

COMMITTEE AMENDMENT

[STAFF WORKING DRAFT]

December 13, 2005

Purpose: To revise the bill as introduced to incorporate comments received from Federal agencies and others.

**IN THE COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION—109TH Cong., 1ST Sess.**

S. 2012, 109TH Congress, 1ST Session

DECEMBER 15, 2005

INTENDED to be proposed by Mr. STEVENS (for himself, Mr. INOUE, and Mr. LOTT)

Viz: Strike out all after the enacting clause and insert the following:

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Magnuson-Stevens Fishery Conservation and Manage-
4 ment Reauthorization Act of 2005”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendment of Magnuson-Stevens Fishery Conservation and Management Act.
- Sec. 3. Changes in findings and definitions.
- Sec. 4. Highly migratory species.
- Sec. 5. Total allowable level of foreign fishing.
- Sec. 6. Western Pacific Sustainable Fisheries Fund.
- Sec. 7. Authorization of appropriations.

TITLE I—CONSERVATION AND MANAGEMENT

- Sec. 101. Cumulative impacts.
- Sec. 102. Caribbean Council jurisdiction.

- Sec. 103. Regional fishery management councils.
- Sec. 104. Fishery management plan requirements.
- Sec. 105. Fishery management plan discretionary provisions.
- Sec. 106. Limited access privilege programs.
- Sec. 107. Environmental review process.
- Sec. 108. Emergency regulations.
- Sec. 109. Western Pacific community development.
- Sec. 110. Western Alaska Community Development Quota Program.
- Sec. 111. Secretarial action on State groundfish fishing.
- Sec. 112. Joint enforcement agreements.
- Sec. 113. Transition to sustainable fisheries.
- Sec. 114. Regional coastal disaster assistance, transition, and recovery program.
- Sec. 115. Fishery finance program hurricane assistance.
- Sec. 116. Shrimp fisheries hurricane assistance program.
- Sec. 117. Bycatch reduction engineering program.
- Sec. 118. Community-based restoration program for fishery and coastal habitats.
- Sec. 119. Prohibited acts.
- Sec. 120. Enforcement.

TITLE II—INFORMATION AND RESEARCH

- Sec. 201. Recreational fisheries information.
- Sec. 202. Collection of information.
- Sec. 203. Access to certain information.
- Sec. 204. Cooperative research and management program.
- Sec. 205. Herring study.
- Sec. 206. Restoration study.
- Sec. 207. Western Pacific fishery demonstration projects.
- Sec. 208. Fisheries Conservation and Management Fund.
- Sec. 209. Use of fishery finance program and capital construction fund for sustainable purposes.
- Sec. 210. Regional ecosystem research.
- Sec. 211. Deep sea coral research and technology program.
- Sec. 212. Impact of turtle excluder devices on shrimping.
- Sec. 213. Shrimp and oyster fisheries and habitats.

TITLE III—OTHER FISHERIES STATUTES

- Sec. 301. Amendments to Northern Pacific Halibut Act.
- Sec. 302. Reauthorization of other fisheries acts.

TITLE IV—INTERNATIONAL

- Sec. 401. International monitoring and compliance.
- Sec. 402. Finding with respect to illegal, unreported, and unregulated fishing.
- Sec. 403. Action to end illegal, unreported, or unregulated fishing and reduce bycatch of protected marine species.
- Sec. 404. Monitoring of Pacific insular area fisheries.
- Sec. 405. Reauthorization of Atlantic Tunas Convention Act.
- Sec. 406. International overfishing and domestic equity.

TITLE V—IMPLEMENTATION OF WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION

- Sec. 501. Short title.

- Sec. 502. Definitions.
- Sec. 503. Appointment of United States commissioners.
- Sec. 504. Authority and responsibility of the Secretary of State.
- Sec. 505. Rulemaking authority of the Secretary of Commerce.
- Sec. 506. Enforcement.
- Sec. 507. Penalties.
- Sec. 508. Cooperation in carrying out convention.
- Sec. 509. Territorial participation.
- Sec. 510. Authorization of appropriations.

TITLE VI—PACIFIC WHITING

- Sec. 601. Short title.
- Sec. 602. Definitions.
- Sec. 603. United States representation on joint management committee.
- Sec. 604. United States representation on the scientific review group.
- Sec. 605. United States representation on joint technical committee.
- Sec. 606. United States representation on advisory panel.
- Sec. 607. Responsibilities of the Secretary.
- Sec. 608. Rulemaking.
- Sec. 609. Administrative matters.
- Sec. 610. Enforcement.
- Sec. 611. Authorization of appropriations.

1 **SEC. 2. AMENDMENT OF MAGNUSON-STEVENSON FISHERY**

2 **CONSERVATION AND MANAGEMENT ACT.**

3 Except as otherwise expressly provided, whenever in
4 this Act an amendment or repeal is expressed in terms
5 of an amendment to, or repeal of, a section or other provi-
6 sion, the reference shall be considered to be made to a
7 section or other provision of the Magnuson-Stevens Fish-
8 ery Conservation and Management Act (16 U.S.C. 1801
9 et seq.).

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

11 (a) ECOSYSTEMS.—Section 2(a) (16 U.S.C. 1801(a))
12 is amended by adding at the end the following:

13 “(11) A number of the Fishery Management
14 Councils have demonstrated significant progress in
15 integrating ecosystem considerations in fisheries

1 management using the existing authorities provided
2 under this Act.”.

3 (b) IN GENERAL.—Section 3 (16 U.S.C. 1802) is
4 amended—

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

7 “(6A) The term ‘confidential information’
8 means—

9 “(A) trade secrets; or

10 “(B) commercial or financial information
11 the disclosure of which is likely to result in sub-
12 stantial harm to the competitive position of the
13 person who submitted the information to the
14 Secretary.”;

15 (2) by inserting after paragraph (13) the fol-
16 lowing:

17 “(13B) the term ‘regional fishery association’
18 means an association formed for the mutual benefit
19 of members—

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

22 “(B) comprised of persons engaging in the
23 harvest or processing of fishery resources in
24 that specific region or subregion or who other-

1 wise own or operate businesses substantially de-
2 pendent upon a fishery.”;

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

5 “(20A) The term ‘import’—

6 “(A) means to land on, bring into, or in-
7 troduce into, or attempt to land on, bring into,
8 or introduce into, any place subject to the juris-
9 diction of the United States, whether or not
10 such landing, bringing, or introduction con-
11 stitutes an importation within the meaning of
12 the customs laws of the United States; but

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

17 (4) by inserting after paragraph (23) the fol-
18 lowing:

19 “(23A) The term ‘limited access privilege’—

20 “(A) means a Federal permit, issued as
21 part of a limited access system under section
22 303A to harvest a quantity of fish that may be
23 received or held for exclusive use by a person;
24 and

1 “(B) includes an individual fishing quota;

2 but

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

5 and

6 (5) by inserting after paragraph (27) the fol-
7 lowing:

8 “(27A) The term ‘observer information’ means
9 any information collected, observed, retrieved, or cre-
10 ated by an observer or electronic monitoring system
11 pursuant to authorization by the Secretary, or col-
12 lected as part of a cooperative research initiative, in-
13 cluding fish harvest or processing observations, fish
14 sampling or weighing data, vessel logbook data, ves-
15 sel or processor-specific information (including any
16 safety, location, or operating condition observations),
17 and video, audio, photographic, or written docu-
18 ments.”.

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

23 (d) CONFORMING AMENDMENTS.—

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

4 (A) Section 304(c)(3) (16
5 U.S.C.1854(c)(3)).

6 (B) Section 304(d)(2)(A)(i) (16
7 U.S.C.1854(d)(2)(A)(i)).

8 (C) Section 402(b)(1)(D) (16 U.S.C.
9 1881a(b)(1)(D)).

10 (D) Section 407(a)(1)(D), (c)(1), and
11 (c)(2)(B) (16 U.S.C. 1883(a)(1)(D), (c)(1), and
12 (c)(2)(B)).

13 (2) Section 305(h)(1) (16 U.S.C. 1855(h)(1)) is
14 amended by striking “individual fishing quotas,”
15 and inserting “limited access privileges,”.

16 **SEC. 4. HIGHLY MIGRATORY SPECIES.**

17 Section 102 (16 U.S.C. 1912) is amended—

18 (1) by inserting “(a) IN GENERAL.—” before
19 “The”; and

20 (2) by adding at the end the following:

21 “(b) TRADITIONAL PARTICIPATION.—For fisheries
22 being managed under an international fisheries agreement
23 to which the United States is a party, Council or Secre-
24 tarial action, if any, shall reflect traditional participation

1 in the fishery, relative to other Nations, by fishermen of
2 the United States on fishing vessels of the United States.

3 “(c) PROMOTION OF STOCK MANAGEMENT.—If a rel-
4 evant international fisheries organization does not have a
5 process for developing a formal plan to rebuild a depleted
6 stock, an overfished stock, or a stock that is approaching
7 a condition of being overfished, the provisions of this Act
8 in this regard shall be communicated to and promoted by
9 the United States in the international or regional fisheries
10 organization.”.

11 **SEC. 5. TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.**

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

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

14 (2) by striking “will not” and inserting “can-
15 not, or will not,”;

16 (3) by inserting after “Act.” the following: “Al-
17 locations of the total allowable level of foreign fish-
18 ing are discretionary, except that the total allowable
19 level shall be zero for fisheries determined by the
20 Secretary to have adequate or excess harvest capaci-
21 ty.”

22 **SEC. 6. WESTERN PACIFIC SUSTAINABLE FISHERIES FUND.**

23 Section 204(e) (16 U.S.C. 1824(e)(7)) is amended—

24 (1) by inserting “and any funds or contribu-
25 tions received in support of conservation and man-

1 agement objectives under a marine conservation
2 plan” after “agreement” in paragraph (7);

3 (2) by striking “authority, after payment of di-
4 rect costs of the enforcement action to all entities in-
5 volved in such action,” in paragraph (8); and

6 (3) by inserting after “paragraph (4).” in para-
7 graph (8) the following: “In the case of violations by
8 foreign vessels occurring within the exclusive eco-
9 nomic zones off Midway Atoll, Johnston Atoll, King-
10 man Reef, Palmyra Atoll, Jarvis, Howland, Baker,
11 and Wake Islands, amounts received by the Sec-
12 retary attributable to fines and penalties imposed
13 under this Act, shall be deposited into the Western
14 Pacific Sustainable Fisheries Fund established
15 under paragraph (7) of this subsection.”.

16 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

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

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

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

22 “(1) \$328,004,000 for fiscal year 2006; and

23 “(2) such sums as may be necessary for fiscal
24 years 2007 through 2012.”.

1 **TITLE I—CONSERVATION AND**
2 **MANAGEMENT**

3 **SEC. 101. CUMULATIVE IMPACTS.**

4 (a) NATIONAL STANDARDS.—Section 301(a)(8) (16
5 U.S.C. 1851(a)(8)) is amended by inserting “by utilizing
6 economic and social data and assessment methods based
7 on the best economic and social information available,”
8 after “fishing communities”.

9 (b) CONTENTS OF PLANS.—Section 303(a)(9) (16
10 U.S.C. 1853(a)(9)) is amended by striking “describe the
11 likely effects, if any, of the conservation and management
12 measures on—” and inserting “analyze the likely effects,
13 if any, including the cumulative economic and social im-
14 pacts, of the conservation and management measures on,
15 and possible mitigation measures for—”.

16 **SEC. 102. CARIBBEAN COUNCIL JURISDICTION.**

17 Section 302(a)(1)(D) (16 U.S.C. 852(a)(1)(D)) is
18 amended by inserting “and of commonwealths, territories,
19 and possessions of the United States in the Caribbean
20 Sea” after “seaward of such States”.

21 **SEC. 103. REGIONAL FISHERY MANAGEMENT COUNCILS.**

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

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

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

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

10 “(g) COMMITTEES AND ADVISORY PANELS.—

11 “(1)(A) Each Council shall establish, maintain,
12 and appoint the members of a scientific and statis-
13 tical committee to assist it in the development, col-
14 lection, evaluation, and peer review of such statis-
15 tical, biological, economic, social, and other scientific
16 information as is relevant to such Council’s develop-
17 ment and amendment of any fishery management
18 plan.

19 “(B) Each scientific and statistical committee
20 shall provide its Council ongoing scientific advice for
21 fishery management decisions, including rec-
22 ommendations for acceptable biological catch or
23 maximum sustainable yield, and reports on stock
24 status and health, bycatch, habitat status, socio-eco-

1 nomic impacts of management measures, and sus-
2 tainability of fishing practices.

3 “(C) Members appointed by the Councils to the
4 scientific and statistical committees shall be Federal
5 employees, State employees, academicians, or inde-
6 pendent experts with strong scientific or technical
7 credentials and experience.

8 “(D) The Secretary and each Council may es-
9 tablish a peer review process for that Council for sci-
10 entific information used to advise the Council about
11 the conservation and management of the fishery.
12 The review process, which may include existing com-
13 mittees or panels, is deemed to satisfy the require-
14 ments of the guidelines issued pursuant to section
15 515 of the Treasury and General Government Ap-
16 propriations Act for Fiscal year 2001 (Public Law
17 106-554—Appendix C; 114 Stat. 2763A-153).

18 “(E) In addition to the provisions of sec-
19 tion 302(f)(7), the Secretary may pay a stipend
20 to members of the scientific and statistical com-
21 mittees or advisory panels who are not em-
22 ployed by the Federal government or a State
23 marine fisheries agency.”;

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

1 (3) by resetting the left margin of paragraphs
2 (2) through (5) 2 ems from the left.

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

5 (1) by striking “and” after the semicolon in
6 paragraph (5);

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

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

11 “(6) adopt annual catch limits for each of its
12 managed fisheries after considering the rec-
13 ommendations of its scientific and statistical com-
14 mittee or the peer review process established under
15 subsection (g); and”.

16 (d) REGULAR AND EMERGENCY MEETINGS.—The
17 first sentence of section 302(i)(2)(C) (16 U.S.C.
18 1852(i)(2)(C)) is amended—

19 (1) by striking “published in local newspapers”
20 and inserting “provided by any means that will re-
21 sult in wide publicity (except that e-mail notification
22 and website postings alone are not sufficient)”; and

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

1 (e) CLOSED MEETINGS.—Section 302(i)(3)(B) (16
2 U.S.C. 1852(i)(3)(B)) is amended by striking “notify local
3 newspapers” and inserting “provide notice by any means
4 that will result in wide publicity”.

5 (f) TRAINING.—Section 302 (16 U.S.C. 1852) is
6 amended by adding at the end the following:

7 “(k) COUNCIL TRAINING PROGRAM.—

8 “(1) TRAINING COURSE.—Within 6 months
9 after the date of enactment of the Magnuson-Ste-
10 vens Fishery Conservation and Management Reau-
11 thorization Act of 2005, the Secretary, in consulta-
12 tion with the Councils and the National Sea Grant
13 College Program, shall develop a training course for
14 newly appointed Council members. The course may
15 cover a variety of topics relevant to matters before
16 the Councils, including—

17 “(A) fishery science and basic stock assess-
18 ment methods;

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

21 “(C) social science and fishery economics;

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

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

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

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

9 “(H) other topics suggested by the Coun-
10 cil.

11 “(2) MEMBER TRAINING.—The training course
12 shall be available to both new and existing Council
13 members, and may be made available to committee
14 or advisory panel members as resources allow.

15 “(I) COUNCIL COORDINATION COMMITTEE.—The
16 Councils may establish a Council coordination committee
17 consisting of the chairs, vice chairs, and executive direc-
18 tors of each of the 8 Councils described in subsection
19 (a)(1), or other Council members or staff, in order to dis-
20 cuss issues of relevance to all Councils, including issues
21 related to the implementation of this Act.”.

22 (g) PROCEDURAL MATTERS.—Section 302(i) (16
23 U.S.C. 1852(i)) is amended—

24 (1) by striking “to the Councils or to the sci-
25 entific and statistical committees or advisory panels

1 established under subsection (g)” in paragraph (1)
2 and inserting “to the Councils, the Council coordina-
3 tion committee established under subsection (l), or
4 to the scientific and statistical committees or other
5 committees or advisory panels established under sub-
6 section (g)”;

7 (2) by striking “of a Council, and of the sci-
8 entific and statistical committee and advisory panels
9 established under subsection (g)” in paragraph (2)
10 and inserting “of a Council, of the Council coordina-
11 tion committee established under subsection (l), and
12 of the scientific and statistical committees or other
13 committees or advisory panels established under sub-
14 section (g)”;

15 (3) by inserting “the Council Coordination
16 Committee established under subsection (1),” in
17 paragraph (3)(A) after “Council”; and

18 (4) by inserting “other committee,” in para-
19 graph (3)(A) after “committee.”

20 (h) CONFLICTS OF INTEREST.—Section 302(j) (16
21 U.S.C. 1852(j)) is amended—

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

24 (2) by striking “jurisdiction.” in paragraph (2)
25 and inserting “jurisdiction, or with respect to any

1 other individual or organization with a financial in-
2 terest in such activity.”;

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

5 “(B) be kept on file by the Council and made
6 available on the Internet and for public inspection at
7 the Council offices during reasonable times; and”;
8 and

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

10 “(9) On January 1, 2008, and annually thereafter,
11 the Secretary shall submit a report to the Senate Com-
12 mittee on Commerce, Science, and Transportation and the
13 House of Representatives Committee on Resources on ac-
14 tion taken by the Secretary and the Councils to implement
15 the disclosure of financial interest and recusal require-
16 ments of this subsection.”.

17 (i) GULF OF MEXICO FISHERIES MANAGEMENT
18 COUNCIL.—Section 302(b)(2) (16 U.S.C. 1852(b)(2)) is
19 amended—

20 (1) by redesignating subparagraph (D) as sub-
21 paragraph (E); and

22 (2) by inserting after subparagraph (C) the fol-
23 lowing:

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

1 “(I) 5 representatives of the commercial fishing
2 sector;

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

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

8 “(ii) The Governor of a State submitting a list of
9 names of individuals for appointment by the Secretary of
10 Commerce to the Gulf of Mexico Fisheries Management
11 Council under subparagraph (C) shall include—

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

14 “(II) at least 1 other individual who is knowl-
15 edgeable regarding the conservation and manage-
16 ment of fisheries resources in the jurisdiction of the
17 Council.

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

21 “(I) publish a notice in the Federal Register
22 asking the residents of that State to submit the
23 names and pertinent biographical data of individuals
24 who would meet the requirement not met for ap-
25 pointment to the Council; and

1 “(II) add the name of any qualified individual
2 submitted by the public who meets the unmet re-
3 quirement to the list of names submitted by the
4 Governor.

5 “(iv) For purposes of clause (ii), an individual who
6 owns or operates a fish farm outside of the Unites States
7 shall not be considered to be a representative of the com-
8 mercial fishing sector.”.

9 (j) REPORT AND RECOMMENDATIONS ON GULF
10 COUNCIL AMENDMENT.—

11 (1) IN GENERAL.—Before August, 2011, the
12 Secretary of Commerce, in consultation with the
13 Gulf of Mexico Fisheries Management Council, shall
14 analyze the impact of the amendment made by sub-
15 section (i) and determine whether section
16 302(b)(2)(D) of the Magnuson-Stevens Fishery Con-
17 servation and Management Act (16 U.S.C.
18 1852(b)(2)(D)) has resulted in a fair and balanced
19 apportionment of the active participants in the com-
20 mercial and recreational fisheries under the jurisdic-
21 tion of the Council.

22 (2) REPORT.—By no later than August, 2011,
23 the Secretary shall transmit a report to the Senate
24 Committee on Commerce, Science, and Transpor-
25 tation and the House of Representatives Committee

1 on Resources setting forth the Secretary’s findings
2 and determination, including any recommendations
3 for legislative or other changes that may be nec-
4 essary to achieve such a fair and balanced appor-
5 tionment, including whether to renew the authority.

6 **SEC. 104. FISHERY MANAGEMENT PLAN REQUIREMENTS.**

7 (a) IN GENERAL.—Section 303(a) (16 U.S.C.
8 1853(a)) is amended—

9 (1) striking “and charter fishing” in paragraph
10 (5) and inserting “charter fishing, and fish proc-
11 essing”;

12 (2) by inserting “economic information nec-
13 essary to meet the requirements of this Act,” in
14 paragraph (5) after “number of hauls,”;

15 (3) by striking “fishery” the first place it ap-
16 pears and inserting “fishery, including their eco-
17 nomic impact,”;

18 (4) by striking “and” after the semicolon in
19 paragraph (13);

20 (5) by striking “allocate” in paragraph (14)
21 and inserting “allocate, taking into consideration the
22 economic impact of the harvest restrictions or recov-
23 ery benefits on the fishery participants in each sec-
24 tor,”;

1 (6) by striking “fishery.” in paragraph (14)
2 and inserting “fishery; and”; and

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

4 “(15) provide a mechanism for specifying an-
5 nual catch limits in the plan (including a multiyear
6 plan), the implementing regulations, or the annual
7 specifications that shall be established by the Coun-
8 cil or Secretary based on the best scientific informa-
9 tion available at a level that does not exceed opti-
10 mum yield, and, for purposes of which harvests ex-
11 ceeding the specified annual catch limit (including
12 the specified annual catch limit for a sector) shall ei-
13 ther be deducted from the following year’s annual
14 catch limit (including the annual catch limit for that
15 sector), or by adjusting other management measures
16 and input controls such that the fishing mortality
17 rate for the following year is reduced to account for
18 the overage to achieve the overfishing and rebuilding
19 objectives of the plan for that sector;”.

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

23 **SEC. 105. FISHERY MANAGEMENT PLAN DISCRETIONARY**
24 **PROVISIONS.**

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

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

3 (2) by inserting after paragraph (2) the fol-
4 lowing:

5 “(B) designate such zones in areas where deep
6 sea corals are identified under section 408, to pro-
7 tect deep sea corals from physical damage from fish-
8 ing gear or to prevent loss or damage to such fishing
9 gear from interactions with deep sea corals, after
10 considering long-term sustainable uses of fishery re-
11 sources in such areas; and

12 “(C) with respect to any closure of an area to
13 all fisheries managed under this Act, ensure that
14 such closure—

15 “(i) is based on the best scientific informa-
16 tion available;

17 “(ii) includes criteria to assess the con-
18 servation benefit of the closed area;

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

22 “(iv) is based on an assessment of the ben-
23 efits and impacts of the closure, including its
24 size, in relation to other management measures
25 (either alone or in combination with such meas-

1 ures), including the benefits and impacts of lim-
2 iting access to: users of the area, overall fishing
3 activity, fishery science, and fishery and marine
4 conservation;”;

5 (2) by striking “fishery;” in paragraph (5) and
6 inserting “fishery and take into account the dif-
7 ferent circumstances affecting fisheries from dif-
8 ferent States and port, including distances to fishing
9 grounds and proximity to time and area closures;”;

10 (3) by striking paragraph (6) and inserting the
11 following:

12 “(6) establish a limited access system for the
13 fishery in order to achieve optimum yield if, in devel-
14 oping such system, the Council and the Secretary
15 take into account—

16 “(A) the conservation requirements of this
17 Act with respect to the fishery;

18 “(B) present participation in the fishery;

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

21 “(D) the economics of the fishery;

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

1 “(F) the cultural and social framework rel-
2 evant to the fishery and any affected fishing
3 communities;

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

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

7 (4) by striking “(other than economic data)” in
8 paragraph (7);

9 (5) by striking “and” after the semicolon in
10 paragraph (11); and

11 (6) by redesignating paragraph (12) as para-
12 graph (14) and inserting after paragraph (11) the
13 following:

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

17 “(13) include management measures in the
18 plan to conserve target and non-target species and
19 habitats, considering the variety of ecological factors
20 affecting fishery populations; and”.

21 **SEC. 106. LIMITED ACCESS PRIVILEGE PROGRAMS.**

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

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

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

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

2 “(a) IN GENERAL.—After the date of enactment of
3 the Magnuson-Stevens Fishery Conservation and Manage-
4 ment Reauthorization Act of 2005, a Council may submit,
5 and the Secretary may approve, for a fishery that is man-
6 aged under a limited access system, a limited access privi-
7 lege program to harvest fish if the program meets the re-
8 quirements of this section.

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

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

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

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

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

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

8 “(c) REQUIREMENTS FOR LIMITED ACCESS PRIVI-
9 LEGES.—

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

15 “(A) if established in a fishery that is over-
16 fished or subject to a rebuilding plan, assist in
17 its rebuilding; and

18 “(B) if established in a fishery that is de-
19 termined by the Secretary or the Council to
20 have over-capacity, contribute to reducing ca-
21 pacity;

22 “(C) promote—

23 “(i) the safety of human life at sea;
24 and

1 “(ii) the conservation and manage-
2 ment of the fishery;

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

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

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

17 “(G) include provisions for the regular
18 monitoring and review by the Council and the
19 Secretary of the operations of the program, in-
20 cluding determining progress in meeting the
21 goals of the program and this Act, and any nec-
22 essary modification of the program to meet
23 those goals, with a formal and detailed review
24 5 years after the establishment of the program
25 and every 5 years thereafter;

1 “(H) include an effective system for en-
2 forcement, monitoring, and management of the
3 program, including the use of observers;

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

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

20 “(K) provide for the revocation by the Sec-
21 retary of limited access privileges held by any
22 person found to have violated the antitrust laws
23 of the United States.

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

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

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

13 “(3) FISHING COMMUNITIES.—

14 “(A) IN GENERAL.—

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

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

21 “(II) meet criteria developed by
22 the relevant Council, approved by the
23 Secretary, and published in the Fed-
24 eral Register;

1 “(III) consist of residents who
2 conduct commercial or recreational
3 fishing, processing, or fishery-depend-
4 ent support businesses within the
5 Council’s management area; and

6 “(IV) develop and submit a com-
7 munity sustainability plan to the
8 Council and the Secretary that dem-
9 onstrates how the plan will address
10 the social and economic development
11 needs of fishing communities, includ-
12 ing those that have not historically
13 had the resources to participate in the
14 fishery, for approval based on criteria
15 developed by the Council that have
16 been approved by the Secretary and
17 published in the Federal Register.

18 “(ii) FAILURE TO COMPLY WITH
19 PLAN.—The Secretary shall deny limited
20 access privileges granted under this section
21 for any person who fails to comply with the
22 requirements of the plan.

23 “(B) PARTICIPATION CRITERIA.—In devel-
24 oping participation criteria for eligible commu-

1 nities under this paragraph, a Council shall
2 consider—

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

6 “(ii) the cultural and social frame-
7 work relevant to the fishery;

8 “(iii) economic barriers to access to
9 fishery;

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

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

20 “(vi) the potential for improving eco-
21 nomic conditions in remote coastal commu-
22 nities lacking resources to participate in
23 harvesting or processing activities in the
24 fishery.

25 “(4) REGIONAL FISHERY ASSOCIATIONS.—

1 “(A) IN GENERAL.—To be eligible to par-
2 ticipate in a limited access privilege program to
3 harvest fish, a regional fishery association
4 shall—

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

7 “(ii) meet criteria developed by the
8 relevant Council, approved by the Sec-
9 retary, and published in the Federal Reg-
10 ister;

11 “(iii) be a voluntary association with
12 established by-laws and operating proce-
13 dures consisting of participants in the fish-
14 ery, including commercial or recreational
15 fishing, processing, fishery-dependent sup-
16 port businesses, or fishing communities;
17 and

18 “(iv) develop and submit a regional
19 fishery association plan to the Council and
20 the Secretary for approval based on cri-
21 teria developed by the Council that have
22 been approved by the Secretary and pub-
23 lished in the Federal Register.

24 “(B) FAILURE TO COMPLY WITH PLAN.—
25 The Secretary shall deny limited access privi-

1 leges granted under this section for any person
2 who fails to comply with the requirements of
3 the plan.

4 “(C) PARTICIPATION CRITERIA.—In devel-
5 oping participation criteria for eligible regional
6 fishery associations under this paragraph, a
7 Council shall consider—

8 “(i) traditional fishing or processing
9 practices in, and dependence on, the fish-
10 ery;

11 “(ii) the cultural and social frame-
12 work relevant to the fishery;

13 “(iii) economic barriers to access to
14 fishery;

15 “(iv) the existence and severity of pro-
16 jected economic and social impacts associ-
17 ated with implementation of limited access
18 privilege programs on harvesters, captains,
19 crew, processors, and other businesses sub-
20 stantially dependent upon the fishery in
21 the region or subregion, upon the adminis-
22 trative and fiduciary soundness of the as-
23 sociation and its by-laws; and

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

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

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

10 “(i) current and historical harvests;

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

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

15 “(iv) the current and historical par-
16 ticipation of fishing communities;

17 “(B) to the extent practicable, consider the
18 basic cultural and social framework of the fish-
19 ery, especially through the development of poli-
20 cies to promote the sustained participation of
21 small owner-operated fishing vessels and fishing
22 communities that depend on the fisheries, in-
23 cluding regional or port-specific landing or de-
24 livery requirements;

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

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

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

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

22 “(E) establish procedures to address geo-
23 graphic or other consolidation in both the har-
24 vesting and processing sectors of the fishery;
25 and

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

9 “(6) PROGRAM INITIATION.—

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

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

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

10 “(C) CERTIFICATION BY SECRETARY.—

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

20 “(D) NEW ENGLAND AND GULF REF-
21 ERENDUM.—

22 “(i) Except as provided in clause (iii)
23 for the Gulf of Mexico commercial red
24 snapper fishery, the New England and
25 Gulf Councils may not submit, and the

1 Secretary may not approve or implement, a
2 fishery management plan or amendment
3 that creates an individual fishing quota
4 program, including a Secretarial plan, un-
5 less such a system, as ultimately developed,
6 has been approved by more than $\frac{2}{3}$ of
7 those voting in a referendum among eligi-
8 ble permit holders with respect to the New
9 England Council, and by a majority of
10 those voting in the referendum among eli-
11 gible permit holders with respect to the
12 Gulf Council. For multispecies permits in
13 the Gulf, only those participants who have
14 substantially fished the species proposed to
15 be included in the individual fishing quota
16 program shall be eligible to vote in such a
17 referendum. If an individual fishing quota
18 program fails to be approved by the req-
19 uisite number of those voting, it may be
20 revised and submitted for approval in a
21 subsequent referendum.

22 “(ii) The Secretary shall conduct a
23 referendum under this subparagraph, in-
24 cluding notifying all persons eligible to
25 participate in the referendum and making

1 available to them information concerning
2 the schedule, procedures, and eligibility re-
3 quirements for the referendum process and
4 the proposed individual fishing quota pro-
5 gram. Within 1 year after the date of en-
6 actment of the Magnuson-Stevens Fishery
7 Conservation and Management Reauthor-
8 ization Act of 2005, the Secretary shall
9 publish guidelines and procedures to deter-
10 mine procedures and voting eligibility re-
11 quirements for referenda and to conduct
12 such referenda in a fair and equitable
13 manner.

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

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

24 “(7) TRANSFERABILITY.—In establishing a lim-
25 ited access privilege program, a Council shall—

1 “(A) establish a policy on the transfer-
2 ability of limited access privilege shares
3 (through sale or lease), including a policy on
4 any conditions that apply to the transferability
5 of limited access privilege shares that is con-
6 sistent with the policies adopted by the Council
7 for the fishery under paragraph (3); and

8 “(B) establish criteria for the approval and
9 monitoring of transfers (including sales and
10 leases) of limited access privilege shares.

11 “(8) PREPARATION AND IMPLEMENTATION OF
12 SECRETARIAL PLANS.—This subsection also applies
13 to a plan prepared and implemented by the Sec-
14 retary under section 304(g).

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

24 “(d) AUCTION AND OTHER PROGRAMS.—In estab-
25 lishing a limited access privilege program, a Council may

1 consider, and provide for, if appropriate, an auction sys-
2 tem or other program to collect royalties for the initial,
3 or any subsequent, distribution of allocations in a limited
4 access privilege program if—

5 “(1) the system or program is administered in
6 such a way that the resulting distribution of limited
7 access privilege shares meets the program require-
8 ments of subsection (c)(3)(A); and

9 “(2) revenues generated through such a royalty
10 program are deposited in the Limited Access System
11 Administration Fund established by section
12 305(h)(5)(B) and available subject to annual appro-
13 priations.

14 “(e) COST RECOVERY.—In establishing a limited ac-
15 cess privilege program, a Council shall—

16 “(1) develop a methodology and the means to
17 identify and assess the management, data collection
18 and analysis, and enforcement programs that are di-
19 rectly related to and in support of the program; and

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

24 “(f) LIMITED DURATION.—In establishing a limited
25 access privilege program after the date of enactment of

1 the Magnuson-Stevens Fishery Conservation and Manage-
2 ment Reauthorization Act of 2005, a Council may estab-
3 lish—

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

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

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

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

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

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

1 “(B) the first-time purchase of limited ac-
2 cess privileges in that fishery by entry level
3 fishermen.

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

11 “(g) EFFECT ON CERTAIN EXISTING SHARES AND
12 PROGRAMS.—Nothing in this Act, or the amendments
13 made by the Magnuson-Stevens Fishery Conservation and
14 Management Reauthorization Act of 2005, shall be con-
15 strued to require a reallocation of individual quota shares,
16 processor quota shares, cooperative programs, or other
17 quota programs, including sector allocation, under devel-
18 opment or submitted by a Council or approved by the Sec-
19 retary or by Congressional action before the date of enact-
20 ment of the Magnuson-Stevens Fishery Conservation and
21 Management Reauthorization Act of 2005.”.

22 (b) FEES.—Section 304(d)(2)(A) (16 U.S.C.
23 1854(d)(2)(A)) is amended by striking “management and
24 enforcement” and inserting “management, data collection,
25 and enforcement”.

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

11 (d) CONFORMING AMENDMENT.—Section
12 304(d)(2)(C)(i) (16 U.S.C. 1854(d)(2)(C)(i)) is amended
13 by striking “section 305(h)(5)(B)” and all that follows
14 and inserting “section 305(h)(5)(B).”.

15 (e) APPLICATION WITH AMERICAN FISHERIES
16 ACT.—Nothing in section 303A of the Magnuson-Stevens
17 Fishery Conservation and Management Act (16 U.S.C.
18 1801 et seq.), as added by subsection (a), shall be con-
19 strued to modify or supersede any provision of the Amer-
20 ican Fisheries Act (46 U.S.C. 12102 note; 16 U.S.C. 1851
21 note; et alia).

22 **SEC. 107. ENVIRONMENTAL REVIEW PROCESS.**

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

25 “(h) ENVIRONMENTAL REVIEW PROCESS.—

1 “(1) PROCEDURES.—The Secretary shall, in
2 consultation with the Councils and the Council on
3 Environmental Quality, revise and update agency
4 procedures for compliance with the National Envi-
5 ronmental Policy Act (42 U.S.C. 4231 et seq.). The
6 procedures shall—

7 “(A) conform to the time lines for review
8 and approval of fishery management plans and
9 plan amendments under this section; and

10 “(B) integrate applicable environmental
11 analytical procedures, including the time frames
12 for public input, with the procedure for the
13 preparation and dissemination of fishery man-
14 agement plans, plan amendments, and other ac-
15 tions taken or approved pursuant to this Act in
16 order to provide for timely, clear and concise
17 analysis that is useful to decision makers and
18 the public, reduce extraneous paperwork, and
19 effectively involve the public.

20 “(2) USAGE.—The updated agency procedures
21 promulgated in accordance with this section used by
22 the Councils or the Secretary shall be the sole envi-
23 ronmental impact assessment procedure for fishery
24 management plans, amendments, regulations, or

1 other actions taken or approved pursuant to this
2 Act.

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

5 “(A) propose revised procedures within 12
6 months after the date of enactment of the Mag-
7 nuson-Stevens Fishery Conservation and Man-
8 agement Reauthorization Act of 2005;

9 “(B) provide 90 days for public review and
10 comments; and

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

14 “(4) PUBLIC PARTICIPATION.—The Secretary is
15 authorized and directed, in cooperation with the
16 Council on Environmental Quality and the Councils,
17 to involve the affected public in the development of
18 revised procedures, including workshops or other ap-
19 propriate means of public involvement.”.

20 **SEC. 108. EMERGENCY REGULATIONS.**

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

1 (b) TECHNICAL AMENDMENT.—Section 305(c)(3)(D)
2 (16 U.S.C. 1855(c)(3)(D)) is amended by inserting “or
3 interim measures” after “emergency regulations”.

4 **SEC. 109. WESTERN PACIFIC COMMUNITY DEVELOPMENT.**

5 Section 305 (16 U.S.C. 1855) is amended by adding
6 at the end thereof the following:

7 “(j) WESTERN PACIFIC REGIONAL MARINE EDU-
8 CATION AND TRAINING.—

9 “(1) IN GENERAL.—The Secretary shall estab-
10 lish a pilot program for regionally-based marine edu-
11 cation and training programs in the Western Pacific
12 to foster understanding, practical use of knowledge
13 (including native Hawaiian and other Pacific Is-
14 lander-based knowledge), and technical expertise rel-
15 evant to stewardship of living marine resources. The
16 Secretary shall, in cooperation with the Western Pa-
17 cific Regional Fishery Management Council, regional
18 educational institutions, and local Western Pacific
19 community training entities, establish programs or
20 projects that will improve communication, education,
21 and training on marine resource issues throughout
22 the region and increase scientific education for ma-
23 rine-related professions among coastal community
24 residents, including indigenous Pacific islanders, Na-

1 tive Hawaiians and other underrepresented groups
2 in the region.

3 “(2) PROGRAM COMPONENTS.—The program
4 shall—

5 “(A) include marine science and technology
6 education and training programs focused on
7 preparing community residents for employment
8 in marine related professions, including marine
9 resource conservation and management, marine
10 science, marine technology, and maritime oper-
11 ations;

12 “(B) include fisheries and seafood-related
13 training programs, including programs for fish-
14 ery observers, seafood safety and seafood mar-
15 keting, focused on increasing the involvement of
16 coastal community residents in fishing, fishery
17 management, and seafood-related operations;

18 “(C) include outreach programs and mate-
19 rials to educate and inform consumers about
20 the quality and sustainability of wild fish or
21 fish products farmed through responsible aqua-
22 culture, particularly in Hawaii and the Western
23 Pacific;

24 “(D) include programs to identify, with the
25 fishing industry, methods and technologies that

1 will improve the data collection, quality, and re-
2 porting and increase the sustainability of fish-
3 ing practices, and to transfer such methods and
4 technologies among fisheries sectors and to
5 other nations in the Western and Central Pa-
6 cific;

7 “(E) develop means by which local and
8 traditional knowledge (including Pacific islander
9 and Native Hawaiian knowledge) can enhance
10 science-based management of fishery resources
11 of the region; and

12 “(F) develop partnerships with other West-
13 ern Pacific Island agencies, academic institu-
14 tions, and other entities to meet the purposes of
15 this section.”.

16 **SEC. 110. WESTERN ALASKA COMMUNITY DEVELOPMENT**
17 **QUOTA PROGRAM.**

18 Section 305(i)(1) (16 U.S.C. 1855(i)(1)) is amend-
19 ed—

20 (1) by striking “To” in subparagraph (B) and
21 inserting “Except as provided in subparagraph (E),
22 to”; and

23 (2) by adding at the end the following:

24 “(E) A community shall be eligible to par-
25 ticipate in the western Alaska community devel-

1 opment quota program under subparagraph (A)
2 if the community was—

3 “(i) listed in table 7 to part 679 of
4 title 50, Code of Federal Regulations, as in
5 effect on January 1, 2004; or

6 “(ii) approved by the National Marine
7 Fisheries Service on April 19, 1999.”.

8 **SEC. 111. SECRETARIAL ACTION ON STATE GROUND FISH**
9 **FISHING.**

10 Section 305 (16 U.S.C. 1855) is amended by adding
11 at the end thereof the following:

12 “(k) **MULTISPECIES GROUND FISH.**—Within 60 days
13 after the date of enactment of the Magnuson-Stevens
14 Fishery Conservation and Management Reauthorization
15 Act of 2005, the Secretary of Commerce shall determine
16 whether fishing in State waters without a New England
17 multispecies groundfish fishery permit on regulated spe-
18 cies within the multispecies complex is not consistent with
19 the applicable Federal fishery management plan. If the
20 Secretary makes a determination that such actions are not
21 consistent with the plan, the Secretary shall, in consulta-
22 tion with the Council, and after notifying the affected
23 State, develop and implement measures to cure the incon-
24 sistency.”.

1 **SEC. 112. JOINT ENFORCEMENT AGREEMENTS.**

2 (a) IN GENERAL.—Section 311 (16 U.S.C. 1861) is
3 amended—

4 (1) by striking “and” after the semicolon in
5 subsection (b)(1)(A)(iv);

6 (2) by inserting “and” after the semicolon in
7 subsection (b)(1)(A)(v);

8 (3) by inserting after clause (v) of subsection
9 (b)(1)(A) the following:

10 “(vi) access, directly or indirectly, for
11 enforcement purposes any data or informa-
12 tion required to be provided under this
13 title or regulations under this title, includ-
14 ing data from Global Maritime Distress
15 and Safety Systems, vessel monitoring sys-
16 tems, or any similar system, subject to the
17 confidentiality provisions of section 402;”;

18 (4) by redesignating subsection (h) as sub-
19 section (j); and

20 (5) by inserting after subsection (g) the fol-
21 lowing:

22 “(h) JOINT ENFORCEMENT AGREEMENTS.—

23 “(1) IN GENERAL.—The Governor of an eligible
24 State may apply to the Secretary for execution of a
25 joint enforcement agreement with the Secretary that
26 will authorize the deputization and funding of State

1 law enforcement officers with marine law enforce-
2 ment responsibilities to perform duties of the Sec-
3 retary relating to law enforcement provisions under
4 this title or any other marine resource law enforced
5 by the Secretary. Upon receiving an application
6 meeting the requirements of this subsection, the Sec-
7 retary may enter into a joint enforcement agreement
8 with the requesting State.

9 “(2) ELIGIBLE STATE.—A State is eligible to
10 participate in the cooperative enforcement agree-
11 ments under this section if it is in, or bordering on,
12 the Atlantic Ocean (including the Caribbean Sea),
13 the Pacific Ocean, the Arctic Ocean, the Gulf of
14 Mexico, Long Island Sound, or 1 or more of the
15 Great Lakes.

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

18 “(A) shall be consistent with the purposes
19 and intent of this section to the extent applica-
20 ble to the regulated activities;

21 “(B) may include specifications for joint
22 management responsibilities as provided by the
23 first section of Public Law 91–412 (15 U.S.C.
24 1525); and

1 “(C) shall provide for confidentiality of
2 data and information submitted to the State
3 under section 402.

4 “(4) ALLOCATION OF FUNDS.—The Secretary
5 shall include in each joint enforcement agreement an
6 allocation of funds to assist in management of the
7 agreement. The allocation shall be fairly distributed
8 among all eligible States participating in cooperative
9 enforcement agreements under this subsection, based
10 upon consideration of Federal marine enforcement
11 needs, the specific marine conservation enforcement
12 needs of each participating eligible State, and the
13 capacity of the State to undertake the marine en-
14 forcement mission and assist with enforcement
15 needs. The agreement may provide for amounts to
16 be withheld by the Secretary for the cost of any
17 technical or other assistance provided to the State
18 by the Secretary under the agreement.

19 “(i) IMPROVED DATA SHARING.—

20 “(1) IN GENERAL.—Notwithstanding any other
21 provision of this Act, as soon as practicable but no
22 later than 21 months after the date of enactment of
23 the Magnuson-Stevens Fishery Conservation and
24 Management Reauthorization Act of 2005, the Sec-
25 retary shall implement data-sharing measures to

1 make any data required to be provided by this Act
2 from Global Maritime Distress and Safety Systems,
3 vessel monitoring systems, or similar systems—

4 “(A) directly accessible by State enforce-
5 ment officers authorized under subsection (a) of
6 this section; and

7 “(B) available to a State management
8 agency involved in, or affected by, management
9 of a fishery if the State has entered into an
10 agreement with the Secretary under section
11 402(b)(1)(B) of this Act.

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

15 “(A) the Attorney General or highest rank-
16 ing legal officer of the State provides a written
17 opinion or certification that State law allows
18 the State to maintain the confidentiality of in-
19 formation required by Federal law to be kept
20 confidential; or

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

1 (b) REPORT ON USING GMDSS FOR FISHERY PUR-
2 POSES.—Within 15 months after the date of enactment
3 of this Act, the National Marine Fisheries Service and the
4 United States Coast Guard shall transmit a joint report
5 to the Senate Committee on Commerce, Science, and
6 Transportation and the House of Representatives Com-
7 mittee on Resources containing—

8 (1) a cost-to-benefit analysis of the feasibility,
9 value, and cost of using the Global Maritime Dis-
10 tress and Safety Systems, vessel monitoring systems,
11 or similar systems for fishery management, con-
12 servation, enforcement, and safety purposes with the
13 Federal government bearing the capital costs of any
14 such system;

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

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

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

23 (5) an examination of how to maximize the
24 data-sharing opportunities between relevant State
25 and Federal agencies and provide specific informa-

1 tion on how to develop these opportunities, including
2 the provision of direct access to the Global Maritime
3 Distress and Safety Systems or similar system data
4 to State enforcement officers, while considering the
5 need to maintain or provide an appropriate level of
6 individual vessel confidentiality where practicable;
7 and

8 (6) an assessment of how the Global Maritime
9 Distress and Safety Systems or similar systems
10 could be developed, purchased, and distributed to
11 regulated vessels.

12 **SEC. 113. TRANSITION TO SUSTAINABLE FISHERIES.**

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

15 (1) by striking “measures;” in subsection
16 (a)(1)(B) and inserting “measures, including regu-
17 latory restrictions imposed to protect human health
18 or the marine environment and judicially imposed
19 harvest restrictions;”;

20 (2) by striking “1996, 1997, 1998, and 1999.”
21 in subsection (a)(4) and inserting “2006 through
22 2012.”;

23 (3) by striking “or the Governor of a State for
24 fisheries under State authority, may conduct a fish-
25 ing” in subsection (b)(1) and inserting “the Gov-

1 error of a State for fisheries under State authority,
2 or a majority of permit holders in the fishery, may
3 conduct a voluntary fishing”;

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

6 (5) by striking “cost-effective and” in sub-
7 section (b)(1)C) and inserting “cost-effective and, in
8 the instance of a program involving an industry fee
9 system, prospectively,”;

10 (6) by striking subparagraph (A) of subsection
11 (b)(2) and inserting the following:

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

1 federal or state waters, or fishing on the high seas
2 or in the waters of a foreign nation ; or”;

3 (7) by striking “The Secretary shall consult, as
4 appropriate, with Councils,” in subsection (b)(4) and
5 inserting “The harvester proponents of each pro-
6 gram and the Secretary shall consult, as appropriate
7 and practicable, with Councils,”;

8 (8) by striking “Secretary, at the request of the
9 appropriate Council,” in subsection (d)(1)(A) and
10 inserting “Secretary”;

11 (9) by striking “Secretary, in consultation with
12 the Council,” in subsection (d)(1)(A) and inserting
13 “Secretary”;

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

19 (11) by striking “establish;” in subsection
20 (d)(2)((C) and inserting “establish, unless the Sec-
21 retary determines that such fees should be collected
22 from the seller;” and

23 (12) striking subsection (e) and inserting the
24 following:

25 “(e) IMPLEMENTATION PLAN.—

1 “(1) FRAMEWORK REGULATIONS.—The Sec-
2 retary shall propose and adopt framework regula-
3 tions applicable to the implementation of all pro-
4 grams under this section.

5 “(2) PROGRAM REGULATIONS.—The Secretary
6 shall implement each program under this section by
7 promulgating regulations that, together with the
8 framework regulations, establish each program and
9 control its implementation.

10 “(3) HARVESTER PROPONENTS’ IMPLEMENTA-
11 TION PLAN.—The Secretary may not propose imple-
12 mentation regulations for a program to be paid for
13 by an industry fee system until the harvester pro-
14 ponents of the program provide to the Secretary a
15 proposed implementation plan that, among other
16 matters—

17 “(A) proposes the types and numbers of
18 vessels or permits that are eligible to participate
19 in the program and the manner in which the
20 program shall proceed, taking into account—

21 “(i) the requirements of this section;

22 “(ii) the requirements of the frame-
23 work regulations;

24 “(iii) the characteristics of the fishery;

1 “(iv) the requirements of the applica-
2 ble fishery management plan and any
3 amendment that such plan may require to
4 support the proposed program;

5 “(v) the general needs and desires of
6 harvesters in the fishery;

7 “(vi) the need to minimize program
8 costs; and

9 “(vii) other matters, including the
10 manner in which such proponents propose
11 to fund the program to ensure its cost ef-
12 fectiveness, as well as any relevant factors
13 demonstrating the potential for, or nec-
14 essary to obtain, the support and general
15 cooperation of a substantial number of af-
16 fected harvesters in the fishery (or portion
17 of the fishery) for which the program is in-
18 tended; and

19 “(B) proposes procedures for program par-
20 ticipation (such as submission of owner bids
21 under an auction system or fair market-value
22 assessment), including any terms and condi-
23 tions for participation, that the harvester pro-
24 ponents deem to be reasonably necessary to
25 meet the program’s proposed objectives.

1 “(4) PARTICIPATION CONTRACTS.—The Sec-
2 retary shall contract with each person participating
3 in a program, and each such contract shall, in addi-
4 tion to including such other matters as the Secretary
5 deems necessary and appropriate to effectively im-
6 plement each program (including penalties for con-
7 tract non-performance) be consistent with the frame-
8 work and implementing regulations and all other ap-
9 plicable law.

10 “(5) REDUCTION AUCTIONS.—Each program
11 not involving fair market assessment shall involve a
12 reduction auction that scores the reduction price of
13 each bid offer by the data relevant to each bidder
14 under an appropriate fisheries productivity factor. If
15 the Secretary accepts bids, the Secretary shall ac-
16 cept responsive bids in the rank order of their bid
17 scores, starting with the bid whose reduction price is
18 the lowest percentage of the productivity factor, and
19 successively accepting each additional responsive bid
20 in rank order until either there are no more respon-
21 sive bids or acceptance of the next bid would cause
22 the total value of bids accepted to exceed the amount
23 of funds available for the program.

24 “(6) BID INVITATIONS.—Each program shall
25 proceed by the Secretary issuing invitations to bid

1 setting out the terms and conditions for participa-
2 tion consistent with the framework and imple-
3 menting regulations. Each bid that the Secretary re-
4 ceives in response to the invitation to bid shall con-
5 stitute an irrevocable offer from the bidder.”.

6 (b) TECHNICAL AMENDMENT.—Sections 116, 203,
7 204, 205, and 206 of the Sustainable Fisheries Act are
8 deemed to have added sections 312, 402, 403, 404, and
9 405, respectively to the Act as of the date of enactment
10 of the Sustainable Fisheries Act.

11 **SEC. 114. REGIONAL COASTAL DISASTER ASSISTANCE,**
12 **TRANSITION, AND RECOVERY PROGRAM.**

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

15 **“SEC. 315. REGIONAL COASTAL DISASTER ASSISTANCE,**
16 **TRANSITION, AND RECOVERY PROGRAM.**

17 “(a) IN GENERAL.—When there is a catastrophic re-
18 gional fishery disaster the Secretary may, upon the re-
19 quest of, and in consultation with, the Governors of af-
20 fected States, establish a regional economic transition pro-
21 gram to provide immediate disaster relief assistance to the
22 fishermen, charter fishing operators, United States fish
23 processors, and owners of related fishery infrastructure af-
24 fected by the disaster.

25 “(b) PROGRAM COMPONENTS.—

1 “(1) IN GENERAL.—Subject to the availability
2 of appropriations, the program shall provide funds
3 or other economic assistance to affected entities, or
4 to governmental entities for disbursement to affected
5 entities, for—

6 “(A) meeting immediate regional shoreside
7 fishery infrastructure needs, including proc-
8 essing facilities, cold storage facilities, ice
9 houses, docks, including temporary docks and
10 storage facilities, and other related shoreside
11 fishery support facilities and infrastructure;

12 “(B) financial assistance and job training
13 assistance for fishermen who wish to remain in
14 a fishery in the region that may be temporarily
15 closed as a result of environmental or other ef-
16 fects associated with the disaster;

17 “(C) funding, pursuant to the require-
18 ments of section 312(b), to fishermen who are
19 willing to scrap a fishing vessel and perma-
20 nently surrender permits for fisheries named on
21 that vessel; and

22 “(D) any other activities authorized under
23 section 312(a) of this Act or section 308(d) of
24 the Interjurisdictional Fisheries Act of 1986
25 (16 U.S.C. 4107(d)).

1 “(2) JOB TRAINING.—Any fisherman who de-
2 cides to scrap a fishing vessel under the program
3 shall be eligible for job training assistance.

4 “(3) STATE PARTICIPATION OBLIGATION.—The
5 participation by a State in the program shall be con-
6 ditioned upon a commitment by the appropriate
7 State entity to ensure that the relevant State fishery
8 meets the requirements of section 312(b) of this Act
9 to ensure excess capacity does not re-enter the fish-
10 ery.

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

18 “(A) no reasonable means are available
19 through which applicants can meet the match-
20 ing requirement; and

21 “(B) the probable benefit of 100 percent
22 Federal financing outweighs the public interest
23 in imposition of the matching requirement.

24 “(5) NET REVENUE LIMIT INAPPLICABLE.—
25 Section 308(d)(3) of the Interjurisdictional Fisheries

1 Act (16 U.S.C. 4107(d)(3)) shall not apply to assist-
2 ance under this section.

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

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

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

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

23 “(3) is determined by the Secretary to be a
24 commercial fishery failure under section 312(a) of
25 this Act or a fishery resource disaster or section

1 308(d) of the Interjurisdictional Fisheries Act of
2 1986 (16 U.S.C. 4107(d)).”.

3 **SEC. 115. FISHERY FINANCE PROGRAM HURRICANE ASSIST-**
4 **ANCE.**

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

11 (1) To defer principal payments on the debt for
12 1 year and re-amortize the debt over the remaining
13 term of the loan.

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

17 (3) To pay the interest costs for such loans over
18 fiscal years 2006 through 2012, not to exceed
19 amounts authorized under subsection (d).

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

22 (b) LOAN FORGIVENESS.—

23 (1) IN GENERAL.—Upon application made by
24 an eligible holder of a fishery finance program loan,
25 made at such time, in such manner, and containing

1 such information as the Secretary may require, the
2 Secretary, on a calendar year basis beginning in
3 2005, may—

4 (A) offset against the outstanding balance
5 on the loan an amount equal to the sum of the
6 amounts expended by the holder during the cal-
7 endar year to repair or replace covered vessels
8 or facilities, or to invest in new fisheries infra-
9 structure within or for use within the declared
10 fisheries disaster area; or

11 (B) cancel the amount of debt equal to
12 100 hundred percent of actual expenditures on
13 eligible repairs, reinvestment, expansion, or new
14 investment in fisheries infrastructure in the dis-
15 aster region, or repairs to, or replacement of,
16 eligible fishing vessels.

17 (c) DEFINITIONS.—In this section:

18 (1) DECLARED FISHERIES DISASTER AREA.—
19 The term “declared fisheries disaster area” means
20 fisheries located in the major disaster area des-
21 ignated by the President under the Robert T. Staf-
22 ford Disaster Relief and Emergency Assistance Act
23 (42 U.S.C. 5121 et seq.) as a result of Hurricane
24 Katrina or Hurricane Rita.

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

4 (A) that loan is used to guarantee or fi-
5 nance any fishing vessel or fish processing facil-
6 ity home-ported or located within the declared
7 fisheries disaster area; and

8 (B) the holder makes expenditures to re-
9 pair or replace such covered vessels or facilities,
10 or invests in new fisheries infrastructure within
11 or for use within the declared fisheries disaster
12 area, to restore such facilities following the dis-
13 aster.

14 (3) FISHERY FINANCE PROGRAM LOAN.—The
15 term “fishery finance program loan” means a loan
16 made or guaranteed under the fishery finance pro-
17 gram under title XI of the Merchant Marine Act,
18 1936, (46 U.S.C. App. 1271 et seq.).

19 (d) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Secretary of Com-
21 merce for the purposes of this section not more than
22 \$15,000,000 for each eligible holder for the period begin-
23 ning with fiscal year 2006 through fiscal year 2012.

1 **SEC. 116. SHRIMP FISHERIES HURRICANE ASSISTANCE**
2 **PROGRAM.**

3 (a) IN GENERAL.—The Secretary of Commerce shall
4 establish an assistance program for the Gulf of Mexico
5 shrimp fishing industry.

6 (b) ALLOCATION OF FUNDS.—Under the program,
7 the Secretary shall allocate funds appropriated to carry
8 out the program among the States of Alabama, Louisiana,
9 Florida, Mississippi, and Texas in proportion to the per-
10 centage of the shrimp catch landed by each State, except
11 that the amount allocated to Florida shall be based exclu-
12 sively on the proportion of such catch landed by the Flor-
13 ida Gulf Coast fishery.

14 (c) USE OF FUNDS.—Of the amounts made available
15 to each State under the program—

16 (1) 2 percent shall be retained by the State to
17 be used for the distribution of additional payments
18 to fishermen with a demonstrated record of compli-
19 ance with turtle excluder and bycatch reduction de-
20 vice regulations; and

21 (2) the remainder of the amounts shall be used
22 for—

23 (A) personal assistance, with priority given
24 to food, energy needs, housing assistance,
25 transportation fuel, and other urgent needs;

1 (B) assistance for small businesses, includ-
2 ing fishermen, fish processors, and related busi-
3 nesses serving the fishing industry;

4 (C) domestic product marketing and sea-
5 food promotion;

6 (D) State seafood testing programs;

7 (E) the development of limited entry pro-
8 grams for the fishery;

9 (F) funding or other incentives to ensure
10 widespread and proper use of turtle excluder
11 devices and bycatch reduction devices in the
12 fishery; and

13 (G) voluntary capacity reduction programs
14 for shrimp fisheries under limited access pro-
15 grams.

16 (d) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to the Secretary of Com-
18 merce \$17,500,000 for fiscal years 2006 through 2011 to
19 carry out this section.

20 **SEC. 117. BYCATCH REDUCTION ENGINEERING PROGRAM.**

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

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

2 “(a) BYCATCH REDUCTION ENGINEERING PRO-
3 GRAM.—Not later than 1 year after the date of enactment
4 of the Magnuson-Stevens Fishery Conservation and Man-
5 agement Reauthorization Act of 2005, the Secretary, in
6 cooperation with the Councils and other affected interests,
7 and based upon the best scientific information available,
8 shall establish a bycatch reduction program to develop
9 technological devices and other conservation engineering
10 changes designed to minimize bycatch, seabird bycatch,
11 bycatch mortality, and post-release mortality in Federally
12 managed fisheries. The program shall—

13 “(1) be regionally based;

14 “(2) be coordinated with projects conducted
15 under the cooperative research and management
16 program established under this Act;

17 “(3) provide information and outreach to fish-
18 ery participants that will encourage adoption and
19 use of technologies developed under the program;
20 and

21 “(4) provide for routine consultation with the
22 Councils in order to maximize opportunities to incor-
23 porate results of the program in Council actions and
24 provide incentives for adoption of methods developed
25 under the program in fishery management plans de-
26 veloped by the Councils.

1 “(b) INCENTIVES.—Any fishery management plan
2 prepared by a Council or by the Secretary may establish
3 a system of incentives to reduce total bycatch and seabird
4 bycatch amounts, bycatch rates, and post-release mortality
5 in fisheries under the Council’s or Secretary’s jurisdiction,
6 including—

7 “(1) measures to incorporate bycatch into
8 quotas, including the establishment of collective or
9 individual bycatch quotas;

10 “(2) measures to promote the use of gear with
11 verifiable and monitored low bycatch and seabird by-
12 catch rates; and

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

17 **SEC. 118. COMMUNITY-BASED RESTORATION PROGRAM**
18 **FOR FISHERY AND COASTAL HABITATS.**

19 (a) IN GENERAL.—The Secretary of Commerce shall
20 establish a community-based fishery and coastal habitat
21 restoration program to implement and support the res-
22 toration of fishery and coastal habitats.

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

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

4 (2) advance the science and monitoring of
5 coastal habitat restoration;

6 (3) transfer restoration technologies to the pri-
7 vate sector, the public, and other governmental
8 agencies;

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

11 (5) promote significant community support and
12 volunteer participation in fishery and coastal habitat
13 restoration;

14 (6) promote stewardship of fishery and coastal
15 habitats; and

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

18 **SEC. 119. PROHIBITED ACTS.**

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

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

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

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

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

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

12 **SEC. 120. ENFORCEMENT.**

13 (a) CIVIL ENFORCEMENT.—Section 308 (16 U.S.C.
14 1858) is amended—

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

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

20 (3) by inserting “a permit, or any interest in a
21 permit,” in subsection (g)(3) after “vessel,” each
22 place it appears;

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

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

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

7 (b) CRIMINAL PENALTIES.—Section 309 (16 U.S.C.
8 1859) is amended to read as follows:

9 **“SEC. 309. CRIMINAL PENALTIES.**

10 “(a) FINES AND IMPRISONMENT.—

11 “(1) IN GENERAL.—Any person (other than a
12 foreign government or entity thereof) who knowingly
13 violates subparagraph (D), (E), (F), (H), (I), or (L)
14 of paragraph (1) of section 307, or paragraph (2) of
15 section 307, shall be imprisoned for not more than
16 5 years and fined—

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

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

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

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

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

3 “(A) used a dangerous weapon;

4 “(B) engaged in conduct that caused bod-
5 ily injury to any observer described in section
6 307, any officer authorized to enforce the provi-
7 sions of this Act under section 311, or any
8 Council member or staff; or

9 “(C) placed any such observer, officer,
10 Council member, or staff in fear of imminent
11 bodily injury.

12 “(b) OTHER VIOLATIONS.—Any person (other than
13 a foreign government or entity thereof) who knowingly vio-
14 lates any other provision of section 307 shall be fined
15 under title 18, United States Code, imprisoned for not
16 more than 5 years, or both.

17 “(c) JURISDICTION.—

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

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

22 “(A) each violation of this Act shall con-
23 stitute a separate offense and the offense shall
24 be deemed to have been committed not only in

1 the district where it first occurred, but also in
2 any other district as authorized by law;

3 “(B) any offense not committed within a
4 judicial district of the United States is subject
5 to the venue provisions of section 3238 of title
6 18, United States Code; and

7 “(C) American Samoa shall be included
8 within the judicial district of the United States
9 District Court for the District of Hawaii.”.

10 (c) CIVIL FORFEITURES.—Section 310(a) (16 U.S.C.
11 1860(a)) is amended—

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

15 (2) by striking “States.” and inserting “, except
16 that no fishing vessel shall be subject to forfeiture
17 under this section as the result of any act for which
18 the issuance of a citation under section 311(a) is
19 sufficient sanction.”.

20 (d) ENFORCEMENT RESPONSIBILITY.—Section
21 311(a) (16 U.S.C. 1861(a)) is amended—

22 (1) by striking “Act” and inserting “Act, and
23 the provisions of any marine resource law adminis-
24 tered by the Secretary,”; and

1 (2) by striking “State agency,” and inserting
2 “agency of any State, Territory, Commonwealth, or
3 Tribe,”.

4 (e) POWERS OF AUTHORIZED OFFICERS.—Section
5 311(b) (16 U.S.C. 1861(b)) is amended by striking “Fed-
6 eral or State”.

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

10 “(B) a reward to any person who furnishes in-
11 formation which leads to an arrest, conviction, civil
12 penalty assessment, or forfeiture of property for any
13 violation of any provision of this Act or any other
14 marine resource law enforced by the Secretary of up
15 to the lesser of—

16 “(i) 20 percent of the penalty or fine col-
17 lected; or

18 “(ii) \$20,000;”.

19 **TITLE II—INFORMATION AND**
20 **RESEARCH**

21 **SEC. 201. RECREATIONAL FISHERIES INFORMATION.**

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

24 “(g) RECREATIONAL FISHERIES.—

1 “(1) FEDERAL PROGRAM.—The Secretary shall
2 establish and implement a regionally based registry
3 program for recreational fishermen in each of the 8
4 fishery management regions. The program shall pro-
5 vide for—

6 “(A) the registration (including identifica-
7 tion and contact information) of individuals
8 who engage in recreational fishing—

9 “(i) in the Exclusive Economic Zone;

10 “(ii) for anadromous species; or

11 “(iii) for Continental Shelf fishery re-
12 sources beyond the Exclusive Economic
13 Zone; and

14 “(B) if appropriate, the registration (in-
15 cluding the ownership, operator, and identifica-
16 tion of the vessel) of vessels used in such fish-
17 ing.

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

1 ating the effects of proposed conservation and man-
2 agement measures for marine recreational fisheries.

3 “(3) DATA COLLECTION.—Within 24 months
4 after the date of enactment of the Magnuson-Ste-
5 vens Fishery conservation and Management Reau-
6 thorization Act of 2005, the Secretary shall establish
7 a program to improve the quality and accuracy of
8 information generated by the Marine Recreational
9 Fishery Statistics Survey, with a goal of achieving
10 acceptable accuracy and utility for each individual
11 fishery. Unless the Secretary determines that alter-
12 nate methods will achieve this goal more efficiently
13 and effectively, the program shall, to the extent pos-
14 sible, include—

15 “(A) an adequate number of dockside
16 interviews to accurately estimate recreational
17 catch and effort;

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

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

23 “(D) development of a weather corrective
24 factor that can be applied to recreational catch
25 and effort estimates.

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

6 **SEC. 202. COLLECTION OF INFORMATION.**

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

8 (1) by striking “(a) COUNCIL REQUESTS.—” in
9 the subsection heading and inserting “(a) COLLEC-
10 TION PROGRAMS.—”;

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

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

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

18 (5) by striking “(other than information that
19 would disclose proprietary or confidential commercial
20 or financial information regarding fishing operations
21 or fish processing operations)” each place it appears;
22 and

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

24 “(2) SECRETARIAL INITIATION.—If the Sec-
25 retary determines that additional information is nec-

1 essary for developing, implementing, revising, or
2 monitoring a fishery management plan, or for deter-
3 mining whether a fishery is in need of management,
4 the Secretary may, by regulation, implement an in-
5 formation collection or observer program requiring
6 submission of such additional information for the
7 fishery.”.

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

9 (a) IN GENERAL.—Section 402(b) (16 U.S.C.
10 1881a(b)) is amended—

11 (1) by redesignating paragraph (2) as para-
12 graph (3) and resetting it 2 ems from the left mar-
13 gin;

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

16 “(b) CONFIDENTIALITY OF INFORMATION.—

17 “(1) Any information submitted to the Sec-
18 retary, a state fishery management agency, or a ma-
19 rine fisheries commission by any person in compli-
20 ance with the requirements of this Act that contains
21 confidential information shall be confidential and
22 shall be exempt from disclosure under section
23 552(h)(3) of title 5, United States Code, except—

24 “(A) to Federal employees and Council em-
25 ployees who are responsible for fishery manage-

1 ment plan development, monitoring, or enforce-
2 ment;

3 “(B) to State or Marine Fisheries Commis-
4 sion employees as necessary to further the De-
5 partment’s mission, subject to a confidentiality
6 agreement that prohibits public disclosure of
7 confidential information relating to any person;

8 “(C) to State employees who are respon-
9 sible for fishery management plan enforcement,
10 if the States employing those employees have
11 entered into a fishery enforcement agreement
12 with the Secretary and the agreement is in ef-
13 fect;

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

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

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

4 “(G) in support of homeland and national
5 security activities, including the Coast Guard’s
6 homeland security missions as defined in sec-
7 tion 888(a)(2) of the Homeland Security Act of
8 2002 (6 U.S.C. 468(a)(2)).

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

13 “(A) as authorized by a fishery manage-
14 ment plan or regulations under the authority of
15 the North Pacific Council to allow disclosure to
16 the public of weekly summary bycatch informa-
17 tion identified by vessel or for haul-specific by-
18 catch information without vessel identification;

19 “(B) when such information is necessary
20 in proceedings to adjudicate observer certifi-
21 cations; or

22 “(C) as authorized by any regulations
23 issued under paragraph (3) allowing the collec-
24 tion of observer information, pursuant to a con-
25 fidentiality agreement between the observers,

1 observer employers, and the Secretary prohib-
2 iting disclosure of the information by the ob-
3 servers or observer employers, in order—

4 “(i) to allow the sharing of observer
5 information among observers and between
6 observers and observer employers as nec-
7 essary to train and prepare observers for
8 deployments on specific vessels; or

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

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

13 (b) CONFORMING AMENDMENT.—Section 404(c)(4)
14 (16 U.S.C. 1881c(c)(4)) is amended by striking “under
15 section 401”.

16 **SEC. 204. COOPERATIVE RESEARCH AND MANAGEMENT**
17 **PROGRAM.**

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

21 **“SEC. 317. COOPERATIVE RESEARCH AND MANAGEMENT**
22 **PROGRAM.**

23 “(a) IN GENERAL.—The Secretary of Commerce, in
24 consultation with the Councils, shall establish a coopera-
25 tive research and management program to address needs

1 identified under this Act and under any other marine re-
2 source laws enforced by the Secretary. The program shall
3 be implemented on a regional basis and shall be developed
4 and conducted through partnerships among Federal,
5 State, and Tribal managers and scientists (including inter-
6 state fishery commissions), fishing industry participants,
7 and educational institutions.

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

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

21 “(1) Projects to collect data to improve, supple-
22 ment, or enhance stock assessments, including the
23 use of fishing vessels or acoustic or other marine
24 technology.

1 “(2) Projects to assess the amount and type of
2 bycatch or post-release mortality occurring in a fish-
3 ery.

4 “(3) Conservation engineering projects designed
5 to reduce bycatch, including avoidance of post-re-
6 lease mortality, reduction of bycatch in high seas
7 fisheries, and transfer of such fishing technologies to
8 other nations.

9 “(4) Projects for the identification of habitat
10 areas of particular concern and for habitat conserva-
11 tion.

12 “(5) Projects designed to collect and compile
13 economic and social data.

14 “(d) EXPERIMENTAL PERMITTING PROCESS.—Not
15 later than 180 days after the date of enactment of the
16 Magnuson-Stevens Fishery Conservation and Manage-
17 ment Reauthorization Act of 2005, the Secretary, in con-
18 sultation with the Councils, shall promulgate regulations
19 that create an expedited, uniform, and regionally-based
20 process to promote issuance, where practicable, of experi-
21 mental fishing permits.

22 “(e) GUIDELINES.—The Secretary, in consultation
23 with the Councils, shall establish guidelines to ensure that
24 participation in a research project funded under this sec-
25 tion does not result in loss of a participant’s catch history

1 or unexpended days-at-sea as part of a limited entry sys-
2 tem.

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

6 **SEC. 205. HERRING STUDY.**

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

10 **“SEC. 318. HERRING STUDY.**

11 “(a) IN GENERAL.—The Secretary may conduct a co-
12 operative research program to study the issues of abun-
13 dance, distribution and the role of herring as forage fish
14 for other commercially important fish stocks in the North-
15 west Atlantic, and the potential for local scale depletion
16 from herring harvesting and how it relates to other fish-
17 eries in the Northwest Atlantic. In planning, designing,
18 and implementing this program, the Secretary shall en-
19 gage multiple fisheries sectors and stakeholder groups
20 concerned with herring management.

21 “(b) REPORT.—The Secretary shall present the final
22 results of this study to Congress within 3 months following
23 the completion of the study, and an interim report at the
24 end of fiscal year 2008.

1 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated \$2,000,000 for fiscal
3 year 2007 through fiscal year 2009 to conduct this
4 study.”.

5 **SEC. 206. RESTORATION STUDY.**

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

9 **“SEC. 319. RESTORATION STUDY.**

10 “(a) IN GENERAL.—The Secretary may conduct a
11 study to update scientific information and protocols need-
12 ed to improve restoration techniques for a variety of coast
13 habitat types and synthesize the results in a format easily
14 understandable by restoration practitioners and local com-
15 munities.

16 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated \$500,000 for fiscal year
18 2007 to conduct this study.”.

19 **SEC. 207. WESTERN PACIFIC FISHERY DEMONSTRATION**
20 **PROJECTS.**

21 Section 111(b) of the Sustainable Fisheries Act (16
22 U.S.C. 1855 note) is amended—

23 (1) by striking “and the Secretary of the Inte-
24 rior are” in paragraph (1) and inserting “is”;

1 (A) expanding the use of electronic catch
2 reporting programs and technology; and

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

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

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

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

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

22 (6) providing financial assistance to fishermen
23 to offset the costs of modifying fishing practices and
24 gear to meet the requirements of this Act, the Mag-
25 nuson-Stevens Fishery Conservation and Manage-

1 ment Act (16 U.S.C. 1801 et seq.), and other Fed-
2 eral laws in pari materia.

3 (c) DEPOSITS TO THE FUND.—

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

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

18 (A) appropriations for the purposes of this
19 section; and

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

23 (d) REGIONAL ALLOCATION.—The Secretary shall,
24 every 2 years, apportion monies from the Fund among the
25 eight Council regions according to consensus recommenda-

1 tions of the Councils, based on regional priorities identi-
2 fied through the Council process, except that no region
3 shall receive less than 5 percent of the Fund in each allo-
4 cation period.

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

10 **SEC. 209. USE OF FISHERY FINANCE PROGRAM AND CAP-**
11 **ITAL CONSTRUCTION FUND FOR SUSTAIN-**
12 **ABLE PURPOSES.**

13 (a) PURPOSE OF OBLIGATIONS.—Section
14 1104A(a)(7) of the Merchant Marine Act, 1936 (46
15 U.S.C. App. 1274(a)(7)) is amended to read as follows:

16 “(7) financing or refinancing including,

17 “(A) the reimbursement of obligors for ex-
18 penditures previously made, for the purchase of
19 individual fishing quotas in accordance with
20 section 303(d)(4) of the Magnuson-Stevens
21 Fishery Conservation and Management Act;

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

24 “(C) technologies or upgrades designed to
25 improve collection and reporting of fishery-de-

1 pendent data, to reduce bycatch, to improve se-
2 lectivity or reduce adverse impacts of fishing
3 gear, or to improve safety.”.

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

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

8 (B) by striking “vessel,” in subparagraph (A)
9 and inserting “vessel;”;

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

12 (D) by striking “vessel.” in subparagraph (C)
13 and inserting “vessel;” and

14 (E) by inserting after subparagraph (C) the fol-
15 lowing:

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

22 “(i) if such person remains in the
23 fishery, the satisfaction of any debt obliga-
24 tion undertaken pursuant to such program;
25 and

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

7 “(E) the repair, maintenance, or upgrade
8 of an eligible vessel or its equipment for the
9 purpose of—

10 “(i) making conservation engineering
11 changes to reduce bycatch, improve selec-
12 tivity of fishing gear, or reduce adverse im-
13 pacts of fishing gear;

14 “(ii) improving vessel safety; or

15 “(iii) acquiring, installing, or upgrad-
16 ing equipment to improve collection, re-
17 porting, or accuracy of fishery data; or

18 “(F) the acquisition, construction, recon-
19 struction, upgrading, or investment in shoreside
20 fishery-related facilities or infrastructure in the
21 United States for the purpose of promoting
22 United States ownership of fishery-related fa-
23 cilities in the United States without contrib-
24 uting to overcapacity in the sector.”.

1 **SEC. 210. REGIONAL ECOSYSTEM RESEARCH.**

2 Section 406 (16 U.S.C. 1882) is amended by adding
3 at the end the following:

4 “(f) REGIONAL ECOSYSTEM RESEARCH.—

5 “(1) STUDY.—Within 180 days after the date
6 of enactment of the Magnuson-Stevens Fishery Con-
7 servation and Management Reauthorization Act of
8 2005, the Secretary, in consultation with the Coun-
9 cils, shall undertake and complete a study on the
10 state of the science for advancing the concepts and
11 integration of ecosystem considerations in regional
12 fishery management. The study should build upon
13 the recommendations of the advisory panel and in-
14 clude—

15 “(A) recommendations for scientific data,
16 information and technology requirements for
17 understanding ecosystem processes, and meth-
18 ods for integrating such information from a va-
19 riety of federal, state, and regional sources;

20 “(B) recommendations for processes for in-
21 corporating broad stake holder participation;

22 “(C) recommendations for processes to ac-
23 count for effects of environmental variation on
24 fish stocks and fisheries; and

25 “(D) a description of existing and devel-
26 oping council efforts to implement ecosystem

1 approaches, including lessons learned by the
2 councils.

3 “(2) AGENCY TECHNICAL ADVICE AND ASSIST-
4 ANCE, REGIONAL PILOT PROGRAMS.—The Secretary
5 is authorized to provide necessary technical advice
6 and assistance, including grants, to the Councils for
7 the development and design of regional pilot pro-
8 grams that build upon the recommendations of the
9 advisory panel and, when completed, the study.”.

10 **SEC. 211. DEEP SEA CORAL RESEARCH AND TECHNOLOGY**
11 **PROGRAM.**

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

14 **“SEC. 408. DEEP SEA CORAL RESEARCH AND TECHNOLOGY**
15 **PROGRAM.**

16 “(a) IN GENERAL.—The Secretary, in consultation
17 with appropriate regional fishery management councils
18 and in coordination with other federal agencies and edu-
19 cational institutions, shall establish a program—

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

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

1 “(3) to monitor activity in locations where deep
2 sea corals are known or likely to occur, based on
3 best scientific information available, including
4 through underwater or remote sensing technologies
5 and submit such information to the appropriate
6 Councils;

7 “(4) to conduct research, including cooperative
8 research with fishing industry participants, on deep
9 sea corals and related species, and on survey meth-
10 ods;

11 “(5) to develop technologies or methods de-
12 signed to assist fishing industry participants in re-
13 ducing interactions between fishing gear and deep
14 sea corals; and

15 “(6) to prioritize program activities in areas
16 where deep sea corals are known to occur, and in
17 areas where scientific modeling or other methods
18 predict deep sea corals are likely to be present.

19 “(b) REPORTING.—Beginning 1 year after the date
20 of enactment of the Magnuson-Stevens Fishery Conserva-
21 tion and Management Reauthorization Act of 2005, the
22 Secretary, in consultation with the Councils, shall submit
23 biennial reports to Congress and the public on steps taken
24 by the Secretary to identify and monitor, and the Councils
25 to protect, deep sea coral areas, including summaries of

1 the results of mapping, research, and data collection per-
2 formed under the program.”.

3 **SEC. 212. IMPACT OF TURTLE EXCLUDER DEVICES ON**
4 **SHRIMPING.**

5 (a) IN GENERAL.—The Undersecretary of Commerce
6 for Oceans and Atmosphere shall execute an agreement
7 with the National Academy of Sciences to conduct, jointly,
8 a multi-year, comprehensive in-water study designed—

9 (1) to measure accurately the efforts and ef-
10 fects of shrimp fishery efforts to utilize turtle ex-
11 cluder devices;

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

18 (3) to evaluate innovative technologies to in-
19 crease shrimp retention in turtle excluder devices
20 while ensuring the protection of endangered and
21 threatened sea turtles.

22 (b) OBSERVERS.—In conducting the study, the Un-
23 dersecretary shall ensure that observers are placed on-
24 board commercial shrimp fishing vessels where appro-
25 priate or necessary.

1 (c) INTERIM REPORTS.—During the course of the
2 study and until a final report is submitted to the Senate
3 Committee on Commerce, Science, and Transportation
4 and the House of Representatives Committee on Re-
5 sources, the National Academy of Sciences shall transmit
6 interim reports to the Committees biannually containing
7 a summary of preliminary findings and conclusions from
8 the study.

9 **SEC. 213. HURRICANE EFFECTS ON SHRIMP AND OYSTER**
10 **FISHERIES AND HABITATS.**

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

18 (1) commercial and recreational fisheries in the
19 States of Alabama, Louisiana, Florida, Mississippi,
20 and Texas;

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

22 (3) the oyster industry in those States.

23 (b) HABITAT REPORT.—Within 180 days after the
24 date of enactment of this Act, the Secretary of Commerce
25 shall transmit a report to the Senate Committee on Com-

1 merce, Science, and Transportation and the House of Rep-
2 resentatives Committee on Resources on the impact of
3 Hurricane Katrina, Hurricane Rita, and Hurricane Wilma
4 on habitat, including the habitat of shrimp and oysters
5 in those States.

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

10 **TITLE III—OTHER FISHERIES**
11 **STATUTES**

12 **SEC. 301. AMENDMENTS TO NORTHERN PACIFIC HALIBUT**
13 **ACT.**

14 (a) CIVIL PENALTIES.—Section 8(a) of the Northern
15 Pacific Halibut Act of 1982 (16 U.S.C. 773f(a)) is amend-
16 ed—

17 (1) by striking “\$25,000” and inserting
18 “\$200,000”;

19 (2) by striking “violation, the degree of culpa-
20 bility, and history of prior offenses, ability to pay,”
21 in the fifth sentence and inserting “violator, the de-
22 gree of culpability, any history of prior offenses,”;
23 and

24 (3) by adding at the end the following: “In as-
25 sessing such penalty, the Secretary may also con-

1 sider any information provided by the violator relat-
2 ing to the ability of the violator to pay if the infor-
3 mation is provided to the Secretary at least 30 days
4 prior to an administrative hearing.”.

5 (b) PERMIT SANCTIONS.—Section 8 of the Northern
6 Pacific Halibut Act of 1982 (16 U.S.C. 773f) is amended
7 by adding at the end the following:

8 “(e) REVOCATION OR SUSPENSION OF PERMIT.—

9 “(1) IN GENERAL.—The Secretary may take
10 any action described in paragraph (2) in any case in
11 which—

12 “(A) a vessel has been used in the commis-
13 sion of any act prohibited under section 7;

14 “(B) the owner or operator of a vessel or
15 any other person who has been issued or has
16 applied for a permit under this Act has acted
17 in violation of section 7; or

18 “(C) any amount in settlement of a civil
19 forfeiture imposed on a vessel or other property,
20 or any civil penalty or criminal fine imposed on
21 a vessel or owner or operator of a vessel or any
22 other person who has been issued or has ap-
23 plied for a permit under any marine resource
24 law enforced by the Secretary has not been paid
25 and is overdue.

1 “(2) PERMIT-RELATED ACTIONS.—Under the
2 circumstances described in paragraph (1) the Sec-
3 retary may—

4 “(A) revoke any permit issued with respect
5 to such vessel or person, with or without preju-
6 dice to the issuance of subsequent permits;

7 “(B) suspend such permit for a period of
8 time considered by the Secretary to be appro-
9 priate;

10 “(C) deny such permit; or

11 “(D) impose additional conditions and re-
12 strictions on any permit issued to or applied for
13 by such vessel or person under this Act and,
14 with respect to any foreign fishing vessel, on
15 the approved application of the foreign nation
16 involved and on any permit issued under that
17 application.

18 “(3) FACTORS TO BE CONSIDERED.—In impos-
19 ing a sanction under this subsection, the Secretary
20 shall take into account—

21 “(A) the nature, circumstances, extent,
22 and gravity of the prohibited acts for which the
23 sanction is imposed; and

1 “(B) with respect to the violator, the de-
2 gree of culpability, any history of prior offenses,
3 and such other matters as justice may require.

4 “(4) TRANSFERS OF OWNERSHIP.—Transfer of
5 ownership of a vessel, a permit, or any interest in
6 a permit, by sale or otherwise, shall not extinguish
7 any permit sanction that is in effect or is pending
8 at the time of transfer of ownership. Before exe-
9 cuting the transfer of ownership of a vessel, permit,
10 or interest in a permit, by sale or otherwise, the
11 owner shall disclose in writing to the prospective
12 transferee the existence of any permit sanction that
13 will be in effect or pending with respect to the ves-
14 sel, permit, or interest at the time of the transfer.

15 “(5) REINSTATEMENT.—In the case of any per-
16 mit that is suspended under this subsection for non-
17 payment of a civil penalty, criminal fine, or any
18 amount in settlement of a civil forfeiture, the Sec-
19 retary shall reinstate the permit upon payment of
20 the penalty, fine, or settlement amount and interest
21 thereon at the prevailing rate.

22 “(6) HEARING.—No sanction shall be imposed
23 under this subsection unless there has been prior op-
24 portunity for a hearing on the facts underlying the
25 violation for which the sanction is imposed either in

1 conjunction with a civil penalty proceeding under
2 this section or otherwise.

3 “(7) PERMIT DEFINED.—In this subsection, the
4 term ‘permit’ means any license, certificate, ap-
5 proval, registration, charter, membership, exemption,
6 or other form of permission issued by the Commis-
7 sion or the Secretary, and includes any quota share
8 or other transferable quota issued by the Sec-
9 retary.”.

10 (c) CRIMINAL PENALTIES.—Section 9(b) of the
11 Northern Pacific Halibut Act of 1982 (16 U.S.C. 773g(b))
12 is amended—

13 (1) by striking “\$50,000” and inserting
14 “\$200,000”; and

15 (2) by striking “\$100,000,” and inserting
16 “\$400,000,”.

17 **SEC. 302. REAUTHORIZATION OF OTHER FISHERIES ACTS.**

18 (a) ATLANTIC STRIPED BASS CONSERVATION ACT.—
19 Section 7(a) of the Atlantic Striped Bass Conservation Act
20 (16 U.S.C. 5156(a)) is amended to read as follows:

21 “(a) AUTHORIZATION.—For each of fiscal years
22 2006, 2007, 2008, 2009, and 2010, there are authorized
23 to be appropriated to carry out this Act—

24 “(1) \$1,000,000 to the Secretary of Commerce;
25 and

1 “(2) \$250,000 to the Secretary of the Inte-
2 rior.”.

3 (b) YUKON RIVER SALMON ACT OF 2000.—Section
4 208 of the Yukon River Salmon Act of 2000 (16 U.S.C.
5 5727) is amended by striking “\$4,000,000 for each of fis-
6 cal years 2004 through 2008,” and inserting “\$4,000,000
7 for each of fiscal years 2006 through 2010,”.

8 (c) SHARK FINNING PROHIBITION ACT.—Section 10
9 of the Shark Finning Prohibition Act (16 U.S.C. 1822
10 note) is amended by striking “fiscal years 2001 through
11 2005” and inserting “fiscal years 2006 through 2010”.

12 (d) PACIFIC SALMON TREATY ACT.—

13 (1) TRANSFER OF SECTION TO ACT.—The text
14 of section 623 of title VI of H.R. 3421 (113 Stat.
15 1501A-56), as introduced on November 17, 1999,
16 and enacted into law by section 1000(a)(1) of the
17 Act of November 29, 1999 (Public Law 106–113)—

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

21 (B) amended—

22 (i) by striking “SEC. 623.”; and

23 (ii) inserting before “(a) NORTHERN
24 FUND AND SOUTHERN FUND.—” the fol-
25 lowing:

1 **“SEC. 16. NORTHERN AND SOUTHERN FUNDS; TREATY IM-**
2 **PLEMENTATION; ADDITIONAL AUTHORIZA-**
3 **TION OF APPROPRIATIONS.”.**

4 (2) TECHNICAL CORRECTION.—The amendment
5 made by the Department of Commerce and Related
6 Agencies Appropriations Act, 2005 under the head-
7 ing “PACIFIC COASTAL SALMON RECOVERY” (118
8 Stat. 2881), to section 628(2)(A) of the Depart-
9 ments of Commerce, Justice, and State, the Judici-
10 ary, and Related Agencies Appropriations Act, 2001
11 is deemed to have been made to section
12 623(d)(2)(A) of title VI of H.R. 3421 (113 Stat.
13 1501A-56), as introduced on November 17, 1999,
14 enacted into law by section 1000(a)(1) of the Act of
15 November 29, 1999 (Public Law 106–113) instead
16 of to such section 628(2)(A), as of the date of enact-
17 ment of the Department of Commerce and Related
18 Agencies Appropriations Act, 2005.

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

22 (1) by inserting “sustainable salmon fisheries,”
23 after “enhancement,”; and

24 (2) by inserting “2006, 2007, 2008, and 2009,”
25 after “2005,”.

1 (e) STATE AUTHORITY FOR DUNGENESS CRAB FISH-
2 ERY MANAGEMENT.—Section 203 of Public Law 105–384
3 (16 U.S.C. 1856 note) is amended—

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

6 (2) by striking “health” in subsection (j) and
7 inserting “status”; and

8 (3) by striking “California.” in subsection (j)
9 and inserting “California, including—

10 “(1) stock status and trends throughout its
11 range;

12 “(2) a description of applicable research and
13 scientific review processes used to determine stock
14 status and trends; and

15 “(3) measures implemented or planned that are
16 designed to prevent or end overfishing in the fish-
17 ery.”.

18 **TITLE IV—INTERNATIONAL**

19 **SEC. 401. INTERNATIONAL MONITORING AND COMPLIANCE.**

20 Title II (16 U.S.C. 1821 et seq.) is amended by add-
21 ing at the end the following:

22 **“SEC. 207. INTERNATIONAL MONITORING AND COMPLI-** 23 **ANCE.**

24 “(a) IN GENERAL.—The Secretary may undertake
25 activities to promote improved monitoring and compliance

1 for high seas fisheries, or fisheries governed by inter-
2 national fishery management agreements, and to imple-
3 ment the requirements of this title.

4 “(b) SPECIFIC AUTHORITIES.—In carrying out sub-
5 section (a), the Secretary may—

6 “(1) share information on harvesting and proc-
7 essing capacity and illegal, unreported and unregu-
8 lated fishing on the high seas, in areas covered by
9 international fishery management agreements, and
10 by vessels of other nations within the United States
11 exclusive economic zone, with relevant law enforce-
12 ment organizations of foreign nations and relevant
13 international organizations;

14 “(2) further develop real time information shar-
15 ing capabilities, particularly on harvesting and proc-
16 essing capacity and illegal, unreported and unregu-
17 lated fishing;

18 “(3) participate in global and regional efforts to
19 build an international network for monitoring, con-
20 trol, and surveillance of high seas fishing and fishing
21 under regional or global agreements;

22 “(4) support efforts to create an international
23 registry or database of fishing vessels, including by
24 building on or enhancing registries developed by
25 international fishery management organizations;

1 “(5) enhance enforcement capabilities through
2 the application of commercial or governmental re-
3 mote sensing technology to locate or identify vessels
4 engaged in illegal, unreported, or unregulated fish-
5 ing on the high seas, including encroachments into
6 the exclusive economic zone by fishing vessels of
7 other nations;

8 “(6) provide technical or other assistance to de-
9 veloping countries to improve their monitoring, con-
10 trol, and surveillance capabilities; and

11 “(7) support coordinated international efforts
12 to ensure that all large-scale fishing vessels oper-
13 ating on the high seas are required by their flag
14 State to be fitted with vessel monitoring systems no
15 later than December 31, 2008, or earlier if so de-
16 cided by the relevant flag State or any relevant
17 international fishery management organization.”.

18 **SEC. 402. FINDING WITH RESPECT TO ILLEGAL, UNRE-**
19 **PORTED, AND UNREGULATED FISHING.**

20 Section 2(a) (16 U.S.C. 1802(a)) is amended by add-
21 ing at the end the following:

22 “(11) International cooperation is necessary to
23 address illegal, unreported, and unregulated fishing
24 and other fishing practices which may harm the sus-

1 tainability of living marine resources and disadvan-
2 tage the United States fishing industry.”.

3 **SEC. 403. ACTION TO END ILLEGAL, UNREPORTED, OR UN-**
4 **REGULATED FISHING AND REDUCE BYCATCH**
5 **OF PROTECTED MARINE SPECIES.**

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

9 **“SEC. 607. BIENNIAL REPORT ON INTERNATIONAL COMPLI-**
10 **ANCE.**

11 “The Secretary, in consultation with the Secretary of
12 State, shall provide to Congress, by not later than 2 years
13 after the date of enactment of the Magnuson-Stevens
14 Fishery Conservation and Management Reauthorization
15 Act of 2005, and every 2 years thereafter, a report that
16 includes—

17 “(1) the state of knowledge on the status of
18 international living marine resources, including a list
19 of all fish stocks classified as overfished, over-
20 exploited, depleted, endangered, or threatened with
21 extinction by any international or other authority
22 charged with management or conservation of living
23 marine resources;

24 “(2) a list of nations whose vessels have been
25 identified under sections 609(a) or 610(a), including

1 the specific offending activities and any subsequent
2 actions taken pursuant to section 609 or 610;

3 “(3) a description of efforts taken by nations on
4 those lists to comply with the provisions of sections
5 609 and 610, and an evaluation of the progress of
6 those efforts, including steps taken by the United
7 States to implement those sections and to improve
8 international compliance;

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

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

1 **“SEC. 608. ACTION TO STRENGTHEN INTERNATIONAL FISH-**
2 **ERY MANAGEMENT ORGANIZATIONS.**

3 “The Secretary, in consultation with the Secretary of
4 State, and in cooperation with relevant fishery manage-
5 ment councils, shall take actions to improve the effective-
6 ness of international fishery management organizations in
7 conserving and managing fish stocks under their jurisdic-
8 tion. These actions shall include—

9 “(1) urging international fishery management
10 organizations to which the United States is a mem-
11 ber—

12 “(A) to incorporate multilateral sanctions
13 against member or nonmember governments
14 whose vessels engage in illegal, unreported, or
15 unregulated fishing;

16 “(B) to seek adoption of lists that identify
17 fishing vessels engaged in illegal, unreported, or
18 unregulated fishing, including authorized
19 (green) and unauthorized (red) vessel lists, that
20 can be shared among all members and other
21 international fishery management organizations;

22 “(C) to seek international adoption of a
23 centralized vessel monitoring system with an
24 independent secretariat in order to monitor and
25 document capacity in fleets of all nations in-
26 volved in fishing in areas under the an inter-

1 national fishery management organization’s ju-
2 risdiction;

3 “(D) to increase use of observers and tech-
4 nologies needed to monitor compliance with con-
5 servation and management measures estab-
6 lished by the organization, including vessel
7 monitoring systems and automatic identification
8 systems; and

9 “(E) to seek adoption of greater port state
10 controls in all nations, particularly those na-
11 tions whose vessels engage in illegal, unre-
12 ported, or unregulated fishing;

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

19 “(A) import prohibitions, landing restric-
20 tions, or other market-based measures needed
21 to enforce compliance with international fishery
22 management organization measures, such as
23 quotas and catch limits;

24 “(B) import restrictions or other market-
25 based measures to prevent the trade or impor-

1 year in illegal, unreported, or unregulated fishing;
2 and

3 “(2) the relevant international fishery manage-
4 ment organization has failed to implement effective
5 measures to end the illegal unreported, or unregu-
6 lated fishing activity by vessels of that nation or the
7 nation is not a party to, or does not maintain co-
8 operating status with, such organization, or where
9 no international fishery management organization
10 exists.

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

17 “(c) CONSULTATION.—No later than 60 days after
18 submitting a report to Congress under section 607, the
19 Secretary, in consultation with the Secretary of State,
20 shall—

21 “(1) notify nations listed in the report of the
22 requirements of this section;

23 “(2) initiate consultations for the purpose of
24 encouraging such nations to take the appropriate
25 corrective action with respect to the offending activi-

1 ties of their fishing vessels identified in the report;
2 and

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

6 “(d) IUU CERTIFICATION PROCEDURE.—

7 “(1) CERTIFICATION.—The Secretary shall es-
8 tablish a procedure, consistent with the provisions of
9 subchapter II of chapter 5 of title 5, United States
10 Code, and including notice and an opportunity for
11 comment by the governments of any nation listed by
12 the Secretary under subsection (a), for determining
13 if that government has taken appropriate corrective
14 action with respect to the offending activities of its
15 fishing vessels identified in the report under section
16 607. The Secretary shall determine, on the basis of
17 the procedure, and certify to the Congress no later
18 than 90 days after the date on which the Secretary
19 promulgates a final rule containing the procedure,
20 and biennially thereafter in the report under section
21 607—

22 “(A) whether the government of each na-
23 tion identified under subsection (b) has pro-
24 vided documentary evidence that it has taken
25 corrective action with respect to the offending

1 activities of its fishing vessels identified in the
2 report; or

3 “(B) whether the relevant international
4 fishery management organization has imple-
5 mented measures that are effective in ending
6 the illegal, unreported, or unregulated fishing
7 activity by vessels of that nation.

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

14 “(A) the vessel has not engaged in illegal,
15 unreported, or unregulated fishing under an
16 international fishery management agreement to
17 which the United States is a party; or

18 “(B) the vessel is not identified by an
19 international fishery management organization
20 as participating in illegal, unreported, or un-
21 regulated fishing activities.

22 “(3) EFFECT OF CERTIFICATION.—The provi-
23 sions of section 101(a) and section 101(b)(3) and
24 (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and
25 (b)(4)) shall apply to any nation identified under

1 subsection (a) that has not been certified by the Sec-
2 retary under this subsection, or for which the Sec-
3 retary has issued a negative certification under this
4 subsection, but shall not apply to any nation identi-
5 fied under subsection (a) for which the Secretary
6 has issued a positive certification under this sub-
7 section.

8 “(e) ILLEGAL, UNREPORTED, OR UNREGULATED
9 FISHING DEFINED.—

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

13 “(2) SECRETARY TO DEFINE TERM WITHIN
14 LEGISLATIVE GUIDELINES.—Within 3 months after
15 the date of enactment of the Magnuson-Stevens
16 Fishery Conservation and Management Reauthoriza-
17 tion Act of 2005, the Secretary shall publish a defi-
18 nition of the term ‘illegal, unreported, or unregu-
19 lated fishing’ for purposes of this Act.

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

22 “(A) fishing activities that violate con-
23 servation and management measures required
24 under an international fishery management
25 agreement to which the United States is a

1 party, including catch limits or quotas, capacity
2 restrictions, and bycatch reduction require-
3 ments;

4 “(B) overfishing of fish stocks shared by
5 the United States, for which there are no appli-
6 cable international conservation or management
7 measures or in areas with no applicable inter-
8 national fishery management organization or
9 agreement, that has adverse impacts on such
10 stocks; and

11 “(C) fishing activity, including bottom
12 trawling, that have adverse impacts on
13 seamounts, hydrothermal vents, and cold water
14 corals located beyond national jurisdiction, for
15 which there are no applicable conservation or
16 management measures or in areas with no ap-
17 plicable international fishery management orga-
18 nization or agreement.

19 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Secretary for fis-
21 cal years 2006 through 2012 such sums as are necessary
22 to carry out this section.

23 **“SEC. 610. EQUIVALENT CONSERVATION MEASURES.**

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

1 “(A) fishing vessels of that nation are en-
2 gaged, or have been engaged during the pre-
3 ceding calendar year in fishing activities or
4 practices beyond the exclusive economic zone
5 that result in bycatch of a protected living ma-
6 rine resource;

7 “(2) the relevant international organization
8 for the conservation and protection of such spe-
9 cies or the relevant international or regional
10 fishery organization has failed to implement ef-
11 fective measures to end or reduce the impacts
12 of the fishing practices of the nation’s vessels
13 on such species, or the nation is not a party to,
14 or does not maintain cooperating status with,
15 such organization; and

16 “(3) the nation has not adopted a regu-
17 latory program governing such fishing practices
18 and associated bycatch of protected living ma-
19 rine resources that are comparable to those of
20 the United States, taking into account different
21 conditions.

22 “(b) CONSULTATION AND NEGOTIATION.—The Sec-
23 retary, acting through the Secretary of State, shall—

24 “(1) notify, as soon as possible, other nations
25 whose vessels engage in fishing activities or practices

1 described in subsection (a), about the requirements
2 of this section and this Act;

3 “(2) initiate discussions as soon as possible
4 with all foreign governments which are engaged in,
5 or which have persons or companies engaged in,
6 fishing activities or practices described in subsection
7 (a), for the purpose of entering into bilateral and
8 multilateral treaties with such countries to protect
9 such species;

10 “(3) seek agreements calling for international
11 restrictions on fishing activities or practices de-
12 scribed in subsection (a) through the United Na-
13 tions, the Food and Agriculture Organization’s Com-
14 mittee on Fisheries, and appropriate international
15 fishery management bodies; and

16 “(4) initiate the amendment of any existing
17 international treaty for the protection and conserva-
18 tion of such species to which the United States is a
19 party in order to make such treaty consistent with
20 the purposes and policies of this section.

21 “(c) CONSERVATION CERTIFICATION PROCEDURE.—

22 “(1) CERTIFICATION.—The Secretary shall de-
23 termine, on the basis of a procedure consistent with
24 the provisions of subchapter II of chapter 5 of title
25 5, United States Code, and including notice and an

1 opportunity for comment by the governments of any
2 nation identified by the Secretary under subsection
3 (a). The Secretary shall certify to the Congress by
4 January 31, 2007, and annually thereafter whether
5 the government of each harvesting nation—

6 “(A) has provided documentary evidence of
7 the adoption of a regulatory program governing
8 the conservation of the protected living marine
9 resource, including measures to ensure max-
10 imum probability for survival after release, that
11 is comparable to that of the United States, tak-
12 ing into account different conditions, and
13 which, in the case of pelagic longline fishing, in-
14 cludes mandatory use of circle hooks, careful
15 handling and release equipment, and training
16 and observer programs; and

17 “(B) has established a management plan
18 containing requirements that will assist in gath-
19 ering species-specific data to support inter-
20 national stock assessments and conservation en-
21 forcement efforts for protected living marine re-
22 sources.

23 “(2) ALTERNATIVE PROCEDURE.—The Sec-
24 retary shall establish a procedure for certification,
25 on a shipment-by-shipment, shipper-by-shipper, or

1 other basis of fish or fish products from a vessel of
2 a harvesting nation not certified under paragraph
3 (1) if the Secretary determines that such imports
4 were harvested by practices that do not result in by-
5 catch of a protected marine species, or were har-
6 vested by practices that—

7 “(A) are comparable to those of the United
8 States, taking into account different conditions,
9 and which, in the case of pelagic longline fish-
10 ing, includes mandatory use of circle hooks,
11 careful handling and release equipment, and
12 training and observer programs; and

13 “(B) include the gathering of species spe-
14 cific data that can be used to support inter-
15 national and regional stock assessments and
16 conservation efforts for protected living marine
17 resources.

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

1 fied under subsection (a) for which the Secretary
2 has issued a positive certification under this sub-
3 section.

4 “(d) INTERNATIONAL COOPERATION AND ASSIST-
5 ANCE.—To the greatest extent possible consistent with ex-
6 isting authority and the availability of funds, the Secretary
7 shall—

8 “(1) provide appropriate assistance to nations
9 identified by the Secretary under subsection (a) and
10 international organizations of which those nations
11 are members to assist those nations in qualifying for
12 certification under subsection (c);

13 “(2) undertake, where appropriate, cooperative
14 research activities on species statistics and improved
15 harvesting techniques, with those nations or organi-
16 zations;

17 “(3) encourage and facilitate the transfer of ap-
18 propriate technology to those nations or organiza-
19 tions to assist those nations in qualifying for certifi-
20 cation under subsection (c); and

21 “(4) provide assistance to those nations or or-
22 ganizations in designing and implementing appro-
23 priate fish harvesting plans.

1 “(e) PROTECTED LIVING MARINE RESOURCE DE-
2 FINED.—In this section the term ‘protected living marine
3 resource’—

4 “(1) means non-target fish, sea turtles, or ma-
5 rine mammals occurring in areas beyond United
6 States jurisdiction that are protected under United
7 States law or international agreement, including the
8 Marine Mammal Protection Act, the Endangered
9 Species Act, the Shark Finning Prohibition Act, and
10 the Convention on International Trade in Endan-
11 gered Species of Wild Flora and Fauna; but

12 “(2) does not include species, except sharks,
13 managed under the Magnuson-Stevens Fishery Con-
14 servation and Management Act, the Atlantic Tunas
15 Convention Act, or any international fishery man-
16 agement agreement.

17 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to the Secretary for fis-
19 cal years 2006 through 2012 such sums as are necessary
20 to carry out this section.“.

21 (b) CONFORMING AMENDMENTS.—

22 (1) DENIAL OF PORT PRIVILEGES.—Section
23 101(b) of the High Seas Driftnet Fisheries Enforce-
24 ment Act (16 U.S.C. 1826a(b)) is amended by in-
25 serting “or illegal, unreported, or unregulated

1 fishing“ after “fishing“ in paragraph (1)(A)(i),
2 paragraph (1)(B), paragraph (2), and paragraph
3 (4)(A)(i).

4 (2) DURATION OF DENIAL.—Section 102 of the
5 High Seas Driftnet Fisheries Enforcement Act (16
6 U.S.C. 1826b) is amended by inserting “or illegal,
7 unreported , or unregulated fishing“ after “fishing“.

8 **SEC. 404. MONITORING OF PACIFIC INSULAR AREA FISH-**
9 **ERIES.**

10 (a) WAIVER AUTHORITY.—Section 201(h)(2)(B) (16
11 U.S.C. 1821(h)(2)(B)) is amended by striking “that is at
12 least equal in effectiveness to the program established by
13 the Secretary;” and inserting “or other monitoring pro-
14 gram that the Secretary, in consultation with the Western
15 Pacific Management Council, determines is adequate to
16 monitor harvest, bycatch, and compliance with the laws
17 of the United States by vessels fishing under the agree-
18 ment;”.

19 (b) MARINE CONSERVATION PLANS.—Section
20 204(e)(4)(A)(i) (16 U.S.C. 1824(e)(4)(A)(i)) is amended
21 to read as follows:

22 “(i) Pacific Insular Area observer programs, or
23 other monitoring programs, that the Secretary deter-
24 mines are adequate to monitor the harvest, bycatch,
25 and compliance with the laws of the United States

1 by foreign fishing vessels that fish under Pacific In-
2 sular Area fishing agreements;”.

3 **SEC. 405. REAUTHORIZATION OF ATLANTIC TUNAS CON-**
4 **VENTION ACT.**

5 (a) IN GENERAL.—Section 10 of the Atlantic Tunas
6 Convention Act of 1975 (16 U.S.C. 971h) is amended to
7 read as follows:

8 **“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

9 “(a) IN GENERAL.—There are authorized to be ap-
10 propriated to the Secretary to carry out this Act, including
11 use for payment of the United States share of the joint
12 expenses of the Commission as provided in Article X of
13 the Convention—

14 “(1) \$5,495,000 for fiscal year 2006;

15 “(2) \$5,770,000 for each of fiscal years 2007
16 and 2008;

17 “(3) \$6,058,000 for each of fiscal years 2009
18 and 2010; and

19 “(4) \$6,631,000 for each of fiscal years 2011
20 and 2012.

21 “(b) ALLOCATION.—Of the amounts made available
22 under subsection (a) for each fiscal year—

23 “(1) \$160,000 are authorized for the advisory
24 committee established under section 4 of this Act

1 and the species working groups established under
2 section 4A of this Act; and

3 “(2) \$7,500,000 are authorized for research ac-
4 tivities under this Act and section 3 of Public Law
5 94–339 (16 U.S.C. 971i), of which \$3,000,000 shall
6 be for the cooperative research program under sec-
7 tion 3(b)(2)(H) of that section (16 U.S.C.
8 971i(b)(2)(H)).”.

9 (b) ATLANTIC BILLFISH COOPERATIVE RESEARCH
10 PROGRAM.—Section 3(b)(2) of the Atlantic Tunas Con-
11 vention Act of 1975 (16 U.S.C. 971i(b)(2)) is amended—

12 (1) by striking “and” after the semicolon in
13 subparagraph (G);

14 (2) by redesignating subparagraph (H) as sub-
15 paragraph (I); and

16 (3) by inserting after subparagraph (G) the fol-
17 lowing:

18 “(H) include a cooperative research pro-
19 gram on Atlantic billfish based on the South-
20 east Fisheries Science Center Atlantic Billfish
21 Research Plan of 2002; and”.

1 **SEC. 406. INTERNATIONAL OVERFISHING AND DOMESTIC**
2 **EQUITY.**

3 (a) REBUILDING OVERFISHED FISHERIES.—Section
4 304(e) (16 U.S.C. 1854(e)) is amended by adding at the
5 end thereof the following:

6 “(8) The provisions of this paragraph shall
7 apply in lieu of paragraphs (2) through (7) of this
8 subsection to a fishery that the Secretary determines
9 is overfished or approaching a condition of being
10 overfished due to excessive international fishing
11 pressure, and for which there are no management
12 measures to end overfishing under an international
13 agreement to which the United States is a party.
14 For such fisheries—

15 “(A) the Secretary, in cooperation with the
16 Secretary of State, immediately take appro-
17 priate action at the international level to end
18 the overfishing; and

19 “(B) within 1 year after the Secretary’s
20 determination, the appropriate Council, or Sec-
21 retary, for fisheries under section 302(a)(3)
22 shall—

23 “(i) develop recommendations for do-
24 mestic regulations to address the relative
25 impact of fishing vessels of the United
26 States on the stock and, if developed by a

1 Council, the Council shall submit such rec-
2 ommendations to the Secretary; and

3 “(ii) develop and submit recommenda-
4 tions to the Secretary of State, and to the
5 Congress, for international actions that
6 will end overfishing in the fishery and re-
7 build the affected stocks, taking into ac-
8 count the relative impact of vessels of
9 other nations and vessels of the United
10 States on the relevant stock.”.

11 (b) HIGHLY MIGRATORY SPECIES TAGGING RE-
12 SEARCH.—Section 304(g)(2) (16 U.S.C. 1854(g)(2)) is
13 amended by striking “(16 U.S.C. 971d)” and inserting
14 “(16 U.S.C. 971d), or highly migratory species harvested
15 in a commercial fishery managed by a Council under this
16 Act or the Western and Central Pacific Fisheries Conven-
17 tion Implementation Act,”.

18 **TITLE V—IMPLEMENTATION OF**
19 **WESTERN AND CENTRAL PA-**
20 **CIFIC FISHERIES CONVEN-**
21 **TION**

22 **SEC. 501. SHORT TITLE.**

23 This title may be cited as the “Western and Central
24 Pacific Fisheries Convention Implementation Act”.

1 **SEC. 502. DEFINITIONS.**

2 In this title:

3 (1) 1982 CONVENTION.—The term “1982 Con-
4 vention” means the United Nations Convention on
5 the Law of the Sea of 10 December 1982.

6 (2) AGREEMENT.—The term “Agreement”
7 means the Agreement for the Implementation of the
8 Provisions of the United Nations Convention on the
9 Law of the Sea of 10 December 1982 relating to the
10 Conservation and Management of Straddling Fish
11 Stocks and Highly Migratory Fish Stocks.

12 (3) COMMISSION.—The term “Commission”
13 means the Commission for the Conservation and
14 Management of Highly Migratory Fish Stocks in the
15 Western and Central Pacific Ocean established in
16 accordance with this Convention.

17 (4) CONVENTION AREA.—The term “convention
18 area” means all waters of the Pacific Ocean bounded
19 to the south and to the east by the following line:
20 From the south coast of Australia due south along
21 the 141th meridian of east longitude to its intersec-
22 tion with the 55th parallel of south latitude; thence
23 due east along the 55th parallel of south latitude to
24 its intersection with the 150th meridian of east lon-
25 gitude; thence due south along the 150th meridian
26 of east longitude to its intersection with the 60th

1 parallel of south latitude; thence due east along the
2 60th parallel of south latitude to its intersection
3 with the 130th meridian of west longitude; thence
4 due north along the 130th meridian of west lon-
5 gitude to its intersection with the 4th parallel of
6 south latitude; thence due west along the 4th par-
7 allel of south latitude to its intersection with the
8 150th meridian of west longitude; thence due north
9 along the 150th meridian of west longitude.

10 (5) EXCLUSIVE ECONOMIC ZONE.—The term
11 “exclusive economic zone” means the zone estab-
12 lished by Presidential Proclamation Numbered 5030
13 of March 10, 1983.

14 (6) FISHING.—The term “fishing” means:

15 (A) searching for, catching, taking, or har-
16 vesting fish.

17 (B) attempting to search for, catch, take,
18 or harvest fish.

19 (C) engaging in any other activity which
20 can reasonably be expected to result in the lo-
21 cating, catching, taking, or harvesting of fish
22 for any purpose.

23 (D) placing, searching for, or recovering
24 fish aggregating devices or associated electronic
25 equipment such as radio beacons.

1 (E) any operations at sea directly in sup-
2 port of, or in preparation for, any activity de-
3 scribed in subparagraphs (A) through (D), in-
4 cluding transshipment.

5 (F) use of any other vessel, vehicle, air-
6 craft, or hovercraft, for any activity described
7 in subparagraphs (A) through (E) except for
8 emergencies involving the health and safety of
9 the crew or the safety of a vessel.

10 (7) FISHING VESSEL.—The term “fishing ves-
11 sel” means any vessel used or intended for use for
12 the purpose of fishing, including support ships, car-
13 rier vessels, and any other vessel directly involved in
14 such fishing operations.

15 (8) HIGHLY MIGRATORY FISH STOCKS.—The
16 term “highly migratory fish stocks” means all fish
17 stocks of the species listed in Annex 1 of the 1982
18 Convention occurring in the Convention Area, and
19 such other species of fish as the Commission may
20 determine.

21 (9) SECRETARY.—The term “Secretary” means
22 the Secretary of Commerce.

23 (10) STATE.—The term “State” means each of
24 the several States of the United States, the District
25 of Columbia, the Commonwealth of the Northern

1 Mariana Islands, American Samoa, Guam, and any
2 other commonwealth, territory, or possession of the
3 United States.

4 (11) TRANSHIPMENT.—The term “trans-
5 shipment” means the unloading of all or any of the
6 fish on board a fishing vessel to another fishing ves-
7 sel either at sea or in port.

8 (12) WCPCF CONVENTION; WESTERN AND
9 CENTRAL PACIFIC CONVENTION.—The terms
10 “WCPCF Convention” and “Western and Central
11 Pacific Convention” means the Convention on the
12 Conservation and Management of the Highly Migra-
13 tory Fish Stocks in the Western and Central Pacific
14 Ocean, with Annexes, which was adopted at Hono-
15 lulu, Hawaii, on September 5, 2000, by the Multilat-
16 eral High Level Conference on the Highly Migratory
17 Fish Stocks in the Western and Central Pacific
18 Ocean.

19 **SEC. 503. APPOINTMENT OF UNITED STATES COMMIS-**
20 **SIONERS.**

21 (a) IN GENERAL.—The United States shall be rep-
22 resented on the Commission by 5 United States Commis-
23 sioners. The President shall appoint individuals to serve
24 on the Commission at the pleasure of the President. In
25 making the appointments, the President shall select Com-

1 missioners from among individuals who are knowledgeable
2 or experienced concerning highly migratory fish stocks in
3 the Western and Central Pacific Ocean, one of whom shall
4 be an officer or employee of the Department of Commerce,
5 and one of whom shall be the chairman or a member of
6 the Western Pacific Fishery Management Council. The
7 Commissioners shall be entitled to adopt such rules of pro-
8 cedures as they find necessary and to select a chairman
9 from among members who are officers or employees of the
10 United States Government.

11 (b) ALTERNATE COMMISSIONERS.—The Secretary of
12 State, in consultation with the Secretary, may designate
13 from time to time and for periods of time deemed appro-
14 priate Alternate United States Commissioners to the Com-
15 mission. Any Alternate United States Commissioner may
16 exercise at any meeting of the Commission, Council, any
17 Panel, or the advisory committee established pursuant to
18 subsection (d), all powers and duties of a United States
19 Commissioner in the absence of any Commissioner ap-
20 pointed pursuant to subsection (a) of this section for what-
21 ever reason. The number of such Alternate United States
22 Commissioners that may be designated for any such meet-
23 ing shall be limited to the number of United States Com-
24 missioners appointed pursuant to subsection (a) of this
25 section who will not be present at such meeting.

1 (c) ADMINISTRATIVE MATTERS.—

2 (1) EMPLOYMENT STATUS.—Individuals serving
3 as such Commissioners, other than officers or em-
4 ployees of the United States Government, shall be
5 considered to be Federal employees while performing
6 such service, only for purposes of—

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

9 (B) tort claims liability as provided under
10 chapter 171 of title 28 United States Code;

11 (C) requirements concerning ethics, con-
12 flicts of interest, and corruption as provided
13 under title 18, United States Code; and

14 (D) any other criminal or civil statute or
15 regulation governing the conduct of Federal em-
16 ployees.

17 (2) COMPENSATION.—The United States Com-
18 missioners or Alternate Commissioners, although of-
19 ficers of the United States while so serving, shall re-
20 ceive no compensation for their services as such
21 Commissioners or Alternate Commissioners.

22 (3) TRAVEL EXPENSES.—

23 (A) The Secretary of State shall pay the
24 necessary travel expenses of United States
25 Commissioners and Alternate United States

1 Commissioners in accordance with the Federal
2 Travel Regulations and sections 5701, 5702,
3 5704 through 5708, and 5731 of title 5, United
4 States Code.

5 (B) The Secretary may reimburse the Sec-
6 retary of State for amounts expended by the
7 Secretary of State under this subsection.

8 (d) ADVISORY COMMITTEES.—

9 (1) ESTABLISHMENT OF PERMANENT ADVISORY
10 COMMITTEE.—

11 (A) MEMBERSHIP.—There is established
12 an advisory committee which shall be composed
13 of—

14 (i) not less than 15 nor more than 20
15 individuals appointed by the United States
16 Commissioners who shall select such indi-
17 viduals from the various groups concerned
18 with the fisheries covered by the WCPFC
19 Convention, providing, to the maximum ex-
20 tent practicable, an equitable balance
21 among such groups;

22 (ii) the chair of the Western Pacific
23 Fishery Management Council's Advisory
24 Committee or the chair's designee; and

1 (iii) officials of the fisheries manage-
2 ment authorities of American Samoa,
3 Guam, and the Northern Mariana Islands
4 (or their designees).

5 (B) TERMS AND PRIVILEGES.—Each mem-
6 ber of the advisory committee appointed under
7 subparagraph (A) shall serve for a term of 2
8 years and shall be eligible for reappointment.
9 Members of the advisory committee may attend
10 all public meetings of the Commission, Council,
11 or any Panel and any other meetings to which
12 they are invited by the Commission, Council, or
13 any Panel. The advisory committee shall be in-
14 vited to attend all non-executive meetings of the
15 United States Commissioners and at such meet-
16 ings shall be given opportunity to examine and
17 to be heard on all proposed programs of inves-
18 tigation, reports, recommendations, and regula-
19 tions of the Commission.

20 (C) PROCEDURES.—The advisory com-
21 mittee established by subparagraph (A) shall
22 determine its organization, and prescribe its
23 practices and procedures for carrying out its
24 functions under this chapter, the Magnuson-
25 Stevens Fishery Conservation and Management

1 Act (16 U.S.C. 1801 et seq.), and the WCPFC
2 Convention. The advisory committee shall pub-
3 lish and make available to the public a state-
4 ment of its organization, practices, and proce-
5 dures. A majority of the members of the advi-
6 sory committee shall constitute a quorum, but
7 one or more such members designated by the
8 advisory committee may hold meetings to pro-
9 vide for public participation and to discuss
10 measures relating to the United States imple-
11 mentation of Commission recommendations.
12 Meetings of the advisory committee, except
13 when in executive session, shall be open to the
14 public, and prior notice of meetings shall be
15 made public in a timely fashion. and the advi-
16 sory committee shall not be subject to the Fed-
17 eral Advisory Committee Act (5 U.S.C. App.).

18 (D) PROVISION OF INFORMATION.—The
19 Secretary and the Secretary of State shall fur-
20 nish the advisory committee with relevant infor-
21 mation concerning fisheries and international
22 fishery agreements.

23 (2) ADMINISTRATIVE MATTERS.—

24 (A) SUPPORT SERVICES.—The Secretary
25 shall provide to advisory committees in a timely

1 manner such administrative and technical sup-
2 port services as are necessary for their effective
3 functioning.

4 (B) COMPENSATION; STATUS; EX-
5 PENSES.—Individuals appointed to serve as a
6 member of an advisory committee—

7 (i) shall serve without pay, but while
8 away from their homes or regular places of
9 business in the performance of services for
10 the advisory committee shall be allowed
11 travel expenses, including per diem in lieu
12 of subsistence, in the same manner as per-
13 sons employed intermittently in the Gov-
14 ernment service are allowed expenses under
15 section 5703 of title 5, United States
16 Code; and

17 (ii) shall not be considered Federal
18 employees by reason of their service as
19 members of an advisory committee, except
20 for purposes of injury compensation or tort
21 claims liability as provided in chapter 81 of
22 title 5, United States Code, and chapter
23 171 of title 28, United States Code.

24 (f) MEMORANDUM OF UNDERSTANDING.—For highly
25 migratory species in the Pacific, the Secretary, in coordi-

1 nation with the Secretary of State, shall develop a memo-
2 randum of understanding with the Western Pacific, Pa-
3 cific, and North Pacific Fishery Management Councils,
4 that specifies the role of the relevant Council or Councils
5 with respect to—

6 (1) participation in United States delegations to
7 international fishery organizations in the Pacific
8 Ocean, including government-to-government con-
9 sultations;

10 (2) providing formal recommendations to the
11 Secretary and the Secretary of State regarding nec-
12 essary measures for both domestic and foreign ves-
13 sels fishing for these species;

14 (3) coordinating positions with the United
15 States delegation for presentation to the appropriate
16 international fishery organization; and

17 (4) recommending those domestic fishing regu-
18 lations that are consistent with the actions of the
19 international fishery organization, for approval and
20 implementation under the Magnuson-Stevens Fish-
21 ery Conservation and Management Act (16 U.S.C.
22 1801 et seq.)

23 **SEC. 504. AUTHORITY AND RESPONSIBILITY OF THE SEC-**
24 **RETARY OF STATE.**

25 The Secretary of State may—

1 (1) receive and transmit, on behalf of the
2 United States, reports, requests, recommendations,
3 proposals, decisions, and other communications of
4 and to the Commission;

5 (2) in consultation with the Secretary and the
6 United States Commissioners, approve, disapprove,
7 object to, or withdraw objections to bylaws and
8 rules, or amendments thereof, adopted by the
9 WCPFC Commission, and, with the concurrence of
10 the Secretary to approve or disapprove the general
11 annual program of the WCPFC Commission with re-
12 spect to conservation and management measures
13 and other measures proposed or adopted in accord-
14 ance with the WCPFC Convention; and

15 (3) act upon, or refer to other appropriate au-
16 thority, any communication referred to in paragraph
17 (1).

18 **SEC. 505. RULEMAKING AUTHORITY OF THE SECRETARY OF**
19 **COMMERCE.**

20 (a) PROMULGATION OF REGULATIONS.—The Sec-
21 retary, in consultation with the Secretary of the Depart-
22 ment in which the Coast Guard is operating and the ap-
23 propriate Regional Fishery Management Council, shall
24 promulgate such regulations as may be necessary to carry
25 out the United States international obligations under the

1 WCPFC Convention and this title. The Secretary shall
2 promulgate such regulations in accordance with the proce-
3 dures established by the Magnuson-Stevens Fishery Con-
4 servation and Management Act (16 U.S.C. 1801 et seq.).

5 (b) ADDITIONS TO FISHERY REGIMES AND REGULA-
6 TIONS.—The Secretary may promulgate regulations appli-
7 cable to nationals or vessels of the United States, or both,
8 which are in addition to, and not in conflict with, fishery
9 conservation and management measures and regulations
10 adopted under the WCPFC Convention.

11 **SEC. 506. ENFORCEMENT.**

12 (a) IN GENERAL.—The Secretary may—

13 (1) administer and enforce this title and any
14 regulations issued under this title, including enforce-
15 ment of any such regulations within the boundaries
16 of any State bordering on the convention area;

17 (2) request and utilize on a reimbursed or non-
18 reimbursed basis the assistance, services, personnel,
19 equipment, and facilities of other Federal depart-
20 ments and agencies in—

21 (A) the administration and enforcement of
22 this title; and

23 (B) the conduct of scientific, research, and
24 other programs under this title;

1 (3) conduct fishing operations and biological ex-
2 periments for purposes of scientific investigation or
3 other purposes necessary to implement the WCPFC
4 Convention;

5 (4) collect, utilize, and disclose such informa-
6 tion as may be necessary to implement the WCPFC
7 Convention, subject to sections 552 and 552a of title
8 5, United States Code, and section 402(b) of the
9 Magnuson-Stevens Fishery Conservation and Man-
10 agement Act (16 U.S.C. 1881a(b));

11 (5) assess and collect fees to recover the costs
12 of implementing and enforcing this title, policy and
13 rulemaking activities, user information services,
14 international activities under this title, and the costs
15 to the United States of enforcing the WCPFC Con-
16 vention, which shall be deposited as an offsetting
17 collection in, and credited to, the account providing
18 appropriations to carry out the functions of the Sec-
19 retary under this title; and

20 (6) issue permits to owners and operators of
21 United States vessels to fish in the convention area
22 seaward of the United States Exclusive Economic
23 Zone.

1 (b) PROHIBITED ACTS.—It is unlawful for any per-
2 son to violate any provision of this title or the regulations
3 promulgated under this title.

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

18 **SEC. 507. PENALTIES.**

19 This title shall be enforced by the Secretary as if a
20 violation of this title or of any regulation promulgated by
21 the Commission under this title were a violation of section
22 307 of the Magnuson-Stevens Fishery Conservation and
23 Management Act (16 U.S.C. 1857).

1 **SEC. 508. COOPERATION IN CARRYING OUT CONVENTION.**

2 (a) FEDERAL AND STATE AGENCIES; PRIVATE INSTI-
3 TUTIONS AND ORGANIZATIONS.—The United States Com-
4 missioners, through the Secretary of State and with the
5 concurrence of the Secretary, institution, or organization
6 concerned, may arrange for the cooperation of Federal
7 agencies and of State and private institutions and organi-
8 zations in carrying out responsibilities under the WCPFC
9 Convention.

10 (b) SCIENTIFIC AND OTHER PROGRAMS; FACILITIES
11 AND PERSONNEL.—All Federal agencies are authorized,
12 upon the request of the Secretary of Commerce Commis-
13 sion, to cooperate in the conduct of scientific and other
14 programs and to furnish facilities and personnel for the
15 purpose of assisting the Commission in carrying out its
16 duties under the WCPFC Convention.

17 **SEC. 509. TERRITORIAL PARTICIPATION.**

18 The Secretary of State shall ensure participation in
19 the Commission and its subsidiary bodies by American
20 Samoa, Guam, and the Northern Mariana Islands to the
21 same extent provided to the territories of other nations.

22 **SEC. 510. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated to the Sec-
24 retary of Commerce such sums as may be necessary to
25 carry out this title and to pay the United States' contribu-

1 tion to the Commission under section 5 of part III of the
2 WCPFC Convention.

3 **TITLE VI—PACIFIC WHITING**

4 **SEC. 601. SHORT TITLE.**

5 This title may be cited as the “Pacific Whiting Act
6 of 2005”.

7 **SEC. 602. DEFINITIONS.**

8 In this title:

9 (1) **ADVISORY PANEL.**—The term “advisory
10 panel” means the Advisory Panel on Pacific Hake/
11 Whiting established by the Agreement.

12 (2) **AGREEMENT.**—The term “Agreement”
13 means the Agreement between the Government of
14 the United States and the Government of Canada on
15 Pacific Hake/Whiting, signed at Seattle, Wash-
16 ington, on November 21, 2003.

17 (3) **CATCH.**—The term “catch” means all fish-
18 ery removals from the offshore whiting resource, in-
19 cluding landings, discards, and bycatch in other fish-
20 eries.

21 (4) **JOINT MANAGEMENT COMMITTEE.**—The
22 term “joint management committee” means the
23 joint management committee established by the
24 Agreement.

1 (5) JOINT TECHNICAL COMMITTEE.—The term
2 “joint technical committee” means the joint tech-
3 nical committee established by the Agreement.

4 (6) OFFSHORE WHITING RESOURCE.—The term
5 “offshore whiting resource” means the
6 transboundary stock of *Merluccius productus* that is
7 located in the offshore waters of the United States
8 and Canada except in Puget Sound and the Strait
9 of Georgia.

10 (7) SCIENTIFIC REVIEW GROUP.—The term
11 “scientific review group” means the scientific review
12 group established by the Agreement.

13 (8) SECRETARY.—The term “Secretary” means
14 the Secretary of Commerce.

15 (9) UNITED STATES SECTION.—The term
16 “United States Section” means the United States
17 representatives on the joint management committee.

18 **SEC. 603. UNITED STATES REPRESENTATION ON JOINT**
19 **MANAGEMENT COMMITTEE.**

20 (a) REPRESENTATIVES.—

21 (1) IN GENERAL.—The Secretary, in consulta-
22 tion with the Secretary of State, shall appoint 4 in-
23 dividuals to represent the United States as the
24 United States Section on the joint management com-
25 mittee. In making the appointments, the Secretary

1 shall select representatives from among individuals
2 who are knowledgeable or experienced concerning
3 the offshore whiting resource. Of these—

4 (A) 1 shall be an official of the National
5 Oceanic and Atmospheric Administration;

6 (B) 1 shall be a member of the Pacific
7 Fishery Management Council, appointed with
8 consideration given to any recommendation pro-
9 vided by that Council;

10 (C) 1 shall be appointed from a list sub-
11 mitted by the treaty Indian tribes with treaty
12 fishing rights to the offshore whiting resource;
13 and

14 (D) 1 shall be appointed from the commer-
15 cial sector of the whiting fishing industry con-
16 cerned with the offshore whiting resource.

17 (2) TERM OF OFFICE.—Each representative ap-
18 pointed under paragraph (1) shall be appointed for
19 a term not to exceed 4 years, except that, of the ini-
20 tial appointments, 2 representatives shall be ap-
21 pointed for terms of 2 years. Any individual ap-
22 pointed to fill a vacancy occurring prior to the expi-
23 ration of the term of office of that individual's pred-
24 ecessor shall be appointed for the remainder of that
25 term. A representative may be appointed for a term

1 of less than 4 years if such term is necessary to en-
2 sure that the term of office of not more than 2 rep-
3 resentatives will expire in any single year. An indi-
4 vidual appointed to serve as a representative is eligi-
5 ble for reappointment.

6 (3) CHAIR.—Unless otherwise agreed by all of
7 the 4 representatives, the chair shall rotate annually
8 among the 4 members, with the order of rotation de-
9 termined by lot at the first meeting.

10 (b) ALTERNATE REPRESENTATIVES.—The Secretary,
11 in consultation with the Secretary of State, may designate
12 alternate representatives of the United States to serve on
13 the joint management committee. An alternative rep-
14 resentative may exercise, at any meeting of the committee,
15 all the powers and duties of a representative in the ab-
16 sence of a duly designated representative for whatever rea-
17 son.

18 **SEC. 604. UNITED STATES REPRESENTATION ON THE SCI-**
19 **ENTIFIC REVIEW GROUP.**

20 (a) IN GENERAL.—The Secretary, in consultation
21 with the Secretary of State, shall appoint no more than
22 2 scientific experts to serve on the scientific review group.
23 An individual shall not be eligible to serve on the scientific
24 review group while serving on the joint technical com-
25 mittee.

1 (b) TERM.—An individual appointed under sub-
2 section (a) shall be appointed for a term of not to exceed
3 4 years, but shall be eligible for reappointment. An indi-
4 vidual appointed to fill a vacancy occurring prior to the
5 expiration of a term of office of that individual's prede-
6 cessor shall be appointed to serve for the remainder of that
7 term.

8 (c) JOINT APPOINTMENTS.—In addition to individ-
9 uals appointed under subsection (a), the Secretary, jointly
10 with the Government of Canada, may appoint to the sci-
11 entific review group, from a list of names provided by the
12 advisory panel —

13 (1) up to 2 independent members of the sci-
14 entific review group; and

15 (2) 2 public advisors.

16 **SEC. 605. UNITED STATES REPRESENTATION ON JOINT**
17 **TECHNICAL COMMITTEE.**

18 (a) SCIENTIFIC EXPERTS.—

19 (1) IN GENERAL.—The Secretary, in consulta-
20 tion with the Secretary of State, shall appoint at
21 least 6 but not more than 12 individuals to serve as
22 scientific experts on the joint technical committee, at
23 least 1 of whom shall be an official of the National
24 Oceanic and Atmospheric Administration.

1 (2) TERM OF OFFICE.—An individual appointed
2 under paragraph (1) shall be appointed for a term
3 of not to exceed 4 years, but shall be eligible for re-
4 appointment. An individual appointed to fill a va-
5 cancy occurring prior to the expiration of the term
6 of office of that individual’s predecessor shall be ap-
7 pointed for the remainder of that term.

8 **SEC. 607. RESPONSIBILITIES OF THE SECRETARY.**

9 (a) IN GENERAL.—The Secretary is responsible for
10 carrying out the Agreement and this title, including the
11 authority, to be exercised in consultation with the Sec-
12 retary of State, to accept or reject, on behalf of the United
13 States, recommendations made by the joint management
14 committee.

15 (b) REGULATIONS; COOPERATION WITH CANADIAN
16 OFFICIALS.—In exercising responsibilities under this title,
17 the Secretary—

18 (1) may promulgate such regulations as may be
19 necessary to carry out the purposes and objectives of
20 the Agreement and this title; and

21 (2) with the concurrence of the Secretary of
22 State, may cooperate with officials of the Canadian
23 Government duly authorized to carry out the Agree-
24 ment.

1 **SEC. 608. RULEMAKING.**

2 (a) APPLICATION WITH MAGNUSON-STEVENSONS ACT.—

3 The Secretary shall establish the United States catch level
4 for Pacific whiting according to the standards and proce-
5 dures of the Agreement and this title rather than under
6 the standards and procedures of the Magnuson-Stevens
7 Fishery Conservation and Management Act (16 U.S.C.
8 1801 et seq.), except to the extent necessary to address
9 the rebuilding needs of other species. Except for estab-
10 lishing the catch level, all other aspects of Pacific whiting
11 management shall be—

12 (1) subject to the Magnuson-Stevens Fishery
13 Conservation and Management Act; and

14 (2) consistent with this title.

15 (b) JOINT MANAGEMENT COMMITTEE REC-

16 OMMENDATIONS.—For any year in which both parties to
17 the Agreement approve recommendations made by the
18 joint management committee with respect to the catch
19 level, the Secretary shall implement the approved rec-
20 ommendations. Any regulation promulgated by the Sec-
21 retary to implement any such recommendation shall apply,
22 as necessary, to all persons and all vessels subject to the
23 jurisdiction of the United States wherever located.

24 (c) YEARS WITH NO APPROVED CATCH REC-

25 OMMENDATIONS.—If the parties to the Agreement do not
26 approve the joint management committee's recommenda-

1 tion with respect to the catch level for any year, the Sec-
2 retary shall establish the total allowable catch for Pacific
3 whiting for the United States catch. In establishing the
4 total allowable catch under this subsection, the Secretary
5 shall—

6 (1) take into account any recommendations
7 from the Pacific Fishery Management Council, the
8 joint management committee, the joint technical
9 committee, the scientific review group, and the advi-
10 sory panel;

11 (2) base the total allowable catch on the best
12 scientific information available;

13 (3) use the default harvest rate set out in para-
14 graph 1 of Article III of the Agreement unless the
15 Secretary determines that the scientific evidence
16 demonstrates that a different rate is necessary to
17 sustain the offshore whiting resource; and

18 (4) establish the United State's share of the
19 total allowable catch based on paragraph 2 of Article
20 III of the Agreement and make any adjustments
21 necessary under section 5 of Article II of the Agree-
22 ment.

23 **SEC. 609. ADMINISTRATIVE MATTERS.**

24 (a) **EMPLOYMENT STATUS.**—Individuals serving as
25 such Commissioners, other than officers or employees of

1 the United States Government, shall be considered to be
2 Federal employees while performing such service, only for
3 purposes of—

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

6 (2) tort claims liability as provided under chap-
7 ter 171 of title 28 United States Code;

8 (3) requirements concerning ethics, conflicts of
9 interest, and corruption as provided under title 18,
10 United States Code; and

11 (4) any other criminal or civil statute or regula-
12 tion governing the conduct of Federal employees.

13 (b) COMPENSATION.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (2), an individual appointed under this title
16 shall receive no compensation for the individual's
17 service as a representative, alternate representative,
18 scientific expert, or advisory panel member under
19 this title.

20 (2) SCIENTIFIC REVIEW GROUP.—Notwith-
21 standing paragraph (1), the Secretary may employ
22 and fix the compensation of an individual appointed
23 under section 604(a) to serve as a scientific expert
24 on the scientific review group who is not employed
25 by the United States government, a State govern-

1 ment, or an Indian tribal government in accordance
2 with section 3109 of title 5, United States Code.

3 (c) TRAVEL EXPENSES.—Except as provided in sub-
4 section (d), the Secretary shall pay the necessary travel
5 expenses of individuals appointed under this title in ac-
6 cordance with the Federal Travel Regulations and sections
7 5701, 5702, 5704 through 5708, and 5731 of title 5,
8 United States Code.

9 (d) JOINT APPOINTEES.—With respect to the 2 inde-
10 pendent members of the scientific review group and the
11 2 public advisors to the scientific review group jointly ap-
12 pointed under section 604(c), and the 1 independent mem-
13 ber to the joint technical committee jointly appointed
14 under section 605(b), the Secretary may pay up to 50 per-
15 cent of—

16 (1) any compensation paid to such individuals;

17 and

18 (2) the necessary travel expenses of such indi-
19 viduals.

20 **SEC. 610. ENFORCEMENT.**

21 (a) IN GENERAL.—The Secretary may—

22 (1) administer and enforce this title and any
23 regulations issued under this title;

24 (2) request and utilize on a reimbursed or non-
25 reimbursed basis the assistance, services, personnel,

1 equipment, and facilities of other Federal depart-
2 ments and agencies in the administration and en-
3 forcement of this title; and

4 (3) collect, utilize, and disclose such informa-
5 tion as may be necessary to implement the Agree-
6 ment and this title, subject to sections 552 and 552a
7 of title 5, United States Code.

8 (b) PROHIBITED ACTS.—It is unlawful for any per-
9 son to violate any provision of this title or the regulations
10 promulgated under this title.

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

1 (d) PENALTIES.—This title shall be enforced by the
2 Secretary as if a violation of this title or of any regulation
3 promulgated by the Secretary under this title were a viola-
4 tion of section 307 of the Magnuson-Stevens Fishery Con-
5 servation and Management Act (16 U.S.C. 1857).

6 **SEC. 611. AUTHORIZATION OF APPROPRIATIONS.**

7 There are authorized to be appropriated to the Sec-
8 retary such sums as may be necessary to carry out the
9 obligations of the United States under the Agreement and
10 this title.

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