

Public Law 104-297  
104th Congress

An Act

To amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

Oct. 11, 1996

[S. 39]

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

Sustainable  
Fisheries Act.  
16 USC 1801  
note.

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

(a) **SHORT TITLE.**—This Act may be cited as the “Sustainable Fisheries Act”.

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

- Sec. 1. Short title; table of contents.  
Sec. 2. Amendment of Magnuson Fishery Conservation and Management Act.

**TITLE I—CONSERVATION AND MANAGEMENT**

- Sec. 101. Findings; purposes; policy.  
Sec. 102. Definitions.  
Sec. 103. Authorization of appropriations.  
Sec. 104. Highly migratory species.  
Sec. 105. Foreign fishing and international fishery agreements.  
Sec. 106. National standards.  
Sec. 107. Regional fishery management councils.  
Sec. 108. Fishery management plans.  
Sec. 109. Action by the Secretary.  
Sec. 110. Other requirements and authority.  
Sec. 111. Pacific community fisheries.  
Sec. 112. State jurisdiction.  
Sec. 113. Prohibited acts.  
Sec. 114. Civil penalties and permit sanctions; rebuttable presumptions.  
Sec. 115. Enforcement.  
Sec. 116. Transition to sustainable fisheries.  
Sec. 117. North Pacific and northwest Atlantic Ocean fisheries.

**TITLE II—FISHERY MONITORING AND RESEARCH**

- Sec. 201. Change of title.  
Sec. 202. Registration and information management.  
Sec. 203. Information collection.  
Sec. 204. Observers.  
Sec. 205. Fisheries research.  
Sec. 206. Incidental harvest research.  
Sec. 207. Miscellaneous research.  
Sec. 208. Study of contribution of bycatch to charitable organizations.  
Sec. 209. Study of identification methods for harvest stocks.  
Sec. 210. Review of Northeast fishery stock assessments.  
Sec. 211. Clerical amendments.

**TITLE III—FISHERIES FINANCING**

- Sec. 301. Short title.  
Sec. 302. Individual fishing quota loans.  
Sec. 303. Fisheries financing and capacity reduction.

**TITLE IV—MARINE FISHERY STATUTE REAUTHORIZATIONS**

- Sec. 401. Marine fish program authorization of appropriations.

- Sec. 402. Interjurisdictional Fisheries Act amendments.  
 Sec. 403. Anadromous fisheries amendments.  
 Sec. 404. Atlantic coastal fisheries amendments.  
 Sec. 405. Technical amendments to maritime boundary agreement.  
 Sec. 406. Amendments to the Fisheries Act.

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

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

**TITLE I—CONSERVATION AND MANAGEMENT**

**SEC. 101. FINDINGS; PURPOSES; POLICY.**

Section 2 (16 U.S.C. 1801) is amended—

- (1) by striking subsection (a)(2) and inserting the following:  
 “(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.”;
- (2) by inserting “to facilitate long-term protection of essential fish habitats,” in subsection (a)(6) after “conservation,”;
- (3) by adding at the end of subsection (a) the following:  
 “(9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States.
- “(10) Pacific Insular Areas contain unique historical, cultural, legal, political, and geographical circumstances which make fisheries resources important in sustaining their economic growth.”;
- (4) by striking “principles,” in subsection (b)(3) and inserting “principles, including the promotion of catch and release programs in recreational fishing,”;
- (5) by striking “and” after the semicolon at the end of subsection (b)(5);
- (6) by striking “development.” in subsection (b)(6) and inserting “development in a non-wasteful manner; and”;
- (7) by adding at the end of subsection (b) the following:  
 “(7) to promote the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.”;
- (8) in subsection (c)(3)—  
 (A) by striking “promotes” and inserting “considers”;  
 and

- (B) by inserting “minimize bycatch and” after “practical measures that”;
- (9) striking “and” at the end of paragraph (c)(5);
- (10) striking the period at the end of paragraph (c)(6) and inserting “; and”; and
- (11) adding at the end of subsection (c) a new paragraph as follows:

“(7) to ensure that the fishery resources adjacent to a Pacific Insular Area, including resident or migratory stocks within the exclusive economic zone adjacent to such areas, be explored, developed, conserved, and managed for the benefit of the people of such area and of the United States.”.

#### SEC. 102. DEFINITIONS.

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

(1) by redesignating paragraphs (2) through (32) as paragraphs (5) through (35) respectively, and inserting after paragraph (1) the following:

“(2) The term ‘bycatch’ means fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such term does not include fish released alive under a recreational catch and release fishery management program.

“(3) The term ‘charter fishing’ means fishing from a vessel carrying a passenger for hire (as defined in section 2101(21a) of title 46, United States Code) who is engaged in recreational fishing.

“(4) The term ‘commercial fishing’ means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter or trade.”;

(2) in paragraph (7) (as redesignated)—

(A) by striking “COELENTERATA” from the heading of the list of corals and inserting “CNIDARIA”; and

(B) in the list appearing under the heading “CRUSTACEA”, by striking “Deep-sea Red Crab—Geryon quinquedens” and inserting “Deep-sea Red Crab—Chaceon quinquedens”;

(3) by redesignating paragraphs (9) through (35) (as redesignated) as paragraphs (11) through (37), respectively, and inserting after paragraph (8) (as redesignated) the following:

“(9) The term ‘economic discards’ means fish which are the target of a fishery, but which are not retained because they are of an undesirable size, sex, or quality, or for other economic reasons.

“(10) The term ‘essential fish habitat’ means those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity.”;

(4) by redesignating paragraphs (16) through (37) (as redesignated) as paragraphs (17) through (38), respectively, and inserting after paragraph (15) (as redesignated) the following:

“(16) The term ‘fishing community’ means a community which is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, opera-

tors, and crew and United States fish processors that are based in such community.”;

(5) by redesignating paragraphs (21) through (38) (as redesignated) as paragraphs (22) through (39), respectively, and inserting after paragraph (20) (as redesignated) the following:

“(21) The term ‘individual fishing quota’ means a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person. Such term does not include community development quotas as described in section 305(i).”;

(6) by striking “of one and one-half miles” in paragraph (23) (as redesignated) and inserting “of two and one-half kilometers”;

(7) by striking paragraph (28) (as redesignated), and inserting the following:

“(28) The term ‘optimum’, with respect to the yield from a fishery, means the amount of fish which—

“(A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems;

“(B) is prescribed on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant social, economic, or ecological factor; and

“(C) in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.”;

(8) by redesignating paragraphs (29) through (39) (as redesignated) as paragraphs (31) through (41), respectively, and inserting after paragraph (28) (as redesignated) the following:

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

“(30) The term ‘Pacific Insular Area’ means American Samoa, Guam, the Northern Mariana Islands, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Wake Island, or Palmyra Atoll, as applicable, and includes all islands and reefs appurtenant to such island, reef, or atoll.”;

(9) by redesignating paragraphs (32) through (41) (as redesignated) as paragraphs (34) through (43), respectively, and inserting after paragraph (31) (as redesignated) the following:

“(32) The term ‘recreational fishing’ means fishing for sport or pleasure.

“(33) The term ‘regulatory discards’ means fish harvested in a fishery which fishermen are required by regulation to discard whenever caught, or are required by regulation to retain but not sell.”;

(10) by redesignating paragraphs (36) through (43) (as redesignated) as paragraphs (37) through (44), respectively,



and inserting after paragraph (35) (as redesignated) the following:

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

(11) by striking “for which a fishery management plan prepared under title III or a preliminary fishery management plan prepared under section 201(g) has been implemented” in paragraph (42) (as redesignated) and inserting “regulated under this Act”; and

(12) by redesignating paragraph (44) (as redesignated) as paragraph (45), and inserting after paragraph (43) the following:

“(44) The term ‘vessel subject to the jurisdiction of the United States’ has the same meaning such term has in section 3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(c)).”.

#### SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

The Act is amended by inserting after section 3 (16 U.S.C. 1802) the following:

##### “SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

16 USC 1803.

“There are authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of this Act, not to exceed the following sums:

- “(1) \$147,000,000 for fiscal year 1996;
- “(2) \$151,000,000 for fiscal year 1997;
- “(3) \$155,000,000 for fiscal year 1998; and
- “(4) \$159,000,000 for fiscal year 1999.”.

#### SEC. 104. HIGHLY MIGRATORY SPECIES.

Section 102 (16 U.S.C. 1812) is amended by striking “promoting the objective of optimum utilization” and inserting “shall promote the achievement of optimum yield”.

#### SEC. 105. FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS.

(a) AUTHORITY TO OPERATE UNDER TRANSSHIPMENT PERMITS.—Section 201 (16 U.S.C. 1821) is amended—

(1) by striking paragraphs (1) and (2) of subsection (a) and inserting the following:

“(1) is authorized under subsections (b) or (c) or section 204(e), or under a permit issued under section 204(d);

“(2) is not prohibited under subsection (f); and”;

(2) by striking “(i)” in subsection (c)(2)(D) and inserting “(h)”;

(3) by striking subsection (f);

(4) by redesignating subsections (g) through (j) as subsections (f) through (i), respectively;

(5) in paragraph (2) of subsection (h) (as redesignated), redesignate subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and insert after subparagraph (A) the following:

“(B) in a situation where the foreign fishing vessel is operating under a Pacific Insular Area fishing agreement, the Governor of the applicable Pacific Insular Area, in consultation with the Western Pacific Council, has established an observer coverage program that is at least equal in effectiveness to the program established by the Secretary;” and

(6) in subsection (i) (as redesignated) by striking “305” and inserting “304”.

(b) INTERNATIONAL FISHERY AGREEMENTS.—Section 202 (16 U.S.C. 1822) is amended—

(1) by adding before the period at the end of subsection (c) “or section 204(e)”;

(2) by adding at the end the following:

“(h) BYCATCH REDUCTION AGREEMENTS.—

“(1) The Secretary of State, in cooperation with the Secretary, shall seek to secure an international agreement to establish standards and measures for bycatch reduction that are comparable to the standards and measures applicable to United States fishermen for such purposes in any fishery regulated pursuant to this Act for which the Secretary, in consultation with the Secretary of State, determines that such an international agreement is necessary and appropriate.

“(2) An international agreement negotiated under this subsection shall be—

“(A) consistent with the policies and purposes of this Act; and

“(B) subject to approval by Congress under section 203.

“(3) Not later than January 1, 1997, and annually thereafter, the Secretary, in consultation with the Secretary of State, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing actions taken under this subsection.”.

(c) PERIOD FOR CONGRESSIONAL REVIEW OF INTERNATIONAL FISHERY AGREEMENTS.—Section 203 (16 U.S.C. 1823) is amended—

(1) by striking “GOVERNING” in the section heading;

(2) by striking “agreement” each place it appears in subsection (a) and inserting “agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement”;

(3) by striking “60 calendar days of continuous session of the Congress” in subsection (a) and inserting “120 days (excluding any days in a period for which the Congress is adjourned sine die)”;

(4) by striking subsection (c);

(5) by redesignating subsection (d) as subsection (c); and

(6) by striking “agreement” in subsection (c)(2)(A), as redesignated, and inserting “agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement”.

(d) TRANSSHIPMENT PERMITS AND PACIFIC INSULAR AREA FISHING.—Section 204 (16 U.S.C. 1824) is amended—

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(1) by inserting "or subsection (d)" in the first sentence of subsection (b)(7) after "under paragraph (6)";

(2) by striking "the regulations promulgated to implement any such plan" in subsection (b)(7)(A) and inserting "any applicable Federal or State fishing regulations";

(3) by inserting "or subsection (d)" in subsection (b)(7)(D) after "paragraph (6)(B)"; and

(4) by adding at the end the following:

"(d) TRANSSHIPMENT PERMITS.—

"(1) AUTHORITY TO ISSUE PERMITS.—The Secretary may issue a transshipment permit under this subsection which authorizes a vessel other than a vessel of the United States to engage in fishing consisting solely of transporting fish or fish products at sea from a point within the exclusive economic zone or, with the concurrence of a State, within the boundaries of that State, to a point outside the United States to any person who—

"(A) submits an application which is approved by the Secretary under paragraph (3); and

"(B) pays a fee imposed under paragraph (7).

"(2) TRANSMITTAL.—Upon receipt of an application for a permit under this subsection, the Secretary shall promptly transmit copies of the application to the Secretary of State, Secretary of the department in which the Coast Guard is operating, any appropriate Council, and any affected State.

"(3) APPROVAL OF APPLICATION.—The Secretary may approve, in consultation with the appropriate Council or Marine Fisheries Commission, an application for a permit under this section if the Secretary determines that—

"(A) the transportation of fish or fish products to be conducted under the permit, as described in the application, will be in the interest of the United States and will meet the applicable requirements of this Act;

"(B) the applicant will comply with the requirements described in section 201(c)(2) with respect to activities authorized by any permit issued pursuant to the application;

"(C) the applicant has established any bonds or financial assurances that may be required by the Secretary; and

"(D) no owner or operator of a vessel of the United States which has adequate capacity to perform the transportation for which the application is submitted has indicated to the Secretary an interest in performing the transportation at fair and reasonable rates.

"(4) WHOLE OR PARTIAL APPROVAL.—The Secretary may approve all or any portion of an application under paragraph (3).

"(5) FAILURE TO APPROVE APPLICATION.—If the Secretary does not approve any portion of an application submitted under paragraph (1), the Secretary shall promptly inform the applicant and specify the reasons therefor.

"(6) CONDITIONS AND RESTRICTIONS.—The Secretary shall establish and include in each permit under this subsection conditions and restrictions, including those conditions and restrictions set forth in subsection (b)(7), which shall be com-

plied with by the owner and operator of the vessel for which the permit is issued.

“(7) FEES.—The Secretary shall collect a fee for each permit issued under this subsection, in an amount adequate to recover the costs incurred by the United States in issuing the permit, except that the Secretary shall waive the fee for the permit if the foreign nation under which the vessel is registered does not collect a fee from a vessel of the United States engaged in similar activities in the waters of such foreign nation.

“(e) PACIFIC INSULAR AREAS.—

“(1) NEGOTIATION OF PACIFIC INSULAR AREA FISHERY AGREEMENTS.—The Secretary of State, with the concurrence of the Secretary and in consultation with any appropriate Council, may negotiate and enter into a Pacific Insular Area fishery agreement to authorize foreign fishing within the exclusive economic zone adjacent to a Pacific Insular Area—

“(A) in the case of American Samoa, Guam, or the Northern Mariana Islands, at the request and with the concurrence of, and in consultation with, the Governor of the Pacific Insular Area to which such agreement applies; and

“(B) in the case of a Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands, at the request of the Western Pacific Council.

“(2) AGREEMENT TERMS AND CONDITIONS.—A Pacific Insular Area fishery agreement—

“(A) shall not be considered to supersede any governing international fishery agreement currently in effect under this Act, but shall provide an alternative basis for the conduct of foreign fishing within the exclusive economic zone adjacent to Pacific Insular Areas;

“(B) shall be negotiated and implemented consistent only with the governing international fishery agreement provisions of this title specifically made applicable in this subsection;

“(C) may not be negotiated with a nation that is in violation of a governing international fishery agreement in effect under this Act;

“(D) shall not be entered into if it is determined by the Governor of the applicable Pacific Insular Area with respect to agreements initiated under paragraph (1)(A), or the Western Pacific Council with respect to agreements initiated under paragraph (1)(B), that such an agreement will adversely affect the fishing activities of the indigenous people of such Pacific Insular Area;

“(E) shall be valid for a period not to exceed three years and shall only become effective according to the procedures in section 203; and

“(F) shall require the foreign nation and its fishing vessels to comply with the requirements of paragraphs (1), (2), (3) and (4)(A) of section 201(c), section 201(d), and section 201(h).

“(3) PERMITS FOR FOREIGN FISHING.—

“(A) Application for permits for foreign fishing authorized under a Pacific Insular Areas fishing agreement shall be made, considered and approved or disapproved in accordance with paragraphs (3), (4), (5), (6), (7) (A) and (B),

(8), and (9) of subsection (b), and shall include any conditions and restrictions established by the Secretary in consultation with the Secretary of State, the Secretary of the department in which the Coast Guard is operating, the Governor of the applicable Pacific Insular Area, and the appropriate Council.

“(B) If a foreign nation notifies the Secretary of State of its acceptance of the requirements of this paragraph, paragraph (2)(F), and paragraph (5), including any conditions and restrictions established under subparagraph (A), the Secretary of State shall promptly transmit such notification to the Secretary. Upon receipt of any payment required under a Pacific Insular Area fishing agreement, the Secretary shall thereupon issue to such foreign nation, through the Secretary of State, permits for the appropriate fishing vessels of that nation. Each permit shall contain a statement of all of the requirements, conditions, and restrictions established under this subsection which apply to the fishing vessel for which the permit is issued.

“(4) MARINE CONSERVATION PLANS.—

“(A) Prior to entering into a Pacific Insular Area fishery agreement, the Western Pacific Council and the appropriate Governor shall develop a 3-year marine conservation plan detailing uses for funds to be collected by the Secretary pursuant to such agreement. Such plan shall be consistent with any applicable fishery management plan, identify conservation and management objectives (including criteria for determining when such objectives have been met), and prioritize planned marine conservation projects. Conservation and management objectives shall include, but not be limited to—

“(i) establishment of Pacific Insular Area observer programs, approved by the Secretary in consultation with the Western Pacific Council, that provide observer coverage for foreign fishing under Pacific Insular Area fishery agreements that is at least equal in effectiveness to the program established by the Secretary under section 201(h);

“(ii) conduct of marine and fisheries research, including development of systems for information collection, analysis, evaluation, and reporting;

“(iii) conservation, education, and enforcement activities related to marine and coastal management, such as living marine resource assessments, habitat monitoring and coastal studies;

“(iv) grants to the University of Hawaii for technical assistance projects by the Pacific Island Network, such as education and training in the development and implementation of sustainable marine resources development projects, scientific research, and conservation strategies; and

“(v) western Pacific community-based demonstration projects under section 112(b) of the Sustainable Fisheries Act and other coastal improvement projects to foster and promote the management, conservation, and economic enhancement of the Pacific Insular Areas.

“(B) In the case of American Samoa, Guam, and the Northern Mariana Islands, the appropriate Governor, with the concurrence of the Western Pacific Council, shall develop the marine conservation plan described in subparagraph (A) and submit such plan to the Secretary for approval. In the case of other Pacific Insular Areas, the Western Pacific Council shall develop and submit the marine conservation plan described in subparagraph (A) to the Secretary for approval.

“(C) If a Governor or the Western Pacific Council intends to request that the Secretary of State renew a Pacific Insular Area fishery agreement, a subsequent 3-year plan shall be submitted to the Secretary for approval by the end of the second year of the existing 3-year plan.

“(5) RECIPROCAL CONDITIONS.—Except as expressly provided otherwise in this subsection, a Pacific Insular Area fishing agreement may include terms similar to the terms applicable to United States fishing vessels for access to similar fisheries in waters subject to the fisheries jurisdiction of another nation.

“(6) USE OF PAYMENTS BY AMERICAN SAMOA, GUAM, NORTHERN MARIANA ISLANDS.—Any payments received by the Secretary under a Pacific Insular Area fishery agreement for American Samoa, Guam, or the Northern Mariana Islands shall be deposited into the United States Treasury and then covered over to the Treasury of the Pacific Insular Area for which those funds were collected. Amounts deposited in the Treasury of a Pacific Insular Area shall be available, without appropriation or fiscal year limitation, to the Governor of the Pacific Insular Area—

“(A) to carry out the purposes of this subsection;

“(B) to compensate (i) the Western Pacific Council for mutually agreed upon administrative costs incurred relating to any Pacific Insular Area fishery agreement for such Pacific Insular Area, and (ii) the Secretary of State for mutually agreed upon travel expenses for no more than 2 Federal representatives incurred as a direct result of complying with paragraph (1)(A); and

“(C) to implement a marine conservation plan developed and approved under paragraph (4).

“(7) WESTERN PACIFIC SUSTAINABLE FISHERIES FUND.—There is established in the United States Treasury a Western Pacific Sustainable Fisheries Fund into which any payments received by the Secretary under a Pacific Insular Area fishery agreement for any Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands shall be deposited. The Western Pacific Sustainable Fisheries Fund shall be made available, without appropriation or fiscal year limitation, to the Secretary, who shall provide such funds only to—

“(A) the Western Pacific Council for the purpose of carrying out the provisions of this subsection, including implementation of a marine conservation plan approved under paragraph (4);

“(B) the Secretary of State for mutually agreed upon travel expenses for no more than 2 Federal representatives incurred as a direct result of complying with paragraph (1)(B); and

“(C) the Western Pacific Council to meet conservation and management objectives in the State of Hawaii if monies



remain in the Western Pacific Sustainable Fisheries Fund after the funding requirements of subparagraphs (A) and (B) have been satisfied.

Amounts deposited in such fund shall not diminish funding received by the Western Pacific Council for the purpose of carrying out other responsibilities under this Act.

“(8) USE OF FINES AND PENALTIES.—In the case of violations occurring within the exclusive economic zone off American Samoa, Guam, or the Northern Mariana Islands, amounts received by the Secretary which are attributable to fines or penalties imposed under this Act, including such sums collected from the forfeiture and disposition or sale of property seized subject to its authority, after payment of direct costs of the enforcement action to all entities involved in such action, shall be deposited into the Treasury of the Pacific Insular Area adjacent to the exclusive economic zone in which the violation occurred, to be used for fisheries enforcement and for implementation of a marine conservation plan under paragraph (4).”

(e) ATLANTIC HERRING TRANSSHIPMENT.—Within 30 days of receiving an application, the Secretary shall, under section 204(d) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, issue permits to up to fourteen Canadian transport vessels that are not equipped for fish harvesting or processing, for the transshipment, within the boundaries of the State of Maine or within the portion of the exclusive economic zone east of the line 69 degrees 30 minutes west and within 12 nautical miles from the seaward boundary of that State, of Atlantic herring harvested by United States fishermen within the area described and used solely in sardine processing. In issuing a permit pursuant to this subsection, the Secretary shall provide a waiver under section 201(h)(2)(C) of the Magnuson Fishery Conservation and Management Act, as amended by this Act: *Provided*, That such vessels comply with Federal or State monitoring and reporting requirements for the Atlantic herring fishery, including the stationing of United States observers aboard such vessels, if necessary.

(f) LARGE SCALE DRIFTNET FISHING.—Section 206 (16 U.S.C. 1826) is amended—

(1) in subsection (e), by striking paragraphs (3) and (4), and redesignating paragraphs (5) and (6) as (3) and (4), respectively; and

(2) in subsection (f), by striking “(e)(6),” and inserting “(e)(4).”

(g) RUSSIAN FISHING IN THE BERING SEA.—No later than September 30, 1997, the North Pacific Fishery Management Council, in consultation with the North Pacific and Bering Sea Advisory Body, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing the institutional structures in Russia pertaining to stock assessment, management, and enforcement for fishery harvests in the Bering Sea, and recommendations for improving coordination between the United States and Russia for managing and conserving Bering Sea fishery resources of mutual concern.

Reports.



**SEC. 106. NATIONAL STANDARDS.**

(a) Section 301(a)(5) (16 U.S.C. 1851(a)(5)) is amended by striking “promote” and inserting “consider”.

(b) Section 301(a) (16 U.S.C. 1851(a)) is amended by adding at the end thereof the following:

“(8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

“(9) Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

“(10) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.”.

**SEC. 107. REGIONAL FISHERY MANAGEMENT COUNCILS.**

(a) Section 302(a) (16 U.S.C. 1852(a)) is amended—

(1) by inserting “(1)” after the subsection heading;

(2) by redesignating paragraphs (1) through (8) as subparagraphs (A) through (H), respectively;

(3) by striking “section 304(f)(3)” wherever it appears and inserting “paragraph (3)”;

(4) in paragraph (1)(B), as amended—

(A) by striking “and Virginia” and inserting “Virginia, and North Carolina”;

(B) by inserting “North Carolina, and” after “except”;

(C) by striking “19” and inserting “21”; and

(D) by striking “12” and inserting “13”;

(5) by striking paragraph (1)(F), as redesignated, and inserting the following:

“(F) PACIFIC COUNCIL.—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 14 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State), and including one appointed from an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho in accordance with subsection (b)(5).”;

(6) by indenting the sentence at the end thereof and inserting “(2)” before “Each Council”; and

(7) by adding at the end the following:

“(3) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.”.

(b) Section 302(b) (16 U.S.C. 1852(b)) is amended—

(1) by striking “subsection (b)(2)” in paragraphs (1)(C) and (3), and inserting in both places “paragraphs (2) and (5)”;

(2) by striking the last sentence in paragraph (3) and inserting the following: “Any term in which an individual was appointed to replace a member who left office during the term shall not be counted in determining the number of consecutive terms served by that Council member.”; and

(3) by striking paragraph (5) and inserting after paragraph (4) the following:

“(5)(A) The Secretary shall appoint to the Pacific Council one representative of an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho from a list of not less than 3 individuals submitted by the tribal governments. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regulation the procedure for submitting a list under this subparagraph.

Regulations.

“(B) Representation shall be rotated among the tribes taking into consideration—

“(i) the qualifications of the individuals on the list referred to in subparagraph (A),

“(ii) the various rights of the Indian tribes involved and judicial cases that set forth how those rights are to be exercised, and

“(iii) the geographic area in which the tribe of the representative is located.

“(C) A vacancy occurring prior to the expiration of any term shall be filled in the same manner as set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen.

“(6) The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with paragraphs (2) or (5) if—

“(A) the Council concerned first recommends removal by not less than two-thirds of the members who are voting members and submits such removal recommendation to the Secretary in writing together with a statement of the basis for the recommendation; or

“(B) the member 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 307(1)(O).”

(c) Section 302(d) (16 U.S.C. 1852(d)) is amended in the first sentence—

(1) by striking “each Council,” and inserting “each Council who are required to be appointed by the Secretary and”; and

(2) by striking “shall, until January 1, 1992,” and all that follows through “GS-16” and inserting “shall receive compensation at the daily rate for GS-15, step 7”.

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

“(5) At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council. The official minutes and other appropriate records of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote.”

(e) Section 302(g) (16 U.S.C. 1852(g)) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following:

“(4) The Secretary shall establish advisory panels to assist in the collection and evaluation of information relevant to the development of any fishery management plan or plan amendment for a fishery to which subsection (a)(3) applies. Each advisory panel shall participate in all aspects of the development of the plan or amendment; be balanced in its representation of commercial, recreational, and other interests; and consist of not less than 7 individuals who are knowledgeable about the fishery for which the plan or amendment is developed, selected from among—

“(A) members of advisory committees and species working groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

“(B) other interested persons.”.

(f) Section 302(h) (16 U.S.C. 1852(h)) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) for each fishery under its authority that requires conservation and management, prepare and submit to the Secretary (A) a fishery management plan, and (B) amendments to each such plan that are necessary from time to time (and promptly whenever changes in conservation and management measures in another fishery substantially affect the fishery for which such plan was developed);”;

(2) in paragraph (2)—

(A) by striking “section 204(b)(4)(C),” in paragraph (2) and inserting “section 204(b)(4)(C) or section 204(d),”;

(B) by striking “304(c)(2)” and inserting “304(c)(4);” and

(3) by striking “304(f)(3)” in paragraph (5) and inserting “subsection (a)(3)”.

(g) Section 302 is amended further by striking subsection (i), and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(h) Section 302(i), as redesignated, is amended—

(1) by striking “of the Councils” in paragraph (1) and inserting “established under subsection (g)”;

(2) by striking “of a Council.” in paragraph (2) and inserting “established under subsection (g).”;

(3) by striking “Council’s” in paragraph (2)(C);

(4) by adding the following at the end of paragraph (2)(C):  
 “The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to the meeting date, unless such modification is to address an emergency action under section 305(c), in which case public notice shall be given immediately.”;

(5) by adding the following at the end of paragraph (2)(D):  
 “All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.”;

(6) by striking paragraph (2)(E) and inserting:

“(E) Detailed minutes of each meeting of the Council, except for any closed session, shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed. The Chairman shall certify the accuracy of the minutes of each such meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction.”;

Records.

Certification.

(7) by striking “by the Council” the first place it appears in paragraph (2)(F);

(8) by inserting “or the Secretary, as appropriate” in paragraph (2)(F) after “of the Council”;

(9) by striking “303(d)” each place it appears in paragraph (2)(F) and inserting “402(b)”; and

(10) by striking “303(d)” in paragraph (4) and inserting “402(b)”.

(i) Section 302(j), as redesignated, is amended—

(1) by inserting “and Recusal” after “Interest” in the subsection heading;

(2) by striking paragraph (1) and inserting the following:

“(1) For the purposes of this subsection—

“(A) the term ‘affected individual’ means an individual who—

“(i) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2); or

“(ii) is a voting member of a Council appointed—

“(I) under subsection (b)(2); or

“(II) under subsection (b)(5) who is not subject to disclosure and recusal requirements under the laws of an Indian tribal government; and

“(B) the term ‘designated official’ means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, in consultation with the Council, to attend Council meetings and make determinations under paragraph (7)(B).”;

(3) by striking “(1)(A)” in paragraph (3)(A) and inserting “(1)(A)(i)”;

(4) by striking “(1)(B) or (C)” in paragraph (3)(B) and inserting “(1)(A)(ii)”;

(5) by striking “(1)(B) or (C)” in paragraph (4) and inserting “(1)(A)(ii)”;

(6)(A) by striking “and” at the end of paragraph (5)(A);

(B) by striking the period at the end of paragraph (5)(B) and inserting a semicolon and the word “and”; and

(C) by adding at the end of paragraph (5) the following:

“(C) be kept on file by the Secretary for use in reviewing determinations under paragraph (7)(B) and made available for public inspection at reasonable hours.”;

(7) by striking “(1)(B) or (C)” in paragraph (6) and inserting “(1)(A)(ii)”;

(8) by redesignating paragraph (7) as paragraph (8) and inserting after paragraph (6) the following:

“(7)(A) After the effective date of regulations promulgated under subparagraph (F) of this paragraph, an affected individual required to disclose a financial interest under paragraph

(2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

“(B) At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

“(C) Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

“(D) Any affected individual who does not vote in a Council decision in accordance with this subsection may state for the record how he or she would have voted on such decision if he or she had voted.

“(E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.

“(F) The Secretary, in consultation with the Councils and by not later than one year from the date of enactment of the Sustainable Fisheries Act, shall promulgate regulations which prohibit an affected individual from voting in accordance with subparagraph (A), and which allow for the making of determinations under subparagraphs (B) and (C).”; and

(9) by striking “(1)(B) or (C)” in paragraph (8), as redesignated, and inserting “(1)(A)(ii)”.

#### SEC. 108. FISHERY MANAGEMENT PLANS.

(a) REQUIRED PROVISIONS.—Section 303(a) (16 U.S.C. 1853(a)) is amended—

(1) in paragraph (1)(A) by inserting “and rebuild overfished stocks” after “overfishing”;

(2) by inserting “commercial, recreational, and charter fishing in” in paragraph (5) after “with respect to”;

(3) by striking paragraph (7) and inserting the following:

“(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat.”;

(4) by striking “and” at the end of paragraph (8);

(5) by inserting “and fishing communities” after “fisheries” in paragraph (9)(A);

(6) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(7) by adding at the end the following:

“(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

“(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—

“(A) minimize bycatch; and

“(B) minimize the mortality of bycatch which cannot be avoided;

“(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

“(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors; and

“(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.”

(b) IMPLEMENTATION.—Not later than 24 months after the date of enactment of this Act, each Regional Fishery Management Council shall submit to the Secretary of Commerce amendments to each fishery management plan under its authority to comply with the amendments made in subsection (a) of this section.

16 USC 1853  
note.

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

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

“(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the—

“(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

“(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

“(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;”;

(2) by striking “system for limiting access to” in paragraph (6) and inserting “limited access system for”;



(3) by striking “fishery” in subparagraph (E) of paragraph (6) and inserting “fishery and any affected fishing communities”;

(4) by inserting “one or more” in paragraph (8) after “require that”;

(5) by striking “and” at the end of paragraph (9);

(6) by redesignating paragraph (10) as paragraph (12); and

(7) by inserting after paragraph (9) the following:

“(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

“(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research; and”.

(d) REGULATIONS.—Section 303 (16 U.S.C. 1853) is amended by striking subsection (c) and inserting the following:

“(c) PROPOSED REGULATIONS.—Proposed regulations which the Council deems necessary or appropriate for the purposes of—

“(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

“(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.”.

(e) INDIVIDUAL FISHING QUOTAS.—Subsection 303 (16 U.S.C. 1853) is amended further by striking subsections (d), (e), and (f), and inserting the following:

“(d) INDIVIDUAL FISHING QUOTAS.—

“(1)(A) A Council may not submit and the Secretary may not approve or implement before October 1, 2000, any fishery management plan, plan amendment, or regulation under this Act which creates a new individual fishing quota program.

“(B) Any fishery management plan, plan amendment, or regulation approved by the Secretary on or after January 4, 1995, which creates any new individual fishing quota program shall be repealed and immediately returned by the Secretary to the appropriate Council and shall not be resubmitted, re-approved, or implemented during the moratorium set forth in subparagraph (A).

“(2)(A) No provision of law shall be construed to limit the authority of a Council to submit and the Secretary to approve the termination or limitation, without compensation to holders of any limited access system permits, of a fishery management plan, plan amendment, or regulation that provides for a limited access system, including an individual fishing quota program.

“(B) This subsection shall not be construed to prohibit a Council from submitting, or the Secretary from approving and implementing, amendments to the North Pacific halibut and sablefish, South Atlantic wreckfish, or Mid-Atlantic surf clam and ocean (including mahogany) quahog individual fishing quota programs.

“(3) An individual fishing quota or other limited access system authorization—



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

“(B) may be revoked or limited at any time in accordance with this Act;

“(C) shall not confer any right of compensation to the holder of such individual fishing quota or other such limited access system authorization if it is revoked or limited; and

“(D) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested.

“(4)(A) A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 1104A(a)(7) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274(a)(7)), to issue obligations that aid in financing the—

“(i) purchase of individual fishing quotas in that fishery by fishermen who fish from small vessels; and

“(ii) first-time purchase of individual fishing quotas in that fishery by entry level fishermen.

“(B) A Council making a submission under subparagraph (A) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under clauses (i) and (ii) of subparagraph (A) and the portion of funds to be allocated for guarantees under each clause.

“(5) In submitting and approving any new individual fishing quota program on or after October 1, 2000, the Councils and the Secretary shall consider the report of the National Academy of Sciences required under section 108(f) of the Sustainable Fisheries Act, and any recommendations contained in such report, and shall ensure that any such program—

“(A) establishes procedures and requirements for the review and revision of the terms of any such program (including any revisions that may be necessary once a national policy with respect to individual fishing quota programs is implemented), and, if appropriate, for the renewal, reallocation, or reissuance of individual fishing quotas;

“(B) provides for the effective enforcement and management of any such program, including adequate observer coverage, and for fees under section 304(d)(2) to recover actual costs directly related to such enforcement and management; and

“(C) provides for a fair and equitable initial allocation of individual fishing quotas, prevents any person from acquiring an excessive share of the individual fishing quotas issued, and considers the allocation of a portion of the annual harvest in the fishery for entry-level fishermen, small vessel owners, and crew members who do not hold or qualify for individual fishing quotas.”

(f) **INDIVIDUAL FISHING QUOTA REPORT.**—(1) Not later than October 1, 1998, the National Academy of Sciences, in consultation with the Secretary of Commerce and the Regional Fishery Management Councils, shall submit to the Congress a comprehensive final report on individual fishing quotas, which shall include rec-

16 USC 1853  
note.

ommendations to implement a national policy with respect to individual fishing quotas. The report shall address all aspects of such quotas, including an analysis of—

(A) the effects of limiting or prohibiting the transferability of such quotas;

(B) mechanisms to prevent foreign control of the harvest of United States fisheries under individual fishing quota programs, including mechanisms to prohibit persons who are not eligible to be deemed a citizen of the United States for the purpose of operating a vessel in the coastwise trade under section 2(a) and section 2(c) of the Shipping Act, 1916 (46 U.S.C. 802 (a) and (c)) from holding individual fishing quotas;

(C) the impact of limiting the duration of individual fishing quota programs;

(D) the impact of authorizing Federal permits to process a quantity of fish that correspond to individual fishing quotas, and of the value created for recipients of any such permits, including a comparison of such value to the value of the corresponding individual fishing quotas;

(E) mechanisms to provide for diversity and to minimize adverse social and economic impacts on fishing communities, other fisheries affected by the displacement of vessels, and any impacts associated with the shifting of capital value from fishing vessels to individual fishing quotas, as well as the use of capital construction funds to purchase individual fishing quotas;

(F) mechanisms to provide for effective monitoring and enforcement, including the inspection of fish harvested and incentives to reduce bycatch, and in particular economic discards;

(G) threshold criteria for determining whether a fishery may be considered for individual fishing quota management, including criteria related to the geographical range, population dynamics and condition of a fish stock, the socioeconomic characteristics of a fishery (including participants' involvement in multiple fisheries in the region), and participation by commercial, charter, and recreational fishing sectors in the fishery;

(H) mechanisms to ensure that vessel owners, vessel masters, crew members, and United States fish processors are treated fairly and equitably in initial allocations, to require persons holding individual fishing quotas to be on board the vessel using such quotas, and to facilitate new entry under individual fishing quota programs;

(I) potential social and economic costs and benefits to the nation, individual fishing quota recipients, and any recipients of Federal permits described in subparagraph (D) under individual fishing quota programs, including from capital gains revenue, the allocation of such quotas or permits through Federal auctions, annual fees and transfer fees at various levels, or other measures;

(J) the value created for recipients of individual fishing quotas, including a comparison of such value to the value of the fish harvested under such quotas and to the value of permits created by other types of limited access systems, and the effects of creating such value on fishery management and conservation; and

(K) such other matters as the National Academy of Sciences deems appropriate.

(2) The report shall include a detailed analysis of individual fishing quota programs already implemented in the United States, including the impacts: of any limits on transferability, on past and present participants, on fishing communities, on the rate and total amount of bycatch (including economic and regulatory discards) in the fishery, on the safety of life and vessels in the fishery, on any excess harvesting or processing capacity in the fishery, on any gear conflicts in the fishery, on product quality from the fishery, on the effectiveness of enforcement in the fishery, on the size and composition of fishing vessel fleets, on the economic value created by individual fishing quotas for initial recipients and non-recipients, on conservation of the fishery resource, on fishermen who rely on participation in several fisheries, on the success in meeting any fishery management plan goals, and the fairness and effectiveness of the methods used for allocating quotas and controlling transferability. The report shall also include any information about individual fishing quota programs in other countries that may be useful.

(3) The report shall identify and analyze alternative conservation and management measures, including other limited access systems such as individual transferable effort systems, that could accomplish the same objectives as individual fishing quota programs, as well as characteristics that are unique to individual fishing quota programs.

(4) The Secretary of Commerce shall, in consultation with the National Academy of Sciences, the Councils, the fishing industry, affected States, conservation organizations and other interested persons, establish two individual fishing quota review groups to assist in the preparation of the report, which shall represent: (A) Alaska, Hawaii, and the other Pacific coastal States; and (B) Atlantic coastal States and the Gulf of Mexico coastal States. The Secretary shall, to the extent practicable, achieve a balanced representation of viewpoints among the individuals on each review group. The review groups shall be deemed to be advisory panels under section 302(g) of the Magnuson Fishery Conservation and Management Act, as amended by this Act.

(5) The Secretary of Commerce, in consultation with the National Academy of Sciences and the Councils, shall conduct public hearings in each Council region to obtain comments on individual fishing quotas for use by the National Academy of Sciences in preparing the report required by this subsection. The National Academy of Sciences shall submit a draft report to the Secretary of Commerce by January 1, 1998. The Secretary of Commerce shall publish in the Federal Register a notice and opportunity for public comment on the draft of the report, or any revision thereof. A detailed summary of comments received and views presented at the hearings, including any dissenting views, shall be included by the National Academy of Sciences in the final report.

(6) Section 210 of Public Law 104-134 is hereby repealed.

(g) NORTH PACIFIC LOAN PROGRAM.—(1) By not later than October 1, 1997 the North Pacific Fishery Management Council shall recommend to the Secretary of Commerce a program which

Establishment.

Reports.  
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16 USC 1851  
note.

uses the full amount of fees authorized to be used under section 303(d)(4) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, in the halibut and sablefish fisheries off Alaska to guarantee obligations in accordance with such section.

(2)(A) For the purposes of this subsection, the phrase "fishermen who fish from small vessels" in section 303(d)(4)(A)(i) of such Act shall mean fishermen wishing to purchase individual fishing quotas for use from Category B, Category C, or Category D vessels, as defined in part 676.20(c) of title 50, Code of Federal Regulations (as revised as of October 1, 1995), whose aggregate ownership of individual fishing quotas will not exceed the equivalent of a total of 50,000 pounds of halibut and sablefish harvested in the fishing year in which a guarantee application is made if the guarantee is approved, who will participate aboard the fishing vessel in the harvest of fish caught under such quotas, who have at least 150 days of experience working as part of the harvesting crew in any United States commercial fishery, and who do not own in whole or in part any Category A or Category B vessel, as defined in such part and title of the Code of Federal Regulations.

(B) For the purposes of this subsection, the phrase "entry level fishermen" in section 303(d)(4)(A)(ii) of such Act shall mean fishermen who do not own any individual fishing quotas, who wish to obtain the equivalent of not more than a total of 8,000 pounds of halibut and sablefish harvested in the fishing year in which a guarantee application is made, and who will participate aboard the fishing vessel in the harvest of fish caught under such quotas.

(h) COMMUNITY DEVELOPMENT QUOTA REPORT.—Not later than October 1, 1998, the National Academy of Sciences, in consultation with the Secretary, the North Pacific and Western Pacific Councils, communities and organizations participating in the program, participants in affected fisheries, and the affected States, shall submit to the Secretary of Commerce and Congress a comprehensive report on the performance and effectiveness of the community development quota programs under the authority of the North Pacific and Western Pacific Councils. The report shall—

(1) evaluate the extent to which such programs have met the objective of providing communities with the means to develop ongoing commercial fishing activities;

(2) evaluate the manner and extent to which such programs have resulted in the communities and residents—

(A) receiving employment opportunities in commercial fishing and processing; and

(B) obtaining the capital necessary to invest in commercial fishing, fish processing, and commercial fishing support projects (including infrastructure to support commercial fishing);

(3) evaluate the social and economic conditions in the participating communities and the extent to which alternative private sector employment opportunities exist;

(4) evaluate the economic impacts on participants in the affected fisheries, taking into account the condition of the fishery resource, the market, and other relevant factors;

(5) recommend a proposed schedule for accomplishing the developmental purposes of community development quotas; and

(6) address such other matters as the National Academy of Sciences deems appropriate.

Reports.  
16 USC 1855  
note.

(i) EXISTING QUOTA PLANS.—Nothing in this Act or the amendments made by this Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program approved by the Secretary before January 4, 1995.

16 USC 1853  
note.

**SEC. 109. ACTION BY THE SECRETARY.**

(a) SECRETARIAL REVIEW OF PLANS AND REGULATIONS.—Section 304 (16 U.S.C. 1854) is amended by striking subsections (a) and (b) and inserting the following:

“(a) REVIEW OF PLANS.—

“(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

“(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

“(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

Federal Register,  
publication.

“(2) In undertaking the review required under paragraph (1), the Secretary shall—

“(A) take into account the information, views, and comments received from interested persons;

“(B) consult with the Secretary of State with respect to foreign fishing; and

“(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

“(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

Notice.

“(A) the applicable law with which the plan or amendment is inconsistent;

“(B) the nature of such inconsistencies; and

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

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

“(4) If the Secretary disapproves or partially approves a plan or amendment, the Council may submit a revised plan or amendment to the Secretary for review under this subsection.

“(5) For purposes of this subsection and subsection (b), the term ‘immediately’ means on or before the 5th day after the day on which a Council transmits to the Secretary a fishery management plan, plan amendment, or proposed regulation that the Council characterizes as final.

“(b) REVIEW OF REGULATIONS.—



“(1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, plan amendment, this Act and other applicable law. Within 15 days of initiating such evaluation the Secretary shall make a determination and—

Federal Register,  
publication.

“(A) if that determination is affirmative, the Secretary shall publish such regulations in the Federal Register, with such technical changes as may be necessary for clarity and an explanation of those changes, for a public comment period of 15 to 60 days; or

Notification.

“(B) if that determination is negative, the Secretary shall notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent with the fishery management plan, plan amendment, this Act, and other applicable law.

“(2) Upon receiving a notification under paragraph (1)(B), the Council may revise the proposed regulations and submit them to the Secretary for reevaluation under paragraph (1).

Federal Register,  
publication.

“(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (1)(A). The Secretary shall consult with the Council before making any revisions to the proposed regulations, and must publish in the Federal Register an explanation of any differences between the proposed and final regulations.”.

(b) PREPARATION BY THE SECRETARY.—Section 304(c) (16 U.S.C. 1854(c)) is amended—

(1) by striking the subsection heading and inserting “PREPARATION AND REVIEW OF SECRETARIAL PLANS”;

(2) by striking “or” at the end of paragraph (1)(A);

(3) by striking all that follows “further revised plan” in paragraph (1) and inserting “or amendment; or”;

(4) by inserting after subparagraph (1)(B), as amended, the following new subparagraph:

“(C) the Secretary is given authority to prepare such plan or amendment under this section.”;

(5) by striking paragraph (2) and inserting:

“(2) In preparing any plan or amendment under this subsection, the Secretary shall—

“(A) conduct public hearings, at appropriate times and locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan and any regulations implementing the plan; and

“(B) consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.”;

(6) by inserting “for a fishery under the authority of a Council” after “paragraph (1)” in paragraph (3);

(7) by striking “system described in section 303(b)(6)” in paragraph (3) and inserting “system, including any individual fishing quota program”; and

(8) by inserting after paragraph (3) the following new paragraphs:

“(4) Whenever the Secretary prepares a fishery management plan or plan amendment under this section, the Secretary shall immediately—

“(A) for a plan or amendment for a fishery under the authority of a Council, submit such plan or amendment to the appropriate Council for consideration and comment; and

“(B) publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

Federal Register,  
publication.

“(5) Whenever a plan or amendment is submitted under paragraph (4)(A), the appropriate Council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 60-day period referred to in paragraph (4)(B). After the close of such 60-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, information, or comments submitted under paragraph (4)(B), may adopt such plan or amendment.

“(6) The Secretary may propose regulations in the Federal Register to implement any plan or amendment prepared by the Secretary. In the case of a plan or amendment to which paragraph (4)(A) applies, such regulations shall be submitted to the Council with such plan or amendment. The comment period on proposed regulations shall be 60 days, except that the Secretary may shorten the comment period on minor revisions to existing regulations.

“(7) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (6). The Secretary must publish in the Federal Register an explanation of any substantive differences between the proposed and final rules. All final regulations must be consistent with the fishery management plan, with the national standards and other provisions of this Act, and with any other applicable law.”

Regulations.

Federal Register,  
publication.

(c) **INDIVIDUAL FISHING QUOTA AND COMMUNITY DEVELOPMENT QUOTA FEES.**—Section 304(d) (16 U.S.C. 1854(d)) is amended—

(1) by inserting “(1)” immediately before the first sentence; and

(2) by inserting at the end the following:

“(2)(A) Notwithstanding paragraph (1), the Secretary is authorized and shall collect a fee to recover the actual costs directly related to the management and enforcement of any—

“(i) individual fishing quota program; and

“(ii) community development quota program that allocates a percentage of the total allowable catch of a fishery to such program.

“(B) Such fee shall not exceed 3 percent of the ex-vessel value of fish harvested under any such program, and shall be collected at either the time of the landing, filing of a landing report, or sale of such fish during a fishing season or in the last quarter of the calendar year in which the fish is harvested.

“(C)(i) Fees collected under this paragraph shall be in addition to any other fees charged under this Act and shall be



deposited in the Limited Access System Administration Fund established under section 305(h)(5)(B), except that the portion of any such fees reserved under section 303(d)(4)(A) shall be deposited in the Treasury and available, subject to annual appropriations, to cover the costs of new direct loan obligations and new loan guarantee commitments as required by section 504(b)(1) of the Federal Credit Reform Act (2 U.S.C. 661c(b)(1)).

“(ii) Upon application by a State, the Secretary shall transfer to such State up to 33 percent of any fee collected pursuant to subparagraph (A) under a community development quota program and deposited in the Limited Access System Administration Fund in order to reimburse such State for actual costs directly incurred in the management and enforcement of such program.”

16 USC 1854  
note.

(d) DELAY OF FEES.—Notwithstanding any other provision of law, the Secretary shall not begin the collection of fees under section 304(d)(2) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, in the surf clam and ocean (including mahogany) quahog fishery or in the wreckfish fishery until after January 1, 2000.

(e) OVERFISHING.—Section 304(e) (16 U.S.C. 1854(e)) is amended to read as follows:

“(e) REBUILDING OVERFISHED FISHERIES.—

Reports.

“(1) The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council’s geographical area of authority and identify those fisheries that are overfished or are approaching a condition of being overfished. For those fisheries managed under a fishery management plan or international agreement, the status shall be determined using the criteria for overfishing specified in such plan or agreement. A fishery shall be classified as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary estimates that the fishery will become overfished within two years.

Notification.

“(2) If the Secretary determines at any time that a fishery is overfished, the Secretary shall immediately notify the appropriate Council and request that action be taken to end overfishing in the fishery and to implement conservation and management measures to rebuild affected stocks of fish. The Secretary shall publish each notice under this paragraph in the Federal Register.

Federal Register,  
publication.

“(3) Within one year of an identification under paragraph (1) or notification under paragraphs (2) or (7), the appropriate Council (or the Secretary, for fisheries under section 302(a)(3)) shall prepare a fishery management plan, plan amendment, or proposed regulations for the fishery to which the identification or notice applies—

“(A) to end overfishing in the fishery and to rebuild affected stocks of fish; or

“(B) to prevent overfishing from occurring in the fishery whenever such fishery is identified as approaching an overfished condition.

“(4) For a fishery that is overfished, any fishery management plan, amendment, or proposed regulations prepared pursuant to paragraph (3) or paragraph (5) for such fishery shall—

“(A) specify a time period for ending overfishing and rebuilding the fishery that shall—

“(i) be as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem; and

“(ii) not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;

“(B) allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery; and

“(C) for fisheries managed under an international agreement, reflect traditional participation in the fishery, relative to other nations, by fishermen of the United States.

“(5) If, within the one-year period beginning on the date of identification or notification that a fishery is overfished, the Council does not submit to the Secretary a fishery management plan, plan amendment, or proposed regulations required by paragraph (3)(A), the Secretary shall prepare a fishery management plan or plan amendment and any accompanying regulations to stop overfishing and rebuild affected stocks of fish within 9 months under subsection (c).

“(6) During the development of a fishery management plan, a plan amendment, or proposed regulations required by this subsection, the Council may request the Secretary to implement interim measures to reduce overfishing under section 305(c) until such measures can be replaced by such plan, amendment, or regulations. Such measures, if otherwise in compliance with the provisions of this Act, may be implemented even though they are not sufficient by themselves to stop overfishing of a fishery.

“(7) The Secretary shall review any fishery management plan, plan amendment, or regulations required by this subsection at routine intervals that may not exceed two years. If the Secretary finds as a result of the review that such plan, amendment, or regulations have not resulted in adequate progress toward ending overfishing and rebuilding affected fish stocks, the Secretary shall—

“(A) in the case of a fishery to which section 302(a)(3) applies, immediately make revisions necessary to achieve adequate progress; or

“(B) for all other fisheries, immediately notify the appropriate Council. Such notification shall recommend further conservation and management measures which the Council should consider under paragraph (3) to achieve adequate progress.”

Notification.

(f) FISHERIES UNDER AUTHORITY OF MORE THAN ONE COUNCIL.—Section 304(f) is amended by striking paragraph (3).

(g) ATLANTIC HIGHLY MIGRATORY SPECIES.—Section 304 (16 U.S.C. 1854) is amended further by striking subsection (g) and inserting the following:

“(g) ATLANTIC HIGHLY MIGRATORY SPECIES.—(1) PREPARATION AND IMPLEMENTATION OF PLAN OR PLAN AMENDMENT.—The Secretary shall prepare a fishery management plan or plan amendment under subsection (c) with respect to any highly migratory species fishery to which section 302(a)(3) applies. In preparing and implementing any such plan or amendment, the Secretary shall—

“(A) consult with and consider the comments and views of affected Councils, commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species, and the advisory panel established under section 302(g);

“(B) establish an advisory panel under section 302(g) for each fishery management plan to be prepared under this paragraph;

“(C) evaluate the likely effects, if any, of conservation and management measures on participants in the affected fisheries and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors;

“(D) with respect to a highly migratory species for which the United States is authorized to harvest an allocation, quota, or at a fishing mortality level under a relevant international fishery agreement, provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation, quota, or at such fishing mortality level;

“(E) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan;

“(F) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), comparable international fishery management measures with respect to fishing for highly migratory species; and

“(G) ensure that conservation and management measures under this subsection—

“(i) promote international conservation of the affected fishery;

“(ii) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;

“(iii) are fair and equitable in allocating fishing privileges among United States fishermen and do not have economic allocation as the sole purpose; and

“(iv) promote, to the extent practicable, implementation of scientific research programs that include the tagging and release of Atlantic highly migratory species.

“(2) CERTAIN FISH EXCLUDED FROM ‘BYCATCH’ DEFINITION.—Notwithstanding section 3(2), fish harvested in a commercial fishery managed by the Secretary under this subsection or the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d) that are not regulatory discards and that are tagged and released alive under a scientific tagging and release program established by the Secretary shall not be considered bycatch for purposes of this Act.”

(h) COMPREHENSIVE MANAGEMENT SYSTEM FOR ATLANTIC PELAGIC LONGLINE FISHERY.—(1) The Secretary of Commerce shall—

(A) establish an advisory panel under section 302(g)(4) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species;

(B) conduct surveys and workshops with affected fishery participants to provide information and identify options for future management programs;

(C) to the extent practicable and necessary for the evaluation of options for a comprehensive management system, recover vessel production records; and

(D) complete by January 1, 1998, a comprehensive study on the feasibility of implementing a comprehensive management system for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species, including, but not limited to, individual fishing quota programs and other limited access systems.

(2) Based on the study under paragraph (1)(D) and consistent with the requirements of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), in cooperation with affected participants in the fishery, the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas, and the advisory panel established under paragraph (1)(A), the Secretary of Commerce may, after October 1, 1998, implement a comprehensive management system pursuant to section 304 of such Act (16 U.S.C. 1854) for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species. Such a system may not implement an individual fishing quota program until after October 1, 2000.

(i) **REPEAL OR REVOCATION OF A FISHERY MANAGEMENT PLAN.**—Section 304, as amended, is further amended by adding at the end the following:

“(h) **REPEAL OR REVOCATION OF A FISHERY MANAGEMENT PLAN.**—The Secretary may repeal or revoke a fishery management plan for a fishery under the authority of a Council only if the Council approves the repeal or revocation by a three-quarters majority of the voting members of the Council.”

(j) **AMERICAN LOBSTER FISHERY.**—Section 304(h) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, shall not apply to the American Lobster Fishery Management Plan.

16 USC 1854  
note.

#### **SEC. 110. OTHER REQUIREMENTS AND AUTHORITY.**

(a) Section 305 (18 U.S.C. 1855) is amended—

- (1) by striking the title and subsection (a);
- (2) by redesignating subsection (b) as subsection (f); and
- (3) by inserting the following before subsection (c):

#### **“SEC. 305. OTHER REQUIREMENTS AND AUTHORITY.**

“(a) **GEAR EVALUATION AND NOTIFICATION OF ENTRY.**—

“(1) Not later than 18 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall publish in the Federal Register, after notice and an opportunity for public comment, a list of all fisheries—

Federal Register,  
publication.

“(A) under the authority of each Council and all fishing gear used in such fisheries, based on information submitted by the Councils under section 303(a); and

- “(B) to which section 302(a)(3) applies and all fishing gear used in such fisheries.
- Guidelines. “(2) The Secretary shall include with such list guidelines for determining when fishing gear or a fishery is sufficiently different from those listed as to require notification under paragraph (3).
- Effective date. “(3) Effective 180 days after the publication of such list, no person or vessel may employ fishing gear or engage in a fishery not included on such list without giving 90 days advance written notice to the appropriate Council, or the Secretary with respect to a fishery to which section 302(a)(3) applies. A signed return receipt shall serve as adequate evidence of such notice and as the date upon which the 90-day period begins.
- Publication. “(4) A Council may submit to the Secretary any proposed changes to such list or such guidelines the Council deems appropriate. The Secretary shall publish a revised list, after notice and an opportunity for public comment, upon receiving any such proposed changes from a Council.
- “ (5) A Council may request the Secretary to promulgate emergency regulations under subsection (c) to prohibit any persons or vessels from using an unlisted fishing gear or engaging in an unlisted fishery if the appropriate Council, or the Secretary for fisheries to which section 302(a)(3) applies, determines that such unlisted gear or unlisted fishery would compromise the effectiveness of conservation and management efforts under this Act.
- “ (6) Nothing in this subsection shall be construed to permit a person or vessel to engage in fishing or employ fishing gear when such fishing or gear is prohibited or restricted by regulation under a fishery management plan or plan amendment, or under other applicable law.
- Regulations. Guidelines. “(b) FISH HABITAT.—(1)(A) The Secretary shall, within 6 months of the date of enactment of the Sustainable Fisheries Act, establish by regulation guidelines to assist the Councils in the description and identification of essential fish habitat in fishery management plans (including adverse impacts on such habitat) and in the consideration of actions to ensure the conservation and enhancement of such habitat. The Secretary shall set forth a schedule for the amendment of fishery management plans to include the identification of essential fish habitat and for the review and updating of such identifications based on new scientific evidence or other relevant information.
- “ (B) The Secretary, in consultation with participants in the fishery, shall provide each Council with recommendations and information regarding each fishery under that Council’s authority to assist it in the identification of essential fish habitat, the adverse impacts on that habitat, and the actions that should be considered to ensure the conservation and enhancement of that habitat.
- “ (C) The Secretary shall review programs administered by the Department of Commerce and ensure that any relevant programs further the conservation and enhancement of essential fish habitat.
- “ (D) The Secretary shall coordinate with and provide information to other Federal agencies to further the conservation and enhancement of essential fish habitat.
- “ (2) Each Federal agency shall consult with the Secretary with respect to any action authorized, funded, or undertaken, or proposed



to be authorized, funded, or undertaken, by such agency that may adversely affect any essential fish habitat identified under this Act.

“(3) Each Council—

“(A) may comment on and make recommendations to the Secretary and any Federal or State agency concerning any activity authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any Federal or State agency that, in the view of the Council, may affect the habitat, including essential fish habitat, of a fishery resource under its authority; and

“(B) shall comment on and make recommendations to the Secretary and any Federal or State agency concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat, including essential fish habitat, of an anadromous fishery resource under its authority.

“(4)(A) If the Secretary receives information from a Council or Federal or State agency or determines from other sources that an action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any State or Federal agency would adversely affect any essential fish habitat identified under this Act, the Secretary shall recommend to such agency measures that can be taken by such agency to conserve such habitat.

“(B) Within 30 days after receiving a recommendation under subparagraph (A), a Federal agency shall provide a detailed response in writing to any Council commenting under paragraph (3) and the Secretary regarding the matter. The response shall include a description of measures proposed by the agency for avoiding, mitigating, or offsetting the impact of the activity on such habitat. In the case of a response that is inconsistent with the recommendations of the Secretary, the Federal agency shall explain its reasons for not following the recommendations.”

(b) Section 305(c) (16 U.S.C. 1855(c)) is amended—

(1) in the heading by striking “ACTIONS” and inserting “ACTIONS AND INTERIM MEASURES”;

(2) in paragraphs (1) and (2)—

(A) by striking “involving” and inserting “or that interim measures are needed to reduce overfishing for”; and

(B) by inserting “or interim measures” after “emergency regulations”; and

(C) by inserting “or overfishing” after “emergency”; and

(3) in paragraph (3)—

(A) by inserting “or interim measure” after “emergency regulation” each place such term appears;

(B) by striking subparagraph (B);

(C) by redesignating subparagraph (C) as subparagraph (D); and

(D) by inserting after subparagraph (A) the following:

“(B) shall, except as provided in subparagraph (C), remain in effect for not more than 180 days after the date of publication, and may be extended by publication in the Federal Register for one additional period of not more than 180 days, provided the public has had an opportunity to comment on the emergency regulation or interim measure, and, in the case of a Council recommendation

for emergency regulations or interim measures, the Council is actively preparing a fishery management plan, plan amendment, or proposed regulations to address the emergency or overfishing on a permanent basis;

“(C) that responds to a public health emergency or an oil spill may remain in effect until the circumstances that created the emergency no longer exist, *Provided*, That the public has an opportunity to comment after the regulation is published, and, in the case of a public health emergency, the Secretary of Health and Human Services concurs with the Secretary’s action; and”.

16 USC 1855.

(c) Section 305(e) is amended—

(1) by striking “12291, dated February 17, 1981,” and inserting “12866, dated September 30, 1993,”; and

(2) by striking “subsection (c) or section 304(a) and (b)” and inserting “subsections (a), (b), and (c) of section 304”.

(d) Section 305, as amended, is further amended by adding at the end the following:

“(g) NEGOTIATED CONSERVATION AND MANAGEMENT MEASURES.—

“(1)(A) In accordance with regulations promulgated by the Secretary pursuant to this paragraph, a Council may establish a fishery negotiation panel to assist in the development of specific conservation and management measures for a fishery under its authority. The Secretary may establish a fishery negotiation panel to assist in the development of specific conservation and management measures required for a fishery under section 304(e)(5), for a fishery for which the Secretary has authority under section 304(g), or for any other fishery with the approval of the appropriate Council.

Regulations.

“(B) No later than 180 days after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations establishing procedures, developed in cooperation with the Administrative Conference of the United States, for the establishment and operation of fishery negotiation panels. Such procedures shall be comparable to the procedures for negotiated rulemaking established by subchapter III of chapter 5 of title 5, United States Code.

Reports.

“(2) If a negotiation panel submits a report, such report shall specify all the areas where consensus was reached by the panel, including, if appropriate, proposed conservation and management measures, as well as any other information submitted by members of the negotiation panel. Upon receipt, the Secretary shall publish such report in the Federal Register for public comment.

Federal Register, publication.

“(3) Nothing in this subsection shall be construed to require either a Council or the Secretary, whichever is appropriate, to use all or any portion of a report from a negotiation panel established under this subsection in the development of specific conservation and management measures for the fishery for which the panel was established.

“(h) CENTRAL REGISTRY SYSTEM FOR LIMITED ACCESS SYSTEM PERMITS.—

Establishment.

“(1) Within 6 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall establish an exclusive central registry system (which may be administered on a regional basis) for limited access system permits estab-



lished under section 303(b)(6) or other Federal law, including individual fishing quotas, which shall provide for the registration of title to, and interests in, such permits, as well as for procedures for changes in the registration of title to such permits upon the occurrence of involuntary transfers, judicial or nonjudicial foreclosure of interests, enforcement of judgments thereon, and related matters deemed appropriate by the Secretary. Such registry system shall—

“(A) provide a mechanism for filing notice of a nonjudicial foreclosure or enforcement of a judgment by which the holder of a senior security interest acquires or conveys ownership of a permit, and in the event of a nonjudicial foreclosure, by which the interests of the holders of junior security interests are released when the permit is transferred;

“(B) provide for public access to the information filed under such system, notwithstanding section 402(b); and

“(C) provide such notice and other requirements of applicable law that the Secretary deems necessary for an effective registry system.

“(2) The Secretary shall promulgate such regulations as may be necessary to carry out this subsection, after consulting with the Councils and providing an opportunity for public comment. The Secretary is authorized to contract with non-Federal entities to administer the central registry system.

“(3) To be effective and perfected against any person except the transferor, its heirs and devisees, and persons having actual notice thereof, all security interests, and all sales and other transfers of permits described in paragraph (1), shall be registered in compliance with the regulations promulgated under paragraph (2). Such registration shall constitute the exclusive means of perfection of title to, and security interests in, such permits, except for Federal tax liens thereon, which shall be perfected exclusively in accordance with the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.). The Secretary shall notify both the buyer and seller of a permit if a lien has been filed by the Secretary of the Treasury against the permit before collecting any transfer fee under paragraph (5) of this subsection.

“(4) The priority of security interests shall be determined in order of filing, the first filed having the highest priority. A validly-filed security interest shall remain valid and perfected notwithstanding a change in residence or place of business of the owner of record. For the purposes of this subsection, ‘security interest’ shall include security interests, assignments, liens and other encumbrances of whatever kind.

“(5)(A) Notwithstanding section 304(d)(1), the Secretary shall collect a reasonable fee of not more than one-half of one percent of the value of a limited access system permit upon registration of the title to such permit with the central registry system and upon the transfer of such registered title. Any such fee collected shall be deposited in the Limited Access System Administration Fund established under subparagraph (B).

“(B) There is established in the Treasury a Limited Access System Administration Fund. The Fund shall be available,

Public  
information.

Regulations.

Notification.

without appropriation or fiscal year limitation, only to the Secretary for the purposes of—

“(i) administering the central registry system; and

“(ii) administering and implementing this Act in the fishery in which the fees were collected. Sums in the Fund that are not currently needed for these purposes shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.”.

16 USC 1855  
note.

(e) **REGISTRY TRANSITION.**—Security interests on permits described under section 305(h)(1) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, that are effective and perfected by otherwise applicable law on the date of the final regulations implementing section 305(h) shall remain effective and perfected if, within 120 days after such date, the secured party submits evidence satisfactory to the Secretary of Commerce and in compliance with such regulations of the perfection of such security.

#### **SEC. 111. PACIFIC COMMUNITY FISHERIES.**

(a) **HAROLD SPARCK MEMORIAL COMMUNITY DEVELOPMENT QUOTA PROGRAM.**—Section 305, as amended, is amended further by adding at the end:

“(i) **ALASKA AND WESTERN PACIFIC COMMUNITY DEVELOPMENT PROGRAMS.**—

Establishment.

“(1)(A) The North Pacific Council and the Secretary shall establish a western Alaska community development quota program under which a percentage of the total allowable catch of any Bering Sea fishery is allocated to the program.

“(B) To be eligible to participate in the western Alaska community development quota program under subparagraph (A) a community shall—

“(i) be located within 50 nautical miles from the baseline from which the breadth of the territorial sea is measured along the Bering Sea coast from the Bering Strait to the western most of the Aleutian Islands, or on an island within the Bering Sea;

“(ii) not be located on the Gulf of Alaska coast of the north Pacific Ocean;

“(iii) meet criteria developed by the Governor of Alaska, approved by the Secretary, and published in the Federal Register;

“(iv) be certified by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to be a Native village;

“(v) consist of residents who conduct more than one-half of their current commercial or subsistence fishing effort in the waters of the Bering Sea or waters surrounding the Aleutian Islands; and

“(vi) not have previously developed harvesting or processing capability sufficient to support substantial participation in the groundfish fisheries in the Bering Sea, unless the community can show that the benefits from an approved Community Development Plan would be the only way for the community to realize a return from previous investments.

“(C)(i) Prior to October 1, 2001, the North Pacific Council may not submit to the Secretary any fishery management plan,

plan amendment, or regulation that allocates to the western Alaska community development quota program a percentage of the total allowable catch of any Bering Sea fishery for which, prior to October 1, 1995, the Council had not approved a percentage of the total allowable catch for allocation to such community development quota program. The expiration of any plan, amendment, or regulation that meets the requirements of clause (ii) prior to October 1, 2001, shall not be construed to prohibit the Council from submitting a revision or extension of such plan, amendment, or regulation to the Secretary if such revision or extension complies with the other requirements of this paragraph.

“(ii) With respect to a fishery management plan, plan amendment, or regulation for a Bering Sea fishery that—

“(I) allocates to the western Alaska community development quota program a percentage of the total allowable catch of such fishery; and

“(II) was approved by the North Pacific Council prior to October 1, 1995;

the Secretary shall, except as provided in clause (iii) and after approval of such plan, amendment, or regulation under section 304, allocate to the program the percentage of the total allowable catch described in such plan, amendment, or regulation. Prior to October 1, 2001, the percentage submitted by the Council and approved by the Secretary for any such plan, amendment, or regulation shall be no greater than the percentage approved by the Council for such fishery prior to October 1, 1995.

“(iii) The Secretary shall phase in the percentage for community development quotas approved in 1995 by the North Pacific Council for the Bering Sea crab fisheries as follows:

“(I) 3.5 percent of the total allowable catch of each such fishery for 1998 shall be allocated to the western Alaska community development quota program;

“(II) 5 percent of the total allowable catch of each such fishery for 1999 shall be allocated to the western Alaska community development quota program; and

“(III) 7.5 percent of the total allowable catch of each such fishery for 2000 and thereafter shall be allocated to the western Alaska community development quota program, unless the North Pacific Council submits and the Secretary approves a percentage that is no greater than 7.5 percent of the total allowable catch of each such fishery for 2001 or the North Pacific Council submits and the Secretary approves any other percentage on or after October 1, 2001.

“(D) This paragraph shall not be construed to require the North Pacific Council to resubmit, or the Secretary to reapprove, any fishery management plan or plan amendment approved by the North Pacific Council prior to October 1, 1995, that includes a community development quota program, or any regulations to implement such plan or amendment.

“(2)(A) The Western Pacific Council and the Secretary may establish a western Pacific community development program for any fishery under the authority of such Council in order to provide access to such fishery for western Pacific communities that participate in the program.

“(B) To be eligible to participate in the western Pacific community development program, a community shall—

“(i) be located within the Western Pacific Regional Fishery Management Area;

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

“(iii) consist of community residents who are descended from the aboriginal people indigenous to the area who conducted commercial or subsistence fishing using traditional fishing practices in the waters of the Western Pacific region;

“(iv) not have previously developed harvesting or processing capability sufficient to support substantial participation in fisheries in the Western Pacific Regional Fishery Management Area; and

“(v) develop and submit a Community Development Plan to the Western Pacific Council and the Secretary.

“(C) In developing the criteria for eligible communities under subparagraph (B)(ii), the Western Pacific Council shall base such criteria on traditional fishing practices in or dependence on the fishery, the cultural and social framework relevant to the fishery, and economic barriers to access to the fishery.

“(D) For the purposes of this subsection ‘Western Pacific Regional Fishery Management Area’ means the area under the jurisdiction of the Western Pacific Council, or an island within such area.

“(E) Notwithstanding any other provision of this Act, the Western Pacific Council shall take into account traditional indigenous fishing practices in preparing any fishery management plan.

“(3) The Secretary shall deduct from any fees collected from a community development quota program under section 304(d)(2) the costs incurred by participants in the program for observer and reporting requirements which are in addition to observer and reporting requirements of other participants in the fishery in which the allocation to such program has been made.

“(4) After the date of enactment of the Sustainable Fisheries Act, the North Pacific Council and Western Pacific Council may not submit to the Secretary a community development quota program that is not in compliance with this subsection.”.

(b) WESTERN PACIFIC DEMONSTRATION PROJECTS.—(1) The Secretary of Commerce and the Secretary of the Interior are authorized to make direct grants to eligible western Pacific communities, as recommended by the Western Pacific Fishery Management Council, for the purpose of establishing not less than three and not more than five fishery demonstration projects to foster and promote traditional indigenous fishing practices. The total amount of grants awarded under this subsection shall not exceed \$500,000 in each fiscal year.

(2) Demonstration projects funded pursuant to this subsection shall foster and promote the involvement of western Pacific communities in western Pacific fisheries and may—

(A) identify and apply traditional indigenous fishing practices;

(B) develop or enhance western Pacific community-based fishing opportunities; and

(C) involve research, community education, or the acquisition of materials and equipment necessary to carry out any such demonstration project.

(3)(A) The Western Pacific Fishery Management Council, in consultation with the Secretary of Commerce, shall establish an advisory panel under section 302(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(g)) to evaluate, determine the relative merits of, and annually rank applications for such grants. The panel shall consist of not more than 8 individuals who are knowledgeable or experienced in traditional indigenous fishery practices of western Pacific communities and who are not members or employees of the Western Pacific Fishery Management Council.

(B) If the Secretary of Commerce or the Secretary of the Interior awards a grant for a demonstration project not in accordance with the rank given to such project by the advisory panel, the Secretary shall provide a detailed written explanation of the reasons therefor.

(4) The Western Pacific Fishery Management Council shall, with the assistance of such advisory panel, submit an annual report to the Congress assessing the status and progress of demonstration projects carried out under this subsection.

(5) Appropriate Federal agencies may provide technical assistance to western Pacific community-based entities to assist in carrying out demonstration projects under this subsection.

(6) For the purposes of this subsection, 'western Pacific community' shall mean a community eligible to participate under section 305(i)(2)(B) of the Magnuson Fishery Conservation and Management Act, as amended by this Act.

Reports.

#### SEC. 112. STATE JURISDICTION.

(a) Paragraph (3) of section 306(a) (16 U.S.C. 1856(a)) is amended to read as follows:

"(3) A State may regulate a fishing vessel outside the boundaries of the State in the following circumstances:

"(A) The fishing vessel is registered under the law of that State, and (i) there is no fishery management plan or other applicable Federal fishing regulations for the fishery in which the vessel is operating; or (ii) the State's laws and regulations are consistent with the fishery management plan and applicable Federal fishing regulations for the fishery in which the vessel is operating.

"(B) The fishery management plan for the fishery in which the fishing vessel is operating delegates management of the fishery to a State and the State's laws and regulations are consistent with such fishery management plan. If at any time the Secretary determines that a State law or regulation applicable to a fishing vessel under this circumstance is not consistent with the fishery management plan, the Secretary shall promptly notify the State and the appropriate Council of such determination and provide an opportunity for the State to correct any inconsistencies identified in the notification. If, after notice and opportunity for corrective action, the State does not correct the inconsistencies identified by the Secretary, the authority granted to the State under this subparagraph shall not

Notification.



apply until the Secretary and the appropriate Council find that the State has corrected the inconsistencies. For a fishery for which there was a fishery management plan in place on August 1, 1996 that did not delegate management of the fishery to a State as of that date, the authority provided by this subparagraph applies only if the Council approves the delegation of management of the fishery to the State by a three-quarters majority vote of the voting members of the Council.

“(C) The fishing vessel is not registered under the law of the State of Alaska and is operating in a fishery in the exclusive economic zone off Alaska for which there was no fishery management plan in place on August 1, 1996, and the Secretary and the North Pacific Council find that there is a legitimate interest of the State of Alaska in the conservation and management of such fishery. The authority provided under this subparagraph shall terminate when a fishery management plan under this Act is approved and implemented for such fishery.”

(b) Section 306(b) (16 U.S.C. 1856(b)) is amended by adding at the end the following:

“(3) If the State involved requests that a hearing be held pursuant to paragraph (1), the Secretary shall conduct such hearing prior to taking any action under paragraph (1).”

(c) Section 306(c)(1) (16 U.S.C. 1856(c)(1)) is amended—

(1) by striking “(4)(C); and” in subparagraph (A) and inserting “(4)(C) or has received a permit under section 204(d);”;

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon and the word “and”; and

(3) by inserting after subparagraph (B) the following:

“(C) the owner or operator of the vessel submits reports on the tonnage of fish received from vessels of the United States and the locations from which such fish were harvested, in accordance with such procedures as the Secretary by regulation shall prescribe.”

(d) INTERIM AUTHORITY FOR DUNGENESS CRAB.—(1) Subject to the provisions of this subsection and notwithstanding section 306(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1856(a)), the States of Washington, Oregon, and California may each enforce State laws and regulations governing fish harvesting and processing against any vessel operating in the exclusive economic zone off each respective State in a fishery for Dungeness crab (*Cancer magister*) for which there is no fishery management plan implemented under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) Any law or regulation promulgated under this subsection shall apply equally to vessels operating in the exclusive economic zone and adjacent State waters and shall be limited to—

(A) establishment of season opening and closing dates, including presoak dates for crab pots;

(B) setting of minimum sizes and crab meat recovery rates;

(C) restrictions on the retention of crab of a certain sex; and

Termination  
date.

Reports.  
Regulations.

16 USC 1856  
note.

Applicability.



(D) closure of areas or pot limitations to meet the harvest requirements arising under the jurisdiction of United States v. Washington, subproceeding 89-3.

(3) With respect to the States of Washington, Oregon, and California—

(A) any State law limiting entry to a fishery subject to regulation under this subsection may not be enforced against a vessel that is operating in the exclusive economic zone off that State and is not registered under the law of that State, if the vessel is otherwise legally fishing in the exclusive economic zone, except that State laws regulating landings may be enforced; and

(B) no vessel may harvest or process fish which is subject to regulation under this subsection unless under an appropriate State permit or pursuant to a Federal court order.

(4) The authority provided under this subsection to regulate the Dungeness crab fishery shall terminate on October 1, 1999, or when a fishery management plan is implemented under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) for such fishery, whichever date is earlier.

(5) Nothing in this subsection shall reduce the authority of any State, as such authority existed on July 1, 1996, to regulate fishing, fish processing, or landing of fish.

(6)(A) It is the sense of Congress that the Pacific Fishery Management Council, at the earliest practicable date, should develop and submit to the Secretary fishery management plans for shellfish fisheries conducted in the geographic area of authority of the Council, especially Dungeness crab, which are not subject to a fishery management plan on the date of enactment of this Act.

(B) Not later than December 1, 1997, the Pacific Fishery Management Council shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives describing the progress in developing the fishery management plans referred to in subparagraph (A) and any impediments to such progress.

Termination  
date.

Reports.

#### SEC. 113. PROHIBITED ACTS.

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

(1) by striking “plan,” and inserting “plan”; and

(2) by inserting before the semicolon the following: “, or in the absence of any such plan, is smaller than the minimum possession size in effect at the time under a coastal fishery management plan for American lobster adopted by the Atlantic States Marine Fisheries Commission under the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 et seq.)”.

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

(1) by striking “knowingly steal or without authorization, to” and inserting “to steal or attempt to steal or to negligently and without authorization”; and

(2) by striking “gear, or attempt to do so;” and insert “gear;”.

(c) Section 307(1)(L) (16 U.S.C. 1857(1)(L)) is amended to read as follows:

- “(L) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this Act, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this Act;”.
- (d) Section 307(1) (16 U.S.C. 1857(1)) is amended—
- (1) by striking “or” at the end of subparagraph (M);
  - (2) by striking “pollock.” in subparagraph (N) and inserting “pollock; or”; and
  - (3) by adding at the end the following:
 

“(O) to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required under section 302(j), or to knowingly vote on a Council decision in violation of section 302(j)(7)(A).”.
- (e) Section 307(2)(A) (16 U.S.C. 1857(2)(A)) is amended to read as follows:
- “(A) in fishing within the boundaries of any State, except—
- “(i) recreational fishing permitted under section 201(i);
  - “(ii) fish processing permitted under section 306(c);
- or
- “(iii) transshipment at sea of fish or fish products within the boundaries of any State in accordance with a permit approved under section 204(d);”.
- (f) Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is amended—
- (1) by striking “(j)” and inserting “(i)”; and
  - (2) by striking “204(b) or (c)” and inserting “204(b), (c), or (d)”.
- (g) Section 307(3) (16 U.S.C. 1857(3)) is amended to read as follows:
- “(3) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer at sea directly or indirectly, or attempt to so transfer at sea, any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the exclusive economic zone or within the boundaries of any State except to the extent that the foreign fishing vessel has been permitted under section 204(d) or section 306(c) to receive such fish;”.
- (h) Section 307(4) (16 U.S.C. 1857(4)) is amended by inserting “or within the boundaries of any State” after “zone”.

**SEC. 114. CIVIL PENALTIES AND PERMIT SANCTIONS; REBUTTABLE PRESUMPTIONS.**

(a) Section 308(a) (16 U.S.C. 1858(a)) is amended by striking “ability to pay,” and adding at the end the following new sentence: “In assessing such penalty the Secretary may also consider any information provided by the violator relating to the ability of the violator to pay, *Provided*, That the information is served on the Secretary at least 30 days prior to an administrative hearing.”.

(b) The first sentence of section 308(b) (16 U.S.C. 1858(b)) is amended to read as follows: “Any person against whom a civil penalty is assessed under subsection (a) or against whom a permit sanction is imposed under subsection (g) (other than a permit suspension for nonpayment of penalty or fine) may obtain review thereof in the United States district court for the appropriate dis-

trict by filing a complaint against the Secretary in such court within 30 days from the date of such order.”

(c) Section 308(g)(1)(C) (16 U.S.C. 1858(g)(1)(C)) is amended by striking the matter from “or (C) any” through “overdue,” and inserting the following: “(C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary has not been paid and is overdue, or (D) any payment required for observer services provided to or contracted by an owner or operator who has been issued a permit or applied for a permit under any marine resource law administered by the Secretary has not been paid and is overdue.”

(d) Section 310(e) (16 U.S.C. 1860(e)) is amended by adding at the end the following new paragraph:

“(3) For purposes of this Act, it shall be a rebuttable presumption that any vessel that is shoreward of the outer boundary of the exclusive economic zone of the United States or beyond the exclusive economic zone of any nation, and that has gear on board that is capable of use for large-scale driftnet fishing, is engaged in such fishing.”

#### SEC. 115. ENFORCEMENT.

(a) The second sentence of section 311(d) (16 U.S.C. 1861(d)) is amended—

(1) by striking “Guam, any Commonwealth, territory, or” and inserting “Guam or any”; and

(2) by inserting a comma before the period and the following: “and except that in the case of the Northern Mariana Islands, the appropriate court is the United States District Court for the District of the Northern Mariana Islands”.

(b) Section 311(e)(1) (16 U.S.C. 1861(e)(1)) is amended—

(1) by striking “fishery” each place it appears and inserting “marine”;

(2) by inserting “of not less than 20 percent of the penalty collected or \$20,000, whichever is the lesser amount,” after “reward” in subparagraph (B), and

(3) by striking subparagraph (E) and inserting the following:

“(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), as made applicable by section 310(c) of this Act or by any other marine resource law enforced by the Secretary, to seizures made by the Secretary, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and”.

(c) Section 311(e)(2) (16 U.S.C. 1861(e)(2)) is amended to read as follows:

“(2) Any person found in an administrative or judicial proceeding to have violated this Act or any other marine resource law enforced by the Secretary shall be liable for the cost incurred in the sale, storage, care, and maintenance of any fish or other property lawfully seized in connection with the violation.”

(d) Section 311 (16 U.S.C. 1861) is amended by redesignating subsection (g) as subsection (h), and by inserting the following after subsection (f):

“(g) ENFORCEMENT IN THE PACIFIC INSULAR AREAS.—The Secretary, in consultation with the Governors of the Pacific Insular Areas and the Western Pacific Council, shall to the extent practicable support cooperative enforcement agreements between Federal and Pacific Insular Area authorities.”

(e) Section 311 (16 U.S.C. 1861), as amended by subsection (d), is amended by striking “201(b), (c),” in subsection (i)(1), as redesignated, and inserting “201(b) or (c), or section 204(d),”

**SEC. 116. TRANSITION TO SUSTAINABLE FISHERIES.**

16 USC 1861a.

(a) Section 312 is amended to read as follows:

**“SEC. 312. TRANSITION TO SUSTAINABLE FISHERIES.**

“(a) FISHERIES DISASTER RELIEF.—(1) At the discretion of the Secretary or at the request of the Governor of an affected State or a fishing community, the Secretary shall determine whether there is a commercial fishery failure due to a fishery resource disaster as a result of—

“(A) natural causes;

“(B) man-made causes beyond the control of fishery managers to mitigate through conservation and management measures; or

“(C) undetermined causes.

“(2) Upon the determination under paragraph (1) that there is a commercial fishery failure, the Secretary is authorized to make sums available to be used by the affected State, fishing community, or by the Secretary in cooperation with the affected State or fishing community for assessing the economic and social effects of the commercial fishery failure, or any activity that the Secretary determines is appropriate to restore the fishery or prevent a similar failure in the future and to assist a fishing community affected by such failure. Before making funds available for an activity authorized under this section, the Secretary shall make a determination that such activity will not expand the size or scope of the commercial fishery failure in that fishery or into other fisheries or other geographic regions.

“(3) The Federal share of the cost of any activity carried out under the authority of this subsection shall not exceed 75 percent of the cost of that activity.

“(4) There are authorized to be appropriated to the Secretary such sums as are necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

“(b) FISHING CAPACITY REDUCTION PROGRAM.—(1) The Secretary, at the request of the appropriate Council for fisheries under the authority of such Council, or the Governor of a State for fisheries under State authority, may conduct a fishing capacity reduction program (referred to in this section as the ‘program’) in a fishery if the Secretary determines that the program—

“(A) is necessary to prevent or end overfishing, rebuild stocks of fish, or achieve measurable and significant improvements in the conservation and management of the fishery;

“(B) is consistent with the Federal or State fishery management plan or program in effect for such fishery, as appropriate, and that the fishery management plan—

Appropriation  
authorization.

“(i) will prevent the replacement of fishing capacity removed by the program through a moratorium on new entrants, restrictions on vessel upgrades, and other effort control measures, taking into account the full potential fishing capacity of the fleet; and

“(ii) establishes a specified or target total allowable catch or other measures that trigger closure of the fishery or adjustments to reduce catch; and

“(C) is cost-effective and capable of repaying any debt obligation incurred under section 1111 of title XI of the Merchant Marine Act, 1936.

“(2) The objective of the program shall be to obtain the maximum sustained reduction in fishing capacity at the least cost and in a minimum period of time. To achieve that objective, the Secretary is authorized to pay—

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

“(B) the holder of a permit authorizing participation in the fishery, if such permit is surrendered for permanent revocation, and such holder relinquishes any claim associated with the permit and vessel used to harvest fishery resources under the permit that could qualify such holder for any present or future limited access system permit in the fishery for which the program was established.

“(3) Participation in the program shall be voluntary, but the Secretary shall ensure compliance by all who do participate.

“(4) The Secretary shall consult, as appropriate, with Councils, Federal agencies, State and regional authorities, affected fishing communities, participants in the fishery, conservation organizations, and other interested parties throughout the development and implementation of any program under this section.

“(c) PROGRAM FUNDING.—(1) The program may be funded by any combination of amounts—

“(A) available under clause (iv) of section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)(1)(A); the Saltonstall-Kennedy Act);

“(B) appropriated for the purposes of this section;

“(C) provided by an industry fee system established under subsection (d) and in accordance with section 1111 of title XI of the Merchant Marine Act, 1936; or

“(D) provided from any State or other public sources or private or non-profit organizations.

“(2) All funds for the program, including any fees established under subsection (d), shall be paid into the fishing capacity reduction fund established under section 1111 of title XI of the Merchant Marine Act, 1936.

“(d) INDUSTRY FEE SYSTEM.—(1)(A) If an industry fee system is necessary to fund the program, the Secretary, at the request of the appropriate Council, may conduct a referendum on such



system. Prior to the referendum, the Secretary, in consultation with the Council, shall—

Notification.

“(i) identify, to the extent practicable, and notify all permit or vessel owners who would be affected by the program; and

“(ii) make available to such owners information about the industry fee system describing the schedule, procedures, and eligibility requirements for the referendum, the proposed program, and the amount and duration and any other terms and conditions of the proposed fee system.

“(B) The industry fee system shall be considered approved if the referendum votes which are cast in favor of the proposed system constitute a two-thirds majority of the participants voting.

“(2) Notwithstanding section 304(d) and consistent with an approved industry fee system, the Secretary is authorized to establish such a system to fund the program and repay debt obligations incurred pursuant to section 1111 of title XI of the Merchant Marine Act, 1936. The fees for a program established under this section shall—

“(A) be determined by the Secretary and adjusted from time to time as the Secretary considers necessary to ensure the availability of sufficient funds to repay such debt obligations;

“(B) not exceed 5 percent of the ex-vessel value of all fish harvested from the fishery for which the program is established;

“(C) be deducted by the first ex-vessel fish purchaser from the proceeds otherwise payable to the seller and accounted for and forwarded by such fish purchasers to the Secretary in such manner as the Secretary may establish; and

“(D) be in effect only until such time as the debt obligation has been fully paid.

Federal Register,  
publication.

“(e) IMPLEMENTATION PLAN.—(1) The Secretary, in consultation with the appropriate Council or State and other interested parties, shall prepare and publish in the Federal Register for a 60-day public comment period an implementation plan, including proposed regulations, for each program. The implementation plan shall—

“(A) define criteria for determining types and numbers of vessels which are eligible for participation in the program taking into account characteristics of the fishery, the requirements of applicable fishery management plans, the needs of fishing communities, and the need to minimize program costs; and

“(B) establish procedures for program participation (such as submission of owner bid under an auction system or fair market-value assessment) including any terms and conditions for participation which the Secretary deems to be reasonably necessary to meet the goals of the program.

“(2) During the 60-day public comment period—

Public  
information.

“(A) the Secretary shall conduct a public hearing in each State affected by the program; and

“(B) the appropriate Council or State shall submit its comments and recommendations, if any, regarding the plan and regulations.

Federal Register,  
publication.

“(3) Within 45 days after the close of the public comment period, the Secretary, in consultation with the appropriate Council or State, shall analyze the public comment received and publish in the Federal Register a final implementation plan for the program



and regulations for its implementation. The Secretary may not adopt a final implementation plan involving industry fees or debt obligation unless an industry fee system has been approved by a referendum under this section.”

(b) **STUDY OF FEDERAL INVESTMENT.**—The Secretary of Commerce shall establish a task force comprised of interested parties to study and report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives within 2 years of the date of enactment of this Act on the role of the Federal Government in—

Establishment.  
Reports.  
16 USC 1861a  
note.

(1) subsidizing the expansion and contraction of fishing capacity in fishing fleets managed under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); and

(2) otherwise influencing the aggregate capital investments in fisheries.

(c) Section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c3(b)(1)(A)) is amended—

15 USC 713c-3.

(1) by striking “and” at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting a semicolon and the word “and”; and

(3) by adding at the end the following new clause:

“(iv) to fund the Federal share of a fishing capacity reduction program established under section 312 of the Magnuson Fishery Conservation and Management Act; and”.

#### **SEC. 117. NORTH PACIFIC AND NORTHWEST ATLANTIC OCEAN FISHERIES.**

(a) **NORTH PACIFIC FISHERIES CONSERVATION.**—Section 313 (16 U.S.C. 1862) is amended—

(1) by striking “RESEARCH PLAN” in the section heading and inserting “CONSERVATION”;

(2) in subsection (a) by striking “North Pacific Fishery Management Council” and inserting “North Pacific Council”; and

(3) by adding at the end the following:

“(f) **BYCATCH REDUCTION.**—In implementing section 303(a)(11) and this section, the North Pacific Council shall submit conservation and management measures to lower, on an annual basis for a period of not less than four years, the total amount of economic discards occurring in the fisheries under its jurisdiction.

“(g) **BYCATCH REDUCTION INCENTIVES.**—(1) Notwithstanding section 304(d), the North Pacific Council may submit, and the Secretary may approve, consistent with the provisions of this Act, a system of fines in a fishery to provide incentives to reduce bycatch and bycatch rates; except that such fines shall not exceed \$25,000 per vessel per season. Any fines collected shall be deposited in the North Pacific Fishery Observer Fund, and may be made available by the Secretary to offset costs related to the reduction of bycatch in the fishery from which such fines were derived, including conservation and management measures and research, and to the State of Alaska to offset costs incurred by the State in the fishery from which such penalties were derived or in fisheries in which the State is directly involved in management or enforcement and which are directly affected by the fishery from which such penalties were derived.

“(2)(A) Notwithstanding section 303(d), and in addition to the authority provided in section 303(b)(10), the North Pacific Council may submit, and the Secretary may approve, conservation and management measures which provide allocations of regulatory discards to individual fishing vessels as an incentive to reduce per vessel bycatch and bycatch rates in a fishery, *Provided, That—*

“(i) such allocations may not be transferred for monetary consideration and are made only on an annual basis; and

“(ii) any such conservation and management measures will meet the requirements of subsection (h) and will result in an actual reduction in regulatory discards in the fishery.

“(B) The North Pacific Council may submit restrictions in addition to the restriction imposed by clause (i) of subparagraph (A) on the transferability of any such allocations, and the Secretary may approve such recommendation.

“(h) CATCH MEASUREMENT.—(1) By June 1, 1997 the North Pacific Council shall submit, and the Secretary may approve, consistent with the other provisions of this Act, conservation and management measures to ensure total catch measurement in each fishery under the jurisdiction of such Council. Such measures shall ensure the accurate enumeration, at a minimum, of target species, economic discards, and regulatory discards.

“(2) To the extent the measures submitted under paragraph (1) do not require United States fish processors and fish processing vessels (as defined in chapter 21 of title 46, United States Code) to weigh fish, the North Pacific Council and the Secretary shall submit a plan to the Congress by January 1, 1998, to allow for weighing, including recommendations to assist such processors and processing vessels in acquiring necessary equipment, unless the Council determines that such weighing is not necessary to meet the requirements of this subsection.

Reports.

“(i) FULL RETENTION AND UTILIZATION.—(1) The North Pacific Council shall submit to the Secretary by October 1, 1998 a report on the advisability of requiring the full retention by fishing vessels and full utilization by United States fish processors of economic discards in fisheries under its jurisdiction if such economic discards, or the mortality of such economic discards, cannot be avoided. The report shall address the projected impacts of such requirements on participants in the fishery and describe any full retention and full utilization requirements that have been implemented.

“(2) The report shall address the advisability of measures to minimize processing waste, including standards setting minimum percentages which must be processed for human consumption. For the purpose of the report, ‘processing waste’ means that portion of any fish which is processed and which could be used for human consumption or other commercial use, but which is not so used.”.

(b) NORTHWEST ATLANTIC OCEAN FISHERIES.—Section 314 (16 U.S.C. 1863) is amended by striking “1997” in subsection (a)(4) and inserting “1999”.

## TITLE II—FISHERY MONITORING AND RESEARCH

### SEC. 201. CHANGE OF TITLE.

The heading of title IV (16 U.S.C. 1881 et seq.) is amended to read as follows:

## “TITLE IV—FISHERY MONITORING AND RESEARCH”.

### SEC. 202. REGISTRATION AND INFORMATION MANAGEMENT.

Title IV (16 U.S.C. 1881 et seq.) is amended by inserting after the title heading the following:

### “SEC. 401. REGISTRATION AND INFORMATION MANAGEMENT.

16 USC 1881.

“(a) **STANDARDIZED FISHING VESSEL REGISTRATION AND INFORMATION MANAGEMENT SYSTEM.**—The Secretary shall, in cooperation with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, develop recommendations for implementation of a standardized fishing vessel registration and information management system on a regional basis. The recommendations shall be developed after consultation with interested governmental and nongovernmental parties and shall—

“(1) be designed to standardize the requirements of vessel registration and information collection systems required by this Act, the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.), and any other marine resource law implemented by the Secretary, and, with the permission of a State, any marine resource law implemented by such State;

“(2) integrate information collection programs under existing fishery management plans into a non-duplicative information collection and management system;

“(3) avoid duplication of existing State, tribal, or Federal systems and shall utilize, to the maximum extent practicable, information collected from existing systems;

“(4) provide for implementation of the system through cooperative agreements with appropriate State, regional, or tribal entities and Marine Fisheries Commissions;

“(5) provide for funding (subject to appropriations) to assist appropriate State, regional, or tribal entities and Marine Fisheries Commissions in implementation;

“(6) establish standardized units of measurement, nomenclature, and formats for the collection and submission of information;

“(7) minimize the paperwork required for vessels registered under the system;

“(8) include all species of fish within the geographic areas of authority of the Councils and all fishing vessels including charter fishing vessels, but excluding recreational fishing vessels;

“(9) require United States fish processors, and fish dealers and other first ex-vessel purchasers of fish that are subject to the proposed system, to submit information (other than economic information) which may be necessary to meet the goals of the proposed system; and

“(10) include procedures necessary to ensure—

“(A) the confidentiality of information collected under this section in accordance with section 402(b); and

“(B) the timely release or availability to the public of information collected under this section consistent with section 402(b).

“(b) FISHING VESSEL REGISTRATION.—The proposed registration system should, at a minimum, obtain the following information for each fishing vessel—

“(1) the name and official number or other identification, together with the name and address of the owner or operator or both;

“(2) gross tonnage, vessel capacity, type and quantity of fishing gear, mode of operation (catcher, catcher processor, or other), and such other pertinent information with respect to vessel characteristics as the Secretary may require; and

“(3) identification (by species, gear type, geographic area of operations, and season) of the fisheries in which the fishing vessel participates.

“(c) FISHERY INFORMATION.—The proposed information management system should, at a minimum, provide basic fisheries performance information for each fishery, including—

“(1) the number of vessels participating in the fishery including charter fishing vessels;

“(2) the time period in which the fishery occurs;

“(3) the approximate geographic location or official reporting area where the fishery occurs;

“(4) a description of fishing gear used in the fishery, including the amount and type of such gear and the appropriate unit of fishing effort; and

“(5) other information required under subsection 303(a)(5) or requested by the Council under section 402.

“(d) USE OF REGISTRATION.—Any registration recommended under this section shall not be considered a permit for the purposes of this Act, and the Secretary may not propose to revoke, suspend, deny, or impose any other conditions or restrictions on any such registration or the use of such registration under this Act.

“(e) PUBLIC COMMENT.—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall publish in the Federal Register for a 60-day public comment period a proposal that would provide for implementation of a standardized fishing vessel registration and information collection system that meets the requirements of subsections (a) through (c). The proposal shall include—

“(1) a description of the arrangements of the Secretary for consultation and cooperation with the department in which the Coast Guard is operating, the States, the Councils, Marine Fisheries Commissions, the fishing industry and other interested parties; and

“(2) any proposed regulations or legislation necessary to implement the proposal.

“(f) CONGRESSIONAL TRANSMITTAL.—Within 60 days after the end of the comment period and after consideration of comments received under subsection (e), the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a recommended proposal for implementation of a national fishing vessel registration system that includes—

“(1) any modifications made after comment and consultation;

“(2) a proposed implementation schedule, including a schedule for the proposed cooperative agreements required under subsection (a)(4); and

Federal Register,  
publication.

Proposals.

“(3) recommendations for any such additional legislation as the Secretary considers necessary or desirable to implement the proposed system.

“(g) REPORT TO CONGRESS.—Within 15 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall report to Congress on the need to include recreational fishing vessels into a national fishing vessel registration and information collection system. In preparing its report, the Secretary shall cooperate with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, and consult with governmental and nongovernmental parties.”.

**SEC. 203. INFORMATION COLLECTION.**

Section 402 is amended to read as follows:

16 USC 1881a.

**“SEC. 402. INFORMATION COLLECTION.**

“(a) COUNCIL REQUESTS.—If a Council determines that additional information (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this subsection regarding a Council request shall be made within a reasonable period of time after receipt of that request.

Regulations.

“(b) CONFIDENTIALITY OF INFORMATION.—(1) Any information submitted to the Secretary by any person in compliance with any requirement under this Act shall be confidential and shall not be disclosed, except—

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

“(B) to State or Marine Fisheries Commission employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

“(C) when required by court order;

“(D) when such information is used to verify catch under an individual fishing quota program;

“(E) that observer information collected in fisheries under the authority of the North Pacific Council may be released to the public as specified in a fishery management plan or regulation for weekly summary bycatch information identified by vessel, and for haul-specific bycatch information without vessel identification; or



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

Regulations.

“(2) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (1)(E).

Regulations.

“(c) RESTRICTION ON USE OF CERTAIN INFORMATION.—(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

“(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

“(d) CONTRACTING AUTHORITY.—Notwithstanding any other provision of law, the Secretary may provide a grant, contract, or other financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for the purpose of carrying out information collection or other programs if—

“(1) the recipient of such a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, such State, Council, or Marine Fisheries Commission;  
or

“(2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

“(e) RESOURCE ASSESSMENTS.—(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

“(2) The Secretary, in consultation with the appropriate Council and the fishing industry—

“(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage;



“(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery; and

“(C) may permit fish harvested during such survey to count toward a vessel’s catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel’s participation in a fishery that counted under the plan for purposes of determining catch history.

“(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.”.

**SEC. 204. OBSERVERS.**

Section 403 is amended to read as follows:

16 USC 1881b

**“SEC. 403. OBSERVERS.**

“(a) **GUIDELINES FOR CARRYING OBSERVERS.**—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—

Regulations.

“(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

“(2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

“(b) **TRAINING.**—The Secretary, in cooperation with the appropriate States and the National Sea Grant College Program, shall—

“(1) establish programs to ensure that each observer receives adequate training in collecting and analyzing the information necessary for the conservation and management purposes of the fishery to which such observer is assigned;

“(2) require that an observer demonstrate competence in fisheries science and statistical analysis at a level sufficient to enable such person to fulfill the responsibilities of the position;

“(3) ensure that an observer has received adequate training in basic vessel safety; and

“(4) make use of university and any appropriate private nonprofit organization training facilities and resources, where possible, in carrying out this subsection.

“(c) **OBSERVER STATUS.**—An observer on a vessel and under contract to carry out responsibilities under this Act or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) shall be deemed to be a Federal employee for the purpose of compensation under the Federal Employee Compensation Act (5 U.S.C. 8101 et seq.).”.

**SEC. 205. FISHERIES RESEARCH.**

Section 404 is amended to read as follows:

16 USC 1881c.

**“SEC. 404. FISHERIES RESEARCH.**

“(a) IN GENERAL.—The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics and social characteristics of the fisheries.

Federal Register,  
publication.

“(b) STRATEGIC PLAN.—Within one year after the date of enactment of the Sustainable Fisheries Act, and at least every 3 years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the 5 years immediately following such publication. The plan shall—

“(1) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in subsection (c);

“(2) indicate goals and timetables for the program described in paragraph (1);

“(3) provide a role for commercial fishermen in such research, including involvement in field testing;

“(4) provide for collection and dissemination, in a timely manner, of complete and accurate information concerning fishing activities, catch, effort, stock assessments, and other research conducted under this section; and

“(5) be developed in cooperation with the Councils and affected States, and provide for coordination with the Councils, affected States, and other research entities.

“(c) AREAS OF RESEARCH.—Areas of research are as follows:

“(1) Research to support fishery conservation and management, including but not limited to, biological research concerning the abundance and life history parameters of stocks of fish, the interdependence of fisheries or stocks of fish, the identification of essential fish habitat, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other factors affecting the abundance and availability of fish.

“(2) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize bycatch and any adverse effects on essential fish habitat and promote efficient harvest of target species.

“(3) Research on the fisheries, including the social, cultural, and economic relationships among fishing vessel owners, crew, United States fish processors, associated shoreside labor, seafood markets and fishing communities.

“(4) Information management research, including the development of a fishery information base and an information management system under section 401 that will permit the full use of information in the support of effective fishery conservation and management.

Federal Register,  
publication.

“(d) PUBLIC NOTICE.—In developing the plan required under subsection (a), the Secretary shall consult with relevant Federal, State, and international agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the develop-

ment of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.”

**SEC. 206. INCIDENTAL HARVEST RESEARCH.**

Section 405 is amended to read as follows:

16 USC 1881d.

**“SEC. 405. INCIDENTAL HARVEST RESEARCH.**

“(a) **COLLECTION OF INFORMATION.**—Within nine months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall, after consultation with the Gulf Council and South Atlantic Council, conclude the collection of information in the program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the authority of such Councils. Within the same time period, the Secretary shall make available to the public aggregated summaries of information collected prior to June 30, 1994 under such program.

Public information.

“(b) **IDENTIFICATION OF STOCK.**—The program concluded pursuant to subsection (a) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

“(c) **COLLECTION AND ASSESSMENT OF SPECIFIC STOCK INFORMATION.**—For stocks of fish identified pursuant to subsection (b), with priority given to stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

“(1) a program to collect and evaluate information on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

“(2) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

“(3) a program of information collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

“(d) **BYCATCH REDUCTION PROGRAM.**—Not later than 12 months after the enactment of the Sustainable Fisheries Act, the Secretary shall, in cooperation with affected interests, and based upon the best scientific information available, complete a program to—

“(1) develop technological devices and other changes in fishing operations necessary and appropriate to minimize the incidental mortality of bycatch in the course of shrimp trawl activity to the extent practicable, taking into account the level of bycatch mortality in the fishery on November 28, 1990;

“(2) evaluate the ecological impacts and the benefits and costs of such devices and changes in fishing operations; and

“(3) assess whether it is practicable to utilize bycatch which is not avoidable.

“(e) **REPORT TO CONGRESS.**—The Secretary shall, within one year of completing the programs required by this section, submit a detailed report on the results of such programs to the Committee

on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.

“(f) IMPLEMENTATION CRITERIA.—To the extent practicable, any conservation and management measure implemented under this Act to reduce the incidental mortality of bycatch in the course of shrimp trawl fishing shall be consistent with—

“(1) measures applicable to fishing throughout the range in United States waters of the bycatch species concerned; and

“(2) the need to avoid any serious adverse environmental impacts on such bycatch species or the ecology of the affected area.”.

**SEC. 207. MISCELLANEOUS RESEARCH.**

(a) FISHERIES SYSTEMS RESEARCH.—Section 406 (16 U.S.C. 1882) is amended to read as follows:

**“SEC. 406. FISHERIES SYSTEMS RESEARCH.**

“(a) ESTABLISHMENT OF PANEL.—Not later than 180 days after the date of enactment of the Sustainable Fisheries Act, the Secretary shall establish an advisory panel under this Act to develop recommendations to expand the application of ecosystem principles in fishery conservation and management activities.

“(b) PANEL MEMBERSHIP.—The advisory panel shall consist of not more than 20 individuals and include—

“(1) individuals with expertise in the structures, functions, and physical and biological characteristics of ecosystems; and

“(2) representatives from the Councils, States, fishing industry, conservation organizations, or others with expertise in the management of marine resources.

“(c) RECOMMENDATIONS.—Prior to selecting advisory panel members, the Secretary shall, with respect to panel members described in subsection (b)(1), solicit recommendations from the National Academy of Sciences.

“(d) REPORT.—Within 2 years after the date of enactment of this Act, the Secretary shall submit to the Congress a completed report of the panel established under this section, which shall include—

“(1) an analysis of the extent to which ecosystem principles are being applied in fishery conservation and management activities, including research activities;

“(2) proposed actions by the Secretary and by the Congress that should be undertaken to expand the application of ecosystem principles in fishery conservation and management; and

“(3) such other information as may be appropriate.

“(e) PROCEDURAL MATTER.—The advisory panel established under this section shall be deemed an advisory panel under section 302(g).”.

(b) GULF OF MEXICO RED SNAPPER RESEARCH.—Title IV of the Act (16 U.S.C. 1882) is amended by adding the following new section:

**“SEC. 407. GULF OF MEXICO RED SNAPPER RESEARCH.**

“(a) INDEPENDENT PEER REVIEW.—(1) Within 30 days of the date of enactment of the Sustainable Fisheries Act, the Secretary shall initiate an independent peer review to evaluate—

“(A) the accuracy and adequacy of fishery statistics used by the Secretary for the red snapper fishery in the Gulf of

Mexico to account for all commercial, recreational, and charter fishing harvests and fishing effort on the stock;

“(B) the appropriateness of the scientific methods, information, and models used by the Secretary to assess the status and trends of the Gulf of Mexico red snapper stock and as the basis for the fishery management plan for the Gulf of Mexico red snapper fishery;

“(C) the appropriateness and adequacy of the management measures in the fishery management plan for red snapper in the Gulf of Mexico for conserving and managing the red snapper fishery under this Act; and

“(D) the costs and benefits of all reasonable alternatives to an individual fishing quota program for the red snapper fishery in the Gulf of Mexico.

“(2) The Secretary shall ensure that commercial, recreational, and charter fishermen in the red snapper fishery in the Gulf of Mexico are provided an opportunity to—

“(A) participate in the peer review under this subsection; and

“(B) provide information to the Secretary concerning the review of fishery statistics under this subsection without being subject to penalty under this Act or other applicable law for any past violation of a requirement to report such information to the Secretary.

“(3) The Secretary shall submit a detailed written report on the findings of the peer review conducted under this subsection to the Gulf Council no later than one year after the date of enactment of the Sustainable Fisheries Act.

Reports.

“(b) PROHIBITION.—In addition to the restrictions under section 303(d)(1)(A), the Gulf Council may not, prior to October 1, 2000, undertake or continue the preparation of any fishery management plan, plan amendment or regulation under this Act for the Gulf of Mexico commercial red snapper fishery that creates an individual fishing quota program or that authorizes the consolidation of licenses, permits, or endorsements that result in different trip limits for vessels in the same class.

“(c) REFERENDUM.—

“(1) On or after October 1, 2000, the Gulf Council may prepare and submit a fishery management plan, plan amendment, or regulation for the Gulf of Mexico commercial red snapper fishery that creates an individual fishing quota program or that authorizes the consolidation of licenses, permits, or endorsements that result in different trip limits for vessels in the same class, only if the preparation of such plan, amendment, or regulation is approved in a referendum conducted under paragraph (2) and only if the submission to the Secretary of such plan, amendment, or regulation is approved in a subsequent referendum conducted under paragraph (2).

“(2) The Secretary, at the request of the Gulf Council, shall conduct referendums under this subsection. Only a person who held an annual vessel permit with a red snapper endorsement for such permit on September 1, 1996 (or any person to whom such permit with such endorsement was transferred after such date) and vessel captains who harvested red snapper in a commercial fishery using such endorsement in each red snapper fishing season occurring between January 1, 1993, and such date may vote in a referendum under this subsection.



The referendum shall be decided by a majority of the votes cast. The Secretary shall develop a formula to weigh votes based on the proportional harvest under each such permit and endorsement and by each such captain in the fishery between January 1, 1993, and September 1, 1996. Prior to each referendum, the Secretary, in consultation with the Council, shall—

Notification.

“(A) identify and notify all such persons holding permits with red snapper endorsements and all such vessel captains; and

“(B) make available to all such persons and vessel captains information about the schedule, procedures, and eligibility requirements for the referendum and the proposed individual fishing quota program.

“(d) CATCH LIMITS.—Any fishery management plan, plan amendment, or regulation submitted by the Gulf Council for the red snapper fishery after the date of enactment of the Sustainable Fisheries Act shall contain conservation and management measures that—

“(1) establish separate quotas for recreational fishing (which, for the purposes of this subsection shall include charter fishing) and commercial fishing that, when reached, result in a prohibition on the retention of fish caught during recreational fishing and commercial fishing, respectively, for the remainder of the fishing year; and

“(2) ensure that such quotas reflect allocations among such sectors and do not reflect any harvests in excess of such allocations.”.

16 USC 1881c  
note.

**SEC. 208. STUDY OF CONTRIBUTION OF BYCATCH TO CHARITABLE ORGANIZATIONS.**

(a) STUDY.—The Secretary of Commerce shall conduct a study of the contribution of bycatch to charitable organizations by commercial fishermen. The study shall include determinations of—

(1) the amount of bycatch that is contributed each year to charitable organizations by commercial fishermen;

(2) the economic benefits to commercial fishermen from those contributions; and

(3) the impact on fisheries of the availability of those benefits.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce shall submit to the Congress a report containing determinations made in the study under subsection (a).

(c) BYCATCH DEFINED.—In this section the term “bycatch” has the meaning given that term in section 3 of the Magnuson Fishery Conservation and Management Act, as amended by section 102 of this Act.

**SEC. 209. STUDY OF IDENTIFICATION METHODS FOR HARVEST STOCKS.**

(a) IN GENERAL.—The Secretary of Commerce shall conduct a study to determine the best possible method of identifying various Atlantic and Pacific salmon and steelhead stocks in the ocean at time of harvest. The study shall include an assessment of—

(1) coded wire tags;

(2) fin clipping; and

(3) other identification methods.



(b) REPORT.—The Secretary shall report the results of the study, together with any recommendations for legislation deemed necessary based on the study, within 6 months after the date of enactment of this Act to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

#### SEC. 210. REVIEW OF NORTHEAST FISHERY STOCK ASSESSMENTS.

The National Academy of Sciences, in consultation with regionally recognized fishery experts, shall conduct a peer review of Canadian and United States stock assessments, information collection methodologies, biological assumptions and projections, and other relevant scientific information used as the basis for conservation and management in the Northeast multispecies fishery. The National Academy of Sciences shall submit the results of such review to the Congress and the Secretary of Commerce no later than March 1, 1997.

#### SEC. 211. CLERICAL AMENDMENTS.

The table of contents is amended by striking the matter relating to title IV and inserting the following:

“Sec. 312. Transition to sustainable fisheries.

“Sec. 313. North Pacific fisheries conservation.

“Sec. 314. Northwest Atlantic Ocean fisheries reinvestment program.

#### “TITLE IV—FISHERY MONITORING AND RESEARCH

“Sec. 401. Registration and information management.

“Sec. 402. Information collection.

“Sec. 403. Observers.

“Sec. 404. Fisheries research.

“Sec. 405. Incidental harvest research.

“Sec. 406. Fisheries systems research.

“Sec. 407. Gulf of Mexico red snapper research.”

## TITLE III—FISHERIES FINANCING

#### SEC. 301. SHORT TITLE.

This title may be cited as the “Fisheries Financing Act”.

#### SEC. 302. INDIVIDUAL FISHING QUOTA LOANS.

(a) AMENDMENT OF MERCHANT MARINE ACT, 1936.—Section 1104A of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274) is amended—

(1) by striking “or” at the end of subsection (a)(5);

(2) by striking the period at the end of subsection (a)(6) and inserting a semicolon and “or”;

(3) by adding at the end of subsection (a) the following: “(7) financing or refinancing, including, but not limited to, the reimbursement of obligors for expenditures previously made, for the purchase of individual fishing quotas in accordance with section 303(d)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(d)(4)).”; and

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

(5) by striking “equal to” in the third proviso of subsection (b)(2) and inserting “not to exceed”.

(b) PROHIBITION.—Until October 1, 2001, no new loans may be guaranteed by the Federal Government for the construction of new fishing vessels if the construction will result in an increased

Fisheries  
Financing Act.

46 USC app.  
1245 note.

46 USC app.  
1274 note.

harvesting capacity within the United States exclusive economic zone.

**SEC. 303. FISHERIES FINANCING AND CAPACITY REDUCTION.**

(a) **CAPACITY REDUCTION AND FINANCING AUTHORITY.**—Title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), is amended by adding at the end the following new sections:

46 USC app.  
1279f.

“SEC. 1111. (a) The Secretary is authorized to guarantee the repayment of debt obligations issued by entities under this section. Debt obligations to be guaranteed may be issued by any entity that has been approved by the Secretary and has agreed with the Secretary to such conditions as the Secretary deems necessary for this section to achieve the objective of the program and to protect the interest of the United States.

“(b) Any debt obligation guaranteed under this section shall—

“(1) be treated in the same manner and to the same extent as other obligations guaranteed under this title, except with respect to provisions of this title that by their nature cannot be applied to obligations guaranteed under this section;

“(2) have the fishing fees established under the program paid into a separate subaccount of the fishing capacity reduction fund established under this section;

“(3) not exceed \$100,000,000 in an unpaid principal amount outstanding at any one time for a program;

“(4) have such maturity (not to exceed 20 years), take such form, and contain such conditions as the Secretary determines necessary for the program to which they relate;

“(5) have as the exclusive source of repayment (subject to the proviso in subsection (c)(2)) and as the exclusive payment security, the fishing fees established under the program; and

“(6) at the discretion of the Secretary be issued in the public market or sold to the Federal Financing Bank.

“(c)(1) There is established in the Treasury of the United States a separate account which shall be known as the fishing capacity reduction fund (referred to in this section as the ‘fund’). Within the fund, at least one subaccount shall be established for each program into which shall be paid all fishing fees established under the program and other amounts authorized for the program.

“(2) Amounts in the fund shall be available, without appropriation or fiscal year limitation, to the Secretary to pay the cost of the program, including payments to financial institutions to pay debt obligations incurred by entities under this section: *Provided*, That funds available for this purpose from other amounts available for the program may also be used to pay such debt obligations.

“(3) Sums in the fund that are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of the United States.

“(d) The Secretary is authorized and directed to issue such regulations as the Secretary deems necessary to carry out this section.

“(e) For the purposes of this section, the term ‘program’ means a fishing capacity reduction program established under section 312 of the Magnuson Fishery Conservation and Management Act.

46 USC app.  
1279g.

“SEC. 1112. (a) Notwithstanding any other provision of this title, all obligations involving any fishing vessel, fishery facility, aquaculture facility, individual fishing quota, or fishing capacity

reduction program issued under this title after the date of enactment of the Sustainable Fisheries Act shall be direct loan obligations, for which the Secretary shall be the obligee, rather than obligations issued to obligees other than the Secretary and guaranteed by the Secretary. All direct loan obligations under this section shall be treated in the same manner and to the same extent as obligations guaranteed under this title except with respect to provisions of this title which by their nature can only be applied to obligations guaranteed under this title.

“(b) Notwithstanding any other provisions of this title, the annual rate of interest which obligors shall pay on direct loan obligations under this section shall be fixed at two percent of the principal amount of such obligations outstanding plus such additional percent as the Secretary shall be obligated to pay as the interest cost of borrowing from the United States Treasury the funds with which to make such direct loans.”

## **TITLE IV—MARINE FISHERY STATUTE REAUTHORIZATIONS**

### **SEC. 401. MARINE FISH PROGRAM AUTHORIZATION OF APPROPRIATIONS.**

(a) **FISHERIES INFORMATION COLLECTION AND ANALYSIS.**—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out fisheries information and analysis activities under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, \$51,800,000 for fiscal year 1997, and \$52,345,000 for each of the fiscal years 1998, 1999, and 2000. Such activities may include, but are not limited to, the collection, analysis, and dissemination of scientific information necessary for the management of living marine resources and associated marine habitat.

(b) **FISHERIES CONSERVATION AND MANAGEMENT OPERATIONS.**—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out activities relating to fisheries conservation and management operations under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, \$29,028,000 for fiscal year 1997, and \$29,899,000 for each of the fiscal years 1998, 1999, and 2000. Such activities may include, but are not limited to, development, implementation, and enforcement of conservation and management measures to achieve continued optimum use of living marine resources, hatchery operations, habitat conservation, and protected species management.

(c) **FISHERIES STATE AND INDUSTRY COOPERATIVE PROGRAMS.**—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out State and industry cooperative programs under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, \$27,932,000 for fiscal year 1997, and \$28,226,000 for each of the fiscal years 1998, 1999, and 2000. These activities include, but are not limited to, ensuring the quality and safety of seafood products and providing grants to States for improving the management of interstate fisheries.

(d) AUTHORIZATION OF APPROPRIATIONS FOR CHESAPEAKE BAY OFFICE.—Section 2(e) of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended—

(1) by striking “1992 and 1993” and inserting “1997 and 1998”;

(2) by striking “establish” and inserting “operate”;

(3) by striking “306” and inserting “307”; and

(4) by striking “1991” and inserting “1992”.

(e) RELATION TO OTHER LAWS.—Authorizations under this section shall be in addition to monies authorized under the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 3301 et seq.), the Anadromous Fish Conservation Act (16 U.S.C. 757 et seq.), and the Interjurisdictional Fisheries Act (16 U.S.C. 4107 et seq.).

Caritas Christi.

(f) NEW ENGLAND HEALTH PLAN.—The Secretary of Commerce is authorized to provide up to \$2,000,000 from previously appropriated funds to Caritas Christi for the implementation of a health care plan for fishermen in New England if Caritas Christi submits such plan to the Secretary no later than January 1, 1997, and the Secretary, in consultation with the Secretary of Health and Human Services, approves such plan.

#### SEC. 402. INTERJURISDICTIONAL FISHERIES ACT AMENDMENTS.

(a) REAUTHORIZATION.—Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) by amending subsection (a) to read as follows:

“(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title—

“(1) \$3,400,000 for fiscal year 1996;

“(2) \$3,900,000 for fiscal year 1997;

“(3) \$4,400,000 for each of the fiscal years 1998, 1999, and 2000.”;

(2) by striking “\$350,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993, and \$600,000 for each of the fiscal years 1994 and 1995,” in subsection (c) and inserting “\$700,000 for fiscal year 1997, and \$750,000 for each of the fiscal years 1998, 1999, and 2000.”.

(b) NEW ENGLAND REPORT.—Section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)) is amended by adding at the end the following new paragraph:

“(7) With respect to funds available for the New England region, the Secretary shall submit to the Congress by January 1, 1997, with annual updates thereafter as appropriate, a report on the New England fishing capacity reduction initiative which provides—

“(A) the total number of Northeast multispecies permits in each permit category and calculates the maximum potential fishing capacity of vessels holding such permits based on the principal gear, gross registered tonnage, engine horsepower, length, age, and other relevant characteristics;

“(B) the total number of days at sea available to the permitted Northeast multispecies fishing fleet and the total

days at sea weighted by the maximum potential fishing capacity of the fleet;

“(C) an analysis of the extent to which the weighted days at sea are used by the active participants in the fishery and of the reduction in such days as a result of the fishing capacity reduction program; and

“(D) an estimate of conservation benefits (such as reduction in fishing mortality) directly attributable to the fishing capacity reduction program.”

**SEC. 403. ANADROMOUS FISHERIES AMENDMENTS.**

Section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d) is amended to read as follows:

“SEC. 4. (a)(1) There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

Appropriation  
authorization.

“(A) \$4,000,000 for fiscal year 1997; and

“(B) \$4,250,000 for each of fiscal years 1998, 1999, and 2000.

“(2) Sums appropriated under this subsection are authorized to remain available until expended.

“(b) Not more than \$625,000 of the funds appropriated under this section in any one fiscal year shall be obligated in any one State.”

**SEC. 404. ATLANTIC COASTAL FISHERIES AMENDMENTS.**

(a) DEFINITION.—Paragraph (1) of section 803 of the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5102) is amended—

(1) by inserting “and” after the semicolon in subparagraph (A);

(2) by striking “States; and” in subparagraph (B) and inserting “States.”; and

(3) by striking subparagraph (C).

(b) IMPLEMENTATION STANDARD FOR FEDERAL REGULATION.—Subparagraph (A) of section 804(b)(1) of such Act (16 U.S.C. 5103(b)(1)) is amended by striking “necessary to support” and inserting “compatible with”.

(c) AMERICAN LOBSTER MANAGEMENT.—Section 809 (16 U.S.C. 5108) and section 810 of such Act are redesignated as sections 811 and 812, respectively, and the following new sections are inserted at the end of section 808:

16 USC 1851  
note.

**“SEC. 809. STATE PERMITS VALID IN CERTAIN WATERS.**

16 USC 5107a.

“(a) PERMITS.—Notwithstanding any provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 et seq.), or any requirement of a fishery management plan or coastal fishery management plan to the contrary, a person holding a valid license issued by the State of Maine which lawfully permits that person to engage in commercial fishing for American lobster may, with the approval of the State of Maine, engage in commercial fishing for American lobster in the following areas designated as Federal waters, if such fishing is conducted in such waters in accordance with all other applicable Federal and State regulations:

“(1) west of Monhegan Island in the area located north of the line 43° 42′ 08″ N, 69° 34′ 18″ W and 43° 42′ 15″ N, 69° 19′ 18″ W;



“(2) east of Monhegan Island in the area located west of the line 43° 44’ 00” N, 69° 15’ 05” W and 43° 48’ 10” N, 69° 08’ 01” W;

“(3) south of Vinalhaven in the area located west of the line 43° 52’ 21” N, 68° 39’ 54” W and 43° 48’ 10” N, 69° 08’ 01” W; and

“(4) south of Bois Bubert Island in the area located north of the line 44° 19’ 15” N, 67° 49’ 30” W and 44° 23’ 45” N, 67° 40’ 33” W.

“(b) ENFORCEMENT.—The exemption from Federal fishery permitting requirements granted by subsection (a) may be revoked or suspended by the Secretary in accordance with section 308(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858(g)) for violations of such Act or this Act.

16 USC 5107b.

**“SEC. 810. TRANSITION TO MANAGEMENT OF AMERICAN LOBSTER FISHERY BY COMMISSION.**

Regulations.

“(a) TEMPORARY LIMITS.—Notwithstanding any other provision of this Act or of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), if no regulations have been issued under section 804(b) of this Act by December 31, 1997, to implement a coastal fishery management plan for American lobster, then the Secretary shall issue interim regulations before March 1, 1998, that will prohibit any vessel that takes lobsters in the exclusive economic zone by a method other than pots or traps from landing lobsters (or any parts thereof) at any location within the United States in excess of—

“(1) 100 lobsters (or parts thereof) for each fishing trip of 24 hours or less duration (up to a maximum of 500 lobsters, or parts thereof, during any 5-day period); or

“(2) 500 lobsters (or parts thereof) for a fishing trip of 5 days or longer.

“(b) SECRETARY TO MONITOR LANDINGS.—Before January 1, 1998, the Secretary shall monitor, on a timely basis, landings of American lobster, and, if the Secretary determines that catches from vessels that take lobsters in the exclusive economic zone by a method other than pots or traps have increased significantly, then the Secretary may, consistent with the national standards in section 301 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801), and after opportunity for public comment and consultation with the Atlantic States Marine Fisheries Commission, implement regulations under section 804(b) of this Act that are necessary for the conservation of American lobster.

“(c) REGULATIONS TO REMAIN IN EFFECT UNTIL PLAN IMPLEMENTED.—Regulations issued under subsection (a) or (b) shall remain in effect until the Secretary implements regulations under section 804(b) of this Act to implement a coastal fishery management plan for American lobster.”

16 USC 5108.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 810 of such Act, as amended by this Act, is amended further by striking “1996.” and inserting “1996, and \$7,000,000 for each of the fiscal years 1997, 1998, 1999, and 2000.”

**SEC. 405. TECHNICAL AMENDMENTS TO MARITIME BOUNDARY AGREEMENT.**

Effective date.  
16 USC 1802  
note.

(a) EXECUTION OF PRIOR AMENDMENTS TO DEFINITIONS.—Notwithstanding section 308 of the Act entitled “An Act to provide for the designation of the Flower Garden Banks National Marine

Sanctuary”, approved March 9, 1992 (Public Law 102-251; 106 Stat. 66) hereinafter referred to as the “FGB Act”, section 301(b) of that Act (adding a definition of the term “special areas”) shall take effect on the date of enactment of this Act.

(b) CONFORMING AMENDMENTS.—

(1) Section 301(h)(2)(A) of the FGB Act is repealed.

16 USC 1857.

(2) Section 304 of the FGB Act is repealed.

16 USC 1362.

(3) Section 3(15) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(15)) is amended to read as follows:

“(15) The term ‘waters under the jurisdiction of the United States’ means—

“(A) the territorial sea of the United States;

“(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the other boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

“(C) the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured, except that this subparagraph shall not apply before the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.”.

**SEC. 406. AMENDMENTS TO THE FISHERIES ACT.**

Section 309(b) of the Fisheries Act of 1995 (Public Law 104-43) is amended by striking “July 1, 1996” and inserting “July 1, 1997”.

16 USC 971c  
note.

Approved October 11, 1996.

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**LEGISLATIVE HISTORY—S. 39 (H.R. 39):**

HOUSE REPORTS: No. 104-171 accompanying H.R. 39 (Comm. on Resources).

SENATE REPORTS: No. 104-276 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 142 (1996):

Sept. 18, 19, considered and passed Senate.

Sept. 27, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Oct. 11, Presidential statement.