nanuuq Commission on matters involving the implementation of the Agreement.

"(b) UTILIZATION OF OTHER GOVERNMENT RESOURCES AND AUTHORITIES.—

"(1) OTHER GOVERNMENT RESOURCES.—The Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency, any State agency, or the Alaska Nanuuq Commission for purposes of carrying out this title or the Agreement.

"(2) OTHER POWERS AND AUTHORITIES.—Any person authorized by the Secretary under this subsection to enforce this title or the Agreement shall have the authorities that are enumerated in section 6(b) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(b)).

"(c) ENSURING COMPLIANCE.—

"(1) TITLE I AUTHORITIES.—The Secretary may use authorities granted under title I for enforcement, imposition of penalties, and the seizure of cargo for violations under this title, provided that any polar bear or any part or product of a polar bear taken, imported, exported, possessed, transported, sold, received, acquired, purchased, exchanged, or bartered, or offered for sale, purchase, exchange, or barter in violation of this title, shall be subject to seizure and forfeiture to the United States without any showing that may be required for assessment of a civil penalty or for criminal prosecution under this Act.

"(2) ADDITIONAL AUTHORITIES.—Any gun, trap, net, or other equipment used, and any vessel, aircraft, or other means of transportation used, to aid in the violation or attempted violation of this title shall be subject to seizure and forfeiture under section 106.

"(d) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall promulgate such regulations as are necessary to carry out this title and the Agreement.

"(2) ORDINANCES AND REGULATIONS.—If necessary to carry out this title and the Agreement, and to improve compliance with any annual taking limit or other restriction on taking adopted by the Commission and implemented by the Secretary in accordance with this title, the Secretary may promulgate regulations that adopt any ordinance or regulation that restricts the taking of polar bears for subsistence purposes if the ordinance or regulation has been promulgated by the Alaska Nanuuq Commission.

"SEC. 504. COOPERATIVE MANAGEMENT AGREEMENT; AUTHORITY TO DELEGATE ENFORCEMENT AUTHORITY.

"(a) IN GENERAL.—The Secretary, acting through the Director of the United States Fish and Wildlife Service, may share authority under this title for the management of the taking of polar bears

for subsistence purposes with the Alaska Nanuuq Commission if such commission is eligible under subsection (b).

"(b) DELEGATION.—To be eligible for the management authority described in subsection (a), the Alaska Nanuuq Commission shall—

"(1) enter into a cooperative agreement with the Secretary under section 119 for the conservation of polar bears;

"(2) meaningfully monitor compliance with this title and the Agreement by Alaska Natives; and

"(3) administer its co-management program for polar bears in accordance with—

"(A) this title; and

"(B) the Agreement.

"SEC. 505. COMMISSION APPOINTMENTS; COMPENSATION, TRAVEL EXPENSES, AND CLAIMS.

"(a) APPOINTMENT OF UNITED STATES COMMISSIONERS.—

"(1) APPOINTMENT.—The United States commissioners on the Commission shall be appointed by the President, in accordance with paragraph 2 of article 8 of the Agreement, after taking into consideration the recommendations of—

"(A) the Secretary;

"(B) the Secretary of State; and

"(C) the Alaska Nanuuq Commission.

"(2) QUALIFICATIONS.—With respect to the United States commissioners appointed under this subsection, in accordance with paragraph 2 of article 8 of the Agreement—

"(A) 1 United States commissioner shall be an official of the Federal Government;

"(B) 1 United States commissioner shall be a representative of the Native people of Alaska, and, in particular, the Native people for whom polar bears are an integral part of their culture; and

"(C) both commissioners shall be knowledgeable of, or have expertise in, polar bears.

"(3) SERVICE AND TERM.—Each United States commissioner shall serve—

"(A) at the pleasure of the President; and

"(B) for an initial 4-year term and such additional terms as the President shall determine.

"(4) VACANCIES.—

"(A) IN GENERAL.—Any individual appointed to fill a vacancy occurring before the expiration of any term of office of a United States commissioner shall be appointed for the remainder of that term.

"(B) MANNER.—Any vacancy on the Commission shall be filled in the same manner as the original appointment.

"(b) ALTERNATE COMMISSIONERS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State and the Alaska Nanuuq Commission, shall designate an alternate commissioner for each member of the United States section.

"(2) DUTIES.—In the absence of a United States commissioner, an alternate commissioner may exercise all functions of the United States commissioner at any meetings of the Commission or of the United States section.

"(3) REAPPOINTMENT.—An alternate commissioner—

"(A) shall be eligible for reappointment by the President; and

"(B) may attend all meetings of the United States section.

"(c) DUTIES.—The members of the United States section may carry out the functions and responsibilities described in article 8 of the Agreement in accordance with this title and the Agreement.

"(d) COMPENSATION AND EXPENSES.—

"(1) COMPENSATION.—A member of the United States section shall serve without compensation.

"(2) TRAVEL EXPENSES.—A member of the United States section shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the United States-Russia Polar Bear Commission.

"(e) AGENCY DESIGNATION.—The United States section shall, for the purpose of title 28, United States Code, relating to claims against the United States and tort claims procedure, be considered to be a Federal agency.

"SEC. 506. VOTES TAKEN BY THE UNITED STATES SECTION ON MATTERS BEFORE THE COMMISSION.

"In accordance with paragraph 3 of article 8 of the Agreement, the United States section, made up of commissioners appointed by the President, shall vote on any issue before the United States-Russia Polar Bear Commission only if there is no disagreement between the United States commissioners regarding the vote.

"SEC. 507. IMPLEMENTATION OF ACTIONS TAKEN BY THE COMMISSION.

"(a) IN GENERAL.—The Secretary shall take all necessary actions to implement the decisions and determinations of the Commission under paragraph 7 of article 8 of the Agreement.

"(b) TAKING LIMITATION.—Not later than 60 days after the date on which the Secretary receives notice of the determination of the Commission of an annual taking limit, or of the adoption by the Commission of other restriction on the taking of polar bears for subsistence purposes, the Secretary shall publish a notice in the Federal Register announcing the determination or restriction.

"SEC. 508. APPLICATION WITH OTHER TITLES OF ACT.

"(a) IN GENERAL.—The authority of the Secretary under this title is in addition to, and shall not affect—

"(1) the authority of the Secretary under other titles of this Act or the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.) or the exemption for Alaskan natives under section 101(b) of this Act as applied to other marine mammal populations; or

"(2) the authorities provided under title II of this Act.

"(b) CERTAIN PROVISIONS INAPPLICABLE.—The provisions of titles I through IV of this Act do not apply with respect to the implementation or administration of this title, except as specified in section 503.

"SEC. 509. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out the functions and responsibilities of the Secretary under this title and the Agreement $1,000,000 for each of fiscal years 2006 through 2010.

"(b) COMMISSION.—There are authorized to be appropriated to the Secretary to carry out functions and responsibilities of the United States Section $150,000 for each of fiscal years 2006 through 2010.

"(c) ALASKAN COOPERATIVE MANAGEMENT PROGRAM.—There are authorized to be appropriated to the Secretary to carry out this title and the Agreement in Alaska $150,000 for each of fiscal years 2006 through 2010.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding at the end the following:

"TITLE V—POLAR BEARS

"Sec. 501. Definitions.
"Sec. 502. Prohibitions.
"Sec. 503. Administration.
"Sec. 504. Cooperative management agreement; authority to delegate enforcement authority.
"Sec. 505. Commission appointments; compensation, travel expenses, and claims.
"Sec. 506. Votes taken by the United States Section on matters before the Commission.
"Sec. 507. Implementation of actions taken by the Commission.
"Sec. 508. Application with other titles of Act.
"Sec. 509. Authorization of appropriations.".

(c) TREATMENT OF CONTAINERS.—Section 107(d)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1377(d)(2)) is amended by striking "vessel or other conveyance" each place it appears and inserting "vessel, other conveyance, or container".

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.