

Calendar No. 389

109TH CONGRESS
2^D SESSION

S. 2012

[Report No. 109-229]

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

IN THE SENATE OF THE UNITED STATES

NOVEMBER 15, 2005

Mr. STEVENS (for himself, Mr. INOUE, Ms. SNOWE, Ms. CANTWELL, Mr. VITTER, Mrs. BOXER, Mrs. HUTCHISON, Mr. LAUTENBERG, Mr. KERRY, Mr. LOTT, Mr. SMITH, Mr. PRYOR, and Mr. NELSON of Florida) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

APRIL 4, 2006

Reported by Mr. STEVENS, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

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

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

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

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Magnuson-Stevens Fishery Conservation and Manage-
 4 ment Reauthorization Act of 2005”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendment of Magnuson-Stevens Fishery Conservation and Manage-
ment Act.
- Sec. 3. Changes in 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.
- Sec. 102. Caribbean Council jurisdiction.
- Sec. 103. Regional fishery management councils.
- Sec. 104. Fishery management plan requirements.
- Sec. 105. Fishery management plan discretionary provisions.
- Sec. 106. Limited access privilege programs.
- Sec. 107. Environmental review process.
- Sec. 108. Emergency regulations.
- Sec. 109. Western Pacific community development.
- Sec. 110. Western Alaska Community Development Quota Program.
- Sec. 111. Secretarial action on State groundfish fishing.
- Sec. 112. Joint enforcement agreements.
- Sec. 113. Transition to sustainable fisheries.
- Sec. 114. Regional coastal disaster assistance, transition, and recovery pro-
gram.
- Sec. 115. Bycatch reduction engineering program.

TITLE II—INFORMATION AND RESEARCH

- Sec. 201. Recreational fisheries information.
- Sec. 202. Collection of information.
- Sec. 203. Access to certain information.
- Sec. 204. Cooperative research and management program.
- Sec. 205. Herring study.
- Sec. 206. Restoration study.
- Sec. 207. Western Pacific fishery demonstration projects.
- Sec. 208. Fisheries Conservation and Management Fund.
- Sec. 209. Use of fishery finance program and capital construction fund for sus-
tainable purposes.

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
 bycatch of protected marine species.
 Sec. 404. Monitoring of Pacific insular area fisheries.
 Sec. 405. Reauthorization of Atlantic Tunas Convention Act.
 Sec. 406. International overfishing and domestic equity.

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. Penalties.
 Sec. 508. Cooperation in carrying out convention.
 Sec. 509. Territorial participation.
 Sec. 510. Authorization of appropriations.

TITLE VI—PACIFIC WHITING

Sec. 601. Short title.
 Sec. 602. Definitions.
 Sec. 603. United States representation on joint management committee.
 Sec. 604. United States representation on the scientific review group.
 Sec. 605. United States representation on joint technical committee.
 Sec. 606. United States representation on advisory panel.
 Sec. 607. Responsibilities of the Secretary.
 Sec. 608. Rulemaking.
 Sec. 609. Administrative matters.
 Sec. 610. Enforcement.
 Sec. 611. Authorization of appropriations.

1 **SEC. 2. AMENDMENT OF MAGNUSON-STEVENSON FISHERY**

2 **CONSERVATION AND MANAGEMENT ACT.**

3 Except as otherwise expressly provided, whenever in
 4 this Act an amendment or repeal is expressed in terms
 5 of an amendment to, or repeal of, a section or other provi-
 6 sion, the reference shall be considered to be made to a
 7 section or other provision of the Magnuson-Stevens Fish-

1 ery Conservation and Management Act (16 U.S.C. 1801
2 et seq.).

3 **SEC. 3. CHANGES IN DEFINITIONS.**

4 (a) IN GENERAL.—Section 3 (16 U.S.C. 1802) is
5 amended—

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

8 “(6A) The term ‘confidential information’
9 means—

10 “(A) trade secrets; or

11 “(B) commercial or financial information
12 the disclosure of which is likely to result in sub-
13 stantial harm to the competitive position of the
14 person who submitted the information to the
15 Secretary.”;

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

18 “(13B) the term ‘regional fishery association’
19 means an association formed for the mutual benefit
20 of members comprising persons engaging in the har-
21 vest or processing of fishery resources in a specific
22 geographic region or subregion who otherwise own or
23 operate businesses substantially dependent upon a
24 fishery to meet social and economic needs in that re-
25 gion or subregion.”;

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

3 “(23A) The term ‘limited access privilege’—

4 “(A) means a Federal permit, issued as
5 part of a limited access system under section
6 303A to harvest a quantity of fish that may be
7 received or held for exclusive use by a person;
8 and

9 “(B) includes an individual fishing quota;
10 but

11 “(C) does not include community develop-
12 ment quotas as described in section 305(i).”;
13 and

14 (4) by inserting after paragraph (27) the fol-
15 lowing:

16 “(27A) The term ‘observer information’ means
17 any information collected, observed, retrieved, or cre-
18 ated by an observer or electronic monitoring system
19 pursuant to authorization by the Secretary, or col-
20 lected as part of a cooperative research initiative, in-
21 cluding fish harvest or processing observations, fish
22 sampling or weighing data, vessel logbook data, ves-
23 sel or processor-specific information (including any
24 safety, location, or operating condition observations);

1 and video, audio, photographic, or written docu-
 2 ments.”.

3 (b) REDESIGNATION.—Paragraphs (1) through (45)
 4 of section 3 (16 U.S.C. 1802), as amended by subsection
 5 (a), are redesignated as paragraphs (1) thorough (49), re-
 6 spectively.

7 (c) CONFORMING AMENDMENTS.—

8 (1) The following provisions of the Act are
 9 amended by striking “an individual fishing quota”
 10 and inserting “a limited access privilege”.

11 (A) Section 304(e)(3) (16 U.S.C.
 12 1854(e)(3)).

13 (B) Section 304(d)(2)(A)(i) (16 U.S.C.
 14 1854(d)(2)(A)(i)).

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

17 (D) Section 407(a)(1)(D), (e)(1), and
 18 (e)(2)(B) (16 U.S.C. 1883(a)(1)(D), (e)(1), and
 19 (e)(2)(B)).

20 (2) Section 305(h)(1) (16 U.S.C. 1855(h)(1)) is
 21 amended by striking “individual fishing quotas,”
 22 and inserting “limited access privileges”.

23 **SEC. 4. HIGHLY MIGRATORY SPECIES.**

24 Section 102 (16 U.S.C. 1912) is amended—

1 (1) by inserting “(a) IN GENERAL.—” before
2 “the”; and

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

4 “(b) TRADITIONAL PARTICIPATION.—For fisheries
5 being managed under an international fisheries agreement
6 to which the United States is a party, Council or Secre-
7 tarial action, if any, shall reflect traditional participation
8 in the fishery, relative to other Nations, by fishermen of
9 the United States on fishing vessels of the United States.

10 “(c) PROMOTION OF STOCK MANAGEMENT.—If a rel-
11 evant international fisheries organization does not have a
12 process for developing a formal plan to rebuild a depleted
13 stock, an overfished stock, or a stock that is approaching
14 a condition of being overfished, the provisions of this Act
15 in this regard shall be communicated to and promoted by
16 the United States in the international or regional fisheries
17 organization.”.

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

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

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

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

23 (3) by inserting after “Act.” the following: “Al-
24 locations of the total allowable level of foreign fish-
25 ing are discretionary, except that the total allowable

1 level shall be zero for fisheries determined by the
2 secretary to have adequate or excess harvest capac-
3 ity.”

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

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

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

10 (2) by striking “authority, after payment of di-
11 rect costs of the enforcement action to all entities in-
12 volved in such action,” in paragraph (8); and

13 (3) by inserting after “paragraph (4).” in para-
14 graph (8) “In the case of violations by foreign ves-
15 sels occurring within the exclusive economic zones
16 off Midway Atoll, Johnston Atoll, Kingman Reef,
17 Palmyra Atoll, Jarvis, Howland, Baker, and Wake
18 Islands, amounts received by the Secretary attrib-
19 utable to fines and penalties imposed under this Act,
20 shall be deposited into the Western Pacific Sustain-
21 able Fisheries Fund established under paragraph (7)
22 of this subsection.”.

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

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

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

2 “There are authorized to be appropriated to the Sec-
3 retary to carry out the provisions of this Act
4 \$328,004,000.00 for fiscal year 2006, and such sums as
5 may be necessary for fiscal years 2007 through 2012.”

6 **TITLE I—CONSERVATION AND**
7 **MANAGEMENT**

8 **SEC. 101. CUMULATIVE IMPACTS.**

9 (a) NATIONAL STANDARDS.—Section 301(a)(8) (16
10 U.S.C. 1851(a)(8)) is amended by inserting “by utilizing
11 economic and social data and assessment methods based
12 on the best economic and social information available,”
13 after “fishing communities”.

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

21 **SEC. 102. CARIBBEAN COUNCIL JURISDICTION.**

22 Section 302(a)(1)(D) (16 U.S.C. 852(a)(1)(D)) is
23 amended by inserting “and of commonwealths, territories,
24 and possessions of the United States in the Caribbean
25 Sea” after “seaward of such States”.

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

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

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

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

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

14 “(g) COMMITTEES AND ADVISORY PANELS.—

15 “(1)(A) Each Council shall establish, maintain,
16 and appoint the members of, a scientific and statis-
17 tical committee to assist it in the development, col-
18 lection, evaluation, and peer review of such statis-
19 tical, biological, economic, social, and other scientific
20 information as is relevant to such Council’s develop-
21 ment and amendment of any fishery management
22 plan.

23 “(B) Each scientific and statistical committee
24 shall provide its Council ongoing scientific advice for
25 fishery management decisions, including rec-
26 ommendations for acceptable biological catch or opti-

1 mum yield, and reports on stock status and health,
2 bycatch, habitat status, socio-economic impacts of
3 management measures, and sustainability of fishing
4 practices.

5 “(C) Members appointed by the Councils to the
6 scientific and statistical committees shall be Federal
7 employees, State employees, academicians, or inde-
8 pendent experts with strong scientific or technical
9 credentials and experience.

10 “(D) The Secretary and each Council may es-
11 tablish a peer review process for that Council, devel-
12 oped in consultation with the Council coordination
13 committee for scientific information used to advise
14 the Council about the conservation and management
15 of the fishery. The review process, which may in-
16 clude existing committees or panels, is deemed to
17 satisfy the requirements of the guidelines issued pur-
18 suant to section 515 of the Treasury and General
19 Government Appropriations Act for Fiscal year 2001
20 (Public Law 106-554—Appendix C, 114 Stat.
21 2763A-153).

22 “(E) In addition to the provisions of section
23 302(f)(7), the Secretary may pay a stipend to mem-
24 bers of the scientific and statistical committees or
25 advisory panels who are not employed by the Federal

1 government or a State marine fisheries agency.”;
2 and

3 (2) by striking “other” in paragraph (2); and
4 (3) by resetting the left margin of paragraphs
5 (2) through (5) 2 ems from the left.

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

8 (1) by striking “and” after the semicolon in
9 paragraph (5);

10 (2) by redesignating paragraph (6) as para-
11 graph (7); and

12 (3) by inserting after paragraph (5) the fol-
13 lowing:

14 “(6) adopt annual catch limits for each of its
15 managed fisheries after considering the rec-
16 ommendations of its scientific and statistical com-
17 mittee or other appropriate scientific body; and”.

18 (d) REGULAR AND EMERGENCY MEETINGS.—The
19 first sentence of section 302(i)(2)(C) (16 U.S.C.
20 1852(i)(2)(C)) is amended—

21 (1) by striking “published in local newspapers”
22 and inserting “provided by any means that will re-
23 sult in wide publicity (except that e-mail notification
24 and website postings alone are not sufficient)”; and

1 (2) by striking “fishery) and such notice may
2 be given by such other means as will result in wide
3 publicity.” and inserting “fishery).”.

4 (e) CLOSED MEETINGS.—Section 302(i)(3)(B) (16
5 U.S.C. 1852(i)(3)(B)) is amended by striking “notify local
6 newspapers” and inserting “provide notice by any means
7 that will result in wide publicity”.

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

10 “(k) COUNCIL TRAINING PROGRAM.—

11 “(1) TRAINING COURSE.—Within 6 months
12 after the date of enactment of the Magnuson-Ste-
13 vens Fishery Conservation and Management Reau-
14 thorization Act of 2005, the Secretary, in consulta-
15 tion with the Councils and the National Sea Grant
16 College Program, shall develop a training course for
17 newly appointed Council members. The course may
18 cover a variety of topics relevant to matters before
19 the Councils, including—

20 “(A) fishery science and basic stock assess-
21 ment methods;

22 “(B) fishery management techniques, data
23 needs, and Council procedures;

24 “(C) social science and fishery economics;

1 “(D) tribal treaty rights and native cus-
2 toms, access, and other rights related to West-
3 ern Pacific indigenous communities;

4 “(E) legal requirements of this Act, includ-
5 ing conflict of interest and disclosure provisions
6 of this section and related policies;

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

10 “(G) public process for development of
11 fishery management plans; and

12 “(H) other topics suggested by the Coun-
13 cil.

14 “(2) MEMBER TRAINING.—The training course
15 shall be available to both new and existing Council
16 members, and may be made available to committee
17 or advisory panel members as resources allow.

18 “(1) COUNCIL COORDINATION COMMITTEE.—The
19 Councils may establish a Council coordination committee
20 consisting of the chairs, vice chairs, and executive direc-
21 tors of each of the 8 Councils described in subsection
22 (a)(1), or other Council members or staff, in order to dis-
23 cuss issues of relevance to all Councils, including issues
24 related to the implementation of this Act.”.

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

3 (1) by striking “to the Councils or to the sci-
4 entific and statistical committees or advisory panels
5 established under subsection (g)” in paragraph (1)
6 and inserting “to the Councils, the Council coordina-
7 tion committee established under subsection (1), or
8 to the scientific and statistical committees or other
9 committees or advisory panels established under sub-
10 section (g)”;

11 (2) by striking “of a Council, and of the sci-
12 entific and statistical committee and advisory panels
13 established under subsection (g)” in paragraph (2)
14 and inserting “of a Council, of the Council coordina-
15 tion committee established under subsection (1), and
16 of the scientific and statistical committees or other
17 committees or advisory panels established under sub-
18 section (g)”;

19 (3) by inserting “other committee,” in para-
20 graph (3)(A) after “committee.”

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

23 (1) by striking “and” after the semicolon in
24 paragraph (2)(B);

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

3 “~~(D)~~ the members of any fishing, processing, or
4 marketing association if the individual is serving as
5 an employee or contractor or otherwise receiving
6 compensation from the association; and

7 “~~(E)~~ any entity or other individual from whom
8 the individual is receiving or will receive compensa-
9 tion of any kind;”

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

12 “~~(B)~~ be kept on file by the Council and made
13 available on the Internet and for public inspection at
14 the Council offices during reasonable times; and”;
15 and

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

17 “~~(9)~~ On January 1, 2008, and annually thereafter,
18 the Secretary shall submit a report to the Senate Com-
19 mittee on Commerce, Science, and Transportation and the
20 House of Representatives Committee on Resources on ac-
21 tion taken by the Secretary and the Councils to implement
22 the disclosure of financial interest and recusal require-
23 ments of this subsection.”.

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

2 (a) IN GENERAL.—Section 303(a) (16 U.S.C.
3 1853(a)) is amended—

4 (1) striking “and charter fishing” in paragraph
5 (5) and inserting “charter fishing, and fish proc-
6 essing”;

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

10 (3) by striking “and” after the semicolon in
11 paragraph (13);

12 (4) by striking “fishery.” in paragraph (14)
13 and inserting “fishery, and”;

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

15 “(15) specify, in the plan or implementing regu-
16 lations, annual catch limits, which shall be estab-
17 lished by the Council or Secretary based on the best
18 scientific information available at a level that does
19 not exceed optimum yield, and, for the purposes of
20 which harvests exceeding the specified annual catch
21 limit (including the specified annual catch limit for
22 a sector) shall be deducted from the following year’s
23 annual catch limit (including that sector).”

24 (b) EFFECTIVE DATE.—The amendment made by
25 subsection (a)(5) shall take effect 2 years after the date
26 of enactment of this Act.

1 **SEC. 105. FISHERY MANAGEMENT PLAN DISCRETIONARY**
 2 **PROVISIONS.**

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

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

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

10 “(A) the conservation requirements of this
 11 Act with respect to the fishery;

12 “(B) present participation in the fishery;

13 “(C) historical fishing practices in, and de-
 14 pendence on, the fishery;

15 “(D) the economics of the fishery;

16 “(E) the capability of fishing vessels used
 17 in the fishery to engage in other fisheries;

18 “(F) the cultural and social framework rel-
 19 evant to the fishery and any affected fishing
 20 communities;

21 “(G) the fair and equitable distribution of
 22 access privileges to a public resource; and

23 “(H) any other relevant considerations;”;

24 (2) by striking “(other than economic data)” in
 25 paragraph (7);

1 (3) by striking “and” after the semicolon in
2 paragraph (11); and

3 (4) by redesignating paragraph (12) as para-
4 graph (13) and inserting after paragraph (11) the
5 following:

6 “(12) establish a process for complying with the
7 National Environmental Policy Act (42 U.S.C. 4321
8 et seq.) pursuant to section 304(h) of this Act;
9 and”.

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

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

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

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

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

16 “(a) IN GENERAL.—After the date of enactment of
17 the Magnuson-Stevens Fishery Conservation and Manage-
18 ment Reauthorization Act of 2005, a Council may submit,
19 and the Secretary may approve, for a fishery that has been
20 managed under a limited access system for at least 1 year,
21 a limited access privilege program to harvest fish, if the
22 program meets the requirements of this section:

23 “(b) NO CREATION OF RIGHT, TITLE, OR INTER-
24 EST.—A limited access system, limited access privilege,

1 quota share, or other authorization established, imple-
 2 mented, or managed under this Act—

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

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

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

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

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

22 “(c) LIMITED ACCESS PRIVILEGES TO HARVEST
 23 FISH.—

24 “(1) IN GENERAL.—In addition to complying
 25 with the other requirements of this Act, any limited

1 access privilege program to harvest fish submitted
2 by a Council or approved by the Secretary under
3 this section—

4 “(A) shall—

5 “(i) if established in a fishery that is
6 overfished or subject to a rebuilding plan,
7 assist in its rebuilding; and

8 “(ii) if established in a fishery that is
9 determined by the Secretary or the Council
10 to have excess capacity, contribute to re-
11 ducing capacity;

12 “(B) shall promote—

13 “(i) the safety of human life at sea;
14 and

15 “(ii) the conservation and manage-
16 ment of the fishery;

17 “(C) shall prohibit any person other than
18 a United States citizen, a corporation, partner-
19 ship, or other entity established under the laws
20 of the United States or any State, a permanent
21 resident alien, a fishing community, or a re-
22 gional fishery association from acquiring a
23 privilege to harvest fish; and

24 “(D) shall require that all fish harvested
25 under a limited access privilege program be

1 processed by vessels of the United States in
2 United States waters or on United States soil
3 (including any territory of the United States).

4 ~~“(2) FISHING COMMUNITIES.—~~

5 ~~“(A) IN GENERAL.—To be eligible to par-~~
6 ~~ticipate in a limited access privilege program to~~
7 ~~harvest fish, a fishing community shall—~~

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

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

14 ~~“(iii) consist of residents who conduct~~
15 ~~commercial or recreational fishing, proc-~~
16 ~~essing, or fishery-dependent support busi-~~
17 ~~nesses within the Council’s management~~
18 ~~area; and~~

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

1 “(B) PARTICIPATION CRITERIA.—In devel-
 2 oping participation criteria for eligible commu-
 3 nities and regional fishery associations under
 4 this paragraph, a Council shall base the criteria
 5 on traditional fishing or processing practices in,
 6 and dependence on, the fishery, the cultural
 7 and social framework relevant to the fishery,
 8 economic barriers to access to fishery, and the
 9 existence and severity of projected economic
 10 and social impacts associated with implementa-
 11 tion of limited access privilege programs on
 12 harvesters, captains, crew, processors, and
 13 other businesses substantially dependent upon
 14 the fishery in the region or subregion.

15 “(3) ALLOCATION.—In developing a limited ac-
 16 cess privilege program to harvest fish a Council or
 17 the Secretary shall—

18 “(A) establish procedures to ensure fair
 19 and equitable initial allocations, including con-
 20 sideration of—

21 “(i) current and historical harvests;

22 “(ii) employment in the harvesting
 23 and processing sectors;

24 “(iii) investments in, and dependence
 25 upon, the fishery; and

1 “(iv) the current and historical par-
2 ticipation of fishing communities;

3 “(B) to the extent practicable, consider the
4 basic cultural and social framework of the fish-
5 ery, especially through the development of poli-
6 cies to promote the sustained participation of
7 small owner-operated fishing vessels and fishing
8 communities that depend on the fisheries, in-
9 cluding regional or port-specific landing or de-
10 livery requirements;

11 “(C) include measures to assist, when nec-
12 essary and appropriate, entry-level and small
13 vessel operators, captains, crew, and fishing
14 communities through set-asides of harvesting
15 allocations, including providing privileges and,
16 where appropriate, recommending the provision
17 of economic assistance in the purchase of lim-
18 ited access privileges to harvest fish;

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

23 “(i) establishing a maximum share,
24 expressed as a percentage of the total lim-

1 ited access privileges, that a limited access
2 privilege holder is permitted to own; and

3 “~~(ii)~~ establishing any other limitations
4 or measures necessary to prevent an in-
5 equitable concentration of limited access
6 privileges;

7 “~~(E)~~ establish procedures to minimize geo-
8 graphic or other consolidation in both the har-
9 vesting and processing sectors of the fishery;
10 and

11 “~~(F)~~ authorize limited access privileges to
12 harvest fish to be held by or issued under the
13 system to persons who substantially participate
14 in the fishery, as specified by the Council, in-
15 cluding, as appropriate, fishing vessel owners,
16 vessel captains, vessel crew members, fishing
17 communities, and regional fishery associations.

18 “~~(4)~~ PROGRAM INITIATION.—

19 “~~(A)~~ CERTIFICATION REQUIREMENT.—Ex-
20 cept as provided in subparagraph ~~(D)~~, a Coun-
21 cil may initiate a fishery management plan or
22 amendment to establish a limited access privi-
23 lege program to harvest fish on its own initia-
24 tive if the Secretary has certified an appro-
25 priate petition.

1 “(B) INITIATION REQUEST.—A group of
2 fishermen constituting more than 50 percent of
3 the permit holders, or holding more than 50
4 percent of the allocation, in the fishery for
5 which a limited access privilege program to har-
6 vest fish is sought, may submit a petition to the
7 Secretary requesting that the relevant Council
8 or Councils with authority over the fishery be
9 authorized to initiate the development of the
10 program. Any such petition shall clearly state
11 the fishery to which the limited access privilege
12 program would apply.

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

22 “(D) NEW ENGLAND AND GULF REF-
23 ERENDUM.—

24 “(i) Except as provided in clause (iii)
25 for the Gulf of Mexico commercial red

1 snapper fishery, the New England and
2 Gulf Councils may not submit, and the
3 Secretary may not approve or implement, a
4 fishery management plan or amendment
5 that creates a fishing quota system, includ-
6 ing a Secretarial plan, unless such a sys-
7 tem, as ultimately developed, has been ap-
8 proved by more than $\frac{2}{3}$ of those voting in
9 a referendum among eligible permit hold-
10 ers. If a fishing quota system fails to be
11 approved by the requisite number of those
12 voting, it may be revised and submitted for
13 approval in a subsequent referendum.

14 “(ii) The Secretary shall conduct a
15 referendum under this subparagraph, in-
16 cluding notifying all persons eligible to
17 participate in the referendum and making
18 available to them information concerning
19 the schedule, procedures, and eligibility re-
20 quirements for the referendum process and
21 the proposed fishing quota system. Within
22 $\frac{1}{2}$ year after the date of enactment of the
23 Magnuson-Stevens Fishery Conservation
24 and Management Reauthorization Act of
25 2005, the Secretary shall publish guide-

1 lines and procedures to determine proce-
2 dures and voting eligibility requirements
3 for referenda and to conduct such
4 referenda in a fair and equitable manner.

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

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

15 “(5) PROGRAM REQUIREMENTS.—Any such lim-
16 ited access privilege program to harvest fish shall—

17 “(A) specify the goals of the program;

18 “(B) include provisions for the regular
19 monitoring and review by the Council and the
20 Secretary of the operations of the program, in-
21 cluding determined progress in meeting the
22 goals of the program and this Act, and any nec-
23 essary modification of the program, with a for-
24 mal and detailed review 5 years after the estab-

1 lishment of the program and every 5 years
2 thereafter;

3 “(C) include an effective system for en-
4 forcement, monitoring, and management of the
5 program, including the use of observers;

6 “(D) include an appeals process for admin-
7 istrative review of determinations with respect
8 to the Secretary’s decisions regarding adminis-
9 tration of the limited access privilege program;

10 “(E) provide for the establishment by the
11 Secretary, in consultation with the Department
12 of Justice and the Federal Trade Commission,
13 for a mandatory information collection and re-
14 view process to provide any and all information
15 necessary for the Department of Justice and
16 the Federal Trade Commission to determine
17 whether any illegal acts of anti-competition,
18 anti-trust, price collusion, or price fixing have
19 occurred among regional fishery associations
20 persons receiving limited access privileges to
21 harvest fish under the program; and

22 “(F) provide for the revocation by the Sec-
23 retary of limited access privileges held by any
24 person found to have violated the antitrust laws
25 of the United States.

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

3 “(A) establish a policy on the transfer-
4 ability of limited access privilege shares
5 (through sale or lease), including a policy on
6 any conditions that apply to the transferability
7 of limited access privilege shares that is con-
8 sistent with the policies adopted by the Council
9 for the fishery under paragraph (3); and

10 “(B) establish criteria for the approval and
11 monitoring of transfers (including sales and
12 leases) of limited access privilege shares.

13 “(7) PREPARATION AND IMPLEMENTATION OF
14 SECRETARIAL PLANS.—This subsection also applies
15 to a plan prepared and implemented by the Sec-
16 retary under section 304(g). For the purpose of ap-
17 plying this subsection to such a plan—

18 “(A) the term ‘Secretary’ shall be sub-
19 stituted for the term ‘Council’; and

20 “(B) paragraphs (2)(A), (4)(A), and
21 (4)(C) shall not apply.

22 “(8) NO WAIVER.—Nothing in this Act shall
23 constitute a waiver, either express or implied, of the
24 antitrust laws of the United States.

1 “(d) AUCTION AND OTHER PROGRAMS.—In estab-
2 lishing a limited access privilege program, a Council may
3 consider, and provide for, if appropriate, an auction sys-
4 tem or other program to collect royalties for the initial
5 distribution of allocations in a limited access privilege pro-
6 gram if—

7 “(1) the system or program is administered in
8 such a way that the resulting distribution of limited
9 access privilege shares meets the program require-
10 ments of subsection (c)(3)(A); and

11 “(2) revenues generated through such a royalty
12 program are deposited in the Limited Access System
13 Administration Fund established by section
14 305(h)(5)(B) and available subject to annual appro-
15 priations.

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

18 “(1) develop a methodology and the means to
19 identify and assess the management, science, data
20 collection, observer coverage, and enforcement pro-
21 grams that are directly related to and in support of
22 the program; and

23 “(2) provide, under section 304(d)(2), for a
24 program of fees paid by limited access privilege hold-
25 ers that will cover the costs of management, science,

1 data collection and analysis; observer coverage; and
 2 enforcement activities.

3 ~~“(f) LIMITED ACCESS PRIVILEGE ASSISTED PUR-~~
 4 ~~CHASE PROGRAM.—~~

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

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

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

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

1 “(g) EFFECT ON CERTAIN EXISTING SHARES AND
 2 PROGRAMS.—Nothing in this Act, or the amendments by
 3 this Act, shall be construed to require a reallocation of
 4 individual quota shares or processor quota shares or other
 5 quota programs, including sector allocation, submitted by
 6 a Council or approved by the Secretary or Congressional
 7 action before the date of enactment of the Magnuson-Ste-
 8 vens Fishery Conservation and Management Reauthoriza-
 9 tion Act of 2005.”.

10 (b) FEES.—Section 304(d)(2)(A) (16 U.S.C.
 11 1854(d)(2)(A)) is amended by striking “management and
 12 enforcement” and inserting “management, data collection,
 13 and enforcement”.

14 (c) CONFORMING AMENDMENT.—Section
 15 304(d)(2)(C)(i) (16 U.S.C. 1854(d)(2)(C)(i)) is amended
 16 by striking “section 305(h)(5)(B)” and all that follows
 17 and inserting “section 305(h)(5)(B).”.

18 **SEC. 107. ENVIRONMENTAL REVIEW PROCESS.**

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

21 “(h) ENVIRONMENTAL REVIEW PROCESS.—

22 “(1) PROCEDURES.—The Secretary shall, in
 23 consultation with the Councils and the Council on
 24 Environmental Quality, revise and update agency
 25 procedures for compliance with the National Envi-

1 ronmental Policy Act (42 U.S.C. 4231 et seq.). The
2 procedures shall—

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

6 “(B) integrate applicable environmental
7 analysis process, including the time frames for
8 public input, with the process for the prepara-
9 tion and dissemination of fishery management
10 plans, plan amendments, and other actions
11 taken or approved pursuant to this Act in order
12 to provide for timely, clear and concise analysis
13 that is useful to decision makers and the public,
14 reduce extraneous paperwork, and effectively in-
15 volve the public.

16 “(2) USAGE.—The updated agency procedures
17 promulgated in accordance with this section used by
18 the Councils or the Secretary shall be the sole environ-
19 mental impact assessment process for fishery man-
20 agement plans, amendments, regulations, or other
21 actions taken or approved pursuant to this Act.

22 “(3) SCHEDULE FOR PROMULGATION OF FINAL
23 PROCEDURES.—The Secretary shall—

24 “(A) propose revised procedures within 12
25 months after the date of enactment of the Mag-

1 nison-Stevens Fishery Conservation and Man-
2 agement Reauthorization Act of 2005;

3 “(B) provide 90 days for public review and
4 comments; and

5 “(C) promulgate final procedures no later
6 than 18 months after the date of enactment of
7 that Act.

8 “(4) PUBLIC PARTICIPATION.—The Secretary is
9 authorized and directed, in cooperation with the
10 Council on Environmental Quality and the Councils,
11 to involve the affected public in the development of
12 revised procedures, including workshops or other ap-
13 propriate means of public involvement.”.

14 **SEC. 108. EMERGENCY REGULATIONS.**

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

19 (b) TECHNICAL AMENDMENT.—Section 305(e)(3)(D)
20 (16 U.S.C. 1855(e)(3)(D)) is amended by inserting “or
21 interim measures” after “emergency regulations”.

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

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

1 “(j) WESTERN PACIFIC REGIONAL MARINE EDU-
2 CATION AND TRAINING.—

3 “(1) IN GENERAL.—The Secretary shall estab-
4 lish a pilot program for regionally-based marine edu-
5 cation and training programs in the Western Pacific
6 to foster understanding, practical use of knowledge
7 (including native Hawaiian and other Pacific Is-
8 lander-based knowledge), and technical expertise rel-
9 evant to stewardship of living marine resources. The
10 Secretary shall, in cooperation with the Western Pa-
11 cific Regional Fishery Management Council, regional
12 educational institutions, and local Western Pacific
13 community training entities, establish programs or
14 projects that will improve communication, education,
15 and training on marine resource issues throughout
16 the region and increase scientific education for ma-
17 rine-related professions among coastal community
18 residents, including indigenous Pacific islanders, Na-
19 tive Hawaiians and other underrepresented groups
20 in the region.

21 “(2) PROGRAM COMPONENTS.—The program
22 shall—

23 “(A) include marine science and technology
24 education and training programs focused on
25 preparing community residents for employment

1 in marine related professions, including marine
2 resource conservation and management, marine
3 science, marine technology, and maritime oper-
4 ations;

5 “(B) include fisheries and seafood-related
6 training programs, including programs for fish-
7 ery observers, seafood safety and seafood mar-
8 keting, focused on increasing the involvement of
9 coastal community residents in fishing, fishery
10 management, and seafood-related operations;

11 “(C) include outreach programs and mate-
12 rials to educate and inform consumers about
13 the quality and sustainability of wild fish or
14 fish products farmed through responsible aqua-
15 culture, particularly in Hawaii and the Western
16 Pacific;

17 “(D) include programs to identify, with the
18 fishing industry, methods and technologies that
19 will improve the data collection, quality, and re-
20 porting and increase the sustainability of fish-
21 ing practices, and to transfer such methods and
22 technologies among fisheries sectors and to
23 other nations in the Western and Central Pa-
24 cific;

1 “(E) develop means by which local and
2 traditional knowledge (including Pacific islander
3 and Native Hawaiian knowledge) can enhance
4 science-based management of fishery resources
5 of the region; and

6 “(F) develop partnerships with other West-
7 ern Pacific Island agencies, academic institu-
8 tions, and other entities to meet the purposes of
9 this section.”.

10 **SEC. 110. WESTERN ALASKA COMMUNITY DEVELOPMENT**
11 **QUOTA PROGRAM.**

12 Section 305(i)(1) (16 U.S.C. 1855(i)(1)) is amend-
13 ed—

14 (1) by striking “To” in subparagraph (B) and
15 inserting “Except as provided in subparagraph (E),
16 to”; and

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

18 “(E) A community shall be eligible to par-
19 ticipate in the western Alaska community devel-
20 opment quota program under subparagraph (A)
21 if the community was—

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

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

3 **SEC. 111. SECRETARIAL ACTION ON STATE GROUND FISH**
4 **FISHING.**

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

7 “(k) **MULTISPECIES GROUND FISH.**—Within 60 days
8 after the date of enactment of the Magnuson-Stevens
9 Fishery Conservation and Management Reauthorization
10 Act of 2005, the Secretary of Commerce shall determine
11 whether fishing in State waters without a New England
12 multispecies groundfish fishery permit on regulated spe-
13 cies within the multispecies complex is not consistent with
14 the applicable Federal fishery management plan. If the
15 Secretary makes a determination that such actions are not
16 consistent with the plan, the Secretary shall, in consulta-
17 tion with the Council, and after notifying the affected
18 State, develop and implement measures to cure the incon-
19 sistency.”.

20 **SEC. 112. JOINT ENFORCEMENT AGREEMENTS.**

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

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

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

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

5 “(vi) access, directly or indirectly, for
6 enforcement purposes any data or informa-
7 tion required to be provided under this
8 title or regulations under this title, includ-
9 ing data from Global Maritime Distress
10 and Safety Systems, vessel monitoring sys-
11 tems, or any similar system, subject to the
12 confidentiality provisions of section 402;”;

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

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

17 “(h) JOINT ENFORCEMENT AGREEMENTS.—

18 “(1) IN GENERAL.—The Governor of an eligible
19 State may apply to the Secretary for execution of a
20 joint enforcement agreement with the Secretary that
21 will authorize the deputization and funding of State
22 law enforcement officers with marine law enforce-
23 ment responsibilities to perform duties of the Sec-
24 retary relating to law enforcement provisions under
25 this title or any other marine resource law enforced

1 by the Secretary. Upon receiving an application
2 meeting the requirements of this subsection, the Sec-
3 retary may enter into a joint enforcement agreement
4 with the requesting State.

5 “(2) ELIGIBLE STATE.—A State is eligible to
6 participate in the cooperative enforcement agree-
7 ments under this section if it is in, or bordering on,
8 the Atlantic Ocean (including the Caribbean Sea),
9 the Pacific Ocean, the Arctic Ocean, the Gulf of
10 Mexico, Long Island Sound, or 1 or more of the
11 Great Lakes.

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

14 “(A) shall be consistent with the purposes
15 and intent of this section to the extent applica-
16 ble to the regulated activities;

17 “(B) may include specifications for joint
18 management responsibilities as provided by the
19 first section of Public Law 91-412 (15 U.S.C.
20 1525); and

21 “(C) shall provide for confidentiality of
22 data and information submitted to the State
23 under section 402.

24 “(4) ALLOCATION OF FUNDS.—The Secretary
25 shall include in each joint enforcement agreement an

1 allocation of funds to assist in management of the
2 agreement. The allocation shall be fairly distributed
3 among all eligible States participating in cooperative
4 enforcement agreements under this subsection; based
5 upon consideration of Federal marine enforcement
6 needs; the specific marine conservation enforcement
7 needs of each participating eligible State; and the
8 capacity of the State to undertake the marine en-
9 forcement mission and assist with enforcement
10 needs. The agreement may provide for amounts to
11 be withheld by the Secretary for the cost of any
12 technical or other assistance provided to the State
13 by the Secretary under the agreement.

14 “(i) IMPROVED DATA SHARING.—

15 “(1) IN GENERAL.—Notwithstanding any other
16 provision of this Act, as soon as practicable but no
17 later than 24 months after the date of enactment of
18 the Magnuson-Stevens Fishery Conservation and
19 Management Reauthorization Act of 2005, the Sec-
20 retary shall implement data-sharing measures to
21 make any data required to be provided by this Act
22 from Global Maritime Distress and Safety Systems
23 or similar systems—

1 “(A) directly accessible by State enforce-
 2 ment officers authorized under subsection (a) of
 3 this section; and

4 “(B) available to a State management
 5 agency involved in, or affected by, management
 6 of a fishery if the State has entered into an
 7 agreement with the Secretary under section
 8 402(b)(1)(B) of this Act.

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

12 “(A) the Attorney General or highest rank-
 13 ing legal officer of the State provides a written
 14 opinion or certification that State law allows
 15 the State to maintain the confidentiality of in-
 16 formation required by Federal law to be kept
 17 confidential; or

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

22 (b) REPORT ON USING GMDSS FOR FISHERY PUR-
 23 POSES.—Within 15 months after the date of enactment
 24 of this Act, the National Marine Fisheries Service and the
 25 United States Coast Guard shall transmit a joint report

1 to the Senate Committee on Commerce, Science, and
2 Transportation and the House of Representatives Com-
3 mittee on Resources containing—

4 (1) a cost-to-benefit analysis of the feasibility,
5 value, and cost of using the Global Maritime Dis-
6 tress and Safety Systems or similar systems for fish-
7 ery management, conservation, enforcement, and
8 safety purposes with the Federal government bear-
9 ing the capital costs of any such system;

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

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

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

18 (5) an examination of how to maximize the
19 data-sharing opportunities between relevant State
20 and Federal agencies and provide specific informa-
21 tion on how to develop these opportunities, including
22 the provision of direct access to the Global Maritime
23 Distress and Safety Systems or similar system data
24 to State enforcement officers, while considering the
25 need to maintain or provide an appropriate level of

1 individual vessel confidentiality where practicable;
2 and

3 (6) an assessment of how the Global Maritime
4 Distress and Safety Systems or similar systems
5 could be developed, purchased, and distributed to
6 regulated vessels.

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

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

10 (1) by striking “measures;” in subsection
11 (a)(1)(B) and inserting “measures, including regu-
12 latory or judicial harvest restrictions imposed to pro-
13 tect human health or the marine environment;”;

14 (2) by striking “1996, 1997, 1998, and 1999.”
15 in subsection (a)(4) and inserting “2006 through
16 2012.”;

17 (3) by striking “or the Governor of a State for
18 fisheries under State authority, may conduct a fish-
19 ing” in subsection (b)(1) and inserting “the Gov-
20 ernor of a State for fisheries under State authority,
21 or a majority of permit holders in the fishery, may
22 conduct a voluntary fishing”;

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

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

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

7 “(A) the owner of a fishing vessel, if the permit
8 authorizing the participation of the vessel in the
9 fishery is surrendered for permanent revocation and
10 the vessel owner and permit holder relinquish any
11 claim associated with the vessel or permit that could
12 qualify such owner or holder for any present or fu-
13 ture limited access system permit in the fishery for
14 which the program is established and such vessel is
15 (i) scrapped, or (ii) through the Secretary of the de-
16 partment in which the Coast Guard is operating,
17 subjected to title restrictions (including loss of the
18 vessel’s fisheries endorsement) that permanently
19 prohibit and effectively prevent its use in fishing in
20 federal or state waters, or fishing on the high seas
21 or in the waters of a foreign nation ; or”;

22 (7) by striking “The Secretary shall consult, as
23 appropriate, with Councils,” in subsection (b)(4) and
24 inserting “The harvester proponents of each pro-

1 gram and the Secretary shall consult, as appropriate
2 and practicable, with Councils,”;

3 (8) by striking “Secretary, at the request of the
4 appropriate Council,” in subsection (d)(1)(A) and
5 inserting “Secretary”;

6 (9) by striking “Secretary, in consultation with
7 the Council,” in subsection (d)(1)(A) and inserting
8 “Secretary”;

9 (10) by striking “a two-thirds majority of the
10 participants voting.” in subsection (d)(1)(B) and in-
11 serting “at least a majority of the permit holders in
12 the fishery, or 50 percent of the permitted allocation
13 of the fishery.”;

14 (11) by striking “establish;” in subsection
15 (d)(2)(C) and inserting “establish, unless the Sec-
16 retary determines that such fees should be collected
17 from the seller;” and

18 (12) striking subsection (e) and inserting the
19 following:

20 “(e) IMPLEMENTATION PLAN.—

21 “(1) FRAMEWORK REGULATIONS.—The Sec-
22 retary shall propose and adopt framework regula-
23 tions applicable to the implementation of all pro-
24 grams under this section.

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

6 “(3) HARVESTER PROPONENTS’ IMPLEMENTA-
7 TION PLAN.—The Secretary may not propose imple-
8 mentation regulations for a program to be paid for
9 by an industry fee system until the harvester pro-
10 ponents of the program provide to the Secretary a
11 proposed implementation plan that, among other
12 matters—

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

17 “(i) the requirements of this section;

18 “(ii) the requirements of the frame-
19 work regulations;

20 “(iii) the characteristics of the fishery;

21 “(iv) the requirements of the applica-
22 ble fishery management plan and any
23 amendment that such plan may require to
24 support the proposed program;

1 “(v) the general needs and desires of
2 harvesters in the fishery;

3 “(vi) the need to minimize program
4 costs; and

5 “(vii) other matters, including the
6 manner in which such proponents propose
7 to fund the program to ensure its cost ef-
8 fectiveness, as well as any relevant factors
9 demonstrating the potential for, or nec-
10 essary to obtain, the support and general
11 cooperation of a substantial number of af-
12 fected harvesters in the fishery (or portion
13 of the fishery) for which the program is in-
14 tended; and

15 “(B) proposes procedures for program par-
16 ticipation (such as submission of owner bids
17 under an auction system or fair market-value
18 assessment), including any terms and condi-
19 tions for participation, that the harvester pro-
20 ponents deem to be reasonably necessary to
21 meet the program’s proposed objectives.

22 “(4) PARTICIPATION CONTRACTS.—The Sec-
23 retary shall contract with each person participating
24 in a program, and each such contract shall, in addi-
25 tion to including such other matters as the Secretary

1 deems necessary and appropriate to effectively im-
2 plement each program (including penalties for con-
3 tract non-performance) be consistent with the frame-
4 work and implementing regulations and all other ap-
5 plicable law.

6 “(5) REDUCTION AUCTIONS.—Each program
7 not involving fair market assessment shall involve a
8 reduction auction that scores the reduction price of
9 each bid offer by the data relevant to each bidder
10 under an appropriate fisheries productivity factor. If
11 the Secretary accepts bids, the Secretary shall ac-
12 cept responsive bids in the rank order of their bid
13 scores, starting with the bid whose reduction price is
14 the lowest percentage of the productivity factor, and
15 successively accepting each additional responsive bid
16 in rank order until either there are no more respon-
17 sive bids or acceptance of the next bid would cause
18 the total value of bids accepted to exceed the amount
19 of funds available for the program.

20 “(6) BID INVITATIONS.—Each program shall
21 proceed by the Secretary issuing invitations to bid
22 setting out the terms and conditions for participa-
23 tion consistent with the framework and imple-
24 menting regulations. Each bid that the Secretary re-

1 ceives in response to the invitation to bid shall con-
 2 stitute an irrevocable offer from the bidder.”.

3 (b) **TECHNICAL AMENDMENT.**—Sections 116, 203,
 4 204, 205, and 206 of the Sustainable Fisheries Act are
 5 deemed to have added sections 312, 402, 403, 404, and
 6 405, respectively to the Act as of the date of enactment
 7 of the Sustainable Fisheries Act.

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

10 Title III (16 U.S.C. 1851 et seq.) is amended by add-
 11 ing at the end the following:

12 **“SEC. 315. REGIONAL COASTAL DISASTER ASSISTANCE,**
 13 **TRANSITION, AND RECOVERY PROGRAM.**

14 “(a) **IN GENERAL.**—When there is a catastrophic re-
 15 gional fishery disaster the Secretary may, upon the re-
 16 quest of, and in consultation with, the Governors of af-
 17 fected States, establish a regional economic transition pro-
 18 gram to provide immediate disaster relief assistance to the
 19 fishermen, charter fishing operators, United States fish
 20 processors, and owners of related fishery infrastructure af-
 21 fected by the disaster.

22 “(b) **PROGRAM COMPONENTS.**—

23 “(1) **IN GENERAL.**—The program shall provide
 24 funds or other economic assistance to affected enti-
 25 ties for—

1 “(A) meeting immediate regional shoreside
2 fishery infrastructure needs, including proe-
3 cessing facilities, cold storage facilities, ice
4 houses, docks, including temporary docks and
5 storage facilities, and other related shoreside
6 fishery support facilities and infrastructure;

7 “(B) financial assistance and job training
8 assistance for fishermen who wish to remain in
9 a fishery in the region that may be temporarily
10 closed as a result of environmental or other ef-
11 fects associated with the disaster;

12 “(C) funding, pursuant to the require-
13 ments of section 312(b), to fishermen who are
14 willing to scrap a fishing vessel and perma-
15 nently surrender permits for fisheries named on
16 that vessel; and

17 “(D) any other activities authorized under
18 section 312(a) of this Act or section 308(d) of
19 the Interjurisdictional Fisheries Act of 1986
20 (16 U.S.C. 4107(d)).

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

24 “(3) STATE PARTICIPATION OBLIGATION.—The
25 participation by a State in the program shall be con-

1 ditioned upon a commitment by the appropriate
 2 State entity to ensure that the relevant State fishery
 3 meets the requirements of section 312(b) of this Act
 4 to ensure excess capacity does not re-enter the fish-
 5 ery.

6 “(4) NO MATCHING.—Amounts provided under
 7 the program may not be conditioned upon matching
 8 State or local government funds or contributions.

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

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

23 “(d) CATASTROPHIC REGIONAL FISHERY DISASTER
 24 DEFINED.—In this section the term ‘catastrophic regional
 25 fishery disaster’ means a natural disaster, including a hur-

1 rricane or tsunami, or a judicial or regulatory closure to
 2 protect human health or the marine environment, that—

3 “(1) results in economic losses to coastal or
 4 fishing communities;

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

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

13 **SEC. 115. BYCATCH REDUCTION ENGINEERING PROGRAM.**

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

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

18 “(a) BYCATCH REDUCTION ENGINEERING PRO-
 19 GRAM.—Not later than 1 year after the date of enactment
 20 of the Magnuson-Stevens Fishery Conservation and Man-
 21 agement Reauthorization Act of 2005, the Secretary, in
 22 cooperation with the Councils and other affected interests,
 23 and based upon the best scientific information available,
 24 shall establish a bycatch reduction program to develop
 25 technological devices and other conservation engineering

1 changes designed to minimize bycatch, bycatch mortality,
2 and post-release mortality in Federally managed fisheries.

3 The program shall—

4 “(1) be regionally based;

5 “(2) be coordinated with projects conducted
6 under the cooperative research and management
7 program established under this Act;

8 “(3) provide information and outreach to fish-
9 ery participants that will encourage adoption and
10 use of technologies developed under the program;
11 and

12 “(4) provide for routine consultation with the
13 Councils in order to maximize opportunities to incor-
14 porate results of the program in Council actions and
15 provide incentives for adoption of methods developed
16 under the program in fishery management plans de-
17 veloped by the Councils.

18 “(b) INCENTIVES.—Any fishery management plan
19 prepared by a Council or by the Secretary may establish
20 a system of incentives to reduce total bycatch amounts,
21 bycatch rates, and post-release mortality in fisheries under
22 the Council’s or Secretary’s jurisdiction, including—

23 “(1) measures to incorporate bycatch into
24 quotas, including the establishment of collective or
25 individual bycatch quotas;

1 “(2) measures to promote the use of gear with
2 verifiable and monitored low bycatch rates; and

3 “(3) measures that, based on the best scientific
4 information available, will reduce bycatch, bycatch
5 mortality, post-release mortality, or regulatory dis-
6 cards in the fishery.”.

7 **TITLE II—INFORMATION AND** 8 **RESEARCH**

9 **SEC. 201. RECREATIONAL FISHERIES INFORMATION.**

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

12 “(g) RECREATIONAL FISHERIES.—

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

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

21 “(i) in the Exclusive Economic Zone;

22 “(ii) for anadromous species; or

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

1 “(B) if appropriate, the registration (in-
2 cluding the ownership, operator, and identifica-
3 tion of the vessel) of vessels used in such fish-
4 ing.

5 “(2) STATE PROGRAMS.—The Secretary shall
6 exempt from registration under the program rec-
7 reational fishermen and charter fishing vessels li-
8 censed, permitted, or registered under the laws of a
9 State if the Secretary determines that information
10 from the State program is suitable for the Sec-
11 retary’s use or is used to assist in completing marine
12 recreational fisheries statistical surveys, or evalu-
13 ating the effects of proposed conservation and man-
14 agement measures for marine recreational fisheries.

15 “(3) DATA COLLECTION.—Within 24 months
16 after the date of enactment of the Magnuson-Ste-
17 vens Fishery conservation and Management Reau-
18 thorization Act of 2005, the Secretary shall establish
19 a program to improve the quality and accuracy of
20 information generated by the Marine Recreational
21 Fishery Statistics Survey, with a goal of achieving
22 acceptable accuracy and utility for each individual
23 fishery. Unless the Secretary determines that alter-
24 nate methods will achieve this goal more efficiently

1 and effectively, the program shall, to the extent pos-
 2 sible, include—

3 “(A) an adequate number of dockside
 4 interviews to accurately estimate recreational
 5 catch and effort;

6 “(B) use of surveys that target anglers
 7 registered or licensed at the State or Federal
 8 level to collect participation and effort data;

9 “(C) collection and analysis of vessel trip
 10 report data from charter fishing vessels; and

11 “(D) development of a weather corrective
 12 factor that can be applied to recreational catch
 13 and effort estimates.

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

19 **SEC. 202. COLLECTION OF INFORMATION.**

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

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

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

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

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

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

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

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

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

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

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

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

6 “(b) CONFIDENTIALITY OF INFORMATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 “(d) **EXPERIMENTAL PERMITTING PROCESS.**—Not
4 later than 180 days after the date of enactment of the
5 Magnuson-Stevens Fishery Conservation and Manage-
6 ment Reauthorization Act of 2005, the Secretary, in con-
7 sultation with the Councils, shall promulgate regulations
8 that create an expedited, uniform, and regionally-based
9 process to promote issuance, where practicable, of experi-
10 mental fishing permits.

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

17 **SEC. 205. HERRING STUDY.**

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

21 **“SEC. 318. HERRING STUDY.**

22 “(a) **IN GENERAL.**—The Secretary may conduct a co-
23 operative research program to study the issues of abun-
24 dance, distribution and the role of herring as forage fish
25 for other commercially important fish stocks in the North-

1 west Atlantic, and the potential for local scale depletion
2 from herring harvesting and how it relates to other fish-
3 eries in the Northwest Atlantic. In planning, designing,
4 and implementing this program, the Secretary shall en-
5 gage multiple fisheries sectors and stakeholder groups
6 concerned with herring management.

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

11 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated \$2,000,000 for fiscal
13 year 2007 through fiscal year 2009 to conduct this
14 study.”.

15 **SEC. 206. RESTORATION STUDY.**

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

19 **“SEC. 319. RESTORATION STUDY.**

20 “(a) IN GENERAL.—The Secretary may conduct a
21 study to update scientific information and protocols need-
22 ed to improve restoration techniques for a variety of coast
23 habitat types and synthesize the results in a format easily
24 understandable by restoration practitioners and local com-
25 munities.

1 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
 2 are authorized to be appropriated \$500,000 for fiscal year
 3 2007 to conduct this study.”.

4 **SEC. 207. WESTERN PACIFIC FISHERY DEMONSTRATION**
 5 **PROJECTS.**

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

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

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

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

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

20 **SEC. 208. FISHERIES CONSERVATION AND MANAGEMENT**
 21 **FUND.**

22 (a) IN GENERAL.—The Secretary shall establish and
 23 maintain a fund, to be known as the “Fisheries Conserva-
 24 tion and Management Fund”, which shall consist of

1 amounts retained and deposited into the Fund under sub-
2 section (e).

3 (b) PURPOSES.—Subject to the allocation of funds
4 described in subsection (d), amounts in the Fund shall be
5 available to the Secretary of Commerce, without appro-
6 priation or fiscal year limitation, to disburse as described
7 in subsection (e) for—

8 (1) efforts to improve fishery harvest data col-
9 lection including—

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

12 (B) improvement of monitoring and ob-
13 server coverage through the expanded use of
14 electronic monitoring devices and satellite track-
15 ing systems such as VMS on small vessels;

16 (2) cooperative fishery research and analysis, in
17 collaboration with fishery participants, academic in-
18 stitutions, community residents, and other interested
19 parties;

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

23 (4) conducting analysis of fish and seafood for
24 health benefits and risks, including levels of con-

1 taminants and, where feasible, the source of such
2 contaminants;

3 ~~(5) marketing of sustainable United States fish-~~
4 ery products, including consumer education regard-
5 ing the health or other benefits of wild fishery prod-
6 ucts harvested by vessels of the United States; and

7 ~~(6) providing financial assistance to fishermen~~
8 to offset the costs of modifying fishing practices and
9 gear to meet the requirements of this Act, the Mag-
10 nuson-Stevens Fishery Conservation and Manage-
11 ment Act (16 U.S.C. 1801 et seq.), and other Fed-
12 eral laws in pari materia.

13 ~~(e) DEPOSITS TO THE FUND.—~~

14 ~~(1) COMPLIANCE ASSISTANCE.—~~Paragraph ~~(1)~~
15 of section ~~311(e)~~ (16 U.S.C. ~~1861(e)~~) is amended—

16 ~~(A) by striking “and” after the semicolon~~
17 in subparagraph ~~(E)~~;

18 ~~(B) by striking “law.” in subparagraph~~
19 ~~(F)~~; and

20 ~~(C) by adding at the end the following:~~

21 ~~“(G) amounts to the Fishery Conservation~~
22 ~~and Management fund established by section~~
23 ~~208 of the Magnuson-Stevens Fishery Con-~~
24 ~~servation and Management Reauthorization Act~~
25 ~~of 2005 necessary to assist in improving moni-~~

1 toring, enforcement, and compliance activities
2 under this Act.”.

3 ~~(2) QUOTA SET-ASIDES.—Any amount gen-~~
4 ~~erated through quota set-asides established by a~~
5 ~~Council under the Magnuson-Stevens Fishery Con-~~
6 ~~servation and Management Act (16 U.S.C. 1801 et~~
7 ~~seq.) and designated by the Council for inclusion in~~
8 ~~the Fishery Conservation and Management Fund,~~
9 ~~may be deposited in the Fund.~~

10 ~~(3) OTHER FUNDS.—In addition to amounts re-~~
11 ~~ceived under sections 311(e)(1)(G) of the Magnuson-~~
12 ~~Stevens Fishery Conservation and Management Act~~
13 ~~(16 U.S.C. 1861(e)(1)(G), and amounts received~~
14 ~~pursuant to paragraph (2) of this subsection, the~~
15 ~~Fishery Conservation and Management Fund may~~
16 ~~also receive funds from—~~

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

19 ~~(B) States or other public sources or pri-~~
20 ~~vate or non-profit organizations for purposes of~~
21 ~~this section.~~

22 ~~(d) REGIONAL ALLOCATION.—The Secretary shall,~~
23 ~~every 2 years, apportion monies from the Fund among the~~
24 ~~eight Council regions according to consensus recommenda-~~
25 ~~tions of the Councils, based on regional priorities identi-~~

1 fied through the Council process, except that no region
 2 shall receive less than 5 percent of the Fund in each allo-
 3 cation period.

4 (e) **LIMITATION ON THE USE OF THE FUND.**—No
 5 amount made available from the Fund may be used to de-
 6 fray the costs of carrying out other requirements of this
 7 Act or the Magnuson-Stevens Fishery Conservation and
 8 Management Act (16 U.S.C. 1801 et seq.).

9 **SEC. 209. USE OF FISHERY FINANCE PROGRAM AND CAP-**
 10 **ITAL CONSTRUCTION FUND FOR SUSTAIN-**
 11 **ABLE PURPOSES.**

12 (a) **PURPOSE OF OBLIGATIONS.**—Section
 13 1104A(a)(7) of the Merchant Marine Act, 1936 (46
 14 U.S.C. App. 1274(a)(7)) is amended to read as follows:

15 “financing or refinancing including;

16 “(A) the reimbursement of obligors for ex-
 17 penditures previously made, for the purchase of
 18 individual fishing quotas in accordance with
 19 section 303(d)(4) of the Magnuson-Stevens
 20 Fishery Conservation and Management Act;

21 “(B) activities that assist in the transition
 22 to reduced fishing capacity;

23 “(C) technologies or upgrades designed to
 24 improve collection and reporting of fishery-de-
 25 pendent data, to reduce bycatch, to improve se-

1 lectivity or reduce adverse impacts of fishing
2 gear; or to improve safety; or

3 “(D) developing a sustainable fisheries la-
4 beling and marketing plan for a fishery, as de-
5 fined in section 607(k)(10) of this Act, deter-
6 mined by the Secretary to be in compliance with
7 the requirements of this Act and any other ma-
8 rine resource law implemented by the Sec-
9 retary.”.

10 (b) by striking “fisheries of the United States” in the
11 second sentence of subsection (a) and inserting “fisheries
12 of the United States; or for the purpose of developing a
13 sustainable fisheries labeling and marketing plan for a
14 fishery determined by the Secretary to be in compliance
15 with the requirements of this Act and any other living ma-
16 rine resource law implemented by the Secretary; or with
17 respect to seafood imports; to have been taken and re-
18 tained in a manner consistent with international regula-
19 tions governing the taking of such stock of fish and is ac-
20 companied by a certificate of origin under section 219 of
21 the Fish and Seafood Promotion Act of 1986.”;

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

25 (1) by striking “for:” and inserting “for—”;

1 (2) by striking “vessel,” in subparagraph (A)
2 and inserting “vessel;”

3 (3) by striking “vessel, or” in subparagraph (B)
4 and inserting “vessel;”

5 (4) by striking “vessel.” in subparagraph (C)
6 and inserting “vessel;” and

7 (5) by inserting after subparagraph (C) the fol-
8 lowing:

9 “(D) in the case of any person for whose
10 benefit the fund was established and who par-
11 ticipates in the fishing capacity reduction pro-
12 gram under section 312 of the Magnuson-Ste-
13 vens Fishery Conservation and Management
14 Act (16 U.S.C. 1861a)—

15 “(i) if such person remains in the
16 fishery, the satisfaction of any debt obliga-
17 tion undertaken pursuant to such program;
18 and

19 “(ii) if such person withdraws 1 or
20 more vessels from the fishery, the substi-
21 tution of amounts the person would other-
22 wise receive under such program for such
23 person’s vessel or permit to engage in the
24 fishery;

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

4 “(i) making conservation engineering
5 changes to reduce bycatch, improve selec-
6 tivity of fishing gear, or reduce adverse im-
7 pacts of fishing gear;

8 “(ii) improving vessel safety; or

9 “(iii) acquiring, installing, or upgrad-
10 ing equipment to improve collection, re-
11 porting, or accuracy of fishery data; or

12 “(F) the acquisition, construction, recon-
13 struction, upgrading, or investment in shoreside
14 fishery-related facilities or infrastructure in the
15 United States for the purpose of promoting
16 United States ownership of fishery-related fa-
17 cilities in the United States without contrib-
18 uting to overcapacity in the sector.”.

19 **TITLE III—OTHER FISHERIES**
20 **STATUTES**

21 **SEC. 301. AMENDMENTS TO NORTHERN PACIFIC HALIBUT**
22 **ACT.**

23 (a) CIVIL PENALTIES.—Section 8(a) of the Northern
24 Pacific Halibut Act of 1982 (16 U.S.C. 773f(a)) is amend-
25 ed—

1 (1) by striking “\$25,000” and inserting
2 “\$200,000”;

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

8 (3) by adding at the end the following: “In as-
9 sessing such penalty, the Secretary may also con-
10 sider any information provided by the violator relat-
11 ing to the ability of the violator to pay if the infor-
12 mation is provided to the Secretary at least 30 days
13 prior to an administrative hearing.”.

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

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

18 “(1) IN GENERAL.—The Secretary may take
19 any action described in paragraph (2) in any case in
20 which—

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

23 “(B) the owner or operator of a vessel or
24 any other person who has been issued or has

1 applied for a permit under this Act has acted
2 in violation of section 7; or

3 ~~“(C) any amount in settlement of a civil~~
4 ~~forfeiture imposed on a vessel or other property,~~
5 ~~or any civil penalty or criminal fine imposed on~~
6 ~~a vessel or owner or operator of a vessel or any~~
7 ~~other person who has been issued or has ap-~~
8 ~~plied for a permit under any marine resource~~
9 ~~law enforced by the Secretary has not been paid~~
10 ~~and is overdue.~~

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

14 ~~“(A) revoke any permit issued with respect~~
15 ~~to such vessel or person, with or without preju-~~
16 ~~dice to the issuance of subsequent permits;~~

17 ~~“(B) suspend such permit for a period of~~
18 ~~time considered by the Secretary to be appro-~~
19 ~~priate;~~

20 ~~“(C) deny such permit; or~~

21 ~~“(D) impose additional conditions and re-~~
22 ~~strictions on any permit issued to or applied for~~
23 ~~by such vessel or person under this Act and,~~
24 ~~with respect to any foreign fishing vessel, on~~
25 ~~the approved application of the foreign nation~~

1 involved and on any permit issued under that
2 application.

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

6 “(A) the nature, circumstances, extent,
7 and gravity of the prohibited acts for which the
8 sanction is imposed; and

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

12 “(4) TRANSFERS OF OWNERSHIP.—Transfer of
13 ownership of a vessel, a permit, or any interest in
14 a permit, by sale or otherwise, shall not extinguish
15 any permit sanction that is in effect or is pending
16 at the time of transfer of ownership. Before exe-
17 cuting the transfer of ownership of a vessel, permit,
18 or interest in a permit, by sale or otherwise, the
19 owner shall disclose in writing to the prospective
20 transferee the existence of any permit sanction that
21 will be in effect or pending with respect to the ves-
22 sel, permit, or interest at the time of the transfer.

23 “(5) REINSTATEMENT.—In the case of any per-
24 mit that is suspended under this subsection for non-
25 payment of a civil penalty, criminal fine, or any

1 amount in settlement of a civil forfeiture, the Sec-
 2 retary shall reinstate the permit upon payment of
 3 the penalty, fine, or settlement amount and interest
 4 thereon at the prevailing rate.

5 “(6) HEARING.—No sanction shall be imposed
 6 under this subsection unless there has been prior op-
 7 portunity for a hearing on the facts underlying the
 8 violation for which the sanction is imposed either in
 9 conjunction with a civil penalty proceeding under
 10 this section or otherwise.

11 “(7) PERMIT DEFINED.—In this subsection, the
 12 term ‘permit’ means any license, certificate, ap-
 13 proval, registration, charter, membership, exemption,
 14 or other form of permission issued by the Commis-
 15 sion or the Secretary, and includes any quota share
 16 or other transferable quota issued by the Sec-
 17 retary.”.

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

21 (1) by striking “\$50,000” and inserting
 22 “\$200,000”; and

23 (2) by striking “\$100,000,” and inserting
 24 “\$400,000,”.

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

2 (a) ATLANTIC STRIPED BASS CONSERVATION ACT.—

3 Section 7(a) of the Atlantic Striped Bass Conservation Act
4 (16 U.S.C. 5156(a)) is amended to read as follows:

5 “(a) AUTHORIZATION.—For each of fiscal years
6 2006, 2007, 2008, 2009, and 2010, there are authorized
7 to be appropriated to carry out this Act—

8 “(1) \$1,000,000 to the Secretary of Commerce;
9 and

10 “(2) \$250,000 to the Secretary of the Inte-
11 rior.”.

12 (b) YUKON RIVER SALMON ACT OF 2000.—Section
13 208 of the Yukon River Salmon Act of 2000 (16 U.S.C.
14 5727) is amended by striking “\$4,000,000 for each of fis-
15 cal years 2004 through 2008,” and inserting “\$4,000,000
16 for each of fiscal years 2006 through 2010.”.

17 (c) SHARK FINNING PROHIBITION ACT.—Section 10
18 of the Shark Finning Prohibition Act (16 U.S.C. 1822
19 note) is amended by striking “fiscal years 2001 through
20 2005” and inserting “fiscal years 2006 through 2010”.

21 (d) PACIFIC SALMON TREATY ACT.—

22 (1) TRANSFER OF SECTION TO ACT.—The text
23 of section 623 of title VI of H.R. 3421 (113 Stat.
24 1501A–56), as introduced on November 17, 1999,
25 and enacted into law by section 1000(a)(1) of the
26 Act of November 29, 1999 (Public Law 106–113)—

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

4 (B) amended—

5 (i) by striking “SEC. 623.”; and

6 (ii) inserting before “(a) NORTHERN
7 FUND AND SOUTHERN FUND.—” the fol-
8 lowing:

9 **“SEC. 16. NORTHERN AND SOUTHERN FUNDS; TREATY IM-
10 PLEMENTATION; ADDITIONAL AUTHORIZA-
11 TION OF APPROPRIATIONS.”.**

12 (2) TECHNICAL CORRECTION.—The amendment
13 made by the Department of Commerce and Related
14 Agencies Appropriations Act, 2005 under the head-
15 ing “PACIFIC COASTAL SALMON RECOVERY” (118
16 Stat. 2881), to section 628(2)(A) of the Depart-
17 ments of Commerce, Justice, and State, the Judici-
18 ary, and Related Agencies Appropriations Act, 2001
19 is deemed to have been made to section
20 623(d)(2)(A) of title VI of H.R. 3421 (113 Stat.
21 1501A–56), as introduced on November 17, 1999,
22 enacted into law by section 1000(a)(1) of the Act of
23 November 29, 1999 (Public Law 106–113) instead
24 of to such section 628(2)(A), as of the date of enact-

1 ment of the Department of Commerce and Related
2 Agencies Appropriations Act, 2005.

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

6 (A) by inserting “sustainable salmon fish-
7 eries,” after “enhancement,”; and

8 (B) by inserting “2006, 2007, 2008, 2009,
9 and 2010,” after “2005.”.

10 (e) ATLANTIC COASTAL FISHERIES COOPERATIVE
11 MANAGEMENT ACT.—Section 811(a) of the Atlantic
12 Coastal Fisheries Cooperative Management Act (16
13 U.S.C. 5108(a)) is amended by striking “2005.” and in-
14 serting “2005 and \$15,000,000 for each of fiscal years
15 2006 through 2010.”.

16 (f) STATE AUTHORITY FOR DUNGENESS CRAB FISH-
17 ERY MANAGEMENT.—Section 203 of Public Law 105–384
18 (16 U.S.C. 1856 note) is amended—

19 (1) by striking “September 30, 2006.” in sub-
20 section (i) and inserting “September 30, 2011.”;

21 (2) by striking “health” in subsection (j) and
22 inserting “status”; and

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

1 by vessels of other nations within the United States
2 exclusive economic zone, with relevant law enforce-
3 ment organizations of foreign nations and relevant
4 international organizations;

5 “(2) further develop real time information shar-
6 ing capabilities, particularly on harvesting and proc-
7 essing capacity and illegal, unreported and unregu-
8 lated fishing;

9 “(3) participate in global and regional efforts to
10 build an international network for monitoring, con-
11 trol, and surveillance of high seas fishing and fishing
12 under regional or global agreements;

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

17 “(5) enhance enforcement capabilities through
18 the application of commercial or governmental re-
19 mote sensing technology to locate or identify vessels
20 engaged in illegal, unreported, or unregulated fish-
21 ing on the high seas, including encroachments into
22 the exclusive economic zone by fishing vessels of
23 other nations;

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

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

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

13 Section 2(a) (16 U.S.C. 1802(a)) is amended by add-
14 ing at the end the following:

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

20 **SEC. 403. ACTION TO END ILLEGAL, UNREPORTED, OR UN-**
21 **REGULATED FISHING AND REDUCE BYCATCH**
22 **OF PROTECTED MARINE SPECIES.**

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

1 **“SEC. 607 BIENNIAL REPORT ON INTERNATIONAL COMPLI-**
2 **ANCE.**

3 “The Secretary, in consultation with the Secretary of
4 State, shall provide to Congress, by not later than 2 years
5 after the date of enactment of the Magnuson-Stevens
6 Fishery Conservation and Management Reauthorization
7 Act of 2005, and every 2 years thereafter, a report that
8 includes—

9 “(1) the state of knowledge on the status of
10 international living marine resources, including a list
11 of all fish stocks classified as overfished, over-
12 exploited, depleted, endangered, or threatened with
13 extinction by any international or other authority
14 charged with management or conservation of living
15 marine resources;

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

20 “(3) a description of efforts taken by nations on
21 those lists to comply with the provisions of sections
22 609 and 610, and an evaluation of the progress of
23 those efforts, including steps taken by the United
24 States to implement those sections and to improve
25 international compliance;

1 “(4) progress at the international level, pursu-
 2 ant to section 608, to strengthen the efforts of inter-
 3 national fishery management organizations to end il-
 4 legal, unreported, or unregulated fishing; and

5 “(5) a plan of action for ensuring the conclu-
 6 sion and entry into force of international measures
 7 comparable to those of the United States to reduce
 8 impacts of fishing and other practices on protected
 9 living marine resources; if no international agree-
 10 ment to achieve such goal exists; or if the relevant
 11 international fishery or conservation organization
 12 has failed to implement effective measures to end or
 13 reduce the adverse impacts of fishing practices on
 14 such species.

15 **“SEC. 608. ACTION TO STRENGTHEN INTERNATIONAL FISH-**
 16 **ERY MANAGEMENT ORGANIZATIONS.**

17 “The Secretary, in consultation with the Secretary of
 18 State, and in cooperation with relevant fishery manage-
 19 ment councils, shall take actions to improve the effective-
 20 ness of international fishery management organizations in
 21 conserving and managing fish stocks under their jurisdic-
 22 tion. These actions shall include—

23 “(1) urging international fishery management
 24 organizations to which the United States is a mem-
 25 ber—

1 “(A) to incorporate multilateral sanctions
2 against member governments whose vessels en-
3 gage in illegal, unreported, or unregulated fish-
4 ing;

5 “(B) to seek adoption of lists that identify
6 fishing vessels engaged in illegal, unreported, or
7 unregulated fishing, including authorized
8 (green) and unauthorized (red) vessel lists, that
9 can be shared among all members and other
10 international fishery management organizations;

11 “(C) to seek international adoption of a
12 centralized vessel monitoring system with an
13 independent secretariat in order to monitor and
14 document capacity in fleets of all nations in-
15 volved in fishing in areas under the an inter-
16 national fishery management organization’s ju-
17 risdiction;

18 “(D) to increase use of observers and tech-
19 nologies needed to monitor compliance with con-
20 servation and management measures estab-
21 lished by the organization, including vessel
22 monitoring systems and automatic identification
23 systems; and

24 “(E) to seek adoption of greater port state
25 controls in all nations, particularly those na-

1 tions whose vessels engage in illegal, unre-
2 ported, or unregulated fishing;

3 “(2) urging international fishery management
4 organizations to which the United States is a mem-
5 ber, as well as all members of those organizations,
6 to adopt and expand the use of market-related meas-
7 ures to combat illegal, unreported, or unregulated
8 fishing, including—

9 “(A) import prohibitions, landing restric-
10 tions, or other market-based measures needed
11 to enforce compliance with international fishery
12 management organization measures, such as
13 quotas and catch limits;

14 “(B) import restrictions or other market-
15 based measures to prevent the trade or impor-
16 tation of fish caught by vessels identified multi-
17 laterally as engaging in illegal, unreported, or
18 unregulated fishing; and

19 “(C) catch documentation and certification
20 schemes to improve tracking and identification
21 of catch of vessels engaged in illegal, unre-
22 ported, or unregulated fishing, including ad-
23 vance transmission of catch documents to ports
24 of entry; and

1 ~~“(3) urging other nations at bilateral, regional,~~
2 ~~and international levels, including the Convention on~~
3 ~~International Trade in Endangered Species of~~
4 ~~Fauna and Flora and the World Trade Organization~~
5 ~~to take all steps necessary, consistent with inter-~~
6 ~~national law, to adopt measures and policies that~~
7 ~~will prevent fish or other living marine resources~~
8 ~~harvested by vessels engaged in illegal, unreported,~~
9 ~~or unregulated fishing from being traded or im-~~
10 ~~ported into their nation or territories.~~

11 **“SEC. 609 ILLEGAL, UNREPORTED, OR UNREGULATED FISH-**
12 **ING.**

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

15 ~~“(1) fishing vessels of that nation are engaged,~~
16 ~~or have been engaged during the preceding calendar~~
17 ~~year in illegal, unreported, or unregulated fishing;~~
18 ~~and~~

19 ~~“(2) the relevant international fishery manage-~~
20 ~~ment organization has failed to implement effective~~
21 ~~measures to end the illegal unreported, or unregu-~~
22 ~~lated fishing activity by vessels of that nation or the~~
23 ~~nation is not a party to, or does not maintain co-~~
24 ~~operating status with, such organization, or where~~

1 no international fishery management organization
2 exists.

3 “(b) NOTIFICATION.—An identification under sub-
4 section (a) or section 610(a) is deemed to be an identifica-
5 tion under section 101(b)(1)(A) of the High Seas Driftnet
6 Fisheries Enforcement Act (16 U.S.C. 1826a(b)(1)(A));
7 and the Secretary shall notify the President and that na-
8 tion of such identification.

9 “(c) CONSULTATION.—No later than 60 days after
10 submitting a report to Congress under section 607, the
11 Secretary, in consultation with the Secretary of State,
12 shall—

13 “(1) notify nations listed in the report of the
14 requirements of this section;

15 “(2) initiate consultations for the purpose of
16 encouraging such nations to take the appropriate
17 corrective action with respect to the offending activi-
18 ties of their fishing vessels identified in the report;
19 and

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

23 “(d) IUU CERTIFICATION PROCEDURE.—

24 “(1) CERTIFICATION.—The Secretary shall es-
25 tablish a procedure, consistent with the provisions of

1 subchapter II of chapter 5 of title 5, United States
2 Code, and including notice and an opportunity for
3 comment by the governments of any nation listed by
4 the Secretary under subsection (a), for determining
5 if that government has taken appropriate corrective
6 action with respect to the offending activities of its
7 fishing vessels identified in the report under section
8 607. The Secretary shall determine, on the basis of
9 the procedure, and certify to the Congress no later
10 than 90 days after the date on which the Secretary
11 promulgates a final rule containing the procedure,
12 and biennially thereafter in the report under section
13 607—

14 “(A) whether the government of each na-
15 tion identified under subsection (b) has pro-
16 vided documentary evidence that it has taken
17 corrective action with respect to the offending
18 activities of its fishing vessels identified in the
19 report; or

20 “(B) whether the relevant international
21 fishery management organization has imple-
22 mented measures that are effective in ending
23 the illegal, unreported, or unregulated fishing
24 activity by vessels of that nation.

1 “(2) ALTERNATIVE PROCEDURE.—The Sec-
2 retary may establish a procedure for certification, on
3 a shipment-by-shipment, shipper-by-shipper, or other
4 basis of fish or fish products from a vessel of a har-
5 vesting nation not certified under paragraph (1) if
6 the Secretary determines that—

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

11 “(B) the vessel is not identified by an
12 international fishery management organization
13 as participating in illegal, unreported, or un-
14 regulated fishing activities.

15 “(3) EFFECT OF CERTIFICATION.—The provi-
16 sions of section 101(a) and section 101(b)(3) and
17 (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and
18 (b)(4)) shall apply to any nation identified under
19 subsection (a) that has not been certified by the Sec-
20 retary under this subsection, or for which the Sec-
21 retary has issued a negative certification under this
22 subsection, but shall not apply to any nation identi-
23 fied under subsection (a) for which the Secretary
24 has issued a positive certification under this sub-
25 section.

1 “(e) ~~ILLEGAL, UNREPORTED, OR UNREGULATED~~
2 ~~FISHING DEFINED.—~~

3 “(1) ~~IN GENERAL.—~~In this Act the term ‘ille-
4 gal, unreported, or unregulated fishing’ has the
5 meaning established under paragraph (2).

6 “(2) ~~SECRETARY TO DEFINE TERM WITHIN~~
7 ~~LEGISLATIVE GUIDELINES.—~~Within 3 months after
8 the date of enactment of the Magnuson-Stevens
9 Fishery Conservation and Management Reauthoriza-
10 tion Act of 2005, the Secretary shall publish a defi-
11 nition of the term ‘illegal, unreported, or unregu-
12 lated fishing’ for purposes of this Act.

13 “(3) ~~GUIDELINES.—~~The Secretary shall include
14 in the definition, at a minimum—

15 “(A) fishing activities that violate con-
16 servation and management measures required
17 under an international fishery management
18 agreement to which the United States is a
19 party, including catch limits or quotas, capacity
20 restrictions, and bycatch reduction require-
21 ments;

22 “(B) overfishing of fish stocks for which
23 there are no applicable conservation or manage-
24 ment measures or in areas with no applicable

1 international fishery management organization
2 or agreement; and

3 “(C) destructive fishing practices, includ-
4 ing bottom trawling, that have adverse impacts
5 on seamounts, hydrothermal vents, and cold
6 water corals located beyond national jurisdic-
7 tion, for which there are no applicable conserva-
8 tion or management measures or in areas with
9 no applicable international fishery management
10 organization or agreement.

11 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to the Secretary for fis-
13 cal years 2006 through 2012 such sums as are necessary
14 to carry out this section.

15 **“SEC. 610. EQUIVALENT CONSERVATION MEASURES.**

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

18 “(1) fishing vessels of that nation are engaged,
19 or have been engaged during the preceding calendar
20 year in fishing activities or practices beyond the ex-
21 clusive economic zone that result in bycatch of a
22 protected living marine resource;

23 “(2) the relevant international organization for
24 the conservation and protection of such species or
25 the relevant international or regional fishery organi-

1 zation has failed to implement effective measures to
2 end or reduce the impacts of the fishing practices of
3 the nation's vessels on such species, or the nation is
4 not a party to, or does not maintain cooperating sta-
5 tus with, such organization; and

6 “(3) the nation has not adopted a regulatory
7 program governing such fishing practices and associ-
8 ated bycatch of protected living marine resources
9 that are comparable to those of the United States,
10 taking into account different conditions.

11 “(b) CONSULTATION AND NEGOTIATION.—The Sec-
12 retary, acting through the Secretary of State, shall—

13 “(1) notify, as soon as possible, other nations
14 whose vessels engage in fishing activities or practices
15 described in subsection (a), about the requirements
16 of this section and this Act;

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

24 “(3) seek agreements calling for international
25 restrictions on fishing activities or practices de-

1 scribed in subsection (a) through the United Na-
2 tions, the Food and Agriculture Organization's Com-
3 mittee on Fisheries, and appropriate international
4 fishery management bodies; and

5 “(4) initiate the amendment of any existing
6 international treaty for the protection and conserva-
7 tion of such species to which the United States is a
8 party in order to make such treaty consistent with
9 the purposes and policies of this section.

10 “(c) CONSERVATION CERTIFICATION PROCEDURE.—

11 “(1) CERTIFICATION.—The Secretary shall de-
12 termine, on the basis of a procedure consistent with
13 the provisions of subchapter H of chapter 5 of title
14 5, United States Code, and including notice and an
15 opportunity for comment by the governments of any
16 nation identified by the Secretary under subsection
17 (a). The Secretary shall certify to the Congress by
18 January 31, 2007, and annually thereafter whether
19 the government of each harvesting nation—

20 “(A) has provided documentary evidence of
21 the adoption of a regulatory program governing
22 the conservation of the protected living marine
23 resource, including measures to ensure max-
24 imum probability for survival after release, that
25 is comparable to that of the United States, tak-

1 ing into account different conditions, and
2 which, in the case of pelagic longline fishing, in-
3 cludes mandatory use of circle hooks, careful
4 handling and release equipment, and training
5 and observer programs; and

6 “(B) has established a management plan
7 containing requirements that will assist in gath-
8 ering species-specific data to support inter-
9 national stock assessments and conservation en-
10 forcement efforts for protected living marine re-
11 sources.

12 “(2) ALTERNATIVE PROCEDURE.—The Sec-
13 retary shall establish a procedure for certification,
14 on a shipment-by-shipment, shipper-by-shipper, or
15 other basis of fish or fish products from a vessel of
16 a harvesting nation not certified under paragraph
17 (1) if the Secretary determines that such imports
18 were harvested by practices that do not result in by-
19 catch of a protected marine species, or were har-
20 vested by practices that—

21 “(A) are comparable to those of the United
22 States, taking into account different conditions,
23 and which, in the case of pelagic longline fish-
24 ing, includes mandatory use of circle hooks,

1 careful handling and release equipment, and
2 training and observer programs; and

3 “(B) include the gathering of species spe-
4 cific data that can be used to support inter-
5 national and regional stock assessments and
6 conservation efforts for protected living marine
7 resources.

8 “(3) EFFECT OF CERTIFICATION.—The provi-
9 sions of section 101(a) and section 101(b)(3) and
10 (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and
11 (b)(4)) shall apply to any nation identified under
12 subsection (a) that has not been certified by the Sec-
13 retary under this subsection, or for which the Sec-
14 retary has issued a negative certification under this
15 subsection, but shall not apply to any nation identi-
16 fied under subsection (a) for which the Secretary
17 has issued a positive certification under this sub-
18 section.

19 “(d) INTERNATIONAL COOPERATION AND ASSIST-
20 ANCE.—To the greatest extent possible consistent with ex-
21 isting authority and the availability of funds, the Secretary
22 shall—

23 “(1) provide appropriate assistance to nations
24 identified by the Secretary under subsection (a) and
25 international organizations of which those nations

1 are members to assist those nations in qualifying for
2 certification under subsection (c);

3 “(2) undertake, where appropriate, cooperative
4 research activities on species statistics and improved
5 harvesting techniques, with those nations or organi-
6 zations;

7 “(3) encourage and facilitate the transfer of ap-
8 propriate technology to those nations or organiza-
9 tions to assist those nations in qualifying for certifi-
10 cation under subsection (c); and

11 “(4) provide assistance to those nations or or-
12 ganizations in designing and implementing appro-
13 priate fish harvesting plans.

14 “(e) PROTECTED LIVING MARINE RESOURCE DE-
15 FINED.—In this section the term ‘protected living marine
16 resource’—

17 “(1) means non-target fish, sea turtles, or ma-
18 rine mammals occurring in areas beyond United
19 States jurisdiction that are protected under United
20 States law or international agreement, including the
21 Marine Mammal Protection Act, the Endangered
22 Species Act, the Shark Finning Prohibition Act, and
23 the Convention on International Trade in Endan-
24 gered Species of Wild Flora and Fauna; but

1 “(2) does not include species, except sharks,
2 managed under the Magnuson-Stevens Fishery Con-
3 servation and Management Act, the Atlantic Tunas
4 Convention Act, or any international fishery man-
5 agement agreement.

6 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated to the Secretary for fis-
8 cal years 2006 through 2012 such sums as are necessary
9 to carry out this section.”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) DENIAL OF PORT PRIVILEGES.—Section
12 101(b) of the High Seas Driftnet Fisheries Enforce-
13 ment Act (16 U.S.C. 1826a(b)) is amended by in-
14 serting “or illegal, unreported, or unregulated fish-
15 ing” after “fishing” in paragraph (1)(A)(i), para-
16 graph (1)(B), paragraph (2), and paragraph
17 (4)(A)(i).

18 (2) DURATION OF DENIAL.—Section 102 of the
19 High Seas Driftnet Fisheries Enforcement Act (16
20 U.S.C. 1826b) is amended by inserting “or illegal,
21 unreported, or unregulated fishing” after “fishing”.

22 **SEC. 404. MONITORING OF PACIFIC INSULAR AREA FISH-**
23 **ERIES.**

24 (a) WAIVER AUTHORITY.—Section 201(h)(2)(B) (16
25 U.S.C. 1821(h)(2)(B)) is amended by striking “that is at

1 least equal in effectiveness to the program established by
 2 the Secretary;” and inserting “or other monitoring pro-
 3 gram that the Secretary, in consultation with the Western
 4 Pacific Management Council, determines is adequate to
 5 monitor harvest, bycatch, and compliance with the laws
 6 of the United States by vessels fishing under the agree-
 7 ment;”.

8 (b) MARINE CONSERVATION PLANS.—Section
 9 204(c)(4)(A)(i) (16 U.S.C. 1824(c)(4)(A)(i)) is amended
 10 to read as follows:

11 “(i) Pacific Insular Area observer programs, or
 12 other monitoring programs, that the Secretary deter-
 13 mines are adequate to monitor the harvest, bycatch,
 14 and compliance with the laws of the United States
 15 by foreign fishing vessels that fish under Pacific In-
 16 sular Area fishing agreements;”.

17 **SEC. 405. REAUTHORIZATION OF ATLANTIC TUNAS CON-**
 18 **VENTION ACT.**

19 (a) IN GENERAL.—Section 10 of the Atlantic Tunas
 20 Convention Act of 1975 (16 U.S.C. 971h) is amended to
 21 read as follows:

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

23 “(a) IN GENERAL.—There are authorized to be ap-
 24 propriated to the Secretary to carry out this Act, including
 25 use for payment of the United States share of the joint

1 expenses of the Commission as provided in Article X of
2 the Convention—

3 “(1) \$5,495,000 for fiscal year 2006;

4 “(2) \$5,770,000 for each of fiscal years 2007
5 and 2008;

6 “(3) \$6,058,000 for each of fiscal years 2009
7 and 2010; and

8 “(4) \$6,631,000 for each of fiscal years 2011
9 and 2012.

10 “(b) ALLOCATION.—Of the amounts made available
11 under subsection (a) for each fiscal year—

12 “(1) \$160,000 are authorized for the advisory
13 committee established under section 4 of this Act
14 and the species working groups established under
15 section 4A of this Act; and

16 “(2) \$7,500,000 are authorized for research ac-
17 tivities under this Act and section 3 of Public Law
18 94-339 (16 U.S.C. 971i); of which \$3,000,000 shall
19 be for the cooperative research program under sec-
20 tion 3(b)(2)(H) of that section (16 U.S.C.
21 971i(b)(2)(H)).”.

22 (b) ATLANTIC BILLFISH COOPERATIVE RESEARCH
23 PROGRAM.—Section 3(b)(2) of the Atlantic Tunas Con-
24 vention Act of 1975 (16 U.S.C. 971i(b)(2)) is amended—

1 (1) by striking “and” after the semicolon in
2 subparagraph (G);

3 (2) by redesignating subparagraph (H) as sub-
4 paragraph (I); and

5 (3) by inserting after subparagraph (G) the fol-
6 lowing:

7 “(H) include a cooperative research pro-
8 gram on Atlantic billfish based on the South-
9 east Fisheries Science Center Atlantic Billfish
10 Research Plan of 2002; and”.

11 **SEC. 406. INTERNATIONAL OVERFISHING AND DOMESTIC**
12 **EQUITY.**

13 (a) **REBUILDING OVERFISHED FISHERIES.**—Section
14 304(e) (16 U.S.C. 1854(e)) is amended by adding at the
15 end thereof the following:

16 “(8) The provisions of this paragraph shall
17 apply in lieu of paragraphs (2) through (7) of this
18 subsection to a fishery that the Secretary determines
19 is overfished or approaching a condition of being
20 overfished due to excessive international fishing
21 pressure, and for which there are no management
22 measures to end overfishing under an international
23 agreement to which the United States is a party.
24 For such fisheries—

1 “(A) the Secretary, in cooperation with the
2 Secretary of State, immediately take appropriate
3 action at the international level to end
4 the overfishing; and

5 “(B) within 1 year after the Secretary’s
6 determination, the appropriate Council, or Secretary,
7 for fisheries under section 302(a)(3)
8 shall—

9 “(i) develop recommendations for domestic
10 regulations to address the relative
11 impact of fishing vessels of the United
12 States on the stock and, if developed by a
13 Council, the Council shall submit such recommendations
14 to the Secretary; and

15 “(ii) develop and submit recommendations
16 to the Secretary of State, and to the
17 Congress, for international actions that
18 will end overfishing in the fishery and rebuild
19 the affected stocks, taking into account
20 the relative impact of vessels of
21 other nations and vessels of the United
22 States on the relevant stock.”.

23 (b) HIGHLY MIGRATORY SPECIES TAGGING RE-
24 SEARCH.—Section 304(g)(2) (16 U.S.C. 1854(g)(2)) is
25 amended by striking “(16 U.S.C. 971d)” and inserting

1 “(16 U.S.C. 971d), or highly migratory species harvested
 2 in a commercial fishery managed by a Council under this
 3 Act or the Western and Central Pacific Fisheries Conven-
 4 tion Implementation Act.”.

5 **TITLE V—IMPLEMENTATION OF**
 6 **WESTERN AND CENTRAL PA-**
 7 **CIFIC FISHERIES CONVEN-**
 8 **TION**

9 **SEC. 501. SHORT TITLE.**

10 This title may be cited as the “Western and Central
 11 Pacific Fisheries Convention Implementation Act”.

12 **SEC. 502. DEFINITIONS.**

13 In this title:

14 (1) **1982 CONVENTION.**—The term “1982 Con-
 15 vention” means the United Nations Convention on
 16 the Law of the Sea of 10 December 1982.

17 (2) **AGREEMENT.**—The term “Agreement”
 18 means the Agreement for the Implementation of the
 19 Provisions of the United Nations Convention on the
 20 Law of the Sea of 10 December 1982 relating to the
 21 Conservation and Management of Straddling Fish
 22 Stocks and Highly Migratory Fish Stocks.

23 (3) **COMMISSION.**—The term “Commission”
 24 means the Commission for the Conservation and
 25 Management of Highly Migratory Fish Stocks in the

1 Western and Central Pacific Ocean established in
2 accordance with this Convention.

3 (4) CONVENTION AREA.—The term “convention
4 area” means all waters of the Pacific Ocean bounded
5 to the south and to the east by the following line:
6 From the south coast of Australia due south along
7 the 141th meridian of east longitude to its intersec-
8 tion with the 55th parallel of south latitude; thence
9 due east along the 55th parallel of south latitude to
10 its intersection with the 150th meridian of east lon-
11 gitude; thence due south along the 150th meridian
12 of east longitude to its intersection with the 60th
13 parallel of south latitude; thence due east along the
14 60th parallel of south latitude to its intersection
15 with the 130th meridian of west longitude; thence
16 due north along the 130th meridian of west lon-
17 gitude to its intersection with the 4th parallel of
18 south latitude; thence due west along the 4th par-
19 allel of south latitude to its intersection with the
20 150th meridian of west longitude; thence due north
21 along the 150th meridian of west longitude.

22 (5) EXCLUSIVE ECONOMIC ZONE.—The term
23 “exclusive economic zone” means the zone estab-
24 lished by Presidential Proclamation Numbered 5030
25 of March 10, 1983.

1 (6) FISHING.—The term “fishing” means—

2 (A) searching for, catching, taking, or har-
3 vesting fish;

4 (B) attempting to search for, catch, take,
5 or harvest fish;

6 (C) engaging in any other activity which
7 can reasonably be expected to result in the lo-
8 eating, catching, taking, or harvesting of fish
9 for any purpose;

10 (D) placing, searching for, or recovering
11 fish aggregating devices or associated electronic
12 equipment such as radio beacons;

13 (E) any operations at sea directly in sup-
14 port of, or in preparation for, any activity de-
15 scribed in subparagraphs (A) through (D), in-
16 cluding transshipment; and

17 (F) use of any other vessel, vehicle, air-
18 craft, or hovercraft, for any activity described
19 in subparagraphs (A) through (E) except for
20 emergencies involving the health and safety of
21 the crew or the safety of a vessel.

22 (7) FISHING VESSEL.—The term “fishing ves-
23 sel” means any vessel used or intended for use for
24 the purpose of fishing; including support ships, ear-

1 rier vessels, and any other vessel directly involved in
2 such fishing operations:

3 (8) HIGHLY MIGRATORY FISH STOCKS.—The
4 term “highly migratory fish stocks” means all fish
5 stocks of the species listed in Annex 1 of the 1982
6 Convention occurring in the Convention Area, and
7 such other species of fish as the Commission may
8 determine.

9 (9) SECRETARY.—The term “Secretary” means
10 the Secretary of Commerce.

11 (10) STATE.—The term “State” means each of
12 the several States of the United States, the District
13 of Columbia, the Commonwealth of the Northern
14 Mariana Islands, American Samoa, Guam, and any
15 other commonwealth, territory, or possession of the
16 United States.

17 (11) TRANSHIPMENT.—The term “trans-
18 shipment” means the unloading of all or any of the
19 fish on board a fishing vessel to another fishing ves-
20 sel either at sea or in port.

21 (12) WCPCF CONVENTION; WESTERN AND
22 CENTRAL PACIFIC CONVENTION.—The terms
23 “WCPCF Convention” and “Western and Central
24 Pacific Convention” means the Convention on the
25 Conservation and Management of the Highly Migra-

1 tory Fish Stocks in the Western and Central Pacific
2 Ocean, with Annexes, which was adopted at Hono-
3 lulu, Hawaii, on September 5, 2000, by the Multilat-
4 eral High Level Conference on the Highly Migratory
5 Fish Stocks in the Western and Central Pacific
6 Ocean.

7 **SEC. 503. APPOINTMENT OF UNITED STATES COMMIS-**
8 **SIONERS.**

9 (a) **IN GENERAL.**—The President shall appoint at
10 least 5 individuals as United States Commissioners to rep-
11 resent the United States as members of the United States
12 Section of the Commission. In making the appointments,
13 the President shall select Commissioners from among indi-
14 viduals, including officials of the United States govern-
15 ment (one of whom shall be an officer or employee of the
16 Department of Commerce), and the chairman of the West-
17 ern Pacific Fishery Management Council or the chair-
18 man's designee, who are knowledgeable or experienced
19 concerning highly migratory fish stocks in the Western
20 and Central Pacific Ocean. The Secretary of State, or the
21 Secretary of State's designee, shall also serve as a member
22 of the United States Section. The Commissioners shall be
23 entitled to select a Chairman and to adopt such rules of
24 procedures as they find necessary.

1 (b) ALTERNATE COMMISSIONERS.—The Secretary of
2 State, in consultation with the Secretary, may designate
3 from time to time and for periods of time deemed appro-
4 priate Alternate United States Commissioners to the Com-
5 mission. Any Alternate United States Commissioner may
6 exercise at any meeting of the Commission, Council, any
7 Panel, or the advisory committee established pursuant to
8 subsection (d), all powers and duties of a United States
9 Commissioner in the absence of any Commissioner ap-
10 pointed pursuant to subsection (a) of this section for what-
11 ever reason. The number of such Alternate United States
12 Commissioners that may be designated for any such meet-
13 ing shall be limited to the number of United States Com-
14 missioners appointed pursuant to subsection (a) of this
15 section who will not be present at such meeting.

16 (c) ADMINISTRATIVE MATTERS.—

17 (1) EMPLOYMENT STATUS.—Individuals serving
18 as such Commissioners shall not be considered to be
19 Federal employees while performing such service, ex-
20 cept for purposes of injury compensation or tort
21 claims liability as provided in chapter 81 of title 5
22 and chapter 171 of title 28, United States Code.

23 (2) COMPENSATION.—The United States Com-
24 missioners or Alternate Commissioners, although of-
25 ficers of the United States while so serving, shall re-

1 eeive no compensation for their services as such
 2 Commissioners or Alternate Commissioners.

3 ~~(3) TRAVEL EXPENSES.—~~

4 (A) The Secretary of State shall pay the
 5 necessary travel expenses of United States
 6 Commissioners, Alternate United States Com-
 7 missioners, and authorized advisers in accord-
 8 ance with the Federal Travel Regulations and
 9 sections 5701, 5702, 5704 through 5708, and
 10 5731 of title 5, United States Code.

11 (B) The Secretary may reimburse the Sec-
 12 retary of State for amounts expended by the
 13 Secretary of State under this subsection.

14 ~~(d) ADVISORY COMMITTEES.—~~

15 ~~(1) ESTABLISHMENT OF PERMANENT ADVISORY~~
 16 ~~COMMITTEE.—~~

17 ~~(A) MEMBERSHIP.—~~There is established
 18 an advisory committee which shall be composed
 19 of—

20 ~~(i) not less than 10 nor more than 15~~
 21 ~~individuals appointed by the United States~~
 22 ~~Commissioners who shall select such indi-~~
 23 ~~viduals from the various groups concerned~~
 24 ~~with the fisheries covered by the WCPFC~~
 25 ~~Convention, providing, to the maximum ex-~~

1 tent practicable, an equitable balance
2 among such groups;

3 (ii) the chair of the Western Pacific
4 Fishery Management Council's Advisory
5 Committee or the chair's designee; and

6 (iii) officials of the fisheries manage-
7 ment authorities of American Samoa,
8 Guam, and the Northern Mariana Islands
9 (or their designees).

10 (B) TERMS AND PRIVILEGES.—Each mem-
11 ber of the advisory committee appointed under
12 subparagraph (A) shall serve for a term of 2
13 years and shall be eligible for reappointment.
14 Members of the advisory committee may attend
15 all public meetings of the Commission, Council,
16 or any Panel and any other meetings to which
17 they are invited by the Commission, Council, or
18 any Panel. The advisory committee shall be in-
19 vited to attend all non-executive meetings of the
20 United States Commissioners and at such meet-
21 ings shall be given opportunity to examine and
22 to be heard on all proposed programs of inves-
23 tigation, reports, recommendations, and regula-
24 tions of the Commission.

1 (C) PROCEDURES.—The advisory com-
2 mittee established by subparagraph (A) shall
3 determine its organization, and prescribe its
4 practices and procedures for carrying out its
5 functions under this chapter, the Magnuson-
6 Stevens Fishery Conservation and Management
7 Act (16 U.S.C. 1801 et seq.), and the WCPFC
8 Convention. The advisory committee shall pub-
9 lish and make available to the public a state-
10 ment of its organization, practices, and proce-
11 dures. A majority of the members of the advi-
12 sory committee shall constitute a quorum, but
13 one or more such members designated by the
14 advisory committee may hold meetings to pro-
15 vide for public participation and to discuss
16 measures relating to the United States imple-
17 mentation of Commission recommendations.
18 Meetings of the advisory committee, except
19 when in executive session, shall be open to the
20 public, and prior notice of meetings shall be
21 made public in a timely fashion, and the advi-
22 sory committee shall not be subject to the Fed-
23 eral Advisory Committee Act (5 U.S.C. App.).

24 (D) PROVISION OF INFORMATION.—The
25 Secretary and the Secretary of State shall fur-

1 nish the advisory committee with relevant infor-
2 mation concerning fisheries and international
3 fishery agreements.

4 (2) ADMINISTRATIVE MATTERS.—

5 (A) SUPPORT SERVICES.—The Secretary
6 shall provide to advisory committees in a timely
7 manner such administrative and technical sup-
8 port services as are necessary for their effective
9 functioning.

10 (B) COMPENSATION; STATUS; EX-
11 PENSES.—Individuals appointed to serve as a
12 member of an advisory committee—

13 (i) shall serve without pay, but while
14 away from their homes or regular places of
15 business in the performance of services for
16 the advisory committee shall be allowed
17 travel expenses, including per diem in lieu
18 of subsistence, in the same manner as per-
19 sons employed intermittently in the Gov-
20 ernment service are allowed expenses under
21 section 5703 of title 5, United States
22 Code; and

23 (ii) shall not be considered Federal
24 employees by reason of their service as
25 members of an advisory committee, except

1 for purposes of injury compensation or tort
2 claims liability as provided in chapter 81 of
3 title 5, United States Code, and chapter
4 171 of title 28, United States Code.

5 (e) MEMORANDUM OF UNDERSTANDING.—For highly
6 migratory species in the Pacific, the Secretary, in coordi-
7 nation with the Secretary of State, shall develop a memo-
8 randum of understanding with the Western Pacific, Pa-
9 cific, and North Pacific Fishery Management Councils,
10 that establishes a mechanism for the relevant Council or
11 Councils to—

12 (1) participate in United States delegations to
13 international fishery organizations in the Pacific
14 Ocean, including government-to-government con-
15 sultations;

16 (2) make formal recommendations to the Sec-
17 retary and the Secretary of State regarding nec-
18 essary measures for both domestic and foreign ves-
19 sels fishing for these species;

20 (3) coordinate positions with the United States
21 delegation for presentation to the appropriate inter-
22 national fishery organization; and

23 (4) recommend those domestic fishing regula-
24 tions that are consistent with the actions of the
25 international fishery organization, for approval and

1 implementation under the Magnuson-Stevens Fish-
2 ery Conservation and Management Act (16 U.S.C.
3 1801 et seq.)

4 **SEC. 504. AUTHORITY AND RESPONSIBILITY OF THE SEC-**
5 **RETARY OF STATE.**

6 The Secretary of State may—

7 (1) receive and transmit, on behalf of the
8 United States, reports, requests, recommendations,
9 proposals, and other communications of and to the
10 Commission;

11 (2) in consultation with the Secretary and the
12 United States Commissioners, approve, disapprove,
13 object to, or withdraw objections to the general an-
14 nual program of the WCPFC Commission with re-
15 spect to conservation and management measures
16 and other measures proposed or adopted in accord-
17 ance with the WCPFC Convention; and

18 (3) act upon, or refer to other appropriate au-
19 thority, any communication referred to in paragraph
20 (1).

21 **SEC. 505. RULEMAKING AUTHORITY OF THE SECRETARY OF**
22 **COMMERCE.**

23 (a) PROMULGATION OF REGULATIONS.—The Sec-
24 retary, in consultation with the Secretary of the Depart-
25 ment in which the Coast Guard is operating and the ap-

1 appropriate Regional Fishery Management Council, shall
2 promulgate such regulations as may be necessary to carry
3 out the United States international obligations under the
4 WCPFC Convention and this title. The Secretary shall
5 promulgate such regulations in accordance with the proce-
6 dures established by the Magnuson-Stevens Fishery Con-
7 servation and Management Act (16 U.S.C. 1801 et seq.).

8 (b) **ADDITIONS TO FISHERY REGIMES AND REGULA-**
9 **TIONS.**—The Secretary may promulgate regulations appli-
10 cable to nationals or vessels of the United States, or both,
11 which are in addition to, and not in conflict with, fishery
12 conservation and management measures and regulations
13 adopted under the WCPFC Convention.

14 **SEC. 506. ENFORCEMENT.**

15 (a) **IN GENERAL.**—The Secretary may—

16 (1) administer and enforce this title and any
17 regulations issued under this title, including enforce-
18 ment of any such regulations within the boundaries
19 of any State bordering on the convention area;

20 (2) request and utilize on a reimbursed or non-
21 reimbursed basis the assistance, services, personnel,
22 equipment, and facilities of other Federal depart-
23 ments and agencies in—

24 (A) the administration and enforcement of
25 this title; and

1 ~~(B)~~ the conduct of scientific, research, and
2 other programs under this title;

3 ~~(3)~~ conduct fishing operations and biological ex-
4 periments for purposes of scientific investigation or
5 other purposes necessary to implement the WCPFC
6 Convention;

7 (4) collect, utilize, and disclose such informa-
8 tion as may be necessary to implement the WCPFC
9 Convention, subject to sections 552 and 552a of title
10 5, United States Code, and section 402(b) of the
11 Magnuson-Stevens Fishery Conservation and Man-
12 agement Act (16 U.S.C. 1881a(b));

13 ~~(5)~~ assess and collect fees to recover the costs
14 of implementing and enforcing this title, policy and
15 rulemaking activities, user information services,
16 international activities under this title, and the costs
17 to the United States of enforcing the WCPFC Con-
18 vention, which shall be deposited as an offsetting
19 collection in, and credited to, the account providing
20 appropriations to carry out the functions of the Sec-
21 retary under this title; and

22 (6) issue permits to owners and operators of
23 United States vessels to fish in the convention area
24 seaward of the United States Exclusive Economic
25 Zone.

1 (b) PROHIBITED ACTS.—It is unlawful for any per-
2 son to violate any provision of this title or the regulations
3 promulgated under this title.

4 (c) ACTIONS BY THE SECRETARY.—The Secretary
5 shall prevent any person from violating this title in the
6 same manner, by the same means, and with the same ju-
7 risdiction, powers, and duties as though all applicable
8 terms and provisions of the Magnuson-Stevens Fishery
9 Conservation Act (16 U.S.C. 1857) were incorporated into
10 and made a part of this title. Any person that violates
11 any provision of this title is subject to the penalties and
12 entitled to the privileges and immunities provided in the
13 Magnuson-Stevens Fishery Conservation Act in the same
14 manner, by the same means, and with the same jurisdic-
15 tion, power, and duties as though all applicable terms and
16 provisions of that Act were incorporated into and made
17 a part of this title.

18 **SEC. 507. PENALTIES.**

19 This title shall be enforced by the Secretary as if a
20 violation of this title or of any regulation promulgated by
21 the Commission under this title were a violation of section
22 307 of the Magnuson-Stevens Fishery Conservation Act
23 (16 U.S.C. 1857).

1 **SEC. 508. COOPERATION IN CARRYING OUT CONVENTION.**

2 (a) **FEDERAL AND STATE AGENCIES; PRIVATE INSTI-**
3 **TUTIONS AND ORGANIZATIONS.**—The United States Com-
4 missioners, through the Secretary of State and with the
5 concurrence of the Secretary, institution, or organization
6 concerned, may arrange for the cooperation of Federal
7 agencies and of State and private institutions and organi-
8 zations in carrying out responsibilities under the WCPFC
9 Convention.

10 (b) **SCIENTIFIC AND OTHER PROGRAMS; FACILITIES**
11 **AND PERSONNEL.**—All Federal agencies are authorized,
12 upon the request of the Secretary of Commerce Commis-
13 sion, to cooperate in the conduct of scientific and other
14 programs and to furnish facilities and personnel for the
15 purpose of assisting the Commission in carrying out its
16 duties under the WCPFC Convention.

17 **SEC. 509. TERRITORIAL PARTICIPATION.**

18 The Secretary of State shall ensure participation in
19 the Commission and its subsidiary bodies by American
20 Samoa, Guam, and the Northern Mariana Islands to the
21 same extent provided to the territories of other nations.

22 **SEC. 510. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated to the Sec-
24 retary of Commerce such sums as may be necessary to
25 carry out this title and to pay the United States' contribu-

1 tion to the Commission under section 5 of part III of the
2 WCPFC Convention.

3 **TITLE VI—PACIFIC WHITING**

4 **SEC. 601. SHORT TITLE.**

5 This title may be cited as the “Pacific Whiting Act
6 of 2005”.

7 **SEC. 602. DEFINITIONS.**

8 In this title:

9 (1) **ADVISORY PANEL.**—The term “advisory
10 panel” means the Advisory Panel on Pacific Hake/
11 Whiting established by the Agreement.

12 (2) **AGREEMENT.**—The term “Agreement”
13 means the Agreement between the Government of
14 the United States and the Government of Canada on
15 Pacific Hake/Whiting, signed at Seattle, Wash-
16 ington, on November 21, 2003.

17 (3) **CATCH.**—The term “catch” means all fish-
18 ery removals from the offshore whiting resource, in-
19 cluding landings, discards, and bycatch in other fish-
20 eries.

21 (4) **JOINT MANAGEMENT COMMITTEE.**—The
22 term “joint management committee” means the
23 joint management committee established by the
24 Agreement.

1 (5) JOINT TECHNICAL COMMITTEE.—The term
2 “joint technical committee” means the joint tech-
3 nical committee established by the Agreement.

4 (6) OFFSHORE WHITING RESOURCE.—The term
5 “offshore whiting resource” means the
6 transboundary stock of *Merluccius productus* that is
7 located in the offshore waters of the United States
8 and Canada except in Puget Sound and the Strait
9 of Georgia.

10 (7) SCIENTIFIC REVIEW GROUP.—The term
11 “scientific review group” means the scientific review
12 group established by the Agreement.

13 (8) SECRETARY.—The term “Secretary” means
14 the Secretary of Commerce.

15 (9) UNITED STATES SECTION.—The term
16 “United States Section” means the United States
17 representatives on the joint management committee.

18 **SEC. 603. UNITED STATES REPRESENTATION ON JOINT**
19 **MANAGEMENT COMMITTEE.**

20 (a) REPRESENTATIVES.—

21 (1) IN GENERAL.—The Secretary, in consulta-
22 tion with the Secretary of State, shall appoint 4 in-
23 dividuals to represent the United States as the
24 United States Section on the joint management com-
25 mittee. In making the appointments, the Secretary

1 shall select representatives from among individuals
2 who are knowledgeable or experienced concerning
3 the offshore whiting resource. Of these—

4 (A) 1 shall be an official of the National
5 Oceanic and Atmospheric Administration;

6 (B) 1 shall be a member of the Pacific
7 Fishery Management Council, appointed with
8 consideration given to any recommendation pro-
9 vided by that Council;

10 (C) 1 shall be appointed from a list sub-
11 mitted by the treaty Indian tribes with treaty
12 fishing rights to the offshore whiting resource;
13 and

14 (D) 1 shall be appointed from the commer-
15 cial sector of the whiting fishing industry con-
16 cerned with the offshore whiting resource.

17 (2) TERM OF OFFICE.—Each representative ap-
18 pointed under paragraph (1) shall be appointed for
19 a term not to exceed 4 years, except that, of the ini-
20 tial appointments, 2 representatives shall be ap-
21 pointed for terms of 2 years. Any individual ap-
22 pointed to fill a vacancy occurring prior to the expi-
23 ration of the term of office of that individual's pred-
24 ecessor shall be appointed for the remainder of that
25 term. A representative may be appointed for a term

1 of less than 4 years if such term is necessary to en-
2 sure that the term of office of not more than 2 rep-
3 resentatives will expire in any single year. An indi-
4 vidual appointed to serve as a representative is eligi-
5 ble for reappointment.

6 (3) CHAIR.—Unless otherwise agreed by all of
7 the 4 representatives, the chair shall rotate annually
8 among the 4 members, with the order of rotation de-
9 termined by lot at the first meeting.

10 (b) ALTERNATE REPRESENTATIVES.—The Secretary,
11 in consultation with the Secretary of State, may designate
12 alternate representatives of the United States to serve on
13 the joint management committee. An alternative rep-
14 resentative may exercise, at any meeting of the committee,
15 all the powers and duties of a representative in the ab-
16 sence of a duly designated representative for whatever rea-
17 son.

18 **SEC. 604. UNITED STATES REPRESENTATION ON THE SCI-**
19 **ENTIFIC REVIEW GROUP.**

20 (a) IN GENERAL.—The Secretary, in consultation
21 with the Secretary of State, shall appoint no more than
22 2 scientific experts to serve on the scientific review group.
23 An individual shall not be eligible to serve on the scientific
24 review group while serving on the joint technical com-
25 mittee.

1 (b) TERM.—An individual appointed under sub-
 2 section (a) shall be appointed for a term of not to exceed
 3 4 years, but shall be eligible for reappointment. An indi-
 4 vidual appointed to fill a vacancy occurring prior to the
 5 expiration of a term of office of that individual's prede-
 6 cessor shall be appointed to serve for the remainder of that
 7 term.

8 (c) JOINT APPOINTMENTS.—In addition to individ-
 9 uals appointed under subsection (a), the Secretary, jointly
 10 with the Government of Canada, may appoint to the sci-
 11 entific review group, from a list of names provided by the
 12 advisory panel —

13 (1) up to 2 independent members of the sci-
 14 entific review group; and

15 (2) 2 public advisors.

16 **SEC. 605. UNITED STATES REPRESENTATION ON JOINT**
 17 **TECHNICAL COMMITTEE.**

18 (a) SCIENTIFIC EXPERTS.—

19 (1) IN GENERAL.—The Secretary, in consulta-
 20 tion with the Secretary of State, shall appoint at
 21 least 6 but not more than 12 individuals to serve as
 22 scientific experts on the joint technical committee, at
 23 least 1 of whom shall be an official of the National
 24 Oceanic and Atmospheric Administration.

1 (2) **TERM OF OFFICE.**—An individual appointed
 2 under paragraph (1) shall be appointed for a term
 3 of not to exceed 4 years, but shall be eligible for re-
 4 appointment. An individual appointed to fill a va-
 5 caney occurring prior to the expiration of the term
 6 of office of that individual's predecessor shall be ap-
 7 pointed for the remainder of that term.

8 (b) **INDEPENDENT MEMBER.**—In addition to individ-
 9 uals appointed under subsection (a), the Secretary, jointly
 10 with the Government of Canada, shall appoint 1 inde-
 11 pendent member to the joint technical committee selected
 12 from a list of names provided by the advisory panel.

13 **SEC. 606. UNITED STATES REPRESENTATION ON ADVISORY**
 14 **PANEL.**

15 (a) **IN GENERAL.**—

16 (1) **APPOINTMENT.**—The Secretary, in con-
 17 sultation with the Secretary of State, shall appoint
 18 at least 6 but not more than 12 individuals to serve
 19 as members of the advisory panel, selected from
 20 among individuals who are—

21 (A) knowledgeable or experienced in the
 22 harvesting, processing, marketing, management,
 23 conservation, or research of the offshore whiting
 24 resource; and

25 (B) not employees of the United States.

1 (2) **TERM OF OFFICE.**—An individual appointed
2 under paragraph (1) shall be appointed for a term
3 of not to exceed 4 years, but shall be eligible for re-
4 appointment. An individual appointed to fill a va-
5 cancy occurring prior to the expiration of the term
6 of office of that individual's predecessor shall be ap-
7 pointed for the remainder of that term.

8 **SEC. 607. RESPONSIBILITIES OF THE SECRETARY.**

9 (a) **IN GENERAL.**—The Secretary is responsible for
10 carrying out the Agreement and this title, including the
11 authority, to be exercised in consultation with the Sec-
12 retary of State, to accept or reject, on behalf of the United
13 States, recommendations made by the joint management
14 committee.

15 (b) **REGULATIONS; COOPERATION WITH CANADIAN**
16 **OFFICIALS.**—In exercising responsibilities under this title,
17 the Secretary—

18 (1) may promulgate such regulations as may be
19 necessary to carry out the purposes and objectives of
20 the Agreement and this title; and

21 (2) with the concurrence of the Secretary of
22 State, may cooperate with officials of the Canadian
23 Government duly authorized to carry out the Agree-
24 ment.

1 **SEC. 608. RULEMAKING.**

2 ~~(a) APPLICATION WITH MAGNUSON-STEVENSONS ACT.—~~

3 The Secretary shall establish the United States catch level
4 for Pacific whiting according to the standards and proce-
5 dures of the Agreement and this title rather than under
6 the standards and procedures of the Magnuson-Stevens
7 Fishery Conservation Act (16 U.S.C. 1801 et seq.); except
8 to the extent necessary to address the rebuilding needs
9 of other species. Except for establishing the catch level,
10 all other aspects of Pacific whiting management shall be—

11 ~~(1) subject to the Magnuson-Stevens Fishery~~
12 ~~Conservation Act; and~~

13 ~~(2) consistent with this title.~~

14 ~~(b) JOINT MANAGEMENT COMMITTEE REC-~~

15 ~~COMMENDATIONS.—For any year in which both parties to~~
16 ~~the Agreement approve recommendations made by the~~
17 ~~joint management committee with respect to the catch~~
18 ~~level, the Secretary shall implement the approved rec-~~
19 ~~ommendations. Any regulation promulgated by the Sec-~~
20 ~~retary to implement any such recommendation shall apply,~~
21 ~~as necessary, to all persons and all vessels subject to the~~
22 ~~jurisdiction of the United States wherever located.~~

23 ~~(c) YEARS WITH NO APPROVED CATCH REC-~~

24 ~~COMMENDATIONS.—If the parties to the Agreement do not~~
25 ~~approve the joint management committee's recommenda-~~
26 ~~tion with respect to the catch level for any year, the Sec-~~

1 retary shall establish the total allowable catch for Pacific
 2 whiting for the United States catch. In establishing the
 3 total allowable catch under this subsection, the Secretary
 4 shall—

5 (1) take into account any recommendations
 6 from the Pacific Fishery Management Council, the
 7 joint management committee, the joint technical
 8 committee, the scientific review group, and the advi-
 9 sory panel;

10 (2) base the total allowable catch on the best
 11 scientific information available;

12 (3) use the default harvest rate set out in para-
 13 graph 1 of Article III of the Agreement unless the
 14 Secretary determines that the scientific evidence
 15 demonstrates that a different rate is necessary to
 16 sustain the offshore whiting resource; and

17 (4) establish the United State's share of the
 18 total allowable catch based on paragraph 2 of Article
 19 III of the Agreement and make any adjustments
 20 necessary under section 5 of Article II of the Agree-
 21 ment.

22 **SEC. 609. ADMINISTRATIVE MATTERS.**

23 (a) EMPLOYMENT STATUS.—Except for an individual
 24 who is an employee (as defined in section 2103 of title
 25 5, United States Code), without regard to an appointment

1 under this title, an individual appointed as a United States
2 representative under section 603(a), an alternate United
3 States representative under section 603(b), a scientific ex-
4 pert under section 604(a) or 605(a), or a member of the
5 advisory panel under section 606(a) (other than an indi-
6 vidual described in subsection (b)(2)) shall not be consid-
7 ered to be a Federal employee while serving as such a rep-
8 resentative, alternate representative, scientific expert, or
9 member, except for purposes of injury compensation or
10 tort claims liability as provided in chapter 81 of title 5
11 and chapter 171 of title 28, United States Code.

12 (b) COMPENSATION.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), an individual appointed under this title
15 shall receive no compensation for the individual's
16 service as a representative, alternate representative,
17 scientific expert, or advisory panel member under
18 this title.

19 (2) SCIENTIFIC REVIEW GROUP.—Notwith-
20 standing paragraph (1), the Secretary may employ
21 and fix the compensation of an individual appointed
22 under section 604(a) to serve as a scientific expert
23 on the scientific review group who is not employed
24 by the United States government, a State govern-

1 ment, or an Indian tribal government in accordance
2 with section 3109 of title 5, United States Code.

3 (c) TRAVEL EXPENSES.—Except as provided in sub-
4 section (d), the Secretary shall pay the necessary travel
5 expenses of individuals appointed under this title in ac-
6 cordance with the Federal Travel Regulations and sections
7 5701, 5702, 5704 through 5708, and 5731 of title 5,
8 United States Code.

9 (d) JOINT APPOINTEES.—With respect to the 2 inde-
10 pendent members of the scientific review group and the
11 2 public advisors to the scientific review group jointly ap-
12 pointed under section 604(e), and the 1 independent mem-
13 ber to the joint technical committee jointly appointed
14 under section 605(b), the Secretary may pay up to 50 per-
15 cent of—

16 (1) any compensation paid to such individuals;
17 and

18 (2) the necessary travel expenses of such indi-
19 viduals.

20 **SEC. 610. ENFORCEMENT.**

21 (a) IN GENERAL.—The Secretary may—

22 (1) administer and enforce this title and any
23 regulations issued under this title;

24 (2) request and utilize on a reimbursed or non-
25 reimbursed basis the assistance, services, personnel,

1 equipment, and facilities of other Federal depart-
2 ments and agencies in the administration and en-
3 forcement of this title; and

4 (3) collect, utilize, and disclose such informa-
5 tion as may be necessary to implement the Agree-
6 ment and this title, subject to sections 552 and 552a
7 of title 5, United States Code.

8 (b) PROHIBITED ACTS.—It is unlawful for any per-
9 son to violate any provision of this title or the regulations
10 promulgated under this title.

11 (c) ACTIONS BY THE SECRETARY.—The Secretary
12 shall prevent any person from violating this title in the
13 same manner, by the same means, and with the same ju-
14 risdiction, powers, and duties as though all applicable
15 terms and provisions of the Magnuson-Stevens Fishery
16 Conservation Act (16 U.S.C. 1857) were incorporated into
17 and made a part of this title. Any person that violates
18 any provision of this title is subject to the penalties and
19 entitled to the privileges and immunities provided in the
20 Magnuson-Stevens Fishery Conservation Act in the same
21 manner, by the same means, and with the same jurisdic-
22 tion, power, and duties as though all applicable terms and
23 provisions of that Act were incorporated into and made
24 a part of this title.

1 (d) **PENALTIES.**—This title shall be enforced by the
 2 Secretary as if a violation of this title or of any regulation
 3 promulgated by the Secretary under this title were a viola-
 4 tion of section 307 of the Magnuson-Stevens Fishery Con-
 5 servation Act (16 U.S.C. 1857).

6 **SEC. 611. AUTHORIZATION OF APPROPRIATIONS.**

7 There are authorized to be appropriated to the Sec-
 8 retary such sums as may be necessary to carry out the
 9 obligations of the United States under the Agreement and
 10 this title.

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

12 (a) *SHORT TITLE.*—*This Act may be cited as the*
 13 *“Magnuson-Stevens Fishery Conservation and Management*
 14 *Reauthorization Act of 2005”.*

15 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 16 *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.

Sec. 102. Caribbean Council jurisdiction.

Sec. 103. Regional fishery management councils.

Sec. 104. Fishery management plan requirements.

Sec. 105. Fishery management plan discretionary provisions.

Sec. 106. Limited access privilege programs.

Sec. 107. Environmental review process.

Sec. 108. Emergency regulations.

Sec. 109. Western Pacific community development.

Sec. 110. Western Alaska Community Development Quota Program.

- Sec. 111. Secretarial action on State groundfish fishing.*
- Sec. 112. Joint enforcement agreements.*
- Sec. 113. Transition to sustainable fisheries.*
- Sec. 114. Regional coastal disaster assistance, transition, and recovery program.*
- Sec. 115. Fishery finance program hurricane assistance.*
- Sec. 116. Shrimp fisheries hurricane assistance program.*
- Sec. 117. Bycatch reduction engineering program.*
- Sec. 118. Community-based restoration program for fishery and coastal habitats.*
- Sec. 119. Prohibited acts.*
- Sec. 120. Enforcement.*

TITLE II—INFORMATION AND RESEARCH

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

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 bycatch of protected marine species.*
- Sec. 404. Monitoring of Pacific insular area fisheries.*
- Sec. 405. Reauthorization of Atlantic Tunas Convention Act.*
- Sec. 406. International overfishing and domestic equity.*

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. Penalties.*
- Sec. 508. Cooperation in carrying out convention.*
- Sec. 509. Territorial participation.*
- Sec. 510. Authorization of appropriations.*

TITLE VI—PACIFIC WHITING

- Sec. 601. *Short title.*
 Sec. 602. *Definitions.*
 Sec. 603. *United States representation on joint management committee.*
 Sec. 604. *United States representation on the scientific review group.*
 Sec. 605. *United States representation on joint technical committee.*
 Sec. 606. *United States representation on advisory panel.*
 Sec. 607. *Responsibilities of the Secretary.*
 Sec. 608. *Rulemaking.*
 Sec. 609. *Administrative matters.*
 Sec. 610. *Enforcement.*
 Sec. 611. *Authorization of appropriations.*

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

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

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

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

12 “(11) *A number of the Fishery Management*
 13 *Councils have demonstrated significant progress in*
 14 *integrating ecosystem considerations in fisheries man-*
 15 *agement using the existing authorities provided under*
 16 *this Act.”.*

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

1 (1) *by inserting after paragraph (6) the fol-*
2 *lowing:*

3 “(6A) *The term ‘confidential information’*
4 *means—*

5 “(A) *trade secrets; or*

6 “(B) *commercial or financial information*
7 *the disclosure of which is likely to result in sub-*
8 *stantial harm to the competitive position of the*
9 *person who submitted the information to the Sec-*
10 *retary.”;*

11 (2) *by inserting after paragraph (13) the fol-*
12 *lowing:*

13 “(13A) *The term ‘regional fishery association’*
14 *means an association formed for the mutual benefit of*
15 *members—*

16 “(A) *to meet social and economic needs in*
17 *a region or subregion; and*

18 “(B) *comprised of persons engaging in the*
19 *harvest or processing of fishery resources in that*
20 *specific region or subregion or who otherwise*
21 *own or operate businesses substantially depend-*
22 *ent upon a fishery.”;*

23 (3) *by inserting after paragraph (20) the fol-*
24 *lowing:*

25 “(20A) *The term ‘import’—*

1 “(A) means to land on, bring into, or intro-
2 duce into, or attempt to land on, bring into, or
3 introduce into, any place subject to the jurisdic-
4 tion of the United States, whether or not such
5 landing, bringing, or introduction constitutes an
6 importation within the meaning of the customs
7 laws of the United States; but

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

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

14 “(23A) The term ‘limited access privilege’—

15 “(A) means a Federal permit, issued as
16 part of a limited access system under section
17 303A to harvest a quantity of fish that may be
18 received or held for exclusive use by a person;
19 and

20 “(B) includes an individual fishing quota;
21 but

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

24 (5) by inserting after paragraph (27) the fol-
25 lowing:

1 “(27A) *The term ‘observer information’ means*
2 *any information collected, observed, retrieved, or cre-*
3 *ated by an observer or electronic monitoring system*
4 *pursuant to authorization by the Secretary, or col-*
5 *lected as part of a cooperative research initiative, in-*
6 *cluding fish harvest or processing observations, fish*
7 *sampling or weighing data, vessel logbook data, vessel*
8 *or processor-specific information (including any safe-*
9 *ty, location, or operating condition observations), and*
10 *video, audio, photographic, or written documents.”.*

11 *(c) REDESIGNATION.—Paragraphs (1) through (45) of*
12 *section 3 (16 U.S.C. 1802), as amended by subsection (a),*
13 *are redesignated as paragraphs (1) thorough (50), respec-*
14 *tively.*

15 *(d) CONFORMING AMENDMENTS.—*

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

19 *(A) Section 402(b)(1)(D) (16 U.S.C.*
20 *1881a(b)(1)(D)).*

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

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

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

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

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

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

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

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

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

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

15 “(b) *TRADITIONAL PARTICIPATION.*—*For fisheries*
16 *being managed under an international fisheries agreement*
17 *to which the United States is a party, Council or Secre-*
18 *tarial action, if any, shall reflect traditional participation*
19 *in the fishery, relative to other Nations, by fishermen of the*
20 *United States on fishing vessels of the United States.*

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

1 *in this regard shall be communicated to and promoted by*
2 *the United States in the international or regional fisheries*
3 *organization.”.*

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

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

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

7 *(2) by striking “will not” and inserting “cannot,*
8 *or will not,”;*

9 *(3) by inserting after “Act.” the following: “Allo-*
10 *cations of the total allowable level of foreign fishing*
11 *are discretionary, except that the total allowable level*
12 *shall be zero for fisheries determined by the Secretary*
13 *to have adequate or excess harvest capacity.”*

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

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

16 *(1) by inserting “and any funds or contributions*
17 *received in support of conservation and management*
18 *objectives under a marine conservation plan” after*
19 *“agreement” in paragraph (7);*

20 *(2) by striking “authority, after payment of di-*
21 *rect costs of the enforcement action to all entities in-*
22 *volved in such action,” in paragraph (8); and*

23 *(3) by inserting after “paragraph (4).” in para-*
24 *graph (8) the following: “In the case of violations by*
25 *foreign vessels occurring within the exclusive economic*

1 *zones off Midway Atoll, Johnston Atoll, Kingman*
 2 *Reef, Palmyra Atoll, Jarvis, Howland, Baker, and*
 3 *Wake Islands, amounts received by the Secretary at-*
 4 *tributable to fines and penalties imposed under this*
 5 *Act, shall be deposited into the Western Pacific Sus-*
 6 *tainable Fisheries Fund established under paragraph*
 7 *(7) of this subsection.”.*

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

9 *Section 4 (16 U.S.C. 1803) is amended to read as fol-*
 10 *lows:*

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

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

14 *“(1) \$328,004,000 for fiscal year 2006; and*

15 *“(2) such sums as may be necessary for fiscal*
 16 *years 2007 through 2012.”.*

17 **TITLE I—CONSERVATION AND**
 18 **MANAGEMENT**

19 **SEC. 101. CUMULATIVE IMPACTS.**

20 *(a) NATIONAL STANDARDS.—Section 301(a)(8) (16*
 21 *U.S.C. 1851(a)(8)) is amended by inserting “by utilizing*
 22 *economic and social data and assessment methods based on*
 23 *the best economic and social information available,” after*
 24 *“fishing communities”.*

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

8 **SEC. 102. CARIBBEAN COUNCIL JURISDICTION.**

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

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

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

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

22 (b) *SCIENTIFIC AND STATISTICAL COMMITTEES.*—Sec-
 23 *tion 302(g) (16 U.S.C. 1852(g))* is amended—

24 (1) *by striking so much of subsection (g) as pre-*
 25 *cedes paragraph (2) and inserting the following:*

1 “(g) *COMMITTEES AND ADVISORY PANELS.*—

2 “(1)(A) *Each Council shall establish, maintain,*
3 *and appoint the members of a scientific and statis-*
4 *tical committee to assist it in the development, collec-*
5 *tion, evaluation, and peer review of such statistical,*
6 *biological, economic, social, and other scientific infor-*
7 *mation as is relevant to such Council’s development*
8 *and amendment of any fishery management plan.*

9 “(B) *Each scientific and statistical committee*
10 *shall provide its Council ongoing scientific advice for*
11 *fishery management decisions, including rec-*
12 *ommendations for acceptable biological catch or max-*
13 *imum sustainable yield, and reports on stock status*
14 *and health, bycatch, habitat status, socio-economic*
15 *impacts of management measures, and sustainability*
16 *of fishing practices.*

17 “(C) *Members appointed by the Councils to the*
18 *scientific and statistical committees shall be Federal*
19 *employees, State employees, academicians, or inde-*
20 *pendent experts with strong scientific or technical cre-*
21 *entials and experience.*

22 “(D) *The Secretary and each Council may estab-*
23 *lish a peer review process for that Council for sci-*
24 *entific information used to advise the Council about*
25 *the conservation and management of the fishery. The*

1 review process, which may include existing commit-
2 tees or panels, is deemed to satisfy the requirements
3 of the guidelines issued pursuant to section 515 of the
4 Treasury and General Government Appropriations
5 Act for Fiscal year 2001 (Public Law 106-554—Ap-
6 pendix C; 114 Stat. 2763A-153).

7 “(E) In addition to the provisions of section
8 302(f)(7), the Secretary may pay a stipend to mem-
9 bers of the scientific and statistical committees or ad-
10 visory panels who are not employed by the Federal
11 government or a State marine fisheries agency.”;

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

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

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

17 (1) by striking “authority, and” in paragraph
18 (5) and inserting “authority;”;

19 (2) by redesignating paragraph (6) as para-
20 graph (7); and

21 (3) by inserting after paragraph (5) the fol-
22 lowing:

23 “(6) adopt annual catch limits for each of its
24 managed fisheries after considering the recommenda-
25 tions of its scientific and statistical committee or the

1 *peer review process established under subsection (g);*
2 *and”.*

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

6 *(1) by striking “published in local newspapers”*
7 *and inserting “provided by any means that will re-*
8 *sult in wide publicity (except that e-mail notification*
9 *and website postings alone are not sufficient)”;* and

10 *(2) by striking “fishery) and such notice may be*
11 *given by such other means as will result in wide pub-*
12 *licity.” and inserting “fishery).”.*

13 *(e) CLOSED MEETINGS.—Section 302(i)(3)(B) (16*
14 *U.S.C. 1852(i)(3)(B)) is amended by striking “notify local*
15 *newspapers” and inserting “provide notice by any means*
16 *that will result in wide publicity”.*

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

19 *“(k) COUNCIL TRAINING PROGRAM.—*

20 *“(1) TRAINING COURSE.—Within 6 months after*
21 *the date of enactment of the Magnuson-Stevens Fish-*
22 *ery Conservation and Management Reauthorization*
23 *Act of 2005, the Secretary, in consultation with the*
24 *Councils and the National Sea Grant College Pro-*
25 *gram, shall develop a training course for newly ap-*

1 *pointed Council members. The course may cover a va-*
2 *riety of topics relevant to matters before the Councils,*
3 *including—*

4 *“(A) fishery science and basic stock assess-*
5 *ment methods;*

6 *“(B) fishery management techniques, data*
7 *needs, and Council procedures;*

8 *“(C) social science and fishery economics;*

9 *“(D) tribal treaty rights and native cus-*
10 *toms, access, and other rights related to Western*
11 *Pacific indigenous communities;*

12 *“(E) legal requirements of this Act, includ-*
13 *ing conflict of interest and disclosure provisions*
14 *of this section and related policies;*

15 *“(F) other relevant legal and regulatory re-*
16 *quirements, including the National Environ-*
17 *mental Policy Act (42 U.S.C. 4321 et seq.);*

18 *“(G) public process for development of fish-*
19 *ery management plans; and*

20 *“(H) other topics suggested by the Council.*

21 *“(2) MEMBER TRAINING.—The training course*
22 *shall be available to both new and existing Council*
23 *members, and may be made available to committee or*
24 *advisory panel members as resources allow.*

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

8 (g) *PROCEDURAL MATTERS.*—*Section 302(i) (16*
9 *U.S.C. 1852(i)) is amended—*

10 (1) *by striking “to the Councils or to the sci-*
11 *entific and statistical committees or advisory panels*
12 *established under subsection (g).” in paragraph (1)*
13 *and inserting “to the Councils, the Council coordina-*
14 *tion committee established under subsection (l), or to*
15 *the scientific and statistical committees or other com-*
16 *mittees or advisory panels established under sub-*
17 *section (g).”;*

18 (2) *by striking “of a Council, and of the sci-*
19 *entific and statistical committee and advisory panels*
20 *established under subsection (g):” in paragraph (2)*
21 *and inserting “of a Council, of the Council coordina-*
22 *tion committee established under subsection (l), and of*
23 *the scientific and statistical committees or other com-*
24 *mittees or advisory panels established under sub-*
25 *section (g):”; and*

1 (3) by inserting “the Council Coordination Com-
2 mittee established under subsection (1),” in para-
3 graph (3)(A) after “Council,”; and

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

6 (h) *CONFLICTS OF INTEREST*.—Section 302(j) (16
7 *U.S.C. 1852(j)*) is amended—

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

10 (2) by striking “jurisdiction.” in paragraph (2)
11 and inserting “jurisdiction, or with respect to any
12 other individual or organization with a financial in-
13 terest in such activity.”;

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

16 “(B) be kept on file by the Council and made
17 available on the Internet and for public inspection at
18 the Council offices during reasonable times; and”;

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

20 “(9) On January 1, 2008, and annually thereafter, the
21 Secretary shall submit a report to the Senate Committee
22 on Commerce, Science, and Transportation and the House
23 of Representatives Committee on Resources on action taken
24 by the Secretary and the Councils to implement the disclo-

1 *sure of financial interest and recusal requirements of this*
 2 *subsection.”.*

3 *(i) GULF OF MEXICO FISHERIES MANAGEMENT COUN-*
 4 *CIL.—Section 302(b)(2) (16 U.S.C. 1852(b)(2)) is amend-*
 5 *ed—*

6 *(1) by redesignating subparagraph (D) as sub-*
 7 *paragraph (E); and*

8 *(2) by inserting after subparagraph (C) the fol-*
 9 *lowing:*

10 *“(D)(i) The Secretary shall appoint to the Gulf of Mex-*
 11 *ico Fisheries Management Council—*

12 *“(I) 5 representatives of the commercial fishing*
 13 *sector;*

14 *“(II) 5 representatives of the recreational fishing*
 15 *and charter fishing sectors; and*

16 *“(III) 1 other individual who is knowledgeable*
 17 *regarding the conservation and management of fish-*
 18 *eries resources in the jurisdiction of the Council.*

19 *“(ii) The Governor of a State submitting a list of*
 20 *names of individuals for appointment by the Secretary of*
 21 *Commerce to the Gulf of Mexico Fisheries Management*
 22 *Council under subparagraph (C) shall include—*

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

1 “(II) at least 1 other individual who is knowl-
2 edgeable regarding the conservation and management
3 of fisheries resources in the jurisdiction of the Coun-
4 cil.

5 “(iii) If the Secretary determines that the list of names
6 submitted by the Governor does not meet the requirements
7 of clause (ii), the Secretary shall—

8 “(I) publish a notice in the Federal Register ask-
9 ing the residents of that State to submit the names
10 and pertinent biographical data of individuals who
11 would meet the requirement not met for appointment
12 to the Council; and

13 “(II) add the name of any qualified individual
14 submitted by the public who meets the unmet require-
15 ment to the list of names submitted by the Governor.

16 “(iv) For purposes of clause (ii), an individual who
17 owns or operates a fish farm outside of the United States
18 shall not be considered to be a representative of the commer-
19 cial fishing sector.”.

20 (j) *REPORT AND RECOMMENDATIONS ON GULF COUN-*
21 *CIL AMENDMENT.*—

22 (1) *IN GENERAL.*—Before August, 2011, the Sec-
23 retary of Commerce, in consultation with the Gulf of
24 Mexico Fisheries Management Council, shall analyze
25 the impact of the amendment made by subsection (i)

1 *and determine whether section 302(b)(2)(D) of the*
2 *Magnuson-Stevens Fishery Conservation and Manage-*
3 *ment Act (16 U.S.C. 1852(b)(2)(D)) has resulted in a*
4 *fair and balanced apportionment of the active par-*
5 *ticipants in the commercial and recreational fisheries*
6 *under the jurisdiction of the Council.*

7 (2) *REPORT.—By no later than August, 2011,*
8 *the Secretary shall transmit a report to the Senate*
9 *Committee on Commerce, Science, and Transpor-*
10 *tation and the House of Representatives Committee*
11 *on Resources setting forth the Secretary’s findings*
12 *and determination, including any recommendations*
13 *for legislative or other changes that may be necessary*
14 *to achieve such a fair and balanced apportionment,*
15 *including whether to renew the authority.*

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

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

19 (1) *striking “and charter fishing” in paragraph*
20 *(5) and inserting “charter fishing, and fish proc-*
21 *essing”;*

22 (2) *by inserting “economic information nec-*
23 *essary to meet the requirements of this Act,” in para-*
24 *graph (5) after “number of hauls,”;*

1 (3) by striking “fishery” the first place it ap-
2 pears in paragraph (13) and inserting “fishery, in-
3 cluding their economic impact,”;

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

6 (5) by striking “allocate” in paragraph (14) and
7 inserting “allocate, taking into consideration the eco-
8 nomic impact of the harvest restrictions or recovery
9 benefits on the fishery participants in each sector,”;

10 (6) by striking “fishery.” in paragraph (14) and
11 inserting “fishery; and”;

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

13 “(15) provide a mechanism for specifying an-
14 nual catch limits in the plan (including a multiyear
15 plan), the implementing regulations, or the annual
16 specifications that shall be established by the Council
17 or Secretary based on the best scientific information
18 available at a level that does not exceed optimum
19 yield, and, for purposes of which harvests exceeding
20 the specified annual catch limit (including the speci-
21 fied annual catch limit for a sector) shall either be de-
22 ducted from the following year’s annual catch limit
23 (including the annual catch limit for that sector), or
24 by adjusting other management measures and input
25 controls such that the fishing mortality rate for the

1 *following year is reduced to account for the overage*
 2 *to achieve the overfishing and rebuilding objectives of*
 3 *the plan for that sector.”.*

4 ***(b) EFFECTIVE DATE.***—*The amendments made by sub-*
 5 *section (a)(5) shall take effect 2 years after the date of enact-*
 6 *ment of this Act.*

7 ***SEC. 105. FISHERY MANAGEMENT PLAN DISCRETIONARY***
 8 ***PROVISIONS.***

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

10 *(1) by inserting “(A)” after “(2)” in paragraph*
 11 *(2);*

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

14 *“(B) designate such zones in areas where deep*
 15 *sea corals are identified under section 408, to protect*
 16 *deep sea corals from physical damage from fishing*
 17 *gear or to prevent loss or damage to such fishing gear*
 18 *from interactions with deep sea corals, after consid-*
 19 *ering long-term sustainable uses of fishery resources*
 20 *in such areas; and*

21 *“(C) with respect to any closure of an area to all*
 22 *fisheries managed under this Act, ensure that such*
 23 *closure—*

24 *“(i) is based on the best scientific informa-*
 25 *tion available;*

1 “(ii) includes criteria to assess the conserva-
2 tion benefit of the closed area;

3 “(iii) establishes a timetable for review of
4 the closed area’s performance that is consistent
5 with the purposes of the closed area; and

6 “(iv) is based on an assessment of the bene-
7 fits and impacts of the closure, including its size,
8 in relation to other management measures (ei-
9 ther alone or in combination with such meas-
10 ures), including the benefits and impacts of lim-
11 iting access to: users of the area, overall fishing
12 activity, fishery science, and fishery and marine
13 conservation;”;

14 (2) by striking “fishery;” in paragraph (5) and
15 inserting “fishery and take into account the different
16 circumstances affecting fisheries from different States
17 and port, including distances to fishing grounds and
18 proximity to time and area closures;”;

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

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

1 “(A) the conservation requirements of this
2 Act with respect to the fishery;

3 “(B) present participation in the fishery;

4 “(C) historical fishing practices in, and de-
5 pendence on, the fishery;

6 “(D) the economics of the fishery;

7 “(E) the capability of fishing vessels used in
8 the fishery to engage in other fisheries;

9 “(F) the cultural and social framework rel-
10 evant to the fishery and any affected fishing
11 communities;

12 “(G) the fair and equitable distribution of
13 access privileges to a public resource; and

14 “(H) any other relevant considerations;”;

15 (4) by striking “(other than economic data)” in
16 paragraph (7);

17 (5) by striking “and” after the semicolon in
18 paragraph (11); and

19 (6) by redesignating paragraph (12) as para-
20 graph (14) and inserting after paragraph (11) the fol-
21 lowing:

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

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

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

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

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

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

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

11 “(a) *IN GENERAL.*—After the date of enactment of the
12 Magnuson-Stevens Fishery Conservation and Management
13 Reauthorization Act of 2005, a Council may submit, and
14 the Secretary may approve, for a fishery that is managed
15 under a limited access system, a limited access privilege
16 program to harvest fish if the program meets the require-
17 ments of this section.

18 “(b) *NO CREATION OF RIGHT, TITLE, OR INTEREST.*—
19 A limited access system, limited access privilege, quota
20 share, or other authorization established, implemented, or
21 managed under this Act—

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

24 “(2) may be revoked, limited, or modified at any
25 time in accordance with this Act, including revoca-

1 *tion for failure to comply with the terms of the plan*
2 *or if the system is found to have jeopardized the sus-*
3 *tainability of the stock or the safety of fishermen;*

4 *“(3) shall not confer any right of compensation*
5 *to the holder of such limited access privilege, quota*
6 *share, or other such limited access system authoriza-*
7 *tion if it is revoked, limited, or modified;*

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

11 *“(5) shall be considered a grant of permission to*
12 *the holder of the limited access privilege or quota*
13 *share to engage in activities permitted by such lim-*
14 *ited access privilege or quota share.*

15 *“(c) REQUIREMENTS FOR LIMITED ACCESS PRIVI-*
16 *LEGES.—*

17 *“(1) IN GENERAL.—In addition to complying*
18 *with the other requirements of this Act, any limited*
19 *access privilege program to harvest fish submitted by*
20 *a Council or approved by the Secretary under this*
21 *section shall—*

22 *“(A) if established in a fishery that is over-*
23 *fished or subject to a rebuilding plan, assist in*
24 *its rebuilding; and*

1 “(B) if established in a fishery that is deter-
2 mined by the Secretary or the Council to have
3 over-capacity, contribute to reducing capacity;

4 “(C) promote—

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

6 and

7 “(ii) the conservation and management
8 of the fishery;

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

17 “(E) require that all fish harvested under a
18 limited access privilege program be processed by
19 vessels of the United States, in United States wa-
20 ters, or on United States soil (including any ter-
21 ritory of the United States).

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

23 “(G) include provisions for the regular
24 monitoring and review by the Council and the
25 Secretary of the operations of the program, in-

1 *cluding determining progress in meeting the*
2 *goals of the program and this Act, and any nec-*
3 *essary modification of the program to meet those*
4 *goals, with a formal and detailed review 5 years*
5 *after the establishment of the program and every*
6 *5 years thereafter;*

7 *“(H) include an effective system for enforce-*
8 *ment, monitoring, and management of the pro-*
9 *gram, including the use of observers;*

10 *“(I) include an appeals process for admin-*
11 *istrative review of determinations with respect to*
12 *the Secretary’s decisions regarding administra-*
13 *tion of the limited access privilege program;*

14 *“(J) provide for the establishment by the*
15 *Secretary, in consultation with the Department*
16 *of Justice and the Federal Trade Commission,*
17 *for an information collection and review process*
18 *to provide any additional information needed by*
19 *the Department of Justice and the Federal Trade*
20 *Commission to determine whether any illegal*
21 *acts of anti-competition, anti-trust, price collu-*
22 *sion, or price fixing have occurred among re-*
23 *gional fishery associations or persons receiving*
24 *limited access privileges under the program; and*

1 “(K) provide for the revocation by the Sec-
 2 retary of limited access privileges held by any
 3 person found to have violated the antitrust laws
 4 of the United States.

5 “(2) WAIVER.—The Secretary may waive the re-
 6 quirement of paragraph (1)(E) if the Secretary deter-
 7 mines that—

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

10 “(B) the United States has a seafood safety
 11 equivalency agreement with the country where
 12 processing will occur (or other assurance that
 13 seafood safety procedures to be used in such proc-
 14 essing are equivalent or superior to the applica-
 15 ble United States seafood safety standards).

16 “(3) FISHING COMMUNITIES.—

17 “(A) IN GENERAL.—

18 “(i) ELIGIBILITY.—To be eligible to
 19 participate in a limited access privilege
 20 program to harvest fish, a fishing commu-
 21 nity shall—

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

24 “(II) meet criteria developed by
 25 the relevant Council, approved by the

1 *Secretary, and published in the Fed-*
2 *eral Register;*

3 *“(III) consist of residents who*
4 *conduct commercial or recreational*
5 *fishing, processing, or fishery-depend-*
6 *ent support businesses within the*
7 *Council’s management area; and*

8 *“(IV) develop and submit a com-*
9 *munity sustainability plan to the*
10 *Council and the Secretary that dem-*
11 *onstrates how the plan will address the*
12 *social and economic development needs*
13 *of fishing communities, including those*
14 *that have not historically had the re-*
15 *sources to participate in the fishery,*
16 *for approval based on criteria devel-*
17 *oped by the Council that have been ap-*
18 *proved by the Secretary and published*
19 *in the Federal Register.*

20 *“(ii) FAILURE TO COMPLY WITH*
21 *PLAN.—The Secretary shall deny limited*
22 *access privileges granted under this section*
23 *for any person who fails to comply with the*
24 *requirements of the plan.*

1 “(B) *PARTICIPATION CRITERIA.*—*In devel-*
2 *oping participation criteria for eligible commu-*
3 *nities under this paragraph, a Council shall con-*
4 *sider—*

5 “(i) *traditional fishing or processing*
6 *practices in, and dependence on, the fishery;*

7 “(ii) *the cultural and social framework*
8 *relevant to the fishery;*

9 “(iii) *economic barriers to access to*
10 *fishery;*

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

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

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

1 “(4) *REGIONAL FISHERY ASSOCIATIONS.*—

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

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

8 “(ii) *meet criteria developed by the rel-*
9 *evant Council, approved by the Secretary,*
10 *and published in the Federal Register;*

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

17 “(iv) *develop and submit a regional*
18 *fishery association plan to the Council and*
19 *the Secretary for approval based on criteria*
20 *developed by the Council that have been ap-*
21 *proved by the Secretary and published in*
22 *the Federal Register.*

23 “(B) *FAILURE TO COMPLY WITH PLAN.*—

24 *The Secretary shall deny limited access privi-*
25 *leges granted under this section for any person*

1 *who fails to comply with the requirements of the*
2 *plan.*

3 “(C) *PARTICIPATION CRITERIA.*—*In devel-*
4 *oping participation criteria for eligible regional*
5 *fishery associations under this paragraph, a*
6 *Council shall consider—*

7 “(i) *traditional fishing or processing*
8 *practices in, and dependence on, the fishery;*

9 “(ii) *the cultural and social framework*
10 *relevant to the fishery;*

11 “(iii) *economic barriers to access to*
12 *fishery;*

13 “(iv) *the existence and severity of pro-*
14 *jected economic and social impacts associ-*
15 *ated with implementation of limited access*
16 *privilege programs on harvesters, captains,*
17 *crew, processors, and other businesses sub-*
18 *stantially dependent upon the fishery in the*
19 *region or subregion, upon the administra-*
20 *tive and fiduciary soundness of the associa-*
21 *tion and its by-laws; and*

22 “(v) *the expected effectiveness, oper-*
23 *ational transparency, and equitability of*
24 *the fishery association plan.*

1 “(5) *ALLOCATION.*—*In developing a limited ac-*
2 *cess privilege program to harvest fish a Council or the*
3 *Secretary shall—*

4 “(A) *establish procedures to ensure fair and*
5 *equitable initial allocations, including consider-*
6 *ation of—*

7 “(i) *current and historical harvests;*

8 “(ii) *employment in the harvesting*
9 *and processing sectors;*

10 “(iii) *investments in, and dependence*
11 *upon, the fishery; and*

12 “(iv) *the current and historical par-*
13 *ticipation of fishing communities;*

14 “(B) *to the extent practicable, consider the*
15 *basic cultural and social framework of the fish-*
16 *ery, especially through the development of poli-*
17 *cies to promote the sustained participation of*
18 *small owner-operated fishing vessels and fishing*
19 *communities that depend on the fisheries, includ-*
20 *ing regional or port-specific landing or delivery*
21 *requirements;*

22 “(C) *include measures to assist, when nec-*
23 *essary and appropriate, entry-level and small*
24 *vessel operators, captains, crew, and fishing com-*
25 *munities through set-asides of harvesting alloca-*

1 *tions, including providing privileges and, where*
2 *appropriate, recommending the provision of eco-*
3 *nomics assistance in the purchase of limited ac-*
4 *cess privileges to harvest fish;*

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

9 *“(i) establishing a maximum share, ex-*
10 *pressed as a percentage of the total limited*
11 *access privileges, that a limited access privi-*
12 *lege holder is permitted to hold, acquired, or*
13 *use; and*

14 *“(ii) establishing any other limitations*
15 *or measures necessary to prevent an inequi-*
16 *table concentration of limited access privi-*
17 *leges;*

18 *“(E) establish procedures to address geo-*
19 *graphic or other consolidation in both the har-*
20 *vesting and processing sectors of the fishery; and*

21 *“(F) authorize limited access privileges to*
22 *harvest fish to be held, acquired, or used by or*
23 *issued under the system to persons who substan-*
24 *tially participate in the fishery, as specified by*
25 *the Council, including, as appropriate, fishing*

1 vessel owners, vessel captains, vessel crew mem-
2 bers, fishing communities, and regional fishery
3 associations.

4 “(6) PROGRAM INITIATION.—

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

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

1 *for such a program and shall serve as the basis*
2 *for determining the percentage described in the*
3 *first sentence of this subparagraph.*

4 “(C) *CERTIFICATION BY SECRETARY.—*

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

14 “(D) *NEW ENGLAND AND GULF REF-*
15 *ERENDUM.—*

16 “(i) *Except as provided in clause (iii)*
17 *for the Gulf of Mexico commercial red snap-*
18 *per fishery, the New England and Gulf*
19 *Councils may not submit, and the Secretary*
20 *may not approve or implement, a fishery*
21 *management plan or amendment that cre-*
22 *ates an individual fishing quota program,*
23 *including a Secretarial plan, unless such a*
24 *system, as ultimately developed, has been*
25 *approved by more than $\frac{2}{3}$ of those voting in*

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

15 “(ii) *The Secretary shall conduct a ref-*
16 *erendum under this subparagraph, includ-*
17 *ing notifying all persons eligible to partici-*
18 *pate in the referendum and making avail-*
19 *able to them information concerning the*
20 *schedule, procedures, and eligibility require-*
21 *ments for the referendum process and the*
22 *proposed individual fishing quota program.*
23 *Within 1 year after the date of enactment*
24 *of the Magnuson-Stevens Fishery Conserva-*
25 *tion and Management Reauthorization Act*

1 *of 2005, the Secretary shall publish guide-*
2 *lines and procedures to determine proce-*
3 *dures and voting eligibility requirements for*
4 *referenda and to conduct such referenda in*
5 *a fair and equitable manner.*

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

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

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

18 “(A) *establish a policy on the transfer-*
19 *ability of limited access privilege shares (through*
20 *sale or lease), including a policy on any condi-*
21 *tions that apply to the transferability of limited*
22 *access privilege shares that is consistent with the*
23 *policies adopted by the Council for the fishery*
24 *under paragraph (3); and*

1 “(B) establish criteria for the approval and
2 monitoring of transfers (including sales and
3 leases) of limited access privilege shares.

4 “(8) *PREPARATION AND IMPLEMENTATION OF*
5 *SECRETARIAL PLANS.*—*This subsection also applies to*
6 *a plan prepared and implemented by the Secretary*
7 *under section 304(g).*

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

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

23 “(1) *the system or program is administered in*
24 *such a way that the resulting distribution of limited*

1 *access privilege shares meets the program require-*
2 *ments of subsection (c)(3)(A); and*

3 “(2) revenues generated through such a royalty
4 *program are deposited in the Limited Access System*
5 *Administration Fund established by section*
6 *305(h)(5)(B) and available subject to annual appro-*
7 *priations.*

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

10 “(1) *develop a methodology and the means to*
11 *identify and assess the management, data collection*
12 *and analysis, and enforcement programs that are di-*
13 *rectly related to and in support of the program; and*

14 “(2) *provide, under section 304(d)(2), for a pro-*
15 *gram of fees paid by limited access privilege holders*
16 *that will cover the costs of management, data collec-*
17 *tion and analysis, and enforcement activities.*

18 “(f) *LIMITED DURATION.*—*In establishing a limited*
19 *access privilege program after the date of enactment of the*
20 *Magnuson-Stevens Fishery Conservation and Management*
21 *Reauthorization Act of 2005, a Council may establish—*

22 “(1) *a set term after which any initial or subse-*
23 *quent allocation of a limited access privilege shall ex-*
24 *pire;*

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

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

7 “(g) *LIMITED ACCESS PRIVILEGE ASSISTED PUR-*
8 *CHASE PROGRAM.—*

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

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

19 “(B) the first-time purchase of limited ac-
20 cess privileges in that fishery by entry level fish-
21 ermen.

22 “(2) *ELIGIBILITY CRITERIA.—*A Council making
23 a submission under paragraph (1) shall recommend
24 criteria, consistent with the provisions of this Act,
25 that a fisherman must meet to qualify for guarantees

1 *under subparagraphs (A) and (B) of paragraph (1)*
2 *and the portion of funds to be allocated for guarantees*
3 *under each subparagraph.*

4 *“(h) EFFECT ON CERTAIN EXISTING SHARES AND*
5 *PROGRAMS.—Nothing in this Act, or the amendments made*
6 *by the Magnuson-Stevens Fishery Conservation and Man-*
7 *agement Reauthorization Act of 2005, shall be construed to*
8 *require a reallocation of individual quota shares, processor*
9 *quota shares, cooperative programs, or other quota pro-*
10 *grams, including sector allocation, under development or*
11 *submitted by a Council or approved by the Secretary or*
12 *by Congressional action before the date of enactment of the*
13 *Magnuson-Stevens Fishery Conservation and Management*
14 *Reauthorization Act of 2005.”.*

15 *(b) FEES.—Section 304(d)(2)(A) (16 U.S.C.*
16 *1854(d)(2)(A)) is amended by striking “management and*
17 *enforcement” and inserting “management, data collection,*
18 *and enforcement”.*

19 *(c) INVESTMENT IN UNITED STATES SEAFOOD PROC-*
20 *ESSING FACILITIES.—The Secretary of Commerce shall*
21 *work with the Small Business Administration and other*
22 *Federal agencies to develop financial and other mechanisms*
23 *to encourage United States investment in seafood processing*
24 *facilities in the United States for fisheries that lack capac-*
25 *ity needed to process fish harvested by United States vessels*

1 *in compliance with the Magnuson—Stevens Fishery Con-*
 2 *servation and Management Act (16 U.S.C. 1801 et seq.).*

3 (d) CONFORMING AMENDMENT.—Section
 4 304(d)(2)(C)(i) (16 U.S.C. 1854(d)(2)(C)(i)) is amended by
 5 striking “section 305(h)(5)(B)” and all that follows and in-
 6 serting “section 305(h)(5)(B).”.

7 (e) APPLICATION WITH AMERICAN FISHERIES ACT.—
 8 Nothing in section 303A of the Magnuson-Stevens Fishery
 9 Conservation and Management Act (16 U.S.C. 1801 et seq.),
 10 as added by subsection (a), shall be construed to modify
 11 or supersede any provision of the American Fisheries Act
 12 (46 U.S.C. 12102 note; 16 U.S.C. 1851 note; et alia).

13 **SEC. 107. ENVIRONMENTAL REVIEW PROCESS.**

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

16 “(i) ENVIRONMENTAL REVIEW PROCESS.—

17 “(1) PROCEDURES.—The Secretary shall, in con-
 18 sultation with the Councils and the Council on Envi-
 19 ronmental Quality, revise and update agency proce-
 20 dures for compliance with the National Environ-
 21 mental Policy Act (42 U.S.C. 4231 et seq.). The pro-
 22 cedures shall—

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

1 “(B) integrate applicable environmental an-
2 alytical procedures, including the time frames
3 for public input, with the procedure for the prep-
4 aration and dissemination of fishery manage-
5 ment plans, plan amendments, and other actions
6 taken or approved pursuant to this Act in order
7 to provide for timely, clear and concise analysis
8 that is useful to decision makers and the public,
9 reduce extraneous paperwork, and effectively in-
10 volve the public.

11 “(2) USAGE.—The updated agency procedures
12 promulgated in accordance with this section used by
13 the Councils or the Secretary shall be the sole environ-
14 mental impact assessment procedure for fishery man-
15 agement plans, amendments, regulations, or other ac-
16 tions taken or approved pursuant to this Act.

17 “(3) SCHEDULE FOR PROMULGATION OF FINAL
18 PROCEDURES.—The Secretary shall—

19 “(A) propose revised procedures within 12
20 months after the date of enactment of the Magnu-
21 son-Stevens Fishery Conservation and Manage-
22 ment Reauthorization Act of 2005;

23 “(B) provide 90 days for public review and
24 comments; and

1 “(C) promulgate final procedures no later
2 than 18 months after the date of enactment of
3 that Act.

4 “(4) *PUBLIC PARTICIPATION.*—The Secretary is
5 authorized and directed, in cooperation with the
6 Council on Environmental Quality and the Councils,
7 to involve the affected public in the development of re-
8 vised procedures, including workshops or other appro-
9 priate means of public involvement.”.

10 **SEC. 108. EMERGENCY REGULATIONS.**

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

15 (b) *TECHNICAL AMENDMENT.*—Section 305(c)(3)(D)
16 (16 U.S.C. 1855(c)(3)(D)) is amended by inserting “or in-
17 terim measures” after “emergency regulations”.

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

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

21 “(j) *WESTERN PACIFIC REGIONAL MARINE EDU-*
22 *CATION AND TRAINING.*—

23 “(1) *IN GENERAL.*—The Secretary shall establish
24 a pilot program for regionally-based marine edu-
25 cation and training programs in the Western Pacific

1 to foster understanding, practical use of knowledge
2 (including native Hawaiian and other Pacific Is-
3 lander-based knowledge), and technical expertise rel-
4 evant to stewardship of living marine resources. The
5 Secretary shall, in cooperation with the Western Pa-
6 cific Regional Fishery Management Council, regional
7 educational institutions, and local Western Pacific
8 community training entities, establish programs or
9 projects that will improve communication, education,
10 and training on marine resource issues throughout
11 the region and increase scientific education for ma-
12 rine-related professions among coastal community
13 residents, including indigenous Pacific islanders, Na-
14 tive Hawaiians and other underrepresented groups in
15 the region.

16 “(2) PROGRAM COMPONENTS.—The program
17 shall—

18 “(A) include marine science and technology
19 education and training programs focused on pre-
20 paring community residents for employment in
21 marine related professions, including marine re-
22 source conservation and management, marine
23 science, marine technology, and maritime oper-
24 ations;

1 “(B) include fisheries and seafood-related
2 training programs, including programs for fish-
3 ery observers, seafood safety and seafood mar-
4 keting, focused on increasing the involvement of
5 coastal community residents in fishing, fishery
6 management, and seafood-related operations;

7 “(C) include outreach programs and mate-
8 rials to educate and inform consumers about the
9 quality and sustainability of wild fish or fish
10 products farmed through responsible aquaculture,
11 particularly in Hawaii and the Western Pacific;

12 “(D) include programs to identify, with the
13 fishing industry, methods and technologies that
14 will improve the data collection, quality, and re-
15 porting and increase the sustainability of fishing
16 practices, and to transfer such methods and tech-
17 nologies among fisheries sectors and to other na-
18 tions in the Western and Central Pacific;

19 “(E) develop means by which local and tra-
20 ditional knowledge (including Pacific islander
21 and Native Hawaiian knowledge) can enhance
22 science-based management of fishery resources of
23 the region; and

24 “(F) develop partnerships with other West-
25 ern Pacific Island agencies, academic institu-

1 *tions, and other entities to meet the purposes of*
 2 *this section.”.*

3 **SEC. 110. WESTERN ALASKA COMMUNITY DEVELOPMENT**

4 **QUOTA PROGRAM.**

5 *Section 305(i)(1) (16 U.S.C. 1855(i)(1)) is amended—*

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

9 *(2) by adding at the end the following:*

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

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

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

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

20 **FISHING.**

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

24 *“(k) MULTISPECIES GROUND FISH.—Within 60 days*
 25 *after the date of enactment of the Magnuson-Stevens Fishery*

1 *Conservation and Management Reauthorization Act of*
2 *2005, the Secretary of Commerce shall determine whether*
3 *fishing in State waters without a New England multispe-*
4 *cies groundfish fishery permit on regulated species within*
5 *the multispecies complex is not consistent with the applica-*
6 *ble Federal fishery management plan. If the Secretary*
7 *makes a determination that such actions are not consistent*
8 *with the plan, the Secretary shall, in consultation with the*
9 *Council, and after notifying the affected State, develop and*
10 *implement measures to cure the inconsistency.”.*

11 **SEC. 112. JOINT ENFORCEMENT AGREEMENTS.**

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

14 (1) *by striking “and” after the semicolon in sub-*
15 *section (b)(1)(A)(iv);*

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

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

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

1 or any similar system, subject to the con-
2 fidentiality provisions of section 402;”;

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

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

7 “(h) *JOINT ENFORCEMENT AGREEMENTS.*—

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

20 “(2) *ELIGIBLE STATE.*—A State is eligible to
21 participate in the cooperative enforcement agreements
22 under this section if it is in, or bordering on, the At-
23 lantic Ocean (including the Caribbean Sea), the Pa-
24 cific Ocean, the Arctic Ocean, the Gulf of Mexico,
25 Long Island Sound, or 1 or more of the Great Lakes.

1 “(3) *REQUIREMENTS.—Joint enforcement agree-*
2 *ments executed under paragraph (1)—*

3 “(A) *shall be consistent with the purposes*
4 *and intent of this section to the extent applicable*
5 *to the regulated activities;*

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

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

13 “(4) *ALLOCATION OF FUNDS.—The Secretary*
14 *shall include in each joint enforcement agreement an*
15 *allocation of funds to assist in management of the*
16 *agreement. The allocation shall be fairly distributed*
17 *among all eligible States participating in cooperative*
18 *enforcement agreements under this subsection, based*
19 *upon consideration of Federal marine enforcement*
20 *needs, the specific marine conservation enforcement*
21 *needs of each participating eligible State, and the ca-*
22 *capacity of the State to undertake the marine enforce-*
23 *ment mission and assist with enforcement needs. The*
24 *agreement may provide for amounts to be withheld by*
25 *the Secretary for the cost of any technical or other as-*

1 *sistance provided to the State by the Secretary under*
2 *the agreement.*

3 *“(i) IMPROVED DATA SHARING.—*

4 *“(1) IN GENERAL.—Notwithstanding any other*
5 *provision of this Act, as soon as practicable but no*
6 *later than 21 months after the date of enactment of*
7 *the Magnuson-Stevens Fishery Conservation and*
8 *Management Reauthorization Act of 2005, the Sec-*
9 *retary shall implement data-sharing measures to*
10 *make any data required to be provided by this Act*
11 *from Global Maritime Distress and Safety Systems,*
12 *vessel monitoring systems, or similar systems—*

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

16 *“(B) available to a State management agen-*
17 *cy involved in, or affected by, management of a*
18 *fishery if the State has entered into an agree-*
19 *ment with the Secretary under section*
20 *402(b)(1)(B) of this Act.*

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

24 *“(A) the Attorney General or highest rank-*
25 *ing legal officer of the State provides a written*

1 *opinion or certification that State law allows the*
2 *State to maintain the confidentiality of informa-*
3 *tion required by Federal law to be kept confiden-*
4 *tial; or*

5 *“(B) the Secretary is provided other reason-*
6 *able assurance that the State can and will pro-*
7 *tect the identity or business of any person to*
8 *which such information relates.”.*

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

16 ***(1) a cost-to-benefit analysis of the feasibility,***
17 ***value, and cost of using the Global Maritime Distress***
18 ***and Safety Systems, vessel monitoring systems, or***
19 ***similar systems for fishery management, conservation,***
20 ***enforcement, and safety purposes with the Federal***
21 ***government bearing the capital costs of any such sys-***
22 ***tem;***

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

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

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

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

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

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

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

24 (1) *by striking “measures;” in subsection*
25 *(a)(1)(B) and inserting “measures, including regu-*

1 *latory restrictions imposed to protect human health or*
2 *the marine environment and judicially imposed har-*
3 *vest restrictions;”;*

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

6 (3) *by striking “or the Governor of a State for*
7 *fisheries under State authority, may conduct a fish-*
8 *ing” in subsection (b)(1) and inserting “the Governor*
9 *of a State for fisheries under State authority, or a*
10 *majority of permit holders in the fishery, may con-*
11 *duct a voluntary fishing”;*

12 (4) *by inserting “practicable” after “entrants,”*
13 *in subsection (b)(1)(B)(i);*

14 (5) *by striking “cost-effective and” in subsection*
15 *(b)(1)C) and inserting “cost-effective and, in the in-*
16 *stance of a program involving an industry fee system,*
17 *prospectively”;*

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

20 “(A) *the owner of a fishing vessel, if the permit*
21 *authorizing the participation of the vessel in the fish-*
22 *ery is surrendered for permanent revocation and the*
23 *vessel owner and permit holder relinquish any claim*
24 *associated with the vessel or permit that could qualify*
25 *such owner or holder for any present or future limited*

1 *access system permit in the fishery for which the pro-*
2 *gram is established and such vessel is (i) scrapped, or*
3 *(ii) through the Secretary of the department in which*
4 *the Coast Guard is operating, subjected to title re-*
5 *strictions (including loss of the vessel's fisheries en-*
6 *dorsement) that permanently prohibit and effectively*
7 *prevent its use in fishing in federal or state waters,*
8 *or fishing on the high seas or in the waters of a for-*
9 *foreign nation; or”;*

10 *(7) by striking “The Secretary shall consult, as*
11 *appropriate, with Councils,” in subsection (b)(4) and*
12 *inserting “The harvester proponents of each program*
13 *and the Secretary shall consult, as appropriate and*
14 *practicable, with Councils,”;*

15 *(8) by striking “Secretary, at the request of the*
16 *appropriate Council,” in subsection (d)(1)(A) and in-*
17 *serting “Secretary”;*

18 *(9) by striking “Secretary, in consultation with*
19 *the Council,” in subsection (d)(1)(A) and inserting*
20 *“Secretary”;*

21 *(10) by striking “a two-thirds majority of the*
22 *participants voting.” in subsection (d)(1)(B) and in-*
23 *serting “at least a majority of the permit holders in*
24 *the fishery, or 50 percent of the permitted allocation*
25 *of the fishery, who participated in the fishery.”;*

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

5 (12) striking subsection (e) and inserting the fol-
6 lowing:

7 “(e) *IMPLEMENTATION PLAN.*—

8 “(1) *FRAMEWORK REGULATIONS.*—The Secretary
9 shall propose and adopt framework regulations appli-
10 cable to the implementation of all programs under
11 this section.

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

17 “(3) *HARVESTER PROPONENTS’ IMPLEMENTA-*
18 *TION PLAN.*—The Secretary may not propose imple-
19 mentation regulations for a program to be paid for
20 by an industry fee system until the harvester pro-
21 ponents of the program provide to the Secretary a
22 proposed implementation plan that, among other
23 matters—

24 “(A) proposes the types and numbers of ves-
25 sels or permits that are eligible to participate in

1 *the program and the manner in which the pro-*
2 *gram shall proceed, taking into account—*

3 *“(i) the requirements of this section;*

4 *“(ii) the requirements of the framework*
5 *regulations;*

6 *“(iii) the characteristics of the fishery;*

7 *“(iv) the requirements of the applicable*
8 *fishery management plan and any amend-*
9 *ment that such plan may require to support*
10 *the proposed program;*

11 *“(v) the general needs and desires of*
12 *harvesters in the fishery;*

13 *“(vi) the need to minimize program*
14 *costs; and*

15 *“(vii) other matters, including the*
16 *manner in which such proponents propose*
17 *to fund the program to ensure its cost effec-*
18 *tiveness, as well as any relevant factors*
19 *demonstrating the potential for, or nec-*
20 *essary to obtain, the support and general*
21 *cooperation of a substantial number of af-*
22 *ected harvesters in the fishery (or portion*
23 *of the fishery) for which the program is in-*
24 *tended; and*

1 “(B) proposes procedures for program par-
2 ticipation (such as submission of owner bids
3 under an auction system or fair market-value as-
4 sessment), including any terms and conditions
5 for participation, that the harvester proponents
6 deem to be reasonably necessary to meet the pro-
7 gram’s proposed objectives.

8 “(4) *PARTICIPATION CONTRACTS.*—The Secretary
9 shall contract with each person participating in a
10 program, and each such contract shall, in addition to
11 including such other matters as the Secretary deems
12 necessary and appropriate to effectively implement
13 each program (including penalties for contract non-
14 performance) be consistent with the framework and
15 implementing regulations and all other applicable
16 law.

17 “(5) *REDUCTION AUCTIONS.*—Each program not
18 involving fair market assessment shall involve a re-
19 duction auction that scores the reduction price of each
20 bid offer by the data relevant to each bidder under an
21 appropriate fisheries productivity factor. If the Sec-
22 retary accepts bids, the Secretary shall accept respon-
23 sive bids in the rank order of their bid scores, starting
24 with the bid whose reduction price is the lowest per-
25 centage of the productivity factor, and successively ac-

1 *of, and in consultation with, the Governors of affected*
2 *States, establish a regional economic transition program to*
3 *provide immediate disaster relief assistance to the fisher-*
4 *men, charter fishing operators, United States fish proc-*
5 *essors, and owners of related fishery infrastructure affected*
6 *by the disaster.*

7 “(b) *PROGRAM COMPONENTS.—*

8 “(1) *IN GENERAL.—Subject to the availability of*
9 *appropriations, the program shall provide funds or*
10 *other economic assistance to affected entities, or to*
11 *governmental entities for disbursement to affected en-*
12 *tities, for—*

13 “(A) *meeting immediate regional shoreside*
14 *fishery infrastructure needs, including processing*
15 *facilities, cold storage facilities, ice houses, docks,*
16 *including temporary docks and storage facilities,*
17 *and other related shoreside fishery support facili-*
18 *ties and infrastructure;*

19 “(B) *financial assistance and job training*
20 *assistance for fishermen who wish to remain in*
21 *a fishery in the region that may be temporarily*
22 *closed as a result of environmental or other ef-*
23 *fects associated with the disaster;*

24 “(C) *funding, pursuant to the requirements*
25 *of section 312(b), to fishermen who are willing to*

1 *scrap a fishing vessel and permanently surrender*
2 *permits for fisheries named on that vessel; and*

3 “(D) *any other activities authorized under*
4 *section 312(a) of this Act or section 308(d) of the*
5 *Interjurisdictional Fisheries Act of 1986 (16*
6 *U.S.C. 4107(d)).*

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

10 “(3) *STATE PARTICIPATION OBLIGATION.—The*
11 *participation by a State in the program shall be con-*
12 *ditioned upon a commitment by the appropriate*
13 *State entity to ensure that the relevant State fishery*
14 *meets the requirements of section 312(b) of this Act to*
15 *ensure excess capacity does not re-enter the fishery.*

16 “(4) *NO MATCHING REQUIRED.—The Secretary*
17 *may waive the matching requirements of section 312*
18 *of this Act, section 308 of the Interjurisdictional Fish-*
19 *eries Act of 1986 (16 U.S.C. 4107), and any other*
20 *provision of law under which the Federal share of the*
21 *cost of any activity is limited to less than 100 percent*
22 *if the Secretary determines that—*

23 “(A) *no reasonable means are available*
24 *through which applicants can meet the matching*
25 *requirement; and*

1 “(B) the probable benefit of 100 percent
2 Federal financing outweighs the public interest
3 in imposition of the matching requirement.

4 “(5) *NET REVENUE LIMIT INAPPLICABLE.*—Sec-
5 tion 308(d)(3) of the *Interjurisdictional Fisheries Act*
6 (16 U.S.C. 4107(d)(3)) shall not apply to assistance
7 under this section.

8 “(c) *REGIONAL IMPACT EVALUATION.*—Within 2
9 months after a catastrophic regional fishery disaster the
10 Secretary shall provide the Governor of each State partici-
11 pating in the program a comprehensive economic and socio-
12 economic evaluation of the affected region’s fisheries to as-
13 sist the Governor in assessing the current and future eco-
14 nomic viability of affected fisheries, including the economic
15 impact of foreign fish imports and the direct, indirect, or
16 environmental impact of the disaster on the fishery and
17 coastal communities.

18 “(d) *CATASTROPHIC REGIONAL FISHERY DISASTER*
19 *DEFINED.*—In this section the term ‘catastrophic regional
20 fishery disaster’ means a natural disaster, including a hur-
21 ricane or tsunami, or a judicial or regulatory closure to
22 protect human health or the marine environment, that—

23 “(1) results in economic losses to coastal or fish-
24 ing communities;

1 “(2) affects more than 1 State or a major fishery
2 managed by a Council or interstate fishery commis-
3 sion; and

4 “(3) is determined by the Secretary to be a com-
5 mercial fishery failure under section 312(a) of this
6 Act or a fishery resource disaster or section 308(d) of
7 the Interjurisdictional Fisheries Act of 1986 (16
8 U.S.C. 4107(d)).”.

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

11 (a) *LOAN ASSISTANCE*.—Subject to availability of ap-
12 propriations, the Secretary of Commerce shall provide as-
13 sistance to eligible holders of fishery finance program loans
14 and allocate such assistance among eligible holders based
15 upon their outstanding principal balances as of December
16 2, 2005, for any of the following purposes:

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

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

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

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

3 (b) *LOAN FORGIVENESS.—*

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

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

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

23 (c) *DEFINITIONS.—In this section:*

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

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

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

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

13 (B) *the holder makes expenditures to repair*
14 *or replace such covered vessels or facilities, or in-*
15 *vests in new fisheries infrastructure within or for*
16 *use within the declared fisheries disaster area, to*
17 *restore such facilities following the disaster.*

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

23 (d) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
24 *authorized to be appropriated to the Secretary of Commerce*
25 *for the purposes of this section not more than \$15,000,000*

1 *for each eligible holder for the period beginning with fiscal*
2 *year 2006 through fiscal year 2012.*

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

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

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

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

18 (1) *2 percent shall be retained by the State to be*
19 *used for the distribution of additional payments to*
20 *fishermen with a demonstrated record of compliance*
21 *with turtle excluder and bycatch reduction device reg-*
22 *ulations; and*

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

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

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

7 (C) *domestic product marketing and seafood*
8 *promotion;*

9 (D) *State seafood testing programs;*

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

12 (F) *funding or other incentives to ensure*
13 *widespread and proper use of turtle excluder de-*
14 *vices and bycatch reduction devices in the fish-*
15 *ery; and*

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

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

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

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

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

6 *“(a) BYCATCH REDUCTION ENGINEERING PRO-*
7 *GRAM.—Not later than 1 year after the date of enactment*
8 *of the Magnuson-Stevens Fishery Conservation and Man-*
9 *agement Reauthorization Act of 2005, the Secretary, in co-*
10 *operation with the Councils and other affected interests, and*
11 *based upon the best scientific information available, shall*
12 *establish a bycatch reduction program to develop techno-*
13 *logical devices and other conservation engineering changes*
14 *designed to minimize bycatch, seabird bycatch, bycatch*
15 *mortality, and post-release mortality in Federally managed*
16 *fisheries. The program shall—*

17 *“(1) be regionally based;*

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

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

24 *“(4) provide for routine consultation with the*
25 *Councils in order to maximize opportunities to incor-*
26 *porate results of the program in Council actions and*

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

3 (1) *provide funding and technical expertise to*
4 *fishery and coastal communities to assist them in re-*
5 *storing fishery and coastal habitat;*

6 (2) *advance the science and monitoring of coast-*
7 *al habitat restoration;*

8 (3) *transfer restoration technologies to the pri-*
9 *vate sector, the public, and other governmental agen-*
10 *cies;*

11 (4) *develop public-private partnerships to accom-*
12 *plish sound coastal restoration projects;*

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

16 (6) *promote stewardship of fishery and coastal*
17 *habitats; and*

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

20 **SEC. 119. PROHIBITED ACTS.**

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

22 (1) *by striking “or” after the semicolon in sub-*
23 *paragraph (O);*

24 (2) *by striking “carcass.” in subparagraph (P)*
25 *and inserting “carcass;”; and*

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

3 “(Q) to import, export, transport, sell, re-
4 ceive, acquire, or purchase in interstate or for-
5 eign commerce any fish taken, possessed, trans-
6 ported, or sold in violation of any foreign law or
7 regulation; or

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

13 **SEC. 120. ENFORCEMENT.**

14 (a) *CIVIL ENFORCEMENT.*—Section 308 (16 U.S.C.
15 1858) is amended—

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

18 (2) by striking “this section,” in subsection (f)
19 and inserting “this Act (or any other marine resource
20 law enforced by the Secretary),”;

21 (3) by inserting “a permit, or any interest in a
22 permit,” in subsection (g)(3) after “vessel,” each place
23 it appears;

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

1 (5) by inserting “or any amount in settlement of
2 a civil forfeiture,” after “criminal fine,” in subsection
3 (g)(4); and

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

7 (b) *CRIMINAL PENALTIES*.—Section 309 (16 U.S.C.
8 1859) is amended to read as follows:

9 **“SEC. 309. CRIMINAL PENALTIES.**

10 “(a) *FINES AND IMPRISONMENT*.—

11 “(1) *IN GENERAL*.—Any person (other than a
12 foreign government or entity thereof) who knowingly
13 violates subparagraph (D), (E), (F), (H), (I), or (L)
14 of paragraph (1) of section 307, or paragraph (2) of
15 section 307, shall be imprisoned for not more than 5
16 years and fined—

17 “(A) not more than \$500,000 if such person
18 is an individual; or

19 “(B) not more than \$1,000,000 if such per-
20 son is a corporation or other legal entity other
21 than an individual.

22 “(2) *AGGRAVATED OFFENSES*.—Notwithstanding
23 paragraph (1), the maximum term of imprisonment
24 shall be for not more than 10 years if—

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

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

3 “(A) *used a dangerous weapon;*

4 “(B) *engaged in conduct that caused bodily*
5 *injury to any observer described in section 307,*
6 *any officer authorized to enforce the provisions of*
7 *this Act under section 311, or any Council mem-*
8 *ber or staff; or*

9 “(C) *placed any such observer, officer,*
10 *Council member, or staff in fear of imminent*
11 *bodily injury.*

12 “(b) *OTHER VIOLATIONS.—Any person (other than a*
13 *foreign government or entity thereof) who knowingly vio-*
14 *lates any other provision of section 307 shall be fined under*
15 *title 18, United States Code, imprisoned for not more than*
16 *5 years, or both.*

17 “(c) *JURISDICTION.—*

18 “(1) *IN GENERAL.—The district courts of the*
19 *United States shall have jurisdiction over any action*
20 *arising under this Act.*

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

22 “(A) *each violation of this Act shall con-*
23 *stitute a separate offense and the offense shall be*
24 *deemed to have been committed not only in the*

1 *district where it first occurred, but also in any*
2 *other district as authorized by law;*

3 “(B) *any offense not committed within a ju-*
4 *dicial district of the United States is subject to*
5 *the venue provisions of section 3238 of title 18,*
6 *United States Code; and*

7 “(C) *American Samoa shall be included*
8 *within the judicial district of the United States*
9 *District Court for the District of Hawaii.”.*

10 (c) *CIVIL FORFEITURES.—Section 310(a) (16 U.S.C.*
11 *1860(a)) is amended—*

12 (1) *by striking “(other than any act for which*
13 *the issuance of a citation under section 311(a) is suf-*
14 *ficient sanction)”;* and

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

20 (d) *ENFORCEMENT RESPONSIBILITY.—Section 311(a)*
21 *(16 U.S.C. 1861(a)) is amended—*

22 (1) *by striking “Act” and inserting “Act, and*
23 *the provisions of any marine resource law adminis-*
24 *tered by the Secretary,”;* and

1 (2) by striking “State agency,” and inserting
2 “agency of any State, Territory, Commonwealth, or
3 Tribe,”.

4 (e) *POWERS OF AUTHORIZED OFFICERS.*—Section
5 311(b) (16 U.S.C. 1861(b)) is amended by striking “Federal
6 or State”.

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

10 “(B) a reward to any person who furnishes in-
11 formation which leads to an arrest, conviction, civil
12 penalty assessment, or forfeiture of property for any
13 violation of any provision of this Act or any other
14 marine resource law enforced by the Secretary of up
15 to the lesser of—

16 “(i) 20 percent of the penalty or fine col-
17 lected; or

18 “(ii) \$20,000;”.

19 ***TITLE II—INFORMATION AND***
20 ***RESEARCH***

21 ***SEC. 201. RECREATIONAL FISHERIES INFORMATION.***

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

24 “(g) *RECREATIONAL FISHERIES.*—

1 “(1) *FEDERAL PROGRAM.*—*The Secretary shall*
2 *establish and implement a regionally based registry*
3 *program for recreational fishermen in each of the 8*
4 *fishery management regions. The program shall pro-*
5 *vide for—*

6 “(A) *the registration (including identifica-*
7 *tion and contact information) of individuals who*
8 *engage in recreational fishing—*

9 “(i) *in the Exclusive Economic Zone;*

10 “(ii) *for anadromous species; or*

11 “(iii) *for Continental Shelf fishery re-*
12 *sources beyond the Exclusive Economic*
13 *Zone; and*

14 “(B) *if appropriate, the registration (in-*
15 *cluding the ownership, operator, and identifica-*
16 *tion of the vessel) of vessels used in such fishing.*

17 “(2) *STATE PROGRAMS.*—*The Secretary shall ex-*
18 *empt from registration under the program rec-*
19 *reational fishermen and charter fishing vessels li-*
20 *icensed, permitted, or registered under the laws of a*
21 *State if the Secretary determines that information*
22 *from the State program is suitable for the Secretary’s*
23 *use or is used to assist in completing marine rec-*
24 *reational fisheries statistical surveys, or evaluating*

1 *the effects of proposed conservation and management*
2 *measures for marine recreational fisheries.*

3 “(3) *DATA COLLECTION.*—*Within 24 months*
4 *after the date of enactment of the Magnuson-Stevens*
5 *Fishery conservation and Management Reauthoriza-*
6 *tion Act of 2005, the Secretary shall establish a pro-*
7 *gram to improve the quality and accuracy of infor-*
8 *mation generated by the Marine Recreational Fishery*
9 *Statistics Survey, with a goal of achieving acceptable*
10 *accuracy and utility for each individual fishery. Un-*
11 *less the Secretary determines that alternate methods*
12 *will achieve this goal more efficiently and effectively,*
13 *the program shall, to the extent possible, include—*

14 “(A) *an adequate number of dockside inter-*
15 *views to accurately estimate recreational catch*
16 *and effort;*

17 “(B) *use of surveys that target anglers reg-*
18 *istered or licensed at the State or Federal level*
19 *to collect participation and effort data;*

20 “(C) *collection and analysis of vessel trip*
21 *report data from charter fishing vessels; and*

22 “(D) *development of a weather corrective*
23 *factor that can be applied to recreational catch*
24 *and effort estimates.*

1 “(4) *REPORT.*—*Within 24 months after estab-*
 2 *lishment of the program, the Secretary shall submit*
 3 *a report to Congress that describes the progress made*
 4 *toward achieving the goals and objectives of the pro-*
 5 *gram.*”.

6 **SEC. 202. COLLECTION OF INFORMATION.**

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

8 (1) *by striking “(a) COUNCIL REQUESTS.—” in*
 9 *the subsection heading and inserting “(a) COLLEC-*
 10 *TION PROGRAMS.—”;*

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

14 (3) *by inserting “(1) COUNCIL REQUESTS.—” be-*
 15 *fore “If a Council”;*

16 (4) *by striking “subsection” in the last sentence*
 17 *and inserting “paragraph”;*

18 (5) *by striking “(other than information that*
 19 *would disclose proprietary or confidential commercial*
 20 *or financial information regarding fishing operations*
 21 *or fish processing operations)” each place it appears;*
 22 *and*

23 (6) *by adding at the end the following:*

24 “(2) *SECRETARIAL INITIATION.*—*If the Secretary*
 25 *determines that additional information is necessary*

1 *for developing, implementing, revising, or monitoring*
2 *a fishery management plan, or for determining*
3 *whether a fishery is in need of management, the Sec-*
4 *retary may, by regulation, implement an information*
5 *collection or observer program requiring submission of*
6 *such additional information for the fishery.”.*

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

8 *(a) IN GENERAL.—Section 402(b) (16 U.S.C.*
9 *1881a(b)) is amended—*

10 *(1) by redesignating paragraph (2) as para-*
11 *graph (3) and resetting it 2 ems from the left margin;*

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

14 **“(b) CONFIDENTIALITY OF INFORMATION.—**

15 *“(1) Any information submitted to the Secretary,*
16 *a state fishery management agency, or a marine fish-*
17 *eries commission by any person in compliance with*
18 *the requirements of this Act that contains confidential*
19 *information shall be confidential and shall be exempt*
20 *from disclosure under section 552(h)(3) of title 5,*
21 *United States Code, except—*

22 *“(A) to Federal employees and Council em-*
23 *ployees who are responsible for fishery manage-*
24 *ment plan development, monitoring, or enforce-*
25 *ment;*

1 “(B) to State or Marine Fisheries Commis-
2 sion employees as necessary to further the De-
3 partment’s mission, subject to a confidentiality
4 agreement that prohibits public disclosure of con-
5 fidential information relating to any person;

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

11 “(D) when such information is used by
12 State, Council, or Marine Fisheries Commission
13 employees to verify catch under a limited access
14 program, but only to the extent that such use is
15 consistent with subparagraph (B);

16 “(E) when the Secretary has obtained writ-
17 ten authorization from the person submitting
18 such information to release such information to
19 persons for reasons not otherwise provided for in
20 this subsection, and such release does not violate
21 other requirements of this Act;

22 “(F) when such information is required to
23 be submitted to the Secretary for any determina-
24 tion under a limited access program; or

1 “(G) in support of homeland and national
2 security activities, including the Coast Guard’s
3 homeland security missions as defined in section
4 888(a)(2) of the Homeland Security Act of 2002
5 (6 U.S.C. 468(a)(2)).

6 “(2) Any observer information shall be confiden-
7 tial and shall not be disclosed, except in accordance
8 with the requirements of subparagraphs (A) through
9 (G) of paragraph (1), or—

10 “(A) as authorized by a fishery manage-
11 ment plan or regulations under the authority of
12 the North Pacific Council to allow disclosure to
13 the public of weekly summary bycatch informa-
14 tion identified by vessel or for haul-specific by-
15 catch information without vessel identification;

16 “(B) when such information is necessary in
17 proceedings to adjudicate observer certifications;
18 or

19 “(C) as authorized by any regulations
20 issued under paragraph (3) allowing the collec-
21 tion of observer information, pursuant to a con-
22 fidentiality agreement between the observers, ob-
23 server employers, and the Secretary prohibiting
24 disclosure of the information by the observers or
25 observer employers, in order—

1 “(i) to allow the sharing of observer in-
 2 formation among observers and between ob-
 3 servers and observer employers as necessary
 4 to train and prepare observers for deploy-
 5 ments on specific vessels; or

6 “(ii) to validate the accuracy of the ob-
 7 server information collected.”; and

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

10 (b) *CONFORMING AMENDMENT.*—Section 404(c)(4) (16
 11 *U.S.C. 1881c(c)(4)*) is amended by striking “under section
 12 401”.

13 **SEC. 204. COOPERATIVE RESEARCH AND MANAGEMENT**
 14 **PROGRAM.**

15 Title III (16 *U.S.C. 1851 et seq.*), as amended by sec-
 16 tion 115, is further amended by adding at the end the fol-
 17 lowing:

18 **“SEC. 317. COOPERATIVE RESEARCH AND MANAGEMENT**
 19 **PROGRAM.**

20 “(a) *IN GENERAL.*—The Secretary of Commerce, in
 21 consultation with the Councils, shall establish a cooperative
 22 research and management program to address needs identi-
 23 fied under this Act and under any other marine resource
 24 laws enforced by the Secretary. The program shall be imple-
 25 mented on a regional basis and shall be developed and con-

1 ducted through partnerships among Federal, State, and
2 Tribal managers and scientists (including interstate fishery
3 commissions), fishing industry participants, and edu-
4 cational institutions.

5 “(b) *ELIGIBLE PROJECTS.*—The Secretary shall make
6 funds available under the program for the support of
7 projects to address critical needs identified by the Councils
8 in consultation with the Secretary. The program shall pro-
9 mote and encourage efforts to utilize sources of data main-
10 tained by other Federal agencies, State agencies, or aca-
11 demia for use in such projects.

12 “(c) *FUNDING.*—In making funds available the Sec-
13 retary shall award funding on a competitive basis and
14 based on regional fishery management needs, select pro-
15 grams that form part of a coherent program of research fo-
16 cused on solving priority issues identified by the Councils,
17 and shall give priority to the following projects:

18 “(1) *Projects to collect data to improve, supple-*
19 *ment, or enhance stock assessments, including the use*
20 *of fishing vessels or acoustic or other marine tech-*
21 *nology.*

22 “(2) *Projects to assess the amount and type of*
23 *bycatch or post-release mortality occurring in a fish-*
24 *ery.*

1 “(3) *Conservation engineering projects designed*
2 *to reduce bycatch, including avoidance of post-release*
3 *mortality, reduction of bycatch in high seas fisheries,*
4 *and transfer of such fishing technologies to other na-*
5 *tions.*

6 “(4) *Projects for the identification of habitat*
7 *areas of particular concern and for habitat conserva-*
8 *tion.*

9 “(5) *Projects designed to collect and compile eco-*
10 *nomie and social data.*

11 “(d) *EXPERIMENTAL PERMITTING PROCESS.—Not*
12 *later than 180 days after the date of enactment of the Mag-*
13 *nuson-Stevens Fishery Conservation and Management Re-*
14 *authorization Act of 2005, the Secretary, in consultation*
15 *with the Councils, shall promulgate regulations that create*
16 *an expedited, uniform, and regionally-based process to pro-*
17 *mote issuance, where practicable, of experimental fishing*
18 *permits.*

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

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

4 **SEC. 205. HERRING STUDY.**

5 *Title III (16 U.S.C. 1851 et seq.), as amended by sec-*
6 *tion 204, is further amended by adding at the end the fol-*
7 *lowing:*

8 **“SEC. 318. HERRING STUDY.**

9 “(a) *IN GENERAL.*—*The Secretary may conduct a co-*
10 *operative research program to study the issues of abun-*
11 *dance, distribution and the role of herring as forage fish*
12 *for other commercially important fish stocks in the North-*
13 *west Atlantic, and the potential for local scale depletion*
14 *from herring harvesting and how it relates to other fisheries*
15 *in the Northwest Atlantic. In planning, designing, and im-*
16 *plementing this program, the Secretary shall engage mul-*
17 *tiple fisheries sectors and stakeholder groups concerned with*
18 *herring management.*

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

23 “(c) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
24 *authorized to be appropriated \$2,000,000 for fiscal year*
25 *2007 through fiscal year 2009 to conduct this study.*”.

1 **SEC. 206. RESTORATION STUDY.**

2 *Title III (16 U.S.C. 1851 et seq.), as amended by sec-*
 3 *tion 205, is further amended by adding at the end the fol-*
 4 *lowing:*

5 **“SEC. 319. RESTORATION STUDY.**

6 *“(a) IN GENERAL.—The Secretary may conduct a*
 7 *study to update scientific information and protocols needed*
 8 *to improve restoration techniques for a variety of coast*
 9 *habitat types and synthesize the results in a format easily*
 10 *understandable by restoration practitioners and local com-*
 11 *munities.*

12 *“(b) AUTHORIZATION OF APPROPRIATIONS.—There*
 13 *are authorized to be appropriated \$500,000 for fiscal year*
 14 *2007 to conduct this study.”.*

15 **SEC. 207. WESTERN PACIFIC FISHERY DEMONSTRATION**
 16 **PROJECTS.**

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

19 *(1) by striking “and the Secretary of the Interior*
 20 *are” in paragraph (1) and inserting “is”;*

21 *(2) by striking “not less than three and not more*
 22 *than five” in paragraph (1); and*

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

25 *“(6) In this subsection the term ‘Western Pacific*
 26 *community’ means a community eligible to partici-*

1 stitutions, community residents, and other interested
2 parties;

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

6 (4) conducting analysis of fish and seafood for
7 health benefits and risks, including levels of contami-
8 nants and, where feasible, the source of such contami-
9 nants;

10 (5) marketing of sustainable United States fish-
11 ery products, including consumer education regarding
12 the health or other benefits of wild fishery products
13 harvested by vessels of the United States; and

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

20 (c) *DEPOSITS TO THE FUND.*—

21 (1) *QUOTA SET-ASIDES.*—Any amount generated
22 through quota set-asides established by a Council
23 under the Magnuson-Stevens Fishery Conservation
24 and Management Act (16 U.S.C. 1801 et seq.) and
25 designated by the Council for inclusion in the Fishery

1 *Conservation and Management Fund, may be depos-*
2 *ited in the Fund.*

3 (2) *OTHER FUNDS.*—*In addition to amounts re-*
4 *ceived under sections 311(e)(1)(G) of the Magnuson-*
5 *Stevens Fishery Conservation and Management Act*
6 *(16 U.S.C. 1861(e)(1)(G), and amounts received pur-*
7 *suant to paragraph (1) of this subsection, the Fishery*
8 *Conservation and Management Fund may also receive*
9 *funds from—*

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

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

15 (d) *REGIONAL ALLOCATION.*—*The Secretary shall,*
16 *every 2 years, apportion monies from the Fund among the*
17 *eight Council regions according to consensus recommenda-*
18 *tions of the Councils, based on regional priorities identified*
19 *through the Council process, except that no region shall re-*
20 *ceive less than 5 percent of the Fund in each allocation pe-*
21 *riod.*

22 (e) *LIMITATION ON THE USE OF THE FUND.*—*No*
23 *amount made available from the Fund may be used to de-*
24 *fray the costs of carrying out other requirements of this Act*

1 *or the Magnuson-Stevens Fishery Conservation and Man-*
 2 *agement Act (16 U.S.C. 1801 et seq.).*

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

6 (a) *PURPOSE OF OBLIGATIONS.*—*Section 1104A(a)(7)*
 7 *of the Merchant Marine Act, 1936 (46 U.S.C. App.*
 8 *1274(a)(7)) is amended to read as follows:*

9 “(7) *financing or refinancing including,*
 10 “(A) *the reimbursement of obligors for ex-*
 11 *penditures previously made, for the purchase of*
 12 *individual fishing quotas in accordance with sec-*
 13 *tion 303(d)(4) of the Magnuson-Stevens Fishery*
 14 *Conservation and Management Act;*

15 “(B) *activities that assist in the transition*
 16 *to reduced fishing capacity; or*

17 “(C) *technologies or upgrades designed to*
 18 *improve collection and reporting of fishery-de-*
 19 *pendent data, to reduce bycatch, to improve se-*
 20 *lectivity or reduce adverse impacts of fishing*
 21 *gear, or to improve safety.”.*

22 (b) *EXPANSION OF PURPOSES FOR QUALIFIED WITH-*
 23 *DRAWALS.*—*Section 607(f)(1) of the Merchant Marine Act,*
 24 *1936 (46 U.S.C. App. 1177(f)(1)) is amended—*

25 (1) *by striking “for:” and inserting “for—”;*

1 (B) by striking “vessel,” in subparagraph (A)
2 and inserting “vessel;”;

3 (C) by striking “vessel, or” in subparagraph (B)
4 and inserting “vessel;”;

5 (D) by striking “vessel.” in subparagraph (C)
6 and inserting “vessel;” and

7 (E) by inserting after subparagraph (C) the fol-
8 lowing:

9 “(D) in the case of any person for whose
10 benefit the fund was established and who partici-
11 pates in the fishing capacity reduction program
12 under section 312 of the Magnuson-Stevens Fish-
13 ery Conservation and Management Act (16
14 U.S.C. 1861a)—

15 “(i) if such person remains in the fish-
16 ery, the satisfaction of any debt obligation
17 undertaken pursuant to such program; and

18 “(ii) if such person withdraws 1 or
19 more vessels from the fishery, the substi-
20 tution of amounts the person would other-
21 wise receive under such program for such
22 person’s vessel or permit to engage in the
23 fishery;

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

4 “(i) making conservation engineering
5 changes to reduce bycatch, improve selec-
6 tivity of fishing gear, or reduce adverse im-
7 pacts of fishing gear;

8 “(ii) improving vessel safety; or

9 “(iii) acquiring, installing, or upgrad-
10 ing equipment to improve collection, report-
11 ing, or accuracy of fishery data; or

12 “(F) the acquisition, construction, recon-
13 struction, upgrading, or investment in shoreside
14 fishery-related facilities or infrastructure in the
15 United States for the purpose of promoting
16 United States ownership of fishery-related facili-
17 ties in the United States without contributing to
18 overcapacity in the sector.”.

19 **SEC. 210. REGIONAL ECOSYSTEM RESEARCH.**

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

22 “(f) **REGIONAL ECOSYSTEM RESEARCH.**—

23 “(1) **STUDY.**—Within 180 days after the date of
24 enactment of the Magnuson-Stevens Fishery Conserva-
25 tion and Management Reauthorization Act of 2005,

1 *the Secretary, in consultation with the Councils, shall*
2 *undertake and complete a study on the state of the*
3 *science for advancing the concepts and integration of*
4 *ecosystem considerations in regional fishery manage-*
5 *ment. The study should build upon the recommenda-*
6 *tions of the advisory panel and include—*

7 *“(A) recommendations for scientific data,*
8 *information and technology requirements for un-*
9 *derstanding ecosystem processes, and methods for*
10 *integrating such information from a variety of*
11 *federal, state, and regional sources;*

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

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

17 *“(D) a description of existing and devel-*
18 *oping council efforts to implement ecosystem ap-*
19 *proaches, including lessons learned by the coun-*
20 *cils.*

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

1 grams that build upon the recommendations of the
2 advisory panel and, when completed, the study.”.

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

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

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

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

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

16 “(2) to locate and map locations of deep sea cor-
17 als and submit such information to the Councils;

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

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

1 (1) *to measure accurately the efforts and effects*
2 *of shrimp fishery efforts to utilize turtle excluder de-*
3 *vices;*

4 (2) *to analyze the impact of those efforts on sea*
5 *turtle mortality, including interaction between turtles*
6 *and shrimp trawlers in the inshore, nearshore, and*
7 *offshore waters of the Gulf of Mexico and similar geo-*
8 *graphical locations in the waters of the Southeastern*
9 *United States; and*

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

14 (b) *OBSERVERS.*—*In conducting the study, the Under-*
15 *secretary shall ensure that observers are placed onboard*
16 *commercial shrimp fishing vessels where appropriate or*
17 *necessary.*

18 (c) *INTERIM REPORTS.*—*During the course of the*
19 *study and until a final report is submitted to the Senate*
20 *Committee on Commerce, Science, and Transportation and*
21 *the House of Representatives Committee on Resources, the*
22 *National Academy of Sciences shall transmit interim re-*
23 *ports to the Committees biannually containing a summary*
24 *of preliminary findings and conclusions from the study.*

1 **SEC. 213. HURRICANE EFFECTS ON SHRIMP AND OYSTER**
2 **FISHERIES AND HABITATS.**

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

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

13 (2) *shrimp fishing vessels in those States; and*

14 (3) *the oyster industry in those States.*

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

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

1 **TITLE III—OTHER FISHERIES**
2 **STATUTES**

3 **SEC. 301. AMENDMENTS TO NORTHERN PACIFIC HALIBUT**
4 **ACT.**

5 (a) *CIVIL PENALTIES.*—Section 8(a) of the Northern
6 *Pacific Halibut Act of 1982 (16 U.S.C. 773f(a)) is amend-*
7 *ed—*

8 (1) *by striking “\$25,000” and inserting*
9 *“\$200,000”;*

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

15 (3) *by adding at the end the following: “In as-*
16 *sessing such penalty, the Secretary may also consider*
17 *any information provided by the violator relating to*
18 *the ability of the violator to pay if the information*
19 *is provided to the Secretary at least 30 days prior to*
20 *an administrative hearing.”.*

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

24 “(e) *REVOCATION OR SUSPENSION OF PERMIT.*—

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

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

6 “(B) *the owner or operator of a vessel or*
7 *any other person who has been issued or has ap-*
8 *plied for a permit under this Act has acted in*
9 *violation of section 7; or*

10 “(C) *any amount in settlement of a civil*
11 *forfeiture imposed on a vessel or other property,*
12 *or any civil penalty or criminal fine imposed on*
13 *a vessel or owner or operator of a vessel or any*
14 *other person who has been issued or has applied*
15 *for a permit under any marine resource law en-*
16 *forced by the Secretary has not been paid and is*
17 *overdue.*

18 “(2) *PERMIT-RELATED ACTIONS.*—*Under the cir-*
19 *cumstances described in paragraph (1) the Secretary*
20 *may—*

21 “(A) *revoke any permit issued with respect*
22 *to such vessel or person, with or without preju-*
23 *dice to the issuance of subsequent permits;*

1 “(B) suspend such permit for a period of
2 time considered by the Secretary to be appro-
3 priate;

4 “(C) deny such permit; or

5 “(D) impose additional conditions and re-
6 strictions on any permit issued to or applied for
7 by such vessel or person under this Act and, with
8 respect to any foreign fishing vessel, on the ap-
9 proved application of the foreign nation involved
10 and on any permit issued under that applica-
11 tion.

12 “(3) *FACTORS TO BE CONSIDERED.*—In impos-
13 ing a sanction under this subsection, the Secretary
14 shall take into account—

15 “(A) the nature, circumstances, extent, and
16 gravity of the prohibited acts for which the sanc-
17 tion is imposed; and

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

21 “(4) *TRANSFERS OF OWNERSHIP.*—Transfer of
22 ownership of a vessel, a permit, or any interest in a
23 permit, by sale or otherwise, shall not extinguish any
24 permit sanction that is in effect or is pending at the
25 time of transfer of ownership. Before executing the

1 *transfer of ownership of a vessel, permit, or interest*
2 *in a permit, by sale or otherwise, the owner shall dis-*
3 *close in writing to the prospective transferee the exist-*
4 *ence of any permit sanction that will be in effect or*
5 *pending with respect to the vessel, permit, or interest*
6 *at the time of the transfer.*

7 *“(5) REINSTATEMENT.—In the case of any per-*
8 *mit that is suspended under this subsection for non-*
9 *payment of a civil penalty, criminal fine, or any*
10 *amount in settlement of a civil forfeiture, the Sec-*
11 *retary shall reinstate the permit upon payment of the*
12 *penalty, fine, or settlement amount and interest there-*
13 *on at the prevailing rate.*

14 *“(6) HEARING.—No sanction shall be imposed*
15 *under this subsection unless there has been prior op-*
16 *portunity for a hearing on the facts underlying the*
17 *violation for which the sanction is imposed either in*
18 *conjunction with a civil penalty proceeding under*
19 *this section or otherwise.*

20 *“(7) PERMIT DEFINED.—In this subsection, the*
21 *term ‘permit’ means any license, certificate, approval,*
22 *registration, charter, membership, exemption, or other*
23 *form of permission issued by the Commission or the*
24 *Secretary, and includes any quota share or other*
25 *transferable quota issued by the Secretary.”.*

1 (c) *CRIMINAL PENALTIES.*—Section 9(b) of the North-
2 *ern Pacific Halibut Act of 1982 (16 U.S.C. 773g(b)) is*
3 *amended—*

4 (1) *by striking “\$50,000” and inserting*
5 *“\$200,000”; and*

6 (2) *by striking “\$100,000,” and inserting*
7 *“\$400,000.”*

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

9 (a) *ATLANTIC STRIPED BASS CONSERVATION ACT.*—
10 *Section 7(a) of the Atlantic Striped Bass Conservation Act*
11 *(16 U.S.C. 5156(a)) is amended to read as follows:*

12 “(a) *AUTHORIZATION.*—*For each of fiscal years 2006,*
13 *2007, 2008, 2009, and 2010, there are authorized to be ap-*
14 *propriated to carry out this Act—*

15 “(1) *\$1,000,000 to the Secretary of Commerce;*
16 *and*

17 “(2) *\$250,000 to the Secretary of the Interior.”*

18 (b) *YUKON RIVER SALMON ACT OF 2000.*—Section 208
19 *of the Yukon River Salmon Act of 2000 (16 U.S.C. 5727)*
20 *is amended by striking “\$4,000,000 for each of fiscal years*
21 *2004 through 2008,” and inserting “\$4,000,000 for each of*
22 *fiscal years 2006 through 2010.”*

23 (c) *SHARK FINNING PROHIBITION ACT.*—Section 10 of
24 *the Shark Finning Prohibition Act (16 U.S.C. 1822 note)*

1 *is amended by striking “fiscal years 2001 through 2005”*
 2 *and inserting “fiscal years 2006 through 2010”.*

3 *(d) PACIFIC SALMON TREATY ACT.—*

4 *(1) TRANSFER OF SECTION TO ACT.—The text of*
 5 *section 623 of title VI of H.R. 3421 (113 Stat.*
 6 *1501A–56), as introduced on November 17, 1999, and*
 7 *enacted into law by section 1000(a)(1) of the Act of*
 8 *November 29, 1999 (Public Law 106–113)—*

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

12 *(B) amended—*

13 *(i) by striking “SEC. 623.”; and*

14 *(ii) inserting before “(a) NORTHERN*
 15 *FUND AND SOUTHERN FUND.—” the fol-*
 16 *lowing:*

17 **“SEC. 16. NORTHERN AND SOUTHERN FUNDS; TREATY IM-**
 18 **PLEMENTATION; ADDITIONAL AUTHORIZA-**
 19 **TION OF APPROPRIATIONS.”.**

20 *(2) TECHNICAL CORRECTION.—The amendment*
 21 *made by the Department of Commerce and Related*
 22 *Agencies Appropriations Act, 2005 under the heading*
 23 *“PACIFIC COASTAL SALMON RECOVERY” (118 Stat.*
 24 *2881), to section 628(2)(A) of the Departments of*
 25 *Commerce, Justice, and State, the Judiciary, and Re-*

1 *lated Agencies Appropriations Act, 2001 is deemed to*
2 *have been made to section 623(d)(2)(A) of title VI of*
3 *H.R. 3421 (113 Stat. 1501A–56), as introduced on*
4 *November 17, 1999, enacted into law by section*
5 *1000(a)(1) of the Act of November 29, 1999 (Public*
6 *Law 106–113) instead of to such section 628(2)(A), as*
7 *of the date of enactment of the Department of Com-*
8 *merce and Related Agencies Appropriations Act,*
9 *2005.*

10 (3) *REAUTHORIZATION.—Section 16(d)(2)(A) of*
11 *the Pacific Salmon Treaty Act, as transferred by sub-*
12 *section (a), is amended—*

13 (1) *by inserting “sustainable salmon fisheries,”*
14 *after “enhancement,”; and*

15 (2) *by inserting “2006, 2007, 2008, and 2009,”*
16 *after “2005.”.*

17 (e) *STATE AUTHORITY FOR DUNGENESS CRAB FISH-*
18 *ERY MANAGEMENT.—Section 203 of Public Law 105–384*
19 *(16 U.S.C. 1856 note) is amended—*

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

22 (2) *by striking “health” in subsection (j) and in-*
23 *serting “status”; and*

24 (3) *by striking “California.” in subsection (j)*
25 *and inserting “California, including—*

1 *clusive economic zone, with relevant law enforcement*
2 *organizations of foreign nations and relevant inter-*
3 *national organizations;*

4 *“(2) further develop real time information shar-*
5 *ing capabilities, particularly on harvesting and proc-*
6 *essing capacity and illegal, unreported and unregu-*
7 *lated fishing;*

8 *“(3) participate in global and regional efforts to*
9 *build an international network for monitoring, con-*
10 *trol, and surveillance of high seas fishing and fishing*
11 *under regional or global agreements;*

12 *“(4) support efforts to create an international*
13 *registry or database of fishing vessels, including by*
14 *building on or enhancing registries developed by*
15 *international fishery management organizations;*

16 *“(5) enhance enforcement capabilities through*
17 *the application of commercial or governmental remote*
18 *sensing technology to locate or identify vessels engaged*
19 *in illegal, unreported, or unregulated fishing on the*
20 *high seas, including encroachments into the exclusive*
21 *economic zone by fishing vessels of other nations;*

22 *“(6) provide technical or other assistance to de-*
23 *veloping countries to improve their monitoring, con-*
24 *trol, and surveillance capabilities; and*

1 **“SEC. 607. BIENNIAL REPORT ON INTERNATIONAL COMPLI-**
2 **ANCE.**

3 *“The Secretary, in consultation with the Secretary of*
4 *State, shall provide to Congress, by not later than 2 years*
5 *after the date of enactment of the Magnuson-Stevens Fishery*
6 *Conservation and Management Reauthorization Act of*
7 *2005, and every 2 years thereafter, a report that includes—*

8 *“(1) the state of knowledge on the status of inter-*
9 *national living marine resources, including a list of*
10 *all fish stocks classified as overfished, overexploited,*
11 *depleted, endangered, or threatened with extinction by*
12 *any international or other authority charged with*
13 *management or conservation of living marine re-*
14 *sources;*

15 *“(2) a list of nations whose vessels have been*
16 *identified under sections 609(a) or 610(a), including*
17 *the specific offending activities and any subsequent*
18 *actions taken pursuant to section 609 or 610;*

19 *“(3) a description of efforts taken by nations on*
20 *those lists to comply with the provisions of sections*
21 *609 and 610, and an evaluation of the progress of*
22 *those efforts, including steps taken by the United*
23 *States to implement those sections and to improve*
24 *international compliance;*

25 *“(4) progress at the international level, pursuant*
26 *to section 608, to strengthen the efforts of inter-*

1 *national fishery management organizations to end il-*
2 *legal, unreported, or unregulated fishing; and*

3 *“(5) a plan of action for ensuring the conclusion*
4 *and entry into force of international measures com-*
5 *parable to those of the United States to reduce im-*
6 *pacts of fishing and other practices on protected liv-*
7 *ing marine resources, if no international agreement*
8 *to achieve such goal exists, or if the relevant inter-*
9 *national fishery or conservation organization has*
10 *failed to implement effective measures to end or re-*
11 *duce the adverse impacts of fishing practices on such*
12 *species.*

13 **“SEC. 608. ACTION TO STRENGTHEN INTERNATIONAL FISH-**
14 **ERY MANAGEMENT ORGANIZATIONS.**

15 *“The Secretary, in consultation with the Secretary of*
16 *State, and in cooperation with relevant fishery manage-*
17 *ment councils, shall take actions to improve the effectiveness*
18 *of international fishery management organizations in con-*
19 *serving and managing fish stocks under their jurisdiction.*
20 *These actions shall include—*

21 *“(1) urging international fishery management*
22 *organizations to which the United States is a mem-*
23 *ber—*

24 *“(A) to incorporate multilateral sanctions*
25 *against member or nonmember governments*

1 *whose vessels engage in illegal, unreported, or*
2 *unregulated fishing;*

3 “(B) *to seek adoption of lists that identify*
4 *fishing vessels engaged in illegal, unreported, or*
5 *unregulated fishing, including authorized (green)*
6 *and unauthorized (red) vessel lists, that can be*
7 *shared among all members and other inter-*
8 *national fishery management organizations;*

9 “(C) *to seek international adoption of a*
10 *centralized vessel monitoring system with an*
11 *independent secretariat in order to monitor and*
12 *document capacity in fleets of all nations in-*
13 *volved in fishing in areas under the an inter-*
14 *national fishery management organization’s ju-*
15 *risdiction;*

16 “(D) *to increase use of observers and tech-*
17 *nologies needed to monitor compliance with con-*
18 *servation and management measures established*
19 *by the organization, including vessel monitoring*
20 *systems and automatic identification systems;*
21 *and*

22 “(E) *to seek adoption of greater port state*
23 *controls in all nations, particularly those na-*
24 *tions whose vessels engage in illegal, unreported,*
25 *or unregulated fishing;*

1 “(2) *urging international fishery management*
2 *organizations to which the United States is a mem-*
3 *ber, as well as all members of those organizations, to*
4 *adopt and expand the use of market-related measures*
5 *to combat illegal, unreported, or unregulated fishing,*
6 *including—*

7 “(A) *import prohibitions, landing restric-*
8 *tions, or other market-based measures needed to*
9 *enforce compliance with international fishery*
10 *management organization measures, such as*
11 *quotas and catch limits;*

12 “(B) *import restrictions or other market-*
13 *based measures to prevent the trade or importa-*
14 *tion of fish caught by vessels identified multilat-*
15 *erally as engaging in illegal, unreported, or un-*
16 *regulated fishing; and*

17 “(C) *catch documentation and certification*
18 *schemes to improve tracking and identification*
19 *of catch of vessels engaged in illegal, unreported,*
20 *or unregulated fishing, including advance trans-*
21 *mission of catch documents to ports of entry; and*

22 “(3) *urging other nations at bilateral, regional,*
23 *and international levels, including the Convention on*
24 *International Trade in Endangered Species of Fauna*
25 *and Flora and the World Trade Organization to take*

1 *the Secretary shall notify the President and that nation of*
2 *such identification.*

3 “(c) *CONSULTATION.*—*No later than 60 days after sub-*
4 *mitting a report to Congress under section 607, the Sec-*
5 *retary, in consultation with the Secretary of State, shall—*

6 “(1) *notify nations listed in the report of the re-*
7 *quirements of this section;*

8 “(2) *initiate consultations for the purpose of en-*
9 *couraging such nations to take the appropriate correc-*
10 *tive action with respect to the offending activities of*
11 *their fishing vessels identified in the report; and*

12 “(3) *notify any relevant international fishery*
13 *management organization of the actions taken by the*
14 *United States under this section.*

15 “(d) *IUU CERTIFICATION PROCEDURE.*—

16 “(1) *CERTIFICATION.*—*The Secretary shall estab-*
17 *lish a procedure, consistent with the provisions of sub-*
18 *chapter II of chapter 5 of title 5, United States Code,*
19 *and including notice and an opportunity for com-*
20 *ment by the governments of any nation listed by the*
21 *Secretary under subsection (a), for determining if*
22 *that government has taken appropriate corrective ac-*
23 *tion with respect to the offending activities of its fish-*
24 *ing vessels identified in the report under section 607.*

25 *The Secretary shall determine, on the basis of the pro-*

1 *cedure, and certify to the Congress no later than 90*
2 *days after the date on which the Secretary promul-*
3 *gates a final rule containing the procedure, and bien-*
4 *ennially thereafter in the report under section 607—*

5 *“(A) whether the government of each nation*
6 *identified under subsection (b) has provided doc-*
7 *umentary evidence that it has taken corrective*
8 *action with respect to the offending activities of*
9 *its fishing vessels identified in the report; or*

10 *“(B) whether the relevant international*
11 *fishery management organization has imple-*
12 *mented measures that are effective in ending the*
13 *illegal, unreported, or unregulated fishing activ-*
14 *ity by vessels of that nation.*

15 *“(2) ALTERNATIVE PROCEDURE.—The Secretary*
16 *may establish a procedure for certification, on a ship-*
17 *ment-by-shipment, shipper-by-shipper, or other basis*
18 *of fish or fish products from a vessel of a harvesting*
19 *nation not certified under paragraph (1) if the Sec-*
20 *retary determines that—*

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

1 “(B) the vessel is not identified by an inter-
2 national fishery management organization as
3 participating in illegal, unreported, or unregu-
4 lated fishing activities.

5 “(3) *EFFECT OF CERTIFICATION.*—The provi-
6 sions of section 101(a) and section 101(b)(3) and (4)
7 of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4))
8 shall apply to any nation identified under subsection
9 (a) that has not been certified by the Secretary under
10 this subsection, or for which the Secretary has issued
11 a negative certification under this subsection, but
12 shall not apply to any nation identified under sub-
13 section (a) for which the Secretary has issued a posi-
14 tive certification under this subsection.

15 “(e) *ILLEGAL, UNREPORTED, OR UNREGULATED FISH-*
16 *ING DEFINED.*—

17 “(1) *IN GENERAL.*—In this Act the term ‘illegal,
18 unreported, or unregulated fishing’ has the meaning
19 established under paragraph (2).

20 “(2) *SECRETARY TO DEFINE TERM WITHIN LEG-*
21 *ISLATIVE GUIDELINES.*—Within 3 months after the
22 date of enactment of the Magnuson-Stevens Fishery
23 Conservation and Management Reauthorization Act
24 of 2005, the Secretary shall publish a definition of the

1 term ‘illegal, unreported, or unregulated fishing’ for
2 purposes of this Act.

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

5 “(A) *fishing activities that violate conserva-*
6 *tion and management measures required under*
7 *an international fishery management agreement*
8 *to which the United States is a party, including*
9 *catch limits or quotas, capacity restrictions, and*
10 *bycatch reduction requirements;*

11 “(B) *overfishing of fish stocks shared by the*
12 *United States, for which there are no applicable*
13 *international conservation or management meas-*
14 *ures or in areas with no applicable international*
15 *fishery management organization or agreement,*
16 *that has adverse impacts on such stocks; and*

17 “(C) *fishing activity, including bottom*
18 *trawling, that have adverse impacts on*
19 *seamounts, hydrothermal vents, and cold water*
20 *corals located beyond national jurisdiction, for*
21 *which there are no applicable conservation or*
22 *management measures or in areas with no ap-*
23 *plicable international fishery management orga-*
24 *nization or agreement.*

1 “(f) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
2 *authorized to be appropriated to the Secretary for fiscal*
3 *years 2006 through 2012 such sums as are necessary to*
4 *carry out this section.*

5 “**SEC. 610. EQUIVALENT CONSERVATION MEASURES.**

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

8 “(A) *fishing vessels of that nation are en-*
9 *gaged, or have been engaged during the preceding*
10 *calendar year in fishing activities or practices*
11 *beyond the exclusive economic zone that result in*
12 *bycatch of a protected living marine resource;*

13 “(2) *the relevant international organization*
14 *for the conservation and protection of such spe-*
15 *cies or the relevant international or regional*
16 *fishery organization has failed to implement ef-*
17 *fective measures to end or reduce the impacts of*
18 *the fishing practices of the nation’s vessels on*
19 *such species, or the nation is not a party to, or*
20 *does not maintain cooperating status with, such*
21 *organization; and*

22 “(3) *the nation has not adopted a regu-*
23 *latory program governing such fishing practices*
24 *and associated bycatch of protected living ma-*
25 *rine resources that are comparable to those of the*

1 *United States, taking into account different con-*
2 *ditions.*

3 “(b) *CONSULTATION AND NEGOTIATION.*—*The Sec-*
4 *retary, acting through the Secretary of State, shall—*

5 “(1) *notify, as soon as possible, other nations*
6 *whose vessels engage in fishing activities or practices*
7 *described in subsection (a), about the requirements of*
8 *this section and this Act;*

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

15 “(3) *seek agreements calling for international re-*
16 *strictions on fishing activities or practices described*
17 *in subsection (a) through the United Nations, the*
18 *Food and Agriculture Organization’s Committee on*
19 *Fisheries, and appropriate international fishery man-*
20 *agement bodies; and*

21 “(4) *initiate the amendment of any existing*
22 *international treaty for the protection and conserva-*
23 *tion of such species to which the United States is a*
24 *party in order to make such treaty consistent with the*
25 *purposes and policies of this section.*

1 “(c) CONSERVATION CERTIFICATION PROCEDURE.—

2 “(1) CERTIFICATION.—*The Secretary shall deter-*
3 *mine, on the basis of a procedure consistent with the*
4 *provisions of subchapter II of chapter 5 of title 5,*
5 *United States Code, and including notice and an op-*
6 *portunity for comment by the governments of any na-*
7 *tion identified by the Secretary under subsection (a).*
8 *The Secretary shall certify to the Congress by Janu-*
9 *ary 31, 2007, and annually thereafter whether the*
10 *government of each harvesting nation—*

11 “(A) *has provided documentary evidence of*
12 *the adoption of a regulatory program governing*
13 *the conservation of the protected living marine*
14 *resource, including measures to ensure maximum*
15 *probability for survival after release, that is com-*
16 *parable to that of the United States, taking into*
17 *account different conditions, and which, in the*
18 *case of pelagic longline fishing, includes manda-*
19 *tory use of circle hooks, careful handling and re-*
20 *lease equipment, and training and observer pro-*
21 *grams; and*

22 “(B) *has established a management plan*
23 *containing requirements that will assist in gath-*
24 *ering species-specific data to support inter-*
25 *national stock assessments and conservation en-*

1 *forcement efforts for protected living marine re-*
2 *sources.*

3 “(2) *ALTERNATIVE PROCEDURE.*—*The Secretary*
4 *shall establish a procedure for certification, on a ship-*
5 *ment-by-shipment, shipper-by-shipper, or other basis*
6 *of fish or fish products from a vessel of a harvesting*
7 *nation not certified under paragraph (1) if the Sec-*
8 *retary determines that such imports were harvested by*
9 *practices that do not result in bycatch of a protected*
10 *marine species, or were harvested by practices that—*

11 “(A) *are comparable to those of the United*
12 *States, taking into account different conditions,*
13 *and which, in the case of pelagic longline fish-*
14 *ing, includes mandatory use of circle hooks, care-*
15 *ful handling and release equipment, and train-*
16 *ing and observer programs; and*

17 “(B) *include the gathering of species specific*
18 *data that can be used to support international*
19 *and regional stock assessments and conservation*
20 *efforts for protected living marine resources.*

21 “(3) *EFFECT OF CERTIFICATION.*—*The provi-*
22 *sions of section 101(a) and section 101(b)(3) and (4)*
23 *of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4))*
24 *shall apply to any nation identified under subsection*
25 *(a) that has not been certified by the Secretary under*

1 *this subsection, or for which the Secretary has issued*
2 *a negative certification under this subsection, but*
3 *shall not apply to any nation identified under sub-*
4 *section (a) for which the Secretary has issued a posi-*
5 *tive certification under this subsection.*

6 “(d) *INTERNATIONAL COOPERATION AND ASSIST-*
7 *ANCE.—To the greatest extent possible consistent with exist-*
8 *ing authority and the availability of funds, the Secretary*
9 *shall—*

10 “(1) *provide appropriate assistance to nations*
11 *identified by the Secretary under subsection (a) and*
12 *international organizations of which those nations are*
13 *members to assist those nations in qualifying for cer-*
14 *tification under subsection (c);*

15 “(2) *undertake, where appropriate, cooperative*
16 *research activities on species statistics and improved*
17 *harvesting techniques, with those nations or organiza-*
18 *tions;*

19 “(3) *encourage and facilitate the transfer of ap-*
20 *propriate technology to those nations or organizations*
21 *to assist those nations in qualifying for certification*
22 *under subsection (c); and*

23 “(4) *provide assistance to those nations or orga-*
24 *nizations in designing and implementing appropriate*
25 *fish harvesting plans.*

1 “(e) *PROTECTED LIVING MARINE RESOURCE DE-*
2 *FINED.*—*In this section the term ‘protected living marine*
3 *resource’—*

4 “(1) *means non-target fish, sea turtles, or ma-*
5 *rine mammals occurring in areas beyond United*
6 *States jurisdiction that are protected under United*
7 *States law or international agreement, including the*
8 *Marine Mammal Protection Act, the Endangered Spe-*
9 *cies Act, the Shark Finning Prohibition Act, and the*
10 *Convention on International Trade in Endangered*
11 *Species of Wild Flora and Fauna; but*

12 “(2) *does not include species, except sharks, man-*
13 *aged under the Magnuson-Stevens Fishery Conserva-*
14 *tion and Management Act, the Atlantic Tunas Con-*
15 *vention Act, or any international fishery management*
16 *agreement.*

17 “(f) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
18 *authorized to be appropriated to the Secretary for fiscal*
19 *years 2006 through 2012 such sums as are necessary to*
20 *carry out this section.*“.

21 (b) *CONFORMING AMENDMENTS.*—

22 (1) *DENIAL OF PORT PRIVILEGES.*—*Section*
23 *101(b) of the High Seas Driftnet Fisheries Enforce-*
24 *ment Act (16 U.S.C. 1826a(b)) is amended by insert-*
25 *ing “or illegal, unreported, or unregulated fishing“*

1 after “fishing“ in paragraph (1)(A)(i), paragraph
2 (1)(B), paragraph (2), and paragraph (4)(A)(i).

3 (2) *DURATION OF DENIAL.*—Section 102 of the
4 *High Seas Driftnet Fisheries Enforcement Act* (16
5 *U.S.C. 1826b*) is amended by inserting “or illegal,
6 unreported , or unregulated fishing“ after “fishing“.

7 **SEC. 404. MONITORING OF PACIFIC INSULAR AREA FISH-**
8 **ERIES.**

9 (a) *WAIVER AUTHORITY.*—Section 201(h)(2)(B) (16
10 *U.S.C. 1821(h)(2)(B)*) is amended by striking “that is at
11 least equal in effectiveness to the program established by
12 the Secretary;” and inserting “or other monitoring program
13 that the Secretary, in consultation with the Western Pacific
14 Management Council, determines is adequate to monitor
15 harvest, bycatch, and compliance with the laws of the
16 United States by vessels fishing under the agreement;”.

17 (b) *MARINE CONSERVATION PLANS.*—Section
18 204(e)(4)(A)(i) (16 *U.S.C. 1824(e)(4)(A)(i)*) is amended to
19 read as follows:

20 “(i) *Pacific Insular Area* observer programs, or
21 other monitoring programs, that the Secretary deter-
22 mines are adequate to monitor the harvest, bycatch,
23 and compliance with the laws of the United States by
24 foreign fishing vessels that fish under *Pacific Insular*
25 *Area* fishing agreements;”.

1 **SEC. 405. REAUTHORIZATION OF ATLANTIC TUNAS CON-**
2 **VENTION ACT.**

3 (a) *IN GENERAL.*—Section 10 of the Atlantic Tunas
4 Convention Act of 1975 (16 U.S.C. 971h) is amended to
5 read as follows:

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

7 “(a) *IN GENERAL.*—There are authorized to be appro-
8 priated to the Secretary to carry out this Act, including
9 use for payment of the United States share of the joint ex-
10 penses of the Commission as provided in Article X of the
11 Convention—

12 “(1) \$5,495,000 for fiscal year 2006;

13 “(2) \$5,770,000 for each of fiscal years 2007 and
14 2008;

15 “(3) \$6,058,000 for each of fiscal years 2009 and
16 2010; and

17 “(4) \$6,631,000 for each of fiscal years 2011 and
18 2012.

19 “(b) *ALLOCATION.*—Of the amounts made available
20 under subsection (a) for each fiscal year—

21 “(1) \$160,000 are authorized for the advisory
22 committee established under section 4 of this Act and
23 the species working groups established under section
24 4A of this Act; and

25 “(2) \$7,500,000 are authorized for research ac-
26 tivities under this Act and section 3 of Public Law

1 96–339 (16 U.S.C. 971i), of which \$3,000,000 shall be
 2 for the cooperative research program under section
 3 3(b)(2)(H) of that section (16 U.S.C. 971i(b)(2)(H)).”.

4 (b) *ATLANTIC BILLFISH COOPERATIVE RESEARCH*
 5 *PROGRAM.*—Section 3(b)(2) of Public Law 96–339 (16
 6 U.S.C. 971i(b)(2)) is amended—

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

9 (2) by redesignating subparagraph (H) as sub-
 10 paragraph (I); and

11 (3) by inserting after subparagraph (G) the fol-
 12 lowing:

13 “(H) include a cooperative research pro-
 14 gram on Atlantic billfish based on the Southeast
 15 Fisheries Science Center Atlantic Billfish Re-
 16 search Plan of 2002; and”.

17 **SEC. 406. INTERNATIONAL OVERFISHING AND DOMESTIC**
 18 **EQUITY.**

19 (a) *REBUILDING OVERFISHED FISHERIES.*—Section
 20 304(e) (16 U.S.C. 1854(e)) is amended by adding at the
 21 end thereof the following:

22 “(8) The provisions of this paragraph shall
 23 apply in lieu of paragraphs (2) through (7) of this
 24 subsection to a fishery that the Secretary determines
 25 is overfished or approaching a condition of being

1 *overfished due to excessive international fishing pres-*
2 *sure, and for which there are no management meas-*
3 *ures to end overfishing under an international agree-*
4 *ment to which the United States is a party. For such*
5 *fisheries—*

6 *“(A) the Secretary, in cooperation with the*
7 *Secretary of State, immediately take appropriate*
8 *action at the international level to end the over-*
9 *fishing; and*

10 *“(B) within 1 year after the Secretary’s de-*
11 *termination, the appropriate Council, or Sec-*
12 *retary, for fisheries under section 302(a)(3)*
13 *shall—*

14 *“(i) develop recommendations for do-*
15 *mestic regulations to address the relative*
16 *impact of fishing vessels of the United*
17 *States on the stock and, if developed by a*
18 *Council, the Council shall submit such rec-*
19 *ommendations to the Secretary; and*

20 *“(ii) develop and submit recommenda-*
21 *tions to the Secretary of State, and to the*
22 *Congress, for international actions that will*
23 *end overfishing in the fishery and rebuild*
24 *the affected stocks, taking into account the*
25 *relative impact of vessels of other nations*

1 and vessels of the United States on the rel-
2 evant stock.”.

3 (b) *HIGHLY MIGRATORY SPECIES TAGGING RE-*
4 *SEARCH.*—Section 304(g)(2) (16 U.S.C. 1854(g)(2)) is
5 amended by striking “(16 U.S.C. 971d)” and inserting “(16
6 U.S.C. 971d), or highly migratory species harvested in a
7 commercial fishery managed by a Council under this Act
8 or the Western and Central Pacific Fisheries Convention
9 Implementation Act,”.

10 **TITLE V—IMPLEMENTATION OF**
11 **WESTERN AND CENTRAL PA-**
12 **CIFIC FISHERIES CONVEN-**
13 **TION**

14 **SEC. 501. SHORT TITLE.**

15 This title may be cited as the “Western and Central
16 Pacific Fisheries Convention Implementation Act”.

17 **SEC. 502. DEFINITIONS.**

18 In this title:

19 (1) *1982 CONVENTION.*—The term “1982 Conven-
20 tion” means the United Nations Convention on the
21 Law of the Sea of 10 December 1982.

22 (2) *AGREEMENT.*—The term “Agreement” means
23 the Agreement for the Implementation of the Provi-
24 sions of the United Nations Convention on the Law
25 of the Sea of 10 December 1982 relating to the Con-

1 *servation and Management of Straddling Fish Stocks*
2 *and Highly Migratory Fish Stocks.*

3 (3) COMMISSION.—*The term “Commission”*
4 *means the Commission for the Conservation and*
5 *Management of Highly Migratory Fish Stocks in the*
6 *Western and Central Pacific Ocean established in ac-*
7 *cordance with this Convention.*

8 (4) CONVENTION AREA.—*The term “convention*
9 *area” means all waters of the Pacific Ocean bounded*
10 *to the south and to the east by the following line:*
11 *From the south coast of Australia due south along the*
12 *141th meridian of east longitude to its intersection*
13 *with the 55th parallel of south latitude; thence due*
14 *east along the 55th parallel of south latitude to its*
15 *intersection with the 150th meridian of east lon-*
16 *gitude; thence due south along the 150th meridian of*
17 *east longitude to its intersection with the 60th par-*
18 *allel of south latitude; thence due east along the 60th*
19 *parallel of south latitude to its intersection with the*
20 *130th meridian of west longitude; thence due north*
21 *along the 130th meridian of west longitude to its*
22 *intersection with the 4th parallel of south latitude;*
23 *thence due west along the 4th parallel of south lati-*
24 *tude to its intersection with the 150th meridian of*

1 *west longitude; thence due north along the 150th me-*
2 *ridian of west longitude.*

3 (5) *EXCLUSIVE ECONOMIC ZONE.*—*The term “ex-*
4 *clusive economic zone” means the zone established by*
5 *Presidential Proclamation Numbered 5030 of March*
6 *10, 1983.*

7 (6) *FISHING.*—*The term “fishing” means:*

8 (A) *searching for, catching, taking, or har-*
9 *vesting fish.*

10 (B) *attempting to search for, catch, take, or*
11 *harvest fish.*

12 (C) *engaging in any other activity which*
13 *can reasonably be expected to result in the locat-*
14 *ing, catching, taking, or harvesting of fish for*
15 *any purpose.*

16 (D) *placing, searching for, or recovering*
17 *fish aggregating devices or associated electronic*
18 *equipment such as radio beacons.*

19 (E) *any operations at sea directly in sup-*
20 *port of, or in preparation for, any activity de-*
21 *scribed in subparagraphs (A) through (D), in-*
22 *cluding transshipment.*

23 (F) *use of any other vessel, vehicle, aircraft,*
24 *or hovercraft, for any activity described in sub-*
25 *paragraphs (A) through (E) except for emer-*

1 *gencies involving the health and safety of the*
2 *crew or the safety of a vessel.*

3 (7) *FISHING VESSEL.*—*The term “fishing vessel”*
4 *means any vessel used or intended for use for the pur-*
5 *pose of fishing, including support ships, carrier ves-*
6 *sels, and any other vessel directly involved in such*
7 *fishing operations.*

8 (8) *HIGHLY MIGRATORY FISH STOCKS.*—*The*
9 *term “highly migratory fish stocks” means all fish*
10 *stocks of the species listed in Annex 1 of the 1982*
11 *Convention occurring in the Convention Area, and*
12 *such other species of fish as the Commission may de-*
13 *termine.*

14 (9) *SECRETARY.*—*The term “Secretary” means*
15 *the Secretary of Commerce.*

16 (10) *STATE.*—*The term “State” means each of*
17 *the several States of the United States, the District of*
18 *Columbia, the Commonwealth of the Northern Mar-*
19 *iana Islands, American Samoa, Guam, and any other*
20 *commonwealth, territory, or possession of the United*
21 *States.*

22 (11) *TRANSHIPMENT.*—*The term “trans-*
23 *shipment” means the unloading of all or any of the*
24 *fish on board a fishing vessel to another fishing vessel*
25 *either at sea or in port.*

1 *members who are officers or employees of the United States*
2 *Government.*

3 (b) *ALTERNATE COMMISSIONERS.*—*The Secretary of*
4 *State, in consultation with the Secretary, may designate*
5 *from time to time and for periods of time deemed appro-*
6 *priate Alternate United States Commissioners to the Com-*
7 *mission. Any Alternate United States Commissioner may*
8 *exercise at any meeting of the Commission, Council, any*
9 *Panel, or the advisory committee established pursuant to*
10 *subsection (d), all powers and duties of a United States*
11 *Commissioner in the absence of any Commissioner ap-*
12 *pointed pursuant to subsection (a) of this section for what-*
13 *ever reason. The number of such Alternate United States*
14 *Commissioners that may be designated for any such meet-*
15 *ing shall be limited to the number of United States Commis-*
16 *sioners appointed pursuant to subsection (a) of this section*
17 *who will not be present at such meeting.*

18 (c) *ADMINISTRATIVE MATTERS.*—

19 (1) *EMPLOYMENT STATUS.*—*Individuals serving*
20 *as such Commissioners, other than officers or employ-*
21 *ees of the United States Government, shall be consid-*
22 *ered to be Federal employees while performing such*
23 *service, only for purposes of—*

24 (A) *injury compensation under chapter 81*
25 *of title 5, United States Code;*

1 (B) *tort claims liability as provided under*
2 *chapter 171 of title 28 United States Code;*

3 (C) *requirements concerning ethics, conflicts*
4 *of interest, and corruption as provided under*
5 *title 18, United States Code; and*

6 (D) *any other criminal or civil statute or*
7 *regulation governing the conduct of Federal em-*
8 *ployees.*

9 (2) *COMPENSATION.—The United States Com-*
10 *missioners or Alternate Commissioners, although offi-*
11 *cers of the United States while so serving, shall re-*
12 *ceive no compensation for their services as such Com-*
13 *missioners or Alternate Commissioners.*

14 (3) *TRAVEL EXPENSES.—*

15 (A) *The Secretary of State shall pay the*
16 *necessary travel expenses of United States Com-*
17 *missioners and Alternate United States Commis-*
18 *sioners in accordance with the Federal Travel*
19 *Regulations and sections 5701, 5702, 5704*
20 *through 5708, and 5731 of title 5, United States*
21 *Code.*

22 (B) *The Secretary may reimburse the Sec-*
23 *retary of State for amounts expended by the Sec-*
24 *retary of State under this subsection.*

25 (d) *ADVISORY COMMITTEES.—*

1 (1) *ESTABLISHMENT OF PERMANENT ADVISORY*
2 *COMMITTEE.*—

3 (A) *MEMBERSHIP.*—*There is established an*
4 *advisory committee which shall be composed of—*

5 (i) *not less than 15 nor more than 20*
6 *individuals appointed by the United States*
7 *Commissioners who shall select such indi-*
8 *viduals from the various groups concerned*
9 *with the fisheries covered by the WCPFC*
10 *Convention, providing, to the maximum ex-*
11 *tent practicable, an equitable balance*
12 *among such groups;*

13 (ii) *the chair of the Western Pacific*
14 *Fishery Management Council's Advisory*
15 *Committee or the chair's designee; and*

16 (iii) *officials of the fisheries manage-*
17 *ment authorities of American Samoa,*
18 *Guam, and the Northern Mariana Islands*
19 *(or their designees).*

20 (B) *TERMS AND PRIVILEGES.*—*Each mem-*
21 *ber of the advisory committee appointed under*
22 *subparagraph (A) shall serve for a term of 2*
23 *years and shall be eligible for reappointment.*
24 *Members of the advisory committee may attend*
25 *all public meetings of the Commission, Council,*

1 or any Panel and any other meetings to which
2 they are invited by the Commission, Council, or
3 any Panel. The advisory committee shall be in-
4 vited to attend all non-executive meetings of the
5 United States Commissioners and at such meet-
6 ings shall be given opportunity to examine and
7 to be heard on all proposed programs of inves-
8 tigation, reports, recommendations, and regula-
9 tions of the Commission.

10 (C) PROCEDURES.—The advisory committee
11 established by subparagraph (A) shall determine
12 its organization, and prescribe its practices and
13 procedures for carrying out its functions under
14 this chapter, the Magnuson-Stevens Fishery Con-
15 servation and Management Act (16 U.S.C. 1801
16 et seq.), and the WCPFC Convention. The advi-
17 sory committee shall publish and make available
18 to the public a statement of its organization,
19 practices, and procedures. A majority of the
20 members of the advisory committee shall con-
21 stitute a quorum, but one or more such members
22 designated by the advisory committee may hold
23 meetings to provide for public participation and
24 to discuss measures relating to the United States
25 implementation of Commission recommenda-

1 *tions. Meetings of the advisory committee, except*
2 *when in executive session, shall be open to the*
3 *public, and prior notice of meetings shall be*
4 *made public in a timely fashion. and the advi-*
5 *sory committee shall not be subject to the Federal*
6 *Advisory Committee Act (5 U.S.C. App.).*

7 *(D) PROVISION OF INFORMATION.—The Sec-*
8 *retary and the Secretary of State shall furnish*
9 *the advisory committee with relevant informa-*
10 *tion concerning fisheries and international fish-*
11 *ery agreements.*

12 *(2) ADMINISTRATIVE MATTERS.—*

13 *(A) SUPPORT SERVICES.—The Secretary*
14 *shall provide to advisory committees in a timely*
15 *manner such administrative and technical sup-*
16 *port services as are necessary for their effective*
17 *functioning.*

18 *(B) COMPENSATION; STATUS; EXPENSES.—*
19 *Individuals appointed to serve as a member of*
20 *an advisory committee—*

21 *(i) shall serve without pay, but while*
22 *away from their homes or regular places of*
23 *business in the performance of services for*
24 *the advisory committee shall be allowed*
25 *travel expenses, including per diem in lieu*

1 of subsistence, in the same manner as per-
2 sons employed intermittently in the Govern-
3 ment service are allowed expenses under sec-
4 tion 5703 of title 5, United States Code;
5 and

6 (ii) shall not be considered Federal em-
7 ployees by reason of their service as mem-
8 bers of an advisory committee, except for
9 purposes of injury compensation or tort
10 claims liability as provided in chapter 81 of
11 title 5, United States Code, and chapter 171
12 of title 28, United States Code.

13 (f) *MEMORANDUM OF UNDERSTANDING.*—For highly
14 migratory species in the Pacific, the Secretary, in coordina-
15 tion with the Secretary of State, shall develop a memo-
16 randum of understanding with the Western Pacific, Pacific,
17 and North Pacific Fishery Management Councils, that
18 specifies the role of the relevant Council or Councils with
19 respect to—

20 (1) participation in United States delegations to
21 international fishery organizations in the Pacific
22 Ocean, including government-to-government consulta-
23 tions;

24 (2) providing formal recommendations to the
25 Secretary and the Secretary of State regarding nec-

1 *essary measures for both domestic and foreign vessels*
 2 *fishing for these species;*

3 *(3) coordinating positions with the United States*
 4 *delegation for presentation to the appropriate inter-*
 5 *national fishery organization; and*

6 *(4) recommending those domestic fishing regula-*
 7 *tions that are consistent with the actions of the inter-*
 8 *national fishery organization, for approval and im-*
 9 *plementation under the Magnuson-Stevens Fishery*
 10 *Conservation and Management Act (16 U.S.C. 1801*
 11 *et seq.)*

12 **SEC. 504. AUTHORITY AND RESPONSIBILITY OF THE SEC-**
 13 **RETARY OF STATE.**

14 *The Secretary of State may—*

15 *(1) receive and transmit, on behalf of the United*
 16 *States, reports, requests, recommendations, proposals,*
 17 *decisions, and other communications of and to the*
 18 *Commission;*

19 *(2) in consultation with the Secretary and the*
 20 *United States Commissioners, approve, disapprove,*
 21 *object to, or withdraw objections to bylaws and rules,*
 22 *or amendments thereof, adopted by the WCPFC Com-*
 23 *mission, and, with the concurrence of the Secretary to*
 24 *approve or disapprove the general annual program of*
 25 *the WCPFC Commission with respect to conservation*

1 *and management measures and other measures pro-*
2 *posed or adopted in accordance with the WCPFC*
3 *Convention; and*

4 *(3) act upon, or refer to other appropriate au-*
5 *thority, any communication referred to in paragraph*
6 *(1).*

7 **SEC. 505. RULEMAKING AUTHORITY OF THE SECRETARY OF**
8 **COMMERCE.**

9 *(a) PROMULGATION OF REGULATIONS.—The Sec-*
10 *retary, in consultation with the Secretary of the Depart-*
11 *ment in which the Coast Guard is operating and the appro-*
12 *priate Regional Fishery Management Council, shall pro-*
13 *mulgate such regulations as may be necessary to carry out*
14 *the United States international obligations under the*
15 *WCPFC Convention and this title. The Secretary shall pro-*
16 *mulgate such regulations in accordance with the procedures*
17 *established by the Magnuson-Stevens Fishery Conservation*
18 *and Management Act (16 U.S.C. 1801 et seq.).*

19 *(b) ADDITIONS TO FISHERY REGIMES AND REGULA-*
20 *TIONS.—The Secretary may promulgate regulations appli-*
21 *cable to nationals or vessels of the United States, or both,*
22 *which are in addition to, and not in conflict with, fishery*
23 *conservation and management measures and regulations*
24 *adopted under the WCPFC Convention.*

1 **SEC. 506. ENFORCEMENT.**

2 (a) *IN GENERAL.*—*The Secretary may—*

3 (1) *administer and enforce this title and any*
4 *regulations issued under this title, including enforce-*
5 *ment of any such regulations within the boundaries*
6 *of any State bordering on the convention area;*

7 (2) *request and utilize on a reimbursed or non-*
8 *reimbursed basis the assistance, services, personnel,*
9 *equipment, and facilities of other Federal depart-*
10 *ments and agencies in—*

11 (A) *the administration and enforcement of*
12 *this title; and*

13 (B) *the conduct of scientific, research, and*
14 *other programs under this title;*

15 (3) *conduct fishing operations and biological ex-*
16 *periments for purposes of scientific investigation or*
17 *other purposes necessary to implement the WCPFC*
18 *Convention;*

19 (4) *collect, utilize, and disclose such information*
20 *as may be necessary to implement the WCPFC Con-*
21 *vention, subject to sections 552 and 552a of title 5,*
22 *United States Code, and section 402(b) of the Magnu-*
23 *son-Stevens Fishery Conservation and Management*
24 *Act (16 U.S.C. 1881a(b));*

25 (5) *assess and collect fees to recover the costs of*
26 *implementing and enforcing this title, policy and*

1 *rulemaking activities, user information services,*
2 *international activities under this title, and the costs*
3 *to the United States of enforcing the WCPFC Conven-*
4 *tion, which shall be deposited as an offsetting collec-*
5 *tion in, and credited to, the account providing appro-*
6 *priations to carry out the functions of the Secretary*
7 *under this title; and*

8 *(6) issue permits to owners and operators of*
9 *United States vessels to fish in the convention area*
10 *seaward of the United States Exclusive Economic*
11 *Zone.*

12 *(b) PROHIBITED ACTS.—It is unlawful for any person*
13 *to violate any provision of this title or the regulations pro-*
14 *mulgated under this title.*

15 *(c) ACTIONS BY THE SECRETARY.—The Secretary shall*
16 *prevent any person from violating this title in the same*
17 *manner, by the same means, and with the same jurisdic-*
18 *tion, powers, and duties as though all applicable terms and*
19 *provisions of the Magnuson-Stevens Fishery Conservation*
20 *and Management Act (16 U.S.C. 1857) were incorporated*
21 *into and made a part of this title. Any person that violates*
22 *any provision of this title is subject to the penalties and*
23 *entitled to the privileges and immunities provided in the*
24 *Magnuson-Stevens Fishery Conservation and Management*
25 *Act in the same manner, by the same means, and with the*

1 *same jurisdiction, power, and duties as though all applica-*
2 *ble terms and provisions of that Act were incorporated into*
3 *and made a part of this title.*

4 **SEC. 507. PENALTIES.**

5 *This title shall be enforced by the Secretary as if a*
6 *violation of this title or of any regulation promulgated by*
7 *the Commission under this title were a violation of section*
8 *307 of the Magnuson-Stevens Fishery Conservation and*
9 *Management Act (16 U.S.C. 1857).*

10 **SEC. 508. COOPERATION IN CARRYING OUT CONVENTION.**

11 *(a) FEDERAL AND STATE AGENCIES; PRIVATE INSTI-*
12 *TUTIONS AND ORGANIZATIONS.—The United States Com-*
13 *missioners, through the Secretary of State and with the con-*
14 *currence of the Secretary, institution, or organization con-*
15 *cerned, may arrange for the cooperation of Federal agencies*
16 *and of State and private institutions and organizations in*
17 *carrying out responsibilities under the WCPFC Convention.*

18 *(b) SCIENTIFIC AND OTHER PROGRAMS; FACILITIES*
19 *AND PERSONNEL.—All Federal agencies are authorized,*
20 *upon the request of the Secretary of Commerce Commission,*
21 *to cooperate in the conduct of scientific and other programs*
22 *and to furnish facilities and personnel for the purpose of*
23 *assisting the Commission in carrying out its duties under*
24 *the WCPFC Convention.*

1 **SEC. 509. TERRITORIAL PARTICIPATION.**

2 *The Secretary of State shall ensure participation in*
 3 *the Commission and its subsidiary bodies by American*
 4 *Samoa, Guam, and the Northern Mariana Islands to the*
 5 *same extent provided to the territories of other nations.*

6 **SEC. 510. AUTHORIZATION OF APPROPRIATIONS.**

7 *There are authorized to be appropriated to the Sec-*
 8 *retary of Commerce such sums as may be necessary to carry*
 9 *out this title and to pay the United States' contribution*
 10 *to the Commission under section 5 of part III of the*
 11 *WCPFC Convention.*

12 **TITLE VI—PACIFIC WHITING**

13 **SEC. 601. SHORT TITLE.**

14 *This title may be cited as the “Pacific Whiting Act*
 15 *of 2005”.*

16 **SEC. 602. DEFINITIONS.**

17 *In this title:*

18 (1) *ADVISORY PANEL.*—*The term “advisory*
 19 *panel” means the Advisory Panel on Pacific Hake/*
 20 *Whiting established by the Agreement.*

21 (2) *AGREEMENT.*—*The term “Agreement” means*
 22 *the Agreement between the Government of the United*
 23 *States and the Government of Canada on Pacific*
 24 *Hake/Whiting, signed at Seattle, Washington, on No-*
 25 *vember 21, 2003.*

1 (3) *CATCH*.—The term “catch” means all fishery
2 removals from the offshore whiting resource, including
3 landings, discards, and bycatch in other fisheries.

4 (4) *JOINT MANAGEMENT COMMITTEE*.—The term
5 “joint management committee” means the joint man-
6 agement committee established by the Agreement.

7 (5) *JOINT TECHNICAL COMMITTEE*.—The term
8 “joint technical committee” means the joint technical
9 committee established by the Agreement.

10 (6) *OFFSHORE WHITING RESOURCE*.—The term
11 “offshore whiting resource” means the transboundary
12 stock of *Merluccius productus* that is located in the
13 offshore waters of the United States and Canada ex-
14 cept in Puget Sound and the Strait of Georgia.

15 (7) *SCIENTIFIC REVIEW GROUP*.—The term “sci-
16 entific review group” means the scientific review
17 group established by the Agreement.

18 (8) *SECRETARY*.—The term “Secretary” means
19 the Secretary of Commerce.

20 (9) *UNITED STATES SECTION*.—The term
21 “United States Section” means the United States rep-
22 resentatives on the joint management committee.

23 **SEC. 603. UNITED STATES REPRESENTATION ON JOINT**
24 **MANAGEMENT COMMITTEE.**

25 (a) *REPRESENTATIVES*.—

1 (1) *IN GENERAL.*—*The Secretary, in consultation*
2 *with the Secretary of State, shall appoint 4 individ-*
3 *uals to represent the United States as the United*
4 *States Section on the joint management committee. In*
5 *making the appointments, the Secretary shall select*
6 *representatives from among individuals who are*
7 *knowledgeable or experienced concerning the offshore*
8 *whiting resource. Of these—*

9 (A) *1 shall be an official of the National*
10 *Oceanic and Atmospheric Administration;*

11 (B) *1 shall be a member of the Pacific Fish-*
12 *ery Management Council, appointed with consid-*
13 *eration given to any recommendation provided*
14 *by that Council;*

15 (C) *1 shall be appointed from a list sub-*
16 *mitted by the treaty Indian tribes with treaty*
17 *fishing rights to the offshore whiting resource;*
18 *and*

19 (D) *1 shall be appointed from the commer-*
20 *cial sector of the whiting fishing industry con-*
21 *cerned with the offshore whiting resource.*

22 (2) *TERM OF OFFICE.*—*Each representative ap-*
23 *pointed under paragraph (1) shall be appointed for a*
24 *term not to exceed 4 years, except that, of the initial*
25 *appointments, 2 representatives shall be appointed for*

1 *individual shall not be eligible to serve on the scientific re-*
2 *view group while serving on the joint technical committee.*

3 (b) *TERM.*—*An individual appointed under subsection*
4 *(a) shall be appointed for a term of not to exceed 4 years,*
5 *but shall be eligible for reappointment. An individual ap-*
6 *pointed to fill a vacancy occurring prior to the expiration*
7 *of a term of office of that individual's predecessor shall be*
8 *appointed to serve for the remainder of that term.*

9 (c) *JOINT APPOINTMENTS.*—*In addition to individuals*
10 *appointed under subsection (a), the Secretary, jointly with*
11 *the Government of Canada, may appoint to the scientific*
12 *review group, from a list of names provided by the advisory*
13 *panel —*

14 (1) *up to 2 independent members of the scientific*
15 *review group; and*

16 (2) *2 public advisors.*

17 **SEC. 605. UNITED STATES REPRESENTATION ON JOINT**
18 **TECHNICAL COMMITTEE.**

19 (a) *SCIENTIFIC EXPERTS.*—

20 (1) *IN GENERAL.*—*The Secretary, in consultation*
21 *with the Secretary of State, shall appoint at least 6*
22 *but not more than 12 individuals to serve as scientific*
23 *experts on the joint technical committee, at least 1 of*
24 *whom shall be an official of the National Oceanic and*
25 *Atmospheric Administration.*

1 (2) *TERM OF OFFICE.*—*An individual appointed*
2 *under paragraph (1) shall be appointed for a term of*
3 *not to exceed 4 years, but shall be eligible for re-*
4 *appointment. An individual appointed to fill a va-*
5 *cancy occurring prior to the expiration of the term of*
6 *office of that individual's predecessor shall be ap-*
7 *pointed for the remainder of that term.*

8 **SEC. 607. RESPONSIBILITIES OF THE SECRETARY.**

9 (a) *IN GENERAL.*—*The Secretary is responsible for*
10 *carrying out the Agreement and this title, including the au-*
11 *thority, to be exercised in consultation with the Secretary*
12 *of State, to accept or reject, on behalf of the United States,*
13 *recommendations made by the joint management com-*
14 *mittee.*

15 (b) *REGULATIONS; COOPERATION WITH CANADIAN OF-*
16 *FICIALS.*—*In exercising responsibilities under this title, the*
17 *Secretary—*

18 (1) *may promulgate such regulations as may be*
19 *necessary to carry out the purposes and objectives of*
20 *the Agreement and this title; and*

21 (2) *with the concurrence of the Secretary of*
22 *State, may cooperate with officials of the Canadian*
23 *Government duly authorized to carry out the Agree-*
24 *ment.*

1 **SEC. 608. RULEMAKING.**

2 (a) *APPLICATION WITH MAGNUSON-STEVENSONS ACT.*—
3 *The Secretary shall establish the United States catch level*
4 *for Pacific whiting according to the standards and proce-*
5 *dures of the Agreement and this title rather than under the*
6 *standards and procedures of the Magnuson-Stevens Fishery*
7 *Conservation and Management Act (16 U.S.C. 1801 et seq.),*
8 *except to the extent necessary to address the rebuilding*
9 *needs of other species. Except for establishing the catch level,*
10 *all other aspects of Pacific whiting management shall be—*

11 (1) *subject to the Magnuson-Stevens Fishery*
12 *Conservation and Management Act; and*

13 (2) *consistent with this title.*

14 (b) *JOINT MANAGEMENT COMMITTEE RECOMMENDA-*
15 *TIONS.*—*For any year in which both parties to the Agree-*
16 *ment approve recommendations made by the joint manage-*
17 *ment committee with respect to the catch level, the Secretary*
18 *shall implement the approved recommendations. Any regu-*
19 *lation promulgated by the Secretary to implement any such*
20 *recommendation shall apply, as necessary, to all persons*
21 *and all vessels subject to the jurisdiction of the United*
22 *States wherever located.*

23 (c) *YEARS WITH NO APPROVED CATCH RECOMMENDA-*
24 *TIONS.*—*If the parties to the Agreement do not approve the*
25 *joint management committee's recommendation with re-*
26 *spect to the catch level for any year, the Secretary shall*

1 *establish the total allowable catch for Pacific whiting for*
2 *the United States catch. In establishing the total allowable*
3 *catch under this subsection, the Secretary shall—*

4 (1) *take into account any recommendations from*
5 *the Pacific Fishery Management Council, the joint*
6 *management committee, the joint technical committee,*
7 *the scientific review group, and the advisory panel;*

8 (2) *base the total allowable catch on the best sci-*
9 *entific information available;*

10 (3) *use the default harvest rate set out in para-*
11 *graph 1 of Article III of the Agreement unless the Sec-*
12 *retary determines that the scientific evidence dem-*
13 *onstrates that a different rate is necessary to sustain*
14 *the offshore whiting resource; and*

15 (4) *establish the United State's share of the total*
16 *allowable catch based on paragraph 2 of Article III*
17 *of the Agreement and make any adjustments nec-*
18 *essary under section 5 of Article II of the Agreement.*

19 **SEC. 609. ADMINISTRATIVE MATTERS.**

20 (a) *EMPLOYMENT STATUS.—Individuals serving as*
21 *such Commissioners, other than officers or employees of the*
22 *United States Government, shall be considered to be Federal*
23 *employees while performing such service, only for purposes*
24 *of—*

1 (1) *injury compensation under chapter 81 of*
2 *title 5, United States Code;*

3 (2) *tort claims liability as provided under chap-*
4 *ter 171 of title 28 United States Code;*

5 (3) *requirements concerning ethics, conflicts of*
6 *interest, and corruption as provided under title 18,*
7 *United States Code; and*

8 (4) *any other criminal or civil statute or regula-*
9 *tion governing the conduct of Federal employees.*

10 (b) *COMPENSATION.—*

11 (1) *IN GENERAL.—Except as provided in para-*
12 *graph (2), an individual appointed under this title*
13 *shall receive no compensation for the individual's*
14 *service as a representative, alternate representative,*
15 *scientific expert, or advisory panel member under this*
16 *title.*

17 (2) *SCIENTIFIC REVIEW GROUP.—Notwith-*
18 *standing paragraph (1), the Secretary may employ*
19 *and fix the compensation of an individual appointed*
20 *under section 604(a) to serve as a scientific expert on*
21 *the scientific review group who is not employed by the*
22 *United States Government, a State government, or an*
23 *Indian tribal government in accordance with section*
24 *3109 of title 5, United States Code.*

1 (c) *TRAVEL EXPENSES.*—*Except as provided in sub-*
2 *section (d), the Secretary shall pay the necessary travel ex-*
3 *penses of individuals appointed under this title in accord-*
4 *ance with the Federal Travel Regulations and sections*
5 *5701, 5702, 5704 through 5708, and 5731 of title 5, United*
6 *States Code.*

7 (d) *JOINT APPOINTEES.*—*With respect to the 2 inde-*
8 *pendent members of the scientific review group and the 2*
9 *public advisors to the scientific review group jointly ap-*
10 *pointed under section 604(c), and the 1 independent mem-*
11 *ber to the joint technical committee jointly appointed under*
12 *section 605(b), the Secretary may pay up to 50 percent of—*

13 (1) *any compensation paid to such individuals;*

14 *and*

15 (2) *the necessary travel expenses of such individ-*
16 *uals.*

17 **SEC. 610. ENFORCEMENT.**

18 (a) *IN GENERAL.*—*The Secretary may—*

19 (1) *administer and enforce this title and any*
20 *regulations issued under this title;*

21 (2) *request and utilize on a reimbursed or non-*
22 *reimbursed basis the assistance, services, personnel,*
23 *equipment, and facilities of other Federal depart-*
24 *ments and agencies in the administration and en-*
25 *forcement of this title; and*

1 (3) *collect, utilize, and disclose such information*
2 *as may be necessary to implement the Agreement and*
3 *this title, subject to sections 552 and 552a of title 5,*
4 *United States Code.*

5 (b) *PROHIBITED ACTS.—It is unlawful for any person*
6 *to violate any provision of this title or the regulations pro-*
7 *mulgated under this title.*

8 (c) *ACTIONS BY THE SECRETARY.—The Secretary shall*
9 *prevent any person from violating this title in the same*
10 *manner, by the same means, and with the same jurisdic-*
11 *tion, powers, and duties as though all applicable terms and*
12 *provisions of the Magnuson-Stevens Fishery Conservation*
13 *and Management Act (16 U.S.C. 1857) were incorporated*
14 *into and made a part of this title. Any person that violates*
15 *any provision of this title is subject to the penalties and*
16 *entitled to the privileges and immunities provided in the*
17 *Magnuson-Stevens Fishery Conservation and Management*
18 *Act in the same manner, by the same means, and with the*
19 *same jurisdiction, power, and duties as though all applica-*
20 *ble terms and provisions of that Act were incorporated into*
21 *and made a part of this title.*

22 (d) *PENALTIES.—This title shall be enforced by the*
23 *Secretary as if a violation of this title or of any regulation*
24 *promulgated by the Secretary under this title were a viola-*

1 *tion of section 307 of the Magnuson-Stevens Fishery Con-*
2 *servation and Management Act (16 U.S.C. 1857).*

3 **SEC. 611. AUTHORIZATION OF APPROPRIATIONS.**

4 *There are authorized to be appropriated to the Sec-*
5 *retary such sums as may be necessary to carry out the obli-*
6 *gations of the United States under the Agreement and this*
7 *title.*

Calendar No. 389

109TH CONGRESS
2^D SESSION

S. 2012

[Report No. 109-229]

A BILL

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

APRIL 4, 2006

Reported with an amendment