To reauthorize the Magnuson-Stevens Fishery Conservation and Management Act, and for other purposes.
of, a section or other provision, the reference shall be con-
idered to be made to a section or other provision of the
Magnuson-Stevens Fishery Conservation and Manage-
ment Act (16 U.S.C. 1801 et seq).

SEC. 2. TECHNICAL CORRECTIONS TO DEFINITIONS.

(a) Execution of Prior Amendments.—

(1) Continental shelf fishery re-
sources.—Section 102(2) of the Sustainable Fish-
eries Act (Public Law 104–297; 110 Stat. 3561) is
amended—

(A) by striking “COELENTERATA” and
inserting “COELENTERATA”;

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

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

(2) United States harvested fish.—Sec-
tion 102(11) of the Sustainable Fisheries Act (Pub-
lic Law 104–297; 110 Stat. 3563) is amended by
striking “(42)” and inserting “(43)”.

(3) Effective date.—This subsection shall
take effect on the effective date of section 102 of
Public Law 104–297.

(b) Corrections Relating to Special Areas.—

Section 3 (16 U.S.C. 1802) is amended—
(1) by striking paragraphs (35) and (36);

(2) by redesignating paragraphs (37) through the last paragraph (relating to the definition of “waters of a foreign nation”) in order as paragraphs (35) through (44);

(3) by inserting “(a) General Definitions.—” before “As used in this Act”; and

(4) by adding at the end the following:

“(b) Terms Relating to Agreement With the Former Soviet Union.—As used in this Act the term ‘special areas’ means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990. In particular, the term refers to those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.”.

SEC. 3. SCIENCE-BASED IMPROVEMENTS TO MANAGEMENT.

(a) Harvest Level Caps.—

(1) Mechanism.—Section 303(a) (16 U.S.C. 1853(a)) is amended by striking “and” after the
semicolon at the end of paragraph (13), by striking 
the period at the end of paragraph (14) and insert-
ing a semicolon, and by adding at the end the fol-
lowing:

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

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

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

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

“(7) adopt a total allowable catch limit or other 
annual harvest effort control limit for each of the 
fisheries for which such a limit can be established, 
after considering the recommendation of the sci-
cientific and statistical committee of the Council having jurisdiction over the fishery, which shall not exceed the recommendation for the acceptable biological catch as recommended by such scientific and statistical committee; and”.

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

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

“(d) **BEST SCIENTIFIC INFORMATION AVAILABLE.**—The Secretary shall develop guidelines for the Councils to use in determining what is the best scientific information available. The Secretary shall base these guidelines on the recommendations for guidelines developed by the Ocean Studies Board of the National Research Council in its report titled ‘Improving the Use of the Best Scientific Information Available, Standard in Fisheries Management’.”.

(c) **SCIENTIFIC AND STATISTICAL COMMITTEES.**—Amend section 302(g)(1) (16 U.S.C. 1852(g)(1)) is amended by inserting “(A)” before “Each Council”, and by adding at the end the following:
“(B) Each scientific and statistical committee shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch for each fishery under the jurisdiction of the Council, and reports on stock status and health, bycatch, habitat status, socio-economic impacts of management measures, and sustainability of fishing practices.

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

“(D) In addition to payments authorized by subsection (f)(7), the Secretary may pay a stipend to members of the scientific and statistical committees who are not employed by the Federal Government or a State government agency.

“(E) A science and statistical committee shall hold its meetings in conjunction with the meetings of the Council, to the extent practicable.”.
(d) Scientific Research Priorities.—Section 302(h) (16 U.S.C. 1852(h)) is further amended by adding at the end the following:

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

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

“(B) be updated as necessary; and

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

(e) Cooperative Research Authority.—

(1) Discretionary provisions in fishery management plans.—Section 303(b) (16 U.S.C. 1853(b)) is amended by striking “and” after the semicolon at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting a semicolon, and by adding at the end the following:

“(13) include provisions to create a cooperative research component including the use of commercial
fishing, charter fishing, or recreational fishing vessels for the gathering of data on stock abundance, composition, distribution, or other relevant information important for the implementation of the plan.”.

(2) COOPERATIVE RESEARCH BY SECRETARY.—

Section 404 (16 U.S.C. 1881c) is amended by adding at the end the following:

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

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

“(f) PRESERVING FISHING PRIVILEGES.—The Secretary shall ensure that—

“(1) fishing vessels participating in research activities conducted pursuant to section 303(b)(13) or title IV do not lose allocated fishing privileges (such as days at sea) based on the research activities, unless loss of such privileges is a part of the research plan under which the vessel participates; and
“(2) catch history of a vessel during such re-
search activities at any time when the vessel is sacri-
ficing fishing time in an open season shall accrue to
the vessel, unless loss of such accrual is part of such
research plan.”.

(f) REGIONAL STOCK ASSESSMENTS.—

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

“SEC. 408. REGIONAL STOCK ASSESSMENTS.

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

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

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

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

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

“Sec. 408. Regional stock assessments.”.
(3) Regional stock assessments and peer
review.—Section 302(g) (16 U.S.C. 1852(g)) is
amended by adding at the end the following:

“(6) Peer review process.—

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

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

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

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

SEC. 4. DATA COLLECTION.

(a) Authority to Require VMS.—Section 305 (16
U.S.C. 1855) is amended by adding at the end the fol-
lowing:
“(j) Authority to Require VMS.—The Secretary may require, if requested to do so by a Council, a Vessel Monitoring System or other similar electronic monitoring technology for a fishery or specific sectors of a fishery under the jurisdiction of the Council. To the extent that the technology is required for enforcement or data collection purposes for a dedicated access privilege management system, the cost of such a system shall be included in the costs that are considered in determining the amount of any fee required under this Act to be paid to participate in the fishery. Any information collected under this subsection shall be treated as confidential and exempt from disclosure under section 402(b).”.

(b) Sharing of Recreational Catch Data.—

Section 402 (16 U.S.C. 1881a) is amended by adding at the end the following:

“(f) Recreational Catch Data.—

“(1) The Secretary shall—

“(A) seek to obtain from States information gathered under State recreational fishing license programs;

“(B) work with those States that do not require a recreational saltwater fishing license to determine whether other recreational data
sources can provide adequate information about
recreational fishing; and

“(C) develop and implement a program for
the use of recreational catch data for all federally
managed fisheries.

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

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

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

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

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

(c) CONFIDENTIALITY OF INFORMATION.—
(1) **IN GENERAL.**—Section 402(b) (16 U.S.C. 1881a(b)) is amended—

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

(B) by striking all preceding paragraph (4), as so redesignated, and inserting the following:

“(b) **CONFIDENTIALITY OF INFORMATION.**—

“(1) Any information submitted to the Secretary, a State fishery management agency, or a Marine Fisheries Commission by any person in compliance with the requirements of this Act, including confidential information, shall be exempt from disclosure under section 552(b)(3) of title 5, United States Code, except—

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

“(B) to State or Marine Fisheries Commission employees as necessary for achievement of the purposes of this Act, subject to a confidentiality agreement between the State or commission, as appropriate, and the Secretary that
prohibits public disclosure of confidential information relating to any person;

“(C) to any State employee who is responsible for fishery management plan enforcement, if the State employing that employee has entered into a fishery enforcement agreement with the Secretary and the agreement is in effect;

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

“(E) if the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate any other requirement of this Act; or

“(F) if such information is required to be submitted to the Secretary for any determination under a limited access program.

“(2) Any observer information, Vessel Monitoring System, or other technology used on-board for enforcement or data collection purposes, shall be confidential and shall not be disclosed, except—
“(A) in accordance with the requirements of subparagraphs (A) through (F) of paragraph (1);

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

“(C) when such information is necessary in proceedings to adjudicate observer certifications; or

“(D) as authorized by any regulations issued under paragraph (4) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

“(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or
“(ii) to validate the accuracy of the observer information collected.

“(3) The Secretary may enter into a memorandum of understanding with the heads of other Federal agencies for the sharing of confidential information for purposes of this Act, such as Vessel Monitoring System or other electronic monitoring systems, if the Secretary determines there is a compelling need to do so and if the heads of the other Federal agencies agree to maintain the confidentiality of the information in accordance with the requirements that apply to the Secretary under this section.”; and

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

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

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

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

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

“(A) trade secrets; or
“(B) commercial or financial information the disclosure of which is likely to result in substantial harm to the competitive position of the person who submitted the information to the Secretary.”; and

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

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

(d) Socioeconomic Data Collection Activities.—Section 402 (16 U.S.C. 1881a) is further amended by adding at the end the following:

“(g) Socioeconomic Data Collection.—

“(1) The Secretary may provide funds to Councils to carry out collection of socioeconomic data, including information on fishermen and fishing com-
munities, necessary to carry out the functions of the Councils.

“(2) To carry out this subsection there is authorized to be appropriated to the Secretary, in addition to other amounts authorized, $2,000,000 for each fiscal year.”.

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

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

(2) submit a report to the Congress on the current activities and the needs for such surveys, by not later than 2 years after the date of the enactment of this Act.

SEC. 5. COUNCIL OPERATIONS AND AUTHORITIES.

(a) COUNCIL APPOINTMENTS.—Section 302(b)(2)(C) (16 U.S.C. 1852(b)(2)(C)) is amended by inserting after the first sentence the following: “A Governor may submit the names of individuals from academia, or other public interest areas including conservation organizations and the seafood consuming public, if the Governor has determined that each such individual is qualified under the requirements of subparagraph (A).”.
(b) Training.—Section 302 (16 U.S.C. 1852) is amended by adding at the end the following:

“(k) Council Training Program.—

“(1) Training course.—Within 6 months after the date of the enactment of the American Fisheries Management and Marine Life Enhancement Act, the Secretary, in consultation with the Councils and the National Sea Grant College Program, shall develop a training course for newly appointed Council members. The course may cover a variety of topics relevant to matters before the Councils, including—

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

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

“(C) social science and fishery economics;

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

“(E) legal requirements of this Act, including conflict of interest and disclosure provisions of this section and related policies;
“(F) other relevant legal and regulatory requirements, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.);

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

“(H) recreational and commercial fishing information including fish harvesting techniques, gear types, fishing vessel types, and economics, for the fisheries within each Council’s jurisdiction; and

“(I) other topics suggested by the Council.

“(2) Member training.—The training course—

“(A) shall be available to both new and existing Council members, staff from the regional offices and regional science centers of the National Marine Fisheries Service; and

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

“(3) Required training.—Council members appointed after the date of the enactment of the American Fisheries Management and Marine Life Enhancement Act must complete the training course developed under this subsection.”.
(c) Authority to Develop Ecosystem-Based Fishery Management Plans.—Section 303(b) (16 U.S.C. 1853(b)) is further amended by adding at the end the following:

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

(d) Authority to Require Vessel Monitoring Systems.—Section 303 (16 U.S.C. 1853) is further amended by adding at the end the following:

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

(e) Observer Funding Clarification.—Section 303 (16 U.S.C. 1853) is further amended by adding at the end the following:

“(e) Observer Provisions.—

“(1) Costs.—Costs for observer coverage that is primarily for the enforcement of a fishery management plan or for data collection necessary for the monitoring of a fishery—
“(A) shall be paid for by the Secretary;

and

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

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

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

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

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

“(B) measures to promote the use of gear
with verifiable and monitored low bycatch and
seabird interaction rates; and
“(C) measures that, based on the best scientific information available, will reduce bycatch and seabird interaction, bycatch mortality, post-release mortality, or regulatory discards in the fishery;”.

(g) HABITAT AREAS OF PARTICULAR CONCERN.—

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

“(17) identify habitat areas of particular concern;”.

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

“(18A) The term ‘habitat area of particular concern’ means a discrete habitat area that is essential fish habitat and that—

“(A) provides important ecological functions;

“(B) is sensitive to human-induced environmental degradation; or

“(C) is a rare habitat type.”.

(h) MARINE PROTECTED AREAS AUTHORITY.—
(1) Discretionary Authority.—Section 303(b) (16 U.S.C. 1853(b)) is further amended by adding at the end the following:

“(18) designate closed areas, seasonal closures, time/area closures, gear restrictions, or other methods for limiting impacts on habitat, limit bycatch impacts of gear, or limit fishing impact on spawning congregations in specific geographic areas;”.

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

“(16) with respect to any closure of an area to all fisheries managed under this Act, include provisions that ensure that such closure—

“(A) is based on the best scientific information available;

“(B) includes criteria to assess the conservation benefit of the closed area;

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

“(D) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such meas-
ures), including the benefits and impacts of limiting access to—

“(i) users of the area;
“(ii) overall fishing activity;
“(iii) fishery science; and
“(iv) fishery and marine conservation;”.

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

“(i) ALTERNATIVE PROCEDURAL MECHANISMS.—
“(1) In a fishery management plan or amendment, the Council or Secretary, as appropriate, may develop alternative procedural mechanisms to be used in lieu of plan amendments for implementing conservation and management measures.
“(2) Such mechanisms may allow for abbreviated processes for the implementation of regulations or other actions as appropriate.
“(3) Alternative procedural mechanisms shall only be approved or adopted for use in situations in which—
“(A) the conservation and management measures are within the scope of conservation
and management measures established in an existing fishery management plan;

“(B) otherwise applicable regulatory processes are not sufficient to allow timely and efficient implementation of conservation and management measures in response to new information; and

“(C) notice of the conservation and management measures is provided appropriate to the significance of the expected impacts on affected fishery resources and on the participants in the fishery.

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

“(5) If the alternative procedural mechanism is approved by the Secretary pursuant to section 304(a), or adopted by the Secretary pursuant to section 304(c) or (g) and implemented through regulations, any regulation issued or other action taken pursuant to the alternative procedural mechanism need not comply with the rulemaking provisions of section 304(b), (e), or (g) of this Act, or section 553(b) through (d) of title 5, United States Code.”.

(j) COUNCIL MEETING NOTICE.—
(1) REGULAR AND EMERGENCY MEETINGS.—

The first sentence of section 302(i)(2)(C) (16 U.S.C. 1852(i)(2)(C)) is amended—

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

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

(2) CLOSED MEETINGS.—Section 302(i)(3)(B) of Title 16, Chapter 52, is amended by striking “notify local newspapers” and inserting “provide notice by any means that will result in wide publicity”.

(k) CARIBBEAN COUNCIL JURISDICTION.—Section 302(a)(1)(D) of Title 16, Chapter 52, is amended by inserting “and of commonwealths, territories, and possessions of the United States in the Caribbean Sea” after “seaward of such States”.

(l) COUNCIL COORDINATION COMMITTEE.—Section 302 of Title 16, Chapter 52, is further amended by adding at the end the following:

“(l) COUNCIL COORDINATION COMMITTEE.—The Councils may establish a Council coordination committee
to discuss issues of relevance to all Councils, including
issues related to the implementation of this Act. The com-
mitee shall consist of the chairs, vice chairs, and executive
directors of each of the Councils described in subsection
(a)(1), or other Council members or staff.”.

SEC. 6. ECOSYSTEM-BASED FISHERY MANAGEMENT.

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

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

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

“(5) The interaction of species in the marine
environment, and the development of ecosystem-
based approaches to fishery conservation and man-
agement that will lead to better stewardship and sustainability of coastal fishery resources.”.

(c) REGULATIONS DEFINING TERMS.—The Secretary of Commerce shall, in conjunction with the Regional Fishery Management Councils and based on the recommendations of the Ecosystems Principles Advisory Panel in the report entitled “Ecosystem-based Fishery Management. A report to Congress by the Ecosystem Principles Advisory Panel” and dated April 1999, and after provision of notice and an opportunity for public comment, issue regulations that establish definitions of the terms “ecosystem” and “marine ecosystem” for purposes of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

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

“(f) REGIONAL ECOSYSTEM RESEARCH.—

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

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

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

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

“(D) a description of existing and developing Council efforts to implement ecosystem approaches, including lessons learned by the Councils.

“(2) IDENTIFICATION OF MARINE ECOSYSTEMS;

RESEARCH PLAN.—

“(A) IN GENERAL.—Within one year after the date of the publication of the study under paragraph (1), the Secretary, in conjunction with the regional science centers of the National Marine Fisheries Service and the Councils, shall—
“(i) identify specific marine eco-
systems within each region for which a
Council is established by section 302(a);
and
“(ii) develop and begin to implement
regional research plans to address the in-
formation deficiencies identified by the
study.
“(B) Research Plans.—The research
plans shall suggest reasonable timeliness and
cost estimates for the collection of the required
information.
“(C) Reports.—The Secretary shall re-
port to the Congress annually on the progress
of the regional research plans.
“(3) Agency Technical Advice and Assist-
ance, Regional Pilot Programs.—The Secretary
is authorized to provide necessary technical advice
and assistance, including grants, to the Councils for
the development and design of regional pilot pro-
grams that build upon the recommendations of the
advisory panel and, when completed, the study.”.

SEC. 7. LIMITED ACCESS PRIVILEGE PROGRAMS.

(a) In General.—Title III (16 U.S.C. 1851 et seq.)
is amended—
(1) by striking section 303(d); and

(2) by inserting after section 303 the following:

"SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.

“(a) In general.—After the date of enactment of the American Fisheries Management and Marine Life Enhancement Act, a Council may submit, and the Secretary may approve, for a fishery that is managed under a limited access system, a limited access privilege program to harvest fish if the program meets the requirements of this section.

“(b) No creation of right, title, or interest.—A limited access system, limited access privilege, quota share, or other authorization established, implemented, or managed under this Act—

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

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

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

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

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

“(c) REQUIREMENTS FOR LIMITED ACCESS PRIVILEGES.—

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

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

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

“(C) promote—
“(i) the safety of human life at sea;

and

“(ii) the conservation and management of the fishery;

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

“(E) specify the goals of the program;

“(F) include provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, including determining progress in meeting the goals of the program and this Act, and any necessary modification of the program to meet those goals, with a formal and detailed review 5 years after the establishment of the program and every 5 years thereafter;

“(G) include an effective system for enforcement, monitoring, and management of the program, including the use of observers;
“(H) include an appeals process for administrative review of determinations with respect to the Secretary’s decisions regarding administration of the limited access privilege program; and

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

“(2) FISHING COMMUNITIES.—

“(A) IN GENERAL.—

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

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

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

“(III) consist of residents of the management area of the relevant Council who conduct commercial or recreational fishing, fish processing,
or fishery-dependent support businesses within such area; and

“(IV) develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of fishing communities, including those that have not historically had the resources to participate in the fishery, for approval by the Council based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

“(ii) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges for a person that were granted to a fishing community, if the person fails to comply with the requirements of the community sustainability plan approved by the relevant Council under clause (i)(IV).

“(B) PARTICIPATION CRITERIA.—In developing participation criteria for eligible commu-
nities under this paragraph, a Council shall consider—

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

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

“(iii) economic barriers to access to fishery;

“(iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, fishing vessel captains and crews, fish processors, and other businesses substantially dependent upon the fishery in the region or sub-region;

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

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

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

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

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

“(iii) be a voluntary association with established by-laws and operating procedures consisting of participants in the fishery, including commercial or recreational fishing, fish processing, fishery-dependent support businesses, or fishing communities; and

“(iv) develop and submit a regional fishery association plan to the Council and the Secretary for approval by the Council based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.
“(B) Failure to comply with plan.—The Secretary shall deny or revoke limited access privileges for a person that were granted to a fishery association, if the person fails to comply with the requirements of the regional fishery association plan approved by the relevant Council under subparagraph (A)(iv).

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

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

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

“(iii) economic barriers to access to fishery;

“(iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, fish processors, and other businesses substantially dependent upon the fishery in the region or subregion, upon the adminis-
trative and fiduciary soundness of the association and its by-laws; and

“(v) the expected effectiveness, operational transparency, and equitability of the fishery association plan.

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

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

“(i) current and historical harvests;

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

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

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

“(B) to the extent practicable, consider the basic cultural and social framework of the fishery, especially through the development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, in-
including regional or port-specific landing or delivery requirements;

“(C) include measures to assist, when necessary and appropriate, entry-level and small vessel operators, captains, crew, and fishing communities through set-asides of harvesting allocations, including providing privileges and, where appropriate, recommending the provision of economic assistance in the purchase of limited access privileges to harvest fish;

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

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

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

“(E) establish procedures to address geographic or other consolidation in both the har-
vesting and fish processing sectors of the fish-
ery; and

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

“(5) PROGRAM INITIATION.—

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

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

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

“(D) New England Referendum.—

“(i) The New England Council may not submit, and the Secretary may not approve or implement, a fishery management
plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than $\frac{2}{3}$ of those voting in a referendum among eligible permit holders with respect to the New England Council. If an individual fishing quota program fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

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

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

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

“(6) TRANSFERABILITY.—In establishing a limited access privilege program, a Council shall—

“(A) establish a policy on the transferability of limited access privilege shares (through sale or lease), including a policy on any conditions that apply to the transferability of limited access privilege shares that is consistent with the policies adopted by the Council for the fishery under paragraph (2); and

“(B) establish criteria for the approval and monitoring of transfers (including sales and leases) of limited access privilege shares.
“(7) Preparation and implementation of secretarial plans.—This subsection also applies to a plan prepared and implemented by the Secretary under section 304(g).

“(8) Limitation on Federal agencies and officials.—A Federal agency or official may not hold, administer, or reallocate an individual quota issued under a fishery management plan under this section, other than the Secretary and the Council having authority over the fishery for which the individual quota is issued.

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

“(1) the system or program is administered in such a way that the resulting distribution of limited access privilege shares meets the program requirements of subsection (c)(2)(A); and

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

“(e) Cost Recovery.—In establishing a limited access privilege program, a Council shall—

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

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

“(f) Limited Duration.—In establishing a limited access privilege program after the date of enactment of the American Fisheries Management and Marine Life Enhancement Act, a Council may establish—

“(1) a period of time after which any initial or subsequent allocation of a limited access privilege shall expire, or various periods for such expiration within a fishery if the Council determines that variation of the periods will further achievement of management goals; and

“(2) a mechanism under which participants in and entrants to the program may acquire or reacquire allocations.
“(g) Limited Access Privilege Assisted Purchase Program.—

“(1) In general.—A Council may submit, and the Secretary may approve and implement, a program that reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used to issue obligations that aid in financing—

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

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

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

“(h) Effect on Certain Existing Shares and Programs.—Nothing in this Act, or the amendments made by the American Fisheries Management and Marine Life Enhancement Act, shall be construed to require a reallocation of individual quota shares, fish processor quota
shares, cooperative programs, or other quota programs, including sector allocation, under development or submitted by a Council or approved by the Secretary or by Congressional action before the date of enactment of the.”.

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

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

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

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

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

“(B) The fees required to be established and collected by the Secretary under this paragraph are the following:
“(i) With respect to any initial allocation under a limited access system established after the date of the enactment of the American Fisheries Management and Marine Life Enhancement Act, an initial allocation fee in an amount, determined by the Secretary, equal to 1 percent of the ex-vessel value of fish authorized in one year under an individual quota, that shall be collected from the person to whom the individual quota is first issued.

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

“(iii) A transfer fee in an amount, determined by the Secretary, equal to 1 percent of the ex-vessel value of fish authorized each year under an individual quota share, that shall be collected from a person who permanently transfers the individual quota share to another person.

“(C) In determining the amount of a fee under this paragraph, the Secretary shall ensure that the
amount is commensurate with the cost of managing
the fishery with respect to which the fee is collected,
including reasonable costs for salaries, data analysis,
and other costs directly related to fishery manage-
ment and enforcement.

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

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

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

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

“(23A) The term ‘limited access privilege’—
“(A) means a Federal permit, issued as part of a limited access system under section 303A to harvest a quantity of fish that may be received or held for exclusive use by a person; and
“(B) includes an individual fishing quota; but
“(C) does not include community development quotas as described in section 305(i).”.

SEC. 8. JOINT FISHERIES ENFORCEMENT AGREEMENTS.

Section 311 (16 U.S.C. 1861) is amended—
(1) by striking “and” after the semicolon in subsection (b)(1)(A)(iv);
(2) by inserting “and” after the semicolon in subsection (b)(1)(A)(v);
(3) by inserting after clause (v) of subsection (b)(1)(A) the following:
“(vi) access, directly or indirectly, for enforcement purposes any data or information required to be provided under this title or regulations under this title, including data from vessel monitoring systems, or any similar system, subject to the confidentiality provisions of section 402;”;

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

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

"(h) JOINT FISHERIES ENFORCEMENT AGREEMENTS.—

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

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

“(3) REQUIREMENTS.—Joint fisheries enforcement agreements executed under paragraph (1)—
“(A) shall be consistent with the purposes and intent of this section to the extent applicable to the regulated activities; and

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

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

“(i) IMPROVED DATA SHARING.—

“(1) IN GENERAL.—Notwithstanding any other provision of this Act, as soon as practicable but no later than 21 months after the date of enactment of
the American Fisheries Management and Marine
Life Enhancement Act, the Secretary shall imple-
ment data-sharing measures to make any data re-
quired to be provided by this Act from vessel moni-
toring systems, or similar systems—

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

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

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

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

“(B) the Secretary is provided other rea-
sonable assurance that the State can and will
protect the identity or business of any person to
which such information relates.”.
SEC. 9. FUNDING FOR FISHERY OBSERVER PROGRAMS.

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

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

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

(3) in subsection (e), as so redesignated—

(A) in paragraph (1) by striking “North Pacific Fishery Observer Fund” and inserting “Fishery Observer Fund established under section 403(e)”;

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

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

“(d) OBSERVER PROGRAM FUNDING MECHANISM.—

“(1) IN GENERAL.—The Secretary may establish a funding mechanism to cover the cost of an observer program to monitor any fishery managed under this Act or any other Act administered by the Secretary, including the Northern Pacific halibut fishery.

“(2) FORM OF MECHANISM.—

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“(A) The Secretary may exercise broad discretion in developing a funding mechanism under this subsection, which may include a system of fees, payments collected from limited access privilege programs, or any other cost recovery mechanism to pay for—

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

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

“(B) The moneys collected under a funding mechanism established under this subsection for an observer program shall be—

“(i) deposited into the Fishery Observer Fund established under subsection (e); and

“(ii) used only for the observer program covering fisheries from which the moneys were collected.

“(e) FISHERY OBSERVER FUND.—

“(1) ESTABLISHMENT OF FUND.—There is established on the books of the Treasury of the United States, a fund that shall be known as the Fishery Observer Fund (in this subsection referred to as the
‘Fund’). The Fund shall be administered by the Secretary of Commerce. The Fund shall be available, subject to the availability of appropriations, only to the Secretary for purposes of carrying out subsection (d). The Fund shall consist of all moneys deposited into it in accordance with this section, plus interest on those moneys.

“(2) INVESTMENT OF AMOUNT.—

“(A) It shall be the duty of the Secretary of the Treasury to invest, at the direction of the Secretary of Commerce, such portion of the Fund that is not currently needed for the purposes of each observer program covering fisheries from which moneys were collected under subsection (d).

“(B) Such investments shall be in public debt obligations with maturities suitable to the needs of the Fund, as determined by the Secretary of Commerce. Investments in public debt obligations shall bear interest at rates determined by the Secretary of the Treasury taking into consideration the current market yield on outstanding marketable obligations of the United States of comparable maturity.
“(3) Sale of obligation.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the direction of the Secretary of Commerce at market prices.

“(f) Contributions.—For purposes of carrying out subsections (d) and (e), the Secretary may accept, solicit, receive, hold, administer, and use gifts, devices, contributions, and bequests. Amounts received under this subsection shall be deposited in the Fishery Observer Fund established under subsection (c).”.

SEC. 10. COMPETING STATUTES.

(a) Required Information in Management Plans.—Section 303(a) (16 U.S.C. 1853A)) is further amended by adding at the end the following:

“(17) contain information on the Council’s efforts to study, develop, and describe appropriate alternatives to recommend courses of action;”. 

(b) Required Analysis in Management Plans.—Section 303(a)(9) (16 U.S.C. 1853(a)(9)) is amended by striking “describe the likely effects, if any, of the conservation and management measures on—” and inserting “analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts of, the conservation and management measures on, and possible mitigation measures for—”.

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

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

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

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

(2) CLERICAL AMENDMENT.—The table of contents in the first section is amended by adding at the end of the items relating to title III the following:

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

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

(d) REVIEW OF FISHERY REGULATIONS IN NATIONAL MARINE SANCTUARIES.—Section 304 (16 U.S.C. 1854) is amended by adding at the end the following:
“(j) Review of Fishery Proposed Regulations in National Marine Sanctuaries.—

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

“(2) A proposed regulation referred to in paragraph (1) shall not take effect unless the Secretary certifies that the proposed regulation—

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

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

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

SEC. 11. DIMINISHED FISHERIES.

(a) Substitution of “Diminished” for “Overfished”.—

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

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

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

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

“(8A) The term ‘diminished’ means, with respect to a stock of fish, that the stock is of a size that is below the natural range of fluctuation associated with the production of maximum sustainable yield.”; and

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

“(29) The term ‘overfishing’ means a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.”.

(3) DISTINGUISHING IN REPORTS.—Section 304(e)(1) (16 U.S.C. 1854(e)(1)) is amended by adding at the end the following: “The report shall
distinguish between fisheries that are diminished (or approaching that condition) as a result of fishing and fisheries that are diminished (or approaching that condition) as a result of factors other than fishing. The report shall state, for each fishery identified as diminished or approaching that condition, whether the fishery is the target of directed fishing.”.

(b) Duration of Measures to Rebuild Diminished Fisheries.—Section 304(e)(4)(A)(ii) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1854(e)(4)(A)(ii)) is amended to read as follows:

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

“(I) the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;

“(II) the Secretary determines that such 10-year period should be extended because the cause of the fishery decline is outside the jurisdiction
of the Council or the rebuilding program cannot be effective only by limiting fishing activities;

“(III) the Secretary determines that such 10-year period should be extended for one or more diminished components of a multi-species fishery; or

“(IV) the Secretary makes substantial changes to the rebuilding targets after the rebuilding plan has been put in place.”.

SEC. 12. NEW PROHIBITED ACTS.

(a) Prohibition on Sale or Purchase of Recreational Catch.—Section 307 (16 U.S.C. 1857) is amended by striking “and” after the semicolon at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting “; and”, and by adding at the end the following:

“(6) to sell or purchase any fish caught in recreational fishing.”.

(b) Prohibition on Use of Retired Vessel.—Section 307(1) (16 U.S.C. 1857(1)) is amended—

(1) by striking “or” after the semicolon in sub-paragraph (O);
(2) by striking “carcass.” in subparagraph (P) and inserting “carcass; or”; and
(3) by inserting after subparagraph (P) and before the last sentence the following:
“(R) to use any fishing vessel to engage in fishing in Federal or State waters, or on the high seas or the waters of another country, after the Secretary has made a payment to the owner of that fishing vessel under section 312(b)(2).”.

SEC. 13. FISHERY FAILURES.

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

SEC. 14. EMERGENCY REGULATIONS.

(a) LENGTHENING OF SECOND EMERGENCY PERIOD.—Section 305(c)(3)(B) (16 U.S.C. 1855(c)(3)(B)) is amended by striking “180 days,” and inserting “186 days,”.

(b) TECHNICAL AMENDMENT.—Section 305(c)(3)(D)) (16 U.S.C. 1855(c)(3)(D)) is amended by inserting “or interim measures” after “emergency regulations”.
SEC. 15. BYCATCH AND SEABIRD INTERACTIONS.

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

“SEC. 409. GEAR GRANT PROGRAM.

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

“(1) identify those fisheries included in a list under subsection (a) that have the most urgent bycatch problems or seabird interaction problems, based on comments received regarding the list; and

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

“(b) GRANT AUTHORITY.—The Secretary shall, subject to the availability of appropriations, make grants for the development of fishing gear and modifications to existing fishing gear that will help—

“(1) minimize bycatch and seabird interactions;

and

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

“(c) REPORT.—The Secretary shall report to the Congress annually on—
“(1) the amount expended to implement this section in the preceding year;

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

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

“(4) any other relevant information.

“(d) Authorization of Appropriations.—To carry out this section there is authorized to be appropriated to the Secretary $10,000,000 for each of fiscal years 2007 through 2011.”.

(b) Clerical Amendment.—The table of contents in the first section is amended by adding at the end of the items relating to title IV the following:

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

(c) Report.—The Secretary of Commerce shall report to the Congress within one year after the date of the enactment of this Act on—

(1) the extent of the problem of seabird interaction with fisheries of the United States;

(2) efforts by the fishing industry and Regional Fishery Management Councils to address that problem; and

(3) the extent of the problem of seabird interaction with fisheries other than the fisheries of the United States.
(d) **INTERNATIONAL ACTION.**—The Secretary of Commerce shall take appropriate action at appropriate international fisheries management bodies to reduce seabird interactions in fisheries.

**SEC. 16. OVER CAPITALIZATION.**

(a) **DISCRETION OF SECRETARY TO CONDUCT FISHING CAPACITY REDUCTION PROGRAM.**—Section 312(b) (16 U.S.C. 1861a(b)) is amended—

(1) in paragraph (1) by striking “, at the request of the appropriate Council for fisheries under the authority of such Council, or the Governor of a State for fisheries under State authority,”;

(2) in paragraph (1), by inserting “that is managed under a limited access system authorized by section 303(b)(6),” after “in a fishery”; and

(3) by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following:

“(4) The Council, or the Governor of a State, having authority over a fishery may request the Secretary to conduct a fishing capacity reduction program in the fishery under this subsection.”.

(b) **REQUIREMENT TO SURRENDER ALL PERMITS.**—

Section 312(b)(2) (16 U.S.C. 1861a(b)(2)) is amended to read as follows:
“(2)(A) The objective of the program shall be to obtain the maximum sustained reduction in fishing capacity at the least cost and in a minimum period of time.

“(B) To achieve that objective, the Secretary is authorized to pay an amount to the owner of a fishing vessel, if—

“(i) such vessel is scrapped, or through the Secretary of the department in which the Coast Guard is operating, subjected to title restrictions that permanently prohibit and effectively prevent its use in fishing;

“(ii) all permits authorizing the participation of the vessel in any fishery under the jurisdiction of the United States are surrendered for permanent revocation; and

“(iii) the owner of the vessel and such permits relinquishes any claim associated with the vessel and such permits that could qualify such owner for any present or future limited access system permit in the fishery for which the program is established.”.

(c) ENSURING VESSELS DO NOT ENTER FOREIGN OR HIGH SEAS FISHERIES.—Section 312(b) (16 U.S.C. 1861a(b)) is further amended by adding at the end the following:
“(6) The Secretary may not make a payment under paragraph (2) with respect to a vessel that will not be scrapped, unless the Secretary certifies that the vessel will not be used for any fishing, including fishing in the waters of a foreign nation and fishing on the high seas.”.

(d) Report.—

(1) In general.—The Secretary shall, within 12 months after the date of the enactment of this Act, submit to the Congress a report—

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

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

(C) potential sources of funding for such measures.

(2) Basis for recommendations.—The Secretary shall base the recommendations made with respect to a fishery on—
(A) the most cost effective means of achieving voluntary reduction in capacity for the fishery using the potential for industry financing; and

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

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization.—Section 4 (16 U.S.C. 1803) is amended by striking paragraphs (1) through (4) and inserting the following:

“(1) $338,970,000 for fiscal year 2007.
“(2) $366,087,000 for fiscal year 2008.
“(3) $395,374,000 for fiscal year 2009.
“(4) $427,604,000 for fiscal year 2010.
“(5) $461,812,000 for fiscal year 2011.”.

(b) Clerical Amendment.—The table of contents in the first section is amended by inserting after the item relating to section 3 the following:

“Sec. 4. Authorization of appropriations.”.