

# Union Calendar No. 591

115TH CONGRESS  
2D SESSION

# H. R. 200

**[Report No. 115–758]**

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

JANUARY 3, 2017

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

JUNE 19, 2018

Additional sponsors: Mr. GRAVES of Louisiana, Mr. BABIN, Mr. HIGGINS of Louisiana, Mr. GENE GREEN of Texas, Mr. WITTMAN, Mr. ZELDIN, Mr. GROTHMAN, Mr. KING of Iowa, Mr. DUNCAN of South Carolina, Mr. AUSTIN SCOTT of Georgia, and Mr. VEASEY

JUNE 19, 2018

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 January 3, 2017]

# **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.

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

8      *The table of contents for this Act is as follows:*

## Sec. 4. References.

*Sec. 103. Authorization of appropriations.*

*Sec. 209. Miscellaneous amendments relating to fishery management councils.*

*Sec. 307. Ensuring consistent management for fisheries throughout their range.*

*Sec. 401. Estimation of cost of recovery from fishery resource disaster.*

*Sec. 402. Deadline for action on request by Governor for determination regarding fishery resource disaster.*

*Sec. 403. North Pacific Fishery management clarification.*

*Sec. 404. Limitation on harvest in North Pacific directed pollock fishery.*

*Sec. 405. Arctic community development quota.*

*Sec. 406. Reallocation of certain unused harvest allocation.*

*Sec. 407. Prohibition on shark feeding off coast of Florida.*

*Sec. 408. Restoration of historically freshwater environment.*

### 1 **SEC. 3. DEFINITIONS.**

2       *In this Act, any term used that is defined in section*  
 3 *3 of the Magnuson-Stevens Fishery Conservation and Man-*  
 4 *agement Act (16 U.S.C. 1802) shall have the same meaning*  
 5 *such term has under that section.*

### 6 **SEC. 4. REFERENCES.**

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

## 13 **TITLE I—MAGNUSON-STEVENSON** 14 **ACT FINDINGS AND DEFINI-** 15 **TIONS AMENDMENTS AND RE-** 16 **AUTHORIZATION**

### 17 **SEC. 101. AMENDMENTS TO FINDINGS.**

18       *Section 2(a) (16 U.S.C. 1801) is amended—*

19               *(1) in paragraph (1), by inserting “cultural*  
 20 *well-being,” after “economy,”; and*

1           (2) in paragraph (10), by inserting “and tradi-  
2           tional ways of life” after “economic growth”.

3   **SEC. 102. AMENDMENTS TO DEFINITIONS.**

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

6           (1) in paragraph (2), by striking “management  
7           program”;

8           (2) in paragraph (34), by striking “The terms  
9           ‘overfishing’ and ‘overfished’ mean” and inserting  
10          “The term ‘overfishing’ means”; and

11          (3) by inserting after paragraph (8) the fol-  
12       lowing:

13               “(8a) The term ‘depleted’ means, with respect to  
14       a stock of fish or stock complex, that the stock or stock  
15       complex has a biomass that has declined below a level  
16       that jeopardizes the capacity of the stock or stock com-  
17       plex to produce maximum sustainable yield on a con-  
18       tinuing basis.”; and

19          (4) by inserting after paragraph (43) the fol-  
20       lowing:

21               “(43a)(A) The term ‘subsistence fishing’ means  
22       fishing in which the fish harvested are intended for  
23       customary and traditional uses, including for direct  
24       personal or family consumption as food or clothing;  
25       for the making or selling of handicraft articles out of

1        *nonedible byproducts taken for personal or family*  
 2        *consumption, for barter, or sharing for personal or*  
 3        *family consumption; and for customary exchange or*  
 4        *trade.*

5                *“(B) In this paragraph—*

6                        *“(i) the term ‘family’ means all persons re-*  
 7                        *lated by blood, marriage, or adoption, or any*  
 8                        *person living within the household on a perma-*  
 9                        *nent basis; and*

10                      *“(ii) the term ‘barter’ means the exchange of*  
 11                      *a fish or fish part—*

12                                *“(I) for another fish or fish part; or*

13                                *“(II) for other food or for nonedible*  
 14                                *items other than money if the exchange is of*  
 15                                *a limited and noncommercial nature.”.*

16        *(b) SUBSTITUTION OF TERM.—The Magnuson-Stevens*  
 17        *Fishery Conservation and Management Act (16 U.S.C.*  
 18        *1801 et seq.) is amended—*

19                *(1) in the heading of section 304(e), by striking*  
 20                *“OVERFISHED” and inserting “DEPLETED”; and*

21                *(2) by striking “overfished” each place it ap-*  
 22                *pears and inserting “depleted”.*

23        *(c) CLARITY IN ANNUAL REPORT.—Section 304(e)(1)*  
 24        *(16 U.S.C. (e)(1)) is amended by adding at the end the fol-*  
 25        *lowing: “The report shall distinguish between fisheries that*

1 *are depleted (or approaching that condition) as a result of*  
 2 *fishing and fisheries that are depleted (or approaching that*  
 3 *condition) as a result of factors other than fishing. The re-*  
 4 *port shall state, for each fishery identified as depleted or*  
 5 *approaching that condition, whether the fishery is the target*  
 6 *of directed fishing.”.*

7 **SEC. 103. AUTHORIZATION OF APPROPRIATIONS.**

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

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

11 *(2) by striking “fiscal year 2013” and inserting*  
 12 *“each of fiscal years 2018 through 2022”.*

13 **TITLE II—FISHERIES MANAGE-**  
 14 **MENT FLEXIBILITY AND MOD-**  
 15 **ERNIZATION**

16 **SEC. 201. DEFINITIONS.**

17 *For the purposes of implementing this title:*

18 *(1) APPROPRIATE COMMITTEES OF CONGRESS.—*

19 *The term “appropriate committees of Congress”*  
 20 *means—*

21 *(A) the Committee on Commerce, Science,*  
 22 *and Transportation of the Senate; and*

23 *(B) the Committee on Natural Resources of*  
 24 *the House of Representatives.*

1           (2) *LIMITED ACCESS PRIVILEGE PROGRAM.*—*The*  
 2           *term “limited access privilege program” means a pro-*  
 3           *gram that meets the requirements of section 303A of*  
 4           *the Magnuson-Stevens Fishery Conservation and*  
 5           *Management Act (16 U.S.C. 1853a).*

6           (3) *MIXED-USE FISHERY.*—*The term “mixed-*  
 7           *used fishery” means a Federal fishery in which two*  
 8           *or more of the following occur:*

9                     (A) *Recreational fishing.*

10                    (B) *Charter fishing.*

11                    (C) *Commercial fishing.*

12 **SEC. 202. PROCESS FOR ALLOCATION REVIEW FOR SOUTH**  
 13                     **ATLANTIC AND GULF OF MEXICO MIXED-USE**  
 14                     **FISHERIES.**

15           (a) *STUDY OF ALLOCATIONS IN MIXED-USE FISH-*  
 16           *ERIES.*—*Not later than 60 days after the date of enactment*  
 17           *of this Act, the Secretary of Commerce shall seek to enter*  
 18           *into an arrangement with the National Academy of*  
 19           *Sciences to conduct a study of South Atlantic and Gulf of*  
 20           *Mexico mixed-use fisheries—*

21                     (1) *to provide guidance to each applicable Coun-*  
 22                     *cil on criteria that could be used for allocating fishing*  
 23                     *privileges, including consideration of the conservation*  
 24                     *and socioeconomic benefits of the commercial, rec-*



1        *reational, and charter components of a fishery, in the*  
2        *preparation of a fishery management plan;*

3            *(2) to identify sources of information that could*  
4        *reasonably support the use of such criteria in alloca-*  
5        *tion decisions;*

6            *(3) to develop procedures for allocation reviews*  
7        *and potential adjustments in allocations; and*

8            *(4) that shall consider the ecological, economic*  
9        *and social factors relevant to each component of the*  
10       *mixed-use fishery including but not limited to: fair-*  
11       *ness and equitability of all current allocations; per-*  
12       *cent utilization of available allocations by each com-*  
13       *ponent; consumer and public access to the resource;*  
14       *and the application of economic models for fully esti-*  
15       *imating the direct and indirect value-added contribu-*  
16       *tions of the various commercial and recreational fish-*  
17       *ing industry market sectors throughout chain of cus-*  
18       *tody.*

19        *(b) REPORT.—Not later than 1 year after the date an*  
20       *arrangement is entered into under subsection (a), the Na-*  
21       *tional Academy of Sciences shall submit to the appropriate*  
22       *committees of Congress a report on the study conducted*  
23       *under that subsection.*

24        *(c) PROCESS FOR ALLOCATION REVIEW AND ESTAB-*  
25       *LISHMENT.—*

1           (1) *IN GENERAL.*—Not later than 2 years after  
 2           the date of enactment of this Act, and every 5 years  
 3           thereafter, an applicable Council shall perform a re-  
 4           view of the allocations to the commercial fishing sec-  
 5           tor and the recreational fishing sector of all applica-  
 6           ble fisheries in its jurisdiction.

7           (2) *CONSIDERATIONS.*—In conducting a review  
 8           under paragraph (1), an applicable Council shall  
 9           consider, in each allocation decision, the conservation  
 10          and socioeconomic benefits of—

11                       (A) the commercial fishing sector; and

12                       (B) the recreational fishing sector.

13          (d) *DEFINITION OF APPLICABLE COUNCIL.*—In this  
 14          section, the term “applicable Council” means—

15                       (1) the South Atlantic Fishery Management  
 16          Council; or

17                       (2) the Gulf of Mexico Fishery Management  
 18          Council.

19 **SEC. 203. ALTERNATIVE FISHERY MANAGEMENT MEASURES.**

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

21                       (1) in paragraph (7)(C), by striking “; and” and  
 22          inserting a semicolon;

23                       (2) by redesignating paragraph (8) as para-  
 24          graph (9); and

1           (3) by inserting after paragraph (7), the fol-  
2       lowing:

3           “(8) have the authority to use alternative fishery  
4       management measures in a recreational fishery (or  
5       the recreational component of a mixed-use fishery),  
6       including extraction rates, fishing mortality targets,  
7       and harvest control rules, in developing a fishery  
8       management plan, plan amendment, or proposed reg-  
9       ulations; and”.

10 **SEC. 204. MODIFICATIONS TO THE ANNUAL CATCH LIMIT**  
11 **REQUIREMENT.**

12       (a) *REGIONAL FISHERY MANAGEMENT COUNCILS.*—  
13       Section 302 (16 U.S.C. 1852) is amended by adding at the  
14       end the following:

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

17           “(1) *ANNUAL CATCH LIMIT REQUIREMENT FOR*  
18 *CERTAIN DATA-POOR FISHERIES.*—Notwithstanding  
19       subsection (h)(6), in the case of a stock of fish for  
20       which the total annual catch limit is 25 percent or  
21       more below the overfishing limit, a peer-reviewed  
22       stock survey and stock assessment have not been per-  
23       formed during the preceding 5 fishing years, and the  
24       stock is not subject to overfishing, a Council may,  
25       after notifying the Secretary, maintain the current

1     *annual catch limit for the stock until a peer-reviewed*  
 2     *stock survey and stock assessment are conducted and*  
 3     *the results are considered by the Council and its sci-*  
 4     *entific and statistical committee.*

5             “(2) *CONSIDERATION OF ECOSYSTEM AND ECO-*  
 6     *NOMIC IMPACTS.—In establishing annual catch limits*  
 7     *a Council may, consistent with subsection (h)(6), con-*  
 8     *sider changes in an ecosystem and the economic needs*  
 9     *of the fishing communities.*

10            “(3) *LIMITATIONS TO ANNUAL CATCH LIMIT RE-*  
 11     *QUIREMENT FOR SPECIAL FISHERIES.—Notwith-*  
 12     *standing subsection (h)(6), a Council is not required*  
 13     *to develop an annual catch limit for—*

14                     “(A) *an ecosystem-component species;*

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

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

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

23                             “(ii) *fishing mortality will have little*  
 24     *impact on the stock.*

1           “(4) *RELATIONSHIP TO INTERNATIONAL FISHERY*  
2       *EFFORTS.*—

3           “(A) *IN GENERAL.*—*Each annual catch*  
4       *limit, consistent with subsection (h)(6)—*

5           “(i) *may take into account manage-*  
6       *ment measures under international agree-*  
7       *ments in which the United States partici-*  
8       *pates; and*

9           “(ii) *in the case of an annual catch*  
10       *limit developed by a Council for a species,*  
11       *shall take into account fishing for the spe-*  
12       *cies outside the exclusive economic zone and*  
13       *the life-history characteristics of the species*  
14       *that are not subject to the jurisdiction of the*  
15       *Council.*

16          “(B) *EXCEPTION TO ANNUAL CATCH LIMIT*  
17       *REQUIREMENT.*—*If fishery management activi-*  
18       *ties by another country with respect to fishing*  
19       *outside the exclusive economic zone may hinder*  
20       *conservation efforts by United States fishermen*  
21       *for a fish species for which any of the recruit-*  
22       *ment, distribution, life history, or fishing activi-*  
23       *ties are transboundary, and for which there is no*  
24       *informal transboundary agreement with that*  
25       *country in effect, then—*

1                   “(i) notwithstanding subsection (h)(6),  
 2                   no annual catch limit is required to be de-  
 3                   veloped for the species by a Council; and

4                   “(ii) if an annual catch limit is devel-  
 5                   oped by a Council for the species, the catch  
 6                   limit shall take into account fishing for the  
 7                   species outside the exclusive economic zone  
 8                   that is not subject to the jurisdiction of the  
 9                   Council.

10                  “(5) 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 ‘including’

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

19                  “(6) 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           “(7) *RULE OF CONSTRUCTION.*—Nothing in this  
7           subsection shall be construed as providing an exemp-  
8           tion from the requirements of section 301(a) of this  
9           Act.”.

10          (b) *ACTION BY THE SECRETARY.*—Section 304 (16  
11 *U.S.C. 1854*) is amended—

12           (1) by striking “(i) *INTERNATIONAL OVER-*  
13           *FISHING.*—” and inserting “(j) *INTERNATIONAL*  
14           *OVERFISHING.*—”;

15           (2) in subsection (j)(1), as redesignated, by in-  
16           serting “shall” before “immediately”; and

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

18           “(k) *STOCK SURVEYS AND ASSESSMENTS.*—Not later  
19           than 2 years after the date that the Secretary receives notice  
20           from a Council under section 302(m), the Secretary shall  
21           complete a peer-reviewed stock survey and stock assessment  
22           of the applicable stock of fish and transmit the results of  
23           the survey and assessment to the Council.”.

1 **SEC. 205. 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. 206. STUDY OF LIMITED ACCESS PRIVILEGE PRO-**  
17 **GRAMS FOR MIXED-USE FISHERIES.**

18                  (a) *STUDY ON LIMITED ACCESS PRIVILEGE PRO-*  
19 *GRAMS.—Not later than 1 year after the date of enactment*  
20 *of this Act, the Secretary of Commerce shall seek to enter*  
21 *into an arrangement under which the Ocean Studies Board*  
22 *of the National Academies of Sciences, Engineering, and*  
23 *Medicine shall—*

24                   (1) *study the use of limited access privilege pro-*  
25                   *grams in mixed-use fisheries, including—*

1                   (A) identifying any inequities caused by a  
2                   limited access privilege program;

3                   (B) recommending policies to address the  
4                   inequities identified in subparagraph (A); and

5                   (C) identifying and recommending the dif-  
6                   ferent factors and information a mixed-use fish-  
7                   ery should consider when designing, establishing,  
8                   or maintaining a limited access privilege pro-  
9                   gram to mitigate any inequities identified in  
10                  subparagraph (A); and

11                  (2) submit to the appropriate committees of Con-  
12                  gress a report on the study under paragraph (1), in-  
13                  cluding the recommendations under subparagraphs  
14                  (B) and (C) of paragraph (1).

15                  (b) *TEMPORARY MORATORIUM.*—

16                   (1) *IN GENERAL.*—Except as provided in para-  
17                   graph (2), there shall be a moratorium on the submis-  
18                   sion and approval of a limited access privilege pro-  
19                   gram for a mixed-used fishery until the date that the  
20                   report is submitted under subsection (a)(1)(B).

21                   (2) *EXCEPTION.*—Subject to paragraph (3), a  
22                   Council may submit, and the Secretary of Commerce  
23                   may approve, for a mixed- use fishery that is man-  
24                   aged under a limited access system, a limited access  
25                   privilege program if such program was part of a

1        *pending fishery management plan or plan amend-*  
 2        *ment before the date of enactment of this Act.*

3            (3) *MANDATORY REVIEW.*—*A Council that ap-*  
 4        *proves a limited access privilege program under para-*  
 5        *graph (2) shall, upon issuance of the report required*  
 6        *under subparagraph (a), review and, to the extent*  
 7        *practicable, revise the limited access privilege pro-*  
 8        *gram to be consistent with the recommendations of the*  
 9        *report or any subsequent statutory or regulatory re-*  
 10       *quirements designed to implement the recommenda-*  
 11       *tions of the report.*

12           (4) *RULE OF CONSTRUCTION.*—*Nothing in this*  
 13        *section may be construed to affect a limited access*  
 14        *privilege program approved by the Secretary of Com-*  
 15        *merce before the date of enactment of this Act.*

16    **SEC. 207. COOPERATIVE DATA COLLECTION.**

17           (a) *IMPROVING DATA COLLECTION AND ANALYSIS.*—  
 18        *Section 404 (16 U.S.C. 1881c) is amended by adding at*  
 19        *the end the following:*

20           “(e) *IMPROVING DATA COLLECTION AND ANALYSIS.*—

21                “(1) *IN GENERAL.*—*Not later than 1 year after*  
 22        *the date of enactment of this Act, the Secretary shall*  
 23        *develop, in consultation with the science and statis-*  
 24        *tical committees of the Councils established under sec-*  
 25        *tion 302(g) and the Marine Fisheries Commissions,*

1       *and submit to the Committee on Commerce, Science,*  
2       *and Transportation of the Senate and the Committee*  
3       *on Natural Resources of the House of Representatives*  
4       *a report on facilitating greater incorporation of data,*  
5       *analysis, stock assessments, and surveys from State*  
6       *agencies and nongovernmental sources described in*  
7       *paragraph (2) into fisheries management decisions.*

8               “(2) *NONGOVERNMENTAL SOURCES.*—Nongovern-  
9       *mental sources referred to in paragraph (1) include*  
10       *the following:*

11               “(A) *Fishermen.*

12               “(B) *Fishing communities.*

13               “(C) *Universities.*

14               “(D) *Research and philanthropic institu-*  
15       *tions.*

16               “(3) *CONTENT.*—*In developing the report under*  
17       *paragraph (1), the Secretary shall—*

18               “(A) *identify types of data and analysis, es-*  
19       *pecially concerning recreational fishing, that can*  
20       *be reliably used for purposes of this Act as the*  
21       *basis for establishing conservation and manage-*  
22       *ment measures as required by section 303(a)(1),*  
23       *including setting standards for the collection and*  
24       *use of that data and analysis in stock assess-*

1           *ments and surveys and for other purposes as de-*  
2           *termined by the Secretary;*

3           “(B) *provide specific recommendations for*  
4           *collecting data and performing analyses identi-*  
5           *fied as necessary to reduce uncertainty in and*  
6           *improve the accuracy of future stock assessments,*  
7           *including whether such data and analysis could*  
8           *be provided by nongovernmental sources, includ-*  
9           *ing fishermen, fishing communities, universities,*  
10          *and research institutions;*

11          “(C) *consider the extent to which it is pos-*  
12          *sible to establish a registry of persons collecting*  
13          *or submitting the data and performing the anal-*  
14          *yses identified under subparagraphs (A) and*  
15          *(B); and*

16          “(D) *consider the extent to which the ac-*  
17          *ceptance and use of data and analyses identified*  
18          *in the report in fishery management decisions is*  
19          *practicable.”.*

20          (b) *DEADLINE.—The Secretary of Commerce shall de-*  
21          *velop and publish guidelines under the amendment made*  
22          *by paragraph (a) by not later than 1 year after the date*  
23          *of enactment of this Act.*

24          (c) *NAS REPORT RECOMMENDATIONS.—The Secretary*  
25          *of Commerce shall take into consideration and, to the extent*

1 *feasible, implement the recommendations of the National*  
 2 *Academy of Sciences in the report entitled “Review of the*  
 3 *Marine Recreational Information Program (2017)”*, includ-  
 4 *ing—*

5           (1) *prioritizing the evaluation of electronic data*  
 6 *collection, including smartphone applications, elec-*  
 7 *tronic diaries for prospective data collection, and an*  
 8 *Internet website option for panel members or for the*  
 9 *public;*

10           (2) *evaluating whether the design of the Marine*  
 11 *Recreational Information Program for the purposes of*  
 12 *stock assessment and the determination of stock man-*  
 13 *agement reference points is compatible with the needs*  
 14 *of in-season management of annual catch limits; and*

15           (3) *if the Marine Recreational Information Pro-*  
 16 *gram is incompatible with the needs of in-season*  
 17 *management of annual catch limits, determining an*  
 18 *alternative method for in-season management.*

19 **SEC. 208. RECREATIONAL FISHING DATA.**

20           Section 401(g) (16 U.S.C. 1881(g)) is amended by re-  
 21 *designating paragraph (4) as paragraph (5), and by insert-*  
 22 *ing after paragraph (3) the following:*

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

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



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

“(B) *GUIDANCE.*—The Secretary shall develop guidance, in cooperation with the States, that details best practices for administering State programs pursuant to paragraph (2), and provide such guidance to the State.”.

**SEC. 209. MISCELLANEOUS AMENDMENTS RELATING TO  
FISHERY MANAGEMENT COUNCILS.**

(a) *COUNCIL JURISDICTION FOR OVERLAPPING FISHERIES.*—Section 302(a)(1) (16 U.S.C. 1852(a)) is amended—

(1) in subparagraph (A), in the second sentence—

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

and

(B) by inserting before the period at the end “and a liaison who is a member of the Mid-Atlantic Fishery Management Council to represent the interests of fisheries under the jurisdiction of such Council”; and

(2) in subparagraph (B), in the second sentence—

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

and

1                   (B) by inserting before the period at the end  
 2                   “and a liaison who is a member of the New Eng-  
 3                   land Fishery Management Council to represent  
 4                   the interests of fisheries under the jurisdiction of  
 5                   such Council”.

6           (b) COUNCIL SEAT.—Section 302(b)(2) (16 U.S.C.  
 7 1852(b)(2)) is amended—

8                   (1) in subparagraph (A), by striking “or rec-  
 9                   reational” and inserting “, recreational, or subsist-  
 10                  ence fishing”; and

11                  (2) in subparagraph (C), in the second sentence,  
 12                  by inserting “, and in the case of the Governor of  
 13                  Alaska with the subsistence fishing interests of the  
 14                  State,” after “interests of the State”.

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

18           (d) PROHIBITION ON CONSIDERING RED SNAPPER  
 19 KILLED DURING REMOVAL OF OIL RIGS.—Any red snap-  
 20 per that are killed during the removal of any offshore oil  
 21 rig in the Gulf of Mexico shall not be considered in deter-  
 22 mining under the Magnuson-Stevens Fishery Conservation  
 23 and Management Act (16 U.S.C. 1801 et seq.) whether the  
 24 total allowable catch for red snapper has been reached.

1       (e) *PROHIBITION ON CONSIDERING FISH SEIZED*  
 2 *FROM FOREIGN FISHING.*—Any fish that are seized from  
 3 a foreign vessel engaged in illegal fishing activities in the  
 4 exclusive economic zone shall not be considered in deter-  
 5 mining under the Magnuson-Stevens Fishery Conservation  
 6 and Management Act (16 U.S.C. 1801 et seq.) the total al-  
 7 lowable catch for that fishery.

8       ***TITLE III—HEALTHY FISHERIES***  
 9       ***THROUGH BETTER SCIENCE***

10   ***SEC. 301. HEALTHY FISHERIES THROUGH BETTER SCIENCE.***

11       (a) *DEFINITION OF STOCK ASSESSMENT.*—Section 3  
 12 (16 U.S.C. 1802), as amended by section 102(a) of this Act,  
 13 is further amended by redesignating the paragraphs after  
 14 paragraph (42) in order as paragraphs (44) through (53),  
 15 and by inserting after paragraph (42) the following:

16               “(43) The term ‘stock assessment’ means an eval-  
 17 uation of the past, present, and future status of a  
 18 stock of fish, that includes—

19                       “(A) a range of life history characteristics  
 20 for such stock, including—

21                               “(i) the geographical boundaries of  
 22 such stock; and

23                               “(ii) information on age, growth, nat-  
 24 ural mortality, sexual maturity and repro-

duction, feeding habits, and habitat preferences of such stock; and

“(B) fishing for the stock.”.

(b) STOCK ASSESSMENT PLAN.—

(1) IN GENERAL.—Section 404 (16 U.S.C. 1881c), as amended by section 207(a) of this Act, is further amended by adding at the end the following:

“(f) STOCK ASSESSMENT PLAN.—

“(1) IN GENERAL.—The Secretary shall develop and publish in the Federal Register, on the same schedule as required for the strategic plan required under subsection (b) of this section, a plan to conduct stock assessments for all stocks of fish for which a fishery management plan is in effect under this Act.

“(2) CONTENTS.—The plan shall—

“(A) for each stock of fish for which a stock assessment has previously been conducted—

“(i) establish a schedule for updating the stock assessment that is reasonable given the biology and characteristics of the stock; and

“(ii) subject to the availability of appropriations, require completion of a new stock assessment, or an update of the most recent stock assessment—

1                   “(I) every 5 years; or

2                   “(II) within such other time pe-  
3                   riod specified and justified by the Sec-  
4                   retary in the plan;

5                   “(B) for each stock of fish for which a stock  
6                   assessment has not previously been conducted—

7                   “(i) establish a schedule for conducting  
8                   an initial stock assessment that is reason-  
9                   able given the biology and characteristics of  
10                  the stock; and

11                  “(ii) subject to the availability of ap-  
12                  propriations, require completion of the ini-  
13                  tial stock assessment within 3 years after  
14                  the plan is published in the *Federal Reg-*  
15                  ister unless another time period is specified  
16                  and justified by the Secretary in the plan;  
17                  and

18                  “(C) identify data and analysis, especially  
19                  concerning recreational fishing, that, if avail-  
20                  able, would reduce uncertainty in and improve  
21                  the accuracy of future stock assessments, includ-  
22                  ing whether such data and analysis could be pro-  
23                  vided by fishermen, fishing communities, univer-  
24                  sities, and research institutions, to the extent  
25                  that use of such data would be consistent with

1           *the requirements in section 301(a)(2) to base*  
 2           *conservation and management measures on the*  
 3           *best scientific information available.*

4           “(3) *WAIVER OF STOCK ASSESSMENT REQUIRE-*  
 5           *MENT.—Notwithstanding subparagraphs (A)(ii) and*  
 6           *(B)(ii), a stock assessment is not required for a stock*  
 7           *of fish in the plan if the Secretary determines that*  
 8           *such a stock assessment is not necessary and justifies*  
 9           *such determination in the Federal Register notice re-*  
 10           *quired by this subsection.”.*

11           (2)     *DEADLINE.—Notwithstanding section*  
 12           *404(f)(1) of the Magnuson-Stevens Fishery Conserva-*  
 13           *tion and Management Act, as amended by this sec-*  
 14           *tion, the Secretary of Commerce shall issue the first*  
 15           *stock assessment plan under such section by not later*  
 16           *than 2 years after the date of enactment of this Act.*

17 **SEC. 302. TRANSPARENCY AND PUBLIC PROCESS.**

18           (a)     *ADVICE.—Section 302(g)(1)(B) (16 U.S.C.*  
 19           *1852(g)(1)(B)) is amended by adding at the end the fol-*  
 20           *lowing: “Each scientific and statistical committee shall de-*  
 21           *velop such advice in a transparent manner and allow for*  
 22           *public involvement in the process.”.*

23           (b)     *MEETINGS.—Section 302(i)(2) (16 U.S.C.*  
 24           *1852(i)(2)) is amended by adding at the end the following:*

1           “(G) *Each Council shall make available on*  
2           *the Internet Web site of the Council—*

3                   “(i) *to the extent practicable, a*  
4                   *Webcast, an audio recording, or a live*  
5                   *broadcast of each meeting of the Council,*  
6                   *and of the Council Coordination Committee*  
7                   *established under subsection (l), that is not*  
8                   *closed in accordance with paragraph (3);*  
9                   *and*

10                  “(ii) *audio, video (if the meeting was*  
11                  *in person or by video conference), or a*  
12                  *searchable audio or written transcript of*  
13                  *each meeting of the Council and of the meet-*  
14                  *ings of committees referred to in section*  
15                  *(g)(1)(B) of the Council by not later than*  
16                  *30 days after the conclusion of the meeting.*

17                  “(H) *The Secretary shall maintain and*  
18                  *make available to the public an archive of Coun-*  
19                  *cil and scientific and statistical committee meet-*  
20                  *ing audios, videos, and transcripts made avail-*  
21                  *able under clauses (i) and (ii) of subparagraph*  
22                  *(G).”.*

23           (c) *FISHERY IMPACT STATEMENTS.—*

24                   (1) *REQUIREMENT.—Section 303 (16 U.S.C.*  
25                   *1853) is amended—*

1           (A) in subsection (a), by striking paragraph  
2           (9) and redesignating paragraphs (10) through  
3           (15) as paragraphs (9) through (14), respec-  
4           tively; and

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

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

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

15          “(2) The fishery impact statement shall de-  
16          scribe—

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

18                  “(B) the environmental impact of the pro-  
19                  posed action;

20                  “(C) any adverse environmental effects  
21                  which cannot be avoided should the proposed ac-  
22                  tion be implemented;

23                  “(D) a reasonable range of alternatives to  
24                  the proposed action;



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

4           “(F) the cumulative conservation and man-  
5           agement effects; and

6           “(G) economic, and social impacts of the  
7           proposed action on—

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

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

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

20           “(3) A substantially complete fishery impact  
21           statement, which may be in draft form, shall be avail-  
22           able not less than 14 days before the beginning of the  
23           meeting at which a Council makes its final decision  
24           on the proposal (for plans, plan amendments, or pro-  
25           posed regulations prepared by a Council pursuant to

1 subsection (a) or (c)). Availability of this fishery im-  
2 pact statement will be announced by the methods used  
3 by the Council to disseminate public information and  
4 the public and relevant government agencies will be  
5 invited to comment on the fishery impact statement.

6 “(4) The completed fishery impact statement  
7 shall accompany the transmittal of a fishery manage-  
8 ment plan or plan amendment as specified in section  
9 304(a), as well as the transmittal of proposed regula-  
10 tions as specified in section (b).

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

19 “(6) The Councils shall, subject to approval by  
20 the Secretary, prepare procedures for compliance with  
21 this section that provide for timely, clear, and concise  
22 analysis that is useful to decisionmakers and the pub-  
23 lic, reduce extraneous paperwork and effectively in-  
24 volve the public, including—

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

5           “(B) integration of the fishery impact state-  
 6           ment development process with preliminary and  
 7           final Council decision making in a manner that  
 8           provides opportunity for comment from the pub-  
 9           lic and relevant government agencies prior to  
 10          these decision points; and

11          “(C) providing scientific, technical, and  
 12          legal advice at an early stage of the development  
 13          of the fishery impact statement to ensure timely  
 14          transmittal and Secretarial review of the pro-  
 15          posed fishery management plan, plan amend-  
 16          ment, or regulations to the Secretary.”.

17          (2) *EVALUATION OF ADEQUACY.*—Section  
 18          304(a)(2) (16 U.S.C. 1854(a)(2)) is amended by strik-  
 19          ing “and” after the semicolon at the end of subpara-  
 20          graph (B), striking the period at the end of subpara-  
 21          graph (C) and inserting “; and”, and by adding at  
 22          the end the following:

23                 “(D) evaluate the adequacy of the accom-  
 24                 panying fishery impact statement as basis for  
 25                 fully considering the environmental impacts of

1           *implementing the fishery management plan or*  
2           *plan amendment.”.*

3           (3) *REVIEW OF REGULATIONS.*—Section 304(b)  
4           (16 U.S.C. 1854(b)) *is amended by striking so much*  
5           *as precedes subparagraph (A) of paragraph (1) and*  
6           *inserting the following:*

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

8           “(1) *Upon transmittal by the Council to the Sec-*  
9           *retary of proposed regulations prepared under section*  
10           *303(c), the Secretary shall immediately initiate an*  
11           *evaluation of the proposed regulations to determine*  
12           *whether they are consistent with the fishery manage-*  
13           *ment plan, plan amendment, this Act and other ap-*  
14           *plicable law. The Secretary shall also immediately*  
15           *initiate an evaluation of the accompanying fishery*  
16           *impact statement as a basis for fully considering the*  
17           *environmental impacts of implementing the proposed*  
18           *regulations. Within 15 days of initiating such evalua-*  
19           *tion the Secretary shall make a determination and—*  
20           *”.*

21           (4) *EFFECT ON TIME REQUIREMENTS.*—Section  
22           305(e) (16 U.S.C. 1855(e)) *is amended by inserting*  
23           *“the National Environmental Policy Act of 1969 (42*  
24           *U.S.C. 4321 et seq.),” after “the Regulatory Flexi-*  
25           *bility Act (5 U.S.C. 601 et seq.),”.*

1 **SEC. 303. FLEXIBILITY IN REBUILDING FISH STOCKS.**

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

4 (1) *in paragraph (4)—*

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

7 (B) *by amending subparagraph (A)(ii) to*  
8 *read as follows:*

9 “(ii) *may not exceed the time the stock*  
10 *would be rebuilt without fishing occurring*  
11 *plus one mean generation, except in a case*  
12 *in which—*

13 “(I) *the biology of the stock of*  
14 *fish, other environmental conditions, or*  
15 *management measures under an inter-*  
16 *national agreement in which the*  
17 *United States participates dictate oth-*  
18 *erwise;*

19 “(II) *the Secretary determines*  
20 *that the cause of the stock being de-*  
21 *pleted is outside the jurisdiction of the*  
22 *Council or the rebuilding program can-*  
23 *not be effective only by limiting fishing*  
24 *activities;*

25 “(III) *the Secretary determines*  
26 *that one or more components of a*

1           *mixed- stock fishery is depleted but*  
2           *cannot be rebuilt within that time-*  
3           *frame without significant economic*  
4           *harm to the fishery, or cannot be re-*  
5           *built without causing another compo-*  
6           *nent of the mixed- stock fishery to ap-*  
7           *proach a depleted status;*

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

18                    *“(V) the Secretary determines that*  
19                    *the stock has been affected by unusual*  
20                    *events that make rebuilding within the*  
21                    *specified time period improbable with-*  
22                    *out significant economic harm to fish-*  
23                    *ing communities;”;*

24                    *(C) by striking “and” after the semicolon at*  
25                    *the end of subparagraph (B), by redesignating*

1        *subparagraphs (B) and (C) as subparagraphs*  
2        *(C) and (D), and by inserting after subpara-*  
3        *graph (A) the following:*

4                *“(B) take into account environmental con-*  
5        *dition including predator/prey relationships;”;*  
6        *and*

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

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

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

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

22               *“(9) A Council may terminate the application of*  
23       *paragraph (3) to a fishery if the Council’s scientific*  
24       *and statistical committee determines and the Sec-*

1       retary concurs that the original determination that  
2       the fishery was depleted was erroneous, either—

3               “(A) within the 2-year period beginning on  
4               the effective date a fishery management plan,  
5               plan amendment, or proposed regulation for a  
6               fishery under this subsection takes effect; or

7               “(B) within 90 days after the completion of  
8               the next stock assessment after such determina-  
9               tion.”.

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

17 **SEC. 304. EXEMPTED FISHING PERMITS.**

18       (a) *IN GENERAL.*—Before the approval and issuance  
19 of an exempted fishing permit under section 600.745 of title  
20 50, Code of Federal Regulations, or any successor regula-  
21 tion, the Secretary of Commerce shall—

22               (1) direct a joint peer review of the application  
23 for the exempted fishing permit by the appropriate re-  
24 gional fisheries science center and State marine fish-  
25 eries commission; and



1           (2) *certify that the Council or Federal agency*  
2           *with jurisdiction over the affected fishery has deter-*  
3           *mined that—*

4                   (A) *the fishing activity to be conducted*  
5                   *under the proposed exempted fishing permit*  
6                   *would not negatively impact any management*  
7                   *measures or conservation objectives included*  
8                   *within existing fishery management plans or*  
9                   *plan amendments;*

10                   (B) *the social and economic impacts in both*  
11                   *dollar amounts and loss of fishing opportunities*  
12                   *on all participants in each sector of the fishery*  
13                   *expected to occur as a result of the proposed ex-*  
14                   *empted fishing permit would be minimal;*

15                   (C) *the information that would be collected*  
16                   *through the fishing activity to be conducted*  
17                   *under the proposed exempted fishing permit will*  
18                   *have a positive and direct impact on the con-*  
19                   *servation, assessment, or management of the fish-*  
20                   *ery; and*

21                   (D) *the Governor of each coastal State po-*  
22                   *tentially impacted by the proposed exempted*  
23                   *fishing permit, as determined by the Secretary,*  
24                   *has been consulted on the fishing activity to be*  
25                   *conducted.*

1       (b) *CLARIFICATION.—The Secretary may not issue an*  
 2 *exempted fishing permit under section 600.745 of title 50,*  
 3 *Code of Federal Regulations, or any successor regulation*  
 4 *that—*

5           (1) *establishes a limited access system as defined*  
 6 *in section 3 of the Magnuson-Stevens Fishery Con-*  
 7 *servation and Management Act (16 U.S.C. 1802);*

8           (2) *is consistent with section 303A of such Act*  
 9 *(16 U.S.C. 1853a); or*

10          (3) *establishes a catch share program as defined*  
 11 *in section 206(a) of this Act.*

12       (c) *SAVINGS PROVISION.—Except for subsection (b)(2),*  
 13 *nothing in this section may be construed to affect an ex-*  
 14 *empted fishing permit approved under section 600.745 of*  
 15 *title 50, Code of Federal Regulations, before the date of en-*  
 16 *actment of this Act.*

17 **SEC. 305. 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*  
 24 *of the Strengthening Fishing Communities and In-*  
 25 *creasing Flexibility in Fisheries Management Act,*

1       *and after consultation with the Councils, the Sec-*  
2       *retary shall publish a plan for implementing and*  
3       *conducting the program established in paragraph (1).*  
4       *Such plan shall identify and describe critical regional*  
5       *fishery management and research needs, possible*  
6       *projects that may address those needs, and estimated*  
7       *costs for such projects. The plan shall be revised and*  
8       *updated every 5 years, and updated plans shall in-*  
9       *clude a brief description of projects that were funded*  
10      *in the prior 5-year period and the research and man-*  
11      *agement needs that were addressed by those projects.”;*  
12      *and*

13           *(2) in subsection (c)—*

14                   *(A) in the heading, by striking “FUNDING”*  
15                   *and inserting “PRIORITIES”; and*

16                   *(B) in paragraph (1), by striking “includ-*  
17                   *ing” and all that follows and inserting the fol-*  
18                   *lowing: “including—*

19                           *“(A) the use of fishing vessels or acoustic or*  
20                           *other marine technology;*

21                           *“(B) expanding the use of electronic catch*  
22                           *reporting programs and technology; and*

23                           *“(C) improving monitoring and observer*  
24                           *coverage through the expanded use of electronic*  
25                           *monitoring devices.”.*

1 **SEC. 306. GULF OF MEXICO FISHERIES COOPERATIVE RE-**  
2 **SEARCH AND RED SNAPPER MANAGEMENT.**

3 (a) *FEDERAL GULF OF MEXICO RED SNAPPER MAN-*  
4 *AGEMENT.—Section 407 (16 U.S.C. 1883) is amended by*  
5 *striking all after the section heading and inserting the fol-*  
6 *lowing:*

7 “(a) *CERTIFICATION OF STATE SURVEYS.—*

8 “(1) *INCLUSION OF CERTIFIED STATE SUR-*  
9 *VEYS.—In establishing the acceptable biological catch*  
10 *and total allowable catch for red snapper in the Gulf*  
11 *of Mexico, the Secretary shall include—*

12 “(A) *Gulf State recreational fisheries sur-*  
13 *veys that are certified under subsection (b); and*

14 “(B) *data related to red snapper in the Gulf*  
15 *of Mexico collected by the Gulf States Marine*  
16 *Fisheries Commission, nongovernmental organi-*  
17 *zations, and other nongovernmental sources, in-*  
18 *cluding universities and research institutions.*

19 “(b) *STATE SURVEYS.—*

20 “(1) *SUBMISSION.—A Gulf State that conducts a*  
21 *recreational fisheries survey in the Gulf of Mexico to*  
22 *make catch estimates for red snapper landed in such*  
23 *State may submit such survey to the Secretary for*  
24 *certification.*

25 “(2) *CERTIFICATION.—*

1           “(A) *IN GENERAL.*—*The Secretary shall*  
 2           *make a certification or a denial of certification*  
 3           *for any survey submitted under paragraph (1)*  
 4           *not later than the end of the 6-month period be-*  
 5           *ginning on the date the survey is submitted.*

6           “(B) *DEEMED CERTIFIED.*—*A recreational*  
 7           *fisheries survey is deemed to be certified effective*  
 8           *upon the expiration of such period if the Sec-*  
 9           *retary has not made a certification or denial of*  
 10          *certification.*

11          “(3) *MODIFICATION OF SURVEYS DENIED CER-*  
 12          *TIFICATION.*—

13               “(A) *IN GENERAL.*—*If a survey of a Gulf*  
 14               *State is denied certification under paragraph*  
 15               *(2), the Secretary shall, not later than 60 days*  
 16               *after the date of the denial, provide the Gulf*  
 17               *State a proposal for modifications to the survey.*

18               “(B) *PROPOSAL.*—*A proposal provided to a*  
 19               *Gulf State for a survey under subparagraph*  
 20               *(A)—*

21                       “(i) *shall be specific to the survey sub-*  
 22                       *mitted by such Gulf State and may not be*  
 23                       *construed to apply to any other Gulf State;*

24                       “(ii) *shall require revision to the fewest*  
 25                       *possible provisions of the survey; and*

1           “(iii) may not unduly burden the abil-  
2           ity of such Gulf State to revise the survey.

3           “(C) *MODIFIED SURVEY*.—

4           “(i) *AUTHORITY TO SUBMIT*.—If a sur-  
5           vey of a Gulf State was denied certification  
6           under paragraph (2), the Gulf State may  
7           modify the survey and submit the modified  
8           survey to the Secretary for certification or  
9           denial of certification.

10          “(ii) *SCHEDULE*.—The Secretary shall  
11          make a certification or denial of certifi-  
12          cation for any modified survey not later  
13          than the end of the 30-day period beginning  
14          on the date the modified survey is sub-  
15          mitted.

16          “(iii) *DEEMED CERTIFIED*.—A modi-  
17          fied survey is deemed to be certified effective  
18          upon the expiration of the period described  
19          in clause (ii) if the Secretary has not made  
20          a certification or denial of certification.

21          “(c) *DEFINITIONS*.—In this section:

22               “(1) *GULF STATE*.—The term ‘Gulf State’ means  
23               each of the States of Texas, Louisiana, Mississippi,  
24               Alabama, or Florida.

1           “(2) *RED SNAPPER*.—The term ‘red snapper’  
2           *means the species Lutjanus campechanus.*”.

3           (b) *STOCK SURVEYS AND STOCK ASSESSMENTS*.—The  
4           Secretary of Commerce, acting through the National Marine  
5           Fisheries Service Regional Administrator of the Southeast  
6           Regional Office, shall for purposes of the Magnuson-Stevens  
7           Fishery Conservation and Management Act (16 U.S.C.  
8           1801 *et seq.*)—

9                   (1) *develop a schedule of stock surveys and stock*  
10                  *assessments for the Gulf of Mexico Region and the*  
11                  *South Atlantic Region for the 5-year period beginning*  
12                  *on the date of the enactment of this Act and for every*  
13                  *5-year period thereafter;*

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

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

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

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

21           (c) *USE OF FISHERIES INFORMATION IN STOCK AS-*  
22           *SESSMENTS*.—The Southeast Science Center Director shall  
23           ensure that fisheries information made available through  
24           fisheries programs funded under Public Law 112–141 is in-  
25           corporated as soon as possible into any fisheries stock

1 assessments conducted after the date of the enactment of this  
2 Act.

3 (d) *STATE FISHERIES MANAGEMENT IN THE GULF OF*  
4 *MEXICO WITH RESPECT TO RED SNAPPER.*—Section  
5 306(b) (16 U.S.C. 1856(b)) is amended by adding at the  
6 end the following:

7 “(4) Notwithstanding section 3(11), for the pur-  
8 poses of managing the recreational sector of the Gulf  
9 of Mexico red snapper fishery, the seaward boundary  
10 of a coastal State in the Gulf of Mexico is a line 9  
11 miles seaward from the baseline from which the terri-  
12 torial sea of the United States is measured.”.

13 **SEC. 307. ENSURING CONSISTENT MANAGEMENT FOR FISH-**  
14 **ERIES THROUGHOUT THEIR RANGE.**

15 (a) *IN GENERAL.*—The Act is amended by inserting  
16 after section 4 the following:

17 **“SEC. 5. ENSURING CONSISTENT FISHERIES MANAGEMENT**  
18 **UNDER CERTAIN OTHER FEDERAL LAWS.**

19 “(a) *NATIONAL MARINE SANCTUARIES ACT AND AN-*  
20 *TIQUITIES ACT OF.*—In any case of a conflict between this  
21 Act and the National Marine Sanctuaries Act (16 U.S.C.  
22 1431 et seq.) or the Antiquities Act of 1906 (54 U.S.C.  
23 320301 et seq.), this Act shall control.

24 “(b) *FISHERIES RESTRICTIONS UNDER ENDANGERED*  
25 *SPECIES ACT OF.*—To ensure transparency and consistent



1 *management of fisheries throughout their range, any re-*  
 2 *striction on the management of fish in the exclusive eco-*  
 3 *nomie zone that is necessary to implement a recovery plan*  
 4 *under the Endangered Species Act of 1973 (16 U.S.C. 1531*  
 5 *et seq.) shall be implemented—*

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

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

9 *(b) CLERICAL AMENDMENT.—The table of contents in*  
 10 *the first section is amended by inserting after the item relat-*  
 11 *ing to section 3 the following:*

*“Sec. 4. Authorization of appropriations.*

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

## 12 ***TITLE IV—STRENGTHENING*** 13 ***FISHING COMMUNITIES***

### 14 ***SEC. 401. ESTIMATION OF COST OF RECOVERY FROM FISH-*** 15 ***ERY RESOURCE DISASTER.***

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

18 *(1) by inserting “(A)” after “(1)”;*

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

23 *(3) by adding at the end the following:*

1       “(B) *The Secretary shall publish the estimated cost of*  
 2 *recovery from a fishery resource disaster no later than 30*  
 3 *days after the Secretary makes the determination under*  
 4 *subparagraph (A) with respect to such disaster.”.*

5   **SEC. 402. DEADLINE FOR ACTION ON REQUEST BY GOV-**  
 6                   **ERNOR FOR DETERMINATION REGARDING**  
 7                   **FISHERY RESOURCE DISASTER.**

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

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

17   **SEC. 403. NORTH PACIFIC FISHERY MANAGEMENT CLARI-**  
 18                   **FICATION.**

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

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

22       *and*

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

1 **SEC. 404. 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 Fishery Management  
 14 Council.

15 “(B) *MAXIMUM PERCENTAGE.*—The percent-  
 16 age established by the North Pacific Fishery  
 17 Management Council shall not exceed 24 percent  
 18 of the pollock available to be harvested in the di-  
 19 rected pollock fishery.”.

20 **SEC. 405. ARCTIC COMMUNITY DEVELOPMENT QUOTA.**

21 *Section 313 (16 U.S.C. 1862) is amended by adding*  
 22 *at the end the following:*

23 “(k) *ARCTIC COMMUNITY DEVELOPMENT QUOTA.*—If  
 24 the North Pacific Fishery Management Council issues a  
 25 fishery management plan for the exclusive economic zone  
 26 in the Arctic Ocean, or an amendment to the Fishery Man-

1 *agement Plan for Fish Resources of the Arctic Management*  
 2 *Area issued by such Council, that makes available to com-*  
 3 *mercial fishing, and establishes a sustainable harvest level,*  
 4 *for any part of such zone, the Council shall set aside not*  
 5 *less than 10 percent of the total allowable catch therein as*  
 6 *a community development quota for coastal villages located*  
 7 *north and east of the Bering Strait.”.*

8 **SEC. 406. REALLOCATION OF CERTAIN UNUSED HARVEST**  
 9 **ALLOCATION.**

10 *(a) REALLOCATION.—*

11 *(1) IN GENERAL.—Effective January 1, 2018,*  
 12 *and thereafter annually, if the Regional Adminis-*  
 13 *trator receives receipt of written notice that the allo-*  
 14 *cation holder named in section 803 of the Consoli-*  
 15 *dated Appropriations Act, 2004 (Public Law 108–*  
 16 *199, 16 U.S.C. 1851 note), will not harvest some or*  
 17 *all of the Aleutian Islands directed pollock, the Re-*  
 18 *gional Administrator, as soon as practicable, shall—*

19 *(A) if the allocation as designated in section*  
 20 *803 of the Consolidated Appropriations Act,*  
 21 *2004 does not exceed the total allowable catch for*  
 22 *the Bering Sea subarea, reallocate the projected*  
 23 *unused Aleutian Islands directed pollock to the*  
 24 *Bering Sea subarea for harvest by the allocation*

1           holder named in section 803 of the Consolidated  
2           Appropriations Act, 2004; or

3           (B) if the allocation exceeds the total allow-  
4           able catch for the Bering Sea subarea, reallocate  
5           a portion of the allocation, up to the total allow-  
6           able catch for the Bering Sea Subarea.

7           (2) The allocation shall be provided to the Aleut  
8           Corporation for the purposes of economic development  
9           in Adak, Alaska, pursuant to the requirement of the  
10          Magnuson-Stevens Fishery Conservation and Manage-  
11          ment Act (16 U.S.C. 1801 et seq.).

12          (b) IMPLEMENTATION.—For the purposes of this sec-  
13          tion:

14               (1) the allocation holder described in subsection  
15               (a) shall retain control of the allocation referenced in  
16               such subsection, including such portions of the alloca-  
17               tion that may be reallocated pursuant to this section;  
18               and

19               (2) the allocations in section 206(b) of the Amer-  
20               ican Fisheries Act (16 U.S.C. 1851 note) apply to the  
21               Bering Sea portion of the directed pollock fishery and  
22               not to the allocation holder under section 803 of the  
23               Consolidated Appropriations Act, 2004.

24          (c) CONSENT REQUIREMENT.—The Aleut Corporation  
25          will provide written consent for other vessels to take or proc-

1 *ess the allocation, a physical copy of which must be present*  
 2 *on the vessel.*

3 *(d) REVISION OF REGULATIONS AND MANAGEMENT*  
 4 *PLANS.—*

5 *(1) IN GENERAL.—The North Pacific Fishery*  
 6 *Management Council, in consultation with the Na-*  
 7 *tional Marine Fisheries Service, shall modify all ap-*  
 8 *plicable regulations and management plans so that*  
 9 *the allocation holder named in section 803 of the Con-*  
 10 *solidated Appropriations Act, 2004, may harvest the*  
 11 *reallocated Aleutian Islands directed pollock fishery*  
 12 *in the Bering Sea subarea as soon as practicable.*

13 *(2) MANAGEMENT OF ALLOCATION.—The Na-*  
 14 *tional Marine Fisheries Service, in consultation with*  
 15 *the North Pacific Fishery Management Council, shall*  
 16 *manage the Aleutian Islands directed pollock fishery*  
 17 *to ensure compliance with the implementing statute*  
 18 *and with the annual harvest specifications.*

19 *(3) ENFORCEMENT.—Taking or processing any*  
 20 *part of the allocation made by section 803 of the Con-*  
 21 *solidated Appropriations Act, 2004, and reallocated*  
 22 *under this section without the consent required under*  
 23 *subsection (c) shall be considered in violation of sec-*  
 24 *tion 307 of the Magnuson-Stevens Fishery Conserva-*  
 25 *tion and Management Act (16 U.S.C. 1857) and sub-*

1        *ject to the penalties and sanctions under section 308*  
 2        *of such Act (16 U.S.C. 1858), and any fish harvested*  
 3        *or processed under such taking or possessing shall be*  
 4        *subject to forfeiture.*

5        **SEC. 407. PROHIBITION ON SHARK FEEDING OFF COAST OF**  
 6                                **FLORIDA.**

7        *Section 307 (16 U.S.C. 1857) is amended—*

8                        *(1) by striking “It is unlawful—” and inserting*  
 9        *the following:*

10        *“(a) IN GENERAL.—It is unlawful—”; and*

11                        *(2) by adding at the end the following:*

12        *“(b) PROHIBITION ON SHARK FEEDING OFF COAST OF*  
 13        *FLORIDA.—*

14                        *“(1) IN GENERAL.—It is unlawful—*

15                                *“(A) for any diver to engage in shark feed-*  
 16        *ing in covered waters; and*

17                                *“(B) for any person to operate a vessel for*  
 18        *hire for the purpose of carrying a passenger to*  
 19        *a site if such person knew or should have known*  
 20        *that the passenger intended, at that site, to be a*  
 21        *diver—*

22                                *“(i) engaged in shark feeding in cov-*  
 23        *ered waters; or*

24                                *“(ii) engaged in observing shark feed-*  
 25        *ing in covered waters.*

1           “(2) *DEFINITIONS.*—*For purposes of this sub-*  
2           *section:*

3                   “(A) *COVERED WATERS.*—*The term ‘covered*  
4                   *waters’ means Federal waters off the coast of*  
5                   *Florida.*

6                   “(B) *DIVER.*—*The term ‘diver’ means a*  
7                   *person who is wholly or partially submerged in*  
8                   *covered water and is equipped with a face mask,*  
9                   *face mask and snorkel, or underwater breathing*  
10                  *apparatus.*

11                  “(C) *SHARK FEEDING.*—*The term ‘shark*  
12                  *feeding’ means—*

13                           “(i) *the introduction of food or any*  
14                           *other substance into covered water for the*  
15                           *purpose of feeding or attracting sharks; or*

16                           “(ii) *presenting food or any other sub-*  
17                           *stance to a shark for the purpose of feeding*  
18                           *or attracting sharks.*

19           “(3) *EXCEPTION.*—*This subsection shall not*  
20           *apply to shark feeding conducted—*

21                   “(A) *by a research institution, university,*  
22                   *or government agency for research purposes; or*

23                   “(B) *for the purpose of harvesting sharks.”.*



1 **SEC. 408. RESTORATION OF HISTORICALLY FRESHWATER**  
2 **ENVIRONMENT.**

3       *Section 3(10) (16 U.S.C. 1802) is amended by insert-*  
4 *ing “, except that such term shall not include any area pre-*  
5 *viously covered by land or a fresh water environment in*  
6 *a State where the average annual land loss of such State*  
7 *during the 20 years before the date of the enactment of the*  
8 *Strengthening Fishing Communities and Increasing Flexi-*  
9 *bility in Fisheries Management Act exceeds 10 square*  
10 *miles” after “maturity”.*

Union Calendar No. 591

115<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

H. R. 200

[Report No. 115-758]

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.

JUNE 19, 2018

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