

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I will be happy, in a moment, to yield to whomever the Chair recognizes. But we are getting lots of inquiries because I know that there is a request to have a rollcall vote. That has not yet been propounded. In fairness to our colleagues who have work to do, as everyone here on the floor has, we started this debate shortly after 2 o'clock this afternoon, and I think in fairness it would be a good idea if I could ask the Senator from Delaware how long the Senator from Delaware thinks the debate might go? I wonder if the Senator from Delaware would answer that question?

If the Senator from Delaware could answer the question as to how much longer he needs? Obviously, he has as much time as he requires. There is a request for a rollcall vote I know.

Mr. BIDEN. Mr. President, in response to my friend's question, and in response to his counsel, I will seek no more time. I, frankly, was going to attempt a filibuster on this bill but I think—I am not being facetious when I say this—the wisdom of the chairman is correct. I probably would end up no better off, even if I succeed, in terms of what would come out of a continuing resolution.

But I will tell the chairman, although I am not going to pursue any strategy other than voting "no" on this legislation and on a continuing resolution, I am hoping to convince some of our colleagues, notwithstanding the fact we will have passed this legislation today, and I expect it will pass, that we get a supplemental to, in fact, give us an opportunity to work out things we are working out with the Senator from Oregon. But I do not seek recognition beyond voting "yes" or "no" when the time comes.

Mr. LAUTENBERG. I thank the Senator very much. Mr. President, I wonder if I might yield to the distinguished Senator from Rhode Island, and I ask unanimous consent I be able to yield up to 3 minutes or 4 minutes, as the Senator needs, and still retain the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island.

Mr. PELL. Mr. President, my purpose for rising was to congratulate and thank the Senator from Delaware for underlining this point. Those of us living on the east coast in the corridor have it as part of our lives. It has been in my own life. I know what it means to many millions of people.

The book to which he referred, which was written about 30 years ago on this subject, is still pretty well current, because in this 30 years so little progress has truly been made. I look forward to the day, while I may not be here, but I look forward to the day in the not too distant future where we will have high-speed railroads, really high speeds, as our friends in Europe have, speeding around the country to the different cities of our great land.

In this regard, I am struck by the number of States that are traversed by the high-speed railroad. And, from a political viewpoint for both parties, about a fifth of the electoral votes in the United States are traversed by the high-speed railroad. I hope that will help spur on support.

I have some regrets about retiring myself. I look forward to visiting Washington in the years to come on a high-speed railroad.

I thank the Chair.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, by agreement with our colleagues on the Republican side, I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate? If there is no further debate, the question is on agreeing to the conference report accompanying H.R. 3675, the Transportation appropriations bill for fiscal year 1997. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Hampshire [Mr. GREGG] is necessarily absent.

The PRESIDING OFFICER (Mr. SMITH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 85, nays 14, as follows:

[Rollcall Vote No. 294 Leg.]

YEAS—85

| | | |
|-----------|------------|---------------|
| Abraham | Glenn | McCain |
| Akaka | Gorton | McConnell |
| Ashcroft | Graham | Mikulski |
| Baucus | Gramm | Moseley-Braun |
| Bennett | Grams | Moynihan |
| Bond | Grassley | Murkowski |
| Boxer | Harkin | Murray |
| Bradley | Hatch | Nickles |
| Breaux | Hatfield | Nunn |
| Bumpers | Heflin | Pell |
| Burns | Helms | Pressler |
| Campbell | Hollings | Pryor |
| Chafee | Hutchison | Robb |
| Coats | Inhofe | Rockefeller |
| Cochran | Inouye | Santorum |
| Cohen | Jeffords | Sarbanes |
| Conrad | Johnston | Shelby |
| Coverdell | Kassebaum | Simon |
| Craig | Kempthorne | Simpson |
| D'Amato | Kennedy | Snowe |
| Daschle | Kerrey | Stevens |
| DeWine | Kerry | Thomas |
| Donnen | Kohl | Thompson |
| Faircloth | Lautenberg | Thurmond |
| Feingold | Leahy | Warner |
| Feinstein | Levin | Wellstone |
| Ford | Lott | Wyden |
| Frahm | Lugar | |
| Frist | Mack | |

NAYS—14

| | | |
|----------|-----------|---------|
| Biden | Dodd | Reid |
| Bingaman | Dorgan | Roth |
| Brown | Exon | Smith |
| Bryan | Kyl | Specter |
| Byrd | Lieberman | |

NOT VOTING—1

Gregg

The conference report was agreed to.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, for the information of all Senators, there will be no further votes during today's session.

The Senate will now begin consideration, though, of S. 39, the Magnuson Fisheries Act, under a previous unanimous-consent agreement reached in August. Any votes ordered with respect to that bill will be stacked to occur at 11 a.m. on Thursday.

Also, during the session of the Senate on Thursday, I expect the Senate to consider the Merchant Marine Act, H.R. 1350, possibly the pipeline safety bill, and any other calendar items that may be cleared for action. The Senate may also consider available appropriations bills conference reports, if agreements can be reached with respect to amendments in order on those.

I know a lot of work has been put into this Magnuson fisheries bill. I think it is a very good piece of legislation, and it is very important for fisheries and conservation all over our country—the Northeast, Northwest, the Gulf of Mexico. I see the Senator from Massachusetts here. He has worked on it, and, obviously, the Senators from Washington, and Senator STEVENS, of course, has been very instrumental in this legislation. I commend one and all that have been involved in it.

It would have been a real travesty if we would have left this very important piece of fisheries legislation on the table. I hope you can get it done tonight. I assume there could be as many as three votes tomorrow. I assume most of the amendments have been worked out, and I know you will continue to work on that.

I yield the floor.

SUSTAINABLE FISHERIES ACT

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 39) to amend the Magnuson Fisheries Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

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.

TITLE I—CONSERVATION AND MANAGEMENT

Sec. 101. Amendment of the Magnuson Fishery Conservation and Management Act.

Sec. 102. Findings; purposes; policy.

Sec. 103. Definitions.

Sec. 104. Authorization of appropriations.

Sec. 105. Highly migratory species.

Sec. 106. Foreign fishing and international fishery agreements.

Sec. 107. National standards.

Sec. 108. Regional Fishery Management Councils.

Sec. 109. Fishery management plans.

Sec. 110. Action by the Secretary.

Sec. 111. Other requirements and authority.

Sec. 112. Pacific community fisheries.

Sec. 113. State jurisdiction.

Sec. 114. Prohibited acts.

Sec. 115. Civil penalties and permit sanctions; rebuttable presumptions

Sec. 116. Enforcement.

Sec. 117. North Pacific and Northwest Atlantic Ocean Fisheries.

Sec. 118. Transition to sustainable fisheries.

TITLE II—FISHERY MONITORING AND RESEARCH

Sec. 201. Change of title.

Sec. 202. Registration and data management.

Sec. 203. Data 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. Clerical amendments.

TITLE III—FISHERIES FINANCING

Sec. 301. Short title.

Sec. 302. Fisheries financing and capacity reduction.

Sec. 303. Fisheries loan guarantee reform.

TITLE IV—MARINE FISHERY STATUTE RE-AUTHORIZATIONS

Sec. 401. Marine fish program authorization of appropriations.

Sec. 402. Interjurisdictional Fisheries Act amendments.

Sec. 403. Anadromous fisheries amendments.

Sec. 404. Atlantic Coastal Cooperative Management Act amendments.

Sec. 405. Technical amendments to Maritime Boundary Agreement.

TITLE I—CONSERVATION AND MANAGEMENT

SEC. 101. 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.).

SEC. 102. 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 “and” after the semicolon at the end of subsection (b)(5);

(5) by striking “development.” in subsection (b)(6) and inserting “development in a non-wasteful manner; and”;

(6) 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.”;

(7) by inserting “minimize bycatch and” after “practical measures that” in subsection (c)(3);

(8) striking “and” at the end of paragraph (c)(5);

(9) striking the period at the end of paragraph (c)(6) and inserting “; and”;

(10) adding at the end 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. 103. DEFINITIONS.

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

(1) by redesignating paragraphs (2) through (32) as paragraphs (4) through (34), respectively, and inserting after paragraph (1) the following:

“(2) The term ‘bycatch’ means fish which are harvested by a fishing vessel, but which are not sold or kept for personal use, and includes economic discards and regulatory discards but does not include fish caught and released alive that are the target species of recreational fishing under catch and release programs.

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

(2) in paragraph (6) (as redesignated)—

(A) by striking “COELENERATA” 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 quinque-dens” and inserting “Deep-sea Red Crab—Chaceon quinque-dens”;

(3) by redesignating paragraphs (8) through (34) (as redesignated) as paragraphs (10) through (36), respectively, and inserting after paragraph (7) (as redesignated) the following:

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

“(9) 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 (15) through (36) (as redesignated) as paragraphs (16) through (37), respectively, and inserting after paragraph (14) (as redesignated) the following:

“(15) The term ‘fishing community’ means a community which is substantially dependent on the harvest of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators and crew and United States

fish processors that are based in such community.”;

(5) by redesignating paragraphs (20) through (37) (as redesignated) as paragraphs (21) through (38), respectively, and inserting after paragraph (19) (as redesignated) the following:

“(20) The term ‘individual fishing quota’ means a revocable Federal permit under a limited access system to harvest a quantity of fish that is 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.”;

(6) by striking “of one and one-half miles” in paragraph (22) (as redesignated) and inserting “of two and one-half kilometers”;

(7) by striking paragraph (27), as redesignated, and inserting the following:

“(27) 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 (28) through (38) (as redesignated) as paragraphs (30) through (40), respectively, and inserting after paragraph (27) (as redesignated) the following:

“(28) 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.”;

“(29) 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 (31) through (40) (as redesignated) as paragraphs (33) through (42), respectively, and inserting after paragraph (30) (as redesignated) the following:

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

“(32) The term ‘regulatory discards’ means fish caught 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 (34) through (42) (as redesignated) as paragraphs (35) through (43), respectively, and inserting after paragraph (33) (as redesignated) the following:

“(34) 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(h) has been implemented” in paragraph (42) (as redesignated) and inserting “regulated under this Act”;

(12) by redesignating paragraph (43), as redesignated, as paragraph (44), and inserting after paragraph (42) the following:

“(43) 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))."; and

(13) by redesignating paragraph (33) as paragraph (45).

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

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

"SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

"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 (of which not less than 10 percent in each fiscal year shall be used for enforcement activities):

"(1) \$147,000,000 for fiscal year 1996;

"(2) \$151,000,000 for fiscal year 1997;

"(3) \$155,000,000 for fiscal year 1998;

"(4) \$159,000,000 for fiscal year 1999; and

"(5) \$163,000,000 for fiscal year 2000."

SEC. 105. 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. 106. FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS.

(a) **AUTHORITY TO OPERATE UNDER TRANSHIPMENT PERMITS.**—Section 201(a)(1) (16 U.S.C. 1821(a)(1)) is amended to read as follows:

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

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

(1) by adding 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) approved by Congress in the manner established in section 203 for approval of a governing international fishery agreement.

"(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 and section 205(a)(5).";

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

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

(2) by striking subsection (c); and

(3) by redesignating subsection (d) as subsection (c).

(d) **TRANSHIPMENT PERMITS AND PACIFIC INSULAR AREA FISHING.**—Section 204 (16 U.S.C. 1824) is amended by adding at the end the following:

"(d) **TRANSHIPMENT 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 products at sea from a point within the bound-

aries of any State or the exclusive economic zone 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 the department in which the Coast Guard is operating, any appropriate Council, and any interested State.

"(3) **APPROVAL OF APPLICATION.**—The Secretary may approve, with the concurrence of the appropriate Council, an application for a permit under this section if the Secretary determines that—

"(A) the transportation of 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 which shall be complied with by the owner and operator of the vessel for which the permit is issued. The conditions and restrictions shall include the requirements, regulations, and restrictions set forth in subsection (b)(7).

"(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.

"(e) **PACIFIC INSULAR AREAS.**—

"(1) At the request of and with the concurrence of the Governor of the applicable Pacific Insular Area, the Secretary of State in concurrence with the Secretary of Commerce, and the Western Pacific Council, may negotiate and enter into a Pacific Insular Area Fishery Agreement (hereinafter in this subsection referred to as a 'Pacific Fishery Agreement') to authorize foreign fishing within the exclusive economic zone adjacent to such Pacific Insular Area.

"(2) In the case of a Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands, the Secretary of State, with the concurrence of the Secretary of Commerce and the Western Pacific Council, may negotiate and enter into a Pacific Fishery Agreement to authorize foreign fishing within the exclusive economic zone adjacent to such an area.

"(3) In the case of American Samoa, Guam, or the Northern Mariana Islands, the Secretary of State shall not negotiate a Pacific Fishery Agreement to authorize foreign fishing within the exclusive economic zone adjacent to such a Pacific Insular Area without consultation with and the concurrence of the Governor of the applicable Pacific Insular Area.

"(4) A Pacific Fishery Agreement 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.

"(5) A Pacific Fishery Agreement shall not be entered into if it is determined by the Governor of the appropriate Pacific Insular Area, the Secretary, or the Western Pacific Council that such an agreement will adversely affect the fishing activities of the indigenous peoples of such Pacific Insular Area.

"(6) Foreign fishing authorized under a Pacific Fishery Agreement shall conform to the terms of such agreement establishing the conditions under which a permit is issued and held valid. These terms, at a minimum, shall require that a Pacific Fishery Agreement include provisions for a Western Pacific based observer program, annual determination of the quantity of fish that may be harvested, annual determination of fees, data collection and reporting systems, research plans, and monitoring and enforcement tools such as the Vessel Monitoring System (VMS) to ensure effective compliance with the provisions of the Pacific Fishery Agreement and any other terms and conditions deemed appropriate by the Secretary of State, in consultation with the Secretary, the Governor of the appropriate Pacific Insular Area, and the Western Pacific Council.

"(7) The Secretary of State may not negotiate a Pacific Fishery Agreement with a country that is in violation of a governing international fishery agreement in effect under this Act.

"(8) A Pacific Fishery Agreement shall be valid for a period not to exceed three years and shall become effective according to the procedure of section 203 of this Act.

"(9) Foreign Fishing under a Pacific Fishery Agreement shall not be subject to sections 201(d) through (f) and section 201(i) of this Act.

"(10) Prior to entering into a Pacific Fishery Agreement, the Western Pacific Council or the appropriate Governor shall develop a three-year plan detailing uses for funds to be collected by the Secretary pursuant to such agreement. Such plan shall include conservation goals and guidelines and prioritize planned conservation and management projects. In the case of American Samoa, Guam, and the Northern Mariana Islands, the appropriate Governor shall develop such a plan in consultation with the Western Pacific Council. In the case of other Pacific Insular Areas, the Western Pacific Council shall develop such a plan in consultation with the Secretary. If a Governor or the Western Pacific Council intends to renew a Pacific Fishery Agreement, a subsequent three-year plan shall be developed at the end of the second year of the existing three-year plan.

"(11) Fees established pursuant to a Pacific Fishery Agreement shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit has been issued pursuant to this section. The prescription of such fees is not subject to 31 U.S.C. 9701. The amount of fees may exceed administrative costs and shall be reasonable, fair, and equitable to all participants in the fisheries.

"(12) Amounts collected by the Secretary from a Pacific 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. After the transfer of such funds, the Governor of each appropriate Pacific Insular Area shall compensate:

"(A) the Western Pacific Council for mutually agreed upon administrative costs incurred relating to any Pacific Fishery Agreement of the respective Pacific Insular Area; and

"(B) the Secretary of State for mutually agreed upon travel expenses for no more than two federal representatives incurred as a direct result of complying with section 204(e)(1).

"(13) There is established in the United States Treasury a Western Pacific Sustainable Fisheries Fund into which amounts collected by the

Secretary from a Pacific Fisheries Agreement in any Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands shall be deposited. The Fund shall be made available, without appropriation or fiscal year limitation, by the Secretary to the Western Pacific Council, for the purpose of carrying out the provisions of this section.

“(14) Amounts used from this Fund to carry out the provisions of this section shall not diminish other funding received by the Western Pacific Council for the purpose of carrying out activities within the Western Pacific Council’s mandate other than Pacific Fisheries Agreements.

“(15) Amounts generated by Pacific Fishery Agreements in American Samoa, Guam, or the Northern Mariana Islands shall be used for purposes, as described in a three year conservation and management plan developed under paragraph (10), that have been determined by the Governors of the respective Pacific Insular Areas in consultation with the Western Pacific Council to contribute to fishery conservation and management in the respective Pacific Insular Area.

“(16) The Western Pacific Sustainable Fisheries Fund, shall be made available by the Secretary to the Western Pacific Council for purposes, as described in the three year conservation and management plan, that have been determined by the Western Pacific Council in consultation with the Secretary to contribute to fishery conservation and management in the Western Pacific Region. Travel costs of no more than two federal representatives, incurred by the Secretary of State as a direct result of complying with paragraph (2) shall be reimbursed from the Western Pacific Sustainable Fisheries Fund.

“(17) ‘Fishery conservation and management’ as used in paragraphs (15) and (16) includes but is not limited to:

“(A) An approved Western Pacific based observer program to be operated by the Secretary, subject to the approval of the Western Pacific Council, and in consultation with the Governor of the relevant Pacific Insular Area;

“(B) Marine and fisheries research, including but not limited to: data collection, analysis, evaluation, and reporting;

“(C) Conservation, education, and enforcement, including but not limited to: living marine resource, habitat monitoring and coastal studies;

“(D) Grants to the University of Hawaii for technical assistance projects in the United States Pacific Insular Areas and the Freely Associated States including but not limited to: Education and training in the development and implementation of sustainable marine resources development projects, scientific research, data collection and analysis, and conservation strategies;

“(E) Western Pacific Community-Based Demonstration Projects to foster and promote the management, conservation, and economic enhancement of the indigenous, traditional fishery practices of Western Pacific Communities.

“(18) Monies collected by the Secretary from a Pacific Fishery Agreement for a Pacific Insular Area may be allocated for other marine and coastal related uses by the government of each Pacific Insular Area or in the case of Pacific Insular Areas other than American Samoa, Guam, and the Northern Mariana Islands by the Western Pacific Council only after the costs of uses specified in paragraphs (6) and (17)(A) through (17)(E) under this title and the administrative costs of Pacific Fisheries Agreements have been met. The determination of when conservation and management and administrative costs have been met shall be made, in the case of American Samoa, Guam, and the Northern Mariana Islands by the Governor of the respective Pacific Insular Area with the concurrence of the Western Pacific Council, and in the case of any Pacific Insular Area other than American Samoa,

Guam, or the Northern Mariana Islands by the Western Pacific Council.

“(19) The Western Pacific Sustainable Fisheries Fund of the United States Treasury, shall be made available by the Secretary for the purpose of fisheries conservation and management in the State of Hawaii and the Western Pacific Region only after fisheries conservation and management needs in such Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands have been met as determined by the Western Pacific Council in accordance with its operational standards, policies, procedures, and program milestones.

“(20) In the case of 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, will be covered over to the Treasury of the Pacific Island Area adjacent to the exclusive economic zone in which the violation occurred, after payment of direct costs of the enforcement action to other entities involved in such enforcement action. The Governor of the respective Pacific Insular Area may use such monies available under this paragraph for purposes other than fisheries conservation and management. In the case of violations occurring in the exclusive economic zone adjacent to a Pacific Insular Area other than American Samoa, Guam, and 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, will be covered over to the Western Pacific Sustainable Fisheries Fund of the United States Treasury to be used for conservation and management as described in paragraphs (6) and (17)(A) through (17)(E) or other related marine and coastal projects.”

(e) **IMPORT PROHIBITIONS.**—Section 205(a) (16 U.S.C. 1825(a)) is amended—

(1) by striking “or” at the end of paragraph (3);

(2) by inserting “or” after the semicolon at the end of paragraph (4); and

(3) by adding at the end the following:

“(5) he has been unable, within a reasonable period of time, to conclude with any foreign nation an international agreement to establish standards and measures for bycatch reduction under section 202(g).”

(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).”

SEC. 107. 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 take into account the importance of the harvest of fishery resources to minimize, to the extent practicable, adverse economic impacts on, and provide for the sustained participation of, fishing communities; except that no such measure shall have economic allocation as its sole purpose.

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

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

SEC. 108. 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”; and

(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)” in front of “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 paragraph (1)(C) and inserting “paragraphs (2) and (5) of this subsection”;

(2) by inserting “full” before “consecutive” in the second sentence of paragraph (3); and

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

“(5)(A) The Secretary shall appoint to the Pacific Fishery Management 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 representative shall serve for a term of 3 years and may not serve more than 3 full consecutive terms. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regulation the procedure for submitting lists under this subparagraph.

“(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 treaty 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 subsection (b)(2) 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 rollcall vote on any matter before the Council. The official minutes and other appropriate records of any Council meeting shall identify all rollcall votes held, the name of each voting member present during each rollcall vote, and how each member voted on each rollcall 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 under section 304(g). 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 "section 304(f)(3)" in paragraphs (1) and (5) and inserting "subsection (a)(3)"; and

(2) by striking "section 204(b)(4)(C)," in paragraph (2) and inserting "section 204(b)(4)(C) or section 204(d)."

(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) in paragraph (2)(C)—

(A) by striking "Council's";

(B) by adding the following at the end: "The published agenda of the meeting may not be modified without public notice or within 14 days prior to the meeting date.";

(4) by adding the following at the end of paragraph (2)(D): "All written data 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.";

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

"(E) Detailed minutes of each meeting of the Council 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 meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction."; and

(6) in paragraph (2)(F)—

(A) by striking "by the Council" the first place it appears;

(B) by inserting "or the Secretary, as appropriate" after "of the Council"; and

(C) by striking "303(d)" each place it appears 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 under subsection (b)(2); and

"(B) the term 'designated official' means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, with the concurrence of a majority of the voting members of 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 (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 disproportionate benefit, shared only by a minority of persons within the same fishery and gear type, to the financial interest. 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 shall 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 this 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. 109. FISHERY MANAGEMENT PLANS.

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

(1) 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 where practicable adverse effects on such habitat caused by fishing, and identify other actions which should be considered to encourage the conservation and enhancement of such habitat."

(2) by striking "and" at the end of paragraph (8);

(3) by inserting "and fishing communities" after "fisheries" in paragraph (9)(A);

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

(5) 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 Secretary has determined is overfished, or is approaching an overfished condition, contain conservation and management measures to rebuild the fishery;

"(11) assess the amount and type of bycatch occurring in the fishery, and, to the extent practicable and in the following priority, include conservation and management measures to—

"(A) minimize bycatch; and

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

"(12) assess the amount and type of fish caught during recreational fishing, and to the extent practicable, include conservation and management measures to minimize the mortality of fish caught and released that are the target species of recreational fishing, under catch and release programs;

"(13) take into account the safety of human life at sea.".

(b) IMPLEMENTATION.—Not later than 18 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 Act.

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

(1) in paragraph (6)—

(A) by striking "system for limiting access to" and inserting "limited access system for"; and

(B) by striking "fishery" in subparagraph (E) and inserting "fishery and fishing community";

(2) by inserting "one or more" in paragraph (8) after "require";

(3) by striking "and" at the end of paragraph (9);

(4) by redesignating paragraph (10) as paragraph (11); and

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

"(10) include, consistent with the other provisions of this Act, conservation and management measures that provide a harvest preference or other incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch; 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 implementing a fishery management plan or plan amendment may be submitted to the Secretary for action under section 304—

“(1) simultaneously with submission of the plan or amendment to the Secretary for action under section 304; or

“(2) at any time after the plan or amendment is approved.”.

(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 recommend and the Secretary may not approve or implement any fishery management plan, plan amendment or regulation under this Act which creates a new individual fishing quota program during the fiscal years for which funds are authorized under section 4.

“(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 resubmitted by the Secretary to the appropriate Council and shall not be recommended, approved or implemented during the moratorium set forth in paragraph (1).

“(2)(A) No provision of law shall be construed to limit the authority of a Council to recommend 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 system.

“(B) This subsection shall not be construed to prohibit a Council from recommending and the Secretary from approving amendments to a fishery management plan, plan amendment, or regulation which implement an individual fishing quota program, if such program was approved prior to January 4, 1995.

“(3) Individual fishing quotas shall be considered permits for the purposes of sections 307, 308 and 309.

“(4)(A) A Council may recommend, and the Secretary may approve and administer, a program which allows up to 25 percent of any fees collected 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 guarantee or make a commitment to guarantee, payment of principal of and interest on an obligation which aids in financing the—

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

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

“(B) A Council making a recommendation 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.”.

(f) INDIVIDUAL FISHING QUOTA REPORT.—(1) Not later than June 1, 1999, the Secretary, in consultation with the Councils and National Academy of Sciences, shall submit to the Congress a comprehensive report on individual fishing quotas, which shall propose amendments to the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) to implement a national policy with respect to individual fishing quotas. The report shall address all aspects of such quotas, including an assessment of the impacts and advisability of—

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

(B) mechanisms to prevent foreign control 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) from holding individual fishing quotas;

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

(D) providing revocable Federal permits to process a quantity of fish that correspond to 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 advisability of allowing capital construction funds to be used to purchase individual fishing quotas;

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

(G) establishing threshold criteria for determining whether a fishery may be considered for individual fishing quota management, including criteria related to geographical range, population dynamics and condition of a fish stock, characteristics of a fishery, and participation by commercial and recreational fishermen 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 a vessel, and to facilitate new entry under individual fishing quota programs;

(I) allowing individual fishing quotas to be sold by the Federal government through auctions; and

(J) such other matters as the Secretary 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 transferability, the impacts 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, and on the size and composition of fishing vessel fleets. The report shall also include any information about individual fishing quota programs in other countries that may be useful.

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

(4) The Secretary shall, in consultation with 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 Pacific Coast States; and (B) Atlantic Coast and Gulf of Mexico States. The Secretary shall, to the maximum extent practicable, attempt to achieve a balanced representation of viewpoints among the individuals on each review group. The review groups shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

(5) The Secretary shall conduct public hearings in each Council region to obtain comments on individual fishing quotas in preparing the report, and shall publish in the Federal Register a notice and opportunity for public comment on the draft of the report, or any revision thereof.

The dissenting views of any Council or affected State shall be included in the final report.

(6) In the event that the authorization of appropriations under section 4 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) expires prior to enactment of amendments to such Act implementing a national policy with respect to individual fishing quotas, a Council may recommend and the Secretary may approve new individual fishing quota programs only with the approval of a two-thirds majority of voting members of the Council. In such event, the Councils and Secretary shall take into account changes that may be required upon enactment of such amendments.

(g) NORTH PACIFIC LOAN PROGRAM.—(1) By not later than January 1, 1997, the North Pacific Fishery Management Council shall recommend to the Secretary a program which uses the full amount of fees authorized to be used under section 303(d)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(d)(4)) 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 50 CFR 676.20(a)(2) (iii) and (iv), 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 vessel in the harvest of fish caught under such quotas, who have at least 150 days' experience working as part of the harvesting crew in any U.S. commercial fishery, and who do not own in whole or in part any Category A or Category B vessel.

(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 a vessel in the harvest of fish caught under such quotas.

(h) Nothing in the Sustainable Fisheries Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program.

SEC. 110. 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 plan 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 plan amendment is available and that written data, 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.

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

“(A) take into account the data, 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 plan 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—

“(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.

“(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 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, this Act and other applicable law. Within 15 days of initiating such evaluation the Secretary shall make a determination and—

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

“(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, 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).

“(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 “fishery,” in paragraph (1) and inserting “fishery (other than a fishery to which section 302(a)(3) applies).”

(2) by striking all that follows “as the case may be.” in paragraph (1);

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

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

(4) by inserting “under this subsection” after “him” in paragraph (3); and

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

(c) INDIVIDUAL FISHING 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 the at the end the following:

“(2) Notwithstanding paragraph (1), the Secretary is authorized and shall collect a fee of up to 3 percent of the annual ex-vessel value of fish

harvested under any individual fishing quota program or community development quota program to recover the costs directly related to the management and enforcement of such program. Fees collected under this paragraph shall be in addition to any other fees charged under this Act and shall be an offsetting collection available only to the Secretary for the purposes of administering and implementing this Act in the fishery in which the fees were collected.”.

(d) DELAY OF FEES.—Notwithstanding any other law, the Secretary shall not begin the collection of fees under section 304(d)(2) from persons holding individual fishing quotas in the surf clam and ocean quahog fishery or in the wreckfish fishery until January 1, 2000.

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

“(e) REBUILDING OVERFISHED FISHERIES.—

“(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.

“(2) In addition, if the Secretary determines at any time that a fishery is overfished, the Secretary immediately shall 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.

“(3) Within one year of an identification or notification under this subsection, the Council (or the Secretary, consistent with section 304(g) and where practicable for fisheries under section 302(a)(3)) shall prepare a fishery management plan, a plan amendment, or proposed regulations for fisheries under the authority of such Council or the Secretary—

“(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 under this section 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 and other economic interests, 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 or other environmental conditions 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 the traditional participation by fishermen of the United States in the fishery relative to other nations.

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

“(6) During the development of a fishery management plan, a plan amendment, or proposed regulations under this subsection, the Council may request the Secretary to implement interim measures, to be replaced by such plan, amendment or regulations, to reduce overfishing. 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 implemented under 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 under paragraph (2).”.

(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.—The Secretary shall prepare a fishery management plan or plan amendment with respect to any highly migratory species fishery to which section 302(a)(3) applies that requires conservation and management, in accordance with the national standards, the other provisions of this Act, and any other applicable law. In preparing and implementing any such plan or amendment, the Secretary shall—

“(1) conduct public hearings, at appropriate times and in appropriate 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;

“(2) 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; and

“(B) consult with and consider the comments and views of affected Councils, as well as 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);

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

“(4) 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;

“(5) 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 fishing mortality level;

“(6) 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;

“(7) 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

"(8) ensure that conservation and management measures adopted under this paragraph—

"(A) promote international conservation of the affected fishery;

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

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

"(D) minimize the discarding of Atlantic highly migratory species which cannot be returned to the sea alive; and

"(E) promote, to the extent practicable, implementation of scientific research programs that include the tag and release of Atlantic highly migratory species."

(h) REVIEW OF SECRETARIAL PLAN.—Section 304, as amended, is amended further by adding at the end the following:

"(h) REVIEW OF SECRETARIAL PLAN.—

"(1)(A) Whenever the Secretary prepares a fishery management plan or plan amendment under this section, the Secretary shall immediately—

"(i) for a plan or amendment prepared under subsection (c), submit such plan or amendment to the appropriate Council for consideration and comment; and

"(ii) publish in the Federal Register a notice stating that the plan or amendment is available and that written data, 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.

"(B) Whenever a plan or amendment is submitted under paragraph (1)(A)(i), 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 subparagraph (A)(ii). After the close of such 60-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, data, or comments submitted under subparagraph (A)(ii), may adopt such plan or amendment.

"(2) The Secretary may propose regulations in the Federal Register to implement any plan or amendment prepared by the Secretary. 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.

"(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (3). 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 plan, with the national standards and other provisions of this Act, and with any other applicable law."

SEC. 111. 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 (f), as redesignated:

"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

"(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.

"(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).

"(3) Effective 180 days after the publication of such list, no person or vessel shall 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.

"(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.

"(b) FISH HABITAT.—

"(1)(A) The Secretary shall, within six months of the date of enactment of the Sustainable Fisheries Act, establish 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 the actions which should be considered to ensure the conservation and enhancement of such habitat, and set forth a schedule for the amendment of fishery management plans to include the identification of essential fish habitat.

"(B) The Secretary 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 undertaken, or proposed to be 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 undertaken, or proposed to be 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 undertaken, or proposed to be 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 paragraph (4)(A), a Federal agency shall provide a detailed response, in writing, to the commenting Council and the Secretary regarding the matter. The response shall include a description of measures being considered 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 by striking paragraph (3) and by inserting the following after paragraph (2):

"(3) Any emergency regulation which changes an existing fishery management plan shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation promulgated under this subsection—

"(A) shall be published in the Federal Register together with the reasons therefor;

"(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 an additional period of not more than 180 days, provided the public has had an opportunity to comment on the emergency regulation, and, in the case of a Council recommendation for emergency regulations, the Council is actively preparing a fishery management plan, amendment, or proposed regulations to address the emergency on a permanent basis;

"(C) that responds to a public health emergency may remain in effect until the circumstances that created the emergency no longer exist, provided that the Secretary of Health and Human Services concurs with the Secretary's action and the public has an opportunity to comment after the regulation is published; and

"(D) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, except for emergency regulations promulgated under paragraph (2) in which case such early termination may be made only upon the agreement of the Secretary and the Council concerned."

(c) Section 305(e) is amended by striking "12291, dated February 17, 1981" and inserting "12866, dated September 30, 1993".

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

"(g) NEGOTIATED CONSERVATION AND MANAGEMENT MEASURES.—(1)(A) A Council or the Secretary may, in accordance with regulations promulgated by the Secretary pursuant to this paragraph, establish a fishery negotiation panel to assist in the development of specific conservation and management measures for a fishery under authority of such Council or the Secretary.

"(B) No later than 180 days after the enactment of this section, 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.

"(2) Upon receipt of a report containing proposed conservation and management measures from a negotiation panel convened under this subsection, the report shall be published in the Federal Register for public comment.

"(3) Nothing in this subsection shall be construed to require either a Council or the Secretary, whichever is appropriate, to include all or any portion of a report from a negotiation panel established under this subsection in a

fishery management plan or plan amendment for the fishery for which the panel was established.

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

“(1) Within 6 months after the date of enactment of the Sustainable Fishery Act, the Secretary shall establish an exclusive central registry system (which may be administered on a regional basis) for any limited access system permits established 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 section 6323 of the Internal Revenue Code of 1986 (26 U.S.C. 6323).

“(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) Notwithstanding section 304(d)(1), the Secretary may collect a reasonable fee of not more than one-half of one percent of the value of limited access system permits upon registration and transfer to recover the costs of administering the central registry system.”

(e) REGISTRY TRANSITION.—Security interests on permits described under section 305(h)(1) 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 and in compliance with such regulations of the perfection of such security.

SEC. 112. PACIFIC COMMUNITY FISHERIES.

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

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

“(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 paragraph (1), 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 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; and

“(iv) be certified by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act 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 and Aleutian Islands management area; 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) During the fiscal years for which funds are authorized under section 4, the North Pacific Council may not recommend 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 recommended that a percentage of the total allowable catch be allocated to western Alaska community development quota programs.

“(ii) During the fiscal years for which funds are authorized under section 4, 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 recommended by the North Pacific Council to the Secretary prior to October 1, 1995, the Secretary shall, notwithstanding any expiration date in such plan, plan amendment, or regulation, allocate to the program a percentage of the total allowable catch that is no greater than the percentage described in such plan or plan amendment.

“(D) The Secretary shall deduct from any fees collected under section 304(d)(2) for fish harvested under the western Alaska community development quota program costs incurred by fishing vessels in the program for observer or reporting requirements which are in addition to observer or reporting requirements of other fishing vessels in the fishery in which the allocation to such program has been made.

“(2)(A) The Western Pacific Council and the Secretary may establish a western Pacific community development program which may include an allocation of a percentage of the total catch of any fishery, limited entry permits, or other quotas related to vessel size and fishing zones to 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, and based on

historical fishing practices in and dependence on the fishery, the cultural and social framework relevant to the fishery, and economic barriers to access to the fishery;

“(iii) consist of community residents who conduct more than one-half of their current commercial or subsistence fishing effort in the waters within the Western Pacific Regional Management Area;

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

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

“(C) For the purposes of this subsection—

“(i) ‘Western Pacific Regional Management Area’ means the area under the jurisdiction of the Western Pacific Council, or an island within such area; and

“(ii) ‘western Pacific community’ means any community located in the Western Pacific Regional Management Area where a majority of the inhabitants are descended from the aboriginal peoples indigenous to the area and in which traditional fishing practices are or have been historically used for subsistence or commercial purposes.

“(D) 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.

“(E) After the date of enactment of the Sustainable Fisheries Act, no Council may recommend a community development quota program except as provided in this subsection.”

(b) WESTERN PACIFIC DEMONSTRATION PROJECTS.—(1) The Secretary and Secretary of 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, which shall not exceed a total of \$500,000 in each fiscal year.

(2) Demonstration project 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 any such demonstration project.

(3)(A) The Western Pacific Fishery Management Council, in consultation with the Secretary shall establish an advisory panel under section 302(g)(2) of the Sustainable Fisheries Act to evaluate, determine the relative merits of, and annually rank applications for such grants, which shall consist of not more than eight 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 or Secretary of 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 for the reasons thereof.

(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 have the same meaning as such term has in section 305(i)(2)(C)(ii) of the Magnuson Fishery Conservation and Management Act.

SEC. 113. STATE JURISDICTION.

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

"(3)(A) A State may regulate a fishing vessel outside the boundaries of the State if the fishing vessel is registered under the law of that State, and—

"(i) there is no fishery management plan in place for that fishery; or

"(ii) if there is a fishery management plan or plan amendment in place for that fishery, the State's laws and regulations are consistent with the purposes of that fishery management plan or plan amendment.

"(B) For the purposes of this paragraph, the term 'registered under the law of that State' means that—

"(i) the owner, captain, or vessel holds a fishing license, or other document that is a prerequisite to participating in the fishery, issued by the State;

"(ii) the vessel is numbered by the State in accordance with chapter 123 of title 46, United States Code; or

"(iii) the documentation of the vessel under chapter 121 of title 46, United States Code, identifies the vessel's homeport as located in the State."

(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).

"(4) For any fishery occurring off Alaska for which there is no fishery management plan approved and implemented under this Act, or pursuant to a fishery management plan under this Act, the State of Alaska may enforce its fishing laws and regulations in the exclusive economic zone off Alaska, provided there is a legitimate State interest in the conservation and management of the fishery, until a Federal fishery management plan is implemented for any such fishery which does not allow for such enforcement. Fisheries in the exclusive economic zone off Alaska currently managed pursuant to a Federal fishery management plan shall not be removed from Federal management and placed under State authority without the unanimous consent (except for the Regional Director of the National Marine Fisheries Service) of the North Pacific Council. The preceding sentence shall not be construed to require the North Pacific Council to unanimously vote to continue a fishery management plan under which the State of Alaska is already principally involved in the management or enforcement of a fishery."

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

(1) by striking "and" in subparagraph (A);

(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."

SEC. 114. 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 the Atlantic States Marine Fisheries Commission's American Lobster

Fishery Management Plan (and, for purposes of this clause, if the Secretary withdraws the Federal plan or any successor to that plan, and the Atlantic States Marine Fisheries Commission has not implemented a plan to manage the American Lobster Fishery, the minimum possession size in effect at the time the American Lobster Fishery Management Plan was withdrawn shall remain in effect until the Atlantic States Marine Fisheries Commission implements a plan that contains a minimum possession size)".

(b) Section 307(1)(K) (16 U.S.C. 1857(1)(K)) is amended by striking "knowingly steal or without authorization, to" and inserting "to steal or to negligently and without authorization".

(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, 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 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 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 products within the boundaries of any State in accordance with a permit approved under section 204(b)(6)(A)(ii);"

(f) Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is amended by striking "204 (b) or (c)" and inserting "204 (b), (c), or (d)".

(f) 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(b)(6)(B) or section 306(c) to receive such fish;"

(g) Section 307(4) (16 U.S.C. 1857(4)) is amended by inserting "or within the boundaries of any State" after "zone".

SEC. 115. CIVIL PENALTIES AND PERMIT SANCTIONS; REBUTTABLE PRESUMPTIONS.

(a) Section 308(a) (16 U.S.C. 1858(a)) is amended by striking "ability to pay."

(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 district 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 "(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."

(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. 116. 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" 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 (i), 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 Regional Fishery Management Council, shall to the extent practicable support cooperative enforcement agreements between Federal and Pacific Insular Area authorities.

"(h) ANNUAL REPORT ON ENFORCEMENT.—Each year at the time the President's budget is submitted to the Congress, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall, after consultation with the Councils, submit a report on the effectiveness of the enforcement of fishery management plans and regulations to implement such plans under the jurisdiction of each Council, including—

"(1) an analysis of the adequacy of Federal personnel and funding resources related to the enforcement of fishery management plans and regulations to implement such plans; and

"(2) recommendations to improve enforcement that should be considered in developing plan amendments or regulations implementing such plans."

(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. 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"; and

(2) by adding at the end the following:

"(f) BYCATCH REDUCTION.—In implementing section 303(a)(11) and this section, the North Pacific Council shall recommend 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 recommend, and the Secretary may approve, consistent with the provisions of this Act, a system of fees in a fishery to provide incentives to reduce bycatch and bycatch rates; except that such fees shall not exceed one percent of the estimated annual ex-vessel value of the target species in the fishery. Any fees 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 fees 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 fees were derived and in which the State is directly involved in management or enforcement.

"(2)(A) Notwithstanding section 303(d), and in addition to the authority provided in section 303(b)(10), the North Pacific Council may recommend, 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 recommend 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 recommend, 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 its jurisdiction. 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 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.

"(i) FULL RETENTION AND UTILIZATION.—(1) The North Pacific Council shall submit to the Secretary by June 1, 1999, 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.

"(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) NORTHEAST ATLANTIC OCEAN FISHERIES.—Section 314 (16 U.S.C. 1863) is amended by striking "1997" in subsection (a)(4) and inserting "2000".

SEC. 118. TRANSITION TO SUSTAINABLE FISHERIES.

(a) The Act is amended by adding at the end of title III the following:

"SEC. 315. FISHING CAPACITY REDUCTION PROGRAMS.

"(a) IN GENERAL.—(1) The Secretary, with the approval of the appropriate Council, may conduct a fishing capacity reduction program (referred to in this section as the 'program') in a fishery if the Secretary determines that—

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

"(B) the fishery management plan implemented for the fishery—

"(i) is consistent with the program objective;

"(ii) 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 and accounting for the full potential capacity of the fleet; and

"(iii) establishes a specified or target total allowable catch that triggers closure of the fishery or proportional adjustments to reduce catch; and

"(C) the program is cost-effective and capable of repaying any debt obligation incurred under section 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271 et seq.).

"(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 the owners of—

"(A) permits authorizing participation in the fishery, Provided that such permits are surrendered for permanent revocation; or

"(B) fishing vessels, Provided that any 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.

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

"(4) The Secretary shall consult with the appropriate Council, other Federal agencies, appropriate regional authorities, affected States and fishing communities, participants in the fishery, conservation organizations, and other interested parties throughout the development and implementation of any program.

"(b) 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); Saltonstall-Kennedy Act);

"(B) appropriated for fisheries disaster relief under section 316 of this Act or section 308 of the Interjurisdictional Fisheries Act (16 U.S.C. 4107);

"(C) provided by an industry fee system under this section and in accordance with section 1112 of title XI of the Merchant Marine Act, 1936; and

"(D) provided from any State or other public sources and private or nonprofit organizations.

"(2) All funds for the program, including any fees established under subsection (c), shall be paid into the fishing capacity reduction fund established under section 1112 of title XI of the Merchant Marine Act, 1936.

"(c) INDUSTRY FEE SYSTEM.—(1)(A) If an industry fee system is necessary to fund the program, the Secretary, with the approval of the appropriate Council, may conduct a referendum on such system. Prior to the referendum, the Secretary, in consultation with the Council, shall—

"(i) identify, to the extent practicable, and notify all permit or vessel owners who would be affected by the program and who meet eligibility requirements for participation in the referendum; and

"(ii) make available to such owners information about the industry fee system describing the schedule and procedures for the referendum, the proposed program, and the amount and duration and any other terms and conditions of the 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 1112 of title XI of the Merchant Marine Act, 1936. The fees for a program under this section shall—

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

"(B) not exceed 5 percent of the gross sale proceeds of all fish landed from the fishery for which the program is established;

"(C) be deducted by the first ex-vessel fish purchaser from the gross fish sales 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.

"(d) IMPLEMENTATION PLAN.—(1) The Secretary, in consultation with the appropriate Council and other interested parties, shall prepare and publish in the Federal Register for a 60-day public comment period, an implementation plan 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, any strategy developed under section 316, 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—

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

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

"(3) Within 45 days after the close of the public comment period, the Secretary, in consultation with the appropriate Council, 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) 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 two years of the date of enactment of this Act on the role of the Federal government in—

(1) subsidizing the expansion and contraction of fishing capacity in fishing fleets managed under the Magnuson Fishery Conservation and Management Act; and

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

(c) The Act, as amended by subsection (a), is amended by adding at the end of title III the following:

"SEC. 316. TRANSITION TO SUSTAINABLE FISHERIES.

"(a) SUSTAINABLE DEVELOPMENT STRATEGY.—(1) At the discretion of the Secretary or at the request of the Governor of an affected State or a fishing community, the Secretary, in consultation with the Councils and Federal agencies, as appropriate, may work with regional authorities, affected States, fishing communities, the fishing industry, conservation organizations, and other interested parties, to develop a sustainable development strategy for any fishery identified as overfished under section 304(d) or determined to be a commercial fishery failure under this section or any other Federal fishery for which a fishery management plan is being developed or amended under section 303.

"(2) Such sustainable development strategy shall—

"(A) develop a balanced and comprehensive long-term plan to guide the transition to a sustainable fishery and the development of fishery management plan under section 303 or a fishery rebuilding effort under section 304(d) which—

"(i) takes into consideration the economic, social, and environmental factors affecting the fishery;

"(ii) identifies alternative economic opportunities; and

"(iii) establishes long-term objectives for the fishery including vessel types and sizes, harvesting and processing capacity, and optimal fleet size;

"(B) identify Federal and State programs which can be used to provide assistance to fishing communities during development and implementation of a fishery recovery effort; and

"(C) establish procedures to implement such a plan and facilitate consensus and coordination in regional decision-making;

"(3) The Secretary shall complete and submit to the Congress a report on any sustainable development strategy developed under this section within 6 months after it is developed and annually thereafter.

"(b) FISHERIES DISASTER RELIEF.—(1) At the discretion of the Secretary or at the request of the Governor of an affected State or a fishery 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 into other fisheries or other geographic regions.

"(3) The Federal share of the cost of any activity carried out under the authority of this section 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 1995, 1996, 1997, 1998, 1999, and 2000."

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

(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 buy-out program established under section 315(b) of the Magnuson Fishery Conservation and Management Act; and"

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 DATA MANAGEMENT.

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

"SEC. 401. REGISTRATION AND DATA MANAGEMENT.

"(a) STANDARDIZED FISHING VESSEL REGISTRATION AND DATA 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 data management system on a regional basis. The proposed system shall be developed after consultation with interested governmental and non-governmental parties and shall—

"(1) be designed to standardize the requirements of vessel registration and data 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 programs under existing fishery management plans into a nonduplicative data collection and management system;

"(3) avoid duplication of existing state, tribal, or federal systems (other than a federal system under paragraph (1)) and utilize, to the maximum extent practicable, information collected from existing systems;

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

"(5) provide for authorization of 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 vessels carrying a passenger for hire engaged in recreational fishing, except for private recreational fishing vessels used exclusively for pleasure;

"(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 data (other than economic data) which may be necessary to meet the goals of the proposed system; and

"(10) prescribe 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 complete and accurate information collected under this section.

"(b) FISHING VESSEL REGISTRATION.—The 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 data management system should, at a minimum, provide basic fisheries performance data for each fishery, including—

"(1) the number of vessels participating in the fishery including vessels carrying a passenger for hire engaged in recreational fishing;

"(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 fishery effort; and

"(5) other such data as required under subsection 303(a)(5).

"(d) DEFINITION.—For the purposes of this section, the term 'passenger for hire' shall have the same meaning as the definition for such term in section 2102(21a) of title 46, United States Code.

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

"(f) 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 data collection system that meets the requirements of subsections (a) through (c). The proposal shall include—

"(1) a description of the arrangements 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.

"(g) CONGRESSIONAL TRANSMITTAL.—Within 60 days after the end of the comment period and after consideration of comments received under subsection (d), 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 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; and

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

“(h) 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 private recreational fishing vessels used exclusively for pleasure into a national fishing vessel registration and data 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. DATA COLLECTION.

Section 402 is amended to read as follows:

“SEC. 402. DATA COLLECTION.

“(a) COUNCIL REQUESTS.—If a Council determines that additional information and data (other than information and data 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 a data collection program for the fishery which would provide the types of information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) specified by the Council. The Secretary shall approve such a data 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 a data 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.

“(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 system;

“(E) unless the Secretary has obtained written authorization from the person submitting such information to release such information and such release does not violate other requirements of this subsection; or

“(F) that observer data collected under the North Pacific Research Plan may be released as specified for weekly summary bycatch data identified by vessel, and haul-specific bycatch data without vessel identification.

Nothing in this paragraph prevents the use by the Secretary, or (with the approval of the Secretary) the Council, for conservation and management purposes information submitted in compliance with regulations promulgated under this Act, or the use, release, or publication of bycatch data pursuant to paragraph (1)(F).

“(2) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve such confidentiality, 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 regulations promulgated under this Act or the use, release, or publication of bycatch data pursuant to paragraph (1)(F).

“(c) RESTRICTION ON USE OF CERTAIN DATA.—(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.), or 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 Federal fishing 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.—In case of a program for which—

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

“(2) the Secretary has entered into a cooperative agreement with a State, Council, or Marine Fisheries Commission, such financial assistance may be provided by the Secretary to that recipient on a sole-source basis, notwithstanding any other provision of law.

“(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; and

“(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.

“(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:

“SEC. 403. OBSERVERS.

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

“(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 data necessary for the conservation and management purposes of the fishery to which such observer is assigned; and

“(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 training facilities and resources, where possible, in carrying out this subsection.

“(c) WAGES AS MARITIME LIENS.—Claims for observers' wages shall be considered maritime liens against the vessel and be accorded the same priority as seamen's liens under admiralty and general maritime law.

“(d) OBSERVER STATUS.—(1) 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 for work injuries under the Federal Employee Compensation Act (5 U.S.C. 8101 et seq.)

“(2) Paragraph (1) does not apply if the observer is engaged by the owner, master, or individual in charge of the vessel to perform any duties in service to the vessel.”.

SEC. 205. FISHERIES RESEARCH.

Section 404 is amended to read as follows:

“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 of the fisheries.

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

“(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 data concerning fishing activities, catch, effort, stock assessments, and other research conducted under this section.

“(c) AREAS OF RESEARCH.—The areas of research referred to in subsection (a) are as follows:

“(1) Research to support fishery conservation and management, including but not limited to, research on the economics of fisheries and 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) Information management research, including the development of a fishery information base and an information management system that will permit the full use of data in the support of effective fishery conservation and management.

“(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 development 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:

“SEC. 405. INCIDENTAL HARVEST RESEARCH.

“(a) COLLECTION OF DATA.—Within 9 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall, after consultation with the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council, conclude the collection of data 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 data collected prior to June 30, 1994 under such program.

“(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 DATA.—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 data 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 data 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 twelve 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 pro-

grams 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.—Any conservation and management measure implemented under this Act to reduce the incidental mortality of bycatch in the course of shrimp trawl fishing must be consistent with—

“(1) measures applicable to fishing throughout the range 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 ECOSYSTEM MANAGEMENT RESEARCH.—Section 406 (16 U.S.C. 1882) is amended to read as follows:

“SEC. 406. FISHERIES ECOSYSTEM MANAGEMENT RESEARCH.

“(a) ESTABLISHMENT OF PANEL.—Not later than 180 days after the enactment of the Sustainable Fisheries Act, the Secretary shall establish a fisheries ecosystem management 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) ECOSYSTEM REPORT.—Within two years of the date of enactment of this Act, the Secretary shall submit to the Congress a completed report of the fisheries ecosystem management advisory panel, 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 procedural matters under section 302(j) with respect to advisory panels shall apply to the Fisheries Ecosystem Management advisory panel.”.

(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) THE SECRETARY OF COMMERCE SHALL ENSURE THAT—

“(1) no later than one year after the effective date of the Sustainable Fisheries Act, an independent peer review is completed of whether—

“(A) the fishery statistics of the Secretary concerning the red snapper fishery in the Gulf of Mexico accurately and completely account for all commercial and recreational harvests and fishing effort on the stock;

“(B) the scientific methods, data and models used by the Secretary to assess the status and trends of the Gulf of Mexico red snapper stock are appropriate under this Act;

“(C) the scientific information upon which the fishery management plan for red snapper in the Gulf of Mexico is based is appropriate under this Act;

“(D) the management measures in the fishery management plan for red snapper in the Gulf of Mexico are appropriate for conserving and managing the red snapper fishery under this Act; and

“(E) the benefits and costs of establishing an individual fishing quota program for the red snapper fishery in the Gulf of Mexico and reasonable alternatives thereto have been properly evaluated under this Act; and

“(2) commercial and recreational fishermen in the red snapper fishery in the Gulf of Mexico are provided an opportunity to—

“(A) participate in the peer review under paragraph (1); and

“(B) provide information to the Secretary of Commerce in connection with the review of fishery statistics under paragraph (a)(1) 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 of Commerce.

“(b) The Secretary of Commerce shall submit a detailed written report on the findings of the peer review conducted under subsection (a)(1) to the Gulf of Mexico Fishery Management Council no later than one year after the effective date of the Sustainable Fisheries Act.”.

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 determination 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 the 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(2) of the Magnuson Fishery Conservation and Management Act, as amended by section 103 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. CLERICAL AMENDMENTS.

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

“Sec. 315. Fishing Capacity Reduction Programs.

“Sec. 316. Transition to sustainable fisheries.

“TITLE IV—FISHERY MONITORING AND RESEARCH

“Sec. 401. Registration and data management.

“Sec. 402. Data collection.

“Sec. 403. Observers.

“Sec. 404. Fisheries research.

“Sec. 405. Incidental harvest research.

“Sec. 406. Fisheries ecosystem management 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. FISHERIES FINANCING AND CAPACITY REDUCTION.

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:

"SEC. 1111. (a) Pursuant to the authority granted under section 1103(a) of this title, the Secretary may, under such terms and conditions as the Secretary shall prescribe by regulation, guarantee and make commitments to guarantee the principal of, and interest on, obligations which aid in refinancing, in a manner consistent with the reduced cash flows available to obligors because of reduced harvesting allocations during implementation of a fishery recovery effort, existing obligations relating to fishing vessels or fishery facilities. Guarantees under this section shall be subject to all other provisions of this title not inconsistent with the provisions of this section. The provisions of this section shall, notwithstanding any other provisions of this title, apply to guarantees under this section.

"(b) Obligations eligible to be refinanced under this section shall include all obligations which financed or refinanced any expenditures associated with the ownership or operation of fishing vessels or fishery facilities, including but not limited to expenditures for reconstructing, reconditioning, purchasing, equipping, maintaining, repairing, supplying, or any other aspect whatsoever of operating fishing vessels or fishery facilities, excluding only such obligations—

"(1) which were not in existence prior to the time the Secretary approved a fishery rebuilding effort eligible for guarantees under this section and whose purpose, in whole or in part, involved expenditures which resulted in increased vessel harvesting capacity; and

"(2) as may be owed by an obligor either to any stockholder, partner, guarantor, or other principal of such obligor or to any unrelated party if the purpose of such obligation had been to pay an obligor's preexisting obligation to such stockholder, partner, guarantor, or other principal of such obligor.

"(c) The Secretary may refinance up to 100 percent of the principal of, and interest on, such obligations, but, in no event, shall the Secretary refinance an amount exceeding 75 percent of the unencumbered (after deducting the amount to be refinanced by guaranteed obligations under this section) market value, as determined by an independent marine surveyor or other competent person for a fishery facility, of the fishing vessel or fishery facility to which such obligations relate plus 75 percent of the unencumbered (including but not limited to homestead exemptions) market value, as determined by an independent marine surveyor, of all other supplementary collateral. The Secretary shall do so regardless of—

"(1) any fishing vessel or fishery facility's actual cost or depreciated actual cost; and

"(2) any limitations elsewhere in this title on the amount of obligations to be guaranteed or such amount's relationship to actual cost or depreciated actual cost.

"(d) Obligations guaranteed under this section shall have such maturity dates and other provisions as are consistent with the intent and purpose of this section (including but not limited to provisions for obligors to pay only the interest accruing on the principal of such obligations during the period in which fisheries stocks are recovering, with the principal and interest accruing thereon being fully amortized between the date stock recovery is projected to be completed and the maturity date of such obligations).

"(e) No provision of section 1104A(d) of this title shall apply to obligations guaranteed under this section.

"(f) The Secretary shall neither make commitments to guarantee nor guarantee obligations under this section unless—

"(1) the Secretary has first approved the fishery rebuilding effort for the fishery in which vessels eligible for the guarantee of obligations under this section are participants and has determined that such guarantees will have no adverse impacts on other fisheries in the region;

"(2) the Secretary has considered such factors as—

"(A) the projected degree and duration of reduced fisheries allocations;

"(B) the projected reduction in fishing vessel and fishery facility cash flows;

"(C) the projected severity of the impact on fishing vessels and fishery facilities;

"(D) the projected effect of the fishery rebuilding effort;

"(E) the provisions of any related fishery management plan under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); and

"(F) the need for and advisability of guarantees under this section;

"(3) the Secretary finds that the obligation to be guaranteed will, considering the projected effect of the fishery recovery effort involved and all other aspects of the obligor, project, property, collateral, and any other aspects whatsoever of the obligation involved, constitute, in the Secretary's opinion, a reasonable prospect of full repayment; and

"(4) the obligors agree to provide such security and meet such other terms and conditions as the Secretary may, pursuant to regulations prescribed under this section, require to protect the interest of the United States and carry out the purpose of this section.

"(g) All obligations guaranteed under this section shall be accounted for separately, in a subaccount of the Federal Ship Financing Fund to be known as the Fishery Recovery Refinancing Account, from all other obligations guaranteed under the other provisions of this title and the assets and liabilities of the Federal Ship Financing Fund and the Fishery Recovery Refinancing Account shall be segregated accordingly.

"(h) For the purposes of this section, the term 'fishery rebuilding effort' means a fishery management plan, amendment, or regulations required under section 304(e) of the Magnuson Fishery Conservation and Management Act to rebuild a fishery which the Secretary has determined to be a commercial fishery failure under section 316 of such Act.

"SEC. 1112. (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 315 of the Magnuson Fishery Conservation and Management Act."

SEC. 303. FISHERIES LOAN GUARANTEE REFORM.

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

(1) in paragraph (a)—

(A) by striking "or" and the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; or";

(C) by inserting the following new paragraph:

"(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

(D) in the last sentence, by striking "paragraph (6)" and inserting "paragraphs (6) and (7)"; and

(2) in paragraph (b)(2)—

(A) by striking "equal to" in the third proviso and inserting "not to exceed"; and

(B) by striking "except that no debt may be placed under this proviso through the Federal Financing Bank;" in the third proviso and inserting "and obligations related to fishing vessels and fishery facilities under this title shall be placed through the Federal Financing Bank unless placement through the Federal Financing Bank is not reasonably available or placement elsewhere is available at a lower annual yield than placement through the Federal Financing Bank;"

(b) LIMIT ON GUARANTEES.—Fishing Vessel Obligation loan guarantees may not exceed \$40,000,000 annually for the purposes of section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)).

(c) ADJUSTMENT OF FEES.—The Secretary of Commerce may take such actions as necessary to adjust fees imposed on new loan guarantee applicants to capture any savings from placement of loan guarantee obligations through the Federal Financing Bank if the total fees charged to applicants do not exceed the percentage amounts paid before the date of enactment of this Act.

(d) ADMINISTRATIVE COSTS.—(1) Fees generated from the adjustment in subsection (c) shall be deposited in the appropriate account of the Federal Ship Financing Fund. The Secretary of Commerce may transfer annually up to \$1,700,000 from such account to pay for the administrative costs associated with the Fisheries

Obligation Guarantee Program if that program has resulted in job cost, as defined in section 502(5) of the Federal Credit Reform Act (2 U.S.C. 661a(5)).

(2) Fees allocated to an individual fishing quota obligation guarantee program pursuant to section 303(d)(4)(A) (16 U.S.C. 1853(d)(4)(A)) shall be placed in a separate account for each such program in the Federal Ship Financing Fund for the purpose of providing budget authority for each such program. Amounts in any such accounts shall be identified in future fiscal year budget submissions of the Executive Branch.

(e) 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 harvesting capacity within the United States exclusive economic zone.

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, \$49,340,000 for fiscal year 1996, \$50,820,000 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 data 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, \$28,183,000 for fiscal year 1996, \$29,028,000 for fiscal year 1997, \$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, \$22,405,000 for fiscal year 1996, \$23,077,000 for fiscal year 1997, and \$23,769,000 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 “1996 and 1997”;

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

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

(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.).

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 “1994 and 1995,” in subsection (b) and inserting “1994, 1995, 1996, 1997, 1998, 1999, and 2000”;

(3) 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 “\$650,000 for fiscal year 1996, \$700,000 for fiscal year 1997, \$750,000 for each of the fiscal years 1998, 1999, and 2000.”;

(b) AMENDMENT TO IMPLEMENT THE NORTHEAST, NORTHWEST, AND GULF OF MEXICO DISASTER RELIEF PROGRAMS.—Section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)) is amended—

(1) by striking “award grants to persons engaged in commercial fisheries, for uninsured losses determined by the Secretary to have been suffered” in paragraph (1) and inserting “assist persons engaged in commercial fisheries, either directly through assistance to persons or indirectly through assistance to State and local government agencies and non-profit organizations, for projects or other measures designed to alleviate impacts determined by the Secretary to have been incurred”;

(2) by striking “a grant” in paragraph (3) and inserting “assistance”;

(3) by inserting “, if provided directly to a person,” in paragraph (3) after “subsection”;

(4) by striking out “gross revenues annually,” in paragraph (3) and inserting “net annual revenue from commercial fisheries.”;

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

“(4) Assistance may not be provided under this subsection as part of a fishing capacity reduction program in a fishery unless the Secretary determines that—

“(A) adequate conservation and management measures are in place in that fishery; and

“(B) adequate measures are in place to prevent the replacement of fishing capacity eliminated by the program in that fishery.”;

(6) by striking “awarding” and all that follows in paragraph (5) and inserting “assistance provided under this subsection.”.

SEC. 403. ANADROMOUS FISHERIES AMENDMENTS.

Section 4(a)(2) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)(2)) is amended by striking “and 1995,” and inserting “1995, 1996, 1997, 1998, 1999, and 2000.”.

SEC. 404. ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT ACT 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.”;

(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) AUTHORIZATION OF APPROPRIATIONS.—Section 809 of such Act (16 U.S.C. 5108) is amended—

(1) by striking “and” after “1995.”;

(2) 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.

(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.

(2) Section 304 of the FGB Act is repealed.

(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 co-terminous 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.”.

Mr. STEVENS. Mr. President, I thank the leader for his courtesy and for his support in moving forward on this bill. The statement made by the leader is correct. As I understand it, there could be, possibly, three votes tomorrow. We are going to try to work that out tonight and see what happens. It is my intention this evening to offer the managers' amendment to S. 39, which is a bill to reauthorize and strengthen the Magnuson Fisheries Conservation Management Act.

This managers' amendment will replace the substitute that was approved and reported by the Commerce Committee and will be adopted as original text when it is adopted by the Senate. This is bipartisan legislation that has been in the works now for over 3 years. We called it the “Sustainable Fisheries Act.” It is the most significant revision of the Magnuson Act since that bill was enacted in 1976.

I first introduced that 200-mile limit concept in the Senate, Mr. President, in 1971. We never envisioned the problems that exist today. I was very grateful to my friend from the State of

Washington—I used to call him my “southern neighbor”—Senator Magnuson, for having worked on that bill for a period of time. It was my motion, made after the bill was passed, that named the bill after the former Senator from Washington, who had been chairman of the Commerce Committee and of the Appropriations Committee.

At that time, in the 1970's, we had two primary goals—to Americanize the fisheries off our shores within a 200-mile limit and to protect the U.S. fishery resources, or to protect the capability of the fisheries to sustain themselves.

We thought Americanization would go a long way toward conserving the fishery resources of this Nation. Foreign vessels have now given way to U.S. vessels that are capitalized now far beyond what we ever envisioned in the seventies, and the fisheries waste continues to get worse in many areas.

This bill, S. 39, revitalizes the conservation measures of the Magnuson Act. Senators KERRY, PRESSLER, HOLLINGS, MURKOWSKI, INOUE, LOTT, SIMPSON, and PELL have cosponsored this bill that I have introduced.

I ask unanimous consent that these and others who may wish to be added as cosponsors to this bill be added for the RECORD if their request is made before the close of business today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. S. 39, for the first time, would require: First, the reduction of bycatch in fisheries; require the fishery management councils and the Secretary of Commerce to prevent overfishing; authorize a vessel and permit reduction program to help eliminate overcapacity in our fisheries capability; require council members to recuse themselves from voting on matters they would personally benefit from; require fishing communities to be considered in fishery management decisions; create a lien registry to keep track of encumbrances on limited access permits; and create a new registration system to keep track of fishing vessels themselves.

This bill, S. 39, will strengthen existing sections of the Magnuson Act to protect essential fish habitat; streamline the approval process for fishery management plans and regulations; strengthen emergency regulatory authority, and expand research activities.

The waste reduction provisions of S. 39 are particularly needed now, Mr. President. Under S. 39, the regional councils will be required to include measures in every fisheries management plan to prevent overfishing. If a council allows a fishery to become overfished, the Secretary of Commerce will be required to step in and stop it.

We continue to support having management decisions made in the regions themselves. But if the fisheries management councils have allowed a fishery to become overfished, we want it to be stopped immediately. And this bill will authorize the Secretary of Commerce to step in at that point.

But I remind the Senate that the management decisions may be made and should be made by the councils themselves, and this bill preserves that authority.

Under S. 39, the councils will also be required to reduce the amount of bycatch in every fishery around our country. This bill will give the councils new tools, including harvest incentives and penalty fees, to stop wasteful practices.

The bycatch problem is of great concern in my State of Alaska, where over half of the Nation's fish are harvested each year off our shores.

In 1995, 60 factory trawlers discarded nearly as much fish in the Bering Sea as was kept in the New England lobster fishery, the Atlantic mackerel fishery, the Gulf of Mexico shrimp fishery, the Pacific sablefish fishery, and the North Pacific halibut fishery combined.

The waste in that area was as great as the total catch of all the major fisheries off our shores. These 60 factory trawlers threw overboard—dead and unused—about one out of every four fish they caught.

I have a chart here to call to the attention of the Senate. Last year, the Bering Sea trawl vessels—this is all the trawl vessels and not just factory trawlers that are committing waste—threw 17 percent of their catch overboard, dead and not used. That total catch, as you can see by the chart, exceeds by almost 500 million pounds the total catch of all five of the major fisheries of the United States.

That is the way we are trying to find to reduce their bycatch. Bycatch is the harvest of fisheries that are not in the targeted fishery area; not the fish that a vessel is trying to catch, but the fish that is caught incidentally.

I hope that this bill will bring a stop to this inexcusable amount of waste.

This bill also addresses the divisive issue of individual fisheries quotas, the so-called IFQ's, or CTQ's.

The “individual fishing quota” as defined in S. 39 means both the transferable and nontransferable quotas that are known as IFQ's. We place a moratorium on new IFQ programs until September 30 in the year 2000.

In the meantime, the National Academy of Sciences will study IFQ's with the Secretary of Commerce, the councils, the regional councils, and two regional working groups to address many unresolved issues.

There are only three IFQ plans in our Nation today. Two of them are on the east coast: the wreckfish IFQ program and the surf clam IFQ program.

The largest IFQ program went into effect last year in the halibut/black cod fisheries off my State of Alaska. The Alaska program involves almost 100 times as much fishing vessels as the two east coast programs.

IFQ's are a new tool that we did not even consider in 1990, the last time we reauthorized the Magnuson Act. They were not even dreamed of when we first passed the Magnuson Act.

Unlike other limited access systems, IFQ's allow the potential consolidation of fishing efforts in a fishery. This characteristic may provide a useful tool to allow the market to drive a reduction in fishing capacity when needed, Mr. President. However, it has potential negative and other unknown effects.

We are worried about the new level of capital requirements of IFQ's. We are worried that fisheries will become investor owned totally under IFQ's and not the family traditional fishing that has been the hallmark of America's fisheries. We are worried about the impact of IFQ's on the fishing communities themselves. And we are worried about foreign control of IFQ's, once they are established, and the fisheries themselves if a rigid U.S. ownership standard is not set for them.

In other words, we Americanized the system. And, now, if we really let IFQ's go unrestrained, we could really end up with more ownership of the IFQ's and destroy the whole purpose of the Magnuson Act to create an Americanized zone within which we would protect our fisheries and have a conservation ethic to be the major goal of the Magnuson Act.

The Magnuson Act, this bill, would permanently ban transferable IFQ's in the House version that we received. That was H.R. 39.

Our Senate bill puts a 4-year moratorium on both transferable and nontransferable IFQ's. We just do not have enough information yet, Mr. President, to decide what limitations ought to be put on the IFQ's, if any. We need facts, and we need a study.

I believe the House will agree with this approach, Mr. President.

The academy's IFQ report will be due in the year 1998, one year before the next reauthorization of the Magnuson Act.

S. 39 includes measures important to predominantly Native and aboriginal communities in both Alaska and Hawaii. For Alaska, this bill will codify the community development quota programs already adopted by the North Pacific Council. For Hawaii, it will provide CDQ authority based on the concepts that have already been developed in Alaska.

As I mentioned, this bill has been a bipartisan effort. It has not been an easy job, Mr. President, to bring together all of the diverse views in this body on this issue. But it is the best of what this body should be doing—responding together to the devastating, wasteful practices that we know of, and making every vessel follow sound conservation practices.

I want to take the time to specifically thank my good friend from Massachusetts, Senator KERRY, who has worked with me for some time on this issue. Through the change of political control, we find ourselves working together with very slight difference. This time I was chairman. The last time he

was. But in purpose we have had a singular purpose, and that is to stop the wasteful practices.

Senator PRESSLER and Senator HOLLINGS, the chairman and ranking member of our committee, and Senators LOTT, SNOWE, INOUE, MURKOWSKI, GORTON, HUTCHISON, BREAUX, and MURRAY, and all their staffs, have been very cooperative in this effort.

As I said, it has been contentious. Anyone that has ever dealt with fisheries and fishermen know the issues will get contentious. It takes a long time to work out these disputes.

I thank the staff involved: Trevor McCabe and Earl Comstock, who have worked with me; Tom Melius, who worked with Senator PRESSLER; Penny Dalton, who worked with Senator KERRY and Senator HOLLINGS; and Glenn Merrill and Alex Elkan, Sea Grant fellows in the Commerce Committee who worked with us this year.

Mr. President, this bill is the product of hearings we have held throughout this country.

We went to Maine; we went to Massachusetts, North Carolina, South Carolina, Louisiana; we went into Seattle; several places in my State, and we have held several hearings right here in Washington. This is the way I think the Senate should work. We should go out to the people, get their views and come back and try to find a way to meet the major contentions that have been pressed on us from out in our country.

It is not an easy bill for us to handle in the way we are now compelled to handle it because of the timeframe as we close the session. It has taken the cooperation of the majority and minority leader—and I do congratulate Senator DASCHLE for his role in this also—to make certain that we have had the time to proceed.

Where we are now is we have a time agreement and we have a specific allocation of opportunities for Members to offer their amendments. I believe most of those amendments have been cared for in our revisions of the managers' amendment which is a bipartisan effort by myself and Senator KERRY and our staffs, working with all the staffs of the Senate that were interested in this issue.

It is my intention now to yield to my good friend, and I know he has a statement to make. But we are hopeful that Senators who may have some interest in making comments realize what the leader has said. We will debate this tonight. We will debate the amendments that are offered pursuant to the agreement tonight but tomorrow there will be no debate. We have not asked for debate tomorrow. We just want to vote on the amendments that might be presented to us tonight and then final passage of this bill.

To me this is the most significant piece of legislation to be presented to this Congress. It will be the hallmark of conservation of fisheries throughout the world. I hope the Senate does not

miss that. The world is looking to us to see what we are going to do with regard to protecting the fisheries within our 200-mile limit. These are strong measures, Mr. President. The authorizations going to these councils are very strong. The regional fisheries councils were a creature of this Congress, as a matter of fact of this Senate. They amount to delegation of authority from the Federal Government to a new body created by Federal legislation and requests the States to delegate similar authority to those bodies. That has been carried out, and nowhere has the council been more involved in the daily lives of people than in my State through the activities of the North Pacific Fisheries Council. It is a unique council. It is totally off the waters of one State but it has members from the States of Washington and Oregon and a national representative also.

So it is something I hope the Senate realizes means a very great deal to me personally and to my State. Half of the coastline of the United States is off our shores. More than half of the fisheries are off our shores. More than half of the fish that our people consume come from the waters off the shores of Alaska. We want to preserve the reproductive capability of those fisheries. We do not want to see a continuation of the numbers on this chart.

When we see the possibility of hundreds of millions of pounds of fish being wasted because of fishing practices that could be avoided, we believe it is time for the Congress to act. I am glad that we have reached the point now where I believe the Congress will act, and I am hopeful that the House of Representatives will be willing to accept our changes and modifications to this bill.

Again, I commend my good friend who has traveled with me throughout the country for hearings on this measure, and I yield to the Senator from Massachusetts.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I thank the Senator from Alaska not just for his comments but I particularly thank him for the great personal friendship that we have built over the course of these years working together on this and also for the great bipartisan approach to this.

This is tough legislation. There are enormous competing interests all across this country—sport fishermen, commercial fishermen, 15 different kinds of commercial fishermen in one particular area, all of them tugging at each other, a huge amount of vendors and others with interests to each of those fishermen, processors, foreign export involvement. The competing interests are as broad and as complicated as almost any that I have confronted in the course of my time in the Senate, perhaps with the exception of the Clean Air Act or something that similarly

brings every part of the country against another.

I think the distinguished Senator from Alaska has done a terrific job of helping to build that bipartisan effort here. We started out 4 years ago when I was chairman of the subcommittee, and at that time we held hearings in various parts of the country. At the time that the Senate switched control this bill basically stayed the same. The names switched, Senator STEVENS took over the subcommittee, but we continued to work in the same bipartisan way, and I think it is a tribute to his efforts and to Senator HOLLINGS' efforts as the ranking member of the full committee that we are now able to be here and able to proceed.

It is with great satisfaction that I am able to commend to my colleagues this piece of legislation which is appropriately called the Sustainable Fisheries Act of 1996. It is without question the most important rewrite of our fishing laws, the Federal fishing laws since 1976 when the Magnuson Fisheries and Conservation Management Act was enacted, and at that time as many remember we Americanized the fisheries within 200 miles of our shore. We reached out and said we are going to try to manage that 200-mile coastline better.

It has been a long time in coming, but this bill is going to result in a significantly improved regime for the management of the Nation's marine fishery resources. These amendments improve and strengthen the standards upon which the current management regime is based, and it enables us to further enhance our capacity to be able to restore and maintain healthy and sustainable fisheries.

The amendments that are offered in this bill were developed in conjunction with and for the most part supported by a diverse representation of groups, all of them with an interest in the marine fisheries including the commercial and recreational fishermen, the environmental community, coastal communities, and States.

In recent months we have all read many editorials that have been building up support around the country for the passage of this bill. I will share a quick piece from my hometown newspaper, the Boston Globe which wrote that "Before U.S. Senators go home . . . they have an obligation to complete legislation extending the Magnuson Fishery Conservation and Management Act, the foundation for rescuing America's troubled fishing industry."

Enactment of S. 39 is critical if we are going to put our fisheries back onto a sustainable path and literally avert an environmental catastrophe on a national level.

Of the 157 fishery resources for which the National Marine Fisheries Service manages, 36 percent—51 different stocks—are overfished; 44 percent or 69 stocks are fully harvested, and 20 percent are underutilized. The main point illustrated by these figures is that

many of the fishery resources that have provided the greatest economic benefit to fishermen and to this Nation are just simply overfished or approaching the overfished level. This situation is being exacerbated by the demands of a population with an increasing appetite for eating fish. The net effect has been that we have too many fishermen chasing too few fish.

We are precariously close to fisheries failures in many of our most commercially important fish stocks, and it is imperative that we take immediate action if we are to avert disasters such as the one that we are currently experiencing, literally living in, off the waters of New England. S. 39 provides guidance and the tools necessary to help ensure that fishery failures will be avoided and the fish stocks can be rebuilt to provide the greatest possible economic benefit to our Nation.

As I mentioned earlier, this bill came neither easily nor quickly. It is the result of 4 years of work, the subject of 15 hearings and countless staff hours and meetings among Senators and interested parties. I commend all of those parties for the fact that we are now on the floor, able to pass this legislation, as I am confident we will in a matter of hours. I would like to point out that, from the start, it has been the willingness to be bipartisan that has brought all of us to this point, and I think that is a tribute to the way in which the Senate can work when people set their minds to it.

It has been my sense that Senator STEVENS' own commitment to this obviously came out of the fact, which many may not realize, that he was one of the original crafters of the Magnuson bill when it was first passed in 1976. He has had a long-time commitment to achieving this. Obviously, because he represents the State of Alaska, he has enormous interests in what we are doing here today.

I also would like to express my gratitude to Senators GORTON and MURRAY for their recognition of the importance of this bill and the benefit that it holds out to our Nation as a whole. Fishery issues rarely lend themselves to unanimous agreement, as both Senator STEVENS and I have described, and the scope and breadth of the changes that are offered in this bill are such that the competing interest groups have had to fight fiercely to try to reach accommodation and compromise. The Senators from Washington have, quite rightly, represented the interests of their State. That is what they are supposed to do and that is how we are supposed to work through this process. I commend both of them for having done that diligently and tenaciously in this effort.

But in the end, it is our final responsibility to balance all of the parochial interests with the interests of the Nation as a whole. I believe that, while there may be parts of this bill which may not provide the full level of benefits that one particular group or an-

other may want, in the end this bill provides an overall benefit and balance to the Nation that greatly exceeds the sum of its parts.

Fishing has been and continues to be an extraordinarily important part of this Nation's heritage. We know that very, very well in Massachusetts, in New Hampshire—the Chair's State—in Maine, and all down our coastline. Since the first settlers came to this country, we have been dependent on the sea. We have, however, found that as Federal data on the overutilization of fish stocks has increased, we now understand there is a growing problem in the management of these resources. That growing problem threatens the sustainability of these recreationally and commercially valuable resources. So, before I elaborate on the benefits of S. 39, I would just like to highlight for a moment the economic asset that the fishing industry carries to this country.

Directly or indirectly, the seafood industry contributes nearly \$50 billion annually to the U.S. economy. According to data for 1994, U.S. commercial fishermen landed 10.5 billion pounds of fish and seafood products, producing a record \$3.8 billion in dockside revenues. By weight of catch, we are now the world's fifth leading fishing nation, and the United States is also the world's top seafood exporter, with exports valued at \$7.4 billion. Millions of salt water anglers have turned marine recreational fisheries into a multimillion dollar industry that caught an estimated 361.9 million fish—that includes those caught and released alive—and an estimated 66.1 million fishing trips; an extraordinary amount of activity. As an economic asset, recreational fisheries and related industries generate over \$7 billion annually to our economy.

In New England, we have, tragically, become all too familiar with the downside of all of this. We have seen the collapse of the cod and the haddock fisheries. It has come about principally because of overfishing and, as a result of that overfishing, our fishermen have fallen on hard times. In 1992, overfishing was estimated to cost Massachusetts alone about 88 million pounds of groundfish harvests worth at least \$193 million annually. For all of New England, annual losses total at least \$350 million and 14,000 jobs. While we do not have specific numbers for New England, at the national level the Department of Commerce estimates that rebuilding our fisheries to a more productive level could create 300,000 new jobs and billions of dollars in additional revenues.

So, I want to emphasize what we are doing here today is not the signal of the end of the fishing era, it is not the signal of a continuing decline in fisheries; it is our effort to guarantee that there is a growth industry, that there is an industry for the future. I repeat, the national estimates are, if we do this properly, we can create 300,000 new

jobs, billions of dollars of additional revenue, and we can have sustainable fisheries for generations to come.

The testimony of Nantucket fisherman Capt. Mark Simonitsch at a hearing I held in New Bedford summarizes the cost of overfishing very, very well. Let me just share his words. He said:

You sit there and you think over the years that, if you can finally pay your mortgage off, that the money is all going to go into your pocket. This year, I've yet to catch 50,000 pounds of fish. I have lost thousands of dollars. And my crew has made so little, a crew that has been with me, believe it or not, for 17 years, they may not come back next year. So I have chosen today to talk about solving the hard problem, Senator, and that's getting fish back.

That statement was from a Massachusetts fishing captain who called this crisis to the attention of all of us.

The Sustainable Fisheries Act goes a long way toward solving the problem of getting the fish back. In addition, the bill calls for monitoring the health of fisheries and limits on harvests to prevent overfishing from recurring. To quote Captain Simonitsch again, he said it's time to stop "all this wheelhouse thinking and tire kicking" and get the bill enacted.

The bill also continues my fight for assistance to New England fishermen, extending Federal authority for fisheries disaster relief and authorizing vessel and permit buyout programs to reduce excess fishing capacity and pressure on the fishing industry itself.

In addition to preventing overfishing, the Sustainable Fisheries Act calls for action to address two other important environmental concerns—reducing bycatch and waste, and protecting fish habitat.

As the director of the New England Aquarium pointed out in a recent letter:

At least 20 percent of our total fishery catch is thrown overboard dead or dying. In 1994, the U.S. fishing fleet off Alaska dumped a staggering 750 million pounds of bycatch, more fish [was dumped overboard and thrown away] than was caught by the entire New England fleet last year.

The letter goes on to say:

The greatest long-term threat to the viability of our nation's marine resources could be the continuing loss and degradation of coastal marine habitat. Louisiana alone has lost half a million acres of wetland since the mid-1950's. The National Marine Fisheries Service estimates that \$200 million is lost annually in reduced catches due to ongoing habitat loss.

As all of us know, if you destroy the habitat, you destroy the nurseries and you destroy the ecosystem on which those nurseries are dependent, which then diminishes the ability to have a sustainable fishery. We need to understand the linkage of those wetlands and the role they play in the spawning of fish and of the ecosystem to the total catch that will ultimately be available.

I might add that a couple of years ago, the Senator from Alaska and I took steps through the United Nations to end driftnet fishing. Driftnets, 30,000

miles of monofilament nets were being laid out at night in the northwest Pacific. These nets would break off and fish on their own. They would be what are called phantom nets or ghost fisheries where they would float to the surface as plastic and trap fish, mostly salmon coming out of the Columbia River, and they would sink to the bottom where the scavengers would eat the carcasses until it was light enough and drift some more.

There are still some individuals in certain nations who are continuing this outlawed practice of driftnet fishing. That is the kind of example of protection we need to be involved with to deal with the concerns of habitat and of bycatch and waste. This bill would require the fishery management plans to assess bycatch levels in each fishery and take steps to minimize the bycatch and the mortality of bycatch which cannot be avoided.

In addition, fishery managers are required under this bill to identify essential fish habitat and to minimize the adverse effects on habitat due to fishing.

In summary, Mr. President, the bill before us addresses many of the problems affecting the management of our fisheries and provides essential tools to reversing the damaging trends that I have outlined. Our Nation's fisheries are literally at a crossroads, and significant action is required to remedy our marine resource management problems and preserve the way of life of our coastal communities.

I believe that this bill goes a long way toward solving the hard problems and providing help for fishermen and coastal communities during the difficult rebuilding period. The opportunity to fish and to have fish on the dinner table is something that many Americans have simply taken for granted in the past. But unless we take the steps that are set forth in this bill to ensure that these vital resources are conserved, they will not be there for future generations.

This is a vital bill. It is a good bill for the environment, as Senator STEVENS said, and I share the view it is the most important environmental legislation that we will pass in this session. It is good for fishermen, it is good for economic welfare of this Nation, and I remain committed to the goal that fishing will continue to be a part, an essential part, of the culture of our coastal communities of the United States and of Massachusetts and of our economies. It is that important, and it means that much.

Finally, Mr. President, I would just like to say that there has been an extraordinary effort by both the majority staff and the minority staff who have labored literally for years, but particularly in the last few months, and an extraordinary amount of time has been put into developing this bill.

I would like to thank, on the Democratic side, Penny Dalton, Lila Helms, and Kate English, who each have done

just a tremendous job. On the Republican side, I would like to thank Trevor McCabe, Earl Comstock, and Tom Melius. And during the past 2 years there have been a number of people on my staff who have served as legislative fellows on my staff or on the Commerce Committee and who have put in an enormous amount of time and energy to make this bill possible. Particularly I would like to thank Steve Metruck, Alex Elkan, Peter Hill, and Tom Richey for their contribution to this legislation.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, are we under controlled time?

The PRESIDING OFFICER. Yes.

Mr. KERRY. Are we divided equally?

The PRESIDING OFFICER. Yes, 60 minutes equally divided. The Senator from Massachusetts has 11 minutes remaining. The Senator from Alaska has 14 minutes 15 seconds remaining.

Mr. GORTON. Mr. President, there being relatively few people here, I ask unanimous consent that that time be extended at least for those Members who are willing to speak on this issue tonight.

Mr. KERRY. Mr. President, in order to keep an agreement here so we can know the time, I ask how much time the Senator from Washington needs.

Mr. GORTON. Somewhere in the neighborhood of 20 minutes.

Mr. KERRY. How much time does Senator MURRAY need?

Mrs. MURRAY. Approximately 10 minutes or less.

Mr. KERRY. Mr. President, I ask unanimous consent, in addition to the time allotted to both sides, the Senators from Washington be allowed to speak: Senator GORTON for 15 minutes and Senator MURRAY for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington is recognized.

Mr. GORTON. Mr. President, our journey to this point on this bill has been long and tortured. And at the end of the road I find a product that, from the Washington State perspective, is greatly improved from the measure that passed out of committee and immeasurably better than H.R. 39, which was rejected by every Member of the Washington delegation, Republican and Democrat alike, and which has my support. Let me make absolutely clear, however, that even though I will vote for S. 39, as amended by the manager's amendment, any unilateral changes made by the House will be the death knell to the Sustainable Fisheries Act in this Congress.

The Sustainable Fisheries Act has been sold, and bought hook, line, and sinker, by the national press and the majority of my colleagues, as the strongest environmental bill of this Congress. That is, I am afraid, an overly simplistic characterization.

I do not, and have not, taken issue with the true conservation measures in

S. 39. But the act is as much a social and economic manifesto as an environmental one. The bill is as much about the allocation of fishery resources—the allocation between commercial and recreational fishers, between processors and harvesters, between onshore and offshore processors, and yes, between Washington and Alaska, as it is about the conservation of fish.

Before I comment on what I think is wrong with this measure, I would like to recognize those aspects that are sound. I generally endorse the measure's conservation provisions; its treatment of individual fishing quotas; and its efforts to mitigate the effects of the Federal court's allocation of shellfish resources to Indian tribes in Washington State.

CONSERVATION OF FISHERY RESOURCES

The conservation provisions in S. 39 are the only aspect of the bill that most of the public knows or cares about. Contrary to reports, I join my colleagues in lauding those provisions that aim to reduce waste and bycatch in the fisheries, to prevent overfishing, and to restore overfished fisheries to health. But I take a more cautious view of the extent to which these worthy goals will be achieved than do most of my colleagues and members of the national press.

This bill pushes the regional fishery management councils, some of which have proven unwilling to practice sound management, in the direction of responsible conduct. In fact, I don't believe that the Sustainable Fisheries Act empowers the fishery management councils, or the Secretary of Commerce, to do much more than these entities already are empowered to do. Rather, the Sustainable Fisheries Act is a statement by Congress that conservation of the resource must be a priority, and the bill highlights the tools that councils and the Secretary can use to achieve this goal.

I approve of inviting fishery managers to act more responsibly, but I urge vigilance. Regional politics and short-term interests have conspired in the past to undermine responsible resource management to certain fisheries. It is naive to think that this bill alone can correct this condition. It cannot. So while I support the conservation provisions in S. 39, I caution that the work of ensuring responsible conservation and management of fishery resources does not end with the passage of the Sustainable Fisheries Act—it only begins.

Ironically, the fishery that has been singled out in S. 39 for particularly stringent waste and bycatch reduction measures is the North Pacific groundfish fishery. I do not now object, and have never objected to the bill's prescriptions for this Washington State-dominated trawl fishery, but it is important to note that the singling out of this fishery is a function of politics and not sound science.

Despite its Alaska-heavy composition, the North Pacific Council, to

which many of the bill's waste and bycatch reduction provisions are addressed, has been praised for its resource conservation measures. Despite its recent dramatic public demonstrations, even GreenPeace acknowledged in 1992 that "The North Pacific * * * provide[s] a model for the way other [regional fishery management] Councils should be managing the fisheries in this nation and probably in the world." Again, I do not oppose strong and sensible bycatch and waste reduction measures in the North Pacific groundfish fishery, but only so long as the singling out of any sector of a fishery is supported by scientific evidence. I note that recently, GreenPeace launched a public relations attack on the Seattle-based factory trawlers in the Bering Sea pollock fishery. Certainly GreenPeace is within its rights to do so. I sincerely hope, however, that as we continue to strive toward responsible management of our fisheries, that we do not allow policy to be set by meretricious activists whose often uninformed rantings drown out the voices of scientists, fishery managers, and environmentalists who properly place conservation ahead of a radical social agenda.

IFQ'S

My opposition to this bill has often mistakenly been reduced only to a disagreement over the treatment of individual fishing quotas. Ironically, I believe that Senator STEVENS and I were, from the beginning, more in agreement on this issue than on a number of others that affect the allocation of resources in the North Pacific.

Although I am not an unqualified supporter of IFQ's, it is hard to ignore the success of the North Pacific halibut-sablefish IFQ program that was implemented last year. The program has not been flawless, but its initial effectiveness in improving safety, providing fresh fish year round to consumers, and reducing overcapitalization in a fishery—without a regional epidemic of bankruptcies or a hemorrhage of the Federal budget in the form of Federal buy-out assistance—is promising. Throughout this process, I have tried to ensure that this infant program will continue without interruption. I sincerely appreciate Senator STEVENS' support on this issue.

I believe that Senator STEVENS and I agree that IFQ's are a powerful tool, and that it is reasonable to adopt a moratorium to suspend, for a time, the implementation of new IFQ programs until we have had the chance further to study and better to understand the social and economic effects of IFQ's on the conservation and management of resources, on participants in all sectors of the industry—harvesters and processor alike, and on the American public.

Senator STEVENS and I have disagreed, however, on the duration of this moratorium. We also had a critical disagreement over whether or not IFQ's should be barred indefinitely in

the North Pacific by requiring a supermajority vote of a council to adopt new IFQ's in the absence of further congressional action on this subject.

Despite these disagreements, the Senate has reached a reasonable compromise. The moratorium on the implementation of new IFQ's is longer than I would have liked—it is 4 years—but it is finite, and requires no supermajority vote of councils after the moratorium expires. The compromise provisions also permit councils to study and develop IFQ's during the moratorium. Moreover, the moratorium on IFQ's will not preclude the implementation of a new bycatch accountability system that should help to reduce bycatch by holding every vessel accountable for what it catches.

Significantly, the Sustainable Fisheries Act provides for a comprehensive study of IFQ's by the National Academy of Sciences, which study which will be available to educate Congress when we next consider this issue. Education is critical: despite my reservations about implementing new IFQ's in the North Pacific at this time, I consider it pure folly to adopt the House approach of crippling all prospective quota programs before we have had the chance to assess them adequately.

MITIGATING THE EFFECTS OF U.S. VERSUS WASHINGTON

I fully support the provisions of the bill that attempt to mitigate the loss to Washington's commercial crabbers caused by the adjudication of tribal claims to shellfish in a subproceeding of U.S. versus Washington. Last year, a decision by a district court, a decision that is now on appeal, allocated a large portion of the catch to Indian tribes and threatens to deprive nontribal fishermen, who have been fishing for generations, of their livelihoods.

We have amended S. 39 in two ways to try to mitigate the loss to nontribal commercial crabbers in Washington. First, the manager's amendment now authorizes State-managed fisheries, such as the 250-vessel inner Puget Sound dungeness crab fishery, to obtain Federal funds for a license buy-out program.

Second, for the coastal dungeness fishery, the manager's amendment gives Washington, for a limited time until a Fishery Management Plan is in place, tools to regulate all crabbers equally in the exclusive economic zone adjacent to the State. This new regulatory authority will help to ensure that the cost of the tribal allocation will be borne more fairly by all commercial crabbers who fish in the EEZ adjacent to Washington, not just crabbers whose vessels are registered in the State.

The managers amendment permits the Washington Department of Fish and Wildlife, among other things, to set pot limits to slow the pace of fishing by all nontribal commercial crabbers to help facilitate management or settlement with the tribes.

Although this provision gives Washington, Oregon, and California new

powers to regulate vessels not registered in these respective States, and restates these States' ability to regulate landings, the provision is intentionally silent on whether the limited access program in each State can be enforced in the EEZ. I anticipate, however, that when it prepares a Fishery Management Plan for dungeness crab, the Pacific Council will be guided by the limited access programs already in place on the west coast.

Having just described those aspects of the bill that I support heartily, I would like to speak for a moment to those that I believe are subject to serious reservations.

There are three provisions in this bill that I think are misguided. They are: The provision regarding fishing communities; the demotion of the role of efficiency in fishery management; and the creation of a permanent entitlement program for Native Alaskans in the form of community development quotas.

FISHING COMMUNITIES

The managers' amendment corrects a fundamental inequity in the original S. 39, that would have further skewed the allocation of North Pacific fishery resources in Alaska's favor by giving economic protections and preferences to fishing communities, and by defining these communities so as apparently to exclude any in the State of Washington.

While my parochial concerns have been fully addressed in the manager's amendment by redefining "fishing communities" to include the communities of tens of thousands of Washingtonians employed in the fishing industry, I continue to believe that establishing a national standard to protect fishing communities is bad policy. It authorizes nothing certain except for bad policy and litigation.

Moreover, it seems to me to be contrary to the purported conservation goals of this bill to attempt to insulate fishing communities from the economic effects of instituting sound management and restoring healthy stocks. Correcting years of irresponsible management and concern for short-term profit cannot be accomplished painlessly, though we should strive to minimize that pain. Continuing to delay the inevitable, however, by giving councils another excuse for ineffective conservation measures will only make more likely the total demise of our fisheries.

EFFICIENCY

The Sustainable Fisheries Act demotes the role of efficiency in fishery management and conservation by changing national standard five from one of promoting efficiency in the use of fishery resources, where practicable, to merely considering efficiency. Again, this change was made on the pretext of improving conservation, but the provision's authors have never been able to explain how the current standard undermines conservation efforts, and why this change is needed.

Under the guise of promoting conservation, this provision promotes a foolish social agenda—one that fails to reorganize a sensible balance between the legitimate interests of traditional small-vessel fishers, the interests of consumers, and the need to improve productivity to remain competitive in a global economy.

There is, I believe, a perception that an attack on efficiency is a triumph for small vessels and a blow to what are perceived to be the larger, more cost-effective vessels such as those in Washington's factory trawlers fleet. This perception reveals a disturbing trend toward unfairly demonizing more productive, more efficient fleets. I repeat my earlier adomation—we need to recognize that good management, not small vessels or large vessels, leads to sound conservation and healthy fisheries, and that there is room in a healthy and efficient fishery for both.

CDQ'S

Without a doubt, the allocation-related provision in this bill that I find most objectionable is the provision mandating a permanent entitlement program for Native Alaskans through community development quotas—an entitlement program that will be paid for largely by the Washington fishing industry. Codifying this assistance program is not only inappropriate in a bill that purports to deal with resources, not social management, but is inappropriate in this Congress, which just recently succeeded in reforming another entitlement program called welfare.

CDQ's are set-aside programs that reserve a sizable percentage of various fisheries for Native Alaskan communities. Currently, CDQ's are not authorized by the Magnuson Act. Nevertheless, the Alaska-dominated North Pacific Council has reserved 7½ percent of the largely Washington-fished Bering Sea pollock stock for Native Alaskan communities, and even larger percentages in the halibut and sablefish fisheries. Recently, the council recommended CDQ's for crab and groundfish, but this recommendation has not yet been approved by the Secretary of Commerce. Not surprisingly, the council has not imposed CDQ's on fisheries dominated by Alaskans.

The fundamental unfairness of CDQ's was certainly appreciated by other Members of this body, for the Sustainable Fisheries Act, while going after fishermen from Washington State, protects other fishermen from this particular poison by specifically prohibiting CDQ programs in almost every other part of the country.

But since CDQ's would be a reality even in the absence of a Magnuson Act reauthorization, our ability to limit this unfair practice was slight indeed.

In exchange for allowing this bill to proceed, I have exacted concessions on the issues of CDQ's. But these concessions are small. First, to provide relief for the Bering Sea crabbers who, even before the implementation of CDQ's are struggling to survive amid record

low stocks, the managers' amendment provides for a graduated phase-in of development quotas. In addition, the manager's amendment provides for a study of CDQ's to determine if these development quotas are meeting their stated purpose of facilitating participating communities' entry into commercial fisheries, and to recommend how long this social assistance program should last.

Having commented on some of the substantive provisions in this bill, I would like to speak for a moment on the process that brought us to this point. As I stated in my opening remarks, getting here has not been easy. And I have come as far as I intend to go.

The committee mark of S. 39 was sprinkled with sweeteners for most interested parties—except Washington harvesters. Washington's sizable fishing fleet was presented with a poison pill more palatable only than the outrage our House delegation was forced to swallow last October.

Despite this strategic isolation, I had two invaluable assets—time, and the unwavering support of Senator MURRAY. As much as I would like to avoid having to repeat this process, I have truly appreciated the opportunity to work so closely with my colleague from Washington State.

When it became clear that Senator MURRAY and I had no intention of succumbing to the attack on our State's fishing industry, a sincere effort was made to address our concerns. Much of the credit for this final compromise is due to the tireless and creative efforts of Senator KERRY and his staff, Senator PRESSLER and his staff, and the majority leader and his assistants. Credit is due, too, to Senator STEVENS and his staff. Because of the different composition of our industries and our constituencies, the Senators from Washington and Alaska may rarely agree on the substance of fishery bills. But although we may lack agreement, I have never lacked trust and respect—I sincerely appreciate the constructive manner with which Senator STEVENS and his staff have worked with me and my office even as he resolutely protected the interests of his constituents.

The PRESIDING OFFICER. Under the previous order, the Senator from Washington is recognized for 10 minutes.

Mrs. MURRAY. Mr. President, the bill before the Senate this afternoon is the Sustainable Fishery Act, the Magnuson Act, and is the outcome of a very long and very difficult process. Only great willingness to compromise on everyone's part has enabled this bill to reach the Senate floor this evening.

This bill has been almost 4 years in the making, and it has gone through many changes, and improvements have been made along the way. I want to take this opportunity to thank the chairman and the ranking member of the subcommittee for their willingness to work through the difficult alloca-

tion issues in this bill so that the strong conservation provisions of this bill can move forward.

Mr. President, I also want to take this opportunity to thank my senior Senator, Senator GORTON, for his tremendous work on this bill and the opportunity to work with him on an issue of natural resources. His tenacity and perseverance throughout this debate has been very instructive and very much appreciated. I also want to take this opportunity to thank both his staff and my staff, Justin Le Blanc and Jeanne Bumpus, for their tireless work on this bill, as well.

Mr. President, we have reached a fair and reasonable compromise on this bill. As we send this bill to the House, I urge them not to undermine this bill by altering it to reflect parochial interests.

This bill serves two purposes: to conserve fishery resources and to preserve the fishing industry. It contains new provisions to address overfishing, bycatch, and impacts on fish habitat.

These provisions will strengthen our ability to conserve fish resources, and they will allow us to develop long-term, sustainable fisheries. This bill will enable us to turn around depleted fisheries and ensure we have fish for the future.

The help of the fishing industry is directly related to the health of the resource. The conservation provisions will, therefore, benefit the fisheries as well. By protecting the fish, the bill also protects jobs.

The bill sustains the fishing industry in other ways, as well. Natural standards promoting efficient use of fishing resources and promoting the safety of life at sea will help our fishers continue fishing. New consideration for fishing communities recognizes all fishers, no matter where they live, depend upon the fish.

Detailed studies of controversial fishery quota programs will be conducted by the National Academy of Sciences. A study of individual fishing quota programs will allow us to evaluate the potential benefits of such programs. A short moratorium on IFQs will allow us to review this study and to evaluate the success of existing programs. We should not prejudge the appropriateness of IFQ's at this time. Let's allow the study to provide us guidance on this important issue.

The Academy will also study community development quotas. The impacts of the new mandate for CDQ's on the fishing industry in the North Pacific need to be evaluated.

These programs will transfer considerable sums of money from Washington's distant water fleet to Alaskan coastal communities. The study will allow us to discern the effectiveness and appropriateness of this social assistance program.

The bill provides authority for fishery disaster relief programs, particularly buy-back programs which will

help stabilize fishing fleets. Many fishing fleets are suffering from tremendous harvest reductions as a result of natural disasters or man-made situations.

The recent Federal court decision in Washington State awarding native American tribes 50 percent of the shellfish has severely impacted the non-Indian shellfish harvesters. These provisions will provide an opportunity to help these fishers.

The temporary extension of Washington State jurisdiction into Federal waters will also allow the State to implement the reduction in non-Indian shellfish harvests fairly and equitably. I thank the junior Senator from Oregon for his willingness to reach an agreement on this issue.

In its original form, this bill could well have undermined the fishing industry of Washington State. But thanks to compromise and concession on all sides we have reached an agreement. We are now debating a bill that, in many ways, will benefit the Washington State fishing industry.

It keeps options open for Washington State fishers, and it ensures that we will have a strong, vital, sustainable industry long into the future. I support passage of this legislation and look forward to its timely submission to the President for his signature.

This bill will reauthorize the Magnuson Fishery Conservation and Management Act. The Magnuson Act was first passed in 1976 to Americanize the fisheries off the coasts of the United States and to ensure that the bountiful harvests being extracted from these seas were benefiting U.S. citizens and our economy. Over the last 20 years, this goal has by and large been achieved. In 1996, a new challenge faces us: The development of sustainable fishing practices that will guarantee a continued abundance of fish and continued opportunities for U.S. fishers.

The Sustainable Fisheries Act will improve the conservation and management of our fishery resources by re-emphasizing both. While the original intent of the Magnuson Act was to Americanize the fisheries and invest the management of the resources in those who know them best, the fishers; the outcome has not always been sound management or longterm conservation. This bill will help improve this situation. With provisions to prevent overfishing, to ensure the rebuilding of overfished stocks, to minimize bycatch, and to consider fish habitat, this bill places a greater degree of focus on the long-term sustainability of both the resource and the fishers harvesting the resource.

Strong new measures to reduce bycatch, the catching of unwanted or prohibited fish, and new considerations of essential fish habitat will help to maintain healthy fish stocks. The distant water fleet of the North Pacific, based in my State, is often accused of wasting an incredible amount of fish. Estimates suggest that up to 580 mil-

lion pounds a year of fish are dumped overboard dead or dying.

Federal fishery scientists have determined that the total population of Bering Sea groundfish alone is 44 billion pounds. Of that 44 billion pounds, scientists have determined that the acceptable biological catch, that is, the sustainable harvest level, is nearly 6.6 billion pounds. As an extra precaution, the North Pacific Fishery Management Council has established an annual groundfish harvest cap of 4.4 billion pounds, leaving one-third of the allowable biological catch unharvested.

With a total groundfish harvest of 4.4 billion pounds, 580 million pounds of discards suggests a bycatch rate of approximately 13 percent. The largest fishery in the United States, the North Pacific pollack fishery, is one of the cleanest fisheries in the world, with a bycatch rate of only 2 percent according to the United Nations Food and Agriculture Organization [FAO]. Compare these numbers with the average discard rate in world fisheries of 30 percent.

It is also important to note that the discarded fish in the North Pacific are quantified by Federal Fishery Observers and are counted against to the total allowable catch levels of the various species. To reduce bycatch is to make more efficient and responsible use of fishery resources. That is why this bill seeks to reduce bycatch in our Nation's fisheries. And that is why participants in the North Pacific groundfish fisheries have proposed requiring all fishers to retain all pollack and cod caught, regardless of what species the fishers are targeting. This step alone should reduce the amount of fish discarded in the North Pacific by one-half.

The amount of bycatch in the North Pacific is still very high. While the participants in those fisheries are beginning to address the problem, this bill will create new and stronger incentives to fish more cleanly. I strongly support the conservation provisions of this bill. I look forward to the improvement management of our fishery resources they will allow.

This bill also recognizes that the health and sustainability of fish stocks are more than just conservation issues, they are also economic and social issues. The people who take part in U.S. fisheries, the fishers, processors, and supporting industries, are all vitally dependent upon the fishery resources, their abundance and sustainability. This bill recognizes that dependence by requiring new considerations of the impacts of fishery management decisions on fishing communities.

The definition of fishing communities in this bill will work well. Fishing communities are those communities "substantially dependent upon or substantially engaged in the harvest of fishery resources." This definition recognizes that fishers are fishers no matter where they live. An individual fisher and his or her family, whether they work on a big boat and or a small boat, are equally dependent upon the

fish for their livelihoods no matter where they live. The fisher from a small New England port, an Alaska coastal town, or a metropolitan area like Seattle all make their living from the sea, their lives are all tied to the health and abundance of the fish they catch. They all deserve to be considered when difficult and painful fishery management practices need to be implemented. Under this bill, they will be.

In addition, this bill preserves the National Standard to promote efficiency in fishery management plans. According to the National Marine Fisheries Service [NMFS], an efficient fishery harvests fish with a minimal use of labor capital, interest, and fuel. Management regimes that allow a fishery to operate at the lowest possible cost are considered efficient. In encouraging efficient use of fishery resources, this National Standard highlights one way that a fishery can contribute to the Nation's benefit with the least cost to society. To weaken the efficiency standard would be to suggest that overcapitalization, too many boats fishing for too few fish, is acceptable when we all know it is not. It is in the Nation's best interest to promote efficient and sustainable use of our natural resources. Methods of efficiently harvesting fish within acceptable conservation limits should be the norm if the United States wants to continue to be competitive in the growing global market for fish products.

This bill places a 4-year moratorium on a somewhat controversial fishery management tool, individual fishing quotas or IFQ's. IFQ's allocate percentages of the total allowable catch of a fishery to individual participants. If they are transferable, they can be bought and sold either among participants or in a larger market. While opponents of IFQ's feel they are a privatization of a public resource and will result in large corporations owning the bulk of U.S. fisheries, proponents view IFQ's as an important fishery management tool that can address a number of the problems plaguing U.S. fisheries today.

Under current open access systems, there is a race for fish. Those who fish fast and furious win. This management style leads participants to fish inefficiently, catching as much fish as they can as quickly as they can without consideration for high bycatch rates or the harvest of lower value target fish. It creates incentives to invest in excess harvesting and processing capacity—bigger and better boats, bigger nets, more gear, and larger plants—than are needed to efficiently and sustainably harvest and process the allowable catch. This overcapitalization, while not creating huge conservation issues, weakens the economic viability of the fleet, threatening participants with bankruptcy and ruin. While it hasn't been much of an issue in the North Pacific, overcapitalization can create

enormous pressure to increase harvest levels beyond acceptable limits.

In addition, this race for fish creates serious safety considerations in many fisheries. Under this race, fishers feel compelled to keep fishing even when the weather or the conditions of the vessel or the health of the captain or crew would suggest otherwise. Unless fishery management plans provide opportunities and incentives for fishers to sit out storms and return to port for repairs or medical attention, lives will continue to be lost. The crab fishery in the North Pacific is the most dangerous occupation in the Nation. According to the U.S. Coast Guard, the 1990-94 average annual fatality rate in the crab fishery is 350 deaths per 100,000 workers, with a 1990-94 annual average of 7 deaths among 2,000 crabbers. The fatality rate for all U.S. fisheries over the same time is only 71 deaths per 100,000 workers. The all occupations rate is only 7 deaths per 100,000 workers.

For this very reason we included the promotion of safety of life at sea in the National Standards of the Magnuson Act. This provision remains in the bill. Fishery management plans will now be required to promote safe fishery practices. The Fishery Management Councils will not only have to consider safety, they will have to promote it to extent practicable. There are many ways to promote safety, and IFQ's may be one way.

When the halibut fishery in the North Pacific was conducted under open access, the fatality rate was almost as bad as crab, with 250 deaths per 100,000 workers. Under the IFQ plan of the last two seasons, the halibut fishery fatality rate dropped to zero. While two seasons of data is certainly not proof, it does suggest that IFQ's can address the safety issue by eliminating the race for fish.

Because of their potential to address issues such as waste, overcapitalization, and safety, IFQ's are considered by fishery managers in academia and State and Federal Government agencies, as well as environmental groups such as the Center for Marine Conservation, Environmental Defense Fund, and the World Wildlife Fund, as a promising fishery management tool that should be available to the Fishery Management Councils for their consideration. I agree. I believe that IFQ's should remain in the Councils' toolbox. Many of the concerns raised by opponents of IFQ's can be addressed within the design of any given IFQ system, much as they have been in the halibut/sablefish IFQ program. Issues such as entry-level quota share opportunities, ownership requirements, and caps on consolidation of shares can and have been incorporated into IFQ plans at the Council level.

Despite all this, I understand a fair degree of controversy remains over IFQ's. Because of that, I have agreed to a short moratorium on the implementation of IFQ's while the Councils con-

sider, discuss, and develop potential IFQ plans. However, I objected to provisions that prejudged the appropriateness of IFQ's as a management tool and created undue hurdles for IFQ's plans to overcome. This bill includes a comprehensive study of IFQ's by the National Academy of Sciences [NAS]. The assessment of IFQ's by the NAS will allow us, if it is determined necessary, to develop a broadly supported national policy on IFQ's during the next reauthorization of the Magnuson Act in 1999. This study should provide us the guidance we need in our assessment of IFQ's as a fishery management tool. We should withhold from determining their fate now, before we have the insights of the NAS study.

However, there are a number of issues regarding IFQ's on which there is currently agreement and these have been included in the bill. IFQ's may be revoked or limited at any time in accordance with procedures under the Magnuson Act. They shall not confer the right of compensation to the holder if revoked or limited. They shall not create a private property right to the fish before the fish are harvested. IFQ allocations should be fair and equitable and opportunities should be provided for small vessel owners and entry-level fishers. These are broadly-supported provisions on IFQ's and have appropriately been included in the bill.

Unresolved issues regarding IFQ's will be assessed by the NAS. Issues such as transferability, duration, corresponding processor quotas, conservation impacts, fishery characteristics, and potential social and economic costs and benefits to the Nation and to participants in the fishery all will be analyzed by the NAS. The NAS will also study mechanisms to prevent foreign control of our Nations fishery resources and should investigate foreign ownership in both the harvesting and processing sectors. In addition, the NAS is required to study the appropriate level of U.S. ownership of fishery vessels with particular reference to a relatively high U.S. ownership threshold. The NAS should consider this threshold in light of existing requirements for participation in U.S. fisheries.

I look forward to the outcome of this study of IFQ's by the NAS and to the discussion with my colleagues that will undoubtedly ensue upon the report's release.

While this bill imposes a moratorium on IFQ's, it mandates the development of another quota program: Community Development Quotas or CDQ's. CDQ's are guaranteed allocations of Bering Sea fishery resources to Native Alaskan coastal communities. It is argued that these communities have had a historical and traditional participation in these fisheries and were excluded from the Americanization of the fisheries during the late 1970's and the 1980's. While these communities certainly engaged in the harvest of near-shore fish species, it is less clear that they par-

ticipated in the Deep Ocean fisheries of the North Pacific. The existing CDQ program in pollock has transferred approximately \$25 million from the participants in the fishery, predominantly the distant water fleet from Washington state, to the CDQ communities. The mandated expansion of CDQ's will increase this cash transfer almost 5 times to \$117 million.

CDQ's were originally proposed as a temporary program to provide these communities with the capital and expertise to venture into the fisheries on their own. Under this bill, the CDQ program has been turned into a permanent entitlement. I want to make myself clear on this issue. I think it is laudable to empower these impoverished communities to develop independent business ventures and sustainable economies. The question arises as to whom should bear the burden of such efforts. Unfortunately, under the CDQ programs mandated under this bill, the participants in the Bering Sea fisheries, Washington State fishers fishing in Federal waters, bear the entire burden alone. A burden that should be borne by society at large, and particularly by the neighbors of those communities, other Alaskans.

However, this bill contains a study of CDQ's, again by the NAS, to investigate the implications of these programs for the Native Alaskan communities and fishery participants. The study will evaluate the effectiveness of the program in meeting the stated objectives of developing self-sustaining commercial fishing activities in the communities and employing community residents in commercial fishing operations. The study shall evaluate the social and economic conditions in the communities. I think it is important for this evaluation to include an assessment of what other types of assistance programs are or could be made available to these communities. This study will provide valuable insights into the effectiveness and appropriateness of the CDQ program.

In addition, this bill recognizes that not all of the Bering Sea fisheries can bear the full burden of the proposed CDQ programs at this time. The Bering Sea crab fishery is in a serious state of decline at this time and the crabbers are suffering under the strain of reduced catches. This bill recognizes the state of affairs in the crab fishery by phasing in the CDQ percentage allocation over the next several years, to ease the crab fishery into the larger CDQ allocations.

This bill contains important provisions that will enable Washington State to mitigate the impacts on shellfish harvesters of the recent Federal court decision allocating 50 percent of shellfish to the treaty tribes of Washington State in their usual and accustomed areas. These provisions include a limited extension of State management authority into the Federal Exclusive Economic Zone [EEZ] for Dungeness crab. This extension, although

rather limited in scope and time, provides the State of Washington the authority it must have to effectively implement the court order to co-manage the shellfish resources such that the tribes may harvest 50 percent of the resource.

In addition, this bill contains authority to implement fishing capacity reduction programs, or buy-back programs. These programs will allow fishing fleets severely impacted by a natural disaster or some man-made decision beyond the control of fishery managers, such as the recent Federal court order regarding tribal shellfish harvests, to mitigate the impacts of such situations by buying people out of the fishery in order to restore viability to the fleet. It is anticipated that the state of Washington could use such authority to develop a buy-back program for the Inner Sound Dungeness crab fleet so severely impacted by the recent shellfish decision.

We have all come a long way on this bill. I reiterate my support for passage of this legislation.

The PRESIDING OFFICER. The Chair announces that, by leadership agreement, previous time restraints have been removed.

The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, I take a few minutes to make comments about a bill that I have been fooling around with for almost as many years as I have served in the Congress. I remember quite well when I was in the other body and served as chairman of the Fisheries Committee back in 1972, I hate to say how long it has been that we started working on the concept, over 20 years ago, to say that the fishing areas around the United States belong to the people of the United States.

At that time, we were being literally inundated by foreign fishing fleets from Japan and other nations which saw the areas around the coastal waters of the entire United States off of our 30 coastal States as very valuable areas. They were coming in and really displacing our own American fishing men and women, and doing it at a rate that would have soon, I think, destroyed the areas of the United States as far as fisheries is concerned.

We came up with the Fisheries Management Conservation Act. It was a very long and drawn-out process that we entered into to come up with this legislation that said that these waters are going to be reserved for the U.S. industry first, and that you could only fish if you are a foreigner if you had a fishing agreement with our country that gave you an allocation of how much you could fish for.

It was an interesting effort to try and get the foreign fishermen out. We came up with an acronym, one that I was proud of coming up with. The whole premise of the bill was to "phase out foreign fishermen." We called it POFF. Puff—they were gone. Today, the foreign fishermen have been essentially

removed from our U.S. waters. It is mainly now being fished by American fishing men and women, and the industry is really an American industry. So now the great challenge is not to keep the foreigners out, but rather to manage the stocks in a way that preserves them for the U.S. industry. This is what this legislation is about.

All of the councils that we have around the country are composed of experts in the fishing area, men and women who represent recreational fishermen, commercial fishermen, scientists, who serve on the fishing council, and their job is to come up with management programs for the various species. It took a long time to reach the point where we are today. Today, the challenge is sound management. You can only have good management if you have good science. You cannot come up with a fishery plan that makes sense if you do not know how many fish you have in the waters off of our coasts.

Therefore, the science is incredibly important, to have the best available scientific information about the conditions of the stock. This legislation moves in that direction to allow for even better science to be obtained, to make these decisions. I applaud the Members who have been involved in insisting this be what our standard is.

In addition, the question of bycatch, something that every fisherman is affected by: If you are fishing for shrimp and catching a lot of other fish that you are not targeting, you have a bycatch, an extra catch that you are not trying to do. We need a lot more studies on bycatch, on how to prevent bycatch without destroying the fishermen who are going after a targeted species. In this legislation, there is more work in that area as well.

By and large, we have to resist the temptation for us to try and manage fisheries from here in Washington. I don't think we have a fish biologist as a Member of the Senate. We are not biologists. I don't think anybody has that background. We should make sure that the councils do the management plans, working with the National Marine Fishery Service. We have to be very careful if we try and say that the councils cannot do this or that because we in Washington know better. The councils have the first obligation of coming up with management plans based on science. Now and then, we get inundated by one particular group of fishermen, maybe recreational fishermen, that say, "You have to ban all catches of red snapper," and then the commercial boys say, "No, you need to catch more red snapper because there are a lot more out there."

We are tempted to enact amendments to legislation here in Washington that would do fishery management from the floor of the Senate or from the Commerce Committee. I suggest that that is the wrong way to do it. We ought to strengthen the councils and not weaken them, and let them come up with

the proper management plans. This is an issue that never has been Democratic or Republican; it's where you are from, the different areas of the northeast, the southeast, the gulf coast, and the Northwest. We have intermural battles here between Alaska and Oregon and Washington, between Texas and Louisiana and the gulf and Florida. But we have come together with this piece of legislation.

I commend JOHN KERRY and TED STEVENS for their ability to bring this product to the floor. Is it perfect? Of course not. Nothing here ever will be. But it is a good bill and one that makes sense. I congratulate the ranking member and the chairman of the subcommittee for their work. I support this legislation. We will monitor how it is implemented very carefully to see if further improvements can be made in the future. It has been a long time since 1976 and all those years since we tried to put this together. It is working. We can take a lot of credit and be proud of the work we have done. There is a lot more that needs to be done, and this legislation moves us in that direction. I support the legislation.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. How much time is remaining?

Mr. SMITH. The Senator from Massachusetts has 11 minutes remaining. The Senator from Alaska has 14 minutes.

Mr. KERRY. The Senator from Oregon requests how much time?

Mr. WYDEN. Does the Senator have 5 or 6 minutes?

Mr. KERRY. I yield 6 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I rise in support of S. 39, the Sustainable Fisheries Management Act. This bill is a good step forward in the management of our Nations' fisheries, addressing important areas of concern such as rebuilding over-fished stocks and collecting better data so we can manage our fisheries more effectively. I guess I'm the only Member of Congress in the position of voting for this legislation in both Houses of the Congress.

I want to thank Senators STEVENS and KERRY, and their staffs especially, for their help and guidance to me, the newest member on the Commerce Committee, on issues of great importance to the fishermen, fishing communities, and the fishing industry in Oregon. I commend them for their hard work on this legislation and hope that we will be signing this bill into law in the very near future.

I would also like to thank Senators MURRAY and GORTON for their willingness to address an issue critical to the Oregon crab fishery. I am satisfied that the compromise we have reached will go a long way to helping the State of Washington address its crab management concerns, and assure Oregon crab fishermen continued access to crab fishing areas off of the Washington coast.

The State of Washington is currently struggling to address management issues arising from a recent Federal court decision that requires the State of Washington to provide Washington's Indian tribes with 50 percent of the Washington crab fishery. Historically, Oregon crabbers have also fished off of Washington's coast and it is easy to see how this new situation could create conflict.

Historically as well, Oregon, Washington, and California have enjoyed an excellent working relationship with regard to the crab fishery. So, it was with concern that I reviewed the original proposal to extend state jurisdiction into the Exclusive Economic Zone [EEZ] for all fisheries without a Federal management plan. In my view, this original proposal had the potential to restrict many Oregon fishermen from fishing in their traditional areas.

With respect to the crab fishery alone, the potential effects were ominous for all segments of the crab fishery in Oregon, crab fishermen, the coastal communities of Astoria and Warrenton and the crab processors in those communities who provide employment to hundreds of workers.

The Oregon crabbers fishing off the Washington coast represent a significant percentage of the crab landings to Astoria and Warrenton: these boats land almost 85 percent of the crab processed in these two ports. To say that this fishery is significant to these communities barely conveys the vital importance of this fishery to the economy of Oregon's north coast. Fishermen, equipment suppliers, crab processors, and their employees are all intimately tied to this natural resource.

The compromise Senators MURRAY, GORTON, and I have reached restricts the extension of State jurisdiction to conservation measures within the crab fishery only. These restrictions would apply equally to all boats fishing in the same waters. Each State's limited entry programs and landing laws are respected. To address the harvest requirements of Federal Court Order, *U.S. v. Washington* 89-3, the State of Washington may close areas or restrict the number of crab pots laid by crabbers. Our intent is to give the State of Washington flexibility in meeting requirements of the Federal court order while minimizing the restrictions on Oregon's crabbers.

Perhaps the most important part of the State jurisdiction provisions is a clause stating that the Pacific Fisheries Management Council should develop and submit a fishery management plan for Dungeness crab and other shellfish. The timely development of a Federal fishery management plan for Dungeness crab is essential if we are to avoid inter-State conflicts in the future. To this end, the bill also requires the Pacific Fisheries Management Council to report to the relevant Senate and House Committees within a year regarding their progress on a plan.

Again, I appreciate the willingness of the Senators from Washington to ad-

dress this issue. I look forward to working with them on these issues in the future.

As I mentioned above, I have voted on both the House and Senate versions of this bill. Not only did I support the House bill, I voted for key conservation amendments that were adopted as floor amendments, including those on overfishing and habitat protection. The conservation provisions of S. 39 are also significant, several of which are of particular importance to Oregon. Reauthorization of the Magnuson Act is a high priority for Oregon fishermen and conservation groups alike.

The new mandatory provisions requiring fishery management councils to develop criteria for determining when a fishery is over-fished, and for rebuilding those fisheries, will help us set a solid target for rebuilding overfished stocks both in the Pacific Northwest.

Likewise the measure adding a new national standard to the Magnuson Act requiring that conservation and management measures minimize by-catch—the incidental harvest of nontarget fish—makes a good effort at reducing one of the most distressing aspects of our fisheries.

The bill also defines essential fish habitat and requires the councils to minimize adverse effects on habitat due to fishing.

I shall note at this time some disappointment with regard to the communities provisions. While in the House I supported Congressman MILLER's proposal on communities. The Oregon fishery is in large measure family owned and shore-based, and I would have preferred to have communities language in the bill that recognized and protected our fishing communities more fully.

During our discussions on passage of the bill, it was made clear to me that a protracted fight over the communities language would jeopardize the entire Magnuson reauthorization. In my view this would have hurt Oregon more than it would have helped. Reluctantly, I have for now agreed not to insist on stronger communities language and get this reauthorization done.

Mr. President, although S. 39 is not perfect, it is one of the strongest pieces of conservation legislation to pass the Senate this year. I urge passage of this legislation.

Mr. HOLLINGS. Mr. President, this year marks the 20th anniversary of the Magnuson Fishery Conservation and Management Act, our Nation's primary law to protect and develop the wealth of fishery resources found off American coasts. Those resources are a valuable national heritage. In 1995, U.S. commercial fishermen landed a record 9.9 billion pounds of fish, producing over \$3.7 billion in dockside revenues. By weight of catch, the United States is the fifth largest fishing nation. We are also the world's top seafood exporter, with exports valued at \$3.3 billion in 1995.

Over the past two decades, the Magnuson Act has guided the development of the U.S. fishing industry, as we successfully Americanized our fisheries. However, in some regions we unfortunately were more successful in promoting fishing than in preserving fish. As the competition among U.S. fishermen grew, the unique and participatory process established by the Magnuson Act began to show a few signs of aging. Three years ago the Commerce Committee began a systematic review of Federal programs and regulations that affect marine fisheries management. Since then we have held over a dozen hearings here in Washington and in fishing communities around the Nation. We have heard from almost 200 witnesses from South Carolina to Maine and from Hawaii to Alaska. The final result of that review is the bill before the Senate today. S. 39, the Sustainable Fisheries Act, represents the efforts of Senators STEVENS and KERRY, myself and other Members to address the issues identified. This reauthorization of the Magnuson Act builds upon our past experience to stop overfishing and waste, protect essential marine habitat, and streamline the management process.

Turning to the Southeast, where commercial fishermen landed over 275 million pounds of seafood—valued at \$238 million—in 1995, fishing plays a vital role in the economies of many coastal communities like Murrells Inlet, Charleston, McClellanville, and Beaufort. In addition, the sportfishing industry is an important part of the regional and local economies. In 1995, an estimated 2.3 million anglers participated in marine recreational fisheries in the south Atlantic region. These fishermen made over 18 million fishing trips, catching more than 65 million fish, including seatrout, catfish, and red drum.

The south Atlantic Spanish mackerel fishery, in particular, has been cited as a Magnuson Act success story. Prior to the 1980's, mackerel catches essentially were unregulated, leading to overharvesting by both commercial fishermen and sport anglers. The South Atlantic Council then stepped in to implement quotas, bag limits, and trip limits and this once-depleted population now seems well on its way to rebuilding. Unfortunately, for every success story like Spanish mackerel or striped bass, we still hear all too many tragedies.

In addition, we have seen growing interest in reducing waste and unnecessary bycatch in our fisheries. The United Nations estimates that about 27 million tons of fish each year—about a third of world harvests—are caught and thrown back because they are too small, there is no market, or a quota has been exceeded. South Carolina shrimpers are far too familiar with this issue and have struggled for years to prevent endangered sea turtles from drowning in their nets. The spirit of cooperation and innovation that they have shown in working with State and

Federal managers to successfully tackle the sea turtle problem demonstrates an approach which should be effective in dealing with other bycatch problems.

Habitat protection also has become a greater concern in recent years as coastal development and marine pollution threaten the environment and subsequently the health of many fish stocks. Half of the world's population now lives within 40 miles of the coastline, and scientists estimate that by the turn of the century, more than three-quarters of Americans will live within 50 miles of the U.S. coastline. Essential fish habitat must be identified and conserved if we are going to maintain healthy fish stocks in the future.

Finally, while the growing frustration with large government bureaucracies and overregulation is not confined to marine fisheries, we certainly need to take steps to streamline the process and eliminate unnecessary red tape. The goal of the council process established under the Magnuson Act was to ensure the participation of all those affected by fishery regulations. However, we cannot allow that process to become so cumbersome that it fails to effectively conserve our fisheries resources, and we must have in place reasonable safeguards against conflicts of interest.

Those of us who are interested in the protection and responsible use of our marine resources have learned a lot about managing marine fisheries over the past two decades. We recognize that the days of superabundant fish stocks are gone forever, and we are confronting a basic fact of life—there aren't enough fish to go around. We also have seen that rebuilding efforts, like the plan for Spanish mackerel, can be successful. And we now understand the importance of ecological considerations like habitat and bycatch in managing our fisheries.

Building on that increased understanding, S. 39, the Sustainable Fisheries Act, extends the authorization of appropriations for the Magnuson Act through fiscal year 1999. The bill also: First, caps fishery harvests at the maximum sustainable levels and requires action to prevent overfishing and rebuild depleted fisheries; second, broadens existing Federal authority to identify and protect essential fish habitat; third, minimizes waste and discards of unusable fish; fourth, streamlines the approval process for fishery management plans and regulations; fifth, tightens financial disclosure and conflict-of-interest requirements for council members; sixth, establishes a moratorium on management plans that allow private ownership of harvest quotas and fees to cover the administrative costs of such a plan; and seventh, reauthorizes other fishery programs and statutes, including the Interjurisdictional Fisheries Act, the Anadromous Fish Conservation Act, and the Atlantic Coastal Fisheries Cooperative Management Act.

Mr. President, S. 39 is the result of extensive bipartisan efforts by Senator KERRY and Senator STEVENS. As a result of their hard work, we have before us a good bill that furthers the goals and policies of the Magnuson Act. I encourage my colleagues to vote for this vital legislation today.

Mr. MURKOWSKI. Mr. President, I very strongly support the passage of S. 39, a bill to reauthorize and revitalize the Fishery Conservation and Management Act, also known as the Magnuson Act. This is without a doubt the single most important conservation bill that has come before this Congress.

The text before us today has changed greatly since the bill I had the honor to cosponsor, along with Senator STEVENS and Senator KERRY, in the final days of the 103d Congress. In the almost 2 years since that day, Senator STEVENS and Senator KERRY have led a remarkable bipartisan effort to resolve other Members' problems with the bill as originally introduced.

I cannot say, Mr. President, that I am completely happy with all of the changes that have been necessary to accommodate the interests of various Members. However, Mr. President, I can say that I have watched the evolution of this legislation with very close attention, and am confident that the managers have made every possible effort to make those accommodations without violating the integrity of the bill.

I also want to recognize the tremendous effort that has been made by by fishing industry groups, the environmental community and others, all of whom participated in bringing this bill to this point, just steps from completion.

My own efforts in connection with this bill have largely focused on certain issues that have recently exploded into international prominence—fishery bycatch and discard.

Worldwide, the Food and Agriculture Organization of the United Nations reports that with total fishery landings of 83 million metric tons, plus discards of up to 27 million metric tons, we may be taking as much as 10 million tons per year more than the oceans can sustain.

I introduced the first bill to address bycatch and discard back in 1993. Today, almost 3 years later, I am very pleased to say we are finally on the verge of taking action. The bill before us follows the lead of my early bill by establishing a new national standard calling for bycatch to be avoided where possible, and where it cannot be avoided, for steps to minimize the resulting fishery mortalities. This will put us on the road to stopping the shameful waste that is currently occurring in many fisheries.

Following this principle, Senator STEVENS has authored a separate section of the bill for Alaska only, which calls for annual bycatch reductions for the Gulf of Alaska and Bering Sea off Alaska.

Among other provisions, this bill will improve fisheries conservation and utilization, on which so many individuals in our coastal communities depend. It will for the first time address the problem of overfishing by requiring corrective action to be taken when a fishery is or is in danger of becoming overfished. It will also strengthen the fisheries management process by improving the way that regional fishery councils function, improve the way fisheries research is conducted and make many other changes of great importance and urgent need.

Mr. President, two issues which have been most contentious during this reauthorization process are the prospects for a new type of fishery limitation called an individual fishing quota program, and for a community development quota program intended to pass through some of the benefits from fisheries in the Bering Sea to disadvantaged, largely Native communities in that area.

In Alaska, and elsewhere, there has been considerable debate on redesigning fishery management using an individual fishing quota system. I won't attempt to get into the level of detail necessary to explain how this would differ from the existing system of management. Suffice it to say that supporters believe this would solve most of today's problems of overcapitalized fisheries with the least government interference, and opponents claim it would not only be costly to the government but hugely unfair to those who are excluded and to communities dependent on fishing.

The bill before us represents a compromise between these two positions. It contains a moratorium on new individual fishing quota systems, and a comprehensive study of their potential—both good and bad—and of their actual impacts in those cases where they have already been used. I believe this is a compromise worthy of the Senate's support.

In the case of the community development program proposal, we also see the results of sensible, needed compromise. The bill before us today provides a mechanism to assign some of the volume of fish coming from Bering Sea fisheries to the task of helping provide a stable, permanent economic base for some of the poorest, most disadvantaged communities in the country. This is a very worthy goal, and it is also one that I believe deserves the support of my colleagues.

There are far too many other specifics in this bill to recount them all, or to provide my views on each and every issue the bill addresses. Instead, let me close with this: if there is anything on which we can agree, it is the need for productive, healthy oceans. That is the goal of this bill, and this bill is Congress' farthest ever reach toward reaching it. Let's not waste it.

Mr. INOUE. Mr. President, I rise to join my colleague, the senior Senator from Alaska, in support of the manager's substitute for the Committee on

Commerce, Science and Transportation's amendment to S. 39. I wish to thank my colleagues Senator STEVENS and Senator KERRY for their leadership in accommodating a multitude of diverse concerns and requests and bringing this monumental legislation to the Senate floor. S. 39 represents a truly bipartisan approach to fisheries issues that are of vital importance to our nation's economy and environment.

There are many commendable features to the manager's amendment including a section which provides authority for the western Alaska and western Pacific community development quota (CDQ) programs.

Mr. President, for 190 years the United States limited its authority to regulate fishing in the waters surrounding its coast to the three-mile territorial sea. Exploiting that forbearance, by the mid-1930s, foreign fishing vessels routinely fished for salmon, crab, and other fish stocks within sight of the Alaska coast.

In 1976, in order to end foreign fishing within 200 miles of the coast of the United States, the Congress enacted the Magnuson Fishery Conservation and Management Act (MFCMA). Section 302 of the Act divides the 200-mile zone—which today is known as the exclusive economic zone (EEZ)—into eight subzones and establishes a fishery management council for each subzone. The Act authorizes each council to prepare a fishery management plan and authorizes the Secretary of Commerce to approve and by regulation implement each fishery management plan (FMP) for each fish stock located within its subzone that the council determines "requires conservation and management."

In addition to preventing overfishing, the Congress intended the Secretary's implementation of fishery management plans to advance an equally important policy objective—the transfer of the economic benefits derived from fishing inside the EEZ from foreign fishermen to United States fishermen. When the Magnuson Act was enacted, with little exception, American fishermen were not participating in fisheries beyond the territorial sea.

In the EEZ Alaska subzone, for example, in 1975 Japanese and Soviet fishermen harvested 1,310,000 metric tons of pollock, while United States fishermen harvested less than 3,000 metric tons. And Japanese fishermen harvested 30,000 metric tons of sablefish, while United States fishermen harvested 1,000 metric tons. By 1987, United States fishermen had replaced foreign fishermen in the Alaska subzone. And by 1991, United States processors had replaced foreign processors. As a consequence, in 1992, U.S. fishermen harvested pollock and other groundfish in the Alaska subzone that had an ex-vessel value of \$675 million.

Between 1984 and 1992, the catch of pollock by U.S. fishermen increased from 8,400 metric tons to 1,402,300 metric tons, and the catch of sablefish by

U.S. fishermen increased from 9,900 metric tons to 23,700 metric tons.

The revenues realized by U.S. fishermen who replaced foreign fishermen in the pollock fishery conducted in the Alaska subzone increased from \$1.4 million in 1984 to \$388.8 million in 1992. And the earnings of U.S. fishermen who replaced foreign fishermen in the sablefish fishery increased from \$7 million to \$53.5 million.

However, there was one group of U.S. fishermen—the Eskimo and Aleut fishermen residing in 55 Native villages scattered along the windswept coast of the Bering Sea—who, through no fault of their own, were precluded from participating in the fisheries which the Secretary's implementation of fishery management plans in the Alaska subzone had forced open.

For generations, life in the Native villages had revolved around subsistence fishing, hunting, and gathering. Isolated by their distant locations and indigenous cultures, between the entry of Alaska into the Union in 1959 and the enactment of the Magnuson Act in 1976, residents of the 55 villages were left out of Alaska's poststatehood rush to economic and social modernity. In 1990, the median population of the 55 villages was 278 persons.

In 1968, the Federal Field Committee for Development Planning in Alaska described the situation in the region in which most of the villages are located as follows:

Bluntly put, the region has no apparent base for economic growth. It has a rapidly growing population without local employment prospects and generally without the cultural, educational, and skill prerequisites for successful out-migration. In the foreseeable future, outside of the conversion of the present subsistence [salmon] fishery in the Yukon and Kuskokwim Rivers to a more efficient commercial operation, any growth of opportunity either for employment or for enterprise in the region, will result directly from government action. The only prospect for expansion of the public sector, in turn, can be anticipated as a result of efforts to overcome the cultural and economic handicaps of the region's population.

The Field Committee's assessment accurately described the underlying cause of a growing social crisis in Bering Sea coastal villages that, over the succeeding 20 years, intensified. In 1970-71, for example, the village of Nome experienced 9 suicides and 22 suicide attempts in 24 months, committed primarily by Eskimo adolescents. A knowledgeable local physician described the epidemic of self-destruction as "the end result of a long series of problems" caused by "the traditional village life dying out and the [subsistence] culture becoming nonexistent;" a social upheaval that young Natives returning home "from outside schools to find their skills unneeded in the village" exacerbated.

Seventeen years later, the situation both in Bering Sea coastal villages and in other Native villages had deteriorated to the point that as the Anchorage Daily News, which won a Pulitzer

Prize for its coverage, explained in 1988:

Across the state, the Eskimos, Indians and Aleuts of Bush Alaska are dying in astonishing numbers. By suicide, accident and other untimely, violent means, death is stealing the heart of a generation and painting the survivors with despair . . . An epidemic of suicide, murder and self-destruction threatens to overwhelm cultures that have for centuries survived and prospered in the harshest environments on earth . . . The village of Alakanuk [one of the 55 Bering Sea coastal villages referred to above] lived on the razor's edge: a town of 550 with eight suicides, dozens of attempts, two murders and four drownings in 16 months. This was Eskimo Armageddon. But while Alakanuk's experience has been the worst, it is by no means an isolated example. The pace of suicide, self-destruction and abuse is accelerating all over Alaska.

The Daily News series, which was entitled "People in Peril," drew public attention to a social crisis of which Native leaders long had been aware. Seizing the opportunity, the Alaska Federation of Natives [AFN], a statewide organization representing Native interests, prepared a report documenting the conditions and challenges confronting the Native people, entitled "A Call for Action," that was submitted to the Congress. In pertinent part, "A Call to Action" concluded that:

[L]arge numbers of Natives who want to work in their home villages or region have no possibility of doing so. In most Native villages, the prospects for private sector economic development are limited, and due to declining oil revenues, state spending is projected to steadily decline throughout the 1990s. The projected decline in economic activity in rural Alaska coincides with the steadily increasing number of young Native adults who will be seeking to enter the work force. Every effort to take advantage of limited opportunities for private economic development should be encouraged.

For Eskimo and Aleut residents of Bering Sea coastal villages, AFN's admonition was particularly ironic because, due in large part to the Magnuson Act, the ocean lapping at their doorsteps was roiling with private economic activity that for 16 years had been regulated by the North Pacific Fishery Management Council [Council] and the Secretary in a manner that had for the most part excluded their participation, even though section 301(a)(4)(A) of the act required the Council and the Secretary to regulate the opportunity to participate in Bering Sea fisheries in a manner that was "fair and equitable" to all fishermen, including Eskimo and Aleut fishermen who reside in Bering Sea coastal villages.

The Council and the Secretary's failure to regulate Bering Sea fisheries in a manner that provided fishermen in Bering Sea coastal villages a "fair and equitable" opportunity to participate was particularly troubling given the fact that the Council and the Secretary both have a fiduciary obligation to exercise their regulatory authority in a manner that advances the well-being of Alaska Natives.

Two months after the Alaska Federation of Natives presented A Call for Action to Congress, in May of 1989, the Council planning committee recommended that the Council amend its relevant fishery management plans to establish a western Alaska community development quota program. The objective of the program was to facilitate access to Bering Sea fisheries by Eskimo and Aleut residents of Bering Sea coastal villages by providing the villages in which they reside an opportunity to harvest a small portion of the total allowable catch of certain fish stocks.

After careful review and numerous opportunities for public comment, in June of 1991, the Council approved an amendment to the Bering Sea and Aleutian Islands groundfish fisheries management plan that established a western Alaska community development quota program for Bering Sea pollock and allocated 7.5 percent of the Bering Sea pollock total allowable catch to "communities of the Bering Sea coast" that participate in the program. In May of 1992, the Secretary approved the amendment and in November of that year promulgated a rule adopting regulations which established a procedure for village participation in the program.

The regulations identified 55 eligible Bering Sea coastal villages. To be eligible, a village was required to be located within fifty miles of the Bering Sea coast and to have been determined by the Secretary of the Interior, pursuant to the Alaska Native Claims Settlement Act, to be a "Native village." In addition, the residents of an eligible village must have conducted more than half of their commercial or subsistence fishing effort in the waters of the Bering Sea. Finally, an eligible village "must not have previously developed harvesting or processing capability sufficient to support substantial" participation in the Bering Sea groundfish fishery.

To participate in the western Alaska pollock community development quota program, the 55 villages formed six organizations: the Yukon Delta Fisheries Development Association, the Bristol Bay Economic Development Corporation, the Norton Sound Economic Development Corporation, the Coastal Villages Fishing Cooperative, the Aleutian Pribilof Island Development Association, and the Central Bering Sea Fishermen's Association. Each organization then submitted a community development plan to the Governor of Alaska. When the Governor approved the plans, in December of 1992, the Secretary issued each organization the share of the 7.5 percent of the pollock total allowable catch that the Governor had determined was needed by the organization to implement its community development plan.

Each community development quota organization has entered into a joint venture with an experienced fishing company to assist in the harvesting of

its share of the pollock community development quota allocation. These joint venture efforts have provided employment for village residents on joint venture fishing vessels, in the processing of the pollock catch, and in the management of the joint ventures. Of coequal importance, the sale of the catch has provided working capital that each organization has used to finance village fishery-related economic development activities that otherwise would not be occurring.

To what extent has the western Alaska pollock community development quota program contributed to alleviating the social problems described in "A Call for Action"?

Alarmed by "A Call for Action's" documentation of the accelerating social disintegration taking place in Native villages, in 1990, the Congress established a Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives to conduct "a comprehensive study" of "the social and economic status of Alaska Natives," and to recommend actions that the Congress and the State of Alaska should take to better address the needs of Alaska Natives for "economic self-sufficiency * * * and reduced incidence of social problems."

In 1994, the Commission published a three-volume report that summarized the results of its investigation. Among the recommendations listed in its report, the Commission urged the Council "to expand the community development quota [program] to other fisheries in the future."

In fact, while the Commission was studying the community development quota program, the Council had already acted upon the Commission's report by recommending to the Secretary that he establish a western Alaska community development quota program for Bering Sea halibut and sablefish, in which the six community development quota organizations are presently participating. And in June of 1995, the Council recommended to the Secretary that he establish a third western Alaska community development quota program for Bering Sea crab species and other groundfish species.

To facilitate the efficient implementation of the programs, the substitute amendment to the Sustainable Fisheries Act amends the Magnuson Act to require the North Pacific Fishery Management Council and the Secretary to establish a single western Alaska community development quota program and to annually allocate a percentage of the total allowable catch and guideline harvest levels of each Bering Sea fishery to the program. The eligibility standards for participating in the program are the same standards that the Secretary previously established by regulation.

Mr. President, I am pleased to note that the substitute amendment also authorizes the Western Pacific Regional Fishery Management Council

and the Secretary to establish a western Pacific community development program.

Much like their brothers and sisters in Alaska, those indigenous people who for centuries had traditionally fished in the waters of the Western Pacific, have been increasingly foreclosed from access to the fishery, largely due to the fleets of foreign fishing vessels whose number, vessel size, and methods of harvesting have dominated the Western Pacific fishery.

The Western Pacific community development quota program would be applied in the Western Pacific Region but would not, in all likelihood, employ a percentage of the total allowable catch of any particular species. Accordingly, while there is a section of the substitute bill that addresses fees associated with the allocation of a percentage of total allowable catch, it is not anticipated that the requirements of the section addressing fees would apply. Rather, it is anticipated that the Western Pacific program would place a priority on enabling access to the fishery for those that have been economically foreclosed from such access. Measures to enhance access might include regulation of limited entry permits, area closures, fishing zones, and vessel size. Joint venture agreements for the harvesting and processing of fish might also be employed as they are in the north Pacific region.

In addition, under the western Pacific program authority, the Western Pacific Regional Fishery Management Council would be authorized to take into account traditional indigenous fishing practices in preparing any fishery management plan.

The substitute also establishes authority for the Secretary of Commerce and the Secretary of the Interior to make direct grants to eligible western Pacific communities, as recommended by the Western Pacific Fishery Management Council, for the purpose of establishing fishery demonstration projects to foster and promote traditional indigenous fishing practices. The demonstration projects are intended to foster and promote the involvement of western Pacific communities in the conservation and management of fisheries through the application of traditional fishing practices as a means for developing or enhancing western Pacific community-based fishing opportunities, the preservation of the island-based cultural values that shape their historical conservation ethic, and the development and implementation of community-based research and education programs.

I am also pleased that the manager's substitute includes a provision authorizing Pacific Insular Area Fisheries Agreements for the purpose of enhancing fisheries conservation and management in the Pacific. This program will be funded under terms similar to those imposed on U.S. fishermen who seek access to fish resources in foreign waters. This program will greatly benefit

our Nation and fisheries resources throughout the Pacific Ocean.

I congratulate Senator STEVENS, Senator KERRY and their staff, particularly Penny Dalton, Alex Elkan, Trevor McCabe, Earl Comstock, GLENN Merrill and Tom Melius for this great accomplishment.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. STEVENS. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Alaska has 14 minutes under his control.

Mr. STEVENS. I ask unanimous consent that we be permitted to maintain the control of the time we have on the bill and that the Senator from Maine now be able to present her amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Maine.

There will be 30 minutes, equally divided, on this amendment.

AMENDMENT NO. 5381

(Purpose: To limit lobstering other than by pots or traps if no regulations to implement a coastal fishery management plan for American lobster have been issued by December 31, 1997)

Ms. SNOWE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Ms. SNOWE] proposes an amendment numbered 5381.

Ms. SNOWE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 161, line 21, strike "810 and 811," and insert "811 and 812,".

On page 163, line 4, strike the closing quotation marks and the second period.

On page 163, between lines 4 and 5, insert the following:

"SEC. 810. TRANSITION TO MANAGEMENT OF AMERICAN LOBSTER FISHERY BY COMMISSION.

"(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."

Ms. SNOWE. Mr. President, first of all, I want to thank Senator STEVENS for giving me the opportunity to offer this amendment. Before discussing some of the provisions of this amendment, I want to commend Senator STEVENS for his achievement in bringing this bill before the Senate and for ultimate passage.

As those of us from coastal States know, fisheries management issues can be extremely complex in both technical and political senses. These complexities are greatly heightened at the present time when so many of our fisheries are either fully or overexploited.

That is why the reauthorization of the Magnuson Act has been a long and arduous process. But Senator STEVENS and Senator KERRY have been able to work through the complexities and conundrums and resolve seemingly intractable disputes in an effort to fashion compromise legislation that we are considering today. It is truly a monumental achievement. Senator STEVENS in particular has been a leader in fisheries issues for a decade and, as a framer of the original Magnuson Act, deserves our appreciation.

Mr. President, if you ask any American what they think of when they think of Maine, they will tell you lobsters. Maine is indelibly linked with its lobster industry, and with good reason. Lobstering is a proud and historic tradition in our State. It exemplifies some of the best qualities of Maine, and indeed, the American character—rugged independence, a willingness to work hard, and a profound respect for mother nature.

Of course, lobstering is also an essential element of the Maine and New England economies. If you drive along the coast of Maine and see the lobster boats moored in the harbors of our 144 fishing villages, and the lobster traps spread out in the yards of the homes nearby, it won't take you long to understand how many people depend on the lobster industry for a living.

My amendment is designed to protect the lobstering tradition in Maine and New England. It is a very important amendment, Mr. President, because the lobster resource now faces a serious threat. And if this threat remains unaddressed, our lobstering tradition could be jeopardized.

My amendment deals with a wasteful and destructive form of lobster harvesting known as dragging. The original amendment I was prepared to offer would have imposed tough new restrictions on dragging within 60 days. But after listening to concerns expressed by other Senators, I have agreed to substantially revise the amendment. This is a true compromise, and it is very deserving of the Senate's support.

Most people know that lobstering is general conducted with traps that are baited and rest on the ocean bottom. This is the time honored and sustainable method of catching lobsters. The trap method permits the lobstermen to bring lobsters to the surface alive and unharmed, and then to safely discard those lobsters that should not be retained, such as juveniles, egg-bearing females, and older brood stock lobsters—lobsters that are essential to replenishing the resource.

There are other ways to catch lobsters, however. Some fishermen drag nets, like those used to catch finfish such as cod, along the ocean bottom to scoop up the lobsters. But these nets are indiscriminate. Undersized and oversized lobsters, along with egg-bearing females, get swept into the nets. When the nets are dragged across the bottom, and they hauled up to the surface, many lobsters are broken and crushed, including those that should be protected and returned to the water safely to reproduce.

This method of harvest is very damaging to the resource. That's why Canada, the world's largest lobster producer, and Maine, the United States' largest producer, prohibit any of their vessels from dragging for lobsters. That's why Massachusetts, America's second largest lobster producer, just enacted a new law to sharply restrict dragging by any of its vessels. And it's why Massachusetts and New Hampshire prohibit dragging for lobsters in State waters.

Inexplicably, however, dragging for lobsters is permitted under the status quo in Federal waters. And because Federal lobster management is currently in a state of limbo, we do not have comprehensive and active lobster management in the Federal zone at this time. The Commerce Department has turned Federal lobster management over to the Atlantic States Marine Fisheries Commission [ASMFC], a State-based organization. But the commission is not expected to complete a plan until sometime late in 1997.

Obviously, lobsters don't recognize the State-Federal line. They cross it at will. So anything that happens on one side of the line affects the lobster resource on the other side. It's the same stock. Thus, lobstermen in State waters can abide by the strictest regulations possible, but their conservation efforts will be undermined as long as dragging occurs right across the State line—and there is no doubt that it is occurring.

Reports in New England indicate that there are increasing numbers of

dragging vessels engaged in directed fishing for lobsters in the Federal zone just outside State waters. The Maine Marine Patrol has seen an increase in directed dragging in the Federal zone. And lobster industry officials from Maine, Massachusetts, and New Hampshire are reporting it.

And these officials expect dragging activity to increase further over the next couple of years as new groundfishing restrictions take effect and prompt more displaced groundfishermen to seek alternative fishing opportunities.

My original amendment sought to control the unwise practice of directed, or intentional, dragging for lobsters. A dragger would have been prohibited from landing more than 100 lobsters per 24-hour fishing day, with a maximum limit of 500 lobsters for a fishing trip of 5 days or longer. These landings limits were taken straight from the law enacted this summer by Massachusetts and signed by the Governor. States could have set the tighter limits, but landings would have been capped at the levels in the amendment.

These landings limits were intended to make it economically infeasible for dragger vessels to intentionally target lobsters, while permitting draggers that unintentionally catch lobsters when they are fishing for other species, like cod, to sell their incidental bycatch. It would have prevented draggers from easily circumventing the conservation laws of Maine and Massachusetts.

While I thought the amendment was a very reasonable one, other States expressed concern about the abrupt imposition of new Federal regulations on them, so I agreed to a substantial compromise. Instead of imposing the landings limits immediately, the amendment I am offering today permits the Atlantic States Marine Fisheries Commission and the Secretary of Commerce to develop and issue regulations for a Federal management plan for American lobster by December 31, 1997.

If a plan is not completed by the end of 1997, then the amendment would require the Secretary to implement the landings limits that were contained in the earlier amendment. To prevent an explosion in new dragging effort before the deadline, the amendment directs the Secretary to monitor lobster landings, and if he determines that a substantial increase in dragging is occurring, he is given discretionary—and I repeat, discretionary—authority to issue interim regulations to control the increase.

Mr. President, the deadline in my amendment is obviously more than a year away and it gives the ASMFC and the Secretary ample time to get a handle on Federal lobster management. In fact, the commission has said that it can complete a plan by the fall of 1997, so the deadline is realistic. My amendment will simply help to ensure that the commission meets its own schedule for a plan, which will, hopefully, ad-

dress the dragging issue. If the commission fails to meet this deadline, then and only then will the dragging restrictions go into effect. Once the commission completes its plan, the restrictions would be voided.

This is a very fair amendment, Mr. President, and, frankly, it represents a substantial compromise on the part of the American lobster industry. It provides plenty of time for the management process to work, while sending a message to the appropriate authorities that the issue of dragging for lobsters must be addressed. But if that process bogs down, and we're faced with the prospect of more and more dragging for lobsters, then responsible lobstermen will receive some interim protection until the commission completes its plan.

Lobster dragging is not only inconsistent with the conservation of this fully exploited resource, it discourages conservation efforts aimed at trap lobstermen. Trap lobstermen in Maine are facing stringent new State regulations. All lobstermen who fish in the Federal zone will have to reduce fishing effort by at least 20 percent in order for the ASMFC to meet its goals. How can we expect these responsible lobstermen to sacrifice and accept burdensome new regulations when wasteful and destructive dragging is allowed to continue unabated just across the State line?

The answer is that we can't. What we can expect is that these lobstermen will resist new regulations imposed on them, and the conservation program for the entire resource will be undermined.

Mr. President, this amendment is about responsible fishing practices. And it is about equity for responsible fishermen. With the substantial concessions that I have agreed to, this amendment gives the appropriate authorities plenty of time to work out a comprehensive plan. But if the process fails, then we have to act.

The amendment is pro-conservation, and it is pro-lobsterman. It is strongly supported by the State of Maine, the State of Massachusetts, and the entire lobster industry throughout New England and the Northeast.

Mr. President, my amendment presents an opportunity for Senators to cast a vote for equity for the great majority of America's lobstermen who fish the right way, and for a healthy lobster resource. It would be the height of irony if the Senate passed this Magnuson reauthorization bill, whose hallmark is the protection of America's fisheries, without approving this modest amendment. We can't let that happen, Mr. President. I urge my colleagues to support my amendment.

Mr. KERRY. Mr. President, I thank the Senator from Maine for her efforts. As she knows, we had a number of issues for a number of different Senators. But I think she has gone a long way in helping to get resolved any of those issues, and we are delighted to accept the amendment.

Mr. STEVENS. Mr. President, we are prepared to accept the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5381) was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senator's amendment be made a part of the managers' amendment when I present it later this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I could extend comments at length because of some of the comments made by the Senators from Washington. I do not intend to prolong the debate.

I want to state, however, that the provisions for the community development quotas are based in part on the authority of Congress to regulate the commerce of the Indian tribes. The communities of the west coast of Alaska are predominantly Alaska Native people. They were there and fishing a long time before anyone else came on the fishing scene. As a matter of fact, there were no factory trawlers off Alaska from the State of Washington until about 9 years ago. During the period of time since then the amount of fish taken by those trawlers has come up from zero to at one time as high as 65 percent. As a result of negotiations, there is now allocated 65 percent to the fisheries offshore and 35 for the onshore fisheries.

We are allocating a portion of the fisheries to the communities involved that are historic native communities along our coast. I am sad that the Members from Washington do not agree with that concept. We have watched, I might say, with awe the development of the Indian law in the State of Washington that leads to a substantial claim by the Indians of Washington on the fish of the rivers, particularly the Columbia.

This is not the place to get into the argument about it, but we have worked out in Alaska a basis of allocation to protect the species. The Magnuson Act was designed to protect the fish, not fishermen. The amendments for CDQ allocation are to protect communities, not fishermen. They are to protect the traditional fishing communities along the west coast, and as I said half the coastline of the United States is involved and very few communities are protected under the provisions of the CDQ concept.

I do appreciate the comments they made and the attitude that has been demonstrated here by all Senators to try to get this bill resolved in the Senate and get it to the House and hopefully to the President before this Congress adjourns. I do want the Senate to know, however, that this is not a subject that will go away. We will be involved in fisheries legislation, I am sure, as long as the Senate and the Congress are in being and as long as there are fisheries because it is a matter of Federal jurisdiction. Whether we

like it or not, we have to exercise our responsibility and we have to find a way to accommodate the claims of persons who are entitled to fish in the waters off our shores.

We have tried our best to do that while at the same time protecting those people who have traditionally relied upon the sole source for their income, and that is the fish resources off the State of Alaska. That is the case for those Native communities. They are devastated now, Mr. President, and we are trying to find a way to protect their future.

I do believe we have the right as the Congress of the United States to pass a law which commits a portion of the fish resources to those communities under the constitutional powers of the United States Congress to deal with the rights of Indian people, and that is why I am pleased to have the provisions in this bill which I think confirm the action of our regional council. The fisheries development quotas were first put into being by action of the council itself. We are now confirming that that is legitimate action under the concept of the Magnuson Act.

Mr. President, it is my intention now to offer the managers' amendment. I would like to ask at the same time that the clerk under the direction of the staffs of myself and Senator KERRY be authorized to make the technical amendments necessary to incorporate the amendments that have already been adopted. The amendments that were covered by the time agreement are to be put into the managers' amendment, and we are doing that at the present time. And the amendment of Senator SNOWE will also be put in the managers' amendment.

So I suggest the absence of a quorum, if I might just do it for a moment. I will yield to my friend from Massachusetts if he wishes to make some comment.

I suggest the absence of a quorum, Mr. President,

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 5382

(Purpose: To amend the Magnuson Fishery Conservation and Management Act to authorize appropriations to provide for sustainable fisheries, and for other purposes)

Mr. STEVENS. Mr. President, I send to the desk the managers' amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. KERRY, proposes an amendment numbered 5382.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. STEVENS. Mr. President, I ask unanimous consent this amendment be adopted now as original text, and if the Senator from Texas wishes to offer an amendment, that that be in order when she arrives—

Mr. KERRY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. And the amendment offered by the Senator from Texas be subject to a time agreement we have already entered into, 30 minutes in the usual form, subject to the restrictions contained in the time agreement that has already been entered into on S. 39.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska?

Mr. KERRY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts reserves the right to object.

Mr. KERRY. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to.

The amendment (No. 5382) was agreed to.

Mr. KERRY. Mr. President, but I do want to request a time agreement with respect to—

Mr. STEVENS. We did. Subject to the consideration—30 minutes was allowed on any amendment in the first degree. It will not be subject to second-degree amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I do now ask that we have the agreement I sought previously; the clerk, working with the staffs of the two managers, myself and Senator KERRY, be permitted to make technical changes necessary to conform this amendment. I have sent to the desk the managers' amendment with the Snowe amendment. We will now have another amendment offered, which I intend to oppose, by the way, but it will be offered. Should it be adopted tomorrow, then it would be inserted into this amendment. So it would be an amendment to this managers' amendment we offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I now ask no further amendments be in order, other than the one amendment of the Senator from Texas.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. Mr. President, I rise in support of the committee substitute and of S. 39, the Sustainable Fisheries Act, as amended.

Before discussing some of the provisions of the bill, I wanted to commend

Senator STEVENS for his achievement in bringing this bill to the verge of Senate passage. As those of us from coastal States know, fisheries management issues can be extremely complex, in both the technical and political senses. And these complexities are greatly heightened at the present time when so many of our fisheries are either fully exploited or overexploited.

That is why the reauthorization of the Magnuson Act has been a long and arduous process. But Senator STEVENS, working with Senator KERRY, have been able to plow through the complexities and the conundrums, and to resolve seemingly intractable disputes, in an effort to fashion the compromise legislation that we are considering today. It's truly a monumental achievement. And Senator STEVENS, in particular, who has been a leader on fisheries issues for decades, and a framer of the original Magnuson Act, deserves our appreciation.

Mr. President, as other Senators have mentioned, this bill strengthens the conservation provisions of the Magnuson Act, and it will lead to the elimination of overfishing and fisheries rebuilding in all our marine fisheries. Consistent with the title, letter, and spirit of the bill, I firmly believe that our fisheries must be sustainably managed. And sustainable management will require regulation.

Given the state of many of our fisheries, we cannot avoid conservation measures. But in the course of developing these measures, it is also equally important that the Federal Government consider the economic costs of fisheries conservation. In some cases, those costs can be severe, as in the case of the New England groundfish industry, which is now facing a mandatory 80 percent fishing effort reduction in 2 years. Yet despite the importance of economic considerations, there is no requirement in the Magnuson Act to require fishery management councils to try to minimize the adverse economic impacts of fisheries regulations on fishing communities.

During markup in the Commerce Committee, I offered an amendment which establishes a new national standard requiring all fishery management plans to minimize adverse economic impacts on fishing communities. The amendment was adopted by voice vote. This provision is retained in the bill on the floor today, although we have modified it to make clear that these economic considerations are not designed to trump conservation considerations in the process of developing fishery management plans.

In addition to the economic impacts language, the bill before us contains other provisions that I had offered as amendments during the committee process. One directs the Secretary of Commerce to establish an advisory panel consisting of scientists, State officials, fishermen, and conservationists to study and explore ways that the National Marine Fisheries Service can expand the application of ecosystems

principles in its fisheries research and management programs.

Currently, the service takes a narrow approach that focuses primarily on individual fish populations. I, along with many scientists, believe that the Government should take a more holistic approach that looks at fisheries in the context of the ecosystems in which they live. The report required by my amendment would be completed within 2 years.

Another of my provisions from the committee bill would preserve the existing ban on the sale of undersized lobsters in the United States. This language insures that the ban will remain in place even after the Atlantic States Marine Fisheries Commission assumes responsibility for lobster management in the Federal zone. Obviously, this ban protects juvenile lobsters that must, if we are going to conserve this resource, be given an opportunity to reach sexual maturity.

Negotiated rulemaking was the subject of another of my amendments in committee, and the bill retains those provisions. Negotiated rulemaking is a form of alternative dispute resolution in which representatives of all of the stakeholders in a dispute hold a series of negotiations with a professional facilitator to achieve consensus. Negotiated rulemaking provides an opportunity to overcome some of the divisiveness that we have seen in some fisheries controversies. My amendment would authorize the Councils, as well as the Secretary, to use negotiated rulemaking when they develop fishery management plans.

Mr. President, I would also like to mention three amendments that I offered prior to floor consideration, and that have been included in the manager's amendment.

The first directs the National Academy of Sciences to conduct an independent scientific peer review of the scientific information which forms a basis of the northeast multispecies fishery management plan. This is the plan that covers the New England groundfish industry.

As I noted earlier, due to serious concerns about the health of the groundfish resource, the New England Council has implemented a management plan that will reduce fishing effort by 80 percent within 2 years. This science has been controversial within the industry in the New England region, and before moving forward with such draconian regulations, I think we owe it to those most affected by the plan to get a second opinion on this science before it's too late. This peer review amendment will give us that second opinion.

My other amendments allow the State of Maine to permit Maine-licensed lobstermen to continue to fish in four pockets of Federal water that are surrounded on three sides by State waters, and make transshipment permits available to certain Canadian transport vessels involved in the sardine trade between Maine and Canada.

Mr. President, the bill is a fair product which resolves many competing concerns. I urge its adoption.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 5383

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 5383.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 142, line 7, "insert 'To the maximum extent practicable'", before "Any".

On page 142, line 10, "strike 'must' and insert in lieu thereof 'should'".

On page 148, strike lines 1 through 17.

Mrs. HUTCHISON. Mr. President, we are going to try to work to see if we can get these amendments in a form that is acceptable to the others that are interested in this bill. It is very important to many of the recreational fishermen in my State that we try to have a level playing field for the recreational fishing people. I would like to try to work this out, and hopefully put off the vote until tomorrow.

Mr. BREAU addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAU. Just to inquire of the Chair, under the existing agreement of the managers, is there time to discuss the amendment before the vote would occur tomorrow?

Mr. STEVENS. No.

The PRESIDING OFFICER. Currently there are 49 seconds left. Under the current guidelines we are operating under, there is no time set aside for debate tomorrow, the Chair is advised.

Mr. BREAU. I will suggest at least a couple minutes on each side, for the author of the amendment and those who oppose the amendment, to make comments before we vote tomorrow.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I notified the Senator from Texas it is my intention, and I believe it is the intention of the Senator from Massachusetts, to join together to oppose this amendment in its present form. Should it be modified in a way that is acceptable, it would, of course, be acceptable to the Senator from Louisiana. At the

present time it is my understanding there is not the opportunity to debate the amendment, but it is my understanding the Senator has offered the amendment with the hopes that through the night that this can be negotiated out to be acceptable to all concerned, including the Senator from Louisiana.

I state, it would be my intention, if there is to be any discussion of this tomorrow, it would be by whatever agreement we make now. And if the Senator wishes some time tomorrow, I do not think that is impossible.

How much time would the Senator like tomorrow?

Mr. KERRY. Two minutes on each side.

Mr. BREAU. I think we have more than one amendment at the desk in its current form.

Mr. STEVENS. One amendment that hits the bill in two spots. The Senator is correct. Again, we intend to oppose this amendment, and ask the Senate to oppose it in its present form. If it is modified, it will be modified to meet the Senator's acceptance. It would have to take unanimous consent.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, obviously, the purpose of the agreement which we entered into previously was to set aside time tonight for the purposes of debate. And it is my understanding, the majority leader said there would be no debate tomorrow, there would only be votes.

I think it is fair to allow both sides 2 minutes, but I would be adverse to opening it up to a whole process of debate tomorrow. I mean, if they reach agreement, then there is no need for debate. If they do not reach agreement, then it is going to take a very quick explanation of the two sides because both managers are going to be opposing this. I do not think we ought to open it up for a lengthy period.

Mr. BREAU. Two minutes.

Mr. KERRY. Mr. President, I ask unanimous consent that there be 2 minutes for each side tomorrow prior to a vote, if there is to be a vote, in order to explain both positions.

The PRESIDING OFFICER. Is there objection to 4 minutes equally divided?

Mr. STEVENS. Mr. President, I shall not object, but I want to make it clear in the RECORD, if we can, that the Senator from Texas has the right to modify her amendment tomorrow in any form she wishes to do so. We will oppose it in its present form, and we will oppose it unless it meets an agreement of the managers of the bill.

The PRESIDING OFFICER. The unanimous consent before the Senate is a request for 4 minutes equally divided between the two sides, with the Senator from Texas retaining the right to modify her amendment. Is there objection? Without objection, it is so ordered.

Who seeks recognition.

Mr. STEVENS. Mr. President, I know of no further business to come before the Senate on this bill. As I understand it, all of the amendments that were to be considered by the time agreement have now been brought before the Senate, and there is no more time left—I yield back whatever time I have.

Mr. President, I ask unanimous consent that Senator COHEN be added as a cosponsor of the amendment of Senator SNOWE, which was previously adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I yield back whatever time I have.

The PRESIDING OFFICER. The Senator from Massachusetts yields back his time. The Senator from Alaska yields back his time. All time has been yielded back.

Mr. STEVENS. If all time is yielded back, Mr. President, I would like to move on now to the matter of closing. I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ESCALANTE NATIONAL MONUMENT PROPOSAL

Mr. HATCH. Mr. President, for my colleagues who may have missed it, today President Clinton used executive power under the 1906 Antiquities Act to designate nearly 2 million acres in southern Utah as a national monument.

A national monument, as my colleagues know, effectively locks up land within its boundaries preventing any kind of responsible development and limiting existing rights, including water rights, in the second driest State in this Union.

Utah is already home to five national parks, two national monuments, two national recreation areas, seven national forests, one national wildlife refuge, and 800,000 acres of wilderness.

We prize our land in Utah. We believe we ought to preserve as much of it as we can, and we would like to continue working on legislation to designate more wilderness in Utah.

But the process the President is using is flawed and inherently unfair. I just say, the unilateral action taken by the President today is out of bounds. Members from Utah's congressional delegation and our State Governor had to read about this proposal in the Washington Post. That is the first time

we heard about it. There has been no consultation whatsoever in the development of the proposal. We have seen no maps; no boundaries; there have been no phone conversations; no TV or radio discussion shows; no public hearings; absolutely nothing from this President.

None of the procedures for review and comment that are built into our environmental laws, such as the National Environmental Policy Act or FLPMA have been followed. These procedures are a part of our law precisely to guard against the Federal Government from usurping State or local prerogatives without public knowledge or comment.

While the 1906 Antiquities Act may, indeed, give the President the literal authority to take this action, it is quite clear to me that in using this authority, President Clinton is violating the spirit of U.S. environmental laws and, indeed, of American democracy itself.

It was no doubt inconceivable before today that any President of the United States would take such dramatic action—action that so dramatically affects any State—without due diligence. And it is plain to this Senator that the White House either flunks the test of due diligence or takes this action deliberately without regard to its negative impact on our State.

What should be especially relevant, and alarming, to every Senator is that this disregard for established public law requiring public input, let alone the disregard of established traditions of democracy, can be applied elsewhere other than Utah. Today, Utah; tomorrow, your State.

I hope my colleagues will not brush off the precedent this Executive action creates. There are numerous negative consequences to this President's action today. Among the most serious is the effect on education in Utah.

Many States in the West depend on school trust lands to help finance their educational systems. In fact, 22 States, most of the States west of the Mississippi River, have trust lands.

Utah relies heavily on the income produced by these trust lands to help finance our schools. The national monument proclaimed by President Clinton will capture approximately 200,000 acres of Utah school trust lands and render them useless to Utah schoolchildren. I say to my colleagues, and to President Clinton if he is listening, this is a potential loss of \$1 billion to Utah schools, and these environmental extremists are already talking that it is only \$36,000 a year. That is how ridiculous they are.

There is not a single State in America that can afford to lose that kind of money for education—that is \$1 billion worth—let alone Utah, which, because we have so much public nontaxable land, is always straining to fund education.

What is even more appalling is the fact that the resources President Clinton is taking away from Utah kids, in

effect, is their own land. These school trust lands were deeded to Utah to be held in trust for our children's education, and with one stroke of the pen, these 200,000 acres will be gone.

The Utah Public Education Coalition, which includes professional educators, State and local administrators, the PTA and school employees, have come out strongly against this arbitrary action by the President.

I ask unanimous consent that their letter to President Clinton, position statement and resolution, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. Mr. President, another adverse ramification of the President's action today is inability to responsibly extract the high-quality, clean-burning, low-sulfur coal that lies in the Kaiparowits coal basin. Please note, the coal is in the basin, not on the Kaiparowits Plateau. This is not a strip mine. This is a mine right in the side that will not even show.

The basin has been called the "Saudi Arabia of coal." There are about 62 billion tons of coal here, about 16 billion tons of which can be mined with existing technologies. That is enough coal to fulfill Utah's energy needs for the next 1,000 years, and, I might add, the energy needs of this country. That is environmentally sound coal that could be blended with the dirty coal from the East, and it would be in the best interest of the environment of this country.

I find it a little ironic that the President wants to prevent the mining of this clean, environmentally beneficial coal while we are still paying billions of dollars to clean our dirty air from burning high-sulfur, dirty coal.

These coal reserves, in addition to being a financial asset to our State, are a critical energy resource for our entire country. We are being extremely shortsighted if we forget this fact.

How can we justify sending U.S. troops to keep the Middle East stable and to keep the oil flowing when President Clinton refuses to develop energy resources right here in our own country? We have to do both. We have to act in the best interest of the energy needs of this country. What the President did today is not in the best interest.

Mr. President, we should not forget the impact the restrictions on water rights will have, not only on Utah, but also on Colorado, New Mexico, Nevada, Arizona, and California.

Utah is the second driest state in the union. This action by President Clinton would deny our state the right to develop its water in southern Utah.

Finally, Mr. President, I wonder how the Administration plans to pay for the operations and maintenance of what would be the largest national monument in the United States.

Already, the National Park Service is stretched to the limit. Adding nearly 2