

108TH CONGRESS
2D SESSION

S. 2066

To authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2004, 2005, 2006, 2007, and 2008, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2004

Ms. SNOWE introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2004, 2005, 2006, 2007, and 2008, 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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Fishery Conservation and Management Amendments Act
6 of 2004”.

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

- Sec. 1. Short title.
- Sec. 2. Amendment of Magnuson-Stevens Fishery Conservation and Management Act.
- Sec. 3. Definitions.
- Sec. 4. Authorization of appropriations.
- Sec. 5. Treaty on Pacific Coast albacore tuna.
- Sec. 6. Monitoring of Pacific insular area fisheries.
- Sec. 7. Caribbean Council jurisdiction.
- Sec. 8. Notice of council meetings.
- Sec. 9. Fishery management plan requirements.
- Sec. 10. Submission of economic data.
- Sec. 11. Individual fishing quotas.
- Sec. 12. Gulf of Mexico fishing quota systems.
- Sec. 13. Action by the secretary.
- Sec. 14. Rebuilding depleted fisheries.
- Sec. 15. Steaming time.
- Sec. 16. Emergency regulations.
- Sec. 17. Fishing capacity reduction program.
- Sec. 18. Collection of information.
- Sec. 19. Access to certain information.
- Sec. 20. Maine pocket waters.
- Sec. 21. Western Pacific fishery demonstration projects.
- Sec. 22. Cooperative research and management.
- Sec. 23. Independent peer review of data collection procedures.
- Sec. 24. Advisory committee reform and peer review.
- Sec. 25. Cumulative impacts.
- Sec. 26. Essential fish habitat.
- Sec. 27. Cooperative enforcement agreements.
- Sec. 28. Scientific and statistical committees report on ecosystem research priorities; pilot program for fishery ecosystem plans.

1 **SEC. 2. AMENDMENT OF MAGNUSON-STEVEN'S 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.).

1 **SEC. 3. DEFINITIONS.**

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

4 (1) by inserting after paragraph (8), the fol-
5 lowing:

6 “(8A) The term ‘depleted’ when used with re-
7 spect to a stock of fish, means that the stock is of
8 a size that is below the natural range of fluctuation
9 associated with the production of maximum sustain-
10 able yield.”;

11 (2) by inserting after paragraph (18) the fol-
12 lowing:

13 “(18A) The term ‘habitat area of particular
14 concern’ means those waters and submerged sub-
15 strate that form a discrete vulnerable subunit of es-
16 sential fish habitat that is required for a stock to
17 sustain itself and which is designated through a
18 specified set of national criteria which includes, at a
19 minimum, a requirement that designation be based
20 on the best scientific information available regarding
21 habitat-specific density of that fish stock, growth, re-
22 production, and survival rates of that stock within
23 the designated area.”;

24 (3) by inserting “and” after the semicolon in
25 paragraph (28)(A);

1 (4) by striking “factor; and” in paragraph
2 (28)(B) and inserting “factor.”;

3 (5) by striking subparagraph (C) of paragraph
4 (28); and

5 (6) by striking paragraph (29) and inserting
6 the following:

7 “(29) The term ‘overfishing’ means a rate or
8 level of fishing mortality that jeopardizes the capac-
9 ity of a fishery to produce the maximum sustainable
10 yield on a continuing basis.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) The Act is amended by striking “over-
13 fished” each place it appears and inserting “de-
14 pleted”.

15 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

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

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

19 “There are authorized to be appropriated to the Sec-
20 retary for the purposes of carrying out this Act—

21 “(1) \$400,000,000 for fiscal year 2004;

22 “(2) \$415,000,000 for fiscal year 2005;

23 “(3) \$430,000,000 for fiscal year 2006;

24 “(4) \$445,000,000 for fiscal year 2007; and

25 “(5) \$460,000,000 for fiscal year 2008.”.

1 **SEC. 5. TREATY ON PACIFIC COAST ALBACORE TUNA.**

2 (a) FOREIGN FISHING UNDER TREATY; IMPLEMEN-
3 TATION.—Section 202(e) (16 U.S.C. 1822(e)) is amended
4 by adding at the end the following:

5 “(6) TREATY ON PACIFIC COAST ALBACORE
6 TUNA VESSELS.—

7 “(A) Notwithstanding section 201, foreign
8 fishing may be conducted pursuant to the Trea-
9 ty between the Government of the United
10 States of America and the Government of Can-
11 ada on Pacific Coast Albacore Tuna Vessels
12 and Port Privileges, signed at Washington May
13 26, 1981, including its Annexes and any
14 amendments thereto.

15 “(B) The Secretary of Commerce, with the
16 concurrence of the Secretary of State, may pro-
17 mulgate regulations necessary to discharge the
18 obligations of the United States of America
19 under the Treaty between the Government of
20 the United States of America and the Govern-
21 ment of Canada on Pacific Coast Albacore
22 Tuna Vessels and Port Privileges, signed at
23 Washington May 26, 1981, including its An-
24 nexes and any amendments thereto.”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) Paragraph (1) of section 201(a)(1) (16
2 U.S.C. 1821(a)) is amended by striking “or (c)” and
3 inserting “or (c), section 202(e)(6),”.

4 (2) Section 204(a) (16 U.S.C. 1824 (a)) is
5 amended by striking “vessel.” and inserting “vessel
6 or the fishing is authorized under section
7 202(e)(6).”.

8 (3) Section 307(2)(B) (16 U.S.C. 1857(2)(B))
9 is amended by striking “section 201(i),” and insert-
10 ing “section 201(i) and foreign fishing permitted
11 under section 202(e)(6),”.

12 **SEC. 6. MONITORING OF PACIFIC INSULAR AREA FISH-**
13 **ERIES.**

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

21 (b) **MARINE CONSERVATION PLANS.**—Section
22 204(e)(4)(A)(i) (16 U.S.C. 1824(e)(4)(A)(i)) is amended
23 to read as follows:

24 “(i) Pacific Insular Area observer programs, or
25 other monitoring programs, that the Secretary deter-

1 mines are adequate to monitor the harvest, bycatch,
2 and compliance with the laws of the United States
3 by foreign fishing vessels that fish under Pacific In-
4 sular Area fishing agreements;”.

5 **SEC. 7. CARIBBEAN COUNCIL JURISDICTION.**

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

10 **SEC. 8. NOTICE OF COUNCIL MEETINGS.**

11 (a) **REGULAR AND EMERGENCY MEETINGS.**—The
12 first sentence of section 302(i)(2)(C) (16 U.S.C.
13 1852(i)(2)(C)) is amended to read as follows: “Timely
14 public notice of each regular meeting and each emergency
15 meeting, including the time, place, and agenda of the
16 meeting shall be provided by any means that will result
17 in wide publicity in the major fishing ports of the region
18 (and in other major fishing ports having a direct interest
19 in the affected fishery).”

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

1 **SEC. 9. FISHERY MANAGEMENT PLAN REQUIREMENTS.**

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

6 **SEC. 10. SUBMISSION OF ECONOMIC DATA.**

7 Section 303(b)(7) (16 U.S.C. 1853(b)(7)) is amended
8 by striking “(other than economic data)”.

9 **SEC. 11. INDIVIDUAL FISHING QUOTAS**

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

12 (1) by striking subsection (b)(6) and inserting
13 the following:

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

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

20 “(B) present participation in the fishery;

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

23 “(D) the economics of the fishery;

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

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

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

6 “(H) any other relevant considerations;”;

7 (2) by striking subsection (d) and inserting the
8 following:

9 “(d) FISHING QUOTA SYSTEMS.—

10 “(1) ESTABLISHMENT.—Any fishery manage-
11 ment plan or amendment that is prepared by any
12 Council, or by the Secretary, with respect to any
13 fishery, may establish a fishing quota system con-
14 sistent with the provisions of subsection (b)(6).

15 “(2) IN GENERAL.—The Councils and Sec-
16 retary shall ensure that any such fishing quota sys-
17 tem submitted and approved after September 30,
18 2004, complies with the requirements of this section
19 and—

20 “(A) shall prevent any person from acquir-
21 ing an excessive share of the fishing quotas
22 issued, as appropriate for the fishery, and es-
23 tablish any other limits or measures necessary
24 to prevent inequitable concentration of quota
25 share;

1 “(B) shall provide for the fair and equi-
2 table initial allocation of quota share and in
3 such allocation—

4 “(i) shall take into account present
5 and historic participation in the fishery;

6 “(ii) shall consider allocating a por-
7 tion of the annual harvest to entry-level
8 fishermen, small vessel owners, skippers,
9 crew members, and fishing communities;
10 and

11 “(iii) may allocate shares among cat-
12 egories of vessels or gear types;

13 “(C) shall contain provisions for the reg-
14 ular review and evaluation of the system, in-
15 cluding timetables and criteria for evaluating
16 performance, and actions to be taken for failure
17 to meet the criteria;

18 “(D) shall contain criteria that would gov-
19 ern limitation, revocation, renewal, reallocation,
20 or reissuance of fishing quota, including:

21 “(i) reallocation or reissuance of
22 quota revoked pursuant to section 308 of
23 this Act;

24 “(ii) revocation and reissuance of fish-
25 ing quota if the owner of the quota cease

1 to substantially participate in the fishery;
2 and

3 “(iii) exceptions to revocation or limi-
4 tation in cases of death, disablement,
5 undue hardship, or in any case in which
6 fishing is prohibited by the Secretary;

7 “(E) shall provide a process for appeals of
8 decisions on—

9 “(i) eligibility of a person to receive or
10 bid for an allocation of quota shares; and

11 “(ii) limitations, restrictions and rev-
12 ocations of quota held by a person;

13 “(F) shall promote management measures
14 to improve the conservation and management of
15 the fishery, including reduction of bycatch;

16 “(G) shall provide for effective enforce-
17 ment, monitoring, management of such system,
18 including adequate data collection and use of
19 observers at least at a level of coverage that
20 should yield statistically significant results;

21 “(H) may provide for the sale, lease or
22 transfer of quota shares and limitations thereto;

23 “(I) shall provide a mechanism, such as
24 fees as authorized by section 304(d)(2), includ-
25 ing fees payable on quota transfers to recover

1 costs related to administering and implementing
2 the program, including enforcement, manage-
3 ment and data collection (including adequate
4 observer coverage), if the assessment of such
5 fees is proportional to the amount of quota held
6 and fished by each quota holder and if such
7 fees are used only for that fishing quota sys-
8 tem;

9 “(J) shall consider the use of community
10 or area-based approaches and strategies in de-
11 veloping fishing quota systems and consider
12 other management measures, including meas-
13 ures to facilitate formation of fishery coopera-
14 tive arrangements, taking into account prox-
15 imity to and dependence on the resource, con-
16 tribution of fishing to the social and economic
17 status of the community, and historic participa-
18 tion in the fishery; and

19 “(K) shall include procedures and require-
20 ments necessary to carry out subparagraphs
21 (A) through (J).

22 “(3) NO CREATION OF RIGHT, TITLE, OR IN-
23 TEREST.—A fishing quota or other limited access
24 system authorization—

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

3 “(B) may be revoked or limited at any
4 time in accordance with this Act, including for
5 failure to comply with the terms of the plan or
6 if the system is found to have jeopardized the
7 sustainability of the stock or the safety of fish-
8 ermen;

9 “(C) shall not confer any right of com-
10 pensation to the holder of such fishing quota or
11 other such limited access system authorization
12 if it is revoked or limited;

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

16 “(E) shall be considered a grant of permis-
17 sion to the holder of the fishing quota to engage
18 in activities permitted by the fishing quota sys-
19 tem.

20 “(4) ELIGIBILITY.—Persons eligible to hold
21 fishing quota shares are persons who are United
22 States citizens, or who are United States nationals
23 or permanent resident aliens qualified by Federal
24 law to participate in the fishery.

1 “(5) DURATION.—Any fishing quota system es-
2 tablished under this section after the date of enact-
3 ment of the Fishery Conservation and Management
4 Amendments Act of 2004 shall expire at the end of
5 a 10-year period beginning on the date the system
6 is established, or at the end of successive 10 year pe-
7 riods thereafter, unless extended by a fishery man-
8 agement plan amendment in accordance with this
9 Act, for successive periods not to exceed 10 years.

10 “(6) REFERENDUM PROCEDURES.—

11 “(A) Except as provided in subparagraph
12 (C) for the Gulf of Mexico commercial red
13 snapper fishery, a Council may not submit, and
14 the Secretary not approve or implement a fish-
15 ery management plan or amendment that cre-
16 ates a fishing quota system, including a secre-
17 tarial plan, unless such a system, as ultimately
18 developed, has been approved by more than
19 two-thirds of those voting in a referendum
20 among eligible permit holders. If a fishing
21 quota system fails to be approved by the req-
22 uisite number of those voting, it may be revised
23 and submitted for approval in a subsequent ref-
24 erendum.

1 “(B) The Secretary shall conduct the ref-
2 erendum referred to in this paragraph, includ-
3 ing notifying all persons eligible to participate
4 in the referendum and making available to
5 them information concerning the schedule, pro-
6 cedures and eligibility requirements for the ref-
7 erendum process and the proposed fishing
8 quota system. The Secretary shall within one
9 year of enactment of the Fishing Quota Act of
10 2003 publish guidelines and procedures to de-
11 termine procedures and voting eligibility re-
12 quirements for referenda and to conduct such
13 referenda in a fair and equitable manner.

14 “(C) The provisions of section 407(c) shall
15 apply in lieu of this paragraph for any fishing
16 quota system for the Gulf of Mexico commercial
17 red snapper fishery.

18 “(D) Chapter 35 of title 44, United States
19 Code, (commonly known as the ‘Paperwork Re-
20 duction Act’) does not apply to the referenda
21 conducted under this paragraph.

22 “(7)(A) No provision of law shall be construed
23 to limit the authority of a Council to submit, or the
24 Secretary to approve, the termination or limitation,
25 without compensation to holders of any limited ac-

1 cess system permits, of a fishery management plan,
2 plan amendment, or regulation that provides for a
3 limited access system, including a fishing quota sys-
4 tem.

5 “(B) This subsection shall not apply to, or be
6 construed to prohibit a Council from submitting, or
7 the Secretary from approving and implementing,
8 amendments to the North Pacific halibut and sable-
9 fish, South Atlantic wreckfish, or Mid-Atlantic surf
10 clam and ocean (including mahogany) quahog indi-
11 vidual fishing quota programs.

12 “(8)(A) A Council may submit, and the Sec-
13 retary may approve and implement, a program
14 which reserves up to 25 percent of any fees collected
15 from a fishery under section 304(d)(2) to be used,
16 pursuant to section 1104A(a)(7) of the Merchant
17 Marine Act, 1936 (46 U.S.C. App. 1274(a)(7)), to
18 issue obligations that aid in financing the—

19 “(i) purchase of fishing quotas in that fish-
20 ery by fishermen who fish from small vessels;
21 and

22 “(ii) first-time purchase of fishing quotas
23 in that fishery by entry level fishermen.

24 “(B) A Council making a submission under
25 subparagraph (A) shall recommend criteria, con-

1 sistent with the provisions of this Act, that a fisher-
2 man must meet to qualify for guarantees under
3 clauses (i) and (ii) of subparagraph (A) and the por-
4 tion of funds to be allocated for guarantees under
5 each clause.”.

6 (b) INDEPENDENT REVIEW.—Section 303 (16 U.S.C.
7 1853) is further amended by adding at the end the fol-
8 lowing:

9 “(e) INDEPENDENT REVIEW OF EFFECTIVENESS.—

10 “(1) Within 5 years after the date of enactment
11 of the Fishery Conservation and Management
12 Amendments Act of 2004, and every 5 years there-
13 after, the National Research Council shall provide
14 an independent review of the effectiveness of fishing
15 quota systems conducted in Federal fisheries.

16 “(2) The review shall be conducted by an inde-
17 pendent panel of individuals who have knowledge
18 and experience in fisheries conservation and manage-
19 ment, in the implementation of fishing quota sys-
20 tems, or in the social or economic characteristics of
21 fisheries. The National Research Council shall en-
22 sure that members of the panel are qualified for ap-
23 pointment, are not active quota share holders, and
24 provide fair representation to interests affected by
25 such programs.

1 “(3) The independent review of fishing quota
2 systems shall include—

3 “(A) a determination of how fishing quota
4 systems affect fisheries management and con-
5 tribute to improved management, conservation
6 (including bycatch reduction) and safety in the
7 fishery;

8 “(B) formal input in the form of testimony
9 from quota holders relative to the effectiveness
10 of the fishing quota system;

11 “(C) an evaluation of the social, economic
12 and biological consequences of the quota sys-
13 tem, including the economic effects of the sys-
14 tem on fishing communities;

15 “(D) an evaluation of the costs of imple-
16 menting, monitoring and enforcing the systems
17 and the methods used to establish or allocate
18 individual quota shares; and

19 “(E) recommendations to the Councils and
20 the Secretary to ensure that quota systems
21 meet the requirements of this Act and the goals
22 of the plans, and recommendations to the Sec-
23 retary for any changes to regulations issued
24 under section 304(i).

1 “(4) The Secretary shall submit the report to
2 the Congress and any appropriate Councils within
3 60 days after the review is completed.”.

4 (c) ACTION ON LIMITED ACCESS SYSTEMS.—Section
5 304 (16 U.S.C. 1854) is amended by adding at the end
6 the following:

7 “(i) ACTION ON LIMITED ACCESS SYSTEMS.—Within
8 1 year after the date of enactment of the Fishery Con-
9 servation and Management Amendments Act of 2004, the
10 Secretary shall issue regulations which establish require-
11 ments for establishing a fishing quota system. Nothing in
12 this paragraph prohibits a Council or the Secretary from
13 initiating development of a fishing quota system consistent
14 with the provisions of this Act pending publication of the
15 final regulations.”.

16 (d) DEFINITIONS.—Section (16 U.S.C. 1802) is
17 amended by—

18 (1) adding at the end the following:

19 “(46) The term ‘United States Citizen’ means
20 an individual who is a citizen of the United States
21 or a corporation, partnership, association, or other
22 entity that qualifies to document a fishing vessel as
23 a vessel of the United States under chapter 121 of
24 title 46, United States Code.’; and

1 (2) striking “‘individual fishing quota’” in
 2 paragraph (21) and inserting “‘fishing quota sys-
 3 tem’”.

4 (e) CONFORMING AMENDMENTS.—

5 (1) The following provisions are each amended
 6 by striking “‘individual fishing quota’” and inserting
 7 “‘fishing quota’”:

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

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

12 (C) Section 402(b)(1)(D) (16 U.S.C.
 13 1881a(b)(1)(D)).

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

17 (2) Section 305(h)(1) (16 U.S.C. 1855(h)(1)) is
 18 amended by striking “‘individual’”.

19 **SEC. 12. GULF OF MEXICO FISHING QUOTA SYSTEMS.**

20 Section 407(c) (16 U.S.C. 1883) is amended by add-
 21 ing at the end the following:

22 “(3) The initial referendum described in paragraph
 23 (1) shall be used to determine support for whether the
 24 sale, transfer, or lease of quota shares shall be allowed.”.

1 **SEC. 13. ACTION BY THE SECRETARY.**

2 (a) REVIEW OF PLANS AND INITIAL REGULA-
3 TIONS.— Section 304(a)(1) (16 U.S.C. 1854(a)(1)) is
4 amended—

5 (1) by striking “amendment,” before subpara-
6 graph (A) and inserting “amendment and any pro-
7 posed implementing regulations prepared under sec-
8 tion 303(e)(1),”;

9 (2) by redesignating subparagraphs (A) and
10 (B) as subparagraphs (B) and (C), respectively;

11 (3) by inserting before subparagraph (B), as so
12 redesignated, the following:

13 “(A)(i) immediately make a preliminary
14 evaluation of the management plan or amend-
15 ment for purposes of deciding whether it is—

16 “(I) consistent with the national
17 standards, the other provisions of this Act,
18 and other applicable law; and

19 “(II) sufficient in scope and substance
20 to warrant review under this subsection;

21 “(ii) if that decision is affirmative with re-
22 spect to both subclauses (I) and (II) of clause
23 (i), implement subparagraphs (B) and (C) with
24 respect to the plan or amendment; and

25 “(iii) if that decision is negative with re-
26 spect to either subclause (I) or (II) of clause

1 (i), disapprove the plan or amendment and no-
2 tify the Council in writing of the disapproval
3 and of those matters specified under paragraph
4 (3)(A), (B), and (C) with respect to the plan or
5 amendment;” and

6 (4) by amending subparagraph (C), as so reded-
7 icated, to read as follows:

8 “(C) by the 15th day following transmittal
9 of the plan or amendment, and proposed imple-
10 menting regulations, publish in the Federal
11 Register—

12 “(i) a notice stating that the plan or
13 amendment is available and that written
14 data, views, or comments of interested per-
15 sons on the plan or amendment may be
16 submitted to the Secretary during the 50-
17 day period beginning on the date the notice
18 is published; and

19 “(ii) any proposed implementing regu-
20 lations that are consistent with the fishery
21 management plan or amendment, this Act,
22 and any other applicable law, for a com-
23 ment period of 50 days, except that the
24 Secretary may include such technical
25 changes to the Council’s proposed regula-

1 tions as may be necessary for clarity, along
2 with an explanation of those changes.”.

3 (b) REVIEW OF PROPOSED MODIFICATIONS.—

4 (1) Paragraph (1) of section 304(b) (16 U.S.C.
5 1854(b)) is amended to read as follows:

6 “(1)(A) Upon transmittal by the Council to the
7 Secretary of regulations proposed under section
8 303(c)(2), the Secretary shall immediately initiate
9 an evaluation of the proposed regulations to deter-
10 mine whether they are consistent with the fishery
11 management plan, plan amendment, this Act, and
12 other applicable law.

13 “(B) If the Secretary determines that the regu-
14 lations are consistent, the Secretary shall, within 15
15 days of transmittal, publish such regulations in the
16 Federal Register, with such technical changes as
17 may be necessary for clarity and an explanation of
18 those changes, for a public comment period of 15 to
19 60 days, unless the Secretary finds good cause not
20 to publish a notice of proposed rulemaking in ac-
21 cordance with section 553 of title 5, United States
22 Code.

23 “(C) If the Secretary determines that the regu-
24 lations are not consistent, the Secretary shall, within
25 15 days of transmittal, notify the Council in writing

1 of the inconsistencies and provide recommendations
2 on revisions that would make the proposed regula-
3 tions consistent with the fishery management plan,
4 plan amendment, this Act, and other applicable
5 law.”.

6 (2) Section 304(b)(2) (16 U.S.C. 1854(b)(2)) is
7 amended by striking “paragraph (1)(B),” and in-
8 serting “paragraph (1)(C),”.

9 (3) Section 304(b)(3) (16 U.S.C. 1854(b)(3)) is
10 amended by striking “paragraph (1)(A).” and in-
11 serting “paragraph (1)(B), and within 45 days after
12 the end of the comment period under subsection
13 (a)(1)(C).”.

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

16 “(4) For regulatory actions, other than those
17 proposed by a Council under section 303(c), that are
18 taken in accordance with a fishery management
19 plan, the Secretary shall process the actions in ac-
20 cordance with the plan. If the Secretary determines
21 that the actions are consistent with the plan, this
22 Act, and other applicable law, the Secretary shall
23 publish in the Federal Register a notice of the ac-
24 tions. The Secretary may find good cause not to
25 publish a notice of proposed rulemaking in accord-

1 ance with section 553 of title 5, United States
2 Code.”.

3 **SEC. 14. REBUILDING DEPLETED FISHERIES.**

4 (a) IN GENERAL.—Section 304(e)(4) (16 U.S.C.
5 1854) is amended to read as follows:

6 “(4) The Secretary shall promulgate regulations to
7 govern fishing after January 1, 2008, that—

8 “(A) limit fishing mortality to a rate not great-
9 er than the rate that would be expected to produce
10 maximum sustainable yield, except—

11 “(i) in cases where management measures
12 under an international agreement in which the
13 United States participates dictate otherwise;
14 and

15 “(ii) as provided in subparagraph (B);

16 “(B) for stocks that are depleted, limit fishing
17 mortality to 80 percent of the fishing mortality rate
18 that would be expected to produce maximum sus-
19 tainable yield, except in cases where management
20 measures under an international agreement in which
21 the United States participates dictate otherwise; and

22 “(C) allocate both fishing restrictions and re-
23 covery benefits fairly and equitably among gear sec-
24 tors and communities in the fishery, taking into ac-

1 count long term historical participation in the fish-
2 ery.”.

3 (b) Section 304(e)(3) (16 U.S.C. 1854(e)(3)) is
4 amended by striking “Within one year of an identification
5 under paragraph (1)” and inserting “Within 1 year after
6 a fishery is identified as depleted or approaching a condi-
7 tion of being depleted,”.

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

9 (1) by redesignating paragraphs (2) through
10 (14) as paragraphs (3) through (15), respectively;
11 and

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

14 “(2) specify a biomass limit below which the
15 stock should not be allowed to fall and a threshold
16 below which the fishing mortality rate must be re-
17 duced;”.

18 **SEC. 15. STEAMING TIME.**

19 Section 301(a)(4) (16 U.S.C. 1851(a)(4)) is amended
20 by striking “privileges.” and inserting “privileges, and
21 shall take into account the differences in distances to fish-
22 ing grounds from different States.”.

23 **SEC. 16. EMERGENCY REGULATIONS.**

24 (a) LENGTHENING OF SECOND EMERGENCY PE-
25 RIOD.—Section 305(c)(3)(B) (16 U.S.C. 1855(c)(3)(B))

1 is amended by striking “180 days,” and inserting “186
2 days,”.

3 (b) TECHNICAL AMENDMENT.—Section 305(c)(3)(D)
4 (16 U.S.C. 1855(c)(3)(D)) is amended by inserting “or
5 interim measures” after “emergency regulations”.

6 **SEC. 17. FISHING CAPACITY REDUCTION PROGRAM.**

7 Section 312 (16 U.S.C. 1861(a)) is amended by strik-
8 ing subsections (b) through (e) and inserting the following:

9 “(b) FISHING CAPACITY REDUCTION PROGRAM.—

10 “(1) The Secretary may conduct a fishing ca-
11 pacity reduction program in a fishery under the au-
12 thority of the Secretary, a Council or a State if the
13 Secretary determines that the program—

14 “(A) is necessary to improve either the
15 fishery’s conservation and management or the
16 fishery’s economic efficiency, stability, safety,
17 well being, organizational effectiveness, or sub-
18 sequent rationalization;

19 “(B) is consistent with the Federal or
20 State fishery management plan or program in
21 effect for such fishery, as appropriate, and that
22 the fishery management plan—

23 “(i) will prevent replacement of the
24 fishing capacity that the program removes
25 through a moratorium on new entrants,

1 practicable restrictions on vessel upgrades,
2 and measures that take into account any
3 latent fishing capacity in the fishery’s fleet;
4 and

5 “(ii) establishes a specified or target
6 total allowable catch or other measures
7 that trigger fishery closure or adjustments;

8 “(C) is cost-effective and, in the instance
9 of a program involving an industry-fee system,
10 prospectively capable of repaying any debt obli-
11 gation incurred under section 1111 of the Mer-
12 chant Marine Act, 1936 (46 U.S.C. App.
13 1279d); and

14 “(D) all participants in the capacity reduc-
15 tion program participate on a voluntary basis,
16 but the Secretary is authorized to ensure com-
17 pliance with the program by those who choose
18 to participate.

19 “(2) The objective of the program shall be to
20 obtain the maximum sustained reduction in fishing
21 capacity at the least cost and in a minimum period
22 of time. To achieve that objective, the Secretary is
23 authorized to pay—

24 “(A) the owner of a fishing vessel, if the
25 permit authorizing the participation of the ves-

1 sel in the fishery is surrendered for permanent
2 revocation and the vessel owner and permit
3 holder relinquish any claim associated with the
4 vessel or permit that could qualify such owner
5 or holder for any present or future limited ac-
6 cess system permit in the fishery for which the
7 program is established and such vessel is—

8 “(i) scrapped; or

9 “(ii) subjected to title restrictions (in-
10 cluding, but not limited to, loss of the ves-
11 sel’s fisheries endorsement) by the Sec-
12 retary of the department in which the
13 Coast Guard is operating, that perma-
14 nently prohibit and effectively prevent its
15 use in domestic fishing; or

16 “(B) the holder of a permit authorizing
17 participation in the fishery, if such permit is
18 surrendered for permanent revocation, and such
19 holder relinquishes any claim associated with
20 the permit and vessel used to harvest fishery re-
21 sources under the permit that could qualify
22 such holder for any present or future limited
23 access system permit in the fishery for which
24 the program is established.

1 “(3) The Secretary shall consult, as appro-
2 priate, with Councils, Federal agencies, State and
3 regional authorities, affected fishing communities,
4 participants in the fishery, conservation organiza-
5 tions, and other interested parties throughout the
6 development and implementation of the program
7 under this section.

8 “(c) PROGRAM FUNDING.—

9 “(1) The program may be funded by any com-
10 bination of amounts—

11 “(A) available under clause (iv) of section
12 2(b)(1)(A) of the Act of August 11, 1939 (15
13 U.S.C. 713c-3(b)(1)(A); the Saltonstall-Ken-
14 nedy Act);

15 “(B) appropriated for the purposes of this
16 section;

17 “(C) provided under an industry fee sys-
18 tem established under subsection (d) and in ac-
19 cordance with section 1111 of the Merchant
20 Marine Act, 1936 (46 U.S.C. App. 1279d); or

21 “(D) provided by any State or other public
22 or private or non-profit organization.

23 “(2) All funds for the program, including any
24 fees established under subsection (d), shall be paid
25 into the fishing capacity reduction funds established

1 under section 1111 of the Merchant Marine Act,
2 1936 (46 U.S.C. App. 1279d).

3 “(d) INDUSTRY FEE SYSTEM.—

4 “(1)(A) If an industry fee system is necessary
5 to fund the program, the Secretary shall conduct a
6 referendum on such system. Prior to the ref-
7 erendum, the Secretary shall—

8 “(i) identify, to the extent, practicable, and
9 notify all permit or vessel owners who would be
10 affected by the program; and

11 “(ii) make available to such owners infor-
12 mation about the industry fee system describing
13 the schedule, procedures, and eligibility require-
14 ments for the referendum; the proposed pro-
15 gram; and the amount and duration and any
16 other terms and conditions of the proposed fee
17 system.

18 “(B) The industry fee system shall be approved
19 if the referendum votes which are cast in favor of
20 the proposed system constitute a two-thirds majority
21 of the participants voting.

22 “(2) Notwithstanding section 304(d) and con-
23 sistent with an approved industry fee system, the
24 Secretary is authorized to establish such a system to
25 fund the program and repay debt obligations in-

1 curred pursuant to section 1111 of the Merchant
2 Marine Act, 1936 (46 U.S.C. App. 1279d). The fees
3 for a program established under this section shall—

4 “(A) be determined by the Secretary and
5 adjusted from time to time as the Secretary
6 considers necessary to ensure the availability of
7 sufficient funds to repay such debt obligations;

8 “(B) not exceed 5 percent of the ex-vessel
9 value of all fish involved in the program har-
10 vested from the fishery for which the program
11 is established;

12 “(C) be deducted by the first ex-vessel pur-
13 chaser from the proceeds otherwise payable to
14 the seller and accounted for and forwarded by
15 such fish purchasers to the Secretary in such a
16 manner as the Secretary may establish unless
17 the Secretary determines that such fees should
18 be collected from the seller; and

19 “(D) be in effect only until such time as
20 the debt obligation has been fully paid.

21 “(e) PROGRAM IMPLEMENTATION.—

22 “(1) The Secretary shall propose and adopt
23 framework regulations applicable to implementing all
24 programs under this section.

1 “(2) The Secretary shall implement each pro-
2 gram under this section by proposing and adopting
3 regulations that shall, together with the framework
4 regulations, establish each program and control its
5 implementation.

6 “(3) The harvester proponents of each program
7 shall, before the Secretary proposes such regulation,
8 provide to the Secretary a proposed implementation
9 plan that—

10 “(A) proposes the types and numbers of
11 vessels or permits that are eligible to participate
12 in the program and the manner in which the
13 program shall proceed, taking into account—

14 “(i) the requirements of this section;

15 “(ii) the requirements of the frame-
16 work regulations;

17 “(iii) the characteristics of the fishery;

18 “(iv) the requirements of the applica-
19 ble fishery management plan and any
20 amendment that such plan may require to
21 support the proposed program;

22 “(v) the general needs and desires of
23 harvesters in the fishery;

24 “(vi) the need to minimize program
25 costs; and

1 “(vii) other matters, including the
2 manner in which such proponents propose
3 to fund the program to ensure its cost ef-
4 fectiveness, as well as any relevant factors
5 demonstrating the potential for, or nec-
6 essary to obtain, the support and general
7 cooperation of a substantial number of af-
8 fected harvesters in the fishery (or portion
9 of the fishery) for which the program is in-
10 tended; and

11 “(B) suggests proposed procedures for pro-
12 gram participation (such as submission of
13 owner bids under an auction system or fair
14 market-value assessment), including any terms
15 and condition for participation, that the har-
16 vester proponents deem to be reasonably nec-
17 essary to meet the program’s proposed objec-
18 tives.

19 “(4) The Secretary shall contract with each
20 person participating in a program, and each such
21 contract shall, in addition to including such other
22 matters as the Secretary deems necessary and ap-
23 propriate to effectively implement each program (in-
24 cluding penalties for contract non-performance) be

1 consistent with the framework and implementing
2 regulations and all other applicable law.

3 “(5) Each program not involving fair market
4 assessment shall involve a reduction auction that
5 scores the reduction price of each bid offer by the
6 data relevant to each bidder under an appropriate
7 fisheries productivity factor. If the Secretary accepts
8 bids, the Secretary shall accept each bid in the rank
9 order of its bid score, with each bid whose reduction
10 price is the lowest percentage of the productivity fac-
11 tor being first accepted over each bid whose reduc-
12 tion factor is the next lowest percentage of the pro-
13 ductivity factor.

14 “(6) Each program shall proceed by the Sec-
15 retary issuing invitations to bid setting out the
16 terms and conditions for participation consistent
17 with the framework and implementing regulations.
18 Each bid that the Secretary receives in response to
19 the invitation to bid shall constitute an irrevocable
20 offer from the bidder.”.

21 **SEC. 18. COLLECTION OF INFORMATION.**

22 (a) PROGRAMS INITIATED BY SECRETARY.—Section
23 402 (16 U.S.C. 1881a) is amended—

1 (1) by redesignating subsection (a) as para-
2 graph (1) and moving the left margin 2 ems to the
3 right;

4 (2) by inserting “(a) COLLECTION PRO-
5 GRAMS.—” before paragraph (1), as redesignated;

6 (3) by striking “subsection” in the last sentence
7 of paragraph (1), as redesignated, and inserting
8 “paragraph”; and

9 (4) by adding inserting after paragraph (1), as
10 redesignated, the following:

11 “(2) SECRETARIAL INITIATION.—If the Sec-
12 retary determines that additional information is nec-
13 essary for developing, implementing, revising, or
14 monitoring a fishery management plan, or for deter-
15 mining whether a fishery is in need of management,
16 the Secretary may, by regulation, implement an in-
17 formation collection or observer program requiring
18 submission of such additional information for the
19 fishery.”.

20 (5) by striking “under this Act shall be con-
21 fidential and shall not be disclosed,” in subsection
22 (b)(1) and inserting “under this Act, and that would
23 disclose proprietary or confidential commercial or fi-
24 nancial information regarding fishing operations or
25 fish processing operations, shall be kept confidential

1 and not disclosed for a period of 20 years following
2 the year of submission to the Secretary,”; and

3 (6) by striking “under this Act,” in subsection
4 (b)(2) and inserting “under this Act, and that would
5 disclose proprietary or confidential commercial or fi-
6 nancial information regarding fishing operations or
7 fish processing operations,”.

8 (b) COLLECTION OF CERTAIN INFORMATION RE-
9 GARDING BUSINESS OPERATIONS.—Paragraph (1) of sec-
10 tion 402(a) (16 U.S.C. 1881a(a)), as redesignated by sub-
11 section (a) of this section, is amended by striking “(other
12 than information that would disclose proprietary or con-
13 fidential commercial or financial information regarding
14 fishing operations or fish processing operations)” each
15 place it appears.

16 **SEC. 19. ACCESS TO CERTAIN INFORMATION.**

17 (a) CERTAIN STATE EMPLOYEES.—Section
18 402(b)(1) (16 U.S.C. 1881a(b)(1)) is amended—

19 (1) by redesignating subparagraphs (B)
20 through (F) as subparagraphs (C) through (G), re-
21 spectively; and

22 (2) by inserting after subparagraph (A) the fol-
23 lowing:

24 “(B) to State employees who are responsible for
25 fishery management plan monitoring, if the States

1 employing those employees have entered into a fish-
 2 ery enforcement agreement with the Secretary and
 3 the agreement is in effect;”.

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

7 (1) by striking “or” after the semicolon in sub-
 8 paragraph (F), as redesignated by subsection (a) of
 9 this section;

10 (2) by striking “Act.” in subparagraph (G), as
 11 redesignated by subsection (a), and inserting “Act;
 12 or”; and

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

14 “(H) when such information is required by the
 15 Secretary for any determination under a limited ac-
 16 cess system.”.

17 **SEC. 20. MAINE POCKET WATERS.**

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

22 “(1) west of Monhegan Island in the area north
 23 of the line 43 degrees 42’10.0”N, 69 degrees
 24 34’16.0”W and 43 degrees 42’15.0”N, 69 degrees
 25 19’18.0”W;

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

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

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

13 “(5) south of Bois Bubert Island in the area lo-
14 cated northwest of the line 44 degrees 19’16.5” N,
15 67 degrees 49’30.0” W, and 44 degrees 23’40.0” N
16 and 67 degrees 40’30.0” W.”.

17 **SEC. 21. WESTERN PACIFIC FISHERY DEMONSTRATION**
18 **PROJECTS.**

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

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

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

3 **SEC. 22. COOPERATIVE RESEARCH AND MANAGEMENT.**

4 The Act is amended by adding at the end the fol-
5 lowing:

6 **“TITLE V—COOPERATIVE**
7 **RESEARCH AND MANAGEMENT**

8 **“SEC. 501. ESTABLISHMENT OF PROGRAM.**

9 “(a) IN GENERAL.—The Secretary shall establish a
10 national cooperative research and management program
11 to be administered by the National Marine Fisheries Serv-
12 ice, based on recommendations by the Councils. The pro-
13 gram shall consist of cooperative research and manage-
14 ment activities between fishing industry participants, the
15 affected States, and the Service.

16 “(b) RESEARCH AWARDS.—Each research project
17 under this program shall be awarded on a standard com-
18 petitive basis established by the Service, in consultation
19 with the Councils. Each Council shall establish a research
20 steering committee to carry out this subsection.

21 “(c) GUIDELINES.—The Secretary, in consultation
22 with the appropriate Council and the fishing industry,
23 shall create guidelines so that participants in this program
24 are not penalized for loss of catch history or unexpended
25 days-at-sea as part of a limited entry system.

1 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the National Marine
3 Fisheries Service, in addition to amounts otherwise au-
4 thorized by this Act, the following amounts, to remain
5 available until expended, for the conduct of this program:

6 “(1) \$25,000,000 for fiscal year 2004.

7 “(2) \$30,000,000 for fiscal year 2005.

8 “(3) \$35,000,000 for fiscal year 2006.

9 “(4) \$40,000,000 for fiscal year 2007.

10 “(5) \$45,000,000 for fiscal year 2008.

11 “(e) NEW ENGLAND TRAWL SURVEY.—Of the funds
12 authorized in subsection (d) \$3,000,000 shall be author-
13 ized for the purpose of cooperative comparative trawl re-
14 search between the National Marine Fisheries Service and
15 fishing industry participants for the Northeast multispe-
16 cies groundfish fishery, which the Secretary shall design
17 and administer with input from fishing industry partici-
18 pants and other interested stakeholders.”.

19 **SEC. 23. INDEPENDENT PEER REVIEW OF DATA COLLEC-**
20 **TION PROCEDURES.**

21 The Act is amended by adding at the end of title IV
22 (16 U.S.C. 1881 et seq.) the following:

23 **“SEC. 408. PEER REVIEW.**

24 “(a) IN GENERAL.—The National Academy of
25 Sciences shall review and recommend measures for im-

1 proving National Marine Fisheries Service’s procedures
2 for ensuring data quality in the data collection phase of
3 the stock assessment program.

4 “(b) SUBJECT MATTER.—The review shall address—

5 “(1) the quality control protocols through which
6 stock assessment equipment is calibrated, operated,
7 inspected, and maintained;

8 “(2) the frequency and financial cost of these
9 quality control checks;

10 “(3) how the accuracy and validity of data col-
11 lected with sampling equipment is verified; and

12 “(4) how measurement error is accounted for in
13 stock assessment modeling and analysis based on
14 these data.

15 “(c) SCOPE.—The review shall apply to all activities
16 that affect stock assessment data quality, whether con-
17 ducted by the National Marine Fisheries Service or by Na-
18 tional Marine Fisheries Service contractors.”.

19 **SEC. 24. ADVISORY COMMITTEE REFORM AND PEER RE-**
20 **VIEW.**

21 (a) COMMITTEE AND COUNCIL PROCEDURE RE-
22 FORMS.—Section 302(g) (16 U.S.C. 1852(g)) is amend-
23 ed—

24 (1) by adding at the end of paragraph (3) the
25 following:

1 “(C) For each committee established under sub-
2 paragraph (A), each Council shall establish standard
3 operating procedures relating to time, place, public
4 participation, and frequency of meetings, a descrip-
5 tion of the type and format of information to be pro-
6 vided under subparagraph (A), a description of how
7 recommendations under subparagraph (A) will be
8 used, and other relevant factors.”;

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

11 (3) by inserting after paragraph (4) the fol-
12 lowing:

13 “(5) Each Council shall establish standard op-
14 erating procedures relating to the relevant scientific
15 review committee or committees that are responsible
16 for conducting peer reviews of all stock assessments
17 and economic and social analyses prepared for fish-
18 eries under the Council’s jurisdiction. Committees
19 under this paragraph shall consist of members from
20 the committee established under paragraph (1) of
21 this subsection and, to the extent practicable, inde-
22 pendent scientists qualified to peer review such as-
23 sessments and analyses.”.

24 (b) PEER REVIEW.—Section 302(h) (16 U.S.C.
25 1852(h)) is amended—

1 (1) by striking “and” at the end of paragraph
2 (5);

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

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

7 “(6) to the extent practicable conduct a peer re-
8 view of any stock assessments and economic and so-
9 cial analyses prepared for a fishery under its juris-
10 diction, utilizing the procedures established under
11 subsection (g)(5); and”.

12 **SEC. 25. CUMULATIVE IMPACTS.**

13 (a) NATIONAL STANDARDS.—Section 301(a)(8) (16
14 U.S.C. 1851(a)(8)) is amended to read as follows:

15 “(8) Conservation and management measures
16 shall, consistent with the conservation requirements
17 of this Act (including the prevention of overfishing
18 and rebuilding of overfished stocks), Utilize eco-
19 nomic and social data and assessment methods of
20 the highest analytical standards when taking into ac-
21 count the importance of fishery resources to fishing
22 communities, and the individual and cumulative eco-
23 nomic and social impacts of fishery conservation and
24 management measures on such communities, in
25 order to—

1 “(A) provide for the sustained participa-
2 tion of such communities; and

3 “(B) to the extent practicable, minimize
4 adverse social and economic impacts on such
5 communities.”.

6 (b) CONTENTS OF PLANS.—Section 303(a)(9) (16
7 U.S.C. 1853(a)(9)) is amended by striking “describe the
8 likely effects, if any, of the conservation and management
9 measures on—” and inserting “describe in detail the likely
10 effects, including the individual and cumulative economic
11 and social impacts, of the conservation and management
12 measures on and possible mitigation measures for—”.

13 **SEC. 26. ESSENTIAL FISH HABITAT.**

14 (a) FISHERY MANAGEMENT PLANS.—Section
15 303(a)(7) (16 U.S.C. 1853(a)(7)) is amended to read as
16 follows:

17 “(7) describe and identify essential fish habitat
18 and habitat areas of particular concern for the fish-
19 ery based on the guidelines established by the Sec-
20 retary under section 305(b)(1)(A), and give priority
21 to minimizing to the extent practicable adverse ef-
22 fects on habitat areas of particular concern caused
23 by fishing and identify other actions to encourage
24 the conservation and enhancement of such habitat;”.

1 (b) FISH HABITAT REQUIREMENT.—Section
2 305(b)(1) (16 U.S.C. 1855(b)(1)) is amended by inserting
3 “and habitat areas of particular concern” after “essential
4 fish habitat” each place it appears in subparagraphs (A)
5 and (B).

6 **SEC. 27. COOPERATIVE ENFORCEMENT AGREEMENTS.**

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

9 **“SEC. 315. COOPERATIVE ENFORCEMENT USES.**

10 “(a) IN GENERAL.—The Governor of a State rep-
11 resented on an Interstate Fisheries Commission may apply
12 to the Secretary for execution of a cooperative enforce-
13 ment agreement with the Secretary that will authorize the
14 deputization of State law enforcement officers with marine
15 law enforcement responsibilities to perform duties of the
16 Secretary relating to law enforcement provisions under
17 this Act or any other marine resource laws enforced by
18 the Secretary. Upon receiving an application meeting the
19 requirements of this section, the Secretary shall enter into
20 the cooperative enforcement agreement with the request-
21 ing State.

22 “(b) REQUIREMENTS.—Cooperative enforcement
23 agreements executed under subsection (a)—

1 “(1) shall be consistent with the purposes and
2 intent of section 311(a) of this Act, to the extent ap-
3 plicable to the regulated activities; and

4 “(2) may include specifications for joint man-
5 agement responsibilities as provided by the first sec-
6 tion of Public Law 91–412 (15 U.S.C. 1525).

7 “(c) AUTHORIZATION AND ALLOCATION OF
8 FUNDS.—There are authorized to be appropriated to the
9 Secretary for the purposes of carrying out this section
10 \$10,000,000 in each of fiscal years 2004 through 2008.
11 The Secretary shall include in each cooperative enforce-
12 ment agreement an allocation of funds to assist in man-
13 agement of the agreement. The allocation shall be equi-
14 tably distributed among all States participating in cooper-
15 ative enforcement agreements under this subsection, based
16 upon consideration of the specific marine conservation en-
17 forcement needs of each participating State. Such agree-
18 ment may provide for amounts to be withheld by the Sec-
19 retary for the cost of any technical or other assistance pro-
20 vided to the State by the Secretary under the agreement.”.

1 **SEC. 28. SCIENTIFIC AND STATISTICAL COMMITTEES RE-**
2 **PORT ON ECOSYSTEM RESEARCH PRIOR-**
3 **ITIES; PILOT PROGRAM FOR FISHERY ECO-**
4 **SYSTEM PLANS.**

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

7 “(f) RESEARCH.—

8 “(1) REPORT REQUIRED.—Within 12 months
9 after the date of enactment of the Fishery Conserva-
10 tion and Management Amendments Act of 2004 the
11 Scientific and Statistical Committees of each re-
12 gional fishery management council shall identify and
13 submit a report to the Secretary outlining prioritized
14 information or research needs to support ecosystem
15 based management of the fisheries within its juris-
16 diction. In determining what factors to consider, the
17 Committees may consider the recommendations out-
18 lined in the report under section (d).

19 “(2) ASSISTANCE.—The Secretary shall provide
20 assistance to the regional councils to obtain the
21 prioritized information and conduct research identi-
22 fied in the reports under paragraph (1). These ef-
23 forts shall not displace existing research efforts and
24 priorities identified by the regional councils or the
25 Secretary.

26 “(g) PILOT PROGRAM.—

1 “(1) IN GENERAL.—Within 18 months after the
2 date of enactment of the Fishery Conservation and
3 Management Amendments Act of 2004 the Sec-
4 retary, in consultation with the 8 regional fishery
5 management council Chairs and affected stake-
6 holders, shall identify at least one fishery or complex
7 of interacting fisheries suitable for the development
8 of a pilot Fishery Ecosystem Plan. The Secretary
9 shall consider the reports submitted under sub-
10 section (f) when selecting the pilot program.

11 “(2) COORDINATION WITH APPROPRIATE COUN-
12 CIL.—After identifying the pilot Fishery Ecosystem
13 Plan, the Secretary shall coordinate with the appro-
14 priate regional fishery management council to iden-
15 tify any information or conduct any research that
16 may be needed to complete such a plan including a
17 model of the food web, habitat needs of organisms
18 identified in the food web, rates of mortality, identi-
19 fication of indicator species, and any other relevant
20 data and monitoring needs.

21 “(3) FISHERY ECOSYSTEM PLAN.—Within 30
22 months after identification of the pilot fishery or
23 complex of interacting fisheries, the appropriate re-
24 gional fishery management council shall submit to
25 the Secretary for approval a Fishery Ecosystem

1 Plan. In creating such plan, the council may con-
2 sider the recommendations outlined in the report
3 under section (d).”.

