

# Union Calendar No. 542

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4742

[Report No. 113-711]

To amend the Magnuson-Stevens Fishery Conservation and Management Act to provide flexibility for fishery managers and stability for fishermen, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2014

Mr. HASTINGS of Washington introduced the following bill; which was referred to the Committee on Natural Resources

DECEMBER 22, 2014

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on May 23, 2014]

# **A BILL**

To amend the Magnuson-Stevens Fishery Conservation and Management Act to provide flexibility for fishery managers and stability for fishermen, 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.**

4        *This Act may be cited as the “Strengthening Fishing*  
 5 *Communities and Increasing Flexibility in Fisheries Man-*  
 6 *agement Act”.*

7 **SEC. 2. TABLE OF CONTENTS.**

8        *The table of contents for this Act is the following:*

*Sec. 1. Short title.*

*Sec. 2. Table of contents.*

**TITLE I—AMENDMENTS TO THE MAGNUSON-STEVENSON FISHERY  
 CONSERVATION AND MANAGEMENT ACT**

*Sec. 101. Definitions.*

*Sec. 102. References.*

*Sec. 103. Flexibility in rebuilding fish stocks.*

*Sec. 104. Modifications to the annual catch limit requirement.*

*Sec. 105. Distinguishing between overfished and depleted.*

*Sec. 106. Transparency and public process.*

*Sec. 107. Limitation on future catch share programs.*

*Sec. 108. Report on fee.*

*Sec. 109. Data collection and data confidentiality.*

*Sec. 110. Cooperative research and management program.*

*Sec. 111. Council jurisdiction for overlapping fisheries.*

*Sec. 112. Gulf of Mexico fisheries cooperative research and red snapper manage-*  
*ment.*

*Sec. 113. North Pacific fishery management clarification.*

*Sec. 114. Ensuring consistent management for fisheries throughout their range.*

*Sec. 115. Limitation on harvest in North Pacific directed pollock fishery.*

*Sec. 116. Recreational fishing data.*

*Sec. 117. Stock assessments used for fisheries managed under Gulf of Mexico*  
*Council’s Reef Fish Management Plan.*

*Sec. 118. Estimation of cost of recovery from fishery resource disaster.*

*Sec. 119. Deadline for action on request by Governor for determination regarding*  
*fishery resource disaster.*

*Sec. 120. Prohibition on considering red snapper killed during removal of oil*  
*rigs.*

*Sec. 121. Prohibition on considering fish seized from foreign fishing.*

*Sec. 122. Subsistence fishing.*

*Sec. 123. Inter-sector trading of commercial catch share allocations in the Gulf*  
*of Mexico.*

*Sec. 124. Authorization of appropriations.*

*TITLE II—REVITALIZING THE ECONOMY OF FISHERIES IN THE  
PACIFIC*

*Sec. 201. Short title.*

*Sec. 202. Findings; purpose.*

*Sec. 203. Refinancing of Pacific Coast groundfish fishing capacity reduction loan.*

1 ***TITLE I—AMENDMENTS TO THE***  
 2 ***MAGNUSON-STEVENSON FISH-***  
 3 ***ERY CONSERVATION AND***  
 4 ***MANAGEMENT ACT***

5 ***SEC. 101. DEFINITIONS.***

6 *Any term used in this title that is defined in section*  
 7 *3 of the Magnuson-Stevens Fishery Conservation and Man-*  
 8 *agement Act (16 U.S.C. 1802) shall have the same meaning*  
 9 *such term has under that section.*

10 ***SEC. 102. REFERENCES.***

11 *Except as otherwise specifically provided, whenever in*  
 12 *this title an amendment or repeal is expressed in terms of*  
 13 *an amendment to, or repeal of, a provision, the reference*  
 14 *shall be considered to be made to a provision of the Magnu-*  
 15 *son-Stevens Fishery Conservation and Management Act (16*  
 16 *U.S.C. 1801 et seq.).*

17 ***SEC. 103. FLEXIBILITY IN REBUILDING FISH STOCKS.***

18 *(a) GENERAL REQUIREMENTS.—Section 304(e) (16*  
 19 *U.S.C. 1854(e)) is amended—*

20 *(1) in paragraph (4)—*

21 *(A) in subparagraph (A)(i), by striking*  
 22 *“possible” and inserting “practicable”;*

1           *(B) by amending subparagraph (A)(ii) to*  
2           *read as follows:*

3           *“(ii) may not exceed the time the stock*  
4           *would be rebuilt without fishing occurring*  
5           *plus one mean generation, except in a case*  
6           *in which—*

7           *“(I) the biology of the stock of*  
8           *fish, other environmental conditions, or*  
9           *management measures under an inter-*  
10          *national agreement in which the*  
11          *United States participates dictate oth-*  
12          *erwise;*

13          *“(II) the Secretary determines*  
14          *that the cause of the stock being de-*  
15          *pleted is outside the jurisdiction of the*  
16          *Council or the rebuilding program can-*  
17          *not be effective only by limiting fishing*  
18          *activities;*

19          *“(III) the Secretary determines*  
20          *that one or more components of a*  
21          *mixed-stock fishery is depleted but can-*  
22          *not be rebuilt within that time- frame*  
23          *without significant economic harm to*  
24          *the fishery, or cannot be rebuilt with-*  
25          *out causing another component of the*

1                   *mixed-stock fishery to approach a de-*  
2                   *pleted status;*

3                   “(IV) *the Secretary determines*  
4                   *that recruitment, distribution, or life*  
5                   *history of, or fishing activities for, the*  
6                   *stock are affected by informal trans-*  
7                   *boundary agreements under which*  
8                   *management activities outside the ex-*  
9                   *clusive economic zone by another coun-*  
10                   *try may hinder conservation and man-*  
11                   *agement efforts by United States fish-*  
12                   *ermen; and*

13                   “(V) *the Secretary determines that*  
14                   *the stock has been affected by unusual*  
15                   *events that make rebuilding within the*  
16                   *specified time period improbable with-*  
17                   *out significant economic harm to fish-*  
18                   *ing communities;”;*

19                   (C) *by striking “and” after the semicolon at*  
20                   *the end of subparagraph (B), by redesignating*  
21                   *subparagraphs (B) and (C) as subparagraphs*  
22                   *(C) and (D), and by inserting after subpara-*  
23                   *graph (A) the following:*

1           “(B) take into account environmental con-  
2           dition including predator/prey relationships;”;  
3           and

4           (D) by striking the period at the end of sub-  
5           paragraph (D) (as so redesignated) and insert-  
6           ing “; and”, and by adding at the end the fol-  
7           lowing:

8           “(E) specify a schedule for reviewing the re-  
9           building targets, evaluating environmental im-  
10          pacts on rebuilding progress, and evaluating  
11          progress being made toward reaching rebuilding  
12          targets.”; and

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

14          “(8) A fishery management plan, plan amend-  
15          ment, or proposed regulations may use alternative re-  
16          building strategies, including harvest control rules  
17          and fishing mortality-rate targets to the extent they  
18          are in compliance with the requirements of this Act.

19          “(9) A Council may terminate the application of  
20          paragraph (3) to a fishery if the Council’s scientific  
21          and statistical committee determines and the Sec-  
22          retary concurs that the original determination that  
23          the fishery was depleted was erroneous, either—

24                  “(A) within the 2-year period beginning on  
25                  the effective date a fishery management plan,

1            *plan amendment, or proposed regulation for a*  
2            *fishery under this subsection takes effect; or*

3            *“(B) within 90 days after the completion of*  
4            *the next stock assessment after such determina-*  
5            *tion.”.*

6            *(b) EMERGENCY REGULATIONS AND INTERIM MEAS-*  
7            *URES.—Section 305(c)(3)(B) (16 U.S.C. 1855(c)(3)(B)) is*  
8            *amended by striking “180 days after” and all that follows*  
9            *through “provided” and inserting “1 year after the date of*  
10           *publication, and may be extended by publication in the*  
11           *Federal Register for one additional period of not more than*  
12           *1 year, if”.*

13           **SEC. 104. MODIFICATIONS TO THE ANNUAL CATCH LIMIT**  
14           **REQUIREMENT.**

15           *Section 302 (16 U.S.C. 1852) is amended by adding*  
16           *at the end the following:*

17           *“(m) CONSIDERATIONS FOR MODIFICATIONS TO AN-*  
18           *NUAL CATCH LIMIT REQUIREMENTS.—*

19           *“(1) CONSIDERATION OF ECOSYSTEM AND ECO-*  
20           *NOMIC IMPACTS.—In establishing annual catch limits*  
21           *a Council may, consistent with section 302(h)(6), con-*  
22           *sider changes in an ecosystem and the economic needs*  
23           *of the fishing communities.*

24           *“(2) LIMITATIONS TO ANNUAL CATCH LIMIT RE-*  
25           *QUIREMENT FOR SPECIAL FISHERIES.—Notwith-*



1        *standing subsection (h)(6), a Council is not required*  
2        *to develop an annual catch limit for—*

3                *“(A) an ecosystem component species;*

4                *“(B) a fishery for a species that has a life*  
5        *cycle of approximately 1 year, unless the Sec-*  
6        *retary has determined the fishery is subject to*  
7        *overfishing; or*

8                *“(C) a stock for which—*

9                        *“(i) more than half of a single-year*  
10        *class will complete their life cycle in less*  
11        *than 18 months; and*

12                        *“(ii) fishing mortality will have little*  
13        *impact on the stock.*

14                *“(3) RELATIONSHIP TO INTERNATIONAL FISHERY*  
15        *EFFORTS.—Each annual catch limit may, consistent*  
16        *with section 302(h)(6), take into account—*

17                *“(A) management measures under inter-*  
18        *national agreements in which the United States*  
19        *participates;*

20                *“(B) informal transboundary agreements*  
21        *under which fishery management activities by*  
22        *another country outside the exclusive economic*  
23        *zone may hinder conservation efforts by United*  
24        *States fishermen for a fish species for which any*

1           *of the recruitment, distribution, life history, or*  
2           *fishing activities are transboundary; and*

3           “(C) *in instances in which no transbound-*  
4           *ary agreement exists, activities by another coun-*  
5           *try outside the exclusive economic zone that may*  
6           *hinder conservation efforts by United States fish-*  
7           *erman for a fish species for which any of the re-*  
8           *ruitment, distribution, life history, or fishing*  
9           *activities are transboundary.*

10           “(4) *AUTHORIZATION FOR MULTISPECIES COM-*  
11           *PLEXES AND MULTIYEAR ANNUAL CATCH LIMITS.—*  
12           *For purposes of subsection (h)(6), a Council may es-*  
13           *tablish—*

14           “(A) *an annual catch limit for a stock com-*  
15           *plex; or*

16           “(B) *annual catch limits for each year in*  
17           *any continuous period that is not more than*  
18           *three years in duration.*

19           “(5) *ECOSYSTEM COMPONENT SPECIES DE-*  
20           *FINED.—In this subsection the term ‘ecosystem com-*  
21           *ponent species’ means a stock of fish that is a nontar-*  
22           *get, incidentally harvested stock of fish in a fishery,*  
23           *or a nontarget, incidentally harvested stock of fish*  
24           *that a Council or the Secretary has determined—*

1           “(A) is not subject to overfishing, approach-  
2           ing a depleted condition or depleted; and

3           “(B) is not likely to become subject to over-  
4           fishing or depleted in the absence of conservation  
5           and management measures.”.

6 **SEC. 105. DISTINGUISHING BETWEEN OVERFISHED AND DE-**  
7           **PLETED.**

8           (a) *DEFINITIONS.*—Section 3 (16 U.S.C. 1802) is  
9           amended—

10           (1) in paragraph (34), by striking “The terms  
11           ‘overfishing’ and ‘overfished’ mean” and inserting  
12           “‘The term ‘overfishing’ means”;

13           (2) by inserting after paragraph (8) the fol-  
14           lowing:

15           “(8a) The term ‘depleted’ means, with respect to  
16           a stock of fish or stock complex, that the stock or stock  
17           complex has a biomass that has declined below a level  
18           that jeopardizes the capacity of the stock or stock com-  
19           plex to produce maximum sustainable yield on a con-  
20           tinuing basis.”.

21           (b) *SUBSTITUTION OF TERM.*—The Magnuson-Stevens  
22           Fishery Conservation and Management Act (16 U.S.C.  
23           1801 et seq.) is amended by striking “overfished” each place  
24           it appears and inserting “depleted”.

1       (c) *CLARITY IN ANNUAL REPORT.*—Section 304(e)(1)  
2 (16 U.S.C. 1854(e)(1)) is amended by adding at the end  
3 the following: “The report shall distinguish between fisheries  
4 that are depleted (or approaching that condition) as a re-  
5 sult of fishing and fisheries that are depleted (or approach-  
6 ing that condition) as a result of factors other than fishing.  
7 The report shall state, for each fishery identified as depleted  
8 or approaching that condition, whether the fishery is the  
9 target of directed fishing.”.

10 **SEC. 106. TRANSPARENCY AND PUBLIC PROCESS.**

11       (a) *ADVICE.*—Section 302(g)(1)(B) (16 U.S.C.  
12 1852(g)(1)(B)) is amended by adding at the end the fol-  
13 lowing: “Each scientific and statistical committee shall de-  
14 velop such advice in a transparent manner and allow for  
15 public involvement in the process.”.

16       (b) *MEETINGS.*—Section 302(i)(2) (16 U.S.C.  
17 1852(i)(2)) is amended by adding at the end the following:

18               “(G) Each Council shall make available on the  
19 Internet Web site of the Council—

20                       “(i) to the extent practicable, a Webcast, an  
21 audio recording, or a live broadcast of each meet-  
22 ing of the Council, and of the Council Coordina-  
23 tion Committee established under subsection (l),  
24 that is not closed in accordance with paragraph  
25 (3); and

1           “(ii) audio, video (if the meeting was in  
2           person or by video conference), or a searchable  
3           audio or written transcript of each meeting of  
4           the Council and of the meetings of committees re-  
5           ferred to in section 302(g)(1)(B) of the Council  
6           by not later than 30 days after the conclusion of  
7           the meeting.

8           “(H) The Secretary shall maintain and make  
9           available to the public an archive of Council and sci-  
10          entific and statistical committee meeting audios, vid-  
11          eos, and transcripts made available under clauses (i)  
12          and (ii) subparagraph (G).”.

13          (c) *FISHERY IMPACT STATEMENTS.*—

14                 (1) *REQUIREMENT.*—Section 303 (16 U.S.C.  
15                 1853) is amended—

16                         (A) in subsection (a), by striking paragraph  
17                         (9) and redesignating paragraphs (10) through  
18                         (15) as paragraphs (9) through (14), respec-  
19                         tively; and

20                         (B) by adding at the end the following:

21                 “(d) *FISHERY IMPACT STATEMENT.*—

22                         “(1) Any fishery management plan (or fishery  
23                         management plan amendment) prepared by any  
24                         Council or by the Secretary pursuant to subsection  
25                         (a) or (b), or proposed regulations deemed necessary

1       *pursuant to subsection (c), shall include a fishery im-*  
2       *act statement which shall assess, specify and analyze*  
3       *the likely effects and impact of the proposed action on*  
4       *the quality of the human environment.*

5               “(2) *The fishery impact statement shall de-*  
6       *scribe—*

7                       “(A) *a purpose of the proposed action;*

8                       “(B) *the environmental impact of the pro-*  
9       *posed action;*

10                      “(C) *any adverse environmental effects*  
11       *which cannot be avoided should the proposed ac-*  
12       *tion be implemented;*

13                      “(D) *a reasonable range of alternatives to*  
14       *the proposed action;*

15                      “(E) *the relationship between short-term use*  
16       *of fishery resources and the enhancement of long-*  
17       *term productivity;*

18                      “(F) *the cumulative conservation and man-*  
19       *agement effects; and*

20                      “(G) *economic, and social impacts of the*  
21       *proposed action on—*

22                               “(i) *participants in the fisheries and*  
23       *fishing communities affected by the pro-*  
24       *posed action;*

1           “(ii) participants in the fisheries con-  
2           ducted in adjacent areas under the author-  
3           ity of another Council, after consultation  
4           with such Council and representatives of  
5           those participants; and

6           “(iii) the safety of human life at sea,  
7           including whether and to what extent such  
8           measures may affect the safety of partici-  
9           pants in the fishery.

10           “(3) A substantially complete fishery impact  
11           statement, which may be in draft form, shall be avail-  
12           able not less than 14 days before the beginning of the  
13           meeting at which a Council makes its final decision  
14           on the proposal (for plans, plan amendments, or pro-  
15           posed regulations prepared by a Council pursuant to  
16           subsection (a) or (c)). Availability of this fishery im-  
17           pact statement will be announced by the methods used  
18           by the council to disseminate public information and  
19           the public and relevant government agencies will be  
20           invited to comment on the fishery impact statement.

21           “(4) The completed fishery impact statement  
22           shall accompany the transmittal of a fishery manage-  
23           ment plan or plan amendment as specified in section  
24           304(a), as well as the transmittal of proposed regula-  
25           tions as specified in section 304(b).

1           “(5) *The Councils shall, subject to approval by*  
2 *the Secretary, establish criteria to determine actions*  
3 *or classes of action of minor significance regarding*  
4 *subparagraphs (A), (B), (D), (E), and (F) of para-*  
5 *graph (2), for which preparation of a fishery impact*  
6 *statement is unnecessary and categorically excluded*  
7 *from the requirements of this section, and the docu-*  
8 *mentation required to establish the exclusion.*

9           “(6) *The Councils shall, subject to approval by*  
10 *the Secretary, prepare procedures for compliance with*  
11 *this section that provide for timely, clear, and concise*  
12 *analysis that is useful to decisionmakers and the pub-*  
13 *lic, reduce extraneous paperwork and effectively in-*  
14 *volve the public, including—*

15                   “(A) *using Council meetings to determine*  
16 *the scope of issues to be addressed and identi-*  
17 *fying significant issues related to the proposed*  
18 *action;*

19                   “(B) *integration of the fishery impact state-*  
20 *ment development process with preliminary and*  
21 *final Council decisionmaking in a manner that*  
22 *provides opportunity for comment from the pub-*  
23 *lic and relevant government agencies prior to*  
24 *these decision points; and*



1           “(C) providing scientific, technical, and  
2           legal advice at an early stage of the development  
3           of the fishery impact statement to ensure timely  
4           transmittal and Secretarial review of the pro-  
5           posed fishery management plan, plan amend-  
6           ment, or regulations to the Secretary.

7           “(7) Actions taken in accordance with the proce-  
8           dures of this section shall constitute fulfillment of the  
9           requirements the National Environmental Policy Im-  
10          provement Act of 1970 (42 U.S.C. 4371 et seq.) and  
11          all related implementing regulations.”.

12          (2) *EVALUATION OF ADEQUACY.*—Section  
13          304(a)(2) (16 U.S.C. 1854(a)(2)) is amended by strik-  
14          ing “and” after the semicolon at the end of subpara-  
15          graph (B), striking the period at the end of subpara-  
16          graph (C) and inserting “; and”, and by adding at  
17          the end the following:

18                 “(D) evaluate the adequacy of the accom-  
19                 panying fishery impact statement as basis for  
20                 fully considering the environmental impacts of  
21                 implementing the fishery management plan or  
22                 plan amendment.”.

23          (3) *REVIEW OF REGULATIONS.*—Section 304(b)  
24          (16 U.S.C. 1854(b)) is amended by striking so much

1       *as precedes subparagraph (A) of paragraph (1) and*  
2       *inserting the following:*

3       “(b) *REVIEW OF REGULATIONS.*—

4               “(1) *Upon transmittal by the Council to the Sec-*  
5       *retary of proposed regulations prepared under section*  
6       *303(c), the Secretary shall immediately initiate an*  
7       *evaluation of the proposed regulations to determine*  
8       *whether they are consistent with the fishery manage-*  
9       *ment plan, plan amendment, this Act and other ap-*  
10       *licable law. The Secretary shall also immediately*  
11       *initiate an evaluation of the accompanying fishery*  
12       *impact statement as a basis for fully considering the*  
13       *environmental impacts of implementing the proposed*  
14       *regulations. Within 15 days of initiating such evalua-*  
15       *tion the Secretary shall make a determination*  
16       *and—”.*

17               “(4) *EFFECT ON TIME REQUIREMENTS.*—*Section*  
18       *305(e) (16 U.S.C. 1855(e)) is amended by inserting*  
19       *“the National Environmental Policy Act of 1969 (42*  
20       *U.S.C. 4321 et seq.),” after “the Regulatory Flexi-*  
21       *bility Act (5 U.S.C. 601 et seq.)”.*

1 **SEC. 107. LIMITATION ON FUTURE CATCH SHARE PRO-**  
2 **GRAMS.**

3 (a) *CATCH SHARE DEFINED.*—Section 3 (16 U.S.C.  
4 1802) is amended by inserting after paragraph (2) the fol-  
5 lowing:

6 “(2a) The term ‘catch share’ means any fishery  
7 management program that allocates a specific per-  
8 centage of the total allowable catch for a fishery, or  
9 a specific fishing area, to an individual, cooperative,  
10 community, processor, representative of a commercial  
11 sector, or regional fishery association established in  
12 accordance with section 303A(c)(4), or other entity.”.

13 (b) *CATCH SHARE REFERENDUM PILOT PROGRAM.*—

14 (1) *IN GENERAL.*—Section 303A(c)(6)(D) (16  
15 U.S.C. 1853a(c)(6)(D)) is amended to read as follows:

16 “(D) *CATCH SHARE REFERENDUM PILOT*  
17 *PROGRAM.*—

18 “(i) *The New England, Mid-Atlantic,*  
19 *South Atlantic, and Gulf of Mexico Councils*  
20 *may not submit a fishery management plan*  
21 *or amendment that creates a catch share*  
22 *program for a fishery, and the Secretary*  
23 *may not approve or implement such a plan*  
24 *or amendment submitted by such a Council*  
25 *or a secretarial plan or amendment under*  
26 *section 304(c) that creates such a program,*

1           *unless the final program has been approved,*  
2           *in a referendum in accordance with this*  
3           *subparagraph, by a majority of the permit*  
4           *holders eligible to participate in the fishery.*  
5           *For multispecies permits in the Gulf of*  
6           *Mexico, any permit holder with landings*  
7           *from within the sector of the fishery being*  
8           *considered for the catch share program*  
9           *within the 5-year period preceding the date*  
10          *of the referendum and still active in fishing*  
11          *in the fishery shall be eligible to participate*  
12          *in such a referendum. If a catch share pro-*  
13          *gram is not approved by the requisite num-*  
14          *ber of permit holders, it may be revised and*  
15          *submitted for approval in a subsequent ref-*  
16          *erendum.*

17                 *“(ii) The Secretary may, at the request*  
18                 *of the New England Fishery Management*  
19                 *Council, allow participation in such a ref-*  
20                 *erendum for a fishery under the Council’s*  
21                 *authority, by fishing vessel crewmembers*  
22                 *who derive a significant portion of their*  
23                 *livelihood from such fishing.*

24                 *“(iii) The Secretary shall conduct a*  
25                 *referendum under this subparagraph, in-*

1 *cluding notifying all permit holders eligible*  
2 *to participate in the referendum and mak-*  
3 *ing available to them—*

4 *“(I) a copy of the proposed pro-*  
5 *gram;*

6 *“(II) an estimate of the costs of*  
7 *the program, including costs to partici-*  
8 *pants;*

9 *“(III) an estimate of the amount*  
10 *of fish or percentage of quota each per-*  
11 *mit holder would be allocated; and*

12 *“(IV) information concerning the*  
13 *schedule, procedures, and eligibility re-*  
14 *quirements for the referendum process.*

15 *“(iv) For the purposes of this subpara-*  
16 *graph, the term ‘permit holder eligible to*  
17 *participate’ only includes the holder of a*  
18 *permit for a fishery under which fishing*  
19 *has occurred in 3 of the 5 years preceding*  
20 *a referendum for the fishery, unless sickness,*  
21 *injury, or other unavoidable hardship pre-*  
22 *vented the permit holder from engaging in*  
23 *such fishing.*

24 *“(v) The Secretary may not implement*  
25 *any catch share program for any fishery*

1                   *managed exclusively by the Secretary unless*  
2                   *first petitioned by a majority of those per-*  
3                   *mit holders eligible to participate in the*  
4                   *fishery.”.*

5                   (2) *LIMITATION ON APPLICATION.*—*The amend-*  
6                   *ment made by paragraph (1) shall not apply to a*  
7                   *catch share program that is submitted to, or proposed*  
8                   *by, the Secretary of Commerce before the date of en-*  
9                   *actment of this Act.*

10                  (3) *REGULATIONS.*—*Before conducting a ref-*  
11                  *erendum under the amendment made by paragraph*  
12                  *(1), the Secretary of Commerce shall issue regulations*  
13                  *implementing such amendment after providing an op-*  
14                  *portunity for submission by the public of comments*  
15                  *on the regulations.*

16 **SEC. 108. REPORT ON FEE.**

17                  *Section 304(d)(2) (16 U.S.C. 1854(d)(2)) is amended*  
18 *by adding at the end the following:*

19                  “(D) *The Secretary shall report annually on the*  
20                  *amount collected under this paragraph from each*  
21                  *fishery and detail how the funds were spent in the*  
22                  *prior year on a fishery-by-fishery basis, to—*

23                                 “(i) *Congress; and*

24                                 “(ii) *each Council from whose fisheries the*  
25                                 *fee under this paragraph were collected.”.*

1 **SEC. 109. DATA COLLECTION AND DATA CONFIDENTIALITY.**

2 (a) *ELECTRONIC MONITORING.*—

3 (1) *ISSUANCE OF REGULATIONS.*—

4 (A) *REQUIREMENT.*—*The Secretary shall*  
5 *issue regulations governing the use of electronic*  
6 *monitoring for the purposes of monitoring fish-*  
7 *eries that are subject to the Magnuson-Stevens*  
8 *Fishery Conservation and Management Act (16*  
9 *U.S.C. 1801 et seq.).*

10 (B) *CONTENT.*—*The regulations shall—*

11 (i) *distinguish between monitoring for*  
12 *data collection and research purposes and*  
13 *monitoring for compliance and enforcement*  
14 *purposes; and*

15 (ii) *include minimum criteria, objec-*  
16 *tives, or performance standards for elec-*  
17 *tronic monitoring.*

18 (C) *PROCESS.*—*In issuing the regulations*  
19 *the Secretary shall—*

20 (i) *consult with the Councils and fish-*  
21 *ery management commissions;*

22 (ii) *publish the proposed regulations;*  
23 *and*

24 (iii) *provide an opportunity for the*  
25 *submission by the public of comments on*  
26 *the proposed regulations.*

1           (2) *IMPLEMENTATION OF MONITORING.*—

2                   (A) *IN GENERAL.*—*Subject to subparagraph*  
3           *(B), and after the issuance of the final regula-*  
4           *tions, a Council, or the Secretary for fisheries re-*  
5           *ferred to in section 302(a)(3) of the Magnuson-*  
6           *Stevens Fishery Conservation and Management*  
7           *Act (16 U.S.C. 1852(a)(3)), may, in accordance*  
8           *with the regulations, on a fishery-by-fishery basis*  
9           *and consistent with the existing objectives and*  
10           *management goals of a fishery management plan*  
11           *and the Act for a fishery issued by the Council*  
12           *or the Secretary, respectively, amend such*  
13           *plan—*

14                           (i) *to incorporate electronic monitoring*  
15                           *as an alternative tool for data collection*  
16                           *and monitoring purposes or for compliance*  
17                           *and enforcement purposes (or both); and*

18                           (ii) *to allow for the replacement of a*  
19                           *percentage of on-board observers with elec-*  
20                           *tronic monitoring.*

21                   (B) *COMPARABILITY.*—*Subparagraph (A)*  
22           *shall apply to a fishery only if the Council or*  
23           *Secretary, respectively, determines that such*  
24           *monitoring will yield comparable data collection*  
25           *and compliance results.*



1           (3) *PILOT PROJECTS.*—*Before the issuance of*  
2 *final regulations, a Council, or the Secretary for fish-*  
3 *eries referred to in section 302(a)(3), may, subject to*  
4 *the requirements of the Magnuson-Stevens Fishery*  
5 *Conservation and Management Act, on a fishery-by-*  
6 *fishery basis, and consistent with the existing objec-*  
7 *tives and management goals of a fishery management*  
8 *plan for a fishery issued by the Council or the Sec-*  
9 *retary, respectively, conduct a pilot project for the use*  
10 *of electronic monitoring for the fishery.*

11           (4) *DEADLINE.*—*The Secretary shall issue final*  
12 *regulations under this subsection by not later than 12*  
13 *months after the date of enactment of this Act.*

14           (b) *VIDEO AND ACOUSTIC SURVEY TECHNOLOGIES.*—  
15 *The Secretary shall work with the Regional Fishery Man-*  
16 *agement Councils and nongovernmental entities to develop*  
17 *and implement the use pursuant to the Magnuson-Stevens*  
18 *Fishery Conservation and Management Act (16 U.S.C.*  
19 *1801 et seq.) of video survey technologies and expanded use*  
20 *of acoustic survey technologies.*

21           (c) *CONFIDENTIALITY OF INFORMATION.*—

22           (1) *IN GENERAL.*—*Section 402(b) (16 U.S.C.*  
23 *1881a(b)) is amended—*

24           (A) *in paragraph (1)—*

1                   (i) by amending subparagraph (B) to  
2                   read as follows:

3                   “(B) to State or Marine Fisheries Commis-  
4                   sion employees as necessary for achievement of  
5                   the purposes of this Act, subject to a confiden-  
6                   tiality agreement between the State or Commis-  
7                   sion, respectively, and the Secretary that pro-  
8                   hibits public disclosure of the identity of any  
9                   person and of confidential information;”;

10                   (ii) in subparagraph (E), by striking  
11                   “limited access” and inserting “catch  
12                   share”; and

13                   (iii) in subparagraph (G), by striking  
14                   “limited access” and inserting “catch  
15                   share”;

16                   (B) in paragraph (2)—

17                   (i) in the matter preceding subpara-  
18                   graph (A), by inserting “, and information  
19                   obtained through a vessel monitoring system  
20                   or other technology used onboard a fishing  
21                   vessel for enforcement or data collection  
22                   purposes,” after “information”;

23                   (ii) by striking “or” after the semi-  
24                   colon at the end of subparagraph (B); and

1                   (iii) by striking subparagraph (C) and  
2                   inserting the following:

3                   “(C) as authorized by any regulations  
4                   issued under paragraph (6) allowing the collec-  
5                   tion of observer information, pursuant to a con-  
6                   fidentiality agreement between the observers, ob-  
7                   server employers, and the Secretary prohibiting  
8                   disclosure of the information by the observers or  
9                   observer employers, in order—

10                   “(i) to allow the sharing of observer in-  
11                   formation among observers and between ob-  
12                   servers and observer employers as necessary  
13                   to train and prepare observers for deploy-  
14                   ments on specific vessels; or

15                   “(ii) to validate the accuracy of the ob-  
16                   server information collected; or

17                   “(D) to other persons if the Secretary has  
18                   obtained written authorization from the person  
19                   who submitted such information or from the per-  
20                   son on whose vessel the information was col-  
21                   lected, to release such information for reasons not  
22                   otherwise provided for in this subsection.”;

23                   (C) by redesignating paragraph (3) as  
24                   paragraph (6); and

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

3                   “(3) Any information submitted to the Secretary,  
4                   a State fisheries management agency, or a Marine  
5                   Fisheries Commission by any person in compliance  
6                   with the requirements of this Act, including confiden-  
7                   tial information, may only be used for purposes of  
8                   fisheries management and monitoring and enforce-  
9                   ment under this Act.

10                  “(4) The Secretary may enter into a memo-  
11                  randum of understanding with the heads of other  
12                  Federal agencies for the sharing of confidential infor-  
13                  mation to ensure safety of life at sea or for fisheries  
14                  enforcement purposes, including information obtained  
15                  through a vessel monitoring system or other electronic  
16                  enforcement and monitoring systems, if—

17                         “(A) the Secretary determines there is a  
18                         compelling need to do so; and

19                         “(B) the heads of the other Federal agencies  
20                         agree—

21                                 “(i) to maintain the confidentiality of  
22                                 the information in accordance with the re-  
23                                 quirements that apply to the Secretary  
24                                 under this section; and

1                   “(ii) to use the information only for  
2                   the purposes for which it was shared with  
3                   the agencies.

4                   “(5) The Secretary may not provide any vessel-  
5                   specific or aggregate vessel information from a fishery  
6                   that is collected for monitoring and enforcement pur-  
7                   poses to any person for the purposes of coastal and  
8                   marine spatial planning under Executive Order  
9                   13547, unless the Secretary determines that providing  
10                  such information is important for maintaining or en-  
11                  hancing national security or for ensuring fishermen  
12                  continued access to fishing grounds.”.

13                  (2) *CONFIDENTIAL INFORMATION DEFINED.*—  
14                  Section 3 (16 U.S.C. 1802) is further amended by in-  
15                  serting after paragraph (4) the following:

16                  “(4a) The term ‘confidential information’  
17                  means—

18                         “(A) trade secrets;

19                         “(B) proprietary information;

20                         “(C) observer information; and

21                         “(D) commercial or financial information  
22                         the disclosure of which is likely to result in harm  
23                         to the competitive position of the person that  
24                         submitted the information to the Secretary.”.

1           (d) *INCREASED DATA COLLECTION AND ACTIONS TO*  
2 *ADDRESS DATA-POOR FISHERIES.*—Section 404 (16 U.S.C.  
3 1881c) is amended by adding at the end the following:

4           “(e) *USE OF THE ASSET FORFEITURE FUND FOR*  
5 *FISHERY INDEPENDENT DATA COLLECTION.*—

6           “(1) *IN GENERAL.*—

7                   “(A) *The Secretary, subject to appropri-*  
8 *ations, may obligate for data collection purposes*  
9 *in accordance with prioritizations under para-*  
10 *graph (3) a portion of amounts received by the*  
11 *United States as fisheries enforcement penalties.*

12                   “(B) *Amounts may be obligated under this*  
13 *paragraph only in the fishery management re-*  
14 *gion with respect to which they are collected.*

15           “(2) *INCLUDED PURPOSES.*—*The purposes re-*  
16 *ferred to in paragraph (1) include—*

17                   “(A) *the use of State personnel and re-*  
18 *sources, including fishery survey vessels owned*  
19 *and maintained by States to survey or assess*  
20 *data-poor fisheries for which fishery management*  
21 *plans are in effect under this Act; and*

22                   “(B) *cooperative research activities author-*  
23 *ized under section 318 to improve or enhance the*  
24 *fishery independent data used in fishery stock*  
25 *assessments.*

1           “(3) *DATA-POOR FISHERIES PRIORITY LISTS.*—  
2       *Each Council shall—*

3           “(A) *identify those fisheries in its region*  
4       *considered to be data-poor fisheries;*

5           “(B) *prioritize those fisheries based on the*  
6       *need of each fishery for up-to-date information;*  
7       *and*

8           “(C) *provide those priorities to the Sec-*  
9       *retary.*

10          “(4) *DEFINITIONS.*—*In this subsection:*

11          “(A) *The term ‘data-poor fishery’ means a*  
12       *fishery—*

13               “(i) *that has not been surveyed in the*  
14              *preceding 5-year period;*

15               “(ii) *for which a fishery stock assess-*  
16              *ment has not been performed within the*  
17              *preceding 5-year period; or*

18               “(iii) *for which limited information on*  
19              *the status of the fishery is available for*  
20              *management purposes.*

21          “(B) *The term ‘fisheries enforcement pen-*  
22       *alties’ means any fine or penalty imposed, or*  
23       *proceeds of any property seized, for a violation*  
24       *of this Act or of any other marine resource law*  
25       *enforced by the Secretary.*

1           “(5) *AUTHORIZATION OF APPROPRIATIONS.*—  
2           *There is authorized to be appropriated to the Sec-*  
3           *retary for each fiscal year to carry out this subsection*  
4           *up to 80 percent of the fisheries enforcement penalties*  
5           *collected during the preceding fiscal year.”.*

6 **SEC. 110. COOPERATIVE RESEARCH AND MANAGEMENT**  
7           **PROGRAM.**

8           *Section 318 (16 U.S.C. 1867) is amended—*

9           (1) *in subsection (a), by inserting “(1)” before*  
10          *the first sentence, and by adding at the end the fol-*  
11          *lowing:*

12          “(2) *Within one year after the date of enactment of*  
13          *the Strengthening Fishing Communities and Increasing*  
14          *Flexibility in Fisheries Management Act, and after con-*  
15          *sultation with the Councils, the Secretary shall publish a*  
16          *plan for implementing and conducting the program estab-*  
17          *lished in paragraph (1). Such plan shall identify and de-*  
18          *scribe critical regional fishery management and research*  
19          *needs, possible projects that may address those needs, and*  
20          *estimated costs for such projects. The plan shall be revised*  
21          *and updated every 5 years, and updated plans shall include*  
22          *a brief description of projects that were funded in the prior*  
23          *5-year period and the research and management needs that*  
24          *were addressed by those projects.”; and*

25          (2) *in subsection (c)—*



1           (A) in the heading, by striking “FUNDING”  
2           and inserting “PRIORITIES”; and

3           (B) in paragraph (1), by striking all after  
4           “including” and inserting an em dash, followed  
5           on the next line by the following:

6           “(A) the use of fishing vessels or acoustic or  
7           other marine technology;

8           “(B) expanding the use of electronic catch  
9           reporting programs and technology; and

10          “(C) improving monitoring and observer  
11          coverage through the expanded use of electronic  
12          monitoring devices.”.

13 **SEC. 111. COUNCIL JURISDICTION FOR OVERLAPPING FISH-**  
14 **ERIES.**

15          Section 302(a)(1) (16 U.S.C. 1852(a)) is amended—

16          (1) in subparagraph (A), in the second sen-  
17          tence—

18                 (A) by striking “18” and inserting “19”;

19                 and

20                 (B) by inserting before the period at the end

21                 “and a liaison who is a member of the Mid-At-

22                 lantic Fishery Management Council to represent

23                 the interests of fisheries under the jurisdiction of

24                 such Council”; and

1           (2) *in subparagraph (B), in the second sen-*  
2 *tence—*

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

5           (B) *by inserting before the period at the end*  
6 *“and a liaison who is a member of the New Eng-*  
7 *land Fishery Management Council to represent*  
8 *the interests of fisheries under the jurisdiction of*  
9 *such Council”.*

10 **SEC. 112. GULF OF MEXICO FISHERIES COOPERATIVE RE-**  
11 **SEARCH AND RED SNAPPER MANAGEMENT.**

12       (a) *REPEAL.—Section 407 (16 U.S.C. 1883), and the*  
13 *item relating to such section in the table of contents in the*  
14 *first section, are repealed.*

15       (b) *REPORTING AND DATA COLLECTION PROGRAM.—*  
16 *The Secretary of Commerce shall—*

17           (1) *in conjunction with the States, the Gulf of*  
18 *Mexico Fishery Management Council, and the rec-*  
19 *reational fishing sectors, develop and implement a*  
20 *real-time reporting and data collection program for*  
21 *the Gulf of Mexico red snapper fishery using available*  
22 *technology; and*

23           (2) *make implementation of this subsection a*  
24 *priority for funds received by the Secretary and allo-*  
25 *cated to this region under section 2 of the Act of Au-*

1        *gust 11, 1939 (commonly known as the “Saltonstall-*  
2        *Kennedy Act”)* (15 U.S.C. 713c–3).

3        (c) *FISHERIES COOPERATIVE RESEARCH PROGRAM.*—

4        *The Secretary of Commerce—*

5                (1) *shall, in conjunction with the States, the Gulf*  
6        *States Marine Fisheries Commission and the Atlantic*  
7        *States Marine Fisheries Commission, the Gulf of Mex-*  
8        *ico and South Atlantic Fishery Management Coun-*  
9        *cils, and the commercial, charter, and recreational*  
10        *fishing sectors, develop and implement a cooperative*  
11        *research program authorized under section 318 for the*  
12        *fisheries of the Gulf of Mexico and South Atlantic re-*  
13        *gions, giving priority to those fisheries that are con-*  
14        *sidered data-poor; and*

15                (2) *may, subject to the availability of appropri-*  
16        *ations, use funds received by the Secretary under sec-*  
17        *tion 2 of the Act of August 11, 1939 (commonly*  
18        *known as the “Saltonstall-Kennedy Act”)* (15 U.S.C.  
19        *713c–3) to implement this subsection.*

20        (d) *STOCK SURVEYS AND STOCK ASSESSMENTS.*—*The*  
21        *Secretary of Commerce, acting through the National Marine*  
22        *Fisheries Service Regional Administrator of the Southeast*  
23        *Regional Office, shall for purposes of the Magnuson-Stevens*  
24        *Fishery Conservation and Management Act (16 U.S.C.*  
25        *1801 et seq.)—*

1           (1) *develop a schedule of stock surveys and stock*  
2           *assessments for the Gulf of Mexico Region and the*  
3           *South Atlantic Region for the 5-year period beginning*  
4           *on the date of the enactment of this Act and for every*  
5           *5-year period thereafter;*

6           (2) *direct the Southeast Science Center Director*  
7           *to implement such schedule; and*

8           (3) *in such development and implementation—*

9                   (A) *give priority to those stocks that are*  
10                  *commercially or recreationally important; and*

11                   (B) *ensure that each such important stock is*  
12                  *surveyed at least every 5 years.*

13           (e) *USE OF FISHERIES INFORMATION IN STOCK AS-*  
14           *SESSMENTS.—The Southeast Science Center Director shall*  
15           *ensure that fisheries information made available through*  
16           *fisheries programs funded under Public Law 112–141 is in-*  
17           *corporated as soon as possible into any fisheries stock as-*  
18           *sessments conducted after the date of the enactment of this*  
19           *Act.*

20           (f) *STATE FISHERIES MANAGEMENT IN THE GULF OF*  
21           *MEXICO WITH RESPECT TO RED SNAPPER.—Section*  
22           *306(b) (16 U.S.C. 1856(b)) is amended by adding at the*  
23           *end the following:*

24                   “(4) *Notwithstanding section 3(11), for the purposes*  
25           *of managing the recreational sector of the Gulf of Mexico*

1 *red snapper fishery, the seaward boundary of a coastal*  
2 *State in the Gulf of Mexico is a line 9 miles seaward from*  
3 *the baseline from which the territorial sea of the United*  
4 *States is measured.”.*

5 (g) *FUNDING OF STOCK ASSESSMENTS.—The Sec-*  
6 *retary of Commerce and the Secretary of the Interior, acting*  
7 *through the Bureau of Ocean Energy Management, shall*  
8 *enter into a cooperative agreement for the funding of stock*  
9 *assessments that are necessitated by any action by the Bu-*  
10 *reau with respect to offshore oil rigs in the Gulf of Mexico*  
11 *that adversely impacts red snapper.*

12 **SEC. 113. NORTH PACIFIC FISHERY MANAGEMENT CLARI-**  
13 **FICATION.**

14 *Section 306(a)(3)(C) (16 U.S.C. 1856(a)(3)(C)) is*  
15 *amended—*

16 (1) *by striking “was no” and inserting “is no”;*

17 *and*

18 (2) *by striking “on August 1, 1996”.*

19 **SEC. 114. ENSURING CONSISTENT MANAGEMENT FOR FISH-**  
20 **ERIES THROUGHOUT THEIR RANGE.**

21 (a) *IN GENERAL.—The Magnuson-Stevens Fishery*  
22 *Conservation and Management Act (16 U.S.C. 1801 et seq.)*  
23 *is amended by inserting after section 4 the following:*

1 **“SEC. 5. ENSURING CONSISTENT FISHERIES MANAGEMENT**  
2 **UNDER CERTAIN OTHER FEDERAL LAWS.**

3 “(a) *NATIONAL MARINE SANCTUARIES ACT AND AN-*  
4 *TIQUITIES ACT OF 1906.*—*In any case of a conflict between*  
5 *this Act and the National Marine Sanctuaries Act (16*  
6 *U.S.C. 1431 et seq.) or the Antiquities Act of 1906 (16*  
7 *U.S.C. 431 et seq.), this Act shall control.*

8 “(b) *FISHERIES RESTRICTIONS UNDER ENDANGERED*  
9 *SPECIES ACT OF 1973.*—*To ensure transparency and con-*  
10 *sistent management of fisheries throughout their range, any*  
11 *restriction on the management of fish in the exclusive eco-*  
12 *nomie zone that is necessary to implement a recovery plan*  
13 *under the Endangered Species Act of 1973 (16 U.S.C. 1531*  
14 *et seq.) shall be implemented—*

15 “(1) *using authority under this Act; and*

16 “(2) *in accordance with processes and time*  
17 *schedules required under this Act.”.*

18 (b) *CLERICAL AMENDMENT.*—*The table of contents in*  
19 *the first section is amended by inserting after the item relat-*  
20 *ing to section 4 the following:*

*“Sec. 5. Ensuring consistent fisheries management under certain other Federal laws.”.*

1 **SEC. 115. LIMITATION ON HARVEST IN NORTH PACIFIC DI-**  
 2 **RECTED POLLOCK FISHERY.**

3 *Section 210(e)(1) of the American Fisheries Act (title*  
 4 *II of division C of Public Law 105–277; 16 U.S.C. 1851*  
 5 *note) is amended to read as follows:*

6 “(1) *HARVESTING.*—

7 “(A) *LIMITATION.*—*No particular indi-*  
 8 *vidual, corporation, or other entity may harvest,*  
 9 *through a fishery cooperative or otherwise, a per-*  
 10 *centage of the pollock available to be harvested in*  
 11 *the directed pollock fishery that exceeds the per-*  
 12 *centage established for purposes of this para-*  
 13 *graph by the North Pacific Council.*

14 “(B) *MAXIMUM PERCENTAGE.*—*The percent-*  
 15 *age established by the North Pacific Council*  
 16 *shall not exceed 24 percent of the pollock avail-*  
 17 *able to be harvested in the directed pollock fish-*  
 18 *ery.”.*

19 **SEC. 116. RECREATIONAL FISHING DATA.**

20 (a) *RECREATIONAL DATA COLLECTION.*—*Section*  
 21 *401(g) (16 U.S.C. 1881(g)) is amended by redesignating*  
 22 *paragraph (4) as paragraph (5), and by inserting after*  
 23 *paragraph (3) the following:*

24 “(4) *FEDERAL-STATE PARTNERSHIPS.*—

25 “(A) *ESTABLISHMENT.*—*The Secretary shall*  
 26 *establish partnerships with States to develop best*

1           *practices for implementation of State programs*  
2           *established pursuant to paragraph (2).*

3           “(B) *GUIDANCE.*—*The Secretary shall de-*  
4           *velop guidance, in cooperation with the States,*  
5           *that details best practices for administering*  
6           *State programs pursuant to paragraph (2), and*  
7           *provide such guidance to the States.*

8           “(C) *BIENNIAL REPORT.*—*The Secretary*  
9           *shall submit to the Congress and publish bien-*  
10          *ennial reports that include—*

11                 “(i) *the estimated accuracy of the reg-*  
12                 *istry program established under paragraph*  
13                 *(1) and of State programs that are exempt-*  
14                 *ed under paragraph (2);*

15                 “(ii) *priorities for improving rec-*  
16                 *reational fishing data collection; and*

17                 “(iii) *an explanation of any use of in-*  
18                 *formation collected by such State programs*  
19                 *and by the Secretary, including a descrip-*  
20                 *tion of any consideration given to the infor-*  
21                 *mation by the Secretary.*

22           “(D) *STATES GRANT PROGRAM.*—*The Sec-*  
23           *retary shall make grants to States to improve*  
24           *implementation of State programs consistent*  
25           *with this subsection. The Secretary shall*



1           *prioritize such grants based on the ability of the*  
2           *grant to improve the quality and accuracy of*  
3           *such programs.”.*

4           **(b) STUDY ON RECREATIONAL FISHERIES DATA.—**  
5           *Section 401(g) (16 U.S.C. 1881(g)) is further amended by*  
6           *adding at the end the following:*

7           **“(6) STUDY ON PROGRAM IMPLEMENTATION.—**

8                   **“(A) IN GENERAL.—***Not later than 60 days*  
9                   *after the enactment of this paragraph, the Sec-*  
10                   *retary shall enter into an agreement with the*  
11                   *National Research Council of the National Acad-*  
12                   *emy of Sciences to study the implementation of*  
13                   *the programs described in this section. The study*  
14                   *shall—*

15                           **“(i) provide an updated assessment of**  
16                           *recreational survey methods established or*  
17                           *improved since the publication of the Coun-*  
18                           *cil’s report ‘Review of Recreational Fish-*  
19                           *eries Survey Methods (2006)’;*

20                           **“(ii) evaluate the extent to which the**  
21                           *recommendations made in that report were*  
22                           *implemented pursuant to paragraph (3)(B);*  
23                           *and*

24                           **“(iii) examine any limitations of the**  
25                           *Marine Recreational Fishery Statistics Sur-*

1                    *vey and the Marine Recreational Informa-*  
 2                    *tion Program established under paragraph*  
 3                    *(1).*

4                    “(B) *REPORT.*—Not later than 1 year after  
 5                    *entering into an agreement under subparagraph*  
 6                    *(A), the Secretary shall submit a report to Con-*  
 7                    *gress on the results of the study under subpara-*  
 8                    *graph (A).”.*

9    **SEC. 117. STOCK ASSESSMENTS USED FOR FISHERIES MAN-**  
 10                    **AGED UNDER GULF OF MEXICO COUNCIL’S**  
 11                    **REEF FISH MANAGEMENT PLAN.**

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

14    **“SEC. 409. STOCK ASSESSMENTS USED FOR FISHERIES**  
 15                    **MANAGED UNDER GULF OF MEXICO COUN-**  
 16                    **CIL’S REEF FISH MANAGEMENT PLAN.**

17                    “(a) *IN GENERAL.*—The Gulf States Marine Fisheries  
 18                    *Commission shall conduct all fishery stock assessments used*  
 19                    *for management purposes by the Gulf of Mexico Fishery*  
 20                    *Management Council for the fisheries managed under the*  
 21                    *Council’s Reef Fish Management Plan.*

22                    “(b) *USE OF OTHER INFORMATION AND ASSETS.*—

23                    “(1) *IN GENERAL.*—Such fishery assessments  
 24                    *shall—*

1           “(A) incorporate fisheries survey informa-  
2           tion collected by university researchers; and

3           “(B) to the extent practicable, use State,  
4           university, and private assets to conduct fisheries  
5           surveys.

6           “(2) *SURVEYS AT ARTIFICIAL REEFS.*—Any such  
7           fishery stock assessment conducted after the date of the  
8           enactment of the *Strengthening Fishing Communities*  
9           *and Increasing Flexibility in Fisheries Management*  
10          *Act shall incorporate fishery surveys conducted, and*  
11          *other relevant fisheries information collected, on and*  
12          *around natural and artificial reefs.*

13          “(c) *CONSTITUENT AND STAKEHOLDER PARTICIPA-*  
14          *TION.*—Each such fishery assessment shall—

15                 “(1) emphasize constituent and stakeholder par-  
16                 ticipation in the development of the assessment;

17                 “(2) contain all of the raw data used in the as-  
18                 sessment and a description of the methods used to col-  
19                 lect that data; and

20                 “(3) employ an assessment process that is trans-  
21                 parent and includes—

22                         “(A) includes a rigorous and independent  
23                         scientific review of the completed fishery stock  
24                         assessment; and

1           “(B) a panel of independent experts to re-  
 2           view the data and assessment and make rec-  
 3           ommendations on the most appropriate values of  
 4           critical population and management quan-  
 5           tities.”.

6           (b) *CLERICAL AMENDMENT.*—The table of contents in  
 7           the first section is amended by inserting after the item relat-  
 8           ing to section 408 the following:

*“Sec. 409. Stock assessments used for fisheries managed under Gulf of Mexico  
 Council’s Reef Fish Management Plan.”.*

9           **SEC. 118. ESTIMATION OF COST OF RECOVERY FROM FISH-**  
 10           **ERY RESOURCE DISASTER.**

11           Section 312(a)(1) (16 U.S.C. 1861a(1)) is amended—

12           (1) by inserting “(A)” after “(1)”;

13           (2) by redesignating existing subparagraphs (A)  
 14           through (C) as clauses (i) through (iii), respectively,  
 15           of subparagraph (A) (as designated by the amend-  
 16           ment made by paragraph (1)); and

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

18           “(B) The Secretary shall publish the estimated cost of  
 19           recovery from a fishery resource disaster no later than 30  
 20           days after the Secretary makes the determination under  
 21           subparagraph (A) with respect to such disaster.”.

1 **SEC. 119. DEADLINE FOR ACTION ON REQUEST BY GOV-**  
2 **ERNOR FOR DETERMINATION REGARDING**  
3 **FISHERY RESOURCE DISASTER.**

4 *Section 312(a) (16 U.S.C. 1861a(a)) is amended by*  
5 *redesignating paragraphs (2) through (4) as paragraphs (3)*  
6 *through (5), and by inserting after paragraph (1) the fol-*  
7 *lowing:*

8 *“(2) The Secretary shall make a decision regarding a*  
9 *request from a Governor under paragraph (1) within 90*  
10 *days after receiving an estimate of the economic impact of*  
11 *the fishery resource disaster from the entity requesting the*  
12 *relief.”.*

13 **SEC. 120. PROHIBITION ON CONSIDERING RED SNAPPER**  
14 **KILLED DURING REMOVAL OF OIL RIGS.**

15 *Any red snapper that are killed during the removal*  
16 *of any offshore oil rig in the Gulf of Mexico shall not be*  
17 *considered in determining under the Magnuson-Stevens*  
18 *Fishery Conservation and Management Act (16 U.S.C.*  
19 *1801 et seq.) whether the total allowable catch for red snap-*  
20 *per has been reached.*

21 **SEC. 121. PROHIBITION ON CONSIDERING FISH SEIZED**  
22 **FROM FOREIGN FISHING.**

23 *Any fish that are seized from a foreign vessel engaged*  
24 *in illegal fishing activities in the Exclusive Economic Zone*  
25 *shall not be considered in determining under the Magnuson-*  
26 *Stevens Fishery Conservation and Management Act (16*

1 *U.S.C. 1801 et seq.) the total allowable catch for that fish-*  
2 *ery.*

3 **SEC. 122. SUBSISTENCE FISHING.**

4 (a) *DEFINITION.*—Section 3 (16 U.S.C. 1802) is  
5 amended by inserting after paragraph 43 the following:

6 “(43a)(A) The term ‘subsistence fishing’ means  
7 fishing in which the fish harvested are intended for  
8 customary and traditional uses, including for direct  
9 personal or family consumption as food or clothing;  
10 for the making or selling of handicraft articles out of  
11 nonedible byproducts taken for personal or family  
12 consumption, for barter, or sharing for personal or  
13 family consumption; and for customary trade.

14 “(B) In this paragraph—

15 “(i) the term ‘family’ means all persons re-  
16 lated by blood, marriage, or adoption, or any  
17 person living within the household on a perma-  
18 nent basis; and

19 “(ii) the term ‘barter’ means the exchange of  
20 a fish or fish part—

21 “(I) for another fish or fish part; or

22 “(II) for other food or for nonedible  
23 items other than money if the exchange is of  
24 a limited and noncommercial nature.”.

1       (b) *COUNCIL SEAT.*—Section 302(b)(2) (16 U.S.C.  
2 1852(b)(2)) is amended—

3           (1) in subparagraph (A), by striking “or rec-  
4       reational” and inserting “, recreational, or subsist-  
5       ence fishing”; and

6           (2) in subparagraph (C), in the second sentence,  
7       by inserting “, and in the case of the Governor of  
8       Alaska with the subsistence fishing interests of the  
9       State,” after “interests of the State”.

10       (c) *PURPOSE.*—Section 2(b)(3) (16 U.S.C. 1801(b)(3))  
11 is amended by striking “and recreational” and inserting  
12 “, recreational, and subsistence”.

13 **SEC. 123. INTER-SECTOR TRADING OF COMMERCIAL CATCH**  
14                               **SHARE ALLOCATIONS IN THE GULF OF MEX-**  
15                               **ICO.**

16       Section 301 (16 U.S.C. 1851) is amended by adding  
17 at the end the following:

18       “(c) *INTER-SECTOR TRADING OF COMMERCIAL CATCH*  
19 *SHARE ALLOCATIONS IN THE GULF OF MEXICO.*—Notwith-  
20 standing any other provision of this Act, any commercial  
21 fishing catch share allocation in a fishery in the Gulf of  
22 Mexico may only be traded by sale or lease within the same  
23 commercial fishing sector.”.

24 **SEC. 124. AUTHORIZATION OF APPROPRIATIONS.**

25       Section 4 (16 U.S.C. 1803) is amended—

1           (1) *by striking “this Act” and all that follows*  
2           *through “(7)” and inserting “this Act”; and*

3           (2) *by striking “fiscal year 2013” and inserting*  
4           *“each of fiscal years 2014 through 2018”.*

5   ***TITLE II—REVITALIZING THE***  
6   ***ECONOMY OF FISHERIES IN***  
7   ***THE PACIFIC***

8   ***SEC. 201. SHORT TITLE.***

9           *This title may be cited as the “Revitalizing the Econ-*  
10          *omy of Fisheries in the Pacific Act” or the “REFI Pacific*  
11          *Act”.*

12   ***SEC. 202. FINDINGS; PURPOSE.***

13          (a) *FINDINGS.—Congress makes the following findings:*

14               (1) *In 2000, the Secretary of Commerce declared*  
15               *the West Coast groundfish fishery a Federal fisheries*  
16               *economic disaster due to low stock abundance, an*  
17               *overcapitalized fleet, and historically overfished stocks.*

18               (2) *Section 212 of the Department of Commerce*  
19               *and Related Agencies Appropriations Act, 2003 (title*  
20               *II of division B of Public Law 108–7; 117 Stat. 80)*  
21               *was enacted to establish a Pacific Coast groundfish*  
22               *fishing capacity reduction program, also known as a*  
23               *buyback program, to remove excess fishing capacity.*

24               (3) *In 2003, Congress authorized the \$35,700,000*  
25               *buyback loan, creating the Pacific Coast groundfish*



1     *fishing capacity reduction program through the Na-*  
2     *tional Marine Fisheries Service fisheries finance pro-*  
3     *gram with a term of 30 years. The interest rate of the*  
4     *buyback loan was fixed at 6.97 percent and is paid*  
5     *back based on an ex-vessel fee landing rate not to ex-*  
6     *ceed 5 percent for the loan.*

7             *(4) The groundfish fishing capacity reduction*  
8     *program resulted in the removal of limited entry*  
9     *trawl Federal fishing permits from the fishery, rep-*  
10    *resenting approximately 46 percent of total landings*  
11    *at the time.*

12            *(5) Because of an absence of a repayment mecha-*  
13    *nism, \$4,243,730 in interest accrued before fee collec-*  
14    *tion procedures were established in 2005, over 18*  
15    *months after the groundfish fishing capacity reduc-*  
16    *tion program was initiated.*

17            *(6) In 2011, the West Coast groundfish fishery*  
18    *transitioned to an individual fishing quota fishery,*  
19    *which is a type of catch share program.*

20            *(7) By 2015, West Coast groundfish fishermen's*  
21    *expenses are expected to include fees of approximately*  
22    *\$450 per day for observers, a 3-percent cost recovery*  
23    *fee as authorized by the Magnuson-Stevens Fishery*  
24    *Conservation and Management Act (16 U.S.C. 1801)*  
25    *for catch share programs, and a 5-percent ex-vessel*

1         *landings rate for the loan repayment, which could*  
2         *reach 18 percent of their total gross revenue.*

3             *(8) In 2012, the West Coast groundfish limited*  
4         *entry trawl fishery generated \$63,000,000, an in-*  
5         *crease from an average of \$45,000,000 during the*  
6         *years 2006 to 2011. This revenue is expected to con-*  
7         *tinue to increase post-rationalization.*

8             *(b) PURPOSE.—The purpose of this title is to refinance*  
9         *the Pacific Coast groundfish fishery fishing capacity reduc-*  
10         *tion program to protect and conserve the West Coast*  
11         *groundfish fishery and the coastal economies in California,*  
12         *Oregon, and Washington that rely on it.*

13         **SEC. 203. REFINANCING OF PACIFIC COAST GROUND FISH**  
14                     **FISHING CAPACITY REDUCTION LOAN.**

15             *(a) IN GENERAL.—The Secretary of Commerce, upon*  
16         *receipt of such assurances as the Secretary considers appro-*  
17         *priate to protect the interests of the United States, shall*  
18         *issue a loan to refinance the existing debt obligation fund-*  
19         *ing the fishing capacity reduction program for the West*  
20         *Coast groundfish fishery implemented under section 212 of*  
21         *the Department of Commerce and Related Agencies Appro-*  
22         *priations Act, 2003 (title II of division B of Public Law*  
23         *108–7; 117 Stat. 80).*

24             *(b) APPLICABLE LAW.—Except as otherwise provided*  
25         *in this section, the Secretary shall issue the loan under this*

1 *section in accordance with subsections (b) through (e) of sec-*  
2 *tion 312 of the Magnuson-Stevens Fishery Conservation*  
3 *and Management Act (16 U.S.C. 1861a) and sections 53702*  
4 *and 53735 of title 46, United States Code.*

5 *(c) LOAN TERM.—*

6 *(1) IN GENERAL.—Notwithstanding section*  
7 *53735(c)(4) of title 46, United States Code, a loan*  
8 *under this section shall have a maturity that expires*  
9 *at the end of the 45-year period beginning on the date*  
10 *of issuance of the loan.*

11 *(2) EXTENSION.—Notwithstanding paragraph*  
12 *(1) and if there is an outstanding balance on the loan*  
13 *after the period described in paragraph (1), a loan*  
14 *under this section shall have a maturity of 45 years*  
15 *or until the loan is repaid in full.*

16 *(d) LIMITATION ON FEE AMOUNT.—Notwithstanding*  
17 *section 312(d)(2)(B) of the Magnuson-Stevens Fishery Con-*  
18 *servation and Management Act (16 U.S.C. 1861a(d)(2)(B)),*  
19 *the fee established by the Secretary with respect to a loan*  
20 *under this section shall not exceed 3 percent of the ex-vessel*  
21 *value of the harvest from each fishery for where the loan*  
22 *is issued.*

23 *(e) INTEREST RATE.—*

24 *(1) IN GENERAL.—Notwithstanding section*  
25 *53702(b)(2) of title 46, United States Code, the an-*

1        *nual rate of interest an obligor shall pay on a direct*  
2        *loan obligation under this section is the percent the*  
3        *Secretary must pay as interest to borrow from the*  
4        *Treasury the funds to make the loan.*

5            (2) *SUBLOANS.—Each subloan under the loan*  
6        *authorized by this section—*

7            (A) *shall receive the interest rate described*  
8            *in paragraph (1); and*

9            (B) *may be paid off at any time notwith-*  
10        *standing subsection (c)(1).*

11        (f) *EX-VESSEL LANDING FEE.—*

12            (1) *CALCULATIONS AND ACCURACY.—The Sec-*  
13        *retary shall set the ex-vessel landing fee to be collected*  
14        *for payment of the loan under this section—*

15            (A) *as low as possible, based on recent land-*  
16            *ings value in the fishery, to meet the require-*  
17            *ments of loan repayment;*

18            (B) *upon issuance of the loan in accordance*  
19            *with paragraph (2); and*

20            (C) *on a regular interval not to exceed every*  
21            *5 years beginning on the date of issuance of the*  
22            *loan.*

23            (2) *DEADLINE FOR INITIAL EX-VESSEL LANDINGS*  
24        *FEE CALCULATION.—Not later than 60 days after the*  
25        *date of issuance of the loan under this section, the*

1        *Secretary shall recalculate the ex-vessel landing fee*  
2        *based on the most recent value of the fishery.*

3        *(g) AUTHORIZATION.—There is authorized to be ap-*  
4        *propriated to the Secretary of Commerce to carry out this*  
5        *section an amount equal to 1 percent of the amount of the*  
6        *loan authorized under this section for purposes of the Fed-*  
7        *eral Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).*

Union Calendar No. 542

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 4742**

[Report No. 113-711]

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## **A BILL**

To amend the Magnuson-Stevens Fishery Conservation and Management Act to provide flexibility for fishery managers and stability for fishermen, and for other purposes.

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DECEMBER 22, 2014

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed