

AMENDMENT NO.

CAL. NO.

[STAFF WORKING DRAFT]

December 7, 2006

Purpose: To authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2007 through 2013, and for other purposes.

IN THE SENATE OF THE UNITED STATES—109TH Cong., 2ND Sess.

H.R. 5946, 109TH Congress, 2ND Session

DECEMBER —, 2006

() Referred to the Committee on _____ and ordered to be printed

() Ordered to lie on the table and to be printed

INTENDED to be proposed by Mr. _____

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 2006”.

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. Sestern 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 and North Pacific community development.
- Sec. 110. Secretarial action on State groundfish fishing.
- Sec. 111. Joint enforcement agreements.
- Sec. 112. Transition to sustainable fisheries.
- Sec. 113. Regional coastal disaster assistance, transition, and recovery program.
- Sec. 114. Fishery finance program hurricane assistance.
- Sec. 115. Fisheries hurricane assistance program.
- Sec. 116. Bycatch reduction engineering program.
- Sec. 117. Community-based restoration program for fishery and coastal habitats.
- Sec. 118. Prohibited acts.
- Sec. 119. Shark feeding.
- Sec. 120. Clarification of flexibility.
- Sec. 121. Southeast Alaska fisheries communities capacity reduction.
- Sec. 122. Conversion to catcher/processor shares.

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 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. Hurricane effects on commercial and recreational fishery habitats.
- Sec. 214. North Pacific Fisheries Convention.
- Sec. 215. New England groundfish fishery.
- Sec. 216. Report on council management coordination.
- Sec. 217. Study of shortage in the number of individuals with post-baccalaureate degrees in subjects related to fishery science.
- Sec. 218. Gulf of Alaska Rockfish demonstration program.

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.
- Sec. 407. United States catch history.
- Sec. 408. Secretarial representative for international fisheries.

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. Prohibited acts.
- Sec. 508. Cooperation in carrying out convention.
- Sec. 509. Territorial participation.
- Sec. 510. Exclusive economic zone notification.
- Sec. 511. 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.

TITLE VII—MISCELLANEOUS

- Sec. 701. Study of the acidification of the oceans and effect on fisheries.
- Sec. 702. Rule of construction.
- Sec. 703. Puget Sound regional shellfish settlement.

TITLE VIII—TSUNAMI WARNING AND EDUCATION

- Sec. 801. Short title.
- Sec. 802. Definitions.
- Sec. 803. Purposes.
- Sec. 804. Tsunami forecasting and warning program.
- Sec. 805. National tsunami hazard mitigation program.

Sec. 806. Tsunami research program.
Sec. 807. Authorization of appropriations.

TITLE IX—POLAR BEARS

Sec. 901. Short title.
Sec. 902. Amendment of Marine Mammal Protection Act of 1972.

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
16 management using the existing authorities provided
17 under this Act.”.

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

20 (1) by inserting after paragraph (13) the fol-
21 lowing:

1 “(13A) The term ‘regional fishery association’
2 means an association formed for the mutual benefit
3 of members—

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

6 “(B) comprised of persons engaging in the
7 harvest or processing of fishery resources in
8 that specific region or subregion or who other-
9 wise own or operate businesses substantially de-
10 pendent upon a fishery.”;

11 (2) by inserting after paragraph (20) the fol-
12 lowing:

13 “(20A) The term ‘import’—

14 “(A) means to land on, bring into, or in-
15 troduce into, or attempt to land on, bring into,
16 or introduce into, any place subject to the juris-
17 diction of the United States, whether or not
18 such landing, bringing, or introduction con-
19 stitutes an importation within the meaning of
20 the customs laws of the United States; but

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

1 (3) by inserting after paragraph (23) the fol-
2 lowing:

3 “(23A) The term ‘limited access privilege’—

4 “(A) means a Federal permit, issued as
5 part of a limited access system under section
6 303A to harvest a quantity of fish expressed by
7 a unit or units representing a portion of the
8 total allowable catch of the fishery that may be
9 received or held for exclusive use by a person;
10 and

11 “(B) includes an individual fishing quota;
12 but

13 “(C) does not include community develop-
14 ment quotas as described in section 305(i).

15 “(23B) The term ‘limited access system’ means
16 a system that limits participation in a fishery to
17 those satisfying certain eligibility criteria or require-
18 ments contained in a fishery management plan or
19 associated regulation.”; and

20 (4) by inserting after paragraph (27) the fol-
21 lowing:

22 “(27A) The term ‘observer information’ means
23 any information collected, observed, retrieved, or cre-
24 ated by an observer or electronic monitoring system
25 pursuant to authorization by the Secretary, or col-

1 lected as part of a cooperative research initiative, in-
2 cluding fish harvest or processing observations, fish
3 sampling or weighing data, vessel logbook data, ves-
4 sel or processor-specific information (including any
5 safety, location, or operating condition observations),
6 and video, audio, photographic, or written docu-
7 ments.”.

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

12 (d) CONFORMING AMENDMENTS.—

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

16 (A) Section 402(b)(1)(D) (16 U.S.C.
17 1881a(b)(1)(D)).

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

20 (2) The following provisions of the Act are
21 amended by striking “individual fishing quota” and
22 inserting “limited access privilege”:

23 (A) Section 304(c)(3) (16 U.S.C.
24 1854(c)(3)).

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

3 (3) Section 305(h)(1) (16 U.S.C. 1855(h)(1)) is
4 amended by striking “individual fishing quotas,”
5 and inserting “limited access privileges.”

6 **SEC. 4. HIGHLY MIGRATORY SPECIES.**

7 Section 102 (16 U.S.C. 1812) is amended—

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

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

11 “(b) TRADITIONAL PARTICIPATION.—In managing
12 any fisheries under an international fisheries agreement
13 to which the United States is a party, the appropriate
14 Council or Secretary shall take into account the traditional
15 participation in the fishery, relative to other nations, by
16 fishermen of the United States on fishing vessels of the
17 United States.

18 “(c) PROMOTION OF STOCK MANAGEMENT.—If a rel-
19 evant international fisheries organization does not have a
20 process for developing a formal plan to rebuild a depleted
21 stock, an overfished stock, or a stock that is approaching
22 a condition of being overfished, the provisions of this Act
23 in this regard shall be communicated to and promoted by
24 the United States in the international or regional fisheries
25 organization.”.

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

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

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

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

6 (3) by inserting after “Act.” the following: “Al-
7 locations of the total allowable level of foreign fish-
8 ing are discretionary, except that the total allowable
9 level shall be zero for fisheries determined by the
10 Secretary to have adequate or excess domestic har-
11 vest capacity.”.

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

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

14 (1) by inserting “and any funds or contribu-
15 tions received in support of conservation and man-
16 agement objectives under a marine conservation
17 plan” after “agreement” in paragraph (7); and

18 (2) by inserting after “paragraph (4).” in para-
19 graph (8) the following: “In the case of violations by
20 foreign vessels occurring within the exclusive eco-
21 nomic zones off Midway Atoll, Johnston Atoll, King-
22 man Reef, Palmyra Atoll, Jarvis, Howland, Baker,
23 and Wake Islands, amounts received by the Sec-
24 retary attributable to fines and penalties imposed
25 under this Act, shall be deposited into the Western

1 Pacific Sustainable Fisheries Fund established
2 under paragraph (7) of this subsection.”.

3 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

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

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

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

9 “(1) \$337,844,000 for fiscal year 2007;

10 “(2) \$347,684,000 for fiscal year 2008;

11 “(3) \$357,524,000 for fiscal year 2009;

12 “(4) \$367,364,000 for fiscal year 2010;

13 “(5) \$377,204,000 for fiscal year 2011;

14 “(6) \$387,044,000 for fiscal year 2012; and

15 “(7) \$396,875,000 for fiscal year 2013.”.

16 **TITLE I—CONSERVATION AND**
17 **MANAGEMENT**

18 **SEC. 101. CUMULATIVE IMPACTS.**

19 (a) NATIONAL STANDARDS.—Section 301(a)(8) (16
20 U.S.C. 1851(a)(8)) is amended by inserting “by utilizing
21 economic and social data that meet the requirements of
22 paragraph (2),” after “fishing communities”.

23 (b) CONTENTS OF PLANS.—Section 303(a)(9) (16
24 U.S.C. 1853(a)(9)) is amended by striking “describe the
25 likely effects, if any, of the conservation and management

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

5 **SEC. 102. CARIBBEAN COUNCIL JURISDICTION.**

6 Section 302(a)(1)(D) (16 U.S.C. 1852(a)(1)(D)) is
7 amended by inserting “and of commonwealths, territories,
8 and possessions of the United States in the Caribbean
9 Sea” after “seaward of such States”.

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

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

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

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

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

23 “(g) COMMITTEES AND ADVISORY PANELS.—

24 “(1)(A) Each Council shall establish, maintain,
25 and appoint the members of a scientific and statis-

1 tical committee to assist it in the development, col-
2 lection, evaluation, and peer review of such statis-
3 tical, biological, economic, social, and other scientific
4 information as is relevant to such Council's develop-
5 ment and amendment of any fishery management
6 plan.

7 “(B) Each scientific and statistical committee
8 shall provide its Council ongoing scientific advice for
9 fishery management decisions, including rec-
10 ommendations for acceptable biological catch, pre-
11 venting overfishing, maximum sustainable yield, and
12 achieving rebuilding targets, and reports on stock
13 status and health, bycatch, habitat status, social and
14 economic impacts of management measures, and
15 sustainability of fishing practices.

16 “(C) Members appointed by the Councils to the
17 scientific and statistical committees shall be Federal
18 employees, State employees, academicians, or inde-
19 pendent experts and shall have strong scientific or
20 technical credentials and experience.

21 “(D) Each member of a scientific and statis-
22 tical committee shall be treated as an affected indi-
23 vidual for purposes of paragraphs (2), (3)(B), (4),
24 and (5)(A) of subsection (j). The Secretary shall

1 keep disclosures made pursuant to this subpara-
2 graph on file.

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

13 “(F) In addition to the provisions of section
14 302(f)(7), the Secretary shall, subject to the avail-
15 ability of appropriations, pay a stipend to members
16 of the scientific and statistical committees or advi-
17 sory panels who are not employed by the Federal
18 government or a State marine fisheries agency.

19 “(G) A science and statistical committee shall
20 hold its meetings in conjunction with the meeting of
21 the Council, to the extent practicable.”.

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

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

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

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

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

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

9 “(6) develop annual catch limits for each of its
10 managed fisheries that may not exceed the fishing
11 level recommendations of its scientific and statistical
12 committee or the peer review process established
13 under subsection (g); and”.

14 (d) SCIENTIFIC RESEARCH PRIORITIES.—Section
15 302(h) (16 U.S.C. 1852(h)), as amended by subsection
16 (c), is further amended—

17 (1) by striking “(g); and” in paragraph (6) and
18 inserting “(g);”;

19 (2) by redesignating paragraph (7), as redesign-
20 ated by subsection (c)(2), as paragraph (8);

21 (2) by inserting after paragraph (6) the fol-
22 lowing:

23 “(7) develop, in conjunction with the scientific
24 and statistical committee, multi-year research prior-
25 ities for fisheries, fisheries interactions, habitats,

1 and other areas of research that are necessary for
2 management purposes, that shall—

3 “(A) establish priorities for 5-year periods;

4 “(B) be updated as necessary; and

5 “(C) be submitted to the Secretary and the
6 regional science centers of the National Marine
7 Fisheries Service for their consideration in de-
8 veloping research priorities and budgets for the
9 region of the Council; and”.

10 (e) REGULAR AND EMERGENCY MEETINGS.—Section
11 302(i)(2)(C) (16 U.S.C. 1852(i)(2)(C)) is amended by
12 striking “published in local newspapers in the major fish-
13 ing ports of the region (and in other major fishing ports
14 having a direct interest in the affected fishery) and such
15 notice may be given by such other means as will result
16 in wide publicity.” and inserting “provided by any means
17 that will result in wide publicity in the major fishing ports
18 of the region (and in other major fishing ports having a
19 direct interest in the affected fishery), except that e-mail
20 notification and website postings alone are not suffi-
21 cient.”.

22 (f) CLOSED MEETINGS.—Section 302(i)(3)(B) (16
23 U.S.C. 1852(i)(3)(B)) is amended by striking “notify local
24 newspapers in the major fishing ports within its region
25 (and in other major, affected fishing ports,” and inserting

1 “provide notice by any means that will result in wide pub-
2 licity in the major fishing ports of the region (and in other
3 major fishing ports having a direct interest in the affected
4 fishery), except that e-mail notification and website post-
5 ings alone are not sufficient.”.

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

8 “(k) COUNCIL TRAINING PROGRAM.—

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

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

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

22 “(C) social science and fishery economics;

23 “(D) tribal treaty rights and native cus-
24 toms, access, and other rights related to West-
25 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;

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

11 “(I) recreational and commercial fishing
12 information, including fish harvesting tech-
13 niques, gear types, fishing vessel types, and eco-
14 nomics for the fisheries within each Council’s
15 jurisdiction.

16 “(2) MEMBER TRAINING.—The training course
17 shall be available to both new and existing Council
18 members, staff from the regional offices and regional
19 science centers of the National Marine Fisheries
20 Service, and may be made available to committee or
21 advisory panel members as resources allow.

22 “(3) REQUIRED TRAINING.—Council members
23 appointed after the date of enactment of the Magnu-
24 son-Stevens Fishery Conservation and Management
25 Reauthorization Act of 2006 shall complete a train-

1 ing course that meets the requirements of this sec-
2 tion not later than 1 year after the date on which
3 they were appointed. Any Council member who has
4 completed a training course within 24 months before
5 the date of enactment of the Magnuson-Stevens
6 Fishery Conservation and Management Reauthoriza-
7 tion Act of 2006 shall be considered to have met the
8 training requirement of this paragraph.

9 “(l) COUNCIL COORDINATION COMMITTEE.—The
10 Councils may establish a Council coordination committee
11 consisting of the chairs, vice chairs, and executive direc-
12 tors of each of the 8 Councils described in subsection
13 (a)(1), or other Council members or staff, in order to dis-
14 cuss issues of relevance to all Councils, including issues
15 related to the implementation of this Act.”.

16 (h) PROCEDURAL MATTERS.—Section 302(i) (16
17 U.S.C. 1852(i)) is amended—

18 (1) by striking “to the Councils or to the sci-
19 entific and statistical committees or advisory panels
20 established under subsection (g).” in paragraph (1)
21 and inserting “to the Councils, the Council coordina-
22 tion committee established under subsection (l), or
23 to the scientific and statistical committees or other
24 committees or advisory panels established under sub-
25 section (g).”;

1 (2) by striking “of a Council, and of the sci-
2 entific and statistical committee and advisory panels
3 established under subsection (g):” in paragraph (2)
4 and inserting “of a Council, of the Council coordina-
5 tion committee established under subsection (l), and
6 of the scientific and statistical committees or other
7 committees or advisory panels established under sub-
8 section (g):”; and

9 (3) by inserting “the Council Coordination
10 Committee established under subsection (l),” in
11 paragraph (3)(A) after “Council,”; and

12 (4) by inserting “other committees,” in para-
13 graph (3)(A) after “committee,”.

14 (i) CONFLICTS OF INTEREST.—Section 302(j) (16
15 U.S.C. 1852(j)) is amended—

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

18 (2) by striking “jurisdiction.” in paragraph (2)
19 and inserting “jurisdiction, or with respect to an in-
20 dividual or organization with a financial interest in
21 such activity.”;

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

24 “(B) be kept on file by the Council and made
25 available on the Internet and for public inspection at

1 the Council offices during reasonable hours; and”;
2 and

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

4 “(9) On January 1, 2008, and annually thereafter,
5 the Secretary shall submit a report to the Senate Com-
6 mittee on Commerce, Science, and Transportation and the
7 House of Representatives Committee on Resources on ac-
8 tion taken by the Secretary and the Councils to implement
9 the disclosure of financial interest and recusal require-
10 ments of this subsection, including identification of any
11 conflict of interest problems with respect to the Councils
12 and scientific and statistical committees and recommenda-
13 tions for addressing any such problems.”.

14 (j) GULF OF MEXICO FISHERIES MANAGEMENT
15 COUNCIL.—Section 302(b)(2) (16 U.S.C. 1852(b)(2)) is
16 amended—

17 (1) by redesignating subparagraph (D) as sub-
18 paragraph (E); and

19 (2) by inserting after subparagraph (C) the fol-
20 lowing:

21 “(D)(i) The Governor of a State submitting a list of
22 names of individuals for appointment by the Secretary of
23 Commerce to the Gulf of Mexico Fisheries Management
24 Council under subparagraph (C) shall include—

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

3 “(II) at least 1 other individual who is knowl-
4 edgeable regarding the conservation and manage-
5 ment of fisheries resources in the jurisdiction of the
6 Council.

7 “(ii) Notwithstanding the requirements of subpara-
8 graph (C), if the Secretary determines that the list of
9 names submitted by the Governor does not meet the re-
10 quirements of clause (i) the Secretary shall—

11 “(I) publish a notice in the Federal Register
12 asking the residents of that State to submit the
13 names and pertinent biographical data of individuals
14 who would meet the requirement not met for ap-
15 pointment to the Council; and

16 “(II) add the name of any qualified individual
17 submitted by the public who meets the unmet re-
18 quirement to the list of names submitted by the
19 Governor.

20 “(iii) For purposes of clause (i) an individual who
21 owns or operates a fish farm outside of the United States
22 shall not be considered to be a representative of the com-
23 mercial or recreational fishing sector.

24 “(iv) The requirements of this subparagraph shall ex-
25 pire at the end of fiscal year 2012.”.

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

2 (a) IN GENERAL.—Section 303(a) (16 U.S.C.
3 1853(a)) is amended—

4 (1) striking “and charter fishing” in paragraph
5 (5) and inserting “charter fishing, and fish proc-
6 essing”;

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

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

12 (4) by inserting “and” after the semicolon in
13 paragraph (9)(B);

14 (5) by inserting after paragraph (9)(B) the fol-
15 lowing:

16 “(C) the safety of human life at sea, in-
17 cluding whether and to what extent such meas-
18 ures may affect the safety of participants in the
19 fishery;

20 (6) by striking “fishery” the first place it ap-
21 pears in paragraph (13) and inserting “fishery, in-
22 cluding its economic impact,”;

23 (7) by striking “and” after the semicolon in
24 paragraph (13);

25 (8) by striking “allocate” in paragraph (14)
26 and inserting “allocate, taking into consideration the

1 economic impact of the harvest restrictions or recov-
2 ery benefits on the fishery participants in each sec-
3 tor,”;

4 (9) by striking “fishery.” in paragraph (14)
5 and inserting “fishery and;”; and

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

7 “(15) establish a mechanism for specifying an-
8 nual catch limits in the plan (including a multiyear
9 plan), implementing regulations, or annual specifica-
10 tions, at a level such that overfishing does not occur
11 in the fishery, including measures to ensure account-
12 ability.”.

13 (b) EFFECTIVE DATES; APPLICATION TO CERTAIN
14 SPECIES.—The amendment made by subsection (a)(10)—

15 (1) shall, unless otherwise provided for under
16 an international agreement in which the United
17 States participates, take effect—

18 (A) in fishing year 2010 for fisheries de-
19 termined by the Secretary to be subject to over-
20 fishing; and

21 (B) in fishing year 2011 for all other fish-
22 eries; and

23 (2) shall not apply to a fishery for species that
24 have a life cycle of approximately 1 year unless the

1 Secretary has determined the fishery is subject to
2 overfishing of that species; and

3 (3) shall not limit or otherwise affect the re-
4 quirements of section 301(a)(1) or 304(e) of the
5 Magnuson-Stevens Fishery Conservation and Man-
6 agement Act (16 U.S.C. 1851(a)(1) or 1854(e), re-
7 spectively).

8 (c) CLARIFICATION OF REBUILDING PROVISION.—
9 Section 304(e) (16 U.S.C. 1854(e)) is amended—

10 (1) by striking “one year of” in paragraph (3)
11 and inserting “2 years after”;

12 (2) by inserting “and implement” after “pre-
13 pare” in paragraph (3);

14 (k) by inserting “immediately” after “over-
15 fishing” in paragraph (3)(A);

16 (4) by striking “ending overfishing and” in
17 paragraph (4)(A); and

18 (5) by striking “one-year” in paragraph (5) and
19 inserting “2-year”.

20 (d) EFFECTIVE DATE FOR SUBSECTION (c).—The
21 amendments made by subsection (c) shall take effect 30
22 months after the date 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
13 under this Act that prohibits all fishing, 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 (3) 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 ports, including distances to fish-
9 ing grounds and proximity to time and area clo-
10 sures;”;

11 (4) by striking paragraph (6) and inserting the
12 following:

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

17 “(A) present participation in the fishery;

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

20 “(C) the economics of the fishery;

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

23 “(E) the cultural and social framework rel-
24 evant to the fishery and any affected fishing
25 communities;

1 “(F) the fair and equitable distribution of
2 access privileges in the fishery; and

3 “(G) any other relevant considerations;”;

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

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

8 (7) by redesignating paragraph (12) as para-
9 graph (14) and inserting after paragraph (11) the
10 following:

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

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

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

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

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

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

21 “(a) IN GENERAL.—After the date of enactment of
22 the Magnuson-Stevens Fishery Conservation and Manage-
23 ment Reauthorization Act of 2006, a Council may submit,
24 and the Secretary may approve, for a fishery that is man-
25 aged under a limited access system, a limited access privi-

1 lege program to harvest fish if the program meets the re-
2 quirements of this section.

3 “(b) NO CREATION OF RIGHT, TITLE, OR INTER-
4 EST.—Limited access privilege, quota share, or other lim-
5 ited access system authorization established, implemented,
6 or managed under this Act—

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

9 “(2) may be revoked, limited, or modified at
10 any time in accordance with this Act, including rev-
11 ocation if the system is found to have jeopardized
12 the sustainability of the stock or the safety of fisher-
13 men;

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

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

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

1 “(c) REQUIREMENTS FOR LIMITED ACCESS PRIVI-
2 LEGES.—

3 “(1) IN GENERAL.—Any limited access privilege
4 program to harvest fish submitted by a Council or
5 approved by the Secretary under this section shall—

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

9 “(B) if established in a fishery that is de-
10 termined by the Secretary or the Council to
11 have over-capacity, contribute to reducing ca-
12 pacity;

13 “(C) promote—

14 “(i) fishing safety; and

15 “(ii) fishery conservation and manage-
16 ment; and

17 “(iii) social and economic benefits;

18 “(D) prohibit any person other than a
19 United States citizen, a corporation, partner-
20 ship, or other entity established under the laws
21 of the United States or any State, or a perma-
22 nent resident alien, that meets the eligibility
23 and participation requirements established in
24 the program from acquiring a privilege to har-
25 vest fish, including any person that acquires a

1 limited access privilege solely for the purpose of
2 perfecting or realizing on a security interest in
3 such privilege;

4 “(E) require that all fish harvested under
5 a limited access privilege program be processed
6 on vessels of the United States or on United
7 States soil (including any territory of the
8 United States);

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

10 “(G) include provisions for the regular
11 monitoring and review by the Council and the
12 Secretary of the operations of the program, in-
13 cluding determining progress in meeting the
14 goals of the program and this Act, and any nec-
15 essary modification of the program to meet
16 those goals, with a formal and detailed review
17 5 years after the implementation of the pro-
18 gram and thereafter to coincide with scheduled
19 Council review of the relevant fishery manage-
20 ment plan (but no less frequently than once
21 every 7 years);

22 “(H) include an effective system for en-
23 forcement, monitoring, and management of the
24 program, including the use of observers or elec-
25 tronic monitoring systems;

1 “(I) include an appeals process for admin-
2 istrative review of the Secretary’s decisions re-
3 garding initial allocation of limited access privi-
4 leges;

5 “(J) provide for the establishment by the
6 Secretary, in consultation with appropriate Fed-
7 eral agencies, for an information collection and
8 review process to provide any additional infor-
9 mation needed to determine whether any illegal
10 acts of anti-competition, anti-trust, price collu-
11 sion, or price fixing have occurred among re-
12 gional fishery associations or persons receiving
13 limited access privileges under the program;
14 and

15 “(K) provide for the revocation by the Sec-
16 retary of limited access privileges held by any
17 person found to have violated the antitrust laws
18 of the United States.

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

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

1 “(B) the United States has a seafood safe-
2 ty equivalency agreement with the country
3 where processing will occur.

4 “(3) FISHING COMMUNITIES.—

5 “(A) IN GENERAL.—

6 “(i) ELIGIBILITY.—To be eligible to
7 participate in a limited access privilege
8 program to harvest fish, a fishing commu-
9 nity shall—

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

12 “(II) meet criteria developed by
13 the relevant Council, approved by the
14 Secretary, and published in the Fed-
15 eral Register;

16 “(III) consist of residents who
17 conduct commercial or recreational
18 fishing, processing, or fishery-depend-
19 ent support businesses within the
20 Council’s management area; and

21 “(IV) develop and submit a com-
22 munity sustainability plan to the
23 Council and the Secretary that dem-
24 onstrates how the plan will address
25 the social and economic development

1 needs of coastal communities, includ-
2 ing those that have not historically
3 had the resources to participate in the
4 fishery, for approval based on criteria
5 developed by the Council that have
6 been approved by the Secretary and
7 published in the Federal Register.

8 “(ii) FAILURE TO COMPLY WITH
9 PLAN.—The Secretary shall deny or revoke
10 limited access privileges granted under this
11 section for any person who fails to comply
12 with the requirements of the community
13 sustainability plan. Any limited access
14 privileges denied or revoked under this sec-
15 tion may be reallocated to other eligible
16 members of the fishing community.

17 “(B) PARTICIPATION CRITERIA.—In devel-
18 oping participation criteria for eligible commu-
19 nities under this paragraph, a Council shall
20 consider—

21 “(i) traditional fishing or processing
22 practices in, and dependence on, the fish-
23 ery;

24 “(ii) the cultural and social frame-
25 work relevant to the fishery;

1 “(iii) economic barriers to access to
2 fishery;

3 “(iv) the existence and severity of pro-
4 jected economic and social impacts associ-
5 ated with implementation of limited access
6 privilege programs on harvesters, captains,
7 crew, processors, and other businesses sub-
8 stantially dependent upon the fishery in
9 the region or subregion;

10 “(v) the expected effectiveness, oper-
11 ational transparency, and equitability of
12 the community sustainability plan; and

13 “(vi) the potential for improving eco-
14 nomic conditions in remote coastal commu-
15 nities lacking resources to participate in
16 harvesting or processing activities in the
17 fishery.

18 “(4) REGIONAL FISHERY ASSOCIATIONS.—

19 “(A) IN GENERAL.—To be eligible to par-
20 ticipate in a limited access privilege program to
21 harvest fish, a regional fishery association
22 shall—

23 “(i) be located within the management
24 area of the relevant Council;

1 “(ii) meet criteria developed by the
2 relevant Council, approved by the Sec-
3 retary, and published in the Federal Reg-
4 ister;

5 “(iii) be a voluntary association,
6 among willing parties, with established by-
7 laws and operating procedures;

8 “(iv) consist of participants in the
9 fishery who hold quota share that are des-
10 ignated for use in the specific region or
11 subregion covered by the regional fishery
12 association, including commercial or rec-
13 reational fishing, processing, fishery-de-
14 pendent support businesses, or fishing
15 communities;

16 “(v) not be eligible to receive an ini-
17 tial allocation of a limited access privilege
18 but may acquire such privileges after the
19 initial allocation, and may hold the annual
20 fishing privileges of any limited access
21 privileges it holds or the annual fishing
22 privileges that is members contribute; and

23 “(vi) develop and submit a regional
24 fishery association plan to the Council and
25 the Secretary for approval based on cri-

1 teria developed by the Council that have
2 been approved by the Secretary and pub-
3 lished in the Federal Register.

4 “(B) FAILURE TO COMPLY WITH PLAN.—
5 The Secretary shall deny or revoke limited ac-
6 cess privileges granted under this section to any
7 person participating in a regional fishery asso-
8 ciation who fails to comply with the require-
9 ments of the regional fishery association plan.

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

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

17 “(ii) the cultural and social frame-
18 work relevant to the fishery;

19 “(iii) economic barriers to access to
20 fishery;

21 “(iv) the existence and severity of pro-
22 jected economic and social impacts associ-
23 ated with implementation of limited access
24 privilege programs on harvesters, captains,
25 crew, processors, and other businesses sub-

1 stantially dependent upon the fishery in
2 the region or subregion;

3 “(v) the administrative and fiduciary
4 soundness of the association; and

5 “(vi) the expected effectiveness, oper-
6 ational transparency, and equitability of
7 the fishery association plan.

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

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

14 “(i) current and historical harvests;

15 “(ii) employment in the harvesting
16 and processing sectors;

17 “(iii) investments in, and dependence
18 upon, the fishery; and

19 “(iv) the current and historical par-
20 ticipation of fishing communities;

21 “(B) consider the basic cultural and social
22 framework of the fishery, especially through—

23 “(i) the development of policies to
24 promote the sustained participation of
25 small owner-operated fishing vessels and

1 fishing communities that depend on the
2 fisheries, including regional or port-specific
3 landing or delivery requirements; and

4 “(ii) procedures to address concerns
5 over excessive geographic or other consoli-
6 dation in the harvesting or processing sec-
7 tors of the fishery;

8 “(C) include measures to assist, when nec-
9 essary and appropriate, entry-level and small
10 vessel owner-operators, captains, crew, and fish-
11 ing communities through set-asides of har-
12 vesting allocations, including providing privi-
13 leges, which may include set-asides or alloca-
14 tions of harvesting privileges, or economic as-
15 sistance in the purchase of limited access privi-
16 leges;

17 “(D) ensure that limited access privilege
18 holders do not acquire an excessive share of the
19 total limited access privileges in the program
20 by—

21 “(i) establishing a maximum share,
22 expressed as a percentage of the total lim-
23 ited access privileges, that a limited access
24 privilege holder is permitted to hold, ac-
25 quire, or use; and

1 “(ii) establishing any other limitations
2 or measures necessary to prevent an in-
3 equitable concentration of limited access
4 privileges; and

5 “(E) authorize limited access privileges to
6 harvest fish to be held, acquired, used by, or
7 issued under the system to persons who sub-
8 stantially participate in the fishery, including in
9 a specific sector of such fishery, as specified by
10 the Council.

11 “(6) PROGRAM INITIATION.—

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

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

1 tiate the development of the program. Any such
2 petition shall clearly state the fishery to which
3 the limited access privilege program would
4 apply. For multispecies permits in the Gulf of
5 Mexico, only those participants who have sub-
6 stantially fished the species proposed to be in-
7 cluded in the limited access program shall be el-
8 igible to sign a petition for such a program and
9 shall serve as the basis for determining the per-
10 centage described in the first sentence of this
11 subparagraph.

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

22 “(D) NEW ENGLAND AND GULF REF-
23 ERENDUM.—

24 “(i) Except as provided in clause (iii)
25 for the Gulf of Mexico commercial red

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

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

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

23 “(iv) Chapter 35 of title 44, United
24 States Code, (commonly known as the Pa-
25 perwork Reduction Act) does not apply to

1 the referenda conducted under this sub-
2 paragraph.

3 “(v) The Secretary shall promulgate
4 criteria for determining whether additional
5 fishery participants are eligible to vote in
6 the New England referendum described in
7 clause (i) in order to ensure that crew
8 members who derive a significant percent-
9 age of their total income from the fishery
10 under the proposed program are eligible to
11 vote in the referendum.

12 “(vi) In this subparagraph, the term
13 ‘individual fishing quota’ does not include
14 a sector allocation.

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

17 “(A) establish a policy and criteria for the
18 transferability of limited access privileges
19 (through sale or lease), that is consistent with
20 the policies adopted by the Council for the fish-
21 ery under paragraph (5); and

22 “(B) establish, in coordination with the
23 Secretary, a process for monitoring of transfers
24 (including sales and leases) of limited access
25 privileges.

1 “(8) PREPARATION AND IMPLEMENTATION OF
2 SECRETARIAL PLANS.—This subsection also applies
3 to a plan prepared and implemented by the Sec-
4 retary under section 304(e) or 304(g).

5 “(9) ANTITRUST SAVINGS CLAUSE.—Nothing in
6 this Act shall be construed to modify, impair, or su-
7 persede the operation of any of the antitrust laws.
8 For purposes of the preceding sentence, the term
9 ‘antitrust laws’ has the meaning given such term in
10 subsection (a) of the first section of the Clayton Act,
11 except that such term includes section 5 of the Fed-
12 eral Trade Commission Act to the extent that such
13 section 5 applies to unfair methods of competition.

14 “(d) AUCTION AND OTHER PROGRAMS.—In estab-
15 lishing a limited access privilege program, a Council shall
16 consider, and may provide, if appropriate, an auction sys-
17 tem or other program to collect royalties for the initial,
18 or any subsequent, distribution of allocations in a limited
19 access privilege program if—

20 “(1) the system or program is administered in
21 such a way that the resulting distribution of limited
22 access privilege shares meets the program require-
23 ments of this section; and

24 “(2) revenues generated through such a royalty
25 program are deposited in the Limited Access System

1 Administration Fund established by section
2 305(h)(5)(B) and available subject to annual appro-
3 priations.

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

6 “(1) develop a methodology and the means to
7 identify and assess the management, data collection
8 and analysis, and enforcement programs that are di-
9 rectly related to and in support of the program; and

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

14 “(f) CHARACTERISTICS.—A limited access privilege
15 established after the date of enactment of the Magnuson-
16 Stevens Fishery Conservation and Management Reauthor-
17 ization Act of 2006 is a permit issued for a period of not
18 more than 10 years that—

19 “(1) will be renewed before the end of that pe-
20 riod, unless it has been revoked, limited, or modified
21 as provided in this subsection;

22 “(2) will be revoked, limited, or modified if the
23 holder is found by the Secretary, after notice and an
24 opportunity for a hearing under section 554 of title
25 5, United States Code, to have failed to comply with

1 any term of the plan identified in the plan as cause
2 for revocation, limitation, or modification of a per-
3 mit, which may include conservation requirements
4 established under the plan;

5 “(3) may be revoked, limited, or modified if the
6 holder is found by the Secretary, after notice and an
7 opportunity for a hearing under section 554 of title
8 5, United States Code, to have committed an act
9 prohibited by section 307 of this Act; and

10 “(4) may be acquired, or reacquired, by partici-
11 pants in the program under a mechanism established
12 by the Council if it has been revoked, limited, or
13 modified under paragraph (2) or (3).

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

16 “(1) IN GENERAL.—A Council may submit, and
17 the Secretary may approve and implement, a pro-
18 gram which reserves up to 25 percent of any fees
19 collected from a fishery under section 304(d)(2) to
20 be used, pursuant to section 53706(a)(7) of title 46,
21 United States Code, to issue obligations that aid in
22 financing—

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 “(h) 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 2006, shall be con-
15 strued to require a reallocation or a reevaluation of indi-
16 vidual quota shares, processor quota shares, cooperative
17 programs, or other quota programs, including sector allo-
18 cation in effect before the date of enactment of the Mag-
19 nuson-Stevens Fishery Conservation and Management Re-
20 authorization Act of 2006.

21 “(i) TRANSITION RULES.—The requirements of this
22 section shall not apply to any quota program, including
23 any individual quota program, cooperative program, or
24 sector allocation for which a Council has taken final action
25 or which has been submitted by a Council to the Secretary,

1 or approved by the Secretary, within 6 months after the
2 date of enactment of the Magnuson-Stevens Fishery Con-
3 servation and Management Reauthorization Act of 2006,
4 except that—

5 “(1) the requirements of section 303(d) of this
6 Act in effect on the day before the date of enact-
7 ment of that Act shall apply to any such program;

8 “(2) the program shall be subject to review
9 under subsection (c)(1)(G) of this section not later
10 than 5 years after the program implementation; and

11 “(3) nothing in this subsection precludes a
12 Council from incorporating criteria contained in this
13 section into any such plans.”.

14 (b) FEES.—Section 304(d)(2)(A) (16 U.S.C.
15 1854(d)(2)(A)) is amended by striking “management and
16 enforcement” and inserting “management, data collection,
17 and enforcement”.

18 (c) INVESTMENT IN UNITED STATES SEAFOOD
19 PROCESSING FACILITIES.—The Secretary of Commerce
20 shall work with the Small Business Administration and
21 other Federal agencies to develop financial and other
22 mechanisms to encourage United States investment in sea-
23 food processing facilities in the United States for fisheries
24 that lack capacity needed to process fish harvested by
25 United States vessels in compliance with the Magnuson-

1 Stevens Fishery Conservation and Management Act (16
2 U.S.C. 1801 et seq.).

3 (d) CONFORMING AMENDMENT.—Section
4 304(d)(2)(C)(i) (16 U.S.C. 1854(d)(2)(C)(i)) is amended
5 by striking “section 305(h)(5)(B)” and all that follows
6 and inserting “section 305(h)(5)(B).”.

7 (e) APPLICATION WITH AMERICAN FISHERIES
8 ACT.—Nothing in section 303A of the Magnuson-Stevens
9 Fishery Conservation and Management Act (16 U.S.C.
10 1801 et seq.), as added by subsection (a), shall be con-
11 strued to modify or supersede any provision of the Amer-
12 ican Fisheries Act (46 U.S.C. 12102 note; 16 U.S.C. 1851
13 note; et alia).

14 **SEC. 107. ENVIRONMENTAL REVIEW PROCESS.**

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

17 “(i) ENVIRONMENTAL REVIEW PROCESS.—

18 “(1) PROCEDURES.—The Secretary shall, in
19 consultation with the Councils and the Council on
20 Environmental Quality, revise and update agency
21 procedures for compliance with the National Envi-
22 ronmental Policy Act (42 U.S.C. 4231 et seq.). The
23 procedures shall—

1 “(A) conform to the time lines for review
2 and approval of fishery management plans and
3 plan amendments under this section; and

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

14 “(2) USAGE.—The updated agency procedures
15 promulgated in accordance with this section used by
16 the Councils or the Secretary shall be the sole envi-
17 ronmental impact assessment procedure for fishery
18 management plans, amendments, regulations, or
19 other actions taken or approved pursuant to this
20 Act.

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

23 “(A) propose revised procedures within 6
24 months after the date of enactment of the Mag-

1 nuson-Stevens Fishery Conservation and Man-
2 agement Reauthorization Act of 2006;

3 “(B) provide 90 days for public review and
4 comments; and

5 “(C) promulgate final procedures no later
6 than 12 months after the date of enactment of
7 that Act.

8 “(4) PUBLIC PARTICIPATION.—The Secretary is
9 authorized and directed, in cooperation with the
10 Council on Environmental Quality and the Councils,
11 to involve the affected public in the development of
12 revised procedures, including workshops or other ap-
13 propriate means of public involvement.”.

14 **SEC. 108. EMERGENCY REGULATIONS.**

15 (a) LENGTHENING OF SECOND EMERGENCY PE-
16 RIOD.—Section 305(c)(3)(B) (16 U.S.C. 1855(c)(3)(B))
17 is amended by striking “180 days,” the second time it ap-
18 pears and inserting “186 days,”.

19 (b) TECHNICAL AMENDMENT.—Section 305(c)(3)(D)
20 (16 U.S.C. 1855(c)(3)(D)) is amended by inserting “or
21 interim measures” after “emergency regulations”.

22 **SEC. 109. WESTERN PACIFIC AND NORTH PACIFIC COMMU-
23 NITY DEVELOPMENT.**

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

1 “(j) WESTERN PACIFIC AND NORTHERN PACIFIC
2 REGIONAL MARINE EDUCATION AND TRAINING.—

3 “(1) IN GENERAL.—The Secretary shall estab-
4 lish a pilot program for regionally-based marine edu-
5 cation and training programs in the Western Pacific
6 and the Northern Pacific to foster understanding,
7 practical use of knowledge (including native Hawai-
8 ian, Alaskan Native, and other Pacific Islander-
9 based knowledge), and technical expertise relevant to
10 stewardship of living marine resources. The Sec-
11 retary shall, in cooperation with the Western Pacific
12 and the North Pacific Regional Fishery Management
13 Councils, regional educational institutions, and local
14 Western Pacific and Northern Pacific community
15 training entities, establish programs or projects that
16 will improve communication, education, and training
17 on marine resource issues throughout the region and
18 increase scientific education for marine-related pro-
19 fessions among coastal community residents, includ-
20 ing indigenous Pacific islanders, Native Hawaiians,
21 Alaskan Natives, and other underrepresented groups
22 in the region.

23 “(2) PROGRAM COMPONENTS.—The program
24 shall—

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

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

14 “(C) include outreach programs and mate-
15 rials to educate and inform consumers about
16 the quality and sustainability of wild fish or
17 fish products farmed through responsible aqua-
18 culture, particularly in Hawaii, Alaska, the
19 Western Pacific, the Northern Pacific, and the
20 Central Pacific;

21 “(D) include programs to identify, with the
22 fishing industry, methods and technologies that
23 will improve the data collection, quality, and re-
24 porting and increase the sustainability of fish-
25 ing practices, and to transfer such methods and

1 technologies among fisheries sectors and to
2 other nations in the Western, Northern, and
3 Central Pacific;

4 “(E) develop means by which local and
5 traditional knowledge (including Pacific is-
6 lander, Native Hawaiian, and Alaskan Native
7 knowledge) can enhance science-based manage-
8 ment of fishery resources of the region; and

9 “(F) develop partnerships with other West-
10 ern Pacific Island and Alaskan agencies, aca-
11 demic institutions, and other entities to meet
12 the purposes of this section.”

13 **SEC. 110. SECRETARIAL ACTION ON STATE GROUND FISH**
14 **FISHING.**

15 Section 305 (16 U.S.C. 1855), as amended by section
16 109 of this Act, is further amended by adding at the end
17 thereof the following:

18 “(k) MULTISPECIES GROUND FISH.—

19 “(1) IN GENERAL.—Within 60 days after the
20 date of enactment of the Magnuson-Stevens Fishery
21 Conservation and Management Reauthorization Act
22 of 2006, the Secretary of Commerce shall determine
23 whether fishing in State waters—

24 “(A) without a New England multispecies
25 groundfish fishery permit on regulated species

1 within the multispecies complex is not con-
2 sistent with the applicable Federal fishery man-
3 agement plan; or

4 “(B) without a Federal bottomfish and
5 seamount groundfish permit in the Hawaiian
6 archipelago on regulated species within the
7 complex is not consistent with the applicable
8 Federal fishery management plan or State data
9 are not sufficient to make such a determina-
10 tion..

11 “(2) CURE.—If the Secretary makes a deter-
12 mination that such actions are not consistent with
13 the plan, the Secretary shall, in consultation with
14 the Council, and after notifying the affected State,
15 develop and implement measures to cure the incon-
16 sistency pursuant to section 306(b).”.

17 **SEC. 111. JOINT ENFORCEMENT AGREEMENTS.**

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

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

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

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

1 “(vi) access, directly or indirectly, for
2 enforcement purposes any data or informa-
3 tion required to be provided under this
4 title or regulations under this title, includ-
5 ing data from vessel monitoring systems,
6 satellite-based maritime distress and safety
7 systems, or any similar system, subject to
8 the confidentiality provisions of section
9 402;”;

10 (4) by redesignating subsection (h) as sub-
11 section (j); and

12 (5) by inserting after subsection (g) the fol-
13 lowing:

14 “(h) JOINT ENFORCEMENT AGREEMENTS.—

15 “(1) IN GENERAL.—The Governor of an eligible
16 State may apply to the Secretary for execution of a
17 joint enforcement agreement with the Secretary that
18 will authorize the deputization and funding of State
19 law enforcement officers with marine law enforce-
20 ment responsibilities to perform duties of the Sec-
21 retary relating to law enforcement provisions under
22 this title or any other marine resource law enforced
23 by the Secretary. Upon receiving an application
24 meeting the requirements of this subsection, the Sec-

1 retary may enter into a joint enforcement agreement
2 with the requesting State.

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

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

12 “(A) shall be consistent with the purposes
13 and intent of this section to the extent applica-
14 ble to the regulated activities;

15 “(B) may include specifications for joint
16 management responsibilities as provided by the
17 first section of Public Law 91–412 (15 U.S.C.
18 1525); and

19 “(C) shall provide for confidentiality of
20 data and information submitted to the State
21 under section 402.

22 “(4) ALLOCATION OF FUNDS.—The Secretary
23 shall include in each joint enforcement agreement an
24 allocation of funds to assist in management of the
25 agreement. The allocation shall be fairly distributed

1 among all eligible States participating in cooperative
2 enforcement agreements under this subsection, based
3 upon consideration of Federal marine enforcement
4 needs, the specific marine conservation enforcement
5 needs of each participating eligible State, and the
6 capacity of the State to undertake the marine en-
7 forcement mission and assist with enforcement
8 needs. The agreement may provide for amounts to
9 be withheld by the Secretary for the cost of any
10 technical or other assistance provided to the State
11 by the Secretary under the agreement.

12 “(i) IMPROVED DATA SHARING.—

13 “(1) IN GENERAL.—Notwithstanding any other
14 provision of this Act, as soon as practicable but no
15 later than 21 months after the date of enactment of
16 the Magnuson-Stevens Fishery Conservation and
17 Management Reauthorization Act of 2006, the Sec-
18 retary shall implement data-sharing measures to
19 make any data required to be provided by this Act
20 from satellite-based maritime distress and safety
21 systems, vessel monitoring systems, or similar sys-
22 tems—

23 “(A) directly accessible by State enforce-
24 ment officers authorized under subsection (a) of
25 this section; and

1 “(B) available to a State management
2 agency involved in, or affected by, management
3 of a fishery if the State has entered into an
4 agreement with the Secretary under section
5 402(b)(1)(B) of this Act.

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

9 “(A) the Attorney General or highest rank-
10 ing legal officer of the State provides a written
11 opinion or certification that State law allows
12 the State to maintain the confidentiality of in-
13 formation required by Federal law to be kept
14 confidential; or

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

19 (b) REPORT.—Within 15 months after the date of en-
20 actment of this Act, the National Marine Fisheries Service
21 and the United States Coast Guard shall transmit a joint
22 report to the Senate Committee on Commerce, Science,
23 and Transportation and the House of Representatives
24 Committee on Resources containing—

1 (1) a cost-to-benefit analysis of the feasibility,
2 value, and cost of using vessel monitoring systems,
3 satellite-based maritime distress and safety systems,
4 or similar systems for fishery management, con-
5 servation, enforcement, and safety purposes with the
6 Federal government bearing the capital costs of any
7 such system;

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

10 (3) an examination of whether satellite-based
11 maritime distress and safety systems, or similar re-
12 quirements would overlap existing requirements or
13 render them redundant;

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

16 (5) an examination of how to maximize the
17 data-sharing opportunities between relevant State
18 and Federal agencies and provide specific informa-
19 tion on how to develop these opportunities, including
20 the provision of direct access to satellite-based mari-
21 time distress and safety system or similar system
22 data to State enforcement officers, while considering
23 the need to maintain or provide an appropriate level
24 of individual vessel confidentiality where practicable;
25 and

1 (6) an assessment of how the satellite-based
2 maritime distress and safety system or similar sys-
3 tems could be developed, purchased, and distributed
4 to regulated vessels.

5 **SEC. 112. TRANSITION TO SUSTAINABLE FISHERIES.**

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

8 (1) by striking “measures;” in subsection
9 (a)(1)(B) and inserting “measures, including regu-
10 latory restrictions (including those imposed as a re-
11 sult of judicial action) imposed to protect human
12 health or the marine environment;”;

13 (2) by striking “1996, 1997, 1998, and 1999.”
14 in subsection (a)(4) and inserting “2007 through
15 2013.”;

16 (3) by striking “or the Governor of a State for
17 fisheries under State authority, may conduct a fish-
18 ing” in subsection (b)(1) and inserting “the Gov-
19 ernor of a State for fisheries under State authority,
20 or a majority of permit holders in the fishery, may
21 conduct a voluntary fishing”;

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

24 (5) by striking “cost-effective and” in sub-
25 section (b)(1)(C) and inserting “cost-effective and,

1 in the instance of a program involving an industry
2 fee system, prospectively”;

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

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

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

1 (8) by adding at the end of subsection (b) the
2 following:

3 “(5) PAYMENT CONDITION.—The Secretary may not
4 make a payment under paragraph (2) with respect to a
5 vessel that will not be scrapped unless the Secretary cer-
6 tifies that the vessel will not be used for fishing in the
7 waters of a foreign nation or fishing on the high seas.

8 “(6) REPORT.—

9 “(A) IN GENERAL.—Subject to the availability
10 of funds, the Secretary shall, within 12 months after
11 the date of the enactment of the Magnuson-Stevens
12 Fishery Conservation and Management Reauthoriza-
13 tion Act of 2006 submit to the Congress a report—

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

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

1 “(iii) potential sources of funding for such
2 measures.

3 “(B) BASIS FOR RECOMMENDATIONS.—The
4 Secretary shall base the recommendations made with
5 respect to a fishery on—

6 “(i) the most cost effective means of
7 achieving voluntary reduction in capacity for
8 the fishery using the potential for industry fi-
9 nancing; and

10 “(ii) including measures to prevent the ca-
11 pacity that is being removed from the fishery
12 from moving to other fisheries in the United
13 States, in the waters of a foreign nation, or on
14 the high seas.”;

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

18 (10) by striking “Secretary, in consultation
19 with the Council,” in subsection (d)(1)(A) and in-
20 serting “Secretary”;

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

1 (12) by striking “establish;” in subsection
2 (d)(2)((C) and inserting “establish, unless the Sec-
3 retary determines that such fees should be collected
4 from the seller;” and

5 (13) striking subsection (e) and inserting the
6 following:

7 “(e) IMPLEMENTATION PLAN.—

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

12 “(2) PROGRAM REGULATIONS.—The Secretary
13 shall implement each program under this section by
14 promulgating regulations that, together with the
15 framework regulations, establish each program and
16 control its implementation.

17 “(3) HARVESTER PROPONENTS’ IMPLEMENTA-
18 TION PLAN.—The Secretary may not propose imple-
19 mentation regulations for a program to be paid for
20 by an industry fee system until the harvester pro-
21 ponents of the program provide to the Secretary a
22 proposed implementation plan that, among other
23 matters—

24 “(A) proposes the types and numbers of
25 vessels or permits that are eligible to participate

1 in the program and the manner in which the
2 program shall proceed, taking into account—

3 “(i) the requirements of this section;

4 “(ii) the requirements of the frame-
5 work regulations;

6 “(iii) the characteristics of the fishery
7 and affected fishing communities;

8 “(iv) the requirements of the applica-
9 ble fishery management plan and any
10 amendment that such plan may require to
11 support the proposed program;

12 “(v) the general needs and desires of
13 harvesters in the fishery;

14 “(vi) the need to minimize program
15 costs; and

16 “(vii) other matters, including the
17 manner in which such proponents propose
18 to fund the program to ensure its cost ef-
19 fectiveness, as well as any relevant factors
20 demonstrating the potential for, or nec-
21 essary to obtain, the support and general
22 cooperation of a substantial number of af-
23 fected harvesters in the fishery (or portion
24 of the fishery) for which the program is in-
25 tended; and

1 “(B) proposes procedures for program par-
2 ticipation (such as submission of owner bids
3 under an auction system or fair market-value
4 assessment), including any terms and condi-
5 tions for participation, that the harvester pro-
6 ponents deem to be reasonably necessary to
7 meet the program’s proposed objectives.

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

17 “(5) REDUCTION AUCTIONS.—Each program
18 not involving fair market assessment shall involve a
19 reduction auction that scores the reduction price of
20 each bid offer by the data relevant to each bidder
21 under an appropriate fisheries productivity factor. If
22 the Secretary accepts bids, the Secretary shall ac-
23 cept responsive bids in the rank order of their bid
24 scores, starting with the bid whose reduction price is
25 the lowest percentage of the productivity factor, and

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

7 “(b) PROGRAM COMPONENTS.—

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

13 “(A) meeting immediate regional shoreside
14 fishery infrastructure needs, including proc-
15 essing facilities, cold storage facilities, ice
16 houses, docks, including temporary docks and
17 storage facilities, and other related shoreside
18 fishery support facilities and infrastructure
19 while ensuring that those projects will not re-
20 sult in an increase or replacement of fishing ca-
21 pacity;

22 “(B) financial assistance and job training
23 assistance for fishermen who wish to remain in
24 a fishery in the region that may be temporarily

1 closed as a result of environmental or other ef-
2 fects associated with the disaster;

3 “(C) funding, pursuant to the require-
4 ments of section 312(b), to fishermen who are
5 willing to scrap a fishing vessel and perma-
6 nently surrender permits for fisheries named on
7 that vessel; and

8 “(D) any other activities authorized under
9 section 312 of this Act or section 308(d) of the
10 Interjurisdictional Fisheries Act of 1986 (16
11 U.S.C. 4107(d)).

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

15 “(3) STATE PARTICIPATION OBLIGATION.—The
16 participation by a State in the program shall be con-
17 ditioned upon a commitment by the appropriate
18 State entity to ensure that the relevant State fishery
19 meets the requirements of section 312(b) of this Act
20 to ensure excess capacity does not re-enter the fish-
21 ery.

22 “(4) NO MATCHING REQUIRED.—The Secretary
23 may waive the matching requirements of section 312
24 of this Act, section 308 of the Interjurisdictional
25 Fisheries Act of 1986 (16 U.S.C. 4107), and any

1 other provision of law under which the Federal share
2 of the cost of any activity is limited to less than 100
3 percent if the Secretary determines that—

4 “(A) no reasonable means are available
5 through which applicants can meet the match-
6 ing requirement; and

7 “(B) the probable benefit of 100 percent
8 Federal financing outweighs the public interest
9 in imposition of the matching requirement.

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

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

24 “(c) CATASTROPHIC REGIONAL FISHERY DISASTER
25 DEFINED.—In this section the term ‘catastrophic regional

1 fishery disaster’ means a natural disaster, including a hur-
2 ricane or tsunami, or a regulatory closure (including regu-
3 latory closures resulting from judicial action) to protect
4 human health or the marine environment, that—

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

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

10 “(3) is determined by the Secretary to be a
11 commercial fishery failure under section 312(a) of
12 this Act or a fishery resource disaster or section
13 308(d) of the Interjurisdictional Fisheries Act of
14 1986 (16 U.S.C. 4107(d)).”.

15 (b) SALMON PLAN AND STUDY.—

16 (1) RECOVERY PLAN.—Not later than 6 months
17 after the date of enactment of this Act, the Sec-
18 retary of Commerce shall complete a recovery plan
19 for Klamath River Coho salmon and make it avail-
20 able to the public.

21 (2) ANNUAL REPORT.—Not later than 2 years
22 after the date of enactment of this Act, and annually
23 thereafter, the Secretary of Commerce shall submit
24 a report to the Senate Committee on Commerce,

1 Science, and Transportation and the House of Rep-
2 resentatives Committee on Resources on—

3 (A) the actions taken under the recovery
4 plan and other law relating to recovery of
5 Klamath River Coho salmon, and how those ac-
6 tions are specifically contributing to its recov-
7 ery;

8 (B) the progress made on the restoration
9 of salmon spawning habitat, including water
10 conditions as they relate to salmon health and
11 recovery, with emphasis on the Klamath River
12 and its tributaries below Iron Gate Dam;

13 (C) the status of other Klamath River
14 anadromous fish populations, particularly Chi-
15 nook salmon; and

16 (D) the actions taken by the Secretary to
17 address the calendar year 2003 National Re-
18 search Council recommendations regarding
19 monitoring and research on Klamath River
20 Basin salmon stocks.

21 (e) OREGON AND CALIFORNIA SALMON FISHERY.—
22 Federally recognized Indian tribes and small businesses,
23 including fishermen, fish processors, and related busi-
24 nesses serving the fishing industry, adversely affected by
25 Federal closures and fishing restrictions in the Oregon

1 and California 2006 fall Chinook salmon fishery are eligi-
2 ble to receive direct assistance under section 312(a) of the
3 Magnuson-Stevens Fishery Conservation and Manage-
4 ment Act (16 U.S.C. 1861a(a)) and section 308(d) of the
5 Interjurisdictional Fisheries Act of 1986 (16 U.S.C.
6 4107(d)). The Secretary may use no more than 4 percent
7 of any monetary assistance to pay for administrative costs.

8 **SEC. 114. FISHERY FINANCE PROGRAM HURRICANE ASSIST-**
9 **ANCE.**

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

16 (1) To defer principal payments on the debt for
17 1 year and re-amortize the debt over the remaining
18 term of the loan.

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

22 (3) To pay the interest costs for such loans over
23 fiscal years 2007 through 2013, not to exceed
24 amounts authorized under subsection (d).

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

3 (b) LOAN FORGIVENESS.—Upon application made by
4 an eligible holder of a fishery finance program loan, made
5 at such time, in such manner, and containing such infor-
6 mation as the Secretary may require, the Secretary, on
7 a calendar year basis beginning in 2005, may, with respect
8 to uninsured losses—

9 (1) offset against the outstanding balance on
10 the loan an amount equal to the sum of the amounts
11 expended by the holder during the calendar year to
12 repair or replace covered vessels or facilities, or to
13 invest in new fisheries infrastructure within or for
14 use within the declared fisheries disaster area; or

15 (2) cancel the amount of debt equal to 100
16 hundred percent of actual expenditures on eligible
17 repairs, reinvestment, expansion, or new investment
18 in fisheries infrastructure in the disaster region, or
19 repairs to, or replacement of, eligible fishing vessels.

20 (c) DEFINITIONS.—In this section:

21 (1) DECLARED FISHERIES DISASTER AREA.—
22 The term “declared fisheries disaster area” means
23 fisheries located in the major disaster area des-
24 ignated by the President under the Robert T. Staf-
25 ford Disaster Relief and Emergency Assistance Act

1 (42 U.S.C. 5121 et seq.) as a result of Hurricane
2 Katrina or Hurricane Rita.

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

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

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

16 (3) FISHERY FINANCE PROGRAM LOAN.—The
17 term “fishery finance program loan” means a loan
18 made or guaranteed under the fishery finance pro-
19 gram under chapter 537 of title 46, United States
20 Code.

21 (d) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to the Secretary of Com-
23 merce for the purposes of this section not more than
24 \$15,000,000 for each eligible holder for the period begin-
25 ning with fiscal year 2007 through fiscal year 2013.

1 **SEC. 115. FISHERIES HURRICANE ASSISTANCE PROGRAM.**

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

5 (b) ALLOCATION OF FUNDS.—Under the program,
6 the Secretary shall allocate funds appropriated to carry
7 out the program among the States of Alabama, Louisiana,
8 Florida, Mississippi, and Texas in proportion to the per-
9 centage of the fishery (including crawfish) catch landed
10 by each State before August 29, 2005, except that the
11 amount allocated to Florida shall be based exclusively on
12 the proportion of such catch landed by the Florida Gulf
13 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 each of fiscal years 2007 through
19 2012 to carry out this section.

20 **SEC. 116. BYCATCH REDUCTION ENGINEERING PROGRAM.**

21 (a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.),
22 as amended by section 113 of this Act, is further amended
23 by adding at 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 2006, 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, including
9 grants, to develop technological devices and other con-
10 servation engineering changes designed to minimize by-
11 catch, seabird interactions, bycatch mortality, and post-
12 release mortality in Federally managed fisheries. The pro-
13 gram shall—

14 “(1) be regionally based;

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

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

22 “(4) provide for routine consultation with the
23 Councils in order to maximize opportunities to incor-
24 porate results of the program in Council actions and
25 provide incentives for adoption of methods developed

1 under the program in fishery management plans de-
2 veloped by the Councils.

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

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

12 “(2) measures to promote the use of gear with
13 verifiable and monitored low bycatch and seabird
14 interactions, rates; and

15 “(3) measures that, based on the best scientific
16 information available, will reduce bycatch and
17 seabird interactions, bycatch mortality, post-release
18 mortality, or regulatory discards in the fishery.

19 “(c) COORDINATION ON SEABIRD INTERACTIONS.—
20 The Secretary, in coordination with the Secretary of Inte-
21 rior, is authorized to undertake projects in cooperation
22 with industry to improve information and technology to
23 reduce seabird bycatch, including—

24 “(1) outreach to industry on new technologies
25 and methods;

1 “(2) projects to mitigate for seabird mortality;
2 and

3 “(3) actions at appropriate international fishery
4 organizations to reduce seabird interactions in fish-
5 eries.

6 “(d) REPORT.—The Secretary shall transmit an an-
7 nual report to the Senate Committee on Commerce,
8 Science, and Transportation and the House of Represent-
9 atives Committee on Resources that—

10 “(1) describes funding provided to implement
11 this section;

12 “(2) describes developments in gear technology
13 achieved under this section; and

14 “(3) describes improvements and reduction in
15 bycatch and seabird interactions associated with im-
16 plementing this section, as well as proposals to ad-
17 dress remaining bycatch or seabird interaction prob-
18 lems.”.

19 (b) CDQ BYCATCH LIMITATIONS.—

20 (1) IN GENERAL.—Section 305(i) (16 U.S.C.
21 1855(i)) is amended—

22 (A) by striking “directed fishing alloca-
23 tion” and all that follows in paragraph
24 (1)(B)(ii)(I), and inserting “total allocation (di-

1 rected and nontarget combined) of 10.7 percent
2 effective January 1, 2008; and”;

3 (B) by striking “directed fishing allocation
4 of 10 percent.” in paragraph (1)(B)(ii)(II) and
5 inserting “total allocation (directed and nontar-
6 get combined) of 10.7 percent.”;

7 (C) by inserting after paragraph (1)(B)(ii)
8 the following:

9 “The total allocation (directed and nontar-
10 get combined) for a fishery to which sub-
11 clause (I) or (II) applies may not be ex-
12 ceeded.”; and

13 (D) by inserting “Voluntary transfers by
14 and among eligible entities shall be allowed,
15 whether before or after harvesting. Notwith-
16 standing the first sentence of this subpara-
17 graph, seven-tenths of one percent of the total
18 allowable catch, guideline harvest level, or other
19 annual catch limit, within the amount allocated
20 to the program by subclause (I) or subclause
21 (II) of subparagraph (B)(ii), shall be allocated
22 among the eligible entities by the panel estab-
23 lished in subparagraph (G), or allocated by the
24 Secretary based on the nontarget needs of eligi-

1 ble entities in the absence of a panel decision.”
2 after “2006.” in paragraph (1)(C) .

3 (2) **EFFECTIVE DATE.**—The allocation percent-
4 age in subclause (I) of section 305(i)(1)(B)(ii) of the
5 Magnuson-Stevens Fishery Conservation and Man-
6 agement Act (16 U.S.C. 1855(i)(1)(B)(ii)), as
7 amended by paragraph (1) of this subsection, shall
8 be in effect in 2007 with respect to any sector of a
9 fishery to which such subclause applies and in which
10 a fishing cooperative is established in 2007, and
11 such sector’s 2007 allocation shall be reduced by a
12 pro rata amount to accomplish such increased allo-
13 cation to the program. For purposes of section
14 305(i)(1) of that Act and of this subsection, the
15 term “fishing cooperative” means a fishing coopera-
16 tive whether or not authorized by a fishery manage-
17 ment council or Federal agency, if a majority of the
18 participants in the sector are participants in the
19 fishing cooperative.

20 **SEC. 117. COMMUNITY-BASED RESTORATION PROGRAM**
21 **FOR FISHERY AND COASTAL HABITATS.**

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

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

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

6 (2) advance the science and monitoring of
7 coastal habitat restoration;

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

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

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

16 (6) promote stewardship of fishery and coastal
17 habitats; and

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

20 **SEC. 118. PROHIBITED ACTS.**

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

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

24 (2) by striking “carcass.” in subparagraph (P)
25 and inserting “carcass;”; and

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

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

8 “(R) to use any fishing vessel to engage in
9 fishing in Federal or State waters, or on the
10 high seas or in the waters of another country,
11 after the Secretary has made a payment to the
12 owner of that fishing vessel under section
13 312(b)(2).”.

14 **SEC. 119. SHARK FEEDING.**

15 Title III (16 U.S.C. 1851 et seq.), as amended by
16 section 116 of this Act, is further amended by adding at
17 the end the following:

18 **“SEC. 317. SHARK FEEDING.**

19 “Except to the extent determined by the Secretary,
20 or under State law, as presenting no public health hazard
21 or safety risk, or when conducted as part of a research
22 program funded in whole or in part by appropriated funds,
23 it is unlawful to introduce, or attempt to introduce, food
24 or any other substance into the water to attract sharks
25 for any purpose other than to harvest sharks within the

1 Exclusive Economic Zone seaward of the State of Hawaii
2 and of the Commonwealths, territories, and possessions of
3 the United States in the Pacific Ocean Area.”.

4 **SEC. 120. CLARIFICATION OF FLEXIBILITY.**

5 (a) IN GENERAL.—The Secretary of Commerce has
6 the discretion under the Magnuson-Stevens Fishery Con-
7 servation and Management Act (16 U.S.C. 1851 et seq.)
8 to extend the time for rebuilding the summer flounder
9 fishery to not later than January 1, 2013, only if—

10 (1) the Secretary has determined that—

11 (A) overfishing is not occurring in the fish-
12 ery and that a mechanism is in place to ensure
13 overfishing does not occur in the fishery; and

14 (B) stock biomass levels are increasing;

15 (2) the biomass rebuilding target previously ap-
16 plicable to such stock will be met or exceeded within
17 the new time for rebuilding;

18 (3) the extension period is based on the status
19 and biology of the stock and the rate of rebuilding;

20 (4) monitoring will ensure rebuilding continues;

21 (5) the extension meets the requirements of sec-
22 tion 301(a)(1) of that Act (16 U.S.C. 1851(a)(1));

23 and

1 (6) the best scientific information available
2 shows that the extension will allow continued re-
3 building.

4 (b) **AUTHORITY.**—Nothing in this section shall be
5 construed to amend the Magnuson-Stevens Fishery Con-
6 servation and Management Act (16 U.S.C. 1851 et seq.)
7 or to limit or otherwise alter the authority of the Secretary
8 under that Act concerning other species.

9 **SEC. 121. SOUTHEAST ALASKA FISHERIES COMMUNITIES**
10 **CAPACITY REDUCTION.**

11 Section 209 of the Department of Commerce and Re-
12 lated Agencies Appropriations Act, 2005 (Pub. L. 108-
13 447; 118 Stat. 2884) is amended—

14 (1) by inserting “(a) **IN GENERAL.**—” after
15 “SEC. 209.”;

16 (2) by striking “is authorized to” in the first
17 sentence and inserting “shall”;

18 (3) by striking “\$50,000,000” and all that fol-
19 lows in the first sentence and inserting “up to
20 \$25,000,000 pursuant to section 57735 of title 46,
21 United States Code.”;

22 (4) by striking the third sentence and inserting:
23 “The loan shall have a term of 40 years.”; and

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

25 “(b) **SOUTHEAST ALASKA FISHERIES PROGRAM.**—

1 “(1) CONDUCT OF PROGRAM BY RSA.—The pro-
2 gram described in subsection (a) shall be conducted
3 under Alaska law by the Southeast Revitalization
4 Association.

5 “(2) TREATMENT UNDER CHAPTER 577 OF
6 TITLE 46.—For purposes of section 57735 of title
7 46, United States Code, the program shall be con-
8 sidered to be a program established under section
9 312 of the Magnuson-Stevens Fishery Conservation
10 and Management Act (16 U.S.C. 1861a).

11 “(3) APPLICATION OF MAGNUSON-STEVENSON
12 ACT.—Notwithstanding paragraph (2), the program
13 shall not be subject to section 312 of the Magnuson-
14 Stevens Fishery Conservation and Management Act
15 (16 U.S.C. 1861a), except for subsections (b)(1)(C)
16 and (d) of that section.

17 “(c) SOUTHEAST ALASKA FISHERIES PROGRAM AP-
18 PROVAL AND REFERENDUM.—

19 “(1) IN GENERAL.—The Secretary of Com-
20 merce may approve a capacity reduction plan sub-
21 mitted by the Southeast Revitalization Association
22 under subsection (b).

23 “(2) REFERENDUM.—The Secretary shall con-
24 duct an industry fee system referendum for the
25 buyback under the program in accordance with sec-

1 tion 312(d)(1) of the Magnuson-Stevens Fishery
2 Conservation and Management Act (16 U.S.C.
3 1861a), except that—

4 “(A) no Council request and no consulta-
5 tion shall be required; and

6 “(B) the fee shall not exceed 3 percent of
7 the annual ex-vessel value of all salmon har-
8 vested in the southeast Alaska purse seine fish-
9 ery.

10 “(d) DISBURSAL OF LOAN PROCEEDS.—If the indus-
11 try fee system is approved as provided in section
12 312(d)(1)(B) of that Act (16 U.S.C. 1861a(d)(1)(B)), the
13 Secretary shall disburse the loan in the form of reduction
14 payments to participants in such amounts as the South-
15 east Revitalization Association certifies to have been ac-
16 cepted under Alaska law for reduction payments. The Sec-
17 retary shall thereafter administer the fee system in accord-
18 ance with section 312(d)(2) of that Act (16 U.S.C.
19 1861a(d)(2)), and any person paying or collecting the fee
20 shall make such payments or collection such fees in ac-
21 cordance with the requirements of that Act (16 U.S.C.
22 1801 et seq.)”.

23 **SEC. 122. CONVERSION TO CATCHER/PROCESSOR SHARES.**

24 (a) IN GENERAL.—

1 (1) AMENDMENT OF PLAN.—Not later than 90
2 days after the date of enactment of this Act, the
3 Secretary of Commerce shall amend the fishery man-
4 agement plan for the Bering Sea/Aleutian Islands
5 King and Tanner Crabs for the Northern Region (as
6 that term is used in the plan) to authorize—

7 (A) an eligible entity holding processor
8 quota shares to elect on an annual basis to
9 work together with other entities holding proc-
10 essor quota shares and affiliated with such eli-
11 gible entity through common ownership to com-
12 bine any catcher vessel quota shares for the
13 Northern Region with their processor quota
14 shares and to exchange them for newly created
15 catcher/processor owner quota shares for the
16 Northern Region; and

17 (B) an eligible entity holding catcher vessel
18 quota shares to elect on an annual basis to
19 work together with other entities holding catch-
20 er vessel quota shares and affiliated with such
21 eligible entity through common ownership to
22 combine any processor quota shares for the
23 Northern Region with their catcher vessel quota
24 shares and to exchange them for newly created

1 catcher/processor owner quota shares for the
2 Northern Region.

3 (2) ELIGIBILITY AND LIMITATIONS.—

4 (A) The authority provided in paragraph
5 (1)(A) shall—

6 (i)(I) apply only to an entity which
7 was initially awarded both catcher/proc-
8 essor owner quota shares, and processor
9 quota shares under the plan (in combina-
10 tion with the processor quota shares of its
11 commonly owned affiliates) of less than 7
12 percent of the Bering Sea/Aleutian Island
13 processor quota shares; or

14 (II) apply only to an entity which was
15 initially awarded both catcher/processor
16 owner quota shares under the plan and
17 processor quota shares under section
18 417(a) of the Coast Guard and Maritime
19 Transportation Act of 2006 (Public Law
20 109–241; 120 Stat. 546);

21 (ii) be limited to processor quota
22 shares initially awarded to such entities
23 and their commonly owned affiliates under
24 the plan or section 417(a) of that Act; and

1 (iii) shall not exceed 1 million pounds
2 per entity during any calendar year.

3 (B) The authority provided in paragraph
4 (1)(B) shall—

5 (i) apply only to an entity which was
6 initially awarded both catcher/processor
7 owner quota shares, and processor quota
8 shares under the plan (in combination with
9 the processor quota shares of its commonly
10 owned affiliates) of more than 7 percent of
11 the Bering Sea/Aleutian Island processor
12 quota shares;

13 (ii) be limited to catcher vessel quota
14 shares initially awarded to such entity and
15 its commonly owned affiliates; and

16 (iii) shall not exceed 1 million pounds
17 per entity during any calendar year.

18 (3) EXCHANGE RATE.—The entities referred to
19 in paragraph (1) shall receive under the amendment
20 1 unit of newly created catcher/processor owner
21 quota shares in exchange for 1 unit of catcher vessel
22 owner quota shares and 0.9 units of processor quota
23 shares.

24 (4) AREA OF VALIDITY.—Each unit of newly
25 created catcher/processor owner quota shares under

1 this subsection shall only be valid for the Northern
2 Region.

3 (b) FEES.—

4 (1) LOCAL FEES.—The holder of the newly cre-
5 ated catcher/processor owner quota shares under
6 subsection (a) shall pay a fee of 5 percent of the ex-
7 vessel value of the crab harvested pursuant to those
8 shares to any local governmental entities in the
9 Northern Region if the processor quota shares used
10 to produce those newly created catcher/processor
11 owner quota shares were originally derived from the
12 processing activities that occurred in a community
13 under the jurisdiction of those local governmental
14 entities.

15 (2) STATE FEE.—The State of Alaska may col-
16 lect from the holder of the newly created catcher/
17 processor owner quota shares under subsection (a) a
18 fee of 1 percent of the ex-vessel value of the crab
19 harvested pursuant to those shares.

20 (c) OFF-LOADING REQUIREMENT.—Crab harvested
21 pursuant to catcher/processor owner quota shares created
22 under this subsection shall be off-loaded in those commu-
23 nities receiving the local governmental entities fee revenue
24 set forth in subsection (b)(1).

1 (d) PERIODIC COUNCIL REVIEW.—As part of its peri-
2 odic review of the plan, the North Pacific Fishery Manage-
3 ment Council may review the effect, if any, of this sub-
4 section upon communities in the Northern Region. If the
5 Council determines that this section adversely affects the
6 communities, the Council may recommend to the Sec-
7 retary of Commerce, and the Secretary may approve, such
8 changes to the plan as are necessary to mitigate those ad-
9 verse effects.

10 (e) USE CAPS.—

11 (1) IN GENERAL.—Notwithstanding sections
12 680.42(b)(ii)(2) and 680.7(a)(ii)(7) of title 50, Code
13 of Federal Regulations, custom processing arrange-
14 ments shall not count against any use cap for the
15 processing of opilio crab in the Northern Region so
16 long as such crab is processed in the Northern Re-
17 gion by a shore-based crab processor.

18 (2) SHORE-BASED CRAB PROCESSOR DE-
19 FINED.—In this paragraph, the term “shore-based
20 crab processor” means any person or vessel that re-
21 ceives, purchases, or arranges to purchase unproc-
22 essed crab, that is located on shore or moored within
23 the harbor.

1 “(2) STATE PROGRAMS.—The Secretary shall
2 exempt from registration under the program rec-
3 reational fishermen and charter fishing vessels li-
4 censed, permitted, or registered under the laws of a
5 State if the Secretary determines that information
6 from the State program is suitable for the Sec-
7 retary’s use or is used to assist in completing marine
8 recreational fisheries statistical surveys, or evalu-
9 ating the effects of proposed conservation and man-
10 agement measures for marine recreational fisheries.

11 “(3) DATA COLLECTION.—

12 “(A) IMPROVEMENT OF THE MARINE REC-
13 REATIONAL FISHERY STATISTICS SURVEY.—
14 Within 24 months after the date of enactment
15 of the Magnuson-Stevens Fishery Conservation
16 and Management Reauthorization Act of 2006,
17 the Secretary, in consultation with representa-
18 tives of the recreational fishing industry and ex-
19 perts in statistics, technology, and other appro-
20 priate fields, shall establish a program to im-
21 prove the quality and accuracy of information
22 generated by the Marine Recreational Fishery
23 Statistics Survey, with a goal of achieving ac-
24 ceptable accuracy and utility for each individual
25 fishery.

1 “(B) NRC REPORT RECOMMENDATIONS.—

2 The program shall take into consideration and,
3 to the extent feasible, implement the rec-
4 ommendations of the National Research Council
5 in its report Review of Recreational Fisheries
6 Survey Methods (2006), including—

7 “(i) redesigning the Survey to improve
8 the effectiveness and appropriateness of
9 sampling and estimation procedures, its
10 applicability to various kinds of manage-
11 ment decisions, and its usefulness for so-
12 cial and economic analyses; and

13 “(ii) providing for ongoing technical
14 evaluation and modification as needed to
15 meet emerging management needs.

16 “(C) METHODOLOGY.—Unless the Sec-
17 retary determines that alternate methods will
18 achieve this goal more efficiently and effec-
19 tively, the program shall, to the extent possible,
20 include—

21 “(i) an adequate number of intercepts
22 to accurately estimate recreational catch
23 and effort;

24 “(ii) use of surveys that target anglers
25 registered or licensed at the State or Fed-

1 eral level to collect participation and effort
2 data;

3 “(iii) collection and analysis of vessel
4 trip report data from charter fishing ves-
5 sels;

6 “(iv) development of a weather correc-
7 tive factor that can be applied to rec-
8 reational catch and effort estimates; and

9 “(v) an independent committee com-
10 posed of recreational fishermen, academics,
11 persons with expertise in stock assessments
12 and survey design, and appropriate per-
13 sonnel from the National Marine Fisheries
14 Service to review the collection estimates,
15 geographic, and other variables related to
16 dockside intercepts and to identify defi-
17 ciencies in recreational data collection, and
18 possible correction measures.

19 “(D) DEADLINE.—The Secretary shall
20 complete the program under this paragraph and
21 implement the improved Marine Recreational
22 Fishery Statistics Survey not later than Janu-
23 ary 1, 2009.

24 “(4) REPORT.—Within 24 months after estab-
25 lishment of the program, the Secretary shall submit

1 a report to Congress that describes the progress
2 made toward achieving the goals and objectives of
3 the program.”.

4 **SEC. 202. COLLECTION OF INFORMATION.**

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

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

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

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

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

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

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

22 “(2) SECRETARIAL INITIATION.—If the Sec-
23 retary determines that additional information is nec-
24 essary for developing, implementing, revising, or
25 monitoring a fishery management plan, or for deter-

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

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

7 (a) IN GENERAL.—Section 402(b) (16 U.S.C.
8 1881a(b)) is amended—

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

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

14 “(b) CONFIDENTIALITY OF INFORMATION.—

15 “(1) Any information submitted to the Sec-
16 retary, a State fishery management agency, or a ma-
17 rine fisheries commission by any person in compli-
18 ance with the requirements of this Act shall be con-
19 fidential and shall not be disclosed except—

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

24 “(B) to State or Marine Fisheries Commis-
25 sion employees as necessary to further the De-

1 partment’s mission, subject to a confidentiality
2 agreement that prohibits public disclosure of
3 the identity of business of any person;

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

10 “(D) when required by court order;

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

16 “(F) when the Secretary has obtained writ-
17 ten authorization from the person submitting
18 such information to release such information to
19 persons for reasons not otherwise provided for
20 in this subsection, and such release does not
21 violate other requirements of this Act;

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

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

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

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

16 “(B) when such information is necessary
17 in proceedings to adjudicate observer certifi-
18 cations; or

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

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

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

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

10 (b) CONFORMING AMENDMENT.—Section 404(c)(4)
11 (16 U.S.C. 1881c(c)(4)) is amended by striking “under
12 section 401”.

13 **SEC. 204. COOPERATIVE RESEARCH AND MANAGEMENT**
14 **PROGRAM.**

15 Title III (16 U.S.C. 1851 et seq.), as amended by
16 section 119 of this Act, is further amended by adding at
17 the end the following:

18 **“SEC. 318. COOPERATIVE RESEARCH AND MANAGEMENT**
19 **PROGRAM.**

20 “(a) IN GENERAL.—The Secretary of Commerce, in
21 consultation with the Councils, shall establish a coopera-
22 tive research and management program to address needs
23 identified under this Act and under any other marine re-
24 source laws enforced by the Secretary. The program shall
25 be implemented on a regional basis and shall be developed

1 and conducted through partnerships among Federal,
2 State, and Tribal managers and scientists (including inter-
3 state fishery commissions), fishing industry participants
4 (including use of commercial charter or recreational ves-
5 sels for gathering data), and educational institutions.

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

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

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

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

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

6 “(4) Projects for the identification of habitat
7 areas of particular concern and for habitat conserva-
8 tion.

9 “(5) Projects designed to collect and compile
10 economic and social data.

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

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

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

4 **SEC. 205. HERRING STUDY.**

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

8 **“SEC. 319. HERRING STUDY.**

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

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

23 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated \$2,000,000 for fiscal

1 year 2007 through fiscal year 2009 to conduct this
2 study.”.

3 **SEC. 206. RESTORATION STUDY.**

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

7 **“SEC. 320. RESTORATION STUDY.**

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

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

17 **SEC. 207. WESTERN PACIFIC FISHERY DEMONSTRATION**
18 **PROJECTS.**

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

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

23 (2) by striking “not less than three and not
24 more than five” in paragraph (1); and

1 (3) by striking paragraph (6) and inserting the
2 following:

3 “(6) In this subsection the term ‘Western Pa-
4 cific community’ means a community eligible to par-
5 ticipate under section 305(i)(2)(B)(i) through (iv) of
6 the Magnuson-Stevens Fishery Conservation and
7 Management Act (16 U.S.C. 1855(i)(2)(B)(i)
8 through (iv)).”.

9 **SEC. 208. FISHERIES CONSERVATION AND MANAGEMENT**
10 **FUND.**

11 (a) **IN GENERAL.**—The Secretary shall establish and
12 maintain a fund, to be known as the “Fisheries Conserva-
13 tion and Management Fund”, which shall consist of
14 amounts retained and deposited into the Fund under sub-
15 section (c).

16 (b) **PURPOSES.**—Subject to the allocation of funds
17 described in subsection (d), amounts in the Fund shall be
18 available to the Secretary of Commerce, without appro-
19 priation or fiscal year limitation, to disburse as described
20 in subsection (e) for—

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

23 (A) expanding the use of electronic catch
24 reporting programs and technology; and

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

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

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

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

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

20 (6) improving data collection under the Marine
21 Recreational Fishery Statistics Survey in accordance
22 with section 401(g)(3) of the Magnuson-Stevens
23 Fishery Conservation and Management Act (16
24 U.S.C. 1881(g)(3)); and

1 (7) providing financial assistance to fishermen
2 to offset the costs of modifying fishing practices and
3 gear to meet the requirements of this Act, the Mag-
4 nuson-Stevens Fishery Conservation and Manage-
5 ment Act (16 U.S.C. 1801 et seq.), and other Fed-
6 eral laws in pari materia.

7 (c) DEPOSITS TO THE FUND.—

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

15 (2) OTHER FUNDS.—In addition to amounts re-
16 ceived pursuant to paragraph (1) of this subsection,
17 the Fishery Conservation and Management Fund
18 may also receive funds from—

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

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

24 (d) REGIONAL ALLOCATION.—The Secretary shall,
25 every 2 years, apportion monies from the Fund among the

1 eight Council regions according to recommendations of the
2 Councils, based on regional priorities identified through
3 the Council process, except that no region shall receive less
4 than 5 percent of the Fund in each allocation 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 requirements of this Act or
8 the Magnuson-Stevens Fishery Conservation and Manage-
9 ment Act (16 U.S.C. 1801 et seq.) other than those uses
10 identified in this section.

11 **SEC. 209. USE OF FISHERY FINANCE PROGRAM FOR SUS-**
12 **TAINABLE PURPOSES.**

13 Section 53706(a)(7) of title 46, United States Code,
14 is amended to read as follows:

15 “(7) Financing or refinancing—

16 “(A) the purchase of individual fishing
17 quotas in accordance with section 303(d)(4) of
18 the Magnuson-Stevens Fishery Conservation
19 and Management Act (including the reimburse-
20 ment of obligors for expenditures previously
21 made for such a purchase) ;

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

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

7 “(f) REGIONAL ECOSYSTEM RESEARCH.—

8 “(1) STUDY.—Within 180 days after the date
9 of enactment of the Magnuson-Stevens Fishery Con-
10 servation and Management Reauthorization Act of
11 2006, the Secretary, in consultation with the Coun-
12 cils, shall undertake and complete a study on the
13 state of the science for advancing the concepts and
14 integration of ecosystem considerations in regional
15 fishery management. The study should build upon
16 the recommendations of the advisory panel and in-
17 clude—

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

23 “(B) recommendations for processes for in-
24 corporating broad stake holder participation;

1 “(C) recommendations for processes to ac-
2 count for effects of environmental variation on
3 fish stocks and fisheries; and

4 “(D) a description of existing and devel-
5 oping council efforts to implement ecosystem
6 approaches, including lessons learned by the
7 councils.

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

15 **SEC. 211. DEEP SEA CORAL RESEARCH AND TECHNOLOGY**
16 **PROGRAM.**

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

19 **“SEC. 408. DEEP SEA CORAL RESEARCH AND TECHNOLOGY**
20 **PROGRAM.**

21 “(a) IN GENERAL.—The Secretary, in consultation
22 with appropriate regional fishery management councils
23 and in coordination with other federal agencies and edu-
24 cational institutions, shall, subject to the availability of ap-
25 propriations, establish a program—

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

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

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

12 “(4) to conduct research, including cooperative
13 research with fishing industry participants, on deep
14 sea corals and related species, and on survey meth-
15 ods;

16 “(5) to develop technologies or methods de-
17 signed to assist fishing industry participants in re-
18 ducing interactions between fishing gear and deep
19 sea corals; and

20 “(6) to prioritize program activities in areas
21 where deep sea corals are known to occur, and in
22 areas where scientific modeling or other methods
23 predict deep sea corals are likely to be present.

24 “(b) REPORTING.—Beginning 1 year after the date
25 of enactment of the Magnuson-Stevens Fishery Conserva-

1 tion and Management Reauthorization Act of 2006, the
2 Secretary, in consultation with the Councils, shall submit
3 biennial reports to Congress and the public on steps taken
4 by the Secretary to identify, monitor, and protect deep sea
5 coral areas, including summaries of the results of map-
6 ping, research, and data collection performed under the
7 program.”.

8 **SEC. 212. IMPACT OF TURTLE EXCLUDER DEVICES ON**
9 **SHRIMPING.**

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

14 (1) to measure accurately the efforts and ef-
15 fects of shrimp fishery efforts to utilize turtle ex-
16 cluder devices;

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

23 (3) to evaluate innovative technologies to in-
24 crease shrimp retention in turtle excluder devices

1 while ensuring the protection of endangered and
2 threatened sea turtles.

3 (b) OBSERVERS.—In conducting the study, the Un-
4 dersecretary shall ensure that observers are placed on-
5 board commercial shrimp fishing vessels where appro-
6 priate or necessary.

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

15 **SEC. 213. HURRICANE EFFECTS ON COMMERCIAL AND**
16 **RECREATION FISHERY HABITATS.**

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

1 (1) commercial and recreational fisheries in the
2 States of Alabama, Louisiana, Florida, Mississippi,
3 and Texas;

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

5 (3) the oyster industry in those States.

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

14 (c) **HABITAT RESTORATION.**—The Secretary shall
15 carry out activities to restore fishery habitats, including
16 the shrimp and oyster habitats in Louisiana and Mis-
17 sissippi.

18 **SEC. 214. NORTH PACIFIC FISHERIES CONVENTION.**

19 Section 313 (16 U.S.C. 1862) is amended—

20 (1) by striking “all fisheries under the Council’s
21 jurisdiction except salmon fisheries” in subsection
22 (a) and inserting “any fishery under the Council’s
23 jurisdiction except a salmon fishery”;

24 (2) by striking subsection (a)(2) and inserting
25 the following:

1 “(2) establishes a system, or system, of fees,
2 which may vary by fishery, management area, or ob-
3 server coverage level, to pay for the cost of imple-
4 menting the plan.”;

5 (3) by striking “observers” in subsection
6 (b)(2)(A) and inserting “observers, or electronic
7 monitoring systems,”;

8 (4) by inserting “a fixed amount reflecting ac-
9 tual observer costs as described in subparagraph (A)
10 or” in subsection (b)(2)(E) after “expressed as”;

11 (5) by inserting “some or” in subsection
12 (b)(2)(F) after “against”;

13 (6) by inserting “or an electronic monitoring
14 system” after “observer” in subsection (b)(2)(F);

15 (7) by striking “and” after the semicolon in
16 subsection (b)(2)(H); and

17 (8) by redesignating subparagraph (I) of sub-
18 section (b)(2) as subparagraph (J) and inserting
19 after subparagraph (H) the following:

20 “(I) provide that fees collected will be credited
21 against any fee for stationing observers or electronic
22 monitoring systems on board fishing vessels and
23 United States fish processors and the actual cost of
24 inputting collected data to which a fishing vessel or

1 fish processor is subject under section 304(d) of this
2 Act; and”.

3 **SEC. 215. NEW ENGLAND GROUND FISH FISHERY.**

4 (a) REVIEW.—The Secretary of Commerce shall con-
5 duct a unique, thorough examination of the potential im-
6 pact on all affected and interested parties of Framework
7 42 to the Northeast Multispecies Fishery Management
8 Plan.

9 (b) REPORT.—The Secretary shall report the Sec-
10 retary’s findings under subsection (a) within 30 days after
11 the date of enactment of this Act. The Secretary shall in-
12 clude in the report a detailed discussion of each of the
13 following:

14 (1) The economic and social implications for af-
15 fected parties within the fishery, including potential
16 losses to infrastructure, expected from the imposi-
17 tion of Framework 42.

18 (2) The estimated average annual income gen-
19 erated by fishermen in New England, separated by
20 State and vessel size, and the estimated annual in-
21 come expected after the imposition of Framework
22 42.

23 (3) Whether the differential days-at-sea count-
24 ing imposed by Framework 42 would result in a re-

1 duction in the number of small vessels actively par-
2 ticipating in the New England Fishery.

3 (4) The percentage and approximate number of
4 vessels in the New England fishery, separated by
5 State and vessel type, that are incapable of fishing
6 outside the areas designated in Framework 42 for
7 differential days-at-sea counting.

8 (5) The percentage of the annual groundfish
9 catch in the New England fishery that is harvested
10 by small vessels.

11 (6) The current monetary value of groundfish
12 permits in the New England fishery and the actual
13 impact that the potential imposition of Framework
14 42 is having on such value.

15 (7) Whether permitting days-at-sea to be leased
16 is altering the market value for groundfish permits
17 or days-at-sea in New England.

18 (8) Whether there is a substantially high prob-
19 ability that the biomass targets used as a basis for
20 Amendment 13 remain achievable.

21 (9) An identification of the year in which the
22 biomass targets used as a basis for Amendment 13
23 were last evident or achieved, and the evidence used
24 to determine such date.

1 (10) Any separate or non-fishing factors, in-
2 cluding environmental factors, that may be leading
3 to a slower rebuilding of groundfish than previously
4 anticipated.

5 (11) The potential harm to the non-fishing en-
6 vironment and ecosystem from the reduction in fish-
7 ing resulting from Framework 42 and the potential
8 redevelopment of the coastal land for other purposes,
9 including potential for increases in non-point source
10 of pollution and other impacts.

11 **SEC. 216. REPORT ON COUNCIL MANAGEMENT COORDINA-**
12 **TION.**

13 The Mid-Atlantic Fishery Council, in consultation
14 with the New England Fishery Council, shall submit a re-
15 port to the Senate Committee on Commerce, Science, and
16 Transportation within 9 months after the date of enact-
17 ment of this Act—

18 (1) describing the role of council liaisons be-
19 tween the Mid-Atlantic and New England Councils,
20 including an explanation of council policies regarding
21 the liaison's role in Council decision-making since
22 1996;

23 (2) describing how management actions are
24 taken regarding the operational aspects of current
25 joint fishery management plans, and how such joint

1 plans may undergo changes through amendment or
2 framework processes;

3 (3) evaluating the role of the New England
4 Fishery Council and the Mid-Atlantic Fishery Coun-
5 cil liaisons in the development and approval of man-
6 agement plans for fisheries in which the liaisons or
7 members of the non-controlling Council have a dem-
8 onstrated interest and significant current and histor-
9 ical landings of species managed by either Council;

10 (4) evaluating the effectiveness of the various
11 approaches developed by the Councils to improve
12 representation for affected members of the non-con-
13 trolling Council in Council decision-making, such as
14 use of liaisons, joint management plans, and other
15 policies, taking into account both the procedural and
16 conservation requirements of the Magnuson-Stevens
17 Fishery Conservation and Management Act; and

18 (5) analyzing characteristics of North Carolina
19 and Florida that supported their inclusion as voting
20 members of more than one Council and the extent
21 to which those characteristics support Rhode Is-
22 land's inclusion on a second Council (the Mid-Atlan-
23 tic Council).

1 **SEC. 217. STUDY OF SHORTAGE IN THE NUMBER OF INDI-**
2 **VIDUALS WITH POST- BACCALAUREATE DE-**
3 **GREES IN SUBJECTS RELATED TO FISHERY**
4 **SCIENCE.**

5 (a) IN GENERAL.—The Secretary of Commerce and
6 the Secretary of Education shall collaborate to conduct a
7 study of—

8 (1) whether there is a shortage in the number
9 of individuals with post-baccalaureate degrees in
10 subjects related to fishery science, including fishery
11 oceanography, fishery ecology, and fishery anthro-
12 pology, who have the ability to conduct high quality
13 scientific research in fishery stock assessment, fish-
14 ery population dynamics, and related fields, for gov-
15 ernment, non-profit, and private sector entities;

16 (2) what Federal programs are available to help
17 facilitate the education of students hoping to pursue
18 these degrees; and

19 (3) what institutions of higher education, the
20 private sector, and the Congress could do to try to
21 increase the number of individuals with such post-
22 baccalaureate degrees.

23 (b) REPORT.—Not later than 8 months after the date
24 of enactment of this Act, the Secretaries of Commerce and
25 Education shall transmit a report to each committee of
26 Congress with jurisdiction over the programs referred to

1 in subsection (a), detailing the findings and recommenda-
2 tions of the study under this section.

3 **SEC. 218. GULF OF ALASKA ROCKFISH DEMONSTRATION**
4 **PROGRAM.**

5 Section 802 of Public Law 108-199 (118 Stat. 110)
6 is amended by striking “2 years” and inserting “5 years”.

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

9 **SEC. 301. AMENDMENTS TO NORTHERN PACIFIC HALIBUT**
10 **ACT.**

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

14 (1) by striking “\$25,000” and inserting
15 “\$200,000”;

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

21 (3) by adding at the end the following: “In as-
22 sessed such penalty, the Secretary may also con-
23 sider any information provided by the violator relat-
24 ing to the ability of the violator to pay if the infor-

1 mation is provided to the Secretary at least 30 days
2 prior to an administrative hearing.”.

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

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

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

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

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

16 “(C) any amount in settlement of a civil
17 forfeiture imposed on a vessel or other property,
18 or any civil penalty or criminal fine imposed on
19 a vessel or owner or operator of a vessel or any
20 other person who has been issued or has ap-
21 plied for a permit under any marine resource
22 law enforced by the Secretary has not been paid
23 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 2007, 2008, 2009, 2010, 2011, there are authorized to
23 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 2007 through 2011”.

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 2007 through 2011”.

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 enacted into law by section 1000(a)(1) of the Act of
17 November 29, 1999 (Public Law 106–113), and
18 amended by Public Law 106–533 (114 Stat. 2762A-
19 108)—

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

23 (B) amended—

24 (i) by striking “SEC. 623.”; and

1 (ii) inserting before “(a) NORTHERN
2 FUND AND SOUTHERN FUND.—” the fol-
3 lowing:

4 **“SEC. 16. NORTHERN AND SOUTHERN FUNDS; TREATY IM-**
5 **PLEMENTATION; ADDITIONAL AUTHORIZA-**
6 **TION OF APPROPRIATIONS.”.**

7 (2) REAUTHORIZATION.—Section 16(d)(2)(A)
8 of the Pacific Salmon Treaty Act, as transferred by
9 paragraph (1), is amended—

10 (1) by inserting “sustainable salmon fisheries,”
11 after “enhancement,”;

12 (2) by inserting “2005, 2006, 2007, 2008, and
13 2009,” after “2003,”; and

14 (3) by inserting “Idaho,” after “Oregon,”.

15 (e) STATE AUTHORITY FOR DUNGENESS CRAB FISH-
16 ERY MANAGEMENT.—Section 203 of Public Law 105–384
17 (16 U.S.C. 1856 note) is amended—

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

20 (2) by striking “health” in subsection (j) and
21 inserting “status”; and

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

24 “(1) stock status and trends throughout its
25 range;

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

4 “(3) measures implemented or planned that are
5 designed to prevent or end overfishing in the fish-
6 ery.”.

7 (f) PACIFIC FISHERY MANAGEMENT COUNCIL.—

8 (1) IN GENERAL.—The Pacific Fishery Man-
9 agement Council shall develop a proposal for the ap-
10 propriate rationalization program for the Pacific
11 trawl groundfish and whiting fisheries, including the
12 shore-based sector of the Pacific whiting fishery
13 under its jurisdiction. The proposal may include only
14 the Pacific whiting fishery, including the shore-based
15 sector, if the Pacific Council determines that a ra-
16 tionalization plan for the fishery as a whole cannot
17 be achieved before the report is required to be sub-
18 mitted under paragraph (3).

19 (2) REQUIRED ANALYSIS.—In developing the
20 proposal to rationalize the fishery, the Pacific Coun-
21 cil shall fully analyze alternative program designs,
22 including the allocation of limited access privileges
23 to harvest fish to fishermen and processors working
24 together in regional fishery associations or some
25 other cooperative manner to harvest and process the

1 fish, as well as the effects of these program designs
2 and allocations on competition and conservation.
3 The analysis shall include an assessment of the im-
4 pact of the proposal on conservation and the eco-
5 nomics of communities, fishermen, and processors
6 participating in the trawl groundfish fisheries, in-
7 cluding the shore-based sector of the Pacific whiting
8 fishery.

9 (3) REPORT.—The Pacific Council shall submit
10 the proposal and related analysis to the Senate Com-
11 mittee on Commerce, Science, and Transportation
12 and the House of Representatives Committee on Re-
13 sources no later than 24 months after the date of
14 enactment of this Act.

15 (g) REAUTHORIZATION OF THE INTERJURISDIC-
16 TIONAL FISHERIES ACT OF 1986.— Section 308 of the
17 Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107)
18 is amended—

19 (1) by striking subsection (a) and inserting the
20 following:

21 “(a) GENERAL APPROPRIATIONS.—There are author-
22 ized to be appropriated to the Secretary of Commerce for
23 apportionment to carry out the purposes of this title
24 \$5,000,000 for each of fiscal years 2007 through 2012.”;
25 and

1 (2) by striking “\$850,000 for each of fiscal
2 years 2003 and 2004, and \$900,000 for each of fis-
3 cal years 2005 and 2006” in subsection (c) and in-
4 serting “\$900,000 for each of fiscal years 2007
5 through 2012”.

6 (h) REAUTHORIZATION AND AMENDMENT OF THE
7 ANADROMOUS FISH CONSERVATION ACT.—Section 4 of
8 the Anadromous Fish Conservation Act (16 U.S.C. 757d)
9 is amended to read as follows:

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

11 “There are authorized to be appropriated to carry out
12 the purposes of this Act not to exceed \$4,500,000 for each
13 of fiscal years 2007 through 2012.”.

14 (i) REAUTHORIZATION OF THE NORTHWEST ATLAN-
15 TIC FISHERIES CONVENTION ACT OF 1995.—Section 211
16 of the Northwest Atlantic Fisheries Convention Act of
17 1995 (16 U.S.C. 5610) is amended by striking “2006”
18 and inserting “2012”.

19 **TITLE IV—INTERNATIONAL**

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

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

1 **“SEC. 207. INTERNATIONAL MONITORING AND COMPLI-**
2 **ANCE.**

3 “(a) IN GENERAL.—The Secretary may undertake
4 activities to promote improved monitoring and compliance
5 for high seas fisheries, or fisheries governed by inter-
6 national fishery management agreements, and to imple-
7 ment the requirements of this title.

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

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

18 “(2) further develop real time information shar-
19 ing capabilities, particularly on harvesting and proc-
20 essing capacity and illegal, unreported and unregu-
21 lated fishing;

22 “(3) participate in global and regional efforts to
23 build an international network for monitoring, con-
24 trol, and surveillance of high seas fishing and fishing
25 under regional or global agreements;

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

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

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

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

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

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

6 “(12) International cooperation is necessary to
7 address illegal, unreported, and unregulated fishing
8 and other fishing practices which may harm the sus-
9 tainability of living marine resources and disadvan-
10 tage the United States fishing industry.”.

11 **SEC. 403. ACTION TO END ILLEGAL, UNREPORTED, OR UN-**
12 **REGULATED FISHING AND REDUCE BYCATCH**
13 **OF PROTECTED MARINE SPECIES.**

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

17 **“SEC. 607. BIENNIAL REPORT ON INTERNATIONAL COMPLI-**
18 **ANCE.**

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

25 “(1) the state of knowledge on the status of
26 international living marine resources shared by the

1 United States or subject to treaties or agreements to
2 which the United States is a party, including a list
3 of all such fish stocks classified as overfished, over-
4 exploited, depleted, endangered, or threatened with
5 extinction by any international or other authority
6 charged with management or conservation of living
7 marine resources;

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

12 “(3) a description of efforts taken by nations on
13 those lists to comply take appropriate corrective ac-
14 tion consistent with sections 609 and 610, and an
15 evaluation of the progress of those efforts, including
16 steps taken by the United States to implement those
17 sections and to improve international compliance;

18 “(4) progress at the international level, con-
19 sistent with section 608, to strengthen the efforts of
20 international fishery management organizations to
21 end illegal, unreported, or unregulated fishing; and

22 “(5) steps taken by the Secretary at the inter-
23 national level to adopt international measures com-
24 parable to those of the United States to reduce im-
25 pacts of fishing and other practices on protected liv-

1 can be shared among all members and other
2 international fishery management organizations;

3 “(C) to seek international adoption of a
4 centralized vessel monitoring system in order to
5 monitor and document capacity in fleets of all
6 nations involved in fishing in areas under an
7 international fishery management organization’s
8 jurisdiction;

9 “(D) to increase use of observers and tech-
10 nologies needed to monitor compliance with con-
11 servation and management measures estab-
12 lished by the organization, including vessel
13 monitoring systems and automatic identification
14 systems; and

15 “(E) to seek adoption of stronger port
16 state controls in all nations, particularly those
17 nations in whose ports vessels engaged in ille-
18 gal, unreported, or unregulated fishing land or
19 transship fish;

20 “(2) urging international fishery management
21 organizations to which the United States is a mem-
22 ber, as well as all members of those organizations,
23 to adopt and expand the use of market-related meas-
24 ures to combat illegal, unreported, or unregulated
25 fishing, including—

1 “(A) import prohibitions, landing restric-
2 tions, or other market-based measures needed
3 to enforce compliance with international fishery
4 management organization measures, such as
5 quotas and catch limits;

6 “(B) import restrictions or other market-
7 based measures to prevent the trade or impor-
8 tation of fish caught by vessels identified multi-
9 laterally as engaging in illegal, unreported, or
10 unregulated fishing; and

11 “(C) catch documentation and certification
12 schemes to improve tracking and identification
13 of catch of vessels engaged in illegal, unre-
14 ported, or unregulated fishing, including ad-
15 vance transmission of catch documents to ports
16 of entry; and

17 “(3) urging other nations at bilateral, regional,
18 and international levels, including the Convention on
19 International Trade in Endangered Species of
20 Fauna and Flora and the World Trade Organization
21 to take all steps necessary, consistent with inter-
22 national law, to adopt measures and policies that
23 will prevent fish or other living marine resources
24 harvested by vessels engaged in illegal, unreported,

1 or unregulated fishing from being traded or im-
2 ported into their nation or territories.

3 **“SEC. 609. ILLEGAL, UNREPORTED, OR UNREGULATED**
4 **FISHING.**

5 “(a) IDENTIFICATION.—The Secretary shall identify,
6 and list in the report under section 607, a nation if fishing
7 vessels of that nation are engaged, or have been engaged
8 at any point during the preceding 2 years, in illegal, unre-
9 ported, or unregulated fishing; and—

10 “(1) the relevant international fishery manage-
11 ment organization has failed to implement effective
12 measures to end the illegal, unreported, or unregu-
13 lated fishing activity by vessels of that nation or the
14 nation is not a party to, or does not maintain co-
15 operating status with, such organization; or

16 “(2) where no international fishery manage-
17 ment organization exists with a mandate to regulate
18 the fishing activity in question.

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

1 “(c) CONSULTATION.—No later than 60 days after
2 submitting a report to Congress under section 607, the
3 Secretary, acting through the Secretary of State, shall—

4 “(1) notify nations listed in the report of the
5 requirements of this section;

6 “(2) initiate consultations for the purpose of
7 encouraging such nations to take the appropriate
8 corrective action with respect to the offending activi-
9 ties of their fishing vessels identified in the report;
10 and

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

14 “(d) IUU CERTIFICATION PROCEDURE.—

15 “(1) CERTIFICATION.—The Secretary shall es-
16 tablish a procedure, consistent with the provisions of
17 subchapter II of chapter 5 of title 5, United States
18 Code, for determining if a nation identified under
19 subsection (a) and listed in the report under section
20 607 has taken appropriate corrective action with re-
21 spect to the offending activities of its fishing vessels
22 identified in the report under section 607. The cer-
23 tification procedure shall provide for notice and an
24 opportunity for comment by any such nation. The
25 Secretary shall determine, on the basis of the proce-

1 dure, and certify to the Congress no later than 90
2 days after the date on which the Secretary promul-
3 gates a final rule containing the procedure, and bi-
4 ennially thereafter in the report under section 607—

5 “(A) whether the government of each na-
6 tion identified under subsection (a) has pro-
7 vided documentary evidence that it has taken
8 corrective action with respect to the offending
9 activities of its fishing vessels identified in the
10 report; or

11 “(B) whether the relevant international
12 fishery management organization has imple-
13 mented measures that are effective in ending
14 the illegal, unreported, or unregulated fishing
15 activity by vessels of that nation.

16 “(2) ALTERNATIVE PROCEDURE.—The Sec-
17 retary may establish a procedure for certification, on
18 a shipment-by-shipment, shipper-by-shipper, or other
19 basis of fish or fish products from a vessel of a har-
20 vesting nation not certified under paragraph (1) if
21 the Secretary determines that—

22 “(A) the vessel has not engaged in illegal,
23 unreported, or unregulated fishing under an
24 international fishery management agreement to
25 which the United States is a party; or

1 “(B) the vessel is not identified by an
2 international fishery management organization
3 as participating in illegal, unreported, or un-
4 regulated fishing activities.

5 “(3) EFFECT OF CERTIFICATION.—

6 “(A) IN GENERAL.—The provisions of sec-
7 tion 101(a) and section 101(b)(3) and (4) of
8 this Act (16 U.S.C. 1826a(a), (b)(3), and
9 (b)(4))—

10 “(i) shall apply to any nation identi-
11 fied under subsection (a) that has not been
12 certified by the Secretary under this sub-
13 section, or for which the Secretary has
14 issued a negative certification under this
15 subsection; but

16 “(ii) shall not apply to any nation
17 identified under subsection (a) for which
18 the Secretary has issued a positive certifi-
19 cation under this subsection.

20 “(B) EXCEPTIONS.—Subparagraph (A)(i)
21 does not apply—

22 “(i) to the extent that such provisions
23 would apply to sport fishing equipment or
24 to fish or fish products not managed under

1 the applicable international fishery agree-
2 ment; or

3 “(ii) if there is no applicable inter-
4 national fishery agreement, to the extent
5 that such provisions would apply to fish or
6 fish products caught by vessels not en-
7 gaged in illegal, unreported, or unregulated
8 fishing.

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

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

14 “(2) SECRETARY TO DEFINE TERM WITHIN
15 LEGISLATIVE GUIDELINES.—Within 3 months after
16 the date of enactment of the Magnuson-Stevens
17 Fishery Conservation and Management Reauthoriza-
18 tion Act of 2006, the Secretary shall publish a defi-
19 nition of the term ‘illegal, unreported, or unregu-
20 lated fishing’ for purposes of this Act.

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

23 “(A) fishing activities that violate con-
24 servation and management measures required
25 under an international fishery management

1 agreement to which the United States is a
2 party, including catch limits or quotas, capacity
3 restrictions, and bycatch reduction require-
4 ments;

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

12 “(C) fishing activity that has an adverse
13 impact on seamounts, hydrothermal vents, and
14 cold water corals located beyond national juris-
15 diction, for which there are no applicable con-
16 servation or management measures or in areas
17 with no applicable international fishery manage-
18 ment organization or agreement.

19 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Secretary for fis-
21 cal years 2007 through 2013 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 “(1) fishing vessels of that nation are engaged,
2 or have been engaged during the preceding calendar
3 year in fishing activities or practices;

4 “(A) in waters beyond any national juris-
5 diction that result in bycatch of a protected liv-
6 ing marine resource; or

7 “(B) beyond the exclusive economic zone of
8 the United States that result in bycatch of a
9 protected living marine resource shared by the
10 United States;

11 “(2) the relevant international organization for
12 the conservation and protection of such resources or
13 the relevant international or regional fishery organi-
14 zation has failed to implement effective measures to
15 end or reduce such bycatch, or the nation is not a
16 party to, or does not maintain cooperating status
17 with, such organization; and

18 “(3) the nation has not adopted a regulatory
19 program governing such fishing practices designed
20 to end or reduce such bycatch that is comparable to
21 that of the United States, taking into account dif-
22 ferent conditions.

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

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

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

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

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

23 “(c) CONSERVATION CERTIFICATION PROCEDURE.—

24 “(1) DETERMINATION.—The Secretary shall es-
25 tablish a procedure consistent with the provisions of

1 subchapter II of chapter 5 of title 5, United States
2 Code, for determining whether the government of a
3 harvesting nation identified under subsection (a) and
4 listed in the report under section 607—

5 “(A) has provided documentary evidence of
6 the adoption of a regulatory program governing
7 the conservation of the protected living marine
8 resource that is comparable to that of the
9 United States, taking into account different
10 conditions, and which, in the case of pelagic
11 longline fishing, includes mandatory use of cir-
12 cle hooks, careful handling and release equip-
13 ment, and training and observer programs; and

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

20 “(2) PROCEDURAL REQUIREMENT.—The proce-
21 dure established by the Secretary under paragraph
22 (1) shall include notice and opportunity for comment
23 by any such nation.

24 “(3) CERTIFICATION.—The Secretary shall cer-
25 tify to the Congress by January 31, 2007, and bien-

1 nially thereafter whether each such nation has pro-
2 vided the documentary evidence described in para-
3 graph (1)(A) and established a management plan de-
4 scribed in paragraph (1)(B).

5 “(4) ALTERNATIVE PROCEDURE.—The Sec-
6 retary shall establish a procedure for certification,
7 on a shipment-by-shipment, shipper-by-shipper, or
8 other basis of fish or fish products from a vessel of
9 a harvesting nation not certified under paragraph
10 (3) if the Secretary determines that such imports
11 were harvested by practices that do not result in by-
12 catch of a protected marine species, or were har-
13 vested by practices that—

14 “(A) are comparable to those of the United
15 States, taking into account different conditions,
16 and which, in the case of pelagic longline fish-
17 ing, includes mandatory use of circle hooks,
18 careful handling and release equipment, and
19 training and observer programs; and

20 “(B) include the gathering of species spe-
21 cific data that can be used to support inter-
22 national and regional stock assessments and
23 conservation efforts for protected living marine
24 resources.

1 “(5) EFFECT OF CERTIFICATION.—The provi-
2 sions of section 101(a) and section 101(b)(3) and
3 (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and
4 (b)(4)) (except to the extent that such provisions
5 apply to sport fishing equipment or fish or fish prod-
6 ucts not caught by the vessels engaged in illegal, un-
7 reported, or unregulated fishing) shall apply to any
8 nation identified under subsection (a) that has not
9 been certified by the Secretary under this sub-
10 section, or for which the Secretary has issued a neg-
11 ative certification under this subsection, but shall
12 not apply to any nation identified under subsection
13 (a) for which the Secretary has issued a positive cer-
14 tification under this subsection.

15 “(d) INTERNATIONAL COOPERATION AND ASSIST-
16 ANCE.—To the greatest extent possible consistent with ex-
17 isting authority and the availability of funds, the Secretary
18 shall—

19 “(1) provide appropriate assistance to nations
20 identified by the Secretary under subsection (a) and
21 international organizations of which those nations
22 are members to assist those nations in qualifying for
23 certification under subsection (c);

24 “(2) undertake, where appropriate, cooperative
25 research activities on species statistics and improved

1 harvesting techniques, with those nations or organi-
2 zations;

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

7 “(4) provide assistance to those nations or or-
8 ganizations in designing and implementing appro-
9 priate fish harvesting plans.

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

13 “(1) means non-target fish, sea turtles, or ma-
14 rine mammals that are protected under United
15 States law or international agreement, including the
16 Marine Mammal Protection Act, the Endangered
17 Species Act, the Shark Finning Prohibition Act, and
18 the Convention on International Trade in Endan-
19 gered Species of Wild Flora and Fauna; but

20 “(2) does not include species, except sharks,
21 managed under the Magnuson-Stevens Fishery Con-
22 servation and Management Act, the Atlantic Tunas
23 Convention Act, or any international fishery man-
24 agement agreement.

1 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Secretary for fis-
3 cal years 2007 through 2013 such sums as are necessary
4 to carry out this section.”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) DENIAL OF PORT PRIVILEGES.—Section
7 101(b) of the High Seas Driftnet Fisheries Enforce-
8 ment Act (16 U.S.C. 1826a(b)) is amended by in-
9 serting “or illegal, unreported, or unregulated
10 fishing“ after “fishing“ in paragraph (1)(A)(i),
11 paragraph (1)(B), paragraph (2), and paragraph
12 (4)(A)(i).

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

17 **SEC. 404. MONITORING OF PACIFIC INSULAR AREA FISH-**
18 **ERIES.**

19 (a) WAIVER AUTHORITY.—Section 201(h)(2)(B) (16
20 U.S.C. 1821(h)(2)(B)) is amended by striking “that is at
21 least equal in effectiveness to the program established by
22 the Secretary;” and inserting “or other monitoring pro-
23 gram that the Secretary, in consultation with the Western
24 Pacific Management Council, determines is adequate to
25 monitor harvest, bycatch, and compliance with the laws

1 of the United States by vessels fishing under the agree-
2 ment;”.

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

6 “(i) Pacific Insular Area observer programs, or
7 other monitoring programs, that the Secretary deter-
8 mines are adequate to monitor the harvest, bycatch,
9 and compliance with the laws of the United States
10 by foreign fishing vessels that fish under Pacific In-
11 sular Area fishing agreements;”.

12 **SEC. 405. REAUTHORIZATION OF ATLANTIC TUNAS CON-**
13 **VENTION ACT.**

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

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

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

23 “(1) \$5,770,000 for each of fiscal years 2007
24 and 2008;

1 “(2) \$6,058,000 for each of fiscal years 2009
2 and 2010; and

3 “(3) \$6,361,000 for each of fiscal years 2011
4 and 2013.

5 “(b) ALLOCATION.—Of the amounts made available
6 under subsection (a) for each fiscal year—

7 “(1) \$160,000 are authorized for the advisory
8 committee established under section 4 of this Act
9 and the species working groups established under
10 section 4A of this Act; and

11 “(2) \$7,500,000 are authorized for research ac-
12 tivities under this Act and section 3 of Public Law
13 96–339 (16 U.S.C. 971i), of which \$3,000,000 shall
14 be for the cooperative research program under sec-
15 tion 3(b)(2)(H) of that section (16 U.S.C.
16 971i(b)(2)(H)).”.

17 (b) ATLANTIC BILLFISH COOPERATIVE RESEARCH
18 PROGRAM.—Section 3(b)(2) of Public Law 96–339 (16
19 U.S.C. 971i(b)(2)) is amended—

20 (1) by striking “and” after the semicolon in
21 subparagraph (G);

22 (2) by redesignating subparagraph (H) as sub-
23 paragraph (I); and

24 (3) by inserting after subparagraph (G) the fol-
25 lowing:

1 international agreement to which the United States is a
2 party. For such fisheries—

3 “(1) the Secretary, in cooperation with the Sec-
4 retary of State, immediately take appropriate action
5 at the international level to end the overfishing; and

6 “(2) within 1 year after the Secretary’s deter-
7 mination, the appropriate Council, or Secretary, for
8 fisheries under section 302(a)(3) shall—

9 “(A) develop recommendations for domes-
10 tic regulations to address the relative impact of
11 fishing vessels of the United States on the stock
12 and, if developed by a Council, the Council shall
13 submit such recommendations to the Secretary;
14 and

15 “(B) develop and submit recommendations
16 to the Secretary of State, and to the Congress,
17 for international actions that will end over-
18 fishing in the fishery and rebuild the affected
19 stocks, taking into account the relative impact
20 of vessels of other nations and vessels of the
21 United States on the relevant stock.”.

22 (b) HIGHLY MIGRATORY SPECIES TAGGING RE-
23 SEARCH.—Section 304(g)(2) (16 U.S.C. 1854(g)(2)) is
24 amended by striking “(16 U.S.C. 971d)” and inserting
25 “(16 U.S.C. 971d), or highly migratory species harvested

1 in a commercial fishery managed by a Council under this
2 Act or the Western and Central Pacific Fisheries Conven-
3 tion Implementation Act.”.

4 **SEC. 407. UNITED STATES CATCH HISTORY.**

5 In establishing catch allocations under international
6 fisheries agreements, the Secretary, in consultation with
7 the Secretary of the Department in which the Coast Guard
8 is operating, and the Secretary of State, shall ensure that
9 all catch history associated with a vessel of the United
10 States remains with the United States and is not trans-
11 ferred or credited to any other nation or vessel of such
12 nation, including when a vessel of the United States is
13 sold or transferred to a citizen of another nation or to
14 an entity controlled by citizens of another nation.

15 **SEC. 408. SECRETARIAL REPRESENTATIVE FOR INTER-**
16 **NATIONAL FISHERIES.**

17 (a) IN GENERAL.—The Secretary, in consultation
18 with the Under Secretary of Commerce for Oceans and
19 Atmosphere, shall designate a Senate-confirmed, senior of-
20 ficial within the National Oceanic and Atmospheric Ad-
21 ministration to perform the duties of the Secretary with
22 respect to international agreements involving fisheries and
23 other living marine resources, including policy develop-
24 ment and representation as a U.S. Commissioner, under
25 any such international agreements.

1 (b) ADVICE.—The designated official shall, in con-
2 sultation with the Deputy Assistant Secretary for Inter-
3 national Affairs and the Administrator of the National
4 Marine Fisheries Service, advise the Secretary, Undersec-
5 retary of Commerce for Oceans and Atmosphere, and
6 other senior officials of the Department of Commerce and
7 the National Oceanic and Atmospheric Administration on
8 development of policy on international fisheries conserva-
9 tion and management matters.

10 (c) CONSULTATION.—The designated official shall
11 consult with the Senate Committee on Commerce, Science,
12 and Transportation and the House Committee on Re-
13 sources on matters pertaining to any regional or inter-
14 national negotiation concerning living marine resources,
15 including shellfish.

16 (d) DELEGATION.—The designated official may dele-
17 gate and authorize successive re-delegation of such func-
18 tions, powers, and duties to such officers and employees
19 of the National Oceanic and Atmospheric Administration
20 as deemed necessary to discharge the responsibility of the
21 Office.

22 (e) EFFECTIVE DATE.—This section shall take effect
23 on January 1, 2009.

1 **TITLE V—IMPLEMENTATION OF**
2 **WESTERN AND CENTRAL PA-**
3 **CIFIC FISHERIES CONVEN-**
4 **TION**

5 **SEC. 501. SHORT TITLE.**

6 This title may be cited as the “Western and Central
7 Pacific Fisheries Convention Implementation Act”.

8 **SEC. 502. DEFINITIONS.**

9 In this title:

10 (1) 1982 CONVENTION.—The term “1982 Con-
11 vention” means the United Nations Convention on
12 the Law of the Sea of 10 December 1982.

13 (2) AGREEMENT.—The term “Agreement”
14 means the Agreement for the Implementation of the
15 Provisions of the United Nations Convention on the
16 Law of the Sea of 10 December 1982 relating to the
17 Conservation and Management of Straddling Fish
18 Stocks and Highly Migratory Fish Stocks.

19 (3) COMMISSION.—The term “Commission”
20 means the Commission for the Conservation and
21 Management of Highly Migratory Fish Stocks in the
22 Western and Central Pacific Ocean established in
23 accordance with this Convention.

1 (4) CONVENTION AREA.—The term “convention
2 area” means all waters of the Pacific Ocean bounded
3 to the south and to the east by the following line:
4 From the south coast of Australia due south along
5 the 141th meridian of east longitude to its intersec-
6 tion with the 55th parallel of south latitude; thence
7 due east along the 55th parallel of south latitude to
8 its intersection with the 150th meridian of east lon-
9 gitude; thence due south along the 150th meridian
10 of east longitude to its intersection with the 60th
11 parallel of south latitude; thence due east along the
12 60th parallel of south latitude to its intersection
13 with the 130th meridian of west longitude; thence
14 due north along the 130th meridian of west lon-
15 gitude to its intersection with the 4th parallel of
16 south latitude; thence due west along the 4th par-
17 allel of south latitude to its intersection with the
18 150th meridian of west longitude; thence due north
19 along the 150th meridian of west longitude.

20 (5) EXCLUSIVE ECONOMIC ZONE.—The term
21 “exclusive economic zone” means the zone estab-
22 lished by Presidential Proclamation Numbered 5030
23 of March 10, 1983.

24 (6) FISHING.—The term “fishing” means:

1 (A) searching for, catching, taking, or har-
2 vesting fish.

3 (B) attempting to search for, catch, take,
4 or harvest fish.

5 (C) engaging in any other activity which
6 can reasonably be expected to result in the lo-
7 cating, catching, taking, or harvesting of fish
8 for any purpose.

9 (D) placing, searching for, or recovering
10 fish aggregating devices or associated electronic
11 equipment such as radio beacons.

12 (E) any operations at sea directly in sup-
13 port of, or in preparation for, any activity de-
14 scribed in subparagraphs (A) through (D), in-
15 cluding transshipment.

16 (F) use of any other vessel, vehicle, air-
17 craft, or hovercraft, for any activity described
18 in subparagraphs (A) through (E) except for
19 emergencies involving the health and safety of
20 the crew or the safety of a vessel.

21 (7) FISHING VESSEL.—The term “fishing ves-
22 sel” means any vessel used or intended for use for
23 the purpose of fishing, including support ships, car-
24 rier vessels, and any other vessel directly involved in
25 such fishing operations.

1 (8) HIGHLY MIGRATORY FISH STOCKS.—The
2 term “highly migratory fish stocks” means all fish
3 stocks of the species listed in Annex 1 of the 1982
4 Convention, except sauries, occurring in the Conven-
5 tion Area, and such other species of fish as the
6 Commission may determine.

7 (9) SECRETARY.—The term “Secretary” means
8 the Secretary of Commerce.

9 (10) STATE.—The term “State” means each of
10 the several States of the United States, the District
11 of Columbia, the Commonwealth of the Northern
12 Mariana Islands, American Samoa, Guam, and any
13 other commonwealth, territory, or possession of the
14 United States.

15 (11) TRANSHIPMENT.—The term “trans-
16 shipment” means the unloading of all or any of the
17 fish on board a fishing vessel to another fishing ves-
18 sel either at sea or in port.

19 (12) WCPFC CONVENTION; WESTERN AND
20 CENTRAL PACIFIC CONVENTION.—The terms
21 “WCPFC Convention” and “Western and Central
22 Pacific Convention” means the Convention on the
23 Conservation and Management of the Highly Migra-
24 tory Fish Stocks in the Western and Central Pacific
25 Ocean, (including any annexes, amendments, or pro-

1 (b) ALTERNATE COMMISSIONERS.—The Secretary of
2 State, in consultation with the Secretary, may designate
3 from time to time and for periods of time deemed appro-
4 priate Alternate United States Commissioners to the Com-
5 mission. Any Alternate United States Commissioner may
6 exercise at any meeting of the Commission, Council, any
7 Panel, or the advisory committee established pursuant to
8 subsection (d), all powers and duties of a United States
9 Commissioner in the absence of any Commissioner ap-
10 pointed pursuant to subsection (a) of this section for what-
11 ever reason. The number of such Alternate United States
12 Commissioners that may be designated for any such meet-
13 ing shall be limited to the number of United States Com-
14 missioners appointed pursuant to subsection (a) of this
15 section who will not be present at such meeting.

16 (c) ADMINISTRATIVE MATTERS.—

17 (1) EMPLOYMENT STATUS.—Individuals serving
18 as such Commissioners, other than officers or em-
19 ployees of the United States Government, shall be
20 considered to be Federal employees while performing
21 such service, only for purposes of—

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

1 (B) requirements concerning ethics, con-
2 flicts of interest, and corruption as provided
3 under title 18, United States Code; and

4 (C) any other criminal or civil statute or
5 regulation governing the conduct of Federal em-
6 ployees.

7 (2) COMPENSATION.—The United States Com-
8 missioners or Alternate Commissioners, although of-
9 ficers of the United States while so serving, shall re-
10 ceive no compensation for their services as such
11 Commissioners or Alternate Commissioners.

12 (3) TRAVEL EXPENSES.—

13 (A) The Secretary of State shall pay the
14 necessary travel expenses of United States
15 Commissioners and Alternate United States
16 Commissioners in accordance with the Federal
17 Travel Regulations and sections 5701, 5702,
18 5704 through 5708, and 5731 of title 5, United
19 States Code.

20 (B) The Secretary may reimburse the Sec-
21 retary of State for amounts expended by the
22 Secretary of State under this subsection.

23 (d) ADVISORY COMMITTEES.—

24 (1) ESTABLISHMENT OF PERMANENT ADVISORY
25 COMMITTEE.—

1 (A) MEMBERSHIP.—There is established
2 an advisory committee which shall be composed
3 of—

4 (i) not less than 15 nor more than 20
5 individuals appointed by the Secretary of
6 Commerce in consultation with the United
7 States Commissioners, who shall select
8 such individuals from the various groups
9 concerned with the fisheries covered by the
10 WCPFC Convention, providing, to the
11 maximum extent practicable, an equitable
12 balance among such groups;

13 (ii) the chair of the Western Pacific
14 Fishery Management Council’s Advisory
15 Committee or the chair’s designee; and

16 (iii) officials of the fisheries manage-
17 ment authorities of American Samoa,
18 Guam, and the Northern Mariana Islands
19 (or their designees).

20 (B) TERMS AND PRIVILEGES.—Each mem-
21 ber of the advisory committee appointed under
22 subparagraph (A) shall serve for a term of 2
23 years and shall be eligible for reappointment.
24 The advisory committee shall be invited to at-
25 tend all non-executive meetings of the United

1 States Commissioners and at such meetings
2 shall be given opportunity to examine and to be
3 heard on all proposed programs of investiga-
4 tion, reports, recommendations, and regulations
5 of the Commission.

6 (C) PROCEDURES.—The advisory com-
7 mittee established by subparagraph (A) shall
8 determine its organization, and prescribe its
9 practices and procedures for carrying out its
10 functions under this chapter, the Magnuson-
11 Stevens Fishery Conservation and Management
12 Act (16 U.S.C. 1801 et seq.), and the WCPFC
13 Convention. The advisory committee shall pub-
14 lish and make available to the public a state-
15 ment of its organization, practices, and proce-
16 dures. A majority of the members of the advi-
17 sory committee shall constitute a quorum.
18 Meetings of the advisory committee, except
19 when in executive session, shall be open to the
20 public, and prior notice of meetings shall be
21 made public in a timely fashion. and the advi-
22 sory committee shall not be subject to the Fed-
23 eral Advisory Committee Act (5 U.S.C. App.).

24 (D) PROVISION OF INFORMATION.—The
25 Secretary and the Secretary of State shall fur-

1 nish the advisory committee with relevant infor-
2 mation concerning fisheries and international
3 fishery agreements.

4 (2) ADMINISTRATIVE MATTERS.—

5 (A) SUPPORT SERVICES.—The Secretary
6 shall provide to advisory committees in a timely
7 manner such administrative and technical sup-
8 port services as are necessary for their effective
9 functioning.

10 (B) COMPENSATION; STATUS; EX-
11 PENSES.—Individuals appointed to serve as a
12 member of an advisory committee—

13 (i) shall serve without pay, but while
14 away from their homes or regular places of
15 business in the performance of services for
16 the advisory committee shall be allowed
17 travel expenses, including per diem in lieu
18 of subsistence, in the same manner as per-
19 sons employed intermittently in the Gov-
20 ernment service are allowed expenses under
21 section 5703 of title 5, United States
22 Code; and

23 (ii) shall be considered Federal em-
24 ployees while performing service as mem-

1 bers of an advisory committee only for pur-
2 poses of—

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

6 (II) requirements concerning eth-
7 ics, conflicts-of-interest, and corrup-
8 tion, as provided by title 18, United
9 States Code; and

10 (III) any other criminal or civil
11 statute or regulation governing the
12 conduct of Federal employees in their
13 capacity as Federal employees.

14 (f) MEMORANDUM OF UNDERSTANDING.—For highly
15 migratory species in the Pacific, the Secretary, in coordi-
16 nation with the Secretary of State, shall develop a memo-
17 randum of understanding with the Western Pacific, Pa-
18 cific, and North Pacific Fishery Management Councils,
19 that clarifies the role of the relevant Council or Councils
20 with respect to—

21 (1) participation in United States delegations to
22 international fishery organizations in the Pacific
23 Ocean, including government-to-government con-
24 sultations;

1 (2) providing formal recommendations to the
2 Secretary and the Secretary of State regarding nec-
3 essary measures for both domestic and foreign ves-
4 sels fishing for these species;

5 (3) coordinating positions with the United
6 States delegation for presentation to the appropriate
7 international fishery organization; and

8 (4) recommending those domestic fishing regu-
9 lations that are consistent with the actions of the
10 international fishery organization, for approval and
11 implementation under the Magnuson-Stevens Fish-
12 ery Conservation and Management Act (16 U.S.C.
13 1801 et seq.)

14 **SEC. 504. AUTHORITY AND RESPONSIBILITY OF THE SEC-**
15 **RETARY OF STATE.**

16 The Secretary of State may—

17 (1) receive and transmit, on behalf of the
18 United States, reports, requests, recommendations,
19 proposals, decisions, and other communications of
20 and to the Commission;

21 (2) in consultation with the Secretary approve,
22 disapprove, object to, or withdraw objections to by-
23 laws and rules, or amendments thereof, adopted by
24 the WCPFC Commission, and, with the concurrence
25 of the Secretary to approve or disapprove the gen-

1 eral annual program of the WCPFC Commission
2 with respect to conservation and management meas-
3 ures and other measures proposed or adopted in ac-
4 cordance with the WCPFC Convention; and

5 (3) act upon, or refer to other appropriate au-
6 thority, any communication referred to in paragraph
7 (1).

8 **SEC. 505. RULEMAKING AUTHORITY OF THE SECRETARY OF**
9 **COMMERCE.**

10 (a) PROMULGATION OF REGULATIONS.—The Sec-
11 retary, in consultation with the Secretary of State and,
12 with respect to enforcement measures, the Secretary of the
13 Department in which the Coast Guard is operating, is au-
14 thorized to promulgate such regulations as may be nec-
15 essary to carry out the United States international obliga-
16 tions under the WCPFC Convention and this title, includ-
17 ing recommendations and decisions adopted by the Com-
18 mission. In cases where the Secretary has discretion in
19 the implementation of one or more measures adopted by
20 the Commission that would govern fisheries under the au-
21 thority of a Regional Fishery Management Council, the
22 Secretary may, to the extent practicable within the imple-
23 mentation schedule of the WCPFC Convention and any
24 recommendations and decisions adopted by the Commis-
25 sion, promulgate such regulations in accordance with the

1 procedures established by the Magnuson-Stevens Fishery
2 Conservation and Management Act (16 U.S.C. 1801 et
3 seq.).

4 (b) ADDITIONS TO FISHERY REGIMES AND REGULA-
5 TIONS.—The Secretary may promulgate regulations appli-
6 cable to all vessels and persons subject to the jurisdiction
7 of the United States, including United States flag vessels
8 wherever they may be operating, on such date as the Sec-
9 retary shall prescribe.

10 **SEC. 506. ENFORCEMENT.**

11 (a) IN GENERAL.—The Secretary may—

12 (1) administer and enforce this title and any
13 regulations issued under this title, except to the ex-
14 tent otherwise provided for in this Act;

15 (2) request and utilize on a reimbursed or non-
16 reimbursed basis the assistance, services, personnel,
17 equipment, and facilities of other Federal depart-
18 ments and agencies in—

19 (A) the administration and enforcement of
20 this title; and

21 (B) the conduct of scientific, research, and
22 other programs under this title;

23 (3) conduct fishing operations and biological ex-
24 periments for purposes of scientific investigation or

1 other purposes necessary to implement the WCPFC
2 Convention;

3 (4) collect, utilize, and disclose such informa-
4 tion as may be necessary to implement the WCPFC
5 Convention, subject to sections 552 and 552a of title
6 5, United States Code, and section 402(b) of the
7 Magnuson-Stevens Fishery Conservation and Man-
8 agement Act (16 U.S.C. 1881a(b));

9 (5) if recommended by the United States Com-
10 missioners or proposed by a Council with authority
11 over the relevant fishery, assess and collect fees, not
12 to exceed three percent of the ex-vessel value of fish
13 harvested by vessels of the United States in fisheries
14 managed pursuant to this title, to recover the actual
15 costs to the United States of management and en-
16 forcement under this title, which shall be deposited
17 as an offsetting collection in, and credited to, the ac-
18 count providing appropriations to carry out the func-
19 tions of the Secretary 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, under such terms and conditions as the Sec-
24 retary may prescribe, and shall remain valid for a
25 period to be determined by the Secretary.

1 (b) CONSISTENCY WITH OTHER LAWS.—The Sec-
2 retary shall ensure the consistency, to the extent prac-
3 ticable, of fishery management programs administered
4 under this Act, the Magnuson-Stevens Fishery Conserva-
5 tion and Management Act (16 U.S.C. 1801 et seq.), the
6 Tuna Conventions Act (16 U.S.C. 951 et seq.), the South
7 Pacific Tuna Act (16 U.S.C. 973 et seq.), section 401 of
8 Public Law 108–219 (16 U.S.C. 1821 note) (relating to
9 Pacific albacore tuna), and the Atlantic Tunas Convention
10 Act (16 U.S.C. 971).

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.

25 (d) CONFIDENTIALITY.—

1 (1) IN GENERAL.—Any information submitted
2 to the Secretary in compliance with any requirement
3 under this Act shall be confidential and shall not be
4 disclosed, except—

5 (A) to Federal employees who are respon-
6 sible for administering, implementing, and en-
7 forcing this Act;

8 (B) to the Commission, in accordance with
9 requirements in the Convention and decisions of
10 the Commission, and, insofar as possible, in ac-
11 cordance with an agreement with the Commis-
12 sion that prevents public disclosure of the iden-
13 tity or business of any person;

14 (C) to State or Marine Fisheries Commis-
15 sion employees pursuant to an agreement with
16 the Secretary that prevents public disclosure of
17 the identity or business or any person;

18 (D) when required by court order; or

19 (E) when the Secretary has obtained writ-
20 ten authorization from the person submitting
21 such information to release such information to
22 persons for reasons not otherwise provided for
23 in this subsection, and such release does not
24 violate other requirements of this Act.

1 (2) USE OF INFORMATION.—The Secretary
2 shall, by regulation, prescribe such procedures as
3 may be necessary to preserve the confidentiality of
4 information submitted in compliance with any re-
5 quirement or regulation under this Act, except that
6 the Secretary may release or make public any such
7 information in any aggregate or summary form that
8 does not directly or indirectly disclose the identity or
9 business of any person. Nothing in this subsection
10 shall be interpreted or construed to prevent the use
11 for conservation and management purposes by the
12 Secretary of any information submitted in compli-
13 ance with any requirement or regulation under this
14 Act.

15 **SEC. 507. PROHIBITED ACTS.**

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

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

19 (2) to use any fishing vessel to engage in fish-
20 ing after the revocation, or during the period of sus-
21 pension, on an applicable permit issued pursuant to
22 this title;

23 (3) to refuse to permit any officer authorized to
24 enforce the provisions of this title to board a fishing
25 vessel subject to such person's control for the pur-

1 poses of conducting any search, investigation, or in-
2 spection in connection with the enforcement of this
3 title or any regulation, permit, or the Convention;

4 (4) to forcibly assault, resist, oppose, impede,
5 intimidate, or interfere with any such authorized of-
6 ficer in the conduct of any search, investigations, or
7 inspection in connection with the enforcement of this
8 title or any regulation, permit, or the Convention;

9 (5) to resist a lawful arrest for any act prohib-
10 ited by this title;

11 (6) to ship, transport, offer for sale, sell, pur-
12 chase, import, export, or have custody, control, or
13 possession of, any fish taken or retained in violation
14 of this title or any regulation, permit, or agreement
15 referred to in paragraph (1) or (2);

16 (7) to interfere with, delay, or prevent, by any
17 means, the apprehension or arrest of another person,
18 knowing that such other person has committed any
19 chapter prohibited by this section;

20 (8) to knowingly and willfully submit to the
21 Secretary false information (including false informa-
22 tion regarding the capacity and extent to which a
23 United States fish processor, on an annual basis,
24 will process a portion of the optimum yield of a fish-
25 ery that will be harvested by fishery vessels of the

1 United States), regarding any matter that the Sec-
2 retary is considering in the course of carrying out
3 this title;

4 (9) to forcibly assault, resist, oppose, impede,
5 intimidate, sexually harass, bribe, or interfere with
6 any observer on a vessel under this title, or any data
7 collector employed by the National Marine Fisheries
8 Service or under contract to any person to carry out
9 responsibilities under this title;

10 (10) to engage in fishing in violation of any
11 regulation adopted pursuant to section 506(a) of
12 this title;

13 (11) to ship, transport, purchase, sell, offer for
14 sale, import, export, or have in custody, possession,
15 or control any fish taken or retained in violation of
16 such regulations;

17 (12) to fail to make, keep, or furnish any catch
18 returns, statistical records, or other reports as are
19 required by regulations adopted pursuant to this
20 title to be made, kept, or furnished;

21 (13) to fail to stop a vessel upon being hailed
22 and instructed to stop by a duly authorized official
23 of the United States;

24 (14) to import, in violation of any regulation
25 adopted pursuant to section 506(a) of this title, any

1 fish in any form of those species subject to regula-
2 tion pursuant to a recommendation, resolution, or
3 decision of the Commission, or any tuna in any form
4 not under regulation but under investigation by the
5 Commission, during the period such fish have been
6 denied entry in accordance with the provisions of
7 section 506(a) of this title.

8 (b) ENTRY CERTIFICATION.—In the case of any fish
9 described in subsection (a) offered for entry into the
10 United States, the Secretary of Commerce shall require
11 proof satisfactory to the Secretary that such fish is not
12 ineligible for such entry under the terms of section 506(a)
13 of this title.

14 **SEC. 508. COOPERATION IN CARRYING OUT CONVENTION.**

15 (a) FEDERAL AND STATE AGENCIES; PRIVATE INSTI-
16 TUTIONS AND ORGANIZATIONS.—The Secretary may co-
17 operate with agencies of the United States government,
18 any public or private institutions or organizations within
19 the United States or abroad, and, through the Secretary
20 of State, the duly authorized officials of the government
21 of any party to the WCPFC Convention, in carrying out
22 responsibilities under this title.

23 (b) SCIENTIFIC AND OTHER PROGRAMS; FACILITIES
24 AND PERSONNEL.—All Federal agencies are authorized,
25 upon the request of the Secretary, to cooperate in the con-

1 duct of scientific and other programs and to furnish facili-
2 ties and personnel for the purpose of assisting the Com-
3 mission in carrying out its duties under the WCPFC Con-
4 vention.

5 (c) SANCTIONED FISHING OPERATIONS AND BIO-
6 LOGICAL EXPERIMENTS.—Nothing in this title, or in the
7 laws or regulations of any State, prevents the Secretary
8 or the Commission from—

9 (1) conducting or authorizing the conduct of
10 fishing operations and biological experiments at any
11 time for purposes of scientific investigation; or

12 (2) discharging any other duties prescribed by
13 the WCPFC Convention.

14 (d) STATE JURISDICTION NOT AFFECTED.—Except
15 as provided in subsection (e) of this section, nothing in
16 this title shall be construed to diminish or to increase the
17 jurisdiction of any State in the territorial sea of the
18 United States.

19 (e) APPLICATION OF REGULATIONS—

20 (1) IN GENERAL.—Regulations promulgated
21 under section 506(a) of this title shall apply within
22 the boundaries of any State bordering on the Con-
23 vention area if the Secretary has provided notice to
24 such State, the State does not request an agency

1 hearing, and the Secretary determines that the
2 State—

3 (A) has not, within a reasonable period of
4 time after the promulgation of regulations pur-
5 suant to this title, enacted laws or promulgated
6 regulations that implement the recommenda-
7 tions of the Commission within the boundaries
8 of such State; or

9 (B) has enacted laws or promulgated regu-
10 lations that implement the recommendations of
11 the commission within the boundaries of such
12 State that—

13 (i) are less restrictive than the regula-
14 tions promulgated under section 506(a) of
15 this title; or

16 (ii) are not effectively enforced.

17 (2) DETERMINATION BY SECRETARY.—The reg-
18 ulations promulgated pursuant to section 506(a) of
19 this title shall apply until the Secretary determines
20 that the State is effectively enforcing within its
21 boundaries measures that are not less restrictive
22 than the regulations promulgated under section
23 506(a) of this title.

24 (3) HEARING.—If a State requests a formal
25 agency hearing, the Secretary shall not apply the

1 regulations promulgated pursuant section 506(a) of
2 this title within that State's boundaries unless the
3 hearing record supports a determination under para-
4 graph (1)(A) or (B).

5 (f) REVIEW OF STATE LAWS AND REGULATIONS.—

6 To ensure that the purposes of subsection (e) are carried
7 out, the Secretary shall undertake a continuing review of
8 the laws and regulations of all States to which subsection
9 (e) applies or may apply and the extent to which such laws
10 and regulations are enforced.

11 **SEC. 509. TERRITORIAL PARTICIPATION.**

12 The Secretary of State shall ensure participation in
13 the Commission and its subsidiary bodies by American
14 Samoa, Guam, and the Northern Mariana Islands to the
15 same extent provided to the territories of other nations.

16 **SEC. 510. EXCLUSIVE ECONOMIC ZONE NOTIFICATION.**

17 Masters of commercial fishing vessels of nations fish-
18 ing for species under the management authority of the
19 Western and Central Pacific Fisheries Convention that do
20 not carry vessel monitoring systems capable of commu-
21 nicating with United States enforcement authorities shall,
22 prior to, or as soon as reasonably possible after, entering
23 and transiting the Exclusive Economic Zone seaward of
24 Hawaii and of the Commonwealths, territories, and pos-
25 sessions of the United States in the Pacific Ocean area—

1 (1) notify the United States Coast Guard or the
2 National Marine Fisheries Service Office of Law En-
3 forcement in the appropriate region of the name,
4 flag state, location, route, and destination of the ves-
5 sel and of the circumstances under which it will
6 enter United States waters;

7 (2) ensure that all fishing gear on board the
8 vessel is stowed below deck or otherwise removed
9 from the place where it is normally used for fishing
10 and placed where it is not readily available for fish-
11 ing; and

12 (3) where requested by an enforcement officer,
13 proceed to a specified location so that a vessel in-
14 spection can be conducted.

15 **SEC. 511. AUTHORIZATION OF APPROPRIATIONS.**

16 There are authorized to be appropriated to the Sec-
17 retary of Commerce such sums as may be necessary to
18 carry out this title and to pay the United States' contribu-
19 tion to the Commission under section 5 of part III of the
20 WCPFC Convention.

21 **TITLE VI—PACIFIC WHITING**

22 **SEC. 601. SHORT TITLE.**

23 This title may be cited as the “Pacific Whiting Act
24 of 2006”.

1 **SEC. 602. DEFINITIONS.**

2 In this title:

3 (1) **ADVISORY PANEL.**—The term “advisory
4 panel” means the Advisory Panel on Pacific Hake/
5 Whiting established by the Agreement.

6 (2) **AGREEMENT.**—The term “Agreement”
7 means the Agreement between the Government of
8 the United States and the Government of Canada on
9 Pacific Hake/Whiting, signed at Seattle, Wash-
10 ington, on November 21, 2003.

11 (3) **CATCH.**—The term “catch” means all fish-
12 ery removals from the offshore whiting resource, in-
13 cluding landings, discards, and bycatch in other fish-
14 eries.

15 (4) **JOINT MANAGEMENT COMMITTEE.**—The
16 term “joint management committee” means the
17 joint management committee established by the
18 Agreement.

19 (5) **JOINT TECHNICAL COMMITTEE.**—The term
20 “joint technical committee” means the joint tech-
21 nical committee established by the Agreement.

22 (6) **OFFSHORE WHITING RESOURCE.**—The term
23 “offshore whiting resource” means the
24 transboundary stock of *Merluccius productus* that is
25 located in the offshore waters of the United States

1 and Canada except in Puget Sound and the Strait
2 of Georgia.

3 (7) SCIENTIFIC REVIEW GROUP.—The term
4 “scientific review group” means the scientific review
5 group established by the Agreement.

6 (8) SECRETARY.—The term “Secretary” means
7 the Secretary of Commerce.

8 (9) UNITED STATES SECTION.—The term
9 “United States Section” means the United States
10 representatives on the joint management committee.

11 **SEC. 603. UNITED STATES REPRESENTATION ON JOINT**
12 **MANAGEMENT COMMITTEE.**

13 (a) REPRESENTATIVES.—

14 (1) IN GENERAL.—The Secretary, in consulta-
15 tion with the Secretary of State, shall appoint 4 in-
16 dividuals to represent the United States as the
17 United States Section on the joint management com-
18 mittee. In making the appointments, the Secretary
19 shall select representatives from among individuals
20 who are knowledgeable or experienced concerning
21 the offshore whiting resource. Of these—

22 (A) 1 shall be an official of the National
23 Oceanic and Atmospheric Administration;

24 (B) 1 shall be a member of the Pacific
25 Fishery Management Council, appointed with

1 consideration given to any recommendation pro-
2 vided by that Council;

3 (C) 1 shall be appointed from a list sub-
4 mitted by the treaty Indian tribes with treaty
5 fishing rights to the offshore whiting resource;
6 and

7 (D) 1 shall be appointed from the commer-
8 cial sector of the whiting fishing industry con-
9 cerned with the offshore whiting resource.

10 (2) TERM OF OFFICE.—Each representative ap-
11 pointed under paragraph (1) shall be appointed for
12 a term not to exceed 4 years, except that, of the ini-
13 tial appointments, 2 representatives shall be ap-
14 pointed for terms of 2 years. Any individual ap-
15 pointed to fill a vacancy occurring prior to the expi-
16 ration of the term of office of that individual's pred-
17 ecessor shall be appointed for the remainder of that
18 term. A representative may be appointed for a term
19 of less than 4 years if such term is necessary to en-
20 sure that the term of office of not more than 2 rep-
21 resentatives will expire in any single year. An indi-
22 vidual appointed to serve as a representative is eligi-
23 ble for reappointment.

24 (3) CHAIR.—Unless otherwise agreed by all of
25 the 4 representatives, the chair shall rotate annually

1 among the 4 members, with the order of rotation de-
2 termined by lot at the first meeting.

3 (b) ALTERNATE REPRESENTATIVES.—The Secretary,
4 in consultation with the Secretary of State, may designate
5 alternate representatives of the United States to serve on
6 the joint management committee. An alternative rep-
7 resentative may exercise, at any meeting of the committee,
8 all the powers and duties of a representative in the ab-
9 sence of a duly designated representative for whatever rea-
10 son.

11 **SEC. 604. UNITED STATES REPRESENTATION ON THE SCI-**
12 **ENTIFIC REVIEW GROUP.**

13 (a) IN GENERAL.—The Secretary, in consultation
14 with the Secretary of State, shall appoint no more than
15 2 scientific experts to serve on the scientific review group.
16 An individual shall not be eligible to serve on the scientific
17 review group while serving on the joint technical com-
18 mittee.

19 (b) TERM.—An individual appointed under sub-
20 section (a) shall be appointed for a term of not to exceed
21 4 years, but shall be eligible for reappointment. An indi-
22 vidual appointed to fill a vacancy occurring prior to the
23 expiration of a term of office of that individual's prede-
24 cessor shall be appointed to serve for the remainder of that
25 term.

1 (c) JOINT APPOINTMENTS.—In addition to individ-
2 uals appointed under subsection (a), the Secretary, jointly
3 with the Government of Canada, may appoint to the sci-
4 entific review group, from a list of names provided by the
5 advisory panel —

6 (1) up to 2 independent members of the sci-
7 entific review group; and

8 (2) 2 public advisors.

9 **SEC. 605. UNITED STATES REPRESENTATION ON JOINT**
10 **TECHNICAL COMMITTEE.**

11 (a) SCIENTIFIC EXPERTS.—

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

18 (2) TERM OF OFFICE.—An individual appointed
19 under paragraph (1) shall be appointed for a term
20 of not to exceed 4 years, but shall be eligible for re-
21 appointment. An individual appointed to fill a va-
22 cancy occurring prior to the expiration of the term
23 of office of that individual's predecessor shall be ap-
24 pointed for the remainder of that term.

1 (b) INDEPENDENT MEMBER.—In addition to individ-
2 uals appointed under subsection (a), the Secretary, jointly
3 with the Government of Canada, shall appoint 1 inde-
4 pendent member to the joint technical committee selected
5 from a list of names provided by the advisory panel.

6 **SEC. 606. UNITED STATES REPRESENTATION ON ADVISORY**
7 **PANEL.**

8 (a) IN GENERAL.—

9 (1) APPOINTMENT.—The Secretary, in con-
10 sultation with the Secretary of State, shall appoint
11 at least 6 but not more than 12 individuals to serve
12 as members of the advisory panel, selected from
13 among individuals who are—

14 (A) knowledgeable or experienced in the
15 harvesting, processing, marketing, management,
16 conservation, or research of the offshore whiting
17 resource; and

18 (B) not employees of the United States.

19 (2) TERM OF OFFICE.—An individual appointed
20 under paragraph (1) shall be appointed for a term
21 of not to exceed 4 years, but shall be eligible for re-
22 appointment. An individual appointed to fill a va-
23 cancy occurring prior to the expiration of the term
24 of office of that individual's predecessor shall be ap-
25 pointed for the remainder of that term.

1 **SEC. 607. RESPONSIBILITIES OF THE SECRETARY.**

2 (a) IN GENERAL.—The Secretary is responsible for
3 carrying out the Agreement and this title, including the
4 authority, to be exercised in consultation with the Sec-
5 retary of State, to accept or reject, on behalf of the United
6 States, recommendations made by the joint management
7 committee.

8 (b) REGULATIONS; COOPERATION WITH CANADIAN
9 OFFICIALS.—In exercising responsibilities under this title,
10 the Secretary—

11 (1) may promulgate such regulations as may be
12 necessary to carry out the purposes and objectives of
13 the Agreement and this title; and

14 (2) with the concurrence of the Secretary of
15 State, may cooperate with officials of the Canadian
16 Government duly authorized to carry out the Agree-
17 ment.

18 **SEC. 608. RULEMAKING.**

19 (a) APPLICATION WITH MAGNUSON-STEVENSON ACT.—
20 The Secretary shall establish the United States catch level
21 for Pacific whiting according to the standards and proce-
22 dures of the Agreement and this title rather than under
23 the standards and procedures of the Magnuson-Stevens
24 Fishery Conservation and Management Act (16 U.S.C.
25 1801 et seq.), except to the extent necessary to address
26 the rebuilding needs of other species. Except for estab-

1 lishing the catch level, all other aspects of Pacific whiting
2 management shall be—

- 3 (1) subject to the Magnuson-Stevens Fishery
4 Conservation and Management Act; and
5 (2) consistent with this title.

6 (b) JOINT MANAGEMENT COMMITTEE REC-
7 OMMENDATIONS.—For any year in which both parties to
8 the Agreement approve recommendations made by the
9 joint management committee with respect to the catch
10 level, the Secretary shall implement the approved rec-
11 ommendations. Any regulation promulgated by the Sec-
12 retary to implement any such recommendation shall apply,
13 as necessary, to all persons and all vessels subject to the
14 jurisdiction of the United States wherever located.

15 (c) YEARS WITH NO APPROVED CATCH REC-
16 OMMENDATIONS.—If the parties to the Agreement do not
17 approve the joint management committee's recommenda-
18 tion with respect to the catch level for any year, the Sec-
19 retary shall establish the total allowable catch for Pacific
20 whiting for the United States catch. In establishing the
21 total allowable catch under this subsection, the Secretary
22 shall—

- 23 (1) take into account any recommendations
24 from the Pacific Fishery Management Council, the
25 joint management committee, the joint technical

1 committee, the scientific review group, and the advisory panel;

2
3 (2) base the total allowable catch on the best scientific information available;

4
5 (3) use the default harvest rate set out in paragraph 1 of Article III of the Agreement unless the Secretary determines that the scientific evidence demonstrates that a different rate is necessary to sustain the offshore whiting resource; and

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10 (4) establish the United State's share of the total allowable catch based on paragraph 2 of Article III of the Agreement and make any adjustments necessary under section 5 of Article II of the Agreement.

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15 **SEC. 609. ADMINISTRATIVE MATTERS.**

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

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

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

4 (3) any other criminal or civil statute or regula-
5 tion governing the conduct of Federal employees.

6 (b) COMPENSATION.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), an individual appointed under this title
9 shall receive no compensation for the individual's
10 service as a representative, alternate representative,
11 scientific expert, or advisory panel member under
12 this title.

13 (2) SCIENTIFIC REVIEW GROUP.—Notwith-
14 standing paragraph (1), the Secretary may employ
15 and fix the compensation of an individual appointed
16 under section 604(a) to serve as a scientific expert
17 on the scientific review group who is not employed
18 by the United States government, a State govern-
19 ment, or an Indian tribal government in accordance
20 with section 3109 of title 5, United States Code.

21 (c) TRAVEL EXPENSES.—Except as provided in sub-
22 section (d), the Secretary shall pay the necessary travel
23 expenses of individuals appointed under this title in ac-
24 cordance with the Federal Travel Regulations and sections

1 5701, 5702, 5704 through 5708, and 5731 of title 5,
2 United States Code.

3 (d) JOINT APPOINTEES.—With respect to the 2 inde-
4 pendent members of the scientific review group and the
5 2 public advisors to the scientific review group jointly ap-
6 pointed under section 604(c), and the 1 independent mem-
7 ber to the joint technical committee jointly appointed
8 under section 605(b), the Secretary may pay up to 50 per-
9 cent of—

10 (1) any compensation paid to such individuals;

11 and

12 (2) the necessary travel expenses of such indi-
13 viduals.

14 **SEC. 610. ENFORCEMENT.**

15 (a) IN GENERAL.—The Secretary may—

16 (1) administer and enforce this title and any
17 regulations issued under this title;

18 (2) request and utilize on a reimbursed or non-
19 reimbursed basis the assistance, services, personnel,
20 equipment, and facilities of other Federal depart-
21 ments and agencies in the administration and en-
22 forcement of this title; and

23 (3) collect, utilize, and disclose such informa-
24 tion as may be necessary to implement the Agree-

1 ment and this title, subject to sections 552 and 552a
2 of title 5, United States Code.

3 (b) PROHIBITED ACTS.—It is unlawful for any per-
4 son to violate any provision of this title or the regulations
5 promulgated under this title.

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

20 (d) PENALTIES.—This title shall be enforced by the
21 Secretary as if a violation of this title or of any regulation
22 promulgated by the Secretary under this title were a viola-
23 tion of section 307 of the Magnuson-Stevens Fishery Con-
24 servation and Management Act (16 U.S.C. 1857).

1 **SEC. 611. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated to the Sec-
3 retary such sums as may be necessary to carry out the
4 obligations of the United States under the Agreement and
5 this title.

6 **TITLE VII—MISCELLANEOUS**

7 **SEC. 701. STUDY OF THE ACIDIFICATION OF THE OCEANS**
8 **AND EFFECT ON FISHERIES.**

9 The Secretary of Commerce shall request the Na-
10 tional Research Council to conduct a study of the acidifi-
11 cation of the oceans and how this process affects the
12 United States.

13 **SEC. 702. RULE OF CONSTRUCTION.**

14 (a) IN GENERAL.—Title VI of Public Law 109–295 is
15 amended by adding at the end the following:

16 **“SEC. 699A. RULE OF CONSTRUCTION.**

17 “Nothing in this title, including the amendments
18 made by this title, may be construed to reduce or other-
19 wise limit the authority of the Department of Commerce
20 or the Federal Communications Commission.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall take effect as though enacted as part
23 of the Department of Homeland Security Appropriations
24 Act, 2007 (Public Law 109–295).

1 **SEC. 703. PUGET SOUND REGIONAL SHELLFISH SETTLE-**
2 **MENT.**

3 (a) FINDINGS AND PURPOSE.—

4 (1) Findings.—Congress finds that—

5 (A) the Tribes have established treaty
6 rights to take shellfish from public and private
7 tidelands in Washington State, including from
8 some lands owned, leased, or otherwise subject
9 to harvest by commercial shellfish growers;

10 (B) the district court that adjudicated the
11 Tribes' treaty rights to take shellfish found that
12 the growers are innocent purchasers who had
13 no notice of the Tribes' fishing right when they
14 acquired their properties;

15 (C) numerous unresolved issues remain
16 outstanding regarding implementation of the
17 Tribes' treaty right to take shellfish from lands
18 owned, leased, or otherwise subject to harvest
19 by the growers;

20 (D) the Tribes, the growers, the State of
21 Washington, and the United States Department
22 of the Interior have resolved by a settlement
23 agreement many of the disputes between and
24 among them regarding implementation of the
25 Tribes' treaty right to take shellfish from cov-
26 ered tidelands owned or leased by the growers;

1 (E) the settlement agreement does not pro-
2 vide for resolution of any claims to take shell-
3 fish from lands owned or leased by the growers
4 that potentially may be brought in the future by
5 other Tribes;

6 (F) in the absence of congressional actions,
7 the prospect of other Tribes claims to take
8 shellfish from lands owned or leased by the
9 growers could be pursued through the courts, a
10 process which in all likelihood could consume
11 many years and thereby promote uncertainty in
12 the State of Washington and the growers and
13 to the ultimate detriment of both the Tribes
14 and other Tribes and their members;

15 (G) in order to avoid this uncertainty, it is
16 the intent of Congress that other Tribes have
17 the option of resolving their claims, if any, to
18 a treaty right to take shellfish from covered
19 tidelands owned or leased by the growers; and

20 (H) this Act represents a good faith effort
21 on the part of Congress to extend to other
22 Tribes the same fair and just option of resolv-
23 ing their claims to take shellfish from covered
24 tidelands owned or leased by the growers that

1 the Tribes have agreed to in the settlement
2 agreement.

3 (2) PURPOSE.—The purposes of this section
4 are—

5 (A) to approve, ratify, and confirm the set-
6 tlement agreement entered into by and among
7 the Tribes, commercial shellfish growers, the
8 State of Washington, and the United States;

9 (B) to provide other Tribes with a fair and
10 just resolution of any claims to take shellfish
11 from covered tidelands, as that term is defined
12 in the settlement agreement, that potentially
13 could be brought in the future by other Tribes;
14 and

15 (C) to authorize the Secretary to imple-
16 ment the terms and conditions of the settlement
17 agreement and this section.

18 (b) APPROVAL OF SETTLEMENT AGREEMENT.—

19 (1) IN GENERAL.—The settlement agreement is
20 hereby approved, ratified, and confirmed, and sec-
21 tion 6 of the settlement agreement, Release of
22 Claims, is specifically adopted and incorporated into
23 this section as if fully set forth herein.

24 (2) AUTHORIZATION FOR IMPLEMENTATION.—

25 The Secretary is hereby authorized to implement the

1 terms and conditions of the settlement agreement in
2 accordance with the settlement agreement and this
3 section.

4 (c) FUND, SPECIAL HOLDING ACCOUNT, AND CONDI-
5 TIONS.—

6 (1) PUGET SOUND REGIONAL SHELLFISH SET-
7 TLEMENT TRUST FUND.—

8 (A) There is hereby established in the
9 Treasury of the United States an account to be
10 designated as the “Puget Sound Regional Shell-
11 fish Settlement Trust Fund”. The Secretary
12 shall deposit funds in the amount of
13 \$22,000,000 at such time as appropriated pur-
14 suant to this section into the Fund.

15 (B) The Fund shall be maintained and in-
16 vested by the Secretary of the Interior pursuant
17 to the Act of June 24, 1938, (25 U.S.C. 162a)
18 until such time as all monies are transferred
19 from the Fund.

20 (C) The Secretary shall transfer monies
21 held in the Fund to each Tribe of the Tribes in
22 the amounts and manner specified by and in ac-
23 cordance with the payment agreement estab-
24 lished pursuant to the settlement agreement
25 and this section.

1 (2) Puget sound regional shellfish settlement
2 special holding account.—

3 (A) There is hereby established in the
4 Treasury of the United States a fund to be des-
5 ignated as the “Puget Sound Regional Shellfish
6 Settlement Special Holding Account”. The Sec-
7 retary shall deposit funds in the amount of
8 \$1,500,000 into the Special Holding Account in
9 fiscal year 2011 at such time as such funds are
10 appropriated pursuant to this section.

11 (B) The Special Holding Account shall be
12 maintained and invested by the Secretary of the
13 Interior pursuant to the Act of June 24, 1938,
14 (25 U.S.C. 162a) until such time as all monies
15 are transferred from the Special Holding Ac-
16 count.

17 (C) If a court of competent jurisdiction
18 renders a final decision declaring that any of
19 the other Tribes has an established treaty right
20 to take or harvest shellfish in covered tidelands,
21 as that term is defined in the settlement agree-
22 ment, and such tribe opts to accept a share of
23 the Special Holding Account, rather than liti-
24 gate this claim against the growers, the Sec-
25 retary shall transfer the appropriate share of

1 the monies held in the Special Holding Account
2 to each such tribe of the other Tribes in the
3 amounts appropriate to compensate the other
4 Tribes in the same manner and for the same
5 purposes as the Tribes who are signatory to the
6 settlement agreement. Such a transfer to a
7 tribe shall constitute full and complete satisfac-
8 tion of that tribe's claims to shellfish on the
9 covered tidelands.

10 (D) The Secretary may retain such
11 amounts of the Special Holding Account as nec-
12 essary to provide for additional tribes that may
13 judicially establish their rights to take shellfish
14 in the covered tidelands within the term of that
15 Account, provided that the Secretary pays the
16 remaining balance to the other Tribes prior to
17 the expiration of the term of the Special Hold-
18 ing Account.

19 (E) The Tribes shall have no interest,
20 possessory or otherwise, in the Special Holding
21 Account.

22 (F) Twenty years after the deposit of
23 funds into the Special Holding Account, the
24 Secretary shall close the Account and transfer
25 the balance of any funds held in the Special

1 Holding Account at that time to the Treasury.
2 However, the Secretary may continue to main-
3 tain the Special Holding Account in order to re-
4 solve the claim of an Other Tribe that has noti-
5 fied the Secretary in writing within the 20-year
6 term of that Tribe's interest in resolving its
7 claim in the manner provided for in this sec-
8 tion.

9 (G) It is the intent of Congress that the
10 other Tribes, if any, shall have the option of
11 agreeing to similar rights and responsibilities as
12 the Tribes that are signatories to the settlement
13 agreement, if they opt not to litigate against
14 the growers.

15 (3) ANNUAL REPORT.—Each tribe of the
16 Tribes, or any of the other Tribes accepting a settle-
17 ment of its claims to shellfish on covered lands pur-
18 suant to paragraph (2)(C), shall submit to the Sec-
19 retary an annual report that describes all expendi-
20 tures made with monies withdrawn from the Fund
21 or Special Holding Account during the year covered
22 by the report.

23 (4) JUDICIAL AND ADMINISTRATIVE ACTION.—
24 The Secretary may take judicial or administrative
25 action to ensure that any monies withdrawn from

1 the Fund or Special Holding Account are used in ac-
2 cordance with the purposes described in the settle-
3 ment agreement and this section.

4 (5) CLARIFICATION OF TRUST RESPONSIBI-
5 LITY.—Beginning on the date that monies are
6 transferred to a tribe of the Tribes or a tribe of the
7 other Tribes pursuant to this section, any trust re-
8 sponsibility or liability of the United States with re-
9 spect to the expenditure or investment of the monies
10 withdrawn shall cease.

11 (d) STATE OF WASHINGTON PAYMENT.—The Sec-
12 retary shall not be accountable for nor incur any liability
13 for the collection, deposit, management or nonpayment of
14 the State of Washington payment of \$11,000,000 to the
15 Tribes pursuant to the settlement agreement.

16 (e) RELEASE OF OTHER TRIBES CLAIMS.—

17 (1) RIGHT TO BRING ACTIONS.—As of the date
18 of enactment of this section, all right of any other
19 Tribes to bring an action to enforce or exercise its
20 treaty rights to take shellfish from public and pri-
21 vate tidelands in Washington State, including from
22 some lands owned, leased, or otherwise subject to
23 harvest by any and all growers shall be determined
24 in accordance with the decisions of the Courts of the

1 United States in United States v. Washington, Civ.
2 No. 9213 (Western District of Washington).

3 (2) CERTAIN RIGHTS GOVERNED BY THIS SEC-
4 TION.—If a tribe falling within the other Tribes cat-
5 egory opts to resolve its claims to take shellfish from
6 covered tidelands owned or leased by the growers
7 pursuant to subsection (e)(2)(C) of this section, that
8 tribe’s rights shall be governed by this section, as
9 well as by the decisions of the Courts in United
10 States v. Washington, Civ. No. 9213.

11 (3) NO BREACH OF TRUST.—Notwithstanding
12 whether the United States has a duty to initiate
13 such an action, the failure or declination by the
14 United States to initiate any action to enforce any
15 other Tribe’s or other Tribes’ treaty rights to take
16 shellfish from public and private tidelands in Wash-
17 ington State, including from covered tidelands
18 owned, leased, or otherwise subject to harvest by any
19 and all growers shall not constitute a breach of trust
20 by the United States or be compensable to other
21 Tribes.

22 (f) CAUSE OF ACTION.—If any payment by the
23 United States is not paid in the amount or manner speci-
24 fied by this section, or is not paid within 6 months after
25 the date specified by the settlement agreement, such fail-

1 ure shall give rise to a cause of action by the Tribes either
2 individually or collectively against the United States for
3 money damages for the amount authorized but not paid
4 to the Tribes, and the Tribes, either individually or collec-
5 tively, are authorized to bring an action against the United
6 States in the United States Court of Federal Claims for
7 such funds plus interest.

8 (g) DEFINITIONS.—In this section:

9 (1) FUND.—The term “Fund” means the
10 Puget Sound Shellfish Settlement Trust Fund Ac-
11 count established by this section.

12 (2) GROWERS.—The term “growers” means
13 Taylor United, Inc.; Olympia Oyster Company; G.R.
14 Clam & Oyster Farm; Cedric E. Lindsay;
15 Minterbrook Oyster Company; Charles and Willa
16 Murray; Skookum Bay Oyster Company; J & G
17 Gunstone Clams, Inc.; and all persons who qualify
18 as ‘growers’ in accordance with and pursuant to the
19 settlement agreement.

20 (3) OTHER TRIBES.—The term “other Tribes”
21 means any federally recognized Indian nation or
22 tribe other than the Tribes described in paragraph
23 (6) that, within 20 years after the deposit of funds
24 in the Special Holding Account, establishes a legally
25 enforceable treaty right to take shellfish from cov-

1 ered tidelands described in the settlement agree-
2 ment, owned, leased or otherwise subject to harvest
3 by those persons or entities that qualify as growers.

4 (4) SECRETARY.—The term “Secretary” means
5 the Secretary of the Interior.

6 (5) SETTLEMENT AGREEMENT.— The term
7 “settlement agreement” means the settlement agree-
8 ment entered into by and between the Tribes, com-
9 mercial shellfish growers, the State of Washington
10 and the United States, to resolve certain disputes
11 between and among them regarding implementation
12 of the Tribes’ treaty right to take shellfish from cer-
13 tain covered tidelands owned, leased or otherwise
14 subject to harvest by the growers.

15 (6) TRIBES.—The term “Tribes” means the fol-
16 lowing federally recognized Tribes that executed the
17 settlement agreement: Tulalip, Stillaguamish, Sauk
18 Suiattle, Puyallup, Squaxin Island, Makah,
19 Muckleshoot, Upper Skagit, Nooksack, Nisqually,
20 Skokomish, Port Gamble S’Klallam, Lower Elwha
21 Klallam, Jamestown S’Klallam, and Suquamish
22 Tribes, the Lummi Nation, and the Swinomish In-
23 dian Tribal Community.

24 (7) SPECIAL HOLDING ACCOUNT.—The term
25 “Special Holding Account” means the Puget Sound

1 Shellfish Settlement Special Holding Account estab-
2 lished by this section.

3 (h) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated \$23,500,000 to carry
5 out this section—

6 (A) \$2,000,000 for fiscal year 2007;

7 (B) \$5,000,000 for each of fiscal years
8 2008 through 2010; and

9 (C) \$6,500,000 for fiscal year 2011.

10 **TITLE VIII—TSUNAMI WARNING**
11 **AND EDUCATION**

12 **SEC. 801. SHORT TITLE.**

13 This title may be cited as the “Tsunami Warning and
14 Education Act”.

15 **SEC. 802. DEFINITIONS.**

16 In this title:

17 (1) The term “Administration” means the Na-
18 tional Oceanic and Atmospheric Administration.

19 (2) The term “Administrator” means the Ad-
20 ministrator of the National Oceanic and Atmos-
21 pheric Administration.

22 **SEC. 803. PURPOSES.**

23 The purposes of this title are—

1 (1) to improve tsunami detection, forecasting,
2 warnings, notification, outreach, and mitigation to
3 protect life and property in the United States;

4 (2) to enhance and modernize the existing Pa-
5 cific Tsunami Warning System to increase coverage,
6 reduce false alarms, and increase the accuracy of
7 forecasts and warnings, and to expand detection and
8 warning systems to include other vulnerable States
9 and United States territories, including the Atlantic
10 Ocean, Caribbean Sea, and Gulf of Mexico areas;

11 (3) to improve mapping, modeling, research,
12 and assessment efforts to improve tsunami detection,
13 forecasting, warnings, notification, outreach, mitiga-
14 tion, response, and recovery;

15 (4) to improve and increase education and out-
16 reach activities and ensure that those receiving tsu-
17 nami warnings and the at-risk public know what to
18 do when a tsunami is approaching;

19 (5) to provide technical and other assistance to
20 speed international efforts to establish regional tsu-
21 nami warning systems in vulnerable areas worldwide,
22 including the Indian Ocean; and

23 (6) to improve Federal, State, and international
24 coordination for detection, warnings, and outreach
25 for tsunami and other coastal impacts.

1 **SEC. 804. TSUNAMI FORECASTING AND WARNING PRO-**
2 **GRAM.**

3 (a) IN GENERAL.—The Administrator, through the
4 National Weather Service and in consultation with other
5 relevant Administration offices, shall operate a program
6 to provide tsunami detection, forecasting, and warnings
7 for the Pacific and Arctic Ocean regions and for the Atlan-
8 tic Ocean, Caribbean Sea, and Gulf of Mexico region.

9 (b) COMPONENTS.—The program under this section
10 shall—

11 (1) include the tsunami warning centers estab-
12 lished under subsection (d);

13 (2) utilize and maintain an array of robust tsu-
14 nami detection technologies;

15 (3) maintain detection equipment in operational
16 condition to fulfill the detection, forecasting, and
17 warning requirements of this title;

18 (4) provide tsunami forecasting capability based
19 on models and measurements, including tsunami in-
20 undation models and maps for use in increasing the
21 preparedness of communities, including through the
22 TsunamiReady program;

23 (5) maintain data quality and management sys-
24 tems to support the requirements of the program;

25 (6) include a cooperative effort among the Ad-
26 ministration, the United States Geological Survey,

1 and the National Science Foundation under which
2 the Geological Survey and the National Science
3 Foundation shall provide rapid and reliable seismic
4 information to the Administration from international
5 and domestic seismic networks;

6 (7) provide a capability for the dissemination of
7 warnings to at-risk States and tsunami communities
8 through rapid and reliable notification to govern-
9 ment officials and the public, including utilization of
10 and coordination with existing Federal warning sys-
11 tems, including the National Oceanic and Atmos-
12 pheric Administration Weather Radio All Hazards
13 Program;

14 (8) allow, as practicable, for integration of tsu-
15 nami detection technologies with other environ-
16 mental observing technologies; and

17 (9) include any technology the Administrator
18 considers appropriate to fulfill the objectives of the
19 program under this section.

20 (c) SYSTEM AREAS.—The program under this section
21 shall operate—

22 (1) a Pacific tsunami warning system capable
23 of forecasting tsunami anywhere in the Pacific and
24 Arctic Ocean regions and providing adequate warn-
25 ings; and

1 (2) an Atlantic Ocean, Caribbean Sea, and Gulf
2 of Mexico tsunami warning system capable of fore-
3 casting tsunami and providing adequate warnings in
4 areas of the Atlantic Ocean, Caribbean Sea, and
5 Gulf of Mexico that are determined—

6 (A) to be geologically active, or to have sig-
7 nificant potential for geological activity; and

8 (B) to pose significant risks of tsunami for
9 States along the coastal areas of the Atlantic
10 Ocean, Caribbean Sea, or Gulf of Mexico.

11 (d) TSUNAMI WARNING CENTERS.—

12 (1) IN GENERAL.—The Administrator, through
13 the National Weather Service, shall maintain or es-
14 tablish—

15 (A) a Pacific Tsunami Warning Center in
16 Hawaii;

17 (B) a West Coast and Alaska Tsunami
18 Warning Center in Alaska; and

19 (C) any additional forecast and warning
20 centers determined by the National Weather
21 Service to be necessary.

22 (2) RESPONSIBILITIES.—The responsibilities of
23 each tsunami warning center shall include—

1 (A) continuously monitoring data from
2 seismological, deep ocean, and tidal monitoring
3 stations;

4 (B) evaluating earthquakes that have the
5 potential to generate tsunami;

6 (C) evaluating deep ocean buoy data and
7 tidal monitoring stations for indications of tsu-
8 nami resulting from earthquakes and other
9 sources;

10 (D) disseminating forecasts and tsunami
11 warning bulletins to Federal, State, and local
12 government officials and the public;

13 (E) coordinating with the tsunami hazard
14 mitigation program described in section 805 to
15 ensure ongoing sharing of information between
16 forecasters and emergency management offi-
17 cials; and

18 (F) making data gathered under this title
19 and post-warning analyses conducted by the
20 National Weather Service or other relevant Ad-
21 ministration offices available to researchers.

22 (e) TRANSFER OF TECHNOLOGY; MAINTENANCE AND
23 UPGRADES.—

1 (1) IN GENERAL.—In carrying out this section,
2 the National Weather Service, in consultation with
3 other relevant Administration offices, shall—

4 (A) develop requirements for the equip-
5 ment used to forecast tsunami, which shall in-
6 clude provisions for multipurpose detection plat-
7 forms, reliability and performance metrics, and
8 to the maximum extent practicable how the
9 equipment will be integrated with other United
10 States and global ocean and coastal observation
11 systems, the global earth observing system of
12 systems, global seismic networks, and the Ad-
13 vanced National Seismic System;

14 (B) develop and execute a plan for the
15 transfer of technology from ongoing research
16 described in section 806 into the program under
17 this section; and

18 (C) ensure that maintaining operational
19 tsunami detection equipment is the highest pri-
20 ority within the program carried out under this
21 title.

22 (2) REPORT TO CONGRESS.—

23 (A) Not later than 1 year after the date of
24 enactment of this Act, the National Weather
25 Service, in consultation with other relevant Ad-

1 ministration offices, shall transmit to Congress
2 a report on how the tsunami forecast system
3 under this section will be integrated with other
4 United States and global ocean and coastal ob-
5 servation systems, the global earth observing
6 system of systems, global seismic networks, and
7 the Advanced National Seismic System.

8 (B) Not later than 3 years after the date
9 of enactment to this Act, the National Weather
10 Service, in consultation with other relevant Ad-
11 ministration offices, shall transmit a report to
12 Congress on how technology developed under
13 section 806 is being transferred into the pro-
14 gram under this section.

15 (f) FEDERAL COOPERATION.—When deploying and
16 maintaining tsunami detection technologies, the Adminis-
17 trator shall seek the assistance and assets of other appro-
18 priate Federal agencies.

19 (g) ANNUAL EQUIPMENT CERTIFICATION.—At the
20 same time Congress receives the budget justification docu-
21 ments in support of the President’s annual budget request
22 for each fiscal year, the Administrator shall transmit to
23 the Committee on Commerce, Science, and Transportation
24 of the Senate and the Committee on Science of the House
25 of Representatives a certification that—

1 (1) identifies the tsunami detection equipment
2 deployed pursuant to this title, as of December 31
3 of the preceding calendar year;

4 (2) certifies which equipment is operational as
5 of December 31 of the preceding calendar year;

6 (3) in the case of any piece of such equipment
7 that is not operational as of such date, identifies
8 that equipment and describes the mitigation strategy
9 that is in place—

10 (A) to repair or replace that piece of equip-
11 ment within a reasonable period of time; or

12 (B) to otherwise ensure adequate tsunami
13 detection coverage;

14 (4) identifies any equipment that is being devel-
15 oped or constructed to carry out this title but which
16 has not yet been deployed, if the Administration has
17 entered into a contract for that equipment prior to
18 December 31 of the preceding calendar year, and
19 provides a schedule for the deployment of that
20 equipment; and

21 (5) certifies that the Administrator expects the
22 equipment described in paragraph (4) to meet the
23 requirements, cost, and schedule provided in that
24 contract.

1 (h) CONGRESSIONAL NOTIFICATIONS.—The Adminis-
2 trator shall notify the Committee on Commerce, Science,
3 and Transportation of the Senate and the Committee on
4 Science of the House of Representatives within 30 days
5 of—

6 (1) impaired regional forecasting capabilities
7 due to equipment or system failures; and

8 (2) significant contractor failures or delays in
9 completing work associated with the tsunami fore-
10 casting and warning system.

11 (i) REPORT.—Not later than January 31, 2010, the
12 Comptroller General of the United States shall transmit
13 a report to the Committee on Commerce, Science, and
14 Transportation of the Senate and the Committee on
15 Science of the House of Representatives that—

16 (1) evaluates the current status of the tsunami
17 detection, forecasting, and warning system and the
18 tsunami hazard mitigation program established
19 under this title, including progress toward tsunami
20 inundation mapping of all coastal areas vulnerable to
21 tsunami and whether there has been any degrada-
22 tion of services as a result of the expansion of the
23 program;

24 (2) evaluates the National Weather Service's
25 ability to achieve continued improvements in the de-

1 livery of tsunami detection, forecasting, and warning
2 services by assessing policies and plans for the evo-
3 lution of modernization systems, models, and com-
4 putational abilities (including the adoption of new
5 technologies); and

6 (3) lists the contributions of funding or other
7 resources to the program by other Federal agencies,
8 particularly agencies participating in the program.

9 (j) EXTERNAL REVIEW.—The Administrator shall
10 enter into an arrangement with the National Academy of
11 Sciences to review the tsunami detection, forecast, and
12 warning program established under this title to assess fur-
13 ther modernization and coverage needs, as well as long-
14 term operational reliability issues, taking into account
15 measures implemented under this title. The review shall
16 also include an assessment of how well the forecast equip-
17 ment has been integrated into other United States and
18 global ocean and coastal observation systems and the glob-
19 al earth observing system of systems. Not later than 2
20 years after the date of enactment of this Act, the Adminis-
21 trator shall transmit a report containing the National
22 Academy of Sciences' recommendations, the Administra-
23 tor's responses to the recommendations, including those
24 where the Administrator disagrees with the Academy, a
25 timetable to implement the accepted recommendations,

1 and the cost of implementing all the Academy's rec-
2 ommendations, to the Committee on Commerce, Science,
3 and Transportation of the Senate and the Committee on
4 Science of the House of Representatives.

5 (k) REPORT.—Not later than 3 months after the date
6 of enactment of this Act, the Administrator shall establish
7 a process for monitoring and certifying contractor per-
8 formance in carrying out the requirements of any contract
9 to construct or deploy tsunami detection equipment, in-
10 cluding procedures and penalties to be imposed in cases
11 of significant contractor failure or negligence.

12 **SEC. 805. NATIONAL TSUNAMI HAZARD MITIGATION PRO-**
13 **GRAM.**

14 (a) IN GENERAL.—The Administrator, through the
15 National Weather Service and in consultation with other
16 relevant Administration offices, shall conduct a commu-
17 nity-based tsunami hazard mitigation program to improve
18 tsunami preparedness of at-risk areas in the United States
19 and its territories.

20 (b) COORDINATING COMMITTEE.—In conducting the
21 program under this section, the Administrator shall estab-
22 lish a coordinating committee comprising representatives
23 of Federal, State, local, and tribal government officials.
24 The Administrator may establish subcommittees to ad-
25 dress region-specific issues. The committee shall—

1 (1) recommend how funds appropriated for car-
2 rying out the program under this section will be allo-
3 cated;

4 (2) ensure that areas described in section
5 804(c) in the United States and its territories can
6 have the opportunity to participate in the program;

7 (3) provide recommendations to the National
8 Weather Service on how to improve the
9 TsunamiReady program, particularly on ways to
10 make communities more tsunami resilient through
11 the use of inundation maps and other mitigation
12 practices; and

13 (4) ensure that all components of the program
14 are integrated with ongoing hazard warning and risk
15 management activities, emergency response plans,
16 and mitigation programs in affected areas, including
17 integrating information to assist in tsunami evacu-
18 ation route planning.

19 (c) PROGRAM COMPONENTS.—The program under
20 this section shall—

21 (1) use inundation models that meet a standard
22 of accuracy defined by the Administration to im-
23 prove the quality and extent of inundation mapping,
24 including assessment of vulnerable inner coastal and
25 nearshore areas, in a coordinated and standardized

1 fashion to maximize resources and the utility of data
2 collected;

3 (2) promote and improve community outreach
4 and education networks and programs to ensure
5 community readiness, including the development of
6 comprehensive coastal risk and vulnerability assess-
7 ment training and decision support tools, implemen-
8 tation of technical training and public education pro-
9 grams, and providing for certification of prepared
10 communities;

11 (3) integrate tsunami preparedness and mitiga-
12 tion programs into ongoing hazard warning and risk
13 management activities, emergency response plans,
14 and mitigation programs in affected areas, including
15 integrating information to assist in tsunami evacu-
16 ation route planning;

17 (4) promote the adoption of tsunami warning
18 and mitigation measures by Federal, State, tribal,
19 and local governments and nongovernmental entities,
20 including educational programs to discourage devel-
21 opment in high-risk areas; and

22 (5) provide for periodic external review of the
23 program.

1 (d) SAVINGS CLAUSE.—Nothing in this section shall
2 be construed to require a change in the chair of any exist-
3 ing tsunami hazard mitigation program subcommittee.

4 **SEC. 806. TSUNAMI RESEARCH PROGRAM.**

5 The Administrator shall, in consultation with other
6 agencies and academic institutions, and with the coordi-
7 nating committee established under section 805(b), estab-
8 lish or maintain a tsunami research program to develop
9 detection, forecast, communication, and mitigation science
10 and technology, including advanced sensing techniques, in-
11 formation and communication technology, data collection,
12 analysis, and assessment for tsunami tracking and numer-
13 ical forecast modeling. Such research program shall—

14 (1) consider other appropriate research to miti-
15 gate the impact of tsunami;

16 (2) coordinate with the National Weather Serv-
17 ice on technology to be transferred to operations;

18 (3) include social science research to develop
19 and assess community warning, education, and evac-
20 uation materials; and

21 (4) ensure that research and findings are avail-
22 able to the scientific community.

1 **SEC. 807. GLOBAL TSUNAMI WARNING AND MITIGATION**
2 **NETWORK.**

3 (a) INTERNATIONAL TSUNAMI WARNING SYSTEM.—
4 The Administrator, through the National Weather Service
5 and in consultation with other relevant Administration of-
6 fices, in coordination with other members of the United
7 States Interagency Committee of the National Tsunami
8 Hazard Mitigation Program, shall provide technical assist-
9 ance and training to the Intergovernmental Oceanographic
10 Commission, the World Meteorological Organization, and
11 other international entities, as part of international efforts
12 to develop a fully functional global tsunami forecast and
13 warning system comprising regional tsunami warning net-
14 works, modeled on the International Tsunami Warning
15 System of the Pacific.

16 (b) INTERNATIONAL TSUNAMI INFORMATION CEN-
17 TER.—The Administrator, through the National Weather
18 Service and in consultation with other relevant Adminis-
19 tration offices, in cooperation with the Intergovernmental
20 Oceanographic Commission, shall operate an International
21 Tsunami Information Center to improve tsunami pre-
22 paredness for all Pacific Ocean nations participating in
23 the International Tsunami Warning System of the Pacific,
24 and may also provide such assistance to other nations par-
25 ticipating in a global tsunami warning system established
26 through the Intergovernmental Oceanographic Commis-

1 sion. As part of its responsibilities around the world, the
2 Center shall—

3 (1) monitor international tsunami warning ac-
4 tivities around the world;

5 (2) assist member states in establishing na-
6 tional warning systems, and make information avail-
7 able on current technologies for tsunami warning
8 systems;

9 (3) maintain a library of materials to promul-
10 gate knowledge about tsunami in general and for use
11 by the scientific community; and

12 (4) disseminate information, including edu-
13 cational materials and research reports.

14 (c) DETECTION EQUIPMENT; TECHNICAL ADVICE
15 AND TRAINING.—In carrying out this section, the Na-
16 tional Weather Service—

17 (1) shall give priority to assisting nations in
18 identifying vulnerable coastal areas, creating inunda-
19 tion maps, obtaining or designing real-time detection
20 and reporting equipment, and establishing commu-
21 nication and warning networks and contact points in
22 each vulnerable nation;

23 (2) may establish a process for transfer of de-
24 tection and communication technology to affected

1 nations for the purposes of establishing the inter-
2 national tsunami warning system; and

3 (3) shall provide technical and other assistance
4 to support international tsunami programs.

5 (d) DATA-SHARING REQUIREMENT.—The National
6 Weather Service, when deciding to provide assistance
7 under this section, may take into consideration the data
8 sharing policies and practices of nations proposed to re-
9 ceive such assistance, with a goal to encourage all nations
10 to support full and open exchange of data.

11 **SEC. 808. AUTHORIZATION OF APPROPRIATIONS.**

12 There are authorized to be appropriated to the Ad-
13 ministrator to carry out this title—

14 (1) \$25,000,000 for fiscal year 2008, of
15 which—

16 (A) not less than 27 percent of the amount
17 appropriated shall be for the tsunami hazard
18 mitigation program under section 805; and

19 (B) not less than 8 percent of the amount
20 appropriated shall be for the tsunami research
21 program under section 806;

22 (2) \$26,000,000 for fiscal year 2009, of
23 which—

1 (A) not less than 27 percent of the amount
2 appropriated shall be for the tsunami hazard
3 mitigation program under section 805; and

4 (B) not less than 8 percent of the amount
5 appropriated shall be for the tsunami research
6 program under section 806;

7 (3) \$27,000,000 for fiscal year 2010, of
8 which—

9 (A) not less than 27 percent of the amount
10 appropriated shall be for the tsunami hazard
11 mitigation program under section 805; and

12 (B) not less than 8 percent of the amount
13 appropriated shall be for the tsunami research
14 program under section 806;

15 (4) \$28,000,000 for fiscal year 2011, of
16 which—

17 (A) not less than 27 percent of the amount
18 appropriated shall be for the tsunami hazard
19 mitigation program under section 805; and

20 (B) not less than 8 percent of the amount
21 appropriated shall be for the tsunami research
22 program under section 806; and

23 (5) \$29,000,000 for fiscal year 2012, of
24 which—

1 (A) not less than 27 percent of the amount
2 appropriated shall be for the tsunami hazard
3 mitigation program under section 805; and

4 (B) not less than 8 percent of the amount
5 appropriated shall be for the tsunami research
6 program under section 806.

7 **TITLE IX—POLAR BEARS**

8 **SEC. 901. SHORT TITLE.**

9 This title may be cited as the “United States-Russia
10 Polar Bear Conservation and Management Act of 2006”.

11 **SEC. 902. AMENDMENT OF MARINE MAMMAL PROTECTION**

12 **ACT OF 1972.**

13 (a) IN GENERAL.—The Marine Mammal Protection
14 Act of 1972 (16 U.S.C. 1361 et seq.) is amended by add-
15 ing at the end thereof the following:

16 **“TITLE V—POLAR BEARS**

17 **“SEC. 501. DEFINITIONS.**

18 “In this title:

19 “(1) AGREEMENT.—The term “Agreement”
20 means the Agreement Between the Government of
21 the United States of America and the Government
22 of the Russian Federation on the Conservation and
23 Management of the Alaska-Chukotka Polar Bear
24 Population, signed at Washington, D.C., on October
25 16, 2000.

1 “(2) ALASKA NANUUQ COMMISSION.—The term
2 “Alaska Nanuuq Commission” means the Alaska
3 Native entity, in existence on the date of enactment
4 of the United States-Russia Polar Bear Conserva-
5 tion and Management Act of 2006, that represents
6 all villages in the State of Alaska that engage in the
7 annual subsistence taking of polar bears from the
8 Alaska-Chukotka population and any successor enti-
9 ty.

10 “(3) IMPORT.—The term “import” means to
11 land on, bring into, or introduce into, or attempt to
12 land on, bring into, or introduce into, any place sub-
13 ject to the jurisdiction of the United States, without
14 regard to whether the landing, bringing, or introduc-
15 tion constitutes an importation within the meaning
16 of the customs laws of the United States.

17 “(4) POLAR BEAR PART OR PRODUCT.—The
18 term “part or product of a polar bear” means any
19 polar bear part or product, including the gall bile
20 and gall bladder.

21 “(5) SECRETARY.—The term “Secretary”
22 means the Secretary of the Interior.

23 “(6) TAKING.—The term “taking” has the
24 meaning given the term in the Agreement.

1 “(7) COMMISSION.—The term “Commission”
2 means the commission established under article 8 of
3 the Agreement.

4 **“SEC. 502. PROHIBITIONS.**

5 “(a) In General.—It is unlawful for any person who
6 is subject to the jurisdiction of the United States or any
7 person in waters or on lands under the jurisdiction of the
8 United States—

9 “(1) to take any polar bear in violation of the
10 Agreement;

11 “(2) to take any polar bear in violation of the
12 Agreement or any annual taking limit or other re-
13 striction on the taking of polar bears that is adopted
14 by the Commission pursuant to the Agreement;

15 “(3) to import, export, possess, transport, sell,
16 receive, acquire, or purchase, exchange, barter, or
17 offer to sell, purchase, exchange, or barter any polar
18 bear, or any part or product of a polar bear, that
19 is taken in violation of paragraph (2);

20 “(4) to import, export, sell, purchase, exchange,
21 barter, or offer to sell, purchase, exchange, or bar-
22 ter, any polar bear gall bile or polar bear gall blad-
23 der;

1 “(5) to attempt to commit, solicit another per-
2 son to commit, or cause to be committed, any of-
3 fense under this subsection; or

4 “(6) to violate any regulation promulgated by
5 the Secretary to implement any of the prohibitions
6 established in this subsection.

7 “(b) EXCEPTIONS.—For the purpose of forensic test-
8 ing or any other law enforcement purpose, the Secretary,
9 and Federal law enforcement officials, and any State or
10 local law enforcement official authorized by the Secretary,
11 may import a polar bear or any part or product of a polar
12 bear.

13 **“SEC. 503. ADMINISTRATION.**

14 “(a) IN GENERAL.—The Secretary, acting through
15 the Director of the United States Fish and Wildlife Serv-
16 ice, shall do all things necessary and appropriate, includ-
17 ing the promulgation of regulations, to implement, en-
18 force, and administer the provisions of the Agreement on
19 behalf of the United States. The Secretary shall consult
20 with the Secretary of State and the Alaska Nanuuq Com-
21 mission on matters involving the implementation of the
22 Agreement.

23 “(b) UTILIZATION OF OTHER GOVERNMENT RE-
24 SOURCES AND AUTHORITIES.—

1 “(1) OTHER GOVERNMENT RESOURCES.—The
2 Secretary may utilize by agreement, with or without
3 reimbursement, the personnel, services, and facilities
4 of any other Federal agency, any State agency, or
5 the Alaska Nanuuq Commission for purposes of car-
6 rying out this title or the Agreement.

7 “(2) OTHER POWERS AND AUTHORITIES.—Any
8 person authorized by the Secretary under this sub-
9 section to enforce this title or the Agreement shall
10 have the authorities that are enumerated in section
11 6(b) of the Lacey Act Amendments of 1981 (16
12 U.S.C. 3375(b)).

13 “(c) ENSURING COMPLIANCE.—

14 “(1) TITLE I AUTHORITIES.—The Secretary
15 may use authorities granted under title I for en-
16 forcement, imposition of penalties, and the seizure of
17 cargo for violations under this title, provided that
18 any polar bear or any part or product of a polar
19 bear taken, imported, exported, possessed, trans-
20 ported, sold, received, acquired, purchased, ex-
21 changed, or bartered, or offered for sale, purchase,
22 exchange, or barter in violation of this title, shall be
23 subject to seizure and forfeiture to the United States
24 without any showing that may be required for as-

1 assessment of a civil penalty or for criminal prosecu-
2 tion under this Act.

3 “(2) ADDITIONAL AUTHORITIES.—Any gun,
4 trap, net, or other equipment used, and any vessel,
5 aircraft, or other means of transportation used, to
6 aid in the violation or attempted violation of this
7 title shall be subject to seizure and forfeiture under
8 section 106.

9 “(d) REGULATIONS.—

10 “(1) IN GENERAL.—The Secretary shall pro-
11 mulgate such regulations as are necessary to carry
12 out this title and the Agreement.

13 “(2) ORDINANCES AND REGULATIONS.—If nec-
14 essary to carry out this title and the Agreement, and
15 to improve compliance with any annual taking limit
16 or other restriction on taking adopted by the Com-
17 mission and implemented by the Secretary in accord-
18 ance with this title, the Secretary may promulgate
19 regulations that adopt any ordinance or regulation
20 that restricts the taking of polar bears for subsist-
21 ence purposes if the ordinance or regulation has
22 been promulgated by the Alaska Nanuuq Commis-
23 sion.

1 **“SEC. 504. COOPERATIVE MANAGEMENT AGREEMENT; AU-**
2 **THORITY TO DELEGATE ENFORCEMENT AU-**
3 **THORITY.**

4 “(a) IN GENERAL.—The Secretary, acting through
5 the Director of the United States Fish and Wildlife Serv-
6 ice, may share authority under this title for the manage-
7 ment of the taking of polar bears for subsistence purposes
8 with the Alaska Nanuuq Commission if such commission
9 is eligible under subsection (b).

10 “(b) DELEGATION.—To be eligible for the manage-
11 ment authority described in subsection (a), the Alaska
12 Nanuuq Commission shall—

13 “(1) enter into a cooperative agreement with
14 the Secretary under section 119 for the conservation
15 of polar bears;

16 “(2) meaningfully monitor compliance with this
17 title and the Agreement by Alaska Natives; and

18 “(3) administer its co-management program for
19 polar bears in accordance with—

20 “(A) this title; and

21 “(B) the Agreement.

22 **“SEC. 505. COMMISSION APPOINTMENTS; COMPENSATION,**
23 **TRAVEL EXPENSES, AND CLAIMS.**

24 “(a) APPOINTMENT OF U.S. COMMISSIONERS.—

25 “(1) APPOINTMENT.—The United States com-
26 missioners on the Commission shall be appointed by

1 the President, in accordance with paragraph 2 of ar-
2 ticle 8 of the Agreement, after taking into consider-
3 ation the recommendations of—

4 “(A) the Secretary;

5 “(B) the Secretary of State; and

6 “(C) the Alaska Nanuuq Commission.

7 “(2) QUALIFICATIONS.—With respect to the
8 United States commissioners appointed under this
9 subsection, in accordance with paragraph 2 of article
10 8 of the Agreement—

11 “(A) 1 United States commissioner shall
12 be an official of the Federal Government;

13 “(B) 1 United States commissioner shall
14 be a representative of the Native people of Alas-
15 ka, and, in particular, the Native people for
16 whom polar bears are an integral part of their
17 culture; and

18 “(C) both commissioners shall be knowl-
19 edgeable of, or have expertise in, polar bears.

20 “(3) SERVICE AND TERM.—Each United States
21 commissioner shall serve—

22 “(A) at the pleasure of the President; and

23 “(B) for an initial 4-year term and such
24 additional terms as the President shall deter-
25 mine.

1 “(4) VACANCIES.—

2 “(A) IN GENERAL.—Any individual ap-
3 pointed to fill a vacancy occurring before the
4 expiration of any term of office of a United
5 States commissioner shall be appointed for the
6 remainder of that term.

7 “(B) MANNER.—Any vacancy on the Com-
8 mission shall be filled in the same manner as
9 the original appointment.

10 “(b) ALTERNATE COMMISSIONERS.—

11 “(1) IN GENERAL.—The Secretary, in consulta-
12 tion with the Secretary of State and the Alaska
13 Nanuuq Commission, shall designate an alternate
14 commissioner for each member of the United States
15 section.

16 “(2) DUTIES.—In the absence of a United
17 States commissioner, an alternate commissioner may
18 exercise all functions of the United States commis-
19 sioner at any meetings of the Commission or of the
20 United States section.

21 “(3) REAPPOINTMENT.—An alternate commis-
22 sioner—

23 “(A) shall be eligible for reappointment by
24 the President; and

1 “(B) may attend all meetings of the
2 United States section.

3 “(c) DUTIES.—The members of the United States
4 section may carry out the functions and responsibilities
5 described in article 8 of the Agreement in accordance with
6 this title and the Agreement.

7 “(d) COMPENSATION AND EXPENSES.—

8 “(1) COMPENSATION.—A member of the United
9 States section shall serve without compensation.

10 “(2) TRAVEL EXPENSES.—A member of the
11 United States section shall be allowed travel ex-
12 penses, including per diem in lieu of subsistence, at
13 rates authorized for an employee of an agency under
14 subchapter I of chapter 57 of title 5, United States
15 Code, while away from the home or regular place of
16 business of the member in the performance of the
17 duties of the United States-Russia Polar Bear Com-
18 mission.

19 “(e) AGENCY DESIGNATION.—The United States sec-
20 tion shall, for the purpose of title 28, United States Code,
21 relating to claims against the United States and tort
22 claims procedure, be considered to be a Federal agency.

1 **“SEC. 506. VOTES TAKEN BY THE UNITED STATES SECTION**
2 **ON MATTERS BEFORE THE COMMISSION.**

3 “In accordance with paragraph 3 of article 8 of the
4 Agreement, the United States section, made up of commis-
5 sioners appointed by the President, shall vote on any issue
6 before the United States-Russia Polar Bear Commission
7 only if there is no disagreement between the United States
8 commissioners regarding the vote.

9 **“SEC. 507. IMPLEMENTATION OF ACTIONS TAKEN BY THE**
10 **COMMISSION.**

11 “(a) IN GENERAL.—The Secretary shall take all nec-
12 essary actions to implement the decisions and determina-
13 tions of the Commission under paragraph 7 of article 8
14 of the Agreement.

15 “(b) TAKING LIMITATION.—Not later than 60 days
16 after the date on which the Secretary receives notice of
17 the determination of the Commission of an annual taking
18 limit, or of the adoption by the Commission of other re-
19 striction on the taking of polar bears for subsistence pur-
20 poses, the Secretary shall publish a notice in the Federal
21 Register announcing the determination or restriction.

22 **“SEC. 508. APPLICATION WITH OTHER TITLES OF ACT.**

23 “(a) IN GENERAL.—The authority of the Secretary
24 under this title is in addition to, and shall not affect—

25 “(1) the authority of the Secretary under the
26 other titles of this Act or the Lacey Act Amend-

1 ments of 1981 (16 U.S.C. 3371 et seq.) or the ex-
2 emption for Alaskan natives under section 101(b) of
3 this Act as applied to other marine mammal popu-
4 lations; or

5 “(2) the authorities provided under title II of
6 this Act.

7 “(b) CERTAIN PROVISIONS INAPPLICABLE.—The
8 provisions of titles I through IV of this Act do not apply
9 with respect to the implementation or administration of
10 this title, except as specified in section 503.

11 **“SEC. 509. AUTHORIZATION OF APPROPRIATIONS.**

12 “(a) IN GENERAL.—There are authorized to be ap-
13 propriated to the Secretary to carry out the functions and
14 responsibilities of the Secretary under this title and the
15 Agreement \$1,000,000 for each of fiscal years 2006
16 through 2010.

17 “(b) COMMISSION.—There are authorized to be ap-
18 propriated to the Secretary to carry out functions and re-
19 sponsibilities of the United States Section \$150,000 for
20 each of fiscal years 2006 through 2010.

21 “(c) ALASKAN COOPERATIVE MANAGEMENT PRO-
22 GRAM.—There are authorized to be appropriated to the
23 Secretary to carry out this title and the Agreement in
24 Alaska \$150,000 for each of fiscal years 2006 through
25 2010.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 in the first section of the Marine Mammal Protection Act
3 of 1972 (16 U.S.C. 1361 et seq.) is amended by adding
4 at the end the following:

“TITLE V—POLAR BEARS

“Sec. 501. Definitions.

“Sec. 502. Prohibitions.

“Sec. 503. Administration.

“Sec. 504. Cooperative management agreement; authority to delegate enforcement authority.

“Sec. 505. Commission appointments; compensation, travel expenses, and claims.

“Sec. 506. Votes taken by the United States Section on matters before the Commission.

“Sec. 507. Implementation of actions taken by the Commission.

“Sec. 508. Application with other titles of Act.

“Sec. 509. Authorization of appropriations.”

5 (c) TREATMENT OF CONTAINERS.—Section
6 107(d)(2) of the Marine Mammal Protection Act of 1972
7 (16 U.S.C. 1377(d)(2)) is amended by striking “vessel or
8 other conveyance” each place it appears and inserting
9 “vessel, other conveyance, or container”.

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