

[DISCUSSION DRAFT]

108TH CONGRESS
1ST SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. GILCHREST introduced the following bill; which was referred to the Committee on _____

A BILL

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

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMEND-**
4 **MENT REFERENCES.**

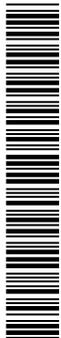
5 (a) SHORT TITLE.—This Act may be cited as the
6 “Magnuson-Stevens Act Amendments of 2003”.



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

- Sec. 1. Short title; table of contents; amendment references.
- Sec. 2. Technical corrections to definitions.
- Sec. 3. Report on over capitalization.
- Sec. 4. Buyout provisions.
- Sec. 5. Data collection.
- Sec. 6. Ecosystem-based management.
- Sec. 7. Observers.
- Sec. 8. Overfishing.
- Sec. 9. Bycatch and seabird interactions.
- Sec. 10. Fish habitat research and protection.
- Sec. 11. Demonstration program for oyster sanctuaries and reserves.
- Sec. 12. Individual quota limited access programs.
- Sec. 13. Cooperative education and research.
- Sec. 14. Report on highly migratory species.
- Sec. 15. Prohibited acts.
- Sec. 16. Membership of fishery management councils.
- Sec. 17. Miscellaneous amendments to purposes and policy.
- Sec. 18. Foreign fishing.
- Sec. 19. Driftnets.
- Sec. 20. Sources for data in fisheries research.
- Sec. 21. Miscellaneous fishery protections in fishery management plans.
- Sec. 22. Cooperative marine education and research program.
- Sec. 23. Assessment of cumulative impacts of conservation and management measures for a fishery.
- Sec. 24. Regional stock assessments.
- Sec. 25. National Academy of Sciences guidance and standards regarding best scientific information available.
- Sec. 26. National Academy of Sciences definition of maximum sustainable yield.
- Sec. 27. Administration of Pacific Insular Area fishery agreements.
- Sec. 28. Highly migratory species bycatch mortality reduction research program.
- Sec. 29. Authorization of appropriations.

3 (c) AMENDMENT OF MAGNUSON-STEVEN'S FISHERY
4 CONSERVATION AND MANAGEMENT ACT.—Except as oth-
5 erwise expressly provided, whenever in this Act an amend-
6 ment or repeal is expressed in terms of an amendment
7 to, or repeal of, a section or other provision, the reference
8 shall be considered to be made to a section or other provi-
9 sion of the Magnuson-Stevens Fishery Conservation and
10 Management Act (16 U.S.C. 1801 et seq.).



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

2 (a) EXECUTION OF PRIOR AMENDMENTS.—

3 (1) CONTINENTAL SHELF FISHERY RE-
4 SOURCES.—Section 102(2) of the Sustainable Fish-
5 eries Act (Public Law 104–297; 110 Stat. 3561) is
6 amended—

7 (A) by striking “COELENTERATA” and
8 inserting “Coelenterata”;

9 (B) by striking “CNIDARIA” and insert-
10 ing “Cnidaria”; and

11 (C) by striking “CRUSTACEA” and in-
12 serting “Crustacea”.

13 (2) UNITED STATES HARVESTED FISH.—Sec-
14 tion 102(11) of the Sustainable Fisheries Act (Pub-
15 lic Law 104–297; 110 Stat. 3563) is amended by
16 striking “(42)” and inserting “(43)”.

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

20 (b) CORRECTIONS RELATING TO SPECIAL AREAS.—

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

22 (1) by striking paragraphs (35) and (36);

23 (2) by redesignating paragraphs (37) through
24 the last paragraph (relating to the definition of “wa-
25 ters of a foreign nation”) in order as paragraphs
26 (35) through (44);



1 (3) by inserting “(a) General Definitions.—”
2 before “As used in this Act”; and

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

4 “(b) TERMS RELATING TO AGREEMENT WITH THE
5 FORMER SOVIET UNION.—As used in this Act the term
6 ‘special areas’ means the areas referred to as eastern spe-
7 cial areas in Article 3(1) of the Agreement between the
8 United States of America and the Union of Soviet Social-
9 ist Republics on the Maritime Boundary, signed June 1,
10 1990. In particular, the term refers to those areas east
11 of the maritime boundary, as defined in that Agreement,
12 that lie within 200 nautical miles of the baselines from
13 which the breadth of the territorial sea of Russia is meas-
14 ured but beyond 200 nautical miles of the baselines from
15 which the breadth of the territorial sea of the United
16 States is measured.”.

17 **SEC. 3. REPORT ON OVER CAPITALIZATION.**

18 (a) IN GENERAL.—The Secretary shall, within 12
19 months after the date of the enactment of this Act, submit
20 to the Congress a report—

21 (1) identifying and describing the 20 fisheries
22 in United States waters with the most severe exam-
23 ples of excess harvesting capacity in the fisheries,
24 based on value of each fishery and the amount of ex-



1 excess harvesting capacity as determined by the Sec-
2 retary;

3 (2) recommending measures for reducing such
4 excess harvesting capacity, including the retirement
5 of any latent fishing permits that could contribute to
6 further excess harvesting capacity in those fisheries;
7 and

8 (3) potential sources of funding for such meas-
9 ures.

10 (b) BASIS FOR RECOMMENDATIONS.—The Secretary
11 shall base the recommendations made with respect to a
12 fishery on—

13 (1) the most cost effective means of achieving
14 voluntary reduction in capacity for the fishery using
15 the potential for industry financing; and

16 (2) including measures to prevent the capacity
17 that is being removed from the fishery from moving
18 to other fisheries in the United States, in the waters
19 of a foreign nation, or in the high seas.

20 **SEC. 4. BUYOUT PROVISIONS.**

21 (a) DISCRETION OF SECRETARY TO CONDUCT FISH-
22 ING CAPACITY REDUCTION PROGRAM.—Section 312(b)
23 (16 U.S.C. 1861a(b)) is amended—

24 (1) in paragraph (1) by striking “, at the re-
25 quest of the appropriate Council for fisheries under



1 the authority of such Council, or the Governor of a
2 State for fisheries under State authority,”;

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

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

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

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

16 “(2)(A) The objective of the program shall be to ob-
17 tain the maximum sustained reduction in fishing capacity
18 at the least cost and in a minimum period of time.

19 “(B) To achieve that objective, the Secretary is au-
20 thorized to pay an amount to the owner of a fishing vessel,
21 if—

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



1 manently prohibit and effectively prevent its use in
2 fishing;

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

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

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

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

21 **SEC. 5. DATA COLLECTION.**

22 (a) COLLECTION OF RECREATIONAL CATCH DATA.—
23 Section 402 (16 U.S.C. 1881a) is amended by adding at
24 the end the following:



1 “(f) COLLECTION OF RECREATIONAL CATCH
2 DATA.—(1) The Secretary shall develop and implement a
3 program for the sharing of recreational catch data for all
4 federally managed fisheries through the use of information
5 gathered from State-licensed recreational fishermen.

6 “(2) The Secretary shall conduct the program in con-
7 sultation with the principal State officials having marine
8 fishery management responsibility and expertise.

9 “(3) The Secretary shall report to the Congress with-
10 in three years after the effective date of this subsection,
11 on—

12 “(A) the progress made in developing such a
13 program; and

14 “(B) whether the program has resulted in sig-
15 nificantly better data collection for the recreational
16 fishing sector.”.

17 (b) REPORT.—Not later than 6 months after the date
18 of the enactment of this Act, the Secretary of Commerce
19 shall submit to the Congress a report describing the fol-
20 lowing:

21 (1) Economic data from United States proc-
22 essors that is necessary to conduct fishing commu-
23 nity and economic analysis determinations required
24 under chapter 6 of title 5, United States Code, pop-
25 ularly known as the Regulatory Flexibility Act.



1 (2) The reasons why such information is not
2 available through other sources such as tax returns,
3 the Bureau of Labor Statistics, and State labor de-
4 partments.

5 (3) The steps the Secretary would take under
6 section 402 of the Magnuson-Stevens Fishery Con-
7 servation and Management Act (16 U.S.C. 1881a)
8 to ensure the confidentiality of such information (es-
9 pecially proprietary information), if the information
10 were obtained by the Secretary.

11 **SEC. 6. ECOSYSTEM-BASED MANAGEMENT.**

12 (a) POLICY.—Section 2(c) (16 U.S.C. 1851(c)) by
13 striking “and” after the semicolon at the end of paragraph
14 (6), by striking the period at the end of paragraph (7)
15 and inserting “; and”, and by adding at the end the fol-
16 lowing:

17 “(8) to support and encourage efforts to under-
18 stand the interactions of species in the marine envi-
19 ronment and the development of ecosystem-based
20 approaches to fisheries conservation and manage-
21 ment that will lead to better stewardship and sus-
22 tainability of the Nation’s coastal fishery resources
23 and fishing communities.”.



1 (b) AUTHORIZATION OF RESEARCH.—Section 404(c)
2 (16 U.S.C. 1881c(c)) is amended by adding at the end
3 the following:

4 “(5) The interaction of species in the marine
5 environment, and the development of ecosystem-
6 based approaches to fishery conservation and man-
7 agement that will lead to better stewardship and
8 sustainability of coastal fishery resources.”.

9 (c) DEFINITIONS AND CRITERIA FOR MANAGEMENT
10 PLANS.—

11 (1) IN GENERAL.—The Secretary shall, in con-
12 junction with the Councils—

13 (A) create a definition for “ecosystem” and
14 for “marine ecosystem”; and

15 (B) establish criteria for the development
16 of ecosystem-based management plans by each
17 regional fishery management council based on
18 the recommendations of the Ecosystems Prin-
19 ciples Advisory Panel.

20 (2) REPORT.—The Secretary shall report to the
21 Congress within 2 years after the date of the enact-
22 ment of this Act on the criteria, including an identi-
23 fication and description of those criteria for which
24 sufficient data is not available.



1 (d) IDENTIFICATION OF MARINE ECOSYSTEMS; RE-
2 SEARCH PLAN.—

3 (1) IN GENERAL.—Within one year after the
4 date of the submission of the report under sub-
5 section (c)(2) to the Congress, the Secretary, in con-
6 junction with the regional science centers and the re-
7 gional fishery management councils, shall—

8 (A) identify specific marine ecosystems
9 within each region; and

10 (B) also develop and begin to implement
11 regional research plans to meet the information
12 deficit identified in the report.

13 (2) RESEARCH PLANS.—The research plans
14 shall suggest reasonable timelines and cost estimates
15 for the collection of the required information.

16 (3) REPORTS.—The Secretary shall report to
17 the Congress annually on the progress of the re-
18 gional research plans.

19 (e) ECOSYSTEM-BASED FISHERY MANAGEMENT
20 PLAN PILOT PROGRAM.—

21 (1) IN GENERAL.—Upon the completion of de-
22 velopment of regional research plans under sub-
23 section (d)(1), the Secretary of Commerce shall es-
24 tablish and begin implementing a pilot program for
25 the management of one fishery on the east coast of



1 the United States and one fishery on the west coast
2 of the United States under an ecosystem-based fish-
3 ery management plan under the Magnuson-Stevens
4 Fishery Conservation and Management Act.

5 (2) CONSULTATION.—The Secretary shall de-
6 velop and implement ecosystem-based fishery man-
7 agement plans under this subsection in consultation
8 with the appropriate Regional Fishery Management
9 Councils.

10 (f) DISCRETIONARY PROVISION IN FISHERY MAN-
11 AGEMENT PLANS.—Section 303(b)(12) (16 U.S.C.
12 1853(b)(12)) is amended by inserting before the period
13 the following: “or for the health or stability of the marine
14 ecosystem”.

15 **SEC. 7. OBSERVERS.**

16 (a) IN GENERAL.—Not later than one year after the
17 date of the enactment of this Act, the Secretary shall re-
18 port to the Congress on the needs for a national observer
19 program.

20 (b) RECOMMENDATIONS.—The report shall make rec-
21 ommendations on observation options, including electronic
22 data collection technologies and on-board observers.

23 (c) OTHER CONTENTS.—The Secretary, in the re-
24 port, shall include the following:



1 (1) A determination of whether the data collec-
2 tion needs are for management or enforcement pur-
3 poses.

4 (2) A statement of the level of observer cov-
5 erage necessary in various types of fisheries to pro-
6 vide statistically reliable information.

7 (3) Cost estimates for various levels of observer
8 coverage.

9 (4) Options for the funding of observer cov-
10 erage.

11 (5) The types of vessels and fisheries for which
12 observer coverage cannot be required due to safety
13 concerns.

14 (6) Recommendations for the use of the data
15 gathered by the observing systems.

16 (7) Recommendations for the confidentiality of
17 proprietary information collected through the pro-
18 gram.

19 **SEC. 8. OVERFISHING.**

20 (a) CLARIFICATION OF DEFINITION.—Section 3 (16
21 U.S.C. 1802) is further amended by amending paragraph
22 (29) of subsection (a) to read as follows:

23 “(29)(A) The term ‘overfished’ means, with re-
24 spect to a stock of fish, that the stock is of a size
25 that is below the natural range of fluctuation associ-



1 ated with the production of maximum sustainable
2 yield.

3 “(B) The term ‘overfishing’ means a rate or
4 level of fishing mortality that jeopardizes the capac-
5 ity of a fishery to produce the maximum sustainable
6 yield on a continuing basis.”.

7 (b) DISTINGUISHING IN REPORTS.—Section
8 304(e)(1) (16 U.S.C. 1854(e)(1)) is amended by adding
9 at the end the following: “The report shall distinguish be-
10 tween fisheries that are overfished (or approaching that
11 condition) as a result of fishing and fisheries that are over-
12 fished (or approaching that condition) as a result of fac-
13 tors other than fishing. The report shall state, for each
14 fishery identified as overfished or approaching that condi-
15 tion, whether the fishery is the target of directed fishing.”.

16 (c) NATIONAL ACADEMY OF SCIENCES DEFINITION
17 OF OVERFISHED.—

18 (1) IN GENERAL.—The Secretary of Commerce
19 shall enter into an arrangement with the National
20 Academy of Sciences under which the Academy shall
21 develop a definition of “overfished” for purposes of
22 the Magnuson-Stevens Fishery Conservation and
23 Management Act (16 U.S.C. 1801 et seq.). The
24 Academy shall consider the definition of the term in
25 that Act (as amended by this Act) and the National



1 Marine Fisheries Service operational definition of
2 the term. The Academy shall also consider environ-
3 mental variability and other factors that contribute
4 to low abundance of fish stocks.

5 (2) PUBLICATION AND OPPORTUNITY FOR COM-
6 MENT.—The Secretary shall publish the results of
7 the activities of the Academy under paragraph (1)
8 and provide an opportunity for the submission of
9 comments regarding the definition developed under
10 paragraph (1).

11 **SEC. 9. BYCATCH AND SEABIRD INTERACTIONS.**

12 (a) BYCATCH REPORTING.—

13 (1) REPEAL OF STANDARDIZED BYCATCH RE-
14 PORTING METHODOLOGY REQUIREMENT.—Section
15 303(a)(11) (16 U.S.C. 1853(a)(11)) is amended in
16 the matter preceding subparagraph (A) by striking
17 “establish” and all that follows through “fishery,
18 and”.

19 (2) DEVELOPMENT OF BYCATCH REPORTING
20 METHODOLOGIES.—Section 304 (16 U.S.C. 1854) is
21 amended by adding at the end the following:

22 “(i) DEVELOPMENT OF BYCATCH REPORTING METH-
23 ODOLOGIES.—The Secretary shall, in cooperation with the
24 Councils, develop bycatch reporting methodologies to as-



1 sess the amount and type of bycatch occurring in United
2 States fisheries.”.

3 (3) REPORT.—The Secretary of Commerce shall
4 report to the Congress within one year after the date
5 of the enactment of this Act on progress the Sec-
6 retary has made in developing bycatch reporting
7 methodologies pursuant to the amendment made by
8 paragraph (2).

9 (b) CHARITABLE DONATION OF BYCATCH.—Section
10 303(b) (16 U.S.C. 1853(b)) is amended by striking “and”
11 after the semicolon at the end of paragraph (11), by strik-
12 ing the period at the end of paragraph (12) and inserting
13 a semicolon, and by adding at the end the following:

14 “(13) allow the retention and donation for char-
15 itable purposes of all dead bycatch that cannot oth-
16 erwise be avoided under terms that ensure, through
17 the use of onboard fishery observers or other equally
18 effective means, that such retention and donation do
19 not allow the evasion of vessel trip limits, total al-
20 lowable catch levels, or other conservation and man-
21 agement measures;”.

22 (c) BYCATCH REDUCTION GEAR DEVELOPMENT.—

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



1 **“SEC. 408. GEAR DEVELOPMENT.**

2 “(a) IDENTIFICATION OF FISHERIES WITH SIGNIFI-
3 CANT BYCATCH AND SEABIRD INTERACTION PROB-
4 LEMS.—(1) The Secretary, in conjunction with the Coun-
5 cils, shall identify and publish in the Federal Register a
6 list of fisheries with significant bycatch problems or
7 seabird interaction problems, as determined under criteria
8 developed by the Secretary.

9 “(2) The list shall contain, for each fishery identified,
10 information on—

11 “(A) the number of participants in the fishery;

12 “(B) the types of gears used in the fishery;

13 “(C) the bycatch species and species of seabirds
14 that interact with fishing gear;

15 “(D) the amount of bycatch, and the percent-
16 age of total catch that is bycatch; and

17 “(E) any other relevant information.

18 “(3) The Secretary shall solicit comments on each list
19 published under this subsection.

20 “(b) IDENTIFICATION OF FISHERIES WITH MOST
21 URGENT PROBLEMS.—The Secretary shall—

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



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

6 “(c) GRANT AUTHORITY.—The Secretary shall, sub-
7 ject to the availability of appropriations, make grants for
8 the development of fishing gear and modifications to exist-
9 ing fishing gear that will help—

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

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

14 “(d) REPORT.—The Secretary shall report to the
15 Congress annually on—

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

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

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

22 “(4) any other relevant information.

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



1 priated to the Secretary \$10,000,000 for each of fiscal
2 years 2003 through 2007.”.

3 (2) CLERICAL AMENDMENT.—The table of con-
4 tents in the first section is amended by adding at
5 the end of the items relating to title IV the fol-
6 lowing:

“408. Gear development.”.

7 (d) REPORT.—The Secretary of Commerce shall re-
8 port to the Congress within one year after the date of the
9 enactment of this Act on—

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

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

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

18 (e) INTERNATIONAL ACTION.—The Secretary of
19 Commerce shall take appropriate action at appropriate
20 international fisheries management bodies to reduce
21 seabird interactions in fisheries.

22 **SEC. 10. FISH HABITAT RESEARCH AND PROTECTION.**

23 (a) PRIORITY RESEARCH.—Section 404 (16 U.S.C.
24 1881c) is amended by adding at the end the following:



1 “(e) PRIORITY FOR RESEARCH REGARDING OVER-
2 FISHED FISHERIES.—In carrying out or funding fisheries
3 research under this and other laws regarding essential fish
4 habitat, the Secretary shall give priority to research to
5 identify such habitat for fisheries that are overfished or
6 approaching an overfished condition.”.

7 (b) REQUIRED PROVISION IN FISHERY MANAGE-
8 MENT PLANS.—Section 303(a)(7) (16 U.S.C. 1853(a)(7))
9 is amended to read as follows:

10 “(7)(A) describe and identify essential fish
11 habitat for the fishery based on the guidelines estab-
12 lished by the Secretary under section 305(b)(1)(A);

13 “(B) minimize to the extent practicable adverse
14 effects on such habitat caused by fishing for those
15 fisheries identified by the Council as having available
16 information on the growth, reproduction, or survival
17 rates within habitats or production rates by habitat,
18 or for those fisheries that the Council determines the
19 specific fishing activity effects on the essential fish
20 habitat jeopardize the ability of the fishery to
21 produce maximum sustained yield on a continuing
22 basis;

23 “(C) minimize to the extent practicable adverse
24 effects on habitat areas of particular concern caused
25 by fishing; and



1 “(D) identify other actions to encourage the
2 conservation and enhancement of such habitat;”.

3 (c) DISCRETIONARY PROVISION IN FISHERY MAN-
4 AGEMENT PLANS.—Section 303(b) (16 U.S.C. 1853(b))
5 is further amended by adding after paragraph (13) the
6 following:

7 “(14) minimize to the extent practicable ad-
8 verse effects caused by fishing, on essential fish
9 habitat described and identified under section
10 303(a)(7)(A);”.

11 (d) HABITAT AREA OF PARTICULAR CONCERN DE-
12 FINED.—Section 3 (16 U.S.C. 1802) is further amended
13 in subsection (a) by redesignating paragraphs (19)
14 through (44) in order as paragraphs (20) through (45),
15 and by inserting after paragraph (18) the following:

16 “(19) The term ‘habitat area of particular con-
17 cern’ means a discrete habitat area that is essential
18 fish habitat and that—

19 “(A) provides important ecological func-
20 tions;

21 “(B) is sensitive to human-induced envi-
22 ronmental degradation; or

23 “(C) is a rare habitat type.”.



1 **SEC. 11. DEMONSTRATION PROGRAM FOR OYSTER SANC-**
2 **TUARIES AND RESERVES.**

3 (a) IN GENERAL.—The Secretary of Commerce,
4 through the National Oceanic and Atmospheric Adminis-
5 tration Chesapeake Bay Office, shall develop a program
6 for the design, construction, and placement of oyster sanc-
7 tuaries or reserves consistent with the agreement known
8 as the Chesapeake 2000 Agreement. The program shall
9 be developed in conjunction with the Corps of Engineers,
10 the Coast Guard, the Environmental Protection Agency,
11 the United States Fish and Wildlife Service, the State of
12 Maryland, the Commonwealth of Virginia, the Oyster Re-
13 covery Partnership, the Chesapeake Bay Foundation, the
14 Oyster Heritage Foundation, local commercial and rec-
15 reational fishing organizations, the Port of Baltimore, the
16 Port of Hampton Roads, the University of Maryland, the
17 Virginia Institute of Marine Sciences, and other users of
18 the waters of the Chesapeake Bay, as appropriate.

19 (b) STRUCTURES.—The program shall include the de-
20 sign, construction, placement, and restoration of struc-
21 tures, including reefs and bars, to act as beds for oyster
22 production. The structures should be designed to maxi-
23 mize the production of oysters while minimizing conflicts
24 with existing uses such as fishing or navigation. The struc-
25 tures shall be placed in areas in which they will not be
26 hazards to navigation. The Secretary shall work with in-



1 terested parties to ensure that all sites are adequately
2 marked on navigation charts as appropriate.

3 (c) RESEARCH PLAN.—The Secretary shall develop
4 a research plan, consistent with efforts to implement the
5 Chesapeake 2000 Agreement, for the placement of struc-
6 tures under the program, including measurable goals and
7 a monitoring program to determine the effectiveness of the
8 structures in recovering native oyster populations.

9 (d) FISHING REGULATIONS.—The Secretary shall
10 recommend State regulations restricting fishing in the wa-
11 ters surrounding structures placed under this section as
12 necessary to ensure the reproduction of oysters on the
13 structures. The restrictions may be seasonal in nature,
14 and shall not apply in any area that is located more than
15 100 meters from such a structure.

16 (e) RESTORATION OF NATIVE OYSTERS.—The pro-
17 gram shall use only native oyster species.

18 (f) REPORT.—The Secretary of Commerce shall sub-
19 mit to the Congress annual reports on the program under
20 this section.

21 (g) AUTHORIZATION OF APPROPRIATIONS.—

22 (1) IN GENERAL.—To carry out this section
23 there is authorized to be appropriated to the Sec-
24 retary \$5,000,000 for each of fiscal years 2004
25 through 2009.



1 (2) LIMITATION.—Not more than 5 percent of
2 amounts appropriated under this section may be
3 available for administrative expenses.

4 **SEC. 12. INDIVIDUAL QUOTA LIMITED ACCESS PROGRAMS.**

5 (a) AUTHORITY TO ESTABLISH INDIVIDUAL QUOTA
6 SYSTEMS.—Section 303(b)(6) (16 U.S.C. 1853(b)(6)) is
7 amended to read as follows:

8 “(6) establish a limited access system for the
9 fishery in order to achieve optimum yields, if—

10 “(A) in developing such system, the Coun-
11 cils and the Secretary take into account—

12 “(i) the need to promote conservation,

13 “(ii) present participation in the fish-
14 ery,

15 “(iii) historical fishing practices in,
16 and dependence on, the fishery,

17 “(iv) the economics of the fishery,

18 “(v) the capability of fishing vessels
19 used in the fishery to engage in other fish-
20 eries,

21 “(vi) the cultural and social frame-
22 work relevant to the fishery and fishing
23 communities, and

24 “(vii) any other relevant consider-
25 ations; and



1 “(B) in the case of such a system that pro-
2 vides for the allocation and issuance of indi-
3 vidual quotas (as that term is defined in sub-
4 section (d)), the system complies with sub-
5 section (d).”.

6 (b) REQUIREMENTS.—Section 303(d) (16 U.S.C.
7 1853(d)) is amended—

8 (1) by redesignating paragraphs (2), (3), (4),
9 and (5) in order as paragraphs (10), (11), (12), and
10 (13), and by moving such paragraphs 2 ems to the
11 left;

12 (2) in paragraph (11)(B), as so redesignated,
13 by inserting “, including as a result of a violation of
14 this Act or any regulation prescribed under this
15 Act” before the semicolon;

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

17 “(14) As used in this subsection:

18 “(A) The term ‘individual quota system’ means
19 a system that limits access to a fishery in order to
20 achieve optimum yields, through the allocation and
21 issuance of individual quotas.

22 “(B) The term ‘individual quota’ means a grant
23 of permission to harvest a quantity of fish in a fish-
24 ery or process such fish which are under the juris-
25 diction of the North Pacific Management Council,



1 during each fishing season for which the permission
2 is granted, equal to a stated percentage of the total
3 allowable catch for the fishery.”; and

4 (4) by striking so much as precedes paragraph
5 (10), as so redesignated, and inserting the following:

6 “(d) SPECIAL PROVISIONS FOR INDIVIDUAL QUOTA
7 SYSTEMS.—(1) A fishery management plan for a fishery
8 that is managed under a limited access system authorized
9 by subsection (b)(6) may establish an individual quota sys-
10 tem for the fishery in accordance with this subsection.

11 “(2) A fishery management plan that establishes an
12 individual quota system for a fishery—

13 “(A) shall provide for administration of the sys-
14 tem by the Secretary in accordance with the terms
15 of the plan;

16 “(B) shall include provisions that establish pro-
17 cedures and requirements for each Council having
18 authority over the fishery, for—

19 “(i) reviewing and revising the terms of
20 the plan that establish the system; and

21 “(ii) renewing, reallocating, and reissuing
22 individual quotas if determined appropriate by
23 each Council;

24 “(C) shall include provisions to—



1 “(i) provide for fair and equitable alloca-
2 tion of individual quotas under the system, and
3 minimize negative social and economic impacts
4 of the system on fishing communities;

5 “(ii) ensure adequate enforcement of the
6 system, including the use of observers where
7 appropriate; and

8 “(iii) provide for monitoring the temporary
9 or permanent transfer of individual quotas
10 under the system;

11 “(D) shall include provisions that prevent any
12 person from acquiring an excessive share of indi-
13 vidual quotas issued for a fishery; and

14 “(E) shall include measurable conservation
15 goals.

16 “(3) An individual quota issued under an individual
17 quota system established by a fishery management plan
18 may be received, held, or transferred in accordance with
19 regulations prescribed by the Secretary under this Act.

20 “(4)(A) Except as otherwise provided in this para-
21 graph, any fishery management plan that establishes an
22 individual quota system for a fishery may authorize indi-
23 vidual quotas to be held by or issued under the system
24 to fishing vessel owners, fishermen, crew members, fishing
25 communities, other persons as specified by the Council



1 and United States fish processors under the jurisdiction
2 of the North Pacific Fishery Management Council.

3 “(B) An individual who is not a citizen of the United
4 States may not hold an individual quota issued under a
5 fishery management plan.

6 “(C) A Federal agency or official may not hold, ad-
7 minister, or reallocate an individual quota issued under
8 a fishery management plan, other than the Secretary and
9 the Council having authority over the fishery for which
10 the individual quota is issued.

11 “(D)(i) A fishing community may not hold individual
12 quotas under an individual quota system established under
13 this subsection for a fishery that authorize harvest of more
14 than the lesser of—

15 “(I) 1 percent of the total authorized harvest in
16 the fishery; or

17 “(II) a percentage of such total authorized har-
18 vest established by the Council having jurisdiction
19 over the fishery.

20 “(ii) This subparagraph does not apply to a commu-
21 nity that is eligible to participate in the western Alaska
22 community development program or the western Pacific
23 community development program, under section 305(i).



1 “(5) Any fishery management plan that establishes
2 an individual quota system for a fishery may include provi-
3 sions that—

4 “(A) allocate individual quotas under the sys-
5 tem among categories of vessels; and

6 “(B) provide a portion of the annual harvest in
7 the fishery for entry-level fishermen, small vessel
8 owners, or crew members who do not hold or qualify
9 for individual quotas.

10 “(6) An individual quota system established for a
11 fishery may be limited or terminated at any time by the
12 Secretary or through a fishery management plan or
13 amendment developed by the Council having authority
14 over the fishery for which it is established, if necessary
15 for the conservation and management of the fishery.

16 “(7)(A) A fishery management plan that establishes
17 an individual quota system for a fishery—

18 “(i) must include measurable conservation
19 goals; and

20 “(ii) to monitor achievement of such goals, may
21 require greater observer coverage or electronic data
22 collection technology on any vessel fishing under an
23 individual quota issued under the system.

24 “(B) Not later than 5 years after the date of the es-
25 tablishment of an individual quota system for a fishery



1 under this section by a Council or the Secretary, and every
2 5 years thereafter, the Council or Secretary, respectively,
3 shall review the effectiveness of the system in achieving
4 the conservation goals required under this paragraph.

5 “(8)(A) The Secretary or a Council—

6 “(i) may not develop a proposal to establish an
7 individual quota system for a fishery, unless develop-
8 ment of the proposal has been approved by a ref-
9 erendum conducted in accordance with this para-
10 graph; and

11 “(ii) may not issue a proposed fishery manage-
12 ment plan or amendment to such a plan to establish
13 such a system unless the proposed plan or amend-
14 ment, respectively, has been approved by a ref-
15 erendum conducted in accordance with this para-
16 graph.

17 “(B) The Secretary, at the request of a Council, shall
18 conduct the referenda required by subparagraph (A). Each
19 referendum with respect to a fishery shall be decided by
20 a 60-percent majority of the votes cast by persons who
21 are determined by the Council, based on guidelines devel-
22 oped by the Secretary, to be eligible to vote in the ref-
23 erendum.

24 “(C) The Secretary shall develop guidelines to deter-
25 mine procedures and voting eligibility requirements for



1 referenda and to conduct such referenda in a fair and eq-
2 uitable manner.

3 “(9) Any individual quota system established under
4 section 303(b)(6) after the date of enactment of the Mag-
5 nuson-Stevens Act Amendments of 2003, and any indi-
6 vidual quota issued under such a system, shall not apply
7 after the end of the 10-year period beginning on the date
8 the system is established, or after the end of any 10-year
9 period thereafter, unless the Council has reviewed and
10 taken affirmative action to continue the system before the
11 end of each such 10-year period.”.

12 (c) FEES.—Section 304(d) is amended—

13 (1) in paragraph (2)(A) by striking “any” and
14 all that follows through “(ii)” and inserting “any”;
15 and

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

17 “(3)(A) Notwithstanding paragraph (1), the Sec-
18 retary shall collect from a person that holds or transfers
19 an individual quota issued under a limited access system
20 established under section 303(b)(6) fees established by the
21 Secretary in accordance with this section and section
22 9701(b) of title 31, United States Code.

23 “(B) The fees required to be established and collected
24 by the Secretary under this paragraph are the following:



1 “(i) With respect to any initial allocation under
2 a limited access system established after the date of
3 the enactment of the Magnuson-Stevens Act Amend-
4 ments of 2003, an initial allocation fee in an
5 amount, determined by the Secretary, equal to 1
6 percent of the ex-vessel value of fish authorized in
7 one year under an individual quota, that shall be col-
8 lected from the person to whom the individual quota
9 is first issued.

10 “(ii) An annual fee in an amount, determined
11 by the Secretary, not to exceed 3 percent of the ex-
12 vessel value of fish authorized each year under an
13 individual quota share, that shall be collected from
14 the holder of the individual quota share.

15 “(iii) A transfer fee in an amount, determined
16 by the Secretary, equal to 1 percent of the ex-vessel
17 value of fish authorized each year under an indi-
18 vidual quota share, that shall be collected from a
19 person who permanently transfers the individual
20 quota share to another person.

21 “(C) In determining the amount of a fee under this
22 paragraph, the Secretary shall ensure that the amount is
23 commensurate with the cost of managing the fishery with
24 respect to which the fee is collected, including reasonable



1 costs for salaries, data analysis, and other costs directly
2 related to fishery management and enforcement.

3 “(D) The Secretary, in consultation with the Coun-
4 cils, shall promulgate regulations prescribing the method
5 of determining under this paragraph the ex-vessel value
6 of fish authorized under an individual quota share, the
7 amount of fees, and the method of collecting fees.

8 “(E) Fees collected under this paragraph from hold-
9 ers of individual quotas in a fishery shall be an offsetting
10 collection and shall be available to the Secretary only for
11 the purposes of administering and implementing this Act
12 with respect to that fishery.”.

13 (d) APPROVAL OF FISHERY MANAGEMENT PLANS
14 ESTABLISHING INDIVIDUAL QUOTA SYSTEMS.—Section
15 304 (16 U.S.C. 1854) is further amended by adding at
16 the end the following:

17 “(j) ACTION ON LIMITED ACCESS SYSTEMS.—(1) In
18 addition to the other requirements of this Act, after the
19 date of the enactment of the Magnuson-Stevens Act
20 Amendments of 2003 the Secretary may not approve a
21 fishery management plan that establishes a limited access
22 system that provides for the allocation of individual quotas
23 (in this subsection referred to as an ‘individual quota sys-
24 tem’) unless the plan complies with section 303(d).



1 “(2) The Secretary shall issue regulations that estab-
2 lish requirements for establishing an individual quota sys-
3 tem. The regulations shall—

4 “(A) specify factors that shall be considered by
5 a Council in determining whether a fishery should be
6 managed under an individual quota system;

7 “(B) ensure that any individual quota system is
8 consistent with the requirements of sections 303(a)
9 and 303(d), and require the collection of fees in ac-
10 cordance with subsection (d)(3) of this section;

11 “(C) provide for appropriate penalties for viola-
12 tions of individual quotas systems, including the sus-
13 pension or revocation of individual quotas for such
14 violations;

15 “(D) include recommendations for potential
16 management options related to individual quotas, in-
17 cluding the authorization of individual quotas that
18 may not be transferred by the holder, and the use
19 of leases or auctions by the Federal Government in
20 the establishment or allocation of individual quotas;
21 and

22 “(E) establish a central lien registry system for
23 the identification, perfection, and determination of
24 lien priorities, and nonjudicial foreclosure of encum-
25 brances, on individual quotas.”.



1 (e) RESTRICTION ON NEW INDIVIDUAL QUOTA SYS-
2 TEMS PENDING REGULATIONS.—

3 (1) RESTRICTION.—The Secretary of Commerce
4 may not approve any covered quota system plan, and
5 no covered quota system plan shall take effect,
6 under title III of the Magnuson-Stevens Fishery
7 Conservation and Management Act, before the effec-
8 tive date of regulations issued by the Secretary
9 under section 304(j) of that Act, as added by sub-
10 section (d) of this section.

11 (2) COVERED QUOTA SYSTEM PLAN DE-
12 FINED.—In this subsection, the term “covered quota
13 system plan” means a fishery management plan or
14 amendment to a fishery management plan, that—

15 (A) proposes establishment of an individual
16 quota system (as that term is used in section
17 303(d) of the Magnuson-Stevens Fishery Con-
18 servation and Management Act, as amended by
19 this section); and

20 (B) is not approved by the Secretary be-
21 fore May 1, 2002.

22 (f) EXISTING QUOTA PLANS.—Nothing in this Act
23 or the amendments made by this Act shall be construed
24 to require a reallocation of individual fishing quotas under



1 any individual fishing quota program approved by the Sec-
2 retary of Commerce before May 1, 2002.

3 **SEC. 13. COOPERATIVE EDUCATION AND RESEARCH.**

4 (a) DISCRETIONARY PROVISIONS IN FISHERY MAN-
5 AGEMENT PLANS.—Section 303(b) (16 U.S.C. 1853(b))
6 is further amended by adding after paragraph (14) the
7 following:

8 “(15) include provisions to create a cooperative
9 research component including the use of commercial
10 or charter vessels for the gathering of data on stock
11 abundance, composition, distribution, or other rel-
12 evant information important for the implementation
13 of the plan; and”.

14 (b) BLACK SEA BASS.—Section 404 (16 U.S.C.
15 1881c) is further amended by adding at the end the fol-
16 lowing:

17 “(f) BLACK SEA BASS COOPERATIVE RESEARCH
18 PROGRAM.—The Secretary, through the New England
19 Fisheries Science Center, shall develop and implement a
20 cooperative stock assessment program, using vessels from
21 the commercial black sea bass fishing industry if appro-
22 priate and available. This cooperative program shall in-
23 clude research on the range of the stock, a determination
24 as to whether there is more than one stock, and a black
25 sea bass genetic study to determine whether there is more



1 than one stock of such species requiring different manage-
2 ment regimes.”.

3 **SEC. 14. REPORT ON HIGHLY MIGRATORY SPECIES.**

4 (a) ANNUAL REPORT.—Section 102 (16 U.S.C.
5 1812) is amended—

6 (1) by inserting “(a) In General.—” before
7 “The United States”; and

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

9 “(b) ANNUAL REPORT.—The Secretary shall, within
10 one year after the date of the enactment of this subsection
11 and annually thereafter, report to the Congress on—

12 “(1) any nation that is fishing for Atlantic
13 highly migratory species and is not in compliance
14 with the fishery conservation and management provi-
15 sions or any rebuilding recommendations or provi-
16 sions enacted by the international body charged with
17 developing such measures; and

18 “(2) any recommendations for addressing those
19 nations identified under paragraph (1) and actions
20 the United States might take to ensure such compli-
21 ance by such nations.”.

22 (b) NATIONAL ACADEMY OF SCIENCES REVIEW.—

23 (1) IN GENERAL.—The Secretary of Commerce
24 shall enter into an arrangement with the National



1 Academy of Sciences under which the Academy
2 shall—

3 (A) review the adequacy of existing meas-
4 ures (including closures) to protect Atlantic
5 white marlin; and

6 (B) make recommendations to the Con-
7 gress and the Secretary, regarding future con-
8 servation measures for Atlantic white marlin, if
9 warranted.

10 (2) FISHING IN MID-ATLANTIC BIGHT.—The re-
11 view shall examine, in particular, the effects of fish-
12 ing in the Mid-Atlantic Bight.

13 (3) REPORT.—The Academy shall report to the
14 Congress and the Secretary regarding the review
15 and recommendations under this subsection within 2
16 years after the date of the enactment of this Act.

17 **SEC. 15. PROHIBITED ACTS.**

18 Section 307 (16 U.S.C. 1857) is amended by striking
19 “and” after the semicolon at the end of paragraph (4),
20 by striking the period at the end of paragraph (5) and
21 inserting “; and”, and by adding at the end the following:

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



1 **SEC. 16. MEMBERSHIP OF FISHERY MANAGEMENT COUN-**
2 **CILS.**

3 (a) NEW ENGLAND COUNCIL.—Section 302(a)(1)(A)
4 (16 U.S.C. 1852(a)(1)(A)) is amended by—

5 (1) inserting “New York,” after “Massachu-
6 setts,”; and

7 (2) striking “18” and inserting “19”.

8 (b) ADDITIONAL MEMBER OF EACH COUNCIL.—Sec-
9 tion 302 (16 U.S.C. 1852) is further amended as follows:

10 (1) In the last sentence of subsection
11 (a)(1)(A)—

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

13 (B) by striking “12” and inserting “13”;

14 and

15 (C) by inserting before the period the fol-
16 lowing: “and including one appointed by the
17 Secretary in accordance with subsection
18 (b)(6)”.

19 (2) In the last sentence of subsection
20 (a)(1)(B)—

21 (A) by striking “21” and inserting “22”;

22 (B) by striking “13” and inserting “14”;

23 and

24 (C) by inserting before the period the fol-
25 lowing: “and including one appointed by the



1 Secretary in accordance with subsection
2 (b)(6)”.

3 (3) In the last sentence of subsection
4 (a)(1)(C)—

5 (A) by striking “13” and inserting “14”;

6 (B) by striking “8” and inserting “9”; and

7 (C) by inserting before the period the fol-
8 lowing: “and including one appointed by the
9 Secretary in accordance with subsection
10 (b)(6)”.

11 (4) In the last sentence of subsection
12 (a)(1)(D)—

13 (A) by striking “7” and inserting “8”;

14 (B) by striking “4” and inserting “5”; and

15 (C) by inserting before the period the fol-
16 lowing: “and including one appointed by the
17 Secretary in accordance with subsection
18 (b)(6)”.

19 (5) In the last sentence of subsection
20 (a)(1)(E)—

21 (A) by striking “17” and inserting “18”;

22 (B) by striking “11” and inserting “12”;

23 and

24 (C) by inserting before the period the fol-
25 lowing: “and including one appointed by the



1 Secretary in accordance with subsection
2 (b)(6)”.
3

3 (6) In the last sentence of subsection
4 (a)(1)(F)—

5 (A) by striking “14” and inserting “15”;

6 (B) by striking “8” and inserting “9”;

7 (C) by inserting “by the Secretary” after
8 “including one appointed”; and

9 (D) by inserting before the period the fol-
10 lowing: “and one appointed by the Secretary in
11 accordance with subsection (b)(6)”.
12

12 (7) In the last sentence of subsection
13 (a)(1)(H)—

14 (A) by striking “13” and inserting “14”;

15 (B) by striking “8” and inserting “9”; and

16 (C) by inserting before the period the fol-
17 lowing: “and including one appointed by the

18 Secretary in accordance with subsection
19 (b)(6)”.
20

20 (8) In subsection (b)—

21 (A) by redesignating paragraph (6) as
22 paragraph (7);

23 (B) in paragraph (7), as so redesignated,
24 by striking “paragraphs (2) or (5)” and insert-
25 ing “paragraph (2), (5), or (6)”; and



1 (C) by inserting after paragraph (5) the
2 following:

3 “(6) The member of each Council who is required to
4 be appointed in accordance with this paragraph—

5 “(A) shall not be an individual who is directly
6 employed by, or receives a majority of his or her
7 livelihood from, the commercial, charter, or rec-
8 reational fishing community; and

9 “(B) shall be appointed without regard to sub-
10 paragraphs (B) and (C) of paragraph (2).”.

11 **SEC. 17. MISCELLANEOUS AMENDMENTS TO PURPOSES**
12 **AND POLICY.**

13 Section 2 (16 U.S.C. 1801) is amended—

14 (1) in subsection (b)(6) by inserting “eco-
15 logically sound” after “to encourage the”; and

16 (2) in subsection (c)(6) by inserting “, restore,”
17 after “to foster”.

18 **SEC. 18. FOREIGN FISHING.**

19 Section 201(e)(1)(E) (16 U.S.C. 1821(e)(1)(E)) is
20 amended—

21 (1) in clause (iii) by inserting “and compliance
22 with and enforcement of international fishing agree-
23 ments and treaties” after “fishing regulations”; and

24 (2) in clause (vii) by inserting “, conservation,”
25 after “fishery research”.



1 **SEC. 19. DRIFTNETS.**

2 Section 206(c)(1) (16 U.S.C. 1826(c)(1)) is amended
3 by inserting before the semicolon at the end the following:
4 “and comply with any further action or resolution adopted
5 by the United Nations on large-scale driftnet fishing to
6 which the United States is a signatory”.

7 **SEC. 20. SOURCES FOR DATA IN FISHERIES RESEARCH.**

8 Section 404(a) (16 U.S.C. 1881c(a)) is amended by
9 adding at the end the following: “The program shall ac-
10 quire such knowledge and data using both fishery-depend-
11 ent and fishery-independent data sources.”.

12 **SEC. 21. MISCELLANEOUS FISHERY PROTECTIONS IN FISHERY**
13 **MANAGEMENT PLANS.**

14 Section 303(b) (16 U.S.C. 1853(b)) is further
15 amended by adding after paragraph (15) the following:

16 “(16) designate closed areas, seasonal closures,
17 time/area closures, gear restrictions, or other meth-
18 ods for limiting impacts on habitat, limiting bycatch
19 impacts of gear, or limiting fishing impact on
20 spawning congregations in specific geographic
21 areas.”.

22 **SEC. 22. COOPERATIVE MARINE EDUCATION AND RE-**
23 **SEARCH PROGRAM.**

24 (a) PROGRAM.—The Secretary of Commerce may
25 enter into cooperative agreements with universities and in-
26 stitutions of higher learning in order to conduct research



1 in areas that support conservation and management of liv-
2 ing marine resources.

3 (b) INCLUDED RESEARCH.—Research conducted
4 under the program may include biological research
5 concerning—

6 (1) the abundance and life history parameters
7 of stocks of fish;

8 (2) the interdependence of fisheries or stocks of
9 fish and other ecosystem components; and

10 (3) the linkages between fish habitat and fish
11 production and abundance.

12 **SEC. 23. ASSESSMENT OF CUMULATIVE IMPACTS OF CON-**
13 **SERVATION AND MANAGEMENT MEASURES**
14 **FOR A FISHERY.**

15 Section 303(a)(9)(A) (16 U.S.C. 1853(a)(9)(A)) is
16 amended by inserting before the semicolon the following:
17 “, as well as the cumulative impacts on such participants
18 and communities of conservation and management meas-
19 ures for that fishery under other fishery management
20 plans and regulations”.

21 **SEC. 24. REGIONAL STOCK ASSESSMENTS.**

22 (a) IN GENERAL.—Title IV (16 U.S.C. 1881 et seq.)
23 is further amended by adding at the end the following:



1 **“SEC. 409. REGIONAL STOCK ASSESSMENTS.**

2 “(a) IN GENERAL.—The Secretary shall conduct
3 periodic regional assessments of stocks of fish.

4 “(b) INDEPENDENT REVIEW.—The Secretary shall
5 ensure that each periodic assessment under this section
6 is independently reviewed in a manner that—

7 “(1) will not delay the process of providing to
8 Regional Fishery Management Councils current as-
9 sessments for use in managing fisheries; and

10 “(2) is as transparent as possible, so that the
11 regulated community can provide input during the
12 review process.”.

13 (b) CLERICAL AMENDMENT.—The table of contents
14 in the first section is further amended by adding at the
15 end of the items relating to title IV the following:

“409. Regional stock assessments.”.

16 **SEC. 25. NATIONAL ACADEMY OF SCIENCES GUIDANCE AND**
17 **STANDARDS REGARDING BEST SCIENTIFIC**
18 **INFORMATION AVAILABLE.**

19 (a) IN GENERAL.—The Secretary of Commerce shall
20 enter into an arrangement with the National Academy of
21 Sciences under which the Academy shall by not later than
22 1 year after the date of the enactment of this Act, develop
23 guidance and standards for determining what should be
24 considered the best scientific information available for
25 purposes of sections 2(c)(3) and 301(a)(2) of the Magnu-



1 son-Stevens Fishery Conservation and Management Act
2 (16 U.S.C. 1801(c)(3), 1851(a)(2)).

3 (b) FACTORS CONSIDERED.—Guidance and stand-
4 ards developed under subsection (a) shall take into
5 consideration—

6 (1) the need for relevance and timeliness of in-
7 formation; and

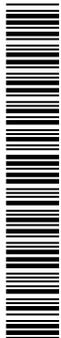
8 (2) how to treat the use of gray literature and
9 anecdotal information.

10 (c) PUBLICATION AND OPPORTUNITY FOR COM-
11 MENT.—The Secretary shall publish the results of the ac-
12 tivities of the Academy under subsection (a) and provide
13 an opportunity for the submission of comments regarding
14 the definition developed under subsection (a)(1).

15 **SEC. 26. NATIONAL ACADEMY OF SCIENCES DEFINITION OF**
16 **MAXIMUM SUSTAINABLE YIELD.**

17 (a) IN GENERAL.—The Secretary of Commerce shall
18 enter into an arrangement with the National Academy of
19 Sciences under which the Academy shall—

20 (1) develop a definition of the term “maximum
21 sustainable yield” for purposes of the Magnuson-Ste-
22 vens Fishery Conservation and Management Act (16
23 U.S.C. 1801 et seq.), that considers environmental
24 variability; and



1 (2) examine the use of alternatives for calcu-
2 lating sustainable harvest levels in cases in which
3 maximum sustainable yield cannot be calculated or
4 is not appropriate.

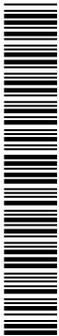
5 (b) PUBLICATION AND OPPORTUNITY FOR COM-
6 MENT.—The Secretary shall publish the results of the ac-
7 tivities of the Academy under subsection (a) and provide
8 an opportunity for the submission of comments regarding
9 the definition developed under subsection (a)(1).

10 **SEC. 27. ADMINISTRATION OF PACIFIC INSULAR AREA**
11 **FISHERY AGREEMENTS.**

12 Section 204(e)(6) (16 U.S.C. 1824(e)(6)) is amended
13 in the matter preceding subparagraph (A) by striking
14 “into” and all that follows through “to the” the first place
15 it appears and inserting “into the”.

16 **SEC. 28. HIGHLY MIGRATORY SPECIES BYCATCH MOR-**
17 **TALITY REDUCTION RESEARCH PROGRAM.**

18 (a) ESTABLISHMENT OF A PROGRAM.—(1) There is
19 established within the National Marine Fisheries Service
20 a pelagic longline highly migratory species bycatch and
21 mortality reduction research program. The Program shall
22 be developed by a design team established by the Secretary
23 of Commerce. The Program design shall be submitted to
24 the Secretary no later than 120 days after the first meet-
25 ing of the design team and shall include a statistically sig-



1 nificant recommendation for the level of observer coverage
2 on pelagic longline fishing vessels that is necessary to
3 monitor the fishery effectively and participate in the re-
4 search program. The design team shall be available as a
5 resource to the Secretary throughout the research and the
6 development of the recommendations.

7 (2) The program shall identify and test a variety of
8 pelagic longline fishing gear configurations and uses and
9 determine which of those configurations and uses are the
10 most effective in reducing highly migratory species mor-
11 tality. The program shall place an emphasis on deter-
12 mining the gear configurations and uses that are the most
13 effective in reducing blue and white marlin mortality in
14 the exclusive economic zone of the United States in the
15 Atlantic Ocean. The program shall also include a provision
16 for observers to be placed on pelagic longline fishing ves-
17 sels for the purposes of monitoring the fishery and partici-
18 pating in the research program.

19 (3) The highly migratory species program shall con-
20 duct research to determine the impact of existing time and
21 area closures designed to reduce the bycatch of longline
22 vessels. The program shall focus on whether existing clo-
23 sures should be modified to decrease bycatch by longline
24 vessels and shall determine what adjustments to the exist-
25 ing boundaries and temporal constraints should be made



1 as a result of any research. Any vessel participating in
2 the program shall be provided an observer by the National
3 Marine Fisheries Service. The full cost of the observer and
4 any incidental costs to the vessel as a result of being in-
5 cluded in the research program shall be paid for by the
6 National Marine Fisheries Service. The National Marine
7 Fisheries Service may authorize, without notice and com-
8 ment, scientific research permits authorizing a vessel to
9 enter and fish in any closed area in the Atlantic Ocean
10 so long as there is 100 percent observer coverage and the
11 activities of the vessel are in furtherance of the research
12 program. Access to any closed area may be granted only
13 after consideration of the scientific need for access.

14 (b) DESIGN TEAM.—(1) Knowledgeable members of
15 the pelagic longline fishing sector, the recreational billfish
16 and tuna sector, and the conservation community, along
17 with scientists associated with each such entity, shall be
18 appointed by the Secretary to the program design team.
19 Each of the sectors shall to the extent practicable be fairly
20 represented on the design team. The design team shall not
21 exceed nine members only one of which may be an em-
22 ployee of the Federal Government. The design team shall
23 select a chairman and establish its own rules of operation.
24 Each member of the design team who is not employed by
25 the Federal Government shall be compensated in the man-



1 ner provided for members of a Fishery Management Coun-
2 cil under section 302(d) of the Magnuson-Stevens Fishery
3 Conservation and Management Act (16 U.S.C. 1852(d)).

4 (2) The design team shall not be considered to be
5 an advisory committee for the purposes of the Federal Ad-
6 visory Committee Act (5 U.S.C. App.), but shall hold its
7 deliberations in meetings for which prior notice is pub-
8 lished in the Federal Register and that are open to the
9 public.

10 (c) MID-ATLANTIC CONSERVATION ZONE FOR HIGH-
11 LY MIGRATORY SPECIES.—Section 304(g) (16 U.S.C.
12 1854(g)) is amended by adding at the end the following:

13 “(3) MID-ATLANTIC CONSERVATION ZONE FOR
14 HIGHLY MIGRATORY SPECIES.—

15 “(A) No person shall engage in pelagic
16 longline fishing—

17 “(i) in the lower mid-Atlantic Con-
18 servation Zone in the period beginning Au-
19 gust 15 and ending October 1 each year;
20 or

21 “(ii) in the upper mid-Atlantic Con-
22 servation Zone in the period beginning
23 July 15 and ending September 1 each
24 year.



1 “(B) In this paragraph the term ‘lower
2 mid-Atlantic Conservation Zone’ means the
3 area that is enclosed by a series of geodesics
4 connecting in succession the points at the fol-
5 lowing coordinates:

6 “(i) 36 degrees 30 minutes north lati-
7 tude, 75 degrees 0 minutes west longitude.

8 “(ii) 37 degrees 0 minutes north lati-
9 tude, 75 degrees 0 minutes west longitude.

10 “(iii) 38 degrees 0 minutes north lati-
11 tude, 74 degrees 0 minutes west longitude.

12 “(iv) 38 degrees 0 minutes north lati-
13 tude, 73 degrees 0 minutes west longitude.

14 “(v) 37 degrees 0 minutes north lati-
15 tude, 74 degrees 0 minutes west longitude.

16 “(vi) 36 degrees 30 minutes north
17 latitude, 75 degrees 0 minutes west lon-
18 gitude.

19 “(C) In this paragraph the term ‘upper
20 mid-Atlantic Conservation Zone’ means the
21 area that is enclosed by a series of geodesics
22 connecting in succession the points at the fol-
23 lowing coordinates:

24 “(i) 38 degrees 0 minutes north lati-
25 tude, 74 degrees 0 minutes west longitude.



1 “(ii) 40 degrees 0 minutes north lati-
2 tude, 72 degrees 0 minutes west longitude.

3 “(iii) 39 degrees 0 minutes north lati-
4 tude, 72 degrees 0 minutes west longitude.

5 “(iv) 38 degrees 0 minutes north lati-
6 tude, 73 degrees 0 minutes west longitude.

7 “(v) 38 degrees 0 minutes north lati-
8 tude, 74 degrees 0 minutes west longitude.

9 “(D) This paragraph shall not apply after
10 the end of the 4-year period beginning on the
11 date of the enactment of this paragraph.”.

12 (d) REPORT TO CONGRESS.—The Secretary of Com-
13 merce shall submit to the Committee on Resources of the
14 House of Representatives and the Committee on Com-
15 merce, Science, and Transportation of the Senate—

16 (1) an interim report of the findings of the re-
17 search conducted under this section within two years
18 after the date of enactment of this Act; and

19 (2) a final report with the necessary regulatory
20 documents to initiate implementation of any adjust-
21 ments to time and area closures, gear configura-
22 tions, or fishing techniques warranted as a result of
23 the research.

24 (e) AUTHORIZATION OF APPROPRIATIONS.—For re-
25 search under this section there is authorized to be appro-



1 priated to the Secretary of Commerce \$5,000,000 for fis-
2 cal years 2003 through 2007.

3 **SEC. 29. AUTHORIZATION OF APPROPRIATIONS.**

4 Section 4 (16 U.S.C. 1893) is amended to read as
5 follows:

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

7 “There are authorized to be appropriated to the Sec-
8 retary for the purposes of carrying out the provisions of
9 this Act, not to exceed the following:

10 “(1) \$200,500,000 for fiscal year 2003;

11 “(2) \$214,000,000 for fiscal year 2004;

12 “(3) \$222,000,000 for fiscal year 2005;

13 “(4) \$230,000,000 for fiscal year 2006; and

14 “(5) \$238,000,000 for fiscal year 2007.”.

