

cal year, of which \$8,000,000 is authorized to carry out priority projects and \$4,000,000 of which is authorized to carry out other appropriate conservation projects.

(b) Disaster relief or prevention projects

Notwithstanding subsection (a) of this section, any amounts made available under that subsection shall be available for disaster prevention or relief projects.

(c) Availability of funds

Notwithstanding any other provision of law, amounts appropriated for any fiscal year to carry out this subchapter shall remain available for obligation and expenditure until the end of the fiscal year following the fiscal year for which the amounts are appropriated.

(Pub. L. 91-378, title II, §211, as added Pub. L. 109-154, §2(f)(2), Dec. 30, 2005, 119 Stat. 2892.)

CHAPTER 38—FISHERY CONSERVATION AND MANAGEMENT

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SUBCHAPTER I—GENERALLY

§ 1801. Findings, purposes and policy

(a) Findings

The Congress finds and declares the following:

(1) The fish off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf appertaining to the United States, and the anadromous species which spawn in United States rivers or estuaries, constitute valuable and renewable natural resources. These fishery resources contribute to the food supply, economy, and health of the Nation and provide recreational opportunities.

(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.

(3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-in-

creasing rate over the past decade. The activities of massive foreign fishing fleets in waters adjacent to such coastal areas have contributed to such damage, interfered with domestic fishing efforts, and caused destruction of the fishing gear of United States fishermen.

(4) International fishery agreements have not been effective in preventing or terminating the overfishing of these valuable fishery resources. There is danger that irreversible effects from overfishing will take place before an effective international agreement on fishery management jurisdiction can be negotiated, signed, ratified, and implemented.

(5) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be conserved and maintained so as to provide optimum yields on a continuing basis.

(6) A national program for the conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, to facilitate long-term protection of essential fish habitats, and to realize the full potential of the Nation's fishery resources.

(7) A national program for the development of fisheries which are underutilized or not utilized by the United States fishing industry, including bottom fish off Alaska, is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.

(8) The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States.

(9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States.

(10) Pacific Insular Areas contain unique historical, cultural, legal, political, and geographical circumstances which make fisheries resources important in sustaining their economic growth.

(11) A number of the Fishery Management Councils have demonstrated significant progress in integrating ecosystem considerations in fisheries management using the existing authorities provided under this chapter.

(12) International cooperation is necessary to address illegal, unreported, and unregulated fishing and other fishing practices which may harm the sustainability of living marine resources and disadvantage the United States fishing industry.

(b) Purposes

It is therefore declared to be the purposes of the Congress in this chapter—

(1) to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by exercising

(A) sovereign rights for the purposes of exploring, exploiting, conserving, and managing all fish, within the exclusive economic zone established by Presidential Proclamation 5030, dated March 10, 1983, and (B) exclusive fishery management authority beyond the exclusive economic zone over such anadromous species and Continental Shelf fishery resources;

(2) to support and encourage the implementation and enforcement of international fishery agreements for the conservation and management of highly migratory species, and to encourage the negotiation and implementation of additional such agreements as necessary;

(3) to promote domestic commercial and recreational fishing under sound conservation and management principles, including the promotion of catch and release programs in recreational fishing;

(4) to provide for the preparation and implementation, in accordance with national standards, of fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery;

(5) to establish Regional Fishery Management Councils to exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which take into account the social and economic needs of the States;

(6) to encourage the development by the United States fishing industry of fisheries which are currently underutilized or not utilized by United States fishermen, including bottom fish off Alaska, and to that end, to ensure that optimum yield determinations promote such development in a non-wasteful manner; and

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

(c) Policy

It is further declared to be the policy of the Congress in this chapter—

(1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the conservation and management of fishery resources, as provided for in this chapter;

(2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, except as necessary for the conservation and management of fishery resources, as provided for in this chapter;

(3) to assure that the national fishery conservation and management program utilizes, and is based upon, the best scientific information available; involves, and is responsive to the needs of, interested and affected States and citizens; considers efficiency; draws upon Federal, State, and academic capabilities in

carrying out research, administration, management, and enforcement; considers the effects of fishing on immature fish and encourages development of practical measures that minimize bycatch and avoid unnecessary waste of fish; and is workable and effective;

(4) to permit foreign fishing consistent with the provisions of this chapter;

(5) to support and encourage active United States efforts to obtain internationally acceptable agreements which provide for effective conservation and management of fishery resources, and to secure agreements to regulate fishing by vessels or persons beyond the exclusive economic zones of any nation;

(6) to foster and maintain the diversity of fisheries in the United States; and

(7) to ensure that the fishery resources adjacent to a Pacific Insular Area, including resident or migratory stocks within the exclusive economic zone adjacent to such areas, be explored, developed, conserved, and managed for the benefit of the people of such area and of the United States.

(Pub. L. 94-265, § 2, Apr. 13, 1976, 90 Stat. 331; Pub. L. 95-354, § 2, Aug. 28, 1978, 92 Stat. 519; Pub. L. 96-561, title II, § 233, Dec. 22, 1980, 94 Stat. 3299; Pub. L. 99-659, title I, § 101(c)(1), Nov. 14, 1986, 100 Stat. 3707; Pub. L. 101-627, title I, § 101, Nov. 28, 1990, 104 Stat. 4437; Pub. L. 102-251, title III, § 301(a), Mar. 9, 1992, 106 Stat. 62; Pub. L. 104-297, title I, § 101, Oct. 11, 1996, 110 Stat. 3560; Pub. L. 109-479, § 3(a), title IV, § 402, Jan. 12, 2007, 120 Stat. 3577, 3626.)

AMENDMENT OF SUBSECTION (b)(1)

Pub. L. 102-251, title III, §§ 301(a), 308, Mar. 9, 1992, 106 Stat. 62, 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, subsection (b)(1) is amended by inserting “, and fishery resources in the special areas” before the semicolon at the end.

REFERENCES IN TEXT

This chapter, referred to in subssecs. (a)(11), (b), and (c), was in the original “this Act”, meaning Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

Presidential Proclamation 5030, referred to in subsec. (b)(1), is set out under section 1453 of this title.

AMENDMENTS

2007—Subsec. (a)(11). Pub. L. 109-479, § 3(a), added par. (11).

Subsec. (a)(12). Pub. L. 109-479, § 402, added par. (12).

1996—Subsec. (a)(2). Pub. L. 104-297, § 101(1), added par. (2) and struck out former par. (2) which read as follows: “As a consequence of increased fishing pressure and because of the inadequacy of fishery conservation and management practices and controls (A) certain stocks of such fish have been overfished to the point where their survival is threatened, and (B) other such stocks

have been so substantially reduced in number that they could become similarly threatened.”

Subsec. (a)(6). Pub. L. 104-297, § 101(2), inserted “to facilitate long-term protection of essential fish habitats,” after “to insure conservation.”

Subsec. (a)(9), (10). Pub. L. 104-297, § 101(3), added pars. (9) and (10).

Subsec. (b)(3). Pub. L. 104-297, § 101(4), substituted “principles, including the promotion of catch and release programs in recreational fishing” for “principles”.

Subsec. (b)(5). Pub. L. 104-297, § 101(5), struck out “and” after semicolon at end.

Subsec. (b)(6). Pub. L. 104-297, § 101(6), substituted “development in a non-wasteful manner; and” for “development.”

Subsec. (b)(7). Pub. L. 104-297, § 101(7), added par. (7).

Subsec. (c)(3). Pub. L. 104-297, § 101(8), substituted “considers efficiency” for “promotes efficiency” and inserted “minimize bycatch and” after “practical measures that”.

Subsec. (c)(7). Pub. L. 104-297, § 101(9)–(11), added par. (7).

1990—Subsec. (a)(8). Pub. L. 101-627, § 101(a), added par. (8).

Subsec. (b)(1)(A). Pub. L. 101-627, § 101(b)(1), struck out “except highly migratory species” after “fish”.

Subsec. (b)(5). Pub. L. 101-627, § 101(b)(2), substituted “exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of” for “prepare, monitor, and revise”.

Subsec. (c)(3). Pub. L. 101-627, § 101(c)(1), inserted “considers the effects of fishing on immature fish and encourages development of practical measures that avoid unnecessary waste of fish;” after “and enforcement;”.

Subsec. (c)(5). Pub. L. 101-627, § 101(c)(3), substituted “, and to secure agreements to regulate fishing by vessels or persons beyond the exclusive economic zones of any nation; and” for period at end.

Subsec. (c)(6). Pub. L. 101-627, § 101(c)(4), added par. (6).

1986—Subsec. (b)(1). Pub. L. 99-659, § 101(c)(1)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by establishing (A) a fishery conservation zone within which the United States will assume exclusive fishery management authority over all fish, except highly migratory species, and (B) exclusive fishery management authority beyond such zone over such anadromous species and Continental Shelf fishery resources;”.

Subsec. (c)(5). Pub. L. 99-659, § 101(c)(1)(B), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “to support and encourage continued active United States efforts to obtain an internationally acceptable treaty, at the Third United Nations Conference on the Law of the Sea, which provides for effective conservation and management of fishery resources.”

1980—Subsec. (b)(6). Pub. L. 96-561 inserted “, and to that end, to ensure that optimum yield determinations promote such development” after “fish off Alaska”.

1978—Subsec. (a)(7). Pub. L. 95-354, § 2(a), substituted “the United States fishing industry” for “United States fishermen”.

Subsec. (b)(6). Pub. L. 95-354, § 2(b), inserted requirement for development by the United States fishing industry.

REFERENCES TO MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT CONSIDERED TO INCLUDE SECTION 401(A) OF PUB. L. 108-219

References to the Magnuson-Stevens Fishery Conservation and Management Act or any provision of that Act considered to be references to that Act as it would be in effect if section 401(a) of Pub. L. 108-219 were a

provision of that Act, see section 401(c)(1) of Pub. L. 108-219, set out in an Implementation of Pacific Albacore Tuna Treaty note under section 1821 of this title.

REFERENCES TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT REDESIGNATED AS REFERENCES TO MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT

Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, provided that: “Effective 15 days after the enactment of the Sustainable Fisheries Act [Pub. L. 104-297, enacted Oct. 11, 1996], all references to the Magnuson Fishery Conservation and Management Act [see Short Title note below] shall be redesignated as references to the Magnuson-Stevens Fishery Conservation and Management Act.”

REFERENCES TO FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976 REDESIGNATED AS REFERENCES TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

Section 238(b) of title II of Pub. L. 96-561 provided that: “Effective 15 days after the date of enactment of this title [Dec. 22, 1980], all references to the Fishery Conservation and Management Act of 1976 [see Short title note below] shall be redesignated as references to the Magnuson Fishery Conservation and Management Act.”

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102-251, set out as a note under section 773 of this title.

SHORT TITLE OF 2011 AMENDMENT

Pub. L. 111-348, title I, §101, Jan. 4, 2011, 124 Stat. 3668, provided that: “This title [amending sections 1826i to 1826k, 1857, and 4107 of this title and enacting provisions set out as notes under sections 1826k and 1857 of this title] may be cited as the ‘Shark Conservation Act of 2010.’”

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 109-479, §1(a), Jan. 12, 2007, 120 Stat. 3575, provided that: “This Act [enacting chapters 88 and 89 of this title, chapter 45 of Title 33, Navigation and Navigable Waters, subchapters VI of chapter 31 and of chapter 38 of this title, sections 1826h to 1826k, 1829, 1853a, 1864 to 1869, and 1884 of this title, amending this section, sections 757d, 773f, 773g, 971a, 971h, 971i, 1377, 1802, 1803, 1812, 1821, 1824, 1826a, 1826b, 1851 to 1853, 1854, 1855, 1857, 1861, 1861a, 1862, 1881, 1881a, 1881c, 1882, 1883, 3645, 4107, 5156, 5610, and 5727 of this title, and section 53706 of Title 46, Shipping, enacting provisions set out as notes under sections 460ss, 1361, 1853 to 1855, 1861a, 1864, 6901, and 7001 of this title and section 3201 of Title 33, and amending provisions set out as notes under sections 1822, 1851, 1855, and 1856 of this title] may be cited as the ‘Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.’”

SHORT TITLE OF 1996 AMENDMENT

Section 1(a) of Pub. L. 104-297 provided that: “This Act [enacting sections 1803, 1861a, 1881 to 1881d, 1883, 5107a, and 5107b of this title and sections 1279f and 1279g of Title 46, Appendix, Shipping, amending this section, sections 757d, 1362, 1802, 1812, 1821 to 1824, 1826, 1851 to 1858, 1860, 1861, 1862, 1863, 1882, 1883, 4107, 5102, 5103, and 5108 of this title, section 713c-3 of Title 15, Commerce and Trade, and section 1274 of Title 46, Appendix, enacting provisions set out as notes under sections 1802, 1853 to 1856, 1861a, and 1881c of this title and section 1245 of

Title 46, Appendix, amending provisions set out as a note under section 971c of this title, and repealing provisions set out as a note under section 1851 of this title] may be cited as the ‘Sustainable Fisheries Act.’”

SHORT TITLE OF 1995 AMENDMENT

Pub. L. 104-43, title VI, §601, Nov. 3, 1995, 109 Stat. 391, provided that: “This title [enacting sections 1826d to 1826g of this title and provisions set out as a note under section 1826d of this title] may be cited as the ‘High Seas Driftnet Fishing Moratorium Protection Act.’”

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-582, §1, Nov. 2, 1992, 106 Stat. 4900, provided that: “This Act [enacting sections 1826a to 1826c of this title and section 1707a of Title 46, Appendix, Shipping, amending sections 1362, 1371, 1852, and 1862 of this title, section 1978 of Title 22, Foreign Relations and Intercourse, and section 2110 of Title 46, repealing section 1111c of Title 46, Appendix, and enacting provisions set out as notes under sections 1823, 1826a, and 1861 of this title and section 2110 of Title 46] may be cited as the ‘High Seas Driftnet Fisheries Enforcement Act.’”

SHORT TITLE OF 1990 AMENDMENT

Section 1(a) of Pub. L. 101-627 provided that: “The Act [enacting sections 971b-1, 1385, and 1862 of this title, amending this section, sections 757d, 758e-5, 971a, 971b, 971d, 971h, 1371, 1802, 1811, 1812, 1821, 1822, 1824 to 1826, 1852 to 1861, 1882, 4005, 4006, 4008, 4103, and 4107 of this title, section 713c-3 of Title 15, Commerce and Trade, and section 1977 of Title 22, Foreign Relations and Intercourse, and enacting provisions set out as notes under sections 971a, 1373, 1802, 1812, 1822, 1825, 1854, 4004, and 4005 of this title] may be cited as the ‘Fishery Conservation Amendments of 1990.’”

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100-220, §1, Dec. 29, 1987, 101 Stat. 1458, provided that: “This Act [enacting section 1912 of Title 33, Navigation and Navigable Waters, amending sections 1121 to 1131, 1901 to 1903, 1905, and 1907 to 1909 of Title 33, and enacting provisions set out as notes under this section, sections 1822 and 1823 of this title, sections 883a, 1121, 1125, 1901, 1902, and 2267 of Title 33, and section 6981 of Title 42, The Public Health and Welfare] may be cited as the ‘United States-Japan Fishery Agreement Approval Act of 1987.’”

SHORT TITLE OF 1980 AMENDMENT

Section 201 of title II of Pub. L. 96-561 provided that: “This title [enacting section 1511b of Title 15, Commerce and Trade, amending sections 917, 1801, 1821, 1824, 1852, and 1855 of this title, section 713c-3 of Title 15, sections 1972 and 1980 of Title 22, Foreign Relations and Intercourse, section 1321 of Title 33, Navigation and Navigable Waters, section 1843 of Title 43, Public Lands, and sections 1271, 1273, 1274, and 1275 of Title 46, Appendix, Shipping, and enacting provisions set out as notes under this section, sections 742c, 1821, and 1824 of this title, and section 1980 of Title 22] may be cited as the ‘American Fisheries Promotion Act.’”

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-6, §1, Feb. 21, 1977, 91 Stat. 14, provided: “That this joint resolution [enacting section 1826 of this title, repealing sections 981 to 991 of this title, and enacting provisions set out as notes under sections 981 and 1823 of this title] may be cited as the ‘Fishery Conservation Zone Transition Act.’”

SHORT TITLE

Section 1 of Pub. L. 94-265, as amended by Pub. L. 96-561, title II, §238(a), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(a)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, provided: “That this Act [enacting this chapter, amending section 971 of this

title and sections 1972 and 1973 of Title 22, Foreign Relations and Intercourse, enacting provisions set out as notes under this section and sections 971, 1362, 1857 of this title, and sections 1972 and 1973 of Title 22, and repealing chapters 21 and 21A of this title] may be cited as the 'Magnuson-Stevens Fishery Conservation and Management Act'."

[Section 101(a) [title II, §211(a)] of div. A of Pub. L. 104-208 provided that the amendment made by that section to section 1 of Pub. L. 94-265, set out above, is effective 15 days after Oct. 11, 1996.]

[Section 238(a) of Pub. L. 96-561 provided that the amendment made by that section to section 1 of Pub. L. 94-265, set out above, is effective 15 days after Dec. 22, 1980.]

EX. ORD. NO. 12962. RECREATIONAL FISHERIES

Ex. Ord. No. 12962, June 7, 1995, 60 F.R. 30769, as amended by Ex. Ord. No. 13474, Sept. 26, 2008, 73 F.R. 57229, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in furtherance of the purposes of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a-d, and e-j), the Fish and Wildlife Coordination Act (16 U.S.C. 661-666c), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), the National Marine Sanctuaries Act of 1972 (16 U.S.C. 1431 *et seq.*), the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-ee), the National Park Service Organic Act (16 U.S.C. 1 *et seq.*), the National Historic Preservation Act (16 U.S.C. 470 *et seq.*), [the] Wilderness Act (16 U.S.C. 1131 *et seq.*), the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), the Coastal Zone Management Act [of 1972] (16 U.S.C. 1451 *et seq.*), the Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*), and other pertinent statutes, and in order to conserve, restore, and enhance aquatic systems to provide for increased recreational fishing opportunities nationwide, it is ordered as follows:

SECTION 1. *Federal Agency Duties.* Federal agencies shall, to the extent permitted by law and where practicable, and in cooperation with States and Tribes, improve the quantity, function, sustainable productivity, and distribution of U.S. aquatic resources for increased recreational fishing opportunities by: (a) developing and encouraging partnerships between governments and the private sector to advance aquatic resource conservation and enhance recreational fishing opportunities;

(b) identifying recreational fishing opportunities that are limited by water quality and habitat degradation and promoting restoration to support viable, healthy, and, where feasible, self-sustaining recreational fisheries;

(c) fostering sound aquatic conservation and restoration endeavors to benefit recreational fisheries;

(d) ensuring that recreational fishing shall be managed as a sustainable activity in national wildlife refuges, national parks, national monuments, national marine sanctuaries, marine protected areas, or any other relevant conservation or management areas or activities under any Federal authority, consistent with applicable law;

(e) providing access to and promoting awareness of opportunities for public participation and enjoyment of U.S. recreational fishery resources;

(f) supporting outreach programs designed to stimulate angler participation in the conservation and restoration of aquatic systems;

(g) implementing laws under their purview in a manner that will conserve, restore, and enhance aquatic systems that support recreational fisheries;

(h) establishing cost-share programs, under existing authorities, that match or exceed Federal funds with nonfederal contributions;

(i) evaluating the effects of Federally funded, permitted, or authorized actions on aquatic systems and recreational fisheries and document those effects relative to the purpose of this order; and

(j) assisting private landowners to conserve and enhance aquatic resources on their lands.

SEC. 2. *National Recreational Fisheries Coordination Council.* A National Recreational Fisheries Coordination Council ("Coordination Council") is hereby established. The Coordination Council shall consist of seven members, one member designated by each of the following Secretaries—Interior, Commerce, Agriculture, Energy, Transportation, and Defense—and one by the Administrator of the Environmental Protection Agency. The Coordination Council shall: (a) ensure that the social and economic values of healthy aquatic systems that support recreational fisheries are considered by Federal agencies in the course of their actions;

(b) reduce duplicative and cost-inefficient programs among Federal agencies involved in conserving or managing recreational fisheries;

(c) share the latest resource information and management technologies to assist in the conservation and management of recreational fisheries;

(d) assess the implementation of the Conservation Plan required under section 3 of this order; and

(e) develop a biennial report of accomplishments of the Conservation Plan.

The representatives designated by the Secretaries of Commerce and the Interior shall cochair the Coordination Council.

SEC. 3. *Recreational Fishery Resources Conservation Plan.* (a) Within 12 months of the date of this order, the Coordination Council, in cooperation with Federal agencies, States, and Tribes, and after consulting with the Federally chartered Sport Fishing and Boating Partnership Council, shall develop a comprehensive Recreational Fishery Resources Conservation Plan ("Conservation Plan").

(b) The Conservation Plan will set forth a 5-year agenda for Federal agencies identified by the Coordination Council. In so doing, the Conservation Plan will establish, to the extent permitted by law and where practicable; (1) measurable objectives to conserve and restore aquatic systems that support viable and healthy recreational fishery resources, (2) actions to be taken by the identified Federal agencies, (3) a method of ensuring the accountability of such Federal agencies, and (4) a comprehensive mechanism to evaluate achievements. The Conservation Plan will, to the extent practicable, be integrated with existing plans and programs, reduce duplication, and will include recommended actions for cooperation with States, Tribes, conservation groups, and the recreational fisheries community.

SEC. 4. *Joint Policy for Administering the Endangered Species Act of 1973.* All Federal agencies will aggressively work to identify and minimize conflicts between recreational fisheries and their respective responsibilities under the Endangered Species Act of 1973 ("ESA") (16 U.S.C. 1531 *et seq.*). Within 6 months of the date of this order, the Fish and Wildlife Service and the National Marine Fisheries Service will promote compatibility and reduce conflicts between the administration of the ESA and recreational fisheries by developing a joint agency policy that will: (1) ensure consistency in the administration of the ESA between and within the two agencies, (2) promote collaboration with other Federal, State, and Tribal fisheries managers, and (3) improve and increase efforts to inform nonfederal entities of the requirements of the ESA.

SEC. 5. *Sport Fishing and Boating Partnership Council.* To assist in the implementation of this order, the Secretary of the Interior shall expand the role of the Sport Fishing and Boating Partnership Council to: (a) monitor specific Federal activities affecting aquatic systems and the recreational fisheries they support;

(b) review and evaluate the relation of Federal policies and activities to the status and conditions of recreational fishery resources; and

(c) prepare an annual report of its activities, findings, and recommendations for submission to the Coordination Council.

SEC. 6. *Judicial Review.* This order is intended only to improve the internal management of the executive

branch and it is not intended to create any right, benefit or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any other person.

§ 1802. Definitions

As used in this chapter, unless the context otherwise requires—

(1) The term “anadromous species” means species of fish which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters.

(2) The term “bycatch” means fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such term does not include fish released alive under a recreational catch and release fishery management program.

(3) The term “charter fishing” means fishing from a vessel carrying a passenger for hire (as defined in section 2101(21a) of title 46) who is engaged in recreational fishing.

(4) The term “commercial fishing” means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter or trade.

(5) The term “conservation and management” refers to all of the rules, regulations, conditions, methods, and other measures (A) which are required to rebuild, restore, or maintain, and which are useful in rebuilding, restoring, or maintaining, any fishery resource and the marine environment; and (B) which are designed to assure that—

(i) a supply of food and other products may be taken, and that recreational benefits may be obtained, on a continuing basis;

(ii) irreversible or long-term adverse effects on fishery resources and the marine environment are avoided; and

(iii) there will be a multiplicity of options available with respect to future uses of these resources.

(6) The term “Continental Shelf” means the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, of the United States, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas.

(7) The term “Continental Shelf fishery resources” means the following:

CNIDARIA

Bamboo Coral—*Acanella* spp.;
Black Coral—*Antipathes* spp.;
Gold Coral—*Callogorgia* spp.;
Precious Red Coral—*Corallium* spp.;
Bamboo Coral—*Keratoisis* spp.; and
Gold Coral—*Parazoanthus* spp.

CRUSTACEA

Tanner Crab—*Chionoecetes tanneri*;
Tanner Crab—*Chionoecetes opilio*;
Tanner Crab—*Chionoecetes angulatus*;
Tanner Crab—*Chionoecetes bairdi*;

King Crab—*Paralithodes camtschatica*;
King Crab—*Paralithodes platypus*;
King Crab—*Paralithodes brevipes*;
Lobster—*Homarus americanus*;
Dungeness Crab—*Cancer magister*;
California King Crab—*Paralithodes californiensis*;
California King Crab—*Paralithodes rathbuni*;
Golden King Crab—*Lithodes aequispinus*;
Northern Stone Crab—*Lithodes maja*;
Stone Crab—*Menippe mercenaria*; and
Deep-sea Red Crab—*Chaceon quinquegens*.

MOLLUSKS

Red Abalone—*Haliotis rufescens*;
Pink Abalone—*Haliotis corrugata*;
Japanese Abalone—*Haliotis kamtschaticana*;
Queen Conch—*Strombus gigas*;
Surf Clam—*Spisula solidissima*; and
Ocean Quahog—*Arctica islandica*.

SPONGES

Glove Sponge—*Spongia cheiris*;
Sheepswool Sponge—*Hippiospongia lachne*;
Grass Sponge—*Spongia graminea*; and
Yellow Sponge—*Spongia barbera*.

If the Secretary determines, after consultation with the Secretary of State, that living organisms of any other sedentary species are, at the harvestable stage, either—

(A) immobile on or under the seabed, or

(B) unable to move except in constant physical contact with the seabed or subsoil,

of the Continental Shelf which appertains to the United States, and publishes notice of such determination in the Federal Register, such sedentary species shall be considered to be added to the foregoing list and included in such term for purposes of this chapter.

(8) The term “Council” means any Regional Fishery Management Council established under section 1852 of this title.

(9) The term “economic discards” means fish which are the target of a fishery, but which are not retained because they are of an undesirable size, sex, or quality, or for other economic reasons.

(10) The term “essential fish habitat” means those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity.

(11) The term “exclusive economic zone” means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this chapter, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.

(12) The term “fish” means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

(13) The term “fishery” means—

(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific,