

STRENGTHENING FISHING COMMUNITIES AND INCREAS-
ING FLEXIBILITY IN FISHERIES MANAGEMENT ACT

DECEMBER 22, 2014.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural
Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 4742]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 4742) to amend the Magnuson-Stevens Fishery Conservation and Management Act to provide flexibility for fishery managers and stability for fishermen, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is the following:

Sec. 1. Short title.

Sec. 2. Table of contents.

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

SEC. 101. DEFINITIONS.

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

SEC. 102. REFERENCES.

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

SEC. 103. FLEXIBILITY IN REBUILDING FISH STOCKS.

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

(1) in paragraph (4)—

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

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

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

“(I) the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;

“(II) the Secretary determines that the cause of the stock being depleted is outside the jurisdiction of the Council or the rebuilding program cannot be effective only by limiting fishing activities;

“(III) the Secretary determines that one or more components of a mixed-stock fishery is depleted but cannot be rebuilt within that time- frame without significant economic harm to the fishery, or cannot be rebuilt without causing another component of the mixed-stock fishery to approach a depleted status;

“(IV) the Secretary determines that recruitment, distribution, or life history of, or fishing activities for, the stock are affected by informal transboundary agreements under which management activities outside the exclusive 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 progress being made toward reaching rebuilding targets.”; and

(2) by adding at the end the following:

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

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

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

“(B) within 90 days after the completion of the next stock assessment after such determination.”.

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

SEC. 104. MODIFICATIONS TO THE ANNUAL CATCH LIMIT REQUIREMENT.

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

“(m) CONSIDERATIONS FOR MODIFICATIONS TO ANNUAL CATCH LIMIT REQUIREMENTS.—

“(1) CONSIDERATION OF ECOSYSTEM AND ECONOMIC IMPACTS.—In establishing annual catch limits a Council may, consistent with section 302(h)(6), consider changes in an ecosystem and the economic needs of the fishing communities.

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

“(A) an ecosystem component species;

“(B) a fishery for a species that has a life cycle of approximately 1 year, unless the Secretary has determined the fishery is subject to overfishing; or

“(C) a stock for which—

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

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

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

“(A) management measures under international agreements in which the United States participates;

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

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

“(4) AUTHORIZATION FOR MULTISPECIES COMPLEXES AND MULTIYEAR ANNUAL CATCH LIMITS.—For purposes of subsection (h)(6), a Council may establish—

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

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

“(5) ECOSYSTEM COMPONENT SPECIES DEFINED.—In this subsection the term ‘ecosystem component species’ means a stock of fish that is a nontarget, incidentally harvested stock of fish in a fishery, or a nontarget, incidentally harvested stock of fish that a Council or the Secretary has determined—

“(A) is not subject to overfishing, approaching a depleted condition or depleted; and

“(B) is not likely to become subject to overfishing or depleted in the absence of conservation and management measures.”.

SEC. 105. DISTINGUISHING BETWEEN OVERFISHED AND DEPLETED.

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

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

(2) by inserting after paragraph (8) the following:

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

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

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

SEC. 106. TRANSPARENCY AND PUBLIC PROCESS.

(a) **ADVICE.**—Section 302(g)(1)(B) (16 U.S.C. 1852(g)(1)(B)) is amended by adding at the end the following: “Each scientific and statistical committee shall develop such advice in a transparent manner and allow for public involvement in the process.”.

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

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

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

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

“(H) The Secretary shall maintain and make available to the public an archive of Council and scientific and statistical committee meeting audios, videos, and transcripts made available under clauses (i) and (ii) subparagraph (G).”.

(c) **FISHERY IMPACT STATEMENTS.**—

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

(A) in subsection (a), by striking paragraph (9) and redesignating paragraphs (10) through (15) as paragraphs (9) through (14), respectively; and

(B) by adding at the end the following:

“(d) **FISHERY IMPACT STATEMENT.**—

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

“(2) The fishery impact statement shall describe—

“(A) a purpose of the proposed action;

“(B) the environmental impact of the proposed action;

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

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

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

“(F) the cumulative conservation and management effects; and

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

“(i) participants in the fisheries and fishing communities affected by the proposed action;

“(ii) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and

“(iii) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery.

“(3) A substantially complete fishery impact statement, which may be in draft form, shall be available not less than 14 days before the beginning of the meeting at which a Council makes its final decision on the proposal (for plans, plan amendments, or proposed regulations prepared by a Council pursuant to subsection (a) or (c)). Availability of this fishery impact statement will be announced by the methods used by the council to disseminate public information and the public and relevant government agencies will be invited to comment on the fishery impact statement.

“(4) The completed fishery impact statement shall accompany the transmittal of a fishery management plan or plan amendment as specified in section 304(a), as well as the transmittal of proposed regulations as specified in section 304(b).

“(5) The Councils shall, subject to approval by the Secretary, establish criteria to determine actions or classes of action of minor significance regarding subparagraphs (A), (B), (D), (E), and (F) of paragraph (2), for which preparation of a fishery impact statement is unnecessary and categorically excluded from the requirements of this section, and the documentation required to establish the exclusion.

“(6) The Councils shall, subject to approval by the Secretary, prepare procedures for compliance with this section that provide for timely, clear, and concise analysis that is useful to decisionmakers and the public, reduce extraneous paperwork and effectively involve the public, including—

“(A) using Council meetings to determine the scope of issues to be addressed and identifying significant issues related to the proposed action;

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

“(C) providing scientific, technical, and legal advice at an early stage of the development of the fishery impact statement to ensure timely transmittal and Secretarial review of the proposed fishery management plan, plan amendment, or regulations to the Secretary.

“(7) Actions taken in accordance with the procedures of this section shall constitute fulfillment of the requirements the National Environmental Policy Improvement Act of 1970 (42 U.S.C. 4371 et seq.) and all related implementing regulations.”

(2) EVALUATION OF ADEQUACY.—Section 304(a)(2) (16 U.S.C. 1854(a)(2)) is amended by striking “and” after the semicolon at the end of subparagraph (B), striking the period at the end of subparagraph (C) and inserting “; and”, and by adding at the end the following:

“(D) evaluate the adequacy of the accompanying fishery impact statement as basis for fully considering the environmental impacts of implementing the fishery management plan or plan amendment.”

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

“(b) REVIEW OF REGULATIONS.—

“(1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, plan amendment, this Act and other applicable law. The Secretary shall also immediately initiate an evaluation of the accompanying fishery impact statement as a basis for fully considering the environmental impacts of implementing the proposed regulations. Within 15 days of initiating such evaluation the Secretary shall make a determination and—”

(4) EFFECT ON TIME REQUIREMENTS.—Section 305(e) (16 U.S.C. 1855(e)) is amended by inserting “the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.),” after “the Regulatory Flexibility Act (5 U.S.C. 601 et seq.)”.

SEC. 107. LIMITATION ON FUTURE CATCH SHARE PROGRAMS.

(a) CATCH SHARE DEFINED.—Section 3 (16 U.S.C. 1802) is amended by inserting after paragraph (2) the following:

“(2a) The term ‘catch share’ means any fishery management program that allocates a specific percentage of the total allowable catch for a fishery, or a specific fishing area, to an individual, cooperative, community, processor, rep-

representative of a commercial sector, or regional fishery association established in accordance with section 303A(c)(4), or other entity.”.

(b) CATCH SHARE REFERENDUM PILOT PROGRAM.—

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

“(D) CATCH SHARE REFERENDUM PILOT PROGRAM.—

“(i) The New England, Mid-Atlantic, South Atlantic, and Gulf of Mexico Councils may not submit a fishery management plan or amendment that creates a catch share program for a fishery, and the Secretary may not approve or implement such a plan or amendment submitted by such a Council or a secretarial plan or amendment under section 304(c) that creates such a program, unless the final program has been approved, in a referendum in accordance with this subparagraph, by a majority of the permit holders eligible to participate in the fishery. For multispecies permits in the Gulf of Mexico, any permit holder with landings from within the sector of the fishery being considered for the catch share program within the 5-year period preceding the date of the referendum and still active in fishing in the fishery shall be eligible to participate in such a referendum. If a catch share program is not approved by the requisite number of permit holders, it may be revised and submitted for approval in a subsequent referendum.

“(ii) The Secretary may, at the request of the New England Fishery Management Council, allow participation in such a referendum for a fishery under the Council’s authority, by fishing vessel crewmembers who derive a significant portion of their livelihood from such fishing.

“(iii) The Secretary shall conduct a referendum under this subparagraph, including notifying all permit holders eligible to participate in the referendum and making available to them—

“(I) a copy of the proposed program;

“(II) an estimate of the costs of the program, including costs to participants;

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

“(IV) information concerning the schedule, procedures, and eligibility requirements for the referendum process.

“(iv) For the purposes of this subparagraph, the term ‘permit holder eligible to participate’ only includes the holder of a permit for a fishery under which fishing has occurred in 3 of the 5 years preceding a referendum for the fishery, unless sickness, injury, or other unavoidable hardship prevented the permit holder from engaging in such fishing.

“(v) The Secretary may not implement any catch share program for any fishery managed exclusively by the Secretary unless first petitioned by a majority of those permit holders eligible to participate in the fishery.”.

(2) LIMITATION ON APPLICATION.—The amendment made by paragraph (1) shall not apply to a catch share program that is submitted to, or proposed by, the Secretary of Commerce before the date of enactment of this Act.

(3) REGULATIONS.—Before conducting a referendum under the amendment made by paragraph (1), the Secretary of Commerce shall issue regulations implementing such amendment after providing an opportunity for submission by the public of comments on the regulations.

SEC. 108. REPORT ON FEE.

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

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

“(i) Congress; and

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

SEC. 109. DATA COLLECTION AND DATA CONFIDENTIALITY.

(a) ELECTRONIC MONITORING.—

(1) ISSUANCE OF REGULATIONS.—

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

(B) CONTENT.—The regulations shall—

- (i) distinguish between monitoring for data collection and research purposes and monitoring for compliance and enforcement purposes; and
 - (ii) include minimum criteria, objectives, or performance standards for electronic monitoring.
- (C) PROCESS.—In issuing the regulations the Secretary shall—
- (i) consult with the Councils and fishery management commissions;
 - (ii) publish the proposed regulations; and
 - (iii) provide an opportunity for the submission by the public of comments on the proposed regulations.
- (2) IMPLEMENTATION OF MONITORING.—
- (A) IN GENERAL.—Subject to subparagraph (B), and after the issuance of the final regulations, a Council, or the Secretary for fisheries referred to in section 302(a)(3) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(3)), may, in accordance with the regulations, on a fishery-by-fishery basis and consistent with the existing objectives and management goals of a fishery management plan and the Act for a fishery issued by the Council or the Secretary, respectively, amend such plan—
- (i) to incorporate electronic monitoring as an alternative tool for data collection and monitoring purposes or for compliance and enforcement purposes (or both); and
 - (ii) to allow for the replacement of a percentage of on-board observers with electronic monitoring.
- (B) COMPARABILITY.—Subparagraph (A) shall apply to a fishery only if the Council or Secretary, respectively, determines that such monitoring will yield comparable data collection and compliance results.
- (3) PILOT PROJECTS.—Before the issuance of final regulations, a Council, or the Secretary for fisheries referred to in section 302(a)(3), may, subject to the requirements of the Magnuson-Stevens Fishery Conservation and Management Act, on a fishery-by-fishery basis, and consistent with the existing objectives and management goals of a fishery management plan for a fishery issued by the Council or the Secretary, respectively, conduct a pilot project for the use of electronic monitoring for the fishery.
- (4) DEADLINE.—The Secretary shall issue final regulations under this subsection by not later than 12 months after the date of enactment of this Act.
- (b) VIDEO AND ACOUSTIC SURVEY TECHNOLOGIES.—The Secretary shall work with the Regional Fishery Management Councils and nongovernmental entities to develop and implement the use pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) of video survey technologies and expanded use of acoustic survey technologies.
- (c) CONFIDENTIALITY OF INFORMATION.—
- (1) IN GENERAL.—Section 402(b) (16 U.S.C. 1881a(b)) is amended—
- (A) in paragraph (1)—
- (i) by amending subparagraph (B) to read as follows:

“(B) to State or Marine Fisheries Commission employees as necessary for achievement of the purposes of this Act, subject to a confidentiality agreement between the State or Commission, respectively, and the Secretary that prohibits public disclosure of the identity of any person and of confidential information;”;
 - (ii) in subparagraph (E), by striking “limited access” and inserting “catch share”; and
 - (iii) in subparagraph (G), by striking “limited access” and inserting “catch share”;
- (B) in paragraph (2)—
- (i) in the matter preceding subparagraph (A), by inserting “, and information obtained through a vessel monitoring system or other technology used onboard a fishing vessel for enforcement or data collection purposes,” after “information”;
 - (ii) by striking “or” after the semicolon at the end of subparagraph (B); and
 - (iii) by striking subparagraph (C) and inserting the following:

“(C) as authorized by any regulations issued under paragraph (6) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

 - “(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

“(ii) to validate the accuracy of the observer information collected; or
 “(D) to other persons if the Secretary has obtained written authorization from the person who submitted such information or from the person on whose vessel the information was collected, to release such information for reasons not otherwise provided for in this subsection.”;

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

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

“(3) Any information submitted to the Secretary, a State fisheries management agency, or a Marine Fisheries Commission by any person in compliance with the requirements of this Act, including confidential information, may only be used for purposes of fisheries management and monitoring and enforcement under this Act.

“(4) The Secretary may enter into a memorandum of understanding with the heads of other Federal agencies for the sharing of confidential information to ensure safety of life at sea or for fisheries enforcement purposes, including information obtained through a vessel monitoring system or other electronic enforcement and monitoring systems, if—

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

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

“(i) to maintain the confidentiality of the information in accordance with the requirements that apply to the Secretary under this section; and

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

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

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

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

“(A) trade secrets;

“(B) proprietary information;

“(C) observer information; and

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

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

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

“(1) IN GENERAL.—

“(A) The Secretary, subject to appropriations, may obligate for data collection purposes in accordance with prioritizations under paragraph (3) a portion of amounts received by the United States as fisheries enforcement penalties.

“(B) Amounts may be obligated under this paragraph only in the fishery management region with respect to which they are collected.

“(2) INCLUDED PURPOSES.—The purposes referred to in paragraph (1) include—

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

“(B) cooperative research activities authorized under section 318 to improve or enhance the fishery independent data used in fishery stock assessments.

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

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

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

“(C) provide those priorities to the Secretary.

“(4) DEFINITIONS.—In this subsection:

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

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

“(ii) for which a fishery stock assessment has not been performed within the preceding 5-year period; or

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

“(B) The term ‘fisheries enforcement penalties’ means any fine or penalty imposed, or proceeds of any property seized, for a violation of this Act or of any other marine resource law enforced by the Secretary.

“(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for each fiscal year to carry out this subsection up to 80 percent of the fisheries enforcement penalties collected during the preceding fiscal year.”.

SEC. 110. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM.

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

(1) in subsection (a), by inserting “(1)” before the first sentence, and by adding at the end the following:

“(2) Within one year after the date of enactment of the Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act, and after consultation with the Councils, the Secretary shall publish a plan for implementing and conducting the program established in paragraph (1). Such plan shall identify and describe critical regional fishery management and research needs, possible projects that may address those needs, and estimated costs for such projects. The plan shall be revised and updated every 5 years, and updated plans shall include a brief description of projects that were funded in the prior 5-year period and the research and management needs that were addressed by those projects.”; and

(2) in subsection (c)—

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

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

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

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

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

SEC. 111. 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

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

SEC. 112. GULF OF MEXICO FISHERIES COOPERATIVE RESEARCH AND RED SNAPPER MANAGEMENT.

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

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

(1) in conjunction with the States, the Gulf of Mexico Fishery Management Council, and the recreational fishing sectors, develop and implement a real-time reporting and data collection program for the Gulf of Mexico red snapper fishery using available technology; and

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

(c) FISHERIES COOPERATIVE RESEARCH PROGRAM.—The Secretary of Commerce—

(1) shall, in conjunction with the States, the Gulf States Marine Fisheries Commission and the Atlantic States Marine Fisheries Commission, the Gulf of Mexico and South Atlantic Fishery Management Councils, and the commercial, charter, and recreational fishing sectors, develop and implement a cooperative research program authorized under section 318 for the fisheries of the Gulf of Mexico and South Atlantic regions, giving priority to those fisheries that are considered data-poor; and

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

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

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

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

(3) in such development and implementation—

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

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

(e) USE OF FISHERIES INFORMATION IN STOCK ASSESSMENTS.—The Southeast Science Center Director shall ensure that fisheries information made available through fisheries programs funded under Public Law 112-141 is incorporated as soon as possible into any fisheries stock assessments conducted after the date of the enactment of this Act.

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

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

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

SEC. 113. NORTH PACIFIC FISHERY MANAGEMENT CLARIFICATION.

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

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

(2) by striking “on August 1, 1996”.

SEC. 114. ENSURING CONSISTENT MANAGEMENT FOR FISHERIES THROUGHOUT THEIR RANGE.

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

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

“(a) NATIONAL MARINE SANCTUARIES ACT AND ANTIQUITIES ACT OF 1906.—In any case of a conflict between this Act and the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) or the Antiquities Act of 1906 (16 U.S.C. 431 et seq.), this Act shall control.

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

“(1) using authority under this Act; and

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

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

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

SEC. 115. LIMITATION ON HARVEST IN NORTH PACIFIC DIRECTED POLLOCK FISHERY.

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

“(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 ex-

ceeds the percentage established for purposes of this paragraph by the North Pacific Council.

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

SEC. 116. RECREATIONAL FISHING DATA.

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

“(4) FEDERAL-STATE PARTNERSHIPS.—

“(A) ESTABLISHMENT.—The Secretary shall 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 States.

“(C) BIENNIAL REPORT.—The Secretary shall submit to the Congress and publish biennial reports that include—

“(i) the estimated accuracy of the registry program established under paragraph (1) and of State programs that are exempted under paragraph (2);

“(ii) priorities for improving recreational fishing data collection; and

“(iii) an explanation of any use of information collected by such State programs and by the Secretary, including a description of any consideration given to the information by the Secretary.

“(D) STATES GRANT PROGRAM.—The Secretary shall make grants to States to improve implementation of State programs consistent with this subsection. The Secretary shall prioritize such grants based on the ability of the grant to improve the quality and accuracy of such programs.”

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

“(6) STUDY ON PROGRAM IMPLEMENTATION.—

“(A) IN GENERAL.—Not later than 60 days after the enactment of this paragraph, the Secretary shall enter into an agreement with the National Research Council of the National Academy of Sciences to study the implementation of the programs described in this section. The study shall—

“(i) provide an updated assessment of recreational survey methods established or improved since the publication of the Council’s report ‘Review of Recreational Fisheries Survey Methods (2006)’;

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

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

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

SEC. 117. STOCK ASSESSMENTS USED FOR FISHERIES MANAGED UNDER GULF OF MEXICO COUNCIL’S REEF FISH MANAGEMENT PLAN.

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

“SEC. 409. STOCK ASSESSMENTS USED FOR FISHERIES MANAGED UNDER GULF OF MEXICO COUNCIL’S REEF FISH MANAGEMENT PLAN.

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

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

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

“(A) incorporate fisheries survey information collected by university researchers; and

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

“(2) SURVEYS AT ARTIFICIAL REEFS.—Any such fishery stock assessment conducted after the date of the enactment of the Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act shall incorporate

fishery surveys conducted, and other relevant fisheries information collected, on and around natural and artificial reefs.

“(c) CONSTITUENT AND STAKEHOLDER PARTICIPATION.—Each such fishery assessment shall—

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

“(2) contain all of the raw data used in the assessment and a description of the methods used to collect that data; and

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

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

“(B) a panel of independent experts to review the data and assessment and make recommendations on the most appropriate values of critical population and management quantities.”.

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

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

SEC. 118. ESTIMATION OF COST OF RECOVERY FROM FISHERY RESOURCE DISASTER.

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

(1) by inserting “(A)” after “(1)”;

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

(3) by adding at the end the following:

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

SEC. 119. DEADLINE FOR ACTION ON REQUEST BY GOVERNOR FOR DETERMINATION REGARDING FISHERY RESOURCE DISASTER.

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

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

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

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

SEC. 121. PROHIBITION ON CONSIDERING FISH SEIZED FROM FOREIGN FISHING.

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

SEC. 122. SUBSISTENCE FISHING.

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

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

“(B) In this paragraph—

“(i) the term ‘family’ means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

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

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

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

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

(1) in subparagraph (A), by striking “or recreational” and inserting “, recreational, or subsistence fishing”; and

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

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

SEC. 123. INTER-SECTOR TRADING OF COMMERCIAL CATCH SHARE ALLOCATIONS IN THE GULF OF MEXICO.

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

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

SEC. 124. AUTHORIZATION OF APPROPRIATIONS.

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

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

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

TITLE II—REVITALIZING THE ECONOMY OF FISHERIES IN THE PACIFIC

SEC. 201. SHORT TITLE.

This title may be cited as the “Revitalizing the Economy of Fisheries in the Pacific Act” or the “REFI Pacific Act”.

SEC. 202. FINDINGS; PURPOSE.

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

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

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

(3) In 2003, Congress authorized the \$35,700,000 buyback loan, creating the Pacific Coast groundfish fishing capacity reduction program through the National Marine Fisheries Service fisheries finance program with a term of 30 years. The interest rate of the buyback loan was fixed at 6.97 percent and is paid back based on an ex-vessel fee landing rate not to exceed 5 percent for the loan.

(4) The groundfish fishing capacity reduction program resulted in the removal of limited entry trawl Federal fishing permits from the fishery, representing approximately 46 percent of total landings at the time.

(5) Because of an absence of a repayment mechanism, \$4,243,730 in interest accrued before fee collection procedures were established in 2005, over 18 months after the groundfish fishing capacity reduction program was initiated.

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

(7) By 2015, West Coast groundfish fishermen’s expenses are expected to include fees of approximately \$450 per day for observers, a 3-percent cost recovery fee as authorized by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801) for catch share programs, and a 5-percent ex-vessel landings rate for the loan repayment, which could reach 18 percent of their total gross revenue.

(8) In 2012, the West Coast groundfish limited entry trawl fishery generated \$63,000,000, an increase from an average of \$45,000,000 during the years 2006 to 2011. This revenue is expected to continue to increase post-rationalization.

(b) PURPOSE.—The purpose of this title is to refinance the Pacific Coast groundfish fishery fishing capacity reduction program to protect and conserve the West Coast groundfish fishery and the coastal economies in California, Oregon, and Washington that rely on it.

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

(a) **IN GENERAL.**—The Secretary of Commerce, upon receipt of such assurances as the Secretary considers appropriate to protect the interests of the United States, shall issue a loan to refinance the existing debt obligation funding the fishing capacity reduction program for the West Coast groundfish fishery implemented under section 212 of the Department of Commerce and Related Agencies Appropriations Act, 2003 (title II of division B of Public Law 108–7; 117 Stat. 80).

(b) **APPLICABLE LAW.**—Except as otherwise provided in this section, the Secretary shall issue the loan under this section in accordance with subsections (b) through (e) of section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a) and sections 53702 and 53735 of title 46, United States Code.

(c) **LOAN TERM.**—

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

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

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

(e) **INTEREST RATE.**—

(1) **IN GENERAL.**—Notwithstanding section 53702(b)(2) of title 46, United States Code, the annual rate of interest an obligor shall pay on a direct loan obligation under this section is the percent the Secretary must pay as interest to borrow from the Treasury the funds to make the loan.

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

- (A) shall receive the interest rate described in paragraph (1); and
- (B) may be paid off at any time notwithstanding subsection (c)(1).

(f) **EX-VESSEL LANDING FEE.**—

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

(A) as low as possible, based on recent landings value in the fishery, to meet the requirements of loan repayment;

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

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

(2) **DEADLINE FOR INITIAL EX-VESSEL LANDINGS FEE CALCULATION.**—Not later than 60 days after the date of issuance of the loan under this section, the Secretary shall recalculate the ex-vessel landing fee based on the most recent value of the fishery.

(g) **AUTHORIZATION.**—There is authorized to be appropriated to the Secretary of Commerce to carry out this section an amount equal to 1 percent of the amount of the loan authorized under this section for purposes of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

PURPOSE OF THE BILL

The purpose of H.R. 4742 is to amend the Magnuson-Stevens Fishery Conservation and Management Act to provide flexibility for fishery managers and stability for fishermen.

BACKGROUND AND NEED FOR LEGISLATION

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), initially passed in 1976, is the primary law dealing with fisheries resources and fishing activities in Federal waters which, are defined as those waters extending from the edge of state waters to the 200-mile limit.

The Secretary of Commerce, working through the National Marine Fisheries Service (NMFS) within the National Oceanic and At-

mospheric Administration (NOAA), has the responsibility for implementing the Magnuson-Stevens Act.

The Act not only provides the structure for commercial and recreational fishermen to harvest a federal natural, renewable resource, but also provides economic activity and opportunities for coastal communities and especially for fishery-dependent communities through fishing, processing jobs, and other related businesses. In addition to jobs and economic activity, the Magnuson-Stevens Act is the statute that regulates the harvest of a sustainable, healthy food source. Finally, the Act allows access to a large number of recreationally-important species for the for-hire industry and for private saltwater anglers. Both commercial and recreational fishing activities provide significant economic ripple effects for coastal communities. All of these activities require healthy fish populations, but they also require that management regulations not be so inflexible that the activities—and the benefits of those activities—cannot be realized.

The key themes of the Act include: regional flexibility that allows each region the ability to create unique management solutions to regional challenges; the optimum use of the Nation's fishery resources; prevention of overfishing and the rebuilding of overfished fisheries; science-based management; and a transparent, public process that allows both managers and those who are most affected by the management decisions to have a seat at the table when these management decisions are made. For management to be effective, the scientific underpinnings must be accurate, up-to-date, transparent, and understandable.

Federal fisheries that are managed under the Act provide not only recreational opportunities for anglers, and economic engines for coastal communities, but also provide a significant food source for both the United States and the world. According to NOAA's "Fisheries Economics of the U.S., 2012" report, U.S. commercial and recreational saltwater fishing activities generated more than \$199 billion in sales in 2012. According to the report, the U.S. seafood industry—which includes the commercial harvest sector, seafood processors and dealers, seafood wholesalers and distributors, importers, and seafood retailers—supported approximately 1.3 million full-time and part-time jobs and generated \$141 billion in sales impacts, \$39 billion in income impacts, and \$59 billion in value-added impacts. During this period, U.S. commercial fishermen landed 9.6 billion pounds of finfish and shellfish (with an ex-vessel value of \$5.1 billion). In addition, there were approximately 11 million recreational saltwater anglers across the U.S. who took 72 million saltwater fishing trips around the country. These anglers spent \$4.6 billion on fishing trips and \$20 billion on durable fishing-related equipment. These expenditures contributed \$58 billion in sales impacts to the U.S. economy, generated \$30 billion in value-added impacts, and supported over 381,000 jobs.

Background

The primary goals at the time of enactment of the Fishery Conservation and Management Act (the original name of the Act now known as the Magnuson-Stevens Fishery Conservation and Management Act) were the conservation and management of U.S. fishery resources, the development of U.S. domestic fisheries, and the

phasing-out of foreign fishing activities within the 200-mile fisheries conservation zone adjacent to the U.S. coastline. This area became known as the Exclusive Economic Zone (EEZ) following a 1983 proclamation by President Ronald Reagan.

The Magnuson-Stevens Act created eight Regional Fishery Management Councils. These Councils are charged with implementing the goals of the Magnuson-Stevens Act (in coordination with NMFS), including the 10 National Standards which are the guiding principles for the conservation and management of the domestic fishery resources. In addition to managing the fisheries resources for conservation purposes, Councils are responsible for allocating resources among various and often competing users.

According to the Act, "each Council shall reflect the expertise and interest of the several constituent States in the ocean area over which such Council is granted authority." The Act specifies which states are under the jurisdiction of each Council, specifies the number of seats on each Council, and which of those seats will be selected from nominations by the Governors.

These Councils are comprised of: a state representative from the state agency with the responsibility for marine fisheries management for each affected state; representatives of NOAA and other appropriate Federal agencies (the regional director of the Fish and Wildlife Service for the region, the commandant of the Coast Guard for the region, the executive director of the Marine Fisheries Commission for the region, and a representative of the State Department serve as non-voting members of each Council); and individuals from the commercial and recreational fishing industry or individuals with other fishery expertise.

These private individuals are nominated by the Governors of the affected states and are appointed by the Secretary of Commerce. Governors submit a roster of three names for each open seat, and the Secretary is required to choose from these lists. Individuals serve three year terms and may not serve more than three consecutive terms. The Councils allow stakeholders and those with direct knowledge of the fisheries and the marine environment to be involved in creating the rules for managing the fisheries in federal waters. While the Councils provide the venue for these discussion and decisions to be made, any actions taken by the Councils must be approved or disapproved by the Secretary of Commerce.

Councils are charged with implementing the Act, in coordination with NMFS, and in accordance with the 10 National Standards mentioned above. National Standard 1 requires that conservation and management measures prevent overfishing while achieving the optimum yield from each fishery. This requires a balancing act between the conservation of the Nation's fishery resources and providing the optimum yield for the domestic fishing industry which translates to economic activity for fishery-dependent businesses and many coastal communities. In addition, National Standard 2 of the Act requires Councils to establish conservation and management measures based on "the best scientific information available."

To meet these National Standards, Councils prepare a fishery management plan (FMP) for each fishery (except for Atlantic highly migratory species—tunas, swordfish, marlins, etc.—which are managed by the Secretary). FMPs are often developed for more than one stock of fish. As an example, the Bering Sea groundfish

FMP covers more than 19 stocks of fish. These FMPs require scientific assessments of the fishery resources and then the issuance of allocations of catch for the domestic fishing fleet—often requiring separate allocations between different sectors of the fishing industry (commercial, recreational, and charter sectors).

In addition to the National Standards, the Act includes 15 conservation and management measures that each FMP must contain. The Act also includes 14 discretionary authorities for measures that a Council may include in each FMP. Each FMP is required, among other things, to include: a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location; the cost likely to be incurred in management; actual and potential revenues from the fishery; any recreational interest in the fishery; a description and identification of essential fish habitat; a description of the commercial, recreational, and charter fishing sectors which participate in the fishery, including its economic impact; and a mechanism for specifying annual catch limits in the plan (including a multiyear plan) at a level such that overfishing does not occur in the fishery, and which must include measures to ensure accountability. Many FMPs have been modified numerous times; for example, the Bering Sea groundfish FMP has been amended more than 90 times.

Following the development of FMP, a Council forwards the plan to the Secretary of Commerce. The Secretary must approve the plan, disapprove the plan, or partially disapprove the plan. If the Secretary disapproves or partially disapproves a plan, it is sent back to the Council for further consideration. If the plan is approved, NMFS then issues regulations to implement the plan.

There are currently 46 fishery management plans that cover 528 individual fish stocks or stock complexes.

Overview of the 2006/2007 amendments

The Magnuson-Stevens Act was last reauthorized at the end of the 109th Congress in 2006 and was signed into law in early 2007. Appropriations for the Act are currently authorized through Fiscal Year 2013.

The main provisions of the 2006/2007 reauthorization included: a requirement that Councils not set harvest levels above the level recommended by the Council's Science and Statistical Committee (SSC); that each fishery management plan have, by 2011, a mechanism for setting an Annual Catch Limit (ACL) at a level to ensure overfishing is not taking place; that the fishery management plans also have measures for ensuring accountability (Accountability Measures or AMs); and guidelines for the development of Limited Access Privilege Programs (LAPPs). The 2006/2007 amendments also required NOAA to establish a program to improve the quality and accuracy of information generated by the Marine Recreational Fishery Statistics Survey no later than January 1, 2009.

The 2006/2007 amendments were intended to require Councils to base harvest levels on the advice of scientists, set annual harvest levels for each fishery, and establish methods for ensuring accountability so that the harvest levels were not exceeded. While these amendments have improved fisheries conservation and management in many fisheries, in some regions the information necessary

to adequately implement these new requirements is not available. In these data-poor fisheries and regions, these new requirements are viewed as being too rigid and this lack of flexibility is creating economic hardship.

Current reauthorization

While the Magnuson-Stevens Act is a national law, it delegates a significant amount of decision-making to the regions and to the states and stakeholders through the Regional Fishery Management Councils. These Councils allow the states and the people who are affected by the fishery management plans to use their expertise and on-the-water knowledge of the fisheries and the marine environment to create management plans that are reasonable, effective, and enforceable. The Magnuson-Stevens Act provides the broad framework while allowing each region to react to its own challenges and conditions. This is the key to the Act and one that must be maintained while updating this important law.

Since 2011, ten Full Committee or Subcommittee hearings related either to the reauthorization of the Act or to Federal fisheries management have been held: July 26, 2011, Oversight hearing on “NOAA’s Fishery Science: Is the Lack of Basic Science Costing Jobs?,” Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs; December 1, 2011, Legislative hearing on H.R. 594, H.R. 1013, H.R. 1646, H.R. 2304, H.R. 2610, H.R. 2753, H.R. 2772 and H.R. 3061, Full Committee; March 22, 2012, Oversight hearing on “Empty Hooks: The National Ocean Policy is the Latest Threat to Access for Recreational and Commercial Fishermen,” Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs; August 25, 2012, Oversight field hearing on “Fishing = Jobs: How Strengthening America’s Fisheries Strengthens Our Economy,” Full Committee; March 13, 2013, Oversight hearing on the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act, Full Committee; May 21, 2013, Oversight hearing on data collection issues in relation to the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act, Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs; June 27, 2013, Oversight hearing on the management of Red Snapper in the Gulf of Mexico under the Magnuson-Stevens Fishery Conservation and Management Act, Full Committee; September 11, 2013, Oversight hearing on the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act, Full Committee; February 4, 2014, and February 28, 2014, Legislative hearing on H.R. ___ (Chairman’s Discussion Draft), Full Committee; and April 3, 2014, Legislative hearing on H.R. 69, H.R. 2646, and H.R. ___, Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs.

The Committee heard from 99 total witnesses (74 non-governmental/25 Federal or state governmental witnesses) and 83 different witnesses (63 non-governmental/20 Federal or state governmental witnesses) which included Members of Congress, Federal and state governmental witnesses, representatives from the regional fishery management councils and the interstate fisheries commissions, representatives from the commercial, recreational, charter and processing sectors, academics, environmentalists, and others with an interest in federal fisheries management.

In addition to these hearings, a number of factors contributed to the development of this reauthorization legislation. In addition to the Managing Our Nation's Fisheries conference and the National Academies of Sciences report (discussed below), recommendations from a number of papers and conferences also were considered by Members of the Committee in developing H.R. 4742.

Managing Our Nation's Fisheries, advancing sustainability

In May 2013, the third Managing Our Nation's Fisheries conference was convened (previous Managing Our Nation's Fisheries conferences had been held in 2003 and 2005). This conference was hosted by the eight regional fishery management councils and focused specifically on issues for the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act. Each of the eight Councils submitted a list of the conservation and management requirements and activities that work well in their geographic region, a list of those conservation and management requirements and activities that do not work in their region, and recommendations for changes to the Act which would improve conservation and management measures while achieving optimum yield from the Nation's fishery resources. The conference resulted in 128 "findings" and many of these were recommendations for statutory changes to the Act.

National Academies of Sciences

The Ocean Studies Board of the National Academy of Sciences convened an ad hoc committee to develop a report titled "Evaluating the Effectiveness of Stock Rebuilding Plans of the 2006 Fishery Conservation and Management Reauthorization Act." The ad hoc committee was charged with undertaking an analysis of the effects of the Magnuson-Stevens Act mandate to rebuild overfished stocks, including an evaluation of success in stock rebuilding, and the identification of changes made to fisheries management in response to rebuilding requirements. The report was issued on September 5, 2013, and concluded that:

The current implementation of the MSFMCA relies on a prescriptive approach that has resulted in demonstrated successes in identifying and rebuilding overfished stocks. Fishing mortality has generally been reduced, and stock biomass has generally increased, for stocks that were placed under a rebuilding plan. Where they have been estimated, the long-term net economic benefits of rebuilding appear to be generally positive. Stocks that rebuilt or whose biomass increased appreciably were, in almost all cases reviewed, experiencing fishing mortalities below FMSY [the level of fishing mortality that results in the maximum sustainable yield], and often lower than 75% of FMSY. More extreme reductions in target fishing mortalities have been implemented in situations in which rebuilding progress was slower than anticipated when the rebuilding plan was adopted, or the target year for rebuilding was approaching. In some cases rebuilding plans have failed to reduce fishing mortality as much as intended, either due to overestimation of stock sizes or implementation issues, and rebuilding has been slow or has not occurred.

The legal and prescriptive nature of rebuilding mandates forces difficult decisions to be made, ensures a relatively high level of ac-

countability, and can help prevent protracted debate over whether and how stocks should be rebuilt. Setting rebuilding times is useful for specifying target fishing mortality rates for rebuilding and for avoiding delays in initiating rebuilding plans, which would otherwise require more severe management responses. However, the focus on trying to achieve a rebuilding target by a given time places unrealistic demands on the science, and forces reliance on forecasts and estimates of biomass-based reference points, which may be very uncertain. Emphasis on meeting fishing mortality targets rather than on exact schedules for attaining biomass targets may result in strategies that are more robust to assessment uncertainties, natural variability and ecosystem considerations, and less prone to rapid changes in management measures, which have social and economic impacts that may be more severe than more gradual changes. The choice between a rapid or gradual response involves tradeoffs between economic and social impacts and ecological/resource risks, which should be evaluated. The current approach is designed for the nations' most valuable, high-volume stocks, but over half of the nation's stocks have not been assessed and their status is unknown, rendering application of FMSY-based control rules unrealistic. Alternate paradigms should be considered for these data-poor stocks.

The Committee offers comments on major issues of rebuilding with a long-term view at further improving the efficiency of the current approach to stock rebuilding. These issues directly or indirectly relate to the overarching issue of what is the appropriate balance between prescription and flexibility in stock rebuilding. Many of our comments could serve as suggestions for research and application to future revisions of National Standard Guidelines to improve the overall performance of stock rebuilding programs and thereby enhance the benefits derived from fisheries in the future.

In addition, the report provided the following findings:

The mixed outcomes of rebuilding plans have added to concerns about the significant social and economic costs associated with the implementation of time-constrained rebuilding plans. To address these rebuilding challenges, the committee highlights the following key findings for consideration by scientists, managers, and policy makers:

1. Harvest control rules that promptly, but gradually reduce fishing mortality as estimated stock size falls below BMSY [the biomass of a stock of fish necessary to produce maximum sustainable yield] could result in a lower likelihood of a stock becoming overfished and provide an approach for rebuilding if necessary;
2. Fishing mortality reference points seem to be more robust to uncertainty than biomass reference points both in the context of rebuilding and more generally;
3. Rebuilding plans that focus more on meeting selected fishing mortality targets than on exact schedules for attaining biomass targets may be more robust to assessment uncertainties, natural variability and ecosystem considerations, and have lower social and economic impact.
 - a. The rate at which a fish stock rebuilds depends on ecological and other environmental conditions, in addition to the fishing-induced mortality

b. A rebuilding strategy that maintains reduced fishing mortality for an extended period (e.g., longer than the mean generation time) would rebuild the stock's age structure and be less dependent on environmental conditions than one that requires rebuilding to pre-specified biomass targets, and

c. When rebuilding is slower than expected, keeping fishing mortality at a constant level below FMSY may forgo less yield and have fewer social and economic impacts than a rule that requires ever more severe controls to meet a predetermined schedule for reaching a biomass target.

4. In the case of data-poor stocks for which analytical assessments are not available and catch limits are therefore difficult to establish, empirical rebuilding strategies that rely on input controls to reduce fishing mortality may be more effective and defensible than strategies based on annual catch limits and BMSY targets.

5. Retrospective reviews of the socioeconomic impacts of rebuilding plans are rare, in part due to data availability. Such reviews would help in refining rebuilding plans and objectives and ameliorating for the consequences of such actions.

H.R. 4742, THE STRENGTHENING FISHING COMMUNITIES AND
INCREASING FLEXIBILITY IN FISHERIES MANAGEMENT ACT

The Magnuson-Stevens Act is based on a few fundamental policies—that the management of fisheries needs to be governed by broad, general principles (embodied in the 10 National Standards) and that the Act needs to be implemented at the regional level by those who best understand the fisheries. The Act needs to remain flexible enough that the regional differences and challenges can be addressed by each region. In addition, the Act requires a balance between achieving the optimum yield from the Nation's fishery resources and the need to prevent overfishing.

In addition to reauthorizing this important natural resource statute, this legislation provides a number of important changes to ensure that this law remains a science-driven, transparent, regionally flexible, and responsive statute that recognizes the need to conserve and manage the fisheries while at the same time provide economic activity and jobs for coastal communities and a sustainable source of food for the Nation.

Flexibility

One of the key factors in the success of the Magnuson-Stevens Act is the regional flexibility that the Act provides. Differing ocean conditions, different types of fisheries, different harvest methods, and different community impacts are all taken into account by the Councils. The 2006 amendments attempted to create a uniform, science-based management system that required sound scientific advice and accountability from fishermen. This required the Councils to have a significantly increased level of information—both on the biology of the fishery resources, and on the harvest activities of the managed sectors.

With this in mind, the 2006 amendments to the Act attempted to impose the “Alaska Model” of fisheries management on the other seven Regional Fishery Management Councils. The “Alaska Model”

had been very successful in the management and utilization of the fisheries in both the Bering Sea/Aleutian Islands and in the Gulf of Alaska. The key components of the 2006 amendments were a requirement that harvest levels be set based on scientific recommendations, that annual catch limits be set for fisheries and sectors, and that there be accountability measures in place to ensure that the annual catch limits were adhered to.

The National Standard 1 Guidelines, written by NOAA to implement the new provisions of the 2006 amendments, included provisions detailing how Councils and their Scientific and Statistical Committees (SSC) should factor uncertainty into the development of harvest levels. These Guidelines requires the SSCs to incorporate precautionary buffers in cases where either scientific or management uncertainty existed. In some fisheries, this resulted in multiple levels of buffers being incorporated and harvest levels set artificially low which resulted in economic instability to communities dependent on these fisheries. This became particularly difficult for regions where landing information, stock surveys, and stock assessments were either inadequate or out-of-date. As noted above, this management concept was based on the “Alaska Model” of fisheries conservation and management developed by the North Pacific Fishery Management Council. This Council was able to use decades of annual surveys as well as a high level of on-board observer data to meet these goals. Unfortunately, testimony heard by the Natural Resources Committee indicated that this high level of information was not available in other regions and for other Councils. This has made compliance with the 2006 amendments difficult and, in some regions, has caused hardship for fishermen and fishery-dependent communities.

In particular, the requirement to rebuild overfished fisheries within specific timelines, combined with inadequate data and the imposition of uncertainty buffers, became one of the most often discussed concerns with the current Act. As noted above, this issue was examined by the National Academy of Sciences and the Committee heard testimony and recommendations from Councils, States, communities, and fishermen suggesting additional flexibility in the rebuilding requirements of the Act.

While flexibility in the rebuilding provisions would allow Councils to extend the timeframe for rebuilding overfished/depleted fisheries and lessen the economic impact on communities, in making the change the bill would not change the requirement in current law that requires harvest levels be based on science and at a level that overfishing will not occur.

It is important to note that according to the “2013 Annual Report on the Status of U.S. Fisheries,” 83 percent of the managed stocks or stock complexes are not overfished, and in 91 percent of those stocks or stock complexes, overfishing is not taking place. So while this bill would allow flexibility in rebuilding some fisheries, the number of fisheries affected is limited.

While some have opposed any changes in the current rebuilding requirement, in 2006 Congress recognized that some fisheries might not be able to meet the 10-year rebuilding timeframe even if the biology of the species indicated that it should be able to. At that time, the summer flounder fishery was undergoing rebuilding. The biomass was increasing, the spawning biomass was increasing,

and the fishing effort had decreased. Despite these positive trends, the fishery was unlikely to meet the rebuilding deadline. Recognizing this, the 2006 amendments to the Act specifically extended the time for rebuilding this fishery. At the time the House passed the 2006 amendments, Congressman Barney Frank (D-MA), noted that while Congress was addressing this rebuilding timeframe problem for this one fishery, this was not likely to be an isolated experience.

In addition to requiring that most fisheries be rebuilt within 10 years, the current Act also requires that overfished fisheries be rebuilt in a time period that is “as short as possible” while taking into account certain factors. This requirement has, in some cases, caused unnecessary harvest restrictions. In one case, the Pacific Council’s SSC recommended several harvest alternatives for the 2002 groundfish fishery which would result in rebuilding an overfished fishery while providing a reasonable, science-based harvest. In a decision regarding those alternatives, the Federal 9th Circuit Court required the Pacific Council to pick the lower harvest level recommended by the Council’s SSC despite the fact that the lower harvest level would cause economic harm. In other words, the Council was forced to take an action that harmed the fishing industry when the alternative advocated by the Council was biologically acceptable and would not have adversely affected rebuilding.

Although this court decision was made years ago, its effect continues to cause economic harm. According to a witness at one of the Committee’s hearings, “This has led to absurdities where the Council has been forced to choose lower harvest limits even though analysis provided by its Scientific and Statistical Committee shows that a higher limit would allow rebuilding in the same year, albeit a few months later than the lower limit. In two cases involving harvest levels for 2013—canary rockfish and darkblotched rockfish—this was a difference of 30 metric tons”. These species are caught incidentally in the West Coast groundfish fishery and as incidental species, they affect how much of the target species can be caught. The 30-metric tons represent 75% of the incidental harvest limit for the fishery and could severely limit the amount of the target species that could be caught—causing unnecessary economic harm to West Coast fishermen.

The bill would replace the word “possible” with “practicable” to allow Councils the flexibility to choose harvest levels that will minimize economic harm as long as rebuilding will continue within the statutory time constraints. This change would not impose a new legal standard in the Act and would not undermine rebuilding efforts. In fact, the word “practicable” is already used 28 times in the Act—including in six of the ten National Standards. It is not a new concept or one that the agency will not know how to interpret. Nor will this provision allow Councils to ignore the need to rebuild overfished fisheries.

Finally, the bill provides some flexibility in how the requirement to set Annual Catch Limits may be implemented by Councils.

Science-based management and the need for increased information

A recurring theme in the Committee’s hearings on the reauthorization was the need for better data on which management decisions are made. This bill attempts to address this concern by focus-

ing scarce resources within regions toward those fisheries that are considered data poor while at the same time recognizing the need to continue to fund data collection programs for commercially-important and recreationally-important fisheries.

The bill would require Councils to identify data-poor fisheries, encourage the use of electronic monitoring and other emerging technologies and electronic catch reporting programs, identify critical regional fishery management and research needs, require partnerships with states for increased recreational data collection, and encourage the use of cooperative research to address any identified research needs.

In addition, the bill would require specific measures to meet the Gulf of Mexico fisheries' research and data collection needs and to require that new information collected through RESTORE Act (Subtitle F of Division A of Public Law 112–141) funding be incorporated into stock assessments as soon as possible.

Data collection and confidentiality

In 2006, Congress recognized that the NOAA's recreational data collection program was inadequate and lacked the confidence of fishermen and many fishery managers. The 2006/2007 amendments required that the Secretary, within 24 months and in consultation with representatives of the recreational fishing industry and experts in statistics, technology, and other appropriate fields, to improve the quality and accuracy of information generated by the Marine Recreational Fishery Statistics Survey, with a goal of achieving acceptable accuracy and utility for each individual fishery. The amendments also required that the program take into consideration and implement the recommendations of the National Research Council in its report *Review of Recreational Fisheries Survey Methods* (2006).

Unfortunately, in 2014, many of the same criticisms of data collection remain. In the Gulf of Mexico red snapper fishery, the recreational data collection program's inadequacies have resulted in greatly reduced harvest seasons, conflicts between states, and lawsuits. In the last two years, two states have undertaken data collection programs which have proven to be more timely and more accurate than the federal data collection programs for the recreational sector. The Committee continues to be concerned with the recreational data collection programs, and this bill includes requirements that the Secretary work with the Gulf of Mexico states to develop and implement a real-time recreational data collection program. In addition, the bill would transfer the authority for providing stock assessments for the Gulf reef fish fishery management plan to the Gulf States Marine Fisheries Commission.

In addition to the need for better data collection programs, the Committee also heard testimony concerning the need to protect the confidentiality of data that is provided to fishery managers for fishery conservation and management purposes. NOAA has been increasing the types and amount of data—including proprietary data—collected from fishermen and processors in an attempt to provide fishery managers with more socio-economic information. In some cases, NOAA has been requesting information on product types, pricing information, and markets. This information, if disclosed, could put U.S. fishermen and seafood processors at a com-

petitive disadvantage both in U.S. markets and in international markets. In addition, NOAA's confidentiality regulations do not necessarily apply to information that is being collected using new technologies such as electronic monitoring.

Many fisheries are now monitored through the use of on-board observers, electronic logbooks, fish tickets, shore-side observers and other methods. The Committee recognizes that emerging technologies may offer better data collection alternatives and provide more cost effective options for fishermen; however, it is important that the information provided to fishery managers through these new sources also be protected.

Although NOAA has begun the process of updating the data confidentiality regulations, the Committee notes that increasing sources of data and increasing data requirements by fishery managers require that confidentiality regulations keep pace with technology and not place fishermen or other components of the seafood industry at a disadvantage due to the release of proprietary and sensitive information. While the Committee recognizes NOAA's efforts to update the confidentiality regulations, statutory changes are necessary for the Act to keep pace with data provided through emerging technologies and increasing information needs of fishery managers.

Enforcement of the Magnuson-Stevens Act is done by NOAA, the Coast Guard and some state agencies through Joint Enforcement Agreements. These require that a certain amount of information collected by NOAA for fishery management purposes will be shared with these other enforcement entities. The bill requires that these other enforcement entities follow the same confidentiality standards that NOAA is required to follow.

The Magnuson-Stevens Act and the relationship to other Federal statutes

In 2006, both houses of Congress agreed that there was a problem with the way the National Environmental Policy Act (NEPA) requirements interacted with the Magnuson-Stevens Act requirements, and both houses agreed that the Secretary of Commerce needed to fix this conflict.

The 2006/2007 amendments to the Magnuson-Stevens Act required the Secretary to: consult with the regional fishery management councils and the Council on Environmental Quality (CEQ); update NOAA's procedures for complying with NEPA; conform the timelines for review and approval of fishery management plans and amendments under section 304 of the Magnuson-Stevens Act; integrate the environmental analytical procedures (including the timeframes for public input) with the Magnuson-Stevens Act procedures for the preparation and dissemination of fishery management plans and plan amendments; provide for timely, clear and concise analysis that is useful to decision-makers and the public; reduce extraneous paperwork; effectively involve the public; and ensure that the updated agency procedures would be the "sole environmental impact assessment procedure" for fishery management plans or plan amendments or other actions taken or approved under the Magnuson-Stevens Act. This provision clearly intended that the Magnuson-Stevens Act procedures and timelines would be suffi-

cient to meet the requirements of NEPA once the Secretary issued the revised procedures.

The Secretary was given six months to propose revised procedures and was required to finalize the procedures within 12 months (beginning on January 12, 2007). Within the initial six-month period, the Secretary was to provide 90 days for public review and comment and to involve the public in cooperation with the Councils and CEQ through workshops or other appropriate means.

It is now 2014 and NOAA has published proposals for complying with this requirement twice. In both cases, the proposal did not fully comply with the statutory requirements and in both cases, the agency subsequently withdrew the proposal.

In addition, the creation of a policy directive in 2013—seven years after the requirement to fix this conflict was enacted into law and created without the input of either the Councils or the CEQ—is insufficient. The policy directive, which merely restates existing practices, does nothing to streamline the NEPA process, nor does it incorporate the NEPA regulatory timelines into the Magnuson-Stevens Act statutory timelines. Therefore the actions taken by the Secretary do not meet the statutory requirements of the 2006 amendments. Merely telling the Secretary to start the process again as has been suggested, when it has not been done correctly in seven years, is also not sufficient.

In addition to the concerns with the relationship between NEPA and the Magnuson-Stevens Act, conflicts between Endangered Species Act implementation and the Magnuson-Stevens Act requirements have been raised in testimony before the Committee. Under current law, if a fishery is determined to cause jeopardy to any endangered species, changes to that fishery's conservation and management measures must be made. As the Magnuson-Stevens Act delegates the creation of conservation and management measures through the fishery management plan and plan amendment process to the Regional Fishery Management Councils, any changes required to be made to a fishery management plan should be done through the Council process. Under the Magnuson-Stevens Act, the Secretary is required to determine whether a fishery management plan or plan amendment is consistent with "any other applicable law." This ensures that any action taken by a Council to amend a fishery management plan, including modifying activities authorized through the plan which have been identified as likely to jeopardize the "continued existence" of an endangered species, will be adequate to remove the likelihood of jeopardy as a result of those fishing activities. If the Council action does not, the Secretary could not approve it. The Magnuson-Stevens Act is the appropriate authority to conserve and manage fishery resources through the Council process—ensuring adequate transparency and public participation. The Magnuson-Stevens Act also provides the Secretary with ample authority to disapprove any action taken by a Council that is not consistent with the Magnuson-Stevens Act, the Endangered Species Act, or any other applicable federal law.

Finally, conflicts between the Magnuson-Stevens Act and the National Marine Sanctuaries Act over fishery regulations have occurred in certain sanctuaries. In addition, the increasing use of the Antiquities Act in the marine environment has raised questions re-

garding the management of fishery resources and fishing activities within these marine monuments. There are currently 13 National Marine Sanctuaries and four Marine National Monuments that encompass more than 170,000 square miles. These were created under the National Marine Sanctuaries Act, the Antiquities Act, or through individual act of Congress.

The Administration is proposing to expand three of the existing marine sanctuaries—including expanding the Thunder Bay National Marine Sanctuary from 448 square miles to 4,300 square miles—which could increase the conflicts over fisheries management in some of these sanctuaries. NOAA has also announced that it will begin the nomination process for additional national marine sanctuaries to be created through the administrative process, potentially creating similar fishery management conflicts in additional regions of the country.

In addition to the proposed expansion of a number of marine sanctuaries, in June 2014, President Obama announced a proposal to increase the size of the Pacific Remote Islands Marine National Monument from approximately 87,000 square miles to nearly 782,000 square miles, and to prohibit a number of activities within the Monument including fishing.

At the time of the announcement, only the limited information provided by the White House was available. This included a lack of information available from NOAA—the agency which is responsible for the conservation and management of living marine resources. No information on the number of fisheries affected, the number of U.S. fishing vessels to be affected, or the economic impact of the proposed additional closures was available at the time of the announcement. There was no scientific explanation for the additional closed areas to be included within the monument, and certainly no scientific basis for banning fishing within the increased monument area. In fact, at the same time the President was announcing the closure of this area to fishing activities, including those by U.S. tuna fleet, the U.S. State Department was negotiating changes to the South Pacific Tuna Treaty that would allow access to other countries' exclusive economic zones, and require the U.S. government to pay more than \$20 million per year for that access. At the same time the Administration is attempting to commit Federal taxpayer dollars so that our tuna fleet can fish in foreign waters, the President is announcing that we are kicking the same U.S. fishing fleet out of U.S. waters—and with no scientific justification.

Administration officials have been quoted in the press that the Antiquities Act authority was going to be used increasingly in the remainder of the Obama Administration. With the ban on fishing in the latest announcement, fishermen and fishing communities are concerned that the increased use of the Antiquities Act will result in the closure of productive fishing grounds with little or no public input and with little or no scientific basis.

For all of these reasons, it is important that the Magnuson-Stevens Act, which requires that fisheries conservation and management measures be developed in a transparent manner and based on science, be the controlling authority for fisheries management in any marine national monument or national marine sanctuary.

Revitalizing the Economy of Fisheries in the Pacific Act

In an effort to reduce pressure on West Coast groundfish stocks in the 1990s, NMFS implemented large spatial closures and trip limits as well a license limitation program in the West Coast groundfish fishery that covered water offshore Washington, Oregon and California. Despite these measures, in 2000, the Secretary of Commerce declared the West Coast Groundfish fishery a disaster and in 2003 initiated a buyback program to further reduce fishing capacity. To fund the buyback program, a \$30 million loan was authorized by Congress and financed by the NMFS Fisheries Finance Program. The program resulted in the removal of 91 vessels and permits that represented 50% of total landings at the time.

The 2003 federal buy back loan period was set at 30 years with an interest rate of 6.95% (Treasury Rate + 2%). Unfortunately, the federal Fisheries Finance Program did not establish a mechanism to collect loan payments for this buyback program until 2005, allowing over \$4 million dollars in interest to accrue before the fleet was able to start paying down the loan with a 5% assessment of the ex-vessel value of the catch at the dock. The result was that in the last seven years, the industry has made almost \$24 million in loan payments that have not kept pace with even the interest obligations, let alone the principal balance of the loan. As a result, the fleet has been making payments on the loan for eight years and yet currently owes the U.S. government over \$32 million on a \$30 million loan.

In addition, as a result of the transition to an Individual Fishing Quota (IFQ) management system, 100% accountability was required beginning in 2011. This accountability meant that fishermen were facing the expense of carrying a federal observer on every trip in addition to a 3% cost recovery fee to support the IFQ program. While the federal government is subsidizing the approximately \$450 per day observer expense until 2015, the costs of the at-sea observers will become the responsibility of the vessel owners. This means that the fleet is now required to pay for the loan repayment based on a 6.95% interest rate, the NOAA-imposed observer fee requirements, and the cost recovery fee for the catch share program. This is placing a burden on the West Coast groundfish fleet that would be reduced by bringing the loan payment terms to a more realistic and manageable level while ensuring that the federal government will see a return for the buyback loan.

COMMITTEE ACTION

H.R. 4742 was introduced on May 23, 2014, by Congressman Doc Hastings (R-WA) and was referred to the Committee on Natural Resources. On May 29, 2014, the Natural Resources Committee met to consider the bill. Congressman Bradley Byrne (R-AL) offered an amendment designated .005 to the bill; the amendment was adopted by voice vote. Congressman Don Young (R-AK) offered an amendment designated .097 to the bill; the amendment was adopted by voice vote. Congressman Steve Southerland (R-FL) offered an amendment designated .019 to the bill; the amendment was adopted by voice vote. Congressman Southerland offered an amendment designated .022 to the bill; the amendment was adopted by voice vote. Congressman Southerland offered an amendment

designated .024 to the bill; the amendment was withdrawn. Congressman Southerland offered an amendment designated .029 to the bill; the amendment was adopted by voice vote. Congressman Southerland offered an amendment designated .030 to the bill; the amendment was adopted by voice vote. Congressman Jon Runyan (R–NJ) offered an amendment designated .037 to the bill; the amendment was adopted by voice vote. Congressman Frank Pallone (D–NJ) offered an amendment designated .039 to the bill; the amendment was adopted by voice vote. Congressman Southerland offered an amendment designated .026 to the bill; the amendment was adopted by voice vote. Congressman Peter DeFazio (D–OR) offered an amendment designated .001 to the bill; the amendment was not adopted by voice vote. Congressman Rush Holt (D–NJ) offered an amendment designated .007 to the bill; the amendment was not adopted by a roll call vote of 18 to 20, as follows:

Committee on Natural Resources

U.S. House of Representatives

113th Congress

Date: May 29, 2014

Recorded Vote #: 1

Meeting on / Amendment on: **H.R. 4272** - Holt.007, NOT AGREED TO by a roll call vote of 18 yeas and 20 nays.

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Hastings, WA, Chairman		X		Mr. Duncan of SC		X	
<i>Mr. DeFazio, OR, Ranking</i>	X			<i>Mr. Cardenas, CA</i>	X		
Mr. Young, AK		X		Mr. Tipton, CO			
<i>Mr. Faleomavaega, AS</i>				<i>Mr. Huffman, CA</i>	X		
Mr. Gohmert, TX				Mr. Gosar, AZ			
<i>Mr. Pallone, NJ</i>	X			<i>Mr. Ruiz, CA</i>			
Mr. Bishop, UT		X		Mr. Labrador, ID			
<i>Mrs. Napolitano, CA</i>	X			<i>Ms. Shea-Porter, NH</i>	X		
Mr. Lamborn, CO		X		Mr. Southerland, FL		X	
<i>Mr. Holt, NJ</i>	X			<i>Mr. Lowenthal, CA</i>	X		
Mr. Wittman, VA		X		Mr. Flores, TX			
<i>Mr. Grijalva, AZ</i>	X			<i>Mr. Garcia, FL</i>	X		
Mr. Broun, GA		X		Mr. Runyan, NJ		X	
<i>Ms. Bordallo, GU</i>	X			<i>Mr. Cartwright, PA</i>	X		
Mr. Fleming, LA		X		Mr. Mullin, OK		X	
<i>Mr. Costa, CA</i>	X			<i>Ms. Clark, MA</i>	X		
Mr. McClintock, CA		X		Mr. Daines, MT		X	
<i>Mr. Sablan, CNMI</i>	X			Mr. Cramer, ND			
Mr. Thompson, PA		X		Mr. LaMalfa, CA		X	
<i>Ms. Tsongas, MA</i>	X			Mr. Smith, MO		X	
Mrs. Lummis, WY		X		Mr. McAllister, LA		X	
<i>Mr. Pierluisi, PR</i>	X			Mr. Byrne, AL		X	
Mr. Benishek, MI		X		<i>Vacancy</i>			
<i>Ms. Hanabusa, HI</i>	X						
				TOTALS	18	20	

Delegate Madeleine Bordallo (D-GU) offered an amendment designated .004 to the bill; the amendment was adopted by voice vote. Delegate Gregorio Sablan (D-MP) offered an amendment designated .002 to the bill; the amendment was not adopted by voice vote. Congresswoman Niki Tsongas (D-MA) offered an amendment designated .003 to the bill; the amendment was not adopted by voice vote. Congressman Alan Lowenthal (D-CA) offered an amendment designated .005 to the bill; the amendment was not adopted by a roll call vote of 18 to 23, as follows:

Committee on Natural Resources
U.S. House of Representatives
113th Congress

Date: May 29, 2014

Recorded Vote #: 2

Meeting on / Amendment on: **H.R. 4272** - Lowenthal.005, NOT AGREED TO by a roll call vote of 18 yeas and 23 nays.

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Hastings, WA, Chairman		X		Mr. Duncan of SC		X	
<i>Mr. DeFazio, OR, Ranking</i>	X			<i>Mr. Cardenas, CA</i>	X		
Mr. Young, AK		X		Mr. Tipton, CO			
<i>Mr. Faleomavaega, AS</i>				<i>Mr. Huffman, CA</i>	X		
Mr. Gohmert, TX		X		Mr. Gosar, AZ			
<i>Mr. Pallone, NJ</i>	X			<i>Mr. Ruiz, CA</i>			
Mr. Bishop, UT		X		Mr. Labrador, ID		X	
<i>Ms. Napolitano, CA</i>	X			<i>Ms. Shea-Porter, NH</i>	X		
Mr. Lamborn, CO		X		Mr. Southerland, FL		X	
<i>Mr. Holt, NJ</i>	X			<i>Mr. Lowenthal, CA</i>	X		
Mr. Wittman, VA		X		Mr. Flores, TX		X	
<i>Mr. Grijalva, AZ</i>	X			<i>Mr. Garcia, FL</i>	X		
Mr. Broun, GA		X		Mr. Runyan, NJ		X	
<i>Ms. Bordallo, GU</i>	X			<i>Mr. Cartwright, PA</i>	X		
Mr. Fleming, LA		X		Mr. Mullin, OK		X	
<i>Mr. Costa, CA</i>	X			<i>Ms. Clark, MA</i>	X		
Mr. McClintock, CA		X		Mr. Daines, MT		X	
<i>Mr. Sablan, CNMI</i>	X			Mr. Cramer, ND			
Mr. Thompson, PA		X		Mr. LaMalfa, CA		X	
<i>Ms. Tsongas, MA</i>	X			Mr. Smith, MO		X	
Mrs. Lummis, WY		X		Mr. McAllister, LA		X	
<i>Mr. Pierluisi, PR</i>	X			Mr. Byrne, AL		X	
Mr. Benishek, MI		X		<i>Vacancy</i>			
<i>Ms. Hanabusa, HI</i>	X						
				TOTALS	18	23	

Congressman Joe Garcia (D-FL) offered an amendment designated .041 to the bill; the amendment was adopted by voice vote. No further amendments were offered and the bill, as amended, was then adopted and ordered favorably reported to the House of Representatives by a bipartisan roll call vote of 24 to 17, as follows:

Committee on Natural Resources
U.S. House of Representatives
113th Congress

Date: May 29, 2014

Recorded Vote #: 3

Meeting on / Amendment on: **H.R. 4272- TO REPORT**, Adopted and favorably reported to the House of Representatives, as amended, by a roll call vote of 24 yeas and 17 nays.

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Hastings, WA, Chairman	X			Mr. Duncan of SC	X		
<i>Mr. DeFazio, OR, Ranking</i>		X		<i>Mr. Cardenas, CA</i>		X	
Mr. Young, AK	X			Mr. Tipton, CO			
<i>Mr. Faleomavaega, AS</i>				<i>Mr. Huffman, CA</i>		X	
Mr. Gohmert, TX	X			Mr. Gosar, AZ			
<i>Mr. Pallone, NJ</i>		X		<i>Mr. Ruiz, CA</i>			
Mr. Bishop, UT	X			Mr. Labrador, ID	X		
<i>Mrs. Napolitano, CA</i>		X		<i>Ms. Shea-Porter, NH</i>		X	
Mr. Lamborn, CO	X			Mr. Southerland, FL	X		
<i>Mr. Holt, NJ</i>		X		<i>Mr. Lowenthal, CA</i>		X	
Mr. Wittman, VA	X			Mr. Flores, TX	X		
<i>Mr. Grijalva, AZ</i>		X		<i>Mr. Garcia, FL</i>	X		
Mr. Broun, GA	X			Mr. Runyan, NJ	X		
<i>Ms. Bordallo, GU</i>		X		<i>Mr. Cartwright, PA</i>		X	
Mr. Fleming, LA	X			Mr. Mullin, OK	X		
<i>Mr. Costa, CA</i>		X		<i>Ms. Clark, MA</i>		X	
Mr. McClintock, CA	X			Mr. Daines, MT	X		
<i>Mr. Sablan, CNMI</i>		X		Mr. Cramer, ND			
Mr. Thompson, PA	X			Mr. LaMalfa, CA	X		
<i>Ms. Tsongas, MA</i>		X		Mr. Smith, MO	X		
Mrs. Lummis, WY	X			Mr. McAllister, LA	X		
<i>Mr. Pierluisi, PR</i>		X		Mr. Byrne, AL	X		
Mr. Benishek, MI	X			<i>Vacancy</i>			
<i>Ms. Hanabusa, HI</i>		X					
				TOTALS	24	17	

SECTION-BY-SECTION ANALYSIS

TITLE I—AMENDMENTS TO THE MAGNUSON-STEVENSON FISHERY
CONSERVATION AND MANAGEMENT ACT*Section 101. Definitions*

This section clarifies that terms used in the bill have the same meaning as those terms are defined by section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

Section 102. References

This section clarifies that unless otherwise specified, the amendments made by the bill are made to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

Section 103. Flexibility in rebuilding fish stocks

The bill would remove the language requiring a 10-year time frame for rebuilding overfished/depleted fisheries and replace it with a requirement that the rebuilding timeframe be the time it would take for the fishery to rebuild without any fishing occurring plus one mean generation time. The bill would also allow Councils to phase in a rebuilding plan for highly dynamic fisheries over a three-year period to lessen the economic harm to fishing communities. In addition, the bill would remove the term “possible” and replace it with “practicable” in the requirement that rebuilding period “be as short as possible.” This phrase has already been cited in a court decision that required the Pacific Council to adopt the shorter of several timeframes being considered, resulting in economic harm.

The bill would also provide flexibility in the rebuilding timeframe for fisheries if the fishery is one component of a multi-species complex. As an example, the Northeast groundfish fishery is made up of 19 species—if one component is overfished, the harvest of all of the other species might be severely limited to allow the one component to rebuild, causing unnecessary economic harm. In addition, the bill would provide flexibility for fisheries which are transboundary or managed under an international treaty, for fisheries for which the cause of the overfished/depleted condition is outside the jurisdiction of the Council, and for those fisheries for which the Secretary determines have been affected by unusual events that make rebuilding the fishery within the specified timeframe improbable without significant economic harm to fishing communities.

The bill would allow Councils to take into account environmental conditions and predator/prey relationships when developing rebuilding plans.

The bill would also require that the fishery management plan for any fishery that is considered overfished/depleted must specify a schedule for reviewing the rebuilding targets, evaluating environmental impacts on rebuilding progress, and evaluating the progress that is being made toward reaching the rebuilding targets.

The bill would allow a fishery management plan for any fishery that is considered overfished/depleted to use alternative rebuilding strategies, including harvest control rules and fishing mortality rate targets.

The bill would allow a Council to terminate any rebuilding plan for a fishery that was initially determined to be overfished/depleted and then found not to be overfished/depleted within two years or at the next stock assessment.

Finally, current law allows the Secretary to implement emergency interim measures for fisheries in which overfishing is taking place. If the action is taken for a fishery that is under a fishery management plan, the interim measure may only remain in place for 180 days; however, the measure may then be extended for an additional 186 days (with the extension, this allows the Secretary to implement interim measures for a year and a day). The bill would modify this authority to allow the Secretary to implement the interim measures for one year with the ability to extend for a second year. Current law allows a Council to take up to two years to prepare and implement a fishery management plan or plan amendment to address a fishery that is overfished, yet current law only allows interim measure to be implemented for one year (assuming the extension is granted). This provision would allow the interim measures authority to be consistent with the time period allowed for a Council to prepare and implement a rebuilding plan for a fishery identified as overfished.

Section 104. Modifications to the Annual Catch Limit requirements

The bill would allow Councils to consider changes in the ecosystem and the economic needs of the fishing communities when setting Annual Catch Limits (ACLs). This will allow flexibility but not allow Councils to set ACLs at a level that allows overfishing.

The bill would also add a new exception to the requirement that Councils set an ACL for “ecosystem component species”—those species of fish that are not targeted and are caught incidentally as long as that stock of fish is not subject to overfishing and is not likely to become subject to overfishing. The bill includes a definition of “ecosystem component species” based on NOAA’s National Standard #1 Guidelines. The bill would also provide an exemption for those short-lived stocks of fish for which a single year class will complete their lifecycle in less than 18 months as long as fishing mortality will have little impact on the stock.

The bill would also require that Councils, when setting ACLs, take into account management measures under international agreements and treaties and informal transboundary agreements under which fishing by foreign fishermen outside the U.S. Exclusive Economic Zone might hinder conservation efforts by U.S. fishermen.

While the current Act implies that ACLs will be set for each managed species each year and for only one year, the bill would clarify that Councils may establish ACLs for multi-species stock complexes (such as New England groundfish) and may set ACLs for up to three years.

Section 105. Distinguishing between overfished and depleted

The bill would replace the term “overfished” with the term “depleted” throughout the Act and add a definition of “depleted”.

The bill would require the Secretary, when issuing the annual report on the status of fisheries, note if a stock was “depleted” as a result of something other than fishing.

The bill would require that when the Secretary reports annually to Congress on the status of fisheries and identifies fisheries that are overfished or approaching a condition of being overfished, the report will distinguish between fisheries that are depleted (or approaching a condition of being depleted) as a result of fishing and those fisheries that are depleted (or approaching a condition of being depleted) as a result of factors other than fishing. The bill would also require that the report state, for each fishery identified as depleted, whether the fishery is a target of directed fishing.

Section 106. Transparency and public process.

The bill would require that Scientific and Statistical Committees (SSCs) develop the scientific advice provided to the Councils in a transparent manner and to allow for public involvement in the process.

The bill would also require that each Council, to the extent practicable, provide a webcast, an audio recording or a live broadcast of each Council meeting and impose the same requirements for the Council Coordination Committee meetings. In addition, the bill would require audio, video, searchable audio or written transcript for each Council and SSC meeting on the Council's website not more than 30 days after the conclusion of the meeting. The bill would require that the Secretary maintain these audios, videos and transcripts and make them available to the public.

Current law requires that each fishery management plan contain a fishery impact statement which is required to assess, specify, and analyze the likely effects, if any, including cumulative conservation, economic, and social impacts, of the conservation and management measures on and possible mitigation measures for participant and fishing communities affected by the plan, participants in fisheries conducted in adjacent areas, and safety of human life at sea and to what extent the measures in the plan may affect the safety of participants in the fishery.

The bill would require that any fishery management plan, plan amendment or proposed regulations include a fishery impact statement that would, in addition to the existing requirements, now also include: the purpose of the proposed action, the environmental impact of the proposed action, any adverse environmental effects which cannot be avoided, a reasonable range of alternatives, and the relationship between short-term use of the fishery resources and the enhancement of long-term productivity.

The bill would require that a "substantially complete" fishery impact statement be available not less than 14 days before the beginning of the meeting at which the Council makes its final decision on the proposal. The bill would require that the availability of this fishery impact statement be announced by the same methods currently used by Councils to disseminate public information and that relevant government agencies and the public be invited to comment on the fishery impact statement.

Section 107. Limitation on future Catch Share Programs

The bill would define the term "catch share" and create a pilot program for four Councils—the New England, Mid-Atlantic, South Atlantic, and Gulf of Mexico Councils—which would prohibit those Councils from submitting to the Secretary and prohibit the Sec-

retary from approving or implementing any new catch share program from those Councils unless the program has been approved in a referendum. The bill would also require that prior to the referendum, the Secretary must provide all eligible permit holders with a copy of the proposed program, an estimate of the costs of the program (including the costs to participants), an estimate of the amount of fish or percentage of the quota each permit holder would be allocated, and information on the schedule, procedures and eligibility criteria for the referendum. The bill defines “permit holder eligible to participate” in a referendum as a permit holder who has fished in at least three of the five years preceding the referendum unless sickness, injury or other unavoidable hardship prevented the permit holder from fishing. The bill clarifies that the requirement for the referendum does not apply to any catch share program that is submitted to or proposed by the Secretary before the date of enactment of the bill.

The bill would allow the Secretary at the request of the New England Council to include crew members who derive a significant portion of their livelihood from fishing to participate in a referendum.

The bill would also prevent the Secretary from implementing a catch share program for any fishery managed by the Secretary (highly migratory species) unless first petitioned by a majority of those eligible to participate in the fishery.

The bill would require the Secretary to issue regulations and provide for public comment on a referendum prior to conducting any such referendum.

Section 108. Report on fee

The bill would require the Secretary to report annually—to both Congress and each of the Councils from whose fisheries fee were paid—on the amount collected from each of the fisheries managed under a limited access privilege program and community development quota program and detail how the funds were spent, on a fishery-by-fishery basis.

Section 109. Data collection and data confidentiality

The bill would require the Secretary to issue regulations governing the use of electronic monitoring. The bill would require that the regulations distinguish between monitoring for data collection and research purposes and monitoring for compliance and enforcement purposes. The bill would require that the regulations also include minimum criteria, objectives, or performance standards for electronic monitoring. The bill would require the Secretary to issue the final regulations no later than 12 months after the enactment of this Act.

The bill would require that in issuing the regulations, the Secretary consult with the Councils and fishery management commissions, publish the proposed regulations, and provide an opportunity for public comment on the proposed regulations.

The bill would allow the Councils, on a fishery-by-fishery basis, consistent with the objectives and management goals of the fishery management plan and the Act, and after the final regulations are issued, to incorporate electronic monitoring as an alternative tool for data collection and monitoring purposes or for compliance and

enforcement purposes and replace a percentage of on-board observers with electronic monitoring if the Councils and the Secretary determine that such monitoring will yield comparable data collection and compliance results.

The bill would allow Councils, prior to the issuance of the final regulations, to conduct pilot projects for the use of electronic monitoring on a fishery-by-fishery basis as long as the projects are consistent with the objectives and management goals of the fishery management plan and the Act.

The bill would also require the Secretary to work with the Councils and non-governmental organizations to develop and implement the use of video survey technologies and to expand the use of acoustic survey technologies.

The Act currently contains provisions dealing with the confidentiality of data collected by fisheries managers. The bill would update the existing confidentiality provisions of the Act. In particular, the bill would replace the term "limited access program" with "catch share program." The bill would clarify that information submitted to the Secretary, a State fisheries management agency, or a Marine Fisheries Commission under the requirements of this Act (including confidential information) may only be used for the purposes of fisheries management, monitoring and enforcement under this Act. The bill would clarify that the Secretary may release information to a Council or a state if the person submitting the information authorizes the Secretary to do so in writing. The bill clarifies that the Secretary may enter into a memoranda of understanding with the heads other Federal agencies for sharing confidential information necessary to ensure the safety of life at sea or for fisheries management purposes if there is a compelling need to do so and if the other agencies maintain the confidentiality of the information and use the information only for the purposes for which it was shared. The bill would clarify that observer information, information collected by a Vessel Monitoring System or other vessel tracking technology, or other on-board data collection or enforcement programs shall be considered confidential. The bill would define the terms "confidential information" and "observer information."

The bill would prohibit the Secretary from providing any vessel-specific or aggregate vessel information from a fishery that is collected for monitoring and enforcement purposes for the use by any person for coastal and marine spatial planning under Executive Order 13547 unless the Secretary determines that providing such information is important for maintaining or enhancing national security or for ensuring fishermen continued access to fishing grounds.

The bill would require each Council to identify those fisheries that are considered data-poor in their region and prioritize those fisheries based on the need for up-to-date information. Each Council is required to submit those priorities to the Secretary. The terms "data-poor" and "fisheries enforcement penalties" are defined.

The bill would allow the Secretary, subject to the availability of appropriations, to obligate up to 80 percent of the fishery fines and penalties collected under any marine resource law enforced by the Secretary to be used by states to survey or assess data-poor fish-

eries for which a fishery management plan is in place or for cooperative research activities to improve or enhance fishery independent data used in stock assessments. The funds obligated may only be used in the region where the fines and penalties were collected.

Section 110. Cooperative research and management program

The bill would amend section 318 of the Act to require the Secretary, within one year of the enactment of this Act and after consulting with the Councils, to publish a plan for implementing and conducting a cooperative research and management program. The bill would require that the plan identify and describe critical regional fishery management and research needs, possible projects to address the identified needs, and the estimated costs for such projects.

The bill would require that the plan be updated every five years and each update must include a description of projects that were funded during the previous five years and which management and research needs were addressed by those projects.

The bill would also amend current language to give priority to projects that use fishing vessels or acoustic or other marine technology, expand the use of electronic catch reporting programs and technology, and improve monitoring and observer coverage through the expanded use of electronic monitoring devices.

Section 111. Council jurisdiction for overlapping fisheries

The bill would add one voting seat to the New England Council to provide a liaison—who is a member of the Mid-Atlantic Council—to represent the interests of fisheries under the jurisdiction of the Mid-Atlantic Council, and add one voting seat to the Mid-Atlantic Council to provide a liaison—who is a member of the New England Council—to represent the interests of fisheries under the jurisdiction of the New England Council.

Section 112. Gulf of Mexico cooperative research and red snapper management

The bill would strike section 407 in the current Act. These provisions have been superseded by the Annual Catch Limit provisions adopted in the 2006/2007 amendments and by provisions in the bill which would establish the requirements for a referendum for any new catch share plan or amendment for the Gulf of Mexico region.

The bill would require the Secretary of Commerce—in conjunction with the Gulf States, the Gulf of Mexico Council, and the charter and recreational fishing sectors—to develop and implement a real-time reporting and data collection program for the Gulf of Mexico red snapper fishery using available technology. The Secretary is required to make this a priority for funds received by NOAA through the Saltonstall-Kennedy Act (15 U.S.C. 713c-3).

The bill would also require the Secretary—in conjunction with the Gulf States, the Gulf of Mexico and the South Atlantic Councils, and the commercial, charter and recreational fishing sectors—to develop and implement a cooperative research program for fisheries in the Gulf of Mexico and the South Atlantic regions giving priority to those fisheries that are considered data poor. The Secretary would be authorized, subject to the availability of appropria-

tions, to make funds received by NOAA from the Saltonstall-Kennedy Act available for the research for this region.

The bill would require the Secretary, acting through the NMFS Regional Administrator of the Southeast Region, to develop a schedule of stock surveys and stock assessments for the Gulf of Mexico region and the Southeast region for the five-year period beginning on the date of enactment and for every five-year period thereafter, giving priority to those stocks that are commercially or recreationally important and ensuring that each important stock is surveyed at least once every five years. The Secretary is required to direct the Science Center Director of the Southeast region to implement the schedule of stock surveys and stock assessments.

The bill also would require that the Science Center Director of the Southeast region ensure that the information gathered as a result of research funded through the RESTORE Act (Public Law 112–141) be incorporated as soon as possible into any stock assessments conducted after the date of enactment.

The bill would extend state management out to nine nautical miles for the recreational sector of the Gulf of Mexico red snapper fishery.

Section 113. North Pacific Fishery Management clarification

The bill would remove the citation of a specific date that is currently in the Act. The Act allows certain actions to be authorized if there was a fishery management plan in place on that date that did not delegate management of the fishery. The inclusion of the date has caused confusion in the implementation of the North Pacific Fishery Management Council’s salmon fishery management plan.

Section 114. Ensuring consistent management for fisheries throughout their range

The bill would clarify that the Magnuson-Stevens Fishery Conservation and Management Act would be the controlling fishery management authority in the case of any conflict within a national marine sanctuary or an area designated under the Antiquities Act of 1906 (16 U.S.C. 431 et seq.).

To ensure transparency and consistent management for fisheries throughout their range, the bill would clarify that if any restrictions on the management of fish in the exclusive economic zone are required to implement a recovery plan under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the restrictions would be implemented under the authorities, processes, and timelines of the Magnuson-Stevens Fishery Conservation and Management Act.

Section 115. Limitation on harvest in North Pacific Directed Pollock Fishery

The bill would allow the North Pacific Council to change the harvest limitation under the American Fisheries Act for entities engaged in the directed pollock fishery as long as that percentage does not exceed 24%.

Section 116. Recreational fishing data

The bill would require the Secretary to establish partnerships with states to develop best practices for implementing state rec-

reational fisheries programs. The bill would require the Secretary to develop guidance, in cooperation with the states, that detail best practices for administering state programs and to provide the guidance to the states.

The bill would require the Secretary to submit a biennial report to Congress on the estimated accuracy of the Federal recreational registry program, priorities for improving recreational fishing data collection programs, and explain the use of information collected by state programs and by the Secretary.

The bill would require a grant program to states to improve implementation of state recreational data collection programs and requires the Secretary to prioritize the grants based on the ability of the grant to improve the quality and accuracy of the data collection programs.

The bill would require the Secretary, within 60 days, to enter into an agreement with the National Research Council (NRC) to study the implementation of the existing recreational data collection programs. The study must provide an updated assessment of recreational survey methods, an evaluation of the extent to which the 2006 NRC's recommendations have been implemented, and an examination of any limitations to the previous and current NOAA recreational data collection programs.

Finally, the bill would require the Secretary to submit a report to Congress on the result of the NRC study within one year of entering into the agreement with the NRC.

Section 117. Stock assessments used for fisheries managed under Gulf of Mexico Council's Reef Fish Management Plan

The bill would create a new section 409 in the Act to require the States located on the Gulf of Mexico, acting through the Gulf States Marine Fisheries Commission, to act as the entity responsible for providing the stock assessment information for the Gulf of Mexico Fishery Management Council for fisheries managed under the Reef Fish Plan. The bill would require that the stock assessments incorporate fisheries survey information collected by university researchers and, to the extent practicable, use state, university, and private assets to conduct fisheries surveys. The bill would require that any stock assessments: incorporate fisheries surveys and other relevant information collected on and around natural and artificial reefs; emphasize constituent and stakeholder participation; contain all of the raw data used in the assessment and a description of the methods used to collect the data; and employ a transparent process that includes an independent scientific review and review by a panel of independent experts of the data and assessments.

Section 118. Estimation of cost of recovery from fishery resource disaster

The bill would require the Secretary to publish the estimated cost of recovery from a fishery resource disaster within 30 days from the time the Secretary makes the disaster determination.

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

The bill would require the Secretary of Commerce to make a decision regarding a disaster assistance request—submitted under the provisions of section 312(a) of the Magnuson-Stevens Act—within 90 days of receiving an estimate of the economic impact of the fishery resource disaster from the entity seeking the disaster declaration.

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

The bill would prohibit the Secretary of Commerce from counting red snapper mortality that is a result of the removal of offshore oil rigs against the total allowable catch of that fish and prohibits the Secretary from counting those fish toward the quota for U.S. fishermen for the purposes of closing the fishery when the quota has been reached.

Section 121. Prohibition on considering fish seized from foreign fishing

The bill would prohibit the Secretary of Commerce from counting any fish seized from a foreign vessel engaging in illegal fishing in the U.S. Exclusive Economic Zone against the total allowable catch for U.S. fishermen.

Section 122. Subsistence fishing

The bill would define “subsistence fishing” and require the Governor of Alaska, when submitting nominations for the North Pacific Council, to consult with subsistence fishing interests of the State. In addition, the bill would add the knowledge of subsistence fishing as a qualification that could be required of Council appointees. In addition, the bill would amend the purposes section of the Act to add the promotion of subsistence fishing as a purpose of the Act.

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

The bill would prohibit any commercial quota shares allocated under a catch share program in the Gulf of Mexico from being traded—by sale or lease—for use by the recreational fishing sector, including any charter-for-hire vessel, head boat, or private recreational fisherman.

Section 124. Authorization of appropriations

The bill would authorize appropriations for the Act for Fiscal Years 2014 through 2018 at the existing authorized level.

TITLE II—REVITALIZING THE ECONOMY OF FISHERIES IN THE PACIFIC

Section 201. Short title

This section provides that this title may be cited as the “Revitalizing the Economy of Fisheries in the Pacific Act” or the “REFI Pacific Act”.

Section 202. Findings; purpose

The bill contains a number of findings related to the existing Pacific Coast groundfish fishing capacity reduction program and the loan obligations incurred as a result of that program.

The bill notes that it is the purpose of this title to refinance the Pacific Coast groundfish fishery fishing capacity reduction program, to protect and conserve the West Coast groundfish fishery and the coastal economies in California, Oregon, and Washington that rely on the groundfish fishery.

Section 203. Refinancing of Pacific Coast Groundfish Fishing Capacity Reduction Loan

The bill would require the Secretary of Commerce (upon receipt of such assurances as the Secretary considers appropriate to protect the interests of the United States) to issue a loan to refinance the existing debt obligation funding the fishing capacity reduction program for the West Coast groundfish fishery implemented under the Department of Commerce and Related Agencies Appropriations Act, 2003.

The bill would require that the loan to have a maturity that expires 45 years after the date of issuance, subject to extension if there is an outstanding balance after such period.

The bill would prohibit the fee with respect to such loan from exceeding 3% of the ex-vessel value of the harvest from each fishery for which the loan is issued.

The bill would set forth requirements for direct loan interest rates, subloans, the calculation of the ex-vessel landing fee to be collected for payment of such loan, and allows any subloan to be paid off early.

The bill would require the Secretary to recalculate the ex-vessel landing fee within 60 days after the issuance of the loan based on the most recent value of the fishery.

The bill authorizes an amount equal to 1% of the amount of the loan to be appropriated to the Secretary to carry out this section for the purposes of the Federal Credit Reform Act of 1990.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Com-

mittee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 4742—Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act

Summary: H.R. 4742 would amend the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and authorize the appropriation of \$1.6 billion through 2018 to carry out that act. The bill also would direct the Secretary of Commerce, upon an affirmative vote in a referendum, to amend the terms for repayment of an advance made in 2003 to buy back fishing permits in the Pacific Coast fishery for groundfish. Finally, the legislation would set a new limit on fees that are assessed on members of the affected fishery to repay the advance.

CBO estimates that implementing H.R. 4742 would cost \$1.5 billion over the 2015–2019 period and \$72 million after 2019, assuming appropriation of the authorized amounts. CBO estimates that implementing the bill would increase direct spending by \$7 million over the 2015–2024 period; therefore, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

H.R. 4742 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 4742 is shown in the following table. The costs of this legislation fall within budget functions 300 (natural resources and environment) and 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—					
	2015	2016	2017	2018	2019	2015–2019
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	397	397	397	397	0	1,588
Estimated Outlays	258	337	385	397	139	1,516
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	7	0	0	0	0	7
Estimated Outlays	7	0	0	0	0	7

^a CBO estimates that enacting H.R. 4742 would have no effect on direct spending in the 2020–2024 period.

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted by the end of 2014 and that the authorized amounts will be appropriated for each fiscal year.

Spending subject to appropriation

H.R. 4742 would authorize the appropriation of \$1.6 billion over the 2015–2018 period to carry out activities under the MSA. CBO estimates that implementing the legislation would cost about \$1.5 billion over the 2015–2019 period and \$72 million after 2019, assuming appropriation of the authorized amounts.

Title I of the bill would authorize the appropriation of \$397 million a year over the 2015–2018 period to carry out activities under the MSA. That act requires the National Oceanic and Atmospheric Administration (NOAA) to preserve sustainable fish populations in waters off the coasts of the United States using various methods, including limiting the amount of fish that can be harvested annually and enforcing laws that prohibit foreign fishing. In 2014,

NOAA received appropriations totaling \$507 million to carry out activities under the MSA.

Title I also would make amendments to the MSA, including provisions that would create new guidelines for establishing or modifying annual catch limits, require regional fishery management councils to make publicly-available audio or video recordings of their meetings, and direct NOAA to issue new regulations related to the collection of data from fisheries.

Title II would direct the Secretary of Commerce to conduct a referendum that would allow members of the affected fishery to agree to a new, lower assessment rate to repay the advance. Based on information from the National Marine Fisheries Service (NMFS), CBO estimates that the costs of conducting that referendum would not be significant.

Direct spending

H.R. 4742 would direct the Secretary of Commerce to hold a referendum that would allow eligible members of a Pacific Coast fishery to vote to assess themselves at a lower rate to repay an advance that the government made in 2003. At that time, NMFS provided \$46 million in funds to buy out certain fishing permits in an effort to remove excess fishing capacity in the fishery. Of that amount, \$36 million was considered a loan to the remaining members of the Pacific Coast fishery, which was made after a referendum in which eligible members of the fishery agreed to assess themselves to repay the advance based on the value of the catch (“ex-vessel” value) in the affected fishery.

Assuming that the lower rate for assessments would be approved in the referendum, and based on information from NMFS, CBO expects that enacting H.R. 4742 would result in a change in cash flows associated with the advance made to fishery members in 2003. Under current law, CBO expects the members of the fishery to remit about \$2.5 million per year to fully repay the advance under the original terms. Under H.R. 4742, CBO expects the annual assessment would fall to about \$1.5 million and that the advance would be repaid over the next 45 years (compared with 30 years under current law).

Consistent with the way the original advance and subsequent repayments have been treated in the budget, CBO considers those effects to be a modification to the terms of an existing loan.¹ Hence, the net cost to the government is measured as the difference between the discounted present value of the stream of assessment payments anticipated under current law and the stream of payments that would occur under the bill. Because the payments

¹ Although the original advance was treated as a loan in the budget, CBO considers that treatment inappropriate. Under the Federal Credit Reform Act, a direct loan is defined as a disbursement of funds to a nonfederal borrower under a contract that requires repayment. A disbursement by the government should not be considered a direct loan, however, if the duty to repay the government arises from an exercise of sovereign power, tort liability, or some other non-contractual obligation.

Therefore, in CBO’s view, such an advance should be recorded as an outlay when it is made, and the subsequent stream of annual repayments should be shown in the budget on a cash basis as federal revenues because the requirement to pay the assessment is compulsory. The government’s sovereign power is used to establish and enforce this assessment, which must be paid by all members of the fishery regardless of how they voted in the referendum. If the 2003 advance had been recorded in the budget to reflect these circumstances, then the proposed change to the repayment schedule under H.R. 4742 would be reflected in the budget as a change in revenues.

would be stretched out over a longer period of time, their value to the government on a present-value basis would be smaller. Therefore, CBO estimates that enacting H.R. 4742 would increase the cost of the original advance by \$7 million, which would be recorded in the budget in the year of enactment. Because the modification to the repayment agreement can be made without a subsequent appropriation, the cost of this legislation would be an increase in direct spending.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 4742, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATURAL RESOURCES ON MAY 29, 2014

	By fiscal year, in millions of dollars—												
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2014–2019	2014–2024
	NET INCREASE IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	0	7	0	0	0	0	0	0	0	0	0	7	7

Intergovernmental and private-sector impact: H.R. 4742 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would benefit states by reauthorizing a number of programs that support fish conservation and management initiatives. Any costs they might incur would result from complying with conditions for receiving federal assistance.

Previous CBO estimate: On September 8, 2014, CBO transmitted a cost estimate for S. 1275, the Revitalizing the Economy of Fisheries in the Pacific Act (REFI Pacific Act), as ordered reported by the Committee on Commerce, Science, and Transportation on April 9, 2014. S. 1275 is similar to the provisions in title II of H.R. 4742, and the CBO cost estimates for those provisions are the same.

Estimate prepared by: Federal costs: Susan Willie and Jeff LaFave; Impact on state, local, and tribal governments: Jon Sperl; Impact on the private sector: Amy Petz.

Estimate approved by: Theresa A. Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. CBO estimates that implementing H.R. 4742 would cost \$1.5 billion over the 2015–2019 period and \$72 million after 2019, assuming appropriation of the authorized amounts. CBO estimates that implementing the bill would increase direct spending by \$7 million over the 2015–2024 period; therefore, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to amend the Magnuson-Stevens Fishery Conservation and Management Act to provide flexibility for fishery managers and stability for fishermen.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman estimates that this bill directs the Secretary of the Interior to conduct two rulemakings.

Duplication of Existing Programs. This bill does establish or reauthorize a program of the federal government known to be duplicative of another federal program. Such program was not included in a report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 but was identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs. Specifically, this program is the Fisheries Development and Utilization Research and Development Grants and Cooperative Agreements Program. In addition, for habitat conservation, the related programs are Coastal Zone Management Administration Awards, Financial Assistance for National Centers for Coastal Ocean Science, Regional Fishery Management Councils, Chesapeake Bay Studies, and Congressionally Identified Awards and Projects. However, this bill's reauthorization of the Magnuson-Stevens Act also provides new focus and guidance to ensure that fisheries are managed more appropriately, effectively and efficiently.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT

* * * * *

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

* * * * *

SEC. 2. FINDINGS, PURPOSES AND POLICY.

(a) FINDINGS.—The Congress finds and declares the following:

(1) * * *

* * * * *

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

* * * * *

(b) PURPOSES.—It is therefore declared to be the purposes of the Congress in this Act—

(1) * * *

* * * * *

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

* * * * *

SEC. 3. DEFINITIONS.

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

(1) * * *

* * * * *

(2a) *The term “catch share” means any fishery management program that allocates a specific percentage of the total allowable catch for a fishery, or a specific fishing area, to an individual, cooperative, community, processor, representative of a commercial sector, or regional fishery association established in accordance with section 303A(c)(4), or other entity.*

* * * * *

(4a) *The term “confidential information” means—*

- (A) *trade secrets;*
- (B) *proprietary information;*
- (C) *observer information; and*
- (D) *commercial or financial information the disclosure of which is likely to result in harm to the competitive position of the person that submitted the information to the Secretary.*

* * * * *

(8a) *The term “depleted” means, with respect to a stock of fish or stock complex, that the stock or stock complex has a biomass that has declined below a level that jeopardizes the capacity of*

the stock or stock complex to produce maximum sustainable yield on a continuing basis.

* * * * *

(33) The term “optimum”, with respect to the yield from a fishery, means the amount of fish which—

(A) * * *

* * * * *

(C) in the case of an **overfished** *depleted* fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.

(34) **The terms “overfishing” and “overfished” mean** *The term “overfishing” means a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.*

* * * * *

(43a)(A) *The term “subsistence fishing” means fishing in which the fish harvested are intended for customary and traditional uses, including for direct personal or family consumption as food or clothing; for the making or selling of handicraft articles out of nonedible byproducts taken for personal or family consumption, for barter, or sharing for personal or family consumption; and for customary trade.*

(B) *In this paragraph—*

(i) *the term “family” means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and*

(ii) *the term “barter” means the exchange of a fish or fish part—*

(I) for another fish or fish part; or

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

* * * * *

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out the provisions of **this Act—**

- [(1) \$337,844,000 for fiscal year 2007;**
- [(2) \$347,684,000 for fiscal year 2008;**
- [(3) \$357,524,000 for fiscal year 2009;**
- [(4) \$367,364,000 for fiscal year 2010;**
- [(5) \$377,204,000 for fiscal year 2011;**
- [(6) \$387,044,000 for fiscal year 2012; and]**
- [(7) this Act \$396,875,000 for [fiscal year 2013] each of fiscal years 2014 through 2018.**

SEC. 5. ENSURING CONSISTENT FISHERIES MANAGEMENT UNDER CERTAIN OTHER FEDERAL LAWS.

(a) **NATIONAL MARINE SANCTUARIES ACT AND ANTIQUITIES ACT OF 1906.**—*In any case of a conflict between this Act and the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) or the Antiquities Act of 1906 (16 U.S.C. 431 et seq.), this Act shall control.*

(b) **FISHERIES RESTRICTIONS UNDER ENDANGERED SPECIES ACT OF 1973.**—*To ensure transparency and consistent management of*

fisheries throughout their range, any restriction on the management of fish in the exclusive economic zone that is necessary to implement a recovery plan under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall be implemented—

- (1) using authority under this Act; and*
- (2) in accordance with processes and time schedules required under this Act.*

**TITLE I—UNITED STATES RIGHTS AND AUTHORITY
REGARDING FISH AND FISHERY RESOURCES**

SEC. 102. HIGHLY MIGRATORY SPECIES.

(a) * * *

* * * * *

(c) PROMOTION OF STOCK MANAGEMENT.—If a relevant international fisheries organization does not have a process for developing a formal plan to rebuild a depleted stock, an **【overfished】** *depleted* stock, or a stock that is approaching a condition of being **【overfished】** *depleted*, the provisions of this Act in this regard shall be communicated to and promoted by the United States in the international or regional fisheries organization.

**TITLE II—FOREIGN FISHING AND
INTERNATIONAL FISHERY AGREEMENTS**

**TITLE III—NATIONAL FISHERY MANAGEMENT
PROGRAM**

**SEC. 301. NATIONAL STANDARDS FOR FISHERY CONSERVATION AND
MANAGEMENT.**

(a) IN GENERAL.—Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to this title shall be consistent with the following national standards for fishery conservation and management:

(1) * * *

* * * * *

(8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of **【overfished】** *depleted* stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of paragraph (2), in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

* * * * *

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

SEC. 302. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) ESTABLISHMENT.—(1) There shall be established, within 120 days after the date of the enactment of this Act, eight Regional Fishery Management Councils, as follows:

(A) NEW ENGLAND COUNCIL.—The New England Fishery Management Council shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except as provided in paragraph (3)). The New England Council shall have ~~18~~ 19 voting members, including 12 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State) *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.*

(B) MID-ATLANTIC COUNCIL.—The Mid-Atlantic Fishery Management Council shall consist of the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, and North Carolina and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except North Carolina, and as provided in paragraph (3)). The Mid-Atlantic Council shall have ~~21~~ 22 voting members, including 13 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State) *and a liaison who is a member of the New England Fishery Management Council to represent the interests of fisheries under the jurisdiction of such Council.*

* * * * *

(b) VOTING MEMBERS.—(1) * * *

(2)(A) The members of each Council required to be appointed by the Secretary must be individuals who, by reason of their occupational or other experience, scientific expertise, or training, are knowledgeable regarding the conservation and management, or the commercial ~~for recreational~~, *recreational, or subsistence fishing* harvest, of the fishery resources of the geographical area concerned. Within nine months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, by regulation, prescribe criteria for determining whether an individual satisfies the requirements of this subparagraph.

* * * * *

(C) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has determined that each such individual is qualified under the requirements of subparagraph (A) and unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the State, *and in the case of the Governor of Alaska with the subsistence fishing interests of the State*, regarding those individuals. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy and shall be accompanied by a statement by the Governor explaining how each such individual meets the requirements of subparagraph (A). The Sec-

retary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of such requirements. If the Secretary determines that any individual is not qualified, the Secretary shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question. An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k).

* * * * *

(g) COMMITTEES AND ADVISORY PANELS.—

(1)(A) * * *

(B) Each scientific and statistical committee shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices. *Each scientific and statistical committee shall develop such advice in a transparent manner and allow for public involvement in the process.*

* * * * *

(i) PROCEDURAL MATTERS.—(1) * * *

(2) The following guidelines apply with respect to the conduct of business at meetings of a Council, and of a Council, of the Council coordination committee established under subsection (1), and of the scientific and statistical committees or other committees or advisory panels established under subsection (g):

(A) * * *

* * * * *

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

(i) to the extent practicable, a Webcast, an audio recording, or a live broadcast of each meeting of the Council, and of the Council Coordination Committee established under subsection (1), that is not closed in accordance with paragraph (3); and

(ii) audio, video (if the meeting was in person or by video conference), or a searchable audio or written transcript of each meeting of the Council and of the meetings of committees referred to in section 302(g)(1)(B) of the Council by not later than 30 days after the conclusion of the meeting.

(H) The Secretary shall maintain and make available to the public an archive of Council and scientific and statistical committee meeting audios, videos, and transcripts made available under clauses (i) and (ii) subparagraph (G).

* * * * *

(m) CONSIDERATIONS FOR MODIFICATIONS TO ANNUAL CATCH LIMIT REQUIREMENTS.—

(1) CONSIDERATION OF ECOSYSTEM AND ECONOMIC IMPACTS.—

In establishing annual catch limits a Council may, consistent

with section 302(h)(6), consider changes in an ecosystem and the economic needs of the fishing communities.

(2) *LIMITATIONS TO ANNUAL CATCH LIMIT REQUIREMENT FOR SPECIAL FISHERIES.*—Notwithstanding subsection (h)(6), a Council is not required to develop an annual catch limit for—

(A) an ecosystem component species;

(B) a fishery for a species that has a life cycle of approximately 1 year, unless the Secretary has determined the fishery is subject to overfishing; or

(C) a stock for which—

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

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

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

(A) management measures under international agreements in which the United States participates;

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

(C) in instances in which no transboundary agreement exists, activities by another country outside the exclusive economic zone that may hinder conservation efforts by United States fisherman for a fish species for which any of the recruitment, distribution, life history, or fishing activities are transboundary.

(4) *AUTHORIZATION FOR MULTISPECIES COMPLEXES AND MULTIYEAR ANNUAL CATCH LIMITS.*—For purposes of subsection (h)(6), a Council may establish—

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

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

(5) *ECOSYSTEM COMPONENT SPECIES DEFINED.*—In this subsection the term “ecosystem component species” means a stock of fish that is a nontarget, incidentally harvested stock of fish in a fishery, or a nontarget, incidentally harvested stock of fish that a Council or the Secretary has determined—

(A) is not subject to overfishing, approaching a depleted condition or depleted; and

(B) is not likely to become subject to overfishing or depleted in the absence of conservation and management measures.

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS.

(a) *REQUIRED PROVISIONS.*—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—

(A) necessary and appropriate for the conservation and management of the fishery, to prevent overfishing and rebuild **【overfished】** *depleted* stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

* * * * *

【(9)】 include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for—

【(A)】 participants in the fisheries and fishing communities affected by the plan or amendment;

【(B)】 participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and

【(C)】 the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;】

【(10)】 (9) specify objective and measurable criteria for identifying when the fishery to which the plan applies is **【overfished】** *depleted* (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an **【overfished】** *depleted* condition or is **【overfished】** *depleted*, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

【(11)】 (10) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—

(A) * * *

* * * * *

【(12)】 (11) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

【(13)】 (12) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery, including its economic impact, and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors;

【(14)】 (13) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate, taking into consideration the economic impact of the harvest restrictions or re-

covery benefits on the fishery participants in each sector, any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery and;

[(15)] (14) establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.

* * * * *

(d) *FISHERY IMPACT STATEMENT.*—

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

(2) *The fishery impact statement shall describe—*

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

(B) *the environmental impact of the proposed action;*

(C) *any adverse environmental effects which cannot be avoided should the proposed action be implemented;*

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

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

(F) *the cumulative conservation and management effects; and*

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

(i) *participants in the fisheries and fishing communities affected by the proposed action;*

(ii) *participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and*

(iii) *the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery.*

(3) *A substantially complete fishery impact statement, which may be in draft form, shall be available not less than 14 days before the beginning of the meeting at which a Council makes its final decision on the proposal (for plans, plan amendments, or proposed regulations prepared by a Council pursuant to subsection (a) or (c)). Availability of this fishery impact statement will be announced by the methods used by the council to disseminate public information and the public and relevant government agencies will be invited to comment on the fishery impact statement.*

(4) *The completed fishery impact statement shall accompany the transmittal of a fishery management plan or plan amendment as specified in section 304(a), as well as the transmittal of proposed regulations as specified in section 304(b).*

(5) *The Councils shall, subject to approval by the Secretary, establish criteria to determine actions or classes of action of minor significance regarding subparagraphs (A), (B), (D), (E), and (F) of paragraph (2), for which preparation of a fishery impact statement is unnecessary and categorically excluded from the requirements of this section, and the documentation required to establish the exclusion.*

(6) *The Councils shall, subject to approval by the Secretary, prepare procedures for compliance with this section that provide for timely, clear, and concise analysis that is useful to decision-makers and the public, reduce extraneous paperwork and effectively involve the public, including—*

(A) *using Council meetings to determine the scope of issues to be addressed and identifying significant issues related to the proposed action;*

(B) *integration of the fishery impact statement development process with preliminary and final Council decision-making in a manner that provides opportunity for comment from the public and relevant government agencies prior to these decision points; and*

(C) *providing scientific, technical, and legal advice at an early stage of the development of the fishery impact statement to ensure timely transmittal and Secretarial review of the proposed fishery management plan, plan amendment, or regulations to the Secretary.*

(7) *Actions taken in accordance with the procedures of this section shall constitute fulfillment of the requirements the National Environmental Policy Improvement Act of 1970 (42 U.S.C. 4371 et seq.) and all related implementing regulations.*

SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.

(a) * * *

* * * * *

(c) **REQUIREMENTS FOR LIMITED ACCESS PRIVILEGES.—**

(1) **IN GENERAL.—**Any limited access privilege program to harvest fish submitted by a Council or approved by the Secretary under this section shall—

(A) if established in a fishery that is **[overfished]** *depleted* or subject to a rebuilding plan, assist in its rebuilding;

* * * * *

(6) **PROGRAM INITIATION.—**

(A) * * *

* * * * *

[(D) NEW ENGLAND AND GULF REFERENDUM.—

[(i) Except as provided in clause (iii) for the Gulf of Mexico commercial red snapper fishery, the New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than 2/3 of those voting in a referendum among eligible permit holders, or other

persons described in clause (v), with respect to the New England Council, and by a majority of those voting in the referendum among eligible permit holders with respect to the Gulf Council. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum. If an individual fishing quota program fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

[(ii) The Secretary shall conduct a referendum under this subparagraph, including notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures, and eligibility requirements for the referendum process and the proposed individual fishing quota program. Within 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

[(iii) The provisions of section 407(c) of this Act shall apply in lieu of this subparagraph for an individual fishing quota program for the Gulf of Mexico commercial red snapper fishery.

[(iv) Chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) does not apply to the referenda conducted under this subparagraph.

[(v) The Secretary shall promulgate criteria for determining whether additional fishery participants are eligible to vote in the New England referendum described in clause (i) in order to ensure that crew members who derive a significant percentage of their total income from the fishery under the proposed program are eligible to vote in the referendum.

[(vi) In this subparagraph, the term “individual fishing quota” does not include a sector allocation.】

(D) CATCH SHARE REFERENDUM PILOT PROGRAM.—

(i) The New England, Mid-Atlantic, South Atlantic, and Gulf of Mexico Councils may not submit a fishery management plan or amendment that creates a catch share program for a fishery, and the Secretary may not approve or implement such a plan or amendment submitted by such a Council or a secretarial plan or amendment under section 304(c) that creates such a program, unless the final program has been approved, in a referendum in accordance with this subparagraph, by a majority of the permit holders eligible to participate in the fishery. For multispecies permits in the Gulf of Mexico, any permit holder with landings from with-

in the sector of the fishery being considered for the catch share program within the 5-year period preceding the date of the referendum and still active in fishing in the fishery shall be eligible to participate in such a referendum. If a catch share program is not approved by the requisite number of permit holders, it may be revised and submitted for approval in a subsequent referendum.

(ii) The Secretary may, at the request of the New England Fishery Management Council, allow participation in such a referendum for a fishery under the Council's authority, by fishing vessel crewmembers who derive a significant portion of their livelihood from such fishing.

(iii) The Secretary shall conduct a referendum under this subparagraph, including notifying all permit holders eligible to participate in the referendum and making available to them—

(I) a copy of the proposed program;

(II) an estimate of the costs of the program, including costs to participants;

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

(IV) information concerning the schedule, procedures, and eligibility requirements for the referendum process.

(iv) For the purposes of this subparagraph, the term "permit holder eligible to participate" only includes the holder of a permit for a fishery under which fishing has occurred in 3 of the 5 years preceding a referendum for the fishery, unless sickness, injury, or other unavoidable hardship prevented the permit holder from engaging in such fishing.

(v) The Secretary may not implement any catch share program for any fishery managed exclusively by the Secretary unless first petitioned by a majority of those permit holders eligible to participate in the fishery.

* * * * *

SEC. 304. ACTION BY THE SECRETARY.

(a) REVIEW OF PLANS.—

(1) * * *

(2) In undertaking the review required under paragraph (1), the Secretary shall—

(A) * * *

(B) consult with the Secretary of State with respect to foreign fishing; [and]

(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6)[.]; and

(D) evaluate the adequacy of the accompanying fishery impact statement as basis for fully considering the environ-

mental impacts of implementing the fishery management plan or plan amendment.

* * * * *

[(b) REVIEW OF REGULATIONS.—]

[(1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, plan amendment, this Act and other applicable law. Within 15 days of initiating such evaluation the Secretary shall make a determination and—]

(b) REVIEW OF REGULATIONS.—

(1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, plan amendment, this Act and other applicable law. The Secretary shall also immediately initiate an evaluation of the accompanying fishery impact statement as a basis for fully considering the environmental impacts of implementing the proposed regulations. Within 15 days of initiating such evaluation the Secretary shall make a determination and—

(A) if that determination is affirmative, the Secretary shall publish such regulations in the Federal Register, with such technical changes as may be necessary for clarity and an explanation of those changes, for a public comment period of 15 to 60 days; or

(B) if that determination is negative, the Secretary shall notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent with the fishery management plan, plan amendment, this Act, and other applicable law.

* * * * *

(d) ESTABLISHMENT OF FEES.—(1) * * *

(2)(A) * * *

* * * * *

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

(i) Congress; and

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

(e) REBUILDING OVERFISHED FISHERIES.—

(1) The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council's geographical area of authority and identify those fisheries that are [overfished] depleted or are approaching a condition of being [overfished] depleted. For those fisheries managed under a fishery management plan or international agreement, the status shall be determined using the criteria for overfishing

specified in such plan or agreement. A fishery shall be classified as approaching a condition of being **【overfished】 depleted** if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary estimates that the fishery will become **【overfished】 depleted** within two years. *The report shall distinguish between fisheries that are depleted (or approaching that condition) as a result of fishing and fisheries that are depleted (or approaching that condition) as a result of factors other than fishing. The report shall state, for each fishery identified as depleted or approaching that condition, whether the fishery is the target of directed fishing.*

(2) If the Secretary determines at any time that a fishery is **【overfished】 depleted**, the Secretary shall immediately notify the appropriate Council and request that action be taken to end overfishing in the fishery and to implement conservation and management measures to rebuild affected stocks of fish. The Secretary shall publish each notice under this paragraph in the Federal Register.

(3) Within 2 years after an identification under paragraph (1) or notification under paragraphs (2) or (7), the appropriate Council (or the Secretary, for fisheries under section 302(a)(3)) shall prepare and implement a fishery management plan, plan amendment, or proposed regulations for the fishery to which the identification or notice applies—

(A) * * *

(B) to prevent overfishing from occurring in the fishery whenever such fishery is identified as approaching an **【overfished】 depleted** condition.

(4) For a fishery that is **【overfished】 depleted**, any fishery management plan, amendment, or proposed regulations prepared pursuant to paragraph (3) or paragraph (5) for such fishery shall—

(A) specify a time period for rebuilding the fishery that shall—

(i) be as short as **【possible】 practicable**, taking into account the status and biology of any **【overfished】 depleted** stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the **【overfished】 depleted** stock of fish within the marine ecosystem; and

【(ii) not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;】

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

(I) the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;

(II) the Secretary determines that the cause of the stock being depleted is outside the jurisdiction

of the Council or the rebuilding program cannot be effective only by limiting fishing activities;

(III) the Secretary determines that one or more components of a mixed-stock fishery is depleted but cannot be rebuilt within that time-frame without significant economic harm to the fishery, or cannot be rebuilt without causing another component of the mixed-stock fishery to approach a depleted status;

(IV) the Secretary determines that recruitment, distribution, or life history of, or fishing activities for, the stock are affected by informal transboundary agreements under which management activities outside the exclusive 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;

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

[(B)] *(C) allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery; [and]*

[(C)] *(D) for fisheries managed under an international agreement, reflect traditional participation in the fishery, relative to other nations, by fishermen of the United States[.]; and*

(E) specify a schedule for reviewing the rebuilding targets, evaluating environmental impacts on rebuilding progress, and evaluating progress being made toward reaching rebuilding targets.

(5) If, within the 2-year period beginning on the date of identification or notification that a fishery is **[overfished]** *depleted*, the Council does not submit to the Secretary a fishery management plan, plan amendment, or proposed regulations required by paragraph (3)(A), the Secretary shall prepare a fishery management plan or plan amendment and any accompanying regulations to stop overfishing and rebuild affected stocks of fish within 9 months under subsection (c).

* * * * *

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

(9) A Council may terminate the application of paragraph (3) to a fishery if the Council's scientific and statistical committee determines and the Secretary concurs that the original determination that the fishery was depleted was erroneous, either—

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

(B) *within 90 days after the completion of the next stock assessment after such determination.*

* * * * *

(i) INTERNATIONAL OVERFISHING.—The provisions of this subsection shall apply in lieu of subsection (e) to a fishery that the Secretary determines is **[overfished]** *depleted* or approaching a condition of being **[overfished]** *depleted* due to excessive international fishing pressure, and for which there are no management measures to end overfishing under an international agreement to which the United States is a party. For such fisheries—

(1) * * *

* * * * *

SEC. 305. OTHER REQUIREMENTS AND AUTHORITY.

(a) * * *

* * * * *

(c) EMERGENCY ACTIONS AND INTERIM MEASURES.—(1) * * *

* * * * *

(3) Any emergency regulation or interim measure which changes any existing fishery management plan or amendment shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation or interim measure promulgated under this subsection—

(A) * * *

(B) shall, except as provided in subparagraph (C), remain in effect for not more than **[180 days after the date of publication, and may be extended by publication in the Federal Register for one additional period of not more than 186 days, provided]** *1 year after the date of publication, and may be extended by publication in the Federal Register for one additional period of not more than 1 year, if the public has had an opportunity to comment on the emergency regulation or interim measure, and, in the case of a Council recommendation for emergency regulations or interim measures, the Council is actively preparing a fishery management plan, plan amendment, or proposed regulations to address the emergency or overfishing on a permanent basis;*

* * * * *

(e) EFFECT OF CERTAIN LAWS ON CERTAIN TIME REQUIREMENTS.—The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Regulatory Flexibility Act (5 U.S.C 601 et seq.), *the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)*, and Executive Order Numbered 12866, dated September 30, 1993, shall be complied with within the time limitations specified in subsections (a), (b), and (c) of section 304 as they apply to the functions of the Secretary under such provisions.

* * * * *

SEC. 306. STATE JURISDICTION.

(a) IN GENERAL.—

(1) * * *

* * * * *

(3) A State may regulate a fishing vessel outside the boundaries of the State in the following circumstances:

(A) * * *

* * * * *

(C) The fishing vessel is not registered under the law of the State of Alaska and is operating in a fishery in the exclusive economic zone off Alaska for which there **is no** fishery management plan in place **[on August 1, 1996]**, and the Secretary and the North Pacific Council find that there is a legitimate interest of the State of Alaska in the conservation and management of such fishery. The authority provided under this subparagraph shall terminate when a fishery management plan under this Act is approved and implemented for such fishery.

(b) EXCEPTION.—(1) * * *

* * * * *

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

* * * * *

SEC. 312. TRANSITION TO SUSTAINABLE FISHERIES.

(a) FISHERIES DISASTER RELIEF.—(1) (A) At the discretion of the Secretary or at the request of the Governor of an affected State or a fishing community, the Secretary shall determine whether there is a commercial fishery failure due to a fishery resource disaster as a result of—

[(A)] (i) natural causes;

[(B)] (ii) man-made causes beyond the control of fishery managers to mitigate through conservation and management measures, including regulatory restrictions (including those imposed as a result of judicial action) imposed to protect human health or the marine environment; or

[(C)] (iii) undetermined causes.

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

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

[(2)] (3) Upon the determination under paragraph (1) that there is a commercial fishery failure, the Secretary is authorized to make sums available to be used by the affected State, fishing community, or by the Secretary in cooperation with the affected State or fishing community for assessing the economic and social effects of the commercial fishery failure, or any activity that the Secretary determines is appropriate to restore the fishery or prevent a similar failure in the future and to assist a fishing community affected by such failure. Before making funds available for an activity authorized under this section, the Secretary shall make a determination

that such activity will not expand the size or scope of the commercial fishery failure in that fishery or into other fisheries or other geographic regions.

[(3)] (4) The Federal share of the cost of any activity carried out under the authority of this subsection shall not exceed 75 percent of the cost of that activity.

[(4)] (5) There are authorized to be appropriated to the Secretary such sums as are necessary for each of the fiscal years 2007 through 2013.

* * * * *

SEC. 314. NORTHWEST ATLANTIC OCEAN FISHERIES REINVESTMENT PROGRAM.

(a) PROGRAM.—(1) Not later than October 1, 1993, the Secretary shall establish a Northwest Atlantic Ocean Fisheries Reinvestment Program for the purposes of—

(A) * * *

* * * * *

(E) helping to restore [overfished] *depleted* New England groundfish stocks through aquaculture or hatchery programs.

* * * * *

SEC. 318. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM.

(a) IN GENERAL.—(1) The Secretary of Commerce, in consultation with the Councils, shall establish a cooperative research and management program to address needs identified under this Act and under any other marine resource laws enforced by the Secretary. The program shall be implemented on a regional basis and shall be developed and conducted through partnerships among Federal, State, and Tribal managers and scientists (including interstate fishery commissions), fishing industry participants (including use of commercial charter or recreational vessels for gathering data), and educational institutions.

(2) *Within one year after the date of enactment of the Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act, and after consultation with the Councils, the Secretary shall publish a plan for implementing and conducting the program established in paragraph (1). Such plan shall identify and describe critical regional fishery management and research needs, possible projects that may address those needs, and estimated costs for such projects. The plan shall be revised and updated every 5 years, and updated plans shall include a brief description of projects that were funded in the prior 5-year period and the research and management needs that were addressed by those projects.*

* * * * *

(c) [FUNDING] PRIORITIES.—In making funds available the Secretary shall award funding on a competitive basis and based on regional fishery management needs, select programs that form part of a coherent program of research focused on solving priority issues identified by the Councils, and shall give priority to the following projects:

(1) Projects to collect data to improve, supplement, or enhance stock assessments, including **the use of fishing vessels or acoustic or other marine technology.** —

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

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

(C) *improving monitoring and observer coverage through the expanded use of electronic monitoring devices.*

* * * * *

TITLE IV—FISHERY MONITORING AND RESEARCH

SEC. 401. REGISTRATION AND INFORMATION MANAGEMENT.

(a) * * *

* * * * *

(g) **RECREATIONAL FISHERIES.—**

(1) * * *

* * * * *

(4) **FEDERAL-STATE PARTNERSHIPS.—**

(A) **ESTABLISHMENT.**—*The Secretary shall 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 States.*

(C) **BIENNIAL REPORT.**—*The Secretary shall submit to the Congress and publish biennial reports that include—*

(i) *the estimated accuracy of the registry program established under paragraph (1) and of State programs that are exempted under paragraph (2);*

(ii) *priorities for improving recreational fishing data collection; and*

(iii) *an explanation of any use of information collected by such State programs and by the Secretary, including a description of any consideration given to the information by the Secretary.*

(D) **STATES GRANT PROGRAM.**—*The Secretary shall make grants to States to improve implementation of State programs consistent with this subsection. The Secretary shall prioritize such grants based on the ability of the grant to improve the quality and accuracy of such programs.*

[(4)] (5) REPORT.—*Within 24 months after establishment of the program, the Secretary shall submit a report to Congress that describes the progress made toward achieving the goals and objectives of the program.*

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

(A) **IN GENERAL.**—*Not later than 60 days after the enactment of this paragraph, the Secretary shall enter into an agreement with the National Research Council of the Na-*

tional Academy of Sciences to study the implementation of the programs described in this section. The study shall—

(i) provide an updated assessment of recreational survey methods established or improved since the publication of the Council’s report “Review of Recreational Fisheries Survey Methods (2006)”;

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

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

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

SEC. 402. INFORMATION COLLECTION.

(a) * * *

(b) CONFIDENTIALITY OF INFORMATION.—

(1) Any information submitted to the Secretary, a State fishery management agency, or a marine fisheries commission by any person in compliance with the requirements of this Act shall be confidential and shall not be disclosed except—

(A) * * *

[(B) to State or Marine Fisheries Commission employees as necessary to further the Department’s mission, subject to a confidentiality agreement that prohibits public disclosure of the identity of business of any person;]

(B) to State or Marine Fisheries Commission employees as necessary for achievement of the purposes of this Act, subject to a confidentiality agreement between the State or Commission, respectively, and the Secretary that prohibits public disclosure of the identity of any person and of confidential information;

* * * * *

(E) when such information is used by State, Council, or Marine Fisheries Commission employees to verify catch under a [limited access] catch share program, but only to the extent that such use is consistent with subparagraph (B);

* * * * *

(G) when such information is required to be submitted to the Secretary for any determination under a [limited access] catch share program; or

* * * * *

(2) Any observer information, and information obtained through a vessel monitoring system or other technology used on-board a fishing vessel for enforcement or data collection purposes, shall be confidential and shall not be disclosed, except in accordance with the requirements of subparagraphs (A) through (H) of paragraph (1), or—

(A) * * *

(B) when such information is necessary in proceedings to adjudicate observer certifications; **or**

[(C) as authorized by any regulations issued under paragraph (3) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

[(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

[(ii) to validate the accuracy of the observer information collected.]

(C) as authorized by any regulations issued under paragraph (6) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

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

(D) to other persons if the Secretary has obtained written authorization from the person who submitted such information or from the person on whose vessel the information was collected, to release such information for reasons not otherwise provided for in this subsection.

(3) Any information submitted to the Secretary, a State fisheries management agency, or a Marine Fisheries Commission by any person in compliance with the requirements of this Act, including confidential information, may only be used for purposes of fisheries management and monitoring and enforcement under this Act.

(4) The Secretary may enter into a memorandum of understanding with the heads of other Federal agencies for the sharing of confidential information to ensure safety of life at sea or for fisheries enforcement purposes, including information obtained through a vessel monitoring system or other electronic enforcement and monitoring systems, if—

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

(B) the heads of the other Federal agencies agree—

(i) to maintain the confidentiality of the information in accordance with the requirements that apply to the Secretary under this section; and

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

(5) The Secretary may not provide any vessel-specific or aggregate vessel information from a fishery that is collected for monitoring and enforcement purposes to any person for the purposes of coastal and marine spatial planning under Executive

Order 13547, unless the Secretary determines that providing such information is important for maintaining or enhancing national security or for ensuring fishermen continued access to fishing grounds.

~~[(3)]~~ (6) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (2)(A).

* * * * *

SEC. 404. FISHERIES RESEARCH.

(a) * * *

* * * * *

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

(1) IN GENERAL.—

(A) The Secretary, subject to appropriations, may obligate for data collection purposes in accordance with prioritizations under paragraph (3) a portion of amounts received by the United States as fisheries enforcement penalties.

(B) Amounts may be obligated under this paragraph only in the fishery management region with respect to which they are collected.

(2) INCLUDED PURPOSES.—The purposes referred to in paragraph (1) include—

(A) the use of State personnel and resources, including fishery survey vessels owned and maintained by States to survey or assess data-poor fisheries for which fishery management plans are in effect under this Act; and

(B) cooperative research activities authorized under section 318 to improve or enhance the fishery independent data used in fishery stock assessments.

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

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

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

(C) provide those priorities to the Secretary.

(4) DEFINITIONS.—In this subsection:

(A) The term “data-poor fishery” means a fishery—

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

- (ii) for which a fishery stock assessment has not been performed within the preceding 5-year period; or
- (iii) for which limited information on the status of the fishery is available for management purposes.

(B) The term “fisheries enforcement penalties” means any fine or penalty imposed, or proceeds of any property seized, for a violation of this Act or of any other marine resource law enforced by the Secretary.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for each fiscal year to carry out this subsection up to 80 percent of the fisheries enforcement penalties collected during the preceding fiscal year.

SEC. 405. INCIDENTAL HARVEST RESEARCH.

(a) * * *

* * * * *

(c) COLLECTION AND ASSESSMENT OF SPECIFIC STOCK INFORMATION.—For stocks of fish identified pursuant to subsection (b), with priority given to stocks which (based upon the best available scientific information) are considered to be **[overfished]** *depleted*, the Secretary shall conduct—

(1) * * *

* * * * *

[SEC. 407. GULF OF MEXICO RED SNAPPER RESEARCH.

[(a) INDEPENDENT PEER REVIEW.—(1) Within 30 days of the date of enactment of the Sustainable Fisheries Act, the Secretary shall initiate an independent peer review to evaluate—

[(A) the accuracy and adequacy of fishery statistics used by the Secretary for the red snapper fishery in the Gulf of Mexico to account for all commercial, recreational, and charter fishing harvests and fishing effort on the stock;

[(B) the appropriateness of the scientific methods, information, and models used by the Secretary to assess the status and trends of the Gulf of Mexico red snapper stock and as the basis for the fishery management plan for the Gulf of Mexico red snapper fishery;

[(C) the appropriateness and adequacy of the management measures in the fishery management plan for red snapper in the Gulf of Mexico for conserving and managing the red snapper fishery under this Act; and

[(D) the costs and benefits of all reasonable alternatives to a limited access privilege program for the red snapper fishery in the Gulf of Mexico.

[(2) The Secretary shall ensure that commercial, recreational, and charter fishermen in the red snapper fishery in the Gulf of Mexico are provided an opportunity to—

[(A) participate in the peer review under this subsection; and

[(B) provide information to the Secretary concerning the review of fishery statistics under this subsection without being subject to penalty under this Act or other applicable law for any past violation of a requirement to report such information to the Secretary.

[(3) The Secretary shall submit a detailed written report on the findings of the peer review conducted under this subsection to the Gulf Council no later than one year after the date of enactment of the Sustainable Fisheries Act.

[(b) PROHIBITION.—In addition to the restrictions under section 303(d)(1)(A), the Gulf Council may not, prior to October 1, 2002, undertake or continue the preparation of any fishery management plan, plan amendment or regulation under this Act for the Gulf of Mexico commercial red snapper fishery that creates an individual fishing quota program or that authorizes the consolidation of licenses, permits, or endorsements that result in different trip limits for vessels in the same class.

[(c) REFERENDUM.—

[(1) On or after October 1, 2002, the Gulf Council may prepare and submit a fishery management plan, plan amendment, or regulation for the Gulf of Mexico commercial red snapper fishery that creates a limited access privilege program or that authorizes the consolidation of licenses, permits, or endorsements that result in different trip limits for vessels in the same class, only if the preparation of such plan, amendment, or regulation is approved in a referendum conducted under paragraph (2) and only if the submission to the Secretary of such plan, amendment, or regulation is approved in a subsequent referendum conducted under paragraph (2).

[(2) The Secretary, at the request of the Gulf Council, shall conduct referendums under this subsection. Only a person who held an annual vessel permit with a red snapper endorsement for such permit on September 1, 1996 (or any person to whom such permit with such endorsement was transferred after such date) and vessel captains who harvested red snapper in a commercial fishery using such endorsement in each red snapper fishing season occurring between January 1, 1993, and such date may vote in a referendum under this subsection. The referendum shall be decided by a majority of the votes cast. The Secretary shall develop a formula to weigh votes based on the proportional harvest under each such permit and endorsement and by each such captain in the fishery between January 1, 1993, and September 1, 1996. Prior to each referendum, the Secretary, in consultation with the Council, shall—

[(A) identify and notify all such persons holding permits with red snapper endorsements and all such vessel captains; and

[(B) make available to all such persons and vessel captains information about the schedule, procedures, and eligibility requirements for the referendum and the proposed individual fishing quota program.

[(d) CATCH LIMITS.—Any fishery management plan, plan amendment, or regulation submitted by the Gulf Council for the red snapper fishery after the date of enactment of the Sustainable Fisheries Act shall contain conservation and management measures that—

[(1) establish separate quotas for recreational fishing (which, for the purposes of this subsection shall include charter fishing) and commercial fishing that, when reached, result in a prohibition on the retention of fish caught during recreational

fishing and commercial fishing, respectively, for the remainder of the fishing year; and

[(2) ensure that such quotas reflect allocations among such sectors and do not reflect any harvests in excess of such allocations.]

* * * * *

SEC. 409. STOCK ASSESSMENTS USED FOR FISHERIES MANAGED UNDER GULF OF MEXICO COUNCIL'S REEF FISH MANAGEMENT PLAN.

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

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

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

(A) incorporate fisheries survey information collected by university researchers; and

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

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

(c) *CONSTITUENT AND STAKEHOLDER PARTICIPATION.*—Each such fishery assessment shall—

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

(2) contain all of the raw data used in the assessment and a description of the methods used to collect that data; and

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

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

(B) a panel of independent experts to review the data and assessment and make recommendations on the most appropriate values of critical population and management quantities.

AMERICAN FISHERIES ACT

* * * * *

TITLE II—FISHERIES

* * * * *

Subtitle II—Bering Sea Pollock Fishery

* * * * *

SEC. 210. FISHERY COOPERATIVE LIMITATIONS.

(a) * * *

* * * * *

(e) EXCESSIVE SHARES.—

[(1) HARVESTING.—No particular individual, corporation, or other entity may harvest, through a fishery cooperative or otherwise, a total of more than 17.5 percent of the pollock available to be harvested in the directed pollock fishery.]

(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 Council.

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

* * * * *

DISSENTING VIEWS

H.R. 4742 would reauthorize and amend the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the law that governs fishing in the U.S. Exclusive Economic Zone (EEZ). We oppose this legislation because it would roll back important elements of the law which are critical to making fisheries and the fishing industry in the United States economically and environmentally sustainable.

Congress first enacted the Fishery Conservation and Management Act in 1976 with two main goals in mind: put an end to unregulated fishing by foreign fleets in U.S. waters, and develop domestic fleets that could reap the economic benefit of our considerable fishery resources. It also set up eight regional fishery management councils (Councils) tasked with developing fishery management plans and conservation and management measures for fisheries in their waters. The law worked well at phasing out foreign fishing, and after an initial respite from the enormous pressure of foreign factory trawlers, many fish stocks rebounded and provided jobs and income for American fishermen.

However, significant financial investment in the development of the U.S. fishing fleet and a failure to limit entry into fisheries by U.S. fishermen, or to set catch limits based on what scientists knew the stocks could sustain, meant that domestic fishing soon replaced foreign in overexploiting U.S. fisheries. By the mid-1980s, many stocks were in decline, and by the early 1990s a number had collapsed, devastating fishing communities from coast to coast. Taxpayers have found themselves on the hook ever since, doling out hundreds of millions of dollars in assistance over the past two decades for fishery disasters, many of which could have been prevented with more effective fishery management.

Recognizing these failures, Congress amended the MSA in 1996 in an attempt to end overfishing, and to promote rebuilding of overfished stocks, protection of fish habitat, improvement of fisheries science, and minimization of bycatch. Some Councils took this direction from Congress to heart, putting in place plans to rebuild stocks and manage fisheries based on the best available science. Others, however, continued to view the law as advisory. Instead of making the tough choices necessary to stabilize and recover the fishing economies in their regions, they succumbed to political pressure and allowed their fisheries to further deteriorate, to the detriment of fishermen and their families.

It was not until 2007, a mere seven years ago, that Congress first required all Councils to set science-based annual catch limits (ACLs) to prevent overfishing, and to put in place accountability measures ensuring that exceeding an ACL meant a reduction in harvest the following year. In addition, in cases where a fishery may still become overfished, Councils are now required to end over-

fishing immediately. These changes, coupled with the 1996 reforms, have succeeded in ending overfishing in nearly all fisheries, and putting overfished stocks on a path to rebuilding. Most important, they have helped insulate the Councils from pressure to make politically-driven management decisions that hurt fishing communities in the long run.

While the MSA is not perfect, H.R. 4742 is an overreaction to the complaints of those in the industry who need the requirements of the law the most. Under the guise of providing “flexibility” for fishery managers, H.R. 4742 would undermine the rebuilding requirements in current law. These rollbacks in particular are job-killers. NOAA estimates that fully rebuilt fisheries would add an estimated \$31 billion to the economy and create 500,000 new jobs—increases of 17 percent and 33 percent, respectively. Rebuilding overfished stocks is the key to improving fishing economies, and we must not delay that process. Of further concern, the bill would eliminate the requirement to set ACLs for dozens of vulnerable stocks, and shield fisheries data not just from public view, but also from use by federal agencies that manage other ocean resources.

Because weakening fisheries policy is apparently not enough, H.R. 4742 also attacks bedrock environmental laws such as the National Environmental Policy Act, the Endangered Species Act, the Antiquities Act, and the National Marine Sanctuaries Act by making the MSA superior to those statutes and establishing fisheries management and fishing as a higher priority than other marine conservation and management goals. This new campaign in the Republican crusade to weaken these laws ignores the fact that extractive activities are not the only legitimate uses of the oceans, nor are they the only economically important ones. This Republican effort also ignores scientific evidence showing that protecting habitat and biodiversity in ocean ecosystems leads to more productive fisheries, and therefore to more income for fishermen.

H.R. 4742 also fails to address a number of issues that should be handled in the next MSA reauthorization. The original law passed in 1976 used the terms “science” and “ecosystem” a grand total of zero times. It mentioned “habitat” once. Subsequent reauthorizations have remedied this to some degree, but management has not kept pace with what we know about fish and their surroundings. Science tells us that productive fisheries require healthy food webs and high quality habitat. It also tells us that global warming and shorter-term changes in ocean conditions will affect fisheries, but exactly how and when is unclear. We do not know how every interaction will play out, but that should not stop us from moving toward incorporating new data and new scientific understanding of ocean ecosystems into fisheries management. H.R. 4742 uses uncertainty as an excuse for inaction; we should use it as an opportunity for improvement.

Finally, even though marine recreational fishing contributed more than \$100 million in total economic impacts to the U.S. economy in 2012, it is largely ignored in H.R. 4742. We have heard from numerous anglers and related businesses that better data, improved stock assessments, and more responsive management are needed, but this bill does little to address these issues. Collecting the information needed to manage recreational fisheries effec-

tively—and separately from commercial fisheries—will require creative solutions and significant additional funding.

Democratic members offered a number of amendments to H.R. 4742 at markup, and we were pleased that Republicans agreed with us that data collected by fishermen should be available to help protect fishing grounds from haphazard seismic testing, oil drilling, and other ill-conceived ocean uses. However, we were disappointed that they rejected our commonsense proposal to harmonize environmental review of fishing activities without weakening NEPA. We also find it unfortunate that Committee Republicans dismissed our amendments to retain science-based annual catch limits and rebuilding requirements for fish stocks, and to resolve conflicts between the MSA and other marine resources conservation laws through the existing framework of the National Ocean Policy.

While we have many healthy fisheries in the United States, we also have many that remain in dangerously depleted states or are only beginning their recovery. We have heard consistently from commercial and recreational fishermen, fishery managers, and the conservation community that the Magnuson-Stevens Act is working, and that the massive overhaul envisioned by this bill is not warranted. Without keeping strong conservation measures in place and continuing to improve management through better science, we will never realize the full potential of our fishery resources for sustainable economic development. For these reasons, we oppose H.R. 4742 as reported.

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