

Testimony of  
William (Corky) Perret  
on behalf of the  
Gulf of Mexico Fishery Management Council  
before the  
House Resources Committee  
on October 27, 2005

Thank you Mr. Chairman and members of the Committee; I am Corky Perret. I work for the Mississippi Department of Marine Resources and I serve as Vice Chairman of the Gulf Fishery Council. We appreciate you providing us with an opportunity to appear before you and provide testimony on issues of importance to you.

The outline of issues your staff asked us to address included at the end the discussion of new challenges. Unfortunately, hurricanes Katrina and Rita created such severe damage over such an expansive area by their landfalls that it will be a national challenge to restore the vessels and industry infrastructure for our commercial and recreational fisheries. The assessment of their losses is still being evaluated; but, to give you an idea of the enormity of the problem, the Gulf menhaden fishery that annually landed a half million tons of fish lost all of its vessels and all of its processing capacity. There are shrimp vessels sitting high on the shore from Alabama through Louisiana. There is only one dock and dealer left in coastal Louisiana to purchase and process snapper and grouper.

Our Council, at the request of Senators Thad Cochran and Trent Lott, developed a listing of actions that could be funded to help restore the infrastructure and provide financial relief to the affected fishermen. Our letter to the Senators is attached to this testimony for your information.

Our Council manages seven major fisheries, most of which are cooperatively managed by the states. These are shrimp, spiny lobster, stone crabs, reef fish, coastal migratory pelagics (mackerel, etc.), red drum, and coral. Shrimp, which is one of the nation's most valuable fisheries, is managed by deferring the harvest off Florida and Texas until the shrimp grow to a larger and more valuable size. We have recently approved a limited access system through implementing a vessel permit moratorium. This would cap the shrimp industry at about 2,300 vessels. The spiny lobster and stone crab fisheries are jointly managed by Florida and the Council through trap reduction programs that limit and reduce entry in terms of the number of traps. For commercial reef fish and mackerel fisheries we instituted a limited access system in the mid 1990's. We also limit entry of charter vessels and headboats for reef fish and coastal migratory pelagic fisheries. Harvest of coral and red drum are prohibited in the EEZ and regulated by the states in near-shore waters.

We and the other southeast Councils have changed over the past three years to using the SEDAR process for our bench-mark stock assessments. This process uses three

workshops to develop a peer-reviewed stock assessment. These are open workshops involving state and federal scientists, the fishers, and environmental groups. In the Data Workshops, the panels ensure the best available data is used. In the Assessment Workshops, the panels ensure the most appropriate assessment models are used. In the Review Workshops, scientists from the Center for Independent Evaluation peer review the actions of the other workshops and reach the final assessment conclusion.

Prior to use of the SEDAR process, all the assessments were done by NMFS and were peer-reviewed by our Stock Assessment Panels and our Scientific and Statistical Committee (SSC). For “updated” assessments, rather than bench-mark assessments, the SSC and Stock Assessment Panels still perform the peer reviews. Our SSC has always advised us whether the best available data was used for all facets of the FMP amendment process.

We set our total allowable catch (TAC) mainly using the SEDAR process. We have ceased setting TAC annually, but re-specify TAC at intervals of three to five years, depending on longevity of the stock.

The Councils are funded primarily as a Congressional line-item for Regional Council under the NOAA budget. In the past several years the Congressional allocation has been inadequate to carry out needed operations, and the Councils were partially funded by NOAA Fisheries. We hope that eventually, the eight Councils will be funded at about \$25 million annually.

Our Council reviewed and adopted many recommendations for reauthorization of the M-SA; most of these were from a Senate Staff Working Draft (8/4/05), and the remainder were from a PFMC: Council Chairs Summary (4/28/05). Both of these are appended to this testimony for your review. Probably most important to us was the language of the Limited Access Privilege Programs which provide great flexibility for IFQ Programs. Second, was the Environmental Review Process incorporating NEPA into M-SA, followed by Cooperative Enforcement Agreements and Cooperative Research Agreements. Probably the most important issue out of the PFMC summary was review of M-SA Section 304(e)(2)(A) amending the rebuilding plan periods.

Among the foremost new challenges for fisheries management is ecosystem management. We support the Council Chairs recommendations for ecosystems listed in the PFMC summary, i.e., a slow approach to implementing such systems.

On behalf of the Council, I thank you for the opportunity to testify.

Attachments:

- (1) Letter to Senators Cochran and Lott
- (2) Senate Staff Working Draft (8/4/05)
- (3) PFMC: Position of Council Chair on Reauthorization of M-SA (4/20/05)



# GULF OF MEXICO FISHERY MANAGEMENT COUNCIL



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05.AUG.10\*005594

October 7, 2005

The Honorable Thad Cochran  
Chair, Senate Appropriations Committee  
U.S. Senate  
Washington, D.C. 20510

The Honorable Trent Lott  
Member, Senate Finance Committee  
U.S. Senate  
Washington, D.C. 20510

Dear Senator Cochran and Senator Lott,

Thank you for your letter asking the Gulf of Mexico Fishery Management Council to recommend projects to rebuild fisheries and their associated infrastructure in the Northern Gulf of Mexico.

At our October meeting in St. Petersburg, Florida, the Council discussed your request and developed the attached list of recommendations. All three Council members from Mississippi attended the meeting, and our discussion was greatly informed by their experiences.

The Gulf of Mexico Fishery Management Council is taking deliberate action to address overcapitalization and overfishing in several Gulf fisheries. Shrimp and red snapper are overcapitalized. Red snapper is also overfished. In addition, the charterboat sector is overcapitalized, targeting reef fish and mackerel. Inventories are incomplete, but many vessels in these three fisheries have been damaged or lost in the northern Gulf. A voluntary buyout of vessels and permits in these fisheries would help fishermen who choose to exit the fishery following the storms, and, at the same time, would reduce overcapitalization and support recovery of overfished reef fish.

The storms damaged trawling gear, and a replacement program providing nets with the most effective turtle excluder devices (TED's) and bycatch reduction devices (BRD's) will reduce bycatch in the shrimp fishery.

Docks, fish houses, ice plants, and freezers have been lost and damaged, and fishermen are scrambling to find places to land their fish. Federal relief funds could fill the gap between insured losses and the funds needed to rebuild docks and high quality handling facilities that will bring Gulf seafood to customers.

Over the next months, fishermen could be employed to work with NOAA and the Coast Guard to locate and remove hurricane debris from state and federal waters and conduct research on the effects of the storms. Longer term, fishermen can work as observers, collecting crucial data to improve fishery management.

The Council has identified vessel monitoring systems, electronic logbooks, and improved bycatch reduction devices, as important tools for responsible, science based management of the shrimp

Senators Cochran and Lott


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and reef fish fisheries in the Gulf of Mexico. Our management plans call for vessel owners to purchase these tools, which will be difficult for fishermen in financial crisis. We also have a strong need for observer data in these two fisheries, and have asked NOAA to fund observers. Congressional funding of these management tools would be a tremendous boost for sustainable fishery management in the Gulf of Mexico.

Thank you again for considering the attached recommendations, and, thank you for your leadership on these issues at this moment of crisis. Our Gulf Council and NMFS staffs can provide rough estimates of costs for many of these recommendations, and I encourage you to work with them as your committee explores way to restore and recover Gulf of Mexico Fishery Infrastructure.

Sincerely,

A handwritten signature in black ink that reads "Julie Morris". The signature is written in a cursive, flowing style.

Julie Morris

Council Chairman

Gulf of Mexico Fishery Management Council

C: William Hogarth  
Gulf Council  
Staff

# Recommendations to Congress on Gulf of Mexico Fishery Restoration Projects

Endorsed by Gulf of Mexico Fishery Management Council, Oct. 6, 2005

Overall goals: Compassionate relief response; restore fishing infrastructure; address overcapacity and overfishing through voluntary buyouts and gear improvements; employ fishermen in clean-up and research; provide retraining for fishermen leaving the fishery; add improved management tools to the fishery.

## **Restoration and recovery of fishing infrastructure**

1. Fully fund a voluntary buy-back program for vessels and permits in federally managed Gulf fisheries with limited entry. Vessels bought-back would be scrapped and permits would be permanently retired. The Council's first priority is for shrimp vessels and permits, second priority is for red snapper vessels and permits, and third priority is for charterboat vessels and permits. (Shrimp Amendment 13, currently under Secretarial review, will limit entry by a moratorium on permits, but implementing rules will not be effective until 2006. Congress may need to expedite the moratorium.)
2. Provide funds for replacement of hurricane damaged gear (not including vessels) with best available gear to reduce bycatch and minimize habitat damage (turtle excluder devices - TEDs - and bycatch reduction devices - BRDs, etc.).
3. Provide funding to dealers/processors to cover the gap between insurance payouts and the cost of rebuilding damaged and destroyed fish houses, freezers, and related infrastructure using best available technology to improve handling and processing of Gulf seafood. Ensure that fishery infrastructure persists in strategic geographic areas to support the managed federal fisheries in the northern Gulf.
4. Provide funding to NOAA for a two-year sonar project to map hangs and locations of hurricane debris. Also provide funding to contract with fishing vessels to remove hurricane debris from state and federal waters. Finally, provide funding to remove damaged and destroyed fishing vessels, with special attention to fire and environmental hazards from vessel fuel leaks.
5. Provide job retraining for fishermen who want to voluntarily leave the Gulf fishery.
6. Provide funding to the southeast Cooperative Research Program to support research carried out over the next three years by commercial vessels.
7. Waive cost recovery in red snapper IFQ for three years by providing direct allocation to NMFS for administering the program.
8. Waive minimum income requirement to renew permits for three years for fishermen whose vessels or fish houses were damaged or destroyed.

## **Rebuilding for sustainable fisheries management**

1. Provide funds to pay for VMS for all federally permitted commercial reef fish vessels.
2. Provide funds to pay for VMS for all federally permitted shrimp vessels.

3. Pay for three-year observer programs in the Gulf EEZ commercial shrimp fishery and commercial reef fish fishery.
4. Provide funding to train shrimp fishery observers and reef fishery observers.
5. Provide funding to speed the implementation of the red snapper IFQ and the grouper IFQ.
6. Provide funds for replacement of all shrimp trawling gear in the fleet with best available gear to reduce bycatch and minimize habitat damage (TEDs and BRDs, etc.).

Additional comments: Many Gulf fish stocks depend on northern Gulf coastal habitats. A comprehensive program of habitat restoration, particularly restoration of vegetated wetlands and barrier islands, will be important. In addition, seafood consumers need to be reassured that the majority of Gulf seafood is unaffected by hurricanes Katrina and Rita - the seafood reaching markets has been tested and is safe for consumption.

## Wayne Swingle

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**From:** Trish Kennedy  
**Sent:** Friday, September 16, 2005 8:47 AM  
**To:** Margaret Spring; matthew\_paxton@commerce.senate.gov  
**Cc:** Julie Morris (morris@ncf.edu); Joe Hendrix Jr. (jhendrix1706@aol.com); Robin Reichers (robin.riechers@tpwd.state.tx.us); All Staff; Bob Mahood (robert.mahood@safmc.net); Chris Oliver (chris.oliver@noaa.gov); Dan Furlong (dfurlong@mafmc.org); Donald McIsaac (Donald.McIsaac@noaa.gov); Kitty Simonds (Kitty.Simonds@noaa.gov); Miguel A Rolon (Miguel.A.Rolon@noaa.gov); Paul Howard (Phoward@nefmc.org); Wayne Swingle  
**Subject:** Magnuson-Stevens Act Reauthorization  
**Attachments:** GMFMC-Sustainable Fisheries Comm. 805.doc; Sustainable Fisheries Committee Report to the Council 805.doc

Margaret and Matt, Our Council reviewed the Senate Staff Draft bill that you helped draft and part of a Pacific Fishery Management Council (PFMC) document entitled Position of the Regional Fishery Management Council Chairs on Reauthorization of the M-SA (April 20, 2005 – 10 pages). We reviewed all the Senate Staff Draft except sections pertaining to other Council jurisdictions and sections of the document relating to limited access privileges for processors and fishing communities. We felt that language should be commented on by Councils that propose extending limited access privileges to those entities.

Our review procedure included discussing each section and then determining if anyone had objections to the language of that section. If they did they were encouraged to put the issue in a motion. That occurred for several issues (see Committee and Council minutes attached), but all the motions failed. Therefore, the Council endorsed most of the current language of your bill, with the exception of some members. We have included the minutes of both the Committee session in which all Council members participated, but only the 7 members could vote; and the Council session so you can see actions of concern to some members.

We complement you and the other staff members for the job you did in drafting the bill which we think satisfactorily addresses most of the issues of concern by the Council Chairs.

Wayne Swingle  
Executive Director  
Gulf Council  
813-348-1630

WES:tk

**Attachments:** 1. Sustainable Fisheries/Ecosystem Committee Minutes of August 9-10, 2005  
2. Sustainable Fisheries Committee Report to the Council

## Senate Staff Draft

### Sections Approved by Council (No Objection To)

- Defn: Limited Access Privileges Page 4, Lines 10-16
- SEC 302(g) SSC Pages 7-9
- Council Functions SSC Sets TAC Page 9, Lines 17-20
- Council Functions Notice of Mtgs Page 10, Lines 1-12
- Council Training Program Pages 10-11
- Council Coordinating Committee Pages 11-12
- Environmental Review Pages 13-15
- Limited Access System Pages 15-16
- Did Not Review – Fishing Communities Page 19-21
- Limited Access System (Continued) Pages 21-25
- Did Not Review – Processors Pages 26-31
- Information Collection Page 32
- Auction Programs Pages 33-34
- Cost Recovery & Effect on Share Pages 34-35
- Cooperative Enforcement Agreements Pages 36-41
- Bycatch Reduction Pages 42-43
- Collection of Information Pages 44-45
- Access to Certain Information Pages 45-46
- Cooperative Research Agreements Pages 46-48

Sec 304(e) retain 10 yrs – failed



**[STAFF WORKING DRAFT]**

AUGUST 4, 2005

109TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2006 through 2012, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER \_\_\_\_\_, 2005

Mr. \_\_\_\_\_ (for himself, Mr. \_\_\_\_\_, and Mr. \_\_\_\_\_) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2006 through 2012, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendment of Magnuson-Stevens Fishery Conservation and Manage-  
ment Act.
- Sec. 3. Changes in definitions.
- Sec. 4. Total allowable foreign fishing.
- Sec. 5. Authorization of appropriations.

TITLE I—CONSERVATION AND MANAGEMENT

- Sec. 101. Caribbean Council jurisdiction.
- Sec. 102. Regional fishery management councils.
- Sec. 103. Environmental review process.
- Sec. 104. Limited access systems.
- Sec. 105. Fishery management plan requirements.
- Sec. 106. Fishery management plan discretionary provisions.
- Sec. 107. Limited access privilege programs.
- Sec. 108. Emergency regulations.
- Sec. 109. Prohibited acts.
- Sec. 110. Cooperative enforcement agreements.
- Sec. 111. Bycatch reduction program.
- Sec. 112. Western Alaska Community Development Quota Program.

TITLE II—INFORMATION AND RESEARCH

- Sec. 201. Collection of information.
- Sec. 202. Access to certain information.
- Sec. 203. Cooperative research and management program.
- Sec. 204. Western Pacific fishery demonstration projects.

TITLE III—OTHER FISHERIES STATUTES

- Sec. 301. Amendments to Northern Pacific Halibut Act.
- Sec. 302. Maine pocket waters.
- Sec. 303. Reauthorization of other fishing Acts.

TITLE IV—INTERNATIONAL

- Sec. 401. International monitoring and compliance.
- Sec. 402. Finding with respect to illegal, unreported, and unregulated fishing.
- Sec. 403. Illegal, unreported, or unregulated fishing.
- Sec. 404. Conservation of protected living marine resources.
- Sec. 405. Monitoring of Pacific insular area fisheries.

1 **SEC. 2. AMENDMENT OF MAGNUSON-STEVENSON FISHERY**  
2 **CONSERVATION AND MANAGEMENT ACT.**

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

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

11 (a) **IN GENERAL.**—Section 3 (16 U.S.C. 1802) is  
12 amended—

13 (1) by inserting after paragraph (18) the fol-  
14 lowing:

15 “(18A) The term ‘foreign law or regulation’  
16 means a treaty, law, or regulation of another nation  
17 that—

18 “(A) regulates the taking, possession, im-  
19 portation, exportation, transportation, or sale of  
20 fish; and

21 “(B) has fishery resource protection, con-  
22 servation, or management as one of its pur-  
23 poses.”;

24 (2) by inserting after paragraph (20) the fol-  
25 lowing:

1           “(20A) The term ‘import’ means to land on,  
2           bring into or introduce into, or attempt to land on,  
3           bring into, or introduce into, any place subject to the  
4           jurisdiction of the United States, whether or not  
5           such landing, bringing, or introduction constitutes  
6           an importation within the meaning of the customs  
7           laws of the United States.”;

8           (3) by inserting after paragraph (23) the fol-  
9           lowing:

10           “(23A) The term ‘limited access privilege’  
11           means a Federal permit, issued as part of a limited  
12           access system under section 303A, to harvest or  
13           process a quantity of fish that may be received or  
14           held for exclusive use by a person. The term does  
15           not include community development quotas as de-  
16           scribed in section 305(i).”;

17           (4) by inserting after paragraph (27) the fol-  
18           lowing:

19           “(27A) The term ‘observer information’ means  
20           any information collected, observed, retrieved, or cre-  
21           ated by an observer pursuant to authorization by the  
22           Secretary, including fish harvest or processing obser-  
23           vations, fish sampling or weighing data, vessel log-  
24           book data, vessel or processor-specific information  
25           (including any safety, location, or operating condi-

1 tion observations), and video, audio, photographic,  
2 or written documents.”; and

3 (5) by inserting after paragraph (40) the fol-  
4 lowing:

5 “(40A) The term ‘United States citizen’  
6 means—

7 “(A) an individual who is a citizen of the  
8 United States; or

9 “(B) a corporation, partnership, associa-  
10 tion, or any other entity that meets the owner-  
11 ship requirements contained in section  
12 12102(c)(1) and (2) of title 46, United States  
13 Code.”.

14 (b) REDESIGNATION.—Paragraphs (1) through (45)  
15 of section 3 (16 U.S.C. 1802), as amended by subsection  
16 (a), are redesignated as paragraphs (1) thorough (49), re-  
17 spectively.

18 (b) CONFORMING AMENDMENTS.—

19 (1) The following provisions of the Act are  
20 amended by striking ‘individual fishing quota’ and  
21 inserting ‘limited access privilege’:

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

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

1 (C) Section 402(b)(1)(D) (16 U.S.C.  
2 1881a(b)(1)(D)).

3 (D) Section 407(a)(1)(D), (c)(1), and  
4 (c)(2)(B) (16 U.S.C. 1883(a)(1)(D), (c)(1), and  
5 (c)(2)(B)).

6 (2) Section 305(h)(1) (16 U.S.C. 1855(h)(1)) is  
7 amended by striking "individual fishing quotas,"  
8 and inserting "limited access privileges,".

9 **SEC. 4. TOTAL ALLOWABLE FOREIGN FISHING.**

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

11 (1) by striking "shall be" and inserting "is";

12 (2) by striking "will not" and inserting "can-  
13 not, or will not,";

14 (3) by inserting after "Act." the following: "Al-  
15 locations of total allowable foreign fishing are discre-  
16 tionary."

17 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

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

20 **"SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

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

23 "(1) \$———,000,000 for fiscal year 2006;

24 "(2) \$———,000,000 for fiscal year 2007;

25 "(3) \$———,000,000 for fiscal year 2008;

1           “(4) \$———,000,000 for fiscal year 2009;  
2           “(5) \$———,000,000 for fiscal year 2010.  
3           “(4) \$———,000,000 for fiscal year 2011; and  
4           “(4) \$———,000,000 for fiscal year 2012.”.

5           **TITLE I—CONSERVATION AND**  
6           **MANAGEMENT**

7           **SEC. 101. CARIBBEAN COUNCIL JURISDICTION.**

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

12          **SEC. 102. REGIONAL FISHERY MANAGEMENT COUNCILS.**

13          (a) SCIENTIFIC AND STATISTICAL COMMITTEES.—

14          Section 302 (16 U.S.C. 1852) is amended—

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

17                 “(g) COMMITTEES AND ADVISORY PANELS.—”

18                         “(1) SCIENTIFIC AND STATISTICAL COMMIT-  
19                         TEES.—

20                                 “(A) Each Council shall establish, main-  
21                                 tain, and appoint the members of, a scientific  
22                                 and statistical committee to assist it in the de-  
23                                 velopment, collection, and evaluation of such  
24                                 statistical, biological, economic, social, and  
25                                 other scientific information as is relevant to

1           such Council's development and amendment of  
2           any fishery management plan.

3           “(B) Each scientific and statistical com-  
4           mittee shall provide its Council scientific advice  
5           for fishery management decisions, which may  
6           include reports on stock status and health, de-  
7           termination of allowable biological catch, socio-  
8           economic impacts of management measures,  
9           and sustainability of fishing practices.

10           “(C) Members nominated for appointment  
11           by the Councils to the scientific and statistical  
12           committees shall have strong technical creden-  
13           tials and experience.

14           “(D) The Secretary and each council may  
15           formalize a peer review process, developed in  
16           consultation with the Council coordination com-  
17           mittee established under this section, for sci-  
18           entific information used to advise the Council  
19           about the conservation and management of the  
20           fishery. The review process is deemed to satisfy  
21           the requirements of the guidelines issued pursu-  
22           ant to section 515 of the Treasury and General  
23           Government Appropriations Act for Fiscal year  
24           2001 (Public Law 106-554—Appendix C; 114  
25           Stat. 2763A-153).



1           “(E) In addition to the provisions of sec-  
2           tion 302(f)(7), the Secretary may pay a stipend  
3           to members of the scientific and statistical com-  
4           mittees who are not employed by the Federal  
5           government or a State marine fisheries agen-  
6           cy.”; and

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

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

10          (b) COUNCIL FUNCTIONS.—Section 302(h) (16  
11 U.S.C. 1852(h)) is amended—

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

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

17           “(6) establish, after considering the rec-  
18           ommendations of the Council’s Scientific and Statis-  
19           tical Committee, total allowable catch limits that  
20           shall not be exceeded by a fishery; and”.

21          (c) REGULAR AND EMERGENCY MEETINGS.—The  
22          first sentence of section 302(i)(2)(C) (16 U.S.C.  
23          1852(i)(2)(C)) is amended—

1 (1) by striking “published in local newspapers”  
2 and inserting “provided by any means that will re-  
3 sult in wide publicity”; and

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

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

11 (e) TRAINING.—Section 302 (16 U.S.C. 1852) is  
12 amended by adding at the end the following:

13 “(k) COUNCIL TRAINING PROGRAM.—

14 “(1) TRAINING COURSE.—Within 6 months  
15 after the date of enactment of the Magnuson-Ste-  
16 vens Fishery Conservation and Management Reau-  
17 thorization Act of 2005, the Secretary, in consulta-  
18 tion with the Councils, shall develop a training  
19 course for newly appointed Council members. The  
20 course may cover a variety of topics relevant to mat-  
21 ters before the Councils, including—

22 “(A) fishery science and basic stock assess-  
23 ment methods;

24 “(B) fishery management techniques, data  
25 needs, and Council procedures;

1                   “(C) social science and fishery economics;

2                   “(D) tribal treaty rights;

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

6                   “(F) other relevant legal and regulatory  
7                   requirements, including chapter 5 of title 5,  
8                   United States Code, and the National Environ-  
9                   mental Policy Act (42 U.S.C. 4321 et seq.);

10                   “(G) public process for development of  
11                   fishery management plans; and

12                   “(H) other topics suggested by the Coun-  
13                   cil.

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

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

1 (e) CONFLICTS OF INTEREST.—Section 302(j) (16  
2 U.S.C. 1852(j)) is amended—

3 (1) by striking “in harvesting” in paragraph  
4 (2) and inserting “in, or with respect to any person  
5 with a financial interest in, harvesting”;

6 (2) by inserting “on the Internet or” after “in-  
7 spection” in subparagraphs (B) and (C) of para-  
8 graph (5); and

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

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

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

19 (1) in paragraph (1) by striking “to the Coun-  
20 cils or to the scientific and statistical committees or  
21 advisory panels established under subsection (g)”  
22 and inserting, “to the Councils, the Council coordi-  
23 nation committee established under subsection (l), or  
24 to the scientific and statistical committees or other

1 committees or advisory panels established under sub-  
2 section (g)”; and

3 (2) in paragraph (2) by striking “of a Council,  
4 and of the scientific and statistical committee and  
5 advisory panels established under subsection (g)”  
6 and inserting, “of a Council, of the Council coordi-  
7 nation committee established under subsection (l),  
8 and of the scientific and statistical committees or  
9 other committees or advisory panels established  
10 under subsection (g)”.

11 **SEC. 103. ENVIRONMENTAL REVIEW PROCESS.**

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

14 “(h) ENVIRONMENTAL REVIEW PROCESS.—

15 “(1) IN GENERAL.—Within 18 months after  
16 the date of enactment of the Magnuson-Stevens  
17 Fishery Conservation and Management Reauthoriza-  
18 tion Act of 2005, the Secretary, after consultation  
19 with the Council on Environmental Quality and the  
20 Environmental Protection Agency, shall issue regula-  
21 tions establishing an integrated Council process, or  
22 process for any plan or amendment prepared by the  
23 Secretary, to comply with the National Environ-  
24 mental Policy Act (42 U.S.C. 4321 et seq.).

1           “(2) CEQ APPROVAL.—The Secretary may pro-  
2           mulgate the process only after it has been reviewed  
3           and approved by the Council on Environmental  
4           Quality for consistency with the National Environ-  
5           mental Policy Act.

6           “(3) CRITERIA.—The process shall—

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

10                   “(B) provide an adequate opportunity for  
11                   public participation;

12                   “(C) document and consider—

13                           “(i) the effects of the proposed action  
14                           on the marine environment;

15                           “(ii) the cumulative effects of the pro-  
16                           posed action; and

17                           “(iii) reasonable alternatives to the  
18                           proposed action;

19                   “(D) integrate any applicable environ-  
20                   mental analytical process, including the time-  
21                   frames for public input, with the process for the  
22                   preparation and dissemination of fishery man-  
23                   agement plans, plan amendments, and other ac-  
24                   tions taken or approved pursuant to this Act;  
25                   and

1                   “(E) reduce extraneous paperwork and  
2                   provide for timely, clear and concise analysis  
3                   that is useful to decisionmakers and the public.

4                   “(3) USAGE.—Any process promulgated in ac-  
5                   cordance with this section may be used by the Coun-  
6                   cils or the Secretary and shall supersede the regula-  
7                   tions of the Council on Environmental Quality im-  
8                   plementing the procedural provisions of the National  
9                   Environmental Policy Act, to the extent applicable to  
10                  a fishery management plan, amendment, regulation  
11                  or other action taken or approved pursuant to this  
12                  Act.”.

13 **SEC. 104. LIMITED ACCESS SYSTEMS.**

14                  (a) IN GENERAL.—Section 303 (16 U.S.C. 1853) is  
15                  amended by striking subsection (b)(6) and inserting the  
16                  following:

17                         “(6) establish a limited access system for the  
18                         fishery in order to achieve optimum yield if, in devel-  
19                         oping such system, the Council and the Secretary  
20                         take into account—

21                                 “(A) the conservation requirements of this  
22                                 Act with respect to the fishery;

23                                 “(B) present participation in the fishery;

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

- 1                   “(D) the economics of the fishery;
- 2                   “(E) the capability of fishing vessels used
- 3                   in the fishery to engage in other fisheries;
- 4                   “(F) the cultural and social framework rel-
- 5                   evant to the fishery and any affected fishing
- 6                   communities;
- 7                   “(G) the fair and equitable distribution of
- 8                   a public resource; and
- 9                   “(H) any other relevant considerations;”.

10 **SEC. 105. FISHERY MANAGEMENT PLAN REQUIREMENTS.**

11           Section 303(a)(5) (16 U.S.C. 1853(a)(5)) is amended

12 by inserting “harvest and processing revenues (by spe-

13 cies), production costs, capital expenditures, and other

14 fishing or processing expenses”, after “number of hauls,”.

15 **SEC. 106. FISHERY MANAGEMENT PLAN DISCRETIONARY**

16 **PROVISIONS.**

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

- 18                   (1) by striking “(other than economic data)” in
- 19                   paragraph (7);
- 20                   (2) by striking “and” after the semicolon in
- 21                   paragraph (11); and
- 22                   (3) redesignating paragraph (12) as paragraph
- 23                   (13) and inserting after paragraph (11) the fol-
- 24                   lowing:



1           “(12) establish a process for complying with the  
2           National Environmental Policy Act (42 U.S.C. 4321  
3           et seq.); and”.

4   **SEC. 107. LIMITED ACCESS PRIVILEGE PROGRAMS.**

5           (a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.)  
6 is amended by inserting after section 303 the following:

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

8           “(a) IN GENERAL.—Subject to the requirements set  
9 forth in this section, a Council may submit, and the Sec-  
10 retary may approve, a limited access privilege program for  
11 a fishery under a limited access system—

12           “(1) to harvest fish, if it meets the require-  
13 ments of subsection (b) and subsections (d) through  
14 (f); or

15           “(2) to process fish, if it meets the require-  
16 ments of subsections (c) through (f).

17           “(b) LIMITED ACCESS PRIVILEGES TO HARVEST  
18 FISH.—

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  
22 by a Council under this section that is approved  
23 after the date of enactment of the Magnuson-Ste-  
24 vens Fishery Conservation and Management Reau-  
25 thorization Act of 2005—

1           “(A) shall provide for administration of the  
2           program by the Secretary in accordance with  
3           the terms of the plan;

4           “(B) shall—

5                 “(i) if established in a fishery that is  
6                 overfished or subject to a rebuilding plan,  
7                 assist in its rebuilding; and

8                 “(ii) if established in a fishery that is  
9                 determined by the Secretary or the Council  
10                to have excess capacity, contribute to re-  
11                ducing capacity;

12           “(C) shall contribute to improved safety  
13           and bycatch and waste reduction;

14           “(D) shall promote the conservation and  
15           management of the fishery; and

16           “(E) shall prohibit any person other than  
17           a United States citizen, a permanent resident  
18           alien, or a fishing community, from acquiring a  
19           privilege to harvest fish.

20           “(2) FISHING COMMUNITIES.—

21                 “(A) IN GENERAL.—To be eligible to par-  
22                 ticipate in a limited access privilege program, a  
23                 fishing community shall—

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

1                   “(ii) meet criteria developed by that  
2                   Council that have been approved by the  
3                   Secretary and published in the Federal  
4                   Register;

5                   “(iii) consist of residents who conduct  
6                   commercial or subsistence fishing within  
7                   the Council’s management area; and

8                   “(iv) develop and submit a community  
9                   sustainability plan to the Council and the  
10                  Secretary.

11                 “(B) PARTICIPATION CRITERIA.—In devel-  
12                 oping participation criteria for eligible commu-  
13                 nities under this paragraph, a Council shall  
14                 base the criteria on traditional fishing or proc-  
15                 essing practices in, and dependence on, the fish-  
16                 ery, the cultural and social framework relevant  
17                 to the fishery, and economic barriers to access  
18                 to the fishery.

19                 “(3) ALLOCATION.—In developing a limited ac-  
20                 cess privilege program for fish harvesters a Council  
21                 or the Secretary shall—

22                   “(A) establish procedures to ensure fair  
23                   and equitable initial allocations, including con-  
24                   sideration of—

25                   “(i) current and historical harvests;

1                   “(ii) employment in the harvesting  
2                   and processing sectors;

3                   “(iii) investments in, and dependence  
4                   upon, the fishery; and

5                   “(iv) the historic participation of fish-  
6                   ing communities;

7                   “(B) provide to the extent practicable that  
8                   initial allocations maintain the basic cultural  
9                   and social framework of the fishery, especially  
10                  the roles of small owner-operator fishermen and  
11                  the sustained participation of fishing commu-  
12                  nities that depend on these fisheries;

13                  “(C) include measures to assist, when nec-  
14                  essary and appropriate, entry-level and small-  
15                  scale fishermen, captains, crew, and fishing  
16                  communities through set-asides of initial and  
17                  secondary harvesting allocations, and including  
18                  where appropriate a recommendation for the  
19                  provision of economic assistance in the purchase  
20                  of limited access privileges;

21                  “(D) ensure that limited access privilege  
22                  holders do not acquire an excessive share of the  
23                  total limited access privileges in the program  
24                  by—

1                   “(i) establishing a maximum share,  
2                   expressed as a percentage of the total lim-  
3                   ited access privileges, that a limited access  
4                   privilege holder is permitted to own; and

5                   “(ii) establishing any other limitations  
6                   or measures necessary to prevent an in-  
7                   equitable concentration of limited access  
8                   privileges;

9                   “(E) minimize geographic consolidation of  
10                  the fishery, including processing facilities; and

11                  “(F) authorize limited access privileges to  
12                  harvest fish to be held by or issued under the  
13                  system to fishing vessel owners, fishermen, crew  
14                  members, fishing communities, and other per-  
15                  sons who substantially participate in the fish-  
16                  ery, as specified by the Council.

17                  “(4) PROGRAM APPROVAL, REVIEW, AND AD-  
18                  MINISTRATION.—

19                  “(A) IN GENERAL.—After the date of en-  
20                  actment of the Magnuson-Stevens Fishery Con-  
21                  servation and Management Reauthorization Act  
22                  of 2005, a Council may initiate a fishery man-  
23                  agement plan or amendment to establish a lim-  
24                  ited access privilege program for a fishery and  
25                  submit the program to the Secretary for ap-

1           proval only in accordance with the provisions of  
2           this section.

3                   “(B) IMPLEMENTATION CONDITIONS.—

4           The Secretary may not approve and implement  
5           such a limited access privilege program under  
6           this section unless the program meets the re-  
7           quirements of this subsection and subsections  
8           (e) and (f) of this section.

9                   “(C) PROCEDURE.—A limited access privi-  
10          lege program shall be developed by a Council in  
11          a manner that is consistent with that Council’s  
12          procedures and rules under section 302(i) and  
13          provide for public comment.

14                   “(D) INITIATION REQUEST.—Any group of  
15          fishermen, constituting at least a third of those  
16          actively engaged in participation in a fishery for  
17          which a limited access privilege program is  
18          sought, may submit a petition to the Secretary  
19          requesting that the relevant Council or Councils  
20          with authority over the fishery be authorized to  
21          initiate the development of a limited access  
22          privilege program for that fishery. Any such pe-  
23          tition shall clearly state the fishery to which the  
24          limited access privilege program would apply.

1           “(E) Upon the receipt of any such petition,  
2           the Secretary shall review all of the signatures  
3           on the petition and, if he determines that the  
4           signatures on the petition represent at least a  
5           third of the active participants in the fishery,  
6           the Secretary shall certify the petition to the  
7           appropriate Council or Councils.

8           “(F) CERTIFICATION REQUIREMENT.—A  
9           Council may not initiate a fishery management  
10          plan or amendment to establish a limited access  
11          privilege program for a fishery unless the Sec-  
12          retary has certified an appropriate petition.

13          “(G) PROGRAM REQUIREMENTS.—Any  
14          such limited access privilege program shall—

15                 “(i) include provisions for the regular  
16                 monitoring and review of the operations of  
17                 the program, with a formal and detailed  
18                 review required 5 years after the establish-  
19                 ment of the program and every 5 years  
20                 thereafter, which reviews shall be reported  
21                 to the Secretary within 90 days after the  
22                 review has been completed;

23                 “(ii) include an effective system for  
24                 enforcement, monitoring, and management

1 of the program, including the use of ob-  
2 servers; and

3 “(iii) include an appeals process for  
4 administrative review of determinations  
5 with respect to the Secretary’s decisions  
6 regarding administration of the limited ac-  
7 cess privilege program.

8 “(4) TRANSFERABILITY.—In establishing a lim-  
9 ited access privilege program, a Council shall—

10 “(A) establish a policy on the transfer-  
11 ability of limited access privilege shares  
12 (through sale or lease), including a policy on  
13 any conditions that apply to the transferability  
14 of limited access privilege shares; and

15 “(B) establish a program to monitor trans-  
16 fers (including sales and leases) of limited ac-  
17 cess privilege shares.

18 “(5) NO CREATION OF RIGHT, TITLE, OR IN-  
19 TEREST.—A limited access privilege, quota share, or  
20 other limited access system authorization estab-  
21 lished, implemented, or managed under this Act—

22 “(A) shall be considered a permit for the  
23 purposes of sections 307, 308, and 309;

24 “(B) may be revoked or limited at any  
25 time in accordance with this Act, including rev-



1           ocation for failure to comply with the terms of  
2           the plan or if the system is found to have jeop-  
3           ardized the sustainability of the stock or the  
4           safety of fishermen;

5           “(C) shall not confer any right of com-  
6           pensation to the holder of such limited access  
7           privilege, quota share, or other such limited ac-  
8           cess system authorization if it is revoked or lim-  
9           ited;

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

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

17           “(6) PREPARATION AND IMPLEMENTATION OF  
18           SECRETARIAL PLANS.—This subsection applies to a  
19           plan prepared and implemented by the Secretary  
20           under section 304(g). For the purpose of applying  
21           this subsection to such a plan—

22           “(A) the term ‘Secretary’ shall be sub-  
23           stituted for the term ‘Council’; and

24           “(B) paragraphs (2)(A), (4)(A), and  
25           (4)(C) do not apply.

1           “(c) LIMITED ACCESS PRIVILEGES FOR UNITED  
2 STATES FISH PROCESSORS.—

3           “(1) IN GENERAL.—A Council may allocate lim-  
4 ited access privileges to United States processors, in-  
5 cluding geographic delivery requirements and fishery  
6 associations, in a limited access privilege program  
7 approved after the date of enactment of the Magnu-  
8 son-Stevens Fishery Conservation and Management  
9 Reauthorization Act of 2005 if—

10           “(A) the plan meets the other require-  
11 ments of this Act;

12           “(B) the Council determines that—

13           “(i) the economic value of the fishery  
14 is substantially dependent upon primary  
15 processing prior to first sale;

16           “(ii) the allocation of limited access  
17 privileges to processors is necessary to pro-  
18 tect fishing communities, maintain historic  
19 harvester and processor balance in the  
20 fishery, and ensure economic stability in  
21 the harvesting and processing sectors;

22           “(iii) the allocation of limited access  
23 privileges to United States fish processors  
24 will not result in price-fixing or any other  
25 anticompetitive practices and will not re-

1                   sult in a decrease in ex-vessel value in the  
2                   fishery;

3                   “(iv) there is sufficient economic and  
4                   other data to develop such a program; and

5                   “(v) the program is necessary to ad-  
6                   dress impacts to the processing sector that  
7                   cannot be mitigated by other means.

8                   “(C) the program provides for administra-  
9                   tion of the program by the Secretary in accord-  
10                  ance with the terms of the plan;

11                  “(D) the program provides for the protec-  
12                  tion of fishing communities;

13                  “(E) the program maintains the historic  
14                  harvester and processor balance in the fishery  
15                  and ensures economic stability in the fishing  
16                  and processing sectors;

17                  “(F) the program prevents economic dis-  
18                  ruption that may be associated with allocation  
19                  of limited access privileges to harvesters;

20                  “(G) the program provides for greater  
21                  waste reduction and full utilization of the fish-  
22                  ery; and

23                  “(H) the program is narrowly tailored to  
24                  achieve the requirements of subparagraphs (D)  
25                  through (G) of this paragraph.

1           “(3) ALLOCATION.—In developing a limited ac-  
2           cess privilege program to process fish, a Council or  
3           the Secretary shall—

4                   “(A) establish procedures to ensure fair  
5                   and equitable initial allocations, including con-  
6                   sideration of—

7                           “(i) historical participation, historical  
8                           delivery patterns between harvesters and  
9                           processors, and capital investments of the  
10                          harvesting and processing sectors in such  
11                          fishery; and

12                           “(ii) the historical relationship and  
13                          dependence of communities in such fishery,  
14                          including levels of employment, tax reve-  
15                          nues, and investments in fishery-related in-  
16                          frastructure by Federal, State, and local  
17                          governments, and the private sector,  
18                          among other considerations;

19                          “(B) provide to the extent practicable that  
20                          initial allocations maintain the basic cultural  
21                          and social framework of the fishing community,  
22                          especially the roles of small owner-operators  
23                          and the sustained participation of fishing com-  
24                          munities that depend on these fisheries;

1           “(C) include measures to assist, when nec-  
2           essary and appropriate, entry-level and small-  
3           scale operators and fishing communities  
4           through set-asides of initial and secondary allo-  
5           cations, and including where appropriate a rec-  
6           ommendation for economic assistance in the  
7           purchase of limited access privilege shares;

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

12                 “(i) establishing a maximum share,  
13                 expressed as a percentage of the total lim-  
14                 ited access privileges, that a limited access  
15                 privilege holder is permitted to own; and

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

20          “(E) authorize limited access privileges to  
21          be held by or issued under the system to fishing  
22          communities, processors, and other persons who  
23          substantially participate in the fishing and  
24          processing sectors, as specified by the Council;  
25          and

1           “(F) prohibit any person other than a  
2           United States citizen or a fishing community  
3           from acquiring a privilege to process fish.

4           “(4) NO CREATION OF RIGHT, TITLE, OR IN-  
5           TEREST.—A limited access privilege, quota share, or  
6           other limited access system authorization issued to a  
7           United States fish processor and established, imple-  
8           mented, or managed under this Act—

9           “(A) shall be considered a permit for the  
10           purposes of sections 307, 308, and 309;

11           “(B) may be revoked or limited at any  
12           time in accordance with this Act, including for  
13           failure to comply with the terms of the plan or  
14           if the system is found to have jeopardized the  
15           sustainability of the stock or the safety of fish-  
16           ermen;

17           “(C) shall not confer any right of com-  
18           pensation to the holder of such limited access  
19           privilege, quota share, or other such limited ac-  
20           cess system authorization if it is revoked or lim-  
21           ited;

22           “(D) shall not create, or be construed to  
23           create, any right, title, or interest in or to any  
24           fish before the fish is purchased by the holder;  
25           and

1           “(E) shall be considered a grant of permis-  
2           sion to the holder of the limited access privilege  
3           or quota share to engage in activities permitted  
4           by such limited access privilege or quota share.

5           “(5) PREPARATION AND IMPLEMENTATION OF  
6           SECRETARIAL PLANS.—This subsection applies to a  
7           plan prepared and implemented by the Secretary  
8           under section 304(g). For the purpose of applying  
9           this subsection to such a plan the term ‘Secretary’  
10          shall be substituted for the term ‘Council’.

11          “(6) PROGRAM AND ANTITRUST REVIEW.— Any  
12          such limited access privilege program that includes  
13          United States fish processors shall—

14                 “(A) include provisions for the regular  
15                 monitoring and review of the operations of the  
16                 program, with a formal and detailed review re-  
17                 quired 5 years after the establishment of the  
18                 program and every 5 years thereafter, which re-  
19                 views shall be reported to the Secretary within  
20                 90 days after the review has been completed;

21                 “(B) include an effective system for en-  
22                 forcement, monitoring, and management of the  
23                 program, including the use of observers;

24                 “(C) include an appeals process for admin-  
25                 istrative review of determinations with respect

1 to the Secretary's decisions regarding adminis-  
2 tration of the limited access privilege program;  
3 and

4 "(D) provide for the establishment by the  
5 Secretary, in consultation with the Department  
6 of Justice and the Federal Trade Commission,  
7 for a mandatory information collection and re-  
8 view process to provide any and all information  
9 necessary for the Department of Justice and  
10 the Federal Trade Commission to determine  
11 whether any illegal acts of anti-competition,  
12 anti-trust, or price collusion have occurred  
13 among persons receiving individual processing  
14 quotas under the program. The Secretary may  
15 revoke any individual processing quota held by  
16 any person found to have violated a provision of  
17 the antitrust laws of the United States.

18 "(7) INFORMATION COLLECTION.—The restric-  
19 tion on the collection of economic data in section  
20 303 shall not apply with respect to any United  
21 States fish processor who is eligible for, or who has  
22 received, individual processing quota under the pro-  
23 gram. The restriction on the disclosure of informa-  
24 tion in section 402(b)(1) shall not apply when the  
25 information is used to determine eligibility for or



1 compliance with an individual processing quota pro-  
2 gram.

3 “(8) ENFORCEMENT.—The provisions of sec-  
4 tions 308, 310, and 311 shall apply to the proc-  
5 essing facilities and fish products of any person  
6 holding limited access privileges to process fish.

7 “(9) PROHIBITIONS.—The provisions of sub-  
8 paragraphs (D), (E), and (L) of section 307(l) shall  
9 apply to any facility owned or controlled by a person  
10 holding individual processing quota.

11 “(10) NO WAIVER.—Nothing in this Act shall  
12 constitute a waiver, either express or implied, of the  
13 antitrust laws of the United States.

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

20 “(i) the system or program is admin-  
21 istered in such a way that the resulting  
22 distribution of limited access privilege  
23 shares conforms with the biological, social,  
24 and economic goals of the program; and

1                   “(ii) revenues generated through such  
2                   a royalty program are deposited in the  
3                   Limited Access System Administration  
4                   Fund established by section 305(h)(5)(B)  
5                   and available subject to annual appropria-  
6                   tions.

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

9                   “(1) develop a methodology and the means to  
10                  identify and assess the management, science, data  
11                  collection, observer coverage, and enforcement pro-  
12                  grams that are directly related to and in support of  
13                  the program; and

14                  “(2) provide, under section 304(d)(2), for a  
15                  program of fees paid by limited access privilege hold-  
16                  ers that will cover the costs of management, science,  
17                  data collection and analysis, observer coverage, and  
18                  enforcement activities.

19                  “(f) EFFECT ON CERTAIN EXISTING SHARES AND  
20                  PROGRAMS.—Nothing in this Act, or the amendments by  
21                  this Act, shall be construed to require a reallocation of  
22                  individual quota shares or processor quota shares or other  
23                  quota programs approved by the Secretary or Congres-  
24                  sional action before the date of enactment of the Magnu-

1 son-Stevens Fishery Conservation and Management Reau-  
2 thorization Act of 2005.”.

3 (b) FEES.—Section 304(d)(2)(A) (16 U.S.C.  
4 1854(d)(2)(A)) is amended—

5 (1) by striking “management and enforcement”  
6 and inserting “management, science, data collection,  
7 observer coverage, and enforcement”; and

8 (2) by striking “individual fishing quota pro-  
9 gram;” in clause (i) and inserting “limited access  
10 privilege program;”.

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

15 **SEC. 108. EMERGENCY REGULATIONS.**

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

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

23 **SEC. 109. PROHIBITED ACTS.**

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

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

3 (2) by striking “board.” in subparagraph (P)  
4 and inserting “board;”; and

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

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

11 “(R) to use any fishing vessel to engage in  
12 fishing in Federal or State waters, or on the  
13 high seas or the waters of another country,  
14 after the Secretary has made a payment to the  
15 owner of that fishing vessel under section  
16 312(b)(2).”.

17 **SEC. 110. COOPERATIVE ENFORCEMENT AGREEMENTS.**

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

20 (1) by striking “Act” in the first sentence of  
21 subsection (a) and inserting “Act, and the provisions  
22 of any marine resource law administered by the Sec-  
23 retary,”;

24 (2) by striking “and” after the semicolon in  
25 subsection (b)(1)(A)(iv);

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

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

5                   “(vi) access, directly or indirectly, for  
6 enforcement purposes any data or informa-  
7 tion required to be provided under this  
8 title or regulations under this title, includ-  
9 ing data from Global Maritime Distress  
10 and Safety Systems or any similar sys-  
11 tem;”;

12           (5) by redesignating subsection (h) as sub-  
13 section (j); and

14           (3) by inserting after subsection (g) the fol-  
15 lowing:

16           “(h) JOINT ENFORCEMENT AGREEMENTS.—

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

1 meeting the requirements of this section, the Sec-  
2 retary may enter into a joint enforcement agreement  
3 with the requesting State.

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

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

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

16 “(B) may include specifications for joint  
17 management responsibilities as provided by the  
18 first section of Public Law 91-412 (15 U.S.C.  
19 1525).

20 “(4) ALLOCATION OF FUNDS.—The Secretary  
21 shall include in each joint enforcement agreement an  
22 allocation of funds to assist in management of the  
23 agreement. The allocation shall be fairly distributed  
24 among all eligible States participating in cooperative  
25 enforcement agreements under this subsection, based

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

10 “(i) IMPROVED DATA SHARING.—

11 “(1) IN GENERAL.—Notwithstanding any other  
12 provision of this title, as soon as practicable but no  
13 later than 21 months after the date of enactment of  
14 the Magnuson-Stevens Fishery Conservation and  
15 Management Reauthorization Act of 2005, the Sec-  
16 retary shall implement data-sharing measures to  
17 make any data required to be provided by this title  
18 from Global Maritime Distress and Safety Systems  
19 or similar systems—

20 “(A) directly accessible by State enforce-  
21 ment officers authorized under subsection (a) of  
22 this section; and

23 “(B) available to a State management  
24 agency involved in, or affected by, management  
25 of a fishery if the State has entered into an

1 agreement with the Secretary under section  
2 402(b)(1)(B) of this Act.

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

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

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

16 (b) REPORT ON USING GMDSS FOR FISHERY PUR-  
17 POSES.—Within 15 months after the date of enactment  
18 of this Act, the National Marine Fisheries Service and the  
19 United States Coast Guard shall transmit a joint report  
20 to the Senate Committee on Commerce, Science, and  
21 Transportation and the House of Representatives Com-  
22 mittee on Resources containing—

23 (1) a cost-to-benefit analysis of the feasibility,  
24 value, and cost of using the Global Maritime Dis-  
25 tress and Safety Systems or similar systems for fish-



1       ery management, conservation, enforcement, and  
2       safety purposes with the Federal government bear-  
3       ing the capital costs of any such system;

4           (2) an examination of the cumulative impact of  
5       existing requirements for commercial vessels;

6           (3) an examination of whether the Global Mari-  
7       time Distress and Safety Systems or similar require-  
8       ments would overlap existing requirements or render  
9       them redundant;

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

12          (5) an examination of how to maximize the  
13       data-sharing opportunities between relevant State  
14       and Federal agencies and provide specific informa-  
15       tion on how to develop these opportunities, including  
16       the provision of direct access to the Global Maritime  
17       Distress and Safety Systems or similar system data  
18       to State enforcement officers, while considering the  
19       need to maintain or provide an appropriate level of  
20       individual vessel confidentiality where practicable;  
21       and

22          (6) an assessment of how the Global Maritime  
23       Distress and Safety Systems or similar systems  
24       could be developed, purchased, and distributed to  
25       regulated vessels.

1 **SEC. 111. BYCATCH REDUCTION PROGRAM.**

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

4 **“SEC. 316. BYCATCH REDUCTION PROGRAM.**

5 “(a) BYCATCH REDUCTION PROGRAM.—Not later  
6 than 6 months after the date of enactment of the Magnu-  
7 son-Stevens Fishery Conservation and Management Reau-  
8 thorization Act of 2005, the Secretary, in cooperation with  
9 the councils and other affected interests, and based upon  
10 the best scientific information available, shall establish a  
11 bycatch reduction program to develop technological devices  
12 and other conservation engineering changes that will mini-  
13 mize bycatch mortality in Federally managed fisheries.  
14 The program shall—

15 “(1) be regionally based;

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

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

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

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

3 “(b) INCENTIVES.—Each Council may submit, and  
4 the Secretary may approve, consistent with the provisions  
5 of this Act, a system of incentives to reduce total bycatch  
6 amounts and bycatch rates in fisheries under its jurisdic-  
7 tion, including—

8 “(1) measures to incorporate bycatch into  
9 quotas and limited access privilege programs, includ-  
10 ing the establishment of collective or individual by-  
11 catch quotas; or

12 “(2) measures to promote the use of gear with  
13 verifiable and monitored low bycatch rates, including  
14 allocation preferences for harvesters who adopt the  
15 use of such gear.”.

16 **SEC. 112. WESTERN ALASKA COMMUNITY DEVELOPMENT**  
17 **QUOTA PROGRAM.**

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

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

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

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

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

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

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

8           **TITLE II—INFORMATION AND**  
9           **RESEARCH**

10   **SEC. 201. COLLECTION OF INFORMATION.**

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

12                   (1) by striking “COUNCIL REQUESTS.—” in the  
13                   subsection heading and inserting “COLLECTION  
14                   PROGRAMS.—”;

15                   (2) by redesignating the existing text as para-  
16                   graph (1) and resetting it 2 ems from the left mar-  
17                   gin;

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

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

22                   (5) by striking “(other than information that  
23                   would disclose proprietary or confidential commercial  
24                   or financial information regarding fishing operations

1 or fish processing operations)” each place it appears;  
2 and

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

4 “(2) SECRETARIAL INITIATION.—If the Sec-  
5 retary determines that additional information is nec-  
6 essary for developing, implementing, revising, or  
7 monitoring a fishery management plan, or for deter-  
8 mining whether a fishery is in need of management,  
9 the Secretary may, by regulation, implement an in-  
10 formation collection or observer program requiring  
11 submission of such additional information for the  
12 fishery.”.

13 **SEC. 202. ACCESS TO CERTAIN INFORMATION.**

14 (a) STATE ENFORCEMENT AGENTS.—Section  
15 402(b)(1) (16 U.S.C. 1881a(b)(1)) is amended—

16 (1) by redesignating subparagraphs (B)  
17 through (F) as subparagraphs (C) through (G), re-  
18 spectively; and

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

21 “(B) to State employees who are responsible for  
22 fishery management plan monitoring, if the States  
23 employing those employees have entered into a joint  
24 enforcement agreement with the Secretary and the  
25 agreement is in effect;”.

1 (b) DETERMINATIONS UNDER LIMITED ACCESS SYS-  
2 TEM.—Section 402(b)(1) (16 U.S.C. 1881a(b)(1)) is  
3 amended—

4 (1) by striking “or” in subparagraph (F), as re-  
5 designated by subsection (a);

6 (2) by striking “Act.” in subparagraph (G), as  
7 so redesignated, and inserting “Act; or”; and

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

9 “(H) when such information is required by the  
10 Secretary for any determination under a limited ac-  
11 cess system or by a Council for making rec-  
12 ommendations with respect to any existing or pro-  
13 posed limited access privilege program.”.

14 **SEC. 203. COOPERATIVE RESEARCH AND MANAGEMENT**  
15 **PROGRAM.**

16 Title III (16 U.S.C. 1851 et seq.), as amended by  
17 section 111, is further amended by adding at the end the  
18 following:

19 **“SEC. 317. COOPERATIVE RESEARCH AND MANAGEMENT**  
20 **PROGRAM.**

21 “(a) IN GENERAL.—The Secretary of Commerce, in  
22 consultation with the Councils, shall establish a national  
23 cooperative research and management program to address  
24 needs identified under this Act and under any other ma-  
25 rine resource laws enforced by the Secretary. The program

1 shall make funds available for cooperative research and  
2 management activities that are developed and conducted  
3 through partnerships among Federal and State managers  
4 and scientists, fishing industry participants, and edu-  
5 cational institutions.

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

13       “(c) FUNDING.—In making funds available the Sec-  
14 retary shall award funding on a competitive basis, select  
15 programs that form part of a coherent program of re-  
16 search focused on solving priority issues identified by the  
17 Councils, and shall give priority to the following projects:

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

22               “(2) Projects to assess the amount and type of  
23 bycatch occurring in a fishery.

1           “(3) Conservation engineering projects designed  
2           to reduce bycatch, including reduction of bycatch in  
3           high seas fisheries.

4           “(4) Projects for the identification of habitat  
5           areas of particular concern.

6           “(5) Projects designed to collect and compile  
7           economic and social data.

8           “(d) **EXPERIMENTAL PERMITTING PROCESS.**—The  
9           Secretary, in consultation with the regional fishery man-  
10          agement councils, shall establish an expedited permitting  
11          process for projects approved under this section.

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

18          **SEC. 204. WESTERN PACIFIC FISHERY DEMONSTRATION**  
19   **PROJECTS.**

20          Section 111(b)(6) of the Sustainable Fisheries Act  
21          (16 U.S.C. 1855 note) is amended to read as follows:

22   “(6) For purposes of this subsection, ‘Western  
23          Pacific community’ shall mean a community eligible  
24          to participate under section 305(i)(2)(B)(i) through  
25          (iv) of the Magnuson-Stevens Fishery Conservation



1 and Management Act (16 U.S.C. 1855(i)(2)(B)(i)  
2 through (iv)).”

3 **TITLE III—OTHER FISHERIES**  
4 **STATUTES**

5 **SEC. 301. AMENDMENTS TO NORTHERN PACIFIC HALIBUT**  
6 **ACT.**

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

10 (1) by striking “\$25,000” and inserting  
11 “\$200,000”;

12 (2) by striking “violation, the degree of culpa-  
13 bility, and history of prior offenses, ability to pay,”  
14 and inserting “violator, the degree of culpability, any  
15 history of prior offenses,” in the fifth sentence; and

16 (3) by adding at the end the following: “In as-  
17 sessing such penalty, the Secretary may also con-  
18 sider any information provided by the violator relat-  
19 ing to the ability of the violator to pay, if the infor-  
20 mation is provided to the Secretary at least 30 days  
21 prior to an administrative hearing.”

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

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

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

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

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

10          “(C) any amount in settlement of a civil  
11 forfeiture imposed on a vessel or other property,  
12 or any civil penalty or criminal fine imposed on  
13 a vessel or owner or operator of a vessel or any  
14 other person who has been issued or has ap-  
15 plied for a permit under any marine resource  
16 law enforced by the Secretary has not been paid  
17 and is overdue.

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

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

1                   “(B) suspend such permit for a period of  
2                   time considered by the Secretary to be appro-  
3                   priate;

4                   “(C) deny such permit; or

5                   “(D) impose additional conditions and re-  
6                   strictions on any permit issued to or applied for  
7                   by such vessel or person under this Act and,  
8                   with respect to any foreign fishing vessel, on  
9                   the approved application of the foreign nation  
10                  involved and on any permit issued under that  
11                  application.

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

15                 “(A) the nature, circumstances, extent,  
16                 and gravity of the prohibited acts for which the  
17                 sanction is imposed; and

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

21                 “(4) TRANSFERS OF OWNERSHIP.—Transfer of  
22                 ownership of a vessel, a permit, or any interest in  
23                 a permit, by sale or otherwise, shall not extinguish  
24                 any permit sanction that is in effect or is pending  
25                 at the time of transfer of ownership. Before exe-

1       cutting the transfer of ownership of a vessel, permit,  
2       or interest in a permit, by sale or otherwise, the  
3       owner shall disclose in writing to the prospective  
4       transferee the existence of any permit sanction that  
5       will be in effect or pending with respect to the ves-  
6       sel, permit, or interest at the time of the transfer.

7           “(5) REINSTATEMENT.—In the case of any per-  
8       mit that is suspended under this subsection for non-  
9       payment of a civil penalty, criminal fine, or any  
10      amount in settlement of a civil forfeiture, the Sec-  
11      retary shall reinstate the permit upon payment of  
12      the penalty, fine, or settlement amount and interest  
13      thereon at the prevailing rate.

14          “(6) HEARING.—No sanction shall be imposed  
15      under this subsection unless there has been prior op-  
16      portunity for a hearing on the facts underlying the  
17      violation for which the sanction is imposed either in  
18      conjunction with a civil penalty proceeding under  
19      this section or otherwise.

20          “(7) PERMIT DEFINED.—In this subsection, the  
21      term ‘permit’ means, without limitation, any license,  
22      certificate, approval, registration, charter, member-  
23      ship, exemption, or other form of permission issued  
24      by the Commission or the Secretary, and includes

1 any quota share or other transferable quota issued  
2 by the Secretary.”.

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

6 (1) by striking “\$50,000” and inserting  
7 “\$200,000”; and

8 (2) by striking “\$100,000,” and inserting  
9 “\$400,000.”.

10 **SEC. 302. MAINE POCKET WATERS.**

11 Section 808(a) of the Atlantic Coastal Fisheries Co-  
12 operative Management Act (16 U.S.C. 5107a(a)) is  
13 amended by striking paragraphs (1) through (4) and in-  
14 serting the following:

15 “(1) west of Monhegan Island in the area north  
16 of the line 43 degrees 42’ 10.0”N, 69 degrees 34’  
17 16.0”W and 43 degrees 42’ 15.0”N, 69 degrees 19’  
18 18.0”W;

19 “(2) east of Monhegan Island in the area lo-  
20 cated north of the line 43 degrees 44’ 0.0”N, 69 de-  
21 grees 15’ 05.0”W and 43 degrees 48’ 10.0”N, 69  
22 degrees 08’ 01.0”W;

23 “(3) southeast of Matinic Island in the area lo-  
24 cated north of the line 43 degrees 48’ 10.0”N, 69

1 degrees 08' 01.0"W and 43 degrees 44' 08.0"N, 69  
2 degrees 53' 01.0"W;

3 "(4) south of Vinalhaven Island in the area lo-  
4 cated west of the line 43 degrees 52' 18.5"N, 68 de-  
5 grees 40' 0.0"W, and 43 degrees 58' 10.5"N, 68 de-  
6 grees 32' 57.0"W;

7 "(5) south of Bois Bubert Island in the area lo-  
8 cated northwest of the line 44 degrees 19' 16.5"N,  
9 67 degrees 49' 30.0" W, and 44 degrees 23' 40.0"N  
10 and 67 degrees 40' 30.0"W."

11 **SEC. 303. REAUTHORIZATION OF OTHER FISHERIES ACTS.**

12 (a) ATLANTIC STRIPED BASS CONSERVATION ACT.—  
13 Section 7(a) of the Atlantic Striped Bass Conservation Act  
14 (16 U.S.C. 5156(a)) is amended to read as follows:

15 "(a) AUTHORIZATION.—For each of fiscal years  
16 2006, 2007, 2008, 2009, and 2010, there are authorized  
17 to be appropriated to carry out this Act—

18 "(1) \$—,—00,000 to the Secretary of Com-  
19 merce; and

20 "(2) \$——,—000 to the Secretary of the Inte-  
21 rior."

22 (b) YUKON RIVER SALMON ACT OF 2000.—Section  
23 208 of the Yukon River Salmon Act of 2000 (16 U.S.C.  
24 5727) is amended by striking out "\$4,000,000 for each

1 of fiscal years 2004 through 2008,” and inserting  
2 “\$4,000,000 for each of fiscal years 2006 through 2010”.

3 (c) SHARK FINNING PROHIBITION ACT.—Section 10  
4 of the Shark Finning Prohibition Act (16 U.S.C. 1822  
5 note) is amended by striking “fiscal years 2001 through  
6 2005” and inserting “fiscal years 2006 through 2010”.

7 (d) PACIFIC SALMON TREATY ACT.—

8 (1) TRANSFER OF SECTION TO ACT.—The text  
9 of section 623 of title VI of H.R. 3421 (113 Stat.  
10 1501A-56), as introduced on November 17, 1999,  
11 enacted into law by section 1000(a)(1) of the Act of  
12 November 29, 1999 (Pub. L. 106-113)—

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

16 (B) amended—

17 (i) by striking “SEC. 623.”; and

18 (ii) inserting before “(a) NORTHERN  
19 FUND AND SOUTHERN FUND.—” the fol-  
20 lowing:

21 **“SEC. 16. NORTHERN AND SOUTHERN FUNDS; TREATY IM-**  
22 **PLEMENTATION; ADDITIONAL AUTHORIZA-**  
23 **TION OF APPROPRIATIONS.”.**

24 (2) TECHNICAL CORRECTION.—The amendment  
25 made by the Department of Commerce and Related

1 Agencies Appropriations Act, 2005 under the head-  
2 ing "PACIFIC COASTAL SALMON RECOVERY" (118  
3 Stat. 2881), to section 628(2)(A) of the Depart-  
4 ments of Commerce, Justice, and State, the Judici-  
5 ary, and Related Agencies Appropriations Act, 2001  
6 is deemed to have been made to section  
7 623(d)(2)(A) of title VI of H.R. 3421 (113 Stat.  
8 1501A-56), as introduced on November 17, 1999,  
9 enacted into law by section 1000(a)(1) of the Act of  
10 November 29, 1999 (Pub. L. 106-113) instead of to  
11 such section 628(2)(A), as of the date of enactment  
12 of the Department of Commerce and Related Agen-  
13 cies Appropriations Act, 2005.

14 (3) REAUTHORIZATION.—Section 16(d)(2)(A)  
15 of the Pacific Salmon Treaty Act, as transferred by  
16 subsection (a), is amended by inserting "2006,  
17 2007, 2008, 2009, and 2010," after "2005,".

18 [(e) OTHER FISHERY STATUTE REAUTHORIZA-  
19 TIONS.—]

## 20 TITLE IV—INTERNATIONAL

### 21 SEC. 401. INTERNATIONAL MONITORING AND COMPLIANCE.

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



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

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

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

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

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

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

25           “(4) support efforts to create an international  
26 registry or database of fishing vessels, including by

1 building on or enhancing registries developed by re-  
2 gional fishery management organizations;

3 “(5) provide technical assistance to developing  
4 countries to improve their monitoring, control, and  
5 surveillance capabilities; and

6 “(6) support international efforts to require  
7 that all large-scale fishing vessels operating on the  
8 high seas are required by their flag State to be fitted  
9 with vessel monitoring systems no later than Decem-  
10 ber 31, 2008, or earlier if so decided by the relevant  
11 flag State or any relevant regional fishery manage-  
12 ment organization.”.

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

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

17 “(11) International cooperation is necessary to  
18 address illegal, unreported, and unregulated fishing,  
19 which may harm the sustainability of living marine  
20 resources and disadvantage the United States fish-  
21 ing industry.”.

1 **SEC. 403. ILLEGAL, UNREPORTED, OR UNREGULATED FISH-**  
2 **ING.**

3 (a) IN GENERAL.—The High Seas Driftnet Fishing  
4 Moratorium Protection Act (16 U.S.C. 1801 note, 1826d  
5 et seq.), is amended by adding at the end the following:

6 **“SEC. 607. ILLEGAL, UNREPORTED, OR UNREGULATED**  
7 **FISHING.**

8 “(a) IN GENERAL.—The Secretary, in consultation  
9 with the Secretary of State, shall provide to Congress, by  
10 not later than 1 year after the date of enactment of the  
11 Magnuson-Stevens Fishery Conservation and Manage-  
12 ment Reauthorization Act of 2005, and every year there-  
13 after, a report that includes:

14 “(1) a list of nations whose vessels have been  
15 identified under subsection (b) as conducting illegal,  
16 unreported, or unregulated fishing, including the  
17 specific offending activities and any subsequent ac-  
18 tions under subsections (d) and (e); and

19 “(2) a list of all stocks of fish classified as over-  
20 fished or over-exploited by any regional fishery man-  
21 agement organization to which the United States is  
22 a party.

23 “(b) IDENTIFICATION.—A nation shall be identified  
24 and listed in the report under subsection (a) if—

1           “(1) fishing vessels of that nation are engaged,  
2           or have been engaged during the preceding calendar  
3           year in illegal, unreported, or unregulated fishing—

4                   “(A) in high seas areas not governed by an  
5                   international or regional fishery management  
6                   agreement;

7                   “(B) in an area governed by an inter-  
8                   national or regional fishery management agree-  
9                   ment to which the United States is a party; or

10                   “(C) within the exclusive economic zone of  
11                   the United States;

12           “(2) the nation—

13                   “(A) is not a party to, or does not main-  
14                   tain cooperating status with, the applicable re-  
15                   gional fishery management organization (if one  
16                   exists for the stock at issue); or

17                   “(B) has exported to the United States in  
18                   the previous year more than 100 percent of  
19                   such nation’s annual quota for that stock, as  
20                   established for that year by the appropriate re-  
21                   gional fishery management organization; and

22           “(3) the relevant international or regional fish-  
23           ery management organization, or the relevant na-  
24           tion, has failed to implement effective measures to

1       end the illegal unreported, or unregulated fishing ac-  
2       tivity by vessels of that nation.

3       “(c) NOTIFICATION.—An identification under sub-  
4       section (b) is deemed to be an identification under section  
5       101(b)(1)(A) of the High Seas Driftnet Fisheries Enforce-  
6       ment Act (16 U.S.C. 1826a(b)(1)(A)), and the Secretary  
7       shall notify the President and that nation of such identi-  
8       fication.

9       “(d) CONSULTATION.—No later than 60 days after  
10       submitting the report to Congress under subsection (a),  
11       the Secretary, in consultation with the Secretary of State,  
12       shall—

13               “(1) notify nations listed in the report of the  
14       requirements of this section;

15               “(2) initiate consultations for the purpose of  
16       encouraging such nations to take the appropriate  
17       corrective action with respect to the offending activi-  
18       ties of their fishing vessels identified in the report;  
19       and

20               “(3) notify the relevant regional fishery man-  
21       agement organization of the actions taken by the  
22       United States under this section.

23       “(e) CERTIFICATION.—

24               “(1) IN GENERAL.—The Secretary shall estab-  
25       lish a procedure, consistent with the provisions of

1 subchapter II of chapter 5 of title 5, United States  
2 Code, and including notice and an opportunity for  
3 comment by the governments of nations listed by the  
4 Secretary under subsection (b), for determining if  
5 governments have taken appropriate corrective ac-  
6 tion with respect to the offending activities of their  
7 fishing vessels identified in the report under sub-  
8 section (a).

9 “(2) CERTIFICATION.—The Secretary shall de-  
10 termine, on the basis of the procedure, and certify  
11 to the Congress no later than 90 days after the date  
12 on which the Secretary promulgates a final rule con-  
13 taining the procedure, and annually thereafter in the  
14 report under subsection (a)—

15 “(A) whether the government of each na-  
16 tion identified under subsection (b) has pro-  
17 vided documentary evidence that it has taken  
18 corrective action with respect to the offending  
19 activities of their fishing vessels identified in  
20 the report; or

21 “(B) whether the relevant regional fishery  
22 management organization has implemented  
23 measures that are effective in ending the illegal  
24 unreported, or unregulated fishing activity by  
25 vessels of that nation.

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

7                   “(A) the vessel has not engaged in illegal,  
8                   unreported, or unregulated fishing under a re-  
9                   gional fishery management organization to  
10                  which the United States is a party; or

11                  “(B) the vessel is not identified by a re-  
12                  gional fishery management organization or the  
13                  Food and Agriculture Organization as partici-  
14                  pating in illegal, unreported, or unregulated  
15                  fishing activities.

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

1 subsection (b) for which the Secretary has issued a  
2 positive certification under this subsection.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) DENIAL OF PORT PRIVILEGES.—Section  
5 101(b) of the High Seas Driftnet Fisheries Enforce-  
6 ment Act (16 U.S.C. 1826a(b)) is amended by in-  
7 serting “or illegal, unreported, or unregulated fish-  
8 ing” after “fishing” in paragraph (1)(A)(i), para-  
9 graph (1)(B), paragraph (2), and paragraph (4)(A).

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

14 **SEC. 404. CONSERVATION OF PROTECTED LIVING MARINE**  
15 **RESOURCES.**

16 Title II (16 U.S.C. 1821 et seq.), as amended by sec-  
17 tion 401, is further amended by adding at the end the  
18 following:

19 **“SEC. 208. CONSERVATION OF PROTECTED LIVING MARINE**  
20 **RESOURCES.**

21 “(a) IN GENERAL.—The Secretary, in consultation  
22 with the Secretary of State, shall provide to Congress, by  
23 not later than 1 year after the date of enactment of Mag-  
24 nuson-Stevens Fishery Conservation and Management Re-



1 authorization Act of 2005, and every year thereafter, a  
2 full report which—

3 “(1) includes a list of nations identified by the  
4 Secretary under subsection (b);

5 “(2) describes the efforts taken by nations on  
6 that list to comply with the provisions of this title,  
7 and evaluates the progress of those efforts;

8 “(3) includes a determination as to whether the  
9 importation into the United States of fish or fish  
10 products from any nation on that list is undermining  
11 the effectiveness of national and international meas-  
12 ures for the conservation of any protected living ma-  
13 rine resource or poses a threat to such resource;

14 “(4) sets forth a plan of action for ensuring the  
15 conclusion and entry into force of international  
16 measures for the conservation of protected living  
17 marine resources for which no agreement exists; and

18 “(5) includes recommendations for measures to  
19 ensure that United States actions are consistent  
20 with national, international, and regional obligations  
21 relating to populations of protected living marine re-  
22 sources, including those listed under the Convention  
23 on International Trade in Endangered Species of  
24 Wild Flora and Fauna.

1           “(b) IDENTIFICATION.—The Secretary shall identify  
2 a nation under this subsection if—

3           “(1) fishing vessels of that nation are engaged,  
4 or have been engaged during the preceding calendar  
5 year in fishing activities that pose a threat to pro-  
6 tected living marine resource, particularly through  
7 the use of destructive or wasteful fishing practices—

8           “(A) in high seas areas not governed by an  
9 international or regional agreement for the con-  
10 servation and protection of such protected living  
11 marine resource;

12           “(B) in an area governed by an agreement  
13 for the conservation and management of such  
14 protected living marine resource, to which the  
15 United States is a party (if such an agreement  
16 exists); or

17           “(C) within the exclusive economic zone of  
18 the United States;

19           “(2) the nation is not a party to, or does not  
20 maintain cooperating status with, the applicable  
21 international or regional organization for the con-  
22 servation and protection of such species (if such an  
23 agreement exists); and

24           “(3) the relevant international or regional fish-  
25 ery organization for the conservation and protection

1 of such species, or the nation, has failed to imple-  
2 ment effective measures to end or reduce the im-  
3 pacts of the fishing practices of the nations vessels  
4 on such species.

5 “(c) NOTIFICATION.—An identification of a nation by  
6 the Secretary under subsection (b) is deemed to be an  
7 identification under section 101(b)(1)(A) of the High Seas  
8 Driftnet Fisheries Enforcement Act (16 U.S.C.  
9 1826a(b)(1)(A)), and the Secretary shall notify the Presi-  
10 dent and that nation of such identification.

11 “(d) CONSULATION AND NEGOTIATION.—The Sec-  
12 retary, acting through the Secretary of State, shall—

13 “(1) notify other nations whose vessels engage  
14 in fishing that adversely affects protected living ma-  
15 rine resources, as soon as possible, about the re-  
16 quirements of this section and the High Seas  
17 Driftnet Fishing Moratorium Protection Act (16  
18 U.S.C. 1801 note, 1826d et seq.);

19 “(2) initiate discussions as soon as possible for  
20 purpose of developing bilateral or multilateral agree-  
21 ments with other nations for the conservation of pro-  
22 tected living marine resources;

23 “(3) initiate discussions as soon as possible  
24 with all foreign governments which are engaged in,  
25 or which have persons or companies engaged in,

1 commercial fishing operations or other activities that  
2 the Secretary determines may pose a threat to pro-  
3 tected living marine resources, for the purpose of en-  
4 tering into bilateral and multilateral treaties with  
5 such countries to protect such species;

6 “(4) seek agreements calling for international  
7 restrictions on fishing practices and other activities  
8 posing threats to protected living marine resources  
9 through the United Nations, the Food and Agri-  
10 culture Organization’s Committee on Fisheries, and  
11 appropriate regional fishery management bodies; and

12 “(5) initiate the amendment of any existing  
13 international treaty for the protection and conserva-  
14 tion of such species to which the United States is a  
15 party in order to make such treaty consistent with  
16 the purposes and policies of this section.

17 “(e) CONSERVATION CERTIFICATION.—

18 “(1) IN GENERAL.—The Secretary shall estab-  
19 lish a procedure, consistent with the provisions of  
20 subchapter II of chapter 5 of title 5, United States  
21 Code, and including notice and an opportunity for  
22 comment by the governments of nations identified by  
23 the Secretary under subsection (b), for determining  
24 whether governments—

1           “(A) have adopted regulatory programs  
2 governing harvesting practices and other prac-  
3 tices adversely affecting protected living marine  
4 resources that are comparable, taking into ac-  
5 count different conditions, to those of the  
6 United States;

7           “(B) have established management plans  
8 governing release of protected living marine re-  
9 sources caught but not retained by fishing ves-  
10 sels that ensure maximum probability of sur-  
11 vival after release and that are comparable, tak-  
12 ing into account different conditions than those  
13 in the United States; and

14           “(C) have established a management plan  
15 containing requirements that will assist in gath-  
16 ering species-specific data to support inter-  
17 national and regional stock assessments and  
18 conservation enforcement efforts for protected  
19 living marine resources.

20           “(2) CERTIFICATION PROCEDURE.—

21           “(A) IN GENERAL.—The Secretary shall  
22 determine, on the basis of the procedure under  
23 subsection (a), and certify to the Congress by  
24 January 31, 2007, and annually thereafter

1           whether the government of each harvesting na-  
2           tion—

3                       “(i) has provided documentary evi-  
4                       dence of the adoption of a regulatory pro-  
5                       gram governing the conservation of pro-  
6                       tected living marine resources that is com-  
7                       parable, taking into account different con-  
8                       ditions, to that of the United States;

9                       “(ii) has established a management  
10                      plan governing release of protected living  
11                      marine resources caught but not retained  
12                      by a fishing vessel that will ensure max-  
13                      imum probability of survival of after re-  
14                      lease and that are comparable, taking into  
15                      account different conditions than those in  
16                      the United States; and

17                      “(iii) has established a management  
18                      plan containing requirements that will as-  
19                      sist in gathering species-specific data to  
20                      support international and regional stock  
21                      assessments and conservation enforcement  
22                      efforts for protected living marine re-  
23                      sources.

24                      “(B) ALTERNATIVE PROCEDURE.—The  
25                      Secretary shall establish a procedure for certifi-

1 cation, on a shipment-by-shipment, shipper-by-  
2 shipper, or other basis of fish or fish products  
3 from a vessel of a harvesting nation not cer-  
4 tified under paragraph (1) if the Secretary de-  
5 termines that such imports were harvested by  
6 practices that—

7 “(i) do not adversely affect protected  
8 living marine resources;

9 “(ii) include release of protected living  
10 marine resources caught but not retained  
11 by such vessel in a manner that ensures  
12 maximum probability of survival after re-  
13 lease;

14 “(iii) include the gathering of species-  
15 specific data that can be used to support  
16 international and regional stock assess-  
17 ments and conservation efforts for pro-  
18 tected living marine resources; or

19 “(iv) are consistent with harvesting  
20 practices comparable, taking into account  
21 the circumstances, to those of the United  
22 States.

23 “(3) EFFECT OF CERTIFICATION.—The provi-  
24 sions of section 101(a) and section 101(b)(3) and  
25 (4) of the High Seas Driftnet Fisheries Enforcement

1 Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4)) shall  
2 apply to any nation identified under subsection (b)  
3 that has not been certified by the Secretary under  
4 this subsection, or for which the Secretary has  
5 issued a negative certification under this subsection,  
6 but shall not apply to any nation identified under  
7 subsection (b) for which the Secretary has issued a  
8 positive certification under this subsection.”.

9 “(f) INTERNATIONAL COOPERATION AND ASSIST-  
10 ANCE.—To the greatest extent possible consistent with ex-  
11 isting authority and the availability of funds, the Secretary  
12 shall—

13 “(1) provide appropriate technological and  
14 other assistance to nations identified by the Sec-  
15 retary under subsection (b) and regional or inter-  
16 national organizations of which those nations are  
17 members to assist those nations in qualifying for  
18 certification under subsection (e);

19 “(2) undertake, where appropriate, cooperative  
20 research activities on species statistics and improved  
21 harvesting techniques, with those nations or organi-  
22 zations;

23 “(3) encourage and facilitate the transfer of ap-  
24 propriate technology to those nations or organiza-



1 tions to assist those nations in qualifying for certifi-  
2 cation under subsection (e); and

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

6 “(g) **PROTECTED LIVING MARINE RESOURCES DE-**  
7 **FINED.**—In this section the term ‘protected living marine  
8 resources’ means non-target fish, sea turtles, marine  
9 mammals, seabirds, and other waterfowl protected under  
10 United States law or international agreement, including  
11 the Marine Mammal Protection Act, the Endangered Spe-  
12 cies Act, the Shark Finning Prohibition Act, and the Con-  
13 vention on International Trade in Endangered Species of  
14 Wild Flora and Fauna.

15 “(h) **AUTHORIZATION OF APPROPRIATIONS.**—There  
16 are authorized to be appropriated to the Secretary for fis-  
17 cal years 2006 through 2010 such sums as are necessary  
18 to carry out this section.”

19 **SEC. 405. MONITORING OF PACIFIC INSULAR AREA FISH-**  
20 **ERIES.**

21 (a) **WAIVER AUTHORITY.**—Section 201(h)(2)(B) (16  
22 U.S.C. 1821(h)(2)(B)) is amended by striking “that is at  
23 least equal in effectiveness to the program established by  
24 the Secretary;” and inserting “or other monitoring pro-  
25 gram that the Secretary determines is adequate to monitor

1 harvest, bycatch, and compliance with the laws of the  
2 United States by vessels fishing under the agreement;”.

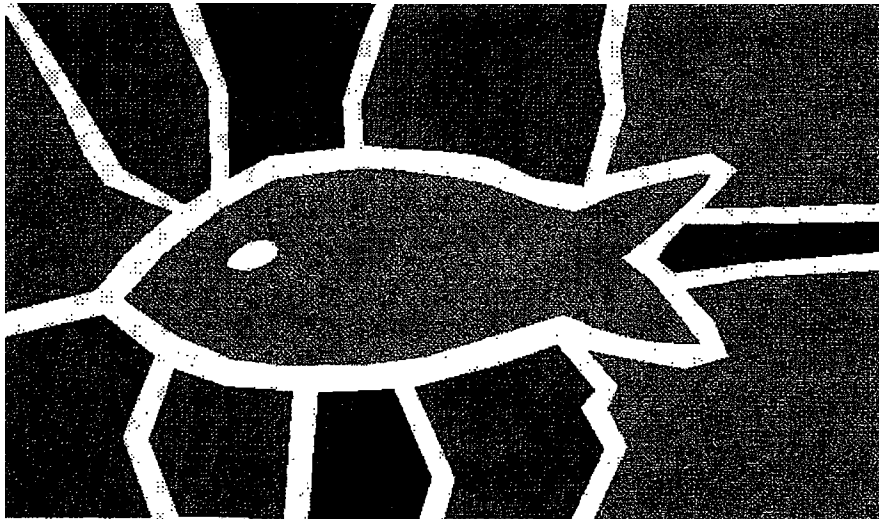
3 (b) MARINE CONSERVATION PLANS.—Section  
4 204(e)(4)(A)(i) (16 U.S.C. 1824(e)(4)(A)(i)) is amended  
5 to read as follows:

6 “(i) Pacific Insular Area observer programs, or  
7 other monitoring programs, that the Secretary deter-  
8 mines are adequate to monitor the harvest, bycatch,  
9 and compliance with the laws of the United States  
10 by foreign fishing vessels that fish under Pacific In-  
11 sular Area fishing agreements;”.

○

## **Positions of the Regional Fishery Management Council Chairs on Reauthorization of the Magnuson-Stevens Fishery Management and Conservation Act**

April 28, 2005





## **Preface**

The 109<sup>th</sup> Session of Congress is currently underway and it is anticipated that reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) will be addressed during this Congress. Regional Fishery Management Council (RFMC) input on MSA reauthorization has been requested by U.S. Senators Ted Stevens (R, Alaska), Daniel Inouye (D, Hawaii), Gordon Smith (R, Oregon), and Olympia Snowe (R, Maine), as well as U.S. Representative Wayne Gilchrist (R, Maryland). At the annual meeting of the RFMC Chairs and Executive Directors in Dana Point, California on April 27 – 28, 2005, the collective RFMC Chairs considered various issues associated with MSA reauthorization towards the purpose of developing consensus positions, including previous positions developed in 2001 and 2002.

This document describes the RFMC Chairs' positions on the nine issues developed at the referenced meeting. This document also contains the Council Chairs' positions from 2001 and 2002, as updated on the basis of a review for relevance and consistency with the 2005 positions to insure that any 2005 positions supercede and take precedence over any potential conflicts with prior positions. The Chairs adopted these positions, with the understanding that positions on outstanding relevant issues would be forthcoming at some point in the future.

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## **Issue 1: Dedicated Access Privileges (Individual Fishing Quotas, Community Quotas, Area-Based Quotas, and Fishing Cooperatives)**

### ***Preamble***

A reauthorized MSA shall include comprehensive authority to develop dedicated access privilege programs, generally referred to as individual quotas (IQs), but also referred to as area-based quotas, community quotas, fishing cooperatives, allocation systems, or share-based programs.

No later than 18 months after reauthorization, the Secretary of Commerce (Secretary), in consultation with RFMCs, should develop National Guidelines consistent with the recommendations in this document for the establishment of allocation systems, including, but not limited to, IQs, community quotas, and cooperatives. However, the development of these National Guidelines shall not prevent the adoption of a new IQ program or compromise existing IQ programs while the guidelines are under development. Guidelines shall not be applied retroactively, although existing programs may be subject to periodic review and revision by RFMCs as appropriate.

### ***Criteria for Allocation***

The initial allocation of interests under an IQ program shall be consistent with existing National Standard 4. The RFMCs shall consider the interests of those who rely on the fishery, including vessel owners, processors, communities, and fishing crews. An IQ program may include provisions to protect these interests. However, goals of the IQ program should also be to create market-based programs and conserve the resource.

### ***Conservation***

IQ programs should include incentives to reduce bycatch and discards and to promote conservation wherever possible, consistent with existing National Standard 9.

### ***Limitation on Interests and the Duration of IQ Programs***

Shares under an IQ program must have tenure sufficient to support and facilitate reasonable capital investment in the fishery; however, any shares allocated under the program shall be a privilege, which may be revoked without compensation to the holder.

IQ program duration shall be at the individual RFMC's discretion without required sunset.

### ***IQ Program Review***

Periodic, comprehensive review of IQ programs shall be required to assess the extent to which the program is meeting original goals and objectives and to assess the social and economic ramifications to program beneficiaries.

### ***Quota Transfers***

Appropriate provisions governing transferability, which may include permanent and temporary transfers, shall be subject to limitations consistent with the social objectives of the program and shall be determined by individual RFMCs.

### ***Excessive IQ Shares and Quota Accumulation Limits***

The IQ program allowance should include limits on shares, including caps on holdings of a person or use of shares by a person or a single vessel. However, such limitations shall be determined on a program-by-program basis by the individual RFMCs.

### ***Referenda of IQ Programs***

Referenda shall not be a mandatory requirement for Secretarial approval of an IQ program. RFMCs may, however, establish requirements for referenda for individually tailored IQ programs.

### ***IQ Program Cost Recovery Fees***

IQ programs should include an allowance for the collection of fees to offset management and monitoring costs, including state costs. However, the collection of fees should not exceed 3% of the exvessel value and should take into consideration existing industry-born costs for observers.

### ***Enforcement, Monitoring, and Data Collection***

IQ programs should include provisions for effective monitoring and enforcement of the goals and objectives under the program.

## **Issue 2: Competing Statutes**

### ***MSA and National Environmental Policy Act***

Following the addition of critical provisions to MSA sections 302, 303, and 305, thereby making MSA fully compliant with the essential intent of National Environmental Policy Act (NEPA), reauthorized legislation should specify MSA as the functional equivalent of NEPA and exempt from NEPA in the same manner as the MSA is exempt from the Federal Advisory Committee Act (FACA). Areas to be addressed include analyzing a full assessment of environmental impacts, a range of reasonable alternatives, cumulative effects, and the extent of analysis on effects to the human environment, as well as a comprehensive public participation process. The specific proposed amendment language is as follows:

SEC. 302 [16 U.S.C. § 1852] REGIONAL FISHERY MANAGEMENT COUNCILS CONTENTS OF FISHERY MANAGEMENT PLANS

(i) PROCEDURAL MATTERS.

**(7) Prior to a Council submitting a fishery management plan, plan amendment or proposed regulations to the Secretary as described in Section 303, a Council shall prepare a fishery impact statement that shall**

**(a) include a range of reasonable alternatives;**

**(b) specify and assess likely direct and cumulative effects of each alternative on the physical, biological and human environment, including**

**(i) participants in the fisheries and fishing communities affected by the plan, amendment, or regulation and**

**(ii) participants in fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council representatives of those participants;**

**(c) be considered in draft forms during at least two Council meetings; and**

**(d) be made available to the public in draft form at least 10 days prior to the date of final Council action.**

**A final fishery impact statement shall be submitted to the Secretary coincident with a final recommendation.**

SEC. 303 [16 U.S.C. § 1853] CONTENTS OF FISHERY MANAGEMENT PLANS

(a) REQUIRED PROVISIONS.

Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

...

(9) include a fishery impact statement of the plan or amendment (in the case of a plan or amendment thereto submitted to ~~or prepared by~~ the Secretary after October 1, 1990~~2005~~) which will assess, specify, and describe the likely effects, ~~if any~~, of the conservation and management measures ~~on~~ **as described in Section 302 (i) 7. Fishery management plans prepared by the Secretary shall conform to the requirements of Section 302 (i) 7.**

~~(A) participants in the fisheries and fishing communities affected by the plan or amendment; and~~

~~(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council representatives of these participants;~~

SEC. 305 [16 U.S.C. § 1855] OTHER REQUIREMENTS AND AUTHORITY

...

(e) EFFECT OF CERTAIN LAWS.—

**(1)** The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and Executive Order Numbered 12866, dated September 30, 1993, shall be complied with within the time limitations specified in subsections (a), (b), and (c) of section 304 as they apply to the functions of the Secretary under such provisions.

**(2) Any plan or amendment or regulation developed under sections 302, 303, and 304 of this act, is deemed to be in compliance with the National Environmental Policy Act.**

***MSA and National Marine Sanctuary Act***

Fishery management authority in national marine sanctuaries (NMS), for all species of fish as defined in the current MSA, shall be under the jurisdiction of the RFMCs and the Secretarial approval process described in the current MSA. This authority shall not be limited to species of fish covered by approved fishery management plans (FMPs), but shall include all species of fish as defined in the current MSA and shall cover the full range of the species in the marine environment. Prior to reaching decisions on the management regulations affecting fishing in NMS waters, a RFMC shall give full consideration of the responsibilities, goals, and objectives of individual NMS and any specific recommendations of the NMS.

In addition to the proposed changes in the MSA above, the RFMCs also recommend the National Marine Sanctuaries Act be amended to achieve jurisdictional clarity as follows:



NATIONAL MARINE SANCTUARIES ACT  
SEC. 302. [16 U.S.C. § 1432] DEFINITIONS

As used in this chapter, the term-

...

(8) "sanctuary resource" means any living or nonliving resource of a national marine sanctuary, excluding fish and Continental Shelf fishery resources under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1811), that contributes to the conservation, recreational, ecological, historical, education, cultural, archaeological, scientific, or aesthetic value of the sanctuary; and

SEC. 304. [16 U.S.C. § 1434] PROCEDURES FOR DESIGNATION AND IMPLEMENTATION

(a) Sanctuary Proposal

...

(5) **FISHING REGULATIONS**-The appropriate Regional Fishery Management Council shall prepare fishing regulations for any fish and Continental Shelf fishery resources within a sanctuary in accordance with section 302 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1852). The Secretary shall review the proposed fishing regulations in accordance with section 304 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1854), and other applicable statutes. Regional Fishery Management Councils shall cooperate with the Secretary and other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practical stage in drafting any sanctuary fishing regulations. Preparation of fishing regulations under this section shall constitute compliance with section 304(d) of this Act. Fishing in compliance with regulations prepared under this section shall not constitute a violation of this Act.

*MSA and Freedom of Information Act*

The MSA should be amended to clarify the confidentiality of observer data relative to the Freedom of Information Act (FOIA); i.e., unless otherwise authorized (as in 402(b)(1)(E) for example), prohibit the release of non-aggregated observer data. Other information such as that generated by electronic monitoring devices (VMS or video cameras, for example) should be afforded similar protection.

State law enforcement officials under a cooperative enforcement agreement with NOAA should be provided access to information and data gathered by the vessel monitoring system (VMS) operated by the National Marine Fisheries Service (NMFS) Office of Law Enforcement, and such information should be allowed for use in prosecutions of state and federal law violations.

The U.S. Coast Guard should be provided access to VMS data for enforcement and homeland security purposes unless otherwise arranged by agreement between agencies for enforcement, homeland security, and maritime domain awareness programs.

### **Issue 3: Integration of Science in the Fishery Management Process**

#### ***Separation of Conservation and Allocation Processes***

Final determinations of necessary scientific fishery parameters should be made within the RFMC management process and not in separate, distinct bureaucracies.

Councils shall adopt acceptable biological catches (ABCs) within limits determined by their Scientific and Statistical Committees (SSCs) (or appropriate scientific body) and shall set total allowable catches (TACs) and/or management measures, such that catch would be at or below ABC.

#### ***Structure and Function of SSCs***

The specific structure of the SSC should be based on the policy of each Council consistent with the overall guidance of the MSA.

RFMCs should retain appointment authority for SSCs and establish terms to meet their standard administrative processes.

SSC members should not be subject to any limit to the number of terms they may serve.

When possible, the SSC should meet concurrently with Council meetings and at the same locale.

Opportunity should be provided for regional or national SSC meetings where members from different regions could discuss best practices and seek to identify analytical and research needs.

#### ***Best Scientific Information Available***

Each Council's SSC shall peer review fundamental analyses needed for fishery management, including such matters as stock assessments, fishery impact models, and projection methodologies. For purposes of compliance with the Data (Information) Quality Act and attendant Office of Management and Budget guidelines, the MSA shall constitute the SSCs as an appropriate alternative review mechanism for influential and highly influential information. The SSC shall make a determination of the best available scientific information prior to Council decision-making and provide the Council with an assessment of the soundness of the scientific conclusions and the uncertainty of the science. The Council will consider the soundness of the data, levels of certainty, and socioeconomic factors when developing catch limits and/or management measures.

Best scientific information available determinations include the social and economic sciences, as well as the physical and biological sciences.

#### ***Need for Independent Review***

There should be an independent peer review of scientific information and processes used by each Council at appropriate intervals determined by the Council. Such reviews should not be limited to stock assessments, but could also extend to socioeconomic and other types of models and analyses used by the Council.

### ***Use of Default Mechanisms***

Default measures that close fisheries entirely until science and management integration standards are met should not be used. Emergency and interim rules may be extended as necessary to address delays in the use of best available science, miscellaneous violations of National Standard 1, or other such potential concerns.

### ***Making Research Relevant***

SSCs should develop research priorities and identify data and model needs for effective management.

### ***Other***

NMFS should be provided with the support to dedicate more resources to stock assessments and socioeconomic impacts.

## **Issue 4: Ecosystem Approaches to Management**

### ***Overall Conclusions for Ecosystem Approaches***

Ecosystem-based management is an important tool for enhancing fisheries and the ecosystems on which they depend.

The RFMCs and NMFS should work collaboratively to pursue an ecosystem approach to fisheries involving all stakeholders, managers, and scientists.

The RFMCs endorse a preference for the use of currently available tools in implementing ecosystem-based management and the resources and funding necessary to better engage those tools.

RFMCs and NMFS regions need to maintain the flexibility to manage regional fisheries. The concept of "national standardization" is incompatible with the need for ecosystem approaches to reflect regional differences.

A holistic approach is a realistic approach only with collaboration among RFMCs and NMFS, partner agencies, and stakeholders.

### ***Regional Ecosystem Planning and the Role of Regional Ocean or Ecosystem Councils***

The RFMCs do not support separate ecosystem councils, but do support establishment of regional coordinating bodies comprised of regional authorities/jurisdictions and public expertise to address non-fisheries management issues.

### ***Technical Requirements for an Ecosystem Approach to Fisheries***

The RFMCs and NMFS should (1) identify, prioritize, and develop weighting for ecosystem characteristics as recommended by the SSC at the *Managing Our Nation's Fisheries II* conference (including human characteristics and reference points and performance indicators to measure progress, future monitoring, and research) and (2) inventory current ecosystem projects.

To develop successful ecosystem management, the approach must progress in a deliberate, evolutionary, and iterative process.

### ***Science Limitations***

A lack of data should not limit our ability to adopt a realistic ecosystem management approach.

Additional funding is needed to enhance ecosystem data collection and model development. The goals and objectives of any ecosystem management approach must match the reality of available information, the reality of budget limitations, and the evolutionary nature of the process.

The first priority should be to focus on improvements that can realistically be accomplished in the short term, using and improving on our current management tools, existing data sets, and knowledge, recognizing models and available data will differ by region.

### ***Incorporating Ecosystem Planning in FMPs***

Councils should develop ecosystem-based management documents for fisheries.

Ecosystem-based FMPs should be a fundamental, first order goal for each Council or region.

If an overarching fishery ecosystem plan is developed, it should provide general guidance to FMP development.

### ***Process for Developing Ecosystem-Based Goals and Objectives***

Broadly defined national level objectives should be developed, followed by regionally defined goals and objectives.

A steering committee comprised of Council and NOAA participants in each region or large marine ecosystem should provide recommendations on the process of developing goals and objectives.

### ***Development of National Guidelines for an Ecosystem Approach to Fisheries***

National Guidelines should provide general guidance, recognizing the diversity of ecosystems, and not be technical in nature. It is noted that many of the pitfalls in the development of national guidelines for essential fish habitat [EFH] and the complexities of overfishing can be avoided.

Guidance should help Councils and NMFS to use tools available under MSA and other mandates, to evaluate the potential for ecosystem-based management in each region, and address differences among regions.

### ***Elements of an Ecosystem Approach to Fisheries that should be Codified in the MSA***

Great caution should be applied in considering amendments to the MSA that include any specific requirements. More specifically, the RFMC are wary of strict regulations and guidelines that will require Councils to produce new FMP amendments across the board (as occurred with new elements in the 1996 Sustainable Fisheries Act), rather than building an ecosystem approach into existing management practices.

Noting the current MSA allows for ecosystem-based management, the RFMCs do not believe it is necessary to amend the MSA to address ecosystem management. Instead, it is recommended that

regional guidance be developed to help Councils move forward with an increased level of sophistication.

### **Issue 5: Rebuilding Time Frame**

The RFMCs recommend MSA Section 104-297 (e)(4)(A)(ii) be deleted as follows to address the problems associated with the arbitrary 10-year rebuilding time boundary:

- (2) For a fishery that is overfished, any fishery management plan, amendment, or proposed regulations prepared pursuant to paragraph (3) or paragraph (5) for such fishery shall—
  - (A) end overfishing within one year, and specify a rebuilding period that shall—
    - (i) be as short as possible, taking into account the status, mean generation time, and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem; and
    - (ii) ~~not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;~~
  - (B) allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery; and
  - (C) for fisheries managed under an international agreement, reflect traditional participation in the fishery relative to other nations, by fishermen of the United States.

### **Issue 6: Governor's Nomination of Council Members**

The RFMCs recommend no change in the process for nominating Council members.

### **Issue 7: FACA and Council Chairs Meetings**

The RFMCs recommend amending § 302 of the MSA (16 U.S.C. § 1852) by adding subsection (k) as follows.

SEC. 302 [16 U.S.C. § 1852] REGIONAL FISHERY MANAGEMENT COUNCILS

#### **(k) COMMITTEE OF COUNCIL CHAIRS.**

- (1) There shall be established a Fishery Management Council Committee of Chairs, consisting of the Chairs, Vice Chairs and Executive Directors of each of the Regional Fishery Management Councils identified in subsection (a)(1), and, in each case, selected under subsection (e)(2), of this section.**
- (2) The Committee of Chairs shall meet at a minimum annually, to discuss national policies and issues related to, and the effectiveness of implementation of, this Act and the relationship of these matters to other applicable laws.**
- (3) Council Members authorized to receive compensation and expenses under subsection (d)**

of this section shall also receive such for meetings of the Committee.

(4) The requirements of the Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Committee of Chairs, however, the requirements for Councils under subsection (i)(2) of this section shall apply to the Committee of Chairs.

**Issue 8: Bycatch Reporting Requirements**

The RFMCs recommend the following revision to section 303 (a) (11):

to the extent practicable establish a standardized-reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, ~~to the extent practicable and~~ in the following priority—

- (A) minimize bycatch; and
- (B) minimize the mortality of bycatch which cannot be avoided.

**Issue 9: National Saltwater Recreational License**

There should be no federal saltwater recreational license. States should be encouraged to maintain or institute licenses.