

# Union Calendar No.

109TH CONGRESS  
2D SESSION

# H. R. 5018

[Report No. 109-]

To reauthorize the Magnuson-Stevens Fishery Conservation and Management Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 2006

Mr. POMBO (for himself, Mr. FRANK of Massachusetts, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Resources

JUNE --, 2006

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 28, 2006]

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## A BILL

To reauthorize the Magnuson-Stevens Fishery Conservation and Management Act, and for other purposes.

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



**1 SECTION 1. SHORT TITLE: AMENDMENT REFERENCES.**

2       (a) *SHORT TITLE.*—*The Act may be cited as the*  
3       *“American Fisheries Management and Marine Life En-*  
4       *hancement Act”.*

5       (b) *AMENDMENT OF MAGNUSON-STEVENS FISHERY*  
6       *CONSERVATION AND MANAGEMENT ACT.*—*Except as other-*  
7       *wise expressly provided, whenever in this Act an amend-*  
8       *ment or repeal is expressed as an amendment to, or repeal*  
9       *of, a section or other provision, the reference shall be consid-*  
10       *ered to be made to a section or other provision of the Mag-*  
11       *nuson-Stevens Fishery Conservation and Management Act*  
12       *(16 U.S.C. 1801 et seq).*

**13 SEC. 2. TECHNICAL CORRECTIONS TO DEFINITIONS.**

14       (a) *EXECUTION OF PRIOR AMENDMENTS.*—

15           (1) *CONTINENTAL SHELF FISHERY RE-*  
16       *SOURCES.*—*Section 102(2) of the Sustainable Fish-*  
17       *eries Act (Public Law 104-297; 110 Stat. 3561) is*  
18       *amended—*

19              (A) *by striking “COELENTERATA” and*  
20       *inserting “COELENTERATA”;*

21              (B) *by striking “CNIDARIA” and inserting*  
22       *“CNIDARIA”; and*

23              (C) *by striking “CRUSTACEA” and insert-*  
24       *ing “CRUSTACEA”.*

25           (2) *UNITED STATES HARVESTED FISH.*—*Section*  
26       *102(11) of the Sustainable Fisheries Act (Public Law*

1        104–297; 110 Stat. 3563) is amended by striking  
2        “(42)” and inserting “(43)”.

3                (3) *EFFECTIVE DATE*.—This subsection shall take  
4        effect on the effective date of section 102 of Public  
5        Law 104–297.

6        (b) *CORRECTIONS RELATING TO SPECIAL AREAS*.—

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

8                (1) by striking paragraphs (35) and (36);  
9                (2) by redesignating paragraphs (37) through the  
10        last paragraph (relating to the definition of “waters  
11        of a foreign nation”) in order as paragraphs (35)  
12        through (44);

13                (3) by inserting “(a) *GENERAL DEFINITIONS*.—  
14        ” before “As used in this Act”; and

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

16        “(b) *TERMS RELATING TO AGREEMENT WITH THE*  
17        *FORMER SOVIET UNION*.—As used in this Act the term ‘spe-  
18        cial areas’ means the areas referred to as eastern special  
19        areas in Article 3(1) of the Agreement between the United  
20        States of America and the Union of Soviet Socialist Repub-  
21        lics on the Maritime Boundary, signed June 1, 1990. In  
22        particular, the term refers to those areas east of the mari-  
23        time boundary, as defined in that Agreement, that lie with-  
24        in 200 nautical miles of the baselines from which the  
25        breadth of the territorial sea of Russia is measured but be-



1 *yond 200 nautical miles of the baselines from which the*  
2 *breadth of the territorial sea of the United States is meas-*  
3 *ured.”.*

4 **SEC. 3. SCIENCE-BASED IMPROVEMENTS TO MANAGEMENT.**

5       (a) *HARVEST LEVEL CAPS.—*

6           (1) *MECHANISM.—Section 303(a) (16 U.S.C.*  
7 *1853(a)) is amended by striking “and” after the*  
8 *semicolon at the end of paragraph (13), by striking*  
9 *the period at the end of paragraph (14) and inserting*  
10 *a semicolon, and by adding at the end the following:*

11           “(15) provide a mechanism for specifying the

12 *total allowable catch or another annual catch limit*

13 *under the plan (including for a multiyear plan) for*

14 *each fishery for which an annual catch limit can be*

15 *established, that—*

16           “(A) is based on the best scientific informa-

17 *tion available; and*

18           “(B) in the case of a plan issued by a

19 *Council, does not exceed the acceptable biological*

20 *catch level recommended by the scientific and*

21 *statistical committee of the Council;”.*

22           (2) *REQUIREMENT TO ADOPT.—Section 302(h)*  
23 *(16 U.S.C. 1852(h)) is amended by striking “and”*  
24 *after the semicolon at the end of paragraph (5), by*  
25 *striking the period at the end of paragraph (6) and*



1       *inserting a semicolon, and by adding at the end the*  
2       *following:*

3           “(7) adopt a total allowable catch limit or other  
4       annual harvest effort control limit for each of the fish-  
5       eries for which such a limit can be established, after  
6       considering the recommendation of the scientific and  
7       statistical committee of the Council having jurisdic-  
8       tion over the fishery, which shall not exceed the rec-  
9       ommendation for the acceptable biological catch as  
10      recommended by such scientific and statistical com-  
11      mittee; and”.

12           (3)        *CONFORMING       AMENDMENT.*—Section  
13      303(b)(11) (16 U.S.C. 1853(b)(11)) is amended by  
14      striking “allowable biological catch” and inserting  
15      “acceptable biological catch”.

16           (b) *BEST SCIENTIFIC INFORMATION AVAILABLE.*—Sec-  
17      tion 303 (16 U.S.C. 1853) is amended by adding at the  
18      end the following:

19           “(d) *BEST SCIENTIFIC INFORMATION AVAILABLE.*—  
20      The Secretary shall develop guidelines for the Councils to  
21      use in determining what is the best scientific information  
22      available. The Secretary shall base these guidelines on the  
23      recommendations for guidelines developed by the Ocean  
24      Studies Board of the National Research Council in its re-



1 port titled ‘Improving the Use of the Best Scientific Infor-  
2 mation Available, Standard in Fisheries Management’.”.

3 (c) SCIENTIFIC AND STATISTICAL COMMITTEES.—Sec-  
4 tion 302(g)(1) (16 U.S.C. 1852(g)(1)) is amended by insert-  
5 ing “(A)” before “Each Council”, and by adding at the end  
6 the following:

7           “(B) Each scientific and statistical committee  
8 shall provide its Council ongoing scientific advice for  
9 fishery management decisions, including rec-  
10 ommendations for acceptable biological catch and for  
11 the maximum sustainable yield for each fishery under  
12 the jurisdiction of the Council, and reports on stock  
13 status and health, bycatch, habitat status, socio-eco-  
14 nomic impacts of management measures, and sustain-  
15 ability of fishing practices.

16           “(C) Members appointed to the scientific and  
17 statistical committees shall be Federal employees,  
18 State employees, academicians, or independent ex-  
19 perts with strong scientific or technical credentials  
20 and experience.

21           “(D) In addition to payments authorized by sub-  
22 section (f)(7), the Secretary shall pay a stipend to  
23 members of the scientific and statistical committees  
24 who are not employed by the Federal Government or  
25 a State government agency.



1           “(E) A science and statistical committee shall  
2 hold its meetings in conjunction with the meetings of  
3 the Council, to the extent practicable.”.

4       (d) SCIENTIFIC RESEARCH PRIORITIES.—Section  
5 302(h) (16 U.S.C. 1852(h)) is further amended by adding  
6 at the end the following:

7           “(8) develop, in conjunction with the scientific  
8 and statistical committee, multi-year research prior-  
9 ities for fisheries, fisheries interactions, habitats, and  
10 other areas of research that are necessary for manage-  
11 ment purposes, that shall—

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

13           “(B) be updated as necessary; and

14           “(C) be submitted to the Secretary and the  
15 regional science centers of the National Marine  
16 Fisheries Service for their consideration in devel-  
17 oping research priorities and budgets for the re-  
18 gion of the Council.”.

19       (e) COOPERATIVE RESEARCH AUTHORITY.—

20           (1) DISCRETIONARY PROVISIONS IN FISHERY  
21 MANAGEMENT PLANS.—Section 303(b) (16 U.S.C.  
22 1853(b)) is amended by striking “and” after the semi-  
23 colon at the end of paragraph (11), by striking the  
24 period at the end of paragraph (12) and inserting a  
25 semicolon, and by adding at the end the following:



1           “(13) include provisions to create a cooperative  
2       research component including the use of commercial  
3       fishing, charter fishing, or recreational fishing vessels  
4       for the gathering of data on stock abundance, com-  
5       position, distribution, or other relevant information  
6       important for the implementation of the plan;”.

7           (2) *COOPERATIVE RESEARCH BY SECRETARY*.—  
8       Section 404 (16 U.S.C. 1881c) is amended by adding  
9       at the end the following:

10          “(e) *COOPERATIVE RESEARCH BY SECRETARY*.—The  
11       research program under subsection (a) may include cooper-  
12       ative research using commercial fishing, charter fishing, or  
13       recreational fishing vessels for the gathering of data on stock  
14       abundance, composition, distribution, or other relevant in-  
15       formation.”.

16          (3) *PRESERVING FISHING PRIVILEGES*.—Section  
17       404 (16 U.S.C. 1881c) is further amended by adding  
18       at the end the following:

19          “(f) *PRESERVING FISHING PRIVILEGES*.—The Sec-  
20       retary shall ensure that—

21           “(1) fishing vessels participating in research ac-  
22       tivities conducted pursuant to section 303(b)(13) or  
23       title IV do not lose allocated fishing privileges (such  
24       as days at sea) based on the research activities, unless



1       *loss of such privileges is a part of the research plan*  
2       *under which the vessel participates; and*

3       *“(2) catch history of a vessel during such re-*  
4       *search activities at any time when the vessel is sacri-*  
5       *ficing fishing time in an open season shall accrue to*  
6       *the vessel, unless loss of such accrual is part of such*  
7       *research plan.”.*

8       *(f) REGIONAL STOCK ASSESSMENTS.—*

9           *(1) IN GENERAL.—Title IV (16 U.S.C. 1881 et*  
10          *seq.) is amended by adding at the end the following:*

11      **“SEC. 408. REGIONAL STOCK ASSESSMENTS.**

12       *“(a) IN GENERAL.—The Secretary shall conduct peri-*  
13       *odic regional assessments of stocks of fish.*

14       *“(b) INDEPENDENT REVIEW.—The Secretary shall en-*  
15       *sure that each periodic assessment under this section is*  
16       *independently reviewed in a manner that—*

17           *“(1) will not delay the process of providing to*  
18       *Regional Fishery Management Councils current as-*  
19       *sessments for use in managing fisheries; and*

20           *“(2) is as transparent as possible, so that inter-*  
21       *ested members of the public can provide input during*  
22       *the review process.”.*

23       *(2) CLERICAL AMENDMENT.—The table of con-*  
24       *tents in the first section is further amended by adding*



1       at the end of the items relating to title IV the fol-  
2       lowing:

“Sec. 408. *Regional stock assessments.*”.

3                     (3) *REGIONAL STOCK ASSESSMENTS AND PEER*  
4       *REVIEW.*—Section 302(g) (16 U.S.C. 1852(g)) is  
5       amended by adding at the end the following:

6                     “(6) *PEER REVIEW PROCESS.*—

7                         “(A) *The Secretary and each Council shall*  
8       *establish a peer review process for scientific in-*  
9       *formation used to advise the Secretary or the*  
10      *Council, respectively, about the conservation and*  
11      *management of fisheries.*

12                         “(B) *The Secretary and each Council shall*  
13       *ensure that the peer review process established*  
14       *under this paragraph—*

15                         “(i) *to the extent practicable, will not*  
16       *delay the process of providing to the Council*  
17       *or the Secretary, respectively, current infor-*  
18       *mation for use in managing fisheries; and*

19                         “(ii) *is as transparent as possible, so*  
20       *that interested members of the public can*  
21       *provide input during the review process.”.*

22 **SEC. 4. DATA COLLECTION.**

23                     (a) *AUTHORITY TO REQUIRE VMS.*—Section 305 (16  
24       U.S.C. 1855) is amended by adding at the end the following:



1       “(j) AUTHORITY TO REQUIRE VMS.—The Secretary  
2 may require, if requested to do so by a Council, a Vessel  
3 Monitoring System or other similar electronic monitoring  
4 technology for a fishery or specific sectors of a fishery under  
5 the jurisdiction of the Council. To the extent that the tech-  
6 nology is required for enforcement or data collection pur-  
7 poses for a limited access privilege management system, the  
8 cost of such a system shall be included in the costs that  
9 are considered in determining the amount of any fee re-  
10 quired under this Act to be paid to participate in the fish-  
11 ery. Any information collected under this subsection shall  
12 be treated as confidential and exempt from disclosure under  
13 section 402(b).”.

14       (b) RECREATIONAL DATA COLLECTION.—

15           (1) ESTABLISHMENT OF PROGRAM.—Within 24  
16 months after the date of enactment of this Act, the  
17 Secretary of Commerce shall establish a program to  
18 improve the quality and accuracy of information gen-  
19 erated by National Marine Fisheries Service rec-  
20 reational fishing data collection programs, with a  
21 goal achieving accurate, useful, and improved data  
22 for each individual fishery. The program shall  
23 include—

24           (A) an increased number of intercepts above  
25 current baselines established by the National Ma-



1           *rine Fisheries Service to accurately estimate rec-*  
2           *reational catch and effort;*

3           *(B) use of surveys that target anglers reg-*  
4           *istered at the State level to collect participation*  
5           *and effort data;*

6           *(C) collection and analysis of vessel trip re-*  
7           *port data from for-hire vessels including party,*  
8           *head, and charter fishing vessels;*

9           *(D) development of a weather corrective fac-*  
10          *tor that can be applied to recreational catch and*  
11          *effort estimates;*

12          *(E) an independent committee composed of*  
13          *recreational fishermen, other stakeholders, aca-*  
14          *demia, persons with expertise in stock assess-*  
15          *ments and survey design, and appropriate Na-*  
16          *tional Marine Fisheries Service personnel, to re-*  
17          *view data collection estimates and geographic*  
18          *and temporal issues, among other variables, re-*  
19          *lated to intercepts, prior to the finalization of*  
20          *the catch estimates; and*

21          *(F) identification of deficiencies in rec-*  
22          *reational data collection (including with respect*  
23          *to fishing on private property, night-time fish-*  
24          *ing, and random digit dialing) and develop sam-*  
25          *pling methods to correct the deficiencies.*



1                   (2) *PROHIBITION OF FEES.*—*The Secretary shall*  
2                   *not impose any new fees on recreational fishermen for*  
3                   *the purposes of data collection.*

4                   (3) *REPORT.*—*The Secretary of Commerce shall*  
5                   *report to the Congress within 18 months after the date*  
6                   *of the enactment of this Act, on—*

7                         (A) *the progress made in developing such a*  
8                         *program;*

9                         (B) *whether the program has resulted in*  
10                      *significantly better data for management of rec-*  
11                      *reational fishing, and if not, plans to correct*  
12                      *problems in achieving that result; and*

13                         (C) *actions to continue to make improve-*  
14                         *ments in data collection.*

15                   (4) *AUTHORIZATION OF APPROPRIATIONS.*—*To*  
16                   *carry out this section there is authorized to be appro-*  
17                   *priated to the Secretary of Commerce \$5,000,000 for*  
18                   *each of fiscal years 2007 through 2011.*

19                   (c) *CONFIDENTIALITY OF INFORMATION.*—

20                         (1) *IN GENERAL.*—*Section 402(b) (16 U.S.C.*  
21                         *1881a(b)) is amended to read as follows:*

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

23                         “(1) *IN GENERAL.*—*Any information submitted*  
24                         *to the Secretary by any person in compliance with*



1       *any requirement under this Act shall be confidential*  
2       *and shall not be disclosed, except—*

3           “(A) to Federal employees and Council em-  
4       *ployees who are responsible for fishery manage-*  
5       *ment plan development and monitoring;*

6           “(B) to State or Marine Fisheries Commis-  
7       *sion employees—*

8              “(i) as necessary for achievement of the  
9       *purposes of this Act; and*

10             “(ii) in accordance with a confiden-  
11       *tiality agreement between the State or Com-*  
12       *mmission, as appropriate, and the Secretary*  
13       *that prevents public disclosure of the iden-*  
14       *tity or business of any person;*

15             “(C) when required by court order;

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

21             “(E) if such information is required to be  
22       *submitted to the Secretary for any determination*  
23       *under a limited access program;*

24             “(F) that observer information collected in  
25       *fisheries under the authority of the North Pacific*



1           *Council may be released to the public as speci-*  
2           *fied in a fishery management plan or regulation*  
3           *for weekly summary bycatch information identi-*  
4           *fied by vessel, and for haul-specific bycatch in-*  
5           *formation without vessel identification; or*

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

12          *“(2) PROCEDURES TO PRESERVE CONFIDEN-*  
13          *TIALITY.—The Secretary shall, by regulation, pre-*  
14          *scribe such procedures as may be necessary to preserve*  
15          *the confidentiality of any observer information, infor-*  
16          *mation produced by a vessel monitoring system, or*  
17          *information produced by other technology used on-*  
18          *board a vessel for enforcement or data collection pur-*  
19          *poses, that is submitted in compliance with any re-*  
20          *quirement or regulation under this Act, except that*  
21          *the Secretary may release or make public—*

22          *“(A) any such information that in any ag-*  
23          *gregate or summary form that does not directly*  
24          *or indirectly disclose the identity or business of*  
25          *any person who submits such information.*



1               “(B) any such information when it is nec-  
2        essary in proceedings to adjudicate observer cer-  
3        tifications; and

4               “(C) any such information as authorized by  
5        any regulations issued under paragraph (4) al-  
6        lowing the collection of observer information,  
7        pursuant to a confidentiality agreement between  
8        the observers, observer employers, and the Sec-  
9        retary prohibiting disclosure of the information  
10      by the observers or observer employers, for pur-  
11      poses of—

12               “(i) allowing the sharing of observer  
13        information among observers and between  
14        observers and observer employers as nec-  
15        essary to train and prepare observers for de-  
16        ployments on specific vessels; or

17               “(ii) validating the accuracy of the ob-  
18        server information collected.

19               “(3) USE FOR CONSERVATION AND MANAGEMENT  
20        PURPOSES.—Nothing in this subsection shall be inter-  
21        preted or construed to prevent the use for conservation  
22        and management purposes by the Secretary, or with  
23        the approval of the Secretary, the Council, of any in-  
24        formation submitted in compliance with any require-  
25        ment or regulation under this Act or the use, release,



1       *or publication of bycatch information pursuant to*  
2       *paragraph (1)(F).*

3           “(4) *MEMORANDUM OF UNDERSTANDING.*—*The*  
4       *Secretary may enter into a memorandum of under-*  
5       *standing with the heads of other Federal agencies for*  
6       *the sharing of confidential information for purposes*  
7       *of this Act, such as information produced by vessel*  
8       *monitoring systems or other electronic monitoring*  
9       *systems, if the Secretary determines there is a compel-*  
10      *ling need to do so and if the heads of the other Fed-*  
11      *eral agencies agree to maintain the confidentiality of*  
12      *the information in accordance with the requirements*  
13      *that apply to the Secretary under this section.”.*

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

17           (3) *DEFINITIONS.*—*Section 3 (16 U.S.C. 1802) is*  
18      *further amended in subsection (a)—*

19           (A) *by inserting after paragraph (4) the fol-*  
20      *lowing:*

21           “(4A) *The term ‘confidential information’*  
22      *means—*

23           “(A) *trade secrets; or*  
24           “(B) *commercial or financial information*  
25      *the disclosure of which is likely to result in sub-*



1           *stantial harm to the competitive position of the*  
2           *person who submitted the information to the Sec-*  
3           *retary.”; and*

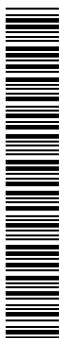
4           *(B) by inserting after paragraph (27) the*  
5           *following:*

6           *“(27A) The term ‘observer information’ means*  
7           *any information collected, observed, retrieved, or cre-*  
8           *ated by an observer or electronic monitoring system*  
9           *pursuant to authorization by the Secretary, or col-*  
10          *lected as part of a cooperative research initiative, in-*  
11          *cluding fish harvest or fish processing observations,*  
12          *fish sampling or weighing data, vessel logbook data,*  
13          *vessel- or fish processor-specific information (includ-*  
14          *ing any safety, location, or operating condition obser-*  
15          *vations), and video, audio, photographic, or written*  
16          *documents.”.*

17          *(d) SOCIOECONOMIC DATA COLLECTION ACTIVITIES.—*  
18          *Section 402 (16 U.S.C. 1881a) is further amended by add-*  
19          *ing at the end the following:*

20          *“(f) SOCIOECONOMIC DATA COLLECTION.—*

21          *“(1) The Secretary may provide funds to Coun-*  
22          *cils to carry out collection of socioeconomic data, in-*  
23          *cluding information on fishermen and fishing com-*  
24          *munities, necessary to carry out the functions of the*  
25          *Councils.*



1           “(2) To carry out this subsection there is authorized  
2       to be appropriated to the Secretary, in addition  
3       to other amounts authorized, \$2,000,000 for each fiscal  
4       year.”.

5       (e) NEED FOR MORE FREQUENT STOCK SURVEYS.—

6       The Secretary of Commerce—

7           (1) shall determine the need for more frequent  
8       surveys of stocks of fish, and whether State agencies  
9       or cooperative research activities can fill the data  
10      gaps identified; and

11          (2) submit a report to the Congress on the current  
12       activities and the needs for such surveys, by not  
13       later than 2 years after the date of the enactment of  
14       this Act.

15 **SEC. 5. COUNCIL OPERATIONS AND AUTHORITIES.**

16          (a) COUNCIL APPOINTMENTS.—Section 302(b)(2)(C)  
17       (16 U.S.C. 1852(b)(2)(C)) is amended by inserting after the  
18       first sentence the following: “A Governor may submit the  
19       names of individuals from academia, or other public inter-  
20       est areas including conservation organizations and the sea-  
21       food consuming public, if the Governor has determined that  
22       each such individual is qualified under the requirements  
23       of subparagraph (A).”.

24          (b) TRAINING.—Section 302 (16 U.S.C. 1852) is  
25       amended by adding at the end the following:



1       “(k) COUNCIL TRAINING PROGRAM.—

2           “(1) TRAINING COURSE.—Within 6 months after  
3       the date of the enactment of the American Fisheries  
4       Management and Marine Life Enhancement Act, the  
5       Secretary, in consultation with the Councils and the  
6       National Sea Grant College Program, shall develop a  
7       training course for newly appointed Council mem-  
8       bers. The course may cover a variety of topics rel-  
9       evant to matters before the Councils, including—

10           “(A) fishery science and basic stock assess-  
11       ment methods;

12           “(B) fishery management techniques, data  
13       needs, and Council procedures;

14           “(C) social science and fishery economics;

15           “(D) tribal treaty rights and native cus-  
16       toms, access, and other rights related to Western  
17       Pacific indigenous communities;

18           “(E) legal requirements of this Act, includ-  
19       ing conflict of interest and disclosure provisions  
20       of this section and related policies;

21           “(F) other relevant legal and regulatory re-  
22       quirements, including the National Environ-  
23       mental Policy Act (42 U.S.C. 4321 et seq.);

24           “(G) public process for development of fish-  
25       ery management plans;



1               “(H) recreational and commercial fishing  
2 information including fish harvesting techniques,  
3 gear types, fishing vessel types, and economics,  
4 for the fisheries within each Council’s jurisdic-  
5 tion; and

6               “(I) other topics suggested by the Council.

7               “(2) MEMBER TRAINING.—The training course—  
8               “(A) shall be available to both new and ex-  
9 isting Council members, staff from the regional  
10 offices and regional science centers of the Na-  
11 tional Marine Fisheries Service; and

12               “(B) may be made available to committee  
13 or advisory panel members as resources allow.

14               “(3) REQUIRED TRAINING.—Council members  
15 appointed after the date of the enactment of the Amer-  
16 ian Fisheries Management and Marine Life En-  
17 hancement Act must complete the training course de-  
18 veloped under this subsection.”.

19               (c) AUTHORITY TO DEVELOP ECOSYSTEM-BASED  
20 FISHERY MANAGEMENT PLANS.—Section 303(b) (16 U.S.C.  
21 1853(b)) is further amended by adding at the end the fol-  
22 lowing:

23               “(14) contain research, conservation, and man-  
24 agement measures that encompass more than one fish-  
25 ery and are for the purpose of managing the fishery



1       resources concerned under an ecosystem-based man-  
2       agement system;”.

3       (d) AUTHORITY TO REQUIRE VESSEL MONITORING  
4 SYSTEMS.—Section 303(b) (16 U.S.C. 1853(b)) is further  
5 amended by adding at the end the following:

6           “(15) require a Vessel Monitoring System or  
7       other similar electronic monitoring technology for the  
8       purposes of enforcing, monitoring, or collecting data  
9       from a fishery or fishery sector;”.

10      (e) OBSERVER FUNDING CLARIFICATION.—Section 303  
11 (16 U.S.C. 1853) is further amended by adding at the end  
12 the following:

13       “(e) OBSERVER PROVISIONS.—

14           “(1) COSTS.—Costs for observer coverage that is  
15 primarily for the enforcement of a fishery manage-  
16 ment plan or for data collection necessary for the  
17 monitoring of a fishery—

18           “(A) shall be paid for by the Secretary; and  
19           “(B) under a limited access program, may  
20       be considered as a cost to be recovered under the  
21       authority of section 303A(e)(2).

22       “(2) LIABILITY FOR SANCTIONS.—A fishing ves-  
23 sel that is required to have an observer onboard pur-  
24 suant to section 303(b)(8), the owner or operator of  
25 such a fishing vessel, and the United States shall not



1       *be liable for any sanction imposed on the observer for*  
2       *actions of the observer in the course of performance of*  
3       *duties as an observer.”.*

4       *(f) INCENTIVES.—Section 303(b) (16 U.S.C. 1853(b))*  
5       *is further amended by adding at the end the following:*

6           *“(16) establish a system of incentives to reduce*  
7       *total bycatch and seabird interaction, bycatch rates,*  
8       *and post-release mortality in fisheries under the*  
9       *Council’s or Secretary’s jurisdiction, including—*

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

13          *“(B) measures to promote the use of gear*  
14       *with verifiable and monitored low bycatch and*  
15       *seabird interaction rates; and*

16          *“(C) measures that, based on the best sci-*  
17       *entific information available, will reduce bycatch*  
18       *and seabird interaction, bycatch mortality, post-*  
19       *release mortality, or regulatory discards in the*  
20       *fishery; and”.*

21       *(g) MARINE PROTECTED AREAS AUTHORITY.—*

22          *(1) DISCRETIONARY AUTHORITY.—Section 303(b)*  
23       *(16 U.S.C. 1853(b)) is further amended by adding at*  
24       *the end the following:*



1           “(17) designate closed areas, seasonal closures,  
2 time/area closures, gear restrictions, or other methods  
3 for limiting impacts on habitat, limit bycatch im-  
4 pacts of gear, or limit fishing impact on spawning  
5 congregations in specific geographic areas.”.

6           (2) REQUIREMENTS.—Section 303(a) (16 U.S.C.  
7 1853(a)) is further amended by adding at the end the  
8 following:

9           “(16) with respect to any closure of an area to  
10 all fisheries managed under this Act, include provi-  
11 sions that ensure that such closure—

12           “(A) is based on the best scientific informa-  
13 tion available;

14           “(B) includes criteria to assess the conserva-  
15 tion benefit of the closed area;

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

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

25           “(i) users of the area;



1                   “(ii) overall fishing activity;  
2                   “(iii) fishery science; and  
3                   “(iv) fishery and marine conservation;  
4                   and”.

5       (h) *FRAMEWORK AUTHORITY*.—Section 304 (16 U.S.C.  
6 1854) is amended by adding at the end the following:

7       “(i) *ALTERNATIVE PROCEDURAL MECHANISMS*.—

8                   “(1) In a fishery management plan or amend-  
9                   ment, the Council or Secretary, as appropriate, may  
10                  develop alternative procedural mechanisms to be used  
11                  in lieu of plan amendments for implementing con-  
12                  servation and management measures.

13                  “(2) Such mechanisms may allow for abbrevi-  
14                  ated processes for the implementation of regulations  
15                  or other actions as appropriate.

16                  “(3) Alternative procedural mechanisms shall  
17                  only be approved or adopted for use in situations in  
18                  which—

19                   “(A) the conservation and management  
20                  measures are within the scope of conservation  
21                  and management measures established in an ex-  
22                  isting fishery management plan;

23                   “(B) otherwise applicable regulatory proc-  
24                  esses are not sufficient to allow timely and effi-  
25                  cient implementation of conservation and man-



1           agement measures in response to new informa-  
2           tion; and

3           “(C) notice of the conservation and manage-  
4           ment measures is provided appropriate to the  
5           significance of the expected impacts on affected  
6           fishery resources and on the participants in the  
7           fishery.

8           “(4) Any final agency action taken pursuant to  
9           the alternative procedural mechanism must be  
10          promptly published in the Federal Register.”.

11          (i) COUNCIL MEETING NOTICE.—

12           (1) REGULAR AND EMERGENCY MEETINGS.—The  
13          first sentence of section 302(i)(2)(C) (16 U.S.C.  
14          1852(i)(2)(C)) is amended—

15           (A) by striking “published in local news-  
16          papers” and inserting “provided by any means  
17          that will result in wide publicity (except that e-  
18          mail notification and Web site postings alone are  
19          not sufficient); and

20           (B) by striking “fishery) and such notice  
21          may be given by such other means as will result  
22          in wide publicity.” and inserting “fishery).”.

23          (2) CLOSED MEETINGS.—Section 302(i)(3)(B)  
24          (16 U.S.C. 1852(i)(3)(B)) is amended by striking



1       “notify local newspapers” and inserting “provide no-  
2       tice by any means that will result in wide publicity”.

3       (j) *CARIBBEAN COUNCIL JURISDICTION*.—Section  
4 302(a)(1)(D) (16 U.S.C. 1852(a)(1)(D)) is amended by in-  
5 serting “and of commonwealths, territories, and possessions  
6 of the United States in the Caribbean Sea” after “seaward  
7 of such States”.

8       (k) *COUNCIL COORDINATION COMMITTEE*.—Section  
9 302 (16 U.S.C. 1852) is further amended by adding at the  
10 end the following:

11       “(l) *COUNCIL COORDINATION COMMITTEE*.—The  
12 Councils may establish a Council coordination committee  
13 to discuss issues of relevance to all Councils, including  
14 issues related to the implementation of this Act. The com-  
15 mittee shall consist of the chairs, vice chairs, and executive  
16 directors of each of the Councils described in subsection  
17 (a)(1), or other Council members or staff.”.

18 **SEC. 6. ECOSYSTEM-BASED FISHERY MANAGEMENT.**

19       (a) *POLICY*.—Section 2(c) (16 U.S.C. 1851(c)) is  
20 amended by striking “and” after the semicolon at the end  
21 of paragraph (6), by striking the period at the end of para-  
22 graph (7) and inserting “; and”, and by adding at the end  
23 the following:

24       “(8) to support and encourage efforts to under-  
25 stand the interactions of species in the marine envi-



1       *ronment and the development of ecosystem-based ap-*  
2       *proaches to fisheries conservation and management*  
3       *that will lead to better stewardship and sustainability*  
4       *of the Nation's coastal fishery resources and fishing*  
5       *communities.”.*

6       *(b) AUTHORIZATION OF RESEARCH.—Section 404(c)*  
7       *(16 U.S.C. 1881c(c)) is amended by adding at the end the*  
8       *following:*

9           *“(5) The interaction of species in the marine en-*  
10       *vironment, and the development of ecosystem-based*  
11       *approaches to fishery conservation and management*  
12       *that will lead to better stewardship and sustainability*  
13       *of coastal fishery resources.”.*

14       *(c) REGULATIONS DEFINING TERMS.—The Secretary*  
15       *of Commerce shall, in conjunction with the Regional Fish-*  
16       *ery Management Councils and based on the recommenda-*  
17       *tions of the Ecosystems Principles Advisory Panel in the*  
18       *report entitled “Ecosystem-based Fishery Management”*  
19       *and dated April 1999, and after provision of notice and*  
20       *an opportunity for public comment, issue regulations that*  
21       *establish definitions of the terms “ecosystem” and “marine*  
22       *ecosystem” for purposes of the Magnuson-Stevens Fishery*  
23       *Conservation and Management Act (16 U.S.C. 1801 et seq.).*



1       (d) *REGIONAL ECOSYSTEM RESEARCH.*—Section 406  
2 (16 U.S.C. 1882) is amended by adding at the end the fol-  
3 lowing:

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

5           “(1) *STUDY.*—Within 180 days after the date of  
6 enactment of the American Fisheries Management  
7 and Marine Life Enhancement Act, the Secretary, in  
8 consultation with the Councils, shall undertake and  
9 complete a study on the state of the science for ad-  
10 vancing the concepts and integration of ecosystem  
11 considerations in regional fishery management. The  
12 study should build upon the recommendations of the  
13 advisory panel and include—

14           “(A) recommendations for scientific data,  
15 information and technology requirements for un-  
16 derstanding ecosystem processes, and methods for  
17 integrating such information from a variety of  
18 Federal, State, and regional sources;

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

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

24           “(D) a description of existing and devel-  
25 oping Council efforts to implement ecosystem ap-



1           *proaches, including lessons learned by the Coun-*  
2           *cils.*

3           “(2) *IDENTIFICATION OF MARINE ECOSYSTEMS;*  
4           *RESEARCH PLAN.—*

5           “(A) *IN GENERAL.—Within one year after*  
6           *the date of the publication of the study under*  
7           *paragraph (1), the Secretary, in conjunction*  
8           *with the regional science centers of the National*  
9           *Marine Fisheries Service and the Councils,*  
10          *shall—*

11         “(i) *identify specific marine ecosystems*  
12         *within each region for which a Council is*  
13         *established by section 302(a); and*

14         “(ii) *develop and begin to implement*  
15         *regional research plans to address the infor-*  
16         *mation deficiencies identified by the study.*

17         “(B) *RESEARCH PLANS.—The research*  
18         *plans shall suggest reasonable timeliness and cost*  
19         *estimates for the collection of the required infor-*  
20         *mation.*

21         “(C) *REPORTS.—The Secretary shall report*  
22         *to the Congress annually on the progress of the*  
23         *regional research plans.*

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



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

6       **SEC. 7. LIMITED ACCESS PRIVILEGE PROGRAMS.**

7       (a) *IN GENERAL.—*

8              (1) *AUTHORIZATION OF PROGRAMS.—Title III*  
9              *(16 U.S.C. 1851 et seq.) is amended—*

10             *(A) by striking section 303(d); and*  
11             *(B) by inserting after section 303 the fol-*  
12             *lowing:*

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

14       “(a) *IN GENERAL.—After the date of enactment of the*  
15       *American Fisheries Management and Marine Life En-*  
16       *hancement Act, a Council may submit, and the Secretary*  
17       *may approve, for a fishery that is managed under a limited*  
18       *access system, a limited access privilege program to harvest*  
19       *fish if the program meets the requirements of this section.*

20       “(b) *NO CREATION OF RIGHT, TITLE, OR INTEREST.—*  
21       *A limited access system, limited access privilege, quota*  
22       *share, or other authorization established, implemented, or*  
23       *managed under this Act—*

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



1           “(2) may be revoked, limited, or modified at any  
2       time in accordance with this Act, including revoca-  
3       tion for failure to comply with the terms of the plan  
4       or if the system is found to have jeopardized the sus-  
5       tainability of the stock or the safety of fishermen;

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

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

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

17          “(c) REQUIREMENTS FOR LIMITED ACCESS PRIVI-  
18       LEGES.—

19          “(1) IN GENERAL.—In addition to complying  
20       with the other requirements of this Act, any limited  
21       access privilege program to harvest fish submitted by  
22       a Council or approved by the Secretary under this  
23       section shall—



1               “(A) if established in a fishery that is over-  
2               fished or subject to a rebuilding plan, assist in  
3               its rebuilding;

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

7               “(C) promote—

8               “(i) the safety of human life at sea;  
9               and

10               “(ii) the conservation and management  
11               of the fishery;

12               “(D) prohibit any person other than a  
13               United States citizen, a corporation, partner-  
14               ship, or other entity established under the laws  
15               of the United States or any State, or a perma-  
16               nent resident alien, that meets the eligibility and  
17               participation requirements established in the  
18               program from acquiring a privilege to harvest  
19               fish;

20               “(E) specify the goals of the program;

21               “(F) include provisions for the regular mon-  
22               itoring and review by the Council and the Sec-  
23               retary of the operations of the program, includ-  
24               ing determining progress in meeting the goals of  
25               the program and this Act, and any necessary



1           *modification of the program to meet those goals,*  
2           *with a formal and detailed review 5 years after*  
3           *the establishment of the program and every 5*  
4           *years thereafter;*

5           “(G) include an effective system for enforce-  
6           ment, monitoring, and management of the pro-  
7           gram, including the use of observers;

8           “(H) include an appeals process for adminin-  
9           istrative review of determinations with respect to  
10           the Secretary’s decisions regarding administra-  
11           tion of the limited access privilege program; and

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

16           “(2) *FISHING COMMUNITIES.*—

17           “(A) *IN GENERAL.*—

18           “(i) *ELIGIBILITY.*—To be eligible to  
19           participate in a limited access privilege  
20           program to harvest fish, a fishing commu-  
21           nity shall—

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

24           “(II) meet criteria developed by  
25           the relevant Council, approved by the



1                   *Secretary, and published in the Federal*  
2                   *Register;*

3                   “*(III) consist of residents of the management area of the relevant Council who conduct commercial or recreational fishing, fish processing, or fishery-dependent support businesses within such area; and*

9                   “*(IV) develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of fishing communities, including those that have not historically had the resources to participate in the fishery, for approval by the Council based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.*

21                  “*(ii) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges for a person that were granted to a fishing community, if the person fails to comply with the require-*



1               *ments of the community sustainability plan*  
2               *approved by the relevant Council under*  
3               *clause (i)(IV).*

4               “*(B) PARTICIPATION CRITERIA.—In devel-*  
5               *oping participation criteria for eligible commu-*  
6               *nities under this paragraph, a Council shall*  
7               *consider—*

8               “*(i) traditional fishing or fish proc-*  
9               *essing practices in, and dependence on, the*  
10               *fishery;*

11               “*(ii) the cultural and social framework*  
12               *relevant to the fishery;*

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

15               “*(iv) the existence and severity of pro-*  
16               *jected economic and social impacts associ-*  
17               *ated with implementation of limited access*  
18               *privilege programs on harvesters, fishing*  
19               *vessel captains and crews, fish processors,*  
20               *and other businesses substantially dependent*  
21               *upon the fishery in the region or subregion;*

22               “*(v) the expected effectiveness, oper-*  
23               *ational transparency, and equitability of*  
24               *the community sustainability plan; and*



1                     “(vi) the potential for improving eco-  
2                     nomic conditions in remote coastal commu-  
3                     nities lacking resources to participate in  
4                     harvesting or fish processing activities in  
5                     the fishery.

6                     “(3) REGIONAL FISHERY ASSOCIATIONS.—

7                     “(A) IN GENERAL.—To be eligible to par-  
8                     ticipate in a limited access privilege program to  
9                     harvest fish, a regional fishery association  
10                    shall—

11                    “(i) be located within the management  
12                    area of the relevant Council;

13                    “(ii) meet criteria developed by the rel-  
14                    evant Council, approved by the Secretary,  
15                    and published in the Federal Register;

16                    “(iii) be a voluntary association with  
17                    established by-laws and operating proce-  
18                    dures consisting of participants in the fish-  
19                    ery, including commercial or recreational  
20                    fishing, fish processing, fishery-dependent  
21                    support businesses, or fishing communities;  
22                    and

23                    “(iv) develop and submit a regional  
24                    fishery association plan to the Council and  
25                    the Secretary for approval by the Council



1           *based on criteria developed by the Council*  
2           *that have been approved by the Secretary*  
3           *and published in the Federal Register.*

4           “(B) FAILURE TO COMPLY WITH PLAN.—  
5           *The Secretary shall deny or revoke limited access*  
6           *privileges for a person that were granted to a*  
7           *fishery association, if the person fails to comply*  
8           *with the requirements of the regional fishery as-*  
9           *sociation plan approved by the relevant Council*  
10          *under subparagraph (A)(iv).*

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

15           “(i) traditional fishing or fish proc-  
16           *essing practices in, and dependence on, the*  
17           *fishery;*

18           “(ii) the cultural and social framework  
19           *relevant to the fishery;*

20           “(iii) economic barriers to access to  
21           *fishery;*

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



1           *crew, fish processors, and other businesses*  
2           *substantially dependent upon the fishery in*  
3           *the region or subregion, upon the adminis-*  
4           *trative and fiduciary soundness of the asso-*  
5           *ciation and its by-laws; and*

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

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

12          “(A) establish procedures to ensure fair and  
13          *equitable initial allocations, including consider-*  
14          *ation of—*

15          “*(i) current and historical harvests;*

16          “*(ii) employment in the harvesting*  
17          *and fish processing sectors;*

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

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

22          “(B) to the extent practicable, consider the  
23          *basic cultural and social framework of the fish-*  
24          *ery, especially through the development of poli-*  
25          *cies to promote the sustained participation of*



1           *small owner-operated fishing vessels and fishing*  
2           *communities that depend on the fisheries, includ-*  
3           *ing regional or port-specific landing or delivery*  
4           *requirements;*

5           “(C) include measures to assist, when nec-  
6           essary and appropriate, entry-level and small  
7           vessel operators, captains, crew, and fishing com-  
8           munities through set-asides of harvesting alloca-  
9           tions, including providing privileges and, where  
10          appropriate, recommending the provision of eco-  
11          nomic assistance in the purchase of limited ac-  
12          cess privileges to harvest fish;

13          “(D) for the purpose of preventing signifi-  
14          cant adverse economic or social impact on any  
15          fishing community or other person, ensure that  
16          limited access privilege holders do not acquire an  
17          excessive share of the total limited access privi-  
18          leges in the program by—

19           “(i) establishing a maximum share, ex-  
20          pressed as a percentage of the total limited  
21          access privileges, that a limited access privi-  
22          lege holder is permitted to hold, acquired, or  
23          use; and

24           “(ii) establishing any other limitations  
25          or measures necessary to prevent an inequi-



1           



2           leges;

3           “(E) establish procedures to address geo-  
4           graphic or other consolidation in both the har-  
5           vesting and fish processing sectors of the fishery;

6           “(F) authorize limited access privileges to  
7           harvest fish to be held, acquired, or used by or  
8           issued under the system to persons who substan-  
9           tially participate in the fishery, as specified by  
10           the Council, including, as appropriate, fishing  
11           vessel owners, vessel captains, vessel crew mem-  
12           bers, fishing communities, and regional fishery  
13           associations; and

14           “(G) ensure that no person otherwise quali-  
15           fied to receive an initial allocation of a limited  
16           access privilege to harvest fish is required to join  
17           any entity or association that limits in any way  
18           the person’s ability to sell their catch as a condi-  
19           tion of that person receiving an initial or an-  
20           nual allocation.

21           “(5) PROGRAM INITIATION.—

22           “(A) LIMITATION.—Except as provided in  
23           subparagraph (D), a Council may initiate a  
24           fishery management plan or amendment to es-  
25           tablish a limited access privilege program to



1           *harvest fish on its own initiative or if the Sec-*  
2           *retary has certified an appropriate petition.*

3           “*(B) PETITION.*—*A group of fishermen con-*  
4           *stituting more than 50 percent of the permit*  
5           *holders in the fishery for which a limited access*  
6           *privilege program to harvest fish is sought, may*  
7           *submit a petition to the Secretary requesting*  
8           *that the relevant Council or Councils with au-*  
9           *thority over the fishery be authorized to initiate*  
10          *the development of the program. Any such peti-*  
11          *tion shall clearly state the fishery to which the*  
12          *limited access privilege program would apply.*  
13          *For multispecies permits in the Gulf, only those*  
14          *participants who have substantially fished the*  
15          *species proposed to be included in the limited ac-*  
16          *cess program shall be eligible to sign a petition*  
17          *for such a program and shall serve as the basis*  
18          *for determining the percentage described in the*  
19          *first sentence of this subparagraph.*

20           “*(C) CERTIFICATION BY SECRETARY.*—  
21          *Upon the receipt of any such petition, the Sec-*  
22          *retary shall review all of the signatures on the*  
23          *petition and, if the Secretary determines that the*  
24          *signatures on the petition represent more than*  
25          *50 percent of the permit holders in the fishery,*



1           *as described by subparagraph (B), the Secretary*  
2           *shall certify the petition to the appropriate*  
3           *Council or Councils.*

4           “*(D) NEW ENGLAND REFERENDUM.—*

5           “*(i) The New England Council may*  
6           *not submit, and the Secretary may not ap-*  
7           *prove or implement, a fishery management*  
8           *plan or amendment that creates an indi-*  
9           *vidual fishing quota program, including a*  
10          *Secretarial plan, unless such a system, as*  
11          *ultimately developed, has been approved by*  
12          *more than  $\frac{2}{3}$  of those voting in a ref-*  
13          *erendum among eligible permit holders with*  
14          *respect to the New England Council. If an*  
15          *individual fishing quota program fails to be*  
16          *approved by the requisite number of those*  
17          *voting, it may be revised and submitted for*  
18          *approval in a subsequent referendum.*

19          “*(ii) The Secretary shall conduct a ref-*  
20          *erendum under this subparagraph, includ-*  
21          *ing notifying all persons eligible to partici-*  
22          *pate in the referendum and making avail-*  
23          *able to them information concerning the*  
24          *schedule, procedures, and eligibility require-*



1               *ments for the referendum process and the*  
2               *proposed individual fishing quota program.*

3               “*(iii) The New England Fishery Man-*  
4               *agement Council may determine that vessel*  
5               *captains or crew members who have sub-*  
6               *stantial participation in the fishery con-*  
7               *cerned shall be eligible to vote in a ref-*  
8               *erendum under this subparagraph. The New*  
9               *England Fishery Management Council shall*  
10               *establish the criteria for determining what*  
11               *constitutes ‘substantial participation’ for*  
12               *purposes of this clause.*

13               “*(iv) Within 1 year after the date of*  
14               *enactment of the American Fisheries Man-*  
15               *agement and Marine Life Enhancement*  
16               *Act, the Secretary shall publish guidelines*  
17               *and procedures to determine procedures and*  
18               *voting eligibility requirements (subject to*  
19               *clause (iii)) for referenda and to conduct*  
20               *such referenda in a fair and equitable man-*  
21               *ner.*

22               “(E) OTHER LAW.—*Chapter 35 of title 44,*  
23               *United States Code, (commonly known as the*  
24               *Paperwork Reduction Act) does not apply to the*  
25               *referenda conducted under this subparagraph.*



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

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

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

9           “(7) *PREPARATION AND IMPLEMENTATION OF SECRETARIAL PLANS*.—This subsection also applies to a plan prepared and implemented by the Secretary under section 304(g).

10          “(8) *LIMITATION ON FEDERAL AGENCIES AND OFFICIALS*.—A Federal agency or official may not hold, administer, or reallocate an individual quota issued under a fishery management plan under this section, other than the Secretary and the Council having authority over the fishery for which the individual quota is issued.

11          “(d) *AUCTION AND OTHER PROGRAMS*.—In establishing a limited access privilege program, a Council may



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

5 “(1) the system or program is administered in  
6 such a way that the resulting distribution of limited  
7 access privilege shares meets the program require-  
8 ments of subsection (c)(2)(A); and

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

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

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

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

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



1   *American Fisheries Management and Marine Life En-*  
2   *hancement Act, a Council may establish—*

3           “(1) *a period of time after which any initial or*  
4           *subsequent allocation of a limited access privilege*  
5           *shall expire, or various periods for such expiration*  
6           *within a fishery if the Council determines that vari-*  
7           *ation of the periods will further achievement of man-*  
8           *agement goals; and*

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

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

14           “(1) *IN GENERAL.—A Council may submit, and*  
15          *the Secretary may approve and implement, a pro-*  
16          *gram that reserves up to 25 percent of any fees col-*  
17          *lected from a fishery under section 304(d)(2) to be*  
18          *used to issue obligations that aid in financing—*

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

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



1           “(2) *ELIGIBILITY CRITERIA*.—A Council making  
2        a submission under paragraph (1) shall recommend  
3        criteria, consistent with the provisions of this Act,  
4        that a fisherman must meet to qualify for guarantees  
5        under subparagraphs (A) and (B) of paragraph (1)  
6        and the portion of funds to be allocated for guarantees  
7        under each subparagraph.

8           “(h) *EFFECT ON CERTAIN EXISTING SHARES AND*  
9        *PROGRAMS*.—Nothing in this Act, or the amendments made  
10      by the American Fisheries Management and Marine Life  
11      Enhancement Act, shall be construed to require a realloca-  
12      tion of individual quota shares, fish processor quota shares,  
13      cooperative programs, or other quota programs, including  
14      sector allocation, for which a Council has already provided  
15      a substantial opportunity for public comment and begun  
16      considering alternatives, or submitted by a Council or ap-  
17      proved by the Secretary or by congressional action before  
18      the date of enactment of such Act.”.

19           (2) *CLERICAL AMENDMENT*.—The table of con-  
20        tents in the first section is amended by adding after  
21        the item relating to section 303 the following:

“Sec. 303A. Limited access privilege programs.”.

22           (b) *FEES*.—Section 304(d)(2) (16 U.S.C. 1854(d)(2))  
23      is amended—

24           (1) by redesignating subparagraphs (B) and (C)  
25      as subparagraphs (F) and (G), respectively;

1                   (2) in subparagraph (F), as so redesignated, by  
2                   striking “Such fee” and inserting “A fee under this  
3                   paragraph”; and

4                   (3) by striking “(2)(A)” and all that follows  
5                   through the end of subparagraph (A) and inserting  
6                   the following:

7                   “(2)(A) Notwithstanding paragraph (1), the Sec-  
8                   retary shall collect from a person that holds or trans-  
9                   fers an individual quota issued under a limited access  
10                  system established under section 303(b)(6) fees estab-  
11                  lished by the Secretary in accordance with this sec-  
12                  tion and section 9701(b) of title 31, United States  
13                  Code.

14                  “(B) The fees required to be established and col-  
15                  lected by the Secretary under this paragraph are the  
16                  following:

17                  “(i) With respect to any initial allocation  
18                  under a limited access system established after  
19                  the date of the enactment of the American Fish-  
20                  eries Management and Marine Life Enhance-  
21                  ment Act, an initial allocation fee in an amount,  
22                  determined by the Secretary, equal to 1 percent  
23                  of the ex-vessel value of fish authorized in one  
24                  year under an individual quota, that shall be



1           *collected from the person to whom the individual*  
2           *quota is first issued.*

3           “(ii) *An annual fee in an amount, determined*  
4           *by the Secretary, not to exceed 3 percent*  
5           *of the ex-vessel value of fish authorized each year*  
6           *under an individual quota share, that shall be*  
7           *collected from the holder of the individual quota*  
8           *share.*

9           “(iii) *A transfer fee in an amount, determined*  
10          *by the Secretary, equal to 1 percent of the*  
11          *ex-vessel value of fish authorized each year under*  
12          *an individual quota share, that shall be collected*  
13          *from a person who permanently transfers the in-*  
14          *dividual quota share to another person.*

15          “(C) *In determining the amount of a fee under*  
16          *this paragraph, the Secretary shall ensure that the*  
17          *amount is commensurate with the cost of managing*  
18          *the fishery with respect to which the fee is collected,*  
19          *including reasonable costs for salaries, data analysis,*  
20          *and other costs directly related to fishery management*  
21          *and enforcement.*

22          “(D) *The Secretary, in consultation with the*  
23          *Councils, shall promulgate regulations prescribing the*  
24          *method of determining under this paragraph the ex-*  
25          *vessel value of fish authorized under an individual*



1       *quota share, the amount of fees, and the method of*  
2       *collecting fees.*

3       *“(E) Fees collected under this paragraph from*  
4       *holders of individual quotas in a fishery shall be an*  
5       *offsetting collection and shall be available to the Sec-*  
6       *retary only for the purposes of administering and im-*  
7       *plementing this Act with respect to that fishery.”.*

8       (c)           CONFORMING           AMENDMENT.—Section  
9       304(d)(2)(G)(i), as redesignated by subsection (b)(1) of this  
10      section, is amended by striking “section 305(h)(5)(B)” and  
11      all that follows and inserting “section 305(h)(5)(B).”.

12      (d) LIMITED ACCESS PRIVILEGE DEFINED.—Sub-  
13      section (a) of section 3 (16 U.S.C. 1802) is further amended  
14      by inserting after paragraph (23) the following:

15       “(23A) The term ‘limited access privilege’—

16           “(A) means a Federal permit, issued as  
17           part of a limited access system under section  
18           303A to harvest a quantity of fish that may be  
19           received or held for exclusive use by a person;  
20           and

21           “(B) includes an individual fishing quota;  
22           but

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



1   **SEC. 8. JOINT FISHERIES ENFORCEMENT AGREEMENTS.**

2       *Section 311 (16 U.S.C. 1861) is amended—*

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

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

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

9                  *“(vi) access, directly or indirectly, for en-*  
10               *forcement purposes any data or information re-*  
11               *quired to be provided under this title or regula-*  
12               *tions under this title, including data from vessel*  
13               *monitoring systems, or any similar system, sub-*  
14               *ject to the confidentiality provisions of section*  
15               *402;”;*

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

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

20        *“(h) JOINT FISHERIES ENFORCEMENT AGREE-*  
21        *MENTS.—*

22           *“(1) IN GENERAL.—The Governor of an eligible*  
23           *State may apply to the Secretary for execution of a*  
24           *joint fisheries enforcement agreement with the Sec-*  
25           *retary that will authorize the deputization and fund-*  
26           *ing of State officers with marine fisheries responsibil-*

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

8       “*(2) ELIGIBLE STATE.—A State is eligible to*  
9       *participate in the cooperative agreements under this*  
10      *section if it is in, or bordering on, the Atlantic Ocean*  
11      *(including the Caribbean Sea), the Pacific Ocean, the*  
12      *Arctic Ocean, or the Gulf of Mexico.*

13      “*(3) REQUIREMENTS.—Joint fisheries enforce-*  
14      *ment agreements executed under paragraph (1)—*

15      “*(A) shall be consistent with the purposes*  
16      *and intent of this section to the extent applicable*  
17      *to the regulated activities; and*

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

21      “*(4) ALLOCATION OF FUNDS.—The Secretary*  
22      *shall include in each joint fisheries enforcement agree-*  
23      *ment an allocation of funds to assist in management*  
24      *of the agreement. The allocation shall be fairly dis-*  
25      *tributed among all eligible States participating in co-*



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

10      “(i) IMPROVED DATA SHARING.—

11       “(1) IN GENERAL.—Notwithstanding any other  
12       provision of this Act, as soon as practicable but no  
13       later than 21 months after the date of enactment of  
14       the American Fisheries Management and Marine Life  
15       Enhancement Act, the Secretary shall implement  
16       data-sharing measures to make any data required to  
17       be provided by this Act from vessel monitoring sys-  
18       tems, or similar systems—

19           “(A) directly accessible by State officers au-  
20           thorized under subsection (a) of this section; and

21           “(B) available to a State management agen-  
22           cy involved in, or affected by, management of a  
23           fishery if the State has entered into an agree-  
24           ment with the Secretary under section  
25           402(b)(1)(B) of this Act.



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

4               “(A) *the State provides a written opinion*  
5       *or certification that State law allows the State*  
6       *to maintain the confidentiality of information*  
7       *required by Federal law to be kept confidential;*  
8       *or*

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

13 **SEC. 9. FUNDING FOR FISHERY OBSERVER PROGRAMS.**

14       (a) *NORTH PACIFIC FISHERIES RESEARCH PLANS.*—

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

16       (1) *in subsection (a)—*

17               (A) *in the matter preceding paragraph (1)*  
18       *by striking “all” and inserting “any”; and*

19               (B) *by amending paragraph (2) to read as*  
20       *follows:*

21               “(2) *establishes a system, or systems, of fees,*  
22       *which may vary by fishery, management area, and*  
23       *observer coverage level, to pay for the costs of imple-*  
24       *menting the plan.”; and*

25       (2) *in subsection (b)(2)—*



1                   (A) in subparagraph (A) by inserting “, or  
2                   electronic monitoring systems,” after “stationing  
3                   observers”;

4                   (B) in subparagraph (E) by inserting  
5                   “fixed amount reflecting actual observer costs as  
6                   described in clauses (i), (ii), and (iii) of sub-  
7                   paragraph (A), or” after “be expressed as”;

8                   (C) in subparagraph (F)—

9                   (i) by inserting “some or” after “as-  
10                  sessed against”; and

11                  (ii) by inserting “, or electronic moni-  
12                  toring systems,” after “carry an observer”;

13                  and

14                  (D) by striking “and” after the semicolon at  
15                  the end of subparagraph (H), by striking the pe-  
16                  riod at the end of subparagraph (I) and insert-  
17                  ing “; and”, and by adding at the end the fol-  
18                  lowing:

19                  “(J) provide that fees collected under the system  
20                  shall be credited against any fee for stationing observ-  
21                  ers, or electronic monitoring systems, onboard fishing  
22                  vessels and United States fish processors and the ac-  
23                  tual cost of inputting collected data to which a fishing  
24                  vessel or fish processor is subject under section  
25                  304(d).”.



1       (b) *OBSERVER PROGRAM FUNDING.*—Section 403 (16  
2 U.S.C. 1881(b)) is amended by adding at the end the fol-  
3 lowing:

4       “(d) *OBSERVER PROGRAM FUNDING MECHANISM.*—

5           “(1) *IN GENERAL.*—The Secretary may establish  
6 a funding mechanism to cover the cost of an observer  
7 program to monitor any fishery managed under this  
8 Act or any other Act administered by the Secretary,  
9 including the Northern Pacific halibut fishery.

10         “(2) *FORM OF MECHANISM.*—

11           “(A) The Secretary may exercise broad dis-  
12 cretion in developing a funding mechanism  
13 under this subsection, which may include a sys-  
14 tem of fees, payments collected from limited ac-  
15 cess privilege programs, or any other cost recov-  
16 ery mechanism to pay for—

17           “(i) the cost of stationing observers on  
18 board fishing vessels and United States fish  
19 processors, and

20           “(ii) the actual cost of inputting data  
21 and managing observer databases.

22           “(B) The moneys collected under a funding  
23 mechanism established under this subsection for  
24 an observer program shall be—



1                   “(i) deposited into the Fishery Ob-  
2                   server Fund established under subsection  
3                   (e); and

4                   “(ii) used only for the observer pro-  
5                   gram covering fisheries from which the  
6                   moneys were collected.

7        “(e) *FISHERY OBSERVER FUND.*—

8                   “(1) *ESTABLISHMENT OF FUND.*—There is estab-  
9                   lished on the books of the Treasury of the United  
10                  States, a fund that shall be known as the Fishery Ob-  
11                  server Fund (in this subsection referred to as the  
12                  ‘Fund’). The Fund shall be administered by the Sec-  
13                  retary of Commerce. The Fund shall be available, sub-  
14                  ject to the availability of appropriations, only to the  
15                  Secretary for purposes of carrying out subsection (d).  
16                  The Fund shall consist of all moneys deposited into  
17                  in it accordance with this section, plus interest on  
18                  those moneys.

19                   “(2) *INVESTMENT OF AMOUNT.*—

20                   “(A) It shall be the duty of the Secretary of  
21                  the Treasury to invest, at the direction of the  
22                  Secretary of Commerce, such portion of the Fund  
23                  that is not currently needed for the purposes of  
24                  each observer program covering fisheries from



1           *which moneys were collected under subsection*  
2           *(d).*

3           *“(B) Such investments shall be in public*  
4           *debt obligations with maturities suitable to the*  
5           *needs of the Fund, as determined by the Sec-*  
6           *retary of Commerce. Investments in public debt*  
7           *obligations shall bear interest at rates deter-*  
8           *mined by the Secretary of the Treasury taking*  
9           *into consideration the current market yield on*  
10          *outstanding marketable obligations of the United*  
11          *States of comparable maturity.*

12          *“(3) SALE OF OBLIGATION.—Any obligation ac-*  
13          *quired by the Fund may be sold by the Secretary of*  
14          *the Treasury at the direction of the Secretary of Com-*  
15          *merce at market prices.*

16          *“(f) CONTRIBUTIONS.—For purposes of carrying out*  
17          *subsections (d) and (e), the Secretary may accept, solicit,*  
18          *receive, hold, administer, and use gifts, devices, contribu-*  
19          *tions, and bequests. Amounts received under this subsection*  
20          *shall be deposited in the Fishery Observer Fund established*  
21          *under subsection (c).”.*

22          **SEC. 10. COMPETING STATUTES.**

23          *(a) REQUIRED INFORMATION IN MANAGEMENT*  
24          *PLANS.—Section 303(a) (16 U.S.C. 1853A) is further*  
25          *amended by adding at the end the following:*



1           “(17) contain information on the Council’s ef-  
2        forts to study, develop, and describe appropriate alter-  
3        natives to recommend courses of action.”.

4        (b) REQUIRED ANALYSIS IN MANAGEMENT PLANS.—  
5    Section 303(a)(9) (16 U.S.C. 1853(a)(9)) is amended by  
6    striking “describe the likely effects, if any, of the conserva-  
7    tion and management measures on—” and inserting “ana-  
8    lyze the likely effects, if any, including the cumulative con-  
9    servation, economic, and social impacts of, the conservation  
10   and management measures on, and possible mitigation  
11   measures for—”.

12       (c) COMPLIANCE WITH NATIONAL ENVIRONMENTAL  
13    POLICY ACT OF 1969.—

14           (1) IN GENERAL.—Title III (16 U.S.C. 1851 et  
15        seq.) is amended by adding at the end the following:

16   **“SEC. 315. COMPLIANCE WITH NATIONAL ENVIRONMENTAL  
17           POLICY ACT OF 1969.**

18        “(a) IN GENERAL.—The Secretary may consider the  
19        requirements of section 102(2)(C) of the National Environ-  
20        mental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) to have  
21        been satisfied with respect to any fishery management plan,  
22        amendment to such a plan, or regulation implementing  
23        such a plan that the Secretary determines has been pre-  
24        pared in accordance with applicable provisions of sections  
25        303 and 304 of this Act.



1       “(b) *LIMITATION OF APPLICATION*.—This section shall  
2 *not apply unless the Secretary has published a determina-*  
3 *tion that sections 304 and 305 are substantially equivalent*  
4 *to section 102(2)(C) of the National Environmental Policy*  
5 *Act of 1969 (42 U.S.C. 4332(2)(C)).”.*

6       “(2) *CLERICAL AMENDMENT*.—The table of con-  
7 *tents in the first section is amended by adding at the*  
8 *end of the items relating to title III the following:*

“Sec. 315. *Compliance with National Environmental Policy Act of 1969.*”.

9       “(3) *EFFECT ON TIME REQUIREMENTS*.—Section  
10 *305(e) (16 U.S.C. 1855(E)) is amended by inserting*  
11 *“the National Environmental Policy Act of 1969 (42*  
12 *U.S.C. 4321 et seq.),” after “the Regulatory Flexi-*  
13 *bility Act (5 U.S.C. 601 et seq.),”.*

14 **SEC. 11. DIMINISHED FISHERIES.**

15       “(a) *SUBSTITUTION OF “DIMINISHED” FOR “OVER-*  
16 *FISHED”*.—

17       “(1) *SUBSTITUTION OF TERM*.—The Act is  
18 *amended—*

19               “(A) *by striking “overfished” each place it*  
20 *appears (other than in subsection (a) of section*  
21 *3 of the Act (16 U.S.C. 1802), as amended by*  
22 *this Act) and inserting “diminished”; and*

23               “(B) *in the heading for section 304(e) (16*  
24 *U.S.C. 1854(e)) by striking “OVERFISHED” and*  
25 *inserting “DIMINISHED”*.

1                   (2) *DIMINISHED DEFINED*.—Subsection (a) of  
2        *section 3 (16 U.S.C. 1802)* is further amended—

3                   (A) by inserting after paragraph (8) the fol-  
4        *lowing*:

5                   “(8A) *The term ‘diminished’ means a fishery*  
6        *whose abundance is at or below a level that jeopard-*  
7        *izes the capacity of the fishery to produce maximum*  
8        *sustainable yield on a continuing basis.*”; and

9                   (B) by amending paragraph (29) to read as  
10      *follows*:

11                  “(29) *The term ‘overfishing’ means a rate or*  
12        *level of fishing mortality that jeopardizes the capacity*  
13        *of a fishery to produce the maximum sustainable*  
14        *yield on a continuing basis.*”.

15                  (3) *DISTINGUISHING IN REPORTS*.—Section  
16        *304(e)(1) (16 U.S.C. 1854(e)(1))* is amended by add-  
17        *ing at the end the following*: “*The report shall distin-*  
18        *guish between fisheries that are diminished (or ap-*  
19        *proaching that condition) as a result of fishing and*  
20        *fisheries that are diminished (or approaching that*  
21        *condition) as a result of factors other than fishing.*  
22        *The report shall state, for each fishery identified as*  
23        *diminished or approaching that condition, whether*  
24        *the fishery is the target of directed fishing.*”.



1       (b) DURATION OF MEASURES TO REBUILD DIMIN-  
2 ISHED FISHERIES.—Section 304(e)(4)(A)(ii) of the Magnu-  
3 son-Stevens Fishery Conservation and Management Act (16  
4 U.S.C. 1854(e)(4)(A)(ii)) is amended to read as follows:

5                     “(ii) not exceed 10 years, except in  
6 cases where—

7                         “(I) the biology of the stock of  
8 fish, other environmental conditions, or  
9 management measures under an inter-  
10 national agreement in which the  
11 United States participates dictate oth-  
12 erwise;

13                         “(II) the Secretary determines  
14 that such 10-year period should be ex-  
15 tended because the cause of the fishery  
16 decline is outside the jurisdiction of the  
17 Council or the rebuilding program can-  
18 not be effective only by limiting fishing  
19 activities;

20                         “(III) the Secretary determines  
21 that such 10-year period should be ex-  
22 tended for one or more diminished  
23 components of a multi-species fishery;  
24 or



1                         “(IV) the Secretary makes sub-  
2                         stantial changes to the rebuilding tar-  
3                         gets after the rebuilding plan has been  
4                         put in place.”.

5 **SEC. 12. NEW PROHIBITED ACTS.**

6     (a) *PROHIBITION ON SALE OR PURCHASE OF REC-  
7 REATIONAL CATCH.*—Section 307 (16 U.S.C. 1857) is  
8 amended by striking “and” after the semicolon at the end  
9 of paragraph (4), by striking the period at the end of para-  
10 graph (5) and inserting “; and”, and by adding at the end  
11 the following:

12                         “(6) to sell or purchase any fish caught in rec-  
13 reational fishing.”.

14     (b) *PROHIBITION ON USE OF RETIRED VESSEL.*—Sec-  
15 tion 307(1) (16 U.S.C. 1857(1)) is amended—

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

18                         (2) by striking “carcass.” in subparagraph (P)  
19 and inserting “carcass; or”; and

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

22                         “(Q) to use any fishing vessel to engage in  
23 fishing in Federal or State waters, or on the high  
24 seas or the waters of another country, after the



1           Secretary has made a payment to the owner of  
2           that fishing vessel under section 312(b)(2).”.

3   **SEC. 13. FISHERY FAILURES.**

4           Section 312(a) (16 U.S.C. 1361a) is amended by strik-  
5   ing “commercial fishery” each place it appears and insert-  
6   ing “fishery”.

7   **SEC. 14. 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,” and inserting “186  
11   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. 15. BYCATCH AND SEABIRD INTERACTIONS.**

16       (a) GEAR GRANT PROGRAM.—Title IV (1 U.S.C. 1881  
17   et seq.) is further amended by adding at the end the fol-  
18   lowing:

19   **“SEC. 409. GEAR GRANT PROGRAM.**

20       “(a) IDENTIFICATION OF FISHERIES WITH MOST UR-  
21   GENT PROBLEMS.—The Secretary shall—

22           “(1) identify those fisheries included in a list  
23   under subsection (a) that have the most urgent by-  
24   catch problems or seabird interaction problems, based  
25   on comments received regarding the list; and



1           “(2) work in conjunction with the Councils and  
2        fishing industry participants to develop new fishing  
3        gear, or modifications to existing fishing gear, that  
4        will help minimize bycatch and seabird interactions  
5        to the extent practicable.

6           “(b) GRANT AUTHORITY.—The Secretary shall, subject  
7        to the availability of appropriations, make grants for the  
8        development of fishing gear and modifications to existing  
9        fishing gear that will help—

10          “(1) minimize bycatch and seabird interactions;  
11        and

12          “(2) minimize adverse fishing gear impacts on  
13        habitat areas of particular concern.

14          “(c) REPORT.—The Secretary shall report to the Con-  
15        gress annually on—

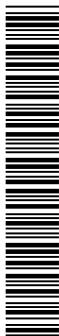
16          “(1) the amount expended to implement this sec-  
17        tion in the preceding year;

18          “(2) developments in gear technology achieved  
19        under this section;

20          “(3) the reductions in bycatch associated with  
21        implementation of this section; and

22          “(4) any other relevant information.

23          “(d) AUTHORIZATION OF APPROPRIATIONS.—To carry  
24        out this section there is authorized to be appropriated to



1   *the Secretary \$10,000,000 for each of fiscal years 2007*  
2   *through 2011.”.*

3       *(b) CLERICAL AMENDMENT.—The table of contents in*  
4   *the first section is amended by adding at the end of the*  
5   *items relating to title IV the following:*

“Sec. 409. Gear grant program.”.

6       *(c) REPORT.—The Secretary of Commerce shall report*  
7   *to the Congress within one year after the date of the enact-*  
8   *ment of this Act on—*

9           *(1) the extent of the problem of seabird inter-*  
10   *action with fisheries of the United States;*

11          *(2) efforts by the fishing industry and Regional*  
12   *Fishery Management Councils to address that prob-*  
13   *lem; and*

14          *(3) the extent of the problem of seabird inter-*  
15   *action with fisheries other than the fisheries of the*  
16   *United States.*

17       *(d) INTERNATIONAL ACTION.—The Secretary of Com-*  
18   *merce shall take appropriate action at appropriate inter-*  
19   *national fisheries management bodies to reduce seabird*  
20   *interactions in fisheries.*

21 **SEC. 16. OVER CAPITALIZATION.**

22       *(a) DISCRETION OF SECRETARY TO CONDUCT FISHING*  
23   *CAPACITY REDUCTION PROGRAM.—Section 312(b) (16*  
24   *U.S.C. 1861a(b)) is amended—*



1           (1) in paragraph (1) by striking “, at the request  
2       of the appropriate Council for fisheries under the au-  
3       thority of such Council, or the Governor of a State for  
4       fisheries under State authority,”;

5           (2) in paragraph (1), by inserting “that is man-  
6       aged under a limited access system authorized by sec-  
7       tion 303(b)(6),” after “in a fishery”; and

8           (3) by redesignating paragraph (4) as para-  
9       graph (5), and by inserting after paragraph (3) the  
10      following:

11       “(4) The Council, or the Governor of a State, having  
12      authority over a fishery may request the Secretary to con-  
13      duct a fishing capacity reduction program in the fishery  
14      under this subsection.”.

15       (b) REQUIREMENT TO SURRENDER ALL PERMITS.—  
16      Section 312(b)(2) (16 U.S.C. 1861a(b)(2)) is amended to  
17      read as follows:

18       “(2)(A) The objective of the program shall be to obtain  
19      the maximum sustained reduction in fishing capacity at  
20      the least cost and in a minimum period of time.

21       “(B) To achieve that objective, the Secretary is author-  
22      ized to pay an amount to the owner of a fishing vessel, if—

23           “(i) such vessel is scrapped, or through the Sec-  
24           retary of the department in which the Coast Guard  
25           is operating, subjected to title restrictions that perma-



1        *nently prohibit and effectively prevent its use in fish-*  
2        *ing;*

3            “(ii) *all permits authorizing the participation of*  
4        *the vessel in any fishery under the jurisdiction of the*  
5        *United States are surrendered for permanent revoca-*  
6        *tion; and*

7            “(iii) *the owner of the vessel and such permits*  
8        *relinquishes any claim associated with the vessel and*  
9        *such permits that could qualify such owner for any*  
10      *present or future limited access system permit in the*  
11      *fishery for which the program is established.”.*

12        (c) *ENSURING VESSELS DO NOT ENTER FOREIGN OR*  
13      *HIGH SEAS FISHERIES.*—Section 312(b) (16 U.S.C.  
14      1861a(b)) is further amended by adding at the end the fol-  
15      lowing:

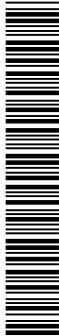
16            “(6) *The Secretary may not make a payment under*  
17      *paragraph (2) with respect to a vessel that will not be*  
18      *scrapped, unless the Secretary certifies that the vessel will*  
19      *not be used for any fishing, including fishing in the waters*  
20      *of a foreign nation and fishing on the high seas.”.*

21        (d) *REPORT.*—

22            (1) *IN GENERAL.*—The Secretary shall, within

23      12 months after the date of the enactment of this Act,

24      submit to the Congress a report—



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

7                   (B) recommending measures for reducing  
8                   such excess harvesting capacity, including the re-  
9                   tirement of any latent fishing permits that could  
10                  contribute to further excess harvesting capacity  
11                  in those fisheries; and

12                  (C) potential sources of funding for such  
13                  measures.

14                  (2) BASIS FOR RECOMMENDATIONS.—The Sec-  
15                  retary shall base the recommendations made with re-  
16                  spect to a fishery on—

17                  (A) the most cost effective means of achiev-  
18                  ing voluntary reduction in capacity for the fish-  
19                  ery using the potential for industry financing;  
20                  and

21                  (B) including measures to prevent the ca-  
22                  pacity that is being removed from the fishery  
23                  from moving to other fisheries in the United  
24                  States, in the waters of a foreign nation, or in  
25                  the high seas.



1   **SEC. 17. AMENDMENT REGARDING DEFINITIONS OF FISH-**  
2                   **ING COMMUNITY AND RECREATIONAL FISH-**  
3                   **ING INDUSTRY.**

4       (a) *DEFINITION OF FISHING COMMUNITY.*—Section 3  
5   (16 U.S.C. 1802) is further amended in paragraph (16) of  
6 subsection (a)—

7                  (1) by striking “harvest” and inserting “catch,  
8 harvest;” and

9                  (2) by inserting “, recreational participants, ma-  
10 rina owners and operators, for-hire vessel owners and  
11 operators, bait and tackle shop owners and opera-  
12 tors,” after “crew”.

13       (b) *RECREATIONAL FISHING INDUSTRY.*—Section 3  
14 (16 U.S.C. 1802) is further amended by adding at the end  
15 of subsection (a) the following:

16                  “(45) The term ‘recreational fishing industry’  
17 means individual anglers, boat builders, fishing tackle  
18 manufacturers, for-hire vessel owners and operators,  
19 bait and tackle shop owners and operators, and rec-  
20 reational marina owners and operators.”.

21   **SEC. 18. CONSIDERATION OF ECONOMIC IMPACTS.**

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

23                  (1) in paragraph (5) by inserting “economic in-  
24 formation necessary to meet the requirements of this  
25 Act,” after “number of hauls;”;



1                   (2) in paragraph (13) by striking “fishery” the  
2                   first place it appears and inserting “fishery, includ-  
3                   ing their economic impact,”; and

4                   (3) in paragraph (14) by striking “allocate” and  
5                   inserting “allocate, taking into consideration the eco-  
6                   nomic impact of harvest restrictions or recovery bene-  
7                   fits on the fishery participants in each sector.”.

8   **SEC. 19. REGIONAL COASTAL DISASTER ASSISTANCE, TRAN-**  
9                   **SITION, AND RECOVERY PROGRAM.**

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

12   **“SEC. 316. 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;*

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

14               “(C) vessel repair and refloating;

15               “(D) debris removal and cleaning;

16               “(E) public and private oyster bed, shrimp,  
17      *and other fisheries rehabilitation; and*

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

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



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

8           “(A) no reasonable means are available  
9       *through which applicants can meet the matching*  
10      *requirement; and*

11          “(B) the probable benefit of 100 percent  
12       *Federal financing outweighs the public interest*  
13       *in imposition of the matching requirement.*

14          “(4) NET REVENUE LIMIT INAPPLICABLE.—*Sec-*  
15       *tion 308(d)(3) of the Interjurisdictional Fisheries Act*  
16       *(16 U.S.C. 4107(d)(3)) shall not apply to assistance*  
17       *under this section.*

18          “(c) REGIONAL IMPACT EVALUATION.—*Within 2*  
19       *months after a catastrophic regional fishery disaster the*  
20       *Secretary shall provide the Governor of each State partici-*  
21       *pating in the program a comprehensive economic and socio-*  
22       *economic evaluation of the affected region’s fisheries to as-*  
23       *sist the Governor in assessing the current and future eco-*  
24       *nomic viability of affected fisheries, including the economic*  
25       *impact of foreign fish imports and the direct, indirect, or*



1   *environmental impact of the disaster on the fishery and*  
2   *coastal communities.*

3       “(d) *CATASTROPHIC REGIONAL FISHERY DISASTER*  
4   *DEFINED.—In this section the term ‘catastrophic regional*  
5   *fishery disaster’ means a natural disaster, including a hur-*  
6   *ricane or tsunami, or a judicial or regulatory closure to*  
7   *protect human health or the marine environment, that—*  
8           “(1) *results in economic losses to coastal or fish-*  
9   *ing communities;*

10          “(2) *affects more than 1 State or a major fishery*  
11   *managed by a Council or interstate fishery commis-*  
12   *sion; and*

13          “(3) *is determined by the Secretary to be a com-*  
14   *mercial fishery failure under section 312(a) of this*  
15   *Act or a fishery resource disaster or section 308(d) of*  
16   *the Interjurisdictional Fisheries Act of 1986 (16*  
17   *U.S.C. 4107(d)).”.*

18       (b) *CLERICAL AMENDMENT.—The table of contents in*  
19   *the first section of that Act is further amended by inserting*  
20   *after the item relating to section 315 the following:*

“Sec. 316. *Regional coastal disaster assistance, transition, and recovery pro-*  
gram.”.

21   **SEC. 20. AUTHORIZATION OF APPROPRIATIONS.**

22       (a) *AUTHORIZATION.—Section 4 (16 U.S.C. 1803) is*  
23   *amended by striking paragraphs (1) through (4) and insert-*  
24   *ing the following:*



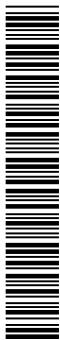
1           “(1) \$338,970,000 for fiscal year 2007.  
2           “(2) \$366,087,000 for fiscal year 2008.  
3           “(3) \$395,374,000 for fiscal year 2009.  
4           “(4) \$427,604,000 for fiscal year 2010.  
5           “(5) \$461,812,000 for fiscal year 2011.”.

6         (b) *CLERICAL AMENDMENT.—The table of contents in  
7 the first section is amended by inserting after the item relat-  
8 ing to section 3 the following:*

“Sec. 4. Authorization of appropriations.”.

9 **SEC. 21. REVIEW AND REPORT REGARDING VIOLATIONS OF  
10 DISCLOSURE, CONFLICT OF INTEREST, AND  
11 RECUSAL PROVISIONS.**

12         *The Secretary of Commerce shall, within 6 months  
13 after the date of enactment of this Act, review the votes of  
14 all Fishery Management Councils that have occurred since  
15 the date of the enactment of the Sustainable Fisheries Act  
16 (Public Law 104–297) and report to the Committee on Re-  
17 sources of the House of Representatives on whether there  
18 were any meaningful violations of the disclosure, conflict  
19 of interest, and recusal provisions of section 302(j) of the  
20 Magnuson-Stevens Fishery Conservation and Management  
21 Act (16 U.S.C. 1852(j)). The Secretary shall include in the  
22 report recommendations for legislative or regulatory  
23 changes to section 302(j) of such Act as the Secretary con-  
24 siders appropriate to address situations with respect to  
25 which violations were identified in the review.*



**1 SEC. 22. REPORT ON EFFECTS OF HURRICANES.**

2       (a) *IN GENERAL.*—Not later than 180 days after the  
3 date of the enactment of this Act, the Administrator of the  
4 National Oceanic and Atmospheric Administration shall  
5 report to the Congress on the effects of Hurricanes Katrina,  
6 Rita, and Wilma on the fisheries and fish habitat of the  
7 United States.

8       (b) *CONTENTS.*—The report shall include a description  
9 of the effects of such hurricanes on—  
10              (1) commercial and recreational fisheries;  
11              (2) owners and operators of shrimp fishing ves-  
12              sels; and  
13              (3) the oyster industry.

**14 SEC. 23. STUDY OF THE ACIDIFICATION OF THE OCEANS  
15 AND EFFECT ON FISHERIES.**

16       The Secretary of Commerce shall request the National  
17 Research Council to conduct a study of the acidification  
18 of the oceans and how this process effects United States fish-  
19 eries.



**Union Calendar No.**

109<sup>TH</sup> CONGRESS  
2D SESSION  
**H. R. 5018**

[Report No. 109-]

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**A BILL**

To reauthorize the Magnuson-Stevens Fishery Conservation and Management Act, and for other purposes.

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