

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2538

To amend the Magnuson Fishery Conservation and Management Act, and  
for other purposes.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 7 (legislative day, SEPTEMBER 12), 1994

Mr. KERRY (for himself, Mr. STEVENS, and Mr. MURKOWSKI) introduced the  
following bill; which was read twice and referred to the Committee on  
Commerce, Science, and Transportation

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## A BILL

To amend the Magnuson 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.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Sustainable Fisheries Act”.

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

Sec. 1. Short title; table of contents.

### TITLE I—CONSERVATION AND MANAGEMENT

Sec. 101. Amendment of the Magnuson Fishery Conservation and Management  
Act.

Sec. 102. Findings; purposes; and policy.

- Sec. 103. Definitions.
- Sec. 104. Authorization of appropriations.
- Sec. 105. Highly migratory species.
- Sec. 106. Foreign fishing.
- Sec. 107. Permits for foreign fishing.
- Sec. 108. Large-scale driftnet fishing.
- Sec. 109. National standards.
- Sec. 110. Regional fishery management councils.
- Sec. 111. Fishery management plans.
- Sec. 112. Plan review and implementation.
- Sec. 113. Ecosystem management.
- Sec. 114. State jurisdiction.
- Sec. 115. Prohibited acts.
- Sec. 116. Civil penalties and permit sanctions.
- Sec. 117. Enforcement.
- Sec. 118. North Pacific fisheries conservation.
- Sec. 119. Transition to sustainable fisheries.

#### TITLE II—FISHERY MONITORING AND RESEARCH

- Sec. 201. Change of title.
- Sec. 202. Registration and data management.
- Sec. 203. Data collection.
- Sec. 204. Observers.
- Sec. 205. Fisheries research.
- Sec. 206. Incidental harvest research.
- Sec. 207. Repeal.
- Sec. 208. Clerical amendments.

#### TITLE III—FISHERIES STOCK RECOVERY FINANCING

- Sec. 301. Short title.
- Sec. 302. Fisheries stock recovery refinancing.
- Sec. 303. Federal financing bank relating to fishing vessels and fishery facilities.
- Sec. 304. Fees for guaranteeing obligations.
- Sec. 305. Sale of acquired collateral.

#### TITLE IV—ATLANTIC TUNAS CONVENTION ACT

- Sec. 401. Short title.
- Sec. 402. Research and monitoring activities.
- Sec. 403. Advisory committee procedures.
- Sec. 404. Regulations.
- Sec. 405. Fines and permit sanctions.
- Sec. 406. Authorization of appropriations.
- Sec. 407. Report.

1     **TITLE I—CONSERVATION AND**  
2                     **MANAGEMENT**

3     **SEC. 101. AMENDMENT OF MAGNUSON FISHERY CONSERVA-**  
4                     **TION AND MANAGEMENT ACT.**

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

11     **SEC. 102. FINDINGS; PURPOSES; AND POLICY.**

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

13                     (1) by striking subsection (a)(2) and inserting  
14             the following:

15                     “(2) Certain stocks of fish have declined to the  
16             point where their survival is threatened, and other  
17             stocks of fish have been so substantially reduced in  
18             number that they could become similarly threatened  
19             as a consequence of (A) increased fishing pressure,  
20             (B) the inadequacy of fishery resource conservation  
21             and management practices and controls, or (C) di-  
22             rect and indirect habitat losses which have resulted  
23             in a diminished capacity to support existing fishing  
24             levels.”;

1           (2) by inserting “to facilitate long-term protec-  
2           tion of essential fish habitats,” in subsection (a)(6)  
3           after “conservation,”;

4           (3) by adding at the end of subsection (a) the  
5           following:

6           “(9) One of the greatest long-term threats to  
7           the viability of commercial and recreational fisheries  
8           is the continuing loss of marine, estuarine, and other  
9           aquatic habitats on a national level. Habitat consid-  
10          erations should receive increased attention for the  
11          conservation and management of fishery resources of  
12          the United States.”;

13          (4) by inserting “in a non-wasteful manner” in  
14          subsection (b)(6) after “such development”; and

15          (5) by adding at the end of subsection (b) the  
16          following:

17          “(7) to promote the protection of essential fish  
18          habitat in the review of projects conducted under  
19          Federal permits, licenses, or other authorities that  
20          affect or have the potential to affect such habitat.”.

21 **SEC. 103. DEFINITIONS.**

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

23                 (1) by redesignating paragraphs (2) through  
24                 (32) as paragraphs (3) through (33) respectively,  
25                 and inserting after paragraph (1) the following:

1           “(2) The term ‘bycatch’ means fish which are  
2 harvested by a fishing vessel, but which are not sold  
3 or kept for personal use, including, but not limited  
4 to, economic and regulatory discards.”;

5           (2) by redesignating paragraphs (7) through  
6 (33) (as redesignated) as paragraphs (9) through  
7 (35), respectively, and inserting after paragraph (6)  
8 (as redesignated) the following:

9           “(7) The term ‘economic discards’ means fish  
10 which are the target of a fishery, but which are not  
11 retained by the fishing vessel which harvested them  
12 because they are of an undesirable size, sex or qual-  
13 ity, or for other economic reasons.

14           “(8) The term ‘essential fish habitat’ means  
15 any area essential to the life cycle of a stock of fish,  
16 or to the production of maximum sustainable yield  
17 of one or more fisheries managed under this Act.”;

18           (3) by redesignating paragraphs (12) through  
19 (35) (as redesignated) as paragraphs (13) through  
20 (36), respectively, and inserting after paragraph  
21 (11) (as redesignated) the following:

22           “(12) The term ‘fishery dependent community’  
23 means a community which is substantially dependent  
24 on the harvest of fishery resources to meet social  
25 and economic needs.”;

1           (4) by redesignating paragraphs (19) through  
2           (36) (as redesignated) as paragraphs (20) through  
3           (37), respectively, and inserting after paragraph  
4           (18) (as redesignated) the following:

5           “(19) The term ‘individual transferable quota’  
6           means a revocable Federal authorization to harvest  
7           or process a quantity of fish under a unit or quota  
8           share that represents a percentage of the total allow-  
9           able catch of a stock of fish, that may be received  
10          or held by a specific person or persons for their ex-  
11          clusive use, and that may be transferred in whole or  
12          in part by the holder to another person or persons  
13          for their exclusive use.”;

14          (5) by redesignating paragraphs (22) through  
15          (37) (as redesignated) as paragraphs (23) through  
16          (38), respectively, and inserting after paragraph  
17          (21) (as redesignated) the following:

18          “(22) The term ‘limited access system’ means  
19          any system for controlling fishing effort which in-  
20          cludes such measures as license limitations, individ-  
21          ual transferable quotas, and non-transferable  
22          quotas.”;

23          (6) by striking “Pacific Marine Fisheries Com-  
24          mission” in paragraph (23), as redesignated, and in-

1       serting “Pacific States Marine Fisheries Commis-  
2       sion”;

3               (7) by striking paragraph (27), as redesignated,  
4       and inserting the following:

5               “(27) The term ‘optimum’, with respect to the  
6       yield from a fishery, means the amount of fish  
7       which—

8                       “(A) will provide the greatest overall bene-  
9                       fit to the Nation, with particular reference to  
10                      food production and recreational opportunities,  
11                      and taking into account the protection of ma-  
12                      rine ecosystems;

13                     “(B) is prescribed on the basis of the max-  
14                     imum sustainable yield from a fishery, as modi-  
15                     fied by any relevant social, economic, or ecologi-  
16                     cal factor; and

17                     “(C) provides for the rebuilding of an  
18                     overfished fishery to a level consistent with pro-  
19                     ducing the maximum sustainable yield.”;

20               (8) by redesignating paragraphs (28) through  
21       (38) (as redesignated) as paragraphs (29) through  
22       (39), respectively, and inserting after paragraph  
23       (27) (as redesignated) the following:

24               “(28) The terms ‘overfishing’ and ‘overfished’  
25       mean a level or rate of fishing mortality that jeop-

1       ardizes the capacity of a fishery to produce the max-  
2       imum sustainable yield on a continuing basis.”;

3           (9) by redesignating paragraphs (30) through  
4       (39) (as redesignated) as paragraphs (31) through  
5       (40), respectively, and inserting after paragraph  
6       (29) (as redesignated) the following:

7           “(30) The term ‘regulatory discards’ means fish  
8       caught in a fishery which fishermen are required by  
9       regulation to discard whenever caught, or are re-  
10      quired by regulation to retain but not sell.”;

11          (10) by striking “for which a fishery manage-  
12      ment plan prepared under title III or a preliminary  
13      fishery management plan prepared under section  
14      201(h) has been implemented” in paragraph (38), as  
15      redesignated, and inserting “regulated under this  
16      Act”; and

17          (11) by redesignating paragraph (40), as redesi-  
18      gnated, as (41), and inserting after paragraph (39)  
19      the following:

20          “(40) The term ‘vessel subject to the jurisdic-  
21      tion of the United States’ has the same meaning as  
22      in section 3(c) of the Maritime Drug Law Enforce-  
23      ment Act (46 U.S.C. App. 1903(c)).”.

1 **SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

2 The Act is amended by inserting after section 3 the  
3 following:

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

5 “There are authorized to be appropriated to the Sec-  
6 retary for the purposes of carrying out the provisions of  
7 this Act, not to exceed the following sums (of which 15  
8 percent in each fiscal year shall be used for enforcement  
9 activities):

10 “(1) \$102,000,000 for fiscal year 1993;

11 “(2) \$106,000,000 for fiscal year 1994;

12 “(3) \$143,000,000 for fiscal year 1995;

13 “(4) \$147,000,000 for fiscal year 1996;

14 “(5) \$151,000,000 for fiscal year 1997;

15 “(6) \$155,000,000 for fiscal year 1998; and

16 “(7) \$159,000,000 for fiscal year 1999.”.

17 **SEC. 105. HIGHLY MIGRATORY SPECIES.**

18 Section 102 (16 U.S.C. 1812) is amended by striking  
19 “promoting the objective of optimum utilization” and in-  
20 serting “promote the achievement of optimum yield”.

21 **SEC. 106. FOREIGN FISHING.**

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

23 (1) by inserting a comma and “or is approved  
24 under section 204(b)(6)(A)(ii)” before the semicolon  
25 in subsection (a)(1);

1           (2) by striking “(g)” in subsection (a)(2) and  
2 inserting “(f)”;

3           (3) by striking “(i)” in subsection (c)(2)(D)  
4 and inserting “(h)”;

5           (4) by striking “, including any regulations pro-  
6 mulgated to implement any applicable fishery man-  
7 agement plan or any preliminary fishery manage-  
8 ment plan” in subsection (c); and

9           (5) by striking subsection (f) and redesignating  
10 subsections (g), (h), (i), and (j) as (f), (g), (h), and  
11 (i), respectively.

12 **SEC. 107. PERMITS FOR FOREIGN FISHING.**

13           (a) So much of section 204(b) (16 U.S.C. 1824(b))  
14 as precedes paragraph (2) is amended to read as follows:

15           “(b) APPLICATIONS AND PERMITS.—

16           “(1) ELIGIBILITY.—

17           “(A) Each foreign nation with which the  
18 United States has entered into a governing  
19 international fishery agreement shall submit an  
20 application to the Secretary of State each year  
21 for a permit for each of its fishing vessels that  
22 wishes to engage in fishing described in sub-  
23 section (a).

24           “(B) An owner of a vessel, other than a  
25 vessel of the United States, who wishes to en-

1 gage in the transshipment at sea of fish prod-  
2 ucts in the exclusive economic zone or within  
3 the boundary of any State, may submit an ap-  
4 plication to the Secretary each year for a per-  
5 mit for a vessel belonging to that owner, wheth-  
6 er or not such vessel is subject to an inter-  
7 national fishery agreement described in section  
8 201(b) or (c).

9 “(C) No permit issued under this section  
10 may be valid for longer than a year. Section  
11 558(c) of title 5, United States Code, does not  
12 apply to the renewal of any such permit.”.

13 (b) Section 204(b)(4) (16 U.S.C. 1824(b)(4)) is  
14 amended—

15 (1) by inserting “(A)” after the caption;

16 (2) by inserting “submitted under paragraph  
17 (1)(A)” after “any application”;

18 (3) by redesignating subparagraphs (A), (B),  
19 and (C) as clauses (i), (ii), and (iii), respectively;  
20 and

21 (4) by inserting at the end thereof the follow-  
22 ing:

23 “(B) Upon receipt of any application sub-  
24 mitted under paragraph (1)(B) which complies  
25 with the requirements of paragraph (3), the

1 Secretary shall promptly transmit copies of the  
2 application or summary as indicated under sub-  
3 paragraphs (A)(ii) and (iii), and shall also  
4 promptly transmit such application or summary  
5 to States bordering the exclusive economic zone  
6 where such transshipment is proposed to  
7 occur.”.

8 (c) Section 204(b)(5) (16 U.S.C. 1824(b)(5)) is  
9 amended by striking “under paragraph (4)(C)” and in-  
10 serting “submitted under paragraph (1)”.

11 (d) Section 204(b)(6) (16 U.S.C. 1824(b)(6)) is  
12 amended—

13 (1) by striking “transmitted under paragraph  
14 (4)(A)” and inserting “submitted under paragraph  
15 (1)(A)” in subparagraph (A);

16 (2) by inserting “(i)” before “After” in sub-  
17 paragraph (A); and

18 (3) by inserting before subparagraph (B) the  
19 following:

20 “(ii) In the case of any application  
21 submitted under paragraph (1)(B), the  
22 Secretary, after taking into consideration  
23 any comments submitted by the Council  
24 under paragraph (5) or any affected State,  
25 may approve the application upon deter-

1 mining that the activity described in the  
2 application will be in the interest of the  
3 United States and will meet the applicable  
4 requirements of this Act, and that the  
5 owners or operators have agreed to comply  
6 with requirements set forth in section  
7 201(c)(2) and have established any bonds  
8 or financial assurances that may be re-  
9 quired by the Secretary; or the Secretary  
10 may disapprove all or any portion of the  
11 application.”.

12 (e) Section 204(b)(8) (16 U.S.C. 1824(b)(8)) is  
13 amended—

14 (1) by inserting a comma and “or the agent for  
15 the foreign vessel owner for any application submit-  
16 ted under paragraph (1)(B)” before the semicolon at  
17 the end of subparagraph (A); and

18 (2) by inserting “and any affected State” be-  
19 fore the period at the end of subparagraph (C).

20 (f) Section 204(b)(9) (16 U.S.C. 1824(b)(9)) is  
21 amended—

22 (1) by inserting “paragraph (1)(A) of” after  
23 “by a foreign nation under”;

24 (2) by inserting “(A)” after the heading in  
25 paragraph (9); and

1 (3) by adding at the end thereof the following:

2 “(B) If the Secretary does not approve any  
3 application submitted by a foreign vessel owner  
4 under paragraph (1)(B) of this subsection, the  
5 Secretary shall promptly inform the vessel  
6 owner of the disapproval and the reasons there-  
7 fore. The owner, after taking into consideration  
8 the reasons for disapproval, may submit a re-  
9 vised application under this subsection.”.

10 (g) Section 204(b)(11) (16 U.S.C. 1824(b)(11)) is  
11 amended—

12 (1) by inserting “(A)” after the paragraph  
13 heading;

14 (2) by inserting “submitting an application  
15 under paragraph (1)(A)” after “If a foreign nation”;  
16 and

17 (3) adding at the end thereof the following:

18 “(B) If the vessel owner submitting an ap-  
19 plication under paragraph (1)(B) notifies the  
20 Secretary of acceptance of the conditions and  
21 restrictions established by the Secretary under  
22 paragraph (7), and upon payment of the appli-  
23 cable fees established pursuant to paragraph  
24 (10) and confirmation of any bonds or financial  
25 assurances that may be required for such

1 transhipment of fish, the Secretary shall there-  
2 upon issue a permit for the vessel.”.

3 (h) Section 204 (16 U.S.C. 1824) is amended by add-  
4 ing at the end thereof the following:

5 “(d) PROHIBITION ON PERMIT ISSUANCE.—Notwith-  
6 standing any other provision of this Act, the Secretary is  
7 prohibited from issuing, before December 1, 1999, any  
8 permit to authorize the catching, taking, or harvesting of  
9 Atlantic mackerel or Atlantic herring by foreign fishing  
10 vessels within the exclusive economic zone. This subsection  
11 shall not apply to permits to authorize foreign fish proc-  
12 essing vessels to process Atlantic mackerel or Atlantic her-  
13 ring harvested by fishing vessels of the United States.”.

14 **SEC. 108. LARGE-SCALE DRIFTNET FISHING.**

15 (a) Section 206(e) (16 U.S.C. 1826(e)) is amended  
16 by striking paragraphs (3) and (4), and redesignating  
17 paragraphs (5) and (6) as (3) and (4), respectively.

18 (b) Section 206(f) (16 U.S.C. 1826(f)) is amended  
19 by striking “(6)” and inserting “(4)”.

20 **SEC. 109. NATIONAL STANDARDS.**

21 (a) Paragraph (1) of section 301(a) (16 U.S.C.  
22 1851(a)) is amended to read as follows:

23 “(1) Conservation and management measures  
24 shall prevent overfishing and rebuild overfished fish-

1       ery resources while achieving, on a continuing basis,  
2       the optimum yield from each fishery.”.

3       (b) Section 301(a)(5) (16 U.S.C 1851(a)(5)) is  
4       amended by striking “promote” and inserting “consider”.

5       (c) Section 301(a) (16 U.S.C. 1851(a)) is amended  
6       by adding at the end thereof the following:

7               “(8) Conservation and management measures  
8       shall take into account the importance of the harvest  
9       of fishery resources to fishery dependent commu-  
10       nities.”.

11 **SEC. 110. REGIONAL FISHERY MANAGEMENT COUNCILS.**

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

13               (1) by inserting “(1)” after the subsection  
14       heading;

15               (2) by redesignating paragraphs (1) through  
16       (7) as subparagraphs (A) through (H);

17               (3) by striking “section 304(f)(3)” wherever it  
18       appears and inserting in lieu thereof “paragraph  
19       (3)”;

20               (4) by striking paragraph (1)(F), as redesi-  
21       gnated, and inserting the following:

22               “(F) PACIFIC COUNCIL.—The Pacific Fish-  
23       ery Management Council shall consist of the  
24       States of California, Oregon, Washington, and  
25       Idaho and shall have authority over the fish-

1           eries in the Pacific Ocean seaward of such  
2           States. The Pacific Council shall have 13 voting  
3           members, including 7 appointed by the Sec-  
4           retary in accordance with subsection (b)(2) (at  
5           least one of whom shall be appointed from each  
6           such State), and including one appointed from  
7           an Indian tribe with Federally recognized fish-  
8           ing rights from California, Oregon, Washington,  
9           or Idaho in accordance with subsection (b)(5).”;

10           (5) by indenting the sentence at the end thereof  
11           and inserting “(2)” in front of “Each Council”, and  
12           by inserting “The Secretary shall establish the  
13           boundaries between the geographical areas of au-  
14           thority of adjacent Councils.” after “authority.”;  
15           and

16           (6) by adding at the end the following:  
17           “(3) The Secretary shall have authority over  
18           any highly migratory species fishery that is within  
19           the geographical area of authority of more than one  
20           of the following Councils: New England Council,  
21           Mid-Atlantic Council, South Atlantic Council, Gulf  
22           Council, and Caribbean Council.”.

23           (b) Section 302(b) (16 U.S.C. 1852(b)) is amended—  
24           (1) by striking subparagraph (C) of subsection  
25           (b)(1) and inserting the following:

1           “(C) The members required to be ap-  
2           pointed by the Secretary in accordance with  
3           subsections (b)(2) and (5).”;

4           (2) by redesignating paragraph (5) as para-  
5           graph (6), and inserting after paragraph (4) the fol-  
6           lowing:

7           “(5)(A) The Secretary shall appoint to the Pa-  
8           cific Fishery Management Council one representative  
9           of an Indian tribe with Federally recognized fishing  
10          rights from California, Oregon, Washington, or  
11          Idaho, from a list of not less than 3 individuals sub-  
12          mitted by the tribal governments. The representative  
13          shall serve for a term of 3 years and may not serve  
14          more than 3 consecutive terms. The Secretary, in  
15          consultation with the Secretary of the Interior and  
16          tribal governments, shall establish by regulation the  
17          procedure for submitting lists under this subpara-  
18          graph.

19          “(B) Representation shall be rotated among the  
20          tribes taking into consideration—

21                 “(i) the qualifications of the individuals on  
22                 the list referred to in subparagraph (A),

23                 “(ii) the various treaty rights of the Indian  
24                 tribes involved and judicial cases that set forth  
25                 how those rights are to be exercised, and

1           “(iii) the geographic area in which the  
2           tribe of the representative is located.

3           “(C) A vacancy occurring prior to the expira-  
4           tion of any term shall be filled in the same manner  
5           set out in subparagraphs (A) and (B), except that  
6           the Secretary may use the list from which the  
7           vacating representative was chosen.”; and,

8           (3) by striking “subsection (b)(2)” in para-  
9           graph (6), as redesignated, and inserting “sub-  
10          sections (b)(2) and (5)”.

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

13           “(5) At the request of any voting member of a  
14          Council, the Council shall hold a roll call vote on any  
15          matter before the Council. The official minutes and  
16          other appropriate records of any Council meeting  
17          shall identify all roll call votes held, the name of  
18          each voting member present during each roll call  
19          vote, and how each member voted on each roll call  
20          vote.”.

21          (d) Section 302(g) (16 U.S.C. 1852(g)) is amended  
22 by redesignating paragraph (4) as (5), and by inserting  
23 after paragraph (3) the following:

24           “(4) The Secretary shall establish advisory pan-  
25          els to assist in—

1           “(A) the collection and evaluation of infor-  
2           mation relevant to the development of or  
3           amendment to any fishery management plan  
4           under section 303(e)(2); and

5           “(B) carrying out the purposes of section  
6           303(f).”.

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

8           (1) by striking “section 304(f)(3)” in para-  
9           graphs (1) and (5) and inserting “subsection  
10          (a)(3)”; and

11          (2) by striking “204(b)(4)(C)” in paragraph (2)  
12          and inserting “204(b)(4)(A)(iii)”.

13          (f) Section 302(i) (16 U.S.C. 1852(i)) is amended to  
14          read as follows:

15          “(i) NEGOTIATED CONSERVATION AND MANAGE-  
16          MENT MEASURES.—

17                 “(1) Acting through the Secretary, a Council  
18                 may, on its own or at the request of the Secretary,  
19                 establish a negotiation panel to assist in the develop-  
20                 ment of specific conservation and management  
21                 measures for a fishery under authority of such  
22                 Council. In making the decision to establish such  
23                 panel, the Council shall consider whether—

1           “(A) there are a finite number of identifi-  
2           able interests that will be significantly affected  
3           by the development of such measures;

4           “(B) there is a reasonable likelihood that  
5           a negotiation panel can be convened with a bal-  
6           anced representation of persons who—

7                   “(i) can adequately represent the in-  
8                   terests identified under subparagraph (A);  
9                   and

10                   “(ii) are willing to act in good faith to  
11                   reach a consensus on the development of  
12                   such measures;

13           “(C) there is reasonable likelihood that a  
14           negotiation panel will contribute to the develop-  
15           ment of such measures within a fixed period of  
16           time; and

17           “(D) the process under this subsection will  
18           not unreasonably delay the development of any  
19           conservation and management measure or its  
20           submission to the Secretary.

21           “(2) If the Council decides to establish a nego-  
22           tiation panel it shall notify all identifiable interests  
23           of its intention to convene such panel at least 30 cal-  
24           endar days prior to the appointment of members.  
25           Such notification shall be published in accordance

1 with subsection (j)(2)(C) of this section and shall  
2 include—

3 “(A) a description of the subject and scope  
4 of the measures to be developed and the issues  
5 to be considered;

6 “(B) a list of interests likely to be signifi-  
7 cantly affected by the measures to be developed;

8 “(C) a list of the persons proposed to rep-  
9 resent such interests, the person or persons  
10 proposed to represent the Council, and the per-  
11 son or persons proposed to be nominated as  
12 facilitator;

13 “(D) an explanation of how a person may  
14 apply or nominate another person for member-  
15 ship on the negotiation panel; and

16 “(E) a proposed agenda and schedule for  
17 completing the work of the negotiation panel.

18 “(3) No more than 45 calendar days after pro-  
19 viding this notification the Council shall make ap-  
20 pointments to the negotiation panel in such a man-  
21 ner as to achieve balanced representation of all sig-  
22 nificant interests to the conservation and manage-  
23 ment measures. Such interests shall include, where  
24 appropriate, representatives from the fishing indus-  
25 try, consumer groups, the scientific community, trib-

1 al organizations, conservation organizations and  
2 other public interest organizations, and Federal and  
3 State fishery managers.

4 “(4) Each negotiation panel established under  
5 this section shall attempt to reach a consensus con-  
6 cerning specific conservation and management meas-  
7 ures and any other issue such panel determines is  
8 relevant to such measures. The Council, to the maxi-  
9 mum extent possible consistent with its legal obliga-  
10 tions, will use the consensus of the negotiation  
11 panel, with respect to such measures, as the basis  
12 for the development of the conservation and manage-  
13 ment measures to be adopted by the Council or sub-  
14 mitted by the Council to the Secretary in accordance  
15 with this Act.

16 “(5) The person or persons representing the  
17 Council on a negotiation panel shall participate in  
18 the deliberations and activities of such panel with  
19 the same rights and responsibilities as other panel  
20 members, and shall be authorized to fully represent  
21 the Council in the discussions and negotiations of  
22 such panel.

23 “(6) Any facilitator nominated by the Council  
24 to a negotiation panel must be approved by the  
25 panel by consensus. If the panel does not approve a

1 facilitator nominated by the Council the panel shall  
2 select by consensus another person to serve as  
3 facilitator. No person appointed by the Council to  
4 the negotiation panel to represent any interest on the  
5 Council may serve as facilitator or otherwise chair  
6 such panel.

7 “(7) A facilitator approved or selected by a ne-  
8 gotiation panel shall—

9 “(A) chair the meetings of such panel in  
10 an impartial manner;

11 “(B) impartially assist the panel members  
12 in conducting discussions and negotiations; and

13 “(C) manage the keeping of any minutes  
14 or records, (except that any personal notes and  
15 materials of the facilitator or the panel mem-  
16 bers shall not be subject to disclosure, except  
17 upon order of a court).

18 “(8) A negotiation panel may adopt any addi-  
19 tional procedures for the operation of the negotiation  
20 panel not in conflict with those specified in this  
21 section.

22 “(9) At the conclusion of the negotiation proc-  
23 ess, if the negotiation panel reaches a consensus on  
24 proposed conservation and management measures,  
25 such panel shall transmit to the Council, and

1 present to the Council at the next scheduled meeting  
2 of the Council, a report containing the proposed con-  
3 servation and management measures. If the negotia-  
4 tion panel does not reach consensus on proposed  
5 conservation and management measures, such panel  
6 shall transmit to the Council, and present to the  
7 Council at the next scheduled meeting of the Coun-  
8 cil, a report specifying its recommendations and de-  
9 scribing the areas in which the negotiation panel  
10 reached consensus and the areas in which consensus  
11 was not achieved. The negotiation panel may include  
12 in a report any other information or materials that  
13 such panel considers appropriate. Any panel member  
14 may include, as an addendum to the report, addi-  
15 tional information or materials.

16 “(10) A negotiation panel shall terminate upon  
17 approval by the Secretary of the conservation and  
18 management measures recommended by the Council  
19 on the basis of the report by the panel, unless the  
20 Council in consultation with the panel, or the panel  
21 itself specifies an alternative termination date.

22 “(11) For the purposes of this subsection:

23 “(A) The term ‘negotiation panel’ means  
24 an advisory panel established by a Council  
25 under section (g)(2) to assist in the develop-

1           ment of specific conservation and management  
2           measures through the process established under  
3           this subsection.

4           “(B) The term ‘consensus’ means general  
5           but not unanimous concurrence among the in-  
6           terests represented unless such panel—

7                   “(i) agrees by consensus to define  
8                   such term to mean a unanimous concu-  
9                   rence; or

10                   “(ii) agrees by consensus upon an-  
11                   other specified definition.

12           “(C) The term ‘facilitator’ means a person  
13           experienced or trained in group mediation and  
14           negotiation who impartially aids in the discus-  
15           sions and negotiations among the members of a  
16           negotiation panel.

17           “(D) The term ‘interest’ means, with re-  
18           spect to this subsection, multiple persons or  
19           parties who have a similar point of view or  
20           which are likely to be affected in a similar  
21           manner.”.

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

23                   (1) by deleting “of the Councils” in paragraph

24                   (1) and inserting “established under subsection (g)”;

1           (2) by deleting “of a Council:” in paragraph (2)  
2           and inserting “established under subsection (g):”;

3           (3) by adding at the end of paragraph (2)(C):  
4           “Interested persons may propose to modify the pub-  
5           lished agenda of a meeting by submitting to a Coun-  
6           cil, panel or committee within 14 calendar days of  
7           the published date of the meeting a notice contain-  
8           ing a written description of the proposed modifica-  
9           tion signed by not less than two Council members.”;

10          (4) by adding the following at the end of para-  
11          graph (2)(D): “All written data submitted to a  
12          Council by an interested person shall include a state-  
13          ment of the source and date of such information.  
14          Any oral or written statement shall include a brief  
15          description of the qualifications and interests of the  
16          person in the subject of the oral or written state-  
17          ment.”;

18          (5) by amending paragraph (2)(E) to read as  
19          follows:

20                 “(E) Detailed minutes of each meeting of  
21                 the Council shall be kept and shall contain a  
22                 record of the persons present, a complete and  
23                 accurate description of matters discussed and  
24                 conclusions reached, and copies of all state-  
25                 ments filed, issued, or approved by the Council.

1           The Chairman shall certify the accuracy of the  
2           minutes of each meeting and submit a copy  
3           thereof to the Secretary. The minutes shall be  
4           made available to any court of competent juris-  
5           diction.”; and

6           (6) by striking “303(d)” in paragraph (2)(F)  
7           and inserting “402(b)”.

8           (h) Section 302(k) (16 U.S.C. 1852(k)) is amend-  
9           ed—

10           (1) by inserting “and recusal” in the subsection  
11           heading;

12           (2) by striking paragraph (1) and inserting the  
13           following:

14           “(1) For the purposes of this subsection—

15           “(A) the term ‘affected individual’ means  
16           an individual who—

17           “(i) is nominated by the Governor of  
18           a State for appointment as a voting mem-  
19           ber of a Council in accordance with sub-  
20           section (b)(2); or

21           “(ii) is a voting member of a Council  
22           appointed under subsection (b)(2); and

23           “(B) the term ‘designated official’ means a  
24           person with expertise in Federal conflict-of-in-  
25           terest requirements who is designated by the

1 Secretary, with the concurrence of the Council,  
2 to attend Council meetings and make deter-  
3 minations under paragraph (7)(B).”;

4 (3) by striking “(1)(A)” in paragraph (3)(A)  
5 and inserting “(1)(A)(i)”;

6 (4) by striking “(1)(B) or (C)” in paragraph  
7 (3)(B) and inserting “(1)(A)(ii)”;

8 (5) by striking “(1)(B) or (C)” in paragraph  
9 (4) and inserting “(1)(A)(ii)”;

10 (6)(A) by striking “and” at the end of para-  
11 graph (5)(A);

12 (B) by striking the period at the end of para-  
13 graph (5)(B) and inserting a semicolon and the  
14 word “and”; and

15 (C) by adding at the end of paragraph (5) the  
16 following:

17 “(C) be kept on file by the Secretary for  
18 use in reviewing determinations under para-  
19 graph (7)(B) and made available for public in-  
20 spection at reasonable hours.”;

21 (7) by striking “(1)(B) or (C)” in paragraph  
22 (6) and inserting “(1)(A)(ii)”;

23 (8) by redesignating paragraph (7) as (8) and  
24 inserting after paragraph (6) the following:

1           “(7)(A) An affected individual required to dis-  
2           close a financial interest under paragraph (2) shall  
3           not vote on a Council decision which would have a  
4           significant and predictable effect on such financial  
5           interest. A Council decision shall be considered to  
6           have a significant and predictable effect on a finan-  
7           cial interest if there is a close causal link between  
8           the Council decision and an expected benefit, shared  
9           only by a minority of persons within the same indus-  
10          try sector or gear group, to the financial interest. An  
11          affected individual who may not vote may participate  
12          in Council deliberations relating to the decision after  
13          notifying the Council of the voting recusal and iden-  
14          tifying the financial interest that would be affected.

15          “(B) At the request of an affected individual, or  
16          at the initiative of the appropriate designated offi-  
17          cial, the designated official shall make a determina-  
18          tion for the record whether a Council decision would  
19          have a significant and predictable effect on a finan-  
20          cial interest.

21          “(C) Any Council member may submit a writ-  
22          ten request to the Secretary to review any deter-  
23          mination by the designated official under subpara-  
24          graph (B) within 10 days of such determination.

1 Such review shall be completed within 30 days of re-  
2 ceipt of the request.

3 “(D) Any affected individual who does not par-  
4 ticipate in a Council decision in accordance with this  
5 subsection shall state for the record how he or she  
6 would have voted on such decision if he or she had  
7 voted.

8 “(E) If the Council makes a decision before the  
9 Secretary has reviewed a determination under sub-  
10 paragraph (C), the eventual ruling may not be treat-  
11 ed as cause for the invalidation or reconsideration by  
12 the Secretary of such decision.

13 “(F) No later than December 1, 1995, the Sec-  
14 retary, in consultation with the Councils, shall issue  
15 guidelines with respect to voting recusals under sub-  
16 paragraph (A) and the making of determinations  
17 under subparagraph (B).”; and

18 (9) by striking “(1)(B) or (C)” in paragraph  
19 (8), as redesignated, and inserting “(1)(A)(ii)”.

20 **SEC. 111. FISHERY MANAGEMENT PLANS.**

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

22 (1) by striking paragraph (6) and inserting the  
23 following:

1           “(6) consider and provide for, after consultation  
2 with the Coast Guard and persons participating in  
3 the fishery,—

4           “(A) safety of life and property at sea;

5           “(B) temporary adjustments regarding ac-  
6 cess to the fishery for vessels otherwise pre-  
7 vented from harvesting because of weather or  
8 other ocean conditions affecting the safe con-  
9 duct of the fishery (except that any such ad-  
10 justment shall not adversely affect conservation  
11 efforts in other fisheries or discriminate among  
12 participants in the affected fishery); and

13           “(C) enforcement measures (including an  
14 estimate of the resources necessary for effective  
15 implementation of such measures).”;

16           (2) by striking paragraph (7) and inserting the  
17 following:

18           “(7) facilitate the protection of essential fish  
19 habitat by—

20           “(A) summarizing available information on  
21 the significance of such habitat to the fishery  
22 and the effects of changes to such habitat on  
23 the fishery; and

1           “(B) identifying Federal actions that  
2           should be considered to promote the long-term  
3           protection of essential fish habitats.”;

4           (3) by striking “and” at the end of paragraph  
5           (8);

6           (4) by striking the period at the end of para-  
7           graph (9) and inserting a semicolon; and

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

9           “(10) specify objective and measurable criteria  
10          for classifying when the fishery to which the plan  
11          applies would be or is overfished, with an analysis of  
12          how the criteria were determined and the relation-  
13          ship of the criteria to the reproductive potential of  
14          stocks of fish in that fishery;

15          “(11) assess the level of bycatch occurring in  
16          the fishery, and to the extent practicable, assess and  
17          specify the effect of the fishery on stocks of fish to  
18          which the plan does not apply, but which are associ-  
19          ated with the ecosystem of the fishery; and

20          “(12) to the extent practicable, minimize mor-  
21          tality caused by economic and regulatory discards in  
22          the fishery.”.

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

24                 (1) by striking paragraph (6) and inserting the  
25                 following:

1           “(6) establish a limited access system for the  
2 fishery in order to achieve optimum yield if—

3           “(A) in developing such system, the Coun-  
4 cil and the Secretary take into account present  
5 participation in the fishery, historical fishing  
6 practices in and dependence on the fishery, the  
7 economics of the fishery, the capability of fish-  
8 ing vessels used in the fishery to engage in  
9 other fisheries, the cultural and social frame-  
10 work relevant to the fishery and fishery depend-  
11 ent communities, and any other relevant consid-  
12 erations; and

13           “(B) in the case of any system that pro-  
14 vides for individual transferable quotas, such  
15 system also complies with the guidelines and fee  
16 requirements established under section 303(f);”;

17           (2) by striking “and” at the end of paragraph  
18 (9);

19           (3) by striking the period at the end of para-  
20 graph (10) and inserting a semicolon and “and”;  
21 and

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

23           “(11) include, consistent with the other provi-  
24 sions of this Act, conservation and management  
25 measures that provide a harvest preference or other

1 incentives for fishing vessels within each gear group  
2 that employ fishing practices resulting in lower levels  
3 of bycatch.”.

4 (c) Section 303 (16 U.S.C. 1853) is amended by  
5 striking subsection (c) and all thereafter and inserting the  
6 following:

7 “(c) REGULATIONS TO IMPLEMENT A FISHERY MAN-  
8 AGEMENT PLAN.—Proposed regulations which the Council  
9 deems necessary or appropriate for the purposes of imple-  
10 menting a fishery management plan or amendment to a  
11 plan may be submitted to the Secretary for action under  
12 section 304—

13 “(1) simultaneously with submission of the plan  
14 or amendment to the Secretary for action under sec-  
15 tion 304; or

16 “(2) at any time after the plan or amendment  
17 is approved.

18 “(d) FISHERIES UNDER AUTHORITY OF MORE THAN  
19 ONE COUNCIL.—

20 “(1) Except as provided in section 302(a)(3), if  
21 any fishery extends beyond the geographical area of  
22 authority of any one Council, the Secretary may—

23 “(A) designate which Council shall prepare  
24 the fishery management plan for such fishery

1 and any amendment to such plan, as well as  
2 any proposed regulations for such fishery; or

3 “(B) require that the plan, amendment,  
4 and proposed regulations be prepared jointly by  
5 the Councils concerned.

6 “(2) No jointly prepared fishery management  
7 plan, amendment, or proposed regulations may be  
8 submitted to the Secretary unless approved by a ma-  
9 jority of the voting members, present and voting, of  
10 each Council concerned.

11 “(e) PREPARATION BY THE SECRETARY.—

12 “(1) The Secretary shall prepare a fishery man-  
13 agement plan with respect to any fishery (other than  
14 a fishery to which section 302(a)(3) applies), or any  
15 amendment to any such plan, in accordance with the  
16 national standards, the other provisions of this Act,  
17 and any other applicable law, if—

18 “(A) the appropriate Council fails to de-  
19 velop and submit to the Secretary, after a rea-  
20 sonable period of time, a fishery management  
21 plan for such fishery, or any necessary amend-  
22 ment to such plan, if such fishery requires con-  
23 servation and management and the Secretary  
24 provides written notice to the Council of the  
25 need for such conservation and management;

1           “(B) the Secretary disapproves or partially  
2 disapproves any such plan or amendment, or  
3 disapproves a revised plan or amendment, and  
4 the Council involved fails, after a reasonable pe-  
5 riod of time, to take final action on a revised  
6 or further revised plan or amendment, as the  
7 case may be; or

8           “(C) the Secretary determines that the ap-  
9 propriate Council has failed to take sufficient  
10 action on a fishery management plan, a plan  
11 amendment or proposed regulations to rebuild  
12 an overfished fishery pursuant to section 305(b)  
13 within 1 year after determining that such fish-  
14 ery is overfished.

15           “(2) The Secretary shall prepare a fishery man-  
16 agement plan with respect to any highly migratory  
17 species fishery to which section 302(a)(3) applies  
18 that requires conservation and management, or any  
19 amendment to any such plan, in accordance with the  
20 national standards, the other provisions of this Act,  
21 and any other applicable law. In preparing and im-  
22 plementing any such plan or amendment, the Sec-  
23 retary shall—

24           “(A) conduct public hearings, at appro-  
25 priate times and in appropriate locations in the

1 geographical areas concerned, so as to allow in-  
2 terested persons an opportunity to be heard in  
3 the preparation and amendment of the plan and  
4 any regulations implementing the plan;

5 “(B) consult with and consider the com-  
6 ments and views of affected Councils, as well as  
7 commissioners and advisory groups appointed  
8 under Acts implementing relevant international  
9 fishery agreements pertaining to highly migra-  
10 tory species;

11 “(C) establish an advisory panel under sec-  
12 tion 302(g) for each fishery management plan  
13 to be prepared under this paragraph, which  
14 shall consist of a balanced number (but not less  
15 than seven) of representatives who are knowl-  
16 edgeable and experienced with respect to the  
17 fishery concerned selected from among members  
18 of advisory groups appointed under Acts imple-  
19 menting relevant international fishery agree-  
20 ments pertaining to highly migratory species  
21 and other interested parties;

22 “(D) evaluate the likely effects, if any, of  
23 conservation and management measures on par-  
24 ticipants in the affected fisheries and minimize,  
25 to the extent practicable, any disadvantage to

1 United States fishermen in relation to foreign  
2 competitors;

3 “(E) with respect to a highly migratory  
4 species for which the United States is author-  
5 ized to harvest an allocation or quota or fishing  
6 mortality level under a relevant international  
7 fishery agreement, provide fishing vessels of the  
8 United States with a reasonable opportunity to  
9 harvest such allocation, quota, or fishing mor-  
10 tality level;

11 “(F) review, on a continuing basis (and  
12 promptly whenever a recommendation pertain-  
13 ing to fishing for highly migratory species has  
14 been made under a relevant international fish-  
15 ery agreement), and revise as appropriate, the  
16 conservation and management measures in-  
17 cluded in the plan;

18 “(G) diligently pursue, through inter-  
19 national entities (such as the International  
20 Commission for the Conservation of Atlantic  
21 Tunas), comparable international fishery man-  
22 agement measures with respect to fishing for  
23 highly migratory species; and

1           “(H) ensure that conservation and man-  
2           agement measures adopted under this para-  
3           graph—

4                   “(i) promote international conserva-  
5                   tion of the affected fishery;

6                   “(ii) take into consideration tradi-  
7                   tional fishing patterns of fishing vessels of  
8                   the United States and the operating re-  
9                   quirements of the fisheries; and

10                   “(iii) are fair and equitable in allocat-  
11                   ing fishing privileges among United States  
12                   fishermen and not have economic allocation  
13                   as the sole purpose.

14           “(3) In preparing any plan or amendment  
15           under this subsection, the Secretary shall consult  
16           with the Secretary of State with respect to foreign  
17           fishing and with the Secretary of the department in  
18           which the Coast Guard is operating with respect to  
19           enforcement at sea.

20           “(4) The Secretary may not include in any fish-  
21           ery management plan, or any amendment to any  
22           such plan, prepared by the Secretary under para-  
23           graph (1), a provision establishing a limited access  
24           system, unless such system is first approved by a

1 majority of the voting members of each appropriate  
2 Council.

3 “(f) INDIVIDUAL TRANSFERABLE QUOTAS.—

4 “(1) The Secretary may not approve a fishery  
5 management plan that includes individual transfer-  
6 able quotas until the Secretary has promulgated  
7 guidelines under paragraph (2). Thereafter, the Sec-  
8 retary may approve a fishery management plan or  
9 amendment that includes individual transferable  
10 quotas only if the plan or amendment is consistent  
11 with the guidelines promulgated under paragraph  
12 (2).

13 “(2) The Secretary shall promulgate, after con-  
14 sultation with the Councils and public notice and  
15 comment, mandatory guidelines for the establish-  
16 ment of any individual transferable quota system.  
17 The guidelines shall—

18 “(A) ensure that any individual transfer-  
19 able quota system—

20 “(i) is consistent with the require-  
21 ments for limited access systems under  
22 section 303(b)(6),

23 “(ii) promotes conservation,

1           “(iii) requires collection of fees from  
2 holders of individual transferable quotas  
3 under section 304(f)(2),

4           “(iv) provides for the fair and equi-  
5 table allocation of fishing privileges, and  
6 facilitates a reduction in excessive fishing  
7 capacity in the fishery,

8           “(v) establishes a national lien reg-  
9 istry system for the identification, perfec-  
10 tion, determination or lien priorities, and  
11 nonjudicial foreclosure of encumbrances or  
12 individual transferable quotas, and

13           “(vi) facilitates a reduction in exces-  
14 sive fishing capacity in the fishery;

15           “(B) address the characteristics of fish-  
16 eries that are relevant to the design of suitable  
17 individual transferable quota systems, the na-  
18 ture and extent of the privilege established  
19 under an individual transferable quota system,  
20 factors in making initial allocations and deter-  
21 mining eligibility for ownership of individual  
22 transferable quotas, limitations on the consoli-  
23 dation of individual transferable quotas, and  
24 methods of providing for new entrants, includ-  
25 ing, in fisheries where appropriate, mechanisms

1 to provide a portion of the annual harvest for  
2 entry-level fishermen or small vessel owners who  
3 do not hold individual transferrable quotas;

4 “(C) provide for effective monitoring and  
5 enforcement of individual transferable quota  
6 systems, including providing for the inspection  
7 of fish harvested under such systems before the  
8 fish is transported beyond the geographic area  
9 under a Council’s jurisdiction or the jurisdiction  
10 of the United States;

11 “(D) provide for appropriate penalties for  
12 violations of individual transferable quota sys-  
13 tems, including the revocation of individual  
14 transferable quotas for such violations; and

15 “(E) include recommendations for poten-  
16 tial management options related to individual  
17 transferable quotas, including the authorization  
18 of individual units or quotas that may not be  
19 transferred by the holder, and the use of leases  
20 or auctions by the Federal government in the  
21 establishment or allocation of individual trans-  
22 ferable or nontransferable units or quotas.

23 “(3) Any fishery management plan which in-  
24 cludes individual transferable quotas that the Sec-  
25 retary approved on or before June 30, 1994, shall

1 be amended by June 30, 1997, to be consistent with  
2 this subsection and any other applicable provisions  
3 of this Act.

4 “(4) No later than 60 days after the date of en-  
5 actment of the Sustainable Fisheries Act, the Sec-  
6 retary shall establish an advisory panel on individual  
7 transferable quotas under section 302(g)(3) which  
8 shall be comprised of fishery scientists and rep-  
9 resentatives of the Councils, representatives of af-  
10 fected States and fishery dependent communities,  
11 fishery participants and conservation organizations.  
12 Such advisory panel shall provide recommendations  
13 on the guidelines required under paragraph (2), a  
14 list of all United States fisheries that may be suited  
15 for the development of limited access systems that  
16 include individual transferable quotas, and other in-  
17 formation as the Secretary or the advisory panel  
18 deem appropriate.

19 “(5) An individual transferable quota does not  
20 constitute a property right. Nothing in this section  
21 or in any other provision of law shall be construed  
22 to limit the authority of the Secretary to terminate  
23 or limit such individual transferable quota at any  
24 time and without compensation to the holder of such  
25 quota. The term ‘holder of an individual transferable

1 quota' includes, (A) fishing vessel owners, fishermen,  
2 crew members or other citizens of the United States,  
3 and (B) United States fish processors.”.

4 **SEC. 112. PLAN REVIEW AND IMPLEMENTATION.**

5 Section 304 (16 U.S.C. 1854) is amended to read as  
6 follows:

7 **“SEC. 304. PLAN REVIEW AND IMPLEMENTATION.**

8 “(a) ACTION BY THE SECRETARY AFTER RECEIPT  
9 OF PLAN.—

10 “(1) Upon transmittal by the Council to the  
11 Secretary of a fishery management plan, or amend-  
12 ment to such plan, the Secretary shall—

13 “(A) immediately commence a review of  
14 the management plan or amendment to deter-  
15 mine whether it is consistent with the national  
16 standards, the other provisions of this Act, and  
17 any other applicable law; and

18 “(B) immediately publish in the Federal  
19 Register a notice stating that the plan or  
20 amendment is available and that written data,  
21 views, or comments of interested persons on the  
22 document or amendment may be submitted to  
23 the Secretary during the 60-day period begin-  
24 ning on the date the notice is published.

1           “(2) In undertaking the review required under  
2 paragraph (1), the Secretary shall—

3           “(A) take into account the data, views, and  
4 comments received from interested persons;

5           “(B) consult with the Secretary of State  
6 with respect to foreign fishing; and

7           “(C) consult with the Secretary of the de-  
8 partment in which the Coast Guard is operating  
9 with respect to enforcement at sea and to fish-  
10 ery access adjustments referred to in section  
11 303(a)(6).

12           “(3) The Secretary shall approve, disapprove,  
13 or partially approve a plan or amendment within 30  
14 days of the end of the comment period under para-  
15 graph (1) by written notice to the Council. A notice  
16 of disapproval or partial approval shall specify—

17           “(A) the applicable law with which the  
18 plan or amendment is inconsistent;

19           “(B) the nature of such inconsistencies;  
20 and

21           “(C) recommendations concerning the ac-  
22 tions that could be taken by the Council to con-  
23 form such plan or amendment to the require-  
24 ments of applicable law.

1           “(4) If the Secretary disapproves or partially  
2 approves a plan or amendment, the Council may  
3 submit a revised plan or amendment to the Sec-  
4 retary for review under this subsection.

5           “(b) ACTION ON REGULATIONS.—

6           “(1) Upon transmittal by the Council to the  
7 Secretary of proposed regulations prepared under  
8 section 303(c), the Secretary shall immediately initi-  
9 ate an evaluation of the proposed regulations to de-  
10 termine whether they are consistent with the fishery  
11 management plan, this Act and other applicable law.  
12 Within 15 days of initiating such evaluation the Sec-  
13 retary shall make a determination and—

14           “(A) if that determination is affirmative,  
15 the Secretary shall publish such regulations,  
16 with such technical changes as may be nec-  
17 essary for clarity and an explanation of those  
18 changes, in the Federal Register for a public  
19 comment period of 15 to 60 days; or

20           “(B) if that determination is negative, the  
21 Secretary shall notify the Council in writing of  
22 the inconsistencies and provide recommenda-  
23 tions on revisions that would make the proposed  
24 regulations consistent with the fishery manage-  
25 ment plan, this Act, and other applicable law.

1           “(2) Upon receiving a notification under para-  
2           graph (1)(B), the Council may revise the proposed  
3           regulations and submit them to the Secretary for re-  
4           evaluation under paragraph (1).

5           “(3) The Secretary shall promulgate final regu-  
6           lations within 30 days after the end of the comment  
7           period under paragraph (1)(A). The Secretary shall  
8           consult with the Council before making any revisions  
9           to the proposed regulations, and must publish in the  
10          Federal Register an explanation of any differences  
11          between the proposed and final regulations.

12          “(c) DEFINITION.—For purposes of subsections (a)  
13          and (b), the term ‘immediately’ means on or before the  
14          5th day after the day on which a Council transmits to  
15          the Secretary a plan, amendment, or proposed regulation  
16          that the Council characterizes as final.

17          “(d) SECRETARIAL PLAN REVIEW.—

18                  “(1)(A) Whenever, under section 303(e), the  
19          Secretary prepares a fishery management plan or  
20          amendment, the Secretary shall immediately—

21                          “(i) for a plan or amendment prepared  
22                          under section 303(e)(1), submit such plan or  
23                          amendment to the appropriate Council for con-  
24                          sideration and comment; and

1           “(ii) publish in the Federal Register a no-  
2           tice stating that the plan or amendment is  
3           available and that written data, views, or com-  
4           ments of interested persons on the plan or  
5           amendment may be submitted to the Secretary  
6           during the 60-day period beginning on the date  
7           the notice is published.

8           “(B) Whenever a plan or amendment is submit-  
9           ted under subsection (1)(A)(i), the appropriate  
10          Council must submit its comments and recommenda-  
11          tions, if any, regarding the plan or amendment to  
12          the Secretary before the close of the 60-day period  
13          referred to in subparagraph (A)(ii). After the close  
14          of such 60-day period, the Secretary, after taking  
15          into account any such comments and recommenda-  
16          tions, as well as any views, data, or comments sub-  
17          mitted under subparagraph (A)(ii), may adopt such  
18          plan or amendment.

19          “(2) The Secretary may propose regulations in  
20          the Federal Register to implement any plan or  
21          amendment prepared by the Secretary. The com-  
22          ment period on proposed regulations shall be 60  
23          days, except that the Secretary may shorten the  
24          comment period on minor revisions to existing regu-  
25          lations.

1           “(3) The Secretary shall promulgate final regu-  
2           lations within 30 days after the end of the comment  
3           period under paragraph (3). The Secretary must  
4           publish in the Federal Register an explanation of  
5           any substantive differences between the proposed  
6           and final rules. All final regulations must be consist-  
7           ent with the plan, with the national standards and  
8           other provisions of this Act, and with any other ap-  
9           plicable law.

10          “(e) JUDICIAL REVIEW.—

11                 “(1) Regulations promulgated by the Secretary  
12                 under this Act and actions described in paragraph  
13                 (2) shall be subject to judicial review to the extent  
14                 authorized by, and in accordance with, chapter 7 of  
15                 title 5, United States Code, if a complaint for such  
16                 review is filed within 30 days after the date on  
17                 which the regulations are promulgated or the action  
18                 is published in the Federal Register, as applicable;  
19                 except that—

20                         “(A) section 705 of such title is not appli-  
21                         cable, and

22                         “(B) the appropriate court shall only set  
23                         aside any such regulation or action on a ground  
24                         specified in section 706(2)(A), (B), (C), or (D)  
25                         of such title.

1           “(2) The actions referred to in paragraph (1)  
2           are actions that are taken by the Secretary under  
3           regulations which implement a fishery management  
4           plan, including but not limited to actions that estab-  
5           lish the date of closure of a fishery to commercial or  
6           recreational fishing.

7           “(3)(A) Notwithstanding any other provision of  
8           law, the Secretary shall file a response to any com-  
9           plaint filed in accordance with paragraph (1) not  
10          later than 45 days after the date the Secretary is  
11          served with that complaint, except that the appro-  
12          priate court may extend the period for filing such a  
13          response upon a showing by the Secretary of good  
14          cause for that extension.

15          “(B) A response of the Secretary under this  
16          paragraph shall include a copy of the administrative  
17          record for the regulations that are the subject of the  
18          petition.

19          “(4) Upon a motion by the person who files a  
20          complaint under this subsection, the appropriate  
21          court shall assign the matter for hearing at the ear-  
22          liest possible date and shall expedite the matter in  
23          every possible way.

24          “(f) ESTABLISHMENT OF FEES.—

1           “(1) The Secretary shall by regulation establish  
2           the level of any fees that are authorized to be  
3           charged pursuant to section 303(b)(1). The Sec-  
4           retary may enter into a cooperative agreement with  
5           the States concerned under which the States admin-  
6           ister the permit system and the agreement may pro-  
7           vide that all or part of the fees collected under the  
8           system shall accrue to the States. The level of fees  
9           charged under this paragraph shall not exceed the  
10          administrative costs incurred in issuing the permits.

11          “(2)(A) Notwithstanding paragraph (1), the  
12          Secretary shall collect a fee from each person hold-  
13          ing an individual transferable quota pursuant to a  
14          limited access system established under section  
15          303(b)(6). Fees assessed under this paragraph shall  
16          be sufficient to recover the cost of managing the  
17          fishery to which the quota applies, including reason-  
18          able costs for salaries, training, data analysis and  
19          other costs directly related to fishery management  
20          and enforcement, up to—

21                  “(i) four percent annually of the value of  
22                  fish harvested or processed in that year under  
23                  the individual transferable quota; and

24                  “(ii) an additional 1 percent of the value  
25                  of fish authorized to be harvested or processed

1           for that year under the individual transferable  
2           quota to be assessed on a person receiving an  
3           initial quota or transferring a quota.

4           “(B) The Secretary, in consultation with the  
5           Councils, shall promulgate regulations, prescribing  
6           the method of determining the value of fish author-  
7           ized to be taken, the amount of each fee, and the  
8           method of collecting fees. Fees collected under this  
9           paragraph shall meet the requirements of section  
10          9701(b) of title 31, United States Code. Fees col-  
11          lected under this paragraph shall be an offsetting  
12          collection and shall be available only to the Secretary  
13          for the purposes of administering and implementing  
14          this Act in the region in which the fees were col-  
15          lected.

16          “(C) Persons holding individual transferable  
17          quota pursuant to limited access systems established  
18          in the surf clam and ocean quahog fishery or in the  
19          wreckfish fishery are exempt from the collection of  
20          fees under this paragraph for a period of 5 years  
21          from the date of enactment of the Sustainable Fish-  
22          eries Act.

23          “(g) EFFECT OF CERTAIN LAWS ON CERTAIN TIME  
24          REQUIREMENTS.—The Secretary shall comply with any  
25          applicable provisions of chapter 35 of title 44, United

1 States Code, chapter 6 of title 5, United States Code, and  
2 Executive Order Numbered 12866, dated September 30,  
3 1993, within the time limitations specified in subsections  
4 (a) and (b).

5 “(h) RESPONSIBILITY OF THE SECRETARY.—The  
6 Secretary shall have general responsibility to carry out the  
7 provisions of this Act. The Secretary may promulgate such  
8 regulations, in accordance with section 553 of title 5,  
9 United States Code, as may be necessary to discharge  
10 such responsibility.”.

11 **SEC. 113. ECOSYSTEM MANAGEMENT.**

12 Section 305 (16 U.S.C. 1855) is amended to read as  
13 follows:

14 **“SEC. 305. ECOSYSTEM MANAGEMENT.**

15 “(a) REPORT ON STATUS OF FISHERIES.—The Sec-  
16 retary shall report annually to the Congress and the Coun-  
17 cils on the status of fisheries within each Council’s geo-  
18 graphical area of authority and identify those fisheries  
19 that are approaching a condition of being overfished or  
20 are overfished. For those fisheries managed under a fish-  
21 ery management plan, the status shall be assessed using  
22 the criteria for overfishing specified by the appropriate  
23 Council under section 303(a)(10). A fishery shall be classi-  
24 fied as approaching a condition of being overfished if,  
25 based on trends in fishing effort, fishery resource size, and

1 other appropriate factors, the Secretary estimates that the  
2 fishery will become overfished within two years. Any fish-  
3 ery determined to be a commercial fishery failure under  
4 section 316, shall be deemed to be overfished for the pur-  
5 poses of subsections (a) and (b).

6 “(b) FISHERY RECOVERY EFFORT.—

7 “(1) The Council shall take immediate action to  
8 prepare a fishery management plan, a plan amend-  
9 ment, or proposed regulations for fisheries under  
10 such Council’s authority—

11 “(A) to prevent overfishing of a fishery  
12 from occurring whenever such fishery is classi-  
13 fied under subsection (a) as approaching an  
14 overfished condition, or

15 “(B) to stop overfishing of a fishery when-  
16 ever such fishery is classified under subsection  
17 (a) as overfished, and to rebuild affected stocks  
18 of fish.

19 “(2) The Council shall submit a fishery man-  
20 agement plan, amendment or proposed regulations  
21 required under paragraph (1) to the Secretary with-  
22 in 1 year from the date of transmittal of the report  
23 on the status of stocks under subsection (a). For a  
24 fishery that is overfished, such fishery management  
25 plan, amendment or proposed regulations shall speci-

1       fy a time period for stopping overfishing and re-  
2       building the fishery. The time period shall be as  
3       short as possible, taking into account the status and  
4       biology of the overfished stock of fish, the needs of  
5       fishery-dependent communities, and the interaction  
6       of the overfished stock of fish within the marine eco-  
7       system. The time period may not be more than 10  
8       years, except under extraordinary circumstances.

9               “(3) During the development of a fishery man-  
10       agement plan, a plan amendment, or proposed regu-  
11       lations under this subsection, the Council may re-  
12       quest that the Secretary promulgate emergency reg-  
13       ulations under subsection (e)(2) to reduce  
14       overfishing. Any request by the Council under this  
15       paragraph shall be deemed an emergency.

16       “(c) FISH HABITAT.—

17               “(1) The Secretary, in cooperation with the  
18       Councils and the Secretary of the Interior, after no-  
19       tice and public comment, shall identify the essential  
20       fish habitat for each fishery for which a fishery  
21       management plan is in effect. The identification  
22       shall be based on the description of essential fish  
23       habitat contained in the plan.

24               “(2) Each Council shall—

1           “(A) notify the Secretary regarding, and  
2           may comment on and make recommendations  
3           concerning, any activity undertaken, or pro-  
4           posed to be undertaken, by any Federal or  
5           State agency that, in the view of the Council,  
6           may have an adverse effect on essential fish  
7           habitat of a fishery under its authority; and

8           “(B) comment on and make recommenda-  
9           tions to any Federal or State department or  
10          agency concerning any such activity that, in the  
11          view of the Council is likely to substantially af-  
12          fect the habitat of an anadromous fishery re-  
13          source under its jurisdiction.

14          “(3) If the Secretary receives information from  
15          a Council or determines from other sources that an  
16          action authorized, funded, carried out, or proposed  
17          to be carried out by any Federal agency may result  
18          in the destruction or adverse modification of any es-  
19          sential fish habitat identified under paragraph (1),  
20          the Secretary shall comment on and make rec-  
21          ommendations to the Federal agency concerning that  
22          action.

23          “(4) Within 45 days after receiving a comment  
24          or recommendation under paragraphs (2) or (3)  
25          from a Council or the Secretary, a Federal agency

1 shall provide a detailed response, in writing, to the  
2 commenting Council and the Secretary regarding the  
3 matter. The response shall include a description of  
4 measures being considered by the agency for avoid-  
5 ing, mitigating, or offsetting the impact of the activ-  
6 ity on such habitat. In the case of a response that  
7 is inconsistent with a recommendation from any  
8 Council or the Secretary, the Federal agency shall  
9 explain its reasons for not following the rec-  
10 ommendations.

11 “(d) GEAR EVALUATION AND NOTIFICATION OF  
12 ENTRY.—

13 “(1) Each Council shall submit to the Secretary  
14 by June 1, 1995, information describing (A) all fish-  
15 ing technologies employed under such Council’s au-  
16 thority; and (B) all fisheries under the authority of  
17 such Council. The Secretary shall compile such in-  
18 formation, along with information to comply with  
19 both (A) and (B) for fisheries to which section  
20 302(a)(3) applies.

21 “(2) By July 15, 1995, the Secretary shall pub-  
22 lish a proposed list of all technologies and fisheries,  
23 for each Council and for fisheries to which section  
24 302(a)(3) applies, in the Federal Register for a pub-  
25 lic comment period of not less than 60 days. The

1 Secretary shall include with such list specific guide-  
2 lines for determining when a technology or fishery is  
3 sufficiently different from those listed as to require  
4 notification under paragraph (3). Within 30 days  
5 after the close of the public comment period the Sec-  
6 retary shall publish in the Federal Register a final  
7 list (including the guidelines), after taking into ac-  
8 count any public comment received.

9 “(3) Beginning on the date that is 180 days  
10 after the date of the publication of the final list re-  
11 quired under paragraph (2), no person or vessel  
12 shall employ a fishing technology or engage in a  
13 fishery that is not included on the final list for the  
14 appropriate Council or for fisheries to which section  
15 302(a)(3) applies without first giving 90 days ad-  
16 vance written notice of the intent to employ such un-  
17 listed technology or engage in such unlisted fishery  
18 to the appropriate Council, or the Secretary with re-  
19 spect to a fishery to which section 302(a)(3) applies.  
20 Such notice shall be by first class mail, return re-  
21 ceipt requested, and shall include information on the  
22 use of the unlisted technology in other fisheries, if  
23 any, and a detailed description, including drawings,  
24 maps or diagrams if appropriate, of the unlisted

1 technology or unlisted fishery which such person or  
2 vessel seeks to employ or engage in.

3 “(4) A Council may submit to the Secretary  
4 amendments to the final list published under para-  
5 graph (2) to reflect any substantial changes in the  
6 fishing technologies employed or fisheries engaged in  
7 under the authority of such Council. The Secretary  
8 may submit any amendments for fisheries to which  
9 section 302(a)(3) applies. The Secretary shall pub-  
10 lish any such amendments in the Federal Register  
11 as proposed amendments (along with any proposed  
12 revisions to the guidelines) to the final list for a  
13 public comment period of not less than 60 days.  
14 Within 45 days of the close of the comment period,  
15 the Secretary shall publish a revised final list incor-  
16 porating such proposed amendments, after taking  
17 into account any public comments received.

18 “(5) A Council may request the Secretary to  
19 promulgate emergency regulations under subsection  
20 (e) prohibiting any persons or vessels from employ-  
21 ing an unlisted technology or engaging in an un-  
22 listed fishery if the appropriate Council, or the Sec-  
23 retary for fisheries to which section 302(a)(3) ap-  
24 plies, determines that use of such technology or  
25 entry into such fishery would compromise the effec-

1 tiveness of conservation and management efforts  
2 under this Act.

3 “(6) If, after providing the notice required  
4 under paragraph (3), no emergency regulations are  
5 implemented under paragraph (5), the person or ves-  
6 sel submitting notice under paragraph (3) may, after  
7 the required 90 day period has lapsed, employ the  
8 unlisted technology or enter the unlisted fishery to  
9 which such notice applies. The signed return receipt  
10 shall constitute adequate evidence of the submittal  
11 of such notice and the date upon which the 90-day  
12 period begins.

13 “(7) A violation of this subsection shall be con-  
14 sidered a violation of section 307, punishable under  
15 section 308.

16 “(e) EMERGENCY ACTIONS.—

17 “(1) If the Secretary finds that an emergency  
18 exists involving any fishery, he may promulgate  
19 emergency regulations necessary to address the  
20 emergency, without regard to whether a fishery  
21 management plan exists for such fishery.

22 “(2) If a Council finds that an emergency exists  
23 involving any fishery within its jurisdiction, whether  
24 or not a fishery management plan exists for such  
25 fishery—

1           “(A) the Secretary shall promulgate emer-  
2           gency regulations under paragraph (1) to ad-  
3           dress the emergency if the Council, by unani-  
4           mous vote of the voting members of the Coun-  
5           cil, requests the taking of such action; and

6           “(B) the Secretary may promulgate emer-  
7           gency regulations under paragraph (1) to ad-  
8           dress the emergency if the Council, by less than  
9           a unanimous vote, requests the taking of such  
10          action.

11          “(3) Any emergency regulation which changes  
12          an existing fishery management plan shall be treated  
13          as an amendment to such plan for the period in  
14          which such regulation is in effect. Any emergency  
15          regulation promulgated under this subsection—

16                 “(A) shall be published in the Federal  
17                 Register together with the reasons therefor;

18                 “(B) shall, except as provided in subpara-  
19                 graph (C), remain in effect for not more than  
20                 180 days after the date of publication, and may  
21                 be extended by publication in the Federal Reg-  
22                 ister for an additional period of not more than  
23                 180 days, provided the public has had an op-  
24                 portunity to comment on the emergency regula-  
25                 tion, and, in the case of a Council recommenda-

1           tion for emergency regulations, the Council is  
2           actively preparing a fishery management plan,  
3           amendment, or proposed regulations to address  
4           the emergency on a permanent basis;

5           “(C) that responds to a public health  
6           emergency may remain in effect until the cir-  
7           cumstances that created the emergency no  
8           longer exist, provided that the Secretary of  
9           Health and Human Services concurs with the  
10          Secretary’s action and the public has an oppor-  
11          tunity to comment after the regulation is pub-  
12          lished;

13          “(D) that reduces overfishing may be ap-  
14          proved without regard to the requirements of  
15          section 301(a)(1); and

16          “(E) may be terminated by the Secretary  
17          at an earlier date by publication in the Federal  
18          Register of a notice of termination, except for  
19          emergency regulations promulgated under para-  
20          graph (2) in which case such early termination  
21          may be made only upon the agreement of the  
22          Secretary and the Council concerned.

23          “(4) The Secretary may, pursuant to guidelines  
24          established by a Council in a fishery management  
25          plan, close or restrict a particular fishery covered by

1 such fishery management plan in order to prevent  
2 overfishing or reduce bycatch. Any such guidelines  
3 shall specify appropriate means for providing timely  
4 notice to fishermen of any closure or restriction. In  
5 exercising the authority granted under this para-  
6 graph, the Secretary shall not be required to provide  
7 an opportunity for notice and comment if such clo-  
8 sure or restriction is done in accordance with the  
9 fishery management plan guidelines and does not ex-  
10 tend beyond the end of the current fishing period es-  
11 tablished for that fishery by the fishery management  
12 plan.”.

13 **SEC. 114. STATE JURISDICTION.**

14 (a) Section 306(b) (16 U.S.C. 1856(b)) is amended  
15 by adding at the end the following:

16 “(3) If the State involved requests that a hear-  
17 ing be held pursuant to paragraph (1), the Secretary  
18 shall conduct such hearing prior to taking any action  
19 under paragraph (1).”.

20 (b) Section 306(c)(1) (16 U.S.C. 1856(c)(1) is  
21 amended—

22 (1) by striking “and” in subparagraph (A);

23 (2) by striking the period at the end of sub-  
24 paragraph (B) and inserting a semicolon and the  
25 word “and”; and

1           (3) by inserting after subparagraph (B) the  
2 following:

3           “(C) the owner or operator of the vessel  
4 submits reports on the tonnage of fish received  
5 from U.S. vessels and the locations from which  
6 such fish were harvested, in accordance with  
7 such procedures as the Secretary by regulation  
8 shall prescribe.”.

9 **SEC. 115. PROHIBITED ACTS.**

10          (a) Section 307(1)(J)(i) (16 U.S.C. 1857(1)(J)(i)) is  
11 amended by striking “American Lobster Fishery Manage-  
12 ment Plan, as implemented by” and “, or any successor  
13 to that plan, implemented under this title”.

14          (b) Section 307(1)(L) (16 U.S.C. 1857(1)(L)) is  
15 amended to read as follows:

16           “(L) to forcibly assault, resist, oppose, im-  
17 pede, intimidate, sexually harass, or interfere  
18 with any observer on a vessel under this Act, or  
19 any data collector employed by or under con-  
20 tract to the National Marine Fisheries Serv-  
21 ice;”.

22          (c) Section 307(1)(M) (16 U.S.C. 1857(1)(M)) is  
23 amended to read as follows:

24           “(M) to engage in large-scale driftnet fish-  
25 ing on a vessel of the United States or a vessel

1 subject to the jurisdiction of the United States  
2 upon the high seas beyond the exclusive eco-  
3 nomic zone of any nation or within the exclusive  
4 economic zone of the United States. Any vessel  
5 that is shoreward of the outer boundary of the  
6 exclusive economic zone of the United States or  
7 beyond the exclusive economic zone of any na-  
8 tion, and that has onboard gear that is capable  
9 of use for large-scale driftnet fishing, shall be  
10 presumed to be engaged in such fishing, but  
11 that presumption may be rebutted; or”.

12 (d) Section 307(2)(A) (16 U.S.C. 1857(2)(A)) is  
13 amended to read as follows:

14 “(A) in fishing within the boundaries of  
15 any State, except—

16 “(i) recreational fishing permitted  
17 under section 201(i),

18 “(ii) fish processing permitted under  
19 section 306(c), or

20 “(iii) transshipment at sea of fish  
21 products within the boundaries of any  
22 State in accordance with a permit ap-  
23 proved under section 204(b)(6)(A)(ii);”.

24 (e) Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is  
25 amended by striking “201(j)” and inserting “201(i)”.

1 (f) Section 307(3) (16 U.S.C. 1857(3)) is amended  
2 to read as follows:

3 “(3) for any vessel of the United States, and  
4 for the owner or operator of any vessel of the United  
5 States, to transfer at sea directly or indirectly, or at-  
6 tempt to so transfer at sea, any United States har-  
7 vested fish to any foreign fishing vessel, while such  
8 foreign vessel is within the exclusive economic zone  
9 or within the boundaries of any State except to the  
10 extent that the foreign fishing vessel has been per-  
11 mitted under section 204(b)(6)(B) or section 306(c)  
12 to receive such fish;”.

13 (g) Section 307(4) (16 U.S.C. 1857(4)) is amended  
14 by inserting “or within the boundaries of any State” after  
15 “zone”.

16 **SEC. 116. CIVIL PENALTIES AND PERMIT SANCTIONS.**

17 (a) The first sentence of section 308(b) (16 U.S.C.  
18 1858(b)) is amended to read as follows: “Any person  
19 against whom a civil penalty is assessed under subsection  
20 (a), or against whom a permit sanction is imposed under  
21 subsection (g) (other than a permit suspension for  
22 nonpayment of penalty or fine), may obtain review thereof  
23 in the United States district court for the appropriate dis-  
24 trict by filing a complaint against the Secretary in such  
25 court within 30 days from the date of such order.”.

1           (b) Section 308(g)(1)(C) (16 U.S.C. 1858(g)(1)(C))  
2 is amended by striking the matter from “(C) any” through  
3 “overdue” and inserting the following: “(C) any amount  
4 in settlement of a civil forfeiture imposed on a vessel or  
5 other property, or any civil penalty or criminal fine im-  
6 posed on a vessel or owner or operator of a vessel or any  
7 other person who has been issued or has applied for a per-  
8 mit under any marine resource law enforced by the Sec-  
9 retary, has not been paid and is overdue.”.

10          (c) Section 308 (16 U.S.C. 1858) is amended by in-  
11 serting at the end thereof the following:

12          “(h) After deduction for any administrative or en-  
13 forcement costs incurred, all funds collected under this  
14 section shall be deposited in a separate account of the  
15 Ocean Conservation Trust Fund established under section  
16 315.”.

17 **SEC. 117. ENFORCEMENT.**

18          (a) Section 311(e)(1) (16 U.S.C. 1861(e)(1)) is  
19 amended—

20               (1) by striking “fishery” each place it appears  
21 and inserting “marine”;

22               (2) by inserting “of not less than 20 percent of  
23 the penalty collected” after “reward” in subpara-  
24 graph (B), and

1           (3) by striking subparagraph (E) and inserting  
2           the following:

3                   “(E) claims of parties in interest to prop-  
4                   erty disposed of under section 612(b) of the  
5                   Tariff Act of 1930 (19 U.S.C. 1612(b)), as  
6                   made applicable by section 310(c) of this Act or  
7                   by any other marine resource law enforced by  
8                   the Secretary, to seizures made by the Sec-  
9                   retary, in amounts determined by the Secretary  
10                  to be applicable to such claims at the time of  
11                  seizure; and”.

12          (b) Section 311(e)(2) (16 U.S.C. 1861(e)(2)) is  
13          amended to read as follows:

14                  “(2) Any person found in an administrative or  
15                  judicial proceeding to have violated this Act or any  
16                  other marine resource law enforced by the Secretary  
17                  shall be liable for the cost incurred in the sale, stor-  
18                  age, care, and maintenance of any fish or other  
19                  property lawfully seized in connection with the viola-  
20                  tion.”.

21          (c) Section 311 (16 U.S.C. 1861) is amended by re-  
22          designating subsection (f) as subsection (h), and by insert-  
23          ing the following after subsection (e):

24                  “(f) ANNUAL REPORT ON ENFORCEMENT.—Each  
25          year at the time the President’s budget is submitted to

1 the Congress, the Secretary and the Secretary of the De-  
2 partment in which the Coast Guard is operating shall,  
3 after consultation with the Councils, submit a report on  
4 the effectiveness of the enforcement of fishery manage-  
5 ment plans and regulations to implement such plans under  
6 the jurisdiction of each Council, including—

7           “(1) an analysis of the adequacy of federal per-  
8           sonnel and funding resources related to the enforce-  
9           ment of fishery management plans and regulations  
10          to implement such plans; and

11          “(2) recommendations to improve enforcement  
12          that should be considered in developing amendments  
13          to plans or to regulations implementing such plans.

14          “(g) FISHERMEN’S INFORMATION NETWORKS.—The  
15 Secretary, in consultation with the Secretary of the de-  
16 partment in which the Coast Guard is operating, shall con-  
17 duct a program to encourage the formation of volunteer  
18 networks, to be designated as Fishermen’s Information  
19 Networks, to advise on and assist in the monitoring, re-  
20 porting, and prevention of violations of this Act.”.

21 **SEC. 118. NORTH PACIFIC FISHERIES CONSERVATION.**

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

23                 (1) by striking “research plan” in the section  
24                 heading and inserting “conservation”; and

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

1 “(f) REDUCTION OF WASTE.—

2 “(1) No later than January 1, 1996, the North  
3 Pacific Fishery Management Council shall include in  
4 each fishery management plan under its jurisdiction  
5 conservation and management measures, including  
6 fees or other incentives, to reduce bycatch in each  
7 fishery. Notwithstanding section 304(d), in imple-  
8 menting this subsection the Council may rec-  
9 ommend, and the Secretary may approve and imple-  
10 ment any such recommendation, consistent with the  
11 other provisions of this Act, a system of fees to pro-  
12 vide an incentive to reduce bycatch, and, in particu-  
13 lar, economic and regulatory discards. Any such sys-  
14 tem of fees or incentives shall be fair and equitable  
15 to all fishermen and United States fish processors,  
16 and shall not have economic allocation as its sole  
17 purpose.

18 “(2) Not later than January 1, 1997, the North  
19 Pacific Fishery Management Council shall rec-  
20 ommend, and the Secretary may approve and imple-  
21 ment any such recommendation, consistent with the  
22 other provisions of this Act, conservation and man-  
23 agement measures to ensure total catch measure-  
24 ment in each fishery under the Council’s jurisdic-  
25 tion. Such conservation and management measures

1 shall ensure the accurate enumeration of target spe-  
2 cies, economic discards, and regulatory discards.

3 “(3) Beginning on January 1, 1998, such con-  
4 servation and management measures shall include  
5 an allocation preference to fishing and processing  
6 practices within each gear group that result in the  
7 lowest levels of economic discards, processing waste,  
8 regulatory discards, and other bycatch. In determin-  
9 ing which practices shall be given priority, the reduc-  
10 tion of economic discards shall be given the greatest  
11 weight, followed by processing waste (where applica-  
12 ble), regulatory discards and other bycatch, in that  
13 order.

14 “(4) In determining the level of target species  
15 catch, economic discards, regulatory discards, other  
16 bycatch, and processing waste, the Council and Sec-  
17 retary shall base such determinations on observer  
18 data or the best available information.

19 “(5) In the case of fisheries occurring under an  
20 individual transferable quota system under the juris-  
21 diction of the North Pacific Fishery Management  
22 Council after January 1, 1998—

23 “(A) the Council shall designate non-target  
24 species, bycatch species, and regulatory discards  
25 for each such fishery;

1           “(B) the Council may not recommend, and  
2           the Secretary may not approve, any assignment  
3           or allocation of individual transferable quotas  
4           for regulatory discards, or non-target species  
5           for those fisheries, other than for each individ-  
6           ual fishing season on an annual basis pursuant  
7           to subparagraph (C) of this subsection; and

8           “(C) the allocation preference required  
9           under paragraph (3) shall be implemented by  
10          giving priority in the allocation of quotas for  
11          regulatory discards and non-target species and  
12          to fishing practices that result in the lowest lev-  
13          els of economic discards, regulatory discards,  
14          processing waste, and other bycatch.

15          “(6) Nothing in this section shall be construed  
16          to preclude the North Pacific Fishery Management  
17          Council from allocating a portion of any quota for  
18          a directed fishery for use as bycatch in another fish-  
19          ery or fisheries, if the Council determines such allo-  
20          cation is necessary to prosecute a fishery, after tak-  
21          ing into account the requirements of this section re-  
22          garding reduction of bycatch and processing waste.

23          “(g) FULL RETENTION AND FULL UTILIZATION.—

24          “(1) The North Pacific Fishery Management  
25          Council shall, consistent with the other provisions of

1 this Act, submit to the Secretary by January 1,  
2 1997, a plan to phase-in by January 1, 2000, to the  
3 maximum extent practicable, fishery management  
4 plan amendments to require full retention by fishing  
5 vessels and full utilization by United States fish  
6 processors of all fishery resources, except regulatory  
7 discards, caught under the jurisdiction of such  
8 Council if such fishery resources cannot be quickly  
9 returned alive to the sea with the expectation of ex-  
10 tended survival.

11 “(2) The plan shall include conservation and  
12 management measures to minimize processing waste  
13 and ensure the optimum utilization of target species,  
14 including standards setting minimum percentages of  
15 target species harvest which must be processed for  
16 human consumption.

17 “(3) In determining the maximum extent prac-  
18 ticable, the North Pacific Fishery Management  
19 Council shall consider—

20 “(A) the state of available technology;

21 “(B) the extent to which species brought  
22 on board can be safely returned alive, with the  
23 expectation of extended survival, to the sea;

1           “(C) the extent to which each species is  
2 fully utilized as a target species by United  
3 States fishermen;

4           “(D) the impact of different processing  
5 practices on the price paid to fishermen and  
6 processors;

7           “(E) the nature and economic costs of  
8 each specific fishery; and

9           “(F) the effect of a full retention or full  
10 utilization requirement in a given fishery on  
11 other fisheries when compared with the bene-  
12 ficial effect of reducing economic discards and  
13 processing waste.

14           “(4) Notwithstanding section 304(f), the North  
15 Pacific Fishery Management Council may propose,  
16 and the Secretary may approve and implement any  
17 such recommendation, consistent with the other pro-  
18 visions of this Act, a system of fines or other incen-  
19 tives to implement this section. Any such fines or in-  
20 centive system shall be fair and equitable to all fish-  
21 ing vessels and United States fish processors, and  
22 shall not have economic allocation as its sole pur-  
23 pose.

24           “(h) REGULATORY DISCARDS.—

1           “(1) Regulatory discards shall not be consid-  
2           ered an economic discard for purposes of this sec-  
3           tion, however, the North Pacific Fishery Manage-  
4           ment Council shall seek to reduce the incidental  
5           catch of regulatory discards to the maximum extent  
6           practicable while allowing for the prosecution of fish-  
7           eries under its jurisdiction.

8           “(2) Not later than January 1, 1996, the North  
9           Pacific Fishery Management Council shall propose,  
10          and the Secretary may approve and implement any  
11          such recommendation, consistent with the other pro-  
12          visions of this Act, for each groundfish fishery under  
13          the Council’s jurisdiction, conservation and manage-  
14          ment measures to reduce the incidental harvest of  
15          regulatory discards to the minimum level necessary  
16          to prosecute directed fisheries for designated target  
17          species, and to otherwise meet the requirements of  
18          this section. Notwithstanding section 304(f), such  
19          conservation and management measures may include  
20          a system of fines, caps, or other incentives to reduce  
21          the incidental harvest of regulatory discards. Any  
22          system of fines or incentives under this section shall  
23          be fair and equitable to all fishing vessels and Unit-  
24          ed States fish processors, and shall not have eco-  
25          nomic allocation as its sole purpose.

1           “(3) The North Pacific Fishery Management  
2 Council shall establish for each fishery which inci-  
3 dentally harvests regulatory discards under the  
4 Council’s jurisdiction a cap which prevents such reg-  
5 ulatory discards from being overfished or from being  
6 placed in risk of being overfished. Upon reaching  
7 such cap, the commercial fishery in which such regu-  
8 latory discards are incidentally caught shall be  
9 closed for that season.

10          “(i) OBSERVER PROGRAM.—

11           “(1) Beginning January 1, 1996, the North Pa-  
12 cific Fishery Management Council shall require  
13 under the authority granted to it by subsection (a)—

14           “(A) 100 percent observer coverage on all  
15 fishing vessels which can safely accommodate  
16 an observer or observers, and at all United  
17 States fish processors, and

18           “(B) for vessels which cannot safely ac-  
19 commodate an observer, statistically reliable  
20 sampling of a fishing vessel’s effort in each  
21 fishery in which that fishing vessel participates,  
22 when such vessel or processor is fishing in a fishery  
23 under the North Pacific Fishery Management Coun-  
24 cil’s jurisdiction. In implementing subparagraph (A)  
25 the North Pacific Fishery Management Council shall

1 require that more than one observer be stationed on  
2 a fishing vessel or at a United States fish processor  
3 whenever the Council determines that more than one  
4 such observer is necessary to accurately monitor that  
5 vessel or processor's operation.

6 “(2) Observers stationed on fishing vessels or at  
7 United States fish processors under the authority of  
8 this section shall be paid by the Secretary using  
9 funds deposited in the North Pacific Fishery Ob-  
10 server Fund. Such payment shall not make an ob-  
11 server an employee of the Federal Government, un-  
12 less such observer is otherwise employed by an agen-  
13 cy of the United States.

14 “(3) Failure to pay the fee established by the  
15 North Pacific Fishery Management Council under  
16 subsection (a) shall be a considered a violation of  
17 section 307, punishable under section 308. Any fines  
18 collected pursuant to the authority granted by this  
19 subsection shall be deposited in the North Pacific  
20 Fishery Observer Fund account in the United States  
21 Treasury, and shall remain available until expended  
22 under the terms of that fund.

23 “(4) Notwithstanding sections 304(f) and sub-  
24 section (b), the Secretary is authorized to recover  
25 from vessels participating in a fishery under an indi-

1       vidual fishing quota regime or other limited access  
2       program established by the North Pacific Fishery  
3       Management Council, the full cost of any observers  
4       stationed on such vessel (including all costs for sala-  
5       ries, expenses, equipment, food and lodging, trans-  
6       portation, insurance, and analysis of observer data,  
7       plus reasonable costs for training and administrative  
8       overhead). Each participant in an individual fishing  
9       quota regime shall only be required to contribute the  
10      same proportion of the costs as that participant's  
11      quota shares represent to the total number of quota  
12      shares in such regime. To the extent that the costs  
13      recovered under this paragraph exceed the fee estab-  
14      lished by the Council under subsection (b), the Sec-  
15      retary shall deduct any payment by a vessel under  
16      subsection (b) from the amount owed by such vessel  
17      under this paragraph. The Secretary shall deposit  
18      any fees collected under this paragraph in the North  
19      Pacific Fishery Observer Fund account in the Unit-  
20      ed States Treasury.

21      “(j) INDUSTRY ASSISTANCE.—

22              “(1) The Secretary shall submit a plan by June  
23      1, 1995, to the Committee on Commerce, Science,  
24      and Transportation of the Senate and the Commit-  
25      tee on Merchant Marine and Fisheries of the House

1 of Representatives to develop jointly with industry  
2 accurate methods of weighing the fish harvested by  
3 U.S. fishing vessels in fisheries under the jurisdic-  
4 tion of the North Pacific Fishery Management  
5 Council. Such plan shall include methods for assess-  
6 ing contributions from industry to fund such devel-  
7 opment, as well as recommendations from the Sec-  
8 retary concerning the level of funds needed to suc-  
9 cessfully implement the plan in Fiscal Year 1996.

10 “(2) The Secretary shall submit by January 1,  
11 1995, to the Committee on Commerce, 1995, to the  
12 Committee on Commerce, Science, and Transpor-  
13 tation of the Senate and the Committee on Mer-  
14 chant Marine and Fisheries of the House of Rep-  
15 resentatives a plan to develop markets and harvest-  
16 ing and processing techniques for arrowtooth floun-  
17 der. The Secretary shall include in such plan rec-  
18 ommendations concerning the level of funds needed  
19 to successfully implement the plan in Fiscal Year  
20 1996.

21 “(3) For fiscal years 1995, 1996, 1997, and  
22 1998, \$50,000 is authorized to be appropriated for  
23 the purposes of implementing paragraph (1), and  
24 \$250,000 is authorized to be appropriated for pro-  
25 grams to implement paragraph (2).

1       “(k) DEFINITION.—For the purposes of this section,  
2 ‘processing waste’ means that portion of a fish which is  
3 processed and which could be used for human consump-  
4 tion or other commercial use, but which is not so used.”.

5 **SEC. 119. TRANSITION TO SUSTAINABLE FISHERIES.**

6       (a) The Act is amended by adding at the end of title  
7 III the following:

8 **“SEC. 315. TRANSITION TO SUSTAINABLE FISHERIES.**

9       “(a) SUSTAINABLE DEVELOPMENT STRATEGY.—

10           “(1) At the discretion of the Secretary or at the  
11 request of the Governor of an affected State or a  
12 fishery dependent community, the Secretary, in con-  
13 sultation with the Councils and Federal agencies, as  
14 appropriate, may work with regional authorities, af-  
15 fected States, fishery dependent communities, the  
16 fishing industry, conservation organizations, and  
17 other interested parties, to develop a sustainable de-  
18 velopment strategy for any fishery classified as  
19 overfished under section 305(a) or determined to be  
20 a commercial fishery failure under section 316.

21           “(2) Such sustainable development strategy  
22 shall—

23                   “(A) take into consideration the economic,  
24 social, and ecological factors affecting the fish-  
25 ery and provide recommendations for address-

1 ing such factors in the development of a fishery  
2 recovery effort under section 305(b);

3 “(B) identify Federal and State programs  
4 which can be used to provide assistance to fish-  
5 ery dependent communities during development  
6 and implementation of a fishery recovery effort;

7 “(C) develop a balanced and comprehensive  
8 long-term plan to guide the transition to a sus-  
9 tainable fishery, identifying alternative eco-  
10 nomic opportunities and establishing long-term  
11 objectives for the fishery including vessel types  
12 and sizes, harvesting and processing capacity,  
13 and optimal fleet size;

14 “(D) establish procedures to implement  
15 such a plan and facilitate consensus and coordi-  
16 nation in regional decision-making; and

17 “(E) include any program established  
18 under subsection (b) to reduce the number of  
19 vessels or level of capital investment in the fish-  
20 ery.

21 “(2) REPORT.—The Secretary shall complete  
22 and submit to the Congress a report on any sustain-  
23 able development strategy developed under this sec-  
24 tion.

25 “(b) BUY-OUT PROGRAM.—

1           “(1) The Secretary, in consultation with the ap-  
2           propriate Council, may develop and implement a  
3           buy-out program for fishing vessels or permits in a  
4           fishery for the purpose of reducing the number of  
5           fishing vessels and fishing effort in such fishery, if  
6           the Secretary, with the concurrence of the majority  
7           of the voting members of such Council, determines  
8           that a buy-out program is necessary for the develop-  
9           ment and implementation of a fishery recovery effort  
10          under section 305(b).

11          “(2) Any buy-out program developed or imple-  
12          mented in a fishery shall—

13                 “(A) require a fishery management plan to  
14                 be in place for such fishery that is adequate to  
15                 limit access to the fishery and prevent the re-  
16                 placement of fishing effort removed by the buy-  
17                 out program;

18                 “(B) require fishing vessels or permits ac-  
19                 quired under such program to be disposed of in  
20                 a manner ensuring that such vessels or permits  
21                 do not re-enter the fishery or contribute to ex-  
22                 cess fishing effort in other fisheries;

23                 “(C) establish criteria for determining  
24                 types and numbers of vessels which are eligible

1 for participation in such program consistent  
2 with—

3 “(i) any strategy developed under sub-  
4 section (a);

5 “(ii) the requirements of applicable  
6 fishery management plans; and

7 “(iii) the need to minimize program  
8 costs;

9 “(D) establish procedures (such as submis-  
10 sion of owner bid under an auction system or  
11 fair market-value assessment) to be used in de-  
12 termining the level of payment for fishing ves-  
13 sels or permits acquired under the program;  
14 and

15 “(E) identify Federal and non-Federal  
16 mechanisms for funding the buy-out program,  
17 consistent with paragraphs (3) and (4).

18 “(3) The Federal share of the cost of a buy-out  
19 program implemented under this section shall not  
20 exceed 50 percent of the cost of that program. Such  
21 Federal share may be provided from monies made  
22 available under subsection (d) of this section, section  
23 316(b) of this Act, or under section 2(b) of the Act  
24 of August 11, 1939 (15 U.S.C. 713c-3(b)).

1           “(4) Notwithstanding section 305(f)(1), the  
2 Secretary, with the concurrence of a majority of the  
3 voting members of the affected Council, may estab-  
4 lish a fee system to collect those funds required for  
5 the non-Federal share of such program that are not  
6 available from other non-Federal sources. Under  
7 such fee system, the Secretary may assess an annual  
8 fee on holders of fishing permits in the fishery for  
9 which the buy-out program is established which may  
10 not exceed 5 percent annually of the value of the  
11 fish harvested under the fishing permit. Assessments  
12 may not be used to pay any costs of administrative  
13 overhead or other costs not directly incurred in car-  
14 rying out the specific buy-out program under which  
15 they are collected and shall be deposited in the  
16 Ocean Conservation Trust fund established under  
17 subsection (d).

18           “(5)(A) Upon completion of a proposal for a  
19 buy-out program (including any fee system to be es-  
20 tablished under this subsection), the Secretary shall  
21 immediately—

22                   “(i) submit the proposed program and reg-  
23 ulations necessary for its implementation to the  
24 appropriate Council for consideration and com-  
25 ment; and

1           “(ii) publish in the Federal Register a no-  
2           tice stating that the proposed program and reg-  
3           ulations are available and that written data,  
4           views, or comments of interested persons on the  
5           proposed program and regulations may be sub-  
6           mitted to the Secretary during the 60-day pe-  
7           riod beginning on the date the notice is pub-  
8           lished.

9           “(B) During the 60-day public comment  
10          period—

11           “(i) the Secretary shall conduct a public  
12           hearing in each State affected by the proposed  
13           buy-out program; and

14           “(ii) the appropriate Council shall submit  
15           its comments and recommendations, if any, re-  
16           garding the proposed program and regulations.

17           “(C) Within 45 days after the close of the pub-  
18           lic comment period, the Secretary, in consultation  
19           with the affected Council, shall analyze the public  
20           comment received and publish a final buy-out pro-  
21           gram and regulations for its implementation. The  
22           Secretary shall include an explanation of any sub-  
23           stantive differences between the proposed and final  
24           program and regulations.

1       “(c) TASK FORCE.—The Secretary shall establish a  
2 task force to assist in the development of a sustainable  
3 development strategy or a buy-out program under this sec-  
4 tion. Such task force shall, at a minimum, consist of mem-  
5 bers of the affected communities and individuals with ex-  
6 pertise in fishery management and conservation, econom-  
7 ics, and sociology. Members of the task force are author-  
8 ized to receive per diem and travel expenses consistent  
9 with section 302 of this Act.

10       “(d) OCEAN CONSERVATION TRUST FUND.—There is  
11 established in the Treasury an Ocean Conservation Trust  
12 Fund. The Fund shall be available, without appropriation  
13 or fiscal year limitation, only to the Secretary for the pur-  
14 pose of carrying out the provisions of this section subject  
15 to the restrictions of this Act. This fund shall consist of  
16 all monies deposited into it in accordance with this section  
17 and section 308(h). Sums in the Fund that are not cur-  
18 rently needed for the purpose of this section shall be kept  
19 on deposit or invested in obligations of, or guaranteed by,  
20 the United States.

21 **“SEC. 316. FISHERIES DISASTER RELIEF.**

22       “(a) DETERMINATION OF FAILURE.—At the discre-  
23 tion of the Secretary or at the request of the Governor  
24 of an affected State or a fishery dependent community,  
25 the Secretary shall determine whether there is a commer-

1 cial fishery failure due to a fishery resource disaster as  
2 a result of—

3 “(1) natural causes;

4 “(2) man-made causes beyond the control of  
5 fishery managers to mitigate through conservation  
6 and management measures; or

7 “(3) undetermined causes.

8 “(b) ECONOMIC ASSISTANCE.—

9 “(1) Upon the determination under subsection  
10 (a) that there is a commercial fishery failure, the  
11 Secretary is authorized to make sums available to be  
12 used by the affected State, fishery dependent com-  
13 munity, or by the Secretary in cooperation with the  
14 affected State or fishery dependent community for—

15 “(A) assessing the economic and social ef-  
16 fects of the commercial fishery failure; and

17 “(B) any activity that the Secretary deter-  
18 mines is appropriate to restore the fishery or  
19 prevent a similar failure in the future and to  
20 assist a fishery dependent community affected  
21 by such failure.

22 “(2) Before making funds available for an ac-  
23 tivity authorized under this section, the Secretary  
24 shall make a determination that such activity will  
25 not expand the size or scope of the commercial fish-

1       ery failure into other fisheries or other geographic  
2       regions.

3       “(c) FEDERAL COST-SHARING.—The Federal share  
4 of the cost of any activity carried out under the authority  
5 of this section shall not exceed 75 percent of the cost of  
6 that activity.

7       “(d) AUTHORIZATION OF APPROPRIATIONS.—There  
8 are authorized to be appropriated to the Secretary such  
9 sums as are necessary for each of the fiscal years 1995,  
10 1996, 1997, 1998 and 1999, provided that such sums are  
11 designated by Congress as an emergency requirement pur-  
12 suant to section 251(b)(2)(D)(i) of the Balanced Budget  
13 and Emergency Deficit Control Act of 1985.”.

14       (b) CONFORMING AMENDMENT.—Section 2(b)(1)(A)  
15 of the Act of August 11, 1939 (15 U.S.C. 713c-  
16 3(b)(1)(A)) is amended—

17             (1) by striking “and” at the end of clause (ii);

18       and

19             (2) by adding at the end the following new  
20       clause:

21                     “(iii) to fund the Federal share of a  
22                     buy-out program established under section  
23                     315(b) of the Magnuson Fishery Conserva-  
24                     tion and Management Act.”.

1 **TITLE II—FISHERY MONITORING**  
2 **AND RESEARCH**

3 **SEC. 201. CHANGE OF TITLE.**

4 The heading of title IV (16 U.S.C. 1881 et seq.) is  
5 amended to read as follows:

6 **“TITLE IV—FISHERY**  
7 **MONITORING AND RESEARCH”.**

8 **SEC. 202. REGISTRATION AND DATA MANAGEMENT.**

9 Title IV (16 U.S.C. 1881 et seq.) is amended by in-  
10 serting after the title heading the following:

11 **“SEC. 401. REGISTRATION AND DATA MANAGEMENT.**

12 “(a) STANDARDIZED FISHING VESSEL REGISTRA-  
13 TION AND DATA MANAGEMENT SYSTEM.—The Secretary  
14 shall, in cooperation with the Secretary of the department  
15 in which the Coast Guard is operating, the States, the  
16 Councils, and Marine Fisheries Commissions, develop rec-  
17 ommendations for implementation of a standardized fish-  
18 ing vessel registration and data management system on  
19 a national or regional basis. The proposed system shall  
20 be developed after consultation with interested govern-  
21 mental and nongovernmental parties and shall—

22 “(1) be designed to standardize the require-  
23 ments of vessel registration and data collection sys-  
24 tems required by this Act, the Marine Mammal Pro-

1       tection Act (16 U.S.C. 1361 et seq.), and any other  
2       marine resource law implemented by the Secretary;

3           “(2) integrate programs under existing fishery  
4       management plans into a nonduplicative data collec-  
5       tion and management system;

6           “(3) avoid duplication of existing state, tribal,  
7       or federal systems (other than a federal system  
8       under paragraph (1)) and rely, to the maximum ex-  
9       tent practicable, on information collected from exist-  
10      ing systems;

11          “(4) provide for implementation through coop-  
12      erative agreements with appropriate state, regional,  
13      or tribal entities;

14          “(5) establish standardized units of measure-  
15      ment, nomenclature, and formats for the collection  
16      and submission of information;

17          “(6) minimize the paperwork required for ves-  
18      sels registered under the system;

19          “(7) include all species of fish within the geo-  
20      graphic areas of authority of the Councils and all  
21      fishing vessels, except for private recreational fishing  
22      vessels used exclusively for pleasure; and

23          “(8) prescribe procedures necessary to ensure  
24      the confidentiality of information collected under  
25      this section.

1       “(b) The registration and data management system  
2 should, at a minimum, obtain the following information  
3 for each fishing vessel—

4           “(1) the name and official number or other  
5 identification, together with the name and address of  
6 the owner or operator or both;

7           “(2) vessel capacity, type and quantity of fish-  
8 ing gear, mode of operation (catcher, catcher proc-  
9 essor or other), and such other pertinent information  
10 with respect to vessel characteristics as the Sec-  
11 retary may require;

12           “(3) identification of the fisheries in which the  
13 fishing vessel participates;

14           “(4) estimated amounts of fish caught, and  
15 processed (if applicable) in each fishery; and

16           “(5) the geographic area of operations and the  
17 season or period during which the fishing vessel op-  
18 erates.

19       “(c) The registration and data management system  
20 should, at a minimum, provide basic fisheries performance  
21 data for each fishery, including—

22           “(1) the number of vessels participating in the  
23 fishery;

24           “(2) the time period in which the fishery oc-  
25 curs;

1           “(3) the approximate geographic location, or of-  
2           ficial reporting area where the fishery occurs;

3           “(4) a description of fishery gear used in the  
4           fishery, including the amount of such gear and the  
5           appropriate unit of fishery effort;

6           “(5) catch and ex-vessel value of the catch for  
7           each stock of fish in the fishery; and

8           “(6) the amount and types of economic and  
9           regulatory discards, and an estimate of any other  
10          bycatch.

11          “(d) PUBLIC COMMENT.—On or before December 1,  
12 1995, the Secretary shall publish in the Federal Register  
13 for a 60-day public comment period, a proposal that would  
14 provide for implementation of a standardized fishing vessel  
15 registration and data collection system that meets the re-  
16 quirements of subsections (a) through (c). The proposal  
17 shall include—

18           “(1) a description of the arrangements for con-  
19           sultation and cooperation with the department in  
20           which the Coast Guard is operating, the States, the  
21           Councils, Marine Fisheries Commissions, the fishing  
22           industry and other interested parties; and

23           “(2) proposed regulations and legislation nec-  
24           essary to implement the proposal.

1       “(e) CONGRESSIONAL TRANSMITTAL.—On or before  
2 March 1, 1996, the Secretary, after consideration of com-  
3 ments received under subsection (b), shall transmit to the  
4 Committee on Commerce, Science, and Transportation of  
5 the Senate and the Committee on Merchant Marine and  
6 Fisheries of the House of Representatives a proposal for  
7 implementation of a national fishing vessel registration  
8 system that includes—

9           “(1) any modifications made after comment and  
10       consultation;

11           “(2) a proposed implementation schedule; and

12           “(3) recommendations for any such additional  
13       legislation as the Secretary considers necessary or  
14       desirable to implement the proposed system.

15       “(f) REPORT TO CONGRESS.—By March 1, 1996, the  
16 Secretary shall report to Congress on the need to include  
17 private recreational fishing vessels used exclusively for  
18 pleasure into a national fishing vessel registration and  
19 data collection system. In preparing its report, the Sec-  
20 retary shall cooperate with the Secretary of the depart-  
21 ment in which the Coast Guard is operating, the States,  
22 the Councils, and Marine Fisheries Commissions, and con-  
23 sult with governmental and nongovernmental parties.”.

24 **SEC. 203. DATA COLLECTION.**

25       Section 402 is amended to read as follows:

1 **“SEC. 402. DATA COLLECTION.**

2       “(a) COUNCIL REQUESTS.—If a Council determines  
3 that additional information and data (other than informa-  
4 tion and data that would disclose proprietary or confiden-  
5 tial commercial or financial information regarding fishing  
6 operations or fish processing operations) would be bene-  
7 ficial for developing, implementing, or revising a fishery  
8 management plan or for determining whether a fishery is  
9 in need of management, the Council may request that the  
10 Secretary implement a data collection program for the  
11 fishery which would provide the types of information and  
12 data (other than information and data that would disclose  
13 proprietary or confidential commercial or financial infor-  
14 mation regarding fishing operations or fish processing op-  
15 erations) specified by the Council. The Secretary shall ap-  
16 prove such a data collection program if he determines that  
17 the need is justified, and shall promulgate regulations to  
18 implement the program within 60 days after such deter-  
19 mination is made. If the Secretary determines that the  
20 need for a data collection program is not justified, the Sec-  
21 retary shall inform the Council of the reasons for such  
22 determination in writing. The determinations of the Sec-  
23 retary under this subsection regarding a Council request  
24 shall be made within a reasonable period of time after re-  
25 ceipt of that request.

1       “(b) CONFIDENTIALITY OF INFORMATION.—Any in-  
2 formation submitted to the Secretary by any person in  
3 compliance with any requirement under this Act shall be  
4 confidential and shall not be disclosed if disclosure would  
5 significantly impair the commercial interests of the person  
6 from whom the information was obtained, except—

7               “(1) to Federal employees and Council employ-  
8 ees who are responsible for fishery management plan  
9 development and monitoring;

10              “(2) to State employees pursuant to an agree-  
11 ment with the Secretary that prevents public disclo-  
12 sure of the identity or business of any person;

13              “(3) when required by court order;

14              “(4) when such information is used to verify  
15 catch under an individual transferable quota system;  
16 or

17              “(5) unless the Secretary has obtained written  
18 authorization from the person submitting such infor-  
19 mation to release such information and such release  
20 does not violate other requirements of this sub-  
21 section.

22 The Secretary shall, by regulation, prescribe such proce-  
23 dures as may be necessary to preserve such confidentiality,  
24 except that the Secretary may release or make public any  
25 such information in any aggregate or summary form

1 which does not directly or indirectly disclose the identity  
2 or business of any person who submits such information.  
3 Nothing in this subsection shall be interpreted or con-  
4 strued to prevent the use for conservation and manage-  
5 ment purposes by the Secretary, or with the approval of  
6 the Secretary, the Council, of any information submitted  
7 in compliance with regulations promulgated under this  
8 Act.

9 “(c) RESTRICTION ON USE OF CERTAIN DATA.—

10 “(1) The Secretary shall promulgate regulations  
11 to restrict the use, in civil enforcement or criminal  
12 proceedings under this Act, the Marine Mammal  
13 Protection Act of 1972 (16 U.S.C. 1361 et seq.), or  
14 the Endangered Species Act (16 U.S.C. 1531 et  
15 seq.), of information collected by voluntary fishery  
16 data collectors, including sea samplers, while aboard  
17 any vessel for conservation and management pur-  
18 poses if the presence of such a fishery data collector  
19 aboard is not required by any of such Acts or regu-  
20 lations thereunder.

21 “(2) The Secretary may not require the submis-  
22 sion of a Federal or State income tax return or  
23 statement as a prerequisite for issuance of a Federal  
24 fishing permit until such time as the Secretary has  
25 promulgated regulations to ensure the confidentiality

1 of information contained in such return or state-  
2 ment, to limit the information submitted to that nec-  
3 essary to achieve a demonstrated conservation and  
4 management purpose, and to provide appropriate  
5 penalties for violation of such regulations.”.

6 **SEC. 204. OBSERVERS.**

7 Title IV of the Act (16 U.S.C. 1882) is amended by  
8 adding the following new section 403:

9 **“SEC. 403. OBSERVERS.**

10 “(a) GUIDELINES FOR CARRYING OBSERVERS.—  
11 Within one year of the date of enactment of the Sustain-  
12 able Fisheries Act, the Secretary shall promulgate regula-  
13 tions, after notice and public comment, for fishing vessels  
14 that are required to carry observers. The regulations shall  
15 include guidelines for determining—

16 “(1) when a vessel is not required to carry an  
17 observer on board because the facilities of such ves-  
18 sel for the quartering of an observer, or for carrying  
19 out observer functions, are so inadequate or unsafe  
20 that the health or safety of the observer or the safe  
21 operation of the vessel would be jeopardized; and

22 “(2) actions which vessel owners or operators  
23 may reasonably be asked to take to render such fa-  
24 cilities adequate and safe.

1       “(b) TRAINING.—The Secretary, in cooperation with  
2 State programs and the National Sea Grant College Pro-  
3 gram, shall—

4           “(1) establish programs to ensure that each ob-  
5 server receives adequate training in collecting and  
6 analyzing data necessary for the conservation and  
7 management purposes of the fishery to which such  
8 observer is assigned; and

9           “(2) require that an observer demonstrate com-  
10 petence in fisheries science and statistical analysis at  
11 a level sufficient to enable such person to fulfill the  
12 responsibilities of the position.

13       “(c) WAGES AS MARITIME LIENS.—Claims for ob-  
14 servers’ wages shall be considered maritime liens against  
15 the vessel and be accorded the same priority as seamen’s  
16 liens under admiralty and general maritime law.”.

17 **SEC. 205. FISHERIES RESEARCH.**

18       Section 404 is amended to read as follows:

19 **“SEC. 404. FISHERIES RESEARCH.**

20       “(a) IN GENERAL.—The Secretary shall initiate and  
21 maintain, in cooperation with the Councils, a comprehen-  
22 sive program of fishery research to carry out and further  
23 the purposes, policy, and provisions of this Act. Such pro-  
24 gram shall be designed to acquire knowledge and informa-

1 tion, including statistics, on fishery conservation and man-  
2 agement and on the economics of the fisheries.

3 “(b) STRATEGIC PLAN.—Within one year after the  
4 date of enactment of the Sustainable Fisheries Act, and  
5 at least every 3 years thereafter, the Secretary shall de-  
6 velop and publish in the Federal Register a strategic plan  
7 for fisheries research for the five years immediately follow-  
8 ing such publication. The plan shall—

9 “(1) identify and describe a comprehensive pro-  
10 gram with a limited number of priority objectives for  
11 research in each of the areas specified in subsection  
12 (c);

13 “(2) indicate the goals and timetables for the  
14 program described in paragraph (1); and

15 “(3) provide a role for commercial fishermen in  
16 such research, including involvement in field testing.

17 “(c) AREAS OF RESEARCH.—The areas of research  
18 referred to in subsection (a) are as follows:

19 “(1) Research to support fishery conservation  
20 and management, including but not limited to, re-  
21 search on the economics of fisheries and biological  
22 research concerning the abundance and life history  
23 parameters of stocks of fish, the interdependence of  
24 fisheries or stocks of fish, the identification of essen-  
25 tial fish habitat, the impact of pollution on fish pop-

1       ulations, the impact of wetland and estuarine deg-  
2       radation, and other matters bearing upon the abun-  
3       dance and availability of fish.

4               “(2) Conservation engineering research, includ-  
5       ing the study of fish behavior and the development  
6       and testing of new gear technology and fishing tech-  
7       niques to minimize bycatch and any adverse effects  
8       on essential fish habitat and promote efficient har-  
9       vest of target species.

10              “(3) Information management research, includ-  
11       ing the development of a fishery information base  
12       and an information management system that will  
13       permit the full use of data in the support of effective  
14       fishery conservation and management.

15              “(d) PUBLIC NOTICE.—In developing the plan re-  
16       quired under subsection (a), the Secretary shall consult  
17       with relevant Federal, State, and international agencies,  
18       scientific and technical experts, and other interested per-  
19       sons, public and private, and shall publish a proposed plan  
20       in the Federal Register for the purpose of receiving public  
21       comment on the plan. The Secretary shall ensure that af-  
22       fected commercial fishermen are actively involved in the  
23       development of the portion of the plan pertaining to con-  
24       servation engineering research. Upon final publication in  
25       the Federal Register, the plan shall be submitted by the

1 Secretary to the Committee on Commerce, Science, and  
2 Transportation of the Senate and the Committee on Mer-  
3 chant Marine and Fisheries of the House of Representa-  
4 tives.”.

5 **SEC. 206. INCIDENTAL HARVEST RESEARCH.**

6 Section 405 is amended to read as follows:

7 **“SEC. 405. INCIDENTAL HARVEST RESEARCH.**

8 “(a) Within 9 months after the date of enactment  
9 of the Sustainable Fisheries Act, the Secretary shall, after  
10 consultation with the Gulf of Mexico Fishery Management  
11 Council and South Atlantic Fishery Management Council,  
12 conclude the collection of data in the program to assess  
13 the impact on fishery resources of incidental harvest by  
14 the shrimp trawl fishery within the authority of such  
15 Councils. Within the same time period, the Secretary shall  
16 make available to the public aggregated summaries of data  
17 collected prior to June 30, 1994 under such program.

18 “(b) The program concluded pursuant to subsection  
19 (a) shall provide for the identification of stocks of fish  
20 which are subject to significant incidental harvest in the  
21 course of normal shrimp trawl fishing activity.

22 “(c) For stocks of fish identified pursuant to sub-  
23 section (b), with priority given to stocks which (based  
24 upon the best available scientific information) are consid-  
25 ered to be overfished, the Secretary shall conduct—

1           “(1) a program to collect and evaluate data on  
2           the nature and extent (including the spatial and  
3           temporal distribution) of incidental mortality of such  
4           stocks as a direct result of shrimp trawl fishing ac-  
5           tivities;

6           “(2) an assessment of the status and condition  
7           of such stocks, including collection of information  
8           which would allow the estimation of life history pa-  
9           rameters with sufficient accuracy and precision to  
10          support sound scientific evaluation of the effects of  
11          various management alternatives on the status of  
12          such stocks; and

13          “(3) a program of data collection and evalua-  
14          tion for such stocks on the magnitude and distribu-  
15          tion of fishing mortality and fishing effort by  
16          sources of fishing mortality other than shrimp trawl  
17          fishing activity.

18          “(d) The Secretary shall, in cooperation with affected  
19          interests, commence a program to design and evaluate the  
20          efficacy of technological devices and other changes in fish-  
21          ing technology for the reduction of incidental mortality of  
22          nontarget fishery resources in the course of shrimp trawl  
23          fishing activity which are designed to be inexpensive to  
24          operate and which cause insignificant loss of shrimp. Such  
25          program shall take into account local conditions and in-

1 clude evaluation of any reduction in incidental mortality,  
2 as well as any reduction or increase in the retention of  
3 shrimp in the course of normal fishing activity.

4 “(e) The Secretary shall, within one year of complet-  
5 ing the programs required by this subsection, submit a  
6 detailed report on the results of such programs to the  
7 Committee on Commerce, Science, and Transportation of  
8 the Senate and the Committee on Merchant Marine and  
9 Fisheries of the House of Representatives.

10 “(f) Any measure implemented under this Act to re-  
11 duce the incidental mortality of nontarget fishery re-  
12 sources in the course of shrimp trawl fishing shall, to the  
13 extent practicable,—

14 “(1) apply to such fishing throughout the range  
15 of the nontarget fishery resource concerned; and

16 “(2) be implemented first in those areas and at  
17 those times where the greatest reduction of such in-  
18 cidental mortality can be achieved.”.

19 **SEC. 207. REPEAL.**

20 Section 406 (16 U.S.C. 1882) is repealed.

21 **SEC. 208. CLERICAL AMENDMENTS.**

22 The table of contents is amended by striking the mat-  
23 ter relating to title IV and inserting the following:

“Sec. 315. Transition to sustainable fisheries.

“Sec. 316. Fisheries disaster relief.

“TITLE IV—FISHERY MONITORING AND RESEARCH

“Sec. 401. Registration.

“Sec. 402. Data collection.

“Sec. 403. Observers.

“Sec. 404. Fisheries research.

“Sec. 405. Incidental harvest research.”.

1       **TITLE III—FISHERIES STOCK**  
2               **RECOVERY FINANCING**

3       **SEC. 301. SHORT TITLE.**

4               This title may be cited as the “Fisheries Stock Recov-  
5       ery Financing Act”.

6       **SEC. 302. FISHERIES STOCK RECOVERY REFINANCING.**

7               Title XI of the Merchant Marine Act, 1936 (46  
8       U.S.C. 1271 et seq.), is amended by adding at the end  
9       the following new section:

10              “SEC. 1111. (a) Pursuant to the authority granted  
11       under section 1103(a) of this title, the Secretary shall,  
12       under such terms and conditions as the Secretary shall  
13       prescribe by regulation, guarantee and make commitments  
14       to guarantee the principal of, and interest on, obligations  
15       which aid in refinancing, in a manner consistent with the  
16       reduced cash flows available to obligors because of reduced  
17       harvesting allocations during implementation of a fishery  
18       recovery effort, existing obligations relating to fishing ves-  
19       sels or fishery facilities. Guarantees under this section  
20       shall be subject to all other provisions of this title not in-  
21       consistent with the provisions of this section. The provi-  
22       sions of this section shall, notwithstanding any other pro-  
23       visions of this title, apply to guarantees under this section.

1       “(b) Obligations eligible to be refinanced under this  
2 section shall include all obligations which financed or refi-  
3 nanced any expenditures associated with the ownership or  
4 operation of fishing vessels or fishery facilities, including  
5 but not limited to expenditures for reconstructing, recon-  
6 ditioning, purchasing, equipping, maintaining, repairing,  
7 supplying, or any other aspect whatsoever of operating  
8 fishing vessels or fishery facilities, excluding only such ob-  
9 ligations—

10           “(1) which were not in existence prior to the  
11 time the Secretary approved a fishery recovery effort  
12 eligible for guarantees under this section and whose  
13 purpose, in whole or in part, involved expenditures  
14 which resulted in increased vessel harvesting capaci-  
15 ty; and

16           “(2) as may be owed by an obligor either to any  
17 stockholder, partner, guarantor, or other principal of  
18 such obligor or to any unrelated party if the purpose  
19 of such obligation had been to pay an obligor’s pre-  
20 existing obligation to such stockholder, partner,  
21 guarantor, or other principal of such obligor.

22       “(c) The Secretary shall refinance up to 100 percent  
23 of the principal of, and interest on, such obligations, but,  
24 in no event, shall the Secretary refinance an amount ex-  
25 ceeding 75 percent of the unencumbered (after deducting

1 the amount to be refinanced by guaranteed obligations  
2 under this section) market value, as determined by an  
3 independent marine surveyor, of the fishing vessel or fish-  
4 ery facility to which such obligations relate plus 75 percent  
5 of the unencumbered (including but not limited to home-  
6 stead exemptions) market value, as determined by an inde-  
7 pendent marine surveyor, of all other supplementary col-  
8 lateral. The Secretary shall do so regardless of—

9           “(1) any fishing vessel or fishery facility’s ac-  
10          tual cost or depreciated actual cost; and

11           “(2) any limitations elsewhere in this title on  
12          the amount of obligations to be guaranteed or such  
13          amount’s relationship to actual cost or depreciated  
14          actual cost.

15           “(d) Obligations guaranteed under this section shall  
16          have such maturity dates and other provisions as are con-  
17          sistent with the intent and purpose of this section (includ-  
18          ing but not limited to provisions for obligors to pay only  
19          the interest accruing on the principal of such obligations  
20          during the period in which fisheries stocks are recovering,  
21          with the principal and interest accruing thereon being  
22          fully amortized between the date stock recovery is pro-  
23          jected to be completed and the maturity date of such obli-  
24          gations).

1       “(e) No provision of section 1104A(d) of this title  
2 shall apply to obligations guaranteed under this section.

3       “(f) The Secretary shall neither make commitments  
4 to guarantee nor guarantee obligations under this section  
5 unless—

6               “(1) the Secretary has first approved the fish-  
7 ery recovery effort, for the fishery in which vessels  
8 eligible for the guarantee of obligations under this  
9 section are participants;

10              “(2) the Secretary has considered such factors  
11 as—

12                      “(A) the projected degree and duration of  
13 reduced fisheries allocations;

14                      “(B) the projected reduction in fishing ves-  
15 sel and fishery facility cash flows;

16                      “(C) the projected severity of the impact  
17 on fishing vessels and fishery facilities;

18                      “(D) the projected effect of the fishery re-  
19 covery effort;

20                      “(E) the provisions of any related fishery  
21 management plan under the Magnuson Fishery  
22 Conservation and Management Act (16 U.S.C.  
23 1801 et seq.); and

24                      “(F) the need for and advisability of guar-  
25 antees under this section;

1           “(3) the Secretary finds that the obligation to  
2           be guaranteed will, considering the projected effect  
3           of the fishery recovery effort involved and all other  
4           aspects of the obligor, project, property, collateral,  
5           and any other aspects whatsoever of the obligation  
6           involved, constitute, in the Secretary’s opinion, a  
7           reasonable prospect of full repayment; and

8           “(4) the obligors agree to provide such security  
9           and meet such other terms and conditions as the  
10          Secretary may, pursuant to regulations prescribed  
11          under this section, require to protect the interest of  
12          the United States and carry out the purpose of this  
13          section.

14          “(g) All obligations guaranteed under this section  
15          shall be accounted for separately, in a subaccount of the  
16          Federal Ship Financing Fund to be known as the Fishery  
17          Recovery Refinancing Account, from all other obligations  
18          guaranteed under the other provisions of this title and the  
19          assets and liabilities of the Federal Ship Financing Fund  
20          and the Fishery Recovery Refinancing Account shall be  
21          segregated accordingly.

22          “(h) For the purposes of this section, the term ‘fish-  
23          ery recovery effort’ means a fishery management plan,  
24          amendment, or regulations required under section 305(b)  
25          of the Magnuson Fishery Conservation and Management

1 Act (16 U.S.C. 1854(b)) to rebuild a fishery which the  
2 Secretary has determined to be a commercial fishery fail-  
3 ure under section 316 of such Act.”.

4 **SEC. 303. FEDERAL FINANCING BANK RELATING TO FISH-**  
5 **ING VESSELS AND FISHERY FACILITIES.**

6 Section 1104A(b)(2) of the Merchant Marine Act,  
7 1936 (46 U.S.C. 1274(b)(2)), is amended by striking  
8 “*Provided further*, That in the case of a fishing vessel or  
9 fishery facility, the obligation shall be in an aggregate  
10 principal amount equal to 80 percent of the actual cost  
11 or depreciated actual cost of the fishing vessel or fishery  
12 facility, except that no debt may be placed under this pro-  
13 viso through the Federal Financing Bank:” and inserting  
14 the following: “*Provided further*, That in the case of a fish-  
15 ing vessel or fishery facility, the obligation shall be in an  
16 aggregate principal amount not to exceed 80 percent of  
17 the actual cost or depreciated actual cost of the fishing  
18 vessel or fishery facility, and obligations related to fishing  
19 vessels and fishery facilities under this title shall be placed  
20 through the Federal Financing Bank unless placement  
21 through the Federal Financing Bank is not reasonably  
22 available or placement elsewhere is available at a lower  
23 annual effective yield than placement through the Federal  
24 Financing Bank:”.

1 **SEC. 304. FEES FOR GUARANTEEING OBLIGATIONS.**

2 Section 1104A(e) of the Merchant Marine Act, 1936  
3 (46 U.S.C. 1274(e)), is amended to read as follows:

4 “(e)(1) The Secretary is authorized to fix a fee for  
5 the guarantee of obligations under this title. Obligors shall  
6 pay all such fees to the Secretary when moneys are first  
7 advanced under guaranteed obligations and at least 60  
8 days prior to each anniversary date thereafter. All such  
9 fees shall be computed and shall be payable to the Sec-  
10 retary under such regulations as the Secretary may pre-  
11 scribe.

12 “(2) For fishing vessels and fishery facilities, such  
13 fee shall—

14 “(A) if the obligation will not be purchased by  
15 the Federal Financing Bank, be in an amount equal  
16 to 1 percent per year of the average principal  
17 amount of the obligation outstanding (unless such  
18 obligation is issued under section 1111 of this title,  
19 in which case such fee shall be 1 and one-half per-  
20 cent per year of such average principal amount; and

21 “(B) if the obligation will be purchased by the  
22 Federal Financing Bank, be in an amount equal to  
23 2 percent per year of the average principal amount  
24 of the obligation outstanding (unless such obligation  
25 is issued under section 1111 of this title, in which  
26 case such fee shall be 2 and one-half percent per

1 year of such average principal amount), less any fee  
2 the Federal Financing Bank customarily charges for  
3 its services with respect to federally guaranteed obli-  
4 gations purchased by it and less the amount, if any,  
5 by which the interest rate on such obligation (which  
6 shall be fixed at the time the Federal Financing  
7 Bank commits to purchase such obligation) exceeds  
8 the current new issue rate on outstanding market-  
9 able obligations of the United States of comparable  
10 maturity.

11 “(3) For everything other than fishing vessels and  
12 fishery facilities, such fee shall—

13 “(A) if the security for the guarantee of an ob-  
14 ligation under this title relates to a delivered vessel,  
15 not be less than one-half of 1 percent per year nor  
16 more than 1 percent per year of the average prin-  
17 cipal amount of such obligation outstanding, exclud-  
18 ing the average amount (except interest) on deposit  
19 in an escrow fund created under section 1108 of this  
20 title; and

21 “(B) if the security for the guarantee of an ob-  
22 ligation under this title relates to a vessel to be con-  
23 structed, reconstructed, or reconditioned, not be less  
24 than one-quarter of 1 percent per year nor more  
25 than one-half of 1 percent per year of the average

1 principal amount of such obligation outstanding, ex-  
2 cluding the average amount (except interest) on de-  
3 posit in an escrow fund created under section 1108  
4 of this title. For the purposes of this subsection, if  
5 the security for the guarantee of an obligation under  
6 this title relates both to a delivered vessel or vessels  
7 and to a vessel or vessels to be constructed, recon-  
8 structed, or reconditioned, the principal amount of  
9 such obligation shall be prorated in accordance with  
10 regulations prescribed by the Secretary. The regula-  
11 tions to be prescribed by the Secretary under this  
12 subsection shall provide a formula for determining  
13 the creditworthiness of obligors under which the  
14 most creditworthy obligors pay a fee computed on  
15 the lowest allowable percentage and the least credit-  
16 worthy obligors pay a fee which may be computed on  
17 the highest allowable percentage (the range of cred-  
18 itworthiness to be based on obligors which have ac-  
19 tually issued guaranteed obligations).”.

20 **SEC. 305. SALE OF ACQUIRED COLLATERAL.**

21 Section 1104A(a)(3) of the Merchant Marine Act,  
22 1936 (46 U.S.C. 1274(a)(3)), is amended by inserting  
23 after “financing” the following: “(without requiring sub-  
24 sidiy cost ceiling or other authorization under the Federal  
25 Credit Reform Act of 1990)”.

1           **TITLE IV—ATLANTIC TUNAS**  
2                           **CONVENTION ACT**

3   **SEC. 401. SHORT TITLE.**

4           This title may be cited as the “Atlantic Tunas Con-  
5   vention Authorization Act of 1994”.

6   **SEC. 402. RESEARCH AND MONITORING ACTIVITIES.**

7           (a) REPORT TO CONGRESS.—The Secretary of Com-  
8   merce shall, within 90 days after the date of enactment  
9   of this Act, submit a report to the Committee on Com-  
10   merce, Science, and Transportation of the Senate and the  
11   Committee on Merchant Marine and Fisheries of the  
12   House of Representatives—

13                 (1) identifying current governmental and non-  
14                 governmental research and monitoring activities on  
15                 Atlantic bluefin tuna and other highly migratory  
16                 species;

17                 (2) describing the personnel and budgetary re-  
18                 sources allocated to such activities; and

19                 (3) explaining how each activity contributes to  
20                 the conservation and management of Atlantic bluefin  
21                 tuna and other highly migratory species.

22           (b) RESEARCH AND MONITORING PROGRAM.—Sec-  
23   tion 3 of the Act of September 4, 1980 (16 U.S.C. 971i)  
24   is amended—

1 (1) by amending the section heading to read as  
2 follows:

3 **“SEC. 3. RESEARCH ON ATLANTIC HIGHLY MIGRATORY**  
4 **SPECIES.”;**

5 (2) by striking the last sentence;

6 (3) by inserting “(a) BIENNIAL REPORT ON  
7 BLUEFIN TUNA.—” before “The Secretary of Com-  
8 merce shall”; and

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

10 “(b) HIGHLY MIGRATORY SPECIES RESEARCH AND  
11 MONITORING.—

12 “(1) Within 6 months after the date of enact-  
13 ment of the Atlantic Tunas Convention Authoriza-  
14 tion Act of 1994, the Secretary of Commerce, in co-  
15 operation with the advisory committee established  
16 under section 4 of the Atlantic Tunas Convention  
17 Act of 1975 (16 U.S.C. 971b) and in consultation  
18 with the United States Commissioners on the Inter-  
19 national Commission for the Conservation of Atlan-  
20 tic Tunas (referred to elsewhere in this section as  
21 the ‘Commission’) and the Secretary of State, shall  
22 develop and implement a comprehensive research  
23 and monitoring program to support the conservation  
24 and management of Atlantic bluefin tuna and other  
25 highly migratory species that shall—

1           “(A) identify and define the range of  
2 stocks of highly migratory species in the Atlan-  
3 tic Ocean, including Atlantic bluefin tuna; and

4           “(B) provide for appropriate participation  
5 by nations which are members of the Commis-  
6 sion.

7           “(2) The program shall provide for, but not be  
8 limited to—

9           “(A) statistically designed tagging studies;

10           “(B) genetic and biochemical stock analy-  
11 ses;

12           “(C) population censuses carried out  
13 through aerial surveys of fishing grounds;

14           “(D) adequate observer coverage and port  
15 sampling of commercial and recreational fishing  
16 activity;

17           “(E) collection of comparable real-time  
18 data on commercial and recreational catches  
19 and landings through the use of permits,  
20 logbooks, landing reports for charter operations  
21 and fishing tournaments, and programs to pro-  
22 vide reliable estimates of the catch by private  
23 anglers;

1           “(F) studies of the life history parameters  
2 of Atlantic bluefin tuna and other highly migra-  
3 tory species;

4           “(G) integration of data from all sources  
5 and the preparation of data bases to support  
6 management decisions; and

7           “(H) other research as necessary.”.

8 **SEC. 403. ADVISORY COMMITTEE PROCEDURES.**

9           Section 4 of the Atlantic Tunas Convention Act of  
10 1975 (16 U.S.C. 971b) is amended—

11           (1) by inserting “(a)” before “There”; and

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

13           “(b)(1) A majority of the members of the advisory  
14 committee shall constitute a quorum, but one or more such  
15 members designated by the advisory committee may hold  
16 meetings to provide for public participation and to discuss  
17 measures relating to the United States implementation of  
18 Commission recommendations.

19           “(2) The advisory committee shall elect a Chairman  
20 for a 2-year term from among its members.

21           “(3) The advisory committee shall meet at appro-  
22 priate times and places at least twice a year, at the call  
23 of the Chairman or upon the request of the majority of  
24 its voting members, the United States Commissioners, the  
25 Secretary, or the Secretary of State.

1       “(4)(A) The Secretary shall provide to the advisory  
2 committee in a timely manner such administrative and  
3 technical support services as are necessary for the effective  
4 functioning of the committee.

5       “(B) The Secretary and the Secretary of State shall  
6 furnish the advisory committee with relevant information  
7 concerning fisheries and international fishery agreements.

8       “(5) The advisory committee shall determine its orga-  
9 nization, and prescribe its practices and procedures for  
10 carrying out its functions under this Act, the Magnuson  
11 Fishery Conservation and Management Act (16 U.S.C.  
12 1801 et seq.), and the Convention. The advisory commit-  
13 tee shall publish and make available to the public a state-  
14 ment of its organization, practices, and procedures.”.

15 **SEC. 404. REGULATIONS.**

16       Section 6(c)(3) of the Atlantic Tunas Convention Act  
17 of 1975 (16 U.S.C. 971d(c)(3)) is amended by adding “or  
18 fishery mortality level” after “quota of fish” in the last  
19 sentence.

20 **SEC. 405. FINES AND PERMIT SANCTIONS.**

21       Section 7(e) of the Atlantic Tunas Convention Act  
22 of 1975 (16 U.S.C. 971(e)) is amended to read as follows:

23       “(e) The civil penalty and permit sanctions of section  
24 308 of the Magnuson Fishery Conservation and Manage-  
25 ment Act (16 U.S.C. 1858) are hereby made applicable

1 to violations of this section as if they were violations of  
2 section 307 of that Act.”.

3 **SEC. 406. AUTHORIZATION OF APPROPRIATIONS.**

4 Section 10 of the Atlantic Tunas Convention Act of  
5 1975 (16 U.S.C. 971h) is amended to read as follows:

6 “AUTHORIZATION OF APPROPRIATIONS.

7 “SEC. 10. There are authorized to be appropriated  
8 to carry out this Act, including use for payment of the  
9 United States share of the joint expenses of the Commis-  
10 sion as provided in article X of the Convention, the follow-  
11 ing sums:

12 “(1) For fiscal year 1994, \$2,750,000, of which  
13 \$50,000 are authorized in the aggregate for the ad-  
14 visory committee established under section 4 and the  
15 species working groups established under section 4A,  
16 and \$1,500,000 are authorized for research activities  
17 under this Act.

18 “(2) For fiscal year 1995, \$4,000,000, of which  
19 \$62,000 are authorized in the aggregate for such  
20 advisory committee and such working groups, and  
21 \$2,500,000 are authorized for such research activi-  
22 ties.

23 “(3) For fiscal year 1996, \$4,000,000 of which  
24 \$75,000 are authorized in the aggregate for such  
25 advisory committee and such working groups, and

1       \$2,500,000 are authorized for such research activi-  
2       ties.”.

3       **SEC. 407. REPORT.**

4       The Atlantic Tuna Convention Act of 1975 (16  
5       U.S.C. 971 et seq.) is amended by adding at the end there-  
6       of the following new section:

7                               “ANNUAL REPORT.

8       “SEC. 11. By April 1, 1995, and annually thereafter,  
9       the Secretary of Commerce shall prepare and transmit to  
10      Congress a report, that—

11               “(1) details for the 10-year period the catches  
12               and imports to the United States of highly migra-  
13               tory species (including tunas, swordfish, marlin and  
14               sharks) from nations fishing on Atlantic stocks of  
15               such species that are subject to management by the  
16               International Commission for the Conservation of  
17               Atlantic Tunas;

18               “(2) identifies those fishing nations whose har-  
19               vests are incompatible with existing international  
20               conservation and management programs;

21               “(3) for those nations whose harvests are deter-  
22               mined to be incompatible under paragraph (2), cer-  
23               tifies pursuant to section 8 of the Fishermen’s Pro-  
24               tective Act (22 U.S.C. 1978) that such nations are  
25               conducting fishing operations in a manner which di-

1 minishes the effectiveness of an international fishery  
2 conservation and management regime; and

3 “(4) describes reporting requirements estab-  
4 lished by the Secretary to ensure that imported fish  
5 products are in compliance with all international  
6 management measures, including minimum size re-  
7 quirements, established by the Commission and  
8 other international fishery organizations to which  
9 the United States is a party.”.

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