

114TH CONGRESS
1ST SESSION

H. R. 1335

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2015

Mr. YOUNG of Alaska (for himself, Mr. BISHOP of Utah, Mrs. RADEWAGEN, and Mr. BYRNE) introduced the following bill; which was referred to the Committee on Natural Resources

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. DEFINITIONS.**

8 In this Act, any term used that is defined in section
9 3 of the Magnuson-Stevens Fishery Conservation and

1 Management Act (16 U.S.C. 1802) shall have the same
2 meaning such term has under that section.

3 **SEC. 3. REFERENCES.**

4 Except as otherwise specifically provided, whenever in
5 this Act an amendment or repeal is expressed in terms
6 of an amendment to, or repeal of, a provision, the ref-
7 erence shall be considered to be made to a provision of
8 the Magnuson-Stevens Fishery Conservation and Manage-
9 ment Act (16 U.S.C. 1801 et seq.).

10 **SEC. 4. FLEXIBILITY IN REBUILDING FISH STOCKS.**

11 (a) GENERAL REQUIREMENTS.—Section 304(e) (16
12 U.S.C. 1854(e)) is amended—

13 (1) in paragraph (4)—

14 (A) in subparagraph (A)(i), by striking
15 “possible” and inserting “practicable”;

16 (B) by amending subparagraph (A)(ii) to
17 read as follows:

18 “(ii) may not exceed the time the
19 stock would be rebuilt without fishing oc-
20 ccurring plus one mean generation, except
21 in a case in which—

22 “(I) the biology of the stock of
23 fish, other environmental conditions,
24 or management measures under an
25 international agreement in which the

1 United States participates dictate oth-
2 erwise;

3 “(II) the Secretary determines
4 that the cause of the stock being de-
5 pleted is outside the jurisdiction of the
6 Council or the rebuilding program
7 cannot be effective only by limiting
8 fishing activities;

9 “(III) the Secretary determines
10 that one or more components of a
11 mixed-stock fishery is depleted but
12 cannot be rebuilt within that time-
13 frame without significant economic
14 harm to the fishery, or cannot be re-
15 built without causing another compo-
16 nent of the mixed-stock fishery to ap-
17 proach a depleted status;

18 “(IV) the Secretary determines
19 that recruitment, distribution, or life
20 history of, or fishing activities for, the
21 stock are affected by informal trans-
22 boundary agreements under which
23 management activities outside the ex-
24 clusive economic zone by another
25 country may hinder conservation and

1 management efforts by United States
2 fishermen; and

3 “(V) the Secretary determines
4 that the stock has been affected by
5 unusual events that make rebuilding
6 within the specified time period im-
7 probable without significant economic
8 harm to fishing communities;”;

9 (C) by striking “and” after the semicolon
10 at the end of subparagraph (B), by redesign-
11 ating subparagraphs (B) and (C) as subpara-
12 graphs (C) and (D), and by inserting after sub-
13 paragraph (A) the following:

14 “(B) take into account environmental con-
15 dition including predator/prey relationships;”;
16 and

17 (D) by striking the period at the end of
18 subparagraph (D) (as so redesignated) and in-
19 serting “; and”, and by adding at the end the
20 following:

21 “(E) specify a schedule for reviewing the
22 rebuilding targets, evaluating environmental im-
23 pacts on rebuilding progress, and evaluating
24 progress being made toward reaching rebuilding
25 targets.”; and

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

2 “(8) A fishery management plan, plan amend-
3 ment, or proposed regulations may use alternative
4 rebuilding strategies, including harvest control rules
5 and fishing mortality-rate targets to the extent they
6 are in compliance with the requirements of this Act.

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

12 “(A) within the 2-year period beginning on
13 the effective date a fishery management plan,
14 plan amendment, or proposed regulation for a
15 fishery under this subsection takes effect; or

16 “(B) within 90 days after the completion
17 of the next stock assessment after such deter-
18 mination.”.

19 (b) EMERGENCY REGULATIONS AND INTERIM MEAS-
20 URES.—Section 305(c)(3)(B) (16 U.S.C. 1855(c)(3)(B))
21 is amended by striking “180 days after” and all that fol-
22 lows through “provided” and inserting “1 year after the
23 date of publication, and may be extended by publication
24 in the Federal Register for one additional period of not
25 more than 1 year, if”.

1 **SEC. 5. MODIFICATIONS TO THE ANNUAL CATCH LIMIT RE-**
2 **QUIREMENT.**

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

5 “(m) CONSIDERATIONS FOR MODIFICATIONS TO AN-
6 NUAL CATCH LIMIT REQUIREMENTS.—

7 “(1) CONSIDERATION OF ECOSYSTEM AND ECO-
8 NOMIC IMPACTS.—In establishing annual catch lim-
9 its a Council may, consistent with section 302(h)(6),
10 consider changes in an ecosystem and the economic
11 needs of the fishing communities.

12 “(2) LIMITATIONS TO ANNUAL CATCH LIMIT
13 REQUIREMENT FOR SPECIAL FISHERIES.—Notwith-
14 standing subsection (h)(6), a Council is not required
15 to develop an annual catch limit for—

16 “(A) an ecosystem component species;

17 “(B) a fishery for a species that has a life
18 cycle of approximately 1 year, unless the Sec-
19 retary has determined the fishery is subject to
20 overfishing; or

21 “(C) a stock for which—

22 “(i) more than half of a single-year
23 class will complete their life cycle in less
24 than 18 months; and

25 “(ii) fishing mortality will have little
26 impact on the stock.

1 “(3) RELATIONSHIP TO INTERNATIONAL FISH-
2 ERY EFFORTS.—Each annual catch limit may, con-
3 sistent with section 302(h)(6), take into account—

4 “(A) management measures under inter-
5 national agreements in which the United States
6 participates;

7 “(B) informal transboundary agreements
8 under which fishery management activities by
9 another country outside the exclusive economic
10 zone may hinder conservation efforts by United
11 States fishermen for a fish species for which
12 any of the recruitment, distribution, life history,
13 or fishing activities are transboundary; and

14 “(C) in instances in which no transbound-
15 ary agreement exists, activities by another
16 country outside the exclusive economic zone
17 that may hinder conservation efforts by United
18 States fisherman for a fish species for which
19 any of the recruitment, distribution, life history,
20 or fishing activities are transboundary.

21 “(4) AUTHORIZATION FOR MULTISPECIES COM-
22 PLEXES AND MULTIYEAR ANNUAL CATCH LIMITS.—
23 For purposes of subsection (h)(6), a Council may es-
24 tablish—

1 “(A) an annual catch limit for a stock
2 complex; or

3 “(B) annual catch limits for each year in
4 any continuous period that is not more than
5 three years in duration.

6 “(5) ECOSYSTEM COMPONENT SPECIES DE-
7 FINED.—In this subsection the term ‘ecosystem com-
8 ponent species’ means a stock of fish that is a non-
9 target, incidentally harvested stock of fish in a fish-
10 ery, or a nontarget, incidentally harvested stock of
11 fish that a Council or the Secretary has deter-
12 mined—

13 “(A) is not subject to overfishing, ap-
14 proaching a depleted condition or depleted; and

15 “(B) is not likely to become subject to
16 overfishing or depleted in the absence of con-
17 servaion and management measures.”.

18 **SEC. 6. DISTINGUISHING BETWEEN OVERFISHED AND DE-**
19 **PLETED.**

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

22 (1) in paragraph (34), by striking “The terms
23 ‘overfishing’ and ‘overfished’ mean” and inserting
24 “The term ‘overfishing’ means”; and

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

3 “(8a) The term ‘depleted’ means, with respect
4 to a stock of fish or stock complex, that the stock
5 or stock complex has a biomass that has declined
6 below a level that jeopardizes the capacity of the
7 stock or stock complex to produce maximum sustain-
8 able yield on a continuing basis.”.

9 (b) **SUBSTITUTION OF TERM.**—The Magnuson-Ste-
10 vens Fishery Conservation and Management Act (16
11 U.S.C. 1801 et seq.) is amended by striking “overfished”
12 each place it appears and inserting “depleted”.

13 (c) **CLARITY IN ANNUAL REPORT.**—Section
14 304(e)(1) (16 U.S.C. 1854(e)(1)) is amended by adding
15 at the end the following: “The report shall distinguish be-
16 tween fisheries that are depleted (or approaching that con-
17 dition) as a result of fishing and fisheries that are depleted
18 (or approaching that condition) as a result of factors other
19 than fishing. The report shall state, for each fishery iden-
20 tified as depleted or approaching that condition, whether
21 the fishery is the target of directed fishing.”.

22 **SEC. 7. TRANSPARENCY AND PUBLIC PROCESS.**

23 (a) **ADVICE.**—Section 302(g)(1)(B) (16 U.S.C.
24 1852(g)(1)(B)) is amended by adding at the end the fol-
25 lowing: “Each scientific and statistical committee shall de-

1 develop such advice in a transparent manner and allow for
2 public involvement in the process.”.

3 (b) MEETINGS.—Section 302(i)(2) (16 U.S.C.
4 1852(i)(2)) is amended by adding at the end the following:

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

7 “(i) to the extent practicable, a Webcast,
8 an audio recording, or a live broadcast of each
9 meeting of the Council, and of the Council Co-
10 ordination Committee established under sub-
11 section (l), that is not closed in accordance with
12 paragraph (3); and

13 “(ii) audio, video (if the meeting was in
14 person or by video conference), or a searchable
15 audio or written transcript of each meeting of
16 the Council and of the meetings of committees
17 referred to in section 302(g)(1)(B) of the Coun-
18 cil by not later than 30 days after the conclu-
19 sion of the meeting.

20 “(H) The Secretary shall maintain and make
21 available to the public an archive of Council and sci-
22 entific and statistical committee meeting audios, vid-
23 eos, and transcripts made available under clauses (i)
24 and (ii) of subparagraph (G).”.

25 (c) FISHERY IMPACT STATEMENTS.—

1 (1) REQUIREMENT.—Section 303 (16 U.S.C.
2 1853) is amended—

3 (A) in subsection (a), by striking para-
4 graph (9) and redesignating paragraphs (10)
5 through (15) as paragraphs (9) through (14),
6 respectively; and

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

8 “(d) FISHERY IMPACT STATEMENT.—

9 “(1) Any fishery management plan (or fishery
10 management plan amendment) prepared by any
11 Council or by the Secretary pursuant to subsection
12 (a) or (b), or proposed regulations deemed necessary
13 pursuant to subsection (c), shall include a fishery
14 impact statement which shall assess, specify and
15 analyze the likely effects and impact of the proposed
16 action on the quality of the human environment.

17 “(2) The fishery impact statement shall de-
18 scribe—

19 “(A) a purpose of the proposed action;

20 “(B) the environmental impact of the pro-
21 posed action;

22 “(C) any adverse environmental effects
23 which cannot be avoided should the proposed
24 action be implemented;

1 “(D) a reasonable range of alternatives to
2 the proposed action;

3 “(E) the relationship between short-term
4 use of fishery resources and the enhancement of
5 long-term productivity;

6 “(F) the cumulative conservation and man-
7 agement effects; and

8 “(G) economic, and social impacts of the
9 proposed action on—

10 “(i) participants in the fisheries and
11 fishing communities affected by the pro-
12 posed action;

13 “(ii) participants in the fisheries con-
14 ducted in adjacent areas under the author-
15 ity of another Council, after consultation
16 with such Council and representatives of
17 those participants; and

18 “(iii) the safety of human life at sea,
19 including whether and to what extent such
20 measures may affect the safety of partici-
21 pants in the fishery.

22 “(3) A substantially complete fishery impact
23 statement, which may be in draft form, shall be
24 available not less than 14 days before the beginning
25 of the meeting at which a Council makes its final de-

1 cision on the proposal (for plans, plan amendments,
2 or proposed regulations prepared by a Council pur-
3 suant to subsection (a) or (c)). Availability of this
4 fishery impact statement will be announced by the
5 methods used by the council to disseminate public
6 information and the public and relevant government
7 agencies will be invited to comment on the fishery
8 impact statement.

9 “(4) The completed fishery impact statement
10 shall accompany the transmittal of a fishery man-
11 agement plan or plan amendment as specified in sec-
12 tion 304(a), as well as the transmittal of proposed
13 regulations as specified in section 304(b).

14 “(5) The Councils shall, subject to approval by
15 the Secretary, establish criteria to determine actions
16 or classes of action of minor significance regarding
17 subparagraphs (A), (B), (D), (E), and (F) of para-
18 graph (2), for which preparation of a fishery impact
19 statement is unnecessary and categorically excluded
20 from the requirements of this section, and the docu-
21 mentation required to establish the exclusion.

22 “(6) The Councils shall, subject to approval by
23 the Secretary, prepare procedures for compliance
24 with this section that provide for timely, clear, and
25 concise analysis that is useful to decisionmakers and

1 the public, reduce extraneous paperwork and effec-
2 tively involve the public, including—

3 “(A) using Council meetings to determine
4 the scope of issues to be addressed and identi-
5 fying significant issues related to the proposed
6 action;

7 “(B) integration of the fishery impact
8 statement development process with preliminary
9 and final Council decisionmaking in a manner
10 that provides opportunity for comment from the
11 public and relevant government agencies prior
12 to these decision points; and

13 “(C) providing scientific, technical, and
14 legal advice at an early stage of the develop-
15 ment of the fishery impact statement to ensure
16 timely transmittal and Secretarial review of the
17 proposed fishery management plan, plan
18 amendment, or regulations to the Secretary.”.

19 (2) EVALUATION OF ADEQUACY.—Section
20 304(a)(2) (16 U.S.C. 1854(a)(2)) is amended by
21 striking “and” after the semicolon at the end of sub-
22 paragraph (B), striking the period at the end of sub-
23 paragraph (C) and inserting “; and”, and by adding
24 at the end the following:

1 “(D) evaluate the adequacy of the accom-
2 panying fishery impact statement as basis for
3 fully considering the environmental impacts of
4 implementing the fishery management plan or
5 plan amendment.”.

6 (3) REVIEW OF REGULATIONS.—Section 304(b)
7 (16 U.S.C. 1854(b)) is amended by striking so much
8 as precedes subparagraph (A) of paragraph (1) and
9 inserting the following:

10 “(b) REVIEW OF REGULATIONS.—

11 “(1) Upon transmittal by the Council to the
12 Secretary of proposed regulations prepared under
13 section 303(c), the Secretary shall immediately ini-
14 tiate an evaluation of the proposed regulations to de-
15 termine whether they are consistent with the fishery
16 management plan, plan amendment, this Act and
17 other applicable law. The Secretary shall also imme-
18 diately initiate an evaluation of the accompanying
19 fishery impact statement as a basis for fully consid-
20 ering the environmental impacts of implementing the
21 proposed regulations. Within 15 days of initiating
22 such evaluation the Secretary shall make a deter-
23 mination and—”.

24 (4) EFFECT ON TIME REQUIREMENTS.—Section
25 305(e) (16 U.S.C. 1855(e)) is amended by inserting

1 “the National Environmental Policy Act of 1969 (42
 2 U.S.C. 4321 et seq.),” after “the Regulatory Flexi-
 3 bility Act (5 U.S.C. 601 et seq.)”.

4 **SEC. 8. LIMITATION ON FUTURE CATCH SHARE PROGRAMS.**

5 (a) CATCH SHARE DEFINED.—Section 3 (16 U.S.C.
 6 1802) is amended by inserting after paragraph (2) the fol-
 7 lowing:

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

16 (b) CATCH SHARE REFERENDUM PILOT PRO-
 17 GRAM.—

18 (1) IN GENERAL.—Section 303A(c)(6)(D) (16
 19 U.S.C. 1853a(c)(6)(D)) is amended to read as fol-
 20 lows:

21 “(D) CATCH SHARE REFERENDUM PILOT
 22 PROGRAM.—

23 “(i) The New England, Mid-Atlantic,
 24 South Atlantic, and Gulf of Mexico Coun-
 25 cils may not submit a fishery management

1 plan or amendment that creates a catch
2 share program for a fishery, and the Sec-
3 retary may not approve or implement such
4 a plan or amendment submitted by such a
5 Council or a secretarial plan or amendment
6 under section 304(c) that creates such a
7 program, unless the final program has
8 been approved, in a referendum in accord-
9 ance with this subparagraph, by a majority
10 of the permit holders eligible to participate
11 in the fishery. For multispecies permits in
12 the Gulf of Mexico, any permit holder with
13 landings from within the sector of the fish-
14 ery being considered for the catch share
15 program within the 5-year period pre-
16 ceding the date of the referendum and still
17 active in fishing in the fishery shall be eli-
18 gible to participate in such a referendum.
19 If a catch share program is not approved
20 by the requisite number of permit holders,
21 it may be revised and submitted for ap-
22 proval in a subsequent referendum.

23 “(ii) The Secretary may, at the re-
24 quest of the New England Fishery Man-
25 agement Council, allow participation in

1 such a referendum for a fishery under the
2 Council’s authority, by fishing vessel crew-
3 members who derive a significant portion
4 of their livelihood from such fishing.

5 “(iii) The Secretary shall conduct a
6 referendum under this subparagraph, in-
7 cluding notifying all permit holders eligible
8 to participate in the referendum and mak-
9 ing available to them—

10 “(I) a copy of the proposed pro-
11 gram;

12 “(II) an estimate of the costs of
13 the program, including costs to par-
14 ticipants;

15 “(III) an estimate of the amount
16 of fish or percentage of quota each
17 permit holder would be allocated; and

18 “(IV) information concerning the
19 schedule, procedures, and eligibility
20 requirements for the referendum proc-
21 ess.

22 “(iv) For the purposes of this sub-
23 paragraph, the term ‘permit holder eligible
24 to participate’ only includes the holder of
25 a permit for a fishery under which fishing

1 has occurred in 3 of the 5 years preceding
2 a referendum for the fishery, unless sick-
3 ness, injury, or other unavoidable hardship
4 prevented the permit holder from engaging
5 in such fishing.

6 “(v) The Secretary may not imple-
7 ment any catch share program for any
8 fishery managed exclusively by the Sec-
9 retary unless first petitioned by a majority
10 of those permit holders eligible to partici-
11 pate in the fishery.”.

12 (2) LIMITATION ON APPLICATION.—The amend-
13 ment made by paragraph (1) shall not apply to a
14 catch share program that is submitted to, or pro-
15 posed by, the Secretary of Commerce before the date
16 of enactment of this Act.

17 (3) REGULATIONS.—Before conducting a ref-
18 erendum under the amendment made by paragraph
19 (1), the Secretary of Commerce shall issue regula-
20 tions implementing such amendment after providing
21 an opportunity for submission by the public of com-
22 ments on the regulations.

23 **SEC. 9. REPORT ON FEE.**

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

1 “(D) The Secretary shall report annually on the
 2 amount collected under this paragraph from each
 3 fishery and detail how the funds were spent in the
 4 prior year on a fishery-by-fishery basis, to—

5 “(i) Congress; and

6 “(ii) each Council from whose fisheries the
 7 fee under this paragraph were collected.”.

8 **SEC. 10. DATA COLLECTION AND DATA CONFIDENTIALITY.**

9 (a) **ELECTRONIC MONITORING.—**

10 (1) **ISSUANCE OF REGULATIONS.—**

11 (A) **REQUIREMENT.—**The Secretary shall
 12 issue regulations governing the use of electronic
 13 monitoring for the purposes of monitoring fish-
 14 eries that are subject to the Magnuson-Stevens
 15 Fishery Conservation and Management Act (16
 16 U.S.C. 1801 et seq.).

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

18 (i) distinguish between monitoring for
 19 data collection and research purposes and
 20 monitoring for compliance and enforcement
 21 purposes; and

22 (ii) include minimum criteria, objec-
 23 tives, or performance standards for elec-
 24 tronic monitoring.

1 (C) PROCESS.—In issuing the regulations
2 the Secretary shall—

3 (i) consult with the Councils and fish-
4 ery management commissions;

5 (ii) publish the proposed regulations;
6 and

7 (iii) provide an opportunity for the
8 submission by the public of comments on
9 the proposed regulations.

10 (2) IMPLEMENTATION OF MONITORING.—

11 (A) IN GENERAL.—Subject to subpara-
12 graph (B), and after the issuance of the final
13 regulations, a Council, or the Secretary for fish-
14 eries referred to in section 302(a)(3) of the
15 Magnuson-Stevens Fishery Conservation and
16 Management Act (16 U.S.C. 1852(a)(3)), may,
17 in accordance with the regulations, on a fishery-
18 by-fishery basis and consistent with the existing
19 objectives and management goals of a fishery
20 management plan and the Act for a fishery
21 issued by the Council or the Secretary, respec-
22 tively, amend such plan—

23 (i) to incorporate electronic moni-
24 toring as an alternative tool for data col-
25 lection and monitoring purposes or for

1 compliance and enforcement purposes (or
2 both); and

3 (ii) to allow for the replacement of a
4 percentage of on-board observers with elec-
5 tronic monitoring.

6 (B) COMPARABILITY.—Subparagraph (A)
7 shall apply to a fishery only if the Council or
8 Secretary, respectively, determines that such
9 monitoring will yield comparable data collection
10 and compliance results.

11 (3) PILOT PROJECTS.—Before the issuance of
12 final regulations, a Council, or the Secretary for
13 fisheries referred to in section 302(a)(3), may, sub-
14 ject to the requirements of the Magnuson-Stevens
15 Fishery Conservation and Management Act, on a
16 fishery-by-fishery basis, and consistent with the ex-
17 isting objectives and management goals of a fishery
18 management plan for a fishery issued by the Council
19 or the Secretary, respectively, conduct a pilot project
20 for the use of electronic monitoring for the fishery.

21 (4) DEADLINE.—The Secretary shall issue final
22 regulations under this subsection by not later than
23 12 months after the date of enactment of this Act.

24 (b) VIDEO AND ACOUSTIC SURVEY TECH-
25 NOLOGIES.—The Secretary shall work with the Regional

1 Fishery Management Councils and nongovernmental enti-
 2 ties to develop and implement the use pursuant to the
 3 Magnuson-Stevens Fishery Conservation and Manage-
 4 ment Act (16 U.S.C. 1801 et seq.) of video survey tech-
 5 nologies and expanded use of acoustic survey technologies.

6 (c) CONFIDENTIALITY OF INFORMATION.—

7 (1) IN GENERAL.—Section 402(b) (16 U.S.C.
 8 1881a(b)) is amended—

9 (A) in paragraph (1)—

10 (i) by amending subparagraph (B) to
 11 read as follows:

12 “(B) to State or Marine Fisheries Commis-
 13 sion employees as necessary for achievement of
 14 the purposes of this Act, subject to a confiden-
 15 tiality agreement between the State or Commis-
 16 sion, respectively, and the Secretary that pro-
 17 hibits public disclosure of the identity of any
 18 person and of confidential information;”;

19 (ii) in subparagraph (E), by striking
 20 “limited access” and inserting “catch
 21 share”; and

22 (iii) in subparagraph (G), by striking
 23 “limited access” and inserting “catch
 24 share”;

25 (B) in paragraph (2)—

1 (i) in the matter preceding subpara-
2 graph (A), by inserting “, and information
3 obtained through a vessel monitoring sys-
4 tem or other technology used onboard a
5 fishing vessel for enforcement or data col-
6 lection purposes,” after “information”;

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

9 (iii) by striking subparagraph (C) and
10 inserting the following:

11 “(C) as authorized by any regulations
12 issued under paragraph (6) allowing the collec-
13 tion of observer information, pursuant to a con-
14 fidentiality agreement between the observers,
15 observer employers, and the Secretary prohib-
16 iting disclosure of the information by the ob-
17 servers or observer employers, in order—

18 “(i) to allow the sharing of observer
19 information among observers and between
20 observers and observer employers as nec-
21 essary to train and prepare observers for
22 deployments on specific vessels; or

23 “(ii) to validate the accuracy of the
24 observer information collected; or

1 “(D) to other persons if the Secretary has
2 obtained written authorization from the person
3 who submitted such information or from the
4 person on whose vessel the information was col-
5 lected, to release such information for reasons
6 not otherwise provided for in this subsection.”;

7 (C) by redesignating paragraph (3) as
8 paragraph (6); and

9 (D) by inserting after paragraph (2) the
10 following:

11 “(3) Any information submitted to the Sec-
12 retary, a State fisheries management agency, or a
13 Marine Fisheries Commission by any person in com-
14 pliance with the requirements of this Act, including
15 confidential information, may only be used for pur-
16 poses of fisheries management and monitoring and
17 enforcement under this Act.

18 “(4) The Secretary may enter into a memo-
19 randum of understanding with the heads of other
20 Federal agencies for the sharing of confidential in-
21 formation to ensure safety of life at sea or for fish-
22 eries enforcement purposes, including information
23 obtained through a vessel monitoring system or
24 other electronic enforcement and monitoring sys-
25 tems, if—

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

3 “(B) the heads of the other Federal agen-
4 cies agree—

5 “(i) to maintain the confidentiality of
6 the information in accordance with the re-
7 quirements that apply to the Secretary
8 under this section; and

9 “(ii) to use the information only for
10 the purposes for which it was shared with
11 the agencies.

12 “(5) The Secretary may not provide any vessel-
13 specific or aggregate vessel information from a fish-
14 ery that is collected for monitoring and enforcement
15 purposes to any person for the purposes of coastal
16 and marine spatial planning under Executive Order
17 13547, unless the Secretary determines that pro-
18 viding such information is important for maintaining
19 or enhancing national security or for ensuring fish-
20 ermen continued access to fishing grounds.”.

21 (2) CONFIDENTIAL INFORMATION DEFINED.—
22 Section 3 (16 U.S.C. 1802) is further amended by
23 inserting after paragraph (4) the following:

24 “(4a) The term ‘confidential information’
25 means—

1 “(A) trade secrets;

2 “(B) proprietary information;

3 “(C) observer information; and

4 “(D) commercial or financial information
5 the disclosure of which is likely to result in
6 harm to the competitive position of the person
7 that submitted the information to the Sec-
8 retary.”.

9 (d) INCREASED DATA COLLECTION AND ACTIONS TO
10 ADDRESS DATA-POOR FISHERIES.—Section 404 (16
11 U.S.C. 1881c) is amended by adding at the end the fol-
12 lowing:

13 “(e) USE OF THE ASSET FORFEITURE FUND FOR
14 FISHERY INDEPENDENT DATA COLLECTION.—

15 “(1) IN GENERAL.—

16 “(A) The Secretary, subject to appropria-
17 tions, may obligate for data collection purposes
18 in accordance with prioritizations under para-
19 graph (3) a portion of amounts received by the
20 United States as fisheries enforcement pen-
21 alties.

22 “(B) Amounts may be obligated under this
23 paragraph only in the fishery management re-
24 gion with respect to which they are collected.

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

3 “(A) the use of State personnel and re-
4 sources, including fishery survey vessels owned
5 and maintained by States to survey or assess
6 data-poor fisheries for which fishery manage-
7 ment plans are in effect under this Act; and

8 “(B) cooperative research activities author-
9 ized under section 318 to improve or enhance
10 the fishery independent data used in fishery
11 stock assessments.

12 “(3) DATA-POOR FISHERIES PRIORITY LISTS.—
13 Each Council shall—

14 “(A) identify those fisheries in its region
15 considered to be data-poor fisheries;

16 “(B) prioritize those fisheries based on the
17 need of each fishery for up-to-date information;
18 and

19 “(C) provide those priorities to the Sec-
20 retary.

21 “(4) DEFINITIONS.—In this subsection:

22 “(A) The term ‘data-poor fishery’ means a
23 fishery—

24 “(i) that has not been surveyed in the
25 preceding 5-year period;

1 “(ii) for which a fishery stock assess-
 2 ment has not been performed within the
 3 preceding 5-year period; or

4 “(iii) for which limited information on
 5 the status of the fishery is available for
 6 management purposes.

7 “(B) The term ‘fisheries enforcement pen-
 8 alties’ means any fine or penalty imposed, or
 9 proceeds of any property seized, for a violation
 10 of this Act or of any other marine resource law
 11 enforced by the Secretary.

12 “(5) AUTHORIZATION OF APPROPRIATIONS.—
 13 There is authorized to be appropriated to the Sec-
 14 retary for each fiscal year to carry out this sub-
 15 section up to 80 percent of the fisheries enforcement
 16 penalties collected during the preceding fiscal year.”.

17 **SEC. 11. COOPERATIVE RESEARCH AND MANAGEMENT**
 18 **PROGRAM.**

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

20 (1) in subsection (a), by inserting “(1)” before
 21 the first sentence, and by adding at the end the fol-
 22 lowing:

23 “(2) Within one year after the date of enactment of
 24 the Strengthening Fishing Communities and Increasing
 25 Flexibility in Fisheries Management Act, and after con-

1 sultation with the Councils, the Secretary shall publish a
2 plan for implementing and conducting the program estab-
3 lished in paragraph (1). Such plan shall identify and de-
4 scribe critical regional fishery management and research
5 needs, possible projects that may address those needs, and
6 estimated costs for such projects. The plan shall be revised
7 and updated every 5 years, and updated plans shall in-
8 clude a brief description of projects that were funded in
9 the prior 5-year period and the research and management
10 needs that were addressed by those projects.”; and

11 (2) in subsection (c)—

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

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

17 “(A) the use of fishing vessels or acoustic
18 or other marine technology;

19 “(B) expanding the use of electronic catch
20 reporting programs and technology; and

21 “(C) improving monitoring and observer
22 coverage through the expanded use of electronic
23 monitoring devices.”.

1 **SEC. 12. COUNCIL JURISDICTION FOR OVERLAPPING FISH-**
2 **ERIES.**

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

4 (1) in subparagraph (A), in the second sen-
5 tence—

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

7 and

8 (B) by inserting before the period at the
9 end “and a liaison who is a member of the Mid-
10 Atlantic Fishery Management Council to rep-
11 resent the interests of fisheries under the juris-
12 diction of such Council”; and

13 (2) in subparagraph (B), in the second sen-
14 tence—

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

16 and

17 (B) by inserting before the period at the
18 end “and a liaison who is a member of the New
19 England Fishery Management Council to rep-
20 resent the interests of fisheries under the juris-
21 diction of such Council”.

22 **SEC. 13. GULF OF MEXICO FISHERIES COOPERATIVE RE-**
23 **SEARCH AND RED SNAPPER MANAGEMENT.**

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

1 (b) REPORTING AND DATA COLLECTION PRO-
2 GRAM.—The Secretary of Commerce shall—

3 (1) in conjunction with the States, the Gulf of
4 Mexico Fishery Management Council, and the rec-
5 reational fishing sectors, develop and implement a
6 real-time reporting and data collection program for
7 the Gulf of Mexico red snapper fishery using avail-
8 able technology; and

9 (2) make implementation of this subsection a
10 priority for funds received by the Secretary and allo-
11 cated to this region under section 2 of the Act of
12 August 11, 1939 (commonly known as the
13 “Saltonstall-Kennedy Act”) (15 U.S.C. 713c–3).

14 (c) FISHERIES COOPERATIVE RESEARCH PRO-
15 GRAM.—The Secretary of Commerce—

16 (1) shall, in conjunction with the States, the
17 Gulf States Marine Fisheries Commission and the
18 Atlantic States Marine Fisheries Commission, the
19 Gulf of Mexico and South Atlantic Fishery Manage-
20 ment Councils, and the commercial, charter, and
21 recreational fishing sectors, develop and implement a
22 cooperative research program authorized under sec-
23 tion 318 for the fisheries of the Gulf of Mexico and
24 South Atlantic regions, giving priority to those fish-
25 eries that are considered data-poor; and

1 (2) may, subject to the availability of appropria-
2 tions, use funds received by the Secretary under sec-
3 tion 2 of the Act of August 11, 1939 (commonly
4 known as the “Saltonstall-Kennedy Act”) (15 U.S.C.
5 713c-3) to implement this subsection.

6 (d) STOCK SURVEYS AND STOCK ASSESSMENTS.—
7 The Secretary of Commerce, acting through the National
8 Marine Fisheries Service Regional Administrator of the
9 Southeast Regional Office, shall for purposes of the Mag-
10 nuson-Stevens Fishery Conservation and Management Act
11 (16 U.S.C. 1801 et seq.)—

12 (1) develop a schedule of stock surveys and
13 stock assessments for the Gulf of Mexico Region and
14 the South Atlantic Region for the 5-year period be-
15 ginning on the date of the enactment of this Act and
16 for every 5-year period thereafter;

17 (2) direct the Southeast Science Center Direc-
18 tor to implement such schedule; and

19 (3) in such development and implementation—

20 (A) give priority to those stocks that are
21 commercially or recreationally important; and

22 (B) ensure that each such important stock
23 is surveyed at least every 5 years.

24 (e) USE OF FISHERIES INFORMATION IN STOCK AS-
25 SESSMENTS.—The Southeast Science Center Director

1 shall ensure that fisheries information made available
2 through fisheries programs funded under Public Law
3 112–141 is incorporated as soon as possible into any fish-
4 eries stock assessments conducted after the date of the
5 enactment of this Act.

6 (f) STATE FISHERIES MANAGEMENT IN THE GULF
7 OF MEXICO WITH RESPECT TO RED SNAPPER.—Section
8 306(b) (16 U.S.C. 1856(b)) is amended by adding at the
9 end the following:

10 “(4) Notwithstanding section 3(11), for the purposes
11 of managing the recreational sector of the Gulf of Mexico
12 red snapper fishery, the seaward boundary of a coastal
13 State in the Gulf of Mexico is a line 9 miles seaward from
14 the baseline from which the territorial sea of the United
15 States is measured.”.

16 (g) FUNDING OF STOCK ASSESSMENTS.—The Sec-
17 retary of Commerce and the Secretary of the Interior, act-
18 ing through the Bureau of Ocean Energy Management,
19 shall enter into a cooperative agreement for the funding
20 of stock assessments that are necessitated by any action
21 by the Bureau with respect to offshore oil rigs in the Gulf
22 of Mexico that adversely impacts red snapper.

1 **SEC. 14. NORTH PACIFIC FISHERY MANAGEMENT CLARI-**
 2 **FICATION.**

3 Section 306(a)(3)(C) (16 U.S.C. 1856(a)(3)(C)) is
 4 amended—

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

6 and

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

8 **SEC. 15. ENSURING CONSISTENT MANAGEMENT FOR FISH-**
 9 **ERIES THROUGHOUT THEIR RANGE.**

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

13 **“SEC. 5. ENSURING CONSISTENT FISHERIES MANAGEMENT**
 14 **UNDER CERTAIN OTHER FEDERAL LAWS.**

15 “(a) NATIONAL MARINE SANCTUARIES ACT AND AN-
 16 TIQUITIES ACT OF 1906.—In any case of a conflict be-
 17 tween this Act and the National Marine Sanctuaries Act
 18 (16 U.S.C. 1431 et seq.) or the Antiquities Act of 1906
 19 (16 U.S.C. 431 et seq.), this Act shall control.

20 “(b) FISHERIES RESTRICTIONS UNDER ENDAN-
 21 GERED SPECIES ACT OF 1973.—To ensure transparency
 22 and consistent management of fisheries throughout their
 23 range, any restriction on the management of fish in the
 24 exclusive economic zone that is necessary to implement a
 25 recovery plan under the Endangered Species Act of 1973
 26 (16 U.S.C. 1531 et seq.) shall be implemented—

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

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

4 (b) CLERICAL AMENDMENT.—The table of contents
5 in the first section is amended by inserting after the item
6 relating to section 4 the following:

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

7 **SEC. 16. LIMITATION ON HARVEST IN NORTH PACIFIC DI-**
8 **RECTED POLLOCK FISHERY.**

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

12 “(1) HARVESTING.—

13 “(A) LIMITATION.—No particular indi-
14 vidual, corporation, or other entity may harvest,
15 through a fishery cooperative or otherwise, a
16 percentage of the pollock available to be har-
17 vested in the directed pollock fishery that ex-
18 ceeds the percentage established for purposes of
19 this paragraph by the North Pacific Council.

20 “(B) MAXIMUM PERCENTAGE.—The per-
21 centage established by the North Pacific Coun-
22 cil shall not exceed 24 percent of the pollock
23 available to be harvested in the directed pollock
24 fishery.”.

1 **SEC. 17. RECREATIONAL FISHING DATA.**

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

6 “(4) FEDERAL-STATE PARTNERSHIPS.—

7 “(A) ESTABLISHMENT.—The Secretary
8 shall establish partnerships with States to de-
9 velop best practices for implementation of State
10 programs established pursuant to paragraph
11 (2).

12 “(B) GUIDANCE.—The Secretary shall de-
13 velop guidance, in cooperation with the States,
14 that details best practices for administering
15 State programs pursuant to paragraph (2), and
16 provide such guidance to the States.

17 “(C) BIENNIAL REPORT.—The Secretary
18 shall submit to the Congress and publish bien-
19 nial reports that include—

20 “(i) the estimated accuracy of the reg-
21 istry program established under paragraph
22 (1) and of State programs that are ex-
23 empted under paragraph (2);

24 “(ii) priorities for improving rec-
25 reational fishing data collection; and

1 “(iii) an explanation of any use of in-
 2 formation collected by such State programs
 3 and by the Secretary, including a descrip-
 4 tion of any consideration given to the in-
 5 formation by the Secretary.

6 “(D) STATES GRANT PROGRAM.—The Sec-
 7 retary shall make grants to States to improve
 8 implementation of State programs consistent
 9 with this subsection. The Secretary shall
 10 prioritize such grants based on the ability of the
 11 grant to improve the quality and accuracy of
 12 such programs.”.

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

16 “(6) STUDY ON PROGRAM IMPLEMENTATION.—

17 “(A) IN GENERAL.—Not later than 60
 18 days after the enactment of this paragraph, the
 19 Secretary shall enter into an agreement with
 20 the National Research Council of the National
 21 Academy of Sciences to study the implementa-
 22 tion of the programs described in this section.
 23 The study shall—

24 “(i) provide an updated assessment of
 25 recreational survey methods established or

improved since the publication of the Council’s report ‘Review of Recreational Fisheries Survey Methods (2006)’;

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

“(iii) examine any limitations of the Marine Recreational Fishery Statistics Survey and the Marine Recreational Information Program established under paragraph (1).

“(B) REPORT.—Not later than 1 year after entering into an agreement under subparagraph (A), the Secretary shall submit a report to Congress on the results of the study under subparagraph (A).”.

SEC. 18. STOCK ASSESSMENTS USED FOR FISHERIES MANAGED UNDER GULF OF MEXICO COUNCIL’S REEF FISH MANAGEMENT PLAN.

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

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

4 “(a) IN GENERAL.—The Gulf States Marine Fish-
5 eries Commission shall conduct all fishery stock assess-
6 ments used for management purposes by the Gulf of Mex-
7 ico Fishery Management Council for the fisheries man-
8 aged under the Council’s Reef Fish Management Plan.

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

10 “(1) IN GENERAL.—Such fishery assessments
11 shall—

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

14 “(B) to the extent practicable, use State,
15 university, and private assets to conduct fish-
16 eries surveys.

17 “(2) SURVEYS AT ARTIFICIAL REEFS.—Any
18 such fishery stock assessment conducted after the
19 date of the enactment of the Strengthening Fishing
20 Communities and Increasing Flexibility in Fisheries
21 Management Act shall incorporate fishery surveys
22 conducted, and other relevant fisheries information
23 collected, on and around natural and artificial reefs.

24 “(c) CONSTITUENT AND STAKEHOLDER PARTICIPA-
25 TION.—Each such fishery assessment shall—

1 “(1) emphasize constituent and stakeholder
2 participation in the development of the assessment;

3 “(2) contain all of the raw data used in the as-
4 sessment and a description of the methods used to
5 collect that data; and

6 “(3) employ an assessment process that is
7 transparent and includes—

8 “(A) includes a rigorous and independent
9 scientific review of the completed fishery stock
10 assessment; and

11 “(B) a panel of independent experts to re-
12 view the data and assessment and make rec-
13 ommendations on the most appropriate values
14 of critical population and management quan-
15 tities.”.

16 (b) CLERICAL AMENDMENT.—The table of contents
17 in the first section is amended by inserting after the item
18 relating to section 408 the following:

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

19 **SEC. 19. ESTIMATION OF COST OF RECOVERY FROM FISH-**
20 **ERY RESOURCE DISASTER.**

21 Section 312(a)(1) (16 U.S.C. 1861a(1)) is amend-
22 ed—

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

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

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

6 “(B) The Secretary shall publish the estimated cost
7 of recovery from a fishery resource disaster no later than
8 30 days after the Secretary makes the determination
9 under subparagraph (A) with respect to such disaster.”.

10 **SEC. 20. DEADLINE FOR ACTION ON REQUEST BY GOV-**
11 **ERNOR FOR DETERMINATION REGARDING**
12 **FISHERY RESOURCE DISASTER.**

13 Section 312(a) (16 U.S.C. 1861a(a)) is amended by
14 redesignating paragraphs (2) through (4) as paragraphs
15 (3) through (5), and by inserting after paragraph (1) the
16 following:

17 “(2) The Secretary shall make a decision regarding
18 a request from a Governor under paragraph (1) within 90
19 days after receiving an estimate of the economic impact
20 of the fishery resource disaster from the entity requesting
21 the relief.”.

22 **SEC. 21. PROHIBITION ON CONSIDERING RED SNAPPER**
23 **KILLED DURING REMOVAL OF OIL RIGS.**

24 Any red snapper that are killed during the removal
25 of any offshore oil rig in the Gulf of Mexico shall not be

1 considered in determining under the Magnuson-Stevens
2 Fishery Conservation and Management Act (16 U.S.C.
3 1801 et seq.) whether the total allowable catch for red
4 snapper has been reached.

5 **SEC. 22. PROHIBITION ON CONSIDERING FISH SEIZED**
6 **FROM FOREIGN FISHING.**

7 Any fish that are seized from a foreign vessel engaged
8 in illegal fishing activities in the Exclusive Economic Zone
9 shall not be considered in determining under the Magnu-
10 son-Stevens Fishery Conservation and Management Act
11 (16 U.S.C. 1801 et seq.) the total allowable catch for that
12 fishery.

13 **SEC. 23. SUBSISTENCE FISHING.**

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

16 “(43a)(A) The term ‘subsistence fishing’ means
17 fishing in which the fish harvested are intended for
18 customary and traditional uses, including for direct
19 personal or family consumption as food or clothing;
20 for the making or selling of handicraft articles out
21 of nonedible byproducts taken for personal or family
22 consumption, for barter, or sharing for personal or
23 family consumption; and for customary trade.

24 “(B) In this paragraph—

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

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

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

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

11 (b) COUNCIL SEAT.—Section 302(b)(2) (16 U.S.C.
12 1852(b)(2)) is amended—

13 (1) in subparagraph (A), by striking “or rec-
14 reational” and inserting “, recreational, or subsist-
15 ence fishing”; and

16 (2) in subparagraph (C), in the second sen-
17 tence, by inserting “, and in the case of the Gov-
18 ernor of Alaska with the subsistence fishing interests
19 of the State,” after “interests of the State”.

20 (c) PURPOSE.—Section 2(b)(3) (16 U.S.C.
21 1801(b)(3)) is amended by striking “and recreational”
22 and inserting “, recreational, and subsistence”.

1 **SEC. 24. INTER-SECTOR TRADING OF COMMERCIAL CATCH**
2 **SHARE ALLOCATIONS IN THE GULF OF MEX-**
3 **ICO.**

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

6 “(c) INTER-SECTOR TRADING OF COMMERCIAL
7 CATCH SHARE ALLOCATIONS IN THE GULF OF MEX-
8 ICO.—Notwithstanding any other provision of this Act,
9 any commercial fishing catch share allocation in a fishery
10 in the Gulf of Mexico may only be traded by sale or lease
11 within the same commercial fishing sector.”.

12 **SEC. 25. AUTHORIZATION OF APPROPRIATIONS.**

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

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

16 (2) by striking “fiscal year 2013” and inserting
17 “each of fiscal years 2015 through 2019”.

○