

ILLEGAL, UNREPORTED, AND UNREGULATED FISHING
ENFORCEMENT ACT OF 2009

JULY 24, 2009.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 1080]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1080) to strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2009”.

SEC. 2. AMENDMENTS TO THE HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT.

(a) **ADMINISTRATION AND ENFORCEMENT.**—Section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g) is amended by inserting before the first sentence the following:

“(a) **IN GENERAL.**—The Secretary and the Secretary of the department in which the Coast Guard is operating shall enforce this title, and the Acts to which this section applies, in accordance with this section. Each such Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel services, equipment (including aircraft and vessels), and facilities of any other Federal agency, and of any State agency, in the performance of such duties.

“(b) **ACTS TO WHICH SECTION APPLIES.**—This section applies to—

- “(1) the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631 et seq.);
- “(2) the Dolphin Protection Consumer Information Act (16 U.S.C. 1385);
- “(3) the Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.);
- “(4) the North Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5001 et seq.);
- “(5) the South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.);

“(6) the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2431 et seq.);

“(7) the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.);

“(8) the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.); and

“(9) the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.).

“(c) ADMINISTRATION AND ENFORCEMENT.—The Secretary shall prevent any person from violating this title, or any Act to which this section applies, in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though sections 308 through 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858 through 1861) were incorporated into and made a part of and applicable to this title and each such Act.

“(d) SPECIAL RULES.—

“(1) IN GENERAL.—Notwithstanding the incorporation by reference of certain sections of the Magnuson-Stevens Fishery Conservation and Management Act under subsection (c), if there is a conflict between a provision of this subsection and the corresponding provision of any section of the Magnuson-Stevens Fishery Conservation and Management Act so incorporated, the provision of this subsection shall apply.

“(2) ADDITIONAL ENFORCEMENT AUTHORITY.—In addition to the powers of officers authorized pursuant to subsection (c), any officer who is authorized by the Secretary, or the head of any Federal or State agency that has entered into an agreement with the Secretary under subsection (a), to enforce the provisions of any Act to which this section applies may, with the same jurisdiction, powers, and duties as though section 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861) were incorporated into and made a part of each such Act—

“(A) search or inspect any facility or conveyance used or employed in, or which reasonably appears to be used or employed in, the storage, processing, transport, or trade of fish or fish products;

“(B) inspect records pertaining to the storage, processing, transport, or trade of fish or fish products;

“(C) detain, for a period of up to 5 days, any shipment of fish or fish product imported into, landed on, introduced into, exported from, or transported within the jurisdiction of the United States, or, if such fish or fish product is deemed to be perishable, sell and retain the proceeds therefrom for a period of up to 5 days; and

“(D) make an arrest, in accordance with any guidelines which may be issued by the Attorney General, for any offense under the laws of the United States committed in the person’s presence, or for the commission of any felony under the laws of the United States, if the person has reasonable grounds to believe that the person to be arrested has committed or is committing a felony;

“(E) search and seize, in accordance with any guidelines that are issued by the Attorney General; and

“(F) execute and serve any subpoena, arrest warrant, search warrant issued in accordance with rule 41 of the Federal Rules of Criminal Procedure, or other warrant or civil or criminal process issued by any officer or court of competent jurisdiction.

“(3) DISCLOSURE OF ENFORCEMENT INFORMATION.—The Secretary may disclose, as necessary and appropriate, information, including information collected under joint authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 71 et seq.) or the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.) or other statutes implementing international fishery agreements, to any other Federal or State government agency, the Food and Agriculture Organization of the United Nations, the secretariat or equivalent of an international fishery management organization or arrangement made pursuant to an international fishery agreement, or a foreign government, if—

“(A) such government, organization, or arrangement has policies and procedures to protect such information from unintended or unauthorized disclosure; and

“(B) such disclosure is necessary—

“(i) to ensure compliance with any law or regulation enforced or administered by the Secretary;

“(ii) to administer or enforce any international fishery agreement to which the United States is a party;

“(iii) to administer or enforce a binding conservation measure adopted by any international organization or arrangement to which the United States is a party;

“(iv) to assist in any investigative, judicial, or administrative enforcement proceeding in the United States; or

“(v) to assist in any law enforcement action undertaken by a law enforcement agency of a foreign government, or in relation to a legal proceeding undertaken by a foreign government.

“(e) PROHIBITED ACTS.—It is unlawful for any person—

“(1) to violate any provision of this title or any regulation or permit issued pursuant to this title;

“(2) to refuse to permit any officer authorized to enforce the provisions of this title to board, search, or inspect a vessel, aircraft, vehicle, or shoreside facility subject to such person’s control for the purposes of conducting any search, investigation, or inspection in connection with the enforcement of this title, any regulation promulgated under this title, or any Act to which this section applies;

“(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, investigation, or inspection described in paragraph (2);

“(4) to resist a lawful arrest for any act prohibited by this section or any Act to which this section applies;

“(5) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of an other person, knowing that such person has committed any act prohibited by this section or any Act to which this section applies; or

“(6) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with—

“(A) any observer on a vessel under this title or any Act to which this section applies; or

“(B) any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this title or any Act to which this section applies.

“(f) CIVIL PENALTY.—Any person who commits any act that is unlawful under subsection (e) shall be liable to the United States for a civil penalty, and may be subject to a permit sanction, under section 308 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858).

“(g) CRIMINAL PENALTY.—Any person who commits an act that is unlawful under subsection (e)(2), (e)(3), (e)(4), (e)(5), or (e)(6) is deemed to be guilty of an offense punishable under section 309(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1859(b)).

“(h) UTILIZATION OF FEDERAL AGENCY ASSETS.—”.

(b) ACTIONS TO IMPROVE THE EFFECTIVENESS OF INTERNATIONAL FISHERY MANAGEMENT ORGANIZATIONS.—Section 608 of such Act (16 U.S.C. 1826i) is amended by—

(1) inserting before the first sentence the following: “(a) IN GENERAL.—”;

(2) in subsection (a) (as designated by paragraph (1) of this subsection) in the first sentence, inserting “, or arrangements made pursuant to an international fishery agreement,” after “organizations”; and

(3) adding at the end the following new subsections:

“(b) DISCLOSURE OF INFORMATION.—The Secretary may disclose, as necessary and appropriate, information, including information collected under joint authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 71 et seq.), the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.), any other statute implementing an international fishery agreement, to any other Federal or State government agency, the Food and Agriculture Organization of the United Nations, or the secretariat or equivalent of an international fishery management organization or arrangement made pursuant to an international fishery agreement, if such government, organization, or arrangement, respectively, has policies and procedures to protect such information from unintended or unauthorized disclosure.

“(c) IUU VESSEL LISTS.—The Secretary may—

“(1) develop, maintain, and make public a list of vessels and vessel owners engaged in illegal, unreported, or unregulated fishing or fishing-related activities in support of illegal, unreported, or unregulated fishing, including vessels or vessel owners identified by an international fishery management organization or arrangement made pursuant to an international fishery agreement, that—

“(A) the United States is party to; or

“(B) the United States is not party to, but whose procedures and criteria in developing and maintaining a list of such vessels and vessel owners are substantially similar to such procedures and criteria adopted pursuant to an international fishery agreement to which the United States is a party; and

“(2) take appropriate action against listed vessels and vessel owners, including action against fish, fish parts, or fish products from such vessels, in accordance with applicable United States law and consistent with applicable international law, including principles, rights, and obligations established in applicable international fishery management agreements and trade agreements.

“(d) REGULATIONS.—The Secretary may promulgate regulations to implement this section.”

(c) NOTIFICATION REGARDING IDENTIFICATION OF NATIONS.—Section 609(b) of such Act (16 U.S.C. 1826j(b)) is amended to read as follows:

“(b) NOTIFICATION.—The Secretary shall notify the President and that nation of such an identification.”

(d) NATIONS IDENTIFIED UNDER SECTION 610.—Section 610(b)(1) of such Act (16 U.S.C. 1826k(b)(1)) is amended to read as follows:

“(1) notify, as soon as possible, the President and nations that have been identified under subsection (a), and also notify other nations whose vessels engage in fishing activities or practices described in subsection (a), about the provisions of this section and this Act;”

(e) EFFECT OF CERTIFICATION UNDER SECTION 609.—Section 609(d)(3)(A)(i) of such Act (16 U.S.C. 1826j(d)(3)(A)(i)) is amended by striking “that has not been certified by the Secretary under this subsection, or”.

(f) EFFECT OF CERTIFICATION UNDER SECTION 610.—Section 610(c)(5) of such Act (16 U.S.C. 1826k(c)(5)) is amended by striking “that has not been certified by the Secretary under this subsection, or”.

(g) IDENTIFICATION OF NATIONS.—

(1) SCOPE OF IDENTIFICATION FOR ACTIONS OF FISHING VESSELS.—Section 609(a) of such Act (16 U.S.C. 1826j(a)) is amended—

(A) in the matter preceding paragraph (1) by striking “2 years” and inserting “3 years”;

(B) in paragraph (1), by inserting “that undermines the effectiveness of measures required by an international fishery management organization, taking into account whether” after “(1)”; and

(C) in paragraph (1), by striking “vessels of”.

(2) ADDITIONAL GROUNDS FOR IDENTIFICATION.—Section 609(a) of such Act (16 U.S.C. 1826j(a)) is further amended—

(A) by redesignating paragraphs (1) and (2) in order as subparagraphs (A) and (B) (and by moving the margins of such subparagraphs 2 ems to the right);

(B) by inserting before the first sentence the following:

“(1) IDENTIFICATION FOR ACTIONS OF FISHING VESSELS.—”; and

(C) by adding at the end the following:

“(2) IDENTIFICATION FOR ACTIONS OF NATION.—Taking into account the factors described under section 609(a)(1), the Secretary shall also identify, and list in such report, a nation—

“(A) if it is violating, or has violated at any point during the preceding three years, conservation and management measures required under an international fishery management agreement to which the United States is a party and the violations undermine the effectiveness of such measures; or

“(B) if it is failing, or has failed at any point during the preceding three years, to effectively address or regulate illegal, unreported, or unregulated fishing in areas described under paragraph (1)(B).

“(3) APPLICATION TO OTHER ENTITIES.—Where the provisions of this Act are applicable to nations, they shall also be applicable, as appropriate, to other entities that have competency to enter into international fishery management agreements.”

(3) PERIOD OF FISHING PRACTICES SUPPORTING IDENTIFICATION.—Section 610(a)(1) of such Act (16 U.S.C. 1826k(a)(1)) is amended by striking “calendar year” and replacing with “three years”.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) Section 609(f) of such Act (16 U.S.C. 1826j) is amended by—

(A) striking “2007” and inserting “2010”; and

(B) striking “2013” and inserting “2015”.

(2) Section 610(f) of such Act (16 U.S.C. 1826k) is amended by—

(A) striking “2007” and inserting “2010”; and

- (B) striking “2013” and inserting “2015”.
- (i) TECHNICAL CORRECTIONS.—
- (1) Section 607(2) of such Act (16 U.S.C. 1826h(2)) is amended by striking “whose vessels” and inserting “that”.
 - (2) Section 609(d)(1) of such Act (16 U.S.C. 1826j(d)(1)) is amended by striking “of its fishing vessels”.
 - (3) Section 609(d)(1)(A) of such Act (16 U.S.C. 1826j(d)(1)(A)) is amended by striking “of its fishing vessels”.
 - (4) Section 609(d)(2) of such Act (16 U.S.C. 1826j(d)(2)) is amended—
 - (A) by striking “for certification” and inserting “to authorize”;
 - (B) by inserting “the importation” after “or other basis”;
 - (C) by striking “harvesting”;
 - (D) by striking “not certified under paragraph (1)” and inserting “issued a negative certification under paragraph (1)”.
 - (5) Section 610 of such Act (16 U.S.C. 1826k) is amended as follows:
 - (A) In subsection (a)(1), by striking “practices;” and inserting “practices—”.
 - (B) In subsection (c)(1)(A), by striking “, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs”.
 - (C) In subsection (c)(4), by striking all preceding subparagraph (B) and inserting the following:

“(4) ALTERNATIVE PROCEDURE.—The Secretary may establish a procedure to authorize, on a shipment-by-shipment, shipper-by-shipper, or other basis the importation of fish or fish products from a vessel of a nation issued a negative certification under paragraph (1) if the Secretary determines that such imports were harvested by practices that do not result in bycatch of a protected marine species, or were harvested by practices that—

“(A) are comparable to those of the United States, taking into account different conditions; and”.

SEC. 3. AMENDMENTS TO THE HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT ACT.

- (a) NEGATIVE CERTIFICATION EFFECTS.—Section 101 of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a) is amended—
- (1) in subsection (a)(2), by striking “recognized principles of” after “in accordance with”;
 - (2) in subsection (a)(2)(A), by inserting “or, as appropriate, for fishing vessels of a nation that receives a negative certification under section 609(d) or section 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j) after “(1)”;
 - (3) in subsection (a)(2)(B), by inserting before the period the following: “, except for the purposes of inspecting such vessel, conducting an investigation, or taking other appropriate enforcement action”;
 - (4) in subsection (b)(1)(A)(i), by striking “or illegal, unreported, or unregulated fishing” after “driftnet fishing”;
 - (5) in subsection (b)(1)(B) and subsection (b)(2), by striking “or illegal, unreported, or unregulated fishing” after “driftnet fishing” each place it appears;
 - (6) in subsection (b)(3)(A)(i), by inserting “or a negative certification under section 609(d) or section 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d), 1826k(c))” after “(1)(A)”;
 - (7) in subsection (b)(4)(A), by inserting “or issues a negative certification under section 609(d) or section 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d), 1826k(c))” after “paragraph (1)”;
 - (8) in subsection (b)(4)(A)(i), by striking “or illegal, unreported, or unregulated fishing” after “driftnet fishing”; and
 - (9) in subsection (b)(4)(A)(i), by inserting “, or to address the offending activities for which a nation received a negative certification under section 609(d) or 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d), 1826k(c))” after “beyond the exclusive economic zone of any nation”.
- (b) DURATION OF NEGATIVE CERTIFICATION EFFECTS.—Section 102 of such Act (16 U.S.C. 1826b) is amended by—
- (1) striking “or illegal, unreported, or unregulated fishing”; and
 - (2) inserting “or effectively addressed the offending activities for which the nation received a negative certification under 609(d) or 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d), 1826k(c))” before the period at the end.

SEC. 4. AMENDMENTS TO THE TUNA CONVENTIONS ACT OF 1950.

- Section 8 of the Tuna Conventions Act of 1950 (16 U.S.C. 957) is amended—
- (1) in subsection (a) by striking “knowingly”;

(2) by striking subsections (d) through (g) and inserting the following:

“(d) **ADDITIONAL PROHIBITIONS AND ENFORCEMENT.**—For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).”; and

(3) by redesignating subsection (h) as subsection (e).

SEC. 5. AMENDMENTS TO NORTH PACIFIC ANADROMOUS STOCKS ACT OF 1992.

(a) **UNLAWFUL ACTIVITIES.**—Section 810 of the North Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5009) is amended—

(1) in paragraph (5), by inserting “, investigation,” after “search”; and

(2) in paragraph (6), by inserting “, investigation,” after “search”.

(b) **ADDITIONAL PROHIBITIONS AND ENFORCEMENT.**—Section 811 of the Northern Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5010) is amended to read as follows:

“SEC. 811. ADDITIONAL PROHIBITIONS AND ENFORCEMENT.

“For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).”.

SEC. 6. AMENDMENTS TO THE PACIFIC SALMON TREATY ACT OF 1985.

Section 8 of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3637) is amended—

(1) in subsection (a)(2)—

(A) by inserting “, investigation,” after “search”; and

(B) by striking “this title;” and inserting “this Act;”;

(2) in subsection (a)(3)—

(A) by inserting “, investigation,” after “search”; and

(B) by striking “subparagraph (2);” and inserting “paragraph (2);”;

(3) in subsection (a)(5), by striking “this title; or” and inserting “this Act;”;

(4) by striking subsections (b) through (f) and inserting the following:

“(b) **ADDITIONAL PROHIBITIONS AND ENFORCEMENT.**—For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).”.

SEC. 7. AMENDMENTS TO THE WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION IMPLEMENTATION ACT.

The Western and Central Pacific Fisheries Convention Implementation Act (title V of Public Law 109–479) is amended—

(1) in section 503(a) (16 U.S.C. 6902(a)), by striking “one of whom shall be the chairman or a member of the Western Pacific Fishery Management Council and the Pacific Fishery Management Council” and inserting “one of whom shall be a member of the Western Pacific Fishery Management Council, and one of whom shall be a member of the Pacific Fishery Management Council”;

(2) in section 503(c)(1) (16 U.S.C. 6902(c)(1)), by striking “shall be considered to be Federal employees” and all that follows through the end of the sentence and inserting “shall not be considered Federal employees except for purposes of injury compensation and tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.”;

(3) in section 503(d)(2)(B) (16 U.S.C. 6902(d)(2)(B)), by amending clause (ii) to read as follows:

“(ii) shall not be considered Federal employees while performing service except for the purposes of injury compensation and tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.”;

(4) by amending section 506(c) (16 U.S.C. 6905(c)) to read as follows:

“(c) **ADDITIONAL PROHIBITIONS AND ENFORCEMENT.**—For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).”; and

(5) in section 507(a)(2) (16 U.S.C. 6906(a)(2)) by striking “suspension, on” and inserting “suspension, of”.

SEC. 8. AMENDMENTS TO THE SOUTH PACIFIC TUNA ACT OF 1988.

The South Pacific Tuna Act of 1988 is amended—

(1) in section 5(a) (16 U.S.C. 973c(a))—

(A) in paragraph (8), by inserting “, investigation,” after “search”; and

(B) in paragraph (10), by inserting “, investigation,” after “search”; and

(2) by striking sections 7 and 8 (16 U.S.C. 973e and 973f) and inserting the following:

“SEC. 7. ADDITIONAL PROHIBITIONS AND ENFORCEMENT.

“For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).”.

SEC. 9. AMENDMENTS TO THE ANTARCTIC MARINE LIVING RESOURCES CONVENTION ACT.

The Antarctic Marine Living Resources Convention Act of 1984 is amended—

(1) in section 306 (16 U.S.C. 2435)—

(A) in paragraph (3), by striking “which he knows, or reasonably should have known, was”;

(B) in paragraph (4), by inserting “, investigation,” after “search”; and

(C) in paragraph (5), by inserting “, investigation,” after “search”;

(2) in section 307 (16 U.S.C. 2436)—

(A) by inserting “(a) IN GENERAL.—” before the first sentence; and

(B) by adding at the end the following:

“(b) REGULATIONS TO IMPLEMENT CONSERVATION MEASURES.—

“(1) IN GENERAL.—Notwithstanding subsections (b), (c), and (d) of section 553 of title 5, United States Code, the Secretary of Commerce may publish in the Federal Register a final regulation to implement any conservation measure for which the Secretary of State notifies the Commission under section 305(a)(1)—

“(A) that has been in effect for 12 months or less;

“(B) that is adopted by the Commission; and

“(C) with respect to which the Secretary of State does not notify Commission in accordance with section 305(a)(1) within the time period allotted for objections under Article IX of the Convention.

“(2) ENTERING INTO FORCE.—Upon publication of such regulation in the Federal Register, such conservation measure shall enter into force with respect to the United States.”; and

(3) by striking sections 308 and 309 (16 U.S.C. 2437 and 2438) and inserting the following:

“SEC. 308. ADDITIONAL PROHIBITIONS AND ENFORCEMENT.

“For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).”.

SEC. 10. AMENDMENTS TO THE ATLANTIC TUNAS CONVENTION ACT.

The Atlantic Tunas Convention Act of 1975 is amended—

(1) in section 6(c)(2) (16 U.S.C. 971d(c)(2)(2))—

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

(B) by striking “(B)” and inserting “(ii)”;

(C) by inserting “(A)” after “(2)”; and

(D) by adding at the end the following:

“(B) Notwithstanding the requirements of subparagraph (A) and subsections (b) and (c) of section 553 of title 5, United States Code, the Secretary may issue final regulations to implement Commission recommendations referred to in paragraph (1) concerning trade restrictive measures against nations or fishing entities.”; and

(2) in section 7 (16 U.S.C. 971e) by striking subsections (e) and (f) and redesignating subsection (g) as subsection (e);

(3) in section 8 (16 U.S.C. 971f)—

(A) by striking subsections (a) and (c); and

(B) by inserting before subsection (b) the following:

“(a) For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).”;

(4) in section 8(b) by striking “the enforcement activities specified in section 8(a) of this Act” each place it appears and inserting “enforcement activities with respect to this Act that are otherwise authorized by law”; and

(5) by striking section 11 (16 U.S.C. 971j) and redesignating sections 12 and 13 as sections 11 and 12, respectively.

SEC. 11. AMENDMENTS TO THE HIGH SEAS FISHING COMPLIANCE ACT OF 1965.

Section 104(f) of the High Seas Fishing Compliance Act of 1995 (16 U.S.C. 5503(f)) is amended to read as follows:

“(f) VALIDITY.—A permit issued under this section for a vessel is void if—

“(1) any other permit or authorization required for the vessel to fish is expired, revoked, or suspended; or

“(2) the vessel is no longer documented under the laws of the United States or eligible for such documentation.”.

SEC. 12. AMENDMENTS TO THE PACIFIC WHITING ACT OF 2006.

(a) **SCIENTIFIC EXPERTS ON JOINT TECHNICAL COMMITTEE.**—Section 605(a)(1) of the Pacific Whiting Act of 2006 (16 U.S.C. 7004)(a)(1)) is amended to read as follows:

“(1) **IN GENERAL.**—The Secretary, in consultation with the Secretary of State, shall appoint no more than two individuals to serve as scientific experts on the joint technical committee, at least one of whom shall be an official of the National Oceanic and Atmospheric Administration.”; and

(b) **TREATMENT AS FEDERAL EMPLOYEES.**—Section 609(a) of the Pacific Whiting Act of 2006 (16 U.S.C. 7008(a)) is amended by striking “shall be considered to be Federal employees while performing such service, only for purposes of—” and all that follows and inserting “shall not be considered Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.”.

SEC. 13. AMENDMENTS TO THE DOLPHIN PROTECTION CONSUMER INFORMATION ACT.

The Dolphin Protection Consumer Information Act (16 U.S.C. 1385) is amended by amending subsection (e) to read as follows:

“(e) **ADDITIONAL PROHIBITIONS AND ENFORCEMENT.**—For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).”.

SEC. 14. AMENDMENTS TO THE NORTHERN PACIFIC HALIBUT ACT OF 1982.

(a) **PROHIBITED ACTS.**—Section 7 of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773e) is amended—

(1) in paragraph (a) by redesignating subparagraphs (1) through (6) as subparagraphs (A) through (F);

(2) by redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively;

(3) by in paragraph (1)(B), as so redesignated, by inserting “, investigation,” before “or inspection”;

(4) by in paragraph (1)(C), as so redesignated, by inserting “, investigation,” before “or inspection”;

(5) in paragraph (1)(E), as so redesignated, by striking “or” after the semicolon; and

(6) in paragraph (1)(F), as so redesignated, by striking “section.” and inserting “section; or”.

(b) **ENFORCEMENT POWERS.**—Section 11 of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773i) is amended by adding at the end the following:

“(g) In addition to the powers of officers authorized pursuant to subsection (b), any officer who is authorized by the Secretary, or by the head of any Federal or State agency that has entered into an agreement with the Secretary under subsection (a), to enforce the Convention, this Act, or any regulation adopted under this Act, may—

“(1) search or inspect any facility or conveyance used or employed in, or which reasonably appears to be used or employed in, the storage, processing, transport, or trade of fish or fish products;

“(2) inspect records pertaining to the storage, processing, transport, or trade of fish or fish products; and

“(3) detain, for a period of up to 5 days, any shipment of fish or fish product imported into, landed on, introduced into, exported from, or transported within the jurisdiction of the United States, or, if such fish or fish product is deemed to be perishable, sell and retain the proceeds therefrom for a period of up to 5 days.”.

SEC. 15. AMENDMENTS TO THE NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995.

Section 207 of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5606) is amended—

(1) in the section heading, by striking “**AND PENALTIES**” and inserting “**AND ENFORCEMENT**”;

(2) in subsection (a)(2), by inserting “, investigation,” before “or inspection”;

(3) in subsection (a)(3), by inserting “, investigation,” before “or inspection”;

(4) by striking subsections (b) through (f) and inserting the following:

“(b) **ADDITIONAL PROHIBITIONS AND ENFORCEMENT.**—For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).”.

SEC. 16. AMENDMENT TO THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT.

Section 307(1)(Q) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857(1)(Q)) is amended by inserting before the semicolon the

following: “or any treaty or in contravention of any binding conservation measure adopted by an international agreement or organization to which the United States is a party”.

SEC. 17. INTERNATIONAL COOPERATION AND ASSISTANCE PROGRAM.

(a) **INTERNATIONAL COOPERATION AND ASSISTANCE PROGRAM.**—The Secretary of Commerce, acting through the National Marine Fisheries Service, may establish an international cooperation and assistance program, including grants, to provide assistance for sustainable fishery management capacity building efforts.

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

(1) provide funding and technical expertise to other nations to assist them in addressing illegal, unreported, or unregulated fishing activities;

(2) provide funding and technical expertise to other nations to assist them in reducing the loss and environmental impacts of derelict fishing gear, reducing the bycatch of living marine resources, and promoting international marine resource conservation;

(3) provide funding, technical expertise, and training to other nations to aid them in building capacity for enhanced fisheries management, fisheries monitoring, catch and trade tracking activities, enforcement, and international marine resource conservation;

(4) establish partnerships with other Federal agencies or non-governmental organizations, as appropriate, to ensure that fisheries development assistance to other nations is directed toward projects that promote sustainable fisheries; and

(5) conduct outreach and education efforts in order to promote public and private sector awareness of international fisheries sustainability issues, including the need to combat illegal, unreported, or unregulated fishing activity and to promote international marine resource conservation.

(c) **GUIDELINES.**—The Secretary may establish guidelines necessary to implement the program.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary \$5,000,000 for each of fiscal years 2010 through 2015 to carry out this section.

PURPOSE OF THE BILL

The purpose of H.R. 1080 is to strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

Over seventy percent of major global marine fish stocks are fully exploited, overexploited, depleted, or recovering from depletion, driven in part by non-compliance of parties to regional fishery management organizations (RFMOs) and to the persistence of illegal, unreported, and unregulated (IUU) fishing. The Food and Agriculture Organization of the United Nations (UN) notes that although the exact extent of IUU fishing is not known, it is estimated that for some important fisheries IUU fishing accounts for about 30 percent of the total catch. The UN General Assembly has termed IUU fishing, “one of the greatest threats to marine ecosystems [that] continues to have serious and major implications for the conservation and management of ocean resources.”

IUU fishing is an umbrella term for several deleterious fishing behaviors. Illegal fishing takes place when vessels operate in violation of the laws of a fishery, such as those under the jurisdiction of a coastal state or those regulated by RFMOs. Unreported fishing is fishing that is not reported or is misreported when such reporting is required by the relevant national authority or RFMO. Unregulated fishing refers to fishing by vessels without nationality or vessels flying the flag of a country not party to the relevant RFMO.

With an annual global value of \$10 to \$23.5 billion, representing between 11 and 26 million tonnes, IUU fishing undermines the United States' conservation-focused approach to fisheries management and its fishermen. Unsustainable fishing practices by foreign fishing fleets adversely affect stocks that migrate between the U.S. Exclusive Economic Zone (EEZ) and the high seas. If stocks fail to recover, additional restrictions may be placed on U.S. fishermen, forcing economic losses and undermining confidence in the fairness of the management system. In this sense, IUU fishers are "free riders" who benefit unfairly from the sacrifices made by others for the sake of proper fisheries conservation and management. The growing problem of IUU fishing can significantly diminish the benefits of domestic fisheries management efforts.

There are many methods for addressing IUU fishing, including depriving fishers of the economic benefits of illegal fishing, increasing leverage on other nations to effectively monitor and control their fishing vessels, and building capacity for enforcement and good governance in developing countries, all which were addressed with the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) in 2006. This reauthorization contained provisions to amend the High Seas Driftnet Fishing Moratorium Protection Act (HSDFMPA) designed to strengthen controls on IUU fishing on the high seas (i.e., areas outside of nations' EEZs). The Secretary of Commerce was also directed to produce a biennial report to Congress that includes the state of knowledge on the status of international living marine resources shared by the United States or subject to treaties or agreements to which the United States is a party; a list of nations the U.S. has identified as having vessels engaged in IUU fishing and/or bycatch of protected living marine resources (PLMRs); a description of efforts taken by nations on those lists to take appropriate corrective actions consistent with the Act; progress at the international level to strengthen the efforts of RFMOs to end IUU fishing; and the steps taken by the Secretary at the international level to adopt measures comparable to those of the United States to reduce the impacts of fishing and other practices on PLMRs.

The first biennial report to Congress was released on January 13, 2009, and listed the nations of France, Italy, Libya, Panama, China, and Tunisia as having vessels engaged in IUU fishing. NOAA has subsequently initiated consultations with these nations to discuss appropriate corrective actions. Pursuant to the MSA, NOAA has also proposed a rule to implement certification procedures to address IUU fishing activities. Notwithstanding these positive steps and other efforts by NOAA, the State Department, and the U.S. Coast Guard, further enforcement authorities could enhance the ability of these agencies to address IUU fishing. H.R. 1080 provides these authorities, including increasing civil and criminal penalties to deter the illegal importation of fish products into the U.S., enhanced data and information sharing among and between governments and RFMOs, the authority to inspect conveyances, facilities, and records involving the trade of fish and fish products, and support of international assistance and training programs.

COMMITTEE ACTION

H.R. 1080 was introduced on February 13, 2009 by Rep. Madeleine Z. Bordallo (D-GU). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Insular Affairs, Oceans and Wildlife. On March, 19, 2009, the Subcommittee held a hearing on the bill. All the witnesses testified in support of the legislation.

On June 9, 2009, the Subcommittee was discharged from further consideration of H.R. 1080 and the Full Natural Resources Committee met to consider the bill. Subcommittee Chairwoman Bordallo offered an amendment in the nature of a substitute to allow the Secretary to share data with foreign governments for enforcement purposes only, while restricting how data is shared with RFMOs; to strengthen the Secretary's ability to identify a nation for IUU fishing if it has violated conservation and management measures of an RFMO to which the U.S. is party; to allow U.S. port access to IUU vessels for purposes of investigation; to list vessels that support IUU fishing; and to make other technical changes. It was adopted by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides that this Act may be cited as the "Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2009".

Section 2. Amendments to the High Seas Driftnet Fishing Moratorium Protection Act

Section 2(a) provides that enforcement of this Act shall be conducted by the Secretary of Commerce (hereinafter "the Secretary") and by the Coast Guard. It also states that the Secretary may use services, equipment, and facilities of other federal or state agencies by agreement for enforcement purposes. These enforcement provisions apply to the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631), the Dolphin Protection Consumer Information Act (16 U.S.C. 1385), the Tuna Conventions Act of 1950 (16 U.S.C. 951), the North Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5001), the South Pacific Tuna Act of 1988 (16 U.S.C. 973), the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2431), the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971), the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601), and the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901), which are later amended in this Act.

Section 2(a) also applies sections 308 through 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1358 through 1861), which are the sections on civil penalties and permit sanctions, criminal offenses, civil forfeitures, and enforcement, respectively, to this Act. It also gives further enforcement authority to: search or inspect any facility or conveyance used to store, process, transport, or trade fish; inspect records pertaining to storing, processing, transporting, or trading fish; detain for up to five days shipments of imported or exported fish; arrest a person suspected of committing a felony; search and seize; and execute

and serve a subpoena, arrest warrant, or search warrant. This subsection authorizes the Secretary to disclose information with international fishery management organizations and foreign governments for enforcement purposes. It also prohibits violation of this title; refusing to allow an officer to board, search, or inspect a vessel; assaulting or impeding an enforcement officer or fisheries observer; resisting arrest; or preventing the arrest of another person.

Section 2(b) authorizes the Secretary to disclose information to an international fishery management organization if there are procedures to safeguard the information. It also authorizes the Secretary to make a list of vessels and vessel owners engaged in illegal, unreported, and unregulated (IUU) fishing or their support vessels and to take appropriate action against them, regardless of whether the U.S. is party to the specific international fishery management agreement in question, so long as it has similar listing procedures and criteria to the U.S.

Section 2(c) and 2(d) authorize the Secretary to notify the President of the United States and the nation of origin of vessels conducting IUU fishing or fishing practices that result in bycatch.

Section 2(e) and 2(f) strike clauses that would clarify that only nations which have been issued a negative certification would be subject to the enforcement provisions in the High Seas Driftnet Fishing Moratorium Protection Act (HSDFMPA).

Section 2(g) allows the Secretary to identify and list vessels engaged in IUU or bycatch of protected living marine resources for the preceding three years and nations which have violated conservation and management measures of an RFMO to which the U.S. is party.

Section 2(h) changes the dates of authorization of appropriations from fiscal years 2007 through 2013 to 2010 through 2015.

Section 2(i) provides technical adjustments to effectively carry out current IUU identification mandates.

Section 3. Amendments to the High Seas Driftnet Fisheries Enforcement Act

Section 3 provides that IUU vessels and nations and bycatch nations be subject to the penalties contained in the High Seas Driftnet Moratorium Protection Act. It also allows U.S. port access to IUU vessels for purposes of investigation and inspection.

Section 4. Amendments to the Tuna Conventions Act of 1950

Section 4 amends the Tuna Conventions Act of 1950 to authorize additional prohibitions and enforcement measures.

Section 5. Amendments to the Northern Pacific Anadromous Stocks Act of 1992

Section 5 amends the Northern Pacific Anadromous Stocks Act of 1992 to authorize additional prohibitions and enforcement measures.

Section 6. Amendments to the Pacific Salmon Treaty Act of 1985

Section 6 amends the Pacific Salmon Treaty Act of 1985 to authorize additional prohibitions and enforcement measures.

Section 7. Amendments to the Western and Central Pacific Fisheries Convention Implementation Act

Section 7 clarifies that the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean shall have one member each from the Western Pacific Fishery Management Council and the Pacific Fishery Management Council. This section also eliminates the conflict of interest provision that would prevent an industry member from serving on the commission, advisory panel, and other groups. This section also authorizes additional prohibitions and enforcement measures to the Western and Central Pacific Fisheries Convention Implementation Act.

Section 8. Amendments to the South Pacific Tuna Act of 1988

Section 8 amends the South Pacific Tuna Act of 1988 to authorize additional prohibitions and enforcement measures.

Section 9. Amendments to the Antarctic Marine Living Resources Convention Act

Section 9 amends the Antarctic Marine Living Resources Convention Act to authorize additional prohibitions and enforcement measures. This section also provides procedures by which regulations may be promulgated and implemented by the Secretary.

Section 10. Amendments to the Atlantic Tunas Convention Act

Section 10 amends the Atlantic Tunas Convention Act to implement recommendations adopted at the meetings of the International Commission for the Conservation of Atlantic Tuna in a more timely manner in the U.S. This section also authorizes additional prohibitions and enforcement measures to the Atlantic Tunas Convention Act and provides procedures by which regulations may be promulgated and implemented by the Secretary.

Section 11. Amendments to the High Seas Fishing Compliance Act of 1995

Section 11 amends the High Seas Fishing Compliance Act of 1995 to eliminate the current term of permits issued. The Committee intends that this change will better align permitting processes under the High Seas Fishing Compliance Act with the timeframe provided in the National Environmental Policy Act.

Section 12. Amendments to the Pacific Whiting Act of 2006

Section 12 provides for a technical amendment to the Pacific Whiting Act of 2006 which clarifies the number of scientific experts allowed on the Joint Technical Committee. It also eliminates the conflict of interest provision that would prevent an industry member from serving on the commission, advisory panel, and other groups.

Section 13. Amendments to the Dolphin Protection Consumer Information Act

Section 13 amends the Dolphin Protection Consumer Information Act to authorize additional prohibitions and enforcement measures to.

Section 14. Amendments to the Northern Pacific Halibut Act of 1982

Section 14 amends the Northern Pacific Halibut Act to authorize expanded enforcement powers.

Section 15. Amendments to the Northwest Atlantic Fisheries Convention Act of 1995

Section 15 amends the Northwest Atlantic Fisheries Convention Act to authorize additional prohibitions and enforcement measures.

Section 16. Amendment to the Magnuson-Stevens Fishery Conservation and Management Act

Section 16 prohibits the sale of fish taken in violation of any treaty or in contravention of any binding conservation measure adopted by a regional fishery management organization to which the U.S. is party.

Section 17. International Cooperation and Assistance Program

Section 17 establishes an international cooperation and assistance program to provide funding and technical expertise to other nations to help them address IUU fishing. It authorizes \$5 million annually from fiscal years 2010 to 2015 to carry out this program.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to strengthen enforcement mechanisms to stop illegal, unreported, and unregulated fishing, and for other purposes.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Com-

mittee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 1080—Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2009

Summary: H.R. 1080 would strengthen the authority of the National Oceanic and Atmospheric Administration (NOAA) to enforce fisheries laws and combat illegal, unreported, and unregulated (IUU) fishing by foreign vessels. The bill would establish uniform enforcement policies and procedures among the many federal statutes that govern the regulation of commercial fishing and would reauthorize funding for certain international enforcement activities through fiscal year 2015. Finally, the bill would authorize the appropriation of \$5 million a year through 2015 to assist other nations with fishery conservation programs and enforcement activities.

Assuming appropriation of the amounts specifically authorized or estimated to be necessary, CBO estimates that implementing H.R. 1080 would increase spending by \$55 million over the 2010–2014 period. Enacting H.R. 1080 could increase revenues (from civil and criminal penalties) and associated direct spending, but CBO estimates that such increases would be less than \$500,000 annually and would offset each other in most years.

H.R. 1080 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1080 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2010	2011	2012	2013	2014	2010–2014
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Expanded Enforcement Activities						
Estimated Authorization Level	6	6	6	7	7	32
Estimated Outlays	3	6	6	7	7	29
Reauthorization of Certain Enforcement Programs						
Estimated Authorization Level	0	0	0	0	7	7
Estimated Outlays	0	0	0	0	6	6
International Cooperation and Assistance						
Authorization Level	5	5	5	5	5	25
Estimated Outlays	2	3	5	5	5	20
Total Changes						
Estimated Authorization Level	11	11	11	12	19	64
Estimated Outlays	5	9	11	12	19	55

Basis of estimate: For this estimate, CBO assumes that H.R. 1080 will be enacted during fiscal year 2009 and that the amounts specifically authorized or estimated to be needed will be appropriated for each of the following years. Estimated authorization levels are based on information provided by NOAA, the federal agency primarily responsible for investigating IUU activities. Estimated outlays are based on historical spending patterns for similar programs.

H.R. 1080 would provide NOAA with greater authority to combat IUU fishing and by-catch of protected species by foreign vessels.

(By-catch are sea life unintentionally caught by commercial fishermen.) The enhanced authority would enable NOAA to expand its enforcement activities beginning in 2010, which CBO estimates would require \$6 million a year (roughly doubling the budget for this activity by 2014). The estimated increase in discretionary spending over the 2010–2014 period would be \$29 million. We expect that the additional funding would allow the agency to hire between 10 and 20 employees to investigate IUU fishing and importing into the United States and to better analyze by-catch data on protected species such as sea turtles.

Section 2 would reauthorize (through 2015) the appropriation of whatever amounts are necessary for NOAA to combat IUU fishing and by-catch of protected species under the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act. Such funding is already authorized through 2013. Based on current funding levels and administration requests, CBO estimates that this provision would cost \$6 million in 2014.

Section 17 would authorize the appropriation of \$5 million annually through 2015 for grants and technical assistance to foreign governments to address IUU fishing and help build sustainable fisheries. CBO estimates that this provision would cost \$20 million over the 2010–2014 period, assuming appropriation of the authorized amounts.

Finally, the bill would increase civil and criminal penalties for violations of fishery laws. Based on information provided by NOAA, CBO estimates that any increase in revenues from penalties would be less than \$500,000 a year and would be offset by similar increases in direct spending from the Crime Victims Fund (for criminal penalties) or by NOAA (for civil penalties) as authorized by existing law.

Intergovernmental and private-sector impact: H.R. 1080 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Deborah Reis; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 1080 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**HIGH SEAS DRIFTNET FISHING MORATORIUM
PROTECTION ACT**

TITLE VI—DRIFTNET MORATORIUM

SEC. 601. SHORT TITLE.

This title may be cited as the “High Seas Driftnet Fishing Moratorium Protection Act”.

* * * * *

SEC. 606. ENFORCEMENT.

(a) *IN GENERAL.*—*The Secretary and the Secretary of the department in which the Coast Guard is operating shall enforce this title, and the Acts to which this section applies, in accordance with this section. Each such Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel services, equipment (including aircraft and vessels), and facilities of any other Federal agency, and of any State agency, in the performance of such duties.*

(b) *ACTS TO WHICH SECTION APPLIES.*—*This section applies to—*

(1) *the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631 et seq.);*

(2) *the Dolphin Protection Consumer Information Act (16 U.S.C. 1385);*

(3) *the Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.);*

(4) *the North Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5001 et seq.);*

(5) *the South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.);*

(6) *the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2431 et seq.);*

(7) *the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.);*

(8) *the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.); and*

(9) *the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.).*

(c) *ADMINISTRATION AND ENFORCEMENT.*—*The Secretary shall prevent any person from violating this title, or any Act to which this section applies, in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though sections 308 through 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858 through 1861) were incorporated into and made a part of and applicable to this title and each such Act.*

(d) *SPECIAL RULES.*—

(1) *IN GENERAL.*—*Notwithstanding the incorporation by reference of certain sections of the Magnuson-Stevens Fishery Conservation and Management Act under subsection (c), if there is a conflict between a provision of this subsection and the cor-*

responding provision of any section of the Magnuson-Stevens Fishery Conservation and Management Act so incorporated, the provision of this subsection shall apply.

(2) *ADDITIONAL ENFORCEMENT AUTHORITY.*—In addition to the powers of officers authorized pursuant to subsection (c), any officer who is authorized by the Secretary, or the head of any Federal or State agency that has entered into an agreement with the Secretary under subsection (a), to enforce the provisions of any Act to which this section applies may, with the same jurisdiction, powers, and duties as though section 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861) were incorporated into and made a part of each such Act—

(A) search or inspect any facility or conveyance used or employed in, or which reasonably appears to be used or employed in, the storage, processing, transport, or trade of fish or fish products;

(B) inspect records pertaining to the storage, processing, transport, or trade of fish or fish products;

(C) detain, for a period of up to 5 days, any shipment of fish or fish product imported into, landed on, introduced into, exported from, or transported within the jurisdiction of the United States, or, if such fish or fish product is deemed to be perishable, sell and retain the proceeds therefrom for a period of up to 5 days; and

(D) make an arrest, in accordance with any guidelines which may be issued by the Attorney General, for any offense under the laws of the United States committed in the person's presence, or for the commission of any felony under the laws of the United States, if the person has reasonable grounds to believe that the person to be arrested has committed or is committing a felony;

(E) search and seize, in accordance with any guidelines that are issued by the Attorney General; and

(F) execute and serve any subpoena, arrest warrant, search warrant issued in accordance with rule 41 of the Federal Rules of Criminal Procedure, or other warrant or civil or criminal process issued by any officer or court of competent jurisdiction.

(3) *DISCLOSURE OF ENFORCEMENT INFORMATION.*—The Secretary may disclose, as necessary and appropriate, information, including information collected under joint authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 71 *et seq.*) or the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 *et seq.*) or other statutes implementing international fishery agreements, to any other Federal or State government agency, the Food and Agriculture Organization of the United Nations, the secretariat or equivalent of an international fishery management organization or arrangement made pursuant to an international fishery agreement, or a foreign government, if—

(A) such government, organization, or arrangement has policies and procedures to protect such information from unintended or unauthorized disclosure; and

(B) *such disclosure is necessary—*

(i) *to ensure compliance with any law or regulation enforced or administered by the Secretary;*

(ii) *to administer or enforce any international fishery agreement to which the United States is a party;*

(iii) *to administer or enforce a binding conservation measure adopted by any international organization or arrangement to which the United States is a party;*

(iv) *to assist in any investigative, judicial, or administrative enforcement proceeding in the United States;*
or

(v) *to assist in any law enforcement action undertaken by a law enforcement agency of a foreign government, or in relation to a legal proceeding undertaken by a foreign government.*

(e) **PROHIBITED ACTS.**—*It is unlawful for any person—*

(1) *to violate any provision of this title or any regulation or permit issued pursuant to this title;*

(2) *to refuse to permit any officer authorized to enforce the provisions of this title to board, search, or inspect a vessel, aircraft, vehicle, or shoreside facility subject to such person's control for the purposes of conducting any search, investigation, or inspection in connection with the enforcement of this title, any regulation promulgated under this title, or any Act to which this section applies;*

(3) *to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, investigation, or inspection described in paragraph (2);*

(4) *to resist a lawful arrest for any act prohibited by this section or any Act to which this section applies;*

(5) *to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of an other person, knowing that such person has committed any act prohibited by this section or any Act to which this section applies; or*

(6) *to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with—*

(A) *any observer on a vessel under this title or any Act to which this section applies; or*

(B) *any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this title or any Act to which this section applies.*

(f) **CIVIL PENALTY.**—*Any person who commits any act that is unlawful under subsection (e) shall be liable to the United States for a civil penalty, and may be subject to a permit sanction, under section 308 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858).*

(g) **CRIMINAL PENALTY.**—*Any person who commits an act that is unlawful under subsection (e)(2), (e)(3), (e)(4), (e)(5), or (e)(6) is deemed to be guilty of an offense punishable under section 309(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1859(b)).*

(h) **UTILIZATION OF FEDERAL AGENCY ASSETS.**—*The President shall utilize appropriate assets of the Department of Defense, the United States Coast Guard, and other Federal agencies to detect,*

monitor, and prevent violations of the United Nations moratorium on large-scale driftnet fishing on the high seas for all fisheries under the jurisdiction of the United States and, in the case of fisheries not under the jurisdiction of the United States, to the fullest extent permitted under international law.

SEC. 607. BIENNIAL REPORT ON INTERNATIONAL COMPLIANCE.

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

(1) * * *

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

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

(a) *IN GENERAL.*—The Secretary, in consultation with the Secretary of State, and in cooperation with relevant fishery management councils and any relevant advisory committees, shall take actions to improve the effectiveness of international fishery management organizations, or arrangements made pursuant to an international fishery agreement, in conserving and managing fish stocks under their jurisdiction. These actions shall include—

(1) * * *

* * * * *

(b) *DISCLOSURE OF INFORMATION.*—*The Secretary may disclose, as necessary and appropriate, information, including information collected under joint authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 71 et seq.), the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.), any other statute implementing an international fishery agreement, to any other Federal or State government agency, the Food and Agriculture Organization of the United Nations, or the secretariat or equivalent of an international fishery management organization or arrangement made pursuant to an international fishery agreement, if such government, organization, or arrangement, respectively, has policies and procedures to protect such information from unintended or unauthorized disclosure.*

(c) *IUU VESSEL LISTS.*—*The Secretary may—*

(1) *develop, maintain, and make public a list of vessels and vessel owners engaged in illegal, unreported, or unregulated fishing or fishing-related activities in support of illegal, unreported, or unregulated fishing, including vessels or vessel owners identified by an international fishery management organization or arrangement made pursuant to an international fishery agreement, that—*

(A) *the United States is party to; or*

(B) *the United States is not party to, but whose procedures and criteria in developing and maintaining a list of such vessels and vessel owners are substantially similar to*

such procedures and criteria adopted pursuant to an international fishery agreement to which the United States is a party; and

(2) take appropriate action against listed vessels and vessel owners, including action against fish, fish parts, or fish products from such vessels, in accordance with applicable United States law and consistent with applicable international law, including principles, rights, and obligations established in applicable international fishery management agreements and trade agreements.

(d) REGULATIONS.—The Secretary may promulgate regulations to implement this section.

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

(a) IDENTIFICATION.—

(1) IDENTIFICATION FOR ACTIONS OF FISHING VESSELS.—The Secretary shall identify, and list in the report under section 607, a nation if fishing vessels of that nation are engaged, or have been engaged at any point during the preceding [2] 3 years, in illegal, unreported, or unregulated fishing—

[(1)] *(A) that undermines the effectiveness of measures required by an international fishery management organization, taking into account whether the relevant international fishery management organization has failed to implement effective measures to end the illegal, unreported, or unregulated fishing activity by [vessels of] that nation or the nation is not a party to, or does not maintain cooperating status with, such organization; or*

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

(2) IDENTIFICATION FOR ACTIONS OF NATION.—Taking into account the factors described under section 609(a)(1), the Secretary shall also identify, and list in such report, a nation—

(A) if it is violating, or has violated at any point during the preceding three years, conservation and management measures required under an international fishery management agreement to which the United States is a party and the violations undermine the effectiveness of such measures; or

(B) if it is failing, or has failed at any point during the preceding three years, to effectively address or regulate illegal, unreported, or unregulated fishing in areas described under paragraph (1)(B).

(3) APPLICATION TO OTHER ENTITIES.—Where the provisions of this Act are applicable to nations, they shall also be applicable, as appropriate, to other entities that have competency to enter into international fishery management agreements.

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

(b) *NOTIFICATION.*—*The Secretary shall notify the President and that nation of such an identification.*

* * * * *

(d) **IUU CERTIFICATION PROCEDURE.**—

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

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

* * * * *

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

(A) * * *

* * * * *

(3) **EFFECT OF CERTIFICATION.**—

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

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

* * * * *

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary for fiscal years **[2007]** *2010* through **[2013]** *2015* such sums as are necessary to carry out this section.

SEC. 610. EQUIVALENT CONSERVATION MEASURES.

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

(1) fishing vessels of that nation are engaged, or have been engaged during the preceding **[calendar year]** *three years* in fishing activities or **[practices;]** *practices*—

(A) * * *

* * * * *

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

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

(1) notify, as soon as possible, the President and nations that have been identified under subsection (a), and also notify other nations whose vessels engage in fishing activities or practices described in subsection (a), about the provisions of this section and this Act;

* * * * *

(c) CONSERVATION CERTIFICATION PROCEDURE.—

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

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

* * * * *

[(4) ALTERNATIVE PROCEDURE.—The Secretary shall establish a procedure for certification, on a shipment-by-shipment, shipper-by-shipper, or other basis of fish or fish products from a vessel of a harvesting nation not certified under paragraph (3) if the Secretary determines that such imports were harvested by practices that do not result in bycatch of a protected marine species, or were harvested by practices that—

[(A) are comparable to those of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and]

(4) ALTERNATIVE PROCEDURE.—The Secretary may establish a procedure to authorize, on a shipment-by-shipment, shipper-by-shipper, or other basis the importation of fish or fish products from a vessel of a nation issued a negative certification under paragraph (1) if the Secretary determines that such imports were harvested by practices that do not result in bycatch of a protected marine species, or were harvested by practices that—

(A) are comparable to those of the United States, taking into account different conditions; and

* * * * *

(5) EFFECT OF CERTIFICATION.—The provisions of section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4)) (except to the extent that such pro-

visions apply to sport fishing equipment or fish or fish products not caught by the vessels engaged in illegal, unreported, or unregulated fishing) shall apply to any nation identified under subsection (a) [that has not been certified by the Secretary under this subsection, or] for which the Secretary has issued a negative certification under this subsection, but shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

* * * * *

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal years [2007] 2010 through [2013] 2015 such sums as are necessary to carry out this section.

HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT ACT

* * * * *

TITLE I—HIGH SEAS LARGE-SCALE DRIFTNET FISHING

SEC. 101. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.

(a) DENIAL OF PORT PRIVILEGES.—

(1) * * *

(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with [recognized principles of] international law—

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any large-scale driftnet fishing vessel that is documented under the laws of the United States or of a nation included on a list published under paragraph (1) or, *as appropriate, for fishing vessels of a nation that receives a negative certification under section 609(d) or section 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826); and*

(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States, *except for the purposes of inspecting such vessel, conducting an investigation, or taking other appropriate enforcement action.*

* * * * *

(b) SANCTIONS.—

(1) IDENTIFICATIONS.—

(A) INITIAL IDENTIFICATIONS.—Not later than January 10, 1993, the Secretary of Commerce shall—

(i) identify each nation whose nationals or vessels are conducting large-scale driftnet fishing [or illegal, unreported, or unregulated fishing] beyond the exclusive economic zone of any nation; and

* * * * *

(B) ADDITIONAL IDENTIFICATIONS.—At any time after January 10, 1993, whenever the Secretary of Commerce

has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing [or illegal, unreported, or unregulated fishing] beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

(i) * * *

* * * * *

(2) CONSULTATIONS.—Not later than 30 days after a nation is identified under paragraph (1)(B), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will effect the immediate termination of large-scale driftnet fishing [or illegal, unreported, or unregulated fishing] by the nationals or vessels of that nation beyond the exclusive economic zone of any nation.

(3) PROHIBITION ON IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

(A) PROHIBITION.—The President—

(i) upon receipt of notification of the identification of a nation under paragraph (1)(A) or a *negative certification under section 609(d) or section 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d), 1826k(c))*; or

* * * * *

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—

Not later than six months after the date the Secretary of Commerce identifies a nation under paragraph (1) or issues a *negative certification under section 609(d) or section 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d), 1826k(c))*, the Secretary shall determine whether—

(i) any prohibition established under paragraph (3) is insufficient to cause that nation to terminate large-scale driftnet fishing [or illegal, unreported, or unregulated fishing] conducted by its nationals and vessels beyond the exclusive economic zone of any nation, or to address the offending activities for which a nation received a *negative certification under section 609(d) or 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d), 1826k(c))*; or

* * * * *

SEC. 102. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.

Any denial of port privileges or sanction under section 101 with respect to a nation shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that such nation has terminated large-scale driftnet fishing [or illegal, unreported, or unregulated fishing] by its nationals and vessels beyond the exclusive economic zone of any nation or effectively addressed the offending activities for which the nation received a *negative certification under 609(d) or 610(c) of the High Seas*

Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d), 1826k(c)).

* * * * *

TUNA CONVENTIONS ACT OF 1950

* * * * *

SEC. 8. (a) It shall be unlawful for any master or other person in charge of a fishing vessel of the United States to engage in fishing in violation of any regulation adopted pursuant to section 6(c) of this Act, or for any person **【knowingly】** to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations.

* * * * *

【(d) Any person violating any provision of subsection (a) of this section shall be fined not more than \$25,000, and for a subsequent violation of any provisions of said subsection (a) shall be fined not more than \$50,000.

【(e) Any person violating any provision of subsection (b) of this section shall be fined not more than \$1,000, and for a subsequent violation of any provision of subsection (b) shall be fined not more than \$5,000.

【(f) Any person violating any provision of subsection (c) of this section shall be fined not more than \$100,000.

【(g) All fish taken or retained in violation of subsection (a) of this section, or the monetary value thereof, may be forfeited.】

(d) ADDITIONAL PROHIBITIONS AND ENFORCEMENT.—For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).

【(h)】 (e) Any person violating any provision of subsection (b) of this section shall be fined not more than \$1,000, and for a subsequent violation of any provision of subsection (b) shall be fined not more than \$5,000.

* * * * *

NORTHERN PACIFIC ANADROMOUS STOCKS ACT OF 1992

TITLE VIII—NORTH PACIFIC ANADROMOUS STOCKS CONVENTION

SEC. 801. SHORT TITLE.

This title may be cited as the “North Pacific Anadromous Stocks Act of 1992”.

* * * * *

SEC. 810. UNLAWFUL ACTIVITIES.

It is unlawful for any person or fishing vessel subject to the jurisdiction of the United States—

(1) * * *

* * * * *

(5) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any search, *investigation*, or inspection in connection with the enforcement of the Convention, this title, or any regulation issued under this title;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any enforcement officer in the conduct of any search, *investigation*, or inspection described in paragraph (5);

* * * * *

[SEC. 811. PENALTIES.

[(a) CIVIL PENALTIES.—(1) Any person who is found by the Secretary of Commerce, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 810 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary of Commerce, or the Secretary's designee, by written notice. In determining the amount of such penalty, the Secretary of Commerce shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

[(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate court of the United States by filing a complaint in such court within 30 days from the date of such order and by simultaneously serving a copy of such complaint by certified mail on the Secretary of Commerce, the Attorney General, and the appropriate United States Attorney. The Secretary of Commerce shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary of Commerce shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

[(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary of Commerce, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

[(4) A fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 810 shall be liable in rem for any civil penalty assessed for such violation under paragraph (1) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on

such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

[(5) The Secretary of Commerce may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

[(6) For the purposes of conducting any hearing under this section, the Secretary of Commerce may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary of Commerce or to appear and produce documents before the Secretary of Commerce, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

[(b) OFFENSES.—(1) A person is guilty of an offense if the person commits any act prohibited by section 810 (5), (6), (7), or (8).

[(2) Any offense described in paragraph (1) is a class A misdemeanor punishable by a fine under title 18, United States code, or imprisonment for not more than 6 months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any enforcement officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18, United States Code, or imprisonment for not more than 10 years, or both.

[(c) FORFEITURE.—(1) Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish (or a fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 810 shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

[(2) Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under paragraph (1) and any action provided for under paragraph (4).

[(3) if a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to—

[(A) the seizure, forfeiture, and condemnation of property for violation of the customs law;

[(B) the disposition of such property or the proceeds from the sale thereof; and

[(C) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.

[(4)(A) Any officer authorized to serve any process in rem that is issued by a court having jurisdiction under section 809(b) shall—

[(i) stay the execution of such process; or

[(ii) discharge any fish seized pursuant to such process;

upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

[(B) Any fish seized pursuant to this title may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

[(5) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel and which is seized in connection with an act prohibited by section 810 were taken or retained in violation of the Convention and this title.]

SEC. 811. ADDITIONAL PROHIBITIONS AND ENFORCEMENT.

For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).

PACIFIC SALMON TREATY ACT OF 1985

* * * * *

SEC. 8. PROHIBITED ACTS AND PENALTIES.

(a) It is unlawful for any person or vessel subject to the jurisdiction of the United States—

(1) * * *

(2) to refuse to permit any officer authorized to enforce the provisions of this title to board a fishing vessel subject to such person's control for purposes of conducting any search, *investigation*, or inspection in connection with the enforcement of [this title;] *this Act*;

(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, *investigation*, or inspection described in [subparagraph (2) ;] *paragraph (2)*;

* * * * *

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of [this title; or] *this Act*;

* * * * *

[(b) Any person who commits any act that is unlawful under subsection (a) of this section shall be liable to the United States for a civil penalty as provided by section 308 of the Magnuson Act (16 U.S.C. 1858).

[(c) Any person who commits an act that is unlawful under paragraph (2), (3), (4), or (6) of subsection (a) of this section shall be guilty of an offense punishable as provided by section 309(b) of the Magnuson Act (16 U.S.C. 1859(b)).

[(d)(1) Any vessel (including its gear, furniture, appurtenances, stores, and cargo) used in the commission of an act which is prohibited under subsection (a) of this section, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act which is prohibited by subsection (a) of this section, shall be subject to forfeiture as provided by section 310 of the Magnuson Act (16 U.S.C. 1860).

[(2) Any fish seized pursuant to this title may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed by regulation of the Secretary.

[(e) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall enforce the provisions of this title and shall have the authority provided by subsections 311 (a), (b)(1), and (c) of the Magnuson Act (16 U.S.C. 1861 (a), (b)(1), and (c)).

[(f) The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this section and may, at any time—

- [(1) enter restraining orders or prohibitions;
 - [(2) issue warrants, process in rem, or other process;
 - [(3) prescribe and accept satisfactory bonds or other security;
- and
- [(4) take such other actions as are in the interest of justice.]

(b) *ADDITIONAL PROHIBITIONS AND ENFORCEMENT.—For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).*

* * * * *

**WESTERN AND CENTRAL PACIFIC FISHERIES
CONVENTION IMPLEMENTATION ACT**

* * * * *

**TITLE V—IMPLEMENTATION OF WESTERN AND CENTRAL
PACIFIC FISHERIES CONVENTION**

* * * * *

SEC. 503. APPOINTMENT OF UNITED STATES COMMISSIONERS.

(a) **IN GENERAL.**—The United States shall be represented on the Commission by 5 United States Commissioners. The President shall appoint individuals to serve on the Commission at the pleasure of the President. In making the appointments, the President shall select Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks in

the Western and Central Pacific Ocean, one of whom shall be an officer or employee of the Department of Commerce, and [one of whom shall be the chairman or a member of the Western Pacific Fishery Management Council and the Pacific Fishery Management Council] *one of whom shall be a member of the Western Pacific Fishery Management Council, and one of whom shall be a member of the Pacific Fishery Management Council.* The Commissioners shall be entitled to adopt such rules of procedures as they find necessary and to select a chairman from among members who are officers or employees of the United States Government.

* * * * *

(c) ADMINISTRATIVE MATTERS.—

(1) EMPLOYMENT STATUS.—Individuals serving as such Commissioners, other than officers or employees of the United States Government, [shall be considered to be Federal employees while performing such service, only for purposes of—

[(A) injury compensation under chapter 81 of title 5, United States Code;

[(B) requirements concerning ethics, conflicts of interest, and corruption as provided under title 18, United States Code; and

[(C) any other criminal or civil statute or regulation governing the conduct of Federal employees.] *shall not be considered Federal employees except for purposes of injury compensation and tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.*

* * * * *

(d) ADVISORY COMMITTEES.—

(1) * * *

(2) ADMINISTRATIVE MATTERS.—

(A) * * *

(B) COMPENSATION; STATUS; EXPENSES.—Individuals appointed to serve as a member of an advisory committee—

(i) * * *

[(ii) shall be considered Federal employees while performing service as members of an advisory committee only for purposes of—

[(I) injury compensation under chapter 81 of title 5, United States Code;

[(II) requirements concerning ethics, conflicts-of-interest, and corruption, as provided by title 18, United States Code; and

[(III) any other criminal or civil statute or regulation governing the conduct of Federal employees in their capacity as Federal employees.]

(ii) shall not be considered Federal employees while performing service except for the purposes of injury compensation and tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

* * * * *

SEC. 506. ENFORCEMENT.

(a) * * *

* * * * *

[(c) ACTIONS BY THE SECRETARY.—The Secretary shall prevent any person from violating this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) were incorporated into and made a part of this title. Any person that violates any provision of this title is subject to the penalties and entitled to the privileges and immunities provided in the Magnuson-Stevens Fishery Conservation and Management Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of that Act were incorporated into and made a part of this title.]

(c) *ADDITIONAL PROHIBITIONS AND ENFORCEMENT.*—For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).

* * * * *

SEC. 507. PROHIBITED ACTS.

(a) IN GENERAL.—It is unlawful for any person—

(1) * * *

(2) to use any fishing vessel to engage in fishing after the revocation, or during the period of [suspension, on] *suspension*, of an applicable permit issued pursuant to this title;

* * * * *

SOUTH PACIFIC TUNA ACT OF 1988

* * * * *

SEC. 5. PROHIBITED ACTS.

(a) Except as provided in section 6 of this Act, it is unlawful for any person subject to the jurisdiction of the United States—

(1) * * *

* * * * *

(8) to refuse to permit any Authorized Officer or Authorized Party Officer to board a fishing vessel for purposes of conducting a search, *investigation*, or inspection in connection with the enforcement of this Act or the Treaty;

* * * * *

(10) to forcibly assault, resist, oppose, impede, intimidate, or interfere with—

(A) any Authorized Officer or Authorized Party Officer in the conduct of a search, *investigation*, or inspection in connection with the enforcement of this Act or the Treaty; or

* * * * *

[SEC. 7. CRIMINAL OFFENSES.

[(a) A person is guilty of a criminal offense if he or she commits any act prohibited by section 5(a) (8), (10), (11), or (12) of this Act.

[(b) Any offense described in subsection (a) of this section is punishable by a fine of not more than \$50,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any Authorized Officer, Authorized Party Officer, or observer under the Treaty in the conduct of their duties, or places any such Authorized Officer, Authorized Party Officer, or observer in fear of imminent bodily injury, the offense is punishable by a fine of not more than \$100,000 or imprisonment for not more than 10 years, or both.

[(c) The district courts of the United States shall have jurisdiction over any offense described in this section.

[SEC. 8. CIVIL PENALTIES.

[(a) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 5 of this Act, shall be liable to the United States Code for a civil penalty. Before issuing a notice of violation, the Secretary shall consult with the Secretary of State. The amount of the civil penalty shall be determined in accordance with considerations set forth in the Treaty and shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require. Except for those acts prohibited by section 5(a) (4), (5), (7), (8), (10), (11), and (12), and section 5(b) (1), (2), (3), and (7) of this Act, the amount of the civil penalty shall not exceed \$250,000 for each violation. Upon written notice, the Secretary of State shall have the right to participate in any proceeding initiated to assess a civil penalty for violation of this Act.

[(b) Any person against whom a civil penalty is assessed under subsection (a) of this section may obtain review thereof in the United States district court for the appropriate district by filing a complaint in such court within 30 days from the date of the order and by simultaneously serving a copy of the complaint by certified mail on the Secretary, the Attorney General of the United States, and the appropriate United States Attorney. The Secretary shall promptly file in the court a certified copy of the record upon which the violation was found or the penalty imposed. The findings and order of the Secretary shall be set aside or modified by the court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

[(c) Except as provided in subsection (g) of this section, if any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States.

[(d) Except as provided in subsection (g) of this section, a fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 5 of this Act shall be liable in rem for any civil penalty assessed for the violation under section 8 of this Act and may be proceeded against in any district court of the United States having jurisdic-

tion thereof. The penalty shall constitute a maritime lien on the vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

[(e) The Secretary, after consultation with the Secretary of State, may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

[(f) For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon a person pursuant to this subsection, the district court of the United States for any district in which the person is found, resides, or transacts business, upon application by the United States and after notice to the person, shall have jurisdiction to issue an order requiring the person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey the order of the court may be punished by the court as a contempt thereof.

[(g) If a vessel used in a violation of section 5(a)(1), (2), (3), (4), (5), (6), (7), (8), (9), or (13) or section 5(b) of this Act for which a civil penalty has been assessed—

[(1) had a valid license under the Treaty at the time of the violation, and

[(2) within 60 days after the penalty assessment has become final, leaves and remains outside of the Licensing Area, all Limited Areas closed to fishing, and all Closed Areas until the final penalty has been paid,

there shall be no referral to the Attorney General under subsection (c) of this section or in rem action under subsection (d) of this section in connection with such civil penalty.]

SEC. 7. ADDITIONAL PROHIBITIONS AND ENFORCEMENT.

For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).

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**ANTARCTIC MARINE LIVING RESOURCES CONVENTION
ACT OF 1984**

* * * * *

**TITLE III—ANTARCTIC MARINE LIVING RESOURCES
CONVENTION**

* * * * *

SEC. 306. UNLAWFUL ACTIVITIES.

It is unlawful for any person—

(1) * * *

* * * * *

(3) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control or possession of, any Antarctic marine living resource (or part or product thereof) [which he knows, or reasonably should have known, was] harvested in violation of a conservation measure in force with respect to the United States pursuant to article IX of the Convention or in violation of any regulation promulgated under this title, without regard to the citizenship of the person that harvested, or vessel that was used in the harvesting of, the Antarctic marine living resource (or part or product thereof);

(4) to refuse to permit any authorized officer or employee of the United States to board a vessel of the United States or a vessel subject to the jurisdiction of the United States for purposes of conducting any search, *investigation*, or inspection in connection with the enforcement of the Convention, this title, or any regulations promulgated under this title;

(5) to assault, resist, oppose, impede, intimidate, or interfere with any authorized officer or employee of the United States in the conduct of any search, *investigation*, or inspection described in paragraph (4);

* * * * *

SEC. 307. REGULATIONS.

(a) *IN GENERAL*.—The Secretary of Commerce, after consultation with the Secretary of State, the Secretary of the department in which the Coast Guard is operating, and the heads of other appropriate departments or agencies of the United States, shall promulgate such regulations as are necessary and appropriate to implement the provisions of this title.

(b) *REGULATIONS TO IMPLEMENT CONSERVATION MEASURES*.—

(1) *IN GENERAL*.—Notwithstanding subsections (b), (c), and (d) of section 553 of title 5, United States Code, the Secretary of Commerce may publish in the Federal Register a final regulation to implement any conservation measure for which the Secretary of State notifies the Commission under section 305(a)(1)—

(A) that has been in effect for 12 months or less;

(B) that is adopted by the Commission; and

(C) with respect to which the Secretary of State does not notify Commission in accordance with section 305(a)(1) within the time period allotted for objections under Article IX of the Convention.

(2) *ENTERING INTO FORCE*.—Upon publication of such regulation in the Federal Register, such conservation measure shall enter into force with respect to the United States.

SEC. 308. CIVIL PENALTIES.

[(a) *ASSESSMENT OF PENALTIES*.—(1) Any person who is found by the Secretary of Commerce, after notice and opportunity for a hearing in accordance with subsection (b), to have committed any act prohibited by section 306 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$5,000 for each violation unless the prohibited act was knowingly committed, in which case the amount of the civil penalty shall not exceed \$10,000 for each violation. Each day of a continuing violation shall constitute a separate violation for purposes of this sub-

section. The amount of any civil penalty shall be assessed by the Secretary of Commerce by written notice. In determining the amount of such penalty, the Secretary of Commerce shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed, and, with respect to the person committing the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require, to the extent that such information is reasonably available to the Secretary.

[(2) The Secretary of Commerce may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section, until such time as the matter is referred to the Attorney General under subsection (c) of this section.

[(b) HEARINGS.—Hearings for the assessment of civil penalties under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code. For the purposes of conducting any such hearing, the Secretary of Commerce may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Attorney General of the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary of Commerce or to appear and produce documents before the Secretary of Commerce, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

[(c) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under subsection (a) of this section may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary of Commerce, the Attorney General, and the appropriate United States Attorney. The Secretary of Commerce shall promptly refer the matter to the Attorney General of the United States, who shall file in such court a certified copy of the record upon which the violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The court shall set aside the findings and order of the Secretary if the findings and order are found to be unsupported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code.

[(d) RECOVERY OF CIVIL PENALTIES.—The Attorney General of the United States may seek to recover in any appropriate district court of the United States (1) any civil penalty imposed under this section that has become a final and unappealable order and has been referred to the Attorney General by the Secretary of Commerce or (2) any final judgment rendered under this section in favor of the United States by an appropriate Court.

[(e) PENALTIES UNDER OTHER LAWS.—The assessment of a civil penalty under subsection (a) for any act shall not be deemed to preclude the assessment of a civil penalty for such act under any other law.

[SEC. 309. CRIMINAL OFFENSES.

[(a) OFFENSES.—A person is guilty of an offense if that person commits any act prohibited by paragraph (4), (5), (6), or (7) of section 306.

[(b) PUNISHMENT.—Any offense described in subsection (a) is punishable by a fine of \$50,000, or imprisonment for not more than ten years, or both.

[(c) OFFENSES UNDER OTHER LAWS.—A conviction under subsection (a) for any act shall not be deemed to preclude a conviction for such act under any other law.]

SEC. 308. ADDITIONAL PROHIBITIONS AND ENFORCEMENT.

For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).

* * * * *

ATLANTIC TUNAS CONVENTION ACT OF 1975

* * * * *

ADMINISTRATION

SEC. 6. (a) * * *

* * * * *

(c)(1) * * *

(2)(A) To promulgate regulations referred to in paragraph (1) of this subsection, the Secretary shall publish in the Federal Register a general notice of proposed rulemaking and shall afford interested persons an opportunity to participate in the rulemaking through [(A)] (i) submission of written data, views, or arguments, and [(B)] (ii) oral presentation at a public hearing. Such regulations shall be published in the Federal Register and shall be accompanied by a statement of the considerations involved in the issuance of the regulations, and by a statement, based on inquiries and investigations, assessing the nature and effectiveness of the measures for the implementation of the Commission's recommendations which are being or will be carried out by countries whose vessels engage in fishing the species subject to such recommendations within the waters to which the Convention applies. After publication in the Federal Register, such regulations shall be applicable to all vessels and persons subject to the jurisdiction of the United States on such date as the Secretary shall prescribe. The Secretary shall suspend at any time the application of any such regulation when, after consultation with the Secretary of State and the United States Commissioners, he determines that fishing operations in the Convention area of a contracting party for whom the regulations are effective are such as to constitute a serious threat to the achievement of the Commission's recommendations.

(B) *Notwithstanding the requirements of subparagraph (A) and subsections (b) and (c) of section 553 of title 5, United States Code,*

the Secretary may issue final regulations to implement Commission recommendations referred to in paragraph (1) concerning trade restrictive measures against nations or fishing entities.

* * * * *

VIOLETIONS; FINES AND FORFEITURES; APPLICATION OF RELATED LAWS

SEC. 7. (a) * * *

* * * * *

[(e) The civil penalty and permit sanctions of section 308 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858) are hereby made applicable to violations of this section as if they were violations of section 307 of that Act.

[(f) All fish taken or retained in violation of subsection (a) of this section, or the monetary value thereof, may be forfeited.]

[(g)] (e) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act.

ENFORCEMENT

SEC. 8. [(a) Any person authorized in accordance with the provisions of this Act to enforce the provisions of this Act and the regulations issued thereunder may—

[(1) with or without a warrant, board any vessel subject to the jurisdiction of the United States and inspect such vessel and its catch and, if as a result of such inspection, he has reasonable cause to believe that such vessel or any person on board is engaging in operations in violation of this Act or any regulations issued thereunder, he may, with or without a warrant or other process, arrest such person;

[(2) arrest, with or without a warrant, any person who violates the provisions of this Act or any regulation issued thereunder in his presence or view;

[(3) execute any warrant or other process issued by an officer or court of competent jurisdiction; and

[(4) seize, whenever and wherever lawfully found, all fish taken or retained by a vessel subject to the jurisdiction of the United States in violation of the provisions of this Act or any regulations issued pursuant thereto. Any fish so seized may be disposed of pursuant to an order of a court of competent jurisdiction, or, if perishable, in a manner prescribed by regulation of the Secretary.]

(a) *For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).*

(b) To the extent authorized under the convention or by agreements between the United States and any contracting party concluded pursuant to section 5(b) of this Act for international enforcement, the duly authorized officials of such party shall have the au-

thority to carry out [the enforcement activities specified in section 8(a) of this Act] *enforcement activities with respect to this Act that are otherwise authorized by law* with respect to persons or vessels subject to the jurisdiction of the United States, and the officials of the United States authorized pursuant to this section shall have the authority to carry out [the enforcement activities specified in section 8(a) of this Act] *enforcement activities with respect to this Act that are otherwise authorized by law* with respect to persons or vessels subject to the jurisdiction of such party, except that where any agreement provides for arrest or seizure of persons or vessels under United States jurisdiction it shall also provide that the person or vessel arrested or seized shall be promptly handed over to a United States enforcement officer or another authorized United States official.

[(c) Notwithstanding the provisions of section 2464 of title 28, United States Code, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any fish seized if the process has been levied, on receiving from the claimant of the fish a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the fish may be sold for not less than its reasonable market value at the time of seizure and the proceeds of such sale placed in the registry of the court pending judgment in the case.]

* * * * *

[ANNUAL REPORT

[SEC. 11. Not later than April 1, 1996, and annually thereafter, the Secretary shall prepare and transmit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, that—

[(1) details for the previous 10-year period the catches and exports to the United States of highly migratory species (including tunas, swordfish, marlin and sharks) from Nations fishing on Atlantic stocks of such species that are subject to management by the Commission;

[(2) identifies those fishing Nations whose harvests are inconsistent with conservation and management recommendations of the Commission;

[(3) describes reporting requirements established by the Secretary to ensure that imported fish products are in compliance with all international management measures, including minimum size requirements, established by the Commission and other international fishery organizations to which the United States is a party; and

[(4) describes actions taken by the Secretary under section 6.]

SAVINGS CLAUSE

SEC. [12.] 11. Nothing in this Act shall have the effect of diminishing the rights and obligations of any Nation under Article VIII(3) of the Convention.

SEPARABILITY

SEC. [13.] 12. If any provision of this Act or the applications of such provision to any circumstance or persons shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other circumstances or persons shall not be affected thereby.

SECTION 104 OF THE HIGH SEAS FISHING COMPLIANCE ACT OF 1995

SEC. 104. PERMITTING.

(a) * * *

* * * * *

[(f) DURATION.—A permit issued under this section is valid for 5 years. A permit issued under this section is void in the event the vessel is no longer eligible for United States documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.]

(f) VALIDITY.—A permit issued under this section for a vessel is void if—

- (1) any other permit or authorization required for the vessel to fish is expired, revoked, or suspended; or
(2) the vessel is no longer documented under the laws of the United States or eligible for such documentation.

PACIFIC WHITING ACT OF 2006

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TITLE VI—PACIFIC WHITING

* * * * *

SEC. 605. UNITED STATES REPRESENTATION ON JOINT TECHNICAL COMMITTEE.

(a) SCIENTIFIC EXPERTS.—

[(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall appoint at least 6 but not more than 12 individuals to serve as scientific experts on the joint technical committee, at least 1 of whom shall be an official of the National Oceanic and Atmospheric Administration.]

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall appoint no more than two individuals to serve as scientific experts on the joint technical committee, at least one of whom shall be an official of the National Oceanic and Atmospheric Administration.

* * * * *

SEC. 609. ADMINISTRATIVE MATTERS.

(a) EMPLOYMENT STATUS.—Individuals appointed under section 603, 604, 605, or 606 of this title who are serving as such Commissioners, other than officers or employees of the United States Government, [shall be considered to be Federal employees while performing such service, only for purposes of—

[(1) injury compensation under chapter 81 of title 5, United States Code;

[(2) requirements concerning ethics, conflicts of interest, and corruption as provided under title 18, United States Code; and

[(3) any other criminal or civil statute or regulation governing the conduct of Federal employees.] *shall not be considered Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.*

* * * * *

DOLPHIN PROTECTION CONSUMER INFORMATION ACT

DOLPHIN PROTECTION

SEC. 901. (a) SHORT TITLE.—This section may be cited as the “Dolphin Protection Consumer Information Act”.

* * * * *

[(e) ENFORCEMENT.—Any person who knowingly and willfully makes a statement or endorsement described in subsection (d)(2)(B) that is false is liable for a civil penalty of not to exceed \$100,000 assessed in an action brought in any appropriate district court of the United States on behalf of the Secretary.]

(e) *ADDITIONAL PROHIBITIONS AND ENFORCEMENT.—For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).*

* * * * *

NORTHERN PACIFIC HALIBUT ACT OF 1982

* * * * *

SEC. 7. It is unlawful—

[(a)] (1) for any person subject to the jurisdiction of the United States—

[(1)] (A) to violate any provision of the Convention, this Act or any regulation adopted under this Act;

[(2)] (B) to refuse to permit any enforcement officer to board a fishing vessel subject to such person’s control for purposes of conducting any search, *investigation*, or inspection in connection with the enforcement of the Convention, this Act or any regulation adopted under this Act;

[(3)] (C) to forcibly assault, resist, oppose, impede, intimidate or interfere with any enforcement officer in the conduct of any search, *investigation*, or inspection described in paragraph (2);

[(4)] (D) to resist a lawful arrest or detention for any act prohibited by this section;

[(5)] (E) to ship, transport, offer for sale, sell, purchase, import, export or have custody, control or possession of, any fish taken or retained in violation of the Convention, this Act, or any regulation adopted under this Act; [or]

[(6)] (F) to interfere with, delay or prevent, by any means, the apprehension, arrest or detention of another person, knowing that such person has committed any act prohibited by this [section.] section; or

[(b)] (2) for any foreign fishing vessel, and for the owner or operator of any foreign fishing vessel, to engage in fishing for halibut in the fishery conservation zone, unless such fishing is authorized by, and conducted in accordance with the Convention, this Act and regulations adopted under this Act.

* * * * *
SEC. 11. (a) * * *
* * * * *

(g) *In addition to the powers of officers authorized pursuant to subsection (b), any officer who is authorized by the Secretary, or by the head of any Federal or State agency that has entered into an agreement with the Secretary under subsection (a), to enforce the Convention, this Act, or any regulation adopted under this Act, may—*

(1) *search or inspect any facility or conveyance used or employed in, or which reasonably appears to be used or employed in, the storage, processing, transport, or trade of fish or fish products;*

(2) *inspect records pertaining to the storage, processing, transport, or trade of fish or fish products; and*

(3) *detain, for a period of up to 5 days, any shipment of fish or fish product imported into, landed on, introduced into, exported from, or transported within the jurisdiction of the United States, or, if such fish or fish product is deemed to be perishable, sell and retain the proceeds therefrom for a period of up to 5 days.*

* * * * *

**NORTHWEST ATLANTIC FISHERIES CONVENTION ACT
OF 1995**

**TITLE II—IMPLEMENTATION OF CONVENTION ON FUTURE
MULTILATERAL COOPERATION IN THE NORTHWEST AT-
LANTIC FISHERIES**

* * * * *

SEC. 207. PROHIBITED ACTS [AND PENALTIES] AND ENFORCEMENT.

(a) **PROHIBITION.**—It is unlawful for any person or vessel that is subject to the jurisdiction of the United States—

(1) * * *

(2) to refuse to permit any authorized enforcement officer to board a fishing vessel that is subject to the person’s control for purposes of conducting any search, *investigation*, or inspection

in connection with the enforcement of this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention;

(3) forcibly to assault, resist, oppose, impede, intimidate, or interfere with any authorized enforcement officer in the conduct of any search, *investigation*, or inspection described in paragraph (2);

* * * * *

[(b) CIVIL PENALTY.—Any person who commits any act that is unlawful under subsection (a) shall be liable to the United States for a civil penalty, or may be subject to a permit sanction, under section 308 of the Magnuson Act (16 U.S.C. 1858).

[(c) CRIMINAL PENALTY.—Any person who commits an act that is unlawful under paragraph (2), (3), (4), or (6) of subsection (a) shall be guilty of an offense punishable under section 309(b) of the Magnuson Act (16 U.S.C. 1859(b)).

[(d) CIVIL FORFEITURES.—

[(1) IN GENERAL.—Any vessel (including its gear, furniture, appurtenances, stores, and cargo) used in the commission of an act that is unlawful under subsection (a), and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act that is unlawful under subsection (a), shall be subject to seizure and forfeiture as provided in section 310 of the Magnuson Act (16 U.S.C. 1860).

[(2) DISPOSAL OF FISH.—Any fish seized pursuant to this title may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed by regulations issued by the Secretary.

[(e) ENFORCEMENT.—The Secretary and the Secretary of the department in which the Coast Guard is operating shall enforce the provisions of this title and shall have the authority specified in section 311 (a), (b)(1), and (c) of the Magnuson Act (16 U.S.C. 1861 (a), (b)(1), and (c)) for that purpose.

[(f) JURISDICTION OF COURTS.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this section and may, at any time—

- [(1) enter restraining orders or prohibitions;
- [(2) issue warrants, process in rem, or other process;
- [(3) prescribe and accept satisfactory bonds or other security;
- and
- [(4) take such other actions as are in the interests of justice.]

(b) *ADDITIONAL PROHIBITIONS AND ENFORCEMENT.—For additional prohibitions relating to this Act and enforcement of this Act, see section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g).*

* * * * *

**MAGNUSON-STEVENS FISHERY CONSERVATION AND
MANAGEMENT ACT**

* * * * *

TITLE III—NATIONAL FISHERY MANAGEMENT PROGRAM

* * * * *

SEC. 307. PROHIBITED ACTS.

It is unlawful—

(1) for any person—

(A) * * *

* * * * *

(Q) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish taken, possessed, transported, or sold in violation of any foreign law or regulation *or any treaty or in contravention of any binding conservation measure adopted by an international agreement or organization to which the United States is a party*; or

* * * * *

