

**H.R. 200 - The “Strengthening Fishing Communities
and Increasing Flexibility in Fisheries Management Act”**

Sponsor – Congressman Young (R-Alaska)

Introduced on January 3, 2017

(Section-by-section of the bill as amended and ordered reported by the
House Natural Resources Committee on December 13, 2017)

Section 1 – Short Title.

Section 2 – Table of Contents.

Section 3 – Definitions. This section clarifies that terms used in the bill have the same meaning as those terms are defined in the Magnuson-Stevens Fishery Conservation and Management Act.

Section 4 – 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.

Section 101 – 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.

Section 102 – Amendments to Findings. This section would amend two findings to insert “cultural well-being” to finding #1, and to add “traditional way of life” to finding #10.

Section 103 – Amendments to Definitions. This section would amend the definition of “bycatch” to remove the words “management program” at the end of the definition. This section would add a definition of “depleted” and would modify the existing definitions (34) of “overfishing” and “overfished” to clarify that the definition for the term “overfishing” means “a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce maximum sustainable yield on a continuing basis.”

This section defines “subsistence fishing”, “family”, and “barter”.

This section would replace the term “overfished” with the term “depleted” throughout the Act.

This section 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.

This section would also require that the report state, for each fishery identified as depleted, whether the fishery is a target of directed fishing.

Section 104 – Authorization of Appropriations. This section would reauthorize the Act for five years beginning in Fiscal Year 2018 at the currently authorized level.

Section 201 – Definitions. This section would define “appropriate committees of Congress” to mean the Senate Commerce, Science, and Transportation Committee and the House Natural Resources Committee.

This section would define “limited access privilege program” and “mixed-use fishery”.

Section 202 – Process for Allocation Review for South Atlantic and Gulf of Mexico Mixed-Use Fisheries.

This section would require the Secretary, within 60 days of the date of the enactment of this legislation, to contract with the National Academy of Sciences (NAS) to conduct a study of the mixed-use fisheries of the South Atlantic and Gulf of Mexico: to provide guidance to each of the applicable Councils (South Atlantic and Gulf of Mexico) on criteria that could be used for allocating fishing privileges (including the consideration of the conservation and socioeconomic benefits of each sector of the fishery) in a fishery management plan; to identify sources of information that could support the use of such criteria in allocation decisions; to develop procedures for allocation reviews and potential adjustments in allocations; and require that the NAS to consider the ecological, economic and social factors relevant to each sector of the mixed-use fishery including – fairness and equitability of current allocations, percent utilization of available allocations by each sector, consumer and public access to the resource, and the application of economic models for estimating the direct and indirect value-added contributions of commercial and recreational fishing industry market sectors throughout the chain of custody.

This section would require the NAS to report back to the Secretary within one year of the contract being awarded.

This section would require the applicable Councils (South Atlantic and Gulf of Mexico Councils) to perform – within 2 years – a review of allocations among the commercial and recreational sectors in all mixed-use fisheries within their jurisdiction and perform a similar review every 5 years thereafter. This section would require the Councils, in conducting the reviews, to consider in each allocation decision the conservation and socioeconomic benefits the commercial fishing sector and the recreational fishing sector.

Section 203 – Alternative Fishery Management Measures. This section would allow Councils to use alternative fishery management measures in a recreational fishery or for the recreational component of a mixed-use fishery including the use of extraction rates, fishing mortality targets, and harvest control rules in developing fishery management plans, plan amendments, or proposed regulations.

Section 204 – Modifications to the Annual Catch Limit Requirement. This section would allow a Council, after notifying the Secretary, to maintain the current annual catch limit for a stock of fish until a peer-reviewed stock survey and stock assessment are conducted and the results are considered by the Council and its SSC for fisheries for which: the total allowable catch limit is 25 percent or more below the overfishing limit; a peer-reviewed stock survey and stock assessment have not been performed during the preceding 5 years; and the stock is not subject to overfishing. (*Note: This appears to be the new criteria for a “data-poor” fishery.*)

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

This section would provide an exception to the requirement that Councils set an ACL for “ecosystem component species” or for those stocks of fish with a life cycle of approximately 1 year as long as the Secretary has determine the fishery is not subject to overfishing. This section would also provide an exemption to the ACL requirement for a stock for which more than half of a single year class will

complete their life cycle in less than 18 months and for which fishing mortality will have little impact on the stock.

This section would allow Councils, when setting ACLs, take into account management measures under international agreements in which the U.S. participates and, in the case of an annual catch limit developed by a Council for a species, may take into account fishing activities for that species outside the U.S. EEZ and the life-history characteristics of the species that are not subject to the jurisdiction of the Council.

This section would provide an exemption to the ACL requirement if fishery management activities by another country outside the US EEZ may hinder conservation efforts by US fishermen for a fish species for which recruitment, distribution, life history, of fishing activities are transboundary and for which no informal transboundary agreements are in effect. In this case, if an annual catch limit is developed by a Council for the species, the ACL shall take into account fishing for the species outside the U.S. EEZ that is not subject to the jurisdiction of the Council.

This section would allow Councils to establish ACLs for multi-species stock complexes and allow Councils to set ACLs for up to a three year period.

This section would define the term “ecosystem component species” to mean those stocks of fish that are not targeted and are caught incidentally in a fishery as long as that stock of fish is not subject to overfishing, is not approaching a condition of being depleted, and is not likely to become subject to overfishing or depleted in the absence of conservation and management measures.

This section would clarify that noting in this subsection is to be construed to provide an exemption from the National Standards in the Act.

This section would amend section 304 to require the Secretary, within 2 years of a notification from a Council of a data-poor stock, complete a peer-reviewed stock survey and stock assessment of the applicable stock and transmit the results of the survey and assessment to the Council.

Section 205 – Limitation on Future Catch Share Programs. This section 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 and prohibit the Secretary from approving or implementing any new catch share program from those Councils or under a secretarial plan or amendment unless the final program has been approved in a referendum by a majority of the permit holders eligible to participate in the fishery.

This section would clarify that for multispecies permits in the Gulf of Mexico, any permit holder with landings within the last five years from within the sector being considered for the catch share program and who is still active in the fishery shall be eligible to participate in the referendum.

This section would clarify that if a referendum fails, it may be revised and submitted in a subsequent referendum.

This section 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 for any fishery within that Council’s jurisdiction.

This section 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.

This section defines “permit holder eligible to participate” in a referendum as a permit holder who has fished in at least 3 of the 5 years preceding the referendum unless sickness, injury or other unavoidable hardship prevented the permit holder from fishing.

This section would clarify that the Secretary may not implement any catch share program for any fishery managed exclusively by the Secretary unless first petitioned by a majority of the permit holders eligible to participate in the fishery.

This section 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.

This section would require the Secretary to issue regulations and provide for public comment on the referendum prior to conducting any referendum.

Section 206- Study of Limited Access Privilege Programs for Mixed-Use Fisheries. This section would require the Secretary to enter into an agreement with the Ocean Studies Board of the National Academies of Sciences, Engineering, and Medicine to study the use of limited access privilege programs in mixed-use fisheries. The study would: identify any inequities caused by a limited access privilege program; recommend policies to address any identified inequities; identify and recommend different factors and information to mitigate any identified inequities that should be considered when designing, establishing or maintaining a limited access privilege program in a mixed-use fishery; and submit the report including recommendations to the appropriate committees of Congress.

This section would place a moratorium on the submission and approval of a limited access privilege program for a mixed-use fishery until the report is submitted. This moratorium does not restrict a Council from submitting and does not prevent the Secretary from approving a limited access system or limited access privilege program if the program was part of a pending fishery management plan or plan amendment prior to the enactment of this legislation.

This section would require that if a Council submits a limited access privilege program under the exemption to the moratorium described above, the Council must, upon the issuance of the report, review and, to the extent practicable, revise the program to be consistent with the recommendations of the report or any subsequent statutory or regulatory requirements designed to implement the recommendations of the report.

This section clarifies that nothing in this section may be construed to affect a limited access privilege program approved by the Secretary prior to the date of enactment of this legislation.

Section 207 – Cooperative Data Collection. This section would require the Secretary – within 1 year – to develop, in consultation with the Councils and the Marine Fisheries Commissions a report to Congress on facilitating greater incorporation of data, analysis, stock assessments and surveys from State agencies and non-governmental sources into fishery management decisions. This section also includes a list of

entities considered to be non-governmental sources to include fishermen, fishing communities, universities, and research and philanthropic institutions.

In developing the report, the Secretary would be required to identify types of data and analysis, especially concerning recreational fishing, that could be reliably be used for the purposes of the Act as a basis for conservation and management measures. The Secretary would also be required to provide specific recommendations for collecting data and performing analyses identified as necessary to reduce uncertainty and improve the accuracy of future stock assessments and including whether such data and analyses could be provided by non-governmental sources.

The Secretary is also required to develop and publish guidelines for improving data collection and analysis within one year of the date of the enactment of this legislation.

The Secretary would also be required to take into consideration and, to the extent feasible, implement the recommendations of the NAS report titled "Review of the Marine Recreational Information Program (2017)". The Secretary would be required to prioritize the evaluation of electronic data collection, including smartphone applications, electronic diaries for prospective data collection and internet website options.

The Secretary would be required to evaluate whether the design of MRIP for the purposes of stock assessments and determination of stock management reference points is compatible with the needs of in-season management of annual catch limits.

The Secretary would be required, if MRIP is incompatible with the needs of in-season management of annual catch limits, determine an alternative method for in-season management.

Section 208 – Recreational Fishing Data. This section would require the Secretary to establish partnerships with States to develop best practices for implementing State recreational fisheries programs.

This section 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.

Section 209 – Miscellaneous Amendments Relating to Fishery Management Councils. This section would add one voting seat to the New England Council to provide a liaison – and require that this additional seat be a current 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 – and require that this additional seat be a current member of the New England Council - to represent the interests of fisheries under the jurisdiction of the New England Council.

In addition, this section would add subsistence fishing as a qualification that could be required of Council appointees (to be individuals who are knowledgeable regarding the conservation and management of commercial, recreational, or subsistence fisheries). In addition, the amendment would amend the purposes section of the Act to add the promotion of subsistence fishing as a purpose of the Act (it is a purpose of the Act "to promote domestic commercial, recreational, and subsistence fishing under sound conservation and management principles, including the promotion of catch and release programs in recreational fishing").

This section 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 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.

This section would prohibit the Secretary of Commerce from counting any fish seized from a foreign vessel engaging in illegal fishing in the U.S. EEZ against the total allowable catch for U.S. fishermen.

Section 301 – Healthy Fisheries Through Better Science. This section would add a definition of “stock assessment” to the Act.

This section would require the Secretary to develop and publish in the Federal Register a plan to conduct stock assessments for all stocks of fish under a fishery management plan and use the same schedule as is already required for the strategic plan.

The plan must establish a schedule for updating stock assessments – for each stock of fish for which a stock assessment has already been conducted - that is reasonable based on the biology and characteristics of the stock. Subject to the availability of appropriations, these new stock assessments or update of the most recent stock assessment must be completed every five years or within a time period specified and justified by the Secretary.

For each stock of fish for which a stock assessment has not been conducted, the plan must establish a schedule for conducting an initial stock assessment that is reasonable given the biology and characteristics of the stock and, subject to the availability of appropriations, the Secretary would be required to complete the initial stock assessment within 3 years after the plan is published unless a different time period is specified and justified by the Secretary.

The plan must also identify data and analysis, especially concerning recreational fishing, that if available would reduce uncertainty and improve the accuracy of future stock assessments and whether such data could be provided by non-governmental sources to the extent that the use of such data would be consistent with the requirements of the National Standards to base conservation and management measures on the best scientific information available.

If the Secretary determines that a stock assessment is not required for a stock of fish, the Secretary must justify that determination in the Federal Register.

The Secretary would be required to issue the first stock assessment under the plan within 2 years of the date of the enactment of this legislation.

Section 302 – Transparency and Public Process. This section would require Scientific and Statistical Committees (SSCs) of the Councils to develop the scientific advice that they provide to the Councils in a transparent manner and to allow for public involvement in the process.

This section 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 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.

This section would require that each fishery management plan, plan amendment, or proposed regulation contain a fishery impact statement which are required to assess, specify, and analyze the likely effects and impacts of the proposed action on the quality of the human environment.

This section would require that each fishery impact statement describe: the purpose of the proposed action; the environmental impact of the proposed action; any adverse environmental effects which cannot be avoided should the proposed action be implemented; a reasonable range of alternatives to the proposed action; the relationship between short-term use of the fishery resources and the enhancement of long-term productivity; the cumulative conservation and management effects; and the economic and social impacts of the proposed action on participants in the fisheries affected by the proposed action, on fishing communities affected by the proposed action, on participants in fisheries conducted in adjacent areas, and on the safety of human life at sea.

This section 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.

This section would require that a completed fishery impact statement accompany the transmittal of a fishery plan or plan amendment as well as the transmittal of proposed regulations.

This section would require Councils, subject to approval by the Secretary, to establish criteria to determine actions or classes of actions of minor significance for which the preparation of a fishery impact statement is unnecessary and for which a categorical exception to the fishery impact statement may allow an exclusion from this requirement.

This section would require the Councils, subject to the approval of the Secretary, prepare procedures for compliance with the fishery impact statement requirement that provide for timely, clear, and concise analysis that will be useful to decision makers and the public as well as reducing extraneous paperwork. These procedures may include using Council meetings to determine the scope of issues to be addressed, may include the integration of the fishery impact statement development process with preliminary and final Council decisionmaking, and may include providing scientific, technical, and legal advice at an early stage of development of the fishery impact statement.

This section would require the Secretary of Commerce, when reviewing plans or plan amendments, to evaluate the adequacy of the accompanying fishery impact statement for fully considering the environmental impacts of implementing the plan or plan amendment.

This section would require the Secretary, upon the transmittal of proposed regulations by a Council, to immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan or plan amendment and an evaluation as to whether the accompanying fishery impact statement is a basis for fully considering the environmental impacts of implementing the proposed regulations. The Secretary would be required to make a determination within 15 days of initiating any such evaluation.

Section 303 – Flexibility in Rebuilding Fish Stocks. This section would remove the term “possible” and replace it with “practicable” in the requirement in section 304 of the Act that a rebuilding period “be as

short as possible". This section 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 except in the case that: the biology of the stock, other environmental conditions, or management measures under an international agreement dictate otherwise; the Secretary determines that the cause of the stock being overfished/depleted is outside the jurisdiction of the Council or the rebuilding program cannot be effective only by limiting fishing activities; the Secretary determines that one or more components of a mixed-stock fishery is depleted but cannot be rebuilt within the timeframe 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; the Secretary determines that recruitment, distribution, or life history of or fishing activities for are affected by informal transboundary agreements under which management activities outside the EEZ by another country may hinder conservation and management efforts by the US; and 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.

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

This section 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.

This section 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.

This section 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 within 90 days after the completion of 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 measures 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). This section 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 measure authority to be consistent with the time period allowed for a Council to prepare and implement a rebuilding plan for a fishery identified overfished.

Section 304 – Exempted Fishing Permits. This section would require the Secretary, prior to an exempted fishing permit to be approved or issued, to: direct a joint peer review of the EFP application by the appropriate regional fisheries science center and State marine fisheries commission; certify that

the Council or federal agency has determined that the fishing activity to be conducted under the EFP will not negatively impact any conservation or management objectives in existing FMPs; certify the Council or federal agency has determined that the social and economic impacts and loss of fishing opportunities on all participants in each sector of the fishery will be minimal; certify the Council or federal agency has determined that the information collected under the EFP will have a positive and direct impact on conservation and management; and certify that the Council or federal agency has determined the Governor of each coastal state potentially impacted by the EFP has been consulted on the fishing activity to be conducted under the EFP.

This section would prohibit the Secretary from issuing an EFP if the EFP establishes a limited access system or establishes a catch share program; however, this prohibition would not apply to EFPs approved prior to the date of the enactment of this legislation.

Section 305 – Cooperative Research and Management Program. This section 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. This section 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.

This section 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.

This section would add 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 306 – Gulf of Mexico Fisheries Cooperative Research and Red Snapper Management. This section would strike section 407 of the Act.

This section would require the Secretary to include Gulf State recreational surveys that are certified by the Secretary and include other data related to red snapper gathered by the Gulf States Marine Fisheries Commission, non-governmental organizations and other non-governmental sources (such as universities and research institutions) in establishing the acceptable biological catch and total allowable catch for Gulf of Mexico red snapper.

This section would allow a Gulf State that conducts a recreational fisheries survey to submit the survey to the Secretary for certification. The Secretary would be required to make a certification or a denial of the certification for any submitted survey within six month of the survey being submitted. If the Secretary does not make a certification or a denial, the survey will be deemed to be certified.

If the Secretary denies the certification of a survey, the Secretary would be required – within 60 days - to provide the Gulf State a proposal for modifications to the survey. The proposed modifications must: be specific to the survey and may not be construed to apply to any other submitted survey; require revisions to the fewest possible provisions of the survey; and may not unduly burden the ability of the Gulf State to revise the survey.

This section would allow a Gulf State which had a survey denied certification to modify the survey and submit the modified survey for certification. This section would require the Secretary to certify or deny certification of the modified survey within 30 days of the modified survey being submitted. If the Secretary does not act on the modified survey within the 30 days, the survey will be deemed certified.

This section would define “Gulf State” and “red snapper”.

This section 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 5-year period beginning on the date of enactment and for every 5-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.

This section 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 be incorporated as soon as possible into any stock assessments conducted after the date of enactment.

This section would extend state management out to 9 nautical miles for the Gulf of Mexico red snapper recreational sector of the fishery.

Section 307 – Ensuring Consistent Management for Fisheries Throughout Their Range. This section 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.

This section would require 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, the restrictions would be implemented under the authorities, processes, and timelines of the Magnuson-Stevens Fishery Conservation and Management Act.

Section 401 – Estimation of Cost of Recovery from Fishery Resource Disaster. This section 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 402 – Deadline for Action on Request by Governor for Determination Regarding Fishery Resource Disaster. This section 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 403 – North Pacific Fishery Management Clarification. This section would remove a specific date that is currently in the Act regarding State management of vessels in the North Pacific region.

Section 404 – Limitation on Harvest in North Pacific Directed Pollock Fishery. This section 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 percent.

Section 405 – Arctic Community Development Quota. This section would amend section 313 of the Act to require the North Pacific Fishery Management Council, if the Council issues a fishery management plan for the EEZ in the Arctic Ocean or an amendment to the Fishery Management Plan for Fish Resources of the Arctic Management Area that makes fish available to commercial fishing and establishes a sustainable harvest level for any part of that zone, to set aside no less than 10 percent of the total allowable catch for a community development quota for coastal villages located north and east of the Bering Strait.

Section 406 – Reallocation of Certain Unused Harvest Allocation. This section would require the Regional Administrator, beginning on January 1, 2018 and annually thereafter, to provide the allocation provided in section 803 of the Consolidated Appropriations Act (P.L. 108-199) to the Aleut Corporation for the purposes of economic development in Adak, Alaska under certain circumstances.

Prior to making this allocation, the Regional Director must receive written notification that the allocation holder specified in P.L. 108-199 will not harvest some or all of the Aleutian Islands directed pollock quota.

In allocating this quota to the Aleut Corporation, the Regional Administrator must reallocate the projected unused quota if the allocation does not exceed the total allowable catch for the Bering Sea subarea or if the allocation exceeds the total allowable catch for the Bering Sea subarea, reallocate a portion of the allocation up to the total allowable catch.

This section would mandate that the allocation holder specified in P.L. 108-199 retain control of the allocation including such portions of the allocation that may be reallocated pursuant to this section and that the allocations made under section 206(b) of the American Fisheries Act apply to the Bering Sea portion of the directed pollock fishery and not to the allocation holder specified in P.L. 108-199.

This section would require the Aleut Corporation to provide written consent for other vessels to take or process the allocation and the written consent must be on the vessel.

This section would require the North Pacific Fishery Management Council, in consultation with the National Marine Fisheries Service (NMFS), to modify all applicable regulations and management plans so that the allocation holder specified in P.L. 108-199 may harvest the reallocated Aleutian Islands directed pollock fishery in the Bering Sea subarea as soon as possible.

This section would require NMFS, in consultation with the North Pacific Fishery Management Council, to manage the Aleutian Islands directed pollock fishery to ensure compliance with the implemented statute and with the annual harvest specifications.

This section would clarify that the taking or processing of any part of the allocation made by section 803 of P.L. 108-199 and reallocated under this section shall be considered violations of section 307 of the Magnuson-Stevens Fishery Conservation and Management Act and subject to the penalties and sanctions under section 308 of that Act. In addition, any fish harvested or processed under such taking or possessing shall be subject to forfeiture.

Section 407 – Prohibition on Shark Feeding Off Coast of Florida. This section would amend section 307 of the Act to make it unlawful for any diver to engage in shark feeding in covered waters and for any person to operate a vessel for hire for the purpose of carrying a passenger to a site if the person knew or

should have known the passenger intended to be a diver who engaged in shark feeding in covered waters or engaged in observing shark feeding in covered waters.

This section defines “covered waters”, “diver”, and “shark feeding”.

This section would clarify that this provision does not apply to shark feeding conducted by a research institution, university, or government agency for research purposes or for the purpose of harvesting sharks.

Section 408 – Restoration of Historically Freshwater Environment. This section would amend the definition of “essential fish habitat” so that it would now read “The term ‘essential fish habitat’ means those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity, *except that such term shall not include any area previously covered by land or a fresh water environment in a State where the average annual land loss of such State during the 20 years before the date of enactment of the Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act exceeds 10 square miles.*”

AMENDMENT IN THE NATURE OF A SUBSTITUTE**TO H.R. 200****OFFERED BY *Mr. Young of Alaska***

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

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

5 SEC. 2. TABLE OF CONTENTS.

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

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.
- Sec. 4. References.

**TITLE I—MAGNUSON-STEVENS ACT AMENDMENTS AND
REAUTHORIZATION**

- Sec. 101. References.
- Sec. 102. Amendments to definitions.
- Sec. 103. Authorization of appropriations.

**TITLE II—FISHERIES MANAGEMENT FLEXIBILITY AND
MODERNIZATION**

- Sec. 201. Definitions.
- Sec. 202. Process for allocation review for South Atlantic and Gulf of Mexico mixed-use fisheries.
- Sec. 203. Alternative fishery management measures.
- Sec. 204. Modifications to the annual catch limit requirement.
- Sec. 205. Limitation on future catch share programs.
- Sec. 206. Study of limited access privilege programs for mixed-use fisheries.
- Sec. 207. Cooperative data collection.
- Sec. 208. Recreational fishing data.
- Sec. 209. Miscellaneous amendments relating to fishery management councils.

TITLE III—HEALTHY FISHERIES THROUGH BETTER SCIENCE

2

- Sec. 301. Healthy fisheries through better science.
- Sec. 302. Transparency and public process.
- Sec. 303. Flexibility in rebuilding fish stocks.
- Sec. 304. Exempted fishing permits.
- Sec. 305. Cooperative research and management program.
- Sec. 306. Gulf of Mexico fisheries cooperative research and red snapper management.
- Sec. 307. Ensuring consistent management for fisheries throughout their range.

TITLE IV— STRENGTHENING FISHING COMMUNITIES

- Sec. 401. Estimation of cost of recovery from fishery resource disaster.
- Sec. 402. Deadline for action on request by Governor for determination regarding fishery resource disaster.
- Sec. 403. North Pacific Fishery management clarification.
- Sec. 404. Limitation on harvest in North Pacific directed pollock fishery.
- Sec. 405. Arctic community development quota.
- Sec. 406. Reallocation of certain unused harvest allocation.

1 **SEC. 3. DEFINITIONS.**

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

6 **SEC. 4. REFERENCES.**

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

1 **TITLE I—MAGNUSON-STEVENSON**
2 **ACT AMENDMENTS AND RE-**
3 **AUTHORIZATION**

4 **SEC. 101. REFERENCES.**

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

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

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

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

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

19 “(8a) The term ‘depleted’ means, with respect
20 to a stock of fish or stock complex, that the stock
21 or stock complex has a biomass that has declined
22 below a level that jeopardizes the capacity of the
23 stock or stock complex to produce maximum sustain-
24 able yield on a continuing basis.”; and

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

3 “(43a)(A) The term ‘subsistence fishing’ means
4 fishing in which the fish harvested are intended for
5 customary and traditional uses, including for direct
6 personal or family consumption as food or clothing;
7 for the making or selling of handicraft articles out
8 of nonedible byproducts taken for personal or family
9 consumption, for barter, or sharing for personal or
10 family consumption; and for customary trade.

11 “(B) In this paragraph—

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

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

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

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

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

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

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

5 (c) CLARITY IN ANNUAL REPORT.—Section
6 304(e)(1) (16 U.S.C. (e)(1)) is amended by adding at the
7 end the following: “The report shall distinguish between
8 fisheries that are depleted (or approaching that condition)
9 as a result of fishing and fisheries that are depleted (or
10 approaching that condition) as a result of factors other
11 than fishing. The report shall state, for each fishery iden-
12 tified as depleted or approaching that condition, whether
13 the fishery is the target of directed fishing.”.

14 **SEC. 103. AUTHORIZATION OF APPROPRIATIONS.**

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

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

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

20 **TITLE II—FISHERIES MANAGE-**
21 **MENT FLEXIBILITY AND MOD-**
22 **ERNIZATION**

23 **SEC. 201. DEFINITIONS.**

24 For the purposes of implementing this title:

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

4 (A) the Committee on Commerce, Science,
5 and Transportation of the Senate; and

6 (B) the Committee on Natural Resources
7 of the House of Representatives.

8 (2) LIMITED ACCESS PRIVILEGE PROGRAM.—

9 The term “limited access privilege program” means
10 a program that meets the requirements of section
11 303A of the Magnuson-Stevens Fishery Conserva-
12 tion and Management Act (16 U.S.C. 1853a).

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

16 (A) Recreational fishing.

17 (B) Charter fishing.

18 (C) Commercial fishing.

19 **SEC. 202. PROCESS FOR ALLOCATION REVIEW FOR SOUTH**
20 **ATLANTIC AND GULF OF MEXICO MIXED-USE**
21 **FISHERIES.**

22 (a) STUDY OF ALLOCATIONS IN MIXED-USE FISH-
23 ERIES.—Not later than 60 days after the date of enact-
24 ment of this Act, the Secretary of Commerce shall seek
25 to enter into an arrangement with the National Academy

1 of Sciences to conduct a study of South Atlantic and Gulf
2 of Mexico mixed-use fisheries—

3 (1) to provide guidance to each applicable
4 Council on criteria that could be used for allocating
5 fishing privileges, including consideration of the con-
6 servation and socioeconomic benefits of the commer-
7 cial, recreational, and charter components of a fish-
8 ery, in the preparation of a fishery management
9 plan;

10 (2) to identify sources of information that could
11 reasonably support the use of such criteria in alloca-
12 tion decisions;

13 (3) to develop procedures for allocation reviews
14 and potential adjustments in allocations; and

15 (4) that shall consider the ecological, economic
16 and social factors relevant to each component of the
17 mixed-use fishery including but not limited to: fair-
18 ness and equitability of all current allocations; per-
19 cent utilization of available allocations by each com-
20 ponent; consumer and public access to the resource;
21 and the application of economic models for fully esti-
22 mating the direct and indirect value-added contribu-
23 tions of the various commercial and recreational
24 fishing industry market sectors throughout chain of
25 custody.

1 (b) REPORT.—Not later than 1 year after the date
2 an arrangement is entered into under subsection (a), the
3 National Academy of Sciences shall submit to the appro-
4 priate committees of Congress a report on the study con-
5 ducted under that subsection.

6 (c) PROCESS FOR ALLOCATION REVIEW AND ESTAB-
7 LISHMENT.—

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

14 (2) CONSIDERATIONS.—In conducting a review
15 under paragraph (1), an applicable Council shall
16 consider, in each allocation decision, the conserva-
17 tion and socioeconomic benefits of—

18 (A) the commercial fishing sector; and

19 (B) the recreational fishing sector.

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

22 (1) the South Atlantic Fishery Management
23 Council; or

24 (2) the Gulf of Mexico Fishery Management
25 Council.

1 **SEC. 203. ALTERNATIVE FISHERY MANAGEMENT MEAS-**
2 **URES.**

3 (a) **MANAGEMENT.**—Section 302(h) (16 U.S.C.
4 1852(h)) is amended—

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

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

9 (3) by inserting after paragraph (7), the fol-
10 lowing:

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

18 **SEC. 204. MODIFICATIONS TO THE ANNUAL CATCH LIMIT**
19 **REQUIREMENT.**

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

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

25 “(1) **ANNUAL CATCH LIMIT REQUIREMENT FOR**
26 **CERTAIN DATA-POOR FISHERIES.**—Notwithstanding

1 subsection (h)(6), in the case of a stock of fish for
2 which the total annual catch limit is 25 percent or
3 more below the overfishing limit, a peer-reviewed
4 stock survey and stock assessment have not been
5 performed during the preceding 5 fishing years, and
6 the stock is not subject to overfishing, a Council
7 may, after notifying the Secretary, maintain the cur-
8 rent annual catch limit for the stock until a peer-re-
9 viewed stock survey and stock assessment are con-
10 ducted and the results are considered by the Council
11 and its scientific and statistical committee.

12 “(2) CONSIDERATION OF ECOSYSTEM AND ECO-
13 NOMIC IMPACTS.—In establishing annual catch lim-
14 its a Council may, consistent with section 302(h)(6),
15 consider changes in an ecosystem and the economic
16 needs of the fishing communities.

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

21 “(A) an ecosystem-component species;

22 “(B) a fishery for a species that has a life
23 cycle of approximately 1 year, unless the Sec-
24 retary has determined the fishery is subject to
25 overfishing; or

1 “(C) a stock for which—

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

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

7 “(4) RELATIONSHIP TO INTERNATIONAL FISH-
8 ERY EFFORTS.—

9 “(A) IN GENERAL.—Each annual catch
10 limit, consistent with section 302(h)(6)—

11 “(i) may take into account manage-
12 ment measures under international agree-
13 ments in which the United States partici-
14 pates; and

15 “(ii) in the case of an annual catch
16 limit developed by a Council for a species,
17 shall take into account fishing for the spe-
18 cies outside the exclusive economic zone
19 and the life-history characteristics of the
20 species that are not subject to the jurisdic-
21 tion of the Council.

22 “(B) EXCEPTION TO ANNUAL CATCH LIMIT
23 REQUIREMENT.—If fishery management activi-
24 ties by another country with respect to fishing
25 outside the exclusive economic zone may hinder

1 conservation efforts by United States fishermen
2 for a fish species for which any of the recruit-
3 ment, distribution, life history, or fishing activi-
4 ties are transboundary, and for which there is
5 no informal transboundary agreement with that
6 country in effect, then—

7 “(i) notwithstanding subsection
8 (h)(6), no annual catch limit is required to
9 be developed for the species by a Council;
10 and

11 “(ii) if an annual catch limit is devel-
12 oped by a Council for the species, the catch
13 limit shall take into account fishing for the
14 species outside the exclusive economic zone
15 that is not subject to the jurisdiction of the
16 Council.

17 “(5) AUTHORIZATION FOR MULTISPECIES COM-
18 PLEXES AND MULTIYEAR ANNUAL CATCH LIMITS.—
19 For purposes of subsection (h)(6), a Council may es-
20 tablish—

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

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

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

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

10 “(B) is not likely to become subject to
11 overfishing or depleted in the absence of con-
12 servation and management measures.”.

13 “(7) RULE OF CONSTRUCTION.—Nothing in
14 this subsection shall be construed as providing an
15 exemption from the requirements of section 301(a)
16 of this Act.”.

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

19 (1) by striking “(i) INTERNATIONAL OVER-
20 FISHING.—” and inserting “(j) INTERNATIONAL
21 OVERFISHING.—”;

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

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

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

7 **SEC. 205. LIMITATION ON FUTURE CATCH SHARE PRO-**
8 **GRAMS.**

9 (a) CATCH SHARE DEFINED.—Section 3 (16 U.S.C.
10 1802) is amended by inserting after paragraph (2) the fol-
11 lowing:

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

20 (b) CATCH SHARE REFERENDUM PILOT PRO-
21 GRAM.—

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

24 “(D) CATCH SHARE REFERENDUM PILOT
25 PROGRAM.—

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

1 “(ii) The Secretary may, at the re-
2 quest of the New England Fishery Man-
3 agement Council, allow participation in
4 such a referendum for a fishery under the
5 Council’s authority, by fishing vessel crew-
6 members who derive a significant portion
7 of their livelihood from such fishing.

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

13 “(I) a copy of the proposed pro-
14 gram;

15 “(II) an estimate of the costs of
16 the program, including costs to par-
17 ticipants;

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

21 “(IV) information concerning the
22 schedule, procedures, and eligibility
23 requirements for the referendum proc-
24 ess.

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

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

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

21 (3) REGULATIONS.—Before conducting a ref-
22 erendum under the amendment made by paragraph
23 (1), the Secretary of Commerce shall issue regula-
24 tions implementing such amendment after providing

1 an opportunity for submission by the public of com-
2 ments on the regulations.

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

5 (a) STUDY ON LIMITED ACCESS PRIVILEGE PRO-
6 GRAMS.—

7 (1) IN GENERAL.—Not later than 1 year after
8 the date of enactment of this Act, the Secretary of
9 Commerce shall seek to enter into an arrangement
10 under which the Ocean Studies Board of the Na-
11 tional Academies of Sciences, Engineering, and Med-
12 icine shall—

13 (A) study the use of limited access privi-
14 lege programs in mixed-use fisheries, includ-
15 ing—

16 (i) identifying any inequities caused
17 by a limited access privilege program;

18 (ii) recommending policies to address
19 the inequities identified in clause (i); and

20 (iii) identifying and recommending the
21 different factors and information a mixed-
22 use fishery should consider when design-
23 ing, establishing, or maintaining a limited
24 access privilege program to mitigate any
25 inequities identified in clause (i); and

1 (B) submit to the appropriate committees
2 of Congress a report on the study under sub-
3 paragraph (A), including the recommendations
4 under clauses (ii) and (iii) of subparagraph (A).

5 (b) TEMPORARY MORATORIUM.—

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

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

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

1 latory requirements designed to implement the rec-
2 ommendations of the report.

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

7 **SEC. 207. COOPERATIVE DATA COLLECTION.**

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

11 “(e) IMPROVING DATA COLLECTION AND ANAL-
12 YSIS.—

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

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

4 “(A) Fishermen.

5 “(B) Fishing communities.

6 “(C) Universities.

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

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

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

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

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

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

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

12 (b) DEADLINE.—The Secretary of Commerce shall
13 develop and publish guidelines under the amendment
14 made by paragraph (a) by not later than 1 year after the
15 date of enactment of this Act.

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

22 (1) prioritizing the evaluation of electronic data
23 collection, including smartphone applications, elec-
24 tronic diaries for prospective data collection, and an

1 Internet website option for panel members or for the
2 public;

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

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

13 **SEC. 208. RECREATIONAL FISHING DATA.**

14 Section 401(g) (16 U.S.C. (g)) is amended by redес-
15 ignating paragraph (4) as paragraph (5), and by inserting
16 after paragraph (3) the following:

17 “(4) FEDERAL-STATE PARTNERSHIPS.—

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

23 “(B) GUIDANCE.—The Secretary shall de-
24 velop guidance, in cooperation with the States,
25 that details best practices for administering

1 State programs pursuant to paragraph (2), and
2 provide such guidance to the State.”.

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

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

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

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

11 and

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

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

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

20 and

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

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

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

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

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

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

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

1 and Management Act (16 U.S.C. 1801 et seq.) the total
2 allowable catch for that fishery.

3 **TITLE III—HEALTHY FISHERIES**
4 **THROUGH BETTER SCIENCE**

5 **SEC. 301. HEALTHY FISHERIES THROUGH BETTER**
6 **SCIENCE.**

7 (a) DEFINITION OF STOCK ASSESSMENT.—Section 3
8 (16 U.S.C. 1802), as amended by section 22(a) of this
9 Act, is further amended by redesignating the paragraphs
10 after paragraph (42) in order as paragraphs (44) through
11 (53), and by inserting after paragraph (42) the following:

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

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

17 “(i) the geographical boundaries of
18 such stock; and

19 “(ii) information on age, growth, nat-
20 ural mortality, sexual maturity and repro-
21 duction, feeding habits, and habitat pref-
22 erences of such stock; and

23 “(B) fishing for the stock.”.

24 (b) STOCK ASSESSMENT PLAN.—

1 (1) IN GENERAL.—Section 404 (16 U.S.C.
2 1881e), as amended by section 207(d) of this Act,
3 is further amended by adding at the end the fol-
4 lowing:

5 “(f) STOCK ASSESSMENT PLAN.—

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

13 “(2) CONTENTS.—The plan shall—

14 “(A) for each stock of fish for which a
15 stock assessment has previously been con-
16 ducted—

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

21 “(ii) subject to the availability of ap-
22 propriations, require completion of a new
23 stock assessment, or an update of the most
24 recent stock assessment—

25 “(I) every 5 years; or

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

4 “(B) for each stock of fish for which a
5 stock assessment has not previously been con-
6 ducted—

7 “(i) establish a schedule for con-
8 ducting an initial stock assessment that is
9 reasonable given the biology and character-
10 istics of the stock; and

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

18 “(C) identify data and analysis, especially
19 concerning recreational fishing, that, if avail-
20 able, would reduce uncertainty in and improve
21 the accuracy of future stock assessments, in-
22 cluding whether such data and analysis could
23 be provided by fishermen, fishing communities,
24 universities, and research institutions.

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

8 (2) DEADLINE.—Notwithstanding [paragraph
9 (1) of section (f)] of the Magnuson-Stevens Fishery
10 Conservation and Management Act, as amended by
11 this section, the Secretary of Commerce shall issue
12 the first stock assessment plan under such section
13 by not later than 2 years after the date of enact-
14 ment of this Act.

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

16 (a) ADVICE.—Section 302(g)(1)(B) (16 U.S.C.
17 1852(g)(1)(B)) is amended by adding at the end the fol-
18 lowing: “Each scientific and statistical committee shall de-
19 velop such advice in a transparent manner and allow for
20 public involvement in the process.”.

21 (b) MEETINGS.—Section 302(i)(2) (16 U.S.C.
22 1852(i)(2)) is amended by adding at the end the following:

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

1 “(i) to the extent practicable, a
2 Webcast, an audio recording, or a live
3 broadcast of each meeting of the Council,
4 and of the Council Coordination Com-
5 mittee established under subsection (l),
6 that is not closed in accordance with para-
7 graph (3); and

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

16 “(H) The Secretary shall maintain and
17 make available to the public an archive of
18 Council and scientific and statistical committee
19 meeting audios, videos, and transcripts made
20 available under clauses (i) and (ii) of subpara-
21 graph (G).”.

22 (c) FISHERY IMPACT STATEMENTS.—

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

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

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

6 “(d) FISHERY IMPACT STATEMENT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 “(b) REVIEW OF REGULATIONS.—

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

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

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

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

4 (1) in paragraph (4)—

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

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

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

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

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

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

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

8 “(IV) the Secretary determines
9 that recruitment, distribution, or life
10 history of, or fishing activities for, the
11 stock are affected by informal
12 transboundary agreements under
13 which management activities outside
14 the exclusive economic zone by an-
15 other country may hinder conservation
16 and management efforts by United
17 States fishermen; and

18 “(V) the Secretary determines
19 that the stock has been affected by
20 unusual events that make rebuilding
21 within the specified time period im-
22 probable without significant economic
23 harm to fishing communities;”;

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

1 nating subparagraphs (B) and (C) as subpara-
2 graphs (C) and (D), and by inserting after sub-
3 paragraph (A) the following:

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

7 (D) by striking the period at the end of
8 subparagraph (D) (as so redesignated) and in-
9 serting “; and”, and by adding at the end the
10 following:

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (B) the social and economic impacts in
11 both dollar amounts and loss of fishing oppor-
12 tunities on all participants in each sector of the
13 fishery expected to occur as a result of the pro-
14 posed exempted fishing permit would be mini-
15 mal;

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

22 (D) the Governor of each coastal State po-
23 tentially impacted by the proposed exempted
24 fishing permit, as determined by the Secretary,

1 has been consulted on the fishing activity to be
2 conducted.

3 (b) CLARIFICATION.—The Secretary may not issue
4 an exempted fishing permit under section 600.745 of title
5 50, Code of Federal Regulations, or any successor regula-
6 tion that—

7 (1) establishes a limited access system as de-
8 fined in section 3 of the Magnuson-Stevens Fishery
9 Conservation and Management Act (16 U.S.C.
10 1802);

11 (2) is consistent with section 303A of such Act
12 (16 U.S.C. 1853a); or

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

15 (b) SAVINGS PROVISION.—Except for subsection
16 (b)(2), nothing in this section may be construed to affect
17 an exempted fishing permit approved under section
18 600.745 of title 50, Code of Federal Regulations, before
19 the date of enactment of this Act.

20 **SEC. 305. COOPERATIVE RESEARCH AND MANAGEMENT**
21 **PROGRAM.**

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

23 (1) in subsection (a), by inserting “(1)” before
24 the first sentence, and by adding at the end the fol-
25 lowing:

1 “(2) Within one year after the date of enact-
2 ment of the Strengthening Fishing Communities and
3 Increasing Flexibility in Fisheries Management Act,
4 and after consultation with the Councils, the Sec-
5 retary shall publish a plan for implementing and
6 conducting the program established in paragraph
7 (1). Such plan shall identify and describe critical re-
8 gional fishery management and research needs, pos-
9 sible projects that may address those needs, and es-
10 timated costs for such projects. The plan shall be re-
11 vised and updated every 5 years, and updated plans
12 shall include a brief description of projects that were
13 funded in the prior 5-year period and the research
14 and management needs that were addressed by those
15 projects.”; and

16 (2) in subsection (c)—

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

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

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

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

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

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

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

10 “(a) CERTIFICATION OF STATE SURVEYS.—

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

15 “(A) Gulf State recreational fisheries sur-
16 veys that are certified under subsection (b); and

17 “(B) data related to red snapper in the
18 Gulf of Mexico collected by the Gulf States Ma-
19 rine Fisheries Commission, nongovernmental
20 organizations, and other nongovernmental
21 sources, including universities and research in-
22 stitutions.

23 “(b) STATE SURVEYS.—

24 “(1) SUBMISSION.—A Gulf State that conducts
25 a recreational fisheries survey in the Gulf of Mexico

1 to make catch estimates for red snapper landed in
2 such State may submit such survey to the Secretary
3 for certification.

4 “(2) CERTIFICATION.—

5 “(A) IN GENERAL.—The Secretary shall
6 make a certification or a denial of certification
7 for any survey submitted under paragraph (1)
8 not later than the end of the 6-month period
9 beginning on the date the survey is submitted.

10 “(B) DEEMED CERTIFIED.—A recreational
11 fisheries survey is deemed to be certified effec-
12 tive upon the expiration of such period if the
13 Secretary has not made a certification or denial
14 of certification.

15 “(3) MODIFICATION OF SURVEYS DENIED CER-
16 TIFICATION.—

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

22 “(B) PROPOSAL.—A proposal provided to
23 a Gulf State for a survey under subparagraph
24 (A)—

1 “(i) shall be specific to the survey
2 submitted by such Gulf State and may not
3 be construed to apply to any other Gulf
4 State;

5 “(ii) shall require revision to the few-
6 est possible provisions of the survey; and

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

9 “(C) MODIFIED SURVEY.—

10 “(i) AUTHORITY TO SUBMIT.—If a
11 survey of a Gulf State was denied certifi-
12 cation under paragraph (2), the Gulf State
13 may modify the survey and submit the
14 modified survey to the Secretary for certifi-
15 cation or denial of certification.

16 “(ii) SCHEDULE.—The Secretary shall
17 make a certification or denial of certifi-
18 cation for any modified survey not later
19 than the end of the 30-day period begin-
20 ning on the date the modified survey is
21 submitted.

22 “(iii) DEEMED CERTIFIED.—A modi-
23 fied survey is deemed to be certified effec-
24 tive upon the expiration of the period de-
25 scribed in clause (ii) if the Secretary has

1 not made a certification or denial of certifi-
2 cation.

3 “(c) DEFINITIONS.—In this section:

4 “(1) GULF STATE.—The term ‘Gulf State’
5 means each of the States of Texas, Louisiana, Mis-
6 sissippi, Alabama, or Florida.

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

9 (b) STOCK SURVEYS AND STOCK ASSESSMENTS.—
10 The Secretary of Commerce, acting through the National
11 Marine Fisheries Service Regional Administrator of the
12 Southeast Regional Office, shall for purposes of the Mag-
13 nuson-Stevens Fishery Conservation and Management Act
14 (16 U.S.C. et seq.)—

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

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

22 (3) in such development and implementation—
23 (A) give priority to those stocks that are
24 commercially or recreationally important; and

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

3 (c) USE OF FISHERIES INFORMATION IN STOCK AS-
4 SESSMENTS.—The Southeast Science Center Director
5 shall ensure that fisheries information made available
6 through fisheries programs funded under Public Law
7 112–141 is incorporated as soon as possible into any fish-
8 eries stock assessments conducted after the date of the en-
9 actment of this Act.

10 (d) STATE FISHERIES MANAGEMENT IN THE GULF
11 OF MEXICO WITH RESPECT TO RED SNAPPER.—Section
12 306(b) (16 U.S.C. 1856(b)) is amended by adding at the
13 end the following:

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

21 **SEC. 307. ENSURING CONSISTENT MANAGEMENT FOR FISH-**
22 **ERIES THROUGHOUT THEIR RANGE.**

23 (a) IN GENERAL.—The Act is amended by inserting
24 after section 4 the following:

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

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

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

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

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

18 (b) CLERICAL AMENDMENT.—The table of contents
19 in the first section is amended by inserting after the item
20 relating to section 3 the following:

“Sec. 4. Authorization of appropriations.

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

1 **TITLE IV— STRENGTHENING**
2 **FISHING COMMUNITIES**

3 **SEC. 401. ESTIMATION OF COST OF RECOVERY FROM FISH-**
4 **ERY RESOURCE DISASTER.**

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

7 (1) by inserting “(A)” after “(1)”;

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

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

13 “(B) The Secretary shall publish the estimated
14 cost of recovery from a fishery resource disaster no
15 later than 30 days after the Secretary makes the de-
16 termination under subparagraph (A) with respect to
17 such disaster.”.

18 **SEC. 402. DEADLINE FOR ACTION ON REQUEST BY GOV-**
19 **ERNOR FOR DETERMINATION REGARDING**
20 **FISHERY RESOURCE DISASTER.**

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

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

6 **SEC. 403. NORTH PACIFIC FISHERY MANAGEMENT CLARI-**
7 **FICATION.**

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

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

11 and

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

13 **SEC. 404. LIMITATION ON HARVEST IN NORTH PACIFIC DI-**
14 **RECTED POLLOCK FISHERY.**

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

18 “(1) HARVESTING.—

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

1 “(B) MAXIMUM PERCENTAGE.—The per-
2 centage established by the North Pacific Coun-
3 cil shall not exceed 24 percent of the pollock
4 available to be harvested in the directed pollock
5 fishery.”.

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

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

9 “(k) ARCTIC COMMUNITY DEVELOPMENT QUOTA.—
10 If the North Pacific Fishery Management Council issues
11 a fishery management plan for the exclusive economic zone
12 in the Arctic Ocean, or an amendment to the Fishery
13 Management Plan for Fish Resources of the Arctic Man-
14 agement Area issued by such Council, that makes avail-
15 able to commercial fishing, and establishes a sustainable
16 harvest level, for any part of such zone, the Council shall
17 set aside not less than 10 percent of the total allowable
18 catch therein as a community development quota for
19 coastal villages located north and east of the Bering
20 Strait.”.

21 **SEC. 406. REALLOCATION OF CERTAIN UNUSED HARVEST**
22 **ALLOCATION.**

23 (a) REALLOCATION.—

24 (1) IN GENERAL.—Effective January 1, 2018,
25 and thereafter annually, if the Regional Adminis-

1 trator receives receipt of written notice that the allo-
2 cation holder named in section 803 of the Consoli-
3 dated Appropriations Act, 2004 (Public Law 108-
4 199, 16 U.S.C. 1851 note), will not harvest some or
5 all of the Aleutian Islands directed pollock, the Re-
6 gional Administrator, as soon as practicable, shall—

7 (A) if the allocation as designated in sec-
8 tion 803 of the Consolidated Appropriations
9 Act, 2004 does not exceed the total allowable
10 catch for the Bering Sea subarea, reallocate the
11 projected unused Aleutian Islands directed pol-
12 lock to the Bering Sea subarea for harvest by
13 the allocation holder named in section 803 of
14 the Consolidated Appropriations Act, 2004; or

15 (B) if the allocation exceeds the total al-
16 lowable catch for the Bering Sea subarea, re-
17 allocate a portion of the allocation, up to the
18 total allowable catch for the Bering Sea Sub-
19 area.

20 (2) The allocation shall be provided to the Aleut
21 Corporation for the purposes of economic develop-
22 ment in Adak, Alaska, pursuant to the requirement
23 of the Magnuson-Stevens Fishery Conservation and
24 Management Act (16 U.S.C. 1801 et seq.).

1 (b) IMPLEMENTATION.—For the purposes of this sec-
2 tion:

3 (1) the allocation holder described in subsection
4 (a) shall retain control of the allocation referenced
5 in such subsection, including such portions of the al-
6 location that may be reallocated pursuant to this
7 section; and

8 (2) the allocations in section 206(b) of the
9 American Fisheries Act (16 U.S.C. 1851 note) apply
10 to the Bering Sea portion of the directed pollock
11 fishery and not to the allocation holder under section
12 803 of the Consolidated Appropriations Act, 2004.

13 (c) CONSENT REQUIREMENT.—The Aleut Corpora-
14 tion will provide written consent for other vessels to take
15 or process the allocation, a physical copy of which must
16 be present on the vessel.

17 (d) REVISION OF REGULATIONS AND MANAGEMENT
18 PLANS.—

19 (1) IN GENERAL.—The Council, in consultation
20 with the National Marine Fisheries Service, shall
21 modify all applicable regulations and management
22 plans so that the allocation holder named in section
23 803 of the Consolidated Appropriations Act, 2004,
24 may harvest the reallocated Aleutian Islands di-

1 rected pollock fishery in the Bering Sea subarea as
2 soon as practicable.

3 (2) MANAGEMENT OF ALLOCATION.—The Na-
4 tional Marine Fisheries Service, in consultation with
5 the Council, shall manage the Aleutian Islands di-
6 rected pollock fishery to ensure compliance with the
7 implementing statute and with the annual harvest
8 specifications.

9 (3) ENFORCEMENT.—Taking or processing any
10 part of the allocation made by section 803 of the
11 Consolidated Appropriations Act, 2004, and reallo-
12 cated under this section without the consents re-
13 quired under this section shall be considered in vio-
14 lation of section 307 of the Magnuson-Stevens Fish-
15 ery Conservation and Management Act (16 U.S.C.
16 1857) and subject to the penalties and sanctions
17 under section 308 of such Act (16 U.S.C. 1858),
18 and any fish harvested or processed under such tak-
19 ing or possessing shall be subject to forfeiture.



**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 200
OFFERED BY MS. BORDALLO OF GUAM**

Page 4, line 10, insert “exchange or” after “customary”.

