[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,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

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

TITLE I—CONSERVATION AND MANAGEMENT

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

CONSERVATION AND MANAGEMENT ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

SEC. 3. CHANGES IN DEFINITIONS.

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

(1) by inserting after paragraph (18) the following:

"(18A) The term 'foreign law or regulation' means a treaty, law, or regulation of another nation that—

(A) regulates the taking, possession, importation, exportation, transportation, or sale of fish; and

(B) has fishery resource protection, conservation, or management as one of its purposes."

(2) by inserting after paragraph (20) the following:
“(20A) The term ‘import’ means to land on, bring into or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.”;

(3) by inserting after paragraph (23) the following:

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

(4) by inserting after paragraph (27) the following:

“(27A) The term ‘observer information’ means any information collected, observed, retrieved, or created by an observer pursuant to authorization by the Secretary, including fish harvest or processing observations, fish sampling or weighing data, vessel logbook data, vessel or processor-specific information (including any safety, location, or operating condi-
tion observations), and video, audio, photographic, or written documents.”; and

(5) by inserting after paragraph (40) the following:

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

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

“(B) a corporation, partnership, association, or any other entity that meets the ownership requirements contained in section 12102(c)(1) and (2) of title 46, United States Code.”.

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

(b) CONFORMING AMENDMENTS.—

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

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

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

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

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

SEC. 4. TOTAL ALLOWABLE FOREIGN FISHING.

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

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

(2) by striking “will not” and inserting “cannot, or will not,”;

(3) by inserting after “Act.” the following: “Allocations of total allowable foreign fishing are discretionary.”

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

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

"SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out the provisions of this Act—

"(1) $—,000,000 for fiscal year 2006;

"(2) $—,000,000 for fiscal year 2007;

"(3) $—,000,000 for fiscal year 2008;"
“(4) $5,000,000 for fiscal year 2009;

“(5) $5,000,000 for fiscal year 2010.

“(4) $5,000,000 for fiscal year 2011; and

“(4) $5,000,000 for fiscal year 2012.”.

TITLE I—CONSERVATION AND
MANAGEMENT

SEC. 101. CARIBBEAN COUNCIL JURISDICTION.

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

SEC. 102. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) SCIENTIFIC AND STATISTICAL COMMITTEES.—

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

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

“(g) COMMITTEES AND ADVISORY PANELS.—”

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

“(A) Each Council shall establish, maintain, and appoint the members of, a scientific and statistical committee to assist it in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to
such Council’s development and amendment of any fishery management plan.

“(B) Each scientific and statistical committee shall provide its Council scientific advice for fishery management decisions, which may include reports on stock status and health, determination of allowable biological catch, socio-economic impacts of management measures, and sustainability of fishing practices.

“(C) Members nominated for appointment by the Councils to the scientific and statistical committees shall have strong technical credentials and experience.

“(D) The Secretary and each council may formalize a peer review process, developed in consultation with the Council coordination committee established under this section, for scientific information used to advise the Council about the conservation and management of the fishery. The review process is deemed to satisfy the requirements of the guidelines issued pursuant to section 515 of the Treasury and General Government Appropriations Act for Fiscal year 2001 (Public Law 106–554—Appendix C; 114 Stat. 2763A-153).
“(E) In addition to the provisions of section 302(f)(7), the Secretary may pay a stipend to members of the scientific and statistical committees who are not employed by the Federal government or a State marine fisheries agency.”; and

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

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

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

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

(2) by redesignating paragraph (6) as paragraph (7) and inserting after paragraph (5) the following:

“(6) establish, after considering the recommendations of the Council’s Scientific and Statistical Committee, total allowable catch limits that shall not be exceeded by a fishery; and”.

(c) REGULAR AND EMERGENCY MEETINGS.—The first sentence of section 302(i)(2)(C) (16 U.S.C. 1852(i)(2)(C)) is amended—
(1) by striking “published in local newspapers” and inserting “provided by any means that will result in wide publicity”; and

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

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

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

“(k) COUNCIL TRAINING PROGRAM.—

“(1) TRAINING COURSE.—Within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, the Secretary, in consultation with the Councils, shall develop a training course for newly appointed Council members. The course may cover a variety of topics relevant to matters before the Councils, including—

“(A) fishery science and basic stock assessment methods;

“(B) fishery management techniques, data needs, and Council procedures;
“(C) social science and fishery economics;
“(D) tribal treaty rights;
“(E) legal requirements of this Act, including conflict of interest and disclosure provisions of this section and related policies;
“(F) other relevant legal and regulatory requirements, including chapter 5 of title 5, United States Code, and the National Environmental Policy Act (42 U.S.C. 4321 et seq.);
“(G) public process for development of fishery management plans; and
“(H) other topics suggested by the Council.
“(2) MEMBER TRAINING.—The training course shall be available to both new and existing Council members, and may be made available to committee or advisory panel members as resources allow.
“(l) COUNCIL COORDINATION COMMITTEE.—The Councils may establish a Council coordination committee consisting of the chairs, vice chairs, and executive directors of each of the 8 Councils described in subsection (a)(1), or other Council members or staff, in order to discuss issues of relevance to all Councils, including issues related to the implementation of this Act.”. 
(e) CONFLICTS OF INTEREST.—Section 302(j) (16 U.S.C. 1852(j)) is amended—

(1) by striking "in harvesting" in paragraph

(2) and inserting "in, or with respect to any person

with a financial interest in, harvesting";

(2) by inserting "on the Internet or" after "in-

spection" in subparagraphs (B) and (C) of para-

graph (5); and

(3) by adding at the end the following:

"(9) On January 1, 2008, and annually thereafter,

the Secretary shall submit a report to the Senate Com-

mittee on Commerce, Science, and Transportation and the

House of Representatives Committee on Resources on ac-

tion taken by the Secretary and the Councils to implement

the disclosure of financial interest and recusal require-

ments of this subsection."

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

(1) in paragraph (1) by striking "to the Coun-
cils or to the scientific and statistical committees or
advisory panels established under subsection (g)"
and inserting, "to the Councils, the Council coordi-
nation committee established under subsection (l), or
to the scientific and statistical committees or other
committees or advisory panels established under subsection (g)”; and

(2) in paragraph (2) by striking “of a Council, and of the scientific and statistical committee and advisory panels established under subsection (g)” and inserting, “of a Council, of the Council coordination committee established under subsection (l), and of the scientific and statistical committees or other committees or advisory panels established under subsection (g)”.

SEC. 103. ENVIRONMENTAL REVIEW PROCESS.

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

“(h) ENVIRONMENTAL REVIEW PROCESS.—

“(1) IN GENERAL.—Within 18 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, the Secretary, after consultation with the Council on Environmental Quality and the Environmental Protection Agency, shall issue regulations establishing an integrated Council process, or process for any plan or amendment prepared by the Secretary, to comply with the National Environmental Policy Act (42 U.S.C. 4321 et seq.).
“(2) CEQ Approval.—The Secretary may promulgate the process only after it has been reviewed and approved by the Council on Environmental Quality for consistency with the National Environmental Policy Act.

“(3) Criteria.—The process shall—

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

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

“(C) document and consider—

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

“(ii) the cumulative effects of the proposed action; and

“(iii) reasonable alternatives to the proposed action;

“(D) integrate any applicable environmental analytical process, including the timeframes for public input, with the process for the preparation and dissemination of fishery management plans, plan amendments, and other actions taken or approved pursuant to this Act; and
“(E) reduce extraneous paperwork and provide for timely, clear and concise analysis that is useful to decisionmakers and the public.

“(3) USAGE.—Any process promulgated in accordance with this section may be used by the Councils or the Secretary and shall supersede the regulations of the Council on Environmental Quality implementing the procedural provisions of the National Environmental Policy Act, to the extent applicable to a fishery management plan, amendment, regulation or other action taken or approved pursuant to this Act.”.

SEC. 104. LIMITED ACCESS SYSTEMS.

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

“(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

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

“(B) present participation in the fishery;

“(C) historical fishing practices in, and dependence on, the fishery;
“(D) the economics of the fishery;

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

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

“(G) the fair and equitable distribution of
a public resource; and

“(H) any other relevant considerations;.”

SEC. 105. FISHERY MANAGEMENT PLAN REQUIREMENTS.

Section 303(a)(5) (16 U.S.C. 1853(a)(5)) is amended
by inserting “harvest and processing revenues (by spe-
cies), production costs, capital expenditures, and other
fishing or processing expenses”, after “number of hauls;”.

SEC. 106. FISHERY MANAGEMENT PLAN DISCRETIONARY
PROVISIONS.

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

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

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

(3) redesignating paragraph (12) as paragraph
(13) and inserting after paragraph (11) the fol-
lowing:
“(12) establish a process for complying with the National Environmental Policy Act (42 U.S.C. 4321 et seq.); and”.

SEC. 107. LIMITED ACCESS PRIVILEGE PROGRAMS.

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

“SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.

“(a) In General.—Subject to the requirements set forth in this section, a Council may submit, and the Secretary may approve, a limited access privilege program for a fishery under a limited access system—

“(1) to harvest fish, if it meets the requirements of subsection (b) and subsections (d) through (f); or

“(2) to process fish, if it meets the requirements of subsections (c) through (f).

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

“(1) In General.—In addition to complying with the other requirements of this Act, any limited access privilege program to harvest fish submitted by a Council under this section that is approved after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005—

August 4, 2005 (11:30 a.m.)
“(A) shall provide for administration of the program by the Secretary in accordance with the terms of the plan;

“(B) shall—

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

“(ii) if established in a fishery that is determined by the Secretary or the Council to have excess capacity, contribute to reducing capacity;

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

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

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

“(2) FISHING COMMUNITIES.—

“(A) IN GENERAL.—To be eligible to participate in a limited access privilege program, a fishing community shall—

“(i) be located within the management area of the relevant Council;
“(ii) meet criteria developed by that Council that have been approved by the Secretary and published in the Federal Register;

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

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

“(B) PARTICIPATION CRITERIA.—In developing participation criteria for eligible communities under this paragraph, a Council shall base the criteria on traditional fishing or processing practices in, and dependence on, the fishery, the cultural and social framework relevant to the fishery, and economic barriers to access to the fishery.

“(3) ALLOCATION.—In developing a limited access privilege program for fish harvesters a Council or the Secretary shall—

“(A) establish procedures to ensure fair and equitable initial allocations, including consideration of—

“(i) current and historical harvests;
“(ii) employment in the harvesting and processing sectors;
“(iii) investments in, and dependence upon, the fishery; and
“(iv) the historic participation of fishing communities;
“(B) provide to the extent practicable that initial allocations maintain the basic cultural and social framework of the fishery, especially the roles of small owner-operator fishermen and the sustained participation of fishing communities that depend on these fisheries;
“(C) include measures to assist, when necessary and appropriate, entry-level and small-scale fishermen, captains, crew, and fishing communities through set-asides of initial and secondary harvesting allocations, and including where appropriate a recommendation for the provision of economic assistance in the purchase of limited access privileges;
“(D) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by—
“(i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to own; and

“(ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges;

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

“(F) authorize limited access privileges to harvest fish to be held by or issued under the system to fishing vessel owners, fishermen, crew members, fishing communities, and other persons who substantially participate in the fishery, as specified by the Council.

“(4) PROGRAM APPROVAL, REVIEW, AND ADMINISTRATION.—

“(A) IN GENERAL.—After the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, a Council may initiate a fishery management plan or amendment to establish a limited access privilege program for a fishery and submit the program to the Secretary for ap-
proval only in accordance with the provisions of this section.

"(B) IMPLEMENTATION CONDITIONS.—The Secretary may not approve and implement such a limited access privilege program under this section unless the program meets the requirements of this subsection and subsections (e) and (f) of this section.

"(C) PROCEDURE.—A limited access privilege program shall be developed by a Council in a manner that is consistent with that Council’s procedures and rules under section 302(i) and provide for public comment.

"(D) INITIATION REQUEST.—Any group of fishermen, constituting at least a third of those actively engaged in participation in a fishery for which a limited access privilege program is sought, may submit a petition to the Secretary requesting that the relevant Council or Councils with authority over the fishery be authorized to initiate the development of a limited access privilege program for that fishery. Any such petition shall clearly state the fishery to which the limited access privilege program would apply.
"(E) Upon the receipt of any such petition, the Secretary shall review all of the signatures on the petition and, if he determines that the signatures on the petition represent at least a third of the active participants in the fishery, the Secretary shall certify the petition to the appropriate Council or Councils.

"(F) Certification Requirement.—A Council may not initiate a fishery management plan or amendment to establish a limited access privilege program for a fishery unless the Secretary has certified an appropriate petition.

"(G) Program Requirements.—Any such limited access privilege program shall—

"(i) include provisions for the regular monitoring and review of the operations of the program, with a formal and detailed review required 5 years after the establishment of the program and every 5 years thereafter, which reviews shall be reported to the Secretary within 90 days after the review has been completed;

"(ii) include an effective system for enforcement, monitoring, and management
of the program, including the use of observers; and

“(iii) include an appeals process for administrative review of determinations with respect to the Secretary’s decisions regarding administration of the limited access privilege program.

“(4) TRANSFERABILITY.—In establishing a limited access privilege program, a Council shall—

“(A) establish a policy on the transferability of limited access privilege shares (through sale or lease), including a policy on any conditions that apply to the transferability of limited access privilege shares; and

“(B) establish a program to monitor transfers (including sales and leases) of limited access privilege shares.

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

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

“(B) may be revoked or limited at any time in accordance with this Act, including rev
ocation for failure to comply with the terms of
the plan or if the system is found to have jeop-
ardized the sustainability of the stock or the
safety of fishermen;

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

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

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

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

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

“(B) paragraphs (2)(A), (4)(A), and
(4)(C) do not apply.
“(c) LIMITED ACCESS PRIVILEGES FOR UNITED STATES FISH PROCESSORS.—

“(1) IN GENERAL.—A Council may allocate limited access privileges to United States processors, including geographic delivery requirements and fishery associations, in a limited access privilege program approved after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005 if—

“(A) the plan meets the other requirements of this Act;

“(B) the Council determines that—

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

“(ii) the allocation of limited access privileges to processors is necessary to protect fishing communities, maintain historic harvester and processor balance in the fishery, and ensure economic stability in the harvesting and processing sectors;

“(iii) the allocation of limited access privileges to United States fish processors will not result in price-fixing or any other anticompetitive practices and will not re-
sult in a decrease in ex-vessel value in the
fishery;

“(iv) there is sufficient economic and
other data to develop such a program; and
“(v) the program is necessary to ad-
dress impacts to the processing sector that
cannot be mitigated by other means.

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

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

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

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

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

“(H) the program is narrowly tailored to
achieve the requirements of subparagraphs (D)
through (G) of this paragraph.
“(3) ALLOCATION.—In developing a limited access privilege program to process fish, a Council or the Secretary shall—

“(A) establish procedures to ensure fair and equitable initial allocations, including consideration of—

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

“(ii) the historical relationship and dependence of communities in such fishery, including levels of employment, tax revenues, and investments in fishery-related infrastructure by Federal, State, and local governments, and the private sector, among other considerations;

“(B) provide to the extent practicable that initial allocations maintain the basic cultural and social framework of the fishing community, especially the roles of small owner-operators and the sustained participation of fishing communities that depend on these fisheries;
“(C) include measures to assist, when necessary and appropriate, entry-level and small-scale operators and fishing communities through set-asides of initial and secondary allocations, and including where appropriate a recommendation for economic assistance in the purchase of limited access privilege shares;

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

“(i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to own; and

“(ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges;

“(E) authorize limited access privileges to be held by or issued under the system to fishing communities, processors, and other persons who substantially participate in the fishing and processing sectors, as specified by the Council; and
“(F) prohibit any person other than a United States citizen or a fishing community from acquiring a privilege to process fish.

“(4) No creation of right, title, or interest.—A limited access privilege, quota share, or other limited access system authorization issued to a United States fish processor and established, implemented, or managed under this Act—

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

“(B) may be revoked or limited at any time in accordance with this Act, including for failure to comply with the terms of the plan or if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;

“(C) shall not confer any right of compensation to the holder of such limited access privilege, quota share, or other such limited access system authorization if it is revoked or limited;

“(D) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is purchased by the holder; and
“(E) shall be considered a grant of permission to the holder of the limited access privilege or quota share to engage in activities permitted by such limited access privilege or quota share.

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

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

“(A) include provisions for the regular monitoring and review of the operations of the program, with a formal and detailed review required 5 years after the establishment of the program and every 5 years thereafter, which reviews shall be reported to the Secretary within 90 days after the review has been completed;

“(B) include an effective system for enforcement, monitoring, and management of the program, including the use of observers;

“(C) include an appeals process for administrative review of determinations with respect
to the Secretary's decisions regarding administra-

tion of the limited access privilege program;

and

"(D) provide for the establishment by the

Secretary, in consultation with the Department

of Justice and the Federal Trade Commission,

for a mandatory information collection and re-

view process to provide any and all information

necessary for the Department of Justice and

the Federal Trade Commission to determine

whether any illegal acts of anti-competition,

anti-trust, or price collusion have occurred

among persons receiving individual processing

quotas under the program. The Secretary may

revoke any individual processing quota held by

any person found to have violated a provision of

the antitrust laws of the United States.

"(7) INFORMATION COLLECTION.—The restric-

tion on the collection of economic data in section

303 shall not apply with respect to any United

States fish processor who is eligible for, or who has

received, individual processing quota under the pro-

gram. The restriction on the disclosure of informa-

tion in section 402(b)(1) shall not apply when the

information is used to determine eligibility for or
compliance with an individual processing quota program.

“(8) ENFORCEMENT.—The provisions of sections 308, 310, and 311 shall apply to the processing facilities and fish products of any person holding limited access privileges to process fish.

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

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

“(d) AUCTION AND OTHER PROGRAMS.—In establishing a limited access privilege program, a Council may consider, and provide for if appropriate, an auction system or other program to collect royalties for the initial distribution of allocations in a limited access privilege program if—

“(i) the system or program is administered in such a way that the resulting distribution of limited access privilege shares conforms with the biological, social, and economic goals of the program; and
“(ii) revenues generated through such a royalty program are deposited in the Limited Access System Administration Fund established by section 305(h)(5)(B) and available subject to annual appropriations.

“(e) COST RECOVERY.—In establishing a limited access privilege program, a Council shall—

“(1) develop a methodology and the means to identify and assess the management, science, data collection, observer coverage, and enforcement programs that are directly related to and in support of the program; and

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

“(f) EFFECT ON CERTAIN EXISTING SHARES AND PROGRAMS.—Nothing in this Act, or the amendments by this Act, shall be construed to require a reallocation of individual quota shares or processor quota shares or other quota programs approved by the Secretary or Congressional action before the date of enactment of the Magnu-
son-Stevens Fishery Conservation and Management Reau-
thorization Act of 2005.”.

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

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

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

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

SEC. 108. EMERGENCY REGULATIONS.

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

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

SEC. 109. PROHIBITED ACTS.

Section 307(1) (16 U.S.C. 1857) is amended—
(1) by striking “or” after the semicolon in sub-
paragraph (O);

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

(3) by adding at the end the following:

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

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

SEC. 110. COOPERATIVE ENFORCEMENT AGREEMENTS.

(a) In General.—Section 311 (16 U.S.C. 1861) is
amended—

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

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

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

"(vi) access, directly or indirectly, for enforcement purposes any data or information required to be provided under this title or regulations under this title, including data from Global Maritime Distress and Safety Systems or any similar system;";

(5) by redesignating subsection (h) as subsection (j); and

(3) by inserting after subsection (g) the following:

"(h) JOINT ENFORCEMENT AGREEMENTS.—

"(1) IN GENERAL.—The Governor of an eligible State may apply to the Secretary for execution of a joint enforcement agreement with the Secretary that will authorize the deputization and funding of State law enforcement officers with marine law enforcement responsibilities to perform duties of the Secretary relating to law enforcement provisions under this title or any other marine resource laws enforced by the Secretary. Upon receiving an application
meeting the requirements of this section, the Secretary may enter into a joint enforcement agreement with the requesting State.

"(2) ELIGIBLE STATE.—A State is eligible to participate in the cooperative enforcement agreements under this section if it is in, or bordering on, the Atlantic Ocean (including the Caribbean Sea), Pacific Ocean, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or 1 or more of the Great Lakes.

"(3) REQUIREMENTS.—Joint enforcement agreements executed under paragraph (1)—

"(A) shall be consistent with the purposes and intent of this section to the extent applicable to the regulated activities; and

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

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

"(i) IMPROVED DATA SHARING.—

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

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

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

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

"(A) the Attorney General or highest ranking legal officer of the State provides a written opinion or certification that State law allows the State to maintain the confidentiality of information required by Federal law to be kept confidential; or

"(B) the Secretary is provided other reasonable assurance that the State can and will protect the identity or business of any person to which such information relates."

(b) REPORT ON USING GMDSS FOR FISHERY PURPOSES.—Within 15 months after the date of enactment of this Act, the National Marine Fisheries Service and the United States Coast Guard shall transmit a joint report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources containing—

(1) a cost-to-benefit analysis of the feasibility, value, and cost of using the Global Maritime Distress and Safety Systems or similar systems for fish-
ery management, conservation, enforcement, and
safety purposes with the Federal government bear-
ing the capital costs of any such system;

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

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

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

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

(6) an assessment of how the Global Maritime
Distress and Safety Systems or similar systems
could be developed, purchased, and distributed to
regulated vessels.
SEC. 111. BYCATCH REDUCTION PROGRAM.

Title III (16 U.S.C. 1851 et seq.) is amended by adding at the end the following:

"SEC. 316. BYCATCH REDUCTION PROGRAM.

"(a) BYCATCH REDUCTION PROGRAM.—Not later than 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, the Secretary, in cooperation with the councils and other affected interests, and based upon the best scientific information available, shall establish a bycatch reduction program to develop technological devices and other conservation engineering changes that will minimize bycatch mortality in Federally managed fisheries. The program shall—

"(1) be regionally based;

"(2) be coordinated with projects conducted under the cooperative research and management program established under this Act;

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

"(4) provide for routine consultation with the Councils in order to maximize opportunities to incorporate results of the program in Council actions and provide incentives for adoption of methods developed
under the program in fishery management plans developed by the Councils.

"(b) INCENTIVES.—Each Council may submit, and the Secretary may approve, consistent with the provisions of this Act, a system of incentives to reduce total bycatch amounts and bycatch rates in fisheries under its jurisdiction, including—

"(1) measures to incorporate bycatch into quotas and limited access privilege programs, including the establishment of collective or individual bycatch quotas; or

"(2) measures to promote the use of gear with verifiable and monitored low bycatch rates, including allocation preferences for harvesters who adopt the use of such gear."

SEC. 112. WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM.

Section 305(i)(1) (16 U.S.C. 1855(i)(1)) is amended—

(1) by striking "To" in subparagraph (B) and inserting "Except as provided in subparagraph (E), to"; and

(2) by adding at the end the following:

"(E) A community shall be eligible to participate in the western Alaska community devel-
opment quota program under subparagraph (A)

if the community was—

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

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

TITLE II—INFORMATION AND
RESEARCH

SEC. 201. COLLECTION OF INFORMATION.

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

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

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

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

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

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

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or fish processing operations)" each place it appears;
and

(6) by adding at the end the following:

"(2) SECRETARIAL INITIATION.—If the Secretary determines that additional information is necessary for developing, implementing, revising, or monitoring a fishery management plan, or for determining whether a fishery is in need of management, the Secretary may, by regulation, implement an information collection or observer program requiring submission of such additional information for the fishery."

SEC. 202. ACCESS TO CERTAIN INFORMATION.

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

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

(2) by inserting after subparagraph (A) the following:

"(B) to State employees who are responsible for fishery management plan monitoring, if the States employing those employees have entered into a joint enforcement agreement with the Secretary and the agreement is in effect;"
(b) Determinations under Limited Access System.—Section 402(b)(1) (16 U.S.C. 1881a(b)(1)) is amended—

(1) by striking "or" in subparagraph (F), as redesignated by subsection (a);

(2) by striking "Act." in subparagraph (G), as so redesignated, and inserting "Act; or"; and

(3) by adding at the end the following:

"(H) when such information is required by the Secretary for any determination under a limited access system or by a Council for making recommendations with respect to any existing or proposed limited access privilege program.".

SEC. 203. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM.

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

"SEC. 317. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM.

(a) In General.—The Secretary of Commerce, in consultation with the Councils, shall establish a national cooperative research and management program to address needs identified under this Act and under any other marine resource laws enforced by the Secretary. The program
shall make funds available for cooperative research and
management activities that are developed and conducted
through partnerships among Federal and State managers
and scientists, fishing industry participants, and edu-
cational institutions.

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

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

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

“(2) Projects to assess the amount and type of
bycatch occurring in a fishery.
“(3) Conservation engineering projects designed to reduce bycatch, including reduction of bycatch in high seas fisheries.

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

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

“(d) EXPERIMENTAL PERMITTING PROCESS.—The Secretary, in consultation with the regional fishery management councils, shall establish an expedited permitting process for projects approved under this section.

“(e) GUIDELINES.—The Secretary, in consultation with the Councils, shall establish guidelines to ensure that participation in a research project funded under this section does not result in loss of a participant’s catch history or unexpended days-at-sea as part of a limited entry system.”.

SEC. 204. WESTERN PACIFIC FISHERY DEMONSTRATION PROJECTS.

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

“(6) For purposes of this subsection, ‘Western Pacific community’ shall mean a community eligible to participate under section 305(i)(2)(B)(i) through (iv) of the Magnuson-Stevens Fishery Conservation
and Management Act (16 U.S.C. 1855(i)(2)(B)(i) through (iv)).

**TITLE III—OTHER FISHERIES STATUTES**

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

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

(1) by striking "$25,000" and inserting "$200,000";

(2) by striking "violation, the degree of culpability, and history of prior offenses, ability to pay," and inserting "violator, the degree of culpability, any history of prior offenses," in the fifth sentence; and

(3) by adding at the end the following: "In assessing such penalty, the Secretary may also consider any information provided by the violator relating to the ability of the violator to pay, if the information is provided to the Secretary at least 30 days prior to an administrative hearing."

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

"(c) REVOCATION OR SUSPENSION OF PERMIT.—"
“(1) IN GENERAL.—The Secretary may take any action described in paragraph (2) in any case in which—

“(A) a vessel has been used in the commission of any act prohibited under section 7;

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

“(C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary has not been paid and is overdue.

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

“(A) revoke any permit issued with respect to such vessel or person, with or without prejudice to the issuance of subsequent permits;
“(B) suspend such permit for a period of time considered by the Secretary to be appropriate;

“(C) deny such permit; or

“(D) impose additional conditions and restrictions on any permit issued to or applied for by such vessel or person under this Act and, with respect to any foreign fishing vessel, on the approved application of the foreign nation involved and on any permit issued under that application.

“(3) FACTORS TO BE CONSIDERED.—In imposing a sanction under this subsection, the Secretary shall take into account—

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

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

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

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

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

"(7) PERMIT DEFINED.—In this subsection, the
term ‘permit’ means, without limitation, any license,
certificate, approval, registration, charter, member-
ship, exemption, or other form of permission issued
by the Commission or the Secretary, and includes
any quota share or other transferable quota issued
by the Secretary.”.

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

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

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

SEC. 302. MAINE POCKET WATERS.

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

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

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

“(3) southeast of Matinic Island in the area lo-
cated north of the line 43 degrees 48’ 10.0”N, 69
degrees 08' 01.0"W and 43 degrees 44' 08.0"N, 69
degrees 53' 01.0"W;

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

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

SEC. 303. REAUTHORIZATION OF OTHER FISHERIES ACTS.

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

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

“(1) —00,000 to the Secretary of Com-
merce; and

“(2) 00,000 to the Secretary of the Inter-
rior.”.

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

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

(d) PACIFIC SALMON TREATY ACT.—

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

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

(B) amended—

(i) by striking “Sec. 623.”; and

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

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

(2) TECHNICAL CORRECTION.—The amendment
made by the Department of Commerce and Related
Agencies Appropriations Act, 2005 under the heading “PACIFIC COASTAL SALMON RECOVERY” (118 Stat. 2881), to section 628(2)(A) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 is deemed to have been made to section 623(d)(2)(A) of title VI of H.R. 3421 (113 Stat. 1501A-56), as introduced on November 17, 1999, enacted into law by section 1000(a)(1) of the Act of November 29, 1999 (Pub. L. 106-113) instead of to such section 628(2)(A), as of the date of enactment of the Department of Commerce and Related Agencies Appropriations Act, 2005.

(3) REAUTHORIZATION.—Section 16(d)(2)(A)

[(e) Other Fishery Statute Reauthorizations.—]

TITLE IV—INTERNATIONAL

SEC. 401. INTERNATIONAL MONITORING AND COMPLIANCE.

Title II (16 U.S.C. 1821 et seq.) is amended by adding at the end the following:
"SEC. 207. INTERNATIONAL MONITORING AND COMPLIANCE.

(a) IN GENERAL.—The Secretary may undertake activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international or regional fishery management agreements, and to implement the requirements of this title.

(b) SPECIFIC AUTHORITIES.—In carrying out subsection (a), the Secretary may—

(1) share information on harvesting and processing capacity and illegal, unreported and unregulated fishing on the high seas, in areas covered by international or regional fishery management agreements, and by vessels of other nations within the United States exclusive economic zone, with relevant law enforcement organizations of foreign nations;

(2) further develop real time information sharing capabilities, particularly on harvesting and processing capacity and illegal, unreported and unregulated fishing;

(3) participate in global and regional efforts to build an international network for monitoring, control, and surveillance of high seas fishing and fishing under regional or global agreements;

(4) support efforts to create an international registry or database of fishing vessels, including by
building on or enhancing registries developed by re-
gional fishery management organizations;

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

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

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

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

“(11) International cooperation is necessary to
address illegal, unreported, and unregulated fishing,
which may harm the sustainability of living marine
resources and disadvantage the United States fish-
ing industry.”.
SEC. 403. ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.

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

"SEC. 607. ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall provide to Congress, by not later than 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005, and every year thereafter, a report that includes:

"(1) a list of nations whose vessels have been identified under subsection (b) as conducting illegal, unreported, or unregulated fishing, including the specific offending activities and any subsequent actions under subsections (d) and (e); and

"(2) a list of all stocks of fish classified as overfished or over-exploited by any regional fishery management organization to which the United States is a party.

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

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

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

“(B) in an area governed by an international or regional fishery management agreement to which the United States is a party; or

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

“(2) the nation—

“(A) is not a party to, or does not maintain cooperating status with, the applicable regional fishery management organization (if one exists for the stock at issue); or

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

“(3) the relevant international or regional fishery management organization, or the relevant nation, has failed to implement effective measures to
end the illegal unreported, or unregulated fishing ac-
tivity by vessels of that nation.

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

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

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

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

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

“(e) CERTIFICATION.—

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

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

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

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

"(B) whether the relevant regional fishery
management organization has implemented
measures that are effective in ending the illegal
unreported, or unregulated fishing activity by
vessels of that nation.
“(3) Alternative Procedure.—The Secretary may establish a procedure for certification, on a shipment-by-shipment, shipper-by-shipper, or other basis of fish or fish products from a vessel of a harvesting nation not certified under paragraph (2) if the Secretary determines that—

“(A) the vessel has not engaged in illegal, unreported, or unregulated fishing under a regional fishery management organization to which the United States is a party; or

“(B) the vessel is not identified by a regional fishery management organization or the Food and Agriculture Organization as participating in illegal, unreported, or unregulated fishing activities.

“(4) Effect of Certification.—The provisions of section 101(a) and section 101(b)(3) and (4) of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4)) shall apply to any nation identified under subsection (b) that has not been certified by the Secretary under this subsection, or for which the Secretary has issued a negative certification under this subsection, but shall not apply to any nation identified under
subsection (b) for which the Secretary has issued a positive certification under this subsection.

(b) CONFORMING AMENDMENTS.—

(1) DENIAL OF PORT PRIVILEGES.—Section 101(b) of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(b)) is amended by inserting "or illegal, unreported, or unregulated fishing" after "fishing" in paragraph (1)(A)(i), paragraph (1)(B), paragraph (2), and paragraph (4)(A).

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

SEC. 404. CONSERVATION OF PROTECTED LIVING MARINE RESOURCES.

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

"SEC. 208. CONSERVATION OF PROTECTED LIVING MARINE RESOURCES.

"(a) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall provide to Congress, by not later than 1 year after the date of enactment of Magnuson-Stevens Fishery Conservation and Management Re-
authorization Act of 2005, and every year thereafter, a
full report which—

“(1) includes a list of nations identified by the
Secretary under subsection (b);
“(2) describes the efforts taken by nations on
that list to comply with the provisions of this title,
and evaluates the progress of those efforts;
“(3) includes a determination as to whether the
importation into the United States of fish or fish
products from any nation on that list is undermining
the effectiveness of national and international meas-
ures for the conservation of any protected living ma-
rine resource or poses a threat to such resource;
“(4) sets forth a plan of action for ensuring the
conclusion and entry into force of international
measures for the conservation of protected living
marine resources for which no agreement exists; and
“(5) includes recommendations for measures to
ensure that United States actions are consistent
with national, international, and regional obligations
relating to populations of protected living marine re-
sources, including those listed under the Convention
on International Trade in Endangered Species of
Wild Flora and Fauna.
“(b) IDENTIFICATION.—The Secretary shall identify
a nation under this subsection if—

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

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

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

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

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

“(3) the relevant international or regional fish-
ery organization for the conservation and protection
of such species, or the nation, has failed to implement effective measures to end or reduce the impacts of the fishing practices of the nations vessels on such species.

"(c) Notification.—An identification of a nation by the Secretary under subsection (b) is deemed to be an identification under section 101(b)(1)(A) of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(b)(1)(A)), and the Secretary shall notify the President and that nation of such identification.

"(d) Consultation and Negotiation.—The Secretary, acting through the Secretary of State, shall—

"(1) notify other nations whose vessels engage in fishing that adversely affects protected living marine resources, as soon as possible, about the requirements of this section and the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1801 note, 1826d et seq.);

"(2) initiate discussions as soon as possible for purpose of developing bilateral or multilateral agreements with other nations for the conservation of protected living marine resources;

"(3) initiate discussions as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in,
commercial fishing operations or other activities that
the Secretary determines may pose a threat to pro-
tected living marine resources, for the purpose of en-
tering into bilateral and multilateral treaties with
such countries to protect such species;

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

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

"(c) CONSERVATION CERTIFICATION,—

"(1) IN GENERAL.—The Secretary shall estab-
lish a procedure, consistent with the provisions of
subchapter II of chapter 5 of title 5, United States
Code, and including notice and an opportunity for
comment by the governments of nations identified by
the Secretary under subsection (b), for determining
whether governments—
“(A) have adopted regulatory programs governing harvesting practices and other practices adversely affecting protected living marine resources that are comparable, taking into account different conditions, to those of the United States;

“(B) have established management plans governing release of protected living marine resources caught but not retained by fishing vessels that ensure maximum probability of survival after release and that are comparable, taking into account different conditions than those in the United States; and

“(C) have established a management plan containing requirements that will assist in gathering species-specific data to support international and regional stock assessments and conservation enforcement efforts for protected living marine resources.

“(2) CERTIFICATION PROCEDURE.—

“(A) IN GENERAL.—The Secretary shall determine, on the basis of the procedure under subsection (a), and certify to the Congress by January 31, 2007, and annually thereafter
whether the government of each harvesting na-

tion—

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

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

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

“(B) ALTERNATIVE PROCEDURE.—The
Secretary shall establish a procedure for certifi-
cation, on a shipment-by-shipment, shipper-by-
shipper, or other basis of fish or fish products
from a vessel of a harvesting nation not cer-
tified under paragraph (1) if the Secretary de-
termines that such imports were harvested by
practices that—

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

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

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

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

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

“(f) INTERNATIONAL COOPERATION AND ASSISTANCE.—To the greatest extent possible consistent with existing authority and the availability of funds, the Secretary shall—

“(1) provide appropriate technological and other assistance to nations identified by the Secretary under subsection (b) and regional or international organizations of which those nations are members to assist those nations in qualifying for certification under subsection (c);

“(2) undertake, where appropriate, cooperative research activities on species statistics and improved harvesting techniques, with those nations or organizations;

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

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

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

“(h) AUTHORIZATION OF APPROPRIATIONS.—There
are authorized to be appropriated to the Secretary for fisc-
ical years 2006 through 2010 such sums as are necessary
to carry out this section.”.

SEC. 405. MONITORING OF PACIFIC INSULAR AREA FISHERIES.

(a) WAIVER AUTHORITY.—Section 201(h)(2)(B) (16
U.S.C. 1821(h)(2)(B)) is amended by striking “that is at
least equal in effectiveness to the program established by
the Secretary;” and inserting “or other monitoring pro-
gram that the Secretary determines is adequate to monitor
harvest, bycatch, and compliance with the laws of the United States by vessels fishing under the agreement;”.

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

“(i) Pacific Insular Area observer programs, or other monitoring programs, that the Secretary determines are adequate to monitor the harvest, bycatch, and compliance with the laws of the United States by foreign fishing vessels that fish under Pacific Insular Area fishing agreements;”.