

In the Senate of the United States,

December 7, 2006.

Resolved, That the bill from the House of Representatives (H.R. 5946) entitled “An Act to amend the Magnuson-Stevens Fishery Conservation and Management Act to authorize activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

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 Management*

4 *Reauthorization Act of 2006”.*

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

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

TITLE I—CONSERVATION AND MANAGEMENT

- Sec. 101. Cumulative impacts.*
Sec. 102. Caribbean Council jurisdiction.
Sec. 103. Regional fishery management councils.
Sec. 104. Fishery management plan requirements.
Sec. 105. Fishery management plan discretionary provisions.
Sec. 106. Limited access privilege programs.
Sec. 107. Environmental review process.
Sec. 108. Emergency regulations.
Sec. 109. Western Pacific 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 by-catch 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. Global tsunami warning and mitigation network.
 Sec. 808. 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 of*
 5 *an amendment to, or repeal of, a section or other provision,*
 6 *the reference shall be considered to be made to a section or*
 7 *other provision of the Magnuson-Stevens Fishery Conserva-*
 8 *tion and Management Act (16 U.S.C. 1801 et seq.).*

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

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

12 “(11) *A number of the Fishery Management*
 13 *Councils have demonstrated significant progress in*
 14 *integrating ecosystem considerations in fisheries man-*
 15 *agement using the existing authorities provided under*
 16 *this Act.”.*

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

1 (1) *by inserting after paragraph (13) the fol-*
2 *lowing:*

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

6 “(A) *to meet social and economic needs in*
7 *a region or subregion; and*

8 “(B) *comprised of persons engaging in the*
9 *harvest or processing of fishery resources in that*
10 *specific region or subregion or who otherwise*
11 *own or operate businesses substantially depend-*
12 *ent upon a fishery.”;*

13 (2) *by inserting after paragraph (20) the fol-*
14 *lowing:*

15 “(20A) *The term ‘import’—*

16 “(A) *means to land on, bring into, or intro-*
17 *duce into, or attempt to land on, bring into, or*
18 *introduce into, any place subject to the jurisdic-*
19 *tion of the United States, whether or not such*
20 *landing, bringing, or introduction constitutes an*
21 *importation within the meaning of the customs*
22 *laws of the United States; but*

23 “(B) *does not include any activity described*
24 *in subparagraph (A) with respect to fish caught*

1 *in the exclusive economic zone or by a vessel of*
2 *the United States.”;*

3 (3) *by inserting after paragraph (23) the fol-*
4 *lowing:*

5 “(23A) *The term ‘limited access privilege’—*

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

13 “(B) *includes an individual fishing quota;*
14 *but*

15 “(C) *does not include community develop-*
16 *ment quotas as described in section 305(i).*

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

22 (4) *by inserting after paragraph (27) the fol-*
23 *lowing:*

24 “(27A) *The term ‘observer information’ means*
25 *any information collected, observed, retrieved, or cre-*

1 *ated by an observer or electronic monitoring system*
2 *pursuant to authorization by the Secretary, or col-*
3 *lected as part of a cooperative research initiative, in-*
4 *cluding fish harvest or processing observations, fish*
5 *sampling or weighing data, vessel logbook data, vessel*
6 *or processor-specific information (including any safe-*
7 *ty, location, or operating condition observations), and*
8 *video, audio, photographic, or written documents.”.*

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

13 *(d) CONFORMING AMENDMENTS.—*

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

17 *(A) Section 402(b)(1)(D) (16 U.S.C.*
18 *1881a(b)(1)(D)).*

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

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

24 *(A) Section 304(c)(3) (16 U.S.C.*
25 *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,” and
5 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 to*
13 *which the United States is a party, the appropriate Council*
14 *or Secretary shall take into account the traditional partici-*
15 *pation in the fishery, relative to other nations, by fishermen*
16 *of the United States on fishing vessels of the United States.*

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

6 *(3) by inserting after “Act.” the following: “Allo-*
7 *cations of the total allowable level of foreign fishing*
8 *are discretionary, except that the total allowable level*
9 *shall be zero for fisheries determined by the Secretary*
10 *to have adequate or excess domestic harvest capac-*
11 *ity.”.*

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 contributions*
15 *received in support of conservation and management*
16 *objectives under a marine conservation plan” after*
17 *“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 economic*
21 *zones off Midway Atoll, Johnston Atoll, Kingman*
22 *Reef, Palmyra Atoll, Jarvis, Howland, Baker, and*
23 *Wake Islands, amounts received by the Secretary at-*
24 *tributable to fines and penalties imposed under this*
25 *Act, shall be deposited into the Western Pacific Sus-*

1 *tainable Fisheries Fund established under paragraph*
 2 *(7) of this subsection.”.*

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

4 *Section 4 (16 U.S.C. 1803) is amended to read as fol-*
 5 *lows:*

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 Sea”*
 9 *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 adding*
 13 *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 fishery*
 18 *resources of the geographical area concerned.”.*

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

21 *(1) by striking so much of subsection (g) as pre-*
 22 *cedes 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, collec-*
2 *tion, evaluation, and peer review of such statistical,*
3 *biological, economic, social, and other scientific infor-*
4 *mation as is relevant to such Council's development*
5 *and amendment of any fishery management plan.*

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

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

20 *“(D) Each member of a scientific and statistical*
21 *committee shall be treated as an affected individual*
22 *for purposes of paragraphs (2), (3)(B), (4), and*
23 *(5)(A) of subsection (j). The Secretary shall keep dis-*
24 *closures made pursuant to this subparagraph on file.*

1 “(E) *The Secretary and each Council may estab-*
2 *lish a peer review process for that Council for sci-*
3 *entific information used to advise the Council about*
4 *the conservation and management of the fishery. The*
5 *review process, which may include existing commit-*
6 *tees or panels, is deemed to satisfy the requirements*
7 *of the guidelines issued pursuant to section 515 of the*
8 *Treasury and General Government Appropriations*
9 *Act for Fiscal year 2001 (Public Law 106–554—Ap-*
10 *pendix C; 114 Stat. 2763A–153).*

11 “(F) *In addition to the provisions of section*
12 *302(f)(7), the Secretary shall, subject to the avail-*
13 *ability of appropriations, pay a stipend to members*
14 *of the scientific and statistical committees or advisory*
15 *panels who are not employed by the Federal govern-*
16 *ment or a State marine fisheries agency.*

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

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

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

23 (c) *COUNCIL FUNCTIONS.—Section 302(h) (16 U.S.C.*
24 *1852(h)) is amended—*

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

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

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

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

12 (d) *SCIENTIFIC RESEARCH PRIORITIES*.—Section
13 302(h) (16 U.S.C. 1852(h)), as amended by subsection (c),
14 is further amended—

15 (1) by striking “(g); and” in paragraph (6) and
16 inserting “(g);”;

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

19 (2) by inserting after paragraph (6) the fol-
20 lowing:

21 “(7) develop, in conjunction with the scientific
22 and statistical committee, multi-year research prior-
23 ities for fisheries, fisheries interactions, habitats, and
24 other areas of research that are necessary for manage-
25 ment purposes, that shall—

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

2 “(B) be updated as necessary; and

3 “(C) be submitted to the Secretary and the

4 regional science centers of the National Marine

5 Fisheries Service for their consideration in devel-

6 oping research priorities and budgets for the re-

7 gion of the Council; and”.I20 (e) *REGULAR*

8 *AND EMERGENCY MEETINGS.*—Section

9 302(i)(2)(C) (16 U.S.C. 1852(i)(2)(C)) is amend-

10 ed by striking “published in local newspapers in

11 the major fishing ports of the region (and in

12 other major fishing ports having a direct interest

13 in the affected fishery) and such notice may be

14 given by such other means as will result in wide

15 publicity.” and inserting “provided by any

16 means that will result in wide publicity in the

17 major fishing ports of the region (and in other

18 major fishing ports having a direct interest in

19 the affected fishery), except that e-mail notifica-

20 tion 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 after
10 the date of enactment of the Magnuson-Stevens Fish-
11 ery Conservation and Management Reauthorization
12 Act of 2006, the Secretary, in consultation with the
13 Councils and the National Sea Grant College Pro-
14 gram, shall develop a training course for newly ap-
15 pointed Council members. The course may cover a va-
16 riety of topics relevant to matters before the Councils,
17 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 Western
25 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 re-
5 quirements, including the National Environ-
6 mental Policy Act (42 U.S.C. 4321 et seq.);

7 “(G) public process for development of fish-
8 ery management plans;

9 “(H) other topics suggested by the Council;
10 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 ju-
15 risdiction.

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 Serv-
20 ice, and may be made available to committee or advi-
21 sory 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 training

1 *course that meets the requirements of this section not*
2 *later than 1 year after the date on which they were*
3 *appointed. Any Council member who has completed a*
4 *training course within 24 months before the date of*
5 *enactment of the Magnuson-Stevens Fishery Conserva-*
6 *tion and Management Reauthorization Act of 2006*
7 *shall be considered to have met the training require-*
8 *ment 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 directors*
12 *of each of the 8 Councils described in subsection (a)(1), or*
13 *other Council members or staff, in order to discuss issues*
14 *of relevance to all Councils, including issues related to the*
15 *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 to*
23 *the scientific and statistical committees or other com-*
24 *mittees 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 of
6 the scientific and statistical committees or other com-
7 mittees or advisory panels established under sub-
8 section (g):”; and

9 (3) by inserting “the Council Coordination Com-
10 mittee established under subsection (l),” in paragraph
11 (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:

1 “(B) be kept on file by the Council and made
2 available on the Internet and for public inspection at
3 the Council offices during reasonable hours; and”;

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

5 “(9) On January 1, 2008, and annually thereafter, the
6 Secretary shall submit a report to the Senate Committee
7 on Commerce, Science, and Transportation and the House
8 of Representatives Committee on Resources on action taken
9 by the Secretary and the Councils to implement the disclo-
10 sure of financial interest and recusal requirements of this
11 subsection, including identification of any conflict of inter-
12 est problems with respect to the Councils and scientific and
13 statistical committees and recommendations for addressing
14 any such problems.”.

15 (j) *GULF OF MEXICO FISHERIES MANAGEMENT COUN-*
16 *CIL.—Section 302(b)(2) (16 U.S.C. 1852(b)(2)) is*
17 *amended—*

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

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

22 “(D)(i) The Governor of a State submitting a list of
23 names of individuals for appointment by the Secretary of
24 Commerce to the Gulf of Mexico Fisheries Management
25 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 management
5 of fisheries resources in the jurisdiction of the Coun-
6 cil.

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

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

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

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

23 “(iv) The requirements of this subparagraph shall ex-
24 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. 1853(a))
3 *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 para-*
9 *graph (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, includ-*
17 *ing whether and to what extent such measures*
18 *may affect the safety of participants in the fish-*
19 *ery;*

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) and*
26 *inserting “allocate, taking into consideration the eco-*

1 *conomic impact of the harvest restrictions or recovery*
2 *benefits on the fishery participants in each sector;”;*

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

5 *(10) by adding at the end the following:*

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

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

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

17 *(A) in fishing year 2010 for fisheries deter-*
18 *mined by the Secretary to be subject to over-*
19 *fishing; and*

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

22 *(2) shall not apply to a fishery for species that*
23 *have a life cycle of approximately 1 year unless the*
24 *Secretary has determined the fishery is subject to*
25 *overfishing of that species; and*

1 (3) shall not limit or otherwise affect the require-
2 ments of section 301(a)(1) or 304(e) of the Magnuson-
3 Stevens Fishery Conservation and Management Act
4 (16 U.S.C. 1851(a)(1) or 1854(e), respectively).

5 (c) *CLARIFICATION OF REBUILDING PROVISION.*—Sec-
6 tion 304(e) (16 U.S.C. 1854(e)) is amended—

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

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

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

13 (4) by striking “ending overfishing and” in
14 paragraph (4)(A); and

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

17 (d) *EFFECTIVE DATE FOR SUBSECTION (c).*—The
18 amendments made by subsection (c) shall take effect 30
19 months after the date of enactment of this Act.

20 **SEC. 105. FISHERY MANAGEMENT PLAN DISCRETIONARY**
21 **PROVISIONS.**

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

23 (1) by inserting “(A)” after “(2)” in paragraph
24 (2);

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

3 “(B) *designate such zones in areas where deep*
4 *sea corals are identified under section 408, to protect*
5 *deep sea corals from physical damage from fishing*
6 *gear or to prevent loss or damage to such fishing gear*
7 *from interactions with deep sea corals, after consid-*
8 *ering long-term sustainable uses of fishery resources*
9 *in such areas; and*

10 “(C) *with respect to any closure of an area*
11 *under this Act that prohibits all fishing, ensure that*
12 *such closure—*

13 “(i) *is based on the best scientific informa-*
14 *tion available;*

15 “(ii) *includes criteria to assess the conserva-*
16 *tion benefit of the closed area;*

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

20 “(iv) *is based on an assessment of the bene-*
21 *fits and impacts of the closure, including its size,*
22 *in relation to other management measures (ei-*
23 *ther alone or in combination with such meas-*
24 *ures), including the benefits and impacts of lim-*
25 *iting access to: users of the area, overall fishing*

1 *activity, fishery science, and fishery and marine*
2 *conservation;*”;

3 (3) *by striking “fishery;” in paragraph (5) and*
4 *inserting “fishery and take into account the different*
5 *circumstances affecting fisheries from different States*
6 *and ports, including distances to fishing grounds and*
7 *proximity to time and area closures;*”;

8 (4) *by striking paragraph (6) and inserting the*
9 *following:*

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

14 “(A) *present participation in the fishery;*

15 “(B) *historical fishing practices in, and de-*
16 *pendence on, the fishery;*

17 “(C) *the economics of the fishery;*

18 “(D) *the capability of fishing vessels used in*
19 *the fishery to engage in other fisheries;*

20 “(E) *the cultural and social framework rel-*
21 *evant to the fishery and any affected fishing*
22 *communities;*

23 “(F) *the fair and equitable distribution of*
24 *access privileges in the fishery; and*

25 “(G) *any other relevant considerations;*”;

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

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

5 (7) by redesignating paragraph (12) as para-
6 graph (14) and inserting after paragraph (11) the fol-
7 lowing:

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

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

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

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

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

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

18 “(a) *IN GENERAL.*—After the date of enactment of the
19 *Magnuson-Stevens Fishery Conservation and Management*
20 *Reauthorization Act of 2006*, a Council may submit, and
21 the Secretary may approve, for a fishery that is managed
22 under a limited access system, a limited access privilege
23 program to harvest fish if the program meets the require-
24 ments of this section.

1 “(b) *NO CREATION OF RIGHT, TITLE, OR INTEREST.—*
2 *Limited access privilege, quota share, or other limited access*
3 *system authorization established, implemented, or managed*
4 *under this Act—*

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

7 “(2) *may be revoked, limited, or modified at any*
8 *time in accordance with this Act, including revoca-*
9 *tion if the system is found to have jeopardized the*
10 *sustainability of the stock or the safety of fishermen;*

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

15 “(4) *shall not create, or be construed to create,*
16 *any right, title, or interest in or to any fish before the*
17 *fish is harvested by the holder; and*

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

22 “(c) *REQUIREMENTS FOR LIMITED ACCESS PRIVI-*
23 *LEGES.—*

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

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

7 “(B) if established in a fishery that is deter-
8 mined by the Secretary or the Council to have
9 over-capacity, contribute to reducing capacity;

10 “(C) promote—

11 “(i) fishing safety; and

12 “(ii) fishery conservation and manage-
13 ment; and

14 “(iii) social and economic benefits;

15 “(D) prohibit any person other than a
16 United States citizen, a corporation, partner-
17 ship, or other entity established under the laws
18 of the United States or any State, or a perma-
19 nent resident alien, that meets the eligibility and
20 participation requirements established in the
21 program from acquiring a privilege to harvest
22 fish, including any person that acquires a lim-
23 ited access privilege solely for the purpose of per-
24 fecting or realizing on a security interest in such
25 privilege;

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

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

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

18 “(H) include an effective system for enforce-
19 ment, monitoring, and management of the pro-
20 gram, including the use of observers or electronic
21 monitoring systems;

22 “(I) include an appeals process for admin-
23 istrative review of the Secretary’s decisions re-
24 garding initial allocation of limited access privi-
25 leges;

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

10 “(K) provide for the revocation by the Sec-
11 retary of limited access privileges held by any
12 person found to have violated the antitrust laws
13 of the United States.

14 “(2) WAIVER.—The Secretary may waive the re-
15 quirement of paragraph (1)(E) if the Secretary deter-
16 mines that—

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

19 “(B) the United States has a seafood safety
20 equivalency agreement with the country where
21 processing will occur.

22 “(3) FISHING COMMUNITIES.—

23 “(A) IN GENERAL.—

24 “(i) ELIGIBILITY.—To be eligible to
25 participate in a limited access privilege

1 *program to harvest fish, a fishing commu-*
2 *nity shall—*

3 *“(I) be located within the man-*
4 *agement area of the relevant Council;*

5 *“(II) meet criteria developed by*
6 *the relevant Council, approved by the*
7 *Secretary, and published in the Fed-*
8 *eral Register;*

9 *“(III) consist of residents who*
10 *conduct commercial or recreational*
11 *fishing, processing, or fishery-depend-*
12 *ent support businesses within the*
13 *Council’s management area; and*

14 *“(IV) develop and submit a com-*
15 *munity sustainability plan to the*
16 *Council and the Secretary that dem-*
17 *onstrates how the plan will address the*
18 *social and economic development needs*
19 *of coastal communities, including those*
20 *that have not historically had the re-*
21 *sources to participate in the fishery,*
22 *for approval based on criteria devel-*
23 *oped by the Council that have been ap-*
24 *proved by the Secretary and published*
25 *in the Federal Register.*

1 “(ii) *FAILURE TO COMPLY WITH*
2 *PLAN.—The Secretary shall deny or revoke*
3 *limited access privileges granted under this*
4 *section for any person who fails to comply*
5 *with the requirements of the community*
6 *sustainability plan. Any limited access*
7 *privileges denied or revoked under this sec-*
8 *tion may be reallocated to other eligible*
9 *members of the fishing community.*

10 “(B) *PARTICIPATION CRITERIA.—In devel-*
11 *oping participation criteria for eligible commu-*
12 *nities under this paragraph, a Council shall*
13 *consider—*

14 “(i) *traditional fishing or processing*
15 *practices in, and dependence on, the fishery;*

16 “(ii) *the cultural and social framework*
17 *relevant to the fishery;*

18 “(iii) *economic barriers to access to*
19 *fishery;*

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

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

3 “(v) *the expected effectiveness, oper-*
4 *ational transparency, and equitability of*
5 *the community sustainability plan; and*

6 “(vi) *the potential for improving eco-*
7 *nomical conditions in remote coastal commu-*
8 *nities lacking resources to participate in*
9 *harvesting or processing activities in the*
10 *fishery.*

11 “(4) *REGIONAL FISHERY ASSOCIATIONS.—*

12 “(A) *IN GENERAL.—To be eligible to par-*
13 *ticipate in a limited access privilege program to*
14 *harvest fish, a regional fishery association*
15 *shall—*

16 “(i) *be located within the management*
17 *area of the relevant Council;*

18 “(ii) *meet criteria developed by the rel-*
19 *evant Council, approved by the Secretary,*
20 *and published in the Federal Register;*

21 “(iii) *be a voluntary association with*
22 *established by-laws and operating proce-*
23 *dures;*

24 “(iv) *consist of participants in the*
25 *fishery who hold quota share that are des-*

1 *ignated for use in the specific region or sub-*
2 *region covered by the regional fishery asso-*
3 *ciation, including commercial or rec-*
4 *reational fishing, processing, fishery-de-*
5 *pendent support businesses, or fishing com-*
6 *munities;*

7 “(v) *not be eligible to receive an initial*
8 *allocation of a limited access privilege but*
9 *may acquire such privileges after the initial*
10 *allocation, and may hold the annual fishing*
11 *privileges of any limited access privileges it*
12 *holds or the annual fishing privileges that*
13 *is members contribute; and*

14 “(vi) *develop and submit a regional*
15 *fishery association plan to the Council and*
16 *the Secretary for approval based on criteria*
17 *developed by the Council that have been ap-*
18 *proved by the Secretary and published in*
19 *the Federal Register.*

20 “(B) *FAILURE TO COMPLY WITH PLAN.—*
21 *The Secretary shall deny or revoke limited access*
22 *privileges granted under this section to any per-*
23 *son participating in a regional fishery associa-*
24 *tion who fails to comply with the requirements*
25 *of the regional fishery association plan.*

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

5 “(i) *traditional fishing or processing*
6 *practices in, and dependence on, the fishery;*

7 “(ii) *the cultural and social framework*
8 *relevant to the fishery;*

9 “(iii) *economic barriers to access to*
10 *fishery;*

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

18 “(v) *the administrative and fiduciary*
19 *soundness of the association; and*

20 “(vi) *the expected effectiveness, oper-*
21 *ational transparency, and equitability of*
22 *the fishery association plan.*

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

1 “(A) establish procedures to ensure fair and
2 equitable initial allocations, including consider-
3 ation of—

4 “(i) current and historical harvests;

5 “(ii) employment in the harvesting
6 and processing sectors;

7 “(iii) investments in, and dependence
8 upon, the fishery; and

9 “(iv) the current and historical par-
10 ticipation of fishing communities;

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

13 “(i) the development of policies to pro-
14 mote the sustained participation of small
15 owner-operated fishing vessels and fishing
16 communities that depend on the fisheries,
17 including regional or port-specific landing
18 or delivery requirements; and

19 “(ii) procedures to address concerns
20 over excessive geographic or other consolida-
21 tion in the harvesting or processing sectors
22 of the fishery;

23 “(C) include measures to assist, when nec-
24 essary and appropriate, entry-level and small
25 vessel owner-operators, captains, crew, and fish-

1 *ing communities through set-asides of harvesting*
2 *allocations, including providing privileges, which*
3 *may include set-asides or allocations of har-*
4 *vesting privileges, or economic assistance in the*
5 *purchase of limited access privileges;*

6 *“(D) ensure that limited access privilege*
7 *holders do not acquire an excessive share of the*
8 *total limited access privileges in the program*
9 *by—*

10 *“(i) establishing a maximum share, ex-*
11 *pressed as a percentage of the total limited*
12 *access privileges, that a limited access privi-*
13 *lege holder is permitted to hold, acquire, or*
14 *use; and*

15 *“(ii) establishing any other limitations*
16 *or measures necessary to prevent an inequi-*
17 *table concentration of limited access privi-*
18 *leges; and*

19 *“(E) authorize limited access privileges to*
20 *harvest fish to be held, acquired, used by, or*
21 *issued under the system to persons who substan-*
22 *tially participate in the fishery, including in a*
23 *specific sector of such fishery, as specified by the*
24 *Council.*

25 *“(6) PROGRAM INITIATION.—*

1 “(A) *LIMITATION.*—*Except as provided in*
2 *subparagraph (D), a Council may initiate a*
3 *fishery management plan or amendment to es-*
4 *tablish a limited access privilege program to*
5 *harvest fish on its own initiative or if the Sec-*
6 *retary has certified an appropriate petition.*

7 “(B) *PETITION.*—*A group of fishermen con-*
8 *stituting more than 50 percent of the permit*
9 *holders, or holding more than 50 percent of the*
10 *allocation, in the fishery for which a limited ac-*
11 *cess privilege program to harvest fish is sought,*
12 *may submit a petition to the Secretary request-*
13 *ing that the relevant Council or Councils with*
14 *authority over the fishery be authorized to ini-*
15 *tiate the development of the program. Any such*
16 *petition shall clearly state the fishery to which*
17 *the limited access privilege program would*
18 *apply. For multispecies permits in the Gulf of*
19 *Mexico, only those participants who have sub-*
20 *stantially fished the species proposed to be in-*
21 *cluded in the limited access program shall be eli-*
22 *gible to sign a petition for such a program and*
23 *shall serve as the basis for determining the per-*
24 *centage described in the first sentence of this sub-*
25 *paragraph.*

1 “(C) *CERTIFICATION BY SECRETARY.*—

2 *Upon the receipt of any such petition, the Sec-*
3 *retary shall review all of the signatures on the*
4 *petition and, if the Secretary determines that the*
5 *signatures on the petition represent more than*
6 *50 percent of the permit holders, or holders of*
7 *more than 50 percent of the allocation in the*
8 *fishery, as described by subparagraph (B), the*
9 *Secretary shall certify the petition to the appro-*
10 *priate Council or Councils.*

11 “(D) *NEW ENGLAND AND GULF REF-*
12 *ERENDUM.*—

13 “(i) *Except as provided in clause (iii)*
14 *for the Gulf of Mexico commercial red snap-*
15 *per fishery, the New England and Gulf*
16 *Councils may not submit, and the Secretary*
17 *may not approve or implement, a fishery*
18 *management plan or amendment that cre-*
19 *ates an individual fishing quota program,*
20 *including a Secretarial plan, unless such a*
21 *system, as ultimately developed, has been*
22 *approved by more than $\frac{2}{3}$ of those voting in*
23 *a referendum among eligible permit holders,*
24 *or other persons described in clause (v),*
25 *with respect to the New England Council,*

1 *and by a majority of those voting in the ref-*
2 *erendum among eligible permit holders with*
3 *respect to the Gulf Council. For multispecies*
4 *permits in the Gulf of Mexico, only those*
5 *participants who have substantially fished*
6 *the species proposed to be included in the*
7 *individual fishing quota program shall be*
8 *eligible to vote in such a referendum. If an*
9 *individual fishing quota program fails to be*
10 *approved by the requisite number of those*
11 *voting, it may be revised and submitted for*
12 *approval in a subsequent referendum.*

13 “(ii) *The Secretary shall conduct a ref-*
14 *erendum under this subparagraph, includ-*
15 *ing notifying all persons eligible to partici-*
16 *pate in the referendum and making avail-*
17 *able to them information concerning the*
18 *schedule, procedures, and eligibility require-*
19 *ments for the referendum process and the*
20 *proposed individual fishing quota program.*
21 *Within 1 year after the date of enactment*
22 *of the Magnuson-Stevens Fishery Conserva-*
23 *tion and Management Reauthorization Act*
24 *of 2006, the Secretary shall publish guide-*
25 *lines and procedures to determine proce-*

1 *dures and voting eligibility requirements for*
2 *referenda and to conduct such referenda in*
3 *a fair and equitable manner.*

4 “(iii) *The provisions of section 407(c)*
5 *of this Act shall apply in lieu of this sub-*
6 *paragraph for an individual fishing quota*
7 *program for the Gulf of Mexico commercial*
8 *red snapper fishery.*

9 “(iv) *Chapter 35 of title 44, United*
10 *States Code, (commonly known as the Pa-*
11 *perwork Reduction Act) does not apply to*
12 *the referenda conducted under this subpara-*
13 *graph.*

14 “(v) *The Secretary shall promulgate*
15 *criteria for determining whether additional*
16 *fishery participants are eligible to vote in*
17 *the New England referendum described in*
18 *clause (i) in order to ensure that crew mem-*
19 *bers who derive a significant percentage of*
20 *their total income from the fishery under*
21 *the proposed program are eligible to vote in*
22 *the referendum.*

23 “(vi) *In this subparagraph, the term*
24 *‘individual fishing quota’ does not include a*
25 *sector allocation.*

1 “(7) *TRANSFERABILITY.*—*In establishing a limited*
2 *access privilege program, a Council shall—*

3 “(A) *establish a policy and criteria for the*
4 *transferability of limited access privileges*
5 *(through sale or lease), that is consistent with the*
6 *policies adopted by the Council for the fishery*
7 *under paragraph (5); and*

8 “(B) *establish, in coordination with the*
9 *Secretary, a process for monitoring of transfers*
10 *(including sales and leases) of limited access*
11 *privileges.*

12 “(8) *PREPARATION AND IMPLEMENTATION OF*
13 *SECRETARIAL PLANS.*—*This subsection also applies*
14 *to a plan prepared and implemented by the Secretary*
15 *under section 304(c) or 304(g).*

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

1 “(d) *AUCTION AND OTHER PROGRAMS.*—*In estab-*
2 *lishing a limited access privilege program, a Council shall*
3 *consider, and may provide, if appropriate, an auction sys-*
4 *tem or other program to collect royalties for the initial, or*
5 *any subsequent, distribution of allocations in a limited ac-*
6 *cess privilege program if—*

7 “(1) *the system or program is administered in*
8 *such a way that the resulting distribution of limited*
9 *access privilege shares meets the program require-*
10 *ments of this section; and*

11 “(2) *revenues generated through such a royalty*
12 *program are deposited in the Limited Access System*
13 *Administration Fund established by section*
14 *305(h)(5)(B) and available subject to annual appro-*
15 *priations.*

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

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

22 “(2) *provide, under section 304(d)(2), for a pro-*
23 *gram of fees paid by limited access privilege holders*
24 *that will cover the costs of management, data collec-*
25 *tion and analysis, and enforcement activities.*

1 “(f) *CHARACTERISTICS.*—A limited access privilege es-
2 *tablished after the date of enactment of the Magnuson-Ste-*
3 *vens Fishery Conservation and Management Reauthoriza-*
4 *tion Act of 2006 is a permit issued for a period of not more*
5 *than 10 years that—*

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

9 “(2) *will be revoked, limited, or modified if the*
10 *holder is found by the Secretary, after notice and an*
11 *opportunity for a hearing under section 554 of title*
12 *5, United States Code, to have failed to comply with*
13 *any term of the plan identified in the plan as cause*
14 *for revocation, limitation, or modification of a per-*
15 *mit, which may include conservation requirements es-*
16 *tablished under the plan;*

17 “(3) *may be revoked, limited, or modified if the*
18 *holder is found by the Secretary, after notice and an*
19 *opportunity for a hearing under section 554 of title*
20 *5, United States Code, to have committed an act pro-*
21 *hibited by section 307 of this Act; and*

22 “(4) *may be acquired, or reacquired, by partici-*
23 *pants in the program under a mechanism established*
24 *by the Council if it has been revoked, limited, or*
25 *modified under paragraph (2) or (3).*

1 “(g) *LIMITED ACCESS PRIVILEGE ASSISTED PUR-*
2 *CHASE PROGRAM.*—

3 “(1) *IN GENERAL.*—A Council may submit, and
4 *the Secretary may approve and implement, a pro-*
5 *gram which reserves up to 25 percent of any fees col-*
6 *lected from a fishery under section 304(d)(2) to be*
7 *used, pursuant to section 53706(a)(7) of title 46,*
8 *United States Code, to issue obligations that aid in*
9 *financing—*

10 “(A) *the purchase of limited access privi-*
11 *leges in that fishery by fishermen who fish from*
12 *small vessels; and*

13 “(B) *the first-time purchase of limited ac-*
14 *cess privileges in that fishery by entry level fish-*
15 *ermen.*

16 “(2) *ELIGIBILITY CRITERIA.*—A Council making
17 *a submission under paragraph (1) shall recommend*
18 *criteria, consistent with the provisions of this Act,*
19 *that a fisherman must meet to qualify for guarantees*
20 *under subparagraphs (A) and (B) of paragraph (1)*
21 *and the portion of funds to be allocated for guarantees*
22 *under each subparagraph.*

23 “(h) *EFFECT ON CERTAIN EXISTING SHARES AND*
24 *PROGRAMS.*—Nothing in this Act, or the amendments made
25 *by the Magnuson-Stevens Fishery Conservation and Man-*

1 *agement Reauthorization Act of 2006, shall be construed to*
2 *require a reallocation or a reevaluation of individual quota*
3 *shares, processor quota shares, cooperative programs, or*
4 *other quota programs, including sector allocation in effect*
5 *before the date of enactment of the Magnuson-Stevens Fish-*
6 *ery Conservation and Management Reauthorization Act of*
7 *2006.*

8 “(i) *TRANSITION RULES.*—

9 “(1) *IN GENERAL.*—*The requirements of this sec-*
10 *tion shall not apply to any quota program, including*
11 *any individual quota program, cooperative program,*
12 *or sector allocation for which a Council has taken*
13 *final action or which has been submitted by a Council*
14 *to the Secretary, or approved by the Secretary, within*
15 *6 months after the date of enactment of the Magnu-*
16 *son-Stevens Fishery Conservation and Management*
17 *Reauthorization Act of 2006, except that—*

18 “(A) *the requirements of section 303(d) of*
19 *this Act in effect on the day before the date of*
20 *enactment of that Act shall apply to any such*
21 *program;*

22 “(B) *the program shall be subject to review*
23 *under subsection (c)(1)(G) of this section not*
24 *later than 5 years after the program implemen-*
25 *tation; and*

1 “(C) *nothing in this subsection precludes a*
2 *Council from incorporating criteria contained in*
3 *this section into any such plans.*”

4 “(2) *PACIFIC GROUND FISH PROPOSALS.—The re-*
5 *quirements of this section, other than subparagraphs*
6 *(A) and (B) of subsection (c)(1) and subparagraphs*
7 *(A), (B), and (C) of paragraph (1) of this subsection,*
8 *shall not apply to any proposal authorized under sec-*
9 *tion 302(f) of the Magnuson-Stevens Fishery Con-*
10 *servation and Management Reauthorization Act of*
11 *2006 that is submitted within the timeframe pre-*
12 *scribed by that section.*”.

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

17 “(c) *INVESTMENT IN UNITED STATES SEAFOOD PROC-*
18 *ESSING FACILITIES.—The Secretary of Commerce shall*
19 *work with the Small Business Administration and other*
20 *Federal agencies to develop financial and other mechanisms*
21 *to encourage United States investment in seafood processing*
22 *facilities in the United States for fisheries that lack capac-*
23 *ity needed to process fish harvested by United States vessels*
24 *in compliance with the Magnuson-Stevens Fishery Con-*
25 *servation and Management Act (16 U.S.C. 1801 et seq.).*”

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

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

11 **SEC. 107. ENVIRONMENTAL REVIEW PROCESS.**

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

14 “(i) *ENVIRONMENTAL REVIEW PROCESS.—*

15 “(1) *PROCEDURES.—The Secretary shall, in con-*
 16 *sultation with the Councils and the Council on Envi-*
 17 *ronmental Quality, revise and update agency proce-*
 18 *dures for compliance with the National Environ-*
 19 *mental Policy Act (42 U.S.C. 4231 et seq.). The pro-*
 20 *cedures shall—*

21 “(A) *conform to the time lines for review*
 22 *and approval of fishery management plans and*
 23 *plan amendments under this section; and*

24 “(B) *integrate applicable environmental an-*
 25 *alytical procedures, including the time frames*

1 *for public input, with the procedure for the prep-*
2 *aration and dissemination of fishery manage-*
3 *ment plans, plan amendments, and other actions*
4 *taken or approved pursuant to this Act in order*
5 *to provide for timely, clear and concise analysis*
6 *that is useful to decision makers and the public,*
7 *reduce extraneous paperwork, and effectively in-*
8 *volve the public.*

9 “(2) *USAGE.—The updated agency procedures*
10 *promulgated in accordance with this section used by*
11 *the Councils or the Secretary shall be the sole environ-*
12 *mental impact assessment procedure for fishery man-*
13 *agement plans, amendments, regulations, or other ac-*
14 *tions taken or approved pursuant to this Act.*

15 “(3) *SCHEDULE FOR PROMULGATION OF FINAL*
16 *PROCEDURES.—The Secretary shall—*

17 “(A) *propose revised procedures within 6*
18 *months after the date of enactment of the Magnu-*
19 *son-Stevens Fishery Conservation and Manage-*
20 *ment Reauthorization Act of 2006;*

21 “(B) *provide 90 days for public review and*
22 *comments; and*

23 “(C) *promulgate final procedures no later*
24 *than 12 months after the date of enactment of*
25 *that Act.*

1 “(4) *PUBLIC PARTICIPATION.*—*The Secretary is*
 2 *authorized and directed, in cooperation with the*
 3 *Council on Environmental Quality and the Councils,*
 4 *to involve the affected public in the development of re-*
 5 *vised procedures, including workshops or other appro-*
 6 *priate means of public involvement.”.*

7 **SEC. 108. EMERGENCY REGULATIONS.**

8 (a) *LENGTHENING OF SECOND EMERGENCY PE-*
 9 *RIOD.*—*Section 305(c)(3)(B) (16 U.S.C. 1855(c)(3)(B)) is*
 10 *amended by striking “180 days,” the second time it appears*
 11 *and inserting “186 days.”.*

12 (b) *TECHNICAL AMENDMENT.*—*Section 305(c)(3)(D)*
 13 *(16 U.S.C. 1855(c)(3)(D)) is amended by inserting “or in-*
 14 *terim measures” after “emergency regulations”.*

15 **SEC. 109. WESTERN PACIFIC AND NORTH PACIFIC COMMU-**
 16 **NITY DEVELOPMENT.**

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

19 “(j) *WESTERN PACIFIC AND NORTHERN PACIFIC RE-*
 20 *GIONAL MARINE EDUCATION AND TRAINING.*—

21 “(1) *IN GENERAL.*—*The Secretary shall establish*
 22 *a pilot program for regionally-based marine edu-*
 23 *cation and training programs in the Western Pacific*
 24 *and the Northern Pacific to foster understanding,*
 25 *practical use of knowledge (including native Hawai-*

1 *ian, Alaskan Native, and other Pacific Islander-based*
2 *knowledge), and technical expertise relevant to stew-*
3 *ardship of living marine resources. The Secretary*
4 *shall, in cooperation with the Western Pacific and the*
5 *North Pacific Regional Fishery Management Coun-*
6 *cils, regional educational institutions, and local West-*
7 *ern Pacific and Northern Pacific community training*
8 *entities, establish programs or projects that will im-*
9 *prove communication, education, and training on*
10 *marine resource issues throughout the region and in-*
11 *crease scientific education for marine-related profes-*
12 *sions among coastal community residents, including*
13 *indigenous Pacific islanders, Native Hawaiians, Alas-*
14 *kan Natives, and other underrepresented groups in*
15 *the region.*

16 “(2) *PROGRAM COMPONENTS.—The program*
17 *shall—*

18 “(A) *include marine science and technology*
19 *education and training programs focused on pre-*
20 *paring community residents for employment in*
21 *marine related professions, including marine re-*
22 *source conservation and management, marine*
23 *science, marine technology, and maritime oper-*
24 *ations;*

1 “(B) include fisheries and seafood-related
2 training programs, including programs for fish-
3 ery observers, seafood safety and seafood mar-
4 keting, focused on increasing the involvement of
5 coastal community residents in fishing, fishery
6 management, and seafood-related operations;

7 “(C) include outreach programs and mate-
8 rials to educate and inform consumers about the
9 quality and sustainability of wild fish or fish
10 products farmed through responsible aquaculture,
11 particularly in Hawaii, Alaska, the Western Pa-
12 cific, the Northern Pacific, and the Central Pa-
13 cific;

14 “(D) include programs to identify, with the
15 fishing industry, methods and technologies that
16 will improve the data collection, quality, and re-
17 porting and increase the sustainability of fishing
18 practices, and to transfer such methods and tech-
19 nologies among fisheries sectors and to other na-
20 tions in the Western, Northern, and Central Pa-
21 cific;

22 “(E) develop means by which local and tra-
23 ditional knowledge (including Pacific islander,
24 Native Hawaiian, and Alaskan Native knowl-

1 *edge) can enhance science-based management of*
 2 *fishery resources of the region; and*

3 “(F) *develop partnerships with other West-*
 4 *ern Pacific Island and Alaskan agencies, aca-*
 5 *ademic institutions, and other entities to meet the*
 6 *purposes of this section.”.*

7 **SEC. 110. SECRETARIAL ACTION ON STATE GROUND FISH**
 8 **FISHING.**

9 *Section 305 (16 U.S.C. 1855), as amended by section*
 10 *109 of this Act, is further amended by adding at the end*
 11 *thereof the following:*

12 “(k) **MULTISPECIES GROUND FISH.**—

13 “(1) **IN GENERAL.**—*Within 60 days after the*
 14 *date of enactment of the Magnuson-Stevens Fishery*
 15 *Conservation and Management Reauthorization Act*
 16 *of 2006, the Secretary of Commerce shall determine*
 17 *whether fishing in State waters—*

18 “(A) *without a New England multispecies*
 19 *groundfish fishery permit on regulated species*
 20 *within the multispecies complex is not consistent*
 21 *with the applicable Federal fishery management*
 22 *plan; or*

23 “(B) *without a Federal bottomfish and sea-*
 24 *mount groundfish permit in the Hawaiian ar-*
 25 *chipelago on regulated species within the com-*

1 *plex is not consistent with the applicable Federal*
2 *fishery management plan or State data are not*
3 *sufficient to make such a determination..*

4 “(2) *CURE.—If the Secretary makes a deter-*
5 *mination that such actions are not consistent with the*
6 *plan, the Secretary shall, in consultation with the*
7 *Council, and after notifying the affected State, de-*
8 *velop and implement measures to cure the inconsist-*
9 *ency pursuant to section 306(b).”.*

10 **SEC. 111. JOINT ENFORCEMENT AGREEMENTS.**

11 (a) *IN GENERAL.—Section 311 (16 U.S.C. 1861) is*
12 *amended—*

13 (1) *by striking “and” after the semicolon in sub-*
14 *section (b)(1)(A)(iv);*

15 (2) *by inserting “and” after the semicolon in*
16 *subsection (b)(1)(A)(v);*

17 (3) *by inserting after clause (v) of subsection*
18 *(b)(1)(A) the following:*

19 *“(vi) access, directly or indirectly, for*
20 *enforcement purposes any data or informa-*
21 *tion required to be provided under this title*
22 *or regulations under this title, including*
23 *data from vessel monitoring systems, sat-*
24 *ellite-based maritime distress and safety*
25 *systems, or any similar system, subject to*

1 *the confidentiality provisions of section*
2 *402;”;*

3 *(4) by redesignating subsection (h) as subsection*
4 *(j); and*

5 *(5) by inserting after subsection (g) the fol-*
6 *lowing:*

7 *“(h) JOINT ENFORCEMENT AGREEMENTS.—*

8 *“(1) IN GENERAL.—The Governor of an eligible*
9 *State may apply to the Secretary for execution of a*
10 *joint enforcement agreement with the Secretary that*
11 *will authorize the deputization and funding of State*
12 *law enforcement officers with marine law enforcement*
13 *responsibilities to perform duties of the Secretary re-*
14 *lating to law enforcement provisions under this title*
15 *or any other marine resource law enforced by the Sec-*
16 *retary. Upon receiving an application meeting the re-*
17 *quirements of this subsection, the Secretary may enter*
18 *into a joint enforcement agreement with the request-*
19 *ing State.*

20 *“(2) ELIGIBLE STATE.—A State is eligible to*
21 *participate in the cooperative enforcement agreements*
22 *under this section if it is in, or bordering on, the At-*
23 *lantic Ocean (including the Caribbean Sea), the Pa-*
24 *cific Ocean, the Arctic Ocean, the Gulf of Mexico,*
25 *Long Island Sound, or 1 or more of the Great Lakes.*

1 “(3) *REQUIREMENTS.*—*Joint enforcement agree-*
2 *ments executed under paragraph (1)—*

3 “(A) *shall be consistent with the purposes*
4 *and intent of this section to the extent applicable*
5 *to the regulated activities;*

6 “(B) *may include specifications for joint*
7 *management responsibilities as provided by the*
8 *first section of Public Law 91–412 (15 U.S.C.*
9 *1525); and*

10 “(C) *shall provide for confidentiality of*
11 *data and information submitted to the State*
12 *under section 402.*

13 “(4) *ALLOCATION OF FUNDS.*—*The Secretary*
14 *shall include in each joint enforcement agreement an*
15 *allocation of funds to assist in management of the*
16 *agreement. The allocation shall be fairly distributed*
17 *among all eligible States participating in cooperative*
18 *enforcement agreements under this subsection, based*
19 *upon consideration of Federal marine enforcement*
20 *needs, the specific marine conservation enforcement*
21 *needs of each participating eligible State, and the ca-*
22 *capacity of the State to undertake the marine enforce-*
23 *ment mission and assist with enforcement needs. The*
24 *agreement may provide for amounts to be withheld by*
25 *the Secretary for the cost of any technical or other as-*

1 *sistance provided to the State by the Secretary under*
2 *the agreement.*

3 “(i) *IMPROVED DATA SHARING.*—

4 “(1) *IN GENERAL.*—*Notwithstanding any other*
5 *provision of this Act, as soon as practicable but no*
6 *later than 21 months after the date of enactment of*
7 *the Magnuson-Stevens Fishery Conservation and*
8 *Management Reauthorization Act of 2006, the Sec-*
9 *retary shall implement data-sharing measures to*
10 *make any data required to be provided by this Act*
11 *from satellite-based maritime distress and safety sys-*
12 *tems, vessel monitoring systems, or similar systems—*

13 “(A) *directly accessible by State enforce-*
14 *ment officers authorized under subsection (a) of*
15 *this section; and*

16 “(B) *available to a State management agen-*
17 *cy involved in, or affected by, management of a*
18 *fishery if the State has entered into an agree-*
19 *ment with the Secretary under section*
20 *402(b)(1)(B) of this Act.*

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

24 “(A) *the Attorney General or highest rank-*
25 *ing legal officer of the State provides a written*

1 *opinion or certification that State law allows the*
2 *State to maintain the confidentiality of informa-*
3 *tion required by Federal law to be kept confiden-*
4 *tial; or*

5 *“(B) the Secretary is provided other reason-*
6 *able assurance that the State can and will pro-*
7 *tect the identity or business of any person to*
8 *which such information relates.”.*

9 **(b) REPORT.**—*Within 15 months after the date of en-*
10 *actment of this Act, the National Marine Fisheries Service*
11 *and the United States Coast Guard shall transmit a joint*
12 *report to the Senate Committee on Commerce, Science, and*
13 *Transportation and the House of Representatives Com-*
14 *mittee on Resources containing—*

15 *(1) a cost-to-benefit analysis of the feasibility,*
16 *value, and cost of using vessel monitoring systems,*
17 *satellite-based maritime distress and safety systems,*
18 *or similar systems for fishery management, conserva-*
19 *tion, enforcement, and safety purposes with the Fed-*
20 *eral government bearing the capital costs of any such*
21 *system;*

22 *(2) an examination of the cumulative impact of*
23 *existing requirements for commercial vessels;*

24 *(3) an examination of whether satellite-based*
25 *maritime distress and safety systems, or similar re-*

1 *quirements would overlap existing requirements or*
2 *render them redundant;*

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

5 *(5) an examination of how to maximize the*
6 *data-sharing opportunities between relevant State*
7 *and Federal agencies and provide specific informa-*
8 *tion on how to develop these opportunities, including*
9 *the provision of direct access to satellite-based mari-*
10 *time distress and safety system or similar system*
11 *data to State enforcement officers, while considering*
12 *the need to maintain or provide an appropriate level*
13 *of individual vessel confidentiality where practicable;*
14 *and*

15 *(6) an assessment of how the satellite-based mar-*
16 *itime distress and safety system or similar systems*
17 *could be developed, purchased, and distributed to reg-*
18 *ulated vessels.*

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

20 *(a) IN GENERAL.—Section 312 (16 U.S.C. 1861a) is*
21 *amended—*

22 *(1) by striking “measures;” in subsection*
23 *(a)(1)(B) and inserting “measures, including regu-*
24 *latory restrictions (including those imposed as a re-*

1 *sult of judicial action) imposed to protect human*
2 *health or the marine environment;”;*

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

5 (3) *by striking “or the Governor of a State for*
6 *fisheries under State authority, may conduct a fish-*
7 *ing” in subsection (b)(1) and inserting “the Governor*
8 *of a State for fisheries under State authority, or a*
9 *majority of permit holders in the fishery, may con-*
10 *duct a voluntary fishing”;*

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

13 (5) *by striking “cost-effective and” in subsection*
14 *(b)(1)(C) and inserting “cost-effective and, in the in-*
15 *stance of a program involving an industry fee system,*
16 *prospectively”;*

17 (6) *by striking subparagraph (A) of subsection*
18 *(b)(2) and inserting the following:*

19 “(A) *the owner of a fishing vessel, if the permit*
20 *authorizing the participation of the vessel in the fish-*
21 *ery is surrendered for permanent revocation and the*
22 *vessel owner and permit holder relinquish any claim*
23 *associated with the vessel or permit that could qualify*
24 *such owner or holder for any present or future limited*
25 *access system permit in the fishery for which the pro-*

1 *gram is established or in any other fishery and such*
2 *vessel is (i) scrapped, or (ii) through the Secretary of*
3 *the department in which the Coast Guard is oper-*
4 *ating, subjected to title restrictions (including loss of*
5 *the vessel's fisheries endorsement) that permanently*
6 *prohibit and effectively prevent its use in fishing in*
7 *federal or state waters, or fishing on the high seas or*
8 *in the waters of a foreign nation; or”;*

9 *(7) by striking “The Secretary shall consult, as*
10 *appropriate, with Councils,” in subsection (b)(4) and*
11 *inserting “The harvester proponents of each program*
12 *and the Secretary shall consult, as appropriate and*
13 *practicable, with Councils,”;*

14 *(8) by adding at the end of subsection (b) the fol-*
15 *lowing:*

16 *“(5) PAYMENT CONDITION.—The Secretary may not*
17 *make a payment under paragraph (2) with respect to a*
18 *vessel that will not be scrapped unless the Secretary certifies*
19 *that the vessel will not be used for fishing in the waters*
20 *of a foreign nation or fishing on the high seas.*

21 *“(6) REPORT.—*

22 *“(A) IN GENERAL.—Subject to the availability of*
23 *funds, the Secretary shall, within 12 months after the*
24 *date of the enactment of the Magnuson-Stevens Fish-*

1 *ery Conservation and Management Reauthorization*
2 *Act of 2006 submit to the Congress a report—*

3 *“(i) identifying and describing the 20 fish-*
4 *eries in United States waters with the most se-*
5 *vere examples of excess harvesting capacity in*
6 *the fisheries, based on value of each fishery and*
7 *the amount of excess harvesting capacity as de-*
8 *termined by the Secretary;*

9 *“(ii) recommending measures for reducing*
10 *such excess harvesting capacity, including the re-*
11 *irement of any latent fishing permits that could*
12 *contribute to further excess harvesting capacity*
13 *in those fisheries; and*

14 *“(iii) potential sources of funding for such*
15 *measures.*

16 *“(B) BASIS FOR RECOMMENDATIONS.—The Sec-*
17 *retary shall base the recommendations made with re-*
18 *spect to a fishery on—*

19 *“(i) the most cost effective means of achiev-*
20 *ing voluntary reduction in capacity for the fish-*
21 *ery using the potential for industry financing;*
22 *and*

23 *“(ii) including measures to prevent the ca-*
24 *capacity that is being removed from the fishery*
25 *from moving to other fisheries in the United*

1 *States, in the waters of a foreign nation, or on*
2 *the high seas.”;*

3 (9) *by striking “Secretary, at the request of the*
4 *appropriate Council,” in subsection (d)(1)(A) and in-*
5 *serting “Secretary”;*

6 (10) *by striking “Secretary, in consultation with*
7 *the Council,” in subsection (d)(1)(A) and inserting*
8 *“Secretary”;*

9 (11) *by striking “a two-thirds majority of the*
10 *participants voting.” in subsection (d)(1)(B) and in-*
11 *serting “at least a majority of the permit holders in*
12 *the fishery, or 50 percent of the permitted allocation*
13 *of the fishery, who participated in the fishery.”;*

14 (12) *by striking “establish;” in subsection*
15 *(d)(2)(C) and inserting “establish, unless the Sec-*
16 *retary determines that such fees should be collected*
17 *from the seller;” and*

18 (13) *striking subsection (e) and inserting the fol-*
19 *lowing:*

20 “(e) *IMPLEMENTATION PLAN.—*

21 “(1) *FRAMEWORK REGULATIONS.—The Secretary*
22 *shall propose and adopt framework regulations appli-*
23 *cable to the implementation of all programs under*
24 *this section.*

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

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

13 “(A) *proposes the types and numbers of ves-*
14 *sels or permits that are eligible to participate in*
15 *the program and the manner in which the pro-*
16 *gram shall proceed, taking into account—*

17 “(i) *the requirements of this section;*

18 “(ii) *the requirements of the framework*
19 *regulations;*

20 “(iii) *the characteristics of the fishery*
21 *and affected fishing communities;*

22 “(iv) *the requirements of the applicable*
23 *fishery management plan and any amend-*
24 *ment that such plan may require to support*
25 *the proposed program;*

1 “(v) *the general needs and desires of*
2 *harvesters in the fishery;*

3 “(vi) *the need to minimize program*
4 *costs; and*

5 “(vii) *other matters, including the*
6 *manner in which such proponents propose*
7 *to fund the program to ensure its cost effec-*
8 *tiveness, as well as any relevant factors*
9 *demonstrating the potential for, or nec-*
10 *essary to obtain, the support and general*
11 *cooperation of a substantial number of af-*
12 *ected harvesters in the fishery (or portion*
13 *of the fishery) for which the program is in-*
14 *tended; and*

15 “(B) *proposes procedures for program par-*
16 *ticipation (such as submission of owner bids*
17 *under an auction system or fair market-value as-*
18 *essment), including any terms and conditions*
19 *for participation, that the harvester proponents*
20 *deem to be reasonably necessary to meet the pro-*
21 *gram’s proposed objectives.*

22 “(4) *PARTICIPATION CONTRACTS.—The Secretary*
23 *shall contract with each person participating in a*
24 *program, and each such contract shall, in addition to*
25 *including such other matters as the Secretary deems*

1 *necessary and appropriate to effectively implement*
2 *each program (including penalties for contract non-*
3 *performance) be consistent with the framework and*
4 *implementing regulations and all other applicable*
5 *law.*

6 “(5) *REDUCTION AUCTIONS.*—*Each program not*
7 *involving fair market assessment shall involve a re-*
8 *duction auction that scores the reduction price of each*
9 *bid offer by the data relevant to each bidder under an*
10 *appropriate fisheries productivity factor. If the Sec-*
11 *retary accepts bids, the Secretary shall accept respon-*
12 *sive bids in the rank order of their bid scores, starting*
13 *with the bid whose reduction price is the lowest per-*
14 *centage of the productivity factor, and successively ac-*
15 *cepting each additional responsive bid in rank order*
16 *until either there are no more responsive bids or ac-*
17 *ceptance of the next bid would cause the total value*
18 *of bids accepted to exceed the amount of funds avail-*
19 *able for the program.*

20 “(6) *BID INVITATIONS.*—*Each program shall*
21 *proceed by the Secretary issuing invitations to bid*
22 *setting out the terms and conditions for participation*
23 *consistent with the framework and implementing reg-*
24 *ulations. Each bid that the Secretary receives in re-*

1 *sponse to the invitation to bid shall constitute an ir-*
 2 *revocable offer from the bidder.”.*

3 *(b) TECHNICAL AMENDMENT.—Sections 116, 203, 204,*
 4 *205, and 206 of the Sustainable Fisheries Act are deemed*
 5 *to have added sections 312, 402, 403, 404, and 405, respec-*
 6 *tively to the Act as of the date of enactment of the Sustain-*
 7 *able Fisheries Act.*

8 **SEC. 113. REGIONAL COASTAL DISASTER ASSISTANCE,**
 9 **TRANSITION, AND RECOVERY PROGRAM.**

10 *(a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.)*
 11 *is amended by adding at the end the following:*

12 **“SEC. 315. REGIONAL COASTAL DISASTER ASSISTANCE,**
 13 **TRANSITION, AND RECOVERY PROGRAM.**

14 *“(a) IN GENERAL.—When there is a catastrophic re-*
 15 *gional fishery disaster the Secretary may, upon the request*
 16 *of, and in consultation with, the Governors of affected*
 17 *States, establish a regional economic transition program to*
 18 *provide immediate disaster relief assistance to the fisher-*
 19 *men, charter fishing operators, United States fish proc-*
 20 *essors, and owners of related fishery infrastructure affected*
 21 *by the disaster.*

22 *“(b) PROGRAM COMPONENTS.—*

23 *“(1) IN GENERAL.—Subject to the availability of*
 24 *appropriations, the program shall provide funds or*
 25 *other economic assistance to affected entities, or to*

1 *governmental entities for disbursement to affected en-*
2 *tities, for—*

3 *“(A) meeting immediate regional shoreside*
4 *fishery infrastructure needs, including processing*
5 *facilities, cold storage facilities, ice houses, docks,*
6 *including temporary docks and storage facilities,*
7 *and other related shoreside fishery support facili-*
8 *ties and infrastructure while ensuring that those*
9 *projects will not result in an increase or replace-*
10 *ment of fishing capacity;*

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

16 *“(C) funding, pursuant to the requirements*
17 *of section 312(b), to fishermen who are willing to*
18 *scrap a fishing vessel and permanently surrender*
19 *permits for fisheries named on that vessel; and*

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

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

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

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

17 “(A) *no reasonable means are available*
18 *through which applicants can meet the matching*
19 *requirement; and*

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

23 “(5) *NET REVENUE LIMIT INAPPLICABLE.*—*Sec-*
24 *tion 308(d)(3) of the Interjurisdictional Fisheries Act*

1 *(16 U.S.C. 4107(d)(3)) shall not apply to assistance*
2 *under this section.*

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

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

19 “(1) *results in economic losses to coastal or fish-*
20 *ing communities;*

21 “(2) *affects more than 1 State or a major fishery*
22 *managed by a Council or interstate fishery commis-*
23 *sion; and*

24 “(3) *is determined by the Secretary to be a com-*
25 *mercial fishery failure under section 312(a) of this*

1 *Act or a fishery resource disaster or section 308(d) of*
2 *the Interjurisdictional Fisheries Act of 1986 (16*
3 *U.S.C. 4107(d)).”.*

4 *(b) SALMON PLAN AND STUDY.—*

5 *(1) RECOVERY PLAN.—Not later than 6 months*
6 *after the date of enactment of this Act, the Secretary*
7 *of Commerce shall complete a recovery plan for Klam-*
8 *ath River Coho salmon and make it available to the*
9 *public.*

10 *(2) ANNUAL REPORT.—Not later than 2 years*
11 *after the date of enactment of this Act, and annually*
12 *thereafter, the Secretary of Commerce shall submit a*
13 *report to the Senate Committee on Commerce,*
14 *Science, and Transportation and the House of Rep-*
15 *resentatives Committee on Resources on—*

16 *(A) the actions taken under the recovery*
17 *plan and other law relating to recovery of Klam-*
18 *ath River Coho salmon, and how those actions*
19 *are specifically contributing to its recovery;*

20 *(B) the progress made on the restoration of*
21 *salmon spawning habitat, including water con-*
22 *ditions as they relate to salmon health and recov-*
23 *ery, with emphasis on the Klamath River and its*
24 *tributaries below Iron Gate Dam;*

1 (C) *the status of other Klamath River anad-*
 2 *romous fish populations, particularly Chinook*
 3 *salmon; and*

4 (D) *the actions taken by the Secretary to*
 5 *address the calendar year 2003 National Re-*
 6 *search Council recommendations regarding mon-*
 7 *itoring and research on Klamath River Basin*
 8 *salmon stocks.*

9 (c) **OREGON AND CALIFORNIA SALMON FISHERY.**—
 10 *Federally recognized Indian tribes and small businesses, in-*
 11 *cluding fishermen, fish processors, and related businesses*
 12 *servicing the fishing industry, adversely affected by Federal*
 13 *closures and fishing restrictions in the Oregon and Cali-*
 14 *fornia 2006 fall Chinook salmon fishery are eligible to re-*
 15 *ceive direct assistance under section 312(a) of the Magnu-*
 16 *son-Stevens Fishery Conservation and Management Act (16*
 17 *U.S.C. 1861a(a)) and section 308(d) of the Interjurisdic-*
 18 *tional Fisheries Act of 1986 (16 U.S.C. 4107(d)). The Sec-*
 19 *retary may use no more than 4 percent of any monetary*
 20 *assistance to pay for administrative costs.*

21 **SEC. 114. FISHERY FINANCE PROGRAM HURRICANE ASSIST-**
 22 **ANCE.**

23 (a) **LOAN ASSISTANCE.**—*Subject to availability of ap-*
 24 *propriations, the Secretary of Commerce shall provide as-*
 25 *sistance to eligible holders of fishery finance program loans*

1 *and allocate such assistance among eligible holders based*
2 *upon their outstanding principal balances as of December*
3 *2, 2005, for any of the following purposes:*

4 (1) *To defer principal payments on the debt for*
5 *1 year and re-amortize the debt over the remaining*
6 *term of the loan.*

7 (2) *To allow for an extension of the term of the*
8 *loan for up to 1 year beyond the remaining term of*
9 *the loan, or September 30, 2013, whichever is later.*

10 (3) *To pay the interest costs for such loans over*
11 *fiscal years 2007 through 2013, not to exceed amounts*
12 *authorized under subsection (d).*

13 (4) *To provide opportunities for loan forgiveness,*
14 *as specified in subsection (c).*

15 (b) *LOAN FORGIVENESS.—Upon application made by*
16 *an eligible holder of a fishery finance program loan, made*
17 *at such time, in such manner, and containing such infor-*
18 *mation as the Secretary may require, the Secretary, on a*
19 *calendar year basis beginning in 2005, may, with respect*
20 *to uninsured losses—*

21 (1) *offset against the outstanding balance on the*
22 *loan an amount equal to the sum of the amounts ex-*
23 *pended by the holder during the calendar year to re-*
24 *pair or replace covered vessels or facilities, or to in-*

1 *vest in new fisheries infrastructure within or for use*
2 *within the declared fisheries disaster area; or*

3 (2) *cancel the amount of debt equal to 100 hun-*
4 *dred percent of actual expenditures on eligible re-*
5 *pairs, reinvestment, expansion, or new investment in*
6 *fisheries infrastructure in the disaster region, or re-*
7 *pairs to, or replacement of, eligible fishing vessels.*

8 (c) *DEFINITIONS.—In this section:*

9 (1) *DECLARED FISHERIES DISASTER AREA.—The*
10 *term “declared fisheries disaster area” means fisheries*
11 *located in the major disaster area designated by the*
12 *President under the Robert T. Stafford Disaster Relief*
13 *and Emergency Assistance Act (42 U.S.C. 5121 et*
14 *seq.) as a result of Hurricane Katrina or Hurricane*
15 *Rita.*

16 (2) *ELIGIBLE HOLDER.—The term “eligible hold-*
17 *er” means the holder of a fishery finance program*
18 *loan if—*

19 (A) *that loan is used to guarantee or fi-*
20 *nance any fishing vessel or fish processing facil-*
21 *ity home-ported or located within the declared*
22 *fisheries disaster area; and*

23 (B) *the holder makes expenditures to repair*
24 *or replace such covered vessels or facilities, or in-*
25 *vests in new fisheries infrastructure within or for*

1 *use within the declared fisheries disaster area, to*
2 *restore such facilities following the disaster.*

3 (3) *FISHERY FINANCE PROGRAM LOAN.*—*The*
4 *term “fishery finance program loan” means a loan*
5 *made or guaranteed under the fishery finance pro-*
6 *gram under chapter 537 of title 46, United States*
7 *Code.*

8 (d) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
9 *authorized to be appropriated to the Secretary of Commerce*
10 *for the purposes of this section not more than \$15,000,000*
11 *for each eligible holder for the period beginning with fiscal*
12 *year 2007 through fiscal year 2013.*

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

14 (a) *IN GENERAL.*—*The Secretary of Commerce shall*
15 *establish an assistance program for the Gulf of Mexico com-*
16 *mercial and recreational fishing industry.*

17 (b) *ALLOCATION OF FUNDS.*—*Under the program, the*
18 *Secretary shall allocate funds appropriated to carry out the*
19 *program among the States of Alabama, Louisiana, Florida,*
20 *Mississippi, and Texas in proportion to the percentage of*
21 *the fishery (including crawfish) catch landed by each State*
22 *before August 29, 2005, except that the amount allocated*
23 *to Florida shall be based exclusively on the proportion of*
24 *such catch landed by the Florida Gulf Coast fishery.*

1 (c) *USE OF FUNDS.*—*Of the amounts made available*
2 *to each State under the program—*

3 (1) *2 percent shall be retained by the State to be*
4 *used for the distribution of additional payments to*
5 *fishermen with a demonstrated record of compliance*
6 *with turtle excluder and bycatch reduction device reg-*
7 *ulations; and*

8 (2) *the remainder of the amounts shall be used*
9 *for—*

10 (A) *personal assistance, with priority given*
11 *to food, energy needs, housing assistance, trans-*
12 *portation fuel, and other urgent needs;*

13 (B) *assistance for small businesses, includ-*
14 *ing fishermen, fish processors, and related busi-*
15 *nesses serving the fishing industry;*

16 (C) *domestic product marketing and seafood*
17 *promotion;*

18 (D) *State seafood testing programs;*

19 (E) *the development of limited entry pro-*
20 *grams for the fishery;*

21 (F) *funding or other incentives to ensure*
22 *widespread and proper use of turtle excluder de-*
23 *vices and bycatch reduction devices in the fish-*
24 *ery; and*

1 (G) *voluntary capacity reduction programs*
2 *for shrimp fisheries under limited access pro-*
3 *grams.*

4 (d) *AUTHORIZATION OF APPROPRIATIONS.—There are*
5 *authorized to be appropriated to the Secretary of Commerce*
6 *\$17,500,000 for each of fiscal years 2007 through 2012 to*
7 *carry out this section.*

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

9 (a) *IN GENERAL.—Title III (16 U.S.C. 1851 et seq.),*
10 *as amended by section 113 of this Act, is further amended*
11 *by adding at the end the following:*

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

13 “(a) *BYCATCH REDUCTION ENGINEERING PRO-*
14 *GRAM.—Not later than 1 year after the date of enactment*
15 *of the Magnuson-Stevens Fishery Conservation and Man-*
16 *agement Reauthorization Act of 2006, the Secretary, in co-*
17 *operation with the Councils and other affected interests, and*
18 *based upon the best scientific information available, shall*
19 *establish a bycatch reduction program, including grants, to*
20 *develop technological devices and other conservation engi-*
21 *neering changes designed to minimize bycatch, seabird*
22 *interactions, bycatch mortality, and post-release mortality*
23 *in Federally managed fisheries. The program shall—*

24 “(1) *be regionally based;*

1 “(2) be coordinated with projects conducted
2 under the cooperative research and management pro-
3 gram established under this Act;

4 “(3) provide information and outreach to fishery
5 participants that will encourage adoption and use of
6 technologies developed under the program; and

7 “(4) provide for routine consultation with the
8 Councils in order to maximize opportunities to incor-
9 porate results of the program in Council actions and
10 provide incentives for adoption of methods developed
11 under the program in fishery management plans de-
12 veloped by the Councils.

13 “(b) *INCENTIVES*.—Any fishery management plan pre-
14 pared by a Council or by the Secretary may establish a
15 system of incentives to reduce total bycatch and seabird
16 interactions, amounts, bycatch rates, and post-release mor-
17 tality in fisheries under the Council’s or Secretary’s juris-
18 diction, including—

19 “(1) measures to incorporate bycatch into quotas,
20 including the establishment of collective or individual
21 bycatch quotas;

22 “(2) measures to promote the use of gear with
23 verifiable and monitored low bycatch and seabird
24 interactions, rates; and

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

5 “(c) *COORDINATION ON SEABIRD INTERACTIONS.*—The
6 Secretary, in coordination with the Secretary of Interior,
7 is authorized to undertake projects in cooperation with in-
8 dustry to improve information and technology to reduce
9 seabird bycatch, including—

10 “(1) outreach to industry on new technologies
11 and methods;

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

14 “(3) actions at appropriate international fishery
15 organizations to reduce seabird interactions in fish-
16 eries.

17 “(d) *REPORT.*—The Secretary shall transmit an an-
18 nual report to the Senate Committee on Commerce, Science,
19 and Transportation and the House of Representatives Com-
20 mittee on Resources that—

21 “(1) describes funding provided to implement
22 this section;

23 “(2) describes developments in gear technology
24 achieved under this section; and

1 “(3) describes improvements and reduction in
2 bycatch and seabird interactions associated with im-
3 plementing this section, as well as proposals to ad-
4 dress remaining bycatch or seabird interaction prob-
5 lems.”.

6 (b) CDQ BYCATCH LIMITATIONS.—

7 (1) IN GENERAL.—Section 305(i) (16 U.S.C.
8 1855(i)) is amended—

9 (A) by striking “directed fishing allocation”
10 and all that follows in paragraph (1)(B)(ii)(I),
11 and inserting “total allocation (directed and
12 nontarget combined) of 10.7 percent effective
13 January 1, 2008; and”;

14 (B) by striking “directed fishing allocation
15 of 10 percent.” in paragraph (1)(B)(ii)(II) and
16 inserting “total allocation (directed and nontar-
17 get combined) of 10.7 percent.”;

18 (C) by inserting after paragraph (1)(B)(ii)
19 the following:

20 “The total allocation (directed and nontar-
21 get combined) for a fishery to which sub-
22 clause (I) or (II) applies may not be exceed-
23 ed.”; and

24 (D) by inserting “Voluntary transfers by
25 and among eligible entities shall be allowed,

1 *whether before or after harvesting. Notwith-*
2 *standing the first sentence of this subparagraph,*
3 *seven-tenths of one percent of the total allowable*
4 *catch, guideline harvest level, or other annual*
5 *catch limit, within the amount allocated to the*
6 *program by subclause (I) or subclause (II) of*
7 *subparagraph (B)(ii), shall be allocated among*
8 *the eligible entities by the panel established in*
9 *subparagraph (G), or allocated by the Secretary*
10 *based on the nontarget needs of eligible entities*
11 *in the absence of a panel decision.” after “2006.”*
12 *in paragraph (1)(C) .*

13 (2) *EFFECTIVE DATE.*—*The allocation percentage*
14 *in subclause (I) of section 305(i)(1)(B)(ii) of the Mag-*
15 *nuson-Stevens Fishery Conservation and Management*
16 *Act (16 U.S.C. 1855(i)(1)(B)(ii)), as amended by*
17 *paragraph (1) of this subsection, shall be in effect in*
18 *2007 with respect to any sector of a fishery to which*
19 *such subclause applies and in which a fishing cooper-*
20 *ative is established in 2007, and such sector’s 2007 al-*
21 *location shall be reduced by a pro rata amount to ac-*
22 *complish such increased allocation to the program.*
23 *For purposes of section 305(i)(1) of that Act and of*
24 *this subsection, the term “fishing cooperative” means*
25 *a fishing cooperative whether or not authorized by a*

1 *fishery management council or Federal agency, if a*
2 *majority of the participants in the sector are partici-*
3 *pants in the fishing cooperative.*

4 **SEC. 117. COMMUNITY-BASED RESTORATION PROGRAM FOR**
5 **FISHERY AND COASTAL HABITATS.**

6 *(a) IN GENERAL.—The Secretary of Commerce shall*
7 *establish a community-based fishery and coastal habitat*
8 *restoration program to implement and support the restora-*
9 *tion of fishery and coastal habitats.*

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

12 *(1) provide funding and technical expertise to*
13 *fishery and coastal communities to assist them in re-*
14 *storing fishery and coastal habitat;*

15 *(2) advance the science and monitoring of coast-*
16 *al habitat restoration;*

17 *(3) transfer restoration technologies to the pri-*
18 *rate sector, the public, and other governmental agen-*
19 *cies;*

20 *(4) develop public-private partnerships to accom-*
21 *plish sound coastal restoration projects;*

22 *(5) promote significant community support and*
23 *volunteer participation in fishery and coastal habitat*
24 *restoration;*

1 (6) *promote stewardship of fishery and coastal*
2 *habitats; and*

3 (7) *leverage resources through national, regional,*
4 *and local public-private partnerships.*

5 **SEC. 118. PROHIBITED ACTS.**

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

7 (1) *by striking “or” after the semicolon in sub-*
8 *paragraph (O);*

9 (2) *by striking “carcass.” in subparagraph (P)*
10 *and inserting “carcass;”; and*

11 (3) *by inserting after subparagraph (P) and be-*
12 *fore the last sentence the following:*

13 *“(Q) to import, export, transport, sell, re-*
14 *ceive, acquire, or purchase in interstate or for-*
15 *ign commerce any fish taken, possessed, trans-*
16 *ported, or sold in violation of any foreign law or*
17 *regulation; or*

18 *“(R) to use any fishing vessel to engage in*
19 *fishing in Federal or State waters, or on the high*
20 *seas or in the waters of another country, after*
21 *the Secretary has made a payment to the owner*
22 *of that fishing vessel under section 312(b)(2).”.*

1 **SEC. 119. SHARK FEEDING.**

2 *Title III (16 U.S.C. 1851 et seq.), as amended by sec-*
3 *tion 116 of this Act, is further amended by adding at the*
4 *end the following:*

5 **“SEC. 317. SHARK FEEDING.**

6 *“Except to the extent determined by the Secretary, or*
7 *under State law, as presenting no public health hazard or*
8 *safety risk, or when conducted as part of a research pro-*
9 *gram funded in whole or in part by appropriated funds,*
10 *it is unlawful to introduce, or attempt to introduce, food*
11 *or any other substance into the water to attract sharks for*
12 *any purpose other than to harvest sharks within the Exclu-*
13 *sive Economic Zone seaward of the State of Hawaii and*
14 *of the Commonwealths, territories, and possessions of the*
15 *United States in the Pacific Ocean Area.”.*

16 **SEC. 120. CLARIFICATION OF FLEXIBILITY.**

17 *(a) IN GENERAL.—The Secretary of Commerce has the*
18 *discretion under the Magnuson-Stevens Fishery Conserva-*
19 *tion and Management Act (16 U.S.C. 1851 et seq.) to extend*
20 *the time for rebuilding the summer flounder fishery to not*
21 *later than January 1, 2013, only if—*

22 *(1) the Secretary has determined that—*

23 *(A) overfishing is not occurring in the fish-*
24 *ery and that a mechanism is in place to ensure*
25 *overfishing does not occur in the fishery; and*

26 *(B) stock biomass levels are increasing;*

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

4 (3) *the extension period is based on the status*
5 *and biology of the stock and the rate of rebuilding;*

6 (4) *monitoring will ensure rebuilding continues;*

7 (5) *the extension meets the requirements of sec-*
8 *tion 301(a)(1) of that Act (16 U.S.C. 1851(a)(1));*
9 *and*

10 (6) *the best scientific information available*
11 *shows that the extension will allow continued rebuild-*
12 *ing.*

13 **(b) AUTHORITY.**—*Nothing in this section shall be con-*
14 *strued to amend the Magnuson-Stevens Fishery Conserva-*
15 *tion and Management Act (16 U.S.C. 1851 et seq.) or to*
16 *limit or otherwise alter the authority of the Secretary under*
17 *that Act concerning other species.*

18 **SEC. 121. SOUTHEAST ALASKA FISHERIES COMMUNITIES**

19 **CAPACITY REDUCTION.**

20 *Section 209 of the Department of Commerce and Re-*
21 *lated Agencies Appropriations Act, 2005 (Pub. L. 108–447;*
22 *118 Stat. 2884) is amended—*

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

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

3 (3) by striking “\$50,000,000” and all that fol-
4 lows in the first sentence and inserting “up to
5 \$25,000,000 pursuant to section 57735 of title 46,
6 United States Code.”;

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

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

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

11 “(1) *CONDUCT OF PROGRAM BY RSA.*—The pro-
12 gram described in subsection (a) shall be conducted
13 under Alaska law by the Southeast Revitalization As-
14 sociation.

15 “(2) *TREATMENT UNDER CHAPTER 577 OF TITLE*
16 *46.*—For purposes of section 57735 of title 46, United
17 States Code, the program shall be considered to be a
18 program established under section 312 of the Magnu-
19 son-Stevens Fishery Conservation and Management
20 Act (16 U.S.C. 1861a).

21 “(3) *APPLICATION OF MAGNUSON-STEVENSON*
22 *ACT.*—Notwithstanding paragraph (2), the program
23 shall not be subject to section 312 of the Magnuson-
24 Stevens Fishery Conservation and Management Act

1 *(16 U.S.C. 1861a), except for subsections (b)(1)(C)*
2 *and (d) of that section.*

3 “(c) *SOUTHEAST ALASKA FISHERIES PROGRAM AP-*
4 *PROVAL AND REFERENDUM.—*

5 “(1) *IN GENERAL.—The Secretary of Commerce*
6 *may approve a capacity reduction plan submitted by*
7 *the Southeast Revitalization Association under sub-*
8 *section (b).*

9 “(2) *REFERENDUM.—The Secretary shall con-*
10 *duct an industry fee system referendum for the*
11 *buyback under the program in accordance with sec-*
12 *tion 312(d)(1) of the Magnuson-Stevens Fishery Con-*
13 *servation and Management Act (16 U.S.C. 1861a),*
14 *except that—*

15 “(A) *no Council request and no consultation*
16 *shall be required; and*

17 “(B) *the fee shall not exceed 3 percent of the*
18 *annual ex-vessel value of all salmon harvested in*
19 *the southeast Alaska purse seine fishery.*

20 “(d) *DISBURSAL OF LOAN PROCEEDS.—If the indus-*
21 *try fee system is approved as provided in section*
22 *312(d)(1)(B) of that Act (16 U.S.C. 1861a(d)(1)(B)), the*
23 *Secretary shall disburse the loan in the form of reduction*
24 *payments to participants in such amounts as the Southeast*
25 *Revitalization Association certifies to have been accepted*

1 *under Alaska law for reduction payments. The Secretary*
2 *shall thereafter administer the fee system in accordance*
3 *with section 312(d)(2) of that Act (16 U.S.C. 1861a(d)(2)),*
4 *and any person paying or collecting the fee shall make such*
5 *payments or collection such fees in accordance with the re-*
6 *quirements of that Act (16 U.S.C. 1801 et seq.)”.*

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

8 (a) *IN GENERAL.*—

9 (1) *AMENDMENT OF PLAN.*—Not later than 90
10 days after the date of enactment of this Act, the Sec-
11 retary of Commerce shall amend the fishery manage-
12 ment plan for the Bering Sea/Aleutian Islands King
13 and Tanner Crabs for the Northern Region (as that
14 term is used in the plan) to authorize—

15 (A) *an eligible entity holding processor*
16 *quota shares to elect on an annual basis to work*
17 *together with other entities holding processor*
18 *quota shares and affiliated with such eligible en-*
19 *tity through common ownership to combine any*
20 *catcher vessel quota shares for the Northern Re-*
21 *gion with their processor quota shares and to ex-*
22 *change them for newly created catcher/processor*
23 *owner quota shares for the Northern Region; and*

24 (B) *an eligible entity holding catcher vessel*
25 *quota shares to elect on an annual basis to work*

1 *together with other entities holding catcher vessel*
2 *quota shares and affiliated with such eligible en-*
3 *tity through common ownership to combine any*
4 *processor quota shares for the Northern Region*
5 *with their catcher vessel quota shares and to ex-*
6 *change them for newly created catcher/processor*
7 *owner quota shares for the Northern Region.*

8 (2) *ELIGIBILITY AND LIMITATIONS.—*

9 *(A) The authority provided in paragraph*
10 (1)(A) *shall—*

11 *(i)(I) apply only to an entity which*
12 *was initially awarded both catcher/processor*
13 *owner quota shares, and processor quota*
14 *shares under the plan (in combination with*
15 *the processor quota shares of its commonly*
16 *owned affiliates) of less than 7 percent of*
17 *the Bering Sea/Aleutian Island processor*
18 *quota shares; or*

19 *(II) apply only to an entity which was*
20 *initially awarded both catcher/processor*
21 *owner quota shares under the plan and*
22 *processor quota shares under section 417(a)*
23 *of the Coast Guard and Maritime Transpor-*
24 *tation Act of 2006 (Public Law 109–241;*
25 *120 Stat. 546);*

1 (ii) be limited to processor quota
2 shares initially awarded to such entities
3 and their commonly owned affiliates under
4 the plan or section 417(a) of that Act; and

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

7 (B) The authority provided in paragraph
8 (1)(B) shall—

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

17 (ii) be limited to catcher vessel quota
18 shares initially awarded to such entity and
19 its commonly owned affiliates; and

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

22 (3) EXCHANGE RATE.—The entities referred to in
23 paragraph (1) shall receive under the amendment 1
24 unit of newly created catcher/processor owner quota

1 *shares in exchange for 1 unit of catcher vessel owner*
2 *quota shares and 0.9 units of processor quota shares.*

3 (4) *AREA OF VALIDITY.*—*Each unit of newly cre-*
4 *ated catcher/processor owner quota shares under this*
5 *subsection shall only be valid for the Northern Region.*

6 (b) *FEES.*—

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

17 (2) *STATE FEE.*—*The State of Alaska may col-*
18 *lect from the holder of the newly created catcher/proc-*
19 *essor owner quota shares under subsection (a) a fee of*
20 *1 percent of the ex-vessel value of the crab harvested*
21 *pursuant to those shares.*

22 (c) *OFF-LOADING REQUIREMENT.*—*Crab harvested*
23 *pursuant to catcher/processor owner quota shares created*
24 *under this subsection shall be off-loaded in those commu-*

1 *nities receiving the local governmental entities fee revenue*
2 *set forth in subsection (b)(1).*

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

11 (e) *USE CAPS.*—

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

19 (2) *SHORE-BASED CRAB PROCESSOR DEFINED.*—
20 *In this paragraph, the term “shore-based crab proc-*
21 *essor” means any person or vessel that receives, pur-*
22 *chases, or arranges to purchase unprocessed crab, that*
23 *is located on shore or moored within the harbor.*

1 **TITLE II—INFORMATION AND**
2 **RESEARCH**

3 **SEC. 201. RECREATIONAL FISHERIES INFORMATION.**

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

6 “(g) *RECREATIONAL FISHERIES.*—

7 “(1) *FEDERAL PROGRAM.*—*The Secretary shall*
8 *establish and implement a regionally based registry*
9 *program for recreational fishermen in each of the 8*
10 *fishery management regions. The program, which*
11 *shall not require a fee before January 1, 2011, shall*
12 *provide for—*

13 “(A) *the registration (including identifica-*
14 *tion and contact information) of individuals who*
15 *engage in recreational fishing—*

16 “(i) *in the Exclusive Economic Zone;*

17 “(ii) *for anadromous species; or*

18 “(iii) *for Continental Shelf fishery re-*
19 *sources beyond the Exclusive Economic*
20 *Zone; and*

21 “(B) *if appropriate, the registration (in-*
22 *cluding the ownership, operator, and identifica-*
23 *tion of the vessel) of vessels used in such fishing.*

24 “(2) *STATE PROGRAMS.*—*The Secretary shall ex-*
25 *empt from registration under the program rec-*

1 *reational fishermen and charter fishing vessels li-*
2 *icensed, permitted, or registered under the laws of a*
3 *State if the Secretary determines that information*
4 *from the State program is suitable for the Secretary’s*
5 *use or is used to assist in completing marine rec-*
6 *reational fisheries statistical surveys, or evaluating*
7 *the effects of proposed conservation and management*
8 *measures for marine recreational fisheries.*

9 “(3) *DATA COLLECTION.—*

10 “(A) *IMPROVEMENT OF THE MARINE REC-*
11 *REATIONAL FISHERY STATISTICS SURVEY.—*

12 *Within 24 months after the date of enactment of*
13 *the Magnuson-Stevens Fishery Conservation and*
14 *Management Reauthorization Act of 2006, the*
15 *Secretary, in consultation with representatives of*
16 *the recreational fishing industry and experts in*
17 *statistics, technology, and other appropriate*
18 *fields, shall establish a program to improve the*
19 *quality and accuracy of information generated*
20 *by the Marine Recreational Fishery Statistics*
21 *Survey, with a goal of achieving acceptable accu-*
22 *racy and utility for each individual fishery.*

23 “(B) *NRC REPORT RECOMMENDATIONS.—*

24 *The program shall take into consideration and,*
25 *to the extent feasible, implement the rec-*

1 *ommendations of the National Research Council*
2 *in its report Review of Recreational Fisheries*
3 *Survey Methods (2006), including—*

4 *“(i) redesigning the Survey to improve*
5 *the effectiveness and appropriateness of*
6 *sampling and estimation procedures, its ap-*
7 *plicability to various kinds of management*
8 *decisions, and its usefulness for social and*
9 *economic analyses; and*

10 *“(ii) providing for ongoing technical*
11 *evaluation and modification as needed to*
12 *meet emerging management needs.*

13 *“(C) METHODOLOGY.—Unless the Secretary*
14 *determines that alternate methods will achieve*
15 *this goal more efficiently and effectively, the pro-*
16 *gram shall, to the extent possible, include—*

17 *“(i) an adequate number of intercepts*
18 *to accurately estimate recreational catch*
19 *and effort;*

20 *“(ii) use of surveys that target anglers*
21 *registered or licensed at the State or Federal*
22 *level to collect participation and effort data;*

23 *“(iii) collection and analysis of vessel*
24 *trip report data from charter fishing vessels;*

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

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

14 “(D) DEADLINE.—The Secretary shall com-
15 plete the program under this paragraph and im-
16 plement the improved Marine Recreational Fish-
17 ery Statistics Survey not later than January 1,
18 2009.

19 “(4) REPORT.—Within 24 months after estab-
20 lishment of the program, the Secretary shall submit
21 a report to Congress that describes the progress made
22 toward achieving the goals and objectives of the pro-
23 gram.”.

24 **SEC. 202. COLLECTION OF INFORMATION.**

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

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

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

7 (3) by inserting “(1) COUNCIL REQUESTS.—” be-
8 fore “If a Council”;

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

11 (5) by striking “(other than information that
12 would disclose proprietary or confidential commercial
13 or financial information regarding fishing operations
14 or fish processing operations)” each place it appears;
15 and

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

17 “(2) SECRETARIAL INITIATION.—If the Secretary
18 determines that additional information is necessary
19 for developing, implementing, revising, or monitoring
20 a fishery management plan, or for determining
21 whether a fishery is in need of management, the Sec-
22 retary may, by regulation, implement an information
23 collection or observer program requiring submission of
24 such additional information for the fishery.”.

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

2 (a) *IN GENERAL.*—Section 402(b) (16 U.S.C.
3 1881a(b)) is amended—

4 (1) *by redesignating paragraph (2) as para-*
5 *graph (3) and resetting it 2 ems from the left margin;*

6 (2) *by striking all preceding paragraph (3), as*
7 *redesignated, and inserting the following:*

8 “(b) *CONFIDENTIALITY OF INFORMATION.*—

9 “(1) *Any information submitted to the Secretary,*
10 *a State fishery management agency, or a marine fish-*
11 *eries commission by any person in compliance with*
12 *the requirements of this Act shall be confidential and*
13 *shall not be disclosed except—*

14 “(A) *to Federal employees and Council em-*
15 *ployees who are responsible for fishery manage-*
16 *ment plan development, monitoring, or enforce-*
17 *ment;*

18 “(B) *to State or Marine Fisheries Commis-*
19 *sion employees as necessary to further the De-*
20 *partment’s mission, subject to a confidentiality*
21 *agreement that prohibits public disclosure of the*
22 *identity of business of any person;*

23 “(C) *to State employees who are responsible*
24 *for fishery management plan enforcement, if the*
25 *States employing those employees have entered*

1 *into a fishery enforcement agreement with the*
2 *Secretary and the agreement is in effect;*

3 *“(D) when required by court order;*

4 *“(E) when such information is used by*
5 *State, Council, or Marine Fisheries Commission*
6 *employees to verify catch under a limited access*
7 *program, but only to the extent that such use is*
8 *consistent with subparagraph (B);*

9 *“(F) when the Secretary has obtained writ-*
10 *ten authorization from the person submitting*
11 *such information to release such information to*
12 *persons for reasons not otherwise provided for in*
13 *this subsection, and such release does not violate*
14 *other requirements of this Act;*

15 *“(G) when such information is required to*
16 *be submitted to the Secretary for any determina-*
17 *tion under a limited access program; or*

18 *“(H) in support of homeland and national*
19 *security activities, including the Coast Guard’s*
20 *homeland security missions as defined in section*
21 *888(a)(2) of the Homeland Security Act of 2002*
22 *(6 U.S.C. 468(a)(2)).*

23 *“(2) Any observer information shall be confiden-*
24 *tial and shall not be disclosed, except in accordance*

1 *with the requirements of subparagraphs (A) through*
2 *(H) of paragraph (1), or—*

3 *“(A) as authorized by a fishery manage-*
4 *ment plan or regulations under the authority of*
5 *the North Pacific Council to allow disclosure to*
6 *the public of weekly summary bycatch informa-*
7 *tion identified by vessel or for haul-specific by-*
8 *catch information without vessel identification;*

9 *“(B) when such information is necessary in*
10 *proceedings to adjudicate observer certifications;*
11 *or*

12 *“(C) as authorized by any regulations*
13 *issued under paragraph (3) allowing the collec-*
14 *tion of observer information, pursuant to a con-*
15 *fidentiality agreement between the observers, ob-*
16 *server employers, and the Secretary prohibiting*
17 *disclosure of the information by the observers or*
18 *observer employers, in order—*

19 *“(i) to allow the sharing of observer in-*
20 *formation among observers and between ob-*
21 *servers and observer employers as necessary*
22 *to train and prepare observers for deploy-*
23 *ments on specific vessels; or*

24 *“(ii) to validate the accuracy of the ob-*
25 *server information collected.”; and*

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

3 (b) *CONFORMING AMENDMENT.*—Section 404(c)(4) (16
4 U.S.C. 1881c(c)(4)) is amended by striking “under section
5 401”.

6 **SEC. 204. COOPERATIVE RESEARCH AND MANAGEMENT**
7 **PROGRAM.**

8 Title III (16 U.S.C. 1851 *et seq.*), as amended by sec-
9 tion 119 of this Act, is further amended by adding at the
10 end the following:

11 **“SEC. 318. COOPERATIVE RESEARCH AND MANAGEMENT**
12 **PROGRAM.**

13 “(a) *IN GENERAL.*—The Secretary of Commerce, in
14 consultation with the Councils, shall establish a cooperative
15 research and management program to address needs identi-
16 fied under this Act and under any other marine resource
17 laws enforced by the Secretary. The program shall be imple-
18 mented on a regional basis and shall be developed and con-
19 ducted through partnerships among Federal, State, and
20 Tribal managers and scientists (including interstate fishery
21 commissions), fishing industry participants (including use
22 of commercial charter or recreational vessels for gathering
23 data), and educational institutions.

24 “(b) *ELIGIBLE PROJECTS.*—The Secretary shall make
25 funds available under the program for the support of

1 *projects to address critical needs identified by the Councils*
2 *in consultation with the Secretary. The program shall pro-*
3 *mote and encourage efforts to utilize sources of data main-*
4 *tained by other Federal agencies, State agencies, or aca-*
5 *demia for use in such projects.*

6 “(c) *FUNDING.—In making funds available the Sec-*
7 *retary shall award funding on a competitive basis and*
8 *based on regional fishery management needs, select pro-*
9 *grams that form part of a coherent program of research fo-*
10 *cused on solving priority issues identified by the Councils,*
11 *and shall give priority to the following projects:*

12 “(1) *Projects to collect data to improve, supple-*
13 *ment, or enhance stock assessments, including the use*
14 *of fishing vessels or acoustic or other marine tech-*
15 *nology.*

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

19 “(3) *Conservation engineering projects designed*
20 *to reduce bycatch, including avoidance of post-release*
21 *mortality, reduction of bycatch in high seas fisheries,*
22 *and transfer of such fishing technologies to other na-*
23 *tions.*

1 “(4) *Projects for the identification of habitat*
2 *areas of particular concern and for habitat conserva-*
3 *tion.*

4 “(5) *Projects designed to collect and compile eco-*
5 *nomie and social data.*

6 “(d) *EXPERIMENTAL PERMITTING PROCESS.—Not*
7 *later than 180 days after the date of enactment of the Mag-*
8 *nuson-Stevens Fishery Conservation and Management Re-*
9 *authorization Act of 2006, the Secretary, in consultation*
10 *with the Councils, shall promulgate regulations that create*
11 *an expedited, uniform, and regionally-based process to pro-*
12 *mote issuance, where practicable, of experimental fishing*
13 *permits.*

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

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

1 **SEC. 205. HERRING STUDY.**

2 *Title III (16 U.S.C. 1851 et seq.), as amended by sec-*
3 *tion 204, is further amended by adding at the end the fol-*
4 *lowing:*

5 **“SEC. 319. HERRING STUDY.**

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

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

20 *“(c) AUTHORIZATION OF APPROPRIATIONS.—There are*
21 *authorized to be appropriated \$2,000,000 for fiscal year*
22 *2007 through fiscal year 2009 to conduct this study.”.*

23 **SEC. 206. RESTORATION STUDY.**

24 *Title III (16 U.S.C. 1851 et seq.), as amended by sec-*
25 *tion 205, is further amended by adding at the end the fol-*
26 *lowing:*

1 **“SEC. 320. RESTORATION STUDY.**

2 “(a) *IN GENERAL.*—*The Secretary may conduct a*
3 *study to update scientific information and protocols needed*
4 *to improve restoration techniques for a variety of coast*
5 *habitat types and synthesize the results in a format easily*
6 *understandable by restoration practitioners and local com-*
7 *munities.*

8 “(b) *AUTHORIZATION OF APPROPRIATIONS.*—*There*
9 *are authorized to be appropriated \$500,000 for fiscal year*
10 *2007 to conduct this study.”.*

11 **SEC. 207. WESTERN PACIFIC FISHERY DEMONSTRATION**
12 **PROJECTS.**

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

15 (1) *by striking “and the Secretary of the Interior*
16 *are” in paragraph (1) and inserting “is”;*

17 (2) *by striking “not less than three and not more*
18 *than five” in paragraph (1); and*

19 (3) *by striking paragraph (6) and inserting the*
20 *following:*

21 “(6) *In this subsection the term ‘Western Pacific*
22 *community’ means a community eligible to partici-*
23 *pate under section 305(i)(2)(B)(i) through (iv) of the*
24 *Magnuson-Stevens Fishery Conservation and Manage-*
25 *ment Act (16 U.S.C. 1855(i)(2)(B)(i) through (iv)).”.*

1 **SEC. 208. FISHERIES CONSERVATION AND MANAGEMENT**2 **FUND.**

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

8 (b) *PURPOSES.*—*Subject to the allocation of funds de-*
9 *scribed in subsection (d), amounts in the Fund shall be*
10 *available to the Secretary of Commerce, without appropri-*
11 *ation or fiscal year limitation, to disburse as described in*
12 *subsection (e) for—*

13 (1) *efforts to improve fishery harvest data collec-*
14 *tion including—*

15 (A) *expanding the use of electronic catch re-*
16 *porting programs and technology; and*

17 (B) *improvement of monitoring and ob-*
18 *server coverage through the expanded use of elec-*
19 *tronic monitoring devices and satellite tracking*
20 *systems such as VMS on small vessels;*

21 (2) *cooperative fishery research and analysis, in*
22 *collaboration with fishery participants, academic in-*
23 *stitutions, community residents, and other interested*
24 *parties;*

1 (3) *development of methods or new technologies*
2 *to improve the quality, health safety, and value of fish*
3 *landed;*

4 (4) *conducting analysis of fish and seafood for*
5 *health benefits and risks, including levels of contami-*
6 *nants and, where feasible, the source of such contami-*
7 *nants;*

8 (5) *marketing of sustainable United States fish-*
9 *ery products, including consumer education regarding*
10 *the health or other benefits of wild fishery products*
11 *harvested by vessels of the United States;*

12 (6) *improving data collection under the Marine*
13 *Recreational Fishery Statistics Survey in accordance*
14 *with section 401(g)(3) of the Magnuson-Stevens Fish-*
15 *ery Conservation and Management Act (16 U.S.C.*
16 *1881(g)(3)); and*

17 (7) *providing financial assistance to fishermen*
18 *to offset the costs of modifying fishing practices and*
19 *gear to meet the requirements of this Act, the Magnu-*
20 *son-Stevens Fishery Conservation and Management*
21 *Act (16 U.S.C. 1801 et seq.), and other Federal laws*
22 *in pari materia.*

23 (c) *DEPOSITS TO THE FUND.*—

24 (1) *QUOTA SET-ASIDES.*—*Any amount generated*
25 *through quota set-asides established by a Council*

1 *under the Magnuson-Stevens Fishery Conservation*
2 *and Management Act (16 U.S.C. 1801 et seq.) and*
3 *designated by the Council for inclusion in the Fishery*
4 *Conservation and Management Fund, may be depos-*
5 *ited in the Fund.*

6 (2) *OTHER FUNDS.—In addition to amounts re-*
7 *ceived pursuant to paragraph (1) of this subsection,*
8 *the Fishery Conservation and Management Fund may*
9 *also receive funds from—*

10 (A) *appropriations for the purposes of this*
11 *section; and*

12 (B) *States or other public sources or private*
13 *or non-profit organizations for purposes of this*
14 *section.*

15 (d) *REGIONAL ALLOCATION.—The Secretary shall,*
16 *every 2 years, apportion monies from the Fund among the*
17 *eight Council regions according to recommendations of the*
18 *Councils, based on regional priorities identified through the*
19 *Council process, except that no region shall receive less than*
20 *5 percent of the Fund in each allocation period.*

21 (e) *LIMITATION ON THE USE OF THE FUND.—No*
22 *amount made available from the Fund may be used to de-*
23 *fray the costs of carrying out requirements of this Act or*
24 *the Magnuson-Stevens Fishery Conservation and Manage-*

1 *ment Act (16 U.S.C. 1801 et seq.) other than those uses*
2 *identified in this section.*

3 **SEC. 209. USE OF FISHERY FINANCE PROGRAM FOR SUS-**
4 **TAINABLE PURPOSES.**

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

7 *“(7) Financing or refinancing—*

8 *“(A) the purchase of individual fishing*
9 *quotas in accordance with section 303(d)(4) of*
10 *the Magnuson-Stevens Fishery Conservation and*
11 *Management Act (including the reimbursement*
12 *of obligors for expenditures previously made for*
13 *such a purchase) ;*

14 *“(B) activities that assist in the transition*
15 *to reduced fishing capacity; or*

16 *“(C) technologies or upgrades designed to*
17 *improve collection and reporting of fishery-de-*
18 *pendent data, to reduce bycatch, to improve se-*
19 *lectivity or reduce adverse impacts of fishing*
20 *gear, or to improve safety.”.*

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

22 *Section 406 (16 U.S.C. 1882) is amended by adding*
23 *at the end the following:*

24 *“(f) REGIONAL ECOSYSTEM RESEARCH.—*

1 “(1) *STUDY.*—*Within 180 days after the date of*
2 *enactment of the Magnuson-Stevens Fishery Conserva-*
3 *tion and Management Reauthorization Act of 2006,*
4 *the Secretary, in consultation with the Councils, shall*
5 *undertake and complete a study on the state of the*
6 *science for advancing the concepts and integration of*
7 *ecosystem considerations in regional fishery manage-*
8 *ment. The study should build upon the recommenda-*
9 *tions of the advisory panel and include—*

10 “(A) *recommendations for scientific data,*
11 *information and technology requirements for un-*
12 *derstanding ecosystem processes, and methods for*
13 *integrating such information from a variety of*
14 *federal, state, and regional sources;*

15 “(B) *recommendations for processes for in-*
16 *corporating broad stake holder participation;*

17 “(C) *recommendations for processes to ac-*
18 *count for effects of environmental variation on*
19 *fish stocks and fisheries; and*

20 “(D) *a description of existing and devel-*
21 *oping council efforts to implement ecosystem ap-*
22 *proaches, including lessons learned by the coun-*
23 *cils.*

24 “(2) *AGENCY TECHNICAL ADVICE AND ASSIST-*
25 *ANCE, REGIONAL PILOT PROGRAMS.*—*The Secretary*

1 *is authorized to provide necessary technical advice*
2 *and assistance, including grants, to the Councils for*
3 *the development and design of regional pilot pro-*
4 *grams that build upon the recommendations of the*
5 *advisory panel and, when completed, the study.”.*

6 **SEC. 211. DEEP SEA CORAL RESEARCH AND TECHNOLOGY**
7 **PROGRAM.**

8 *Title IV (16 U.S.C. 1881 et seq.) is amended by adding*
9 *at the end the following:*

10 **“SEC. 408. DEEP SEA CORAL RESEARCH AND TECHNOLOGY**
11 **PROGRAM.**

12 *“(a) IN GENERAL.—The Secretary, in consultation*
13 *with appropriate regional fishery management councils and*
14 *in coordination with other federal agencies and educational*
15 *institutions, shall, subject to the availability of appropria-*
16 *tions, establish a program—*

17 *“(1) to identify existing research on, and known*
18 *locations of, deep sea corals and submit such informa-*
19 *tion to the appropriate Councils;*

20 *“(2) to locate and map locations of deep sea cor-*
21 *als and submit such information to the Councils;*

22 *“(3) to monitor activity in locations where deep*
23 *sea corals are known or likely to occur, based on best*
24 *scientific information available, including through*

1 *underwater or remote sensing technologies and submit*
2 *such information to the appropriate Councils;*

3 *“(4) to conduct research, including cooperative*
4 *research with fishing industry participants, on deep*
5 *sea corals and related species, and on survey methods;*

6 *“(5) to develop technologies or methods designed*
7 *to assist fishing industry participants in reducing*
8 *interactions between fishing gear and deep sea corals;*
9 *and*

10 *“(6) to prioritize program activities in areas*
11 *where deep sea corals are known to occur, and in*
12 *areas where scientific modeling or other methods pre-*
13 *dict deep sea corals are likely to be present.*

14 *“(b) REPORTING.—Beginning 1 year after the date of*
15 *enactment of the Magnuson-Stevens Fishery Conservation*
16 *and Management Reauthorization Act of 2006, the Sec-*
17 *retary, in consultation with the Councils, shall submit bien-*
18 *ennial reports to Congress and the public on steps taken by*
19 *the Secretary to identify, monitor, and protect deep sea*
20 *coral areas, including summaries of the results of mapping,*
21 *research, and data collection performed under the pro-*
22 *gram.”.*

1 **SEC. 212. IMPACT OF TURTLE EXCLUDER DEVICES ON**
2 **SHRIMPING.**

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

7 (1) *to measure accurately the efforts and effects*
8 *of shrimp fishery efforts to utilize turtle excluder de-*
9 *vices;*

10 (2) *to analyze the impact of those efforts on sea*
11 *turtle mortality, including interaction between turtles*
12 *and shrimp trawlers in the inshore, nearshore, and*
13 *offshore waters of the Gulf of Mexico and similar geo-*
14 *graphical locations in the waters of the Southeastern*
15 *United States; and*

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

20 (b) *OBSERVERS.*—*In conducting the study, the Under-*
21 *secretary shall ensure that observers are placed onboard*
22 *commercial shrimp fishing vessels where appropriate or*
23 *necessary.*

24 (c) *INTERIM REPORTS.*—*During the course of the*
25 *study and until a final report is submitted to the Senate*
26 *Committee on Commerce, Science, and Transportation and*

1 *the House of Representatives Committee on Resources, the*
2 *National Academy of Sciences shall transmit interim re-*
3 *ports to the Committees biannually containing a summary*
4 *of preliminary findings and conclusions from the study.*

5 **SEC. 213. HURRICANE EFFECTS ON COMMERCIAL AND**
6 **RECREATION FISHERY HABITATS.**

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

14 (1) *commercial and recreational fisheries in the*
15 *States of Alabama, Louisiana, Florida, Mississippi,*
16 *and Texas;*

17 (2) *shrimp fishing vessels in those States; and*

18 (3) *the oyster industry in those States.*

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

1 *habitat, including the habitat of shrimp and oysters in*
2 *those States.*

3 (c) *HABITAT RESTORATION.*—*The Secretary shall*
4 *carry out activities to restore fishery habitats, including the*
5 *shrimp and oyster habitats in Louisiana and Mississippi.*

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

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

8 (1) *by striking “all fisheries under the Council’s*
9 *jurisdiction except salmon fisheries” in subsection (a)*
10 *and inserting “any fishery under the Council’s juris-*
11 *isdiction except a salmon fishery”;*

12 (2) *by striking subsection (a)(2) and inserting*
13 *the following:*

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

18 (3) *by striking “observers” in subsection*
19 *(b)(2)(A) and inserting “observers, or electronic moni-*
20 *toring systems,”;*

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

24 (5) *by inserting “some or” in subsection*
25 *(b)(2)(F) after “against”;*

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

3 (7) by striking “and” after the semicolon in sub-
4 section (b)(2)(H); and

5 (8) by redesignating subparagraph (I) of sub-
6 section (b)(2) as subparagraph (J) and inserting after
7 subparagraph (H) the following:

8 “(I) provide that fees collected will be credited
9 against any fee for stationing observers or electronic
10 monitoring systems on board fishing vessels and
11 United States fish processors and the actual cost of
12 inputting collected data to which a fishing vessel or
13 fish processor is subject under section 304(d) of this
14 Act; and”.

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

16 (a) *REVIEW.*—The Secretary of Commerce shall con-
17 duct a unique, thorough examination of the potential im-
18 pact on all affected and interested parties of Framework
19 42 to the Northeast Multispecies Fishery Management Plan.

20 (b) *REPORT.*—The Secretary shall report the Sec-
21 retary’s findings under subsection (a) within 30 days after
22 the date of enactment of this Act. The Secretary shall in-
23 clude in the report a detailed discussion of each of the fol-
24 lowing:

1 (1) *The economic and social implications for af-*
2 *ected parties within the fishery, including potential*
3 *losses to infrastructure, expected from the imposition*
4 *of Framework 42.*

5 (2) *The estimated average annual income gen-*
6 *erated by fishermen in New England, separated by*
7 *State and vessel size, and the estimated annual in-*
8 *come expected after the imposition of Framework 42.*

9 (3) *Whether the differential days-at-sea counting*
10 *imposed by Framework 42 would result in a reduc-*
11 *tion in the number of small vessels actively partici-*
12 *pating in the New England Fishery.*

13 (4) *The percentage and approximate number of*
14 *vessels in the New England fishery, separated by*
15 *State and vessel type, that are incapable of fishing*
16 *outside the areas designated in Framework 42 for dif-*
17 *ferential days-at-sea counting.*

18 (5) *The percentage of the annual groundfish*
19 *catch in the New England fishery that is harvested by*
20 *small vessels.*

21 (6) *The current monetary value of groundfish*
22 *permits in the New England fishery and the actual*
23 *impact that the potential imposition of Framework*
24 *42 is having on such value.*

1 (7) *Whether permitting days-at-sea to be leased*
2 *is altering the market value for groundfish permits or*
3 *days-at-sea in New England.*

4 (8) *Whether there is a substantially high prob-*
5 *ability that the biomass targets used as a basis for*
6 *Amendment 13 remain achievable.*

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

11 (10) *Any separate or non-fishing factors, includ-*
12 *ing environmental factors, that may be leading to a*
13 *slower rebuilding of groundfish than previously an-*
14 *ticipated.*

15 (11) *The potential harm to the non-fishing envi-*
16 *ronment and ecosystem from the reduction in fishing*
17 *resulting from Framework 42 and the potential rede-*
18 *velopment of the coastal land for other purposes, in-*
19 *cluding potential for increases in non-point source of*
20 *pollution and other impacts.*

21 **SEC. 216. REPORT ON COUNCIL MANAGEMENT COORDINA-**
22 **TION.**

23 *The Mid-Atlantic Fishery Council, in consultation*
24 *with the New England Fishery Council, shall submit a re-*
25 *port to the Senate Committee on Commerce, Science, and*

1 *Transportation within 9 months after the date of enactment*
2 *of this Act—*

3 (1) *describing the role of council liaisons between*
4 *the Mid-Atlantic and New England Councils, includ-*
5 *ing an explanation of council policies regarding the*
6 *liaison's role in Council decision-making since 1996;*

7 (2) *describing how management actions are*
8 *taken regarding the operational aspects of current*
9 *joint fishery management plans, and how such joint*
10 *plans may undergo changes through amendment or*
11 *framework processes;*

12 (3) *evaluating the role of the New England Fish-*
13 *ery Council and the Mid-Atlantic Fishery Council li-*
14 *aisons in the development and approval of manage-*
15 *ment plans for fisheries in which the liaisons or mem-*
16 *bers of the non-controlling Council have a dem-*
17 *onstrated interest and significant current and histor-*
18 *ical landings of species managed by either Council;*

19 (4) *evaluating the effectiveness of the various ap-*
20 *proaches developed by the Councils to improve rep-*
21 *resentation for affected members of the non-controlling*
22 *Council in Council decision-making, such as use of li-*
23 *aisons, joint management plans, and other policies,*
24 *taking into account both the procedural and conserva-*

1 *tion requirements of the Magnuson-Stevens Fishery*
2 *Conservation and Management Act; and*

3 *(5) analyzing characteristics of North Carolina*
4 *and Florida that supported their inclusion as voting*
5 *members of more than one Council and the extent to*
6 *which those characteristics support Rhode Island's in-*
7 *clusion on a second Council (the Mid-Atlantic Coun-*
8 *cil).*

9 **SEC. 217. STUDY OF SHORTAGE IN THE NUMBER OF INDI-**
10 **VIDUALS WITH POST- BACCALAUREATE DE-**
11 **GREES IN SUBJECTS RELATED TO FISHERY**
12 **SCIENCE.**

13 *(a) IN GENERAL.—The Secretary of Commerce and the*
14 *Secretary of Education shall collaborate to conduct a study*
15 *of—*

16 *(1) whether there is a shortage in the number of*
17 *individuals with post-baccalaureate degrees in sub-*
18 *jects related to fishery science, including fishery*
19 *oceanography, fishery ecology, and fishery anthro-*
20 *pology, who have the ability to conduct high quality*
21 *scientific research in fishery stock assessment, fishery*
22 *population dynamics, and related fields, for govern-*
23 *ment, non-profit, and private sector entities;*

1 (2) *what Federal programs are available to help*
 2 *facilitate the education of students hoping to pursue*
 3 *these degrees; and*

4 (3) *what institutions of higher education, the*
 5 *private sector, and the Congress could do to try to in-*
 6 *crease the number of individuals with such post-bac-*
 7 *calaureate degrees.*

8 (b) *REPORT*—*Not later than 8 months after the date*
 9 *of enactment of this Act, the Secretaries of Commerce and*
 10 *Education shall transmit a report to each committee of*
 11 *Congress with jurisdiction over the programs referred to in*
 12 *subsection (a), detailing the findings and recommendations*
 13 *of the study under this section.*

14 **SEC. 218. GULF OF ALASKA ROCKFISH DEMONSTRATION**
 15 **PROGRAM.**

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

18 **TITLE III—OTHER FISHERIES**
 19 **STATUTES**

20 **SEC. 301. AMENDMENTS TO NORTHERN PACIFIC HALIBUT**
 21 **ACT.**

22 (a) *CIVIL PENALTIES*.—*Section 8(a) of the Northern*
 23 *Pacific Halibut Act of 1982 (16 U.S.C. 773f(a)) is*
 24 *amended—*

1 (1) *by striking “\$25,000” and inserting*
2 *“\$200,000”;*

3 (2) *by striking “violation, the degree of culpa-*
4 *bility, and history of prior offenses, ability to pay,”*
5 *in the fifth sentence and inserting “violator, the de-*
6 *gree of culpability, any history of prior offenses,”;*
7 *and*

8 (3) *by adding at the end the following: “In as-*
9 *sessing such penalty, the Secretary may also consider*
10 *any information provided by the violator relating to*
11 *the ability of the violator to pay if the information*
12 *is provided to the Secretary at least 30 days prior to*
13 *an administrative hearing.”.*

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

17 “(e) *REVOCATION OR SUSPENSION OF PERMIT.—*

18 “(1) *IN GENERAL.—The Secretary may take any*
19 *action described in paragraph (2) in any case in*
20 *which—*

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

23 “(B) *the owner or operator of a vessel or*
24 *any other person who has been issued or has ap-*

1 *plied for a permit under this Act has acted in*
2 *violation of section 7; or*

3 “(C) *any amount in settlement of a civil*
4 *forfeiture imposed on a vessel or other property,*
5 *or any civil penalty or criminal fine imposed on*
6 *a vessel or owner or operator of a vessel or any*
7 *other person who has been issued or has applied*
8 *for a permit under any marine resource law en-*
9 *forced by the Secretary has not been paid and is*
10 *overdue.*

11 “(2) *PERMIT-RELATED ACTIONS.*—*Under the cir-*
12 *cumstances described in paragraph (1) the Secretary*
13 *may—*

14 “(A) *revoke any permit issued with respect*
15 *to such vessel or person, with or without preju-*
16 *dice to the issuance of subsequent permits;*

17 “(B) *suspend such permit for a period of*
18 *time considered by the Secretary to be appro-*
19 *priate;*

20 “(C) *deny such permit; or*

21 “(D) *impose additional conditions and re-*
22 *strictions on any permit issued to or applied for*
23 *by such vessel or person under this Act and, with*
24 *respect to any foreign fishing vessel, on the ap-*
25 *proved application of the foreign nation involved*

1 *and on any permit issued under that applica-*
2 *tion.*

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

6 “(A) *the nature, circumstances, extent, and*
7 *gravity of the prohibited acts for which the sanc-*
8 *tion is imposed; and*

9 “(B) *with respect to the violator, the degree*
10 *of culpability, any history of prior offenses, and*
11 *such other matters as justice may require.*

12 “(4) *TRANSFERS OF OWNERSHIP.*—*Transfer of*
13 *ownership of a vessel, a permit, or any interest in a*
14 *permit, by sale or otherwise, shall not extinguish any*
15 *permit sanction that is in effect or is pending at the*
16 *time of transfer of ownership. Before executing the*
17 *transfer of ownership of a vessel, permit, or interest*
18 *in a permit, by sale or otherwise, the owner shall dis-*
19 *close in writing to the prospective transferee the exist-*
20 *ence of any permit sanction that will be in effect or*
21 *pending with respect to the vessel, permit, or interest*
22 *at the time of the transfer.*

23 “(5) *REINSTATEMENT.*—*In the case of any per-*
24 *mit that is suspended under this subsection for non-*
25 *payment of a civil penalty, criminal fine, or any*

1 *amount in settlement of a civil forfeiture, the Sec-*
2 *retary shall reinstate the permit upon payment of the*
3 *penalty, fine, or settlement amount and interest there-*
4 *on at the prevailing rate.*

5 “(6) *HEARING.*—*No sanction shall be imposed*
6 *under this subsection unless there has been prior op-*
7 *portunity for a hearing on the facts underlying the*
8 *violation for which the sanction is imposed either in*
9 *conjunction with a civil penalty proceeding under*
10 *this section or otherwise.*

11 “(7) *PERMIT DEFINED.*—*In this subsection, the*
12 *term ‘permit’ means any license, certificate, approval,*
13 *registration, charter, membership, exemption, or other*
14 *form of permission issued by the Commission or the*
15 *Secretary, and includes any quota share or other*
16 *transferable quota issued by the Secretary.”.*

17 “(c) *CRIMINAL PENALTIES.*—*Section 9(b) of the North-*
18 *ern Pacific Halibut Act of 1982 (16 U.S.C. 773g(b)) is*
19 *amended—*

20 (1) *by striking “\$50,000” and inserting*
21 *“\$200,000”; and*

22 (2) *by striking “\$100,000,” and inserting*
23 *“\$400,000.”.*

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

2 (a) *ATLANTIC STRIPED BASS CONSERVATION ACT.*—

3 *Section 7(a) of the Atlantic Striped Bass Conservation Act*

4 *(16 U.S.C. 5156(a)) is amended to read as follows:*

5 “(a) *AUTHORIZATION.*—*For each of fiscal years 2007,*

6 *2008, 2009, 2010, 2011, there are authorized to be appro-*

7 *priated to carry out this Act—*

8 “(1) *\$1,000,000 to the Secretary of Commerce;*

9 *and*

10 “(2) *\$250,000 to the Secretary of the Interior.*”.

11 (b) *YUKON RIVER SALMON ACT OF 2000.*—*Section 208*

12 *of the Yukon River Salmon Act of 2000 (16 U.S.C. 5727)*

13 *is amended by striking “\$4,000,000 for each of fiscal years*

14 *2004 through 2008,” and inserting “\$4,000,000 for each of*

15 *fiscal years 2007 through 2011”.*

16 (c) *SHARK FINNING PROHIBITION ACT.*—*Section 10 of*

17 *the Shark Finning Prohibition Act (16 U.S.C. 1822 note)*

18 *is amended by striking “fiscal years 2001 through 2005”*

19 *and inserting “fiscal years 2007 through 2011”.*

20 (d) *PACIFIC SALMON TREATY ACT.*—

21 (1) *TRANSFER OF SECTION TO ACT.*—*The text of*

22 *section 623 of title VI of H.R. 3421 (113 Stat.*

23 *1501A–56), as introduced on November 17, 1999, en-*

24 *acted into law by section 1000(a)(1) of the Act of No-*

25 *vember 29, 1999 (Public Law 106–113), and amended*

26 *by Public Law 106–533 (114 Stat. 2762A–108)—*

1 (A) is transferred to the Pacific Salmon
2 Treaty Act (16 U.S.C. 3631 et seq.) and inserted
3 after section 15; and

4 (B) amended—

5 (i) by striking “SEC. 623.”; and

6 (ii) inserting before “(a) NORTHERN
7 FUND AND SOUTHERN FUND.—” the fol-
8 lowing:

9 **“SEC. 16. NORTHERN AND SOUTHERN FUNDS; TREATY IM-
10 PLEMENTATION; ADDITIONAL AUTHORIZA-
11 TION OF APPROPRIATIONS.”.**

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

15 (1) by inserting “sustainable salmon fisheries,”
16 after “enhancement,”;

17 (2) by inserting “2005, 2006, 2007, 2008, and
18 2009,” after “2003,”; and

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

20 (e) STATE AUTHORITY FOR DUNGENESS CRAB FISH-
21 ERY MANAGEMENT.—Section 203 of Public Law 105–384
22 (16 U.S.C. 1856 note) is amended—

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

1 (2) by striking “health” in subsection (j) and in-
2 serting “status”; and

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

5 “(1) stock status and trends throughout its
6 range;

7 “(2) a description of applicable research and sci-
8 entific review processes used to determine stock status
9 and trends; and

10 “(3) measures implemented or planned that are
11 designed to prevent or end overfishing in the fishery.”.

12 (f) *PACIFIC FISHERY MANAGEMENT COUNCIL.*—

13 (1) *IN GENERAL.*—*The Pacific Fishery Manage-*
14 *ment Council shall develop a proposal for the appro-*
15 *prate rationalization program for the Pacific trawl*
16 *groundfish and whiting fisheries, including the shore-*
17 *based sector of the Pacific whiting fishery under its*
18 *jurisdiction. The proposal may include only the Pa-*
19 *cific whiting fishery, including the shore-based sector,*
20 *if the Pacific Council determines that a rationaliza-*
21 *tion plan for the fishery as a whole cannot be*
22 *achieved before the report is required to be submitted*
23 *under paragraph (3).*

24 (2) *REQUIRED ANALYSIS.*—*In developing the*
25 *proposal to rationalize the fishery, the Pacific Council*

1 *shall fully analyze alternative program designs, in-*
2 *cluding the allocation of limited access privileges to*
3 *harvest fish to fishermen and processors working to-*
4 *gether in regional fishery associations or some other*
5 *cooperative manner to harvest and process the fish, as*
6 *well as the effects of these program designs and alloca-*
7 *tions on competition and conservation. The analysis*
8 *shall include an assessment of the impact of the pro-*
9 *posal on conservation and the economics of commu-*
10 *nities, fishermen, and processors participating in the*
11 *trawl groundfish fisheries, including the shore-based*
12 *sector of the Pacific whiting fishery.*

13 (3) *REPORT.—The Pacific Council shall submit*
14 *the proposal and related analysis to the Senate Com-*
15 *mittee on Commerce, Science, and Transportation*
16 *and the House of Representatives Committee on Re-*
17 *sources no later than 24 months after the date of en-*
18 *actment of this Act.*

19 (g) *REAUTHORIZATION OF THE INTERJURISDICTIONAL*
20 *FISHERIES ACT OF 1986.— Section 308 of the Interjuris-*
21 *dictional Fisheries Act of 1986 (16 U.S.C. 4107) is*
22 *amended—*

23 (1) *by striking subsection (a) and inserting the*
24 *following:*

1 “(a) *GENERAL APPROPRIATIONS.*—*There are author-*
2 *ized to be appropriated to the Secretary of Commerce for*
3 *apportionment to carry out the purposes of this title*
4 *\$5,000,000 for each of fiscal years 2007 through 2012.”; and*

5 (2) *by striking “\$850,000 for each of fiscal years*
6 *2003 and 2004, and \$900,000 for each of fiscal years*
7 *2005 and 2006” in subsection (c) and inserting*
8 *“\$900,000 for each of fiscal years 2007 through*
9 *2012”.*

10 (h) *REAUTHORIZATION AND AMENDMENT OF THE*
11 *ANADROMOUS FISH CONSERVATION ACT.*—*Section 4 of the*
12 *Anadromous Fish Conservation Act (16 U.S.C. 757d) is*
13 *amended to read as follows:*

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

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

18 (i) *REAUTHORIZATION OF THE NORTHWEST ATLANTIC*
19 *FISHERIES CONVENTION ACT OF 1995.*—*Section 211 of the*
20 *Northwest Atlantic Fisheries Convention Act of 1995 (16*
21 *U.S.C. 5610) is amended by striking “2006” and inserting*
22 *“2012”.*

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

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

9 “(5) enhance enforcement capabilities through
10 the application of commercial or governmental remote
11 sensing technology to locate or identify vessels engaged
12 in illegal, unreported, or unregulated fishing on the
13 high seas, including encroachments into the exclusive
14 economic zone by fishing vessels of other nations;

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

18 “(7) support coordinated international efforts to
19 ensure that all large-scale fishing vessels operating on
20 the high seas are required by their flag State to be
21 fitted with vessel monitoring systems no later than
22 December 31, 2008, or earlier if so decided by the rel-
23 evant flag State or any relevant international fishery
24 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 end*
5 *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 Fishery*
22 *Conservation and Management Reauthorization Act of*
23 *2006, and every 2 years thereafter, a report that includes—*

24 *“(1) the state of knowledge on the status of inter-*
25 *national living marine resources shared by the United*
26 *States or subject to treaties or agreements to which*

1 *the United States is a party, including a list of all*
2 *such fish stocks classified as overfished, overexploited,*
3 *depleted, endangered, or threatened with extinction by*
4 *any international or other authority charged with*
5 *management or conservation of living marine re-*
6 *sources;*

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

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

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

21 “(5) *steps taken by the Secretary at the inter-*
22 *national level to adopt international measures com-*
23 *parable to those of the United States to reduce im-*
24 *pacts of fishing and other practices on protected liv-*
25 *ing marine resources, if no international agreement*

1 *to achieve such goal exists, or if the relevant inter-*
2 *national fishery or conservation organization has*
3 *failed to implement effective measures to end or re-*
4 *duce the adverse impacts of fishing practices on such*
5 *species.*

6 **“SEC. 608. ACTION TO STRENGTHEN INTERNATIONAL FISH-**
7 **ERY MANAGEMENT ORGANIZATIONS.**

8 *“The Secretary, in consultation with the Secretary of*
9 *State, and in cooperation with relevant fishery manage-*
10 *ment councils and any relevant advisory committees, shall*
11 *take actions to improve the effectiveness of international*
12 *fishery management organizations in conserving and man-*
13 *aging fish stocks under their jurisdiction. These actions*
14 *shall include—*

15 *“(1) urging international fishery management*
16 *organizations to which the United States is a*
17 *member—*

18 *“(A) to incorporate multilateral market-re-*
19 *lated measures against member or nonmember*
20 *governments whose vessels engage in illegal, un-*
21 *reported, or unregulated fishing;*

22 *“(B) to seek adoption of lists that identify*
23 *fishing vessels and vessel owners engaged in ille-*
24 *gal, unreported, or unregulated fishing that can*

1 *be shared among all members and other inter-*
2 *national 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 established*
12 *by the organization, including vessel monitoring*
13 *systems and automatic identification systems;*
14 *and*

15 *“(E) to seek adoption of stronger port state*
16 *controls in all nations, particularly those na-*
17 *tions in whose ports vessels engaged in illegal,*
18 *unreported, or unregulated fishing land or trans-*
19 *ship 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, to*
23 *adopt and expand the use of market-related measures*
24 *to combat illegal, unreported, or unregulated fishing,*
25 *including—*

1 “(A) import prohibitions, landing restric-
2 tions, or other market-based measures needed to
3 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 importa-
8 tion of fish caught by vessels identified multilat-
9 erally as engaging in illegal, unreported, or un-
10 regulated fishing; and

11 “(C) catch documentation and certification
12 schemes to improve tracking and identification
13 of catch of vessels engaged in illegal, unreported,
14 or unregulated fishing, including advance trans-
15 mission of catch documents to ports of entry; and

16 “(3) urging other nations at bilateral, regional,
17 and international levels, including the Convention on
18 International Trade in Endangered Species of Fauna
19 and Flora and the World Trade Organization to take
20 all steps necessary, consistent with international law,
21 to adopt measures and policies that will prevent fish
22 or other living marine resources harvested by vessels
23 engaged in illegal, unreported, or unregulated fishing
24 from being traded or imported into their nation or
25 territories.

1 **“SEC. 609. ILLEGAL, UNREPORTED, OR UNREGULATED FISH-**
2 **ING.**

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

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

14 “(2) *where no international fishery management*
15 *organization exists with a mandate to regulate the*
16 *fishing activity in question.*

17 “(b) *NOTIFICATION.*—*An identification under sub-*
18 *section (a) or section 610(a) is deemed to be an identifica-*
19 *tion under section 101(b)(1)(A) of the High Seas Driftnet*
20 *Fisheries Enforcement Act (16 U.S.C. 1826a(b)(1)(A)), and*
21 *the Secretary shall notify the President and that nation of*
22 *such identification.*

23 “(c) *CONSULTATION.*—*No later than 60 days after sub-*
24 *mitting a report to Congress under section 607, the Sec-*
25 *retary, acting through the Secretary of State, shall—*

1 “(1) notify nations listed in the report of the re-
2 quirements of this section;

3 “(2) initiate consultations for the purpose of en-
4 couraging such nations to take the appropriate correc-
5 tive action with respect to the offending activities of
6 their fishing vessels identified in the report; and

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

10 “(d) *IUU CERTIFICATION PROCEDURE.*—

11 “(1) *CERTIFICATION.*—*The Secretary shall estab-*
12 *lish a procedure, consistent with the provisions of sub-*
13 *chapter II of chapter 5 of title 5, United States Code,*
14 *for determining if a nation identified under sub-*
15 *section (a) and listed in the report under section 607*
16 *has taken appropriate corrective action with respect*
17 *to the offending activities of its fishing vessels identi-*
18 *fied in the report under section 607. The certification*
19 *procedure shall provide for notice and an opportunity*
20 *for comment by any such nation. The Secretary shall*
21 *determine, on the basis of the procedure, and certify*
22 *to the Congress no later than 90 days after the date*
23 *on which the Secretary promulgates a final rule con-*
24 *taining the procedure, and biennially thereafter in the*
25 *report under section 607—*

1 “(A) *whether the government of each nation*
2 *identified under subsection (a) has provided doc-*
3 *umentary evidence that it has taken corrective*
4 *action with respect to the offending activities of*
5 *its fishing vessels identified in the report; or*

6 “(B) *whether the relevant international*
7 *fishery management organization has imple-*
8 *mented measures that are effective in ending the*
9 *illegal, unreported, or unregulated fishing activ-*
10 *ity by vessels of that nation.*

11 “(2) *ALTERNATIVE PROCEDURE.—The Secretary*
12 *may establish a procedure for certification, on a ship-*
13 *ment-by-shipment, shipper-by-shipper, or other basis*
14 *of fish or fish products from a vessel of a harvesting*
15 *nation not certified under paragraph (1) if the Sec-*
16 *retary determines that—*

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

21 “(B) *the vessel is not identified by an inter-*
22 *national fishery management organization as*
23 *participating in illegal, unreported, or unregu-*
24 *lated fishing activities.*

25 “(3) *EFFECT OF CERTIFICATION.—*

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

4 “(i) *shall apply to any nation identi-*
5 *fied under subsection (a) that has not been*
6 *certified by the Secretary under this sub-*
7 *section, or for which the Secretary has*
8 *issued a negative certification under this*
9 *subsection; but*

10 “(ii) *shall not apply to any nation*
11 *identified under subsection (a) for which the*
12 *Secretary has issued a positive certification*
13 *under this subsection.*

14 “(B) *EXCEPTIONS.*—*Subparagraph (A)(i)*
15 *does not apply—*

16 “(i) *to the extent that such provisions*
17 *would apply to sport fishing equipment or*
18 *to fish or fish products not managed under*
19 *the applicable international fishery agree-*
20 *ment; or*

21 “(ii) *if there is no applicable inter-*
22 *national fishery agreement, to the extent*
23 *that such provisions would apply to fish or*
24 *fish products caught by vessels not engaged*

1 *in illegal, unreported, or unregulated fish-*
2 *ing.*

3 “(e) *ILLEGAL, UNREPORTED, OR UNREGULATED FISH-*
4 *ING DEFINED.*—

5 “(1) *IN GENERAL.*—*In this Act the term ‘illegal,*
6 *unreported, or unregulated fishing’ has the meaning*
7 *established under paragraph (2).*

8 “(2) *SECRETARY TO DEFINE TERM WITHIN LEG-*
9 *ISLATIVE GUIDELINES.*—*Within 3 months after the*
10 *date of enactment of the Magnuson-Stevens Fishery*
11 *Conservation and Management Reauthorization Act*
12 *of 2006, the Secretary shall publish a definition of the*
13 *term ‘illegal, unreported, or unregulated fishing’ for*
14 *purposes of this Act.*

15 “(3) *GUIDELINES.*—*The Secretary shall include*
16 *in the definition, at a minimum—*

17 “(A) *fishing activities that violate conserva-*
18 *tion and management measures required under*
19 *an international fishery management agreement*
20 *to which the United States is a party, including*
21 *catch limits or quotas, capacity restrictions, and*
22 *bycatch reduction requirements;*

23 “(B) *overfishing of fish stocks shared by the*
24 *United States, for which there are no applicable*
25 *international conservation or management meas-*

1 ures or in areas with no applicable international
2 fishery management organization or agreement,
3 that has adverse impacts on such stocks; and

4 “(C) fishing activity that has an adverse
5 impact on seamounts, hydrothermal vents, and
6 cold water corals located beyond national juris-
7 diction, for which there are no applicable con-
8 servation or management measures or in areas
9 with no applicable international fishery manage-
10 ment organization or agreement.

11 “(f) *AUTHORIZATION OF APPROPRIATIONS.*—There are
12 authorized to be appropriated to the Secretary for fiscal
13 years 2007 through 2013 such sums as are necessary to
14 carry out this section.

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

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

18 “(1) fishing vessels of that nation are engaged, or
19 have been engaged during the preceding calendar year
20 in fishing activities or practices;

21 “(A) in waters beyond any national juris-
22 diction that result in bycatch of a protected liv-
23 ing marine resource; or

24 “(B) beyond the exclusive economic zone of
25 the United States that result in bycatch of a pro-

1 *tected living marine resource shared by the*
2 *United States;*

3 “(2) *the relevant international organization for*
4 *the conservation and protection of such resources or*
5 *the relevant international or regional fishery organi-*
6 *zation has failed to implement effective measures to*
7 *end or reduce such bycatch, or the nation is not a*
8 *party to, or does not maintain cooperating status*
9 *with, such organization; and*

10 “(3) *the nation has not adopted a regulatory*
11 *program governing such fishing practices designed to*
12 *end or reduce such bycatch that is comparable to that*
13 *of the United States, taking into account different*
14 *conditions.*

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

17 “(1) *notify, as soon as possible, other nations*
18 *whose vessels engage in fishing activities or practices*
19 *described in subsection (a), about the provisions of*
20 *this section and this Act;*

21 “(2) *initiate discussions as soon as possible with*
22 *all foreign governments which are engaged in, or*
23 *which have persons or companies engaged in, fishing*
24 *activities or practices described in subsection (a), for*

1 *the purpose of entering into bilateral and multilateral*
2 *treaties with such countries to protect such species;*

3 *“(3) seek agreements calling for international re-*
4 *strictions on fishing activities or practices described*
5 *in subsection (a) through the United Nations, the*
6 *Food and Agriculture Organization’s Committee on*
7 *Fisheries, and appropriate international fishery man-*
8 *agement bodies; and*

9 *“(4) initiate the amendment of any existing*
10 *international treaty for the protection and conserva-*
11 *tion of such species to which the United States is a*
12 *party in order to make such treaty consistent with the*
13 *purposes and policies of this section.*

14 *“(c) CONSERVATION CERTIFICATION PROCEDURE.—*

15 *“(1) DETERMINATION.—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 whether the government of a*
19 *harvesting nation identified under subsection (a) and*
20 *listed in the report under section 607—*

21 *“(A) has provided documentary evidence of*
22 *the adoption of a regulatory program governing*
23 *the conservation of the protected living marine*
24 *resource that is comparable to that of the United*
25 *States, taking into account different conditions,*

1 *and which, in the case of pelagic longline fish-*
2 *ing, includes mandatory use of circle hooks, care-*
3 *ful handling and release equipment, and train-*
4 *ing and observer programs; and*

5 “(B) *has established a management plan*
6 *containing requirements that will assist in gath-*
7 *ering species-specific data to support inter-*
8 *national stock assessments and conservation en-*
9 *forcement efforts for protected living marine re-*
10 *sources.*

11 “(2) *PROCEDURAL REQUIREMENT.—The proce-*
12 *dure established by the Secretary under paragraph*
13 *(1) shall include notice and opportunity for comment*
14 *by any such nation.*

15 “(3) *CERTIFICATION.—The Secretary shall cer-*
16 *tify to the Congress by January 31, 2007, and bienni-*
17 *ally thereafter whether each such nation has provided*
18 *the documentary evidence described in paragraph*
19 *(1)(A) and established a management plan described*
20 *in paragraph (1)(B).*

21 “(4) *ALTERNATIVE PROCEDURE.—The Secretary*
22 *shall establish a procedure for certification, on a ship-*
23 *ment-by-shipment, shipper-by-shipper, or other basis*
24 *of fish or fish products from a vessel of a harvesting*
25 *nation not certified under paragraph (3) if the Sec-*

1 *retary determines that such imports were harvested by*
2 *practices that do not result in bycatch of a protected*
3 *marine species, or were harvested by practices that—*

4 *“(A) are comparable to those of the United*
5 *States, taking into account different conditions,*
6 *and which, in the case of pelagic longline fish-*
7 *ing, includes mandatory use of circle hooks, care-*
8 *ful handling and release equipment, and train-*
9 *ing and observer programs; and*

10 *“(B) include the gathering of species specific*
11 *data that can be used to support international*
12 *and regional stock assessments and conservation*
13 *efforts for protected living marine resources.*

14 *“(5) EFFECT OF CERTIFICATION.—The provi-*
15 *sions of section 101(a) and section 101(b)(3) and (4)*
16 *of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4))*
17 *(except to the extent that such provisions apply to*
18 *sport fishing equipment or fish or fish products not*
19 *caught by the vessels engaged in illegal, unreported, or*
20 *unregulated fishing) shall apply to any nation identi-*
21 *fied under subsection (a) that has not been certified*
22 *by the Secretary under this subsection, or for which*
23 *the Secretary has issued a negative certification*
24 *under this subsection, but shall not apply to any na-*
25 *tion identified under subsection (a) for which the Sec-*

1 *retary has issued a positive certification under this*
2 *subsection.*

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

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

12 “(2) *undertake, where appropriate, cooperative*
13 *research activities on species statistics and improved*
14 *harvesting techniques, with those nations or organiza-*
15 *tions;*

16 “(3) *encourage and facilitate the transfer of ap-*
17 *propriate technology to those nations or organizations*
18 *to assist those nations in qualifying for certification*
19 *under subsection (c); and*

20 “(4) *provide assistance to those nations or orga-*
21 *nizations in designing and implementing appropriate*
22 *fish harvesting plans.*

23 “(e) *PROTECTED LIVING MARINE RESOURCE DE-*
24 *FINED.—In this section the term ‘protected living marine*
25 *resource’—*

1 “(1) means non-target fish, sea turtles, or ma-
2 rine mammals that are protected under United States
3 law or international agreement, including the Marine
4 Mammal Protection Act, the Endangered Species Act,
5 the Shark Finning Prohibition Act, and the Conven-
6 tion on International Trade in Endangered Species of
7 Wild Flora and Fauna; but

8 “(2) does not include species, except sharks, man-
9 aged under the Magnuson-Stevens Fishery Conserva-
10 tion and Management Act, the Atlantic Tunas Con-
11 vention Act, or any international fishery management
12 agreement.

13 “(f) AUTHORIZATION OF APPROPRIATIONS.—There are
14 authorized to be appropriated to the Secretary for fiscal
15 years 2007 through 2013 such sums as are necessary to
16 carry out this section.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) DENIAL OF PORT PRIVILEGES.—Section
19 101(b) of the High Seas Driftnet Fisheries Enforce-
20 ment Act (16 U.S.C. 1826a(b)) is amended by insert-
21 ing “or illegal, unreported, or unregulated fishing“
22 after “fishing“ in paragraph (1)(A)(i), paragraph
23 (1)(B), paragraph (2), and paragraph (4)(A)(i).

24 (2) DURATION OF DENIAL.—Section 102 of the
25 High Seas Driftnet Fisheries Enforcement Act (16

1 *U.S.C. 1826b) is amended by inserting “or illegal,*
2 *unreported , or unregulated fishing“ after “fishing“.*

3 **SEC. 404. MONITORING OF PACIFIC INSULAR AREA FISH-**
4 **ERIES.**

5 *(a) WAIVER AUTHORITY.—Section 201(h)(2)(B) (16*
6 *U.S.C. 1821(h)(2)(B)) is amended by striking “that is at*
7 *least equal in effectiveness to the program established by*
8 *the Secretary;” and inserting “or other monitoring program*
9 *that the Secretary, in consultation with the Western Pacific*
10 *Management Council, determines is adequate to monitor*
11 *harvest, bycatch, and compliance with the laws of the*
12 *United States by vessels fishing under the agreement;”.*

13 *(b) MARINE CONSERVATION PLANS.—Section*
14 *204(e)(4)(A)(i) (16 U.S.C. 1824(e)(4)(A)(i)) is amended to*
15 *read as follows:*

16 *“(i) Pacific Insular Area observer programs, or*
17 *other monitoring programs, that the Secretary deter-*
18 *mines are adequate to monitor the harvest, bycatch,*
19 *and compliance with the laws of the United States by*
20 *foreign fishing vessels that fish under Pacific Insular*
21 *Area fishing agreements;”.*

1 **SEC. 405. REAUTHORIZATION OF ATLANTIC TUNAS CON-**
2 **VENTION ACT.**

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

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

7 “(a) *IN GENERAL.*—There are authorized to be appro-
8 priated to the Secretary to carry out this Act, including
9 use for payment of the United States share of the joint ex-
10 penses of the Commission as provided in Article X of the
11 Convention—

12 “(1) \$5,770,000 for each of fiscal years 2007 and
13 2008;

14 “(2) \$6,058,000 for each of fiscal years 2009 and
15 2010; and

16 “(3) \$6,361,000 for each of fiscal years 2011 and
17 2013.

18 “(b) *ALLOCATION.*—Of the amounts made available
19 under subsection (a) for each fiscal year—

20 “(1) \$160,000 are authorized for the advisory
21 committee established under section 4 of this Act and
22 the species working groups established under section
23 4A of this Act; and

24 “(2) \$7,500,000 are authorized for research ac-
25 tivities under this Act and section 3 of Public Law
26 96–339 (16 U.S.C. 971i), of which \$3,000,000 shall be

1 for the cooperative research program under section
2 3(b)(2)(H) of that section (16 U.S.C. 971i(b)(2)(H)).”.

3 (b) *ATLANTIC BILLFISH COOPERATIVE RESEARCH*
4 *PROGRAM.*—Section 3(b)(2) of Public Law 96–339 (16
5 U.S.C. 971i(b)(2)) is amended—

6 (1) by striking “and” after the semicolon in sub-
7 paragraph (G);

8 (2) by redesignating subparagraph (H) as sub-
9 paragraph (I); and

10 (3) by inserting after subparagraph (G) the fol-
11 lowing:

12 “(H) include a cooperative research pro-
13 gram on Atlantic billfish based on the Southeast
14 Fisheries Science Center Atlantic Billfish Re-
15 search Plan of 2002; and”.

16 (c) *SENSE OF CONGRESS REGARDING FISH HABITAT.*—Section 3 of the Atlantic Tunas Convention Act of
17 *TAT.*—Section 3 of the Atlantic Tunas Convention Act of
18 1975 (16 U.S.C. 971a) is amended by adding at the end
19 the following:

20 “(e) *SENSE OF CONGRESS REGARDING FISH HABITAT.*—It is the sense of the Congress that the United States
21 *TAT.*—It is the sense of the Congress that the United States
22 Commissioners should seek to include ecosystem consider-
23 ations in fisheries management, including the conservation
24 of fish habitat.’.

1 **SEC. 406. INTERNATIONAL OVERFISHING AND DOMESTIC**
2 **EQUITY.**

3 (a) *INTERNATIONAL OVERFISHING.*—Section 304 (16
4 U.S.C. 1854) is amended by adding at the end thereof the
5 following:

6 “(i) *INTERNATIONAL OVERFISHING.*—The provisions
7 of this subsection shall apply in lieu of subsection (e) to
8 a fishery that the Secretary determines is overfished or ap-
9 proaching a condition of being overfished due to excessive
10 international fishing pressure, and for which there are no
11 management measures to end overfishing under an inter-
12 national agreement to which the United States is a party.
13 For such fisheries—

14 “(1) the Secretary, in cooperation with the Sec-
15 retary of State, immediately take appropriate action
16 at the international level to end the overfishing; and

17 “(2) within 1 year after the Secretary’s deter-
18 mination, the appropriate Council, or Secretary, for
19 fisheries under section 302(a)(3) shall—

20 “(A) develop recommendations for domestic
21 regulations to address the relative impact of fish-
22 ing vessels of the United States on the stock and,
23 if developed by a Council, the Council shall sub-
24 mit such recommendations to the Secretary; and

25 “(B) develop and submit recommendations
26 to the Secretary of State, and to the Congress, for

1 *international actions that will end overfishing in*
2 *the fishery and rebuild the affected stocks, taking*
3 *into account the relative impact of vessels of*
4 *other nations and vessels of the United States on*
5 *the relevant stock.”.*

6 **(b) HIGHLY MIGRATORY SPECIES TAGGING RE-**
7 **SEARCH.**—*Section 304(g)(2) (16 U.S.C. 1854(g)(2)) is*
8 *amended by striking “(16 U.S.C. 971d)” and inserting “(16*
9 *U.S.C. 971d), or highly migratory species harvested in a*
10 *commercial fishery managed by a Council under this Act*
11 *or the Western and Central Pacific Fisheries Convention*
12 *Implementation Act,”.*

13 **SEC. 407. UNITED STATES CATCH HISTORY.**

14 *In establishing catch allocations under international*
15 *fisheries agreements, the Secretary, in consultation with the*
16 *Secretary of the Department in which the Coast Guard is*
17 *operating, and the Secretary of State, shall ensure that all*
18 *catch history associated with a vessel of the United States*
19 *remains with the United States and is not transferred or*
20 *credited to any other nation or vessel of such nation, includ-*
21 *ing when a vessel of the United States is sold or transferred*
22 *to a citizen of another nation or to an entity controlled*
23 *by citizens of another nation.*

1 **SEC. 408. SECRETARIAL REPRESENTATIVE FOR INTER-**
2 **NATIONAL FISHERIES.**

3 (a) *IN GENERAL.*—*The Secretary, in consultation with*
4 *the Under Secretary of Commerce for Oceans and Atmos-*
5 *phere, shall designate a Senate-confirmed, senior official*
6 *within the National Oceanic and Atmospheric Administra-*
7 *tion to perform the duties of the Secretary with respect to*
8 *international agreements involving fisheries and other liv-*
9 *ing marine resources, including policy development and*
10 *representation as a U.S. Commissioner, under any such*
11 *international agreements.*

12 (b) *ADVICE.*—*The designated official shall, in con-*
13 *sultation with the Deputy Assistant Secretary for Inter-*
14 *national Affairs and the Administrator of the National Ma-*
15 *rine Fisheries Service, advise the Secretary, Undersecretary*
16 *of Commerce for Oceans and Atmosphere, and other senior*
17 *officials of the Department of Commerce and the National*
18 *Oceanic and Atmospheric Administration on development*
19 *of policy on international fisheries conservation and man-*
20 *agement matters.*

21 (c) *CONSULTATION.*—*The designated official shall con-*
22 *sult with the Senate Committee on Commerce, Science, and*
23 *Transportation and the House Committee on Resources on*
24 *matters pertaining to any regional or international nego-*
25 *tiation concerning living marine resources, including shell-*
26 *fish.*

1 (d) *DELEGATION.*—*The designated official may dele-*
2 *gate and authorize successive re-delegation of such func-*
3 *tions, powers, and duties to such officers and employees of*
4 *the National Oceanic and Atmospheric Administration as*
5 *deemed necessary to discharge the responsibility of the Of-*
6 *fice.*

7 (e) *EFFECTIVE DATE.*—*This section shall take effect on*
8 *January 1, 2009.*

9 **TITLE V—IMPLEMENTATION OF**
10 **WESTERN AND CENTRAL PA-**
11 **CIFIC FISHERIES CONVEN-**
12 **TION**

13 **SEC. 501. SHORT TITLE.**

14 *This title may be cited as the “Western and Central*
15 *Pacific Fisheries Convention Implementation Act”.*

16 **SEC. 502. DEFINITIONS.**

17 *In this title:*

18 (1) *1982 CONVENTION.*—*The term “1982 Con-*
19 *vention” means the United Nations Convention on the*
20 *Law of the Sea of 10 December 1982.*

21 (2) *AGREEMENT.*—*The term “Agreement” means*
22 *the Agreement for the Implementation of the Provi-*
23 *sions of the United Nations Convention on the Law*
24 *of the Sea of 10 December 1982 relating to the Con-*

1 *servation and Management of Straddling Fish Stocks*
2 *and Highly Migratory Fish Stocks.*

3 (3) *COMMISSION.*—*The term “Commission”*
4 *means the Commission for the Conservation and*
5 *Management of Highly Migratory Fish Stocks in the*
6 *Western and Central Pacific Ocean established in ac-*
7 *cordance with this Convention.*

8 (4) *CONVENTION AREA.*—*The term “convention*
9 *area” means all waters of the Pacific Ocean bounded*
10 *to the south and to the east by the following line:*

11 *From the south coast of Australia due south along the*
12 *141th meridian of east longitude to its intersection*
13 *with the 55th parallel of south latitude; thence due*
14 *east along the 55th parallel of south latitude to its*
15 *intersection with the 150th meridian of east lon-*
16 *gitude; thence due south along the 150th meridian of*
17 *east longitude to its intersection with the 60th par-*
18 *allel of south latitude; thence due east along the 60th*
19 *parallel of south latitude to its intersection with the*
20 *130th meridian of west longitude; thence due north*
21 *along the 130th meridian of west longitude to its*
22 *intersection with the 4th parallel of south latitude;*
23 *thence due west along the 4th parallel of south lati-*
24 *tude to its intersection with the 150th meridian of*

1 *west longitude; thence due north along the 150th me-*
2 *ridian of west longitude.*

3 (5) *EXCLUSIVE ECONOMIC ZONE.*—*The term “ex-*
4 *clusive economic zone” means the zone established by*
5 *Presidential Proclamation Numbered 5030 of March*
6 *10, 1983.*

7 (6) *FISHING.*—*The term “fishing” means:*

8 (A) *searching for, catching, taking, or har-*
9 *vesting fish.*

10 (B) *attempting to search for, catch, take, or*
11 *harvest fish.*

12 (C) *engaging in any other activity which*
13 *can reasonably be expected to result in the locat-*
14 *ing, catching, taking, or harvesting of fish for*
15 *any purpose.*

16 (D) *placing, searching for, or recovering*
17 *fish aggregating devices or associated electronic*
18 *equipment such as radio beacons.*

19 (E) *any operations at sea directly in sup-*
20 *port of, or in preparation for, any activity de-*
21 *scribed in subparagraphs (A) through (D), in-*
22 *cluding transshipment.*

23 (F) *use of any other vessel, vehicle, aircraft,*
24 *or hovercraft, for any activity described in sub-*
25 *paragraphs (A) through (E) except for emer-*

1 *gencies involving the health and safety of the*
2 *crew or the safety of a vessel.*

3 (7) *FISHING VESSEL.*—*The term “fishing vessel”*
4 *means any vessel used or intended for use for the pur-*
5 *pose of fishing, including support ships, carrier ves-*
6 *sels, and any other vessel directly involved in such*
7 *fishing operations.*

8 (8) *HIGHLY MIGRATORY FISH STOCKS.*—*The*
9 *term “highly migratory fish stocks” means all fish*
10 *stocks of the species listed in Annex 1 of the 1982*
11 *Convention, except sauries, occurring in the Conven-*
12 *tion Area, and such other species of fish as the Com-*
13 *mission may determine.*

14 (9) *SECRETARY.*—*The term “Secretary” means*
15 *the Secretary of Commerce.*

16 (10) *STATE.*—*The term “State” means each of*
17 *the several States of the United States, the District of*
18 *Columbia, the Commonwealth of the Northern Mar-*
19 *iana Islands, American Samoa, Guam, and any other*
20 *commonwealth, territory, or possession of the United*
21 *States.*

22 (11) *TRANSHIPMENT.*—*The term “trans-*
23 *shipment” means the unloading of all or any of the*
24 *fish on board a fishing vessel to another fishing vessel*
25 *either at sea or in port.*

1 *Fishery Management Council. The Commissioners shall be*
2 *entitled to adopt such rules of procedures as they find nec-*
3 *essary and to select a chairman from among members who*
4 *are officers or employees of the United States Government.*

5 (b) *ALTERNATE COMMISSIONERS.—The Secretary of*
6 *State, in consultation with the Secretary, may designate*
7 *from time to time and for periods of time deemed appro-*
8 *priate Alternate United States Commissioners to the Com-*
9 *mission. Any Alternate United States Commissioner may*
10 *exercise at any meeting of the Commission, Council, any*
11 *Panel, or the advisory committee established pursuant to*
12 *subsection (d), all powers and duties of a United States*
13 *Commissioner in the absence of any Commissioner ap-*
14 *pointed pursuant to subsection (a) of this section for what-*
15 *ever reason. The number of such Alternate United States*
16 *Commissioners that may be designated for any such meet-*
17 *ing shall be limited to the number of United States Commis-*
18 *sioners appointed pursuant to subsection (a) of this section*
19 *who will not be present at such meeting.*

20 (c) *ADMINISTRATIVE MATTERS.—*

21 (1) *EMPLOYMENT STATUS.—Individuals serving*
22 *as such Commissioners, other than officers or employe-*
23 *es of the United States Government, shall be consid-*
24 *ered to be Federal employees while performing such*
25 *service, only for purposes of—*

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

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

6 (C) *any other criminal or civil statute or*
7 *regulation governing the conduct of Federal em-*
8 *ployees.*

9 (2) *COMPENSATION.—The United States Com-*
10 *missioners or Alternate Commissioners, although offi-*
11 *cers of the United States while so serving, shall re-*
12 *ceive no compensation for their services as such Com-*
13 *missioners or Alternate Commissioners.*

14 (3) *TRAVEL EXPENSES.—*

15 (A) *The Secretary of State shall pay the*
16 *necessary travel expenses of United States Com-*
17 *missioners and Alternate United States Commis-*
18 *sioners in accordance with the Federal Travel*
19 *Regulations and sections 5701, 5702, 5704*
20 *through 5708, and 5731 of title 5, United States*
21 *Code.*

22 (B) *The Secretary may reimburse the Sec-*
23 *retary of State for amounts expended by the Sec-*
24 *retary of State under this subsection.*

25 (d) *ADVISORY COMMITTEES.—*

1 (1) *ESTABLISHMENT OF PERMANENT ADVISORY*
2 *COMMITTEE.*—

3 (A) *MEMBERSHIP.*—*There is established an*
4 *advisory committee which shall be composed of—*

5 (i) *not less than 15 nor more than 20*
6 *individuals appointed by the Secretary of*
7 *Commerce in consultation with the United*
8 *States Commissioners, who shall select such*
9 *individuals from the various groups con-*
10 *cerned with the fisheries covered by the*
11 *WCPFC Convention, providing, to the max-*
12 *imum extent practicable, an equitable bal-*
13 *ance among such groups;*

14 (ii) *the chair of the Western Pacific*
15 *Fishery Management Council's Advisory*
16 *Committee or the chair's designee; and*

17 (iii) *officials of the fisheries manage-*
18 *ment authorities of American Samoa,*
19 *Guam, and the Northern Mariana Islands*
20 *(or their designees).*

21 (B) *TERMS AND PRIVILEGES.*—*Each mem-*
22 *ber of the advisory committee appointed under*
23 *subparagraph (A) shall serve for a term of 2*
24 *years and shall be eligible for reappointment.*
25 *The advisory committee shall be invited to at-*

1 *tend all non-executive meetings of the United*
2 *States Commissioners and at such meetings shall*
3 *be given opportunity to examine and to be heard*
4 *on all proposed programs of investigation, re-*
5 *ports, recommendations, and regulations of the*
6 *Commission.*

7 (C) *PROCEDURES.*—*The advisory committee*
8 *established by subparagraph (A) shall determine*
9 *its organization, and prescribe its practices and*
10 *procedures for carrying out its functions under*
11 *this chapter, the Magnuson-Stevens Fishery Con-*
12 *servation and Management Act (16 U.S.C. 1801*
13 *et seq.), and the WCPFC Convention. The advi-*
14 *sory committee shall publish and make available*
15 *to the public a statement of its organization,*
16 *practices, and procedures. A majority of the*
17 *members of the advisory committee shall con-*
18 *stitute a quorum. Meetings of the advisory com-*
19 *mittee, except when in executive session, shall be*
20 *open to the public, and prior notice of meetings*
21 *shall be made public in a timely fashion. and the*
22 *advisory committee shall not be subject to the*
23 *Federal Advisory Committee Act (5 U.S.C.*
24 *App.).*

1 (D) *PROVISION OF INFORMATION.*—*The Sec-*
2 *retary and the Secretary of State shall furnish*
3 *the advisory committee with relevant informa-*
4 *tion concerning fisheries and international fish-*
5 *ery agreements.*

6 (2) *ADMINISTRATIVE MATTERS.*—

7 (A) *SUPPORT SERVICES.*—*The Secretary*
8 *shall provide to advisory committees in a timely*
9 *manner such administrative and technical sup-*
10 *port services as are necessary for their effective*
11 *functioning.*

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

15 (i) *shall serve without pay, but while*
16 *away from their homes or regular places of*
17 *business in the performance of services for*
18 *the advisory committee shall be allowed*
19 *travel expenses, including per diem in lieu*
20 *of subsistence, in the same manner as per-*
21 *sons employed intermittently in the Govern-*
22 *ment service are allowed expenses under sec-*
23 *tion 5703 of title 5, United States Code;*
24 *and*

1 (ii) shall be considered Federal employ-
2 ees while performing service as members of
3 an advisory committee only for purposes
4 of—

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

8 (II) requirements concerning eth-
9 ics, conflicts-of-interest, and corrup-
10 tion, as provided by title 18, United
11 States Code; and

12 (III) any other criminal or civil
13 statute or regulation governing the con-
14 duct of Federal employees in their ca-
15 pacity as Federal employees.

16 (f) *MEMORANDUM OF UNDERSTANDING.*—For highly
17 migratory species in the Pacific, the Secretary, in coordina-
18 tion with the Secretary of State, shall develop a memo-
19 randum of understanding with the Western Pacific, Pacific,
20 and North Pacific Fishery Management Councils, that
21 clarifies the role of the relevant Council or Councils with
22 respect to—

23 (1) participation in United States delegations to
24 international fishery organizations in the Pacific

1 *Ocean, including government-to-government consulta-*
2 *tions;*

3 (2) *providing formal recommendations to the*
4 *Secretary and the Secretary of State regarding nec-*
5 *essary measures for both domestic and foreign vessels*
6 *fishing for these species;*

7 (3) *coordinating positions with the United States*
8 *delegation for presentation to the appropriate inter-*
9 *national fishery organization; and*

10 (4) *recommending those domestic fishing regula-*
11 *tions that are consistent with the actions of the inter-*
12 *national fishery organization, for approval and im-*
13 *plementation under the Magnuson-Stevens Fishery*
14 *Conservation and Management Act (16 U.S.C. 1801*
15 *et seq.)*

16 **SEC. 504. AUTHORITY AND RESPONSIBILITY OF THE SEC-**
17 **RETARY OF STATE.**

18 *The Secretary of State may—*

19 (1) *receive and transmit, on behalf of the United*
20 *States, reports, requests, recommendations, proposals,*
21 *decisions, and other communications of and to the*
22 *Commission;*

23 (2) *in consultation with the Secretary approve,*
24 *disapprove, object to, or withdraw objections to by-*
25 *laws and rules, or amendments thereof, adopted by*

1 *the WCPFC Commission, and, with the concurrence*
2 *of the Secretary to approve or disapprove the general*
3 *annual program of the WCPFC Commission with re-*
4 *spect to conservation and management measures and*
5 *other measures proposed or adopted in accordance*
6 *with the WCPFC Convention; and*

7 (3) *act upon, or refer to other appropriate au-*
8 *thority, any communication referred to in paragraph*
9 (1).

10 **SEC. 505. RULEMAKING AUTHORITY OF THE SECRETARY OF**
11 **COMMERCE.**

12 (a) *PROMULGATION OF REGULATIONS.*—*The Sec-*
13 *retary, in consultation with the Secretary of State and,*
14 *with respect to enforcement measures, the Secretary of the*
15 *Department in which the Coast Guard is operating, is au-*
16 *thorized to promulgate such regulations as may be nec-*
17 *essary to carry out the United States international obliga-*
18 *tions under the WCPFC Convention and this title, includ-*
19 *ing recommendations and decisions adopted by the Com-*
20 *mission. In cases where the Secretary has discretion in the*
21 *implementation of one or more measures adopted by the*
22 *Commission that would govern fisheries under the authority*
23 *of a Regional Fishery Management Council, the Secretary*
24 *may, to the extent practicable within the implementation*
25 *schedule of the WCPFC Convention and any recommenda-*

1 *tions and decisions adopted by the Commission, promulgate*
2 *such regulations in accordance with the procedures estab-*
3 *lished by the Magnuson-Stevens Fishery Conservation and*
4 *Management Act (16 U.S.C. 1801 et seq.).*

5 (b) *ADDITIONS TO FISHERY REGIMES AND REGULA-*
6 *TIONS.—The Secretary may promulgate regulations appli-*
7 *cable to all vessels and persons subject to the jurisdiction*
8 *of the United States, including United States flag vessels*
9 *wherever they may be operating, on such date as the Sec-*
10 *retary shall prescribe.*

11 **SEC. 506. ENFORCEMENT.**

12 (a) *IN GENERAL.—The Secretary may—*

13 (1) *administer and enforce this title and any*
14 *regulations issued under this title, except to the extent*
15 *otherwise provided for in this Act;*

16 (2) *request and utilize on a reimbursed or non-*
17 *reimbursed basis the assistance, services, personnel,*
18 *equipment, and facilities of other Federal depart-*
19 *ments and agencies in—*

20 (A) *the administration and enforcement of*
21 *this title; and*

22 (B) *the conduct of scientific, research, and*
23 *other programs under this title;*

24 (3) *conduct fishing operations and biological ex-*
25 *periments for purposes of scientific investigation or*

1 *other purposes necessary to implement the WCPFC*
2 *Convention;*

3 *(4) collect, utilize, and disclose such information*
4 *as may be necessary to implement the WCPFC Con-*
5 *vention, subject to sections 552 and 552a of title 5,*
6 *United States Code, and section 402(b) of the Magnu-*
7 *son-Stevens Fishery Conservation and Management*
8 *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 to*
12 *exceed three percent of the ex-vessel value of fish har-*
13 *vested 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 enforce-*
16 *ment under this title, which shall be deposited as an*
17 *offsetting collection in, and credited to, the account*
18 *providing appropriations to carry out the functions of*
19 *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 Secretary*
2 *shall ensure the consistency, to the extent practicable, of*
3 *fishery management programs administered under this Act,*
4 *the Magnuson-Stevens Fishery Conservation and Manage-*
5 *ment Act (16 U.S.C. 1801 et seq.), the Tuna Conventions*
6 *Act (16 U.S.C. 951 et seq.), the South Pacific Tuna Act*
7 *(16 U.S.C. 973 et seq.), section 401 of Public Law 108–*
8 *219 (16 U.S.C. 1821 note) (relating to Pacific albacore*
9 *tuna), and the Atlantic Tunas Convention Act (16 U.S.C.*
10 *971).*

11 (c) *ACTIONS BY THE SECRETARY.*—*The Secretary shall*
12 *prevent any person from violating this title in the same*
13 *manner, by the same means, and with the same jurisdic-*
14 *tion, powers, and duties as though all applicable terms and*
15 *provisions of the Magnuson-Stevens Fishery Conservation*
16 *and Management Act (16 U.S.C. 1857) were incorporated*
17 *into and made a part of this title. Any person that violates*
18 *any provision of this title is subject to the penalties and*
19 *entitled to the privileges and immunities provided in the*
20 *Magnuson-Stevens Fishery Conservation and Management*
21 *Act in the same manner, by the same means, and with the*
22 *same jurisdiction, power, and duties as though all applica-*
23 *ble terms and provisions of that Act were incorporated into*
24 *and made a part of this title.*

25 (d) *CONFIDENTIALITY.*—

1 (1) *IN GENERAL.*—Any information submitted to
2 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 of 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 in
23 this subsection, and such release does not violate
24 other requirements of this Act.

1 (2) *USE OF INFORMATION.*—*The Secretary shall,*
2 *by regulation, prescribe such procedures as may be*
3 *necessary to preserve the confidentiality of informa-*
4 *tion submitted in compliance with any requirement*
5 *or regulation under this Act, except that the Secretary*
6 *may release or make public any such information in*
7 *any aggregate or summary form that does not di-*
8 *rectly or indirectly disclose the identity or business of*
9 *any person. Nothing in this subsection shall be inter-*
10 *preted or construed to prevent the use for conservation*
11 *and management purposes by the Secretary of any*
12 *information submitted in compliance with any re-*
13 *quirement or regulation under this Act.*

14 **SEC. 507. PROHIBITED ACTS.**

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

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

18 (2) *to use any fishing vessel to engage in fishing*
19 *after the revocation, or during the period of suspen-*
20 *sion, on an applicable permit issued pursuant to this*
21 *title;*

22 (3) *to refuse to permit any officer authorized to*
23 *enforce the provisions of this title to board a fishing*
24 *vessel subject to such person's control for the purposes*
25 *of conducting any search, investigation, or inspection*

1 *in connection with the enforcement of this title or any*
2 *regulation, permit, or the Convention;*

3 (4) *to forcibly assault, resist, oppose, impede, in-*
4 *timidate, or interfere with any such authorized officer*
5 *in the conduct of any search, investigations, or in-*
6 *spection in connection with the enforcement of this*
7 *title or any regulation, permit, or the Convention;*

8 (5) *to resist a lawful arrest for any act prohib-*
9 *ited by this title;*

10 (6) *to ship, transport, offer for sale, sell, pur-*
11 *chase, import, export, or have custody, control, or pos-*
12 *session of, any fish taken or retained in violation of*
13 *this title or any regulation, permit, or agreement re-*
14 *ferred to in paragraph (1) or (2);*

15 (7) *to interfere with, delay, or prevent, by any*
16 *means, the apprehension or arrest of another person,*
17 *knowing that such other person has committed any*
18 *chapter prohibited by this section;*

19 (8) *to knowingly and willfully submit to the Sec-*
20 *retary false information (including false information*
21 *regarding the capacity and extent to which a United*
22 *States fish processor, on an annual basis, will process*
23 *a portion of the optimum yield of a fishery that will*
24 *be harvested by fishery vessels of the United States),*

1 *regarding any matter that the Secretary is consid-*
2 *ering in the course of carrying out this title;*

3 *(9) to forcibly assault, resist, oppose, impede, in-*
4 *timidate, sexually harass, bribe, or interfere with any*
5 *observer on a vessel under this title, or any data col-*
6 *lector employed by the National Marine Fisheries*
7 *Service or under contract to any person to carry out*
8 *responsibilities under this title;*

9 *(10) to engage in fishing in violation of any reg-*
10 *ulation adopted pursuant to section 506(a) of this*
11 *title;*

12 *(11) to ship, transport, purchase, sell, offer for*
13 *sale, import, export, or have in custody, possession, or*
14 *control any fish taken or retained in violation of such*
15 *regulations;*

16 *(12) to fail to make, keep, or furnish any catch*
17 *returns, statistical records, or other reports as are re-*
18 *quired by regulations adopted pursuant to this title*
19 *to be made, kept, or furnished;*

20 *(13) to fail to stop a vessel upon being hailed*
21 *and instructed to stop by a duly authorized official*
22 *of the United States;*

23 *(14) to import, in violation of any regulation*
24 *adopted pursuant to section 506(a) of this title, any*
25 *fish in any form of those species subject to regulation*

1 *pursuant to a recommendation, resolution, or decision*
2 *of the Commission, or any tuna in any form not*
3 *under regulation but under investigation by the Com-*
4 *mission, during the period such fish have been denied*
5 *entry in accordance with the provisions of section*
6 *506(a) of this title.*

7 **(b) ENTRY CERTIFICATION.**—*In the case of any fish*
8 *described in subsection (a) offered for entry into the United*
9 *States, the Secretary of Commerce shall require proof satis-*
10 *factory to the Secretary that such fish is not ineligible for*
11 *such entry under the terms of section 506(a) of this title.*

12 **SEC. 508. COOPERATION IN CARRYING OUT CONVENTION.**

13 **(a) FEDERAL AND STATE AGENCIES; PRIVATE INSTI-**
14 **TUTIONS AND ORGANIZATIONS.**—*The Secretary may co-*
15 *operate with agencies of the United States government, any*
16 *public or private institutions or organizations within the*
17 *United States or abroad, and, through the Secretary of*
18 *State, the duly authorized officials of the government of any*
19 *party to the WCPFC Convention, in carrying out respon-*
20 *sibilities under this title.*

21 **(b) SCIENTIFIC AND OTHER PROGRAMS; FACILITIES**
22 **AND PERSONNEL.**—*All Federal agencies are authorized,*
23 *upon the request of the Secretary, to cooperate in the con-*
24 *duct of scientific and other programs and to furnish facili-*
25 *ties and personnel for the purpose of assisting the Commis-*

1 *sion in carrying out its duties under the WCPFC Conven-*
2 *tion.*

3 (c) *SANCTIONED FISHING OPERATIONS AND BIOLOGI-*
4 *CAL EXPERIMENTS.*—*Nothing in this title, or in the laws*
5 *or regulations of any State, prevents the Secretary or the*
6 *Commission from—*

7 (1) *conducting or authorizing the conduct of fish-*
8 *ing operations and biological experiments at any time*
9 *for purposes of scientific investigation; or*

10 (2) *discharging any other duties prescribed by*
11 *the WCPFC Convention.*

12 (d) *STATE JURISDICTION NOT AFFECTED.*—*Except as*
13 *provided in subsection (e) of this section, nothing in this*
14 *title shall be construed to diminish or to increase the juris-*
15 *diction of any State in the territorial sea of the United*
16 *States.*

17 (e) *APPLICATION OF REGULATIONS—*

18 (1) *IN GENERAL.*—*Regulations promulgated*
19 *under section 506(a) of this title shall apply within*
20 *the boundaries of any State bordering on the Conven-*
21 *tion area if the Secretary has provided notice to such*
22 *State, the State does not request an agency hearing,*
23 *and the Secretary determines that the State—*

24 (A) *has not, within a reasonable period of*
25 *time after the promulgation of regulations pur-*

1 *suant to this title, enacted laws or promulgated*
2 *regulations that implement the recommendations*
3 *of the Commission within the boundaries of such*
4 *State; or*

5 *(B) has enacted laws or promulgated regu-*
6 *lations that implement the recommendations of*
7 *the commission within the boundaries of such*
8 *State that—*

9 *(i) are less restrictive than the regula-*
10 *tions promulgated under section 506(a) of*
11 *this title; or*

12 *(ii) are not effectively enforced.*

13 (2) *DETERMINATION BY SECRETARY.—The regu-*
14 *lations promulgated pursuant to section 506(a) of this*
15 *title shall apply until the Secretary determines that*
16 *the State is effectively enforcing within its boundaries*
17 *measures that are not less restrictive than the regula-*
18 *tions promulgated under section 506(a) of this title.*

19 (3) *HEARING.—If a State requests a formal*
20 *agency hearing, the Secretary shall not apply the reg-*
21 *ulations promulgated pursuant section 506(a) of this*
22 *title within that State's boundaries unless the hearing*
23 *record supports a determination under paragraph*
24 *(1)(A) or (B).*

1 (f) *REVIEW OF STATE LAWS AND REGULATIONS.*—To
2 *ensure that the purposes of subsection (e) are carried out,*
3 *the Secretary shall undertake a continuing review of the*
4 *laws and regulations of all States to which subsection (e)*
5 *applies or may apply and the extent to which such laws*
6 *and regulations are enforced.*

7 **SEC. 509. TERRITORIAL PARTICIPATION.**

8 *The Secretary of State shall ensure participation in*
9 *the Commission and its subsidiary bodies by American*
10 *Samoa, Guam, and the Northern Mariana Islands to the*
11 *same extent provided to the territories of other nations.*

12 **SEC. 510. EXCLUSIVE ECONOMIC ZONE NOTIFICATION.**

13 *Masters of commercial fishing vessels of nations fishing*
14 *for species under the management authority of the Western*
15 *and Central Pacific Fisheries Convention that do not carry*
16 *vessel monitoring systems capable of communicating with*
17 *United States enforcement authorities shall, prior to, or as*
18 *soon as reasonably possible after, entering and transiting*
19 *the Exclusive Economic Zone seaward of Hawaii and of*
20 *the Commonwealths, territories, and possessions of the*
21 *United States in the Pacific Ocean area—*

22 (1) *notify the United States Coast Guard or the*
23 *National Marine Fisheries Service Office of Law En-*
24 *forcement in the appropriate region of the name, flag*
25 *state, location, route, and destination of the vessel and*

1 *of the circumstances under which it will enter United*
2 *States waters;*

3 (2) *ensure that all fishing gear on board the ves-*
4 *sel is stowed below deck or otherwise removed from the*
5 *place where it is normally used for fishing and placed*
6 *where it is not readily available for fishing; and*

7 (3) *where requested by an enforcement officer,*
8 *proceed to a specified location so that a vessel inspec-*
9 *tion can be conducted.*

10 **SEC. 511. AUTHORIZATION OF APPROPRIATIONS.**

11 *There are authorized to be appropriated to the Sec-*
12 *retary of Commerce such sums as may be necessary to carry*
13 *out this title and to pay the United States' contribution*
14 *to the Commission under section 5 of part III of the*
15 *WCPFC Convention.*

16 **TITLE VI—PACIFIC WHITING**

17 **SEC. 601. SHORT TITLE.**

18 *This title may be cited as the “Pacific Whiting Act*
19 *of 2006”.*

20 **SEC. 602. DEFINITIONS.**

21 *In this title:*

22 (1) *ADVISORY PANEL.*—*The term “advisory*
23 *panel” means the Advisory Panel on Pacific Hake/*
24 *Whiting established by the Agreement.*

1 (2) *AGREEMENT.*—*The term “Agreement” means*
2 *the Agreement between the Government of the United*
3 *States and the Government of Canada on Pacific*
4 *Hake/Whiting, signed at Seattle, Washington, on No-*
5 *vember 21, 2003.*

6 (3) *CATCH.*—*The term “catch” means all fishery*
7 *removals from the offshore whiting resource, including*
8 *landings, discards, and bycatch in other fisheries.*

9 (4) *JOINT MANAGEMENT COMMITTEE.*—*The term*
10 *“joint management committee” means the joint man-*
11 *agement committee established by the Agreement.*

12 (5) *JOINT TECHNICAL COMMITTEE.*—*The term*
13 *“joint technical committee” means the joint technical*
14 *committee established by the Agreement.*

15 (6) *OFFSHORE WHITING RESOURCE.*—*The term*
16 *“offshore whiting resource” means the transboundary*
17 *stock of *Merluccius productus* that is located in the*
18 *offshore waters of the United States and Canada ex-*
19 *cept in Puget Sound and the Strait of Georgia.*

20 (7) *SCIENTIFIC REVIEW GROUP.*—*The term “sci-*
21 *entific review group” means the scientific review*
22 *group established by the Agreement.*

23 (8) *SECRETARY.*—*The term “Secretary” means*
24 *the Secretary of Commerce.*

1 (9) *UNITED STATES SECTION.*—*The term*
2 *“United States Section” means the United States rep-*
3 *resentatives on the joint management committee.*

4 **SEC. 603. UNITED STATES REPRESENTATION ON JOINT**
5 **MANAGEMENT COMMITTEE.**

6 (a) *REPRESENTATIVES.*—

7 (1) *IN GENERAL.*—*The Secretary, in consultation*
8 *with the Secretary of State, shall appoint 4 individ-*
9 *uals to represent the United States as the United*
10 *States Section on the joint management committee. In*
11 *making the appointments, the Secretary shall select*
12 *representatives from among individuals who are*
13 *knowledgeable or experienced concerning the offshore*
14 *whiting resource. Of these—*

15 (A) *1 shall be an official of the National*
16 *Oceanic and Atmospheric Administration;*

17 (B) *1 shall be a member of the Pacific Fish-*
18 *ery Management Council, appointed with consid-*
19 *eration given to any recommendation provided*
20 *by that Council;*

21 (C) *1 shall be appointed from a list sub-*
22 *mitted by the treaty Indian tribes with treaty*
23 *fishing rights to the offshore whiting resource;*
24 *and*

1 (D) 1 shall be appointed from the commer-
2 cial sector of the whiting fishing industry con-
3 cerned with the offshore whiting resource.

4 (2) *TERM OF OFFICE.*—Each representative ap-
5 pointed under paragraph (1) shall be appointed for a
6 term not to exceed 4 years, except that, of the initial
7 appointments, 2 representatives shall be appointed for
8 terms of 2 years. Any individual appointed to fill a
9 vacancy occurring prior to the expiration of the term
10 of office of that individual’s predecessor shall be ap-
11 pointed for the remainder of that term. A representa-
12 tive may be appointed for a term of less than 4 years
13 if such term is necessary to ensure that the term of
14 office of not more than 2 representatives will expire
15 in any single year. An individual appointed to serve
16 as a representative is eligible for reappointment.

17 (3) *CHAIR.*—Unless otherwise agreed by all of
18 the 4 representatives, the chair shall rotate annually
19 among the 4 members, with the order of rotation de-
20 termined by lot at the first meeting.

21 (b) *ALTERNATE REPRESENTATIVES.*—The Secretary,
22 in consultation with the Secretary of State, may designate
23 alternate representatives of the United States to serve on
24 the joint management committee. An alternative representa-
25 tive may exercise, at any meeting of the committee, all the

1 *powers and duties of a representative in the absence of a*
2 *duly designated representative for whatever reason.*

3 **SEC. 604. UNITED STATES REPRESENTATION ON THE SCI-**
4 **ENTIFIC REVIEW GROUP.**

5 (a) *IN GENERAL.*—*The Secretary, in consultation with*
6 *the Secretary of State, shall appoint no more than 2 sci-*
7 *entific experts to serve on the scientific review group. An*
8 *individual shall not be eligible to serve on the scientific re-*
9 *view group while serving on the joint technical committee.*

10 (b) *TERM.*—*An individual appointed under subsection*
11 *(a) shall be appointed for a term of not to exceed 4 years,*
12 *but shall be eligible for reappointment. An individual ap-*
13 *pointed to fill a vacancy occurring prior to the expiration*
14 *of a term of office of that individual's predecessor shall be*
15 *appointed to serve for the remainder of that term.*

16 (c) *JOINT APPOINTMENTS.*—*In addition to individuals*
17 *appointed under subsection (a), the Secretary, jointly with*
18 *the Government of Canada, may appoint to the scientific*
19 *review group, from a list of names provided by the advisory*
20 *panel —*

21 (1) *up to 2 independent members of the scientific*
22 *review group; and*

23 (2) *2 public advisors.*

1 **SEC. 605. UNITED STATES REPRESENTATION ON JOINT**
2 **TECHNICAL COMMITTEE.**

3 (a) *SCIENTIFIC EXPERTS.*—

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

10 (2) *TERM OF OFFICE.*—*An individual appointed*
11 *under paragraph (1) shall be appointed for a term of*
12 *not to exceed 4 years, but shall be eligible for re-*
13 *appointment. An individual appointed to fill a va-*
14 *cancy occurring prior to the expiration of the term of*
15 *office of that individual's predecessor shall be ap-*
16 *pointed for the remainder of that term.*

17 (b) *INDEPENDENT MEMBER.*—*In addition to individ-*
18 *uals appointed under subsection (a), the Secretary, jointly*
19 *with the Government of Canada, shall appoint 1 inde-*
20 *pendent member to the joint technical committee selected*
21 *from a list of names provided by the advisory panel.*

22 **SEC. 606. UNITED STATES REPRESENTATION ON ADVISORY**
23 **PANEL.**

24 (a) *IN GENERAL.*—

25 (1) *APPOINTMENT.*—*The Secretary, in consulta-*
26 *tion with the Secretary of State, shall appoint at*

1 *least 6 but not more than 12 individuals to serve as*
2 *members of the advisory panel, selected from among*
3 *individuals who are—*

4 (A) *knowledgeable or experienced in the*
5 *harvesting, processing, marketing, management,*
6 *conservation, or research of the offshore whiting*
7 *resource; and*

8 (B) *not employees of the United States.*

9 (2) *TERM OF OFFICE.—An individual appointed*
10 *under paragraph (1) shall be appointed for a term of*
11 *not to exceed 4 years, but shall be eligible for re-*
12 *appointment. An individual appointed to fill a va-*
13 *cancy occurring prior to the expiration of the term of*
14 *office of that individual's predecessor shall be ap-*
15 *pointed for the remainder of that term.*

16 **SEC. 607. RESPONSIBILITIES OF THE SECRETARY.**

17 (a) *IN GENERAL.—The Secretary is responsible for*
18 *carrying out the Agreement and this title, including the au-*
19 *thority, to be exercised in consultation with the Secretary*
20 *of State, to accept or reject, on behalf of the United States,*
21 *recommendations made by the joint management com-*
22 *mittee.*

23 (b) *REGULATIONS; COOPERATION WITH CANADIAN OF-*
24 *FICIALS.—In exercising responsibilities under this title, the*
25 *Secretary—*

1 (1) *may promulgate such regulations as may be*
2 *necessary to carry out the purposes and objectives of*
3 *the Agreement and this title; and*

4 (2) *with the concurrence of the Secretary of*
5 *State, may cooperate with officials of the Canadian*
6 *Government duly authorized to carry out the Agree-*
7 *ment.*

8 **SEC. 608. RULEMAKING.**

9 (a) *APPLICATION WITH MAGNUSON-STEVENSON ACT.—*
10 *The Secretary shall establish the United States catch level*
11 *for Pacific whiting according to the standards and proce-*
12 *dures of the Agreement and this title rather than under the*
13 *standards and procedures of the Magnuson-Stevens Fishery*
14 *Conservation and Management Act (16 U.S.C. 1801 et seq.),*
15 *except to the extent necessary to address the rebuilding*
16 *needs of other species. Except for establishing the catch level,*
17 *all other aspects of Pacific whiting management shall be—*

18 (1) *subject to the Magnuson-Stevens Fishery*
19 *Conservation and Management Act; and*

20 (2) *consistent with this title.*

21 (b) *JOINT MANAGEMENT COMMITTEE RECOMMENDA-*
22 *TIONS.—For any year in which both parties to the Agree-*
23 *ment approve recommendations made by the joint manage-*
24 *ment committee with respect to the catch level, the Secretary*
25 *shall implement the approved recommendations. Any regu-*

1 *lation promulgated by the Secretary to implement any such*
2 *recommendation shall apply, as necessary, to all persons*
3 *and all vessels subject to the jurisdiction of the United*
4 *States wherever located.*

5 (c) *YEARS WITH NO APPROVED CATCH RECOMMENDA-*
6 *TIONS.—If the parties to the Agreement do not approve the*
7 *joint management committee’s recommendation with re-*
8 *spect to the catch level for any year, the Secretary shall*
9 *establish the total allowable catch for Pacific whiting for*
10 *the United States catch. In establishing the total allowable*
11 *catch under this subsection, the Secretary shall—*

12 (1) *take into account any recommendations from*
13 *the Pacific Fishery Management Council, the joint*
14 *management committee, the joint technical committee,*
15 *the scientific review group, and the advisory panel;*

16 (2) *base the total allowable catch on the best sci-*
17 *entific information available;*

18 (3) *use the default harvest rate set out in para-*
19 *graph 1 of Article III of the Agreement unless the Sec-*
20 *retary determines that the scientific evidence dem-*
21 *onstrates that a different rate is necessary to sustain*
22 *the offshore whiting resource; and*

23 (4) *establish the United State’s share of the total*
24 *allowable catch based on paragraph 2 of Article III*

1 of the Agreement and make any adjustments nec-
2 essary under section 5 of Article II of the Agreement.

3 **SEC. 609. ADMINISTRATIVE MATTERS.**

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

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

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

15 (3) *any other criminal or civil statute or regula-*
16 *tion governing the conduct of Federal employees.*

17 (b) *COMPENSATION.*—

18 (1) *IN GENERAL.*—Except as provided in para-
19 graph (2), an individual appointed under this title
20 shall receive no compensation for the individual's
21 service as a representative, alternate representative,
22 scientific expert, or advisory panel member under this
23 title.

24 (2) *SCIENTIFIC REVIEW GROUP.*—Notwith-
25 standing paragraph (1), the Secretary may employ

1 *and fix the compensation of an individual appointed*
2 *under section 604(a) to serve as a scientific expert on*
3 *the scientific review group who is not employed by the*
4 *United States government, a State government, or an*
5 *Indian tribal government in accordance with section*
6 *3109 of title 5, United States Code.*

7 *(c) TRAVEL EXPENSES.—Except as provided in sub-*
8 *section (d), the Secretary shall pay the necessary travel ex-*
9 *penses of individuals appointed under this title in accord-*
10 *ance with the Federal Travel Regulations and sections*
11 *5701, 5702, 5704 through 5708, and 5731 of title 5, United*
12 *States Code.*

13 *(d) JOINT APPOINTEES.—With respect to the 2 inde-*
14 *pendent members of the scientific review group and the 2*
15 *public advisors to the scientific review group jointly ap-*
16 *pointed under section 604(c), and the 1 independent mem-*
17 *ber to the joint technical committee jointly appointed under*
18 *section 605(b), the Secretary may pay up to 50 percent of—*

19 (1) *any compensation paid to such individuals;*

20 *and*

21 (2) *the necessary travel expenses of such individ-*
22 *uals.*

23 **SEC. 610. ENFORCEMENT.**

24 *(a) IN GENERAL.—The Secretary may—*

1 (1) *administer and enforce this title and any*
2 *regulations issued under this title;*

3 (2) *request and utilize on a reimbursed or non-*
4 *reimbursed basis the assistance, services, personnel,*
5 *equipment, and facilities of other Federal depart-*
6 *ments and agencies in the administration and en-*
7 *forcement of this title; and*

8 (3) *collect, utilize, and disclose such information*
9 *as may be necessary to implement the Agreement and*
10 *this title, subject to sections 552 and 552a of title 5,*
11 *United States Code.*

12 (b) *PROHIBITED ACTS.—It is unlawful for any person*
13 *to violate any provision of this title or the regulations pro-*
14 *mulgated under this title.*

15 (c) *ACTIONS BY THE SECRETARY.—The Secretary shall*
16 *prevent any person from violating this title in the same*
17 *manner, by the same means, and with the same jurisdic-*
18 *tion, powers, and duties as though all applicable terms and*
19 *provisions of the Magnuson-Stevens Fishery Conservation*
20 *and Management Act (16 U.S.C. 1857) were incorporated*
21 *into and made a part of this title. Any person that violates*
22 *any provision of this title is subject to the penalties and*
23 *entitled to the privileges and immunities provided in the*
24 *Magnuson-Stevens Fishery Conservation and Management*
25 *Act in the same manner, by the same means, and with the*

1 *same jurisdiction, power, and duties as though all applica-*
 2 *ble terms and provisions of that Act were incorporated into*
 3 *and made a part of this title.*

4 (d) *PENALTIES.*—*This title shall be enforced by the*
 5 *Secretary as if a violation of this title or of any regulation*
 6 *promulgated by the Secretary under this title were a viola-*
 7 *tion of section 307 of the Magnuson-Stevens Fishery Con-*
 8 *servation and Management Act (16 U.S.C. 1857).*

9 **SEC. 611. AUTHORIZATION OF APPROPRIATIONS.**

10 *There are authorized to be appropriated to the Sec-*
 11 *retary such sums as may be necessary to carry out the obli-*
 12 *gations of the United States under the Agreement and this*
 13 *title.*

14 **TITLE VII—MISCELLANEOUS**

15 **SEC. 701. STUDY OF THE ACIDIFICATION OF THE OCEANS**
 16 **AND EFFECT ON FISHERIES.**

17 *The Secretary of Commerce shall request the National*
 18 *Research Council to conduct a study of the acidification*
 19 *of the oceans and how this process affects the United States.*

20 **SEC. 702. RULE OF CONSTRUCTION.**

21 (a) *IN GENERAL.*—*Title VI of Public Law 109–295 is*
 22 *amended by adding at the end the following:*

23 **“SEC. 699A. RULE OF CONSTRUCTION.**

24 *“Nothing in this title, including the amendments made*
 25 *by this title, may be construed to reduce or otherwise limit*

1 *the authority of the Department of Commerce or the Federal*
2 *Communications Commission.”.*

3 (b) *EFFECTIVE DATE.*—*The amendment made by this*
4 *section shall take effect as though enacted as part of the*
5 *Department of Homeland Security Appropriations Act,*
6 *2007 (Public Law 109–295).*

7 **SEC. 703. PUGET SOUND REGIONAL SHELLFISH SETTLE-**
8 **MENT.**

9 (a) *FINDINGS AND PURPOSE.*—

10 (1) *Findings.*—*Congress finds that—*

11 (A) *the Tribes have established treaty rights*
12 *to take shellfish from public and private tide-*
13 *lands in Washington State, including from some*
14 *lands owned, leased, or otherwise subject to har-*
15 *vest by commercial shellfish growers;*

16 (B) *the district court that adjudicated the*
17 *Tribes’ treaty rights to take shellfish found that*
18 *the growers are innocent purchasers who had no*
19 *notice of the Tribes’ fishing right when they ac-*
20 *quired their properties;*

21 (C) *numerous unresolved issues remain out-*
22 *standing regarding implementation of the Tribes’*
23 *treaty right to take shellfish from lands owned,*
24 *leased, or otherwise subject to harvest by the*
25 *growers;*

1 (D) *the Tribes, the growers, the State of*
2 *Washington, and the United States Department*
3 *of the Interior have resolved by a settlement*
4 *agreement many of the disputes between and*
5 *among them regarding implementation of the*
6 *Tribes' treaty right to take shellfish from covered*
7 *tidelands owned or leased by the growers;*

8 (E) *the settlement agreement does not pro-*
9 *vide for resolution of any claims to take shellfish*
10 *from lands owned or leased by the growers that*
11 *potentially may be brought in the future by other*
12 *Tribes;*

13 (F) *in the absence of congressional actions,*
14 *the prospect of other Tribes claims to take shell-*
15 *fish from lands owned or leased by the growers*
16 *could be pursued through the courts, a process*
17 *which in all likelihood could consume many*
18 *years and thereby promote uncertainty in the*
19 *State of Washington and the growers and to the*
20 *ultimate detriment of both the Tribes and other*
21 *Tribes and their members;*

22 (G) *in order to avoid this uncertainty, it is*
23 *the intent of Congress that other Tribes have the*
24 *option of resolving their claims, if any, to a trea-*

1 *ty right to take shellfish from covered tidelands*
2 *owned or leased by the growers; and*

3 *(H) this Act represents a good faith effort*
4 *on the part of Congress to extend to other Tribes*
5 *the same fair and just option of resolving their*
6 *claims to take shellfish from covered tidelands*
7 *owned or leased by the growers that the Tribes*
8 *have agreed to in the settlement agreement.*

9 (2) *PURPOSE.—The purposes of this section*
10 *are—*

11 *(A) to approve, ratify, and confirm the set-*
12 *tlement agreement entered into by and among*
13 *the Tribes, commercial shellfish growers, the*
14 *State of Washington, and the United States;*

15 *(B) to provide other Tribes with a fair and*
16 *just resolution of any claims to take shellfish*
17 *from covered tidelands, as that term is defined in*
18 *the settlement agreement, that potentially could*
19 *be brought in the future by other Tribes; and*

20 *(C) to authorize the Secretary to implement*
21 *the terms and conditions of the settlement agree-*
22 *ment and this section.*

23 (b) *APPROVAL OF SETTLEMENT AGREEMENT.—*

24 (1) *IN GENERAL.—The settlement agreement is*
25 *hereby approved, ratified, and confirmed, and section*

1 6 of the settlement agreement, *Release of Claims*, is
2 specifically adopted and incorporated into this section
3 as if fully set forth herein.

4 (2) *AUTHORIZATION FOR IMPLEMENTATION.*—

5 *The Secretary is hereby authorized to implement the*
6 *terms and conditions of the settlement agreement in*
7 *accordance with the settlement agreement and this*
8 *section.*

9 (c) *FUND, SPECIAL HOLDING ACCOUNT, AND CONDI-*
10 *TIONS.*—

11 (1) *PUGET SOUND REGIONAL SHELLFISH SET-*
12 *TLEMENT TRUST FUND.*—

13 (A) *There is hereby established in the Treas-*
14 *ury of the United States an account to be des-*
15 *ignated as the “Puget Sound Regional Shellfish*
16 *Settlement Trust Fund”.* *The Secretary shall de-*
17 *posit funds in the amount of \$22,000,000 at such*
18 *time as appropriated pursuant to this section*
19 *into the Fund.*

20 (B) *The Fund shall be maintained and in-*
21 *vested by the Secretary of the Interior pursuant*
22 *to the Act of June 24, 1938, (25 U.S.C. 162a)*
23 *until such time as all monies are transferred*
24 *from the Fund.*

1 (C) *The Secretary shall transfer monies held*
2 *in the Fund to each Tribe of the Tribes in the*
3 *amounts and manner specified by and in accord-*
4 *ance with the payment agreement established*
5 *pursuant to the settlement agreement and this*
6 *section.*

7 (2) *Puget sound regional shellfish settlement spe-*
8 *cial holding account.—*

9 (A) *There is hereby established in the Treas-*
10 *ury of the United States a fund to be designated*
11 *as the “Puget Sound Regional Shellfish Settle-*
12 *ment Special Holding Account”. The Secretary*
13 *shall deposit funds in the amount of \$1,500,000*
14 *into the Special Holding Account in fiscal year*
15 *2011 at such time as such funds are appro-*
16 *priated pursuant to this section.*

17 (B) *The Special Holding Account shall be*
18 *maintained and invested by the Secretary of the*
19 *Interior pursuant to the Act of June 24, 1938,*
20 *(25 U.S.C. 162a) until such time as all monies*
21 *are transferred from the Special Holding Ac-*
22 *count.*

23 (C) *If a court of competent jurisdiction ren-*
24 *ders a final decision declaring that any of the*
25 *other Tribes has an established treaty right to*

1 *take or harvest shellfish in covered tidelands, as*
2 *that term is defined in the settlement agreement,*
3 *and such tribe opts to accept a share of the Spe-*
4 *cial Holding Account, rather than litigate this*
5 *claim against the growers, the Secretary shall*
6 *transfer the appropriate share of the monies held*
7 *in the Special Holding Account to each such*
8 *tribe of the other Tribes in the amounts appro-*
9 *priate to compensate the other Tribes in the*
10 *same manner and for the same purposes as the*
11 *Tribes who are signatory to the settlement agree-*
12 *ment. Such a transfer to a tribe shall constitute*
13 *full and complete satisfaction of that tribe's*
14 *claims to shellfish on the covered tidelands.*

15 *(D) The Secretary may retain such*
16 *amounts of the Special Holding Account as nec-*
17 *essary to provide for additional tribes that may*
18 *judicially establish their rights to take shellfish*
19 *in the covered tidelands within the term of that*
20 *Account, provided that the Secretary pays the re-*
21 *maining balance to the other Tribes prior to the*
22 *expiration of the term of the Special Holding Ac-*
23 *count.*

1 (E) *The Tribes shall have no interest,*
2 *possessory or otherwise, in the Special Holding*
3 *Account.*

4 (F) *Twenty years after the deposit of funds*
5 *into the Special Holding Account, the Secretary*
6 *shall close the Account and transfer the balance*
7 *of any funds held in the Special Holding Ac-*
8 *count at that time to the Treasury. However, the*
9 *Secretary may continue to maintain the Special*
10 *Holding Account in order to resolve the claim of*
11 *an Other Tribe that has notified the Secretary in*
12 *writing within the 20-year term of that Tribe's*
13 *interest in resolving its claim in the manner*
14 *provided for in this section.*

15 (G) *It is the intent of Congress that the*
16 *other Tribes, if any, shall have the option of*
17 *agreeing to similar rights and responsibilities as*
18 *the Tribes that are signatories to the settlement*
19 *agreement, if they opt not to litigate against the*
20 *growers.*

21 (3) *ANNUAL REPORT.—Each tribe of the Tribes,*
22 *or any of the other Tribes accepting a settlement of*
23 *its claims to shellfish on covered lands pursuant to*
24 *paragraph (2)(C), shall submit to the Secretary an*
25 *annual report that describes all expenditures made*

1 *with monies withdrawn from the Fund or Special*
2 *Holding Account during the year covered by the re-*
3 *port.*

4 (4) *JUDICIAL AND ADMINISTRATIVE ACTION.—*
5 *The Secretary may take judicial or administrative*
6 *action to ensure that any monies withdrawn from the*
7 *Fund or Special Holding Account are used in accord-*
8 *ance with the purposes described in the settlement*
9 *agreement and this section.*

10 (5) *CLARIFICATION OF TRUST RESPONSIB-*
11 *ILITY.—Beginning on the date that monies are*
12 *transferred to a tribe of the Tribes or a tribe of the*
13 *other Tribes pursuant to this section, any trust re-*
14 *sponsibility or liability of the United States with re-*
15 *spect to the expenditure or investment of the monies*
16 *withdrawn shall cease.*

17 (d) *STATE OF WASHINGTON PAYMENT.—The Secretary*
18 *shall not be accountable for nor incur any liability for the*
19 *collection, deposit, management or nonpayment of the State*
20 *of Washington payment of \$11,000,000 to the Tribes pursu-*
21 *ant to the settlement agreement.*

22 (e) *RELEASE OF OTHER TRIBES CLAIMS.—*

23 (1) *RIGHT TO BRING ACTIONS.—As of the date of*
24 *enactment of this section, all right of any other Tribes*
25 *to bring an action to enforce or exercise its treaty*

1 *rights to take shellfish from public and private tide-*
2 *lands in Washington State, including from some*
3 *lands owned, leased, or otherwise subject to harvest by*
4 *any and all growers shall be determined in accord-*
5 *ance with the decisions of the Courts of the United*
6 *States in United States v. Washington, Civ. No. 9213*
7 *(Western District of Washington).*

8 (2) *CERTAIN RIGHTS GOVERNED BY THIS SEC-*
9 *TION.—If a tribe falling within the other Tribes cat-*
10 *egory opts to resolve its claims to take shellfish from*
11 *covered tidelands owned or leased by the growers pur-*
12 *suant to subsection (c)(2)(C) of this section, that*
13 *tribe’s rights shall be governed by this section, as well*
14 *as by the decisions of the Courts in United States v.*
15 *Washington, Civ. No. 9213.*

16 (3) *NO BREACH OF TRUST.—Notwithstanding*
17 *whether the United States has a duty to initiate such*
18 *an action, the failure or declination by the United*
19 *States to initiate any action to enforce any other*
20 *Tribe’s or other Tribes’ treaty rights to take shellfish*
21 *from public and private tidelands in Washington*
22 *State, including from covered tidelands owned, leased,*
23 *or otherwise subject to harvest by any and all growers*
24 *shall not constitute a breach of trust by the United*
25 *States or be compensable to other Tribes.*

1 (f) *CAUSE OF ACTION.*—*If any payment by the United*
2 *States is not paid in the amount or manner specified by*
3 *this section, or is not paid within 6 months after the date*
4 *specified by the settlement agreement, such failure shall give*
5 *rise to a cause of action by the Tribes either individually*
6 *or collectively against the United States for money damages*
7 *for the amount authorized but not paid to the Tribes, and*
8 *the Tribes, either individually or collectively, are authorized*
9 *to bring an action against the United States in the United*
10 *States Court of Federal Claims for such funds plus interest.*

11 (g) *DEFINITIONS.*—*In this section:*

12 (1) *FUND.*—*The term “Fund” means the Puget*
13 *Sound Shellfish Settlement Trust Fund Account es-*
14 *tablished by this section.*

15 (2) *GROWERS.*—*The term “growers” means Tay-*
16 *lor United, Inc.; Olympia Oyster Company; G.R.*
17 *Clam & Oyster Farm; Cedric E. Lindsay;*
18 *Minterbrook Oyster Company; Charles and Willa*
19 *Murray; Skookum Bay Oyster Company; J & G*
20 *Gunstone Clams, Inc.; and all persons who qualify as*
21 *‘growers’ in accordance with and pursuant to the set-*
22 *tlement agreement.*

23 (3) *OTHER TRIBES.*—*The term “other Tribes”*
24 *means any federally recognized Indian nation or tribe*
25 *other than the Tribes described in paragraph (6) that,*

1 *within 20 years after the deposit of funds in the Spe-*
2 *cial Holding Account, establishes a legally enforceable*
3 *treaty right to take shellfish from covered tidelands*
4 *described in the settlement agreement, owned, leased*
5 *or otherwise subject to harvest by those persons or en-*
6 *tities that qualify as growers.*

7 (4) *SECRETARY.*—*The term “Secretary” means*
8 *the Secretary of the Interior.*

9 (5) *SETTLEMENT AGREEMENT.*—*The term “set-*
10 *tlement agreement” means the settlement agreement*
11 *entered into by and between the Tribes, commercial*
12 *shellfish growers, the State of Washington and the*
13 *United States, to resolve certain disputes between and*
14 *among them regarding implementation of the Tribes’*
15 *treaty right to take shellfish from certain covered tide-*
16 *lands owned, leased or otherwise subject to harvest by*
17 *the growers.*

18 (6) *TRIBES.*—*The term “Tribes” means the fol-*
19 *lowing federally recognized Tribes that executed the*
20 *settlement agreement: Tulalip, Stillaguamish, Sauk*
21 *Suiattle, Puyallup, Squaxin Island, Makah,*
22 *Muckleshoot, Upper Skagit, Nooksack, Nisqually,*
23 *Skokomish, Port Gamble S’Klallam, Lower Elwha*
24 *Klallam, Jamestown S’Klallam, and Suquamish*

1 *Tribes, the Lummi Nation, and the Swinomish In-*
 2 *dian Tribal Community.*

3 (7) *SPECIAL HOLDING ACCOUNT.*—*The term*
 4 *“Special Holding Account” means the Puget Sound*
 5 *Shellfish Settlement Special Holding Account estab-*
 6 *lished by this section.*

7 (h) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
 8 *authorized to be appropriated \$23,500,000 to carry out this*
 9 *section—*

10 (A) *\$2,000,000 for fiscal year 2007;*

11 (B) *\$5,000,000 for each of fiscal years 2008*
 12 *through 2010; and*

13 (C) *\$6,500,000 for fiscal year 2011.*

14 ***TITLE VIII—TSUNAMI WARNING***
 15 ***AND EDUCATION***

16 ***SEC. 801. SHORT TITLE.***

17 *This title may be cited as the “Tsunami Warning and*
 18 *Education Act”.*

19 ***SEC. 802. DEFINITIONS.***

20 *In this title:*

21 (1) *The term “Administration” means the Na-*
 22 *tional Oceanic and Atmospheric Administration.*

23 (2) *The term “Administrator” means the Admin-*
 24 *istrator of the National Oceanic and Atmospheric Ad-*
 25 *ministration.*

1 **SEC. 803. PURPOSES.**

2 *The purposes of this title are—*

3 *(1) to improve tsunami detection, forecasting,*
4 *warnings, notification, outreach, and mitigation to*
5 *protect life and property in the United States;*

6 *(2) to enhance and modernize the existing Pa-*
7 *cific Tsunami Warning System to increase coverage,*
8 *reduce false alarms, and increase the accuracy of fore-*
9 *casts and warnings, and to expand detection and*
10 *warning systems to include other vulnerable States*
11 *and United States territories, including the Atlantic*
12 *Ocean, Caribbean Sea, and Gulf of Mexico areas;*

13 *(3) to improve mapping, modeling, research, and*
14 *assessment efforts to improve tsunami detection, fore-*
15 *casting, warnings, notification, outreach, mitigation,*
16 *response, and recovery;*

17 *(4) to improve and increase education and out-*
18 *reach activities and ensure that those receiving tsu-*
19 *nami warnings and the at-risk public know what to*
20 *do when a tsunami is approaching;*

21 *(5) to provide technical and other assistance to*
22 *speed international efforts to establish regional tsu-*
23 *nami warning systems in vulnerable areas worldwide,*
24 *including the Indian Ocean; and*

1 (6) to improve Federal, State, and international
2 coordination for detection, warnings, and outreach for
3 tsunami and other coastal impacts.

4 **SEC. 804. TSUNAMI FORECASTING AND WARNING PROGRAM.**

5 (a) *IN GENERAL.*—The Administrator, through the
6 National Weather Service and in consultation with other
7 relevant Administration offices, shall operate a program to
8 provide tsunami detection, forecasting, and warnings for
9 the Pacific and Arctic Ocean regions and for the Atlantic
10 Ocean, Caribbean Sea, and Gulf of Mexico region.

11 (b) *COMPONENTS.*—The program under this section
12 shall—

13 (1) include the tsunami warning centers estab-
14 lished under subsection (d);

15 (2) utilize and maintain an array of robust tsu-
16 nami detection technologies;

17 (3) maintain detection equipment in operational
18 condition to fulfill the detection, forecasting, and
19 warning requirements of this title;

20 (4) provide tsunami forecasting capability based
21 on models and measurements, including tsunami in-
22 undation models and maps for use in increasing the
23 preparedness of communities, including through the
24 TsunamiReady program;

1 (5) *maintain data quality and management sys-*
2 *tems to support the requirements of the program;*

3 (6) *include a cooperative effort among the Ad-*
4 *ministration, the United States Geological Survey,*
5 *and the National Science Foundation under which*
6 *the Geological Survey and the National Science Foun-*
7 *dation shall provide rapid and reliable seismic infor-*
8 *mation to the Administration from international and*
9 *domestic seismic networks;*

10 (7) *provide a capability for the dissemination of*
11 *warnings to at-risk States and tsunami communities*
12 *through rapid and reliable notification to government*
13 *officials and the public, including utilization of and*
14 *coordination with existing Federal warning systems,*
15 *including the National Oceanic and Atmospheric Ad-*
16 *ministration Weather Radio All Hazards Program;*

17 (8) *allow, as practicable, for integration of tsu-*
18 *nami detection technologies with other environmental*
19 *observing technologies; and*

20 (9) *include any technology the Administrator*
21 *considers appropriate to fulfill the objectives of the*
22 *program under this section.*

23 (c) *SYSTEM AREAS.—The program under this section*
24 *shall operate—*

1 (1) *a Pacific tsunami warning system capable of*
2 *forecasting tsunami anywhere in the Pacific and Arc-*
3 *tic Ocean regions and providing adequate warnings;*
4 *and*

5 (2) *an Atlantic Ocean, Caribbean Sea, and Gulf*
6 *of Mexico tsunami warning system capable of fore-*
7 *casting tsunami and providing adequate warnings in*
8 *areas of the Atlantic Ocean, Caribbean Sea, and Gulf*
9 *of Mexico that are determined—*

10 (A) *to be geologically active, or to have sig-*
11 *nificant potential for geological activity; and*

12 (B) *to pose significant risks of tsunami for*
13 *States along the coastal areas of the Atlantic*
14 *Ocean, Caribbean Sea, or Gulf of Mexico.*

15 (d) *TSUNAMI WARNING CENTERS.—*

16 (1) *IN GENERAL.—The Administrator, through*
17 *the National Weather Service, shall maintain or*
18 *establish—*

19 (A) *a Pacific Tsunami Warning Center in*
20 *Hawaii;*

21 (B) *a West Coast and Alaska Tsunami*
22 *Warning Center in Alaska; and*

23 (C) *any additional forecast and warning*
24 *centers determined by the National Weather*
25 *Service to be necessary.*

1 (2) *RESPONSIBILITIES.*—*The responsibilities of*
2 *each tsunami warning center shall include—*

3 (A) *continuously monitoring data from seis-*
4 *mological, deep ocean, and tidal monitoring sta-*
5 *tions;*

6 (B) *evaluating earthquakes that have the*
7 *potential to generate tsunami;*

8 (C) *evaluating deep ocean buoy data and*
9 *tidal monitoring stations for indications of tsu-*
10 *nami resulting from earthquakes and other*
11 *sources;*

12 (D) *disseminating forecasts and tsunami*
13 *warning bulletins to Federal, State, and local*
14 *government officials and the public;*

15 (E) *coordinating with the tsunami hazard*
16 *mitigation program described in section 805 to*
17 *ensure ongoing sharing of information between*
18 *forecasters and emergency management officials;*
19 *and*

20 (F) *making data gathered under this title*
21 *and post-warning analyses conducted by the Na-*
22 *tional Weather Service or other relevant Admin-*
23 *istration offices available to researchers.*

24 (e) *TRANSFER OF TECHNOLOGY; MAINTENANCE AND*
25 *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 equipment*
5 *used to forecast tsunami, which shall include*
6 *provisions for multipurpose detection platforms,*
7 *reliability and performance metrics, and to the*
8 *maximum extent practicable how the equipment*
9 *will be integrated with other United States and*
10 *global ocean and coastal observation systems, the*
11 *global earth observing system of systems, global*
12 *seismic networks, and the Advanced National*
13 *Seismic System;*

14 (B) *develop and execute a plan for the*
15 *transfer of technology from ongoing research de-*
16 *scribed 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 a*
2 *report on how the tsunami forecast system under*
3 *this section will be integrated with other United*
4 *States and global ocean and coastal observation*
5 *systems, the global earth observing system of sys-*
6 *tems, global seismic networks, and the Advanced*
7 *National Seismic System.*

8 *(B) Not later than 3 years after the date of*
9 *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 sec-*
13 *tion 806 is being transferred into the program*
14 *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 the*
23 *Committee on Commerce, Science, and Transportation of*
24 *the Senate and the Committee on Science of the House of*
25 *Representatives a certification that—*

1 (1) identifies the tsunami detection equipment
2 deployed pursuant to this title, as of December 31 of
3 the preceding calendar year;

4 (2) certifies which equipment is operational as of
5 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 that
8 equipment and describes the mitigation strategy that
9 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 pro-
19 vides a schedule for the deployment of that equipment;
20 and

21 (5) certifies that the Administrator expects the
22 equipment described in paragraph (4) to meet the re-
23 quirements, cost, and schedule provided in that con-
24 tract.

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 of—*

5 (1) *impaired regional forecasting capabilities*
6 *due to equipment or system failures; and*

7 (2) *significant contractor failures or delays in*
8 *completing work associated with the tsunami fore-*
9 *casting and warning system.*

10 (i) *REPORT.*—*Not later than January 31, 2010, the*
11 *Comptroller General of the United States shall transmit a*
12 *report to the Committee on Commerce, Science, and Trans-*
13 *portation of the Senate and the Committee on Science of*
14 *the House of Representatives that—*

15 (1) *evaluates the current status of the tsunami*
16 *detection, forecasting, and warning system and the*
17 *tsunami hazard mitigation program established*
18 *under this title, including progress toward tsunami*
19 *inundation mapping of all coastal areas vulnerable to*
20 *tsunami and whether there has been any degradation*
21 *of services as a result of the expansion of the program;*

22 (2) *evaluates the National Weather Service’s*
23 *ability to achieve continued improvements in the de-*
24 *livery of tsunami detection, forecasting, and warning*
25 *services by assessing policies and plans for the evo-*

1 *lution of modernization systems, models, and com-*
2 *putational abilities (including the adoption of new*
3 *technologies); and*

4 *(3) lists the contributions of funding or other re-*
5 *sources to the program by other Federal agencies, par-*
6 *ticularly agencies participating in the program.*

7 *(j) EXTERNAL REVIEW.—The Administrator shall*
8 *enter into an arrangement with the National Academy of*
9 *Sciences to review the tsunami detection, forecast, and*
10 *warning program established under this title to assess fur-*
11 *ther modernization and coverage needs, as well as long-term*
12 *operational reliability issues, taking into account measures*
13 *implemented under this title. The review shall also include*
14 *an assessment of how well the forecast equipment has been*
15 *integrated into other United States and global ocean and*
16 *coastal observation systems and the global earth observing*
17 *system of systems. Not later than 2 years after the date of*
18 *enactment of this Act, the Administrator shall transmit a*
19 *report containing the National Academy of Sciences' rec-*
20 *ommendations, the Administrator's responses to the rec-*
21 *ommendations, including those where the Administrator*
22 *disagrees with the Academy, a timetable to implement the*
23 *accepted recommendations, and the cost of implementing all*
24 *the Academy's recommendations, to the Committee on Com-*

1 *merce, Science, and Transportation of the Senate and the*
2 *Committee on Science of the House of Representatives.*

3 *(k) REPORT.—Not later than 3 months after the date*
4 *of enactment of this Act, the Administrator shall establish*
5 *a process for monitoring and certifying contractor perform-*
6 *ance in carrying out the requirements of any contract to*
7 *construct or deploy tsunami detection equipment, including*
8 *procedures and penalties to be imposed in cases of signifi-*
9 *cant contractor failure or negligence.*

10 **SEC. 805. NATIONAL TSUNAMI HAZARD MITIGATION PRO-**
11 **GRAM.**

12 *(a) IN GENERAL.—The Administrator, through the*
13 *National Weather Service and in consultation with other*
14 *relevant Administration offices, shall conduct a commu-*
15 *nity-based tsunami hazard mitigation program to improve*
16 *tsunami preparedness of at-risk areas in the United States*
17 *and its territories.*

18 *(b) COORDINATING COMMITTEE.—In conducting the*
19 *program under this section, the Administrator shall estab-*
20 *lish a coordinating committee comprising representatives of*
21 *Federal, State, local, and tribal government officials. The*
22 *Administrator may establish subcommittees to address re-*
23 *gion-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 804(c)*
5 *in the United States and its territories can have the*
6 *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 the*
11 *use of inundation maps and other mitigation prac-*
12 *tices; 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 this*
20 *section shall—*

21 (1) *use inundation models that meet a standard*
22 *of accuracy defined by the Administration to improve*
23 *the quality and extent of inundation mapping, in-*
24 *cluding 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 com-*
5 *munity readiness, including the development of com-*
6 *prehensive coastal risk and vulnerability assessment*
7 *training and decision support tools, implementation*
8 *of technical training and public education programs,*
9 *and providing for certification of prepared commu-*
10 *nities;*

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 existing*
3 *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), establish*
8 *or maintain a tsunami research program to develop detec-*
9 *tion, forecast, communication, and mitigation science and*
10 *technology, including advanced sensing techniques, infor-*
11 *mation 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 Service*
17 *on technology to be transferred to operations;*

18 (3) *include social science research to develop and*
19 *assess community warning, education, and evacu-*
20 *ation 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 prepared-*
22 *ness for all Pacific Ocean nations participating in the*
23 *International Tsunami Warning System of the Pacific, and*
24 *may also provide such assistance to other nations partici-*
25 *pating in a global tsunami warning system established*
26 *through the Intergovernmental Oceanographic Commission.*

1 *As part of its responsibilities around the world, the Center*
2 *shall—*

3 (1) *monitor international tsunami warning ac-*
4 *tivities around the world;*

5 (2) *assist member states in establishing national*
6 *warning systems, and make information available on*
7 *current technologies for tsunami warning systems;*

8 (3) *maintain a library of materials to promul-*
9 *gate knowledge about tsunami in general and for use*
10 *by the scientific community; and*

11 (4) *disseminate information, including edu-*
12 *cational materials and research reports.*

13 (c) *DETECTION EQUIPMENT; TECHNICAL ADVICE AND*
14 *TRAINING.—In carrying out this section, the National*
15 *Weather Service—*

16 (1) *shall give priority to assisting nations in*
17 *identifying vulnerable coastal areas, creating inunda-*
18 *tion maps, obtaining or designing real-time detection*
19 *and reporting equipment, and establishing commu-*
20 *nication and warning networks and contact points in*
21 *each vulnerable nation;*

22 (2) *may establish a process for transfer of detec-*
23 *tion and communication technology to affected na-*
24 *tions for the purposes of establishing the international*
25 *tsunami warning system; and*

1 (3) shall provide technical and other assistance
2 to support international tsunami programs.

3 (d) *DATA-SHARING REQUIREMENT.*—*The National*
4 *Weather Service, when deciding to provide assistance under*
5 *this section, may take into consideration the data sharing*
6 *policies and practices of nations proposed to receive such*
7 *assistance, with a goal to encourage all nations to support*
8 *full and open exchange of data.*

9 **SEC. 808. AUTHORIZATION OF APPROPRIATIONS.**

10 *There are authorized to be appropriated to the Admin-*
11 *istrator to carry out this title—*

12 (1) \$25,000,000 for fiscal year 2008, of which—

13 (A) not less than 27 percent of the amount
14 appropriated shall be for the tsunami hazard
15 mitigation program under section 805; and

16 (B) not less than 8 percent of the amount
17 appropriated shall be for the tsunami research
18 program under section 806;

19 (2) \$26,000,000 for fiscal year 2009, of which—

20 (A) not less than 27 percent of the amount
21 appropriated shall be for the tsunami hazard
22 mitigation program under section 805; and

23 (B) not less than 8 percent of the amount
24 appropriated shall be for the tsunami research
25 program under section 806;

1 (3) \$27,000,000 for fiscal year 2010, of which—

2 (A) not less than 27 percent of the amount
3 appropriated shall be for the tsunami hazard
4 mitigation program under section 805; and

5 (B) not less than 8 percent of the amount
6 appropriated shall be for the tsunami research
7 program under section 806;

8 (4) \$28,000,000 for fiscal year 2011, of 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; and

15 (5) \$29,000,000 for fiscal year 2012, of 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 **TITLE IX—POLAR BEARS**

23 **SEC. 901. SHORT TITLE.**

24 This title may be cited as the “United States-Russia
25 Polar Bear Conservation and Management Act of 2006”.

1 **SEC. 902. AMENDMENT OF MARINE MAMMAL PROTECTION**
2 **ACT OF 1972.**

3 (a) *IN GENERAL.*—*The Marine Mammal Protection*
4 *Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding*
5 *at the end thereof the following:*

6 **“TITLE V—POLAR BEARS**

7 **“SEC. 501. DEFINITIONS.**

8 *“In this title:*

9 (1) *AGREEMENT.*—*The term “Agreement”*
10 *means the Agreement Between the Government of the*
11 *United States of America and the Government of the*
12 *Russian Federation on the Conservation and Manage-*
13 *ment of the Alaska-Chukotka Polar Bear Population,*
14 *signed at Washington, D.C., on October 16, 2000.*

15 (2) *ALASKA NANUUQ COMMISSION.*—*The term*
16 *“Alaska Nanuuq Commission” means the Alaska Na-*
17 *tive entity, in existence on the date of enactment of*
18 *the United States-Russia Polar Bear Conservation*
19 *and Management Act of 2006, that represents all vil-*
20 *lages in the State of Alaska that engage in the annual*
21 *subsistence taking of polar bears from the Alaska-*
22 *Chukotka population and any successor entity.*

23 (3) *IMPORT.*—*The term “import” means to*
24 *land on, bring into, or introduce into, or attempt to*
25 *land on, bring into, or introduce into, any place sub-*
26 *ject to the jurisdiction of the United States, without*

1 *regard to whether the landing, bringing, or introduc-*
2 *tion constitutes an importation within the meaning*
3 *of the customs laws of the United States.*

4 “(4) *POLAR BEAR PART OR PRODUCT.*—*The term*
5 *“part or product of a polar bear” means any polar*
6 *bear part or product, including the gall bile and gall*
7 *bladder.*

8 “(5) *SECRETARY.*—*The term “Secretary” means*
9 *the Secretary of the Interior.*

10 “(6) *TAKING.*—*The term “taking” has the mean-*
11 *ing given the term in the Agreement.*

12 “(7) *COMMISSION.*—*The term “Commission”*
13 *means the commission established under article 8 of*
14 *the Agreement.*

15 **“SEC. 502. PROHIBITIONS.**

16 “(a) *In General.*—*It is unlawful for any person who*
17 *is subject to the jurisdiction of the United States or any*
18 *person in waters or on lands under the jurisdiction of the*
19 *United States—*

20 “(1) *to take any polar bear in violation of the*
21 *Agreement;*

22 “(2) *to take any polar bear in violation of the*
23 *Agreement or any annual taking limit or other re-*
24 *striction on the taking of polar bears that is adopted*
25 *by the Commission pursuant to the Agreement;*

1 “(3) to import, export, possess, transport, sell, re-
2 ceive, acquire, or purchase, exchange, barter, or offer
3 to sell, purchase, exchange, or barter any polar bear,
4 or any part or product of a polar bear, that is taken
5 in violation of paragraph (2);

6 “(4) to import, export, sell, purchase, exchange,
7 barter, or offer to sell, purchase, exchange, or barter,
8 any polar bear gall bile or polar bear gall bladder;

9 “(5) to attempt to commit, solicit another person
10 to commit, or cause to be committed, any offense
11 under this subsection; or

12 “(6) to violate any regulation promulgated by
13 the Secretary to implement any of the prohibitions es-
14 tablished in this subsection.

15 “(b) *EXCEPTIONS.*—For the purpose of forensic testing
16 or any other law enforcement purpose, the Secretary, and
17 Federal law enforcement officials, and any State or local
18 law enforcement official authorized by the Secretary, may
19 import a polar bear or any part or product of a polar bear.

20 **“SEC. 503. ADMINISTRATION.**

21 “(a) *IN GENERAL.*—The Secretary, acting through the
22 Director of the United States Fish and Wildlife Service,
23 shall do all things necessary and appropriate, including the
24 promulgation of regulations, to implement, enforce, and ad-
25 minister the provisions of the Agreement on behalf of the

1 *United States. The Secretary shall consult with the Sec-*
2 *retary of State and the Alaska Nanuuq Commission on*
3 *matters involving the implementation of the Agreement.*

4 “(b) *UTILIZATION OF OTHER GOVERNMENT RE-*
5 *SOURCES AND AUTHORITIES.—*

6 “(1) *OTHER GOVERNMENT RESOURCES.—The*
7 *Secretary may utilize by agreement, with or without*
8 *reimbursement, the personnel, services, and facilities*
9 *of any other Federal agency, any State agency, or the*
10 *Alaska Nanuuq Commission for purposes of carrying*
11 *out this title or the Agreement.*

12 “(2) *OTHER POWERS AND AUTHORITIES.—Any*
13 *person authorized by the Secretary under this sub-*
14 *section to enforce this title or the Agreement shall*
15 *have the authorities that are enumerated in section*
16 *6(b) of the Lacey Act Amendments of 1981 (16 U.S.C.*
17 *3375(b)).*

18 “(c) *ENSURING COMPLIANCE.—*

19 “(1) *TITLE I AUTHORITIES.—The Secretary may*
20 *use authorities granted under title I for enforcement,*
21 *imposition of penalties, and the seizure of cargo for*
22 *violations under this title, provided that any polar*
23 *bear or any part or product of a polar bear taken,*
24 *imported, exported, possessed, transported, sold, re-*
25 *ceived, acquired, purchased, exchanged, or bartered, or*

1 *offered for sale, purchase, exchange, or barter in viola-*
2 *tion of this title, shall be subject to seizure and for-*
3 *feiture to the United States without any showing that*
4 *may be required for assessment of a civil penalty or*
5 *for criminal prosecution under this Act.*

6 “(2) *ADDITIONAL AUTHORITIES.*—*Any gun, trap,*
7 *net, or other equipment used, and any vessel, aircraft,*
8 *or other means of transportation used, to aid in the*
9 *violation or attempted violation of this title shall be*
10 *subject to seizure and forfeiture under section 106.*

11 “(d) *REGULATIONS.*—

12 “(1) *IN GENERAL.*—*The Secretary shall promul-*
13 *gate such regulations as are necessary to carry out*
14 *this title and the Agreement.*

15 “(2) *ORDINANCES AND REGULATIONS.*—*If nec-*
16 *essary to carry out this title and the Agreement, and*
17 *to improve compliance with any annual taking limit*
18 *or other restriction on taking adopted by the Commis-*
19 *sion and implemented by the Secretary in accordance*
20 *with this title, the Secretary may promulgate regula-*
21 *tions that adopt any ordinance or regulation that re-*
22 *stricts the taking of polar bears for subsistence pur-*
23 *poses if the ordinance or regulation has been promul-*
24 *gated by the Alaska Nanuuq Commission.*

1 **“SEC. 504. COOPERATIVE MANAGEMENT AGREEMENT; AU-**
 2 **THORITY TO DELEGATE ENFORCEMENT AU-**
 3 **THORITY.**

4 “(a) *IN GENERAL.*—*The Secretary, acting through the*
 5 *Director of the United States Fish and Wildlife Service,*
 6 *may share authority under this title for the management*
 7 *of the taking of polar bears for subsistence purposes with*
 8 *the Alaska Nanuuq Commission if such commission is eligi-*
 9 *ble under subsection (b).*

10 “(b) *DELEGATION.*—*To be eligible for the management*
 11 *authority described in subsection (a), the Alaska Nanuuq*
 12 *Commission shall—*

13 “(1) *enter into a cooperative agreement with the*
 14 *Secretary under section 119 for the conservation of*
 15 *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 commis-*
 26 *sioners on the Commission shall be appointed by the*

1 *President, in accordance with paragraph 2 of article*
2 *8 of the Agreement, after taking into consideration the*
3 *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 be*
12 *an official of the Federal Government;*

13 “(B) *1 United States commissioner shall be*
14 *a representative of the Native people of Alaska,*
15 *and, in particular, the Native people for whom*
16 *polar bears are an integral part of their culture;*
17 *and*

18 “(C) *both commissioners shall be knowledge-*
19 *able 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 ex-*
4 *piration of any term of office of a United States*
5 *commissioner shall be appointed for the remain-*
6 *der of that term.*

7 “(B) *MANNER.*—*Any vacancy on the Com-*
8 *mission shall be filled in the same manner as the*
9 *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 States*
17 *commissioner, an alternate commissioner may exer-*
18 *cise all functions of the United States commissioner*
19 *at any meetings of the Commission or of the United*
20 *States section.*

21 “(3) *REAPPOINTMENT.*—*An alternate*
22 *commissioner—*

23 “(A) *shall be eligible for reappointment by*
24 *the President; and*

1 “(B) may attend all meetings of the United
2 States section.

3 “(c) DUTIES.—The members of the United States sec-
4 tion may carry out the functions and responsibilities de-
5 scribed 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 expenses,
12 including per diem in lieu of subsistence, at rates au-
13 thorized for an employee of an agency under sub-
14 chapter I of chapter 57 of title 5, United States Code,
15 while away from the home or regular place of busi-
16 ness of the member in the performance of the duties
17 of the United States-Russia Polar Bear Commission.

18 “(e) AGENCY DESIGNATION.—The United States sec-
19 tion shall, for the purpose of title 28, United States Code,
20 relating to claims against the United States and tort claims
21 procedure, be considered to be a Federal agency.

22 **“SEC. 506. VOTES TAKEN BY THE UNITED STATES SECTION**
23 **ON MATTERS BEFORE THE COMMISSION.**

24 “In accordance with paragraph 3 of article 8 of the
25 Agreement, the United States section, made up of commis-

1 *sioners appointed by the President, shall vote on any issue*
2 *before the United States-Russia Polar Bear Commission*
3 *only if there is no disagreement between the United States*
4 *commissioners regarding the vote.*

5 **“SEC. 507. IMPLEMENTATION OF ACTIONS TAKEN BY THE**
6 **COMMISSION.**

7 *“(a) IN GENERAL.—The Secretary shall take all nec-*
8 *essary actions to implement the decisions and determina-*
9 *tions of the Commission under paragraph 7 of article 8 of*
10 *the Agreement.*

11 *“(b) TAKING LIMITATION.—Not later than 60 days*
12 *after the date on which the Secretary receives notice of the*
13 *determination of the Commission of an annual taking*
14 *limit, or of the adoption by the Commission of other restric-*
15 *tion on the taking of polar bears for subsistence purposes,*
16 *the Secretary shall publish a notice in the Federal Register*
17 *announcing the determination or restriction.*

18 **“SEC. 508. APPLICATION WITH OTHER TITLES OF ACT.**

19 *“(a) IN GENERAL.—The authority of the Secretary*
20 *under this title is in addition to, and shall not affect—*

21 *“(1) the authority of the Secretary under the*
22 *other titles of this Act or the Lacey Act Amendments*
23 *of 1981 (16 U.S.C. 3371 et seq.) or the exemption for*
24 *Alaskan natives under section 101(b) of this Act as*
25 *applied to other marine mammal populations; or*

1 “(2) *the authorities provided under title II of*
2 *this Act.*”

3 “(b) *CERTAIN PROVISIONS INAPPLICABLE.—The pro-*
4 *visions of titles I through IV of this Act do not apply with*
5 *respect to the implementation or administration of this*
6 *title, except as specified in section 503.*”

7 **“SEC. 509. AUTHORIZATION OF APPROPRIATIONS.**

8 “(a) *IN GENERAL.—There are authorized to be appro-*
9 *priated to the Secretary to carry out the functions and re-*
10 *sponsibilities of the Secretary under this title and the Agree-*
11 *ment \$1,000,000 for each of fiscal years 2006 through 2010.*”

12 “(b) *COMMISSION.—There are authorized to be appro-*
13 *priated to the Secretary to carry out functions and respon-*
14 *sibilities of the United States Section \$150,000 for each of*
15 *fiscal years 2006 through 2010.*”

16 “(c) *ALASKAN COOPERATIVE MANAGEMENT PRO-*
17 *GRAM.—There are authorized to be appropriated to the Sec-*
18 *retary to carry out this title and the Agreement in Alaska*
19 *\$150,000 for each of fiscal years 2006 through 2010.”.*”

20 “(b) *CLERICAL AMENDMENT.—The table of contents in*
21 *the first section of the Marine Mammal Protection Act of*
22 *1972 (16 U.S.C. 1361 et seq.) is amended by adding at the*
23 *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.”

1 (c) *TREATMENT OF CONTAINERS.—Section 107(d)(2)*
 2 *of the Marine Mammal Protection Act of 1972 (16 U.S.C.*
 3 *1377(d)(2)) is amended by striking “vessel or other convey-*
 4 *ance” each place it appears and inserting “vessel, other con-*
 5 *veyance, or container”.*

Attest:

Secretary.

109TH CONGRESS
2^D SESSION

H. R. 5946

AMENDMENT