

115TH CONGRESS
2D SESSION

H. R. 200

AN ACT

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,*

1 SECTION 1. SHORT TITLE.

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

5 SEC. 2. TABLE OF CONTENTS.

6 The table of contents for this Act is as follows:

- Sec. 1. Short title.
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- Sec. 3. Definitions.
- Sec. 4. References.

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- Sec. 101. Amendments to findings.
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TITLE III—HEALTHY FISHERIES THROUGH BETTER SCIENCE

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- Sec. 303. Flexibility in rebuilding fish stocks.
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- Sec. 402. Deadline for action on request by Governor for determination regard-
ing fishery resource disaster.
- Sec. 403. North Pacific Fishery management clarification.
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- Sec. 501. Mitigation for impacts to submerged aquatic vegetation.
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- Sec. 503. plan for electronic monitoring and reporting procedures for the Northeast Multispecies Fishery.
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- Sec. 506. Funding for monitoring implementation of Northeast Multispecies Fishery Management Plan.

TITLE VI—REEF ASSASSIN ACT

- Sec. 601. Short title.
- Sec. 602. Encouraging elimination of lionfish.

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
4 Management Act (16 U.S.C. 1802) shall have the same
5 meaning 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
9 of an amendment to, or repeal of, a provision, the ref-
10 erence shall be considered to be made to a provision of
11 the Magnuson-Stevens Fishery Conservation and Manage-
12 ment Act (16 U.S.C. 1801 et seq.).

1 **TITLE I—MAGNUSON-STEVENS**
2 **ACT FINDINGS AND DEFINI-**
3 **TIONS AMENDMENTS AND RE-**
4 **AUTHORIZATION**

5 **SEC. 101. AMENDMENTS TO FINDINGS.**

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

7 (1) in paragraph (1), by inserting “cultural
8 well-being,” after “economy,”; and

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

11 **SEC. 102. AMENDMENTS TO DEFINITIONS.**

12 (a) DEFINITIONS.—Section 3 (16 U.S.C. 1802) is
13 amended—

14 (1) in paragraph (2), by striking “management
15 program”;

16 (2) in paragraph (34), by striking “The terms
17 ‘overfishing’ and ‘overfished’ mean” and inserting
18 “The term ‘overfishing’ means”; and

19 (3) by inserting after paragraph (8) the fol-
20 lowing:

21 “(8a) The term ‘depleted’ means, with respect
22 to a stock of fish or stock complex, that the stock
23 or stock complex has a biomass that has declined
24 below a level that jeopardizes the capacity of the

1 stock or stock complex to produce maximum sustain-
2 able yield on a continuing basis.”; and

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

5 “(43a)(A) The term ‘subsistence fishing’ means
6 fishing in which the fish harvested are intended for
7 customary and traditional uses, including for direct
8 personal or family consumption as food or clothing;
9 for the making or selling of handicraft articles out
10 of nonedible byproducts taken for personal or family
11 consumption, for barter, or sharing for personal or
12 family consumption; and for customary exchange or
13 trade.

14 “(B) In this paragraph—

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

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

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

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

1 (b) SUBSTITUTION OF TERM.—The Magnuson-Ste-
2 vens Fishery Conservation and Management Act (16
3 U.S.C. 1801 et seq.) is amended—

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

6 (2) by striking “overfished” each place it ap-
7 pears and inserting “depleted”.

8 (c) CLARITY IN ANNUAL REPORT.—Section
9 304(e)(1) (16 U.S.C. (e)(1)) is amended by adding at the
10 end the following: “The report shall distinguish between
11 fisheries that are depleted (or approaching that condition)
12 as a result of fishing and fisheries that are depleted (or
13 approaching that condition) as a result of factors other
14 than fishing. The report shall state, for each fishery iden-
15 tified as depleted or approaching that condition, whether
16 the fishery is the target of directed fishing.”.

17 **SEC. 103. AUTHORIZATION OF APPROPRIATIONS.**

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

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

21 (2) by striking “fiscal year 2013” and inserting
22 “each of fiscal years 2018 through 2022”.

1 **TITLE II—FISHERIES MANAGE-**
2 **MENT FLEXIBILITY AND MOD-**
3 **ERNIZATION**

4 **SEC. 201. DEFINITIONS.**

5 For the purposes of implementing this title:

6 (1) APPROPRIATE COMMITTEES OF CON-
7 GRESS.—The term “appropriate committees of Con-
8 gress” means—

9 (A) the Committee on Commerce, Science,
10 and Transportation of the Senate; and

11 (B) the Committee on Natural Resources
12 of the House of Representatives.

13 (2) LIMITED ACCESS PRIVILEGE PROGRAM.—
14 The term “limited access privilege program” means
15 a program that meets the requirements of section
16 303A of the Magnuson-Stevens Fishery Conserva-
17 tion and Management Act (16 U.S.C. 1853a).

18 (3) MIXED-USE FISHERY.—The term “mixed-
19 use fishery” means a Federal fishery in which two
20 or more of the following occur:

21 (A) Recreational fishing.

22 (B) Charter fishing.

23 (C) Commercial fishing.

1 **SEC. 202. PROCESS FOR ALLOCATION REVIEW FOR SOUTH**
2 **ATLANTIC AND GULF OF MEXICO MIXED-USE**
3 **FISHERIES.**

4 (a) STUDY OF ALLOCATIONS IN MIXED-USE FISH-
5 ERIES.—Not later than 60 days after the date of enact-
6 ment of this Act, the Secretary of Commerce shall seek
7 to enter into an arrangement with the National Academy
8 of Sciences to conduct a study of South Atlantic and Gulf
9 of Mexico mixed-use fisheries—

10 (1) to provide guidance to each applicable
11 Council on criteria that could be used for allocating
12 fishing privileges, including consideration of the con-
13 servation and socioeconomic benefits of the commer-
14 cial, recreational, and charter components of a fish-
15 ery, in the preparation of a fishery management
16 plan;

17 (2) to identify sources of information that could
18 reasonably support the use of such criteria in alloca-
19 tion decisions;

20 (3) to develop procedures for allocation reviews
21 and potential adjustments in allocations; and

22 (4) that shall consider the ecological, economic
23 and social factors relevant to each component of the
24 mixed-use fishery including but not limited to: fair-
25 ness and equitability of all current allocations; per-
26 cent utilization of available allocations by each com-

1 ponent; consumer and public access to the resource;
2 and the application of economic models for fully esti-
3 mating the direct and indirect value-added contribu-
4 tions of the various commercial and recreational
5 fishing industry market sectors throughout chain of
6 custody.

7 (b) REPORT.—Not later than 1 year after the date
8 an arrangement is entered into under subsection (a), the
9 National Academy of Sciences shall submit to the appro-
10 prium committees of Congress a report on the study con-
11 ducted under that subsection.

12 (c) PROCESS FOR ALLOCATION REVIEW AND ESTAB-
13 LISHMENT.—

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

20 (2) CONSIDERATIONS.—In conducting a review
21 under paragraph (1), an applicable Council shall
22 consider, in each allocation decision, the conserva-
23 tion and socioeconomic benefits of—

24 (A) the commercial fishing sector; and

25 (B) the recreational fishing sector.

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

- 3 (1) the South Atlantic Fishery Management
4 Council; or
5 (2) the Gulf of Mexico Fishery Management
6 Council.

7 **SEC. 203. ALTERNATIVE FISHERY MANAGEMENT MEAS-**
8 **URES.**

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

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

12 (2) by redesignating paragraph (8) as para-
13 graph (9); and

14 (3) by inserting after paragraph (7), the fol-
15 lowing:

16 “(8) have the authority to use alternative fish-
17 ery management measures in a recreational fishery
18 (or the recreational component of a mixed-use fish-
19 ery), including extraction rates, fishing mortality
20 targets, and harvest control rules, in developing a
21 fishery management plan, plan amendment, or pro-
22 posed regulations; and”.

1 **SEC. 204. MODIFICATIONS TO THE ANNUAL CATCH LIMIT**
2 **REQUIREMENT.**

3 (a) REGIONAL FISHERY MANAGEMENT COUNCILS.—
4 Section 302 (16 U.S.C. 1852) is amended by adding at
5 the end the following:

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

8 “(1) ANNUAL CATCH LIMIT REQUIREMENT FOR
9 CERTAIN DATA-POOR FISHERIES.—Notwithstanding
10 subsection (h)(6), in the case of a stock of fish for
11 which the total annual catch limit is 25 percent or
12 more below the overfishing limit, a peer-reviewed
13 stock survey and stock assessment have not been
14 performed during the preceding 5 fishing years, and
15 the stock is not subject to overfishing, a Council
16 may, after notifying the Secretary, maintain the cur-
17 rent annual catch limit for the stock until a peer-re-
18 viewed stock survey and stock assessment are con-
19 ducted and the results are considered by the Council
20 and its scientific and statistical committee.

21 “(2) CONSIDERATION OF ECOSYSTEM AND ECO-
22 NOMIC IMPACTS.—In establishing annual catch lim-
23 its a Council may, consistent with subsection (h)(6),
24 consider changes in an ecosystem and the economic
25 needs of the fishing communities.

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

5 “(A) an ecosystem-component species;

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

10 “(C) a stock for which—

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

14 “(ii) fishing mortality will have little
15 impact on the stock.

16 “(4) RELATIONSHIP TO INTERNATIONAL FISH-
17 ERY EFFORTS.—

18 “(A) IN GENERAL.—Each annual catch
19 limit, consistent with subsection (h)(6)—

20 “(i) may take into account manage-
21 ment measures under international agree-
22 ments in which the United States partici-
23 pates; and

24 “(ii) in the case of an annual catch
25 limit developed by a Council for a species,

1 shall take into account fishing for the spe-
2 cies outside the exclusive economic zone
3 and the life-history characteristics of the
4 species that are not subject to the jurisdic-
5 tion of the Council.

6 “(B) EXCEPTION TO ANNUAL CATCH LIMIT
7 REQUIREMENT.—If fishery management activi-
8 ties by another country with respect to fishing
9 outside the exclusive economic zone may hinder
10 conservation efforts by United States fishermen
11 for a fish species for which any of the recruit-
12 ment, distribution, life history, or fishing activi-
13 ties are transboundary, and for which there is
14 no informal transboundary agreement with that
15 country in effect, then—

16 “(i) notwithstanding subsection
17 (h)(6), no annual catch limit is required to
18 be developed for the species by a Council;
19 and

20 “(ii) if an annual catch limit is devel-
21 oped by a Council for the species, the catch
22 limit shall take into account fishing for the
23 species outside the exclusive economic zone
24 that is not subject to the jurisdiction of the
25 Council.

1 “(5) AUTHORIZATION FOR MULTISPECIES COM-
2 PLEXES AND MULTIYEAR ANNUAL CATCH LIMITS.—
3 For purposes of subsection (h)(6), a Council may es-
4 tablish—

5 “(A) an annual catch limit for a stock
6 complex; or

7 “(B) annual catch limits for each year in
8 any continuous period that is not more than 3
9 years in duration.

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

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

19 “(B) is not likely to become subject to
20 overfishing or depleted in the absence of con-
21 servation and management measures.

22 “(7) RULE OF CONSTRUCTION.—Nothing in
23 this subsection shall be construed as providing an
24 exemption from the requirements of section 301(a)
25 of this Act.”.

1 (b) ACTION BY THE SECRETARY.—Section 304 (16
2 U.S.C. 1854) is amended—

3 (1) by striking “(i) INTERNATIONAL OVER-
4 FISHING.—” and inserting “(j) INTERNATIONAL
5 OVERFISHING.—”;

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

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

9 “(k) STOCK SURVEYS AND ASSESSMENTS.—Not later
10 than 2 years after the date that the Secretary receives no-
11 tice from a Council under section 302(m), the Secretary
12 shall complete a peer-reviewed stock survey and stock as-
13 sessment of the applicable stock of fish and transmit the
14 results of the survey and assessment to the Council.”.

15 **SEC. 205. LIMITATION ON FUTURE CATCH SHARE PRO-**
16 **GRAMS.**

17 (a) CATCH SHARE DEFINED.—Section 3 (16 U.S.C.
18 1802) is amended by inserting after paragraph (2) the fol-
19 lowing:

20 “(2a) The term ‘catch share’ means any fishery
21 management program that allocates a specific per-
22 centage of the total allowable catch for a fishery, or
23 a specific fishing area, to an individual, cooperative,
24 community, processor, representative of a commer-
25 cial sector, or regional fishery association established

1 in accordance with section 303A(c)(4), or other enti-
2 ty.”.

3 (b) CATCH SHARE REFERENDUM PILOT PRO-
4 GRAM.—

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

8 “(D) CATCH SHARE REFERENDUM PILOT
9 PROGRAM.—

10 “(i) The New England, Mid-Atlantic,
11 South Atlantic, and Gulf of Mexico Coun-
12 cils may not submit a fishery management
13 plan or amendment that creates a catch
14 share program for a fishery, and the Sec-
15 retary may not approve or implement such
16 a plan or amendment submitted by such a
17 Council or a Secretarial plan or amend-
18 ment under section 304(c) that creates
19 such a program, unless the final program
20 has been approved, in a referendum in ac-
21 cordance with this subparagraph, by a ma-
22 jority of the permit holders eligible to par-
23 ticipate in the fishery. For multispecies
24 permits in the Gulf of Mexico, any permit
25 holder with landings from within the sector

1 of the fishery being considered for the
2 catch share program within the 5-year pe-
3 riod preceding the date of the referendum
4 and still active in fishing in the fishery
5 shall be eligible to participate in such a
6 referendum. If a catch share program is
7 not approved by the requisite number of
8 permit holders, it may be revised and sub-
9 mitted for approval in a subsequent ref-
10 erendum.

11 “(ii) The Secretary shall conduct a
12 referendum under this subparagraph, in-
13 cluding notifying all permit holders eligible
14 to participate in the referendum and mak-
15 ing available to them—

16 “(I) a copy of the proposed pro-
17 gram;

18 “(II) an estimate of the costs of
19 the program, including costs to par-
20 ticipants;

21 “(III) an estimate of the amount
22 of fish or percentage of quota each
23 permit holder would be allocated; and

24 “(IV) information concerning the
25 schedule, procedures, and eligibility

1 requirements for the referendum proc-
2 ess.

3 “(iii) For the purposes of this sub-
4 paragraph, the term ‘permit holder eligible
5 to participate’ only includes the holder of
6 a permit for a fishery under which fishing
7 has occurred in 3 of the 5 years preceding
8 a referendum for the fishery, unless sick-
9 ness, injury, or other unavoidable hardship
10 prevented the permit holder from engaging
11 in such fishing.

12 “(iv) The Secretary may not imple-
13 ment any catch share program for any
14 fishery managed exclusively by the Sec-
15 retary unless first petitioned by a majority
16 of those permit holders eligible to partici-
17 pate in the fishery.”.

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

23 (3) REGULATIONS.—Before conducting a ref-
24 erendum under the amendment made by paragraph
25 (1), the Secretary of Commerce shall issue regula-

1 tions implementing such amendment after providing
2 an opportunity for submission by the public of com-
3 ments on the regulations.

4 **SEC. 206. STUDY OF LIMITED ACCESS PRIVILEGE PRO-**
5 **GRAMS FOR MIXED-USE FISHERIES.**

6 (a) STUDY ON LIMITED ACCESS PRIVILEGE PRO-
7 GRAMS.—Not later than 1 year after the date of enact-
8 ment of this Act, the Secretary of Commerce shall seek
9 to enter into an arrangement under which the Ocean Stud-
10 ies Board of the National Academies of Sciences, Engi-
11 neering, and Medicine shall—

12 (1) study the use of limited access privilege pro-
13 grams in mixed-use fisheries, including—

14 (A) identifying any inequities caused by a
15 limited access privilege program;

16 (B) recommending policies to address the
17 inequities identified in subparagraph (A); and

18 (C) identifying and recommending the dif-
19 ferent factors and information a mixed-use fish-
20 ery should consider when designing, estab-
21 lishing, or maintaining a limited access privilege
22 program to mitigate any inequities identified in
23 subparagraph (A); and

24 (2) submit to the appropriate committees of
25 Congress a report on the study under paragraph (1),

1 including the recommendations under subparagraphs
2 (B) and (C) of paragraph (1).

3 (b) TEMPORARY MORATORIUM.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), there shall be a moratorium on the sub-
6 mission and approval of a limited access privilege
7 program for a mixed-use fishery until the date that
8 the report is submitted under subsection (a)(1)(B).

9 (2) EXCEPTION.—Subject to paragraph (3), a
10 Council may submit, and the Secretary of Commerce
11 may approve, for a mixed-use fishery that is man-
12 aged under a limited access system, a limited access
13 privilege program if such program was part of a
14 pending fishery management plan or plan amend-
15 ment before the date of enactment of this Act.

16 (3) MANDATORY REVIEW.—A Council that ap-
17 proves a limited access privilege program under
18 paragraph (2) shall, upon issuance of the report re-
19 quired under subparagraph (a), review and, to the
20 extent practicable, revise the limited access privilege
21 program to be consistent with the recommendations
22 of the report or any subsequent statutory or regu-
23 latory requirements designed to implement the rec-
24 ommendations of the report.

1 (4) RULE OF CONSTRUCTION.—Nothing in this
2 section may be construed to affect a limited access
3 privilege program approved by the Secretary of
4 Commerce before the date of enactment of this Act.

5 **SEC. 207. COOPERATIVE DATA COLLECTION.**

6 (a) IMPROVING DATA COLLECTION AND ANALYSIS.—
7 Section 404 (16 U.S.C. 1881c) is amended by adding at
8 the end the following:

9 “(e) IMPROVING DATA COLLECTION AND ANAL-
10 YSIS.—

11 “(1) IN GENERAL.—Not later than 1 year after
12 the date of enactment of this Act, the Secretary
13 shall develop, in consultation with the science and
14 statistical committees of the Councils established
15 under section 302(g) and the Marine Fisheries Com-
16 missions, and submit to the Committee on Com-
17 merce, Science, and Transportation of the Senate
18 and the Committee on Natural Resources of the
19 House of Representatives a report on facilitating
20 greater incorporation of data, analysis, stock assess-
21 ments, and surveys from State agencies and non-
22 governmental sources described in paragraph (2)
23 into fisheries management decisions.

1 “(2) NONGOVERNMENTAL SOURCES.—Non-
2 governmental sources referred to in paragraph (1)
3 include the following:

4 “(A) Fishermen.

5 “(B) Fishing communities.

6 “(C) Universities.

7 “(D) Research and philanthropic institu-
8 tions.

9 “(3) CONTENT.—In developing the report
10 under paragraph (1), the Secretary shall—

11 “(A) identify types of data and analysis,
12 especially concerning recreational fishing, that
13 can be reliably used for purposes of this Act as
14 the basis for establishing conservation and man-
15 agement measures as required by section
16 303(a)(1), including setting standards for the
17 collection and use of that data and analysis in
18 stock assessments and surveys and for other
19 purposes as determined by the Secretary;

20 “(B) provide specific recommendations for
21 collecting data and performing analyses identi-
22 fied as necessary to reduce uncertainty in and
23 improve the accuracy of future stock assess-
24 ments, including whether such data and anal-
25 ysis could be provided by nongovernmental

1 sources, including fishermen, fishing commu-
2 nities, universities, and research institutions;

3 “(C) consider the extent to which it is pos-
4 sible to establish a registry of persons collecting
5 or submitting the data and performing the
6 analyses identified under subparagraphs (A)
7 and (B); and

8 “(D) consider the extent to which the ac-
9 ceptance and use of data and analyses identi-
10 fied in the report in fishery management deci-
11 sions is practicable.”.

12 (b) PUBLICATION.—The Secretary of Commerce shall
13 make available on the Internet Website of the National
14 Oceanic and Atmospheric Administration the report re-
15 quired under the amendment made by subsection (a) by
16 not later than 1 year after the date of the enactment of
17 this Act.

18 (c) NAS REPORT RECOMMENDATIONS.—The Sec-
19 retary of Commerce shall take into consideration and, to
20 the extent feasible, implement the recommendations of the
21 National Academy of Sciences in the report entitled “Re-
22 view of the Marine Recreational Information Program
23 (2017)”, including—

24 (1) prioritizing the evaluation of electronic data
25 collection, including smartphone applications, elec-

1 tronic diaries for prospective data collection, and an
2 Internet website option for panel members or for the
3 public;

4 (2) evaluating whether the design of the Marine
5 Recreational Information Program for the purposes
6 of stock assessment and the determination of stock
7 management reference points is compatible with the
8 needs of in-season management of annual catch lim-
9 its; and

10 (3) if the Marine Recreational Information Pro-
11 gram is incompatible with the needs of in-season
12 management of annual catch limits, determining an
13 alternative method for in-season management.

14 **SEC. 208. RECREATIONAL FISHING DATA.**

15 Section 401(g) (16 U.S.C. 1881(g)) is amended by
16 redesignating paragraph (4) as paragraph (5), and by in-
17 serting after paragraph (3) the following:

18 “(4) FEDERAL-STATE PARTNERSHIPS.—

19 “(A) ESTABLISHMENT.—The Secretary
20 shall establish partnerships with States to de-
21 velop best practices for implementation of State
22 programs established pursuant to paragraph
23 (2).

24 “(B) GUIDANCE.—The Secretary shall de-
25 velop guidance, in cooperation with the States,

1 that details best practices for administering
2 State programs pursuant to paragraph (2), and
3 provide such guidance to the State.”.

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

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

9 (1) in subparagraph (A), in the second sen-
10 tence—

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

13 (B) by inserting before the period at the
14 end “and a liaison who is a member of the Mid-
15 Atlantic Fishery Management Council to rep-
16 resent the interests of fisheries under the juris-
17 diction of such Council”; and

18 (2) in subparagraph (B), in the second sen-
19 tence—

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

22 (B) by inserting before the period at the
23 end “and a liaison who is a member of the New
24 England Fishery Management Council to rep-

1 resent the interests of fisheries under the juris-
2 diction of such Council”.

3 (b) COUNCIL SEAT.—Section 302(b)(2) (16 U.S.C.
4 1852(b)(2)) is amended—

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

8 (2) in subparagraph (C), in the second sen-
9 tence, by inserting “, and in the case of the Gov-
10 ernor of Alaska with the subsistence fishing interests
11 of the State,” after “interests of the State”.

12 (c) PURPOSE.—Section 2(b)(3) (16 U.S.C.
13 1801(b)(3)) is amended by striking “and recreational”
14 and inserting “, recreational, and subsistence”.

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

22 (e) PROHIBITION ON CONSIDERING FISH SEIZED
23 FROM FOREIGN FISHING.—Any fish that are seized from
24 a foreign vessel engaged in illegal fishing activities in the
25 exclusive economic zone shall not be considered in deter-

1 mining under the Magnuson-Stevens Fishery Conservation
2 and Management Act (16 U.S.C. 1801 et seq.) the total
3 allowable catch for that fishery.

4 **SEC. 210. NORTHEAST REGIONAL PILOT RESEARCH TRAWL**
5 **SURVEY AND STUDY.**

6 (a) **INDUSTRY-BASED PILOT STUDY.**—Within 1 year
7 after the date of the enactment of this Act, the Secretary
8 of Commerce shall, in coordination with the relevant
9 Councils selected by the Secretary and the Northeast Area
10 Monitoring and Assessment Program (NEAMAP), develop
11 a fishing industry-based Northeast regional pilot research
12 trawl survey and study to enhance and provide improve-
13 ment to current National Oceanic and Atmospheric Ad-
14 ministration vessel trawl surveys.

15 (b) **COMPONENTS.**—Under the pilot survey and
16 study—

17 (1) the Secretary—

18 (A) may select fishing industry vessels to
19 participate in the study by issuing a request for
20 procurement;

21 (B) may use the NEAMAP Southern New
22 England/Mid-Atlantic Nearshore Trawl Survey
23 as a model for the pilot survey; and

24 (C) shall outfit participating vessels with a
25 peer-reviewed net configuration; and

1 (2) the selected Councils shall, in partnership
 2 with the National Marine Fisheries Service North-
 3 east Fisheries Science Center and the Virginia Insti-
 4 tute of Marine Science, collect data and evaluate dis-
 5 crepancies between fishing industry vessel data and
 6 National Oceanic and Atmospheric Administration
 7 vessel data, for 5 years.

8 (b) REPORT.—Upon completion of the pilot survey
 9 and study, the Secretary and the selected Councils shall
 10 submit a detailed report on the results of the pilot survey
 11 and study to the Committee on Natural Resources of the
 12 House of Representatives and the Committee on Com-
 13 merce, Science, and Transportation of the Senate.

14 **TITLE III—HEALTHY FISHERIES**
 15 **THROUGH BETTER SCIENCE**

16 **SEC. 301. HEALTHY FISHERIES THROUGH BETTER**
 17 **SCIENCE.**

18 (a) DEFINITION OF STOCK ASSESSMENT.—Section 3
 19 (16 U.S.C. 1802), as amended by section 102(a) of this
 20 Act, is further amended by redesignating the paragraphs
 21 after paragraph (42) in order as paragraphs (44) through
 22 (53), and by inserting after paragraph (42) the following:

23 “(43) The term ‘stock assessment’ means an
 24 evaluation of the past, present, and future status of
 25 a stock of fish, that includes—

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

3 “(i) the geographical boundaries of
4 such stock; and

5 “(ii) information on age, growth, nat-
6 ural mortality, sexual maturity and repro-
7 duction, feeding habits, and habitat pref-
8 erences of such stock; and

9 “(B) fishing for the stock.”.

10 (b) STOCK ASSESSMENT PLAN.—

11 (1) IN GENERAL.—Section 404 (16 U.S.C.
12 1881c), as amended by section 207(a) of this Act,
13 is further amended by adding at the end the fol-
14 lowing:

15 “(f) STOCK ASSESSMENT PLAN.—

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

23 “(2) CONTENTS.—The plan shall—

1 “(A) for each stock of fish for which a
2 stock assessment has previously been con-
3 ducted—

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

8 “(ii) subject to the availability of ap-
9 propriations, require completion of a new
10 stock assessment, or an update of the most
11 recent stock assessment—

12 “(I) every 5 years; or

13 “(II) within such other time pe-
14 riod specified and justified by the Sec-
15 retary in the plan;

16 “(B) for each stock of fish for which a
17 stock assessment has not previously been con-
18 ducted—

19 “(i) establish a schedule for con-
20 ducting an initial stock assessment that is
21 reasonable given the biology and character-
22 istics of the stock; and

23 “(ii) subject to the availability of ap-
24 propriations, require completion of the ini-
25 tial stock assessment within 3 years after

1 the plan is published in the Federal Reg-
2 ister unless another time period is specified
3 and justified by the Secretary in the plan;
4 and

5 “(C) identify data and analysis, especially
6 concerning recreational fishing, that, if avail-
7 able, would reduce uncertainty in and improve
8 the accuracy of future stock assessments, in-
9 cluding whether such data and analysis could
10 be provided by fishermen, fishing communities,
11 universities, and research institutions, to the ex-
12 tent that use of such data would be consistent
13 with the requirements in section 301(a)(2) to
14 base conservation and management measures
15 on the best scientific information available.

16 “(3) WAIVER OF STOCK ASSESSMENT REQUIRE-
17 MENT.—Notwithstanding subparagraphs (A)(ii) and
18 (B)(ii), a stock assessment is not required for a
19 stock of fish in the plan if the Secretary determines
20 that such a stock assessment is not necessary and
21 justifies such determination in the Federal Register
22 notice required by this subsection.”.

23 (2) DEADLINE.—Notwithstanding section
24 404(f)(1) of the Magnuson-Stevens Fishery Con-
25 servation and Management Act, as amended by this

1 section, the Secretary of Commerce shall issue the
2 first stock assessment plan under such section by
3 not later than 2 years after the date of enactment
4 of this Act.

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

6 (a) **ADVICE.**—Section 302(g)(1)(B) (16 U.S.C.
7 1852(g)(1)(B)) is amended by adding at the end the fol-
8 lowing: “Each scientific and statistical committee shall de-
9 velop such advice in a transparent manner and allow for
10 public involvement in the process.”.

11 (b) **MEETINGS.**—Section 302(i)(2) (16 U.S.C.
12 1852(i)(2)) is amended by adding at the end the following:

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

15 “(i) to the extent practicable, a
16 Webcast, an audio recording, or a live
17 broadcast of each meeting of the Council,
18 and of the Council Coordination Com-
19 mittee established under subsection (l),
20 that is not closed in accordance with para-
21 graph (3); and

22 “(ii) audio, video (if the meeting was
23 in person or by video conference), or a
24 searchable audio or written transcript of
25 each meeting of the Council and of the

1 meetings of committees referred to in sec-
 2 tion (g)(1)(B) of the Council by not later
 3 than 30 days after the conclusion of the
 4 meeting.

5 “(H) The Secretary shall maintain and
 6 make available to the public an archive of
 7 Council and scientific and statistical committee
 8 meeting audios, videos, and transcripts made
 9 available under clauses (i) and (ii) of subpara-
 10 graph (G).”.

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

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

14 (1) in paragraph (4)—

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

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

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

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

1 international agreement in which the
2 United States participates dictate oth-
3 erwise;

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

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

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

country may hinder conservation and management efforts by United States fishermen; and

“(V) the Secretary determines that the stock has been affected by unusual events that make rebuilding within the specified time period improbable without significant economic harm to fishing communities;”;

(C) by striking “and” after the semicolon at the end of subparagraph (B), by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), and by inserting after subparagraph (A) the following:

“(B) take into account environmental condition including predator/prey relationships;”;
and

(D) by striking the period at the end of subparagraph (D) (as so redesignated) and inserting “; and”, and by adding at the end the following:

“(E) specify a schedule for reviewing the rebuilding targets, evaluating environmental impacts on rebuilding progress, and evaluating

1 progress being made toward reaching rebuilding
2 targets.”; and

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

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

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

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

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

21 (b) EMERGENCY REGULATIONS AND INTERIM MEAS-
22 URES.—Section 305(c)(3)(B) (16 U.S.C. 1855(c)(3)(B))
23 is amended by striking “180 days after” and all that fol-
24 lows through “provided” and inserting “1 year after the
25 date of publication, and may be extended by publication

1 in the Federal Register for one additional period of not
2 more than 1 year, if”.

3 **SEC. 304. EXEMPTED FISHING PERMITS.**

4 (a) OBJECTIONS.—If the relevant Council, the Inter-
5 state Marine Fisheries Commission, or the fish and wild-
6 life agency of an affected State objects to the approval
7 and issuance of an exempted fishing permit under section
8 600.745 of title 50, Code of Federal Regulations, or any
9 successor regulation, the Regional Administrator of the
10 National Marine Fisheries Service who issued such ex-
11 empted fishing permit shall respond to such entity in writ-
12 ing detailing why such exempted fishing permit was
13 issued.

14 (b) 12-MONTH FINDING.—At the end of the 12-
15 month period beginning on the date the exempted fishing
16 permit is issued under section 600.745 of title 50, Code
17 of Federal Regulations, or any successor regulation, the
18 Council that prepared the fishery management plan, or the
19 Secretary in the case of a fishery management plan pre-
20 pared and implemented by the Secretary, shall review the
21 exempted fishing permit and determine whether any unin-
22 tended negative impacts have occurred that would warrant
23 the discontinuation of the permit.

24 (c) CLARIFICATION.—The Secretary may not issue an
25 exempted fishing permit under section 600.745 of title 50,

1 Code of Federal Regulations, or any successor regulation
2 that—

3 (1) establishes a limited access system as de-
4 fined in section 3 of the Magnuson-Stevens Fishery
5 Conservation and Management Act (16 U.S.C.
6 1802);

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

9 (3) establishes a catch share program as de-
10 fined in section 206(a) of this Act.

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

16 **SEC. 305. COOPERATIVE RESEARCH AND MANAGEMENT**
17 **PROGRAM.**

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

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

22 “(2) Within 1 year after the date of enactment
23 of the Strengthening Fishing Communities and In-
24 creasing Flexibility in Fisheries Management Act,
25 and after consultation with the Councils, the Sec-

1 retary shall publish a plan for implementing and
2 conducting the program established in paragraph
3 (1). Such plan shall identify and describe critical re-
4 gional fishery management and research needs, pos-
5 sible projects that may address those needs, and es-
6 timated costs for such projects. The plan shall be re-
7 vised and updated every 5 years, and updated plans
8 shall include a brief description of projects that were
9 funded in the prior 5-year period and the research
10 and management needs that were addressed by those
11 projects.”; and

12 (2) in subsection (c)—

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

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

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

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

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

1 **SEC. 306. FEDERAL GULF OF MEXICO RED SNAPPER MAN-**
2 **AGEMENT.**

3 (a) IN GENERAL.—Section 407 (16 U.S.C. 1883) is
4 amended to read as follows:

5 **“SEC. 407. CERTIFICATION OF STATE SURVEYS.**

6 “(a) SUBMISSION.—A Gulf State that conducts a ma-
7 rine recreational fisheries statistical survey in the Gulf of
8 Mexico to make catch estimates for red snapper landed
9 in such State may submit such survey to the Secretary
10 for certification.

11 “(b) CERTIFICATION STANDARDS.—Not later than
12 90 days after the date of enactment of the Strengthening
13 Fishing Communities and Increasing Flexibility in Fish-
14 eries Management Act, the Secretary shall establish and
15 provide the Gulf States with standards for certifying State
16 marine recreational fisheries statistical surveys that
17 shall—

18 “(1) ensure that State marine recreational fish-
19 eries statistical surveys are appropriately pilot test-
20 ed, independently peer reviewed, and endorsed for
21 implementation by the reviewers;

22 “(2) use designs consistent with accepted sur-
23 vey sampling practices; and

24 “(3) minimize the potential for bias and known
25 sources of survey error.

26 “(c) CERTIFICATION.—

1 “(1) IN GENERAL.—The Secretary shall make a
2 certification or a denial of certification for any ma-
3 rine recreational fisheries statistical survey sub-
4 mitted under subsection (a) not later than the end
5 of the 6-month period beginning on the date that the
6 survey and information needed to evaluate the sur-
7 vey under the standards established under sub-
8 section (b) are submitted.

9 “(2) TIMING.—In the case of a certification re-
10 quest from a Gulf State, the Secretary shall begin
11 evaluation of the request upon receipt of all informa-
12 tion necessary to make a determination consistent
13 with the standards set forth under subsection (b).

14 “(3) DEEMED CERTIFIED.—A marine rec-
15 reational fisheries statistical survey shall be deemed
16 to be certified effective upon the expiration of the 6-
17 month period described in paragraph (1) if the Sec-
18 retary has not made a certification or denial of cer-
19 tification.

20 “(d) MODIFICATION OF SURVEYS DENIED CERTIFI-
21 CATION.—

22 “(1) IN GENERAL.—If a marine recreational
23 fisheries statistical survey of a Gulf State is denied
24 certification under subsection (c), the Secretary
25 shall, not later than 60 days after the date of the

1 denial, provide the Gulf State a proposal for modi-
2 fications to the survey.

3 “(2) PROPOSAL.—A proposal provided to a Gulf
4 State for a survey under paragraph (1)—

5 “(A) shall be specific to the survey sub-
6 mitted by such Gulf State and may not be con-
7 strued to apply to any other Gulf State;

8 “(B) shall require revision to the fewest
9 possible provisions of the survey; and

10 “(C) may not unduly burden the ability of
11 such Gulf State to revise the survey.

12 “(3) MODIFIED SURVEY.—

13 “(A) AUTHORITY TO SUBMIT.—If a marine
14 recreational fisheries statistical survey of a Gulf
15 State was denied certification under subsection
16 (c), the Gulf State may modify the survey and
17 submit the modified survey to the Secretary for
18 certification or denial of certification.

19 “(B) SCHEDULE.—The Secretary shall
20 make a certification or denial of certification for
21 any modified survey not later than the end of
22 the 30-day period beginning on the date the
23 modified survey is submitted.

24 “(C) DEEMED CERTIFIED.—A modified
25 survey is deemed to be certified effective upon

1 the expiration of the period described in sub-
 2 paragraph (B) if the Secretary has not made a
 3 certification or denial of certification.”.

4 (b) CLERICAL AMENDMENT.—The table of contents
 5 in the first section is amended by striking the item relating
 6 to section 407 and inserting the following:

“Sec. 407. Certification of State surveys.”.

7 **TITLE IV— STRENGTHENING**
 8 **FISHING COMMUNITIES**

9 **SEC. 401. ESTIMATION OF COST OF RECOVERY FROM FISH-**
 10 **ERY RESOURCE DISASTER.**

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

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

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

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

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

1 **SEC. 402. DEADLINE FOR ACTION ON REQUEST BY GOV-**
2 **ERNOR FOR DETERMINATION REGARDING**
3 **FISHERY RESOURCE DISASTER.**

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

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

13 **SEC. 403. NORTH PACIFIC FISHERY MANAGEMENT CLARI-**
14 **FICATION.**

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

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

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

20 **SEC. 404. LIMITATION ON HARVEST IN NORTH PACIFIC DI-**
21 **RECTED POLLOCK FISHERY.**

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

25 “(1) HARVESTING.—

“(A) LIMITATION.—No particular individual, corporation, or other entity may harvest, through a fishery cooperative or otherwise, a percentage of the pollock available to be harvested in the directed pollock fishery that exceeds the percentage established for purposes of this paragraph by the North Pacific Fishery Management Council.

“(B) MAXIMUM PERCENTAGE.—The percentage established by the North Pacific Fishery Management Council shall not exceed 24 percent of the pollock available to be harvested in the directed pollock fishery.”.

SEC. 405. ARCTIC COMMUNITY DEVELOPMENT QUOTA.

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

“(k) ARCTIC COMMUNITY DEVELOPMENT QUOTA.—If the North Pacific Fishery Management Council issues a fishery management plan for the exclusive economic zone in the Arctic Ocean, or an amendment to the Fishery Management Plan for Fish Resources of the Arctic Management Area issued by such Council, that makes available to commercial fishing, and establishes a sustainable harvest level, for any part of such zone, the Council shall set aside not less than 10 percent of the total allowable

1 catch therein as a community development quota for
2 coastal villages located north and east of the Bering
3 Strait.”.

4 **SEC. 406. REALLOCATION OF CERTAIN UNUSED HARVEST**
5 **ALLOCATION.**

6 (a) REALLOCATION.—Notwithstanding any other
7 provision of law, each year upon receipt by the Secretary
8 of Commerce (referred to in this section as the “Sec-
9 retary”) of written notice from the allocation holder
10 named in section 803 of division B of the Consolidated
11 Appropriations Act, 2004 (Public Law 108–199, 16
12 U.S.C. 1851 note) that such holder will not harvest all
13 or a part of the allocation authorized pursuant to that Act,
14 the Secretary shall reallocate for that year the unused por-
15 tion of such allocation to the Bering Sea subarea of the
16 BSAI (as defined in section 679.2 of title 50, Code of Fed-
17 eral Regulations) and shall assign the reallocated unused
18 portion of the allocation only to eligible vessels as de-
19 scribed in subsection (b)(1) for harvest in the Bering Sea
20 subarea of the BSAI, consistent with any agreements as
21 described in subsection (c).

22 (b) ELIGIBILITY TO RECEIVE REALLOCATION.—

23 (1) IN GENERAL.—Only vessels defined in sub-
24 section (a), (b), (c), or (e) of section 208 of the
25 American Fisheries Act (16 U.S.C. 1851 note), or

1 any vessels authorized to replace such vessels, may
2 receive a reallocation described in subsection (a).

3 (2) LIMITATION ON REALLOCATIONS.—The
4 Secretary shall not reallocate the allocation de-
5 scribed in subsection (a) in any year if such realloca-
6 tion exceeds the annual catch limit for pollock in the
7 Bering Sea subarea of the BSAI.

8 (3) CALCULATIONS.—Any amount of the re-
9 allocation described in subsection (a) shall not be
10 used in the calculation of harvesting or processing
11 excessive shares as described in section 210(e) of the
12 American Fisheries Act (16 U.S.C. 1851 note).

13 (4) CONDITIONS.—In any year, the assignment,
14 transfer, or reallocation shall not violate the require-
15 ments of section 206(b) of the American Fisheries
16 Act (title II of the division C of Public Law 105–
17 277; 16 U.S.C. 1851 note).

18 (c) AGREEMENTS.—

19 (1) IN GENERAL.—Each year, the allocation
20 holder named in section 803(a) of division B of the
21 Consolidated Appropriations Act, 2004 (Public Law
22 108–199, 16 U.S.C. 1851 note) may establish one or
23 more agreements with the owners of some or all of
24 the eligible vessels as defined in subsection (b)(1).

1 (2) REQUIREMENTS.—Each agreement de-
2 scribed in paragraph (1)—

3 (A) shall specify those eligible vessels that
4 may receive a reallocation and the amount of
5 reallocation that such vessels may receive in ac-
6 cordance with subsection (b)(2); and

7 (B) may contain other requirements or
8 compensation agreed to by the allocation holder
9 named in section 803 of division B of the Con-
10 solidated Appropriations Act, 2004 (Public Law
11 108–199, 16 U.S.C. 1851 note) and the owners
12 of such eligible vessels, provided such require-
13 ments or compensation are otherwise consistent
14 with the American Fisheries Act (16 U.S.C.
15 1851 note), the Magnuson-Stevens Fishery
16 Conservation and Management Act (16 U.S.C.
17 1801 et seq.), and any other applicable law.

18 (d) EXISTING AUTHORITY.—Except for the measures
19 required by this section, nothing in this section shall be
20 construed to limit the authority of the North Pacific Fish-
21 ery Management Council or the Secretary under the
22 American Fisheries Act (16 U.S.C. 1851 note), the Mag-
23 nuson-Stevens Fishery Conservation and Management Act
24 (16 U.S.C. 1801 et seq.), or other applicable law.

1 (e) ENFORCEMENT.—Taking or processing any part
2 of the allocation made by section 803 of division B of the
3 Consolidated Appropriations Act, 2004 (Public Law 108–
4 199, 16 U.S.C. 1851 note), and reallocated under this sec-
5 tion in a manner that is not consistent with the realloca-
6 tion authorized by the Secretary shall be considered in vio-
7 lation of section 307 of the Magnuson-Stevens Fishery
8 Conservation and Management Act (16 U.S.C. 1857) and
9 subject to the penalties and sanctions under section 308
10 of such Act (16 U.S.C. 1858), and subject to the forfeiture
11 of any fish harvested or processed.

12 (f) CLARIFICATIONS.—

13 (1) AMENDMENT.—Subsection (c) of section
14 803 of division B of the Consolidated Appropriations
15 Act, 2004 (Public Law 108–199, 16 U.S.C. 1851
16 note) is amended by striking “during the years 2004
17 through 2008”.

18 (2) PURPOSE OF REALLOCATION.—Consistent
19 with subsection (d) of section 803 of division B of
20 the Consolidated Appropriations Act, 2004 (Public
21 Law 108–199, 16 U.S.C. 1851 note), the realloca-
22 tion of the unused portion of the allocation provided
23 to the allocation holder named in subsection (a) of
24 such section for harvest in the Bering Sea subarea
25 of the BSAI is for the purposes of economic develop-

1 ment in Adak, Alaska pursuant to the requirements
 2 of the Magnuson-Stevens Fishery Conservation and
 3 Management Act (16 U.S.C. 1801 et seq.).

4 **SEC. 407. COMMUNITY DEVELOPMENT QUOTA PROGRAM**
 5 **PANEL VOTING PROCEDURES.**

6 Section 305(i)(1)(G)(iv) (16 U.S.C.
 7 1855(i)(1)(G)(iv)) is amended to read as follows:

8 “(iv) VOTING REQUIREMENT.—The
 9 panel may act only by the affirmative vote
 10 of five of its members.”.

11 **SEC. 408. PROHIBITION ON SHARK FEEDING OFF COAST OF**
 12 **FLORIDA.**

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

14 (1) by striking “It is unlawful—” and inserting
 15 the following:

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

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

18 “(b) PROHIBITION ON SHARK FEEDING OFF COAST
 19 OF FLORIDA.—

20 “(1) IN GENERAL.—It is unlawful—

21 “(A) for any diver to engage in shark feed-
 22 ing in covered waters; and

23 “(B) for any person to operate a vessel for
 24 hire for the purpose of carrying a passenger to
 25 a site if such person knew or should have

1 known that the passenger intended, at that site,
2 to be a diver—

3 “(i) engaged in shark feeding in cov-
4 ered waters; or

5 “(ii) engaged in observing shark feed-
6 ing in covered waters.

7 “(2) DEFINITIONS.—For purposes of this sub-
8 section:

9 “(A) COVERED WATERS.—The term ‘cov-
10 ered waters’ means Federal waters off the coast
11 of Florida.

12 “(B) DIVER.—The term ‘diver’ means a
13 person who is wholly or partially submerged in
14 covered water and is equipped with a face
15 mask, face mask and snorkel, or underwater
16 breathing apparatus.

17 “(C) SHARK FEEDING.—The term ‘shark
18 feeding’ means—

19 “(i) the introduction of food or any
20 other substance into covered water for the
21 purpose of feeding or attracting sharks; or

22 “(ii) presenting food or any other sub-
23 stance to a shark for the purpose of feed-
24 ing or attracting sharks.

1 “(3) EXCEPTION.—This subsection shall not
2 apply to shark feeding conducted—

3 “(A) by a research institution, university,
4 or government agency for research purposes; or

5 “(B) for the purpose of harvesting
6 sharks.”.

7 **SEC. 409. RESTORATION OF HISTORICALLY FRESHWATER**
8 **ENVIRONMENT.**

9 Section 3(10) (16 U.S.C. 1802) is amended—

10 (1) by inserting a comma after “feeding”; and

11 (2) by inserting the following: “except that such
12 term—

13 “(A) does not include an area that—

14 “(i) was previously covered by land or
15 a fresh water environment; and

16 “(ii) is in a State where the average
17 annual land loss of such State during the
18 20 years before the date of the enactment
19 of the Strengthening Fishing Communities
20 and Increasing Flexibility in Fisheries
21 Management Act exceeds 10 square miles;
22 and

23 “(B) does not apply with respect to a
24 project undertaken by a State or local govern-
25 ment with the purpose of restoration or protec-

1 tion of an area described in subparagraph
2 (A).”.

3 **TITLE V—MISCELLANEOUS**
4 **PROVISIONS**

5 **SEC. 501. MITIGATION FOR IMPACTS TO SUBMERGED**
6 **AQUATIC VEGETATION.**

7 Requirements to conserve or to provide compensatory
8 mitigation for impacts to submerged aquatic vegetation
9 under section 305(b) of the Magnuson-Stevens Fishery
10 Conservation and Management Act (16 U.S.C. 1855(b))
11 shall not apply when a non-Federal entity conducts main-
12 tenance dredging for an authorized Federal navigation
13 project on an inland waterway, inlet, or harbor located in
14 North Carolina, South Carolina, Georgia, or Florida pur-
15 suant to a permit issued under section 404 of the Federal
16 Water Pollution Control Act (33 U.S.C. 1344) or section
17 10 of the Act of March 3, 1899 (33 U.S.C. 403; 30 Stat.
18 1151, chapter 425).

19 **SEC. 502. REPORT ON LIMITED ACCESS PRIVILEGE PRO-**
20 **GRAMS AND CONFLICTS OF INTEREST WITH**
21 **RESPECT TO GULF OF MEXICO AND SOUTH**
22 **ATLANTIC OCEAN RED SNAPPER.**

23 (a) STUDY.—No later than 90 days after the date
24 of the enactment of this Act, the Comptroller General of

1 the United States shall submit to the Congress a report
2 on—

3 (1) the resource rent of limited access privilege
4 programs for red snapper in the Gulf of Mexico and
5 the South Atlantic Ocean;

6 (2) how to reclaim resource rent for red snap-
7 per in the Gulf of Mexico and the South Atlantic
8 Ocean as revenue to the United States Treasury;
9 and

10 (3) the fiduciary conflicts of interest in the Gulf
11 of Mexico Fishery Management Council and the
12 South Atlantic Fishery Management Council relating
13 to red snapper, and effective ways to eliminate such
14 conflicts.

15 (b) LIMITATION.—In implementing this section the
16 Comptroller General shall not consider—

17 (1) fisheries programs in any region other than
18 the Gulf of Mexico and the South Atlantic Ocean;
19 and

20 (2) fisheries management programs for species
21 other than red snapper.

1 **SEC. 503. PLAN FOR ELECTRONIC MONITORING AND RE-**
2 **PORTING PROCEDURES FOR THE NORTH-**
3 **EAST MULTISPECIES FISHERY.**

4 The Secretary, acting through the National Oceanic
5 and Atmospheric Administration, shall submit a plan to
6 the Committee on Natural Resources of the House of Rep-
7 resentatives and the Committee on Commerce, Science,
8 and Transportation of the Senate not less than 180 days
9 after the date of the enactment of this Act that will estab-
10 lish fully operational electronic monitoring and reporting
11 procedures for the Northeast Multispecies Fishery by not
12 later than September 30, 2021. The plan shall include the
13 proposal of the National Oceanic and Atmospheric Admin-
14 istration to cover vessel equipment and installation costs,
15 with daily, half-day, or quarter-day operational costs to
16 be borne by the fishing vessels.

17 **SEC. 504. STUDY OF FEES CHARGED TO LOBSTER FISHING**
18 **INDUSTRY.**

19 Not later than 6 months after the date of the enact-
20 ment of this Act, the Secretary of Commerce, acting
21 through the National Oceanic and Atmospheric Adminis-
22 tration, shall study and report to the Congress on all fees
23 imposed by such Administration on the lobster fishing in-
24 dustry.

1 **SEC. 505. LIMITATION ON APPLICATION OF PROHIBITION**
 2 **ON ATLANTIC STRIPED BASS FISHING IN**
 3 **BLOCK ISLAND SOUND TRANSIT ZONE.**

4 Any prohibition on fishing for Atlantic striped bass
 5 in the Exclusive Economic Zone of the United States im-
 6 posed under Executive Order No. 13449 or section
 7 697.7(b) of title 50, Code of Federal Regulations, shall
 8 not apply in the area described in section 697.7(b)(3) of
 9 title 50, Code of Federal Regulations, commonly referred
 10 to as the Block Island Sound transit zone.

11 **SEC. 506. FUNDING FOR MONITORING IMPLEMENTATION**
 12 **OF NORTHEAST MULTISPECIES FISHERY**
 13 **MANAGEMENT PLAN.**

14 Section 311(f)(4) (16 U.S.C. 1861(f)(4)) is amended
 15 by striking “pursuant to this section” and all that follows
 16 through the end of the sentence and inserting “to enforce
 17 and monitor (including electronic monitoring) implementa-
 18 tion of that Plan.”.

19 **TITLE VI—REEF ASSASSIN ACT**

20 **SEC. 601. SHORT TITLE.**

21 This title may be cited as the “Reef Assassin Act”.

22 **SEC. 602. ENCOURAGING ELIMINATION OF LIONFISH.**

23 (a) IN GENERAL.—Title III of the Magnuson-Stevens
 24 Fishery Conservation and Management Act (16 U.S.C.
 25 1851 et seq.) is amended by adding at the end the fol-
 26 lowing:

1 **“SEC. 321. ENCOURAGING ELIMINATION OF LIONFISH.**

2 “(a) IN GENERAL.—Subject to the approval of an ex-
3 empted fishing permit submitted by a participating State,
4 the Secretary shall issue regulations under which a partici-
5 pating State may issue to an individual submitting lionfish
6 taken in Federal or State waters a tag authorizing the
7 taking of a fish of a covered species in Federal waters
8 in addition to any other fish of that species the individual
9 is authorized to take in Federal waters.

10 “(b) REQUIREMENTS FOR ISSUANCE OF TAG.—The
11 regulations shall require—

12 “(1) the submission of 100 lionfish for each tag
13 issued;

14 “(2) that lionfish taken in State waters must be
15 taken by an individual holding a valid license to en-
16 gage in such fishing issued under the laws of such
17 State; and

18 “(3) that each lionfish shall be submitted by re-
19 moving the tail, placing it in a resealable plastic bag,
20 and submitting such bag to a participating State be-
21 fore the tail has significantly deteriorated.

22 “(c) NO LIMITATION ON NUMBER OF TAGS.—The
23 regulations shall not limit the number of tags that may
24 be issued to an individual.

25 “(d) USE OF TAGS.—The regulations shall provide
26 that a tag issued under the regulations—

1 “(1) shall be valid for the 5-year period begin-
2 ning on the date it is issued;

3 “(2) shall authorize only the recreational or
4 commercial taking of a fish that complies with any
5 size limit that otherwise applies to fishing for such
6 fish in the waters in which it is taken;

7 “(3) shall authorize such taking without regard
8 to any seasonal limitation that otherwise applies to
9 the species of fish taken;

10 “(4) shall authorize—

11 “(A) the transfer of tags to any other per-
12 son; and

13 “(B) use of transferred tags in the same
14 manner as such tags may be used by the person
15 to whom the tags were issued;

16 “(5) shall require that any fish taken under
17 such tag outside any seasonal limitation that other-
18 wise applies to such fish must have the tag fastened
19 between the mouth and gill before being placed in
20 any cooler; and

21 “(6) shall only be utilized for species caught in
22 the same water adjacent a State where the lionfish
23 were originally caught.

24 “(e) APPROVAL OF STATE TO PARTICIPATE.—

1 “(1) CONDITIONS.—The regulations shall re-
2 quire that as a condition of approving a State to
3 issue tags under this section the Secretary shall re-
4 quire the State to designate a repository for lionfish
5 submitted for such tags.

6 “(2) PROVISION OF FREEZER.—The Secretary
7 shall provide to each participating State freezers in
8 which to store submitted lionfish, at a cost of not
9 more than \$500 for each freezer.

10 “(f) ADDITIONAL REQUIREMENTS.—The Secretary
11 shall—

12 “(1) encourage participating States to use ex-
13 isting infrastructure and staff or volunteers to con-
14 duct the State’s program under this section;

15 “(2) include on the webpage of the National
16 Marine Fisheries Service information about the pro-
17 gram under this section; and

18 “(3) encourage State and local governments to
19 work with retailers and distributors to advance the
20 purchasing and consumption of lionfish.

21 “(g) OTHER PROVISIONS NOT AFFECTED.—

22 “(1) IN GENERAL.—This section—

23 “(A) is intended to protect species of fish
24 that are native to waters of the United States
25 or the exclusive economic zone; and

1 “(B) shall not be construed to constrain
2 any fishery, fishing quota, or fishing allocation.

3 “(2) LIMITATION ON CONSIDERATION OF
4 TAGS.—This section and tags issued or authorized to
5 be issued under this section shall not be considered
6 in any determination of fishing levels, quotas, or al-
7 locations.

8 “(h) DEFINITION.—In this section—

9 “(1) the term ‘covered fish’—

10 “(A) except as provided in subparagraph
11 (B), means red snapper, gag grouper,
12 triggerfish, amberjack; and

13 “(B) does not include any species included
14 in a list of endangered species or threatened
15 species under the Endangered Species Act of
16 1973 (16 U.S.C. 1531 et seq.); and

17 “(2) the term ‘participating State’ means a
18 State that has applied and been approved by the
19 Secretary to issue tags under regulations under this
20 section.”.

21 (b) CLERICAL AMENDMENT.—The table of contents
22 in the first section of such Act is amended by adding at
23 the end of the items relating to title III the following:

“Sec. 301. Encouraging elimination of lionfish.”.

24 (c) DEADLINE FOR REGULATIONS.—The Secretary of
25 Commerce shall issue regulations under the amendment

1 made by subsection (a) by not later than 60 days after
2 the approval of an exempted fishing permit submitted by
3 a participating State.

4 (d) RESTRICTION.—Nothing in section 321 shall be
5 construed as to allow for the transfer of fisheries alloca-
6 tion or catch among the various States.

Passed the House of Representatives July 11, 2018.

Attest:

Clerk.

115TH CONGRESS
2^D Session

H. R. 200

AN ACT

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