

109TH CONGRESS
2^D SESSION

H. R. 5051

To authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2007 through 2012, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 2006

Mr. GILCREST (for himself, Mr. BARTLETT of Maryland, Mr. FARR, Mr. EHLERS, Mr. SHAYS, Mr. LEACH, and Mr. CASTLE) introduced the following bill; which was referred to the Committee on Resources

A BILL

To authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2007 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,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Magnuson-Stevens Fishery Conservation and Manage-
6 ment Amendments Act of 2006”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 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. Authorization of appropriations.

TITLE I—SUSTAINABLE FISHERIES MANAGEMENT

Subtitle A—Amendments

- Sec. 101. Cumulative impacts.
- Sec. 102. Regional Fishery Management Councils.
- Sec. 103. Fishery management plan requirements.
- Sec. 104. Fishery management plan discretionary provisions.
- Sec. 105. Limited access privilege programs.
- Sec. 106. Action by Secretary on fishery management plans and amendments to plans.
- Sec. 107. Environmental review process.
- Sec. 108. Emergency regulations.
- Sec. 109. Joint enforcement agreements.
- Sec. 110. Transition to sustainable fisheries.
- Sec. 111. Regional coastal disaster assistance, transition, and recovery program.
- Sec. 112. Fishery finance program hurricane assistance.
- Sec. 113. Shrimp fisheries hurricane assistance program.
- Sec. 114. Bycatch reduction engineering program.
- Sec. 115. Ecosystem management.
- Sec. 116. Community-based restoration program for fishery and coastal habitats.
- Sec. 117. Prohibited acts.
- Sec. 118. Cooperative restoration projects.
- Sec. 119. Enforcement.
- Sec. 120. Fishery permitting and registration programs.
- Sec. 121. Bycatch.

Subtitle B—Collaborative Strategic Planning

- Sec. 131. Short title.
- Sec. 132. Definitions.
- Sec. 133. Program to achieve sustainable fisheries through collaborative strategic planning processes.
- Sec. 134. National Task Force on Sustainable Fishery Capacity.
- Sec. 135. Sustainable Fishery Vision, Implementation, and Management Plans.
- Sec. 136. Priority implementation.
- Sec. 137. Total allowable level of foreign fishing.

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. Restoration study.
- Sec. 206. Fisheries conservation and management fund.
- Sec. 207. Use of fishery finance program and capital construction fund for sustainable purposes.

- Sec. 208. Deep sea coral research and technology program.
 Sec. 209. Impact of turtle excluder devices on shrimping.
 Sec. 210. Hurricane effects on shrimp and oyster fisheries and habitats.

TITLE III—OTHER FISHERIES STATUTES

- Sec. 301. Reauthorization of other fisheries Acts.

TITLE IV—INTERNATIONAL

- Sec. 401. Finding with respect to illegal, unreported, and unregulated fishing.
 Sec. 402. Action to end illegal, unreported, or unregulated fishing and reduce
 bycatch of protected marine species.
 Sec. 403. Rebuilding depleted fisheries.

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-
 8 ery Conservation and Management Act (16 U.S.C. 1801
 9 et seq.).

10 **SEC. 3. CHANGES IN FINDINGS AND DEFINITIONS.**

11 (a) ECOSYSTEMS.—Section 2(a) (16 U.S.C. 1801(a))
 12 is amended—

13 (1) by amending paragraph (6) to read as fol-
 14 lows:

15 “(6) A national program for the conservation
 16 and management of the fishery resources of the
 17 United States is necessary to prevent overfishing, to
 18 rebuild depleted stocks, to protect the ecosystems as-
 19 sociated with those fishery resources, to insure con-

1 servation, to facilitate long-term protection of essen-
2 tial fish habitats, and to realize the full potential of
3 the Nation’s fishery resources.”;

4 (2) in paragraph (8) by inserting “and associ-
5 ated ecosystems” after “fishery resources”; and

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

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

12 (b) OTHER DEFINITIONS.—Section 3 (16 U.S.C.
13 1802) is amended—

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

16 “(4A) The term ‘confidential information’
17 means—

18 “(A) trade secrets; or

19 “(B) commercial or financial information
20 the disclosure of which is likely to result in sub-
21 stantial harm to the competitive position of the
22 person who submitted the information to the
23 Secretary.”;

24 (2) by inserting after paragraph (8) the fol-
25 lowing:

1 “(8A) The term ‘depleted’ means a fishery the
2 abundance of which is at or below a level that jeop-
3 ardizes the capacity of the fishery to produce max-
4 imum sustainable yield on a continuing basis.”;

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

7 “(13A) The term ‘regional fishery association’
8 means an association formed for the mutual benefit
9 of members—

10 “(A) to meet social and economic needs in
11 a region or subregion; and

12 “(B) comprised of persons engaging in the
13 harvest or processing of fishery resources in
14 that specific region or subregion or who other-
15 wise own or operate businesses substantially de-
16 pendent upon a fishery.”;

17 (4) by inserting after paragraph (20) the fol-
18 lowing:

19 “(20A) The term ‘import’—

20 “(A) means to land on, bring into, or in-
21 troduce into, or attempt to land on, bring into,
22 or introduce into, any place subject to the juris-
23 diction of the United States, whether or not
24 such landing, bringing, or introduction con-

1 stitutes an importation within the meaning of
2 the customs laws of the United States; but

3 “(B) does not include any activity de-
4 scribed in subparagraph (A) with respect to fish
5 caught in the exclusive economic zone or by a
6 vessel of the United States.”;

7 (5) by inserting after paragraph (23) the fol-
8 lowing:

9 “(23A) The term ‘limited access privilege’—

10 “(A) means a Federal permit, issued as
11 part of a limited access system under section
12 303A to harvest a quantity of fish that may be
13 received or held for exclusive use by a person;
14 and

15 “(B) includes an individual fishing quota;
16 but

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

19 (6) by inserting after paragraph (27) the fol-
20 lowing:

21 “(27A) The term ‘observer information’ means
22 any information collected, observed, retrieved, or cre-
23 ated by an observer or electronic monitoring system
24 pursuant to authorization by the Secretary, or col-
25 lected as part of a cooperative research initiative, in-

1 including fish harvest or processing observations, fish
2 sampling or weighing data, vessel logbook data, ves-
3 sel or processor-specific information (including any
4 safety, location, or operating condition observations),
5 and video, audio, photographic, or written docu-
6 ments.”; and

7 (7) in paragraph (29) by striking “terms ‘over-
8 fishing’ and ‘overfished’ Mean” and inserting “term
9 ‘overfishing’ means”.

10 (c) REDESIGNATION.—Paragraphs (1) through (45)
11 of section 3 (16 U.S.C. 1802), as amended by subsection
12 (a), are redesignated as paragraphs (1) thorough (50), re-
13 spectively.

14 (d) CONFORMING AMENDMENTS.—

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

18 (A) Section 402(b)(1)(D) (16 U.S.C.
19 1881a(b)(1)(D)).

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

22 (2) The following provisions of the Act are
23 amended by striking “individual fishing quota” and
24 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,”
9 and 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
20 the 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 or a stock that is approaching a condition of being
25 depleted, the provisions of this Act in this regard shall

1 be communicated to and promoted by the United States
2 in the international or regional fisheries organization.”.

3 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

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

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

7 “There are authorized to be appropriated to the Sec-
8 retary to carry out the provisions of this Act—

9 “(1) \$328,004,000 for fiscal year 2007; and

10 “(2) such sums as may be necessary for fiscal
11 years 2008 through 2012.”.

12 **TITLE I—SUSTAINABLE**
13 **FISHERIES MANAGEMENT**
14 **Subtitle A—Amendments**

15 **SEC. 101. CUMULATIVE IMPACTS.**

16 (a) NATIONAL STANDARDS.—Section 301(a) (16
17 U.S.C. 1851(a)) is amended—

18 (1) in paragraph (1), by inserting “commercial
19 and recreational” before “fishing industry”; and

20 (2) in paragraph (8), by inserting “by utilizing
21 economic and social data and assessment methods
22 based on the best economic and social information
23 available,” after “fishing communities”.

24 (b) CONTENTS OF PLANS.—Section 303(a)(9) (16
25 U.S.C. 1853(a)(9)) is amended by striking “describe the

1 likely effects, if any, of the conservation and management
 2 measures on—” and inserting “analyze the likely effects,
 3 if any, including the cumulative economic and social im-
 4 pacts, of the conservation and management measures on,
 5 and possible mitigation measures for—”.

6 **SEC. 102. REGIONAL FISHERY MANAGEMENT COUNCILS.**

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

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

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

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

19 “(g) COMMITTEES AND ADVISORY PANELS.—

20 “(1)(A) Each Council shall establish, maintain,
 21 and appoint the members of a scientific and statis-
 22 tical committee to assist it in the development, col-
 23 lection, evaluation, and peer review of such statis-
 24 tical, biological, economic, social, and other scientific
 25 information as is relevant to such Council’s develop-

1 ment and amendment of any fishery management
2 plan.

3 “(B) Each scientific and statistical committee
4 shall provide its Council ongoing scientific advice for
5 fishery management decisions, including rec-
6 ommendations for acceptable biological catch or
7 maximum sustainable yield, and optimum yield, and
8 reports on stock status and health, bycatch, seabird
9 bycatch, habitat status, socioeconomic impacts of
10 management measures, and sustainability of fishing
11 practices.

12 “(C) Members appointed by the Councils to the
13 scientific and statistical committees—

14 “(i) shall be Federal employees, State
15 employees, academicians, or independent
16 experts with strong scientific or technical
17 credentials and experience; and

18 “(ii) shall be individuals who have
19 demonstrated scientific expertise in fish-
20 eries science or marine ecology, or dem-
21 onstrated expertise in economics or social
22 science as it relates to fisheries manage-
23 ment, and have no direct financial interest
24 or are not employed by any person with a
25 direct financial interest in any fishery.

1 “(D) The Secretary, jointly with the Councils,
2 shall establish a peer review process for scientific in-
3 formation used to advise the Councils about the con-
4 servation and management of a fishery. The review
5 process, which may include existing committees or
6 panels, is deemed to satisfy the requirements of the
7 guidelines issued pursuant to section 515 of the
8 Treasury and General Government Appropriations
9 Act for Fiscal year 2001 (Public Law 106–554—Ap-
10 pendix C; 114 Stat. 2763A–153).

11 “(E) In addition to the provisions of subsection
12 (f)(7), the Secretary shall pay a stipend to members
13 of the scientific and statistical committees or advi-
14 sory panels who are not employed by the Federal
15 government or a State marine fisheries agency.

16 “(F) Each Council shall require that the mem-
17 bership of its scientific and statistical committee or
18 other appropriate scientific or peer review committee
19 be represented at all Council meetings.”;

20 (2) by striking “other” in paragraph (2); and

21 (3) by resetting the left margin of paragraphs

22 (2) through (5) 2 ems from the left.

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

1 (1) by striking “authority, and” in paragraph
2 (5) and inserting “authority;”;

3 (2) by redesignating paragraph (6) as para-
4 graph (7); and

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

7 “(6) recommend to the Secretary annual catch
8 limits for each of its managed fisheries, that are at
9 or below the optimum yield, as recommended by its
10 scientific and statistical committee; and”.

11 (d) VOTING MEMBERS.—Section 302 (16 U.S.C.
12 1852) is amended—

13 (1) in subsection (b)(2)(A)—

14 (A) in the first sentence by inserting be-
15 fore the period the following: “, and must not
16 have been found by the Secretary, after notice
17 and an opportunity for a hearing in accordance
18 with section 554 of title 5, United States Code,
19 to have committed an act prohibited by sub-
20 paragraph (D), (E), (F), (H), (I), or (L) of sec-
21 tion 307(1) or section 307(2).”; and

22 (B) in the second sentence by striking
23 “Fishery Conservation Amendments of 1990”
24 and inserting “Magnuson-Stevens Fishery Con-

1 servation and Management Amendments Act of
2 2006”;

3 (2) in subsection (b)(2)(B)—

4 (A) in the first sentence by striking “of the
5 active” and inserting “among the active”;

6 (B) by striking the period at the end of the
7 first sentence and inserting the following: “and
8 representatives of the marine conservation pub-
9 lic interest sector and academic sector who are
10 knowledgeable regarding the conservation and
11 management of the fishery resources of the geo-
12 graphic area concerned.”; and

13 (C) by striking “Merchant Marine and
14 Fisheries” and inserting “Resources”; and

15 (3) in subsection (b)(2)(C) by striking the third
16 sentence and inserting the following: “Each list shall
17 consist of a broad slate of candidates for each va-
18 cancy, shall include at least two representatives from
19 each of the commercial fishing industry sector, the
20 recreational fishing sector, and the marine conserva-
21 tion public interest sector and academic sector, and
22 shall consist solely of individuals who are knowledge-
23 able regarding the conservation and management of
24 the fishery resources of the geographical area con-
25 cerned. The third sentence of this subparagraph

1 shall not apply to the Gulf of Mexico Fishery Man-
2 agement Council.”.

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

5 “(k) COUNCIL TRAINING PROGRAM.—

6 “(1) TRAINING COURSE.—Within 6 months
7 after the date of enactment of the Magnuson-Ste-
8 vens Fishery Conservation and Management Amend-
9 ments Act of 2006, the Secretary, in consultation
10 with the Councils and the National Sea Grant Col-
11 lege Program, shall develop a training course for
12 newly appointed Council members. The course may
13 cover a variety of topics relevant to matters before
14 the Councils, including—

15 “(A) fishery science and basic stock assess-
16 ment methods;

17 “(B) basic instruction in principles of ecol-
18 ogy;

19 “(C) fishery management techniques, data
20 needs, and Council procedures;

21 “(D) social science and fishery economics;

22 “(E) tribal treaty rights and native cus-
23 toms, access, and other rights related to West-
24 ern Pacific indigenous communities;

1 “(F) legal requirements of this Act, includ-
2 ing conflict of interest and disclosure provisions
3 of this section and related policies;

4 “(G) other relevant legal and regulatory
5 requirements, including the National Environ-
6 mental Policy Act of 1969 (42 U.S.C. 4321 et
7 seq.);

8 “(H) public process for development of
9 fishery management plans; and

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

11 “(2) MEMBER TRAINING.—

12 “(A) TRAINING COURSE.—The training
13 course under paragraph (1) shall be available to
14 both new and existing Council members, and
15 may be made available to committee or advisory
16 panel members and members of the public as
17 resources allow.

18 “(B) UPDATED AND ADVANCED INFORMA-
19 TION FOR EXISTING COUNCIL MEMBERS.—The
20 Secretary may also provide training for existing
21 Council members regarding updated informa-
22 tion on scientific and regional issues.

23 “(1) COUNCIL COORDINATION COMMITTEE.—The
24 Councils may establish a Council coordination committee
25 consisting of the chairs, vice chairs, and executive direc-

1 tors of each of the 8 Councils described in subsection
2 (a)(1), or other Council members or staff, in order to dis-
3 cuss issues of relevance to all Councils, including issues
4 related to the implementation of this Act.”.

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

7 (1) in paragraph (1) by striking “to the Coun-
8 cils or to the scientific and statistical committees or
9 advisory panels established under subsection (g).”
10 and inserting “to the Councils, the Council coordina-
11 tion committee established under subsection (l), or
12 to the scientific and statistical committees or other
13 committees or advisory panels established under sub-
14 section (g).”;

15 (2) in paragraph (2) by striking “of a Council,
16 and of the scientific and statistical committee and
17 advisory panels established under subsection (g):”
18 and inserting “of a Council, of the Council coordina-
19 tion committee established under subsection (l), and
20 of the scientific and statistical committees or other
21 committees or advisory panels established under sub-
22 section (g).”; and

23 (3) in paragraph (3)(A) by inserting “the Coun-
24 cil Coordination Committee established under sub-
25 section (1),” after “Council,”; and

1 (4) in paragraph (3)(A) by inserting “other
2 Council committee,” after “committee,”.

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

5 (1) by inserting “lobbying, advocacy,” after
6 “processing,” in paragraph (2);

7 (2) by striking “jurisdiction.” in paragraph (2)
8 and inserting “jurisdiction, or with respect to any
9 other individual or organization with a financial in-
10 terest in such activity.”;

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

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

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

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

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

4 (1) by redesignating subparagraph (D) as sub-
5 paragraph (E); and

6 (2) by inserting after subparagraph (C) the fol-
7 lowing:

8 “(D)(i) The Secretary shall appoint to the Gulf of
9 Mexico Fisheries Management Council—

10 “(I) 5 representatives of the commercial fishing
11 sector;

12 “(II) 5 representatives of the recreational fish-
13 ing and charter fishing sectors; and

14 “(III) 1 other individual who is knowledgeable
15 regarding the conservation and management of fish-
16 eries resources in the jurisdiction of the Council.

17 “(ii) The Governor of a State submitting a list of
18 names of individuals for appointment by the Secretary of
19 Commerce to the Gulf of Mexico Fisheries Management
20 Council under subparagraph (C) shall include—

21 “(I) at least 1 nominee each from the commer-
22 cial, recreational, and charter fishing sectors; and

23 “(II) at least 1 other individual who is knowl-
24 edgeable regarding the conservation and manage-

1 ment of fisheries resources in the jurisdiction of the
2 Council.

3 “(iii) If the Secretary determines that the list of
4 names submitted by the Governor does not meet the re-
5 quirements of clause (ii), the Secretary shall—

6 “(I) publish a notice in the Federal Register
7 asking the residents of that State to submit the
8 names and pertinent biographical data of individuals
9 who would meet the requirement not met for ap-
10 pointment to the Council; and

11 “(II) add the name of any qualified individual
12 submitted by the public who meets the unmet re-
13 quirement to the list of names submitted by the
14 Governor.

15 “(iv) For purposes of clause (ii), an individual who
16 owns or operates a fish farm outside of the United States
17 shall not be considered to be a representative of the com-
18 mercial fishing sector.”.

19 (i) REPORT AND RECOMMENDATIONS ON GULF
20 COUNCIL AMENDMENT.—

21 (1) IN GENERAL.—Before August 2011, the
22 Secretary of Commerce, in consultation with the
23 Gulf of Mexico Fisheries Management Council, shall
24 analyze the impact of the amendment made by sub-
25 section (h) and determine whether section

1 302(b)(2)(D) of the Magnuson-Stevens Fishery Con-
2 servation and Management Act (16 U.S.C.
3 1852(b)(2)(D)) has resulted in a fair and balanced
4 apportionment of the active participants in the com-
5 mercial and recreational fisheries under the jurisdic-
6 tion 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 nec-
14 essary to achieve such a fair and balanced appor-
15 tionment, including whether to renew the authority.

16 **SEC. 103. FISHERY MANAGEMENT PLAN REQUIREMENTS.**

17 (a) IN GENERAL.—Section 303(a) (16 U.S.C.
18 1853(a)) 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
24 paragraph (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)
7 and inserting “allocate, taking into consideration the
8 economic impact of the harvest restrictions or recov-
9 ery benefits on the fishery participants in each sec-
10 tor,”;

11 (6) by striking “fishery.” in paragraph (14)
12 and inserting “fishery; and”; and

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

14 “(15)(A) specify, in the plan or implementing
15 regulations, annual catch limits that are rec-
16 ommended by the Council or established by the Sec-
17 retary based on the best scientific information avail-
18 able at a level that does not exceed optimum yield;
19 and

20 “(B) require that the amount of any harvest ex-
21 ceeding the specified annual catch limit shall be de-
22 ducted from the following year’s annual catch
23 limit.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a)(5) shall take effect 2 years after the date
3 of enactment of this Act.

4 (c) ENDING OVERFISHING.—

5 (1) SUBSTITUTION OF TERM.—The Act is
6 amended—

7 (A) by striking “overfished” each place it
8 appears (other than in subsection (a) of section
9 3 of the Act (16 U.S.C. 1802), as amended by
10 this Act) and inserting “depleted”; and

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

14 (2) REQUIRED PROVISIONS OF FISHERY MAN-
15 AGEMENT PLANS.—Section 303(a)(10) (16 U.S.C.
16 1853(a)(10)) is amended to read as follows:

17 “(10) specify objective and measurable criteria
18 for identifying when the fishery to which the plan
19 applies is depleted or being subjected to overfishing
20 (with an analysis of how the criteria were deter-
21 mined and the relationship of the criteria to the re-
22 productive potential of stocks of fish in that fish-
23 ery);”.

1 (3) ACTION BY SECRETARY.—Section
2 304(e)(4)(A)(i) (16 U.S.C. 1854(e)(4)(A)(i)) is
3 amended to read as follows:

4 “(i) be as short as possible, not to ex-
5 ceed one year unless otherwise provided for
6 under an international agreement in which
7 the United States participates, taking into
8 account the status and biology of any de-
9 pleted stocks of fish, the needs of fishing
10 communities, recommendations by inter-
11 national organizations in which the United
12 States participates, and the interaction of
13 the depleted stock of fish within the ma-
14 rine ecosystem; and”.

15 (d) PROPOSED REGULATIONS.—Section 303(c) (16
16 U.S.C. 1853(c)) is amended—

17 (1) by striking “and” at the end of paragraph
18 (1);

19 (2) in paragraph (2), by striking the period and
20 inserting “; and”; and

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

22 “(3) implementing conservation and manage-
23 ment measures under a fishery ecosystem plan under
24 subsection (e)(3) may be submitted at any time after
25 the Council adopts the fishery ecosystem plan.”.

1 **SEC. 104. FISHERY MANAGEMENT PLAN DISCRETIONARY**
2 **PROVISIONS.**

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

4 (1) by inserting “(A)” after “(2)” in paragraph
5 (2);

6 (2) by inserting “and” after the semicolon at
7 the end of paragraph (2)(A) (as designated by sub-
8 paragraph (A) of this paragraph);

9 (3) by inserting at the end of paragraph (2) the
10 following:

11 “(B) designate such zones in areas where deep
12 sea corals are identified under section 408, to pro-
13 tect deep sea corals from physical damage from fish-
14 ing gear or to prevent loss or damage to such fishing
15 gear from interactions with deep sea corals, after
16 considering long-term sustainable uses of fishery re-
17 sources in such areas;”;

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

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

24 “(A) the conservation requirements of this
25 Act with respect to the fishery;

26 “(B) present participation in the fishery;

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

3 “(D) the economics of the fishery;

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

6 “(F) the cultural and social framework rel-
7 evant to the fishery and any affected fishing
8 communities;

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

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

12 (5) by striking “(other than economic data)” in
13 paragraph (7);

14 (6) by striking “and” after the semicolon in
15 paragraph (11); and

16 (7) by redesignating paragraph (12) as para-
17 graph (14) and inserting after paragraph (11) the
18 following:

19 “(12) establish a process for complying with the
20 National Environmental Policy Act (42 U.S.C. 4321
21 et seq.) pursuant to section 304(h) of this Act;

22 “(13) include management measures in the
23 plan to conserve target and non-target species and
24 habitats, considering the variety of ecological factors
25 affecting fishery populations; and”.

1 **SEC. 105. LIMITED ACCESS PRIVILEGE PROGRAMS.**

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

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

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

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

7 “(a) IN GENERAL.—After the date of enactment of
8 the Magnuson-Stevens Fishery Conservation and Manage-
9 ment Amendments Act of 2006, a Council may submit,
10 and the Secretary may approve, for a fishery that is man-
11 aged under a limited access system, a limited access privi-
12 lege program to harvest fish if the program meets the re-
13 quirements of this section.

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

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

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

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

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

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

12 “(c) REQUIREMENTS FOR LIMITED ACCESS PRIVI-
13 LEGES.—

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

19 “(A) if established in a fishery that is de-
20 pleted or subject to a rebuilding plan, assist in
21 its rebuilding; and

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

1 “(C) promote—

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

3 and

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

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

14 “(E) require that all fish harvested under
15 a limited access privilege program be processed
16 by vessels of the United States, in United
17 States waters, or on United States soil (includ-
18 ing any territory of the United States).

19 “(F) specify the goals of the program;

20 “(G) include provisions for the regular
21 monitoring and review by the Council and the
22 Secretary of the operations of the program, in-
23 cluding determining progress in meeting the
24 goals of the program and this Act, and any nec-
25 essary modification of the program to meet

1 those goals, with a formal and detailed review
2 5 years after the establishment of the program
3 and every 5 years thereafter;

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

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

11 “(J) provide for the establishment by the
12 Secretary, in consultation with the Department
13 of Justice and the Federal Trade Commission,
14 for an information collection and review process
15 to provide any additional information needed by
16 the Department of Justice and the Federal
17 Trade Commission to determine whether any il-
18 legal acts of anti-competition, anti-trust, price
19 collusion, or price fixing have occurred among
20 regional fishery associations or persons receiv-
21 ing limited access privileges under the program;
22 and

23 “(K) provide for the revocation by the Sec-
24 retary of limited access privileges held by any

1 person found to have violated the antitrust laws
2 of the United States.

3 “(2) WAIVER.—The Secretary may waive the
4 requirement of paragraph (1)(E) if the Secretary de-
5 termines that—

6 “(A) the fishery has historically processed
7 the fish outside of the United States; and

8 “(B) the United States has a seafood safe-
9 ty equivalency agreement with the country
10 where processing will occur (or other assurance
11 that seafood safety procedures to be used in
12 such processing are equivalent or superior to
13 the applicable United States seafood safety
14 standards).

15 “(3) FISHING COMMUNITIES.—

16 “(A) IN GENERAL.—

17 “(i) ELIGIBILITY.—To be eligible to
18 participate in a limited access privilege
19 program to harvest fish, a fishing commu-
20 nity shall—

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

23 “(II) meet criteria developed by
24 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
12 the social and economic development
13 needs of fishing communities, includ-
14 ing those that have not historically
15 had the resources to participate in the
16 fishery, for approval based on criteria
17 developed by the Council that have
18 been approved by the Secretary and
19 published 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
4 consider—

5 “(i) traditional fishing or processing
6 practices in, and dependence on, the fish-
7 ery;

8 “(ii) the cultural and social frame-
9 work relevant to the fishery;

10 “(iii) economic barriers to access to
11 fishery;

12 “(iv) the existence and severity of pro-
13 jected economic and social impacts associ-
14 ated with implementation of limited access
15 privilege programs on harvesters, captains,
16 crew, processors, and other businesses sub-
17 stantially dependent upon the fishery in
18 the region or subregion;

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

22 “(vi) the potential for improving eco-
23 nomic conditions in remote coastal commu-
24 nities lacking resources to participate in

1 harvesting or processing activities in the
2 fishery.

3 “(4) REGIONAL FISHERY ASSOCIATIONS.—

4 “(A) IN GENERAL.—To be eligible to par-
5 ticipate in a limited access privilege program to
6 harvest fish, a regional fishery association
7 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) be a voluntary association with
15 established by-laws and operating proce-
16 dures consisting of participants in the fish-
17 ery, including commercial or recreational
18 fishing, processing, fishery-dependent sup-
19 port businesses, or fishing communities;
20 and

21 “(iv) develop and submit a regional
22 fishery association plan to the Council and
23 the Secretary for approval based on cri-
24 teria developed by the Council that have

1 been approved by the Secretary and pub-
2 lished in the Federal Register.

3 “(B) FAILURE TO COMPLY WITH PLAN.—

4 The Secretary shall deny limited access privi-
5 leges granted under this section for any person
6 who fails to comply with the requirements of
7 the plan.

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

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

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

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

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

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

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

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

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

12 “(i) current and historical harvests;

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

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

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

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

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

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

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

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

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

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

1 vesting and processing sectors of the fishery;
2 and

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

11 “(6) PROGRAM INITIATION.—

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

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

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

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

22 “(D) NEW ENGLAND 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 an individual fishing quota
6 program, including a Secretarial plan, un-
7 less such a system, as ultimately developed,
8 has been approved by more than $\frac{2}{3}$ of
9 those voting in a referendum among eligi-
10 ble permit holders with respect to the New
11 England Council, and by a majority of
12 those voting in the referendum among eli-
13 gible permit holders with respect to the
14 Gulf Council. For multispecies permits in
15 the Gulf, only those participants who have
16 substantially fished the species proposed to
17 be included in the individual fishing quota
18 program shall be eligible to vote in such a
19 referendum. If an individual fishing quota
20 program fails to be approved by the req-
21 uisite number of those voting, it may be
22 revised and submitted for approval in a
23 subsequent referendum.

24 “(ii) The Secretary shall conduct a
25 referendum under this subparagraph, in-

1 cluding notifying all persons eligible to
2 participate in the referendum and making
3 available to them information concerning
4 the schedule, procedures, and eligibility re-
5 quirements for the referendum process and
6 the proposed individual fishing quota pro-
7 gram. Within 1 year after the date of en-
8 actment of the Magnuson-Stevens Fishery
9 Conservation and Management Amend-
10 ments Act of 2006, the Secretary shall
11 publish guidelines and procedures to deter-
12 mine procedures and voting eligibility re-
13 quirements for referenda and to conduct
14 such referenda in a fair and equitable
15 manner.

16 “(iii) The provisions of section 407(c)
17 of this Act shall apply in lieu of this sub-
18 paragraph for an individual fishing quota
19 program for the Gulf of Mexico commercial
20 red snapper fishery.

21 “(iv) Chapter 35 of title 44, United
22 States Code, (commonly known as the Pa-
23 perwork Reduction Act) does not apply to
24 the referenda conducted under this sub-
25 paragraph.

1 “(7) 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 “(8) 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).

17 “(9) ANTITRUST SAVINGS CLAUSE.—Nothing in
18 this Act shall be construed to modify, impair, or su-
19 persede the operation of any of the antitrust laws.
20 For purposes of the preceding sentence, the term
21 ‘antitrust laws’ has the meaning given such term in
22 subsection (a) of the first section of the Clayton Act,
23 except that such term includes section 5 of the Fed-
24 eral Trade Commission Act to the extent that such
25 section 5 applies to unfair methods of competition.

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 or any subsequent, distribution of allocations in a limited
6 access privilege program 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, data collection
20 and analysis, and enforcement programs that are di-
21 rectly related to and in support of the program; and

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

1 “(f) LIMITED DURATION.—In establishing a limited
2 access privilege program after the date of enactment of
3 the Magnuson-Stevens Fishery Conservation and Manage-
4 ment Amendments Act of 2006, a Council may establish—

5 “(1) a set term after which any initial or subse-
6 quent allocation of a limited access privilege shall ex-
7 pire;

8 “(2) different set terms within a fishery if the
9 Council determines that variation of terms will fur-
10 ther management goals; and

11 “(3) a mechanism under which participants in
12 and entrants to the program may acquire or reac-
13 quire allocations.

14 “(g) LIMITED ACCESS PRIVILEGE ASSISTED PUR-
15 CHASE PROGRAM.—

16 “(1) IN GENERAL.—A Council may submit, and
17 the Secretary may approve and implement, a pro-
18 gram which reserves up to 25 percent of any fees
19 collected from a fishery under section 304(d)(2) to
20 be used, pursuant to section 1104A(a)(7) of the
21 Merchant Marine Act, 1936 (46 U.S.C. App.
22 1274(a)(7)), to issue obligations that aid in financ-
23 ing—

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

4 “(B) the first-time purchase of limited ac-
5 cess privileges in that fishery by entry level
6 fishermen.

7 “(2) ELIGIBILITY CRITERIA.—A Council mak-
8 ing a submission under paragraph (1) shall rec-
9 ommend criteria, consistent with the provisions of
10 this Act, that a fisherman must meet to qualify for
11 guarantees under subparagraphs (A) and (B) of
12 paragraph (1) and the portion of funds to be allo-
13 cated for guarantees under each subparagraph.

14 “(h) EFFECT ON CERTAIN EXISTING SHARES AND
15 PROGRAMS.—Nothing in this Act, or the amendments
16 made by the Magnuson-Stevens Fishery Conservation and
17 Management Amendments Act of 2006, shall be construed
18 to require a reallocation of individual quota shares, proc-
19 essor quota shares, cooperative programs, or other quota
20 programs, including sector allocation, under development
21 or submitted by a Council or approved by the Secretary
22 or by Congressional action before the date of enactment
23 of the Magnuson-Stevens Fishery Conservation and Man-
24 agement Amendments Act of 2006.”.

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

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

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

19 (e) APPLICATION WITH AMERICAN FISHERIES
20 ACT.—Nothing in section 303A of the Magnuson-Stevens
21 Fishery Conservation and Management Act (16 U.S.C.
22 1801 et seq.), as added by subsection (a), shall be con-
23 strued to modify or supersede any provision of the Amer-
24 ican Fisheries Act (46 U.S.C. 12102 note; 16 U.S.C. 1851
25 note; et seq.).

1 **SEC. 106. ACTION BY SECRETARY ON FISHERY MANAGE-**
2 **MENT PLANS AND AMENDMENTS TO PLANS.**

3 (a) REVIEW OF PLANS AND INITIAL REGULA-
4 TIONS.—Section 304(a) (16 U.S.C. 1854(a)) is amended
5 to read as follows:

6 “(a) REVIEW OF PLANS.—

7 “(1) PRELIMINARY EVALUATION.—

8 “(A) Upon transmittal by the Council to
9 the Secretary of a fishery management plan or
10 plan amendment and any proposed imple-
11 menting regulations prepared under section
12 303(c)(1), the Secretary shall make a prelimi-
13 nary evaluation of the management plan or
14 amendment as to whether it is sufficient in
15 scope and substance to warrant review under
16 this subsection and consistent with the national
17 standards, the other provisions of this Act, and
18 other applicable laws.

19 “(B) If the preliminary evaluation is nega-
20 tive, the Secretary shall disapprove the plan or
21 amendment and notify the Council, in writing,
22 of the reasons for the disapproval.

23 “(2) NOTICE OF PROPOSED PLANS, AMEND-
24 MENTS, AND RULES.—By the 15th day following an
25 affirmative preliminary evaluation under (1)(A), the
26 Secretary shall publish in the Federal Register—

1 “(A) a notice stating that the plan or
2 amendment is available and that written data,
3 views, or comments of interested persons on the
4 plan or amendment may be submitted to the
5 Secretary during the 50-day period beginning
6 on the date the notice is published; and

7 “(B) any proposed implementing regula-
8 tions that the Secretary preliminarily deter-
9 mines to be consistent with the fishery manage-
10 ment plan or amendment, this Act, and any
11 other applicable law, subject to the Secretary’s
12 authority to include such changes to the Coun-
13 cil’s proposed regulations as the Secretary be-
14 lieves necessary, together with an explanation of
15 those changes for a 50-day comment period.

16 “(3) SECRETARIAL DECISION ON PLAN OR
17 AMENDMENT.—

18 “(A) The Secretary shall approve, dis-
19 approve, or partially approve a plan or amend-
20 ment within 30 days after the end of the com-
21 mend period under paragraph (2) by written
22 notice to the Council.

23 “(B) In making this determination, the
24 Secretary shall—

1 “(i) take into account the information,
2 views, and comments received from inter-
3 ested persons;

4 “(ii) consult with the Secretary of
5 State with respect to foreign fishing; and

6 “(iii) consult with the Secretary of the
7 department in which the Coast Guard is
8 operating with respect to enforcement at
9 sea and to fishery access adjustments re-
10 ferred to in section 303(a)(5).

11 “(C) A notice of disapproval or partial ap-
12 proval shall specify—

13 “(i) the applicable law with which the
14 plan or amendment is inconsistent;

15 “(ii) the nature of such inconsis-
16 tencies; and

17 “(iii) recommendations concerning the
18 actions that could be taken by the Council
19 to conform such plan or amendment to the
20 requirements of applicable law.

21 “(4) DISAPPROVAL OR PARTIAL APPROVAL.—If
22 the Secretary disapproves or partially approves a
23 plan or amendment, the Council may submit a re-
24 vised plan or amendment to the Secretary for review
25 under this subsection.

1 “(5) ACCOMPANYING REGULATIONS.—If the
2 Secretary published proposed implementing regula-
3 tions pursuant to paragraph (2)(B), the Secretary
4 shall either—

5 “(A) publish final regulations within 45
6 days after the end of the comment period under
7 paragraph (2)(B); or

8 “(B) notify the Council in writing of incon-
9 sistencies with the plan, the amendment, this
10 Act, or other applicable law and provide rec-
11 ommendations on revisions to cure the incon-
12 sistencies.

13 Upon receiving such a notification from the Sec-
14 retary, the Council may revise the regulations and
15 resubmit them to the Secretary for reevaluation
16 under subsection (b).

17 “(6) RELATIONSHIP TO OTHER LAW.—Fishery
18 management plans, fishery management plan
19 amendments, and fishery ecosystem plans are not
20 rules subject to section 553 of title 5, United States
21 Code, and need not be codified in the Code of Fed-
22 eral Regulations in accordance with chapter 15 of
23 title 44, United States Code.”.

1 (b) REVIEW OF OTHER REGULATIONS.—Section
2 304(b) (16 U.S.C. 1854(b)) is amended by striking para-
3 graph (1) and inserting the following:

4 “(1) EVALUATION.—

5 “(A) Upon transmittal by the Council to
6 the Secretary of regulations proposed under
7 section 303(c)(2) or (3), the Secretary shall ini-
8 tiate an evaluation of the proposed regulations
9 to determine whether they are consistent with
10 the fishery management plan, this Act, and
11 other applicable law.

12 “(B) If the Secretary determines that the
13 regulations are consistent, the Secretary shall,
14 within 15 days after transmittal by the Council,
15 publish such regulations in the Federal Reg-
16 ister, with such changes as may be necessary
17 and an explanation of those changes, for a pub-
18 lic comment period of at least 15 days and not
19 more than 60 days.

20 “(C) If the Secretary determines that the
21 regulations are not consistent, the Secretary
22 shall, within 15 days after transmittal by the
23 Council, notify the Council in writing of the in-
24 consistencies and provide recommendations on
25 revisions that would make the proposed regula-

1 tions consistent with the fishery management
2 plan, this Act, and other applicable law.”.

3 (c) ALTERNATIVE PROCEDURAL MECHANISMS.—Sec-
4 tion 304 (16 U.S.C. 1854) is amended by adding at the
5 end the following:

6 “(i) ALTERNATIVE PROCEDURAL MECHANISMS.—

7 “(1) IN GENERAL.—

8 “(A) In a fishery management plan or
9 amendment, the Council or Secretary, as appro-
10 prium, may develop alternative procedural
11 mechanisms to be used in lieu of plan amend-
12 ments for implementing conservation and man-
13 agement measures.

14 “(B) Such mechanisms may allow for ab-
15 breviated processes for the implementation of
16 regulations or other actions as appropriate.

17 “(C) Alternative procedural mechanisms
18 shall only be approved or adopted for use in sit-
19 uations where—

20 “(i) the conservation and management
21 measure is within the scope of conservation
22 and management measures established in
23 an existing plan;

24 “(ii) otherwise applicable regulatory
25 processes are not sufficient to allow timely

1 and efficient implementation of the con-
2 servation and management measure in re-
3 sponse to new information; and

4 “(iii) notice of the conservation and
5 management measure is provided appro-
6 priate to the significance of the expected
7 impacts on affected fishery resources and
8 on the participants in the fishery.

9 “(D) Any final agency action taken pursu-
10 ant to the alternative procedural mechanism
11 must be promptly published in the Federal Reg-
12 ister.

13 “(2) IMPLEMENTING REGULATIONS.—If the al-
14 ternative procedural mechanism is approved by the
15 Secretary pursuant to section 304(a), or adopted by
16 the Secretary pursuant to section 304(c) or (g) and
17 implemented through regulations, any regulation
18 issued or other action taken pursuant to the alter-
19 native procedural mechanism need not comply with
20 the rulemaking provisions of section 304(b), (c), or
21 (g), or subsections (b) through (d) of section 553 of
22 title 5, United States Code.”.

23 (d) EMERGENCY REGULATIONS.—Section 305(c)(3)
24 (16 U.S.C. 1855(c)(3)) is amended—

1 (1) in the matter preceding subparagraph (A)
2 by inserting “Subsections (b) through (d) of section
3 553 of title 5, United States Code, shall not apply
4 to emergency regulations issued pursuant to this
5 provision.” after “the period in which such regula-
6 tion is in effect.”;

7 (2) in subparagraph (B) by striking “180 days”
8 the second time it appears and inserting “186
9 days”; and

10 (3) in subparagraph (D) by inserting “or in-
11 terim measures” after “emergency regulations”.

12 (e) RESPONSIBILITY OF THE SECRETARY.—Section
13 305(d) (16 U.S.C. 1855(d)) is amended by striking sub-
14 section (d) and inserting the following:

15 “(d) RESPONSIBILITY OF THE SECRETARY.—

16 “(1) IN GENERAL.—The Secretary shall have
17 general responsibility to carry out any fishery man-
18 agement plan or amendment approved or prepared
19 by the Secretary, in accordance with this Act.

20 “(2) REGULATIONS.—In addition to the other
21 rulemaking provisions of this Act, the Secretary
22 shall promulgate such regulations, in accordance
23 with section 553 of title 5, United States Code, as
24 may be necessary to discharge such responsibilities
25 or to carry out any other provision of this Act.

1 “(3) GUIDANCE.—The Secretary may issue
2 guidance to interpret and facilitate implementation
3 of this Act.”.

4 **SEC. 107. ENVIRONMENTAL REVIEW PROCESS.**

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

7 “(i) ENVIRONMENTAL REVIEW PROCESS.—

8 “(1) PROCEDURES.—The Secretary shall, in
9 consultation with the Councils and the Council on
10 Environmental Quality, revise and update agency
11 procedures for compliance with the National Envi-
12 ronmental Policy Act (42 U.S.C. 4231 et seq.). The
13 procedures shall—

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

17 “(B) integrate applicable environmental
18 analytical procedures, including the time frames
19 for public input, with the procedure for the
20 preparation and dissemination of fishery man-
21 agement plans, plan amendments, and other ac-
22 tions taken or approved pursuant to this Act in
23 order to provide for timely, clear and concise
24 analysis that is useful to decision makers and

1 the public, reduce extraneous paperwork, and
2 effectively involve the public.

3 “(2) USAGE.—The updated agency procedures
4 promulgated in accordance with this section used by
5 the Councils or the Secretary shall be the sole envi-
6 ronmental impact assessment procedure for fishery
7 management plans, amendments, regulations, or
8 other actions taken or approved pursuant to this
9 Act.

10 “(3) SCHEDULE FOR PROMULGATION OF FINAL
11 PROCEDURES.—The Secretary shall—

12 “(A) propose revised procedures within 12
13 months after the date of enactment of the Mag-
14 nuson-Stevens Fishery Conservation and Man-
15 agement Amendments Act of 2006;

16 “(B) provide 90 days for public review and
17 comments; and

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

21 “(4) PUBLIC PARTICIPATION.—The Secretary is
22 authorized and directed, in cooperation with the
23 Council on Environmental Quality and the Councils,
24 to involve the affected public in the development of

1 revised procedures, including workshops or other ap-
2 propriate means of public involvement.”.

3 **SEC. 108. EMERGENCY REGULATIONS.**

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

8 (b) TECHNICAL AMENDMENT.—Section 305(c)(3)(D)
9 (16 U.S.C. 1855(c)(3)(D)) is amended by inserting “or
10 interim measures” after “emergency regulations”.

11 **SEC. 109. 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
15 subsection (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
23 title or regulations under this title, includ-
24 ing data from Global Maritime Distress
25 and Safety Systems, vessel monitoring sys-

1 tems, or any similar system, subject to the
2 confidentiality provisions of section 402;”;

3 (4) by redesignating subsection (h) as sub-
4 section (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 enforce-
13 ment responsibilities to perform duties of the Sec-
14 retary relating to law enforcement provisions under
15 this title or any other marine resource law enforced
16 by the Secretary. Upon receiving an application
17 meeting the requirements of this subsection, the Sec-
18 retary may enter into a joint enforcement agreement
19 with the requesting State.

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

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

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

5 “(A) shall be consistent with the purposes
6 and intent of this section to the extent applica-
7 ble to the regulated activities;

8 “(B) may include specifications for joint
9 management responsibilities as provided by the
10 first section of Public Law 91–412 (15 U.S.C.
11 1525); and

12 “(C) shall provide for confidentiality of
13 data and information submitted to the State
14 under section 402.

15 “(4) ALLOCATION OF FUNDS.—The Secretary
16 shall include in each joint enforcement agreement an
17 allocation of funds to assist in management of the
18 agreement. The allocation shall be fairly distributed
19 among all eligible States participating in cooperative
20 enforcement agreements under this subsection, based
21 upon consideration of Federal marine enforcement
22 needs, the specific marine conservation enforcement
23 needs of each participating eligible State, and the
24 capacity of the State to undertake the marine en-
25 forcement mission and assist with enforcement

1 needs. The agreement may provide for amounts to
2 be withheld by the Secretary for the cost of any
3 technical or other assistance provided to the State
4 by the Secretary under the agreement.

5 “(i) IMPROVED DATA SHARING.—

6 “(1) IN GENERAL.—Notwithstanding any other
7 provision of this Act, as soon as practicable but no
8 later than 21 months after the date of enactment of
9 the Magnuson-Stevens Fishery Conservation and
10 Management Amendments Act of 2006, the Sec-
11 retary shall implement data-sharing measures to
12 make any data required to be provided by this Act
13 from Global Maritime Distress and Safety Systems,
14 vessel monitoring systems, or similar systems—

15 “(A) directly accessible by State enforce-
16 ment officers authorized under subsection (a) of
17 this section; and

18 “(B) available to a State management
19 agency involved in, or affected by, management
20 of a fishery if the State has entered into an
21 agreement with the Secretary under section
22 402(b)(1)(B) of this Act.

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

1 “(A) the Attorney General or highest rank-
2 ing legal officer of the State provides a written
3 opinion or certification that State law allows
4 the State to maintain the confidentiality of in-
5 formation required by Federal law to be kept
6 confidential; or

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

11 (b) REPORT ON USING GMDSS FOR FISHERY PUR-
12 POSES.—Within 15 months after the date of enactment
13 of this Act, the National Marine Fisheries Service and the
14 Coast Guard shall transmit a joint report to the Senate
15 Committee on Commerce, Science, and Transportation
16 and the House of Representatives Committee on Re-
17 sources containing—

18 (1) a cost-to-benefit analysis of the feasibility,
19 value, and cost of using the Global Maritime Dis-
20 tress and Safety Systems, vessel monitoring systems,
21 or similar systems for fishery management, con-
22 servation, enforcement, and safety purposes with the
23 Federal Government bearing the capital costs of any
24 such system;

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

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

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

9 (5) an examination of how to maximize the
10 data-sharing opportunities between relevant State
11 and Federal agencies and provide specific informa-
12 tion on how to develop these opportunities, including
13 the provision of direct access to the Global Maritime
14 Distress and Safety Systems or similar system data
15 to State enforcement officers, while considering the
16 need to maintain or provide an appropriate level of
17 individual vessel confidentiality where practicable;
18 and

19 (6) an assessment of how the Global Maritime
20 Distress and Safety Systems or similar systems
21 could be developed, purchased, and distributed to
22 regulated vessels.

23 **SEC. 110. TRANSITION TO SUSTAINABLE FISHERIES.**

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

1 (1) in subsection (a)(1)(B) by striking “meas-
2 ures;” and inserting “measures, including regulatory
3 restrictions imposed to protect human health or the
4 marine environment and judicially imposed harvest
5 restrictions;”;

6 (2) in subsection (a)(4) by striking “1996,
7 1997, 1998, and 1999.” and inserting “2007
8 through 2012.”;

9 (3) in subsection (b)(1) by striking “or the Gov-
10 ernor of a State for fisheries under State authority,
11 may conduct a fishing” and inserting “the Governor
12 of a State for fisheries under State authority, or a
13 majority of permit holders in the fishery, may con-
14 duct a voluntary fishing”;

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

17 (5) in subsection (b)(1)(C) by striking “cost-ef-
18 fective and” and inserting “cost-effective and, in the
19 instance of a program involving an industry fee sys-
20 tem, prospectively, and”;

21 (6) in subsection (b)(1) by striking “and” after
22 the semicolon at the end of subparagraph (B), by
23 striking the period at the end of subparagraph (C)
24 and inserting “; and”, and by adding at the end the
25 following:

1 “(D) if implemented under paragraph
2 (2)(B), includes measures that will prevent an
3 increase in fishing capacity or effort in other
4 fisheries, including a moratorium on new en-
5 trants, practicable restrictions on vessel up-
6 grades, and other effort control measures.”;

7 (7) in subsection (b)(2) by striking subpara-
8 graph (A) and inserting the following:

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

24 (8) in subsection (b)(4) by striking “The Sec-
25 retary shall consult, as appropriate, with Councils,”

1 and inserting “The harvester proponents of each
2 program and the Secretary shall consult, as appro-
3 priate and practicable, with Councils,”;

4 (9) in subsection (d)(1)(A) by striking “Sec-
5 retary, at the request of the appropriate Council,”
6 and inserting “Secretary”;

7 (10) in subsection (d)(1)(A) by striking “Sec-
8 retary, in consultation with the Council,” and insert-
9 ing “Secretary”;

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

15 (12) in subsection (d)(2)(C) by striking “estab-
16 lish;” and inserting “establish, unless the Secretary
17 determines that such fees should be collected from
18 the seller;” and

19 (13) by striking subsection (e) and inserting the
20 following:

21 “(e) IMPLEMENTATION PLAN.—

22 “(1) FRAMEWORK REGULATIONS.—The Sec-
23 retary shall propose and adopt framework regula-
24 tions applicable to the implementation of all pro-
25 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 (c) REPORT ON OVER CAPITALIZATION.—

9 (1) IN GENERAL.—The Secretary shall, within
10 12 months after the date of the enactment of this
11 Act, submit to the Congress a report—

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

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

23 (C) a description of where retired fishing
24 boats are transferred after retirement;

1 (D) recommendation of a possible format
2 of a fishing vessel buyout program; and

3 (E) potential sources of funding for such
4 measures.

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

8 (A) the most cost effective means of
9 achieving voluntary reduction in capacity for
10 the fishery using the potential for industry fi-
11 nancing; and

12 (B) including measures to prevent the ca-
13 pacity that is being removed from the fishery
14 from moving to other fisheries in the United
15 States, in the waters of a foreign nation, or in
16 the high seas.

17 **SEC. 111. REGIONAL COASTAL DISASTER ASSISTANCE,**
18 **TRANSITION, AND RECOVERY PROGRAM.**

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

21 **“SEC. 315. REGIONAL COASTAL DISASTER ASSISTANCE,**
22 **TRANSITION, AND RECOVERY PROGRAM.**

23 “(a) IN GENERAL.—When there is a catastrophic re-
24 gional fishery disaster the Secretary may, upon the re-
25 quest of, and in consultation with, the Governors of af-

1 fected States, establish a regional economic transition pro-
2 gram to provide immediate disaster relief assistance to the
3 fishermen, charter fishing operators, United States fish
4 processors, and owners of related fishery infrastructure af-
5 fected by the disaster.

6 “(b) PROGRAM COMPONENTS.—

7 “(1) IN GENERAL.—Subject to the availability
8 of appropriations, the program shall provide funds
9 or other economic assistance to affected entities, or
10 to governmental entities for disbursement to affected
11 entities, for—

12 “(A) meeting immediate regional shoreside
13 fishery infrastructure needs, including proc-
14 essing facilities, cold storage facilities, ice
15 houses, docks, including temporary docks and
16 storage facilities, and other related shoreside
17 fishery support facilities and infrastructure;

18 “(B) financial assistance and job training
19 assistance for fishermen who wish to remain in
20 a fishery in the region that may be temporarily
21 closed as a result of environmental or other ef-
22 fects associated with the disaster;

23 “(C) funding, pursuant to the require-
24 ments of section 312(b), to fishermen who are
25 willing to scrap a fishing vessel and perma-

1 nently surrender permits for fisheries named on
2 that vessel; and

3 “(D) any other activities authorized under
4 section 312(a) of this Act or section 308(d) of
5 the Interjurisdictional Fisheries Act of 1986
6 (16 U.S.C. 4107(d)).

7 “(2) JOB TRAINING.—Any fisherman who de-
8 cides to scrap a fishing vessel under the program
9 shall be 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
15 to ensure excess capacity does not re-enter the fish-
16 ery.

17 “(4) NO MATCHING REQUIRED.—The Secretary
18 may waive the matching requirements of section 312
19 of this Act, section 308 of the Interjurisdictional
20 Fisheries Act of 1986 (16 U.S.C. 4107), and any
21 other provision of law under which the Federal share
22 of the cost of any activity is limited to less than 100
23 percent if the Secretary determines that—

1 “(A) no reasonable means are available
2 through which applicants can meet the match-
3 ing requirement; and

4 “(B) the probable benefit of 100 percent
5 Federal financing outweighs the public interest
6 in imposition of the matching requirement.

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

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

21 “(d) CATASTROPHIC REGIONAL FISHERY DISASTER
22 DEFINED.—In this section the term ‘catastrophic regional
23 fishery disaster’ means a natural disaster, including a hur-
24 ricane or tsunami, or a judicial or regulatory closure to
25 protect human health or the marine environment, that—

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

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

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

11 **SEC. 112. FISHERY FINANCE PROGRAM HURRICANE ASSIST-**
12 **ANCE.**

13 (a) LOAN ASSISTANCE.—Subject to availability of ap-
14 propriations, the Secretary of Commerce shall provide as-
15 sistance to eligible holders of fishery finance program
16 loans and allocate such assistance among eligible holders
17 based upon their outstanding principal balances as of De-
18 cember 2, 2005, for any of the following purposes:

19 (1) To defer principal payments on the debt for
20 1 year and re-amortize the debt over the remaining
21 term of the loan.

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

1 (3) To pay the interest costs for such loans over
2 fiscal years 2007 through 2012, not to exceed
3 amounts authorized under subsection (d).

4 (4) To provide opportunities for loan forgive-
5 ness, as specified in subsection (c).

6 (b) LOAN FORGIVENESS.—

7 (1) IN GENERAL.—Upon application made by
8 an eligible holder of a fishery finance program loan,
9 made at such time, in such manner, and containing
10 such information as the Secretary may require, the
11 Secretary, on a calendar year basis beginning in
12 2005, may—

13 (A) offset against the outstanding balance
14 on the loan an amount equal to the sum of the
15 amounts expended by the holder during the cal-
16 endar year to repair or replace covered vessels
17 or facilities, or to invest in new fisheries infra-
18 structure within or for use within the declared
19 fisheries disaster area; or

20 (B) cancel the amount of debt equal to
21 100 hundred percent of actual expenditures on
22 eligible repairs, reinvestment, expansion, or new
23 investment in fisheries infrastructure in the dis-
24 aster region, or repairs to, or replacement of,
25 eligible fishing vessels.

1 (c) DEFINITIONS.—In this section:

2 (1) DECLARED FISHERIES DISASTER AREA.—

3 The term “declared fisheries disaster area” means
4 fisheries located in the major disaster area des-
5 ignated by the President under the Robert T. Staf-
6 ford Disaster Relief and Emergency Assistance Act
7 (42 U.S.C. 5121 et seq.) as a result of Hurricane
8 Katrina or Hurricane Rita.

9 (2) ELIGIBLE HOLDER.—The term “eligible
10 holder” means the holder of a fishery finance pro-
11 gram loan if—

12 (A) that loan is used to guarantee or fi-
13 nance any fishing vessel or fish processing facil-
14 ity home-ported or located within the declared
15 fisheries disaster area; and

16 (B) the holder makes expenditures to re-
17 pair or replace such covered vessels or facilities,
18 or invests in new fisheries infrastructure within
19 or for use within the declared fisheries disaster
20 area, to restore such facilities following the dis-
21 aster.

22 (3) FISHERY FINANCE PROGRAM LOAN.—The
23 term “fishery finance program loan” means a loan
24 made or guaranteed under the fishery finance pro-

1 ance with turtle excluder and bycatch reduction de-
2 vice regulations; and

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

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

8 (B) assistance for small businesses, includ-
9 ing fishermen, fish processors, and related busi-
10 nesses serving the fishing industry;

11 (C) domestic product marketing and sea-
12 food promotion;

13 (D) State seafood testing programs;

14 (E) the development of limited entry pro-
15 grams for the fishery;

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

20 (G) voluntary capacity reduction programs
21 for shrimp fisheries under limited access pro-
22 grams.

23 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
24 authorized to be appropriated to the Secretary of Com-

1 merce \$17,500,000 for fiscal years 2007 through 2012 to
2 carry out this section.

3 **SEC. 114. BYCATCH REDUCTION ENGINEERING PROGRAM.**

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

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

8 “(a) BYCATCH REDUCTION ENGINEERING PRO-
9 GRAM.—Not later than 1 year after the date of enactment
10 of the Magnuson-Stevens Fishery Conservation and Man-
11 agement Amendments Act of 2006, the Secretary, in co-
12 operation with the Councils and other affected interests,
13 and based upon the best scientific information available,
14 shall establish a bycatch reduction program to develop
15 technological devices and other conservation engineering
16 changes designed to minimize bycatch, seabird bycatch,
17 bycatch mortality, and post-release mortality in federally
18 managed fisheries. The program shall—

19 “(1) be regionally based;

20 “(2) be coordinated with projects conducted
21 under the cooperative research and management
22 program established under this Act;

23 “(3) provide information and outreach to fish-
24 ery participants that will encourage adoption and

1 use of technologies developed under the program;
2 and

3 “(4) provide for routine consultation with the
4 Councils in order to maximize opportunities to incor-
5 porate results of the program in Council actions and
6 provide incentives for adoption of methods developed
7 under the program in fishery management plans de-
8 veloped by the Councils.

9 “(b) INCENTIVES.—Any fishery management plan
10 prepared by a Council or by the Secretary may establish
11 a system of incentives to reduce total bycatch and seabird
12 bycatch amounts, bycatch rates, and post-release mortality
13 in fisheries under the Council’s or Secretary’s jurisdiction,
14 including—

15 “(1) measures to incorporate bycatch into
16 quotas, including the establishment of collective or
17 individual bycatch quotas;

18 “(2) measures to promote the use of gear with
19 verifiable and monitored low bycatch and seabird by-
20 catch rates; and

21 “(3) measures that, based on the best scientific
22 information available, will reduce bycatch and
23 seabird bycatch, bycatch mortality, post-release mor-
24 tality, or regulatory discards in the fishery.”.

1 **SEC. 115. ECOSYSTEM MANAGEMENT.**

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

5 **“SEC. 318. ECOSYSTEM MANAGEMENT.**

6 “(a) GUIDELINES.—

7 “(1) IN GENERAL.—The Secretary shall, in con-
8 sultation with the Councils and within 24 months
9 after the date of the enactment of the Magnuson-
10 Stevens Fishery Conservation and Management
11 Amendments Act of 2006, publish draft guidelines
12 (which shall not have the force and effect of law) for
13 the Councils concerning ecosystem considerations in
14 fishery conservation and management.

15 “(2) CONTENTS.—The guidelines shall include
16 definitions of the term ‘ecosystem’ for purposes of
17 this Act.

18 “(b) FISHERY ECOSYSTEM PLANS.—Each Council,
19 or the Secretary as appropriate, may prepare a fishery
20 ecosystem plan in order to assist in implementing an eco-
21 system approach to managing fisheries within its area of
22 authority. In preparing a fishery ecosystem plan, a Coun-
23 cil shall coordinate with Federal and State agencies re-
24 sponsible for scientific understanding and management of
25 other marine resources and sector activities.

1 “(c) CONTENTS OF FISHERY ECOSYSTEM PLANS.—
2 Fishery ecosystem plans shall be consistent with the advi-
3 sory guidelines established in subsection (a) and shall con-
4 tain conservation and management measures applicable to
5 fishery resources throughout the fishery ecosystem, includ-
6 ing measures that the Council or the Secretary may con-
7 sider appropriate to—

8 “(1) avoid or minimize adverse effects of fishing
9 on fish habitat, as well as other components of the
10 ecosystem;

11 “(2) establish marine managed areas in the ex-
12 clusive economic zone or the high seas;

13 “(3) manage fishing capacity; and

14 “(4) coordinate fishery science and manage-
15 ment actions with Federal and State agencies re-
16 sponsible for scientific understanding and manage-
17 ment of other marine resources and sector activities,
18 such as pollution prevention and habitat modifica-
19 tion.

20 “(d) JOINT PLANS.—If a fishery ecosystem encom-
21 passes waters under the authority of more than one Coun-
22 cil, or a Council or Councils and the Secretary, for fish-
23 eries under section 302(a)(3), the Councils, or the Council
24 or Councils and the Secretary, as appropriate, may col-
25 laborate to jointly prepare a fishery ecosystem plan for

1 that ecosystem. In preparing a joint fishery ecosystem
2 plan, a Council or Councils, or the Council or Councils
3 and the Secretary, as appropriate, shall coordinate with
4 Federal and State agencies managing other marine re-
5 sources and sector activities.”.

6 **SEC. 116. COMMUNITY-BASED RESTORATION PROGRAM**
7 **FOR FISHERY AND COASTAL HABITATS.**

8 (a) **IN GENERAL.**—The Secretary of Commerce shall
9 establish a community-based fishery and coastal habitat
10 restoration program to implement and support the res-
11 toration of fishery and coastal habitats.

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

14 (1) provide funding and technical expertise to
15 fishery and coastal communities to assist them in re-
16 storing fishery and coastal habitat;

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

19 (3) transfer restoration technologies to the pri-
20 vate sector, the public, and other governmental
21 agencies;

22 (4) develop public-private partnerships to ac-
23 complish sound coastal restoration projects;

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

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

6 (7) leverage resources through national, re-
7 gional, and local public-private partnerships.

8 (c) AUTHORIZATION OF APPROPRIATIONS.—To carry
9 out this section there are authorized to be appropriated
10 to the Secretary—

11 (1) for the first full fiscal year beginning after
12 the date of the enactment of this Act, \$12,000,000;
13 and

14 (2) for each fiscal year thereafter through fiscal
15 year 2012, the sum of the amount authorized under
16 this subsection for the preceding fiscal year, plus
17 \$2,000,000.

18 **SEC. 117. PROHIBITED ACTS.**

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

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

22 (2) by striking “carcass.” in subparagraph (P)
23 and inserting “carcass;”; and

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

1 “(Q) to import, export, transport, sell, re-
2 ceive, acquire, or purchase in interstate or for-
3 foreign commerce any fish taken, possessed, trans-
4 ported, or sold in violation of any foreign law
5 or regulation; or

6 “(R) to use any fishing vessel to engage in
7 fishing in Federal or State waters, or on the
8 high seas or the waters of another country,
9 after the Secretary has made a payment to the
10 owner of that fishing vessel under section
11 312(b)(2).”.

12 **SEC. 118. COOPERATIVE RESTORATION PROJECTS.**

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

15 “(5)(A) In furtherance of the purposes of this
16 Act, the Secretary or a Council may enter into a co-
17 operative agreement with any Federal agency, State
18 or local government, university, non-governmental
19 organization, or other qualified entity to undertake
20 activities to provide for the conservation, restoration,
21 protection, or enhancement of essential fish habitat.

22 “(B) The Secretary may provide financial as-
23 sistance to any entity with whom the Secretary or a
24 Council has entered into a cooperative agreement

1 under subparagraph (A) to carry out activities enu-
2 merated in such agreement.

3 “(C) Such cooperative agreements shall provide
4 for—

5 “(i) the actions to be taken by the parties
6 to the agreement;

7 “(ii) the benefits to be derived in connec-
8 tion with the conservation, protection, restora-
9 tion or enhancement of essential fish habitat;

10 “(iii) the estimated cost of these actions;
11 and

12 “(iv) the share of such cost to be borne by
13 each party to the agreement; except that the
14 Federal share of such program costs shall not
15 exceed 75 percent of the estimated program
16 cost stated in the agreement.

17 “(D) For the purposes of this paragraph, the
18 non-Federal share may, at the discretion of the Sec-
19 retary, be in the form of money or in-kind contribu-
20 tion, the value of which shall be determined by the
21 Secretary.”.

22 **SEC. 119. ENFORCEMENT.**

23 (a) CIVIL ENFORCEMENT.—Section 308 (16 U.S.C.
24 1858) is amended—

1 (1) by striking “\$100,000” in subsection (a)
2 and inserting “\$240,000”;

3 (2) by striking “this section,” in subsection (f)
4 and inserting “this Act (or any other marine re-
5 source law enforced by the Secretary),”;

6 (3) by inserting “a permit, or any interest in a
7 permit,” in subsection (g)(3) after “vessel,” each
8 place it appears;

9 (4) by striking “the vessel” in subsection (g)(3)
10 and inserting “the vessel, permit, or interest”;

11 (5) by inserting “or any amount in settlement
12 of a civil forfeiture,” after “criminal fine,” in sub-
13 section (g)(4); and

14 (6) by striking “penalty or fine” in subsection
15 (g)(4) and inserting “penalty, fine, or settlement
16 amount”.

17 (b) CRIMINAL PENALTIES.—Section 309 (16 U.S.C.
18 1859) is amended to read as follows:

19 **“SEC. 309. CRIMINAL PENALTIES.**

20 **“(a) FINES AND IMPRISONMENT.—**

21 **“(1) IN GENERAL.—**Any person (other than a
22 foreign government or entity thereof) who knowingly
23 violates subparagraph (D), (E), (F), (H), (I), or (L)
24 of paragraph (1) of section 307, or paragraph (2) of

1 section 307, shall be imprisoned for not more than
2 5 years and fined—

3 “(A) not more than \$500,000 if such per-
4 son is an individual; or

5 “(B) not more than \$1,000,000 if such
6 person is a corporation or other legal entity
7 other than an individual.

8 “(2) AGGRAVATED OFFENSES.—Notwith-
9 standing paragraph (1), the maximum term of im-
10 prisonment shall be for not more than 10 years if—

11 “(A) the violator is an individual; and

12 “(B) in the commission of a violation de-
13 scribed in paragraph (1), that individual—

14 “(A) used a dangerous weapon;

15 “(B) engaged in conduct that caused bod-
16 ily injury to any observer described in section
17 307, any officer authorized to enforce the provi-
18 sions of this Act under section 311, or any
19 Council member or staff; or

20 “(C) placed any such observer, officer,
21 Council member, or staff in fear of imminent
22 bodily injury.

23 “(b) OTHER VIOLATIONS.—Any person (other than
24 a foreign government or entity thereof) who knowingly vio-
25 lates any other provision of section 307 shall be fined

1 under title 18, United States Code, imprisoned for not
2 more than 5 years, or both.

3 “(c) JURISDICTION.—

4 “(1) IN GENERAL.—The district courts of the
5 United States shall have jurisdiction over any action
6 arising under this Act.

7 “(2) VENUE.—For purposes of this Act—

8 “(A) each violation of this Act shall con-
9 stitute a separate offense and the offense shall
10 be deemed to have been committed not only in
11 the district where it first occurred, but also in
12 any other district as authorized by law;

13 “(B) any offense not committed within a
14 judicial district of the United States is subject
15 to the venue provisions of section 3238 of title
16 18, United States Code; and

17 “(C) American Samoa shall be included
18 within the judicial district of the United States
19 District Court for the District of Hawaii.”.

20 (c) CIVIL FORFEITURES.—Section 310(a) (16 U.S.C.
21 1860(a)) is amended—

22 (1) by striking “(other than any act for which
23 the issuance of a citation under section 311(a) is
24 sufficient sanction)”; and

1 (2) by striking “States.” and inserting “States,
2 except that no fishing vessel shall be subject to for-
3 feiture under this section as the result of any act for
4 which the issuance of a citation under section 311(a)
5 is sufficient sanction.”.

6 (d) ENFORCEMENT RESPONSIBILITY.—Section
7 311(a) (16 U.S.C. 1861(a)) is amended—

8 (1) by striking “Act” and inserting “Act, and
9 the provisions of any marine resource law adminis-
10 tered by the Secretary,”; and

11 (2) by striking “State agency,” and inserting
12 “agency of any State, Territory, Commonwealth, or
13 Tribe,”.

14 (e) POWERS OF AUTHORIZED OFFICERS.—Section
15 311(b) (16 U.S.C. 1861(b)) is amended by striking “Fed-
16 eral or State”.

17 (f) PAYMENT OF STORAGE, CARE, AND OTHER
18 COSTS.—Section 311(e)(1)(B) (16 U.S.C. 1861(e)(1)(B))
19 is amended to read as follows:

20 “(B) a reward to any person who furnishes in-
21 formation which leads to an arrest, conviction, civil
22 penalty assessment, or forfeiture of property for any
23 violation of any provision of this Act or any other
24 marine resource law enforced by the Secretary of up
25 to the lesser of—

1 “(i) 20 percent of the penalty or fine col-
2 lected; or

3 “(ii) \$20,000;”.

4 **SEC. 120. FISHERY PERMITTING AND REGISTRATION PRO-**
5 **GRAMS.**

6 (a) CONSISTENCY OF PLANS WITH NATIONAL PRO-
7 GRAM.—Section 303(b)(1) (16 U.S.C. 1853(b)(1)) is
8 amended by inserting after “(1)” the following: “con-
9 sistent with the national program established under sec-
10 tion 401,”.

11 (b) UNIFORM NATIONAL PROGRAMS.—Section 401
12 (16 U.S.C. 1881) is amended to read as follows:

13 **“SEC. 401. FISHERY PERMITTING AND REGISTRATION.**

14 “(a) COMMERCIAL FISHERIES.—The Secretary shall
15 establish and implement a uniform national program for
16 permitting in commercial fisheries. The program shall
17 standardize the requirements for vessel registration and
18 permitting required by this Act, the Marine Mammal Pro-
19 tection Act of 1972 (16 U.S.C. 1361 et seq.), any other
20 marine resource law implemented by the Secretary, and,
21 with the permission of a State, any marine resource law
22 implemented by such State.

23 “(b) DEPOSIT OF FEES.—Any fees collected under
24 this section shall be deposited into the Limited Access Sys-

1 tem Administration Fund established by section
2 305(h)(5)(B).”.

3 (c) CLERICAL AMENDMENT.—The table of contents
4 in the first section is amended by striking the item relating
5 to section 401 and inserting the following:

“Sec. 401. Fishery permitting and registration.”.

6 **SEC. 121. BYCATCH.**

7 (a) REPORTING METHODOLOGY.—Section
8 303(a)(11) (16 U.S.C. 1853(a)(11)) is amended by strik-
9 ing “establish a standardized” and inserting “within one
10 year after the date of the enactment of the Magnuson-
11 Stevens Fishery Conservation and Management Amend-
12 ments Act of 2006, establish and begin implementing a
13 standardized”.

14 (b) CHARITABLE DONATION OF BYCATCH.—Section
15 303(b) (16 U.S.C. 1853(b)) is further amended by strik-
16 ing “and” after the semicolon at the end of paragraph
17 (13), by striking the period at the end of paragraph (14)
18 and inserting “; and”, and by adding at the end the fol-
19 lowing:

20 “(15) allow the retention and donation for char-
21 itable purposes of all dead bycatch that cannot oth-
22 erwise be avoided under terms that ensure, through
23 the use of onboard fishery observers or other means,
24 that such retention and donation do not allow the
25 evasion of vessel trip limits, total allowable catch lev-

1 els, or other conservation and management meas-
2 ures.”.

3 **Subtitle B—Collaborative Strategic** 4 **Planning**

5 **SEC. 131. SHORT TITLE.**

6 This subtitle may be cited as the “National Fishing
7 Fleet Vision, Implementation, and Management Act”.

8 **SEC. 132. DEFINITIONS.**

9 In this subtitle:

10 (1) ATLANTIC HIGHLY MIGRATORY SPECIES.—

11 The term “Atlantic highly migratory species” means
12 a species in any highly migratory species fishery that
13 is within the geographical area of authority of more
14 than one of the following Councils: New England
15 Council, Mid-Atlantic Council, South Atlantic Coun-
16 cil, Gulf Council, and Caribbean Council.

17 (2) COUNCIL.—The term “Council” means a
18 Regional Fishery Management Council established
19 under the Magnuson Act.

20 (3) HIGHLY MIGRATORY SPECIES.—The term
21 “highly migratory species” has the meaning given
22 such term in section 3 of the Magnuson Act (16
23 U.S.C. 1802).

24 (4) INSTITUTE.—The term “Institute” means
25 the United States Institute for Environmental Con-

1 flict Resolution established pursuant to Public Law
2 105–156.

3 (5) **MAGNUSON ACT.**—The term “Magnuson
4 Act” means the Magnuson-Steven Fishery Conserva-
5 tion and Management Act (16 U.S.C. 1801 et seq.).

6 (6) **NATIONAL TASK FORCE.**—The term “Na-
7 tional Task Force” means the National Task Force
8 on Sustainable Fleet Capacity established under sec-
9 tion 134.

10 (7) **OVERFISHING AND DEPLETED.**—Each of
11 the terms “overfishing” and “depleted” have the
12 meaning given such term in section 3 of the Magnu-
13 son Act (16 U.S.C. 1802).

14 (8) **SECRETARY.**—The term “Secretary” means
15 the Secretary of Commerce, acting through the Na-
16 tional Marine Fisheries Service.

17 **SEC. 133. PROGRAM TO ACHIEVE SUSTAINABLE FISHERIES**
18 **THROUGH COLLABORATIVE STRATEGIC**
19 **PLANNING PROCESSES.**

20 (a) **IN GENERAL.**—The Secretary, in consultation
21 with the United States Institute for Environmental Con-
22 flict Resolution, shall establish and implement a program
23 to enable Regional Fishery Management Councils to de-
24 velop broadly supported plans designed to achieve sustain-

1 able fisheries through collaborative strategic planning
2 processes.

3 (b) GUIDANCE AND ASSISTANCE.—Under the pro-
4 gram under this section, the Secretary shall provide guid-
5 ance and assistance to Councils in utilizing—

6 (1) collaborative process assessment, design,
7 and implementation; and

8 (2) options to address regional differences and
9 circumstances.

10 **SEC. 134. NATIONAL TASK FORCE ON SUSTAINABLE FIS-**
11 **ERY CAPACITY.**

12 (a) IN GENERAL.—The Secretary shall establish a
13 National Task Force on Sustainable Fishery Capacity to
14 develop—

15 (1) guidance for the development of Sustainable
16 Fishery Standards for Sustainable Fishery Vision,
17 Implementation, and Management Plans under sec-
18 tion 135, including appropriate criteria, standards,
19 performance measures, and guidelines for such
20 plans; and

21 (2) criteria to prioritize fisheries for which such
22 plans will be most useful.

23 (b) MEMBERS.—The National Task Force shall—

24 (1) consist of members appointed by the Sec-
25 retary;

1 (2) have balanced representation of affected
2 and concerned stakeholders; and

3 (3) include one member designated by the Sec-
4 retary to serve as the chairperson of the National
5 Task Force, who shall be appointed by the Sec-
6 retary—

7 (A) in consultation with the Regional Fish-
8 ery Management Council Coordinating Com-
9 mittee; and

10 (B) based on recommendations of an inde-
11 pendent stakeholder assessment conducted by
12 the Institute.

13 (c) FEDERAL ADVISORY COMMITTEE ACT.—

14 (1) IN GENERAL.—The Federal Advisory Com-
15 mittee Act (5 App. U.S.C.) shall not apply to the
16 National Task Force.

17 (2) COMPLIANCE.—Notwithstanding paragraph
18 (1), the National Task Force shall be appointed and
19 operate in a manner consistent with all provisions of
20 the Federal Advisory Committee Act with respect
21 to—

22 (A) the balance of membership of the Na-
23 tional Task Force;

24 (B) provision of public notice regarding ac-
25 tivities of the National Task Force;

1 (C) open meetings; and

2 (D) public access to documents created by
3 the National Task Force.

4 (d) GUIDANCE DEVELOPMENT.—

5 (1) Not later than the end of the 9-month pe-
6 riod beginning on the date of the enactment of this
7 Act, the National Task Force shall transmit to the
8 Secretary guidance for the development of Sustain-
9 able Fishery Vision, Implementation, and Manage-
10 ment Plan under section 135.

11 (2) The National Task Force shall develop such
12 guidance through a multistakeholder, collaborative
13 process, using independent third party neutral facili-
14 tation assistance provided through the United States
15 Institute for Environmental Conflict Resolution.

16 (3) If the National Task Force fails to develop
17 such guidance in accordance with this section, the
18 Secretary shall issue Sustainable Fishery Vision, Im-
19 plementation, and Management Plan guidance with-
20 in 45 days after the end of the period referred to in
21 paragraph (1).

22 (4) The Secretary, in coordination with the Na-
23 tional Task Force, shall periodically review and re-
24 vise, as appropriate, guidance issued under this sub-
25 section.

1 **SEC. 135. SUSTAINABLE FISHERY VISION, IMPLEMENTA-**
2 **TION, AND MANAGEMENT PLANS.**

3 (a) **IN GENERAL.**—Each Council, and the Secretary
4 with respect to any Atlantic highly migratory species, may
5 issue a Sustainable Fishery Vision, Implementation, and
6 Management Plan for any fishery (or combination of fish-
7 eries, as appropriate) that is under its jurisdiction.

8 (b) **PLAN REQUIREMENTS.**—

9 (1) **IN GENERAL.**—Each plan issued under this
10 section—

11 (A) shall be issued in accordance with the
12 guidance issued under section 134(d); and

13 (B) shall create a long-term vision and im-
14 plementation plan for the sustainable operation
15 of each fishery to which it applies.

16 (2) **CONSIDERATIONS.**—In developing such a
17 plan, the Council (or the Secretary) shall consider—

18 (A) the impact of the plan on affected
19 communities;

20 (B) effective resource conservation; and

21 (C) economic considerations.

22 (c) **TASK FORCES ON SUSTAINABLE FISHERY VI-**
23 **SION, IMPLEMENTATION, AND MANAGEMENT.**—

24 (1) **ESTABLISHMENT.**—Each Council, and the
25 Secretary with respect to any Atlantic highly migra-
26 tory species—

1 (A) may establish a Task Force on Sus-
2 tainable Fishery Vision, Implementation, and
3 Management to develop a Sustainable Fishery
4 Vision, Implementation, and Management Plan;
5 and

6 (B) in establishing such task force, shall
7 specify a timeframe for development of such
8 plan by the task force.

9 (2) DUTIES.—The task force shall—

10 (A) assess the level of fleet capacity for
11 each fishery for which it is appointed;

12 (B) identify the consequences of inaction
13 in reducing overfishing in each such fishery;

14 (C) identify a vision for fleet composition
15 and participation in each such fishery after it is
16 rebuilt, taking into account long-term resource
17 conservation needs and communities;

18 (D) assess and prioritize management
19 measures to implement the vision;

20 (E) develop a Sustainable Fishery Vision,
21 Implementation, and Management Plan to
22 achieve the vision and implement such meas-
23 ures; and

1 (F) determine the economic, social, and re-
2 source costs and benefits for the measures in-
3 cluded in the plan.

4 (3) COMPOSITION.—Members of the task force
5 shall—

6 (A) include appropriate agency leadership
7 and staff, and Council members and staff;

8 (B) consist of members who have authority
9 to act effectively in making decisions, as mem-
10 bers of the task force, on behalf of the agency
11 or interests they represent;

12 (C) be selected to ensure balanced inclu-
13 sion of affected and concerned interests; and

14 (D) as a condition of appointment to the
15 task force, be required to confirm their willing-
16 ness to commit to the generally accepted prin-
17 ciples of engagement in collaborative problem
18 solving, and to participate in good faith with an
19 open mind to considering new perspectives.

20 (4) CHAIRPERSON.—The task force shall select
21 a Chairperson from among its members. The Chair-
22 person shall guide the work of the task force, work-
23 ing with an independent facilitator or mediator to
24 facilitate development of a consensus for a Sustain-

1 able Fishery Vision, Implementation, and Manage-
2 ment Plan.

3 (5) OPERATIONS.—The task force shall operate
4 in accordance with the guidance issued under section
5 134(d).

6 (6) SUPPORT.—

7 (A) SUPPORT BY SECRETARY.—The Sec-
8 retary shall support the task force by providing
9 relevant information requested by the task
10 force.

11 (B) EXPERTS AND CONSULTANTS.—The
12 Chairperson of a task force may procure serv-
13 ices of independent facilitators and mediators,
14 and other experts, as the Chairperson considers
15 advisable to carry out the duties of the task
16 force.

17 (7) REPORT.—The task force shall submit a re-
18 port to the Council according to the timeframe speci-
19 fied by the Council under paragraph (1)(B), includ-
20 ing a Sustainable Fishery Vision, Implementation,
21 and Management Plan for the fishery for which the
22 task force is established.

23 (d) ISSUANCE OF PLAN BY SECRETARY FOR SPECIES
24 THAT IS NOT AN ATLANTIC HIGHLY MIGRATORY SPE-
25 CIES.—The Secretary shall issue a Sustainable Fishery Vi-

1 sion, Implementation, and Management Plan under this
2 section (including establishment of a task force in accord-
3 ance with subsection (b)) for a fishery for a species that
4 is not an Atlantic highly migratory species, if—

5 (1) the Council having jurisdiction over the
6 fishery fails to establish a task force under sub-
7 section (b) within the 2-year period after the Sec-
8 retary determines that the fishery is subject to over-
9 fishing or in a depleted condition; or

10 (2) the Secretary determines that the fishery,
11 after implementation of a fishery management plan
12 developed by the Council for a period of 2 years, is
13 subject to overfishing.

14 (e) REVIEW OF PLANS.—A Council, and the Sec-
15 retary with respect to any Atlantic highly migratory spe-
16 cies, shall regularly review each Sustainable Fishery Vi-
17 sion, Implementation, and Management Plan issued under
18 this section to determine the effectiveness of the plan and
19 whether changes are necessary to enhance success of the
20 goals of the plan.

21 **SEC. 136. PRIORITY IMPLEMENTATION.**

22 In implementing the Magnuson-Stevens Fishery Con-
23 servation and Management Act, the Secretary shall give
24 priority to supporting measures designed to implement

1 Fishery Vision, Implementation, and Management Plans
2 issued under this subtitle.

3 **SEC. 137. TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.**

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

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

6 (2) by striking “which will not” and inserting
7 “that can not, or will not,”; and

8 (3) by inserting after “Act” the following: “,
9 except that the total allowable level shall be zero for
10 any fishery that is determined by the Secretary to
11 have adequate or excess harvest capacity. Allocations
12 of the total allowable level of foreign fishing are dis-
13 cretionary.”.

14 **TITLE II—INFORMATION AND**
15 **RESEARCH**

16 **SEC. 201. RECREATIONAL FISHERIES INFORMATION.**

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

19 “(g) RECREATIONAL FISHERIES.—

20 “(1) FEDERAL PROGRAM.—The Secretary shall
21 establish and implement a regionally based registry
22 program for recreational fishermen in each of the 8
23 fishery management regions. The program shall pro-
24 vide for—

1 “(A) the registration (including identifica-
2 tion and contact information) of individuals
3 who engage in recreational fishing—

4 “(i) in the Exclusive Economic Zone;

5 “(ii) for anadromous species; or

6 “(iii) for Continental Shelf fishery re-
7 sources beyond the Exclusive Economic
8 Zone; and

9 “(B) if appropriate, the registration (in-
10 cluding the ownership, operator, and identifica-
11 tion of the vessel) of vessels used in such fish-
12 ing.

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

23 “(3) DATA COLLECTION.—Within 24 months
24 after the date of enactment of the Magnuson-Ste-
25 vens Fishery Conservation and Management Amend-

1 ments Act of 2006, the Secretary shall establish a
2 program to improve the quality and accuracy of in-
3 formation generated by the Marine Recreational
4 Fishery Statistics Survey, with a goal of achieving
5 acceptable accuracy and utility for each individual
6 fishery. Unless the Secretary determines that alter-
7 nate methods will achieve this goal more efficiently
8 and effectively, the program shall, to the extent pos-
9 sible, include—

10 “(A) an adequate number of dockside
11 interviews to accurately estimate recreational
12 catch and effort;

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

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

18 “(D) development of a weather corrective
19 factor that can be applied to recreational catch
20 and effort estimates.

21 “(4) REPORT.—Within 24 months after estab-
22 lishment of the program, the Secretary shall submit
23 a report to Congress that describes the progress
24 made toward achieving the goals and objectives of
25 the program.”.

1 **SEC. 202. COLLECTION OF INFORMATION.**

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

3 (1) by striking “(a) COUNCIL REQUESTS.—” in
4 the subsection heading and inserting “(a) COLLEC-
5 TION PROGRAMS.—”;

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

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

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

13 (5) by striking “(other than information that
14 would disclose proprietary or confidential commercial
15 or financial information regarding fishing operations
16 or fish processing operations)” each place it appears;
17 and

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

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

1 submission of such additional information for the
2 fishery.”.

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

4 (a) IN GENERAL.—Section 402(b) (16 U.S.C.
5 1881a(b)) is amended—

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

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

11 “(b) CONFIDENTIALITY OF INFORMATION.—

12 “(1) Any information submitted to the Sec-
13 retary, a state fishery management agency, or a ma-
14 rine fisheries commission by any person in compli-
15 ance with the requirements of this Act that contains
16 confidential information shall be confidential and
17 shall be exempt from disclosure under section
18 552(h)(3) of title 5, United States Code, except—

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

23 “(B) to State or Marine Fisheries Commis-
24 sion employees as necessary to further the De-
25 partment’s mission, subject to a confidentiality

1 agreement that prohibits public disclosure of
2 confidential information relating to any person;

3 “(C) to State employees who are respon-
4 sible for fishery management plan enforcement,
5 if the States employing those employees have
6 entered into a fishery enforcement agreement
7 with the Secretary and the agreement is in ef-
8 fect;

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

14 “(E) when the Secretary has obtained
15 written authorization from the person submit-
16 ting such information to release such informa-
17 tion to persons for reasons not otherwise pro-
18 vided for in this subsection, and such release
19 does not violate other requirements of this Act;

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

23 “(G) in support of homeland and national
24 security activities, including the Coast Guard’s
25 homeland security missions as defined in sec-

1 tion 888(a)(2) of the Homeland Security Act of
2 2002 (6 U.S.C. 468(a)(2)).

3 “(2) Any observer information shall be con-
4 fidential and shall not be disclosed, except in accord-
5 ance with the requirements of subparagraphs (A)
6 through (G) of paragraph (1), or—

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

13 “(B) when such information is necessary
14 in proceedings to adjudicate observer certifi-
15 cations; or

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

23 “(i) to allow the sharing of observer
24 information among observers and between
25 observers and observer employers as nec-

1 essary to train and prepare observers for
2 deployments on specific vessels; or

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

5 (3) by striking “(1)(E).” in paragraph (3), as
6 redesignated, and inserting “(2)(A).”.

7 (b) CONFORMING AMENDMENT.—Section 404(c)(4)
8 (16 U.S.C. 1881c(c)(4)) is amended by striking “under
9 section 401”.

10 **SEC. 204. COOPERATIVE RESEARCH AND MANAGEMENT**
11 **PROGRAM.**

12 Title III (16 U.S.C. 1851 et seq.), as amended by
13 section 115, is further amended by adding at the end the
14 following:

15 **“SEC. 317. COOPERATIVE RESEARCH AND MANAGEMENT**
16 **PROGRAM.**

17 “(a) IN GENERAL.—The Secretary of Commerce, in
18 consultation with the Councils, shall establish a coopera-
19 tive research and management program to address needs
20 identified under this Act and under any other marine re-
21 source laws enforced by the Secretary. The program shall
22 be implemented on a regional basis and shall be developed
23 and conducted through partnerships among Federal,
24 State, and Tribal managers and scientists (including inter-

1 state fishery commissions), commercial and recreational
2 fishing industry participants, and educational institutions.

3 “(b) ELIGIBLE PROJECTS.—The Secretary shall
4 make funds available under the program for the support
5 of projects to address critical needs identified by the Coun-
6 cils in consultation with the Secretary. The program shall
7 promote and encourage efforts to utilize sources of data
8 maintained by other Federal agencies, State agencies, or
9 academia for use in such projects.

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

16 “(1) Projects to collect data to improve, supple-
17 ment, or enhance stock assessments, including the
18 use of fishing vessels or acoustic or other marine
19 technology.

20 “(2) Projects to assess the amount and type of
21 bycatch, or seabird bycatch, or post-release mortality
22 occurring in a fishery.

23 “(3) Conservation engineering projects designed
24 to reduce bycatch, or seabird bycatch, including
25 avoidance of post-release mortality, reduction of by-

1 catch in high seas fisheries, and transfer of such
2 fishing technologies to other nations.

3 “(4) Projects for the identification of habitat
4 areas of particular concern and for habitat conserva-
5 tion.

6 “(5) Projects designed to collect and compile
7 economic and social data.

8 “(d) EXPERIMENTAL PERMITTING PROCESS.—Not
9 later than 180 days after the date of enactment of the
10 Magnuson-Stevens Fishery Conservation and Manage-
11 ment Amendments Act of 2006, the Secretary, in con-
12 sultation with the Councils, shall promulgate regulations
13 that create an expedited, uniform, and regionally-based
14 process to promote issuance, where practicable, of experi-
15 mental fishing permits.

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

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

1 **SEC. 205. RESTORATION STUDY.**

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

5 **“SEC. 319. RESTORATION STUDY.**

6 “(a) IN GENERAL.—The Secretary may conduct a
7 study to update scientific information and protocols need-
8 ed 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 is authorized to be appropriated \$500,000 for fiscal year
14 2007 to conduct this study.”.

15 **SEC. 206. FISHERIES CONSERVATION AND MANAGEMENT**
16 **FUND.**

17 (a) IN GENERAL.—The Secretary shall establish and
18 maintain a fund, to be known as the “Fisheries Conserva-
19 tion and Management Fund”, which shall consist of
20 amounts retained and deposited into the Fund under sub-
21 section (c).

22 (b) PURPOSES.—Subject to the allocation of funds
23 described in subsection (d), amounts in the Fund shall be
24 available to the Secretary of Commerce, without appro-
25 priation or fiscal year limitation, to disburse as described
26 in subsection (e) for—

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

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

5 (B) improvement of monitoring and ob-
6 server coverage through the expanded use of
7 electronic monitoring devices and satellite track-
8 ing systems such as VMS on small vessels;

9 (2) cooperative fishery research and analysis, in
10 collaboration with fishery participants, academic in-
11 stitutions, community residents, and other interested
12 parties;

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

16 (4) conducting analysis of fish and seafood for
17 health benefits and risks, including levels of con-
18 taminants and, where feasible, the source of such
19 contaminants;

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

24 (6) providing financial assistance to fishermen
25 to offset the costs of modifying fishing practices and

1 gear to meet the requirements of this Act, the Mag-
2 nuson-Stevens Fishery Conservation and Manage-
3 ment Act (16 U.S.C. 1801 et seq.), and other Fed-
4 eral laws in pari materia.

5 (c) DEPOSITS TO THE FUND.—

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

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

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

22 (B) States or other public sources or pri-
23 vate or non-profit organizations for purposes of
24 this section.

1 (d) REGIONAL ALLOCATION.—The Secretary shall,
2 every 2 years, apportion monies from the Fund among the
3 eight Council regions according to consensus recommenda-
4 tions of the Councils, based on regional priorities identi-
5 fied through the Council process, except that no region
6 shall receive less than 5 percent of the Fund in each allo-
7 cation period.

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

13 **SEC. 207. USE OF FISHERY FINANCE PROGRAM AND CAP-**
14 **ITAL CONSTRUCTION FUND FOR SUSTAIN-**
15 **ABLE PURPOSES.**

16 (a) PURPOSE OF OBLIGATIONS.—Section
17 1104A(a)(7) of the Merchant Marine Act, 1936 (46
18 U.S.C. App. 1274(a)(7)) is amended to read as follows:

19 “(7) financing or refinancing including,
20 “(A) the reimbursement of obligors for ex-
21 penditures previously made, for the purchase of
22 individual fishing quotas in accordance with
23 section 303(d)(4) of the Magnuson-Stevens
24 Fishery Conservation and Management Act;

1 “(B) activities that assist in the transition
2 to reduced fishing capacity; or

3 “(C) technologies or upgrades designed to
4 improve collection and reporting of fishery-de-
5 pendent data, to reduce bycatch and seabird by-
6 catch, to improve selectivity or reduce adverse
7 impacts of fishing gear, or to improve safety.”.

8 (b) EXPANSION OF PURPOSES FOR QUALIFIED
9 WITHDRAWALS.—Section 607(f)(1) of the Merchant Ma-
10 rine Act, 1936 (46 U.S.C. App. 1177(f)(1)) is amended—

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

12 (B) by striking “vessel,” in subparagraph (A)
13 and inserting “vessel;”;

14 (C) by striking “vessel, or” in subparagraph
15 (B) and inserting “vessel;”;

16 (D) by striking “vessel.” in subparagraph (C)
17 and inserting “vessel;” and

18 (E) by inserting after subparagraph (C) the fol-
19 lowing:

20 “(D) in the case of any person for whose
21 benefit the fund was established and who par-
22 ticipates in the fishing capacity reduction pro-
23 gram under section 312 of the Magnuson-Ste-
24 vens Fishery Conservation and Management
25 Act (16 U.S.C. 1861a)—

1 “(i) if such person remains in the
2 fishery, the satisfaction of any debt obliga-
3 tion undertaken pursuant to such program;
4 and

5 “(ii) if such person withdraws 1 or
6 more vessels from the fishery, the substi-
7 tution of amounts the person would other-
8 wise receive under such program for such
9 person’s vessel or permit to engage in the
10 fishery;

11 “(E) the repair, maintenance, or upgrade
12 of an eligible vessel or its equipment for the
13 purpose of—

14 “(i) making conservation engineering
15 changes to reduce bycatch, improve selec-
16 tivity of fishing gear, or reduce adverse im-
17 pacts of fishing gear;

18 “(ii) improving vessel safety; or

19 “(iii) acquiring, installing, or upgrad-
20 ing equipment to improve collection, re-
21 porting, or accuracy of fishery data; or

22 “(F) the acquisition, construction, recon-
23 struction, upgrading, or investment in shoreside
24 fishery-related facilities or infrastructure in the
25 United States for the purpose of promoting

1 United States ownership of fishery-related fa-
2 cilities in the United States without contrib-
3 uting to overcapacity in the sector.”.

4 **SEC. 208. DEEP SEA CORAL RESEARCH AND TECHNOLOGY**
5 **PROGRAM.**

6 Title IV (16 U.S.C. 1881 et seq.) is amended by add-
7 ing at the end the following:

8 **“SEC. 408. DEEP SEA CORAL RESEARCH AND TECHNOLOGY**
9 **PROGRAM.**

10 “(a) IN GENERAL.—The Secretary, in consultation
11 with appropriate regional fishery management councils
12 and in coordination with other Federal agencies and edu-
13 cational institutions, shall establish a program—

14 “(1) to identify existing research on, and known
15 locations of, deep sea corals and submit such infor-
16 mation to the appropriate Councils;

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

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

1 ment with the National Academy of Sciences to conduct,
2 jointly, a multi-year, comprehensive in-water study de-
3 signed—

4 (1) to measure accurately the efforts and ef-
5 fects of shrimp fishery efforts to utilize turtle ex-
6 cluder devices;

7 (2) to analyze the impact of those efforts on sea
8 turtle mortality, including interaction between tur-
9 tles and shrimp trawlers in the inshore, nearshore,
10 and offshore waters of the Gulf of Mexico and simi-
11 lar geographical locations in the waters of the
12 Southeastern United States; and

13 (3) to evaluate innovative technologies to in-
14 crease shrimp retention in turtle excluder devices
15 while ensuring the protection of endangered and
16 threatened sea turtles.

17 (b) OBSERVERS.—In conducting the study, the
18 Under Secretary shall ensure that observers are placed on-
19 board commercial shrimp fishing vessels where appro-
20 priate or necessary.

21 (c) INTERIM REPORTS.—During the course of the
22 study and until a final report is submitted to the Senate
23 Committee on Commerce, Science, and Transportation
24 and the House of Representatives Committee on Re-
25 sources, the National Academy of Sciences shall transmit

1 interim reports to the Committees biannually containing
2 a summary of preliminary findings and conclusions from
3 the study.

4 **SEC. 210. HURRICANE EFFECTS ON SHRIMP AND OYSTER**
5 **FISHERIES AND HABITATS.**

6 (a) FISHERIES REPORT.—Within 180 days after the
7 date of enactment of this Act, the Secretary of Commerce
8 shall transmit a report to the Senate Committee on Com-
9 merce, Science, and Transportation and the House of Rep-
10 resentatives Committee on Resources on the impact of
11 Hurricane Katrina, Hurricane Rita, and Hurricane Wilma
12 on—

13 (1) commercial and recreational fisheries in the
14 States of Alabama, Louisiana, Florida, Mississippi,
15 and Texas, including the extent of recovery of such
16 fisheries from such impacts;

17 (2) shrimp fishing vessels in those States; and

18 (3) the oyster industry in those States.

19 (b) HABITAT REPORT.—Within 180 days after the
20 date of enactment of this Act, the Secretary of Commerce
21 shall transmit a report to the Senate Committee on Com-
22 merce, Science, and Transportation and the House of Rep-
23 resentatives Committee on Resources on the impact of
24 Hurricane Katrina, Hurricane Rita, and Hurricane Wilma

1 on habitat, including the habitat of shrimp and oysters
2 in those States.

3 (c) HABITAT RESTORATION.—The Secretary shall
4 carry out activities to restore fishery habitats, including
5 the shrimp and oyster habitats in Louisiana and Mis-
6 sissippi.

7 **TITLE III—OTHER FISHERIES** 8 **STATUTES**

9 **SEC. 301. REAUTHORIZATION OF OTHER FISHERIES ACTS.**

10 (a) ATLANTIC STRIPED BASS CONSERVATION ACT.—
11 Section 7(a) of the Atlantic Striped Bass Conservation Act
12 (16 U.S.C. 5156(a)) is amended to read as follows:

13 “(a) AUTHORIZATION.—For each of fiscal years
14 2007, 2008, 2009, and 2010, there are authorized to be
15 appropriated to carry out this Act—

16 “(1) \$1,000,000 to the Secretary of Commerce;
17 and

18 “(2) \$250,000 to the Secretary of the Inte-
19 rior.”.

20 (b) YUKON RIVER SALMON ACT OF 2000.—Section
21 208 of the Yukon River Salmon Act of 2000 (16 U.S.C.
22 5727) is amended by striking “\$4,000,000 for each of fis-
23 cal years 2004 through 2008,” and inserting “\$4,000,000
24 for each of fiscal years 2007 through 2010,”.

1 (c) SHARK FINNING PROHIBITION ACT.—Section 10
2 of the Shark Finning Prohibition Act (16 U.S.C. 1822
3 note) is amended by striking “fiscal years 2001 through
4 2005” and inserting “fiscal years 2007 through 2010”.

5 (d) PACIFIC SALMON TREATY ACT.—

6 (1) TRANSFER OF SECTION TO ACT.—The text
7 of section 623 of title VI of H.R. 3421 (113 Stat.
8 1501A–56), as introduced on November 17, 1999,
9 and enacted into law by section 1000(a)(1) of the
10 Act of November 29, 1999 (Public Law 106–113)—

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

14 (B) amended—

15 (i) by striking “SEC. 623.”; and

16 (ii) inserting before “(a) NORTHERN
17 FUND AND SOUTHERN FUND.—” the fol-
18 lowing:

19 **“SEC. 16. NORTHERN AND SOUTHERN FUNDS; TREATY IM-**
20 **PLEMENTATION; ADDITIONAL AUTHORIZA-**
21 **TION OF APPROPRIATIONS.”.**

22 (2) TECHNICAL CORRECTION.—The amendment
23 made by the Department of Commerce and Related
24 Agencies Appropriations Act, 2005 under the head-
25 ing “PACIFIC COASTAL SALMON RECOVERY” (118

1 Stat. 2881), to section 628(2)(A) of the Depart-
2 ments of Commerce, Justice, and State, the Judici-
3 ary, and Related Agencies Appropriations Act, 2001
4 is deemed to have been made to section
5 623(d)(2)(A) of title VI of H.R. 3421 (113 Stat.
6 1501A–56), as introduced on November 17, 1999,
7 enacted into law by section 1000(a)(1) of the Act of
8 November 29, 1999 (Public Law 106–113) instead
9 of to such section 628(2)(A), as of the date of enact-
10 ment of the Department of Commerce and Related
11 Agencies Appropriations Act, 2005.

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

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

17 (B) by inserting “2007, 2008, and 2009,”
18 after “2005,”.

19 (e) STATE AUTHORITY FOR DUNGENESS CRAB FISH-
20 ERY MANAGEMENT.—Section 203 of Public Law 105–384
21 (16 U.S.C. 1856 note) is amended—

22 (1) by striking “September 30, 2006.” in sub-
23 section (i) and inserting “September 30, 2016.”;

24 (2) by striking “health” in subsection (j) and
25 inserting “status”; and

1 (3) by striking “California.” in subsection (j)
2 and inserting “California, including—
3 “(1) stock status and trends throughout its
4 range;
5 “(2) a description of applicable research and
6 scientific review processes used to determine stock
7 status and trends; and
8 “(3) measures implemented or planned that are
9 designed to prevent or end overfishing in the fish-
10 ery.”.

11 **TITLE IV—INTERNATIONAL**

12 **SEC. 401. FINDING WITH RESPECT TO ILLEGAL, UNRE-** 13 **PORTED, AND UNREGULATED FISHING.**

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

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

1 **SEC. 402. ACTION TO END ILLEGAL, UNREPORTED, OR UN-**
2 **REGULATED FISHING AND REDUCE BYCATCH**
3 **OF PROTECTED MARINE SPECIES.**

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

7 **“SEC. 607. BIENNIAL REPORT ON INTERNATIONAL COMPLI-**
8 **ANCE.**

9 “The Secretary, in consultation with the Secretary of
10 State, shall provide to Congress, by not later than 2 years
11 after the date of enactment of the Magnuson-Stevens
12 Fishery Conservation and Management Amendments Act
13 of 2006, and every 2 years thereafter, a report that in-
14 cludes—

15 “(1) the state of knowledge on the status of
16 international living marine resources, including a list
17 of all fish stocks classified as depleted, endangered,
18 or threatened with extinction by any international or
19 other authority charged with management or con-
20 servation of living marine resources;

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

25 “(3) a description of efforts taken by nations on
26 those lists to comply with the provisions of sections

1 609 and 610, and an evaluation of the progress of
2 those efforts, including steps taken by the United
3 States to implement those sections and to improve
4 international compliance;

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

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

19 **“SEC. 608. ACTION TO STRENGTHEN INTERNATIONAL FISH-**
20 **ERY MANAGEMENT ORGANIZATIONS.**

21 “The Secretary, in consultation with the Secretary of
22 State, and in cooperation with relevant fishery manage-
23 ment councils, shall take actions to improve the effective-
24 ness of international fishery management organizations in

1 conserving and managing fish stocks under their jurisdic-
2 tion. These actions shall include—

3 “(1) urging international fishery management
4 organizations to which the United States is a mem-
5 ber—

6 “(A) to incorporate multilateral sanctions
7 against member or nonmember governments
8 whose vessels engage in illegal, unreported, or
9 unregulated fishing;

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

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

23 “(D) to increase use of observers and tech-
24 nologies needed to monitor compliance with con-
25 servation and management measures estab-

1 lished by the organization, including vessel
2 monitoring systems and automatic identification
3 systems; and

4 “(E) to seek adoption of greater port state
5 controls in all nations, particularly those na-
6 tions whose vessels engage in illegal, unre-
7 ported, or unregulated fishing;

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

14 “(A) import prohibitions, landing restric-
15 tions, or other market-based measures needed
16 to enforce compliance with international fishery
17 management organization measures, such as
18 quotas and catch limits;

19 “(B) import restrictions or other market-
20 based measures to prevent the trade or impor-
21 tation of fish caught by vessels identified multi-
22 laterally as engaging in illegal, unreported, or
23 unregulated fishing; and

24 “(C) catch documentation and certification
25 schemes to improve tracking and identification

1 of catch of vessels engaged in illegal, unre-
2 ported, or unregulated fishing, including ad-
3 vance transmission of catch documents to ports
4 of entry; and

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

15 **“SEC. 609. ILLEGAL, UNREPORTED, OR UNREGULATED**
16 **FISHING.**

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

19 “(1) fishing vessels of that nation are engaged,
20 or have been engaged during the preceding calendar
21 year in illegal, unreported, or unregulated fishing;
22 and

23 “(2) the relevant international fishery manage-
24 ment organization has failed to implement effective
25 measures to end the illegal unreported, or unregu-

1 lated fishing activity by vessels of that nation or the
2 nation is not a party to, or does not maintain co-
3 operating status with, such organization, or where
4 no international fishery management organization
5 exists.

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

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

16 “(1) notify nations listed in the report of the
17 requirements of this section;

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

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

1 “(d) IUU CERTIFICATION PROCEDURE.—

2 “(1) CERTIFICATION.—The Secretary shall es-
3 tablish a procedure, consistent with the provisions of
4 subchapter II of chapter 5 of title 5, United States
5 Code, and including notice and an opportunity for
6 comment by the governments of any nation listed by
7 the Secretary under subsection (a), for determining
8 if that government has taken appropriate corrective
9 action with respect to the offending activities of its
10 fishing vessels identified in the report under section
11 607. The Secretary shall determine, on the basis of
12 the procedure, and certify to the Congress no later
13 than 90 days after the date on which the Secretary
14 promulgates a final rule containing the procedure,
15 and biennially thereafter in the report under section
16 607—

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

23 “(B) whether the relevant international
24 fishery management organization has imple-
25 mented measures that are effective in ending

1 the illegal, unreported, or unregulated fishing
2 activity by vessels of that nation.

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

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

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

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

1 has issued a positive certification under this sub-
2 section.

3 “(e) ILLEGAL, UNREPORTED, OR UNREGULATED
4 FISHING DEFINED.—

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

8 “(2) SECRETARY TO DEFINE TERM WITHIN
9 LEGISLATIVE GUIDELINES.—Within 3 months after
10 the date of enactment of the Magnuson-Stevens
11 Fishery Conservation and Management Amendments
12 Act of 2006, the Secretary shall publish a definition
13 of the term ‘illegal, unreported, or unregulated fish-
14 ing’ for purposes of this Act.

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

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

24 “(B) overfishing of fish stocks shared by
25 the United States, for which there are no appli-

1 cable international conservation or management
2 measures or in areas with no applicable inter-
3 national fishery management organization or
4 agreement, that has adverse impacts on such
5 stocks; and

6 “(C) fishing activity, including bottom
7 trawling, that have adverse impacts on
8 seamounts, hydrothermal vents, and cold water
9 corals located beyond national jurisdiction, for
10 which there are no applicable conservation or
11 management measures or in areas with no ap-
12 plicable international fishery management orga-
13 nization or agreement.

14 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Secretary for fis-
16 cal years 2007 through 2012 such sums as are necessary
17 to carry out this section.

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

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

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

1 “(2) the relevant international organization for
2 the conservation and protection of such species or
3 the relevant international or regional fishery organi-
4 zation has failed to implement effective measures to
5 end or reduce the impacts of the fishing practices of
6 the nation’s vessels on such species, or the nation is
7 not a party to, or does not maintain cooperating sta-
8 tus with, such organization; and

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

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

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

20 “(2) initiate discussions as soon as possible
21 with all foreign governments which are engaged in,
22 or which have persons or companies engaged in,
23 fishing activities or practices described in subsection
24 (a), for the purpose of entering into bilateral and

1 multilateral treaties with such countries to protect
2 such species;

3 “(3) seek agreements calling for international
4 restrictions on fishing activities or practices de-
5 scribed in subsection (a) through the United Na-
6 tions, the Food and Agriculture Organization’s Com-
7 mittee on Fisheries, and appropriate international
8 fishery management bodies; and

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

14 “(c) CONSERVATION CERTIFICATION PROCEDURE.—

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

24 “(A) has provided documentary evidence of
25 the adoption of a regulatory program governing

1 the conservation of the protected living marine
2 resource, including measures to ensure maximum
3 probability for survival after release, that
4 is comparable to that of the United States, taking
5 into account different conditions, and
6 which, in the case of pelagic longline fishing, includes
7 mandatory use of circle hooks, careful
8 handling and release equipment, and training
9 and observer programs; and

10 “(B) has established a management plan
11 containing requirements that will assist in gathering
12 species-specific data to support international stock
13 assessments and conservation enforcement efforts for
14 protected living marine resources.
15

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

1 “(A) are comparable to those of the United
2 States, taking into account different conditions,
3 and which, in the case of pelagic longline fish-
4 ing, includes mandatory use of circle hooks,
5 careful handling and release equipment, and
6 training and observer programs; and

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

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

23 “(d) INTERNATIONAL COOPERATION AND ASSIST-
24 ANCE.—To the greatest extent possible consistent with ex-

1 isting authority and the availability of funds, the Secretary
2 shall—

3 “(1) provide appropriate assistance to nations
4 identified by the Secretary under subsection (a) and
5 international organizations of which those nations
6 are members to assist those nations in qualifying for
7 certification under subsection (c);

8 “(2) undertake, where appropriate, cooperative
9 research activities on species statistics and improved
10 harvesting techniques, with those nations or organi-
11 zations;

12 “(3) encourage and facilitate the transfer of ap-
13 propriate technology to those nations or organiza-
14 tions to assist those nations in qualifying for certifi-
15 cation under subsection (c); and

16 “(4) provide assistance to those nations or or-
17 ganizations in designing and implementing appro-
18 priate fish harvesting plans.

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

22 “(1) means non-target fish, sea turtles, or ma-
23 rine mammals occurring in areas beyond United
24 States jurisdiction that are protected under United
25 States law or international agreement, including the

1 Marine Mammal Protection Act of 1972, the Endan-
2 gered Species Act of 1973, the Shark Finning Prohi-
3 bition Act, and the Convention on International
4 Trade in Endangered Species of Wild Flora and
5 Fauna; but

6 “(2) does not include species, except sharks,
7 managed under the Magnuson-Stevens Fishery Con-
8 servation and Management Act, the Atlantic Tunas
9 Convention Act of 1973, or any international fishery
10 management agreement.

11 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to the Secretary for fis-
13 cal years 2007 through 2012 such sums as are necessary
14 to carry out this section.

15 “(b) CONFORMING AMENDMENTS.—

16 “(1) DENIAL OF PORT PRIVILEGES.—Section
17 101(b) of the High Seas Driftnet Fisheries Enforce-
18 ment Act (16 U.S.C. 1826a(b)) is amended by in-
19 sserting “or illegal, unreported, or unregulated
20 fishing“ after “fishing“ in paragraph (1)(A)(i),
21 paragraph (1)(B), paragraph (2), and paragraph
22 (4)(A)(i).

23 “(2) DURATION OF DENIAL.—Section 102 of
24 the High Seas Driftnet Fisheries Enforcement Act
25 (16 U.S.C. 1826b) is amended by inserting ‘or ille-

1 gal, unreported, or unregulated fishing’ after ‘fish-
2 ing’.”

3 **SEC. 403. REBUILDING DEPLETED FISHERIES.**

4 (a) REBUILDING DEPLETED FISHERIES.—Section
5 304(e) (16 U.S.C. 1854(e)) is amended by adding at the
6 end thereof the following:

7 “(8) The provisions of this paragraph shall
8 apply in lieu of paragraphs (2) through (7) of this
9 subsection to a fishery that the Secretary determines
10 is depleted or approaching a condition of being de-
11 pleted due to excessive international fishing pres-
12 sure, and for which there are no management meas-
13 ures to end overfishing under an international agree-
14 ment to which the United States is a party. For
15 such fisheries—

16 “(A) the Secretary, in cooperation with the
17 Secretary of State, immediately take appro-
18 priate action at the international level to end
19 the overfishing; and

20 “(B) within 1 year after the Secretary’s
21 determination, the appropriate Council, or Sec-
22 retary, for fisheries under section 302(a)(3)
23 shall—

24 “(i) develop recommendations for do-
25 mestic regulations to address the relative

1 impact of fishing vessels of the United
2 States on the stock and, if developed by a
3 Council, the Council shall submit such rec-
4 ommendations to the Secretary; and

5 “(ii) develop and submit recommenda-
6 tions to the Secretary of State, and to the
7 Congress, for international actions that
8 will end overfishing in the fishery and re-
9 build the affected stocks, taking into ac-
10 count the relative impact of vessels of
11 other nations and vessels of the United
12 States on the relevant stock.”.

13 (b) HIGHLY MIGRATORY SPECIES TAGGING RE-
14 SEARCH.—Section 304(g)(2) (16 U.S.C. 1854(g)(2)) is
15 amended by striking “(16 U.S.C. 971d)” and inserting
16 “(16 U.S.C. 971d), or highly migratory species harvested
17 in a commercial fishery managed by a Council under this
18 Act or the Western and Central Pacific Fisheries Conven-
19 tion Implementation Act,”.

○